APPROVED
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REGULATIONS OF EXAMINATION OF APPEALS AND OPPOSITIONS AP/02/2009

CHAPTER I. GENERAL PROVISIONS

SECTION I. SCOPE OF THE REGULATIONS

1. The Appeals Division (hereinafter referred to as the Appeals Division) of the State Patent Bureau (hereinafter referred to as SPB) examines appeals regarding patent applications in accordance with the provisions of Patent Law of the Republic of Lithuania (Official Gazette 1994, No. 8-120), Regulations IR/01/98 for filing patent applications, examination and granting of patents, approved by order No. 11 of 2 May 1994 of the Director of the SPB (Official Gazette, 1994, No. 38-701; 1998, No. 108-2992). Appeals regarding granting of supplementary protection certificates or setting of validity period of the supplementary protection certificate are examined in accordance with the provisions of Patent Law, Regulations IR/01/98 for filing patent applications, examination and granting of patents, Regulations PA/01/2001 for issuance of supplementary protection certificates, approved by order No. 118 of 27 December 2001 of the Director of the SPB (Official Gazette, 2002, No. 9-343). Appeals and oppositions regarding topographies of semiconductor products are examined in accordance with the provisions of Law on Legal protection of topographies of semiconductor products of the Republic of Lithuania (Official Gazette, 1998, No. 59-1655), Regulations TR/01/99 on registration of topographies of semiconductor products, approved by order No. 36 of 10 March 1999 of the Director of the SPB (Official Gazette, 1999, No. 38-1194). Appeals and oppositions regarding design are examined in accordance with the provisions of Law on Designs of the Republic of Lithuania (Official Gazette, 2002, No. 112-4980), Regulations DR/04/2008 on registration of designs, approved by order No. 3R-72 of 25 September 2008 of the Director of the SPB (Official Gazette, 2008, No. 116-4436). Appeals and oppositions regarding trademarks are examined in accordance with the provisions of Law on Trademarks of the Republic of Lithuania (Official Gazette, 2000, No. 92-2844), Regulations ZR/03/2004 on registration of trademarks, approved by order No. 13R-37 of 30 April 2004 of the Director of the SPB (Official Gazette, 2004, No. 98-3679; 2004, No. 124).

2. These Regulations (hereinafter referred to as the Regulations) establish the procedure for filing appeals and oppositions and their examination at the Appeals Division and procedure of adoption of decisions and appeal.

SECTION II. PRINCIPLES OF EXAMINATION OF APPEALS AND OPPOSITIONS

3. Examination of appeals and oppositions in the Appeals Division is based on the following principles:

3.1. independence and impartiality;
3.2. collegiality;
3.3. publicity;
3.4. legality and fairness;
3.5. prudence;
3.6. equality of parties in procedure;

3.7. adversary procedure;
3.8. concentration and economy of the procedure.

SECTION III. DEFINITIONS

4. Definitions used in the present Regulations are as follows:
4.1. **Appeal** – a justified written request filed by an applicant or his representative who objects to the decision of the SPB, adopted on examination of the patent application, application for a supplementary protection certificate, an application for registration of a topography, design or trademark following the procedure defined by the laws.
4.2. **Opposition** – a justified written statement filed by the opponent with the Appeals Division regarding registration of a topography, design or trademark in the form defined in the prescribed order with a request to defend the infringed or disputed subjective right or interest protected by the law.
4.3. **Opponent** – a person or an entity that files an opposition in order to protect his rights or interests protected by the laws.
4.4. **Holder of the opposed topography, design or trademark** – a person or an entity being the owner of topography, design or trademark against which opposition is filed to the Appeals Division.
4.5. **Representative** – a natural or legal person, a patent attorney or an employee authorized under the procedure defined by legal acts, who represents the applicant, opponent or holder of the opposed topography, design or trademark in regards to the filed appeal or opposition.
4.6. **Signature** – a signature of a natural person or the original signature of director of a legal entity or other authorized person or a facsimile of the signature approved by the seal of a legal entity. Documents issued in foreign states should be undersigned following the procedure defined by legal acts of the state where the document has been issued.
4.7. **Examiner** – a specialist of the SPB Inventions Division (hereinafter referred to as Inventions Division), who performs an examination of patent applications, applications for supplementary protection certificates, applications for registration of a topography; or a specialist of the SPB Trademarks and Designs Division (hereinafter referred to as the Trademarks and Designs Division), who performs an examination of trademarks or design and makes decisions related to registration of design or trademark on behalf of the SPB.
4.8. **Decision** – a decision adopted following the procedure defined by the Regulations and undersigned by the Head of the Appeals Division and sealed with the seal of the SPB holding the following information – THE STATE PATENT BUREAU OF THE REPUBLIC OF LITHUANIA and words APPEALS DIVISION/FOR DECISIONS.
4.9. **Fee** – a fixed fee, which shall be paid following the Law on Fees for the Registration of the Industrial Property Objects (Official Gazette 2001, No. 52-1811).
4.10. Other definitions used in the present Regulations correspond with definitions used in the Patent Law, Law on the Legal Protection of Topographies of Semiconductor Products, Laws on Designs and Trademarks.

