

Administrative Revocation and Invalidation Mechanisms

Republic of Belarus

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

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

The recognition of patents for inventions, utility models and industrial designs as invalid according to non-compliance with patentability conditions, as well as the presence in the claim of features, which are absent in the original description is the responsibility of the Board of Appeals of the Patent Office (hereafter “Board of Appeals”). The Board of Appeals is a body of administrative adjudication. Any individual or legal entity may file an objection to the Board of Appeals for recognition of a patent invalid on the grounds mentioned above. The appeal shall be considered by the Board of Appeals within six months from the date of its receipt. The individual or legal entity who filed the objection and the patentee and/or their representatives are entitled to participate in the opposition at the meetings of the Board of Appeals. The decision of the Board of Appeals on the consideration of the objection may be appealed by the parties in the Supreme Court of the Republic of Belarus within six months from the date of its receipt. Appeals against decisions of the Board of Appeals are considered by the Judicial Board on the Cases of Intellectual Property of the Supreme Court of the Republic of Belarus. Decisions of the Supreme Court of the Republic of Belarus on the results of consideration of appeals against decisions of the Board of Appeals shall enter into force upon publication, and are not subject to appeal.

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