



**NATIONAL CENTER OF
INTELLECTUAL
PROPERTY**

**НАЦИОНАЛЬНЫЙ ЦЕНТР
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September 26, 2016

Ref.: 01-23/3222

Mr. Francis Gurry,
Director General
W I P O

Dear Mr. Gurry,

The National Center of Intellectual Property of the Republic of Belarus (hereinafter – NCIP) within its competence has considered the letter of WIPO dated August 16, 2016 C. 8585 concerning the request on appropriate information for the Standing Committee on the Law of Patents (SCP) and informs on the following.

NCIP does not have the information concerning (i) practical experiences on the effectiveness of, and challenges associated to, exceptions and limitations to patent rights, in particular in addressing development issues; and (ii) court cases with respect to client-patent advisor privilege including limitations or difficulties encountered.

However, we consider it necessary to inform that at the present time the Law of the Republic of Belarus “On Amendments and Additions to the Law of the Republic of Belarus “On Patents for Inventions, Utility Models, and Industrial Designs” is in the stage of drafting. In this regard it is planned to supplement Article 10 of the Law of 16 December 2002 “On Patents for Inventions, Utility Models and Industrial Designs” with the norm, which provides the ability to limit exclusive rights of patentees in respect of actions aimed at the study of medicines, pesticides or agrochemicals, which contains patented inventions in order to obtain the permission of the authorized body on application. It is expected that this additions will help to develop appropriate markets and ensure their availability.

Concerning (i) certain aspects of national/regional patent laws we kindly request in the Section of Belarus “Exceptions and Limitations of the Rights” to make additions to paragraph 1 as follows: “Such uses do not constitute as infringements of exclusive rights of patentees if transport facilities belong to citizens or legal entities of countries providing the same rights to citizens and legal entities of the Republic of Belarus”.

As for (ii) opposition systems and other administrative revocation and invalidation mechanisms in Belarus it should be noted the following:

According to Article 33 of the Law of 16 December 2002 № 160-Z “On Patents for Inventions, Utility Models and Industrial Designs” (hereinafter – Law) a patent for an invention, utility model and industrial design for the duration of its action may be declared as invalid or partially invalid on the following grounds:

1. Non-compliance of protected inventions, utility models or industrial designs with patentability conditions established by the Law;
2. Presence of features in the claims of inventions, utility models, which are absent in the original description (formula);
3. Illegal indication in a patent of an author (co-authors) or patentee(s).

The recognition of patents for inventions, utility models and industrial designs as invalid according to non-compliance with patentability conditions, as well as the presence in the formula of features, which are absent in the original description (formula), is the responsibility of the Board of Appeals of the Patent Office (hereinafter – Board of Appeals). The Board of Appeals is a body of administrative adjudication. Any individual or legal entity may file an objection to the Board of Appeals for recognition of a patent invalid on the grounds mentioned above. The appeal shall be considered by the Board of Appeals within six months from the date of its receipt. The individual or legal entity who filed the objection and the patentee and/or their representatives are entitled to participate in the opposition at the meetings of the Board of Appeals. The decision of the Board of Appeals on the consideration of the objection may be appealed by the parties in the Supreme Court of the Republic of Belarus within six months from the date of its receipt. Appeals against decisions of the Board of Appeals are considered by the Judicial Board on the Cases of Intellectual Property of the Supreme Court of the Republic of Belarus. Decisions of the Supreme Court of the Republic of Belarus on the results of consideration of appeals against decisions of the Board of Appeals shall enter into force upon publication, and are not subject to appeal.

The recognition of patents for inventions, utility models, industrial designs as invalid due to the illegal indication in the patent of the author (co-authors) or patentee(s) relates to the competence of the Supreme Court of the Republic of Belarus. Such cases are considered by the Judicial Board on the Cases of Intellectual Property in the order of action proceedings at first instance. Decisions of the Supreme Court of the Republic of Belarus on the results of consideration of such cases shall enter into force from the date of announcement, and are not subject to appeal.

We kindly inform that the questionnaire on exceptions and limitations to patent rights and the information on laws and practices regarding the scope of client attorney privilege and its applicability to patent advisors are enclosed to this letter.

With all good wishes,



Piotr Broukin,
Director General