CHAPTER II. FILING APPEALS AND OPPOSITIONS

SECTION I. GENERAL PROVISIONS

5. Appeals and oppositions shall be filed with the SPB Applications Receiving and Document Management Division (hereinafter referred to as the Applications Receiving and Document Management Division) directly or sent by mail. The Applications Receiving and Document Management Division shall register an appeal or opposition indicating date and number of the appeal or opposition and pass it to the Appeals Division.

6. Appeals and oppositions shall be filed in a written form in the state language. Translation into Lithuanian should be attached to other documents in case they are not in the state language following the defined procedure.

7. If an appeal, opposition or justified reply to the opposition is filed through a representative, he shall present a power of attorney. Section II of Chapter II of the Regulations shall be applied to the power of attorney.

SECTION II. POWER OF ATTORNEY ISSUED TO A REPRESENTATIVE

8. When a representative represents the applicant, opponent or holder of the opposed topography, design or trademark at the SPB, this authorization shall be validated by the power of attorney.

9. The power of attorney, issued by legal or natural persons of the Republic of Lithuania, or other documents justifying authorizations of the representative shall meet the requirements of the Civil Code of the Republic of Lithuania and other laws.

10. Form, content and expiry date of the power of attorney issued by natural and legal persons of foreign states shall be defined by the laws of the issue state. Expiry date of the power of attorney in case it has not been indicated, shall be determined pursuant to the laws of the Republic of Lithuania.

11. The power of attorney shall specify the following information: name, surname and address of the principal; personal number when the power of attorney is issued by a natural person; full official name and address of a legal entity; registration number of the legal entity when a power of attorney is issued by a legal person; full name or name and surname of the representative, personal or registration number and address.

12. The general power of attorney or the power of attorney for a particular appeal or opposition may be issued to the representative. The power of attorney must contain the particular actions if the representative is granted a right to withdraw a trademark or design application, withdraw registration of the mark or design, file an appeal or opposition and represent in the Appeals Division, assign the power of attorney to another person. The power of attorney may contain the specified actions that have been assigned to a representative by the principal or declared actions the right for which has not been granted to the representative.

13. The representative may delegate another person only in case the power of attorney issued by the principal grants such a right to him. Content and form of the basic power of attorney shall define form and content of the delegated power of attorney.

14. The power of attorney shall specify its expiry date. The Civil Code of the Republic of Lithuania prescribes the expiry date of the power of attorney. Should the expiry date be not specified, then the power of attorney shall be in effect for the period of one year following the issue day.

15. The power of attorney must be undersigned; there must be indicated a place and date of issue of the power of attorney.

16. The power of attorney that holds no issue date shall be void. If the issue place of is not indicated in the power of attorney, it shall be deemed that it was issued in the Republic of Lithuania and its expiry date shall be determined pursuant to legislation of the Republic of Lithuania.

17. Requirements defined in Clause 4.6 of the Regulations herein shall be applied for the signature.

18. Upon expiry of the power of attorney or upon withdrawal of the power of attorney, the representative will forfeit his right to represent the applicant, opponent or holder of the opposed topography, design or trademark in the Appeals Division.

19. In case the principal has assigned several representatives granting the same authorizations, the Appeals Division usually corresponds with one of the representatives authorized by the principal.

20. The power of attorney shall be issued in a general written form and submitted with the Appeals Division alongside the appeal or opposition or alongside the justified reply to the opposition.

SECTION III. FILING OF AN APPEAL AND TIME LIMITS

21. An applicant or his representative has a right to file an appeal with the Appeals Division if:

21.1. a dispute between an applicant and the examiner has arisen prior to granting a patent and regards filing of patent application and determination of priority date, conclusions of the examination and refusal to grant a patent;

21.2. an applicant objects to the decision adopted by the examiner following the examination regarding refusal to grant a supplementary protection certificate or objects to the expiry date of the supplementary protection certificate determined by the examiner;

21.3. an applicant objects to the decision adopted by the examiner to consider an application for registration of a topography as not filed;

21.4. an applicant objects the decision adopted by the examiner following the re-examination regarding refusal to register a design or the decision to refuse recognition of validity of the international registration of design in the Republic of Lithuania;

21.5. an applicant objects the decision adopted by the examiner following the re-examination regarding refusal to register a trademark or the decision to refuse to grant protection to the international registration of a mark in the Republic of Lithuania.

22. An appeal may be filed with the Appeals Division within 3 months from the day of sending of the examiner's decision.

23. If the applicant or his representative files a written request and pays a fixed fee, the date specified in Clause 22 may be extended in case the appeal has been filed pursuant to Clause 21.4 or 21.5 of the Regulations. This date may be extended once, but no longer than for 2 months from the day of expiry of the initial time limit. A request for the extension of time limit shall be filed and the fixed fee shall be paid not later than within 2 months from the day of expiry of the initial time limit. The time limit shall be extended by the ruling of the Head of the Appeals Division if all requirements defined herein have been satisfied.

