

Administrative Revocation and Invalidation Mechanisms

The Dominican Republic

The patent invalidation mechanism, established under Article 34 of Law No 20-00 (as repealed and replaced by Article 4 of Law No. 424-06 of November 20, 2006), and administered by the Department of Inventions of the National Industrial Property Office, is regulated by:

Article 34. - Patent invalidity and revocation

1) All patents granted in violation of the provisions of this Law shall be null and void. Action for invalidity or revocation may be brought by any interested person. In particular, the National Industrial Property Office may, at any time, at the request of any interested person or competent authority, declare a patent null and void in any of the following cases:

(a) where the subject matter of the patent does not constitute an invention as required under Articles 1 and 2, paragraph 1;

(b) where the patent has been granted for an invention to which the prohibition in Article 2, paragraph 2, applies or which does not meet the patentability requirements set out in Articles 3, 4, 5 and 6;

(c) where the patent does not disclose the invention as required by Articles 13 and 14;

(d) where the claims included in the patent do not meet the requirements set out in Article 15;

(e) where the patent granted discloses more information than was contained in the original application.

2) The National Industrial Property Office shall invalidate a patent where it has been granted to a person that was not entitled to obtain it pursuant to Articles 7, 8 or 9. In such cases, invalidation may be requested only by the person that claims to own the right to the patent.

3) Where grounds for nullity affect only a certain claim or a certain part of a claim, nullity shall be declared only with respect to that claim or part, as the case may be. Where appropriate, nullity may be declared in the form of a limitation of the relevant claim.

4) A request for nullification or cancellation may also be presented as a defense or counterclaim in any patent infringement proceedings.

5) Patents shall expire automatically in the following cases:

(a) at the end of their term of validity;

(b) in the event of nonpayment of the fees for keeping it in force. The owner shall have a grace period of one hundred and eighty (180) days to pay the fee owed, on expiry of which the patent shall lapse.

6) The National Industrial Property Office may declare that a patent has expired in the following cases:

(a) where the granting of compulsory licenses would not have been sufficient to prevent the practices referred to in Articles 41 and 42. In such cases, no proceedings for revocation or expiration of a patent may be instituted before the expiration of two (2) years from the granting of the first compulsory license;

(b) where it is necessary in order to protect public health and human, animal or plant life, or to avoid serious harm to the environment;

(c) where the applicant conceals information from or provides false information to the National Industrial Property Office for the purpose of obtaining a patent that does not meet patentability requirements.