

(i) CERTAIN ASPECTS OF THE APPLICABLE NATIONAL OR REGIONAL PATENT LAW

Prior Art
<p>1. Everything made available to the public by means of a written or oral description, by use, or in any other way, before the filing date (priority date).</p> <p>2. Contents of Croatian patent and utility model applications, and certain European and international patent applications, with an earlier filing date (priority date), published on or after the filing date (priority date).</p>
Novelty
<p>An invention shall be considered to be new if it does not form part of the state of the art. The state of the art shall be held to comprise everything made available to the public by means of a written or oral description, by use, or in any other way, before the filing date (priority date), and the contents of Croatian patent and utility model applications, and certain European and international patent applications, with an earlier filing date (priority date), published on or after the filing date (priority date).</p>
Inventive Step (Obviousness)
<p>The invention is not obvious to a person skilled in the art having regard to the state of the art. The state of the art consists of everything made available to the public by means of a written or oral description, by use, or in any other way, before the filing date (priority date).</p>
Grace Period
<p>1. Disclosure not to be taken into account in determining novelty if it occurred within six months prior to the filing date due to or in consequence of:</p> <p>a. an evident abuse in relation to the patent applicant or his legal predecessor; or</p> <p>b. the display of the invention by the patent applicant or his legal predecessor at an official or officially recognized international exhibition</p> <p>2. The applicant shall indicate, when filing the application, that the invention has been so displayed, and shall file a certificate to that effect not later than four months from the filing date.</p>
Sufficiency of Disclosure

The application shall disclose the invention in a manner sufficiently clear and precise for it to be carried out by a person skilled in the art

Exclusions from Patentable Subject Matter

1. Discoveries, scientific theories and mathematical methods as such;
2. Aesthetic creations as such;
3. Rules, instructions and methods for performing mental acts, playing games or doing businesses as such;
4. Presentations of information as such;
5. Computer programs as such
6. Plant varieties and animal breeds;
7. Essentially biological processes for the production of plants or animals, as well as plants or animals exclusively obtained by these processes, with the exception of inventions which concern microbiological or other technical processes or products resulting from such processes;
8. Inventions which concern diagnostic or surgical methods or methods of treatment practiced directly on a human or animal body, with the exception of the products, in particular substances or compositions used in such methods;
9. Inventions where their commercial exploitation would be contrary to public order or morality, whereby it shall not be considered contrary to public order or morality just because such exploitation is forbidden by law or another regulation, in particular
 - a) Processes for cloning human beings;
 - b) Processes for modifying the germ line genetic identity of human beings;
 - c) Uses of human embryos for industrial or commercial purposes;
 - 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, and also animals resulting from such processes.
10. Inventions which concern human body, at the various stages of its formation and development, and the simple discovery of one of its elements, including the sequence or partial sequence of a gene;
11. Invention relating to an element isolated from the human body or otherwise produced by means of a technical process, including the sequence or partial sequence of a gene, may constitute a patentable invention, even if the structure of that element is identical with that of a natural element, provided that the industrial applicability of such sequence or a partial sequence of a gene has been disclosed in the patent application at its filing date (priority date).

Exceptions and Limitations of the Rights

1. Private acts for non-commercial purposes.
2. Acts done for research and development and experimental purposes, including acts required for the marketing authorization of the medicinal product for human and/or veterinary use.
3. Extemporaneous and individual preparation of prescribed medicines in pharmacies, and acts concerning those medicines.
4. Biological material obtained from the propagation or multiplication of biological material placed on the market in the European Economic Area, by the patent holder or with his consent, where the multiplication or propagation necessarily results from the application for which the biological material is marketed, provided that the material obtained is not subsequently used for other propagation or multiplication;
5. Use of harvested plant propagating material for propagation or multiplication by farmers on their own farms.
6. Use of breeding stock or other animal reproductive material by farmers for pursuing their own agricultural activities, but not sale for commercial reproduction.
7. Continued prior : use by a person who, in good faith before the filing date (priority date) in Republic of Croatia within the framework of his economic activities, began to use or manufacture the product which is the subject of the invention, or had made effective and serious preparations for such purposes;
8. Certain uses concerning foreign (belonging to a Member State of the Paris Union or the WTO) aircraft, land vehicles or vessels which temporarily or accidentally enter national territory.
9. Use of patented product after it is placed on the market in the territory of a Member State of the European Union or a Contracting State of the European Economic Area Agreement by the patent holder or with his consent;
10. Compulsory licenses.