24. Time limit for filing of an appeal, filed pursuant to Clause 21.2, shall be extended when an applicant or a representative files a written request. This time limit may be extended once, but no longer than for 2 months from the day of expiry of the initial time limit. A request for the extension of time limit shall be filed until the expiry of time limit indicated in Clause 22 of the Regulations. The time limit shall be extended by the ruling of the Head of the Appeals Division if all requirements defined herein have been satisfied.

25. Time limit for filing of appeals, filed pursuant to Clauses 21.1 and 21.3 of the Regulations, shall not be extended.

26. Refusal to extend the time limit may be appealed to the court in accordance with the procedure laid down by the law.

SECTION IV. FILING OF AN OPPOSITION AND TIME LIMITS

27. Interested persons or their representatives may oppose registration of a topography, design or trademark filing an opposition with the Appeals Division.

28. An opposition with the Appeals Division may be filed within 3 months following the publication of the registered topography, design or trademark in the Official Bulletin of the SPB.

An opposition regarding international registration of the design may be filed with the Appeals Division within 3 months from the day of publishing of the data on the international registration of the design, which designates the Republic of Lithuania, in the International Designs Bulletin of the International Bureau.

An opposition regarding international registration of a mark must be filed with the Appeals Division within 3 months from the day of publishing of the data on the international registration of a mark or

subsequent territorial extension, which designates the Republic of Lithuania, in the Gazette of International Marks of the International Bureau.

SECTION V. FEE FOR FILING OF AN APPEAL OR OPPOSITION

29. Prior to filing of an appeal or opposition with the Appeals Division, persons shall pay a fixed fee.

30. A document certifying the payment of a fixed fee is as follows:

30.1. a payment order with stamp of the bank, or

30.2. a receipt of the bank, or

30.3. a receipt of the postal money order to an indicated bank account.

31. A fee for filing of an appeal or opposition shall be paid in Litas, in the amount fixed on the day of payment. The Appeals Division, having refused to accept an appeal or opposition under Clause 45 of the Regulations, shall give the document indicated in Clause 30 back with a stamp of the Applications Receiving and Document Management Division specifying that the fee has not been used.

SECTION VI. FORM AND CONTENT OF AN APPEAL

32. An appeal shall be filed in writing in a freeform.

33. An appeal shall contain the following information:

33.1. information on the applicant. If the applicant is a natural person, then his name and surname, personal number, permanent address and code of the state shall be indicated. If the applicant be a legal person, then its official name, registration number of a legal entity, business address and code of the state shall be indicated;

33.2. information on a representative when an appeal is filed by the representative of the applicant;

33.3. information on the patent application, application for the grant of a supplementary protection certificate, application for the registration of a topography, design or a trademark, data on the international registration of the design or trademark:

33.3.1. application number or number of an international registration of design or trademark;

33.3.2. filing date of an application or international registration of the design or trademark;

33.4. legal grounds and circumstances of the appeal on which the applicant’s claim is based;

33.5. evidence justifying circumstances set forth by the applicant;

33.6. claim of the applicant.

34. The applicant or his representative shall undersign the appeal. The provisions set forth in the Clause 4.6 of the Regulations shall be applied to the signature.

SECTION VII. FORM AND CONTENT OF AN OPPOSITION

35. An opposition shall be filed in a fixed form (T-2/2009 form regarding registration of the topography, D-2/2009 form regarding registration of the design, P-2/2009 form regarding registration of the mark).

36. An opposition shall contain the following information:

36.1. information on the opponent. If the opposition is filed by a natural person, then his name and surname, personal number, permanent address and code of the state shall be indicated. If the opposition is filed by a legal person, then its official name, registration number of a legal entity, business address and code of the state should be indicated;

36.2. information on the representative when an opposition is filed by the representative of the opponent;

36.3. information on registration of the topography, design or trademark against which the opposition is filed:

36.3.1. registration number;

36.3.2. filing date of the application;

36.3.3. publication date of registration of the topography, design or trademark in the Official Bulletin of the SPB and number of the Bulletin, publication date of the international registration of the design in the International Designs Bulletin of the International Bureau and number of the Bulletin or publication date of the international registration of the mark in the Gazette of International Marks of the International Bureau and number of the Gazette;

36.4. legal grounds and circumstances of the opposition:

36.4.1. reference to articles of the Law on Legal Protection of Topographies of Semiconductor Products or Law on Designs or Law on Trademarks, which, in the opinion of the opponent, are being violated by the opposed registration of the topography, design or trademark;

36.4.2. circumstances on which the opposition is based;

36.5. evidence justifying circumstances set forth by the opponent;

36.6. claim of the opponent.

37. If description of legal grounds, circumstances on which the opposition is based and evidence does not fit in the opposition form, it may be continued on another page, which shall be an integral part of the opposition. The following information should be added in the opposition form: “See: cont. in the annex”.

38. The opponent shall undersign the opposition and continuation of the opposition set forth in annexes. Provisions set forth in the Clause 4.6 of the Regulations shall be applied to the signature.

