

**From:** Cicinov Olga [mailto:Olga.Cicinov@agepi.md]  
**Sent:** vendredi, 23. septembre 2011 11:42  
**To:** Dolotbaeva, Aida  
**Subject:** RE: Circular 7992

Dear Aida Dolotbaeva,

I have the pleasure to answer to your letter with respect to the opposition system in the Republic of Moldova.

According to **Art. 57** of the national Law No. 50-XVI of 07.03.2008 on the Protection of Inventions, in force from October 4, 2008:

(1) Within 6 months from the publication of the mention of the grant of the patent, any person may give notice to the AGEPI of opposition to the patent granted. Notice of opposition shall be examined within 3 months by the AGEPI division which took the decision to grant the patent.

(2) Opposition shall only be filed in writing and on the grounds that:

a) the subject-matter of the patent is not patentable within the meaning of Articles 6-11 and, as the case may be, Article 12;

b) the patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art;

c) the subject-matter of the patent extends beyond the content of the application as filed, or, if the patent was granted on a divisional application or on a new application filed under Article 16, beyond the content of the earlier application as filed.

(3) The opposition filed shall have suspensive effect. It shall not be deemed to have been filed until the opposition fee has been paid.

(4) If the AGEPI division which took the decision to grant a patent is of the opinion that at

least one of the grounds for opposition referred to in paragraph (2) above prejudices the maintenance of the patent, it shall revoke the respective decision. Otherwise, it shall reject the opposition.

(5) If AGEPI is of the opinion that, taking into consideration the amendments made by the

applicant during the opposition proceedings, the patent and the invention to which it relates:

a) meet the requirements of this law, it shall decide to maintain the decision to grant a patent as amended, provided that the conditions laid down in the Regulations are fulfilled;

b) do not meet the requirements of this law, it shall revoke the decision to grant a patent.

(6) If a patent is amended under paragraph (5) above, the AGEPI shall, after payment of the prescribed fee, publish a new specification of the patent containing the description, the claims and, as the case may be, any drawings, in the amended form.

The text of national Law on Patents for Invention No. 461-XIII (adopted on 05/18/1995, enters in force on 12/ 28/1995, expired on 10/04/2008) in English is available at this website:

[http://www.agepi.md/pdf/lege/reg\\_filing\\_exam\\_patent.pdf](http://www.agepi.md/pdf/lege/reg_filing_exam_patent.pdf)

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[http://www.agepi.md/pdf/lege/lege-prot-inv\\_en.pdf](http://www.agepi.md/pdf/lege/lege-prot-inv_en.pdf)

According to the provisions of the **REGULATIONS** on the Procedure of Filing and Examination of a Patent Application and of Grant of a Patent, approved by Government Decision of the Republic of Moldova No. 528 of 01.09.2009:

**327.** The opposition filed at the grant of a patent shall contain:

a) the family name, given names (denomination), address and signature of the person who has filed the opposition;

b) the name, address and signature of the representative, where applicable;

c) the address for correspondence, where applicable;

d) the request for examination of opposition;

e) the number and filing date or the number of the patent against which opposition is filed;

f) the grounds on which the opposition is based, as well as an indication of the evidence and arguments presented in support of these grounds;

g) the proof of payment of the fee prescribed pursuant to the Government Decision No. 774 of August 13, 1997 for the filing of an opposition.

**328.** If the subdivision of AGEPI which has issued the decision notes that the opposition does not comply with the provisions of Article 57 of the Law and Rule 327 of the present Regulations, it shall notify such fact to the opponent and shall invite him to remedy the deficiencies noted within a period of two months. If the deficiencies are not remedied in due time, the opposition shall be deemed not to

have been filed.

**329.** Any decision by which an opposition is deemed not to have been filed shall be notified to the applicant, with the attachment of a copy of the opposition filed.

**330.** If the opposition is admissible, the subdivision of AGEPI which has issued the decision shall examine, in accordance with the provisions of Article 57 of the Law, whether at least one ground for opposition under Article 57, paragraph (2), of the Law, prejudices the grant of a patent.

**331.** If the opposition is admissible, the applicant shall be notified of the opposition filed and shall be invited to file his observations and to amend, where appropriate, the description, claims and drawings within a period of two months.

