

Amendments to Industrial Property Laws in Latvia

By Jevgenijs Fortuna, FORAL Patent Law Offices, Latvia

On October 14, 2010, the Latvian Parliament has adopted amendments to the Patent Law, as well as to the Law On Trademarks and Indications of Geographical Origin.

- The Law “On Trademarks and Indications of Geographical Origin”

The major amendments to the law, which entered into force on November 17, 2010 relate to extension of the set time limits and restoration of the missed terms.

The amendments introduced further processing and reinstatement of rights, as well as specified which terms can be extended.

The amended law provides that the term for proceedings before the Patent Office and the Board of Appeal can be extended for up to three months provided that the respective request has been filed and the fee has been paid before expiration of the term (Art. 22). The following terms cannot be extended: terms related to conventional priority, term for filing the opposition, term for appealing the decision of the Board of Appeal, the duration of the registration of a trademark and terms related to renewal of the registration of a trademark, terms related to further processing and reinstatement of rights.

Under the amended law, further processing can be requested in case of missed terms in proceedings before the Patent Office. The request for further processing can be filed within two months counting from the date of receipt of the notification on the missed term or on the loss of rights due to non observance of the time limits. Further processing cannot be requested if the following time limits are not observed: time limit for requesting further processing, time limit of the conventional priority or the term for submitting the documents attesting the priority rights, time limit for filing the response to the official action during the examination of a trademark, time limit for filing the opposition, the duration of the registration of a trademark and terms related to renewal of the registration of a trademark, terms related to reinstatement of rights. The reinstatement of rights can be requested in case of non observance of the time limits in proceedings before the Patent Office if the direct consequences of such non observance are refusal of the trademark application, deeming of the trademark application or other request to have not been filed or been withdrawn, cancellation of the registration or other loss of rights. The request for reinstatement of rights can be filed with the Patent Office within two months of the removal of the cause of non-compliance with the time limit, but at the latest within one year of expiry of the unobserved time limit. The request for reinstatement shall contain the explanation of the reasons of non-compliance with the time limits and be accompanied by the respective evidence confirming that in spite of all due care required by the circumstances having been taken, the person was unable to observe the time limits. The reinstatement of rights cannot be requested if the following time limits are not observed: time limit for requesting reinstatement of rights, time limit for filing the response to the official action during the examination of a trademark, time limit for filing the opposition, terms related to further processing, as well as in case if the circumstances of the matter allow to apply provisions related to further processing.

- The Patent Law

Besides some formal changes correcting the numbering of articles and amendments supplementing the list of functions of the Patent Office, the new amendments introduce more detailed regulations related to inventions affecting national defense interests.

Under the amended law, if the invention affects national defense interests, the Ministry of Defense of the Republic of Latvia can assign it secret invention status. If the invention is considered secret, the Patent Office shall take a decision on the grant of patent not applying provisions of the law related to publication of the acceptance of the application and publication of the mention on grant in the Official Gazette. Neither the requirement to pay the official fees for publication is applied in this case. The patent application and the patent shall be published after cancellation of the secret invention status and after the payment of the publication fee. The scope of the right-holder's economic rights shall be defined by the agreement with the Ministry of Defense. If the right-holder and the Ministry of Defense do not succeed in reaching an agreement on the amount of compensation for the use of invention, this amount shall be defined by the court in the order provided by the Civil Procedures Law. The amendments entered into force on November 17, 2010.

Jevgenijs Fortuna
FORAL Patent Law Offices, Latvia
Tel.: +371-67223450
jevgenijs.fortuna@foral.lv