SECTION VIII. OTHER REQUIREMENTS SET FORTH FOR AN APPEAL OR OPPOSITION

39. An appeal shall be filed in 2 copies.

40. An opposition shall be filed in 3 copies.

41. A document certifying the payment of a fixed fee and indicated in Clause 30 of the Regulations shall be attached to the appeal or opposition.

42. An appeal may be filed in respect of only one patent application, application for grant of a supplementary protection certificate, application for the registration of a topography, design or trademark or international registration of design or a mark. An opposition may be filed in respect of registration of only one topography, design or trademark.

43. The opponent must attach a certified translation into Lithuanian regarding international registration of a design or trademark alongside the opposition against an international registration of design or trademark. If the opposition is based on a prior international or Community trademark, prior international or Community design, an opponent shall submit the translation of the abovementioned applications or registrations into Lithuanian. Documents specified in the present Clause shall be submitted in 2 copies within one month from the date of filing of the opposition.

SECTION IX. ACCEPTANCE OF AN APPEAL OR OPPOSITION

44. The Appeals Division, having received an appeal or opposition, shall make a ruling to recognize an appeal or opposition as admissible.

45. The Appeals Division shall make a ruling to recognize an appeal or opposition as inadmissible if:

45.1. an appeal or opposition has been filed without observance of the procedure for filing of an appeal or opposition, laid down in the Patent Law, Law on Legal Protection of Topographies of Semiconductor Products, Law on Designs, Law on Trademarks and these Regulations;

45.2. an appeal or opposition has been filed without observance of time limits, laid down in the Patent Law, Law on Legal Protection of Topographies of Semiconductor Products, Law on Designs, Law on Trademarks and Sections III and IV of Chapter II of these Regulations;

45.3. an appeal or opposition has been filed without observance of the requirements laid down in Sections VI and VII of Chapter II of these Regulations;

45.4. a fixed fee for filing of an appeal or opposition has not been paid.

46. If there exists at least one reason, specified in Clause 45 of the Regulations, the Appeals Division shall make a ruling to regard the appeal or opposition as inadmissible and shall indicate the reasons of this ruling. An appeal or opposition and documents attached to the appeal or opposition as well as a document certifying the payment of a fixed fee if such a document has been submitted shall be returned alongside with this ruling. One copy of the appeal or opposition shall remain with the Appeals Division.

47. If circumstances specified in Clause 45 of the Regulations have been eliminated and time limit for filing of an appeal or opposition has not expired yet, an appeal or opposition may be filed repeatedly.

48. If in accordance with these Regulations the Appeals Division makes a ruling to recognize the appeal or opposition as admissible, this shall be approved by the signature of the Head of the Appeals Division and the seal of the Appeals Division, the date of the ruling shall be specified.

49. If more than one patent application, application for grant of a supplementary protection certificate, topography application or registration, application or registration of a design or trademark is indicated in the appeal or opposition, it shall be deemed that an appeal or opposition has been filed against the first indicated application or registration.

SECTION X. EVIDENCE

50. Parties have to prove circumstances justifying an appeal, opposition or counterblasts. Parties may explain these circumstances in an oral or written manner, submit written or material evidence.

51. Written evidence regarding the filed opposition must be submitted in two copies, one of which shall be communicated by the Appeals Division to the adverse party, except in the case provided for in Clause 68 of the Regulations.

52. Written evidence must be submitted at the latest 20 days prior to the date of the appeal or opposition proceedings at the Appeals Division. If written evidence is submitted later than 20 days prior to the appointed date of the appeal or opposition proceedings at the Appeals Division, the Head of the Appeals Division shall be entitled to set a new date of the proceedings. Parties shall be notified on the date of the proceedings in writing.

During the proceedings at the Appeals Division the Head of the Appeals Division shall be entitled to refuse to accept evidence in case this evidence could have been submitted earlier and the subsequent submission of the evidence would delay examination of the appeal or opposition.

A party, having received written evidence of the other party shall be entitled to submit explanations regarding this evidence in writing within 10 calendar days from the date of sending of evidence.

53. Written evidence shall be submitted in Lithuanian. If submitted documents are not in Lithuanian, certified translation into Lithuanian should be delivered following the defined procedure.

54. Usually original written evidence is submitted. If there are copies submitted, the Appeals Division shall be entitled to ask for original documents.

55. After the Appeals Division adopts a decision, material evidence shall be returned to the party who has submitted the evidence.

CHAPTER III. PROCESS OF EXAMINATION OF AN APPEAL OR OPPOSITION

SECTION I. PREPARATION OF AN APPEAL FOR EXAMINATION

56. The Appeals Division shall notify the Inventions Division or Trademarks and Designs Division of the received appeal thereof by a written notice. The notice should contain the date of receipt of the appeal, number of the patent application, application for grant of the supplementary protection certificate, application of a topography, design or trademark or number of international registration of a design or trademark. 1 copy of the appeal shall be attached to the notice.

57. Within 14 calendar days from the date of a ruling to recognize the appeal as admissible, the Head of the Appeals Division shall appoint the date of the proceedings at the Appeals Division. An applicant or his representative shall be notified of the date of the proceedings at the Appeals Division thereof by a written notice.

