Text consolidated by Valsts valodas centrs (State Language Centre) with amending regulations of:

11 April 2023 [shall come into force on 14 April 2023].

If a whole or part of a paragraph has been amended, the date of the amending regulation appears in square brackets at the end of the paragraph. If a whole paragraph or sub-paragraph has been deleted, the date of the deletion appears in square brackets beside the deleted paragraph or sub-paragraph.

Republic of Latvia

Cabinet

Regulation No. 413

Adopted 28 June 2016

**By-law of the Industrial Property Board of Appeal**

*Issued pursuant to*

*Section 16, Paragraph one of the State Administration Structure Law*

**I. General Provisions**

1. The Industrial Property Board of Appeal (hereinafter – the Board of Appeal) is a collegial decision-making institution appointed by the Cabinet which examines extrajudicial disputes regarding invention patents (including supplementary protection certificates for medicinal products and plant protection products), trademarks, designs, and topographies of semiconductor products (hereinafter – the objects of industrial property) arising from registration and post-registration procedures of the objects of industrial property.

2. Purpose of operation of the Board of Appeal is to examine extrajudicial disputes arising from registration and post-registration procedures, and also to ensure, in post-registration procedures, implementation of earlier rights provided for in the industrial property laws and regulations.

**II. Functions, Tasks, and Rights of the Board of Appeal**

3. The Board of Appeal shall have the following functions:

3.1. to examine the notices of appeal against decisions of the Patent Office (matters of appeal) provided for in the industrial property laws and regulations;

3.2. to examine the notices of opposition to registration of an object of industrial property of third persons (matters of opposition) provided for in the industrial property laws and regulations;

3.3. to examine the notices of invalidation of registration of a trade mark of third persons (matters of invalidation) provided for in the industrial property laws and regulations;

3.4. to examine the notices of revocation of registration of a trade mark of third persons (matters of revocation) provided for in the industrial property laws and regulations.

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4. To ensure the performance of functions, the Board of Appeal shall perform the following tasks:

4.1. take the decision to initiate a matter in relation to the notice of appeal, opposition, invalidation or revocation;

4.2. prepare the matter of appeal, opposition, invalidation or revocation for examination;

4.3. familiarise the parties in a matter of opposition, invalidation or revocation with the materials of the matter;

4.4. endeavour to reconcile the parties in a matter of opposition, invalidation or revocation;

4.5. determine the examination of a matter in the written or oral procedure;

4.6. examine the matter in the written procedure or in a session of the Board of Appeal and take a decision collegially;

4.7. render a motivated decision and send its true copy to the parties in a matter;

4.8. each year prepare an annual report on its activities during the previous year and publish it on the website of the Patent Office;

4.9. analyse and compile materials related to the practice of examination of matters of appeal, opposition, invalidation, and revocation in a systematic manner;

4.10. inform the Director of the Patent Office of the failure to observe laws and regulations and of the deficiencies in the registration and post-registration procedures of the objects of industrial property in the Patent Office;

4.11. develop proposals for improvement of the industrial property laws and regulations and submit them to the Director of the Patent Office;

4.12. develop proposals for the improvement of examination of matters of appeal, opposition, invalidation, and revocation.

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5. The Board of Appeal shall have the following rights:

5.1. during the process of examination of a matter of appeal, opposition, invalidation or revocation, to request from the units of the Patent Office the relevant application file or any document or material of the file necessary for the examination of matters of appeal, opposition, invalidation, and revocation and also the explanation of the expert of the Patent Office who has examined the application regarding the contested decision;

5.2. to take decisions with recommending character on issues related to the procedures for examination of applications and application of laws and regulations in the Patent Office.

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**III. Competence of the Chairperson and Members of the Board of Appeal**

6. The Chairperson of the Board of Appeal or a person who fulfils the obligations of the Chairperson of the Board of Appeal in accordance with the Law on Industrial Property Institutions and Procedures shall:

6.1. organise and manage the work of the Board of Appeal ensuring the performance of functions thereof, and carry out the control of the observance of the determined procedural time periods;

6.2. approve the composition of the Board of Appeal for the examination of a matter and the Chairperson of the composition for the examination of a matter for the examination of each matter of appeal, opposition, invalidation, and revocation, and also approve a new composition for the examination of a matter if it changes after commencement of the examination of the matter;

6.3. approve the schedule of the sessions of the Board of Appeal once a month;

