

Institute for intellectual property of Bosnia and Herzegovina

Dear Madam/Sirs,

- (i) Regarding the document C.8728 dated 09.02.2018. we would like to inform SCP that Institute for Intellectual property of Bosnia and Herzegovina does not have any additional inputs for the preparation of the second draft reference document on exception regarding acts for obtaining regulatory approval from authorities.
- (ii) Regarding the examination guidelines/manuals and summary of the most important case law or interpretative decision concerning the topics suggested in paragraph 8 of document SCP/24/3 (proposal by the Delegation of Spain) for the preparation of a further study of inventive step, we would like to inform you that we still do not have Guidelines of most important case. Since the fact that we are extension state of the EPO, we use „EPO Guidelance and Manuales“ and „Case Law of The Boards of Appeal of the EPO“ for patent examination. Regarding the Inventiv Step we use Problem Solution Aproach. We also use the WIPO IP Handbook.

In addition , in order to maintain the information collected the activities of the SCP up-to-date, kindly be informed about the regulations prescribed by our Patent Law:

Oposition procedure in BA

No formal pre- or post-grant opposition procedure is available in the case of patents. In the case of consensual patents (patents which are granted without substantive examination – Art. 41, 42 Patent Law) any person may, within six months, file notice of opposition to the grant of a consensual patent (Art. 42 Patent Law). The applicant for a consensual patent may, within six months from receipt of notification of the opposition, file a request for the grant of a patent on the basis of the substantive examination procedure. If the applicant for a consensual patent does not file a request, the Institute rejects the patent application.

Administrative revocation and invalidation mechanisms

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 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.

Exclusions from Patentability

Art. 7 of Patent Law

(1) A patent shall not be granted for:

a) inventions concerning animal breeds and plant varieties and essentially biological processes for the production plants or animals, with the exception of inventions which concern non-biological and microbiological processes and products resulting from such processes, as provided for in paragraph (4) of article 6 of the Patent Law, whereby, within the meaning of this Law, a microbiological process shall imply any process which involves or which is performed upon microbiological material or which results in microbiological material. b) the human body, various stages of its formation and development or the simple discovery of one of its elements, including the sequence or partial sequence of a gene, c) inventions concerning diagnostic or surgical methods or methods of treatment which are practiced directly on the human or animal body, with the exception of the products, in particular substances and compositions used in such methods.

(2) An invention which concerns an element isolated from the human body or produced by means of technical process, including the sequence or partial sequence of a gene referred to in item b) of paragraph (1) of this article, may be patentable even if the structure thereof is identical to the structure of a natural element. The industrial applicability of the sequence or partial sequence of a gene must be disclosed in the patent application as originally filed.

(3) Inventions shall not be regarded as patentable where their commercial exploitation would be contrary to public order or morality, but not merely because such exploitation is prohibited by law or other regulation.

(4) The following in particular shall be regarded as inventions referred to in paragraph(3) of this article: a) processes for cloning human beings, b) processes for modifying the germ line genetic identity of human beings, c) use of human embryos for industrial or commercial purposes and d) processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, as well as animals resulting from such processes.