
The *Saeima*¹ has adopted and
the President has proclaimed the following law:

Law on Industrial Property Institutions and Procedures

Division A General Provisions and Procedures of the Patent Office

Chapter I General Provisions

Section 1. Terms Used in this Law

The following terms are used in this Law:

- 1) **industrial property** - rights related to invention patents (including supplementary protection certificates for medicinal products and plant protection products), topographies of semiconductor products, trade marks, and designs;
- 2) **objects of industrial property** - invention patents (including supplementary protection certificates for medicinal products and plant protection products), topographies of semiconductor products, trade marks, designs;
- 3) **registration procedures** - activities aimed at registering certain objects of industrial property, also at granting a patent, except activities related to the examination of disputes in the Industrial Property Board of Appeal and in the court;
- 4) **post-registration procedures** - activities aimed at amending information regarding registered objects of industrial property, including activities for maintaining the validity and for the renewal for a new period of the protection of the registered objects of industrial property, including the granted patents, except activities related to the examination of disputes in the Industrial Property Board of Appeal and in the court;
- 5) **industrial property laws and regulations** - laws and regulations governing the registration of objects of industrial property and protection of industrial property, including international agreements binding on Latvia and directly applicable laws of the European Union in the field of industrial property.

Section 2. Purpose and Scope of Application of The Law

- (1) The purpose of the Law is to establish the legal preconditions for efficient registration of objects of industrial property and for examination of disputes arising therefrom, providing for the necessary institutions for this purpose, determining their competence and basic principles of operation, as well as regulating representation in them and basis of operation of professional patent attorneys.
- (2) The Law governs the institutional matters, procedures, and legal relations, insofar as they are analogous to objects of industrial property.

Section 3. Regulation in the Field of Industrial Property

- (1) The rights to industrial property in Latvia are obtained through registration of objects of industrial property, which in accordance with the industrial property laws and regulations is carried out in the Patent Office, or, if so provided for in a law or regulation, by recognising exclusive rights incurred on other grounds.
- (2) The rights to industrial property in Latvia are also obtained through registration of such objects of industrial property, which with regard to Latvia is carried out in accordance with international agreements within the field of industrial property binding on Latvia, including with regard to the European Union - in accordance with directly applicable laws and regulations of the European Union.

(3) With regard to the registration of objects of industrial property and protection of industrial property, foreign persons in Latvia have the same rights as Latvian persons, insofar as this Law or other laws and regulations do not provide for otherwise.

(4) The rights to industrial property in Latvia acquired in accordance with the procedures laid down in Paragraph two of this Section shall have the same legal effect as the rights referred to in Paragraph one of this Section, if the relevant international agreement or industrial property laws and regulations do not provide otherwise.

Chapter II

Patent Office and Procedures in the Patent Office

Section 4. Patent Office

(1) The Patent Office is a direct administration institution under the supervision of the Minister for Justice with the competence in the field of industrial property laid down in this Law and other laws and regulations.

(2) The Patent Office shall perform the following functions:

- 1) implement the State policy within the field of industrial property;
- 2) carry out the functions of the State industrial property institution provided for in international agreements binding on Latvia;
- 3) register rights to objects of industrial property and maintain the appropriate registers, as well as provide other industrial property-related services;
- 4) promote awareness in the country and society of the protection of industrial property.

Section 5. Registration of Objects of Industrial Property

(1) The Patent Office in accordance with laws and regulations shall register the following objects of industrial property:

- 1) invention patents (including supplementary protection certificates for medicinal products and plant protection products);
- 2) topographies of semiconductor products;
- 3) trade marks;
- 4) designs.

(2) Activities taken by the Patent Office within the registration and post-registration procedures of the objects referred to in Paragraph one of this Section, including activities laid down in international laws and regulations, as well as other industrial property-related services of the Patent Office shall be paid services.

(3) The Cabinet shall determine the price list of the paid services of the Patent Office, payment procedures, and reliefs.

Section 6. Registers Maintained by the Patent Office, Application and Registration Files

(1) The Patent Office shall maintain a Patent Register (which also includes the supplementary protection certificates for medicinal products and plant protection products), Register of Topographies of Semiconductor Products, Register of Trade Marks, and Register of Designs (hereinafter - the registers).

(2) The Patent Office shall arrange the registers in accordance with the procedures laid down in the industrial property laws and regulations.

(3) Each number of an application or registration (patent) of an object of industrial property shall have a corresponding file with the same number, where those documents are stored, on the basis of which entries have been made in the register, as well as other documents specified in laws and regulations.

(4) The Patent Office shall ensure permanent storage of registers, application and registration files and the submitted original documents.

Section 7. Public Access to Registers, Application and Registration Files

(1) The entries of registers shall have public credibility. Entries of registers shall be published in the official gazette of the Patent Office and on the website of the Patent Office in accordance with the industrial property laws and

regulations.

(2) In conformity with the restrictions laid down in laws and regulations, any person may become acquainted with the application and registration files and receive extracts from the registers, derivatives of the documents in the application and registration files, and statements.

(3) If additional resources are not required for data processing and analysis, the Patent Office shall, in conformity with the restrictions laid down in laws and regulations, provide free of charge the necessary information from the registers and application and registration files to the *Saeima*, the Cabinet, law enforcement authorities, and other State administration institutions, as well as to the natural and legal persons to whom such rights are established by laws and regulations.

Section 8. Official Gazette of the Patent Office

(1) The Patent Office shall have its official gazette in which it shall publish the entries of registers and the information specified in the industrial property laws and regulations, which refer to registration of objects of industrial property.

(2) The official gazette of the Patent Office shall be published electronically at least once a month on the website of the Patent Office.

(3) The legal consequences laid down in this Law or in another industrial property law or regulation for the registration of the specific industrial property object or for the information related to such registration shall enter into effect from the day of the publication or another date indicated in the official publication.

Section 9. Competence of the Officials of the Patent Office

The officials of the Patent Office shall, independently and in accordance with the industrial property laws and regulations on behalf of the Patent Office, take a decision to register or to refuse to register an object of industrial property, as well as other decisions and interlocutory decisions in the registration and post-registration procedures.

Section 10. Restrictions for Officials and Employees of the Patent Office

(1) Officials and employees of the Patent Office while they are working for the Patent Office, as well as two years after their employment or service relations with the Patent Office are terminated, are not entitled to submit a patent or design application, or directly or indirectly, except inheritance, obtain registration of a patent or design, or acquire any rights resulting from registration of a patent or a design. Rights of priority shall not be granted to patent or design applications of these persons, if the respective application has been submitted within one year after the termination of employment or service relations with the Patent Office.

(2) Officials and employees of the Patent Office also after their employment or service relations with the Patent Office are terminated have an obligation not to disclose and not to use restricted access information, which has become known to an official or employee upon carrying out the work obligations, as well as not to represent persons in matters regarding objects of industrial property or their applications, which have been in their competence while performing the role of an examiner or responsible official.

Section 11. Determining of Time Periods

The Patent Office in its decisions and documents may specify a time period for the performance of further activity in a registration or post-registration procedure. If the time period is not determined in an industrial property law or regulation, the Patent Office shall determine a reasonable time period, taking into account the scope and importance of the activity to be performed in the procedure.

Section 12. Submission of Documents

(1) A person handling registration or post-registration procedures, shall submit documents in person or using postal services, fax, electronic mail, and other means of communication in conformity with the restrictions laid down in the industrial property laws and regulations.

(2) The Cabinet shall determine the procedures by which a person handling registration or post-registration procedures, shall submit documents to the Patent Office.

Section 13. Information Regarding the Submitter to be Indicated in the Documents

(1) The following information regarding the submitter shall be indicated in the document to be submitted to the Patent Office:

1) for a natural person - the given name, surname, and address of the declared place of residence (for persons residing abroad, the address of the place of residence shall be indicated);

2) for a legal person - the full name and legal address.

(2) Abbreviations in names of legal persons shall be permitted in indications of the type of merchant.

(3) The address of a person shall include all the necessary information for a postal delivery to the indicated address.

(4) For communication with the Patent Office a person may additionally indicate a telephone number, fax number, and electronic mail address, as well as the address (address for communication), which is different from the address referred to in Paragraph one of this Section.

(5) The given names, surnames, names and addresses of foreign persons shall be indicated in the original form of the respective foreign language (if it is a language of Latin alphabet) or in Latin transliteration of the original form.

(6) Except the cases specifically provided for in laws and regulations, the Patent Office is entitled to require that any person who submits an application and handles the registration or post-registration procedures in the Patent Office indicates the address for communication in the territory of Latvia. This provision shall be without prejudice to the requirements of this Law in relation to representation of persons in the Patent Office (Chapter XVII).

(7) For the communication with a person, the Patent Office shall use the address indicated in accordance with Paragraph one of this Section; but if the person has indicated a different address for communication (Paragraph four of this Section) - this address. If a person has appointed a representative, the address of the representative shall be used for communication. The person shall, without delay, inform the Patent Office regarding any changes in the information regarding the submitter.

Section 14. Regulations Regarding Authenticity of Signature of a Person and Documents

(1) Documents to be submitted upon handling the registration and post-registration procedures shall be signed by the submitter or a representative of the submitter.

(2) The following shall be indicated next to the person's handwritten signature:

1) transcript of the signature - the given name and surname of the natural person;

2) the capacity in which the person has signed the document (for example, the applicant, owner, licensee, representative, in documents of legal persons - position of the natural person), if it is not obvious from the text of the document.

(3) Except the cases specially provided for in the industrial property laws and regulations, the documents and person's signature in them do not need a notarisational, legalisation, or other proof of authenticity. The Patent Office is entitled to request additional documents, if it has a reason to doubt the legal force of the document.

(4) In the documents that are submitted through the special online forms set up on the website of the Patent Office for this purpose, the person of the submitter shall be identified with the help of the authentication means available in them. When an application for the registration of an object of industrial property or a submission for the maintenance of registration (renewal for a new period of protection) is submitted through the special online form set up for this purpose, the person shall be identified as indicated in the online form.

Section 15. Identification of Applications and Registrations

In each document which is submitted within the registration and post-registration procedures, a specific application or registration shall be identified by indicating the object of industrial property and the number of the application or registration (patent). An application or registration may be additionally identified with a reference to the applicant (owner) and characteristics of the object of industrial property (for example, title of the invention, inventor, verbal part or image of a trade mark, indication of the product to which the design refers, the designer).

Section 16. Examination of Documents Submitted in a Foreign Language

In the registration and post-registration procedures which in accordance with industrial property laws and regulations are carried out in the official language the Patent Office shall allow submission of separate written documents in a foreign language without a translation which is certified in accordance with the procedures laid down in laws and regulations, if this does not restrict the rights or legitimate interests of third persons and contributes to the progress of the procedure.

Section 17. Correction of Errors

(1) A person who is handling the registration and post-registration procedures is entitled, in conformity with the restrictions laid down in the industrial property laws and regulations, to require that the Patent Office corrects clerical or technical errors made in an application, found in a register entry or official publication.

(2) For the correction of an error the fee determined in the price list of the services shall be paid. The errors referred to in Paragraph one of this Section shall be corrected free of charge if they have been made by the Patent

Office.

(3) If the information in which the correction of errors is carried out, has been previously published in the official gazette of the Patent Office, also the correction of errors shall be published in it.

Division B

Industrial Property Board of Appeal and Examination of Disputes in the Industrial Property Board of Appeal

Chapter III

Industrial Property Board of Appeal, Its Status and Competence

Section 18. Industrial Property Board of Appeal and Its Status

(1) The Industrial Property Board of Appeal (hereinafter - the Board of Appeal) is a collegial decision-making institution which examines extrajudicial disputes arising from registration and post-registration procedures.

(2) When taking decisions in the disputes referred to in Paragraph one of this Section, members of the Board of Appeal shall be independent and not subjected to orders of other persons or other direct or indirect influence.

Section 19. Administrative Management of the Board of Appeal

The Patent Office shall ensure organisational and administrative operation of the Board of Appeal.

Section 20. Competence of the Board of Appeal

(1) The Board of Appeal shall examine the following disputes provided for in the industrial property laws and regulations:

1) regarding a decision of the Patent Office taken within the registration or post-registration procedure and against which a notice of appeal has been submitted (matters of appeal);

2) regarding registration of an object of industrial property, to which a notice of opposition of a third person has been submitted (matters of opposition).

(2) The decisions taken, when examining the disputes referred to in Paragraph one of this Section on their merits, shall be published by the Board of Appeal on the website of the Patent Office.

(3) In accordance with specific procedures the Board of Appeal shall participate in evaluation of matters related to industrial property protection analysis and development.

(4) Each year the Board of Appeal shall prepare an annual report on its activities during the previous year and make it public on the website of the Patent Office.

(5) The Board of Appeal is entitled to provide recommendations on matters related to the implementation of procedures and application of laws and regulations by the Patent Office.

Chapter IV

Composition of the Board of Appeal

Section 21. Composition of the Board of Appeal

(1) The Board of Appeal shall be composed of the chairperson of the Board of Appeal and members of the Board of Appeal.

(2) The Board of Appeal shall examine disputes within its competence collegially in the composition which has been set up for the examination of the particular dispute.

(3) In the cases laid down in this Law, the decisions on behalf of the Board of Appeal shall be taken by the chairperson of the Board of Appeal or the chairperson of the composition for examination of the matter sitting alone.

Section 22. Restrictions Imposed on the Chairperson of the Board of Appeal and Members of the Board of Appeal

(1) The chairperson of the Board of Appeal and the members of the Board of Appeal shall be subjected to restrictions and obligations applied to judges - chairpersons of district (city) and regional courts - with respect to

earning of income, combining of positions, job performance, as well as other related restrictions and obligations as laid down in the law On Prevention of Conflict of Interest in Activities of Public Officials.

(2) In addition to the restrictions referred to in Paragraph one of this Section, the following additional restrictions shall apply to the chairperson of the Board of Appeal and members of the Board of Appeal:

1) to maintain political neutrality and not to combine the obligations of the position with affiliation to political parties and other political organisations;

2) the restrictions specified for the officials of the Patent Office in Section 10 of this Law.

Section 23. Chairperson of the Board of Appeal

(1) The chairperson of the Board of Appeal shall organise and manage the work of the Board of Appeal, including:

1) for the examination of each dispute confirm the composition for the examination of the matter and the chairperson of the composition for the examination of the matter;

2) approve the schedule of the sessions of the Board of Appeal;

3) within his or her competence, represent the Board of Appeal in relations with natural persons and legal persons governed by private law in matters relating to the examination of matters in the Board of Appeal;

4) ensure the compliance of the qualification of the members of the Board of Appeal with the merits of the matters to be examined, including by taking care of the raising of qualification, training and the required additional specialisation of the members of the Board of Appeal, taking into account the provisions of Paragraphs two and three of Section 38 of this Law;

5) manage the preparation of the reports on the activities of the Board of Appeal.

(2) The obligations of the chairperson of the Board of Appeal during his or her temporary absence shall be performed by the member of the Board of Appeal, who by a majority of votes is appointed from amongst its members by the members of the Board of Appeal present.

(3) The chairperson of the Board of Appeal shall perform his or her obligations in parallel with the obligations of the member of the Board of Appeal. The chairperson of the Board of Appeal shall be subjected to the regulations regarding members of the Board of Appeal, insofar as it is not provided for otherwise in this Law.

Section 24. Member of the Board of Appeal

(1) A member of the Board of Appeal shall:

1) participate in the examination of a matter in the Board of Appeal, if he or she is included in the composition for the examination of the matter;

2) chair the examination of a matter if he or she has been appointed as the chairperson of the composition for the examination of the matter.

(2) A member of the Board of Appeal, when performing his or her obligations shall ensure confidentiality with regard to taking of a decision and materials of the matter, the disclosure of which might harm the lawful interests of persons.

(3) A member of the Board of Appeal has an obligation to continuously improve his or her qualification, become acquainted with the special literature, case law and rulings of the Court of Justice of the European Union in the field of industrial property.

Section 25. Secretary of the Board of Appeal

(1) The secretary of the Board of Appeal shall be an employee of the Patent Office who ensures secretarial and office work of the Board of Appeal.

(2) The secretary of the Board of Appeal shall ensure confidentiality with regard to taking of a decision and materials of the matters, the disclosure of which might harm the lawful interests of persons.

Section 26. Procedures for Appointing and Dismissing the Composition of the Board of Appeal

(1) The chairperson of the Board of Appeal and members of the Board of Appeal, upon a proposal of the Minister for Justice, shall be appointed by the Cabinet for a time period of seven years.

