

Dear Madam, Sir,

In response to C.8403 letter we would like to inform you that according to our national legislation “1. An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art” (The Republic of Lithuania Patent Law 7 Art., 1 part). „2. A specification must disclose the invention in such full and clear terms as to enable any person skilled in the art to which it pertains to use the invention” (The Republic of Lithuania Patent Law 16 Art., 2 part).

Court of Appeal of Lithuania had two cases where inventive step of an invention was analyzed.

Case number 2A-739/2012 (at Court of Appeal of Lithuania)

The Regional Court of Vilnius (first instance) set that:

An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art. The essence of the invention is that it has to solve a technical problem that exists in a given area. In order to provide patent protection for the invention and when determining whether an invention involves an inventive step, specialists (patent attorneys) primarily take the following actions: 1) must be found the most similar analog of the intended patented invention; 2) comparing to the most similar analog of the intended patented invention there must be formulated objective technical problems and identified the differences of the most similar analog and intended patented invention; analyzed or existing technical problem is not solved in a specific technical, related or common area; 3) must be decided whether pursued patented technical solution to the problem can be considered as involving an inventive step, i. e. must be determined whether sought to patent invention provides a technical solution to the raised problem, whether the invention is not obvious to a specialist who can solve the problem without using the invention.

Court of Appeal of Lithuania set that:

Inventive step is determined on technical level, hypothetical unawareness of specialist and non-obviousness criteria. If a specialist using his professional knowledge in technical level can realize the disputed invention by using simple operational and structural measures, such an invention will not be considered to have an inventive step. The invention must be of a higher level than technical known solutions. The solution must be different from the well-known design techniques, a construction technique must be unusual to a specialist in that field.

(Lithuanian version of the case can be found on the internet site:

<http://eteismai.lt/byla/21187618270776/2-53/2007?word=Slengiai>)

Case number 2-53/2007 at Court of Appeal of Lithuania

Court of Appeal of Lithuania set that:

It sequences from the law, the inventive step is determined on technical level, hypothetical unawareness of specialist and non-obviousness criteria. If a specialist using his professional knowledge in technical level can realize the disputed invention by using simple operational and structural measures, such an invention will not be considered to have an inventive step. The invention must be of a higher level than technical known solutions. The solution must be different from the well-known design

techniques, a construction technique must be unusual to a specialist in that field. When assessing the inventive step, it must be taken into account whether the invention is complex, or there has been a lot of experimenting to achieve the desired result, or the invention demonstrates the technical progress.

(Lithuanian version of the case can be found on the internet site:
<http://eteismai.lt/byla/279029947611152/2A-739/2012?word=Traidenis>)