



- e) The use of a patented invention in the construction or operation of aircraft or land vehicles of other countries belonging to the Union or WTO or their accessories, if they temporarily or accidentally enter national territory;
- f) The acts set forth in Article 27 of the Convention of 7 December 1944 concerning international civil aviation if they have regard to aircraft from another state to which the provisions of said article apply.

Concerning point c) of this Article, Portugal can give as example the creation of the Law 62/2011, of 12 December, which creates a composition scheme for disputes concerning industrial property rights, relating to reference medicines and generic drugs, including injunctive procedures. After this legislation, companies have to solve their disputes by mandatory arbitration, in arbitration courts.

After the submission of a marketing authorization by a generic company, the patent proprietor has 30 days to present an opposition before the arbitration court; after the communication of the opposition, the generic company has 30 days to reply. The arbitration decision may be appealed to the competent court of law.

The law clarifies that acts concerning the granting of marketing authorization, selling price to the public and reimbursement of medicines are not contrary to the rights relating to patents or supplementary protection certificates, and the law makes clear that marketing authorizations applications, selling price to the public and reimbursement of medicines cannot be rejected due to the existence of industrial property rights.

The referred Circular also invited Member States to send updated information on certain aspects of the applicable national and regional patent law.

In this regard, I have the pleasure to inform you that INPI PT, in answer to the Circular C. PCT 8436, informed that the Portuguese legislation (Industrial Property code) has not changed, so the information related with prior art, novelty, inventive step, grace period, sufficiency of disclosure, exclusions from patentable subject matter and exceptions and limitations of the rights available at the website was updated.

Conselho Directivo

In that answer, INPI PT took the opportunity to make small amendments to the text concerning grace period, exclusions from patentable subject matter, and exceptions and limitations of the rights, in accordance to the English translation of our Industrial Property Code.

Yours sincerely,



Marco Dinis

Member of the Board