(2) The Cabinet, upon a proposal of the Minister for Justice, may repeatedly appoint the chairperson of the Board of Appeal or a member of the Board of Appeal for a new term of office. In the same procedures a member of the Board of Appeal may be approved as the chairperson of the Board of Appeal, or the chairperson of the Board of Appeal may be approved as a member of the Board of Appeal.

(3) If so requested by the chairperson of the Board of Appeal or a member of the Board of Appeal, the Minister for Justice shall release them from performance of their obligations before the end of their term of office, or shall release the chairperson of the Board of Appeal from the obligations of the chairperson, maintaining the status of a member of the Board of Appeal.

(4) In the cases provided for in this Law, the Cabinet upon a proposal of the Minister for Justice shall dismiss the chairperson of the Board of Appeal or a member of the Board of Appeal before the end of their term of office.

Section 27. Applicants for the Position of a Member of the Board of Appeal and Their Selection

(1) The following person may be a member of the Board of Appeal:

- 1) who is a citizen of the Republic of Latvia;
- 2) who is fluent in the official language at the highest level;
- 3) who has impeccable reputation;
- 4) who has acquired academic or second-level higher vocational education, master's degree or similar higher education;
- 5) who has at least five years of experience in the field related to protection of industrial property;
- 6) who has passed the certification examination of the applicant for the position of a member of the Board of Appeal.

(2) The applicants for the position of a member of the Board of Appeal shall be selected by the means of competition. The selection procedure of applicants shall be carried out by the commission for the selection of the applicants for the position of a member of the Board of Appeal (hereinafter - the selection commission) consisting of five persons, appointed by the Minister for Justice. The selection commission shall consist of:

- 1) a representative of the Ministry of Justice;
- 2) a representative of the Patent Office;
- 3) a judge of the City of Rīga Vidzeme Urban District Court;
- 4) a representative of the organisation of professional patent attorneys;
- 5) a representative of the academic staff of institutions of higher education.

(3) The representative of the Ministry of Justice shall be the chairperson of the selection commission.

(4) The selection commission shall organise and conduct certification examination of the applicants for the position of a member of the Board of Appeal and certification examination of the members of the Board of Appeal. The procedures and the required amount of knowledge for the certification examination of the applicants for the position of a member of the Board of Appeal and certification examination of the members of the Board of Appeal shall be determined by the Cabinet.

(5) All applicants for the position of a member of the Board of Appeal shall take a certification examination on the general matters of the protection of industrial property and in the field of trade mark protection, but optionally may also take examinations in additional specialisations - in the field of patent protection or design protection.

(6) If it is necessary to ensure the compliance of the current composition of the Board of Appeal with the matter to be examined on its merits in accordance with the requirements of Section 38, Paragraphs two and three of this Law, the certification examination in the respective additional specialisation shall be taken by a member of the Board of Appeal.

(7) The selection commission shall draw up a proposal to the Minister for Justice regarding the applicants for the position of members of the Board of Appeal and the position of the chairperson of the Board of Appeal from the list of persons who have passed the certification examination of the applicants for the position of a member of the Board of Appeal.

Section 28. Disciplinary Responsibility of Members of the Board of Appeal

(1) A member of the Board of Appeal may be subjected to disciplinary liability if the following is found in his or her activities:

- 1) intentional violation of laws and regulations during examination of a matter;
- 2) failure to fulfil the work obligations;

- 3) gross negligence during the examination of a matter;
- 4) an action inappropriate for the status of a member of the Board of Appeal, dishonourable action;
- 5) failure to observe the restrictions and prohibitions provided for a member of the Board of Appeal by the law.

(2) The revoking or amendment of a decision of the Board of Appeal, as well as the fact that a decision has not entered into effect because the court has made a ruling which differs in its nature shall not serve as a reason for the member of the Board who had participated in the taking of the decision to be subjected to liability, unless during the examination of the matter he or she has intentionally violated laws and regulations or made gross negligence.

(3) The Minister for Justice may initiate a disciplinary matter against a member of the Board of Appeal:

- 1) upon a proposal of the Director of the Patent Office;
- 2) upon proposal of the organisation of professional patent attorneys;
- 3) due to a complaint received;
- 4) upon his or her own initiative.

(4) If a disciplinary matter has been initiated against a member of the Board of Appeal, the Minister for Justice, if he or she considers it to be necessary, may suspend the member of the Board of Appeal from the office by maintaining the monthly salary, but not longer than until the decision is taken in the disciplinary matter.

(5) For a time period during which the pre-trial criminal proceedings and proceedings in a criminal case take place, the Minister for Justice shall suspend from the office the member of the Board of Appeal who is suspected or accused of an intentional criminal offence or on whom in accordance with the procedures laid down in the Criminal Procedure Law a security measure related to prohibition from specific employment that prevents him or her from performing the obligations of a member of the Board of Appeal has been imposed.

(6) The commission of disciplinary matters of members of the Board of Appeal (hereinafter in this Section - the disciplinary commission) for the examination of a disciplinary matter shall be set up by the Minister for Justice.

(7) The Minister for Justice may, by taking into account the opinion of the commission of disciplinary matters, impose the following disciplinary sanctions to a member of the Board of Appeal:

- 1) issue a reproof;
- 2) issue a reprimand;
- 3) reduce the monthly salary for a time period of up to one year, withholding up to 20 per cent of the salary.

(8) The Minister for Justice shall, by taking into account the opinion of the commission of disciplinary matters, draw up a proposal to the Cabinet on dismissal of the member of the Board of Appeal, if the nature of the offence is such that his or her subsequent activities in performance of the obligations is not permissible.

(9) Disciplinary matters of members of the Board of Appeal shall be examined, disciplinary violations established and disciplinary sanctions applied in accordance with the principles and procedures laid down for the examination of disciplinary matters of State civil servants insofar as it is not laid down otherwise in this Law.

Chapter V

Basic Conditions for the Examination of Matters in the Board of Appeal

Section 29. Directness and Objectivity of the Examination of a Matter

(1) The Board of Appeal, upon examining the disputes under its competence, shall objectively clarify the facts of the matter and examine the evidence itself.

(2) The Board of Appeal, upon examining matters, shall ensure objectivity and give the participants in the matter a reasonable opportunity to express their point of view and to present evidence, as well as to become acquainted with the materials of the matter.

(3) The Board of Appeal shall substantiate its decision with the facts necessary for taking of the decision, and with the consequent objective and rational legal considerations.

Section 30. Matters of Appeal and Matters of Opposition

(1) If a notice of appeal has been submitted against a decision of the Patent Office (matter of appeal), such matter

shall be examined between the submitter of the notice of appeal and the Patent Office.

(2) If a notice of opposition has been submitted to registration of an object of industrial property (matter of opposition), such matter shall be examined between the submitter of the notice of opposition and the owner of the contested registration.

Section 31. Equality of the Parties and Adversary Proceedings

(1) The parties shall have equal procedural rights. The Board of Appeal shall ensure that the parties have equal opportunities to exercise their rights for the protection of their interests.

(2) In the course of the examination of a matter, the parties shall exercise their procedural rights in the form of adversary proceedings. In adversary proceedings, the parties may provide explanations, submit evidence and submissions addressed to the Board of Appeal, participate in the examination and assessment of evidence, debates of the parties, and take other procedural activities in accordance with the procedures laid down in this Law.

(3) In order to establish the true circumstances of a matter within the limits of the claim, the Board of Appeal may, upon its own initiative, clarify the facts which are relevant to the dispute and which are available in the registers of industrial property and other public registers.

Section 32. Examination of a Matter in the Board of Appeal

(1) The Board of Appeal shall examine matters in a written procedure.

(2) Upon examining a matter in the written procedure, the Board of Appeal shall clarify the circumstances of the matter on the basis of the evidence included in the matter, and shall request in writing the necessary information from the participants in the matter.

(3) Upon examining a matter in the written procedure, the Board of Appeal shall ensure that the principles laid down in Section 31 of this Law are observed. Upon a request of a participant in the matter, the Board of Appeal shall give him or her an opportunity to carry out the examination of the evidence in the work premises of the Board of Appeal.

(4) The Board of Appeal, at its discretion or upon a request of a participant in the matter, may determine the examination of a matter in a session of the Board of Appeal. If the examination in the oral procedure is requested by the participant in the matter, the request shall be accompanied by a document confirming the payment of the additional fee set for the examination of a matter in the oral procedure.

(5) Regardless of whether the matter is examined in the written or oral procedure, the Board of Appeal, at its own discretion or upon a motivated request of a participant in the matter, may determine a session of the Board of Appeal for carrying out a separate procedural activity or for the clarification or resolving of a procedural issue.

Section 33. Transparency of the Examination of a Matter

(1) The Board of Appeal shall examine matters openly.

(2) In order to protect professional or commercial secrets, as well as in other cases where the open examination of specific materials of the matter may harm the lawful interests of a person, upon a motivated request of a participant in the matter or at the discretion of the Board of Appeal, the Board of Appeal may declare the examination of the matter, session or part thereof to be closed.

(3) In the case referred to in Paragraph two of this Section the Board of Appeal shall ensure to a participant in the matter the rights to become acquainted with the respective materials of the matter, preventing copying, photographing, scanning, or making of other types of derivatives.

(4) The participants in the matter and, if necessary, an interpreter shall take part in the closed session of the Board of Appeal.

(5) The course of an open session of the Board of Appeal with a permission of the Board of Appeal may be recorded (sound or image recording and transmission equipment may be used), provided that the course of the session is not disturbed.

(6) In matters that are examined in an oral procedure, the operative part of a decision of the Board of Appeal shall be pronounced publicly.

(7) The parts of a decision of the Board of Appeal which relate to the materials of a matter referred to in Paragraph two of this Section or contain other restricted access information, shall not be published, but shall be replaced with a notice why the respective part of the decision is not generally accessible.

Section 34. Language of the Examination of a Matter

(1) The Board of Appeal shall examine matters in the official language.

(2) A participant in the matter who does not know the official language, has the right to become acquainted with the materials of the matter and participate in the examination procedure, using the assistance of an interpreter. The services of an interpreter shall be ensured by the participant in the matter.

(3) Written evidence in a foreign language shall be submitted by the participant in the matter, by attaching a translation into the official language which is certified in accordance with the procedures laid down in laws and regulations.

(4) If all participants in the matter agree, the Board of Appeal may authorise submission of certain documents and written evidence in a foreign language without a translation which is certified in accordance with the procedures laid down in laws and regulations.

(5) Decisions of the Board of Appeal and minutes of sessions shall be drawn up in the official language.

Section 35. Services of the Board of Appeal

(1) Examination of matters of appeal and matters of opposition and the related activities which within its competence are carried out by the Board of Appeal, shall be paid services.

(2) The Cabinet shall determine the price list of paid services of the Board of Appeal, the payment procedures thereof and reliefs.

Section 36. Application of the Regulations Provided for the Registration and Post-registration Procedures in the Board of Appeal

The Board of Appeal shall apply the regulations provided for the registration and post-registration procedures laid down in this Law regarding submission of documents, indication of persons and addresses, identification of applications and registrations, authenticity of personal signatures and documents, insofar as the industrial property laws and regulations do not provide otherwise.

Chapter VI

Composition for the Examination of a Matter in the Board of Appeal

Section 37. Composition for the Examination of a Matter

(1) Examination of a matter by the Board of Appeal shall be carried out in the composition of three members of the Board of Appeal (hereinafter - the composition for examination of a matter).

(2) Decisions of procedural nature needed during the course of preparation of the matter shall be taken by the chairperson of the composition for the examination of the matter, except in the case where the respective procedural decision is taken by the composition for the examination of the matter, or the case when the chairperson of the composition for the examination of a matter decides that the procedural issue should be transferred to the composition for the examination of the matter for collegial examination.

(3) Upon examining a matter collegially, members of the Board of Appeal included in the composition for the examination of the matter have equal rights to participate in the deciding of the issues related to the examination of the matter and taking of the decisions. The members of the Board of Appeal shall decide the issues related to the examination of a matter and take decisions of the Board of Appeal by majority vote. None of the members of the Board of Appeal included in the composition for the examination of a matter are entitled to refrain from voting.

(4) Examination of a matter shall be chaired by the chairperson of the composition for the examination of a matter. He or she shall also perform the obligations of the rapporteur and prepare a draft decision of the Board of Appeal, except in case when the chairperson of the Board of Appeal has assigned these obligations to another member of the Board of Appeal.

(5) Examination of a matter on its merits shall be carried out by a constant composition for the examination of the matter. If during the course of the examination of a matter, any of the members of the Board of Appeal in the composition for the examination of the matter is substituted by another member, the examination of the matter on its merits shall be started anew.

Section 38. Approval of the Composition for the Examination of a Matter

(1) If the Board of Appeal has received a notice of appeal or notice of opposition, the chairperson of the Board of Appeal shall approve the composition for the examination of the matter, and approve one of the members of the Board of Appeal as the chairperson of the composition for the examination of the matter. The composition for the examination of a matter shall be published on the website of the Patent Office.

(2) Upon the examination of patent disputes, disputes concerning supplementary protection certificates for

medicinal products and plant protection products, and disputes relating to topographies of semiconductor products, at least one member of the Board of Appeal who has additionally specialised in the field of patent protection shall be included in the composition for examination of the matter.

(3) Upon the examination of design disputes, at least one member of the Board of Appeal who has additionally specialised in the field of protection of designs shall be included in the composition for the examination of the matter.

(4) If, after the commencement of the examination of a matter the composition for the examination of the matter changes (Section 37, Paragraph five), the chairperson of the Board of Appeal shall approve a new composition for the examination of the matter and publish it in accordance with the procedures laid down in Paragraph one of this Section.

Section 39. Withdrawal of a Member of the Board of Appeal or an Objection Thereto

(1) A member of the Board of Appeal is not entitled to participate in the examination of a matter if:

1) he or she has participated in the taking of the decision of the Patent Office against which the notice of appeal to be examined has been submitted;

2) he or she is personally directly or indirectly interested in the outcome of the matter;

3) there are other circumstances that are not acceptable for a public official or may give rise to justifiable doubts as to the objectivity of the member of the Board of Appeal.

(2) If the circumstances referred to in Paragraph one of this Section exist, before examination of the matter the member of the Board of Appeal shall inform the chairperson of the Board of Appeal thereon and withdraw himself or herself from the examination of the matter by stating the grounds. A member of the Board of Appeal shall, without delay, withdraw himself or herself also if he or she finds such circumstances within the examination of the matter.

(3) If in the case referred to in Paragraph one of this Section a member of the Board of Appeal has failed to withdraw himself or herself, the participants in the matter may raise an objection to him or her.

(4) Objection shall be raised and motivated before the examination of the matter on its merits. An objection may be raised later if the person who raises the objection has become aware of the grounds thereof within the examination of the matter.

(5) The remaining composition for the examination of the matter shall examine the validity of objection and take a decision. If, upon taking a decision on the validity of the objection, members of the Board of Appeal vote equally, the member of the Board of Appeal shall be removed.

(6) If a member of the Board of Appeal has withdrawn himself or herself or has been removed, the chairperson of the Board of Appeal shall substitute this member of the Board of Appeal with another member. If a member of the Board of Appeal withdraws himself or herself or an objection has been satisfied within a session of the Board of Appeal, the examination of the matter shall be postponed.

Chapter VII Participants in a Matter, Their Rights and Obligations

Section 40. Participants in a Matter

(1) Participants in a matter of appeal shall be:

1) the submitter of the notice of appeal;

2) the Patent Office;

3) a third person;

4) representatives of the persons referred to in Clauses 1, 2, and 3 of this Paragraph.

(2) Participants in a matter of opposition shall be:

1) the submitter of the notice of opposition;

2) the owner of the contested registration;

3) a third person;

4) representatives of the persons referred to in Clauses 1, 2, and 3 of this Paragraph.

Section 41. Rights and Obligations of the Participants in a Matter

(1) A participant in a matter shall have the following rights:

- 1) to become acquainted with the materials of the matter, make extracts, true copies thereof and make copies;
- 2) to raise an objection;
- 3) to submit evidence;
- 4) to provide explanations to the Board of Appeal, express his or her arguments and observations on the circumstances of the matter;
- 5) to participate in examination of the evidence;
- 6) to submit requests, including request that for a matter to be examined in a written procedure a session of the Board of Appeal is determined for carrying out a separate procedural activity, for clarification or resolution of a procedural issue, as well as to request that this matter is examined in an oral procedure;
- 7) to participate in a session of the Board of Appeal, if the matter is examined in an oral procedure or if a session of the Board of Appeal has been determined for carrying out a separate procedural activity;
- 8) to contest requests, arguments, and observations of another participant in the matter;
- 9) to receive true copies of the decisions and other documents of the Board of Appeal, as well as to use other procedural rights which have been granted to the participant in a matter by this Law.