6.4. advise the members of the Board of Appeal on issues related to the procedures for the examination of matters of appeal, opposition, invalidation, and revocation;

6.5. convene meetings of the Board of Appeal for an analysis of the practice of the examination of matters of appeal, opposition, invalidation, and revocation;

6.6. participate in the examination of matters of appeal, opposition, invalidation, or revocation in the status of a Chairperson or member of a session;

6.7. in the cases laid down in the Law on Industrial Property Institutions and Procedures take a decision on behalf of the Board of Appeal sitting alone;

6.8. according to the competence, represent the Board of Appeal in relations with natural persons and legal persons governed by private law in the issues relating to the examination of matters of appeal, opposition, invalidation, and revocation;

6.8.1 represent the Board of Appeal at court in complaints in the cases referred to in Section 98.1 of the Law on Industrial Property Institutions and Procedures;

6.9. ensure the compliance of the qualification of the members of the Board of Appeal with the merits of the matters to be examined, including by taking care of the raising of qualification, training and the required additional specialisation of the members of the Board of Appeal, and also notify the Director of the Patent Office of the need to organise new certification examination of the members of the Board of Appeal;

6.10. manage the preparation of the reports on the activities of the Board of Appeal;

6.11. approve the internal provisions of the proceedings of the Board of Appeal in so far as they are not regulated in the norms of the Law on Industrial Property Institutions and Procedures.

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7. A Chairperson of the composition for the examination of the matter of the Board of Appeal shall:

7.1. determine the schedule for examination of a matter and be responsible for complying with it;

7.2. take decisions in procedural issues;

7.3. prepare the matter of appeal, opposition, invalidation, and revocation for examination;

7.4. chair the examination of the matter and the session of the Board of Appeal;

7.5. if necessary, determine a different rapporteur for the matter of appeal, opposition, invalidation, and revocation;

7.6. prepare a decision of the Board of Appeal in the relevant matter of appeal, opposition, invalidation, and revocation;

7.7. perform the control of postponed and suspended matters;

7.8. pursuant to a court summons, provide answers to the questions posed by the court, if any of the parties in the matter has applied to the court in relation to a decision of the Board of Appeal.

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8. The rapporteur of a matter who is not a Chairperson of the composition for the examination of the matter of the Board of Appeal shall:

8.1. prepare the matter of appeal, opposition, invalidation, and revocation for examination;

8.2. prepare the decision of the Board of Appeal in the relevant matter of appeal, opposition, invalidation, and revocation.

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9. Member of the Board of Appeal shall:

9.1. participate in the preparation of the matter of appeal, opposition, invalidation, and revocation;

9.2. participate in the examination of the matter of appeal, opposition, invalidation, and revocation at the session of the Board of Appeal;

9.3. upon assignment of the Chairperson of the Board of Appeal perform the obligations of the secretary;

9.4. participate in the preparation of the decision of the Board of Appeal;

9.5. represent the Board of Appeal at court in complaints in the cases referred to in Section 98.1 of the Law on Industrial Property Institutions and Procedures if he or she is the delegated person in the composition of the examination of a matter.

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10. The Chairperson of the Board of Appeal and members of the Board of Appeal shall, upon performing organisational operations, observe the internal regulations of the Patent Office and orders of the Director of the Patent Office, and also according to their competence be involved in the development of the strategy, working plan, internal regulations, and other documents of the Patent Office.

11. The disciplinary liability of the Chairperson of the Board of Appeal and members of the Board of Appeal shall be governed by the Law on Industrial Property Institutions and Procedures.

**IV. Examination of Matters of an Appeal and Opposition**

12. When taking decisions in the course of the examination of matters of appeal, opposition, invalidation, and revocation, the Chairperson of the Board of Appeal and members of the Board of Appeal shall be independent and not subjected to the orders of other persons or other direct or indirect influence.

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13. The decisions of the Board of Appeal shall enter into effect and may be contested in accordance with the procedures laid down in the Law on Industrial Property Institutions and Procedures.

**V. Closing Provisions**

14. Cabinet Regulation No. 623 of 23 August 2005, By-law of the Board of Appeal of the Patent Office (*Latvijas Vēstnesis*, 2005, No. 135), is repealed.

15. This Regulation shall come into force on 18 July 2016.

Acting for the Prime Minister, Minister of Finance `Dana Reizniece-Ozola

Minister for Justice Dzintars Rasnačs