

Administrative Revocation and Invalidation Mechanisms

Azerbaijan

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.