(2) A submitter of a notice of appeal and a submitter of a notice of opposition have the right to fully or partially withdraw from the claim included in the notice of appeal or notice of opposition.

(3) The owner of the contested registration in a matter of opposition is entitled to provide counterarguments to the claim included in the notice of opposition or to recognise it fully or in part.

(4) In a matter of opposition, the parties may conclude settlement.

(5) In a matter of appeal the Patent Office may fully or in part recognise the claim included in the notice of appeal, but it is not entitled to expand the legal basis of the contested decision of the Patent Office.

(6) Participants in the matter have the right to contest the decision taken by the Board of Appeal and apply to the court in accordance with the procedures laid down in the Law.

(7) A participant in a matter has an obligation:

- 1) to provide explanations to the Board of Appeal;
- 2) upon invitation to attend a session of the Board of Appeal or in a timely manner to notify the reasons why he or she is unable to attend it, by submitting relevant evidence;
- 3) to perform other procedural obligations imposed to him or her by this Law.

(8) The owner of a contested registration in a matter of opposition is entitled to refuse to provide explanations or from other obligations, and may request that the matter is examined on the basis of the existing materials in it.

(9) The participant in a matter has an obligation to exercise his or her rights and perform his or her obligations in good faith.

Section 42. Third Person

(1) A third person who does not submit independent claims, may enter the matter before the completion of the examination of the matter on its merits, if the decision of the Board of Appeal in the respective matter may affect the rights or legal interests of such party or obligations towards any of the participants in the matter.

(2) The third person shall be granted the status of a participant in the matter with a decision of the chairperson of the composition for the examination of the matter, upon a request of the party. The third person may be invited to participate in the matter also upon an initiative of a participant in the matter or the Board of Appeal.

(3) In the submission regarding invitation of a third person and in a submission of a third person regarding entering the matter, the grounds on which the third person is allowed to participate in the matter shall be indicated.

(4) A person to whom the status of a third person has been granted in the procedure of the Patent Office already before examination of the matter by the Board of Appeal, is entitled to be a participant in the matter without independent claims, if the Board of Appeal is examining a dispute related to the relevant procedure of the Patent Office.

(5) If in the course of the examination of a matter it is established that such person has been invited or admitted to the matter in the status of a third person whose rights or legal interests cannot be affected by the decision taken by the Board of Appeal in the relevant matter, the chairperson of the composition for the examination of the matter shall decide on the removal of the status of a third person for this person.

(6) A third person shall have the procedural rights and obligations of a participant in the matter, except the rights to amend the grounds or subject of the notice of appeal or notice of opposition, to withdraw from the claim included in the notice of appeal or notice of opposition or to recognise it.

Section 43. Assumption of Procedural Rights

(1) If any of the participants in the matter withdraw (for example, a natural person has died, a legal person has ceased to exist), the Board of Appeal may substitute this participant in the matter with his or her successor in title.

(2) In a matter of opposition, in case of change of the owner of a contested registration, the Board of Appeal shall substitute the former owner with his or her successor in title, as soon as the information on the change of the owner has been included in the register.

(3) If the Board of Appeal is informed about the fact that information on the change of the owner of the opposing rights (in a matter of opposition) has been included in the register, or if the applicant or owner who has submitted the notice of appeal has been substituted by another person, the Board of Appeal shall, without delay, inform the respective person on the opposition or appeal proceedings. If upon an invitation of the Board of Appeal the abovementioned person (the new applicant, the new owner) fails to notify the Board of Appeal within three months of the fact that he or she maintains the notice of opposition or the notice of appeal, the Board of Appeal does not have an obligation to examine the matter of opposition or matter of appeal, and the composition for the examination of the matter is entitled to take a decision to close the proceedings.

(4) Assumption of procedural rights shall be possible at any stage of the examination of the matter.

(5) The activities that have been executed in the procedure for the examination of the matter before intervention of the successor in title shall be equally binding on him or her as they were on the person whose rights have been assumed.

Chapter VIII Procedural Time Periods

Section 44. Procedural Time Periods for the Activities of the Board of Appeal

(1) In the Board of Appeal the procedural activities shall be carried out within the time periods laid down in this Law or in other industrial property laws and regulations. If the procedural time period has not been determined in a law or regulation, it shall be determined by the Board of Appeal.

(2) The time period determined by the Board of Appeal shall be such that it is possible to execute the procedural activities, without delaying the examination of the matter. If there is no good reason for determining a different time period, the Board of Appeal shall determine the time period of two months.

(3) If during the determined time period the fee for the submission of a notice of appeal or notice of opposition or the fee for procedural activity in the Board of Appeal has not been paid, a time period of one month shall be determined for the payment thereof, unless otherwise provided by an industrial property law or regulation.

(4) Upon hearing a participant in the matter and substantiating the grounds, the Board of Appeal is entitled to determine a reasonable time period, which is different from that provided for in Paragraph two or three of this Section, but not longer than three months.

(5) Unless it has been laid down otherwise in an industrial property law or regulation or in the document of the Board of Appeal by which the time period has been determined, the time period for the execution of procedural activities in the Board of Appeal shall start on the next day after the date, on which the respective document of the Board of Appeal is to be considered as notified in accordance with the norms of the Law On Notification.

Section 45. Suspension of a Procedural Time Period

Upon suspending the examination of a matter in the Board of Appeal, also counting of the time period shall be suspended. Counting of the time period shall be suspended at the moment when a circumstance which serves as the ground for suspending the time period occurs. Counting of the procedural time period shall continue from the day when the examination of the matter is renewed.

Section 46. Renewal of a Procedural Time Period

(1) The delayed procedural time periods, except the time periods which in this Law or in other industrial property laws and regulations are determined as non-renewable, upon a request of a participant in the matter may be renewed by the Board of Appeal, if it recognises that the reason for the delay is justified.

(2) A request for the renewal of the delayed procedural time period shall be submitted within three months after the end of the respective time period.

(3) When renewing the delayed time period, the Board of Appeal shall also permit execution of the delayed procedural activity.

Section 47. Extension of a Procedural Time Period

(1) The procedural time period, except those that under this Law or other industrial property laws and regulations have been identified as non-extendable, upon a request of a participant in the matter may be extended by the Board of Appeal for a time period not exceeding three months.

(2) A request for extension of a procedural time period shall be submitted before the end of the determined time period. A request for the extension of a procedural time period submitted after the end of this time period shall be considered as the request for the renewal of the procedural time period.

Section 48. Procedures for the Extension and Renewal of a Procedural Time Period

(1) A reasoned request for the extension of a procedural time period or renewal of a delayed procedural time period shall be submitted to the Board of Appeal. The request for the renewal of a delayed time period shall be accompanied by evidence proving the reasons justifying the delay of the time period.

(2) The request provided for in Paragraph one of this Section shall be considered submitted, if within the time period determined for its submission the fee for the extension of the procedural time period or fee for the renewal of the delayed procedural time period has been paid.

(3) An issue on the extension or renewal of a procedural time period shall be decided by the chairperson of the composition for the examination of the matter, or if the composition for the examination of the matter is not yet approved, by the chairperson of the Board of Appeal, in the written procedure within seven days from the day of the receipt of the request provided for in Paragraph one of this Section, without hearing the point of view of other participants in the matter.

(4) If a participant in a matter repeatedly requests an extension of the procedural time period, the request shall be accompanied by a document certifying the payment of the additional fee determined for a repeated extension of the procedural time period. In deciding on an issue of repeated extension of the procedural time period, the Board of Appeal shall hear other participants in the matter. When assessing the usefulness of the extension of the time period, it shall be taken into account whether the repeated extension will not unduly delay the examination of the matter.

(5) A decision taken by the chairperson of the composition for the examination of a matter or by the chairperson of the Board of Appeal sitting alone on an issue of the renewal or extension of a procedural time period may be contested in accordance with the procedures laid down in Section 97 of this Law.

(6) The provisions for the continuation of the proceedings and the reinstatement of rights provided for in the industrial property laws and regulations shall not be applied in the procedures of the Board of Appeal insofar as it is not laid down otherwise in this Law.

Chapter IX Regulations Regarding Evidence

Section 49. Evidence and Evidentiary Means

(1) Evidence is information by which the claims and counter-arguments of the participants in the matter are substantiated, as well as other information, which has significance in examination of the matter.

(2) Evidentiary means may be written evidence, explanations of the parties and third persons, and material evidence, which contain information on the facts relating to the matter to be examined.

Section 50. Burden of Proof

(1) Each participant in a matter shall prove the circumstances to which they refer.

(2) The Patent Office in a matter of appeal may refer only to the justifications stated in the contested decision of the Patent Office.

(3) If the evidence submitted by the participants in a matter is not sufficient, the Board of Appeal shall invite the

participant in the matter, to whom such evidence is accessible, to submit it.

Section 51. Grounds for Exemption of Proving

(1) Facts that have been recognised by the Board of Appeal as generally known, need not be proven.

(2) The Board of Appeal may recognise a fact as proven, if other participants in the matter do not contest it.

(3) A fact that has been established with an effective judgement of the court, or a decision of the Board of Appeal, need not be proved anew, upon examining in the Board of Appeal a matter involving the same participants in the matter.

Section 52. Assessment of Evidence

(1) The Board of Appeal shall assess the evidence according to its own convictions, based on a comprehensive, fully and objectively verified evidence, as well as guided by legal awareness based on the rules of logic, scientific knowledge, principles of justice, and observations gained from experience.

(2) In its decision the Board of Appeal shall specify why it has given priority to one evidence as compared to other evidence, and has recognised one fact as proven, but other facts - as not proven.

Section 53. Explanations

(1) Explanations of the parties and third persons, which contain information on the facts, by which the claims or oppositions of these parties and third persons have been justified, shall be recognised as evidence, if they are confirmed by other evidence verified and evaluated in the matter.

(2) If one party recognises the facts, by which the other party justifies its claims or oppositions, the Board of Appeal may find such facts as proven, if it has no doubt that the recognition has not been made as a result of fraud, violence, threats or deceit or for the purpose of concealing the truth.

Section 54. Written Evidence

(1) Written evidence shall be information regarding facts which are relevant to the matter to be examined, which with the help of letters, numbers and other signs or technical means have been recorded in documents, in other writings, also in the respective systems of records, including audio recordings and video recordings, recordings in disks and other information media.

(2) Written evidence, depending on their significance in the matter to be examined, shall be submitted in the original form, in the form of a certified or uncertified true copy, copy, print-out or extract.

(3) For print-outs from generally accessible databases and websites their extraction time and place shall be indicated.

(4) For photos and other records made with the help of technical means their time and place of emergence, as well as other information which is relevant to the examination of the matter shall be indicated.

(5) A participant in the matter may receive back a document or other written evidence, which has been submitted to the Board of Appeal in the original copy, if he or she submits a respective true copy, copy, or an extract. The correctness of such true copy, copy or extract may be certified by the chairperson of the Board of Appeal or by the chairperson of the composition for the examination of the matter.

Section 55. Evidence of Registered Subject Matter

(1) Evidence of registered subject matter shall be the registration certificate issued by the registration authority, the official publication of the registration, an extract from a register or a print-out from a database.

(2) The Board of Appeal may recognise the rights as proven with a non-certified copy of a registration certificate or official publication, non-certified extract from a register or non-certified print-out from a database if other participants in the matter do not contest such evidence.

(3) The Board of Appeal is entitled to request from a participant in the matter an up-to-date extract from a register (certified or non-certified) or other evidence if there is a reason to believe that, in comparison with the information in the matter, amendments may be introduced to the registration, which cannot be established from generally accessible databases.

(4) A participant in the matter who relies on objects of industrial property registered in the Patent Office shall submit the information on them necessary for examination of the matter.

Section 56. Material Evidence

(1) Material evidence is tangible objects which with their qualities, characteristics, or their existence might be useful to establish the facts which are relevant to the matter.

(2) The Board of Appeal shall only collect such material evidence, which can be stored with the materials of the matter to be examined. If the storage of material evidence is not possible, the participant in the matter may submit a motivated request to inspect the evidence in a session of the Board of Appeal (Section 32, Paragraph five) and request that photos or, if necessary, a video recording of this material evidence is added to the matter.

Chapter X

Initiation of a Matter in the Board of Appeal

Section 57. Grounds for Initiation of a Matter

The grounds for the initiation of a matter in the Board of Appeal shall be the following documents submitted in accordance with specific procedures and time period:

1) a notice of appeal against a decision of the Patent Office;

2) a notice of opposition to the registration of an object of industrial property in Latvia, also a notice of opposition to the entering into effect of international registration (if it refers to Latvia) of a trade mark or design in Latvia (Chapter XVI).

Section 58. Submission of a Notice of Appeal

(1) If the applicant or another addressee of the decision of the Patent Office (owner, former owner, successor of property rights, licensee) completely or partly disagrees with the decision of the Patent Office, which has been taken in the registration or post-registration procedure, he or she is entitled to, upon paying the fee for the submission of a notice of appeal, submit a motivated written notice of appeal to the Patent Office within three months from the day when the decision is notified.

(2) If a decision of the Patent Office does not terminate the procedure regarding the addressee of the decision, a notice of appeal thereof may be submitted, when the final decision has been taken in the respective registration or post-registration procedure, if the possibility to submit a notice of appeal has not been indicated therein.

(3) The notice of appeal shall suspend execution of the decision of the Patent Office.

(4) The Patent Office shall, without delay, hand over the submitted notice of appeal to the Board of Appeal.

Section 59. Notice of Appeal

(1) The following shall be indicated in a notice of appeal:

1) the submitter of the notice of appeal and his or her address, as well as the representative of the submitter of the notice of appeal, if such has been appointed, and his or her address in accordance with the provisions of Section 13 of this Law;

2) the date of the appealed decision of the Patent Office and the application or registration to which the decision refers (the application and registration shall be indicated in accordance with the provisions of Section 15 of this Law);

3) the subject and the substantive grounds of the notice of appeal (analysis of those grounds of the decision of the Patent Office, to which the submitter of the notice of appeal does not agree; explanations or justifications of the submitter of the notice of appeal; characterisation of the circumstances of the matter and reference to the evidence; reference to the norms, which are not observed or to which the decision of the Patent Office does not comply, or which justify the notice of appeal);

4) the claim of the submitter of the notice of appeal;

5) the place and time of rendering of the notice of appeal;

6) the list of attached documents.

(2) Also other information, which is considered significant by the submitter for the examination of the matter, may be indicated in the notice of appeal.

(3) The notice of appeal shall be addressed to the Board of Appeal, and it shall be signed by the submitter of the notice of appeal or his or her representative. If a notice of appeal is submitted by a representative on behalf of its submitter, he or she in accordance with the provisions of Chapter XVII of this Law shall attach to the notice of appeal a power of attorney or a reference to a power of attorney previously submitted to the Patent Office or the Board of Appeal.

Section 60. Submission of a Notice of Opposition

(1) The persons determined in the industrial property laws and regulations in the presence of the legal basis provided for in these laws and regulations may submit to the Board of Appeal a written reasoned notice of opposition to the registration of an object of industrial property by requesting for it to be declared invalid, fully or in part.

(2) A notice of opposition shall be submitted by paying the fee for the submission of a notice of opposition, within the time period laid down in the industrial property law or regulation. The time periods laid down in the industrial property laws and regulations for the submission of a notice of opposition shall not be extended or renewed, they are not subject to the provisions for the continuation of proceedings or reinstatement of rights.

(3) After the end of the time period for the submission of a notice of opposition the submitter of the notice of opposition is not entitled to introduce amendments to the initial legal basis of the notice of opposition that would extend it. The submitter of a notice of opposition has the right to submit additional documents and evidence in accordance with the procedures laid down in this Law, confirming the facts by which the notice of opposition has been justified.

(4) A notice of opposition submitted to the registration of an object of industrial property shall not prevent this registration from being contested in the court in accordance with the civil procedures laid down in laws and regulations.