SECTION II. PREPARATION OF AN OPPOSITION FOR EXAMINATION

58. The Appeals Division shall notify in writing the holder of an opposed topography, design or a mark or his representative on the received opposition and shall communicate one copy of the opposition and other submitted documents within 14 calendar days from the day of receipt of the opposition.

The Appeals Division shall communicate one copy of the opposition regarding international registration of the design or mark and other submitted documents, only in cases when the holder of the opposed international registration of design or trademark has appointed a representative following the procedure established by the law.

59. The Appeals Division shall notify the Inventions Division or Trademarks and Design Division of the received opposition thereof by a written notice. The notice should contain the date of receipt of the opposition, registration number of an opposed topography, design or a mark and date of publication in the Official Bulletin of the SPB, International Designs Bulletin of the International Bureau or the Gazette of International Marks of the International Bureau. 1 copy of the opposition shall be attached to the notice.

60. The Inventions Division or Trademarks and Designs Division, having received a notice according to Clause 59 of the Regulations on the received opposition against registration of the topography, design or mark, shall suspend issuance of the registration certificate until the Appeals Division adopts a decision.

The Trademarks and Designs Division, having received a notice according to Clause 59 of the Regulations on the received opposition against international registration of the mark, shall prepare a notification to the International Bureau of a provisional refusal to grant protection in the Republic of Lithuania. The Trademarks and Design Division, having received a notice on the received opposition against international registration of the design shall prepare a notification to the International Bureau of refusal of the validity of the international registration of a design in the Republic of Lithuania.

61. If there have been filed several oppositions against the same registration of a topography, design or trademark or the Head of the Appeals Division determines that several homogenous oppositions have been filed where the same parties take part or oppositions are based on the same grounds and circumstances, the Head of the Appeals Division is entitled to make a ruling to examine them jointly. The Appeals Division shall notify parties (their representatives) on the ruling to examine the oppositions jointly.

The ruling of Head of the Appeals Division on examination of the oppositions jointly shall not be appealed against.

62. The holder of the mark against which opposition is filed or his representative must within 3 months from the date of sending of the opposition file a justified reply to the opposition. Following the filing of a written request this time limit may be extended according to the procedure set forth in Clause 23 of the Regulations. Time limit for a justified reply to the opposition regarding topography shall not be extended.

A representative appointed by the holder of an international registration of design or mark must submit a justified reply to the opposition within 5 month period from the date indicated in a notification to the International Bureau of the provisional refusal of protection or refusal of the validity. Following the filing of a written request the time limit for a justified reply to the opposition against international registration of a mark may be extended according to the procedure set forth in Clause 23 of the Regulations.

63. In a justified reply to the opposition the holder shall indicate whether he admits or objects the filed opposition and shall specify the reasonable circumstances and evidence justifying them. The holder shall also indicate whether he or his representative will take part in the proceedings at the Appeals Division and provide information on the representative.

64. The opponent or his representative shall have a right to present the justified arguments to the opposition in writing within 1 month from the date of sending of a justified reply to the opposition to him.

65. The holder of the opposed topography, design or trademark or his representative shall have a right to present a written reply to the justified arguments to the opposition within 1 month from the date of sending of the justified arguments to the opposition to him.

66. The documents, prescribed in Clause 64 and 65 of the Regulations, shall contain detailed circumstances on which the opposition is based or justified replies to the opposition are grounded on, detailed and reasonable evidence and assessment of evidence and claims submitted by the adverse party.

67. The opponent or his representative shall be entitled to submit the justified arguments to the opposition in writing also if no justified reply to the opposition specified in Clause 62 of the Regulations has been submitted. The justified arguments to the opposition must be submitted to the Appeals Division at the latest 10 days prior to the date of the opposition proceedings at the Appeals Division.

68. Documents specified in Clauses 62, 64 and 65 of the Regulations shall be submitted to the Appeals Division in 2 copies. The Appeals Division shall communicate 1 copy of these documents to the adverse party. If both parties are represented by patent attorneys or advocates, the documents specified in Clauses 62, 64 and 65 of the Regulations and evidence defined in Section X of Chapter II of the Regulations may be forwarded directly to the patent attorney or advocate of the other party. There shall be remarked about such forwarding on the copy of the respective document communicated to the Appeals Division.

69. The Head of the Appeals Division shall appoint a date of the opposition proceedings at the Appeals Division and inform parties in cases as follows:

69.1. within time limits provided for in Clause 62 of the Regulations a holder of an opposed topography, design or trademark or his representative has failed to submit a justified reply to an opposition;

69.2. within the time limit provided for in Clause 64 of the Regulations an opponent or his representative has failed to submit the justified arguments to the opposition;

69.3. upon submission of the documents specified in Clauses 64 and 65 of the Regulations;

69.4. upon expiration of the time limit provided for in Clause 65 of the Regulations.

70. Failure to file a justified reply to the opposition within the time limit provided for in Clause 62 of the Regulations shall be considered as a refusal to participate in the examination of the opposition

and shall not prevent the Appeals Division from examining the opposition in the absence of the holder of a topography, design or trademark against which the opposition has been filed, or his representative.