(ii) NATIONAL AND REGIONAL LAWS ON OPPOSITION SYSTEMS AND OTHER ADMINISTRATIVE REVOCATION AND INVALIDATION MECHANISMS

Administrative revocation and invalidation mechanisms

Declaration of nullity of patents/ utility models

Croatian Patent Act does not provide for an opposition, pursuant to the Section X of the Patent act (Official Gazette, No. 16/20), patent, utility model and supplementary protection certificate may be declared null and void in total or in part at any time, on the proposal of any legal or natural person or a State Attorney or *ex officio*, if the patent has been granted:

1. for the subject matter which is not considered to be an invention, for inventions excluded from patent protection and for inventions which cannot be considered patentable;
2. for an invention which was not new or did not include an inventive step or for an invention which is not industrially applicable on the filing date or granted priority date of the patent application;
3. for an invention which is not disclosed in a manner sufficiently clear and detailed for it to be carried out by a person skilled in the art;
4. for the subject matter extending beyond the content of the patent application as filed or, if the patent was granted on a divisional application beyond the content of the earlier application as filed; and
5. on behalf of a person not entitled to the patent protection for the invention.

The procedure concerning the declaration of nullity of a patent begins by filing a written proposal with the Office. The applicant pays the administrative fee and procedural charges.

The proposal contains the indication requesting a patent to be declared null and void, the data concerning the applicant, the patent holder, the patent number, the power of attorney if the procedure is initiated through a representative, the reasons for the proposal of the declaration of nullity of the patent supported by necessary facts and evidence.

The Office communicates the proposal to the patent holder with the invitation to submit response and to amend, where applicable, the description, claims and drawings.

In the course of the procedure, the Office invites the parties as many times as necessary to submit their comments on the submissions of the other party and all invitations and responses thereto are communicated to all parties in the procedure. The Office examines the reasons stated by the applicant but it may also examine other reasons *ex officio* not invoked by the applicant if such reasons would put patent maintenance into question.

If the Office establishes that the proposal is unfounded, it shall issue a decision on refusing the proposal for the declaration of nullity of a

patent. If the Office establishes that there is at least one reason justified by law , it shall issue a decision on declaring a patent null and void. If the Office establishes that a patent is to be maintained valid but amended, it first notifies all parties in the procedure and invites them to submit their reasoned observations on the content of claims on the basis of which it intends to maintain the patent valid. If the parties disapprove the text, the Office may continue the nullity procedure. If the parties approve the text or if they fail to reply to the invitation, the Office issues a decision on partial declaration of nullity maintaining patent in an amended form, provided that the patent holder within two months from receipt of the decision pays the fees for printing a new patent specification. If the patent holder fails to pay the fees, the Office shall declare the patent null and void.

If the applicant of the proposal for the declaration of nullity withdraws the proposal for the declaration of nullity in the course of the procedure, the Office may continue the procedure *ex officio*. This provision applies *mutatis mutandis* where the patent holder has surrendered the patent or the patent has lapsed.

The patent application and the patent granted thereon shall not have *ab initio* the effects to the extent that the patent has been declared null and void.

Once the decision becomes final the Office shall enter the information on declaring a patent null and void in a register and publish this in the Official gazette. If a patent is maintained as amended, the Office shall publish a new patent specification together with issuing a decision.

If the procedure concerning the proposal is completed by a decision on declaring a patent null and void or on rejecting the proposal for the declaration of nullity of patent, procedural costs shall be borne by the party who received an unfavorable decision.