Section 61. Notice of Opposition

(1) The following shall be indicated in a notice of opposition:

1) the submitter of the notice of opposition and his or her address, as well as the representative of the submitter of the notice of opposition, if such has been appointed, and his or her address (name and address of persons shall be indicated in accordance with the provisions of Section 13 of this Law);

2) the registration of an object of industrial property to which the notice of opposition has been submitted (the registration shall be indicated in accordance with the provisions of Section 15 of this Law);

3) the subject of the notice of opposition (explanations of the submitter of the notice of opposition or justification of notice of opposition; characterisation of the circumstances of the matter and reference to evidence);

4) the information regarding earlier rights if the notice of opposition is based on the existence of earlier rights (applications and registrations shall be indicated in accordance with the provisions of Section 15 of this Law);

5) the substantive grounds of the notice of opposition (reference to the norms, which have been violated, upon registering the contested rights for the object of industrial property, or with which the notice of opposition has been justified);

6) the claim of the submitter of the notice of opposition;

7) the place and time of rendering of the notice of opposition;

8) the list of attached documents.

(2) Also other information which is considered significant by the submitter for the examination of the matter may be indicated in the notice of opposition.

(3) The notice of opposition shall be addressed to the Board of Appeal, and it shall be signed by the submitter of the notice of opposition or his or her representative. If a notice of opposition is submitted by a representative on behalf of its submitter, he or she in accordance with the provisions of Chapter XVII of this Law shall attach to the notice of opposition a power of attorney or a reference to a power of attorney previously submitted the Patent Office or the Board of Appeal.

Section 62. Attaching of Documents, Evidence and Other Additions

(1) Documents and other evidence confirming the following shall be attached to a notice of appeal or a notice of opposition:

1) payment of the fee for the submission of a notice of appeal or notice of opposition;

2) the circumstances with which a notice of appeal or notice of opposition has been justified.

(2) A notice of appeal or notice of opposition and the attached documents shall be submitted to the Board of Appeal with as many true copies as the number of participants in the matter, excluding the submitter of the notice of appeal or notice of opposition.

(3) The evidence and other additions needed for the examination of the matter shall be submitted within the time

period determined in this Law or, if the Board of Appeal has invited them to be submitted - within the time period determined by the Board of Appeal.

(4) Evidence of all the earlier rights, on which a notice of opposition is based, shall be submitted together with the notice of opposition in conformity with the time period for the submission of a notice of opposition laid down in industrial property law or regulation.

(5) If the examination of a matter has been determined in the oral procedure (Section 32, Paragraph four of this Law) or if a session of the Board of Appeal has been determined for carrying out a separate procedural activity, for clarification or resolution of a procedural issue (Section 32, Paragraph five of this Law), the participants in the matter have an obligation to ensure that not later than 14 days before the date of the session all written evidence needed for the examination of the matter or for carrying out the respective procedural activity, clarification or resolving of the procedural issues are received by the Board of Appeal.

(6) If evidence or other additions, other than those referred to in Paragraphs one and four of this Section, are submitted by a participant in a matter without complying with the time period laid down in this Law or determined by the Board of Appeal, the Board of Appeal shall add it to the matter, if it recognises, that:

- 1) they are significant for the examination of the matter;
- 2) the time period for the submission is not observed due to a justified reason;
- 3) with the addition thereof the examination of the matter is not unduly delayed.

(7) All additions to a notice of appeal or to a notice of opposition, as well as the response to a notice of opposition and other documents that are submitted separately from the initial notice of appeal or notice of opposition shall be supplemented with a reference to the respective notice of appeal or notice of opposition.

Section 63. Decision on a Submitted Notice of Appeal or Notice of Opposition

(1) Within three working days after receipt of a notice of appeal or notice of opposition the chairperson of the Board of Appeal shall instruct the secretary of the Board of Appeal to commence proceedings regarding the notice of appeal or notice of opposition and in accordance with the provisions of Section 38 of this Law shall approve the composition for the examination of the matter and the chairperson of this composition.

(2) Within ten working days after receipt of a notice of appeal or notice of opposition the Board of Appeal shall take a decision to:

- 1) accept the notice of appeal or notice of opposition and to initiate a matter;
- 2) refuse to accept the notice of appeal or notice of opposition;
- 3) leave the notice of appeal or notice of opposition without advancement.

(3) The decision to accept the notice of appeal or notice of opposition and to initiate a matter shall be taken by the chairperson of the composition for the examination of the matter, and it shall be recorded as a resolution to the notice of appeal or notice of opposition. The decision shall be notified to the submitter (in case of a notice of appeal - also to the official or unit of the Patent Office, which has taken the contested decision), and it shall be published on the website of the Patent Office.

(4) If a notice of appeal or notice of opposition has been left without advancement, the time period laid down in Paragraph two of this Section for taking a decision to accept a notice of appeal or notice of opposition and to initiate a matter, or to refuse to accept a notice of appeal or notice of opposition shall be counted from the day when the time period for the elimination of deficiencies ends (Section 65, Paragraph two).

Section 64. Refusal to Accept a Notice of Appeal or Notice of Opposition

(1) The Board of Appeal shall refuse to accept a notice of appeal or notice of opposition, if:

- 1) the matter is obviously not to be examined according to the procedure prescribed for appeal or opposition;
- 2) in the proceedings of the Board of Appeal there is a matter with the same participants in the matter, regarding the same subject and on the same basis;
- 3) a notice of appeal or notice of opposition has been submitted by a person who is not entitled to do so;
- 4) a notice of appeal has been submitted after the time period determined for its submission, and it has been determined as non-renewable, or another reason not to renew it has been laid down in an industrial property law or regulation, or the time period laid down in Section 46, Paragraph two of this Law has ended;
- 5) the time period for the submission of a notice of opposition laid down in an industrial property law or regulation

has not been observed;

6) a notice of appeal or notice of opposition the acceptance of which has already been refused by the Board of Appeal has been repeatedly submitted to the Board of Appeal.

(2) A motivated decision to refuse to accept a notice of appeal or notice of opposition shall be taken by the chairperson of the composition for the examination of the matter within the time period specified in Section 63, Paragraph two of this Law.

(3) A decision, which has been taken by the chairperson of the composition for the examination of the matter sitting alone, to refuse to accept a notice of appeal or notice of opposition may be contested in accordance with the procedures laid down in Section 97 of this Law.

Section 65. Leaving of a Notice of Appeal or Notice of Opposition Without Advancement

(1) The Board of Appeal shall leave a notice of appeal or notice of opposition without advancement, if:

1) upon submitting the notice of appeal, the requirements of Section 58, Paragraphs one and two, and Section 59, Paragraphs one and three of this Law have not been observed;

2) upon submitting the notice of opposition, the requirements of Section 60, Paragraphs one and two, and Section 61, Paragraphs one and three of this Law have not been observed;

3) the documents referred to in Section 62, Paragraphs one, two, and four of this Law have not been attached to the notice of appeal or notice of opposition;

4) the notice of appeal has been submitted after the end of the time period laid down in this Law, and a request for the renewal of the time period for the submission of a notice of appeal with an explanation of the reason for the delay of the time period and evidence to prove it, or a request to extend the time period for the submission of a notice of appeal in accordance with Section 48, Paragraph one of this Law has not been attached thereto, or the fee for the renewal or extension of the procedural time period has not been paid in accordance with Section 48, Paragraph two of this Law;

5) several claims have been joined into one notice of appeal, but these claims are not bound to each other with substantive grounds, motivation or evidence submitted;

6) several claims have been joined into one notice of opposition, but these claims are not bound to each other with substantive grounds, motivation or evidence submitted;

7) the representative of the submitter of a notice of opposition is concurrently representing the owner of the contested registration.

(2) A motivated decision to leave a notice of appeal or notice of opposition without advancement shall be taken by the chairperson of the composition for the examination of the matter, and it shall be notified to the submitter of the notice (in the case of a notice of appeal - also to the official or unit of the Patent Office, which has taken the contested decision) and another time period for the elimination of deficiencies shall be determined.

(3) If the submitter of a notice of appeal or notice of opposition eliminates the deficiencies within the determined time period, the notice of appeal or notice of opposition shall be deemed to have been submitted on the day when the notice of appeal or notice of opposition was submitted to the Board of Appeal for the first time.

(4) If the submitter of a notice of appeal or notice of opposition fails to eliminate the deficiencies within the determined time period, the composition for the examination of the matter shall, with a motivated decision, recognise the notice of appeal or notice of opposition as not submitted.

Chapter XI Advancement and Preparation of a Matter for Examination

Section 66. Advancement of a Matter of Appeal after Initiation of a Matter

(1) If a notice of appeal has been accepted and a matter of appeal has been initiated, the Board of Appeal shall, without delay, hand over the notice of appeal to the Patent Office - to the official or unit, which had taken the decision, against which the notice of appeal has been submitted.

(2) The Patent Office shall, without delay, revoke or amend the relevant decision insofar as it recognises the claim of the notice of appeal as justified.

(3) If revocation or amendment of a decision of the Patent Office may affect the rights or legal interests of a third person or if within a month after handing over to the Patent Office the decision has not been revoked or amended in

accordance with the procedures laid down in Paragraph two of this Section, the Patent Office shall, without delay, return the notice of appeal for examination in the Board of Appeal.

(4) If the Patent Office has revoked or amended its previously taken decision, and it satisfies the submitter of the notice of appeal, he or she shall, within two months from the day when this decision is notified, withdraw his or her notice of appeal with a respective submission.

(5) If the Patent Office has amended its previously taken decision, but it does not satisfy the submitter of the notice of appeal, he or she shall notify the Patent Office thereof in writing within the time period specified in Paragraph four of this Section. The Patent Office shall, without delay, return the notice of appeal for examination of the matter in the Board of Appeal.

(6) While the examination of a matter of appeal on its merits is not completed, the submitter of the notice of appeal is entitled to update and supplement the submitted notice of appeal.

Section 67. Joining and Splitting of Claims of Appeal

(1) The submitter of a notice of appeal is entitled to join several interrelated claims of appeal (claims of appeal against several decisions of the Patent Office) into one notice of appeal, if the substantive grounds, motivation or provided evidence thereof are the same or are interrelated. When submitting a joint notice of appeal, the time periods for the submission of all the notices of appeal shall be observed, and for each claim the fee for the submission of a notice of appeal shall be paid.

(2) If there are several matters of appeal of the same type in the proceedings of the Board of Appeal, involving the same participants in the matter, the Board of Appeal is entitled to join these matters into one proceeding, if such joining of matters promotes a faster and more accurate examination of the matters.

(3) The Board of Appeal is entitled, with a decision, to separate one or several claims of a notice of appeal from the joint proceedings in a separate proceeding, if it recognises separate examination of these claims to be more useful, or if their examination in one proceeding has become encumbered or impossible.

Section 68. Sending of a Notice of Opposition to the Owner of the Contested Registration and Response of the Owner

(1) If a notice of opposition has been accepted, and a matter of opposition has been initiated, the Board of Appeal shall, without delay, send true copies of the notice of opposition and the attached documents to the owner of the contested registration, and invite him or her to submit a written response to the opposition within two months after the day of sending the respective documents.

(2) The owner of the contested registration in the response to the opposition shall indicate his or her counterarguments to the claim of the notice of opposition and attach evidence proving them. The owner of the contested registration may recognise the claim of the notice of opposition fully or in part thereof as well.

(3) If an opposition is fully or partly based on an earlier trade mark, after registration of which not less than five years have passed, the owner of the contested registration is entitled, within the time period laid down in Paragraph one of this Section, to request in writing that the submitter of the notice of opposition submits evidence for the actual use of the earlier trade mark.

(4) The response to a notice of opposition and the attached documents shall be submitted with so many true copies as the number of participants in the matter, excluding the provider of the response.

(5) After receipt of the response, the Board of Appeal shall, without delay, send its true copies to the submitter of the notice of opposition and to the third person.

(6) Failure to submit a response shall not constitute a bar for the examination of the matter of opposition.

Section 69. Joining and Splitting of Claims of Opposition

(1) The submitter of a notice of opposition is entitled to join several interrelated claims of opposition into one notice of opposition (claims of opposition to several registrations of one owner), if their substantive grounds, motivation or evidence are the same or they are interrelated. Upon submitting a joint notice of opposition, the time periods for the submission of all notices of opposition shall be observed, and for each claim the fee for the submission of a notice of opposition shall be paid.

(2) If there are several matters of opposition in the proceedings of the Board of Appeal where the notices of opposition have been submitted to the same registration, the Board of Appeal is entitled to join these matters into one proceeding, if such joining of matters promotes a faster and more accurate examination of matters.

(3) Notice of opposition submitted by several submitters shall not be joined in accordance with the procedures provided for in Paragraph two of this Section, if the joined proceedings do not allow to protect a professional or

commercial secret, or may otherwise harm the legal interests of a participant in the matter.

(4) If there are several matters of opposition of the same type in the proceedings of the Board of Appeal, involving the same participants in the matter, the Board of Appeal with the consent of the participants in the matter is entitled to join these matters into one proceeding, if such joining of matters promotes faster and more accurate examination of matters.

(5) The Board of Appeal having heard the points of view of the participants in the matter may separate one or several claims of opposition from the joint claim of opposition (Paragraph one, two or four of this Section) into a separate proceeding, if it recognises separate examination of these claims to be more useful or if their examination in one proceeding has become problematic or impossible.

Section 70. Conciliation of the Parties in a Matter of Opposition and Agreeing on a Settlement

(1) The Board of Appeal shall endeavour to reconcile the parties in a matter of opposition.

(2) The Board of Appeal may approve the settlement between the parties in a matter of opposition, insofar as the provisions of the settlement concern the recording of amendments in the relevant registrations information, provided for in industrial property laws and regulations and under the competence of the Patent Office.

(3) Settlement shall not be allowed if its provisions affect the rights or legal interests of a third person, and the third person has not agreed thereto.

(4) If a settlement is concluded or a notice of opposition is completely withdrawn before the end of the time period for providing the response of the owner of the contested registration (Section 68, Paragraph one), the Board of Appeal upon terminating the opposition proceedings (Section 108, Clauses 4 and 8), shall reimburse to the submitter of the notice of opposition 50 per cent of the fee paid for submitting a notice of opposition.

(5) If in the course of the preparation or examination of a matter of opposition both parties express readiness to agree on a settlement, the Board of Appeal shall postpone the examination of the matter for a period of time needed by the parties to come to an agreement, but not longer than six months. If the proposal for settlement is expressed by one of the parties, the Board of Appeal, after hearing the point of view of the opposite party, shall take the decision to postpone the examination of the matter, if the fee for postponing the examination of the matter has been paid. If both parties request to extend the time period which has been determined to agree on settlement, and for the purpose of settlement the fee for extending the time period for the examination of a matter has been paid, the Board of Appeal shall extend the time period, but for not longer than two years, counting from the day when the readiness to agree was expressed for the first time.

Section 71. Preparation of a Matter for Examination

(1) Upon preparing a matter of appeal or opposition for examination, the chairperson of the composition for the examination of a matter shall carry out the following procedural activities:

- 1) decide on the issue of inviting third persons to the matter;
- 2) decide on the issue of joining or splitting the matters;
- 3) if necessary, request additional evidence from participants in the matter;

4) decide on the issue of the examination of the matter in the oral procedure and the issue of determining a session of the Board of Appeal for carrying out a separate procedural activity or for clarification or resolving of a procedural issue;

- 5) if necessary, explain the participants in the matter their procedural rights and obligations;
- 6) carry out other procedural activities.

(2) The chairperson of the composition for the examination of a matter in a matter of appeal - as soon as the Board of Appeal has received the notice of appeal back from the Patent Office (Section 66, Paragraph three or five) - and in a matter of opposition - concurrently with sending a true copy of the notice of opposition to the owner of the contested registration, or, if necessary at a later stage of the preparation of the matter - shall determine and notify the participants in the matter of the time period, by which the participants in the matter may raise objection, submit explanations, submissions, and requests, including a request for the invitation of a third person, a request for determining a session of the Board of Appeal for carrying out a separate procedural activity, or for clarification or resolving of a procedural issue. If there is no valid reason to determine a different time period, this time period shall be two months from the day of notification.

Chapter XII Examination of a Matter in the Written Procedure

Section 72. Examination of a Matter of Appeal in the Written Procedure

(1) Examination of a matter of appeal on its merits shall be completed not later than three months after the day of initiating the matter. The chairperson of the composition for the examination of the matter shall notify this date to the participants in the matter at least one month in advance. After this date, participants in the matter are entitled to submit any new submissions, requests, and evidence only in case if they are requested by the Board of Appeal.

