**Opposition Systems**

# The Republic of Chile

Opposition proceedings in Chile are governed by Title I “Preliminary provisions”, paragraph 2 “General procedures for opposition and registration”, articles 4 to 17bis B of Law № 19.039 on Industrial Property (LPI).

Any interested party may file an opposition request against an application for registration of an invention patent, utility model, or layout-design(s) of an integrated circuit. The time limit for filing such an action is 45 days, with effect from the date on which the extract of the respective application accepted for processing is published in the Official Gazette. (Industrial Property Law (LPI), Art. 5).

The opposition request shall be sponsored by an attorney qualified in accordance with the provisions of the LPI and Law No. 18.120.

Stages of the opposition procedure:

a. Filing and service of the opposition action:

The opposition action shall meet the requirements of Article 254 of the Code of Civil Procedure, namely: firstly, the designation of the court before which it is filed; secondly, the name, domicile, and profession or occupation of the plaintiff and of the persons representing them, and the nature of that representation; thirdly, the name, domicile, and profession or occupation of the defendant; fourthly, a clear statement of the facts and legal grounds on which it is based; and lastly, a clear and precise statement, set out in the final submission, of the requests submitted for the court’s ruling, in which case the National Director of INAPI, who acts for these purposes as a judge of first instance.

Failure to meet, or a defect in meeting, any formal requirement may result in the rejection of the request, in accordance with Article 256 of the Code of Civil Procedure. The foregoing is without prejudice to any arguments in rebuttal that the defendant may raise in this regard.

All evidence supporting the opposition request shall be submitted together with the request itself.

Service of the opposition application against the patent application shall be by electronic means in accordance with the technical standards of the technological systems available at INAPI. (Art. 13, second paragraph, LPI; Art. 21, third paragraph, Regulations of the Industrial Property Law (RLPI).

Electronic service of the opposition shall be deemed effected upon the deposit of the application and the corresponding order in an electronic mailbox associated with the user, hosted on INAPI’s online filing platform.

b. Challenge to the opposition request:

From the date of service of the opposition request, the patent applicant or respondent has a period of 45 days to answer the opposition (Art. 9 LPI).

- Evidence:

If there are substantial, relevant, and disputed facts between the patent application and the opposition application, the case shall be opened to evidence for a period of 45 days (Art. 10 LPI).

The evidentiary period may be extended, where appropriate, by 30 days at the request of either party to the proceedings. Documentation submitted during the evidentiary stage shall be presented in Spanish or duly translated, if required by INAPI (Art. 10 *bis* LPI).

In the dispute proceedings, the parties may use all the customary means of evidence for this type of matter, as well as those established in the Code of Civil Procedure, excluding witness testimony (Art. 12 LPI).

Once the parties have been summoned to hear judgment, no further written submissions or evidence of any kind shall be admitted. (Art. 10 *bis* LPI).

c. Appointment of the expert:

Once the evidentiary period has expired, INAPI shall proceed to appoint an expert to carry out the substantive examination of the application.

d. Expert examination stage:

The expert report shall be issued within 60 days, with effect from acceptance of the appointment. The expert may request an extension of up to 60 days, provided that such request is substantiated and INAPI grants it on reasoned grounds (Art. 7 LPI).

Once the expert report has been served, the parties have a period of 60 days to submit any comments on the report they consider appropriate. Either party may, on a single occasion during the proceedings, request an extension of up to 60 days to submit comments on the expert report (Art. 7 LPI).

The parties' comments shall be forwarded to the expert, who shall respond to them within 60 days by issuing a report known as the Expert's Response (Art. 7 LPI). Once the Expert's Response has been served, the parties have a period of 60 days to submit any comments they consider appropriate on the Expert's Response.

e. Decision-making stage – Examiner's Technical Report (ETR):

Once the applicant, the parties, or one of them, have submitted their comments on the Expert's Response, or once that period has expired without any comments being submitted, as applicable, an order shall be issued declaring the application to be at the determination stage and appointing an examiner to issue a technical report – also known as the ETR – to guide and support the judgment.

At the determination stage, the ETR may recommend acceptance, rejection, return to the expert, formal corrections or substantive corrections on pain of rejection, as previously addressed in the general process.

f. Judgment (ruling)

The contentious proceeding ends with the issuance of the ruling by the National Director, which shall be reasoned and be formally consistent with Article 170 of the Code of Civil Procedure, insofar as applicable (Art. 17 LPI).

An appeal may be filed against the ruling within 15 days of its service; such appeal is to be heard by the Industrial Property Court. The appeal is granted with both suspensive and devolutive effect and may be lodged against decisions that are final (as with the decision determining the opposition proceeding) and against interlocutory decisions (Art. 17 *bis* B LPI).