

Re-examination systems

Moldova

The examination of the appeal shall be conducted in accordance with Article 58 and 59 of Law No.50-XVI/2008 on the Protection of Inventions. The appeal shall be filed within 2 months from the date of dispatch of the decision.

In the examination of the appeal, which shall be conducted in accordance with the provisions of the Regulations and the Regulations on the Appeals Board of the AGEPI, the parties shall be invited, as often as necessary, to file observations, within a period to be fixed by the Appeals Board, on notifications addressed to them or on communications from another parties.

Following the examination of the appeal, the Appeals Board may either take a final decision or remit the case to the AGEPI subdivision whose decision was appealed for re-examination. The decision of the Appeals Board of the AGEPI shall be published in BOPI. Any decision adopted by the Appeals Board of the AGEPI may be appealed before a court in whose jurisdiction the AGEPI headquarters is located, within 2 months following the date of communication.

Following the examination of appeal, according to Article 59 paragraph 2 of the Law and Rule 353 of the Regulations on the Procedure of Filing and Examination of a Patent Application and of Issuance of a Patent, the Appeals Board may adopt one of the following decisions:

- a) to refuse an appeal, while maintaining the appealed decision in force;
- b) to partially or fully admit an appeal, disposing the revocation or amendment of the adopted decision;
- c) to remit the case to the AGEPI subdivision whose decision was appealed for remit the case to the AGEPI subdivision whose decision was appealed for re-examination.

The Appeals Board shall transmit, in accordance with Rule 356 of the Regulations on the Procedure of Filing and Examination of a Patent Application and of Issuance of a Patent, the application for re-examination, the latter shall be carried out within six months by an examiner appointed by the chief of the examining subdivision or by the Appeals Board. In accordance with Rule 422 of the Regulations on the Procedure of Filing and Examination of a Patent Application and of Issuance of a Patent, the Examining Board may be formed, where necessary, within the examining subdivision and shall consist of a chairman and two or four members appointed by an order of the head of the examining subdivision. At the same time, in accordance with Rule 424 of the aforementioned Regulations, the Examining Board shall be formed in the following cases:

- a) the claimed invention relates to more than one field and requires the participation of examiners in different fields;
- b) the claimed invention is complicated and there are doubts as to the accuracy of the decision to be issued (especially, in the case of decisions on refusal of an application or limitation of the extent of protection by exclusion of certain features from the claims).

The Examining Board shall, on the basis of the examination results, adopt a decision by a simple majority of its members, which shall be signed by the chairman and by the members of the Board having voted for such decision, and shall be communicated to the applicant for or owner of the patent or other persons concerned.

The examiner may require from the appellant the additional information necessary for the examination of the application. A re-examination report shall be drawn up on the basis of the re-examination results, which shall be transmitted to the Appeals Board for the purpose of adopting a decision on appeal. The decision of the Appeals Board shall be communicated to the parties within one month following the date of issuance and shall be published in BOPI within three months from the same date.

Similarly, the re-examination is also carried out within the opposition, in accordance with the provisions of Article 57 paragraph 4 of Law No.50-XVI/2008 on the Protection of Inventions stipulating that if AGEPI is of the opinion that at least one of the grounds for opposition referred to above is against the grant of the patent, it shall revoke the respective decision, and Rule 335 of the Regulations on the Procedure of Filing and Examination of a Patent Application and of Issuance of a Patent stipulating that in the course of examination of opposition in defining prior art, the Appeals Board may, where appropriate, request that the responsible AGEPI subdivision shall carry out an additional documentary search, the results of which will make it possible to assess the patentability of the invention.