

## San Marino

### Administrative procedure

#### Opposition

No formal opposition procedure is available. Third parties may only submit observations on the patentability of the invention. Third parties do not become parties to the proceedings before the State Office for Patents and Trademarks of the Republic of San Marino (hereafter the "Patent Office").

#### Appeal

Appeal from refusal of the application must be filed within 60 days after notification by the Patent Office.

The appeal must be addressed to the Administrative Judge of First Instance. The Judge of Administrative Appeal is competent to deal with appeals against decisions of the Administrative Judge of First Instance.

The San Marino legal system provides that, in order to be final, an administrative judgment must meet the so-called "*doppia conforme*" requirement (two concordant decisions). According to this principle, if the first-instance judgment differs from the appeal judgment, a third-instance judgment must be pronounced by the Judge of Third Instance for Administrative Matters.

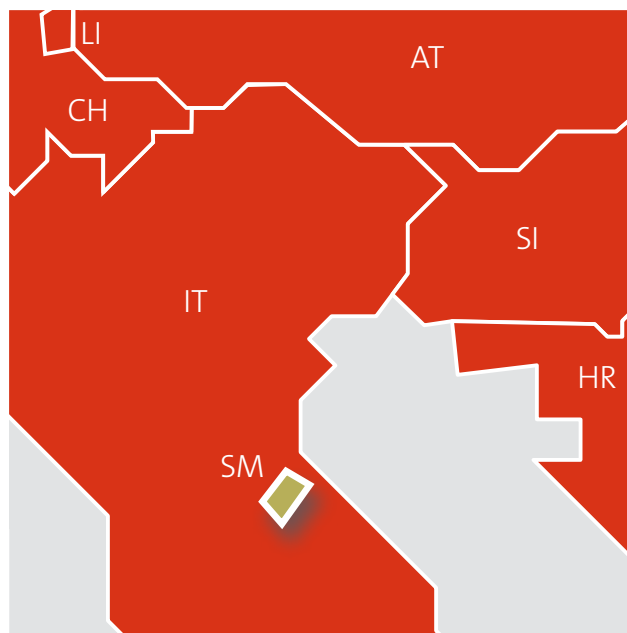
### Civil procedure

#### Infringement

The owner of the patent may request a detailed description by a bailiff of infringing goods with or without seizure. In such cases the requester must institute civil proceedings within 30 days.

Actions will be heard by the *Commissario della Legge* (Law Commissioner).

During the investigative phase an expert appointed by the Law Commissioner may be required to give an expert opinion on the existence of the infringement or the validity of the patent.



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#### Nullity/counterclaim for revocation

Any interested party may request nullity before the Law Commissioner. A judgment of nullity has retroactive effect. The Law Commissioner's decision may be appealed to the Judge of Civil Appeal.

Patent claim amendment is allowable but is not common.

#### Remedies

Injunction, seizure of infringing products, publication of the decision, destruction of infringing articles, compensation, damages.

#### Other actions

Not available.

#### Appeal

The Law Commissioner's decision may be appealed to the Judge of Civil Appeal.

The San Marino legal system provides that, in order to be final, civil judgments must meet the "*doppia conforme*" requirement. According to this principle, if the first-instance judgment differs from the appeal judgment, a third-instance

judgment must be pronounced by the Judge of Third Instance in Civil Matters.

### Parallel proceedings

There is no specific provision or case law covering parallel proceedings.

### Arbitration/mediation

Arbitration is not available in patent litigation proceedings.

### Enforcement

The bailiff is the authority responsible for enforcing an order.

## Compulsory licence

A compulsory licence may be granted by the Patent Office in cases of unexploited patents within a period of four years from the date of filing. Those who wish to obtain a compulsory licence must address a reasoned request to the Patent Office. The owner of the patent may start opposition proceedings against the grant of a compulsory licence. The decision on the opposition may be referred to arbitration.

## Relevant national law

Law No. 79 of 25 May 2005 – Industrial Property Consolidation Act;

Law No. 114 of 20 July 2005 – Amendments to Law No. 79 of 25 May 2005 – Industrial Property Consolidation Act;

Regulation No. 5 of 2 July 2007 – Regulation for the Practice of the Profession of Industrial Property Attorney.

## Competent authorities or courts