SECTION III. REQUESTS

71. An applicant, opponent or a holder of an opposed topography, design or trademark or their representatives may submit to the Appeals Division written requests, which must be justified. The requests may be also submitted orally during oral appeal or opposition proceedings at the Appeals Division.

72. An opponent or a holder of an opposed topography, design or trademark or their representatives may submit to the Appeals Division a request to appoint a time limit for parties to come to a peaceable settlement. A request shall be filed in writing and must be signed by both parties or their representatives.

73. The request specified in Clause 72 of the Regulations shall be satisfied by the ruling of the Head of the Appeals Division to appoint the 12-month time limit for the parties to come to a peaceable settlement. The said time limit may be extended for additional 12 months upon filing of a written request signed by both parties or their representatives.

SECTION IV. SUSPENSION OF EXAMINATION OF AN APPEAL OR OPPOSITION

74. The Head of the Appeals Division, having either received a request based on documents from one of the parties, or on the own initiative, shall make a ruling to suspend examination of an appeal or opposition in cases as follows:

74.1. an appeal or opposition can not be examined until the Appeals Division examines another appeal or opposition which is directly concerned with the appeal or opposition under examination;

74.2. an appeal or opposition can not be examined until a court examines a case which is directly concerned with the appeal or opposition; or if circumstances identified in the case are significant for the examination of the appeal or opposition;

74.3. an opposition can not be examined, if it is based on an earlier European Community design or European Community trademark, which has been disputed under the foreseen procedure, until the dispute procedure is completed;

74.4. an opposition regarding international registration of a mark can not be examined, if it subject to the basic registration, which has been disputed under the foreseen procedure, until the final decision regarding the said application is adopted;

74.5. an opposition can not be examined, if upon request of the parties the time limit to come to a peaceable settlement is appointed for parties, until parties come to a settlement or the appointed time limit expires.

75. The Head of the Appeals Division is entitled to make a ruling on suspension of an appeal or opposition in absence of the parties. Parties shall be notified in writing on this ruling indicating grounds of suspension.

76. The Head of the Appeals Division shall make a ruling to renew examination of an appeal or opposition in the Appeals Division, if circumstances specified in Clause 74 of the Regulations are eliminated.

77. If an examination of an opposition has been suspended pursuant to Clause 74.5 of the Regulations, the Head of the Appeals Division shall make a ruling to renew examination of an opposition upon the respective request filed by any of the parties or on the initiative of the Appeals Division upon expiration of the time limit appointed for parties to come to a peaceable settlement.

78. The ruling of the Head of the Appeals Division to renew examination of an appeal or opposition in the Appeals Division may not be appealed against. The Appeals Division shall notify parties in writing on the ruling to renew examination of an appeal or opposition.

SECTION V. GROUNDS FOR WITHDRAWAL OF EXAMINATION OF AN APPEAL OR OPPOSITION

79. The Head of the Appeals Division shall make a ruling to withdraw examination of an appeal or opposition in cases as follows:

79.1. an applicant, opponent or his representative has revoked an appeal or opposition;

79.2. a holder of an opposed topography, design or trademark submits a request to cancel registration of the disputed topography, to remove a design or trademark from the Registers, no legal protection for the opposed international registration of trademark has been granted, or validity of the opposed international registration of design in the Republic of Lithuania has been refused;

79.3. registration of a topography, design or trademark, that belongs to the opponent and on which the opposition is based, is declared invalid or revoked by a valid court decision.

80. An applicant, opponent or his representative may withdraw the appeal or opposition in writing or to declare the withdrawal orally during the oral proceedings at the Appeals Division. A holder of an opposed topography, design or trademark shall be obliged to submit a request to cancel registration of topography or to remove a design or trademark from the Registers in writing. The Trademarks and Designs Division shall be obliged to inform the Appeals Division on notifications of the International Bureau as regards cancellations of international registrations that are subject to oppositions.

81. The Head of the Appeals Division shall make a ruling to withdraw examination of an appeal or opposition in the Appeals Division and shall notify the parties as well as the Invention Division or the Trademarks and Designs Division in writing.

82. Having received a ruling of the Appeals Division to withdraw examination of an opposition against registration of topography, design or trademark on the basis provided for in Clauses 79.1, 79.3 of Regulations, SPB shall issue a certificate of registration of a topography, design or trademark.

Having received a ruling of the Appeals Division to withdraw examination of an appeal or opposition regarding international registration of topography, design or trademark, the Trademarks and Designs Division shall notify the International Bureau.

83. If the Appeals Division adopts a ruling to withdraw examination of an appeal or opposition, the paid fee for filing of an appeal or opposition shall not be repaid.

84. The ruling of Head of the Appeals Division to withdraw examination of an appeal or opposition in the Appeals Division shall not be appealed against.

SECTION VI. EXAMINATION OF AN APPEAL OR OPPOSITION

85. Appeals and oppositions shall be examined in written or oral proceedings at the Appeals Division. Appeals and oppositions are commonly examined in written proceedings. Appeals and oppositions shall be examined in oral proceedings only in exceptional cases, where the dispute is complicated or significant for formation of new practice of the Appeals Division. Parties shall be entitled to submit the justified requests in regards to examination of an appeal or opposition in oral proceedings.