Provisions of the Patent Act referring to the procedure concerning the proposal for the declaration of nullity of a patent apply *mutatis mutandis* to the declaration of nullity of a supplementary protection certificates (SPC).

Declaration of nullity of supplementary protection certificates (SPC)

On the EU level, the invalidity of SPCs is harmonized by Regulation (EC) No. 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (codified version) and Regulation (EC) No. 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products. Pursuant to Article 15 and 16 of Regulation No. 469/2009 and Article 15 of Regulation No. 1610/96, the grounds for invalidity of the SPC are as follows:

- a) The conditions for obtaining a certificate were not fulfilled

- b) The basic patent has lapsed before its lawful term expires;
 - c) The basic patent has been revoked or limited to the extent that the product for which the certificate was granted is no longer protected by the basic patent; it shall apply also in case of the basic patent revocation after its lapse.
- Extension of the duration of the certificate may also be declared invalid if granted contrary to the provisions of Article 36 of Regulation (EC)No. 1901/2006.

Important notice

Procedures pending on the day of the entry into force of the new Patent Act (February 20th 2020) shall be completed in accordance with the provisions of Section IX of the Patent Act (Official Gazette, No. 173/03, 54/05, 87/05, 76/07, 30/09, 128/10, 49/11, 76/13 and 46/18).

(iii) INTERNATIONAL WORK SHARING AND COLLABORATIVE ACTIVITIES FOR SEARCH AND EXAMINATION OF PATENT APPLICATIONS

International work-sharing and collaborative activities for search and examination of patent applications

~~Bilateral Cooperation~~

~~Croatia. The Intellectual Property Office of the Republic of Croatia signed agreements on performing search and substantive examination with the Austrian Patent Office and with the Danish Patent and Trademark Office.~~

Current information should be deleted since it is no longer in force.

(v) **COMPILATION OF LAWS AND PRACTICES REGARDING THE SCOPE OF CLIENT ATTORNEY PRIVILEGE AND ITS APPLICABILITY TO PATENT ADVISORS**

Scope of client attorney privilege and its applicability to patent advisors

National aspects

Croatian legislation provides for confidentiality of any kind of communication between clients and their patent advisors/representatives/attorneys. The provisions under the Croatian legislation concerning duties of patent representatives address the issue with regard to responsibilities of protection of professional confidentiality. These rules are provided for in the [Statute of Croatian Association of Patent and Trademark Attorneys](#) (Official Gazette, 91/2013).

Pursuant to the Statute:

- Members of the Associations shall preserve the confidentiality of any information considering service acquired from a client or otherwise while rendering the service, particularly during representation. The representative's secret refers to all the information, documents, recordings, computer data, pictures and similar materials and deposits kept in the representative's office;
- Members of the Associations shall exercise reasonable care to ensure that the confidentiality of such information be preserved by other persons working in his or her Office;
- Confidences or information acquired in the course of rendering service to a client must not be used in the proceedings or otherwise to the client's disadvantage. A representative shall not use such confidences to the disadvantage of either one or more interested members who are in a status relationship with the client, or against them;
- A representative shall preserve the representative's confidentiality permanently;
- In order to preserve the representative's secret, a representative shall not disclose any information about the matters entrusted to him or her, even upon the termination of a case;
- In order to preserve the representative's secret, a representative shall not disclose any information about the matters entrusted to him or her, even upon the termination of a case;
- In order to preserve the representative's secret, a representative shall not disclose any information about the matters entrusted to him or her, even upon the termination of a case;
- Revelation of the representative's secret is permitted only upon the clear consent of the client or if it is necessary for the defense of the representative.

Based on data available, there are no reported court cases with respect to the client-patent advisor privilege.

Cross-border aspects

The national legislation of the Republic of Croatia does not provide any provisions concerning cross-border aspects of confidentiality of communications between clients and patent advisors.