(2) If, in accordance with the procedures and within the time period laid down in this Law, responses to the questions of the Board of Appeal or other submissions or requests have been received from the participant in the matter, the chairperson of the composition for the examination of the matter shall, without delay, communicate them to other participants in the matter and shall determine a time period for submitting their opinion.

(3) If there is a valid reason, the Board of Appeal is entitled to determine another date when the examination of the matter on its merits is to be completed. The chairperson of the composition for the examination of the matter shall notify this date to participants in the matter at least one month in advance.

Section 73. Examination of a Matter of Opposition in the Written Procedure

(1) If the chairperson of the composition for the examination of a matter does not determine another time period due to valid reasons, the submitter of the notice of opposition has the right, within two months after the Board of Appeal has notified the response to the notice of opposition to him or her, or if the response is not submitted, after the end of the time period for submitting the response, to submit additions or clarifications, additional explanations, and evidence to the notice of opposition.

(2) Unless the chairperson of the composition for the examination of a matter due to valid reasons determines otherwise, the owner of the contested registration has the right, within two months after the Board of Appeal has notified additions, clarifications, additional explanations or evidence to the notice of opposition to him or her, or if such have not been submitted, after the end of the time period for their submission, to submit additions to the response to the notice of opposition and additional evidence.

(3) If the owner of the contested registration has failed to submit a response to the notice of opposition in accordance with the specified procedures and time period, he or she may not exercise the rights provided for in Paragraph two of this Section. This provision shall not affect the rights of the owner of the contested registration to provide a response to a notice of opposition or its additions within the time period specified in Paragraph two of this Section, if he or she has submitted a request for evidence of actual use of the opposing earlier trade mark (Section 68, Paragraph three) within the time period specified in Section 68, Paragraph one of this Law.

(4) If, in accordance with the procedures and within the time period laid down in this Law, responses to the questions of the Board of Appeal or other submissions or requests have been received from the participant in the matter, the chairperson of the composition for the examination of the matter shall, without delay, communicate them to other participants in the matter and shall determine a time period for submitting their opinion.

(5) Concurrently with the sending of additions to the notice of opposition to the owner of the contested registration, or if additions to the notice of opposition have not been submitted, immediately after the end of the time period determined for this purpose, the chairperson of the composition for the examination of the matter shall determine and notify all the participants in the matter of the day when the examination of the matter on its merits is to be completed. If there are no valid reasons to decide otherwise, the examination of the matter on its merits shall be completed on the same day which has been determined as the time period by which additions to a response to a notice of opposition shall be submitted. After this date, participants in the matter are entitled to submit any new submissions, requests, and evidence only in case if they are requested by the Board of Appeal.

(6) If there is a valid reason, the chairperson of the composition for the examination of the matter is entitled to determine a new date when the examination of the matter on its merits is to be completed.

(7) If the participants in the matter declare that they will not exercise their rights to submit additions or clarifications to the notice of opposition, additional explanations or evidence, or additions to the response to the notice of opposition or additional evidence, as well as in other justified cases, the date when the examination of the matter on its merits is to be completed may be determined earlier than determined originally.

Section 74. Communication between the Board of Appeal and Participants in a Matter in the Examination of a Matter in the Written Procedure

(1) At any stage of the examination of a matter the Board of Appeal may invite participants in the matter, within a determined time period, to answer questions regarding the actual circumstances and formal legal basis of the matter.

(2) A participant in the matter has an obligation to inform the Board of Appeal without delay, if at any stage of the preparation or examination of the matter he or she does not wish to exercise the rights to provide his or her point of view or arguments regarding documents submitted by another participant in the matter.

Chapter XIII

Session of the Board of Appeal

Section 75. Determination and Notification of a Session of the Board of Appeal

(1) If the examination of a matter in the oral procedure is determined (Section 32, Paragraph four) or a session of the Board of Appeal is necessary for carrying out a separate procedural activity, for clarification or resolving of a procedural issue (Section 32, Paragraph five), the chairperson of the composition for the examination of the matter shall, at least a month in advance, notify the participants in the matter of the day, time, and place of the session of the Board of Appeal, as well as of the obligation of the participants in the matter to submit to the Board of Appeal all the necessary evidence within the time period determined in Section 62, Paragraph five of this Law.

(2) If a session of the Board of Appeal which had already been determined, is postponed, the chairperson of the composition for the examination of the matter shall notify information regarding the postponed session of the Board of Appeal referred to in Paragraph one of this Section to the participants in the matter at least 10 days in advance.

(3) With a consent of all participants in the matter the session of the Board of Appeal may be determined and notified without observing the time periods referred to in Paragraphs one and two of this Section.

(4) If it is requested to examine a matter of opposition in the oral procedure, the chairperson of the composition for the examination of the matter shall decide this issue as soon as the response of the owner of the contested registration to the notice of opposition has been received, or the time period for submitting the response has ended. If a matter is determined to be examined in the oral procedure, the session of the Board of Appeal shall be, without delay, notified to participants in the matter, in conformity with the provisions of Paragraphs one, two, and three of this Section.

Section 76. Recording of the Course of a Session of the Board of Appeal

(1) During a session of the Board of Appeal minutes shall be taken and audio recording of the course of the session shall be made.

(2) Minutes shall be taken and the audio recording ensured by the secretary of the Board of Appeal or a member of the Board of Appeal who upon assignment of the chairperson of the Board of Appeal performs the obligations of the secretary (hereinafter - the secretary of the session).

(3) The following shall be indicated in the minutes of a session of the Board of Appeal in addition to other information:

- 1) the place and time of the session;
- 2) the composition for the examination of the matter, and the secretary of the session;
- 3) the persons present at the session;
- 4) what decisions have been taken.

(4) Minutes and audio recordings of a session of the Board of Appeal shall be available to the participants in the matter and other persons, in conformity with the transparency regulations for the examination of the matter.

Section 77. Procedures in a Session of the Board of Appeal

(1) Participants in the matter, interpreters, and other persons present at the session of the Board of Appeal shall comply with the procedures laid down in this Law, and shall unconditionally obey the instructions of the chairperson of the composition for the examination of the matter and the rulings of the Board of Appeal.

(2) The persons present at a session of the Board of Appeal shall behave in such a way that the course of the session is not disturbed.

(3) If a person during a session of the Board of Appeal repeatedly disturbs the session, the Board of Appeal shall expel him or her from the session hall. If a session is repeatedly disturbed by a participant in the matter, the fact of exclusion shall be recorded in the minutes of the session. The Board of Appeal is entitled to examine the matter without the presence of such person.

Section 78. Commencement of a Session

(1) A session of the Board of Appeal shall be chaired by the chairperson of the composition for the examination of the matter.

(2) The chairperson of the composition for the examination of the matter shall chair the examination of the matter

and procedural activities in a session so as to ensure all participants in the matter equal rights to participate in clarification of the circumstances of the matter and objective examination of the matter.

(3) Upon opening a session, the chairperson of the composition for the examination of the matter shall notify which matter will be examined, name the composition for the examination of the matter, and the secretary of the session.

(4) The Board of Appeal shall clarify which persons invited have arrived and what information regarding the reasons for not arriving of the persons invited has been received, verify the identity of the persons present, and authorisation of the representatives.

(5) The chairperson of the composition for the examination of the matter shall explain to the participants in the matter their procedural rights and obligations, as well as the consequences of execution or non-execution of the procedural activities.

Section 79. Examination of a Matter on Its Merits in the Absence of a Participant in the Matter

(1) If any of the participants in the matter or an interpreter has not arrived, the Board of Appeal shall commence the examination of the matter, unless there is a reason to postpone it in accordance with Section 101 of this Law.

(2) If the submitter of a notice of appeal or a party in a matter of opposition has submitted a request to examine the matter in the absence of the person before the session, the Board of Appeal may examine the matter without the abovementioned person.

(3) In case of absence of an official of the Patent Office who has been invited to the session, the Board of Appeal shall examine the matter of appeal in the absence of the abovementioned person according to the materials of the matter.

(4) The Board of Appeal shall examine a matter of opposition in the absence of the owner of the contested registration, if there is no information regarding the reasons for his or her absence, or if they are not recognised as justified.

Section 80. Objection and Deciding Thereon

(1) The Board of Appeal shall examine whether a participant in the matter has objection to a member of the Board of Appeal. If an objection has been raised, a record thereof shall be entered in the minutes of the session.

(2) The Board of Appeal shall decide on the raised objection in accordance with the procedures laid down in Section 39, Paragraphs five and six of this Law.

Section 81. Deciding on Requests Applied by Participants in a Matter

The Board of Appeal shall clarify whether participants in a matter have requests that are related to the examination of the matter, and decide on them after hearing the point of view of participants in the matter.

Section 82. Commencement of the Examination of a Matter on its Merits

(1) Upon the commencement of the session of the Board of Appeal, in which a matter is examined on its merits, the chairperson of the composition for the examination of the matter, if it is necessary, shall notify of the circumstances of the matter and the procedural activities carried out in the course of the preparation of the matter.

(2) The Board of Appeal shall clarify whether the submitter of a notice of appeal or opposition maintains the claim included in his or her submission, and whether the Patent Office or the owner of the contested registration recognises it.

Section 83. Withdrawal from a Claim and Recognition of a Claim

(1) A withdrawal from a claim (complete or partial), verbally expressed in a session of the Board of Appeal, shall be recorded in the minutes of the session and signed by the submitter of the notice of appeal or opposition. If a withdrawal from a claim has been submitted to the Board of Appeal in writing, it shall be added to the file.

(2) Recognition of a claim (fully or in part) in a session of the Board of Appeal shall be recorded in the minutes of the session, and signed by the official of the Patent Office who recognises the claim included in the notice of appeal, or by the owner of the contested registration who recognises the claim included in the notice of opposition. If a recognition of a claim has been submitted to the Board of Appeal in writing, it shall be added to the file.

(3) It is possible to withdraw from a claim and recognise a claim before the examination of a matter on its merits has been completed.

(4) The Board of Appeal shall take a decision on complete withdrawal from the claim of the submitter of a notice of appeal, or the submitter of a notice of opposition, concurrently with which it ends the proceedings of the matter.

Section 84. Explanations of the Participants in a Matter and Written Evidence

(1) In the session of the Board of Appeal, in which a matter of appeal is examined on its merits, the participants in the matter shall provide explanations in the following order: first, the submitter of the notice of appeal, then the Patent Office.

(2) In the session of the Board of Appeal, in which a matter of opposition is examined on its merits, the participants in the matter shall provide explanations in the following order: first, the submitter of the notice of opposition, then the owner of the contested registration.

(3) A third person who participates in the court without independent claims, shall provide explanations after the person on the side of whom he or she participates in the matter.

(4) Representatives of participants in a matter shall provide explanations on behalf of the persons they are representing.

(5) The participants in a matter shall indicate the circumstances justifying their claims or counterarguments in their explanations.

(6) If a participant in a matter in his or her explanations refers to evidence which is not submitted in the matter, and the Board of Appeal recognises that such evidence is necessary, the Board of Appeal may, by taking into account the provisions of Section 62 of this Law, invite to submit them.

(7) The participants in the matter are entitled to submit their explanations to the Board of Appeal in writing.

(8) Written explanations of the participants in the matter and the written evidence shall be read out in a session of the Board of Appeal in the order laid down in this Section, except when the participants in the matter present at the session agree that reading out is not necessary.

Section 85. Procedures for Asking Questions

(1) With a permission of the Board of Appeal the participants in the matter may ask each other questions. The Board of Appeal shall reject questions that are not relevant to the matter.

(2) In examining a matter, the Board of Appeal may, at any time, ask questions to participants in the matter.

Section 86. Examination of Material Evidence

(1) Material evidence shall be inspected in a session of the Board of Appeal and presented to participants in the matter.

(2) A participant in the matter may provide explanations and express his or her point of view and requests regarding the material evidence.

(3) If material evidence have been inspected in a session of the Board of Appeal which has been scheduled for the examination of material evidence, then, upon examining the matter on its merits, the minutes of inspection shall be read out, if necessary.

Section 87. Termination of the Examination of a Matter on its Merits

(1) In the session of the Board of Appeal, in which a matter is examined on its merits, the Board of Appeal shall, after the examination of the applied evidence, clarify the point of view of participants in the matter on the possibility to complete examination of the matter on its merits.

(2) If it is not necessary to examine additional evidence, the Board of Appeal shall clarify whether the submitter of the notice of appeal or opposition maintains the claim included in its notice, and whether the parties (in a matter of opposition) are willing to conclude settlement.

(3) If the submitter of a notice of appeal or opposition does not withdraw from the claim, and the parties (in a matter of opposition) are not willing to conclude settlement, the Board of Appeal shall declare the examination of the matter on its merits as completed, and continue with debate.

Section 88. Debate

(1) In the debate the participants in a matter shall speak in the same order as they are providing explanations.

(2) A participant of the debate is not entitled to refer to circumstances and evidence which have not been examined in a session of the Board of Appeal in his or her speech.

(3) The Board of Appeal shall interrupt a participant of the debate, if he or she is speaking about circumstances that are not relevant to the matter.

Section 89. Replies

- (1) After participants in a matter have spoken in the debate, each of them is entitled to one reply.
- (2) The following persons have the right to the last reply:
 - 1) in a matter of appeal - the submitter of the notice of appeal or his or her representative;
 - 2) in a matter of opposition - the owner of the contested registration or his or her representative.
- (3) The Board of Appeal may limit the length of the reply.

Section 90. Deliberation of the Board of Appeal, Rendering and Declaring of the Decision

- (1) After the debate and the replies, if any, the chairperson of the composition for the examination of the matter shall notify those present in the session hall of the Board of Appeal of deliberation of the Board of Appeal.
- (2) The composition for the examination of the matter shall deliberate and take a decision without the presence of other persons. There shall be no direct or indirect interference in the decision-making or influence on the Board of Appeal.
- (3) When taking a decision collegially the chairperson of the composition for the examination of the matter shall be the last to express his or her point of view.
- (4) After deliberation the chairperson of the composition for the examination of the matter shall publicly inform those present in the session hall of the Board of Appeal on the operative part of the decision of the Board of Appeal.

Section 91. Session of the Board of Appeal for Carrying Out a Procedural Activity or for the Clarification or Resolving of a Procedural Issue

- (1) In a session of the Board of Appeal determined for carrying out a separate procedural activity or for clarification or resolving of a procedural issue, the provisions of Sections 76, 77, 78, 80, 81, 84, 85, and 87 of this Law shall be applied with the necessary changes.
- (2) If a session of the Board of Appeal determined for carrying out a separate procedural activity or for clarification or resolving of a procedural issue is not attended by any of the participants in the matter who have been duly notified of the day, time, and place of the session, and who has not requested to postpone the session for any valid reason, it shall be considered that the participant in the matter has agreed to carrying out the procedural activity or clarification, or resolving of the procedural issue in his or her absence.
- (3) In the case referred to in Paragraph two of this Section the respective participant in the matter is not entitled to contest the decision taken in the session, except when objective circumstances, which were beyond his or her control have served as an obstacle to attend the session of the Board of Appeal or request it to be postponed.

Chapter XIV Decision of the Board of Appeal, its Revision, Entering into Effect and Execution

Section 92. General Rules Regarding a Decision of the Board of Appeal

- (1) A decision of the Board of Appeal shall be legally effective and justified.
- (2) In taking a decision, the Board of Appeal shall base it on the norms of substantive and procedural rights.
- (3) The Board of Appeal shall justify its decision with circumstances that have been established by the evidence in the matter or which in accordance with Section 51 of this Law need not to be proven.
- (4) A decision, by which a dispute is resolved on its merits, shall be justified by the Board of Appeal only with such circumstances, regarding which the participants in a matter have had an opportunity to express their point of view in writing or verbally.
- (5) A decision, by which a dispute is resolved on its merits, shall be taken on the subject indicated in the notice of appeal or opposition, without exceeding the borders of the claim.
- (6) A decision which has been taken collegially shall be signed by all members of the Board of Appeal who have been included in the composition for the examination of the matter. A decision, which has been taken by the chairperson of the Board of Appeal or the chairperson of the composition for the examination of a matter sitting alone, shall be signed by the respective person.

(7) After signing of the decision it shall not be amended or changed. Clerical or mathematical errors may be corrected with a separate decision which shall be taken by the same composition for the examination of a matter.