86. The Head of the Appeals Division shall make a ruling on appointment of written or oral proceedings of examination of an appeal or opposition.

87. If an appeal or opposition is examined in written proceedings at the Appeals Division, an applicant, opponent, holder of an opposed topography, design or trademark or his representative shall not be invited to the proceedings and the examination shall be conducted in absence thereof.

88. If an appeal or opposition is examined in oral proceedings at the Appeals Division, the applicant, opponent, holder of an opposed topography, design or trademark or his representative shall be invited to the proceedings, however failure to attend the proceedings shall not prevent from examination of an appeal or opposition.

89. If an applicant, opponent, holder of an opposed topography, design or trademark or their representatives notify on non-attendance at the oral appeal or opposition proceedings at the Appeals Division and the reasons for non-attendance are recognized important by the ruling of the Head of the Appeals Division, the proceedings at the Appeals Division shall be postponed and the other date of the proceedings shall be appointed. Such ruling of the Head of the Appeals Division may not be appealed against.

90. Examination of an appeal or opposition shall be conducted in attendance of the Head of the Appeals Division, who must have a university degree in law, and two SPB examiners, who have not participated in examination of a patent application, application for a supplementary protection certificate, application for the registration of a topography, design or trademark. Taking into account the nature of the appeal or opposition under examination, complexity or importance of it, and specific circumstances thereof, the Head of the Appeals Division shall be entitled to invite the SPB specialist (-s), who has a university degree in law, to take part in the appeal or opposition proceedings at the Appeals Division instead of the examiners.

91. Specialists and/or examiners from other SPB structural branches shall be invited to take part in the proceedings at the Appeals Division by an inter-office note indicating the date of the proceedings at the Appeals Division and names of the invited SPB specialists and/or examiners. An inter-office note shall be coordinated with the heads of structural branches, from which the specialists or examiners are invited.

92. SPB specialists and/or examiners participating in examination of an appeal or opposition shall be entitled to have appropriate access to the material of an appeal or opposition, to submit questions to the parties (their representatives) during oral proceedings at the Appeals Division and to present the reasonable opinion on the appeal or opposition to the Head of the Appeals Division.

SECTION VII. ORDER OF PROCEEDINGS AT THE APPEALS DIVISION

93. During the written proceedings at the Appeals Division the Head of the Appeals Division shall notify on an appeal or opposition under examination and the submitted written material (justified reply to the opposition, justified arguments to the opposition, reply to the justified arguments to the opposition, if any have been submitted) and evidence, if any has been submitted. SPB specialists and/or examiners participating in the proceedings at the Appeals Division, having inspected the material of the appeal or opposition, shall exchange the opinions with each other and the decision shall be adopted.

If during the written proceedings at the Appeals Division it has emerged that for the detailed examination of an appeal or opposition it is necessary to hear oral explanations of the parties, or other important circumstances can be disclosed in oral proceedings, the Head of the Appeals Division shall appoint oral proceedings of the appeal or opposition and thereof notify an applicant, opponent, holder of an opposed topography, design or trademark or their representatives by a written notice.

94. Oral proceedings conducted by the Appeals Division shall be public. During the proceedings the word may be given only to applicants, opponents, holders of an opposed topography, design or trademark or their authorized representatives.

95. An appeal shall be examined in oral proceedings at the Appeals Division in the prescribed order:

95.1. the Head of the Appeals Division shall announce the names of SPB specialists and/or examiners who take part in examination of the appeal, notify which appeal is under examination, name

an applicant (his representative), inspect authorizations of representatives and notify on essence of the appeal;

95.2. explanations of the applicant and (or) his representative shall be heard;

95.3. the Head of the Appeals Division, the participating specialists and/or examiners of the SPB shall be entitled to submit questions to an applicant and (or) his representative.

96. An opposition shall be examined in oral proceedings at the Appeals Division in the prescribed order:

96.1. the Head of the Appeals Division shall announce the names of SPB specialists and/or examiners who take part in hearing of the opposition, notify which opposition is under examination, name the parties (their representatives), establish identity of the arrived persons, inspect authorizations of representatives and notify on essence of the opposition;

96.2. arguments of the parties shall be heard. An opponent and (or) his representative shall give explanations first;

96.3. the Head of the Appeals Division, the participating specialists and/or examiners of the SPB shall be entitled to submit questions to the parties;

96.4. participating persons shall be entitled to submit questions to each other;

96.5. participating persons shall have a right of reply. An opponent and (or) his representative shall have a right of reply first.

97. Length of speeches of parties participating in the proceedings at the Appeals Division, shall not be limited, however should they speak with no regards to the essence of the appeal or opposition, the Head of the Appeals Division shall be entitled to terminate the speech.

98. If the participating parties fail to observe the order of the proceedings and instructions of the Head of the Appeals Division, the latter shall be entitled to expel such persons from the proceedings of the Appeals Division.

99. The Head of the Appeals Division shall announce the end of the proceedings at the Appeals Division after the speeches of the participating parties have been heard and the submitted evidence has been examined.

