

Administrative Revocation and Invalidation Mechanisms

Ethiopia

The Ethiopian Intellectual Property Tribunal was established based on Proclamation 872 Article 44(1) and Federal Supreme Court Cassation Decision No. 71216 to provide an administrative procedure for appeal against decisions issued by Patent Directorate on limitation of rights and Invalidation of Patents.

The Intellectual Property Tribunal provides a mechanism for invalidation request on patent procedures which can be instituted by any person having a legitimate interest at any time after the grant of the patent following the procedures of Civil Procedure Code Article 33 sub- articles 2. The Invalidation proceedings can be instituted on any of the following grounds according to Article 36 of the Patent Proclamation 123/1995:-

- (i) the legal requirements on patentability were not satisfied;
- (ii) the granted patent falls under the non-patentable subject matter;
- (iii) the specifications and claims did not comply with requirements of sufficient disclosure and enablement;

After acceptance of the invalidation request following the procedures set in the Civil Procedural Code, the patent holder is notified to that effect and requested to submit comments in relation to the invalidation question raised against his patent within a reasonable period from the date of receipt of such notification. The patentee can request extension of time for submitting the requested response. The copy of the response of patentee will be notified to the applicant and oral proceedings will take place among both parties. Based on the documents submitted and arguments in the oral proceeding the Tribunal will give its judgment and prepare a proposed decision to be approved by the Director General of Ethiopian Intellectual Property Office (EIPO).

If all procedures set in the Civil Procedural Code are followed and the time limit allowed for response has lapsed, even if no response have been submitted, the case is decided by the Director General upon the results of technical and legal reports submitted to the Director General by the Tribunal which examined the case.

The decision of the Director General is final at the Office level and could be appealable to the High Court Court.