

## Opposition systems

# The Republic of Chile

Opposition proceedings in Chile are governed by Title I “Preliminary provisions”, paragraph 2 “General procedures for opposition and registration”, articles 4 to 17bis B of Law No 19.039 on Industrial Property (LPI).

### *1. Filing an opposition*

Any interested party may file an opposition with the Institute to an application for a patent, utility model, industrial drawing or design, layout design or topography of integrated circuits within a period of 45 days from the date of publication of the application extract in the Official Journal.

In opposition proceedings, parties shall appear represented by an authorized lawyer, in accordance with the provisions of Law No. 18.120 concerning appearance in court (LPI, article 5).

### *2. Court*

Cases concerning opposition shall be brought before the Head of the Institute in accordance with the formalities laid down in the Industrial Property Law (LPI, article 17).

### *3. Notification of opposition*

Notification of opposition to an application for registration shall be made by sending a registered letter to the address given by the applicant in the file. Notification shall be deemed to have been made three days after the letter has been mailed and shall consist in sending a full copy of the opposition and the interlocutory judgment (LPI, article 13(2)).

### *4. Response*

Where an opposition has been filed, the applicant shall have 45 days to respond (LPI, article 9).

### *5. Evidence*

Where opposition proceedings entail disputes over relevant substantive matters, evidence shall be heard within a period of 45 days.

The period for receiving evidence may be extended by up to 30 days in special cases (LPI, article 10).

### *6. Language of documentary evidence*

Accompanying documents shall be submitted in Spanish or duly translated, should the Institute so require (LPI, article 10bis).

### *7. Forms of evidence*

The parties may avail themselves of all of the usual forms of evidence and also those indicated in the Code of Civil Procedure, with the exception of testimony (LPI, article 12).

### *8. Patentability examination*

The presentation of evidence shall be followed by a patentability examination of the application, including a prior art search and an assessment of patentability requirements. The examination report shall be notified to the applicant and the opponent for observation (LPI, articles 6 and 7).

#### *9. Ruling*

The ruling shall be accompanied by a statement of reasons and shall conform to the provisions of Article 170 of the Code of Civil Procedure, as appropriate. The basic requirement is that rulings must contain the precise designation of the parties, the declaration of the claimant's petition or actions, the exceptions alleged by the respondent and the considerations of fact and law on which the ruling is based, together with the decision on the disputed matter (LPI, article 17).

#### *10. Remedy*

Within 15 days beginning from the date of their notification, in both the first and second instances, the decisions handed down in proceedings involving an opposition that contains or is based on manifest errors of fact may be remedied ex officio or at the request of a party (LPI, article 17bis A).

#### *11. Appeal procedure – second instance*

Appeals against the decision of the National Director ruling on the opposition shall be lodged within a period of 15 days from the time of notification of the decision and shall be heard by the Industrial Property Tribunal specializing in the matter (LPI, article 17bis B).

#### *12. Supreme Court*

An appeal in cassation on the merits may be lodged with the Supreme Court against final rulings handed down in the second instance by the Industrial Property Tribunal (LPI, article 17bis B).