100. In oral proceedings The Head of the Appeals Division shall notify when a resolution part of the decision will be disclosed. In both oral and written proceedings the resolution part of the decision must be disclosed no later than on the next working day following adoption of the decision.

101. In exceptional cases, taking into account the complexity of an appeal or opposition and scope of evidence, the Head of the Appeals Division may make a ruling to postpone adoption and disclosure of the decision for the period not longer than fourteen days. Such ruling shall specify the date of disclosure of the decision.

The ruling of the Head of the Appeals Division to postpone adoption and disclosure of the decision shall not be appealed against.

102. In the set time the Head of the Appeals Division shall disclose a resolution part of the decision that must be signed by the Head of the Appeals Division.

103. Minutes shall be taken only in oral proceedings at the Appeals Division.

CHAPTER IV. DECISION OF THE APPEALS DIVISION

SECTION I. ADOPTION, PUBLICATION AND ENTRY INTO EFFECT OF DECISION OF THE APPEALS DIVISION

104. The Appeals Division shall decide an appeal or opposition in essence by adopting a decision. A decision shall be adopted by the Head of the Appeals Division, having assessed the submitted evidence and explanations of the parties and taking into account the opinion passed by SPB specialists and/or examiners who have participated in examination of the appeal or opposition.

105. The decision adopted by the Appeals Division regarding an appeal or opposition must include the following information:

105.1. date of adoption of the decision;

105.2. registration number and filing date of an appeal or opposition;

105.3. content of an appeal or opposition;

105.4. applicant (his representative) or parties in dispute and their arguments;

105.5. motivation on which the decision is adopted;

105.6. resolution part of the decision must include conclusion of the Appeals Division:

105.6.1. on appeal regarding a patent application – to satisfy the appeal in whole or in part or to dismiss the appeal;

105.6.2. on appeal regarding a supplementary protection certificate – to satisfy the appeal and to adopt a decision to grant a supplementary protection certificate or to appoint other period of duration of the supplementary protection certificate, or to dismiss the appeal;

105.6.3. on appeal regarding a topography - to satisfy the appeal in whole or in part or to dismiss the appeal;

105.6.4. on appeal regarding a design – to grant the appeal and to adopt a decision to register the design in respect of all or some of the design examples or to recognize validity of the international registration of a design in the Republic of Lithuania in respect of all or some of the design examples, or to dismiss the appeal and to uphold the decision to refuse the registration of the design or to refuse validity of the international registration of a design in the Republic of Lithuania;

105.6.5. on appeal regarding a trademark - to grant the appeal and to adopt a decision to register the mark in respect of all or some of the goods and/or services, or to grant protection to the international registration of a mark in respect of all or some of the goods and/or services, to dismiss the appeal and to uphold the decision to refuse the registration of the mark or to refuse to grant protection to the international registration of the mark;

105.6.6. on opposition regarding a topography – to find the opposition valid and to cancel registration of the topography in whole or in part, or to dismiss the opposition;

105.6.7. on opposition regarding a design - to satisfy the opposition and to make a decision to declare invalid the registration of the design in respect of all or some of the design examples, or to refuse to validate international registration of the design in the Republic of Lithuania in respect of all or some of the design examples, or to reject the opposition and leave the registration of the design valid, or to recognize international registration of the design valid in the Republic of Lithuania

105.6.8. on opposition regarding a trademark - to decide that the opposition is allowable and declare registration of the mark invalid in respect of all or some of the goods and/or services, or to refuse to grant protection to the international registration of the mark for all or some of the goods and/or services, or to reject the opposition and leave the registration of the mark valid, or to grant protection to the international registration of the mark;

106. The decision of the Appeals Division shall be signed by the Head of the Appeals Division and certified by the seal of the Appeals Division. SPB specialists and/or examiners, who have participated in examination of an appeal or opposition, shall approve the decision of the Appeals Division, indicating their agreement or disagreement with the adopted decision. SPB specialists and/or examiners who disagree with the decision may report a dissenting opinion in writing.

107. Copies of the decision shall be communicated to the parties within 1 month from the day of adoption of the decision. The copy of the decision shall be certified by the seal of the Appeals Division and the stamp '*True'*.

108. The copy of the decision shall be delivered to the Inventions Division or Trademarks and Designs Division to take further actions in the procedure defined by legal acts.

109. The introductory, reasoning and resolution parts of the decisions of the Appeals Division shall be published in the SPB Official Bulletin.

110. The decision of the Appeals Division shall become valid from the day of adoption thereof.

SECTION II. APPEAL AGAINST DECISIONS AND RULINGS

111. The decision made by the Appeals Division may be appealed against to the Vilnius County Court:

111.1. regarding a trademark or design – within 6 months from the day of adoption of the decision;

111.2. regarding a patent application or an application to grant a supplementary protection certificate – within 3 months from the day of adoption of the decision.

112. Rulings of the Head of the Appeals Division adopted pursuant to Clauses 25, 45 and 74 of the Regulations may be appealed against according to the procedure laid down by legal acts.

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