

Opposition systems

The Dominican Republic

Opposition to industrial design registrations

During the industrial design application process, an opposition to the application may be filed in accordance with the procedure set forth in articles 61 to 66 of Law No. 20-00 on Industrial Property, as superseded by article 8 of Law No. 424-06 of 20 November 2006.

Examination procedure. Opposition and publication

- 1) The National Industrial Property Office shall carry out a formal examination, checking whether the application meets the requirements of articles 61 and 63. It shall review the classification produced by the applicant pursuant to article 63 (d) and, in applications for multiple designs, shall verify whether the products all fall within the same class of the International Classification for Industrial Designs established by the Locarno Agreement.
- 2) Where the classification of the products to which the designs included in a multiple application apply or in which they are incorporated, or the review of the classification given by the applicant, as the case may be, reveals that the application includes products falling within different classes, in breach of article 62, this shall be notified to the applicant, as shall the designs concerned and the classes to which the products listed in the application belong. The applicant may, in order to address the reason for the communication, reduce the list of products or divide the application, removing from the initial application references to designs for products belonging to other classes.
- 3) If flaws are not rectified within 30 days of the notification thereof, processing shall continue in respect of the largest group of designs in the multiple application relating to products in the same class and, should no group be larger than another, processing shall continue in respect of the first design or group of designs included in the multiple application that comply with prescribed legal limitations; the application shall be considered abandoned in respect of the remaining designs. The applicant shall be notified of the abandonment decision in respect of the affected designs.
- 4) During the formal examination and within 30 days of receiving the application, the National Industrial Property Office shall decide either to request the applicant to rectify any flaw or omission, if need be, to submit the formal examination report.
- 5) Once the formal examination report has been drawn up, the applicant shall be notified thereof and shall, within 30 days of notification, pay the fee for the publication of the application. In the event of failure to pay the fee within the period specified, the Inventions Department of the National Industrial Property Office shall announce in a reasoned decision that the application will be declared abandoned, thus closing the file.
- 6) Following publication, any interested third party may, once only, file an opposition against the registration application within 30 days of the publication thereof.
- 7) If no opposition is filed within the period indicated above, the National Industrial Property Office shall proceed with the substantive examination of the application, provided that six months have passed since the filing date.

Once the examination has been completed, a reasoned decision shall be issued granting or refusing registration. If registration is granted, the applicant shall be instructed to pay the relevant fee for publication of the grant.

8) Any oppositions filed within the period indicated in paragraph 6 of this article shall be notified to the applicant so that he/she may, within 30 days and once only, file a defense thereto. A copy of the defense shall be sent to the opposing party, solely for information.

9) The National Industrial Property Office shall rule on the opposition when it conducts the substantive examination.

It shall be guided in that regard by the provisions of paragraph 5 of this article. If registration is refused, the Office shall publish the decision at the opposing party's expense.

10) The applicant shall respond to any request made by the National Industrial Property Office within 30 days, unless a different period is specified in the notification itself. Should the applicant fail to observe the period indicated and to request an extension, the National Industrial Property Office shall announce in a reasoned decision that the application will be declared abandoned, thus closing the file.

In this regard, once the decision granting or refusing the registration has been issued, the Department of Inventions shall notify both the applicant and the opposing party of the decision, whatever it may be.

Current domestic legislation relating to patents is silent on opposition as a form of administrative appeal. Article 21 of Law No. 20-00 provides for some observations to be made.