**332.** Any observation and amendments filed by the applicant shall be communicated to the other parties concerned and shall invite them to reply within a period of two months.

**333.** Also, in the examination of opposition, the parts, at the request of AGEPI, may file within two months observations on notifications addressed to them or on communications from another parties. The examiner may require from the opponent or patent owner additional information necessary for examination. Any notification made in the examination of opposition and all replies thereto shall be

communicated to all parties.

**334.** Where appropriate, in the course of examination of opposition in defining prior art, AGEPI shall carry out an additional documentary search and shall draw up a search report on a form approved by AGEPI.

**335.** A re-examination report shall be drawn up on the basis of the opposition examination results which shall be sent to all parties.

**336.** Where it is revealed that the maintenance of the decision to grant a patent is possible by way of amendment, the patent owner shall be invited to make any amendments or to submit his own amended version of the description and claims, without extending beyond the content of the original application.

**337.** Before AGEPI decides to maintain the patent as amended, it shall inform the parties of its intent to maintain the decision to grant a patent in amended form and shall invite them to file their observations within two months if they disapprove of the amendments proposed.

**338.** If a party disapproves of the amendments communicated by the AGEPI, examination of the opposition may be continued. Otherwise, AGEPI shall, on expiry of the period under Rule 337 of the present Regulations, invite the applicant to pay the fee prescribed pursuant to the Government Decision No. 774 of August 13, 1997 for the printing of a new specification of the patent, within two months.

**339.** The decision to maintain the patent as amended shall contain the text forming the basis for

the maintenance thereof. The mention of the decision to maintain the patent as amended shall be published in BOPI with the entry of the mention of the result of the decision in the National Register of Patents for Invention.

**340.** The re-printed specification of the patent shall be issued within one month after payment of the fee for re-printing, and the particulars concerning the issuance of the amended patent shall be published in BOPI and shall be entered in the National Register of Patents for Invention.

**341.** If the fee referred to in Rule 340 of the present Regulations has not been paid within the prescribed time limit, it may still be paid within two months of notification of the communication concerning the failure to observe the time limit provided that a fee for the re-printing of a new specification of the patent is paid in a twice amount.

**342.** Documents referred to by a party to opposition proceedings shall be filed in two copies. If such documents are neither enclosed in the opposition nor filed in due time upon invitation by the AGEPI, it shall not take them into account.

**343.** If the patent owner has surrendered the patent or has forfeited the rights in the patent, the opposition proceedings may be continued at the request of the opponent filed within two months of a communication from AGEPI informing him of the surrender or forfeiture.

**344.** In the event of the death or legal incapacity of an opponent, the opposition proceedings may be continued by AGEPI on its own motion, even without the participation of the heirs or legal representatives. The same shall apply where the opposition is withdrawn.

**345.** An opposition filed against a decision to grant a short-term patent shall additionally contain the request for search for the purpose of stating the novelty in respect of the invention which forms the subject-matter of the application for the grant of a short-term patent and the proof of payment of the fee prescribed pursuant to the Government Decision No. 774 of August 13, 1997 for search and for

filing of the opposition.

**346.** An opposition filed against a decision to grant a patent at the responsibility of the applicant, in accordance with Article 97, paragraph (5), of the Law, or to grant a short-term patent, shall additionally contain the request for substantive examination and the proof of payment of the fee prescribed pursuant to the Government Decision No. 774 of August 13, 1997 for substantive examination or for filing of the opposition.

**347.** Examination of opposition under Rule 346 of the present Regulations shall be conducted within a period of nine months from the date of payment of the fees prescribed pursuant to the Government Decision No. 774 of August 13, 1997.

**348.** If the examination is of the opinion that at least one ground for opposition provided for in Article 57 of the Law prejudices the grant of the patent, AGEPI shall revoke the decision to grant a patent and shall issue the decision to refuse the application which shall be communicated to the

applicant and shall be published in BOPI with the entry in the relevant register.

The text of national **REGULATIONS On the Procedure of Filing and Examination of a Patent Application and of Grant of a Patent** in English is available at this website:

[http://www.agepi.md/pdf/lege/reg\\_filing\\_exam\\_patent.pdf](http://www.agepi.md/pdf/lege/reg_filing_exam_patent.pdf)

Should you require additional data please do not hesitate to contact me.

Kind regards,

Cicinova Olga,

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