Section 93. Decision by Which a Dispute is Resolved on its Merits

(1) A decision that resolves a dispute on its merits shall be rendered in writing. It shall consist of an introductory part, a descriptive part, a reasoned part, and an operative part.

(2) The introductory part shall include the place and date of taking the decision, the full name of the Board of Appeal, the composition for the examination of the matter, the participants in the matter, the nature of the matter to be examined (matter of appeal, matter of opposition), and the subject of the notice of appeal or opposition, as well as the procedure (written or oral) by which the matter has been examined.

(3) The descriptive part shall include the claim of the submitter of the notice of appeal or notice of opposition and the counterarguments of the Patent Office or the owner of the contested registration, as well as the nature of the explanations provided by participants in the matter.

(4) The reasoned part shall include:

1) the facts established in the matter, the evidence by which the conclusions of the Board of Appeal have been justified, and arguments by which this or other evidence has been refused;

2) the legal norms on which the Board of Appeal has based;

3) the legal assessment of the established circumstances of the matter;

4) references to the case-law and legal literature, as well as other special literature which has been used by the Board of Appeal in its reasoning;

5) the conclusions of the Board of Appeal regarding the validity of the notice of appeal or notice of opposition.

(5) The operative part shall include:

1) the legal norms applied by the Board of Appeal in a single listing (also mentioning the Section, Paragraph, Clause or Sub-clause of the law or regulation);

2) the ruling on the satisfaction of a notice of appeal or notice of opposition in full or in part or on the rejection, and the nature of the decision (the rights granted, confirmed or denied to a person, or amendments to the information of registration in accordance with the industrial property laws and regulations) which must be executed by the Patent Office;

3) the procedures and time period, in which a participant in a matter who disagrees with the decision of the Board of Appeal is entitled to apply to the court.

Section 94. Rendering and Notification of a Motivated Decision

(1) A motivated decision by which a dispute is resolved on its merits shall be rendered by the Board of Appeal not later than within one month after the day when the examination of the matter in the written procedure has been completed, or when the session of the Board of Appeal at the end of which the decision was taken took place.

(2) On the day of the rendering of a decision or on the next working day the Board of Appeal shall send a true copy of the decision to the participants in a matter. A participant in the matter may, upon a respective request, receive a true copy of the decision in the work premises of the Board of Appeal. Receipt of the decision shall not affect the counting of the time period.

Section 95. Settlement and Decision on the Settlement in a Matter of Opposition

(1) The parties in a matter of opposition shall conclude settlement in writing and submit it to the Board of Appeal.

(2) The following shall be indicated in the settlement:

1) the submitter of the notice of opposition, and his or her address;

2) the owner of the contested registration and his or her address;

3) the subject of the notice of opposition;

4) liabilities of each party they voluntarily undertake to perform.

(3) The Board of Appeal, having received the settlement between the parties, shall clarify whether the parties have voluntarily agreed on the settlement, whether it conforms to the requirements of Section 70, Paragraphs two and three of this Law, and of Paragraphs one and two of this Section, and whether the parties are aware of the procedural

consequences of the confirmation of the settlement.

(4) The circumstances of settlement shall be indicated in the decision on settlement of the Board of Appeal.

(5) On the refusal to confirm the settlement the Board of Appeal shall take a motivated decision and shall continue to examine the matter. The decision on refusal to confirm the settlement may be included in the decision by which a dispute is resolved on its merits.

(6) If the Board of Appeal recognises that the settlement conforms to the requirements of the Law, it shall take a decision, by which it confirms the settlement and concurrently terminates the proceedings in the matter. The decision shall be taken collegially by the composition for the examination of the matter.

Section 96. Decision by Which a Dispute is Not Resolved on its Merits

(1) The decision by which a dispute is not resolved on its merits shall be rendered in a form of a separate procedural document, a resolution, or it shall be recorded in the minutes of the session of the Board of Appeal.

(2) A decision may be drawn up in the form of a resolution if it is taken by the chairperson sitting alone and it does not need an expanded motivation.

(3) The following shall be indicated in a decision that has been rendered in the form of a separate procedural document:

1) the place and date of taking of the decision;

2) the full name of the Board of Appeal, and composition for the examination of the matter;

3) the participants in the matter;

4) the nature of the matter to be examined (a matter of appeal, a matter of opposition), and the subject of the notice of appeal or notice of opposition;

5) the issues regarding which the decision has been taken;

6) the motives of the decision;

7) the ruling of the composition for the examination of the matter, the chairperson of the Board of Appeal or of the chairperson of the composition for the examination of the matter;

8) the time period and procedures by which the decision may be contested, or a remark that the decision shall not be contested.

(4) A decision that has been taken in the form of a separate procedural document shall be notified to the participants in the matter in accordance with the procedures laid down in Section 94, Paragraph two of this Law.

Section 97. Contesting and Entering into Effect of a Decision of the Board of Appeal by Which a Dispute is not Resolved on its Merits

(1) A participant in a matter who is not satisfied with a decision, taken by the chairperson of the Board of Appeal or the chairperson of the composition for the examination of the matter sitting alone, and which has not been determined as incontestable in this Law, may, within two weeks after the day of its notification, submit to the Board of Appeal a motivated submission regarding contesting of the decision.

(2) The decision referred to in Paragraph one of this Section shall enter into effect after expiry of the time period for contesting thereof, and it has not been contested.

(3) The chairperson of the Board of Appeal shall transfer the submission referred to in Paragraph one of this Section to the composition for the examination of the matter for collegial examination and taking of a decision in the written procedure, or, if he or she considers this necessary, in the oral procedure in a session of the Board of Appeal.

(4) The decision taken by the composition for the examination of a matter by which a dispute is not resolved on its merits, shall not be contested, and it shall enter into effect on the day of the notification thereof.

Section 98. Applying to the Court in Relation to a Decision of the Board of Appeal

(1) A participant in a matter who disagrees with the decision of the Board of Appeal by which a dispute in a matter of appeal or opposition has been resolved, may, within three months after the day of the notification of the decision apply to the City of Rīga Vidzeme Urban District Court in accordance with the procedures laid down in the Civil Procedure Law with a statement of claim, depending on the nature of the matter and the decision:

1) the submitter of a notice of appeal, if the notice of appeal has been fully or partially refused - with a claim regarding the protection of his or her affected legal interests and request to impose an obligation on the Patent Office

to establish legal relations according to the application for the registration of an object of industrial property (to carry out registration of an object of industrial property);

2) the Patent Office, if a notice of appeal has been fully or partially satisfied - with a claim to recognise an application for the registration of an object of industrial property as non-conforming to the provisions of an industrial property law or regulation, and the decision of the Patent Office - as legally effective;

3) the submitter of a notice of opposition, if the notice of opposition has been fully or partially refused - with a claim regarding protection of his or her affected rights and legal interests, and request to amend the record in the register (to fully or partially recognise a registration belonging to another person as invalid);

4) the owner of a contested registration, if a notice of opposition has been fully or partially satisfied - with a claim for the protection of the contested rights (to fully or partially recognise a registration as valid).

(2) In the case referred to in Paragraph one of this Section or in accordance with the provisions of the Civil Procedure Law a person whose rights or legal interests, or obligations against any of the participants in a matter are affected by a decision of the Board of Appeal may enter the matter on the side of the claimant or the defendant as a third person without independent claims, also if he or she had not been admitted in the status of a third person, or if he or she has been deprived of the status of a third person in the examination of the matter in the Board of Appeal.

(3) A person who has submitted a statement of claim to the court in accordance with the provisions of this Section, has an obligation, not later than seven days after submitting the statement of claim to the court, to inform the Board of Appeal thereof. The decision to accept the statement of claim and initiate a matter, to refuse to accept a statement of claim, or to leave a statement of claim without advancement, shall be sent by the court to the Board of Appeal in the form of an electronic postal item.

(4) If the court accepts the statement of claim referred to in Paragraph one of this Section and initiates a matter, the Board of Appeal shall send the explanations and written evidence of the participants in the matter at its disposal to the City of Rīga Vidzeme Urban District Court.

Section 99. Entering into Effect of a Decision of the Board of Appeal by Which a Dispute has Been Resolved in a Matter of Appeal or Opposition

(1) A decision of the Board of Appeal by which a dispute has been resolved in a matter of appeal or opposition shall enter into legal effect:

1) on the day when the time period referred to in Section 98, Paragraph one of this Law expires, if:

a) none of the parties involved in the dispute has submitted a statement of claim on the subject of the dispute within this time period,

b) a respective statement of claim on the subject of the dispute has been submitted to the court within this time period, but the judge has taken a decision to refuse to accept it,

c) a respective statement of claim on the subject of the dispute has been submitted to the court within this time period, but the judge has taken a decision to consider the statement of claim as non-submitted, and return it to the applicant;

2) on the day when the decision of the court by which the claim has been left without examination has entered into effect, except when the claim has been left without examination because the dispute in the matter of the claim between the same parties involved in the dispute, regarding the same subject and on the same basis is under examination in the same or another court;

3) on the day when the decision of the court by which the proceedings have been terminated, has entered into effect, except when the proceedings have been terminated due to entering into lawful effect of a court judgement which has been given in a dispute between the same parties involved in the dispute, regarding the same subject, or the parties have concluded settlement and the court has confirmed it.

(2) If a statement of claim to the court in accordance with the procedures of Section 98, Paragraph one of this Law has been submitted on the subject of the dispute which concerns a part of the decision of the Board of Appeal, this decision in the remaining part thereof shall enter into effect when the time period for the submission of the statement of claim to the court expires.

(3) If the Board of Appeal has not received the information referred to in Section 98, Paragraph three of this Law, and its decision refers to the activities in the Patent Office, the Board of Appeal shall transfer the decision to the Patent Office for execution. If a statement of claim has been submitted to the court regarding a subject of the dispute which concerns a part of a decision of the Board of Appeal (Paragraph two of this Section), the Board of Appeal shall transfer the remaining part of the decision to the Patent Office for execution.

Section 100. Execution of a Decision of the Board of Appeal

(1) If a decision of the Board of Appeal has entered into effect and has been notified to the Patent Office, the Patent Office shall, without delay, execute the obligations imposed thereon by a decision of the Board of Appeal (Section 93, Paragraph five, Clause 2), including make the amendments specified in the decision to information regarding registration of an object of industrial property.

(2) If the Board of Appeal in relation to newly discovered circumstances in a matter of appeal has taken a decision on the repeated examination of application for the registration of an object of industrial property (repeated expert-examination), such decision shall not be contested and shall enter into effect at the time of the notification thereof. The Patent Office shall, as soon as such decision has been notified, carry out the obligations imposed on it with the decision of the Board of Appeal, in conformity with the procedures and time period for the respective procedure laid down in an industrial property law or regulation.

(3) If the applicant (submitter of the notice of appeal) is not satisfied also by the decision taken by the Patent Office after repeated examination of the application (repeated expert-examination), he or she is entitled, within three months from the date of notification thereof, stating the justification, to notify the Patent Office that he or she maintains the originally submitted notice of appeal in effect, fully or in part.

Chapter XV

Postponing of the Examination of a Matter, Suspension of Proceedings, Leaving a Matter without Examination and Termination of Proceedings

Section 101. Postponing of the Examination of a Matter

(1) The Board of Appeal shall postpone the examination of a matter, if:

1) the owner of the contested registration has not received a true copy of the notice of opposition in due time, and therefore requests postponing the examination of the matter;

2) it is necessary to invite as a participants in the matter a person whose rights or legal interests may be affected by the decision of the Board of Appeal;

3) one of the participants in the matter fails to attend the session of the Board of Appeal, and he or she has not been notified of the time and place of the session.

(2) The Board of Appeal may postpone the examination of a matter, if it recognises that:

1) it is not possible to examine a matter because any of the participants in the matter or the interpreter has failed to attend the session of the Board of Appeal, or there are other important reasons;

2) it is necessary to submit additional evidence.

(3) The Board of Appeal may postpone the examination of a matter also if the participants in a matter of opposition are preparing to conclude settlement (Section 70, Paragraph five).

Section 102. Decision to Postpone the Examination of a Matter

(1) A decision to postpone the examination of a matter shall be taken in the form of a resolution or a separate procedural document or it shall be recorded in the minutes of the session of the Board of Appeal.

(2) In the decision to postpone the examination of a matter, the procedural activities that must be executed until the resumption of the examination of the matter, as well as the day when the examination of the matter shall be resumed in the written procedure, or the day of the next session of the Board of Appeal shall be indicated.

(3) In a matter that must be examined in the written procedure, the Board of Appeal shall send the decision to postpone the examination of the matter to the participants in the matter. In a matter that must be examined in the oral procedure, the Board of Appeal shall, in a timely manner, notify the participants in the matter of the day and time of the next session in accordance with the provisions of Section 75, Paragraphs one, two and three of this Law.

(4) A decision to postpone the examination of a matter shall be taken and it shall enter into effect in accordance with the procedures laid down in Section 97 of this Law.

Section 103. Suspension of Proceedings

(1) The Board of Appeal shall suspend the proceedings in a matter, if:

1) the natural person who is the submitter of the notice in a matter of appeal or opposition has died, or a legal person who is the submitter of the notice in a matter of appeal or opposition has ceased to exist;

2) the court has established trusteeship over a participant in the matter - a natural person;

3) examination of a matter is not possible before another matter has been decided in the court, an institution or in the Board of Appeal, including cases when a matter has been initiated in a court regarding invalidation or revocation of the registration of an object of industrial property involved in a dispute to be examined by the Board of Appeal.

(2) The Board of Appeal may suspend the proceedings in a matter, if:

1) the submitter of a notice of appeal or opposition or a third person due to a disease, age, disability or other substantial reasons is unable to participate in the examination of the matter;

2) a matter has been initiated in the Constitutional Court regarding conformity of the legal norms to be applied in the examination of the matter with the legal norms of a higher legal force;

3) a matter has been initiated in the Court of Justice of the European Union or in other international or supranational court on the results of which the decision of Board of Appeal may depend.

(3) Proceedings in the Board of Appeal shall be suspended until the reason which served as a basis for suspending the proceedings has been eliminated.

Section 104. Decision to Suspend Proceedings

(1) The Board of Appeal shall take a motivated decision to suspend the proceedings in the form of a separate procedural document.

(2) The circumstances, until the occurrence or termination of which the proceedings have been suspended, shall be indicated in the decision.

(3) The decision to suspend proceedings shall be taken and it shall enter into effect in accordance with the procedures laid down in Section 97 of this Law.

Section 105. Resumption of the Proceedings

The Board of Appeal shall resume the proceedings upon its own initiative or upon a request of a participant in the matter.

Section 106. Leaving a Notice of Appeal or Notice of Opposition without Examination

(1) The Board of Appeal shall leave a notice of appeal or notice of opposition without examination if it has been submitted on behalf of the submitter of the notice of appeal or notice of opposition by a person who has not been authorised for it in accordance with specific procedures, and the deficiencies in the authorisation have not been eliminated upon the invitation of the Board of Appeal.

(2) The Board of Appeal shall leave a notice of opposition without examination if it has become aware of the fact that the dispute in the matter of claim between the same parties on the same subject and on the same basis is under examination in the court.

(3) The Board of Appeal may leave a notice of appeal or notice of opposition without examination if the submitter of the notice of appeal or opposition:

1) who has been notified of the time and place of the session of the Board of Appeal, has repeatedly failed to attend the session of the Board of Appeal without a justified reason, and has not requested that the matter is examined in his or her absence;

2) in a matter to be examined in the written procedure has repeatedly failed to provide answers to questions of the Board of Appeal or invitations to submit the explanations or evidence necessary for the examination of the matter.

Section 107. Decision to Leave a Notice of Appeal or Notice of Opposition without Examination

(1) The Board of Appeal shall take a motivated decision to leave a notice of appeal or notice of opposition without examination in the form of a separate procedural document.

(2) The decision to leave a notice of appeal or notice of opposition without examination shall be taken in accordance with the procedures laid down in Section 97 of this Law.

