

## Updated information

### Azerbaijan

(i) 1. In accordance with Part 2 of Article 26 of the Law of the Republic of Azerbaijan "On Patents", an international application may be submitted to the Intellectual Property Agency of the Republic of Azerbaijan (hereinafter - the Agency) to obtain a patent for an invention. In the case when international application filed to the respective body of executive power, in accordance with international treaty to which the Republic of Azerbaijan is party, the applicant shall within 2 month from filing date of international application to the respective body of executive power submit a translation of the claims, abstract, description on international application into the Azerbaijan language.

Legal entities and natural persons of the Republic of Azerbaijan may be file of international application in accordance with international agreements, in which the Republic of Azerbaijan participates.

Legal entities or individuals of the Azerbaijan Republic may file an international claim in accordance with international agreements to which the Azerbaijan Republic is a party.

The respective body of executive power deemed as a receiving office for international application filed in accordance with the item 2 of the present article.

Applicant may file application to respective body of executive power as follows:

Directly, himself; through the patent attorney who has been registered by the respective body of executive power.

Foreign legal entities and natural persons, if there are no other cases stipulated by international agreements, which the Republic of Azerbaijan participates in, file application to respective body of executive power by patent attorney registered in the respective body of executive power of the Republic of Azerbaijan.

Competence of patent attorney is certified through a warrant, granted by applicant.

The powers of patent attorneys shall be confirmed by a power of attorney issued by the applicant. The right to priority shall occur for invention in accordance with items 3 and 4 of article 7 of the present Law, for utility model in accordance to item 3 of article 8 of the present Law, for industrial design accordance to item 3 of article 9 of the present Law from the filing date of application.

According to this article of the law:

2. The priority of a subject matter of invention, utility model and industrial design may be determined by the filing date of the first application in a State party to the Paris Convention for the Protection of invention, utility model and industrial design (Convention priority) if the invention application or the utility model is filed to the respective body of executive power within 12 months of that date or of 6 months in the case of an industrial design.

The priority of an object displayed at an official exhibition in the territory of a State party to the Paris Convention or the World Trade Organization may be requested from the date of its public display at the exhibition, provided that the application is submitted no later than 6 months after that date (exhibition priority).

This period does not extend the term of the convention's priority.

The priority of a subject matter that has been shown in an official international exhibition held on the territory of a State party to the Paris Convention may be claimed with to the date as from which the subject matter was presented to the public as such exhibition, on condition that the application be filed within six months following such date (exhibition priority).

This period does not extend the term of the convention's priority.

3. The priority of a subject matter of invention, utility model and industrial design may be determined by the filing date of the first application in a State party to the Paris Convention for the Protection of invention, utility model and industrial design (Convention priority) if the invention application or the utility model is filed to the respective body of executive power within 12 months of that date or of 6 months in the case of an industrial design.

The priority of a subject matter that has been shown in an official international exhibition held on the territory of a State party to the Paris Convention may be claimed with to the date as from which the subject matter was presented to the public as such exhibition, on condition that the application be filed within six months following such date (exhibition priority).

In the information, the applicant submits bibliographic data to the object of the previous claim. If necessary, the body designated by the relevant executive authority (meaning the Agency) may request additional information on the information provided from the organization that received the claim.

4. If the application for priority is not submitted within the period specified in paragraph 2 of this Article and the conditions specified in paragraphs 3 and 8 of this Article are not met, priority shall be determined from the date of receipt of the application by the relevant executive authority.

5. Priority may be determined from the date of filing the same claim in accordance with international agreements on protection of industrial property in which the Republic of Azerbaijan is a party, provided that the applicant has withdrawn the claim and its priority date is determined by the relevant executive authority. a maximum of 12 months for an invention and utility model and a maximum of 6 months for an industrial design between the date of entry into the institution ( meaning is Agency ).

6. Priority may also be determined from the date of submission of additional materials.

In the case when dates of priority of similar subject matter of invention, utility model and industrial design are established to be same during examination, priority is established according to the application, which has been sent to respective body of executive power earlier. If these dates are also same, application which was obtained registration number earlier by the respective body of executive power (if there are no other terms stipulated by the agreement between the applicants).

7. The priority of subject matter of invention, utility model and industrial design may be determined by the date of filing with the respective body of executive power an earlier application of the same applicant, which discloses the subject matter of invention, utility model and industrial design, provided that the application, the priority of which is claimed, is filed before expiration of 12 months from the date of receipt of the earlier application for invention or utility model and was filed before expiration of 6 months from the date of receipt of the earlier application for industrial design.

Disputes between applicants concerning priority are considering by commission of Appeal. Where the applicant does not agree with the decision commission of Appeal he may appeal to the Court.

According to the norm of part 9 of the mentioned article of the law, "If the claim claimed priority of the Convention is not submitted within the period specified for reasons beyond the control of the applicant, this period may be extended up to 2 months."

Plaintiffs' disputes over priority shall be considered by the Board of Appeals. If the plaintiff does not agree with the decision of the Board of Appeal, he may appeal to the court.

