

Updated information on certain aspects of the applicable national patent law in Belgium (Ref. C.8653 of 16 March 2017)

1. National law on opposition, revocation and invalidation

Belgian national law does not provide for a pre-grant, nor a post-grant opposition procedure, nor a re-examination procedure. Interested applicants or third parties can contest the grant or refusal to grant of respectively a national patent application or granted patent before the national court system.

Neither does Belgian national law feature a revocation or invalidation system, outside of the regular national court system. A patent holder may however voluntarily renounce or revoke his granted national patent wholly or in part. A request thereto is to be directed to the Belgian Intellectual Property Service, in name of the Minister of Economy.¹ While a renouncement is applied *ex nunc*, a revocation has an effect *ex tunc*.

2. Exceptions and limitations to patent rights

According to Belgian national law the rights connected to a national patent do not extend to:

- The use of an essential element of the invention by a person unaware that it was for that purpose;²
- Certain uses of biological material obtained through propagation of biological material put on the market in the EU by, or with consent, of the patent holder;³
- Private acts for non-commercial purposes;
- Acts on or with the subject of the patented invention, if done for scientific purposes;
- Preparation of prescribed medicines in pharmacies, and acts concerning those medicines;
- Certain uses concerning foreign vessels, aircraft and land vehicles which temporarily or accidentally enter national territory;
- Acts concerning products put on the market in Belgium by, or with consent, of the patent holder;⁴
- Continued prior use by a person who, in good faith before the filing date (priority date) used or possessed the invention in Belgium;⁵
- Compulsory licences.⁶

¹ See respectively articles XI.54 and XI.55 of the Belgian Code of Economic Law.

² See article XI.29, § 2, of the Belgian Code of Economic Law.

³ See article XI.32 and XI.33 of the Belgian Code of Economic Law.

⁴ See article XI.34 of the Belgian Code of Economic Law.

⁵ See article XI.36 of the Belgian Code of Economic Law.

⁶ See articles XI.37 to XI.46 of the Belgian Code of Economic Law.

3. Laws and practices regarding the scope of client attorney privilege and its applicability to patent advisors

Belgian national law does not provide, at the moment, for a framework for the protection of an attorney-client privilege.

4. International worksharing and collaborative activities for search and examination of patent applications

Belgium does not participate in international worksharing and collaborative activities for search and examination of patent applications.