

Exceptions and limitations to patent rights – Poland

On 16 October 2019 a bill was passed in the Polish Parliament, which provides some amendments to the provisions of the Industrial Property Act of 2000, related among others to the exceptions and limitations to patent rights. Through the revision of these provisions, the subject-matter or activities not regarded as inventions (listed in Article 28 of IP Law), have explicitly been excluded from patentability to the extent which a patent application relates to such subject-matter or activities as such.

At the same time the exception referring to products, whose incapability of exploitation can be proved under the generally accepted and recognised principles of science, was removed from the list.

Additionally, Article 29(1)(2) of the IP Law has been amended to make it explicit that while patents continue not to be granted for plant or animal varieties or essentially biological processes for the production of plants or animals, as well as products obtained by such processes, patentable are microbiological or other technical processes, or products obtained by means of such process, other than a plant or animal variety.

With the amendments mentioned above the current list of exceptions and limitations to patent rights in the Polish IP Law includes the following subject-matter:

1. discoveries, scientific theories and mathematical methods;
2. aesthetic creations;
3. schemes, rules and methods for performing mental acts, playing games or doing business
4. products or methods whose:
 - (a) capability of exploitation cannot be proved, or
 - (b) exploitation will not bring the result expected by the applicant – in the light of commonly accepted principles of science;
 - (v) computer programs;
 - (vi) presentation of information;
5. the subject-matter or activities referred to in sections: 1, 2, 3, 5 and 6, provided that a patent application concerns the subject-matter or activities as such.

The amended provisions are expected to be published soon and will likely come into force at the end of February 2020.