Section 108. Basis for the Termination of Proceedings

The Board of Appeal shall terminate the proceedings, if:

1) a matter may not be examined according to the procedures specified for the examination of matters in the Board of Appeal;

- 2) a notice of appeal or notice of opposition has been submitted by a by a person who is not entitled to do so;
- 3) a court judgement or a decision of the Board of Appeal which has been taken in a matter between the same participants in the matter for the same subject and on the same basis or from which it is apparent that the proceedings of the Board of Appeal must be terminated, has entered into effect;
- 4) the submitter of the notice of appeal or notice of opposition has withdrawn from his or her submission;
- 5) in a matter the assumption of procedural rights of the submitter of a notice of appeal or notice of opposition is possible, but within six months after the day of the death of the submitter of the notice of appeal or opposition, or - in case of a legal person - from the day when it has ceased to exist, none of the legal successors has shown any interest in maintaining the respective claim;
- 6) the dispute which served as the basis for submitting a notice of appeal has ended, with the Patent Office revoking the contested decision or recognising it as invalid or lost effect, or due to other reasons;
- 7) the dispute which served as the basis for the submission of a notice of opposition has ended, with the owner of the contested registration upon his or her initiative cancelling the contested registration (surrendering a registration), or not maintaining it in effect, or due to other reasons;
- 8) the Board of Appeal has confirmed settlement between the parties of a matter of opposition;
- 9) the time period for the submission of a notice of appeal has been exceeded, and the Board of Appeal has not renewed it, or it has been determined in an industrial property law or regulation as non-renewable;
- 10) the time period for the submission of a notice of opposition has been exceeded.

Section 109. Decision to Terminate Proceedings and its Consequences

- (1) The Board of Appeal shall take a motivated decision to terminate the proceedings in the form of a separate procedural document.
- (2) The decision to terminate the proceedings shall be taken and it shall enter into effect in accordance with the procedures laid down in Section 97 of this Law.
- (3) If the proceedings are terminated, repeated applying to the Board of Appeal with a notice of appeal or notice of opposition regarding the same subject and on the same basis shall not be permitted.

Chapter XVI Procedure in Case of Contesting International Registration

Section 110. Additional Obligation of the Board of Appeal if a Notice of Opposition to International Registration has Deficiencies that Preclude the Initiation of a Matter

If a notice of opposition, which has been submitted to the entering into effect of an international registration of a trade mark or design in Latvia, is left without advancement, is not accepted or is recognised as not submitted, the Board of Appeal, upon notifying the respective decision to the submitter of the notice of opposition and determining the time period for the elimination of the deficiencies of the notice of opposition in accordance with Section 65, Paragraph two of this Law, or upon notifying the time period and procedures for contesting the decision in accordance with Section 97, Paragraph one of this Law, shall concurrently inform the submitter of the notice of opposition on the final time period, by which in accordance with the provisions of an industrial property law or regulation the refusal of the protection of the respective international registration (provisional refusal) shall be notified to the International Bureau of the World Intellectual Property Organisation.

Section 111. Advancement of a Matter of Opposition to International Registration

- (1) If a matter of opposition has been initiated in relation to a notice of opposition to the entering into effect of the international registration of a trade mark or design in Latvia, the Board of Appeal shall, without delay, inform the Patent Office thereof.
- (2) The Patent Office shall include the information laid down in the industrial property laws and regulations on the notice of opposition in its decision on the refusal of the protection of international registration.

Section 112. Refusal of the Protection of International Registration

- (1) A decision of the Patent Office on the refusal of the protection of international registration of a trade mark or design (provisional refusal) in accordance with the provisions of the industrial property laws and regulations regarding international registration may be based on:

1) the grounds for the refusal put forward by the Patent Office as a result of the examination of international registration (expert-examination);

2) a notice of opposition to entering into effect of an international registration in Latvia.

(2) In the decision on the refusal of the protection of an international registration the Patent Office, in accordance with the provisions of the industrial property laws and regulations regarding international registration, shall indicate all legal bases for the refusal, as well as the time period and procedures by which a notice of appeal against this decision or a notice of appeal - a response to a notice of opposition - may be submitted.

3) The Patent Office shall notify its decision on the refusal of the protection of an international registration in accordance with the procedures laid down in the industrial property laws and regulations to the International Bureau of the World Intellectual Property Organisation, and if the decision is based on a notice of opposition, also to its submitter.

Section 113. Submission and Advancement of a Notice of Appeal Against the Refusal of the Protection of International Registration

(1) A notice of appeal against a decision of the Patent Office on the refusal of the protection of international registration of a trade mark or design shall be submitted within the time period and in accordance with the procedures laid down in Section 58, Paragraph one of this Law, by motivating it according to the grounds for the refusal indicated in the decision.

(2) If a decision of the Patent Office on the refusal of the protection of international registration is justified (solely or inter alia) with the grounds for refusal put forward as a result of an examination (expert-examination) of the Patent Office, and a notice of appeal or the notice of appeal - a response to a notice of opposition has been submitted regarding it, the advancement of the matter of appeal, after the initiation thereof, shall conform to Section 66 of this Law.

(3) If a decision of the Patent Office on the refusal of the protection of an international registration is justified solely with a notice of opposition to entering into effect of international registration in Latvia, the notice of appeal against such decision shall be considered as a response to a notice of opposition (a notice of appeal - a response to a notice of opposition), and, upon submitting it, no fee for submitting the notice of appeal shall be paid.

Section 114. Examination of Matters of Appeal or Opposition in Relation to the Contesting of International Registration

(1) A notice of appeal or the notice of appeal - a response to a notice of opposition, and a notice of opposition or notices of opposition which have been submitted regarding the same international registration, shall be examined by the Board of Appeal in a joined proceeding, if there are no good reasons to do otherwise.

(2) In the examination of a matter the Board of Appeal shall apply the procedure specified for matters of opposition, insofar as the matter to be examined concerns a notice of opposition and a response to a notice of opposition.

(3) In the examination of a matter the Board of Appeal shall apply the procedure specified for matters of appeal, insofar as the matter to be examined concerns a notice of appeal against a decision that has been justified with the grounds for refusal put forward by the Patent Office.

Section 115. Specificity of Notification and Entering into Effect of a Decision of the Board of Appeal in Case of Contesting of International Registration

(1) The decision by which a dispute has been resolved in a matter related to contesting of international registration, shall be notified by the Board of Appeal to the owner of the contested registration, even if he or she has not entered the matter, and the matter has been examined in his or her absence.

(2) The decision of the Board of Appeal by which a dispute has been resolved in a matter related to contesting of international registration, shall enter into effect in conformity with the provisions of Section 99 of this Law. The Patent Office shall, in accordance with the prescribed procedures, notify the International Bureau of the World Intellectual Property Organisation of the entering into effect of a decision of the Board of Appeal or a court ruling.

Division C

Representation of Persons in Matters of Industrial Property

Chapter XVII

General Provisions of Representation and Authorisation

Section 116. Representation of Persons in the Patent Office and in the Board of Appeal

(1) A legal person whose legal address is in Latvia or who owns an enterprise in Latvia may be represented in the Patent Office and in the Board of Appeal by its officials who act within the framework of authorisation granted by the law, articles of association, or by-laws, or other representatives authorised by the legal person.

(2) A natural person whose declared place of residence is in Latvia or who owns an enterprise in Latvia may be represented in the Patent Office and in the Board of Appeal by himself or herself or may be represented through an authorised representative.

(3) The following persons are entitled to participate in the procedures in the Patent Office and the Board of Appeal only through a professional patent attorney:

1) a natural person whose declared place of residence is not in Latvia and who does not own an enterprise in Latvia;

2) a legal person whose legal address is in a foreign country and who does not own an enterprise in Latvia.

Section 117. Authorisation of Representation

(1) If an applicant, owner or other person interested submits an application, settles the registration procedure or performs other activities in the Patent Office or the Board of Appeal through a representative, the application or other document shall be accompanied by a written power of attorney, confirming the rights of the representative to perform the respective activities.

(2) The provisions of Paragraph one of this Section shall not apply to representatives - professional patent attorneys, as well as to natural persons (officials, board members, employees) whose authorisation for representation of the legal person results from a law or regulation, the articles of association of the legal person or any other grounds. Officials, members of the board of directors, employees whose authorisation for the representation of the legal person results from a law or regulation, the articles of association of the legal person or any other grounds, shall indicate the respective norm, articles of association or other document to the Patent Office or the Board of Appeal. A true copy of a document certified in accordance with the procedures laid down in laws and regulations shall be submitted when it is not possible to verify the representation rights of the abovementioned person in a generally-accessible database or website.

(3) A special, clearly expressed authorisation to a representative, except a professional patent attorney, is necessary in the following cases:

1) to completely or partially withdraw an application or surrender a registration;

2) to completely or partially transfer the ownership rights of application or registration to another person;

3) to conclude a license agreement, granting another person the rights to exercise the principal's rights to industrial property;

4) in order to submit a notice of opposition to the registration of another person, a notice of counteropposition, to fully or partially withdraw a notice of opposition, to fully or partially recognise an opposition claim or to conclude settlement in a matter of opposition;

5) in order to issue an authorisation to another person (substitution).

(4) If a power of attorney loses effect or the rights of representation of a representative are otherwise terminated, the represented person or the representative shall, without delay, inform the Patent Office or respectively the Board of Appeal thereof in writing.

(5) The representative has an obligation to inform, without delay, the Patent Office or respectively the Board of Appeal in all cases when the address of the representative (correspondence address) or other necessary information for communication with the representative changes.

Section 118. Submission of a Power of Attorney

(1) The power of attorney shall be submitted concurrently with an application or another document by which the representative commences activities in the Patent Office or the Board of Appeal on behalf of the principal, or in another time period laid down in an industrial property law or regulation. If the Patent Office or the Board of Appeal establishes that the representative indicated in the document has not been authorised for the respective activity, the submitter shall be notified thereof in writing, by determining a time period for the submission of a power of attorney, which shall not be less than two months, and the application or other document shall be left without advancement until receipt of the power of attorney.

(2) If the necessary power of attorney is not submitted within the specified time period, the activities performed by the representative, except for the submission of the initial documents of the application, shall not have legal effect.

(3) A representative shall submit to the Patent Office or respectively to the Board of Appeal the original copy of the power of attorney, its certified true copy or a copy. Notarial certification of the original copy of the power of attorney is not required.

(4) Any power of attorney relating to more than one application, registration or other type of submission, as well as a general authorisation by which the principal has appointed a representative for the performance of all activities or a specific type of activities in the Patent Office or the Board of Appeal in respect of all of its current and future applications or registrations, or in respect of certain applications or registrations, shall be included by the Patent Office in the list of power of attorneys, assigning it the number of a power of attorney to which the representative shall refer in all subsequent procedures.

(5) If the Patent Office or the Board of Appeal has reasonable doubt as to the scope of authorisation or other circumstances related to the representation, it is entitled, by stating the justification, to request appropriate evidence.

Chapter XVIII

Professional Patent Attorneys

Section 119. Professional Patent Attorney

(1) A professional patent attorney is a person who, in accordance with the procedures laid down in this Law, has been included in the Patent Office List of Professional Patent Attorneys and provides services in the field of protection of industrial property.

(2) Only persons to whom Paragraph one of this Section applies may offer his or her services as services of professional patent attorneys.

(3) A professional patent attorney may be specialised in one or several of the following fields:

- 1) the field of patents;
- 2) the field of trade marks;
- 3) the field of designs.

(4) A professional patent attorney who specialises in the field of patents, shall also specialise in work with supplementary protection certificates for medicinal products and plant protection products and for work with the topographies of semiconductor products, while a professional patent attorney who specialises in the field of trade marks - work with indications of geographical origin.

Section 120. Professional Organisation of Professional Patent Attorneys

(1) Functions of the professional organisation of Latvian professional patent attorneys shall be implemented by the society "Association of Patent Attorneys of Latvia" (hereinafter - the Association of Patent Attorneys).

(2) The Association of Patent Attorneys according to the principle of profession, unites natural persons to take care of prestige of their profession, to promote qualification, professional development, acquisition of experience, conformity with professional standards and ethical standards of professional patent attorneys, and to carry out the tasks laid down in this Law and other laws and regulations, as well as in its own articles of association.

(3) The Association of Patent Attorneys shall perform the following tasks in accordance with the procedures specified by law:

- 1) delegate their representatives to the commission for the qualification examination of professional patent attorneys;
- 2) develop rules of professional ethics binding to professional patent attorneys, and assess conformity therewith;
- 3) ensure initiation of a disciplinary matter against a professional patent attorney and its examination, as well as taking of a decision to impose a disciplinary sanction;
- 4) organise activities for raising of qualification of professional patent attorneys;
- 5) represent the interests of professional patent attorneys in relationship with State and local government institutions, other institutions, and officials;
- 6) express a point of view of professional patent attorneys and provide opinions on the issues related to the industrial property laws and regulations and professional patent attorney practice;

7) supervise the settlement of matters which are in the record-keeping of the deceased professional patent attorneys in accordance with the procedures laid down in the articles of association of the Association of Patent Attorneys;

8) perform other tasks laid down in this Law and other laws and regulations, as well as in its articles of association.

(4) The Association of Patent Attorneys in the performance of the tasks laid down in this Law, has the right to request and receive from a professional patent attorney the necessary information and relevant documents.

Section 121. List of Professional Patent Attorneys

(1) The Patent Office shall arrange the List of Professional Patent Attorneys.

(2) The List of Professional Patent Attorneys shall include data on natural persons, if the respective person complies with the following requirements:

1) he or she is a citizen of Latvia or another European Union Member State;

2) he or she is fluent in the official language and has knowledge of at least two foreign languages that is sufficient for professional co-operation with Latvian and foreign persons and institutions;

3) he or she has academic or second-level higher vocational education (diplomas issued by foreign institutions of higher education in the respective specialities must be recognised in Latvia);

4) he or she has at least four-year work experience in the field of protection of industrial property in which respective work in international, regional or national industrial property institutions shall be included. Work in the field of protection of industrial property must be systematic, and it shall not include long-term leaves and activity breaks;

5) he or she has passed the qualification examination of professional patent attorneys;

6) he or she has entered into a patent attorney professional civil insurance agreement in accordance with the provisions of Section 130, Paragraphs two and three of this Law;

7) he or she indicates the address of place of practice in Latvia for correspondence with the Patent Office and clients.

(3) A professional patent attorney shall, without delay, notify in writing the Patent Office of the deficiencies identified, and any amendments to information included in the List of Professional Patent Attorneys regarding him or her, inter alia of the change of his or her address or correspondence address.

(4) The List of Professional Patent Attorneys shall be available to any person interested. The List of Professional Patent Attorneys, as well as any amendments thereto shall be published by the Patent Office on its website.

Section 122. Additional Requirements in Specialisations of Professional Patent Attorneys

(1) At least one of the foreign languages referred to in Section 121, Paragraph two, Clause 2 of this Law must be the official working language of the European Patent Office, if the person is applying to become a professional patent attorney specialising in the field of patents, or the official working language of the Office for Harmonisation in the Internal Market (Trade Marks and Designs), if the person is applying to become a professional patent attorney specialising in the field of trade marks or designs.

(2) The education referred to in Section 121, Paragraph two, Clause 3 of this Law of a person who is applying to become a professional patent attorney specialising in the field of patents shall be in the field of engineering or natural sciences.

(3) A person who has acquired education in fields other than those referred to in Paragraph two of this Section, is entitled to become a professional patent attorney in the field of patents, provided that in addition to the academic or second-level higher vocational education in another sector he or she has acquired first-level higher vocational education in the field of engineering or natural sciences, or other comparable professional qualification.

(4) The work experience referred to in Section 121, Paragraph two, Clause 4 of this Law of a person who is applying to become a professional patent attorney in the field of patents must be acquired in practical work related to invention patent applications (their compilation, correction, examination), patent searches, study or consultations on issues of patent protection or in other comparable professional activities.

Section 123. Qualification Examination of Professional Patent Attorneys

(1) Examination of knowledge of professional patent attorney applicants shall be carried out by the commission for the qualification examination of professional patent attorneys, and it shall include representatives of the Patent Office and the Association of Patent Attorneys.

(2) The qualification examination of professional patent attorneys may be taken by persons who comply with the requirements of Section 121, Paragraph two, Clauses 1, 2, 3, and 4 and Section 122 of this Law, and have paid the fee for taking the qualification examination of professional patent attorneys.

Section 124. Content, Maintenance of the List of Professional Patent Attorneys and the Procedures for the Qualification Examination of Professional Patent Attorneys

The Cabinet shall issue regulations which lay down the content and the procedures for maintaining of the List of Professional Patent Attorneys, the procedures for the qualification examination of professional patent attorneys; the procedures by which the professional qualification and professional activity of an applicant shall be considered equivalent to the requirements of Section 122, Paragraphs three and four of this Law; the procedures by which an applicant shall certify the facts referred to in Section 121, Paragraph two, Clauses 1, 2, 3, and 4 of this Law; the procedures by which the qualification of a patent attorney of a European Union Member State shall be evaluated for his or her inclusion in the List of Professional Patent Attorneys; the fee for taking the qualification examination of professional patent attorneys, and fee for making amendments to the List of Professional Patent Attorneys, as well as the procedures for payment.