**(ii)** The patent legislation of Azerbaijan allows the plaintiff to appeal against the decision to refuse to grant a patent to the Board of Appeals of the Agency, paying the relevant state fee within 2 months from the date of receipt of the decision. The applicant can get acquainted with all the materials on the decision of the Board of Appeal.

No later than 12 months after the date of receipt of the applications an invention or utility model and no later than 6 months after the date of receipt of the application of industrial design the respective body of executive power shall publish information concerning the applications in the Official bulletin. According to the application of an applicant, the information on application can be published earlier than the following date.

Issues related to the opposition to application, opposition to granted patent, lapse of the validity of patent and invalidation of a patent are regulated by the following articles of the Law:

### **Article 31. Opposition to application**

1. Within 6 months from the date when information of application is published any legal entity or natural person shall have the right to submit to the commission of Appeal a substantiated opposition. In this case copies of referred materials should be presented as well.

2. An opposition against the application may be filed, if the requirements of paragraph 3 articles 3 and articles 7, 8, 9, 27 and 29 of this Law have been violated.

3. Copy of the valid opposition shall be forwarded to the applicant.

Applicant shall answer on opposition within the period of 2 months after receiving the copy of opposition.

When the applicant does not submit his answer to commission of Appeal within the established terms, the application will be rejected.

### **Article 34. Opposition to granted patent**

1. Within 6 months from the date when information concerning of the patent is published any legal entity or natural person shall have the right to submit with the commission of Appeal a substantiated opposition against granted of the patent if the conditions have not complied with of paragraph 3 of article 3, items 1, 6, 7, 8 of article 7, items 1, 5, 6 of article 8, items 1, 5, 6 and 7 of article 9, article 27 and 29 or if the claims of invention, utility model and industrial design contain of essential features that did not appear in the application as initially filed.

2. Patent owner and legal entity or natural persons, who filed opposition, may participate in the proceedings of commission of Appeal.

3. Commission of Appeal will not accept the opposition concerning granted of patent after 6 months from the date the publication of information on the subject matter of the patent.

4. A decision of commission of Appeal may be appealed to the Court.

### **Article 36. Lapse of the validity of patent**

1. The patent shall lapse in the followings cases:

on the basis of the application that is given to *the body of appropriate executive power* by the patent owner;

when, till the passing the period of delay from the 12 month of the period, that is defined for the paying of charges, patent fee isn't paid;

in the patent is annulled in accordance with article 37 of this Law.

2. *The respective body of appropriate executive power* shall publish information on lapse patents in its Official bulletin.

### **Article 37. Invalidation of a patent**

1. The patent on inventions, utility models and industrial designs by applying to the all period of its protection may be declared as completely invalidated in the following cases:

when it does not meet requirements set out in articles 7, 8, 9 of this Law;  
when in the description of the patent, the essence of the subject matter is not disclosed sufficiently clearly and completely, for a specialist to implement the subject matter;  
the scope of rights, granted by patent exceeds the limit of the initial application;  
the patent has been granted to a person who is not entitled to such rights with accordance article 12 of this Law.

2. The patent may be invalidated in part, where the provisions prescribed in items 1 of this article do not fully apply to the entire patent.

3. Commission of Appeal or Court shall consider the disputes occurred by the invalidation of a patent.

**(iii)** According to Part 10 of Article 29 of the Law, within 18 months from the date of filing the application for a patent, the Agency shall provide information search for establishment of the patentability of subject matter at the request of the applicant or other interested person through its subordinate Patent and Trademark Examination Center. The substantive examination of the application is carried out by the Agency in accordance with filed request of the applicants or an interested person within 18 months after the date of filing of application.

Result of the substantive examination is notified to the applicant or an interested person. Terms of information search and substantive examination of the application, scope and volume of information search, subject of information search and procedure for acquaintance with search results are determined by the "Rules on carrying out information search and substantive examination of application" and "Rules on acquaintance with the materials of the published application" approved by the Decision No. 478 dated 17 December 2019 of the Cabinet of Ministers of the Republic of Azerbaijan.

**(iv)** The patent legislation of the Azerbaijan Republic also regulates issues related to the registration, activity and competencies of the patent attorney. According to the Article 6 of the Law, "Patent attorney shall be a citizen of the Republic of Azerbaijan shall have a higher education knows state language of the Republic of Azerbaijan and registered in state register of Patent attorneys."

The patent attorney assists the person authorized to obtain and maintain a patent for an invention, utility model and industrial design in the territory of the Republic of Azerbaijan, represents him/her in the exercising of rights to inventions, utility models and industrial designs, in the concluding of license agreements, protects the interests of the the person authorized in the Agency and the courtç and performs work within its powers.

The activity of patent attorney is determined by this Law and "Statue on patent attorney", approved by the Decision No. 21 dated 15 February 2000 of the Cabinet of Ministers of the Republic of Azerbaijan.

The Agency has prepared proposals on amendments the Law. The proposals provide, taking into account international practice, enforcement of patent law at the international and national levels, issuance and enforcement of objections, improvement of information search of and the further issues related to patent attorneys.