

Administrative Revocation and Invalidation Mechanisms

Bosnia and Herzegovina

Under Section XI of the Patent Law of Bosnia and Herzegovina, any natural or legal person or a State Attorney may file a proposal for the declaration of nullity of a patent or consensual patent with Institute for Intellectual Property of Bosnia and Herzegovina; hereinafter - Institute. A patent may be declared null and void at any time, if the patent has been granted:

1. for a subject matter which is not considered to be an invention, for inventions excluded from patent protection and for inventions which are considered non patentable,
2. for an invention which, on the filing date of the patent application or on the date of the granted priority respectively, was not new or did not include an inventive step,
3. for an invention which is not industrially applicable,
4. for an invention which is not disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art,
5. for a subject-matter extending beyond the content of the patent application as filed or, if the patent was granted on a divisional application or on a new application filed beyond the content of the earlier application as filed;
6. on behalf of a person not entitled to the patent protection for the invention.

The proposal for the declaration of nullity of a patent shall contain the data concerning the applicant, the owner of a patent, the number of the decision, and the registration number of the patent, the reasons for the proposal of the declaration of nullity of the patent, supported by necessary evidence. If the proposal is not drafted properly or if the administrative fee and procedural charges have not been paid, the Institute shall order the applicant by a conclusion to correct such deficiencies within a period of two months from the day of receipt of the conclusion. If the applicant does not correct the proposal within the time limit, the Institute shall reject the proposal by a decision.

The Intellectual Property Institute shall communicate the correct proposal to the patent owner and shall invite him to submit his response within a period which shall not be less than one month and shall not exceed two months, as from the day of the receipt thereof. The Institute shall invite the parties as many times as necessary to submit their comments on the submissions of the other party. At the same time the Institute shall invite the applicant to file, where necessary, the description, claims and drawings as amended, provided that the subject matter of the protection does not extend beyond the content of a patent as granted.

Before taking a decision to maintain a patent as amended, the Institute shall inform the parties that it intends to maintain the patent as amended in the procedure for the declaration of nullity, and shall invite them to file their reasoned observations within a period between one and two months, if they disapprove of the text in which it intends to maintain the patent. If the parties disapprove of such text, the procedure for the declaration of nullity may be continued.

If the parties approve of the text in which the Institute intends to maintain the patent or if they fail to reply to the invitation, the Institute order the owner of the patent by a conclusion to pay the administrative fee and procedural charges for printing a new patent specification within a period of two months from the receipt of the conclusion. If the fee and procedural charges are not paid in due time, the patent shall be declared null and void within the limits of the proposal.