Section 125. Rights and Obligations of Professional Patent Attorneys

(1) A professional patent attorney, within the framework of his or her professional competence and in the procedures laid down in laws and regulations, is entitled:

1) to provide services in the field of industrial property in the area of specialisation, according to which he or she has been included in the List of Professional Patent Attorneys;

2) to represent persons and to provide them assistance related to the protection of industrial property, if they have applied to the Patent Office or the Board of Appeal, other State and local government institutions, courts, or cooperate with other private persons;

3) to collect evidence, including to request the necessary documents from State and local government institutions and private persons;

4) to become acquainted with the rulings of State and local government institutions and courts, laws and regulations, administrative acts, and other information necessary for the provision of assistance, as well as to receive true copies of these documents;

5) on behalf of the persons to be represented to settle payments related to the protection of industrial property provided for in the industrial property laws and regulations at the Patent Office and the Board of Appeal, in the court and in international organisations;

6) to carry out translation of documents related to the protection of industrial property and, in accordance with the procedures laid down in laws and regulations, certify such translations, true copies, and extracts of documents that must be submitted to the Patent Office, the Board of Appeal, courts, international organisations, or other persons;

7) to provide other services that conform to his or her professional qualification;

8) in providing services and representing persons, to freely choose the legal means and methods.

(2) A professional patent attorney, in providing services and representing persons, has an obligation to:

1) choose legal means and methods that will best ensure protection of the rights and legal interests of clients;

2) exercise the rights and fulfil the responsibilities, maintaining professional honour and dignity;

3) provide information to clients regarding all the activities carried out on their behalf and their results;

4) after termination of a matter, expiration of authorisation or upon a request of the client to transfer to the client or - upon a request of the client - to another person, documents, evidence held by the professional patent attorney for conducting the matter, as well as payments received from the client in relation to protection of industrial property and not yet paid to the Patent Office, the Board of Appeal, court or international organisations;

5) comply with the rules of professional ethics adopted by the Association of Patent Attorneys.

(3) A professional patent attorney throughout his or her professional activity shall continuously improve his or her professional knowledge and skills.

(4) A professional patent attorney is not entitled to obtain for himself or herself (also indirectly) or for any third person the right, which insofar as it is known to him or her, belongs to the person whom he or she is representing or to whom he or she is providing services.

(5) Notwithstanding the provisions of Section 117, Paragraphs two and three of this Law, a professional patent

attorney has an obligation to submit the authorisation for the representation of his or her client, if the Patent Office or the Board of Appeal has reasonable doubts as to the scope of authorisation or other circumstances related to the representation. In such case the Patent Office or the Board of Appeal may request the evidence provided for in Section 118, Paragraph five of this Law also from a professional patent attorney.

Section 126. Avoiding Conflict of Interest

(1) A professional patent attorney shall not provide services to a person or represent a person who is involved in a dispute (in a procedure of opposition in the Board of Appeal, in court or otherwise) with any other person to whom he or she provides services or represents in the same dispute.

(2) If in the circumstances provided for in Paragraph one of this Section a professional patent attorney receives a task to provide services or represent a person, he or she has an obligation to inform, without delay, the person regarding the respective circumstances and take appropriate action to avoid any potential conflict of interest.

Section 127. Refusal to Provide Services and Giving Notice Regarding Authorisation

A professional patent attorney, in conformity with the conditions of Section 2315 of The Civil Law, may refuse to provide services and give notice regarding authorisation, if a client:

1) requires performance of such activities, in carrying out of which the professional patent attorney would have to violate laws and regulations or rules of professional ethics;

2) delays payments for the services provided by the professional patent attorney;

3) requires services performance of which does not conform to the professional competence of the professional patent attorney;

4) affects the honour and dignity of a professional patent attorney.

Section 128. Independence, Professional Secrecy and Performance Guarantees of a Professional Patent Attorney

(1) In his or her professional activity a professional patent attorney shall be independent and subjected only to laws and regulations.

(2) A professional patent attorney may not disclose secrets of a client, also commercial secrets. This requirement must be conformed to not only during the period of conducting a matter, but also after its completion and termination of the authorisation, as well as after termination of the professional activity of the professional patent attorney. The professional patent attorney shall ensure that these requirements are also complied with by the employees working under his or her management who, in carrying out their work tasks, have become aware of the secrets of a client of the professional patent attorney.

(3) Only a client or a legal successor of the client may exempt, in writing, the professional patent attorney from the obligations referred to in Paragraph two of this Section.

(4) The Patent Office, the Board of Appeal, other State and local government institutions, courts, prosecutors, and pre-trial investigation authorities shall guarantee independence of the professional activity of professional patent attorneys, in conformity with the prohibition:

1) to intervene with the professional activity of a professional patent attorney, influence or affect him or her, request information and explanations from him or her, as well as to interrogate him or her as a witness on the circumstances which have become known to him or her in providing services of a professional patent attorney to his or her clients;

2) to control correspondence and documents of a professional patent attorney which he or she has received or compiled in providing services of a professional patent attorney, carry out their inspection and removal, as well as to carry out a search to find and remove such correspondence and documents;

3) to control, also by using the procedural means referred to in Clause 2 of this Paragraph, the information systems and means of communication, including electronic, used for the provision of services of a professional patent attorney, to obtain information from them and intervene in their work;

4) to request information from clients on the content of the services provided by the professional patent attorney;

5) to subject a professional patent attorney to any sanctions or threats in connection with the provision of services of a professional patent attorney to clients in accordance with laws and regulations.

(5) The restrictions referred to in Paragraph four of this Section shall also protect the employees working under management of a professional patent attorney insofar as their obligations and activities are directly related to the services provided by the professional patent attorney.

(6) The services of a professional patent attorney shall not constitute unlawful acts in the interests of a client, as well as activity for the promotion of an unlawful offence of a client.

(7) The obligation to maintain professional secrecy shall not apply to a compensation received by a professional patent attorney for his or her services.

Section 129. Economic Activity of Professional Patent Attorneys

(1) A professional patent attorney upon carrying out his or her economic activity, shall provide information regarding it and offer his or her services so as not to mislead on the nature and substance of activities and services of the professional patent attorney. These requirements shall also apply to the selection of a firm name of the merchant, if a professional patent attorney conducts commercial activity.

(2) A professional patent attorney shall agree with the client on provision of services, undertaking of representation, and the amount of compensation.

(3) A professional patent attorney shall conduct all the matters of his or her clients and the record keeping at his or her place of practice.

Section 130. Civil Liability of Professional Patent Attorneys

(1) A professional patent attorney shall be responsible for the violation of the rights, harm and damage that has been caused due to his or her fault to a person whom he or she represents or to whom he or she has provided a service, as well as in cases when violation of the rights, harm or damage has been caused due to the fault of an employee working under management of the professional patent attorney who has carried out the assigned work obligations.

(2) A professional patent attorney or a merchant who employs him or her, shall insure civil liability of the professional patent attorney (risk of possible loss as a result of professional activity) before the professional patent attorney commences his or her professional activity in this field, and shall maintain the insurance agreement constantly throughout the time of his or her professional activity.

(3) The minimum amount of insurance of civil liability of a professional patent attorney in case of an individual insurance agreement shall be 100 minimum monthly wages specified in Latvia in the respective period. If the insurance agreement is entered into by a merchant who employs two or more professional patent attorneys (group insurance agreement), the minimum amount of insurance shall be 200 minimum monthly wages specified in Latvia in the respective period.

(4) In case of setting in of the circumstances referred to in Paragraph one of this Section, the liability of the professional patent attorney shall be limited to the amount of insurance of civil liability, determined in the insurance agreement, and it shall not be less than that laid down in Paragraph three of this Section.

Section 131. Ethics of Professional Patent Attorneys

(1) The Association of Patent Attorneys shall (1) develop rules of professional ethics binding to all professional patent attorneys.

(2) The Association of Patent Attorneys shall assess the conformity with the rules of professional ethics in the activity of professional patent attorneys in the following cases:

- 1) upon a proposal of the Director of the Patent Office;
- 2) due to a complaint received;
- 3) upon its own initiative.

(3) The Association of Patent Attorneys shall communicate its assessment to the submitter of the complaint and it may initiate a disciplinary matter against the professional patent attorney.

Section 132. Disciplinary Matters of Professional Patent Attorneys

(1) The Association of Patent Attorneys may initiate a disciplinary matter against a professional patent attorney upon its own initiative or upon a proposal of the Director of the Patent Office, if the following has been violated:

- 1) laws and regulations;
- 2) articles of association of the Association of Patent Attorneys;
- 3) rules of professional ethics.

(2) Disciplinary matters of professional patent attorneys shall be examined by the commission of disciplinary

matters, which is set up for the adjudication of the particular violation.

(3) Disciplinary matters of professional patent attorneys shall be examined, disciplinary violations shall be established and disciplinary sanctions shall be applied in accordance with the procedures laid down in the articles of association of the Association of Patent Attorneys.

(4) After examination of a disciplinary matter the commission of disciplinary matters shall take a decision to terminate the disciplinary matter or to impose a disciplinary sanction on the professional patent attorney.

Section 133. Disciplinary Sanctions

(1) The commission of disciplinary matters is entitled to impose the following disciplinary sanctions:

- 1) issue a reproof;
- 2) issue a reprimand;
- 3) exclude from the List of Professional Patent Attorneys.

(2) Based on the decision referred to in Paragraph one, Clause 3 of this Section, a person shall be excluded from the List of Professional Patent Attorneys by the Director of the Patent Office.

(3) A disciplinary sanction - exclusion from the List of Professional Patent Attorneys - may be imposed:

- 1) for intentional violation of laws and regulations or for gross violation of the rules of professional ethics, if a significant harm has been caused to the rights or interests of a client or to dignity or honour of the patent attorney;
- 2) if the disciplinary sanction is imposed repeatedly.

Section 134. Suspension of the Professional Activity and Suspension from the Fulfilment of the Obligations of a Professional Patent Attorney

(1) The Director of the Patent Office is entitled, with a respective order, to suspend the professional activity of a professional patent attorney for a time period while the patent attorney fulfils the obligations of a public official, is elected to a State or local government institution, political party, alliance of political parties, or in any other situation where a conflict of interest is possible, or upon request of the professional patent attorney during a training period, long-term disease, and in other cases.

(2) The Director of the Patent Office is entitled to suspend a professional patent attorney from the fulfilment of the obligation for the duration of the examination of a disciplinary matter, if during this period of time the fulfilment of the obligations of the patent attorney may harm the interests of clients or dignity and honour of the professional patent attorney.

(3) After receipt of the written information of the person directing the proceedings, the Director of the Patent Office may, for the duration of pre-trial criminal proceedings and proceedings in a criminal case, suspend from the fulfilment of obligations such professional patent attorney who is suspected or accused of committing an intentional criminal offence or to whom prohibition from a specific employment has been applied as a security measure in accordance with the procedures laid down in the Criminal Procedure Law.

Section 135. Exclusion from the List of Professional Patent Attorneys

(1) A professional patent attorney with an order of the Director of the Patent Office shall be excluded from the List of Professional Patent Attorneys:

- 1) if he or she has submitted a respective written request;
- 2) if he or she no longer is a citizen of Latvia or another European Union Member State;
- 3) if the court has established trusteeship over him or her;
- 4) if his or her address of correspondence no longer conforms to the requirements of Section 121, Paragraph two, Clause 7 of this Law;
- 5) if with a court judgement he or she has been deprived of the rights to act as a professional patent attorney or other restrictions have been determined that prevent execution of professional obligations;
- 6) according to a decision of the commission of disciplinary matters;
- 7) if he or she has falsely stated the information referred to in Section 121, Paragraph two, Clause 1, 2, 3, 4 or 6 or in Section 122 of this Law;
- 8) if he or she is dead or declared missing.

(2) A person who has been excluded from the List of Professional Patent Attorneys in accordance with the provisions of Paragraph one, Clause 1, 2, 3 or 4 of this Section, may request to renew him or her in the List, if the reasons why the person was excluded have been eliminated. Such person must take the qualification examination of professional patent attorneys, if interruption in his or her professional activity has been four years or more.

(3) A person who has been excluded from the List of Professional Patent Attorneys in accordance with the provisions of Paragraph one, Clause 5, 6, or 7 of this Section, may request to renew him or her in the List not earlier than four years after day of exclusion, if the reasons why the person has been excluded have been eliminated, and if his or her non-compliance with the requirements of Section 121, Paragraph two, Clause 1, 2, 3, 4 or 6 or Section 122 of this Law has been eliminated (if necessary), as well as the qualification examination of professional patent attorneys has been passed. If the person has been repeatedly excluded from the List of Professional Patent Attorneys due to the abovementioned reasons, he or she shall not be renewed in the List of Professional Patent Attorneys.

Section 136. Activity of Professional Patent Attorneys of the European Union Member States in Latvia

(1) If a patent attorney of a European Union Member State submits a respective request and documents confirming his or her rights to act as a professional patent attorney in another European Union Member State in accordance with the laws and regulations of this State, the Director of the Patent Office shall include this person in a separate section of the List of Professional Patent Attorneys, granting him or her the rights to temporary professional activity in Latvia. The rights to temporary professional activity in Latvia shall be granted for the time period of six months, provided that the person undertakes to ensure professional co-operation with the Patent Office, the Board of Appeal, courts, and other institutions in the official language and indicates an address for correspondence in Latvia.

(2) The Director of the Patent Office may extend the rights of a professional patent attorney of a European Union Member State for temporary professional activity in Latvia every time for six months, if the person submits a respective request and documents confirming that he or she is carrying out professional activity in the field of protection of industrial property in Latvia. The Patent Office shall take a decision in this issue by hearing the point of view of the commission of qualification examination of professional patent attorneys. This commission is entitled to request oral or written explanations from the patent attorney regarding his or her activity for the preparation of its opinion.

(3) If the commission of qualification examination of professional patent attorneys recognises that a patent attorney of a European Union Member State has sufficient skills of the official language and knowledge of the Latvian laws and regulations needed for professional activity and that his or her professional qualification conforms for permanent activity in Latvia in the respective specialisation (Section 124), the patent attorney shall be included in the List of Professional Patent Attorneys and shall have the same rights and obligations as a Latvian professional patent attorney.

Transitional Provisions

1. If a particular activity in the registration or post-registration procedure in the Patent Office has been commenced before coming into force of this Law, the provisions that were in force on the day when this activity was initiated shall be applied.

2. The composition of the Board of Appeal of the Patent Office which has been approved in accordance with the provisions which were in force prior to the coming into force of this Law, shall continue to fulfil its obligations until the day when according to the order of the Cabinet the Industrial Property Board of Appeal commences its work.

3. Notices of appeal and opposition submitted before the day when according to the order of the Cabinet the Industrial Property Board of Appeal commences its work shall be examined, by applying the norms of the Patent Law, the law On Trade Marks and Indications of Geographical Origin, the Law On Designs, and the Law on the Protection of the Topographies of Semiconductor Products, which were in force until 31 December 2015. Upon a request of the parties the Industrial Property Board of Appeal may examine a notice of appeal or notice of opposition submitted before commencing its work in accordance with the procedures laid down in this Law.

4. The fee for submitting a notice of appeal or notice of opposition which has been submitted after 1 January 2016 shall be paid according to the price list of the paid services of the Board of Appeal.

5. A participant in a matter of appeal or opposition shall apply to the court against a decision of the Board of Appeal of the Patent Office which has been taken after 1 January 2016 in accordance with the procedures laid down in this Law and the Civil Procedure Law.

6. Persons whose data have been included in the Register of Professional Patent Attorneys of the Patent Office before coming into force of this Law and who have not been excluded from this Register, shall be included in the List of Professional Patent Attorneys under the same specialisation, if they submit a respective written request and documents proving that the person complies with the provisions of Section 121, Paragraph two, Clauses 1, 6, and 7 of this Law to the Director of the Patent Office within six months after coming into force of this Law.

This Law shall come into force on 1 January 2016.

This Law was adopted by the *Saeima* on 18 June 2015.

President A. Bērziņš

Riga, 2 July 2015

¹ The Parliament of the Republic of Latvia

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