

Opposition Systems

The Republic of Chile

Opposition proceedings in Chile are governed by Title I “Preliminary provisions”, paragraph 2 “General procedures for opposition and registration”, articles 4 to 17bis B of Law Nº 19.039 on Industrial Property (LPI).

1. Filing an opposition

Any interested party may file an opposition with the Institute to an application for a patent, utility model, industrial drawing or design, layout design or topography of integrated circuits within a period of 45 days from the date of publication of the application extract in the Official Journal. In opposition proceedings, parties shall appear represented by an authorized lawyer, in accordance with the provisions of Law No. 18.120 concerning appearance in court (LPI, article 5).

2. Procedure

The patent applicant – and defendant – will have 45 days from the date on which the opposition was duly notified, to provide a response (LPI, article 9). If substantive relevant material facts are disputed between the patent application and the opposition filing, an evidentiary period of 45 days will be afforded (LPI, article 10). The period for receiving evidence may be extended by up to 30 days, in certain cases, upon the request of either party. Accompanying documents shall be submitted in Spanish or they shall be duly translated, should the National Institute of Industrial Property so require (LPI, article 10 bis). In the administrative proceeding, the parties may avail themselves of all the usual forms of evidence for such matters and of those indicated in the Chilean Code of Civil Procedure, with the exception of testimony (LPI, article 12).

3. Patentability examination

The presentation of evidence shall be followed by a patentability examination of the application, including a prior art search and an assessment of patentability requirements. The examination report shall be notified to the applicant and the opposing party for observation (LPI, articles 6 and 7).

4. Ruling

The ruling shall be accompanied by a statement of reasons and shall conform to the provisions of Article 170 of the Code of Civil Procedure, as appropriate. The basic requirement is that rulings must contain the precise designation of the parties, the declaration of the claimant’s petition or actions, the exceptions alleged by the respondent and the considerations of fact and law on which the ruling is based, together with the decision on the disputed matter (LPI, article 17).

5. Court

Cases concerning opposition shall be brought before the National Director of the Institute in accordance with the formalities laid down in the Industrial Property Law (LPI, article 17).

6. Amendments to first or second instance decisions

Within 15 days beginning from the date of their notification, in both the first and second instances, the decisions handed down in proceedings involving an opposition that contains or is based on manifest errors of fact may be remedied ex officio or at the request of a party (LPI, article 17bis A).

7. Appeal procedure – second instance

Appeals against the decision of the National Director ruling on the opposition shall be requested within a period of 15 days from the time of notification of the decision and shall be heard by the Industrial Property Tribunal with jurisdiction over such matters (LPI, article 17bis B).

8. Supreme Court

An appeal in cassation on the merits may be lodged with the Supreme Court against final rulings handed down in the second instance by the Industrial Property Tribunal (LPI, article 17bis B).