Administrative Revocation and Invalidation Mechanisms

Republic of Belarus

In the Republic of Belarus, the possibility of challenging the grant of patents is provided for by specific legislation governing the legal protection of the relevant subject matter:

- Article 33 of the Law of the Republic of Belarus No. 160-Z of December 16, 2002 “On Patents for Inventions, Utility Models and Industrial Designs”;
- Article 25 of the Law of the Republic of Belarus No. 3725-XII of April 13, 1995 “On Patents for Plant Varieties”.

According to Article 33 of the Law of 16 December 2002 No.160-Z “On Patents for Inventions, Utility Models and Industrial Designs” (hereinafter “the Law”) a patent for an invention, utility model and industrial design for the duration of its action may be declared as invalid or partially invalid on the following grounds:

1. Non-compliance of protected inventions, utility models or industrial designs with patentability conditions established by the Law;
2. Presence of features in the claims of inventions, utility models, which are absent in the original description;
3. Illegal indication in a patent of an author (co-authors) or patentee(s).

The recognition of patents for inventions, utility models and industrial designs as invalid according to non-compliance with patentability conditions, as well as the presence in the claim of features, which are absent in the original description is the responsibility of the Board of Appeals of the Patent Office (hereafter “Board of Appeals”). The Board of Appeals is a body of administrative adjudication. Any individual or legal entity may file an objection to the Board of Appeals for recognition of a patent invalid on the grounds mentioned above.

The appeal shall be considered by the Board of Appeals within six months from the date of its receipt. The individual or legal entity who filed the objection and the patentee and/or their representatives are entitled to participate in the opposition at the meetings of the Board of Appeals. The decision of the Board of Appeals on the consideration of the objection may be appealed by the parties in the Supreme Court of the Republic of Belarus within six months from the date of its receipt. Appeals against decisions of the Board of Appeals are considered by the Judicial Board on the Cases of Intellectual Property of the Supreme Court of the Republic of Belarus. Decisions of the Supreme Court of the Republic of Belarus on the results of consideration of appeals against decisions of the Board of Appeals shall enter into force upon publication, and are not subject to appeal.

The recognition of patents for inventions, utility models, industrial designs as invalid due to the illegal indication in the patent of the author (co-authors) or patentee(s) relates to the competence of the Supreme Court of the Republic of Belarus. Such cases are considered by the Judicial Board on the Cases of Intellectual Property in the order of action proceedings at first instance. Decisions of the Supreme Court of the Republic of Belarus on the results of consideration of such cases shall enter into force from the date of announcement, and are not subject to appeal.

If a person (any person or an interested person, depending on the grounds) considers the grant of a patent to be unlawful, they are entitled to file an objection against the grant of the patent with the Board of Appeals under the patent authority. The procedure for the consideration of objections by the Board of Appeals under the patent authority is established by the Council of Ministers of the Republic of Belarus (Regulations on the Procedure for Filing Complaints, Objections and Applications and Their Consideration by the Board of Appeals under the Patent Authority, approved by the Resolution of the Council of Ministers of the Republic of Belarus No. 499 of August 24, 2020).

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An objection to the grant of a patent on the grounds of unlawful indication in the patent of the inventor(s) or patent holder(s) may be filed with the court by an interested natural or legal person.

The provisions of regional legislation apply to Eurasian patents for inventions and industrial designs. Thus, in accordance with Article 13 of the Eurasian Patent Convention of September 9, 1994, any dispute concerning the validity of a Eurasian patent in a particular Contracting State or the infringement of a Eurasian patent in a particular Contracting State shall be resolved by the national courts or other competent authorities of that State on the basis of the said Convention and the Patent Regulations under the Eurasian Patent Convention. The decision shall have effect only within the territory of that Contracting State.

In accordance with Rule 54 of the Patent Regulations under the Eurasian Patent Convention, adopted by the Administrative Council of the Eurasian Patent Organization on December 1, 1995 (in respect of patents for inventions), and Rule 117(1) of the Patent Regulations under the Eurasian Patent Convention, adopted by the Administrative Council of the Eurasian Patent Organization at its thirty-seventh (tenth extraordinary) session on April 12, 2021 (in respect of patents for industrial designs), a Eurasian patent may be declared invalid in the territory of a Contracting State, on the basis of the procedural rules of its national legislation, in whole or in part, throughout its term of validity.

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