

PATENTS

Greece



Patents

Consulting editors

Louis E Fogel , Shaun M Van Horn

Jenner & Block LLP

Quick reference guide enabling side-by-side comparison of local insights into patent litigation and patent office procedures, including types of enforcement proceedings; trial format and timing; standards of proof; standing to sue; inducement / contributory infringement; infringement by foreign activities / by equivalents; discovery; litigation timetable and costs; appeals; scope and ownership of patents; alternative dispute resolution; defences of absolute novelty, obviousness, inventiveness or prior use; types of remedy; voluntary and compulsory licensing; patent office proceedings, including timetabling, costs, appeals, opposition, and modification / re-examination of patents; and recent trends.

Generated 22 April 2022

The information contained in this report is indicative only. Law Business Research is not responsible for any actions (or lack thereof) taken as a result of relying on or in any way using information contained in this report and in no event shall be liable for any damages resulting from reliance on or use of this information. © Copyright 2006 - 2022 Law Business Research

Table of contents

PATENT ENFORCEMENT PROCEEDINGS

Lawsuits and courts
Trial format and timing
Proof requirements
Standing to sue
Inducement, and contributory and multiple party infringement
Joinder of multiple defendants
Infringement by foreign activities
Infringement by equivalents
Discovery of evidence
Litigation timetable
Litigation costs
Court appeals
Competition considerations
Alternative dispute resolution

SCOPE AND OWNERSHIP OF PATENTS

Types of protectable inventions
Patent ownership

DEFENCES

Patent invalidity
Absolute novelty requirement
Obviousness or inventiveness test
Patent unenforceability
Prior user defence

REMEDIES

Monetary remedies for infringement
Injunctions against infringement
Banning importation of infringing products
Attorneys' fees
Wilful infringement
Time limits for lawsuits

Patent marking

LICENSING

Voluntary licensing

Compulsory licences

PATENT OFFICE PROCEEDINGS

Patenting timetable and costs

Expedited patent prosecution

Patent application contents

Prior art disclosure obligations

Pursuit of additional claims

Patent office appeals

Oppositions or protests to patents

Priority of invention

Modification and re-examination of patents

Patent duration

UPDATE AND TRENDS

Key developments of the past year

Contributors

Greece



Maria Athanassiadou

m_athanasiadou@hplaw.biz

Dr Helen G Papaconstantinou and Partners Law Firm



PATENT ENFORCEMENT PROCEEDINGS

Lawsuits and courts

What legal or administrative proceedings are available for enforcing patent rights against an infringer? Are there specialised courts in which a patent infringement lawsuit can or must be brought?

The first and most swift action against an infringer is to request a temporary restraining order. This will be granted if the petitioner proves the existence of a prima facie serious infringement as a matter of exceptional urgency. Such a request is filed concurrently with a petition for injunction and, if granted, usually remains effective until the hearing of the injunction.

A petition for injunction is granted if the element of urgency is prevalent in the circumstances of a particular case. The patent owner may ask for the cessation of the infringing act and the removal of the products from the market. The patent owner is also entitled to take measures to preserve evidence and has the right to information.

The next step is pursuing a main infringement action in which the patent owner may also ask for compensation and moral damages.

Forum selection is important to ensure that court proceedings take place before a court with sufficient expertise in patent law. Patent owners may wish to initiate court proceedings before specialist courts instead of the local courts. According to legal theory and case law, the competence of the specialist courts in Athens and Thessaloniki is reserved for main patent actions (ie, main infringement actions and nullity actions against a patent) and is not for temporary restraining orders or injunctions. The competent courts for preliminary proceedings are the local courts. However, the local courts' limited expertise in patent law may negatively affect the protection of patent owners' rights; therefore, patent owners generally try to file preliminary proceedings before the specialist courts in Athens or Thessaloniki.

Law stated - 15 February 2022

Trial format and timing

What is the format of a patent infringement trial?

In accordance with the Code of Civil Procedure, strict time frames for proceedings apply, where both parties are obliged to submit their arguments in writing along with all relevant evidential material within 100 days of the filing of the main action. This time frame applies to Greek nationals and is extended to 130 days for foreign nationals.

Both parties must then file their rebuttal arguments within 15 days. Upon expiry of this term, the case file is considered complete. Within 15 days from this point, a judge-rapporteur must be appointed, and within 30 days the hearing is scheduled.

Each party has the right to submit a maximum of five sworn affidavits in support of its own arguments and a maximum of three sworn affidavits to rebut the adverse party's arguments. As a rule, the court, which in main proceedings consists of three judges, will then hear the case without witnesses; however, if the court deems it absolutely necessary, it has the option of summoning one of the affiants to testify before the court. In such a case, cross-examination of witnesses is permitted.

Each party's witness is expected to testify on all facts of the case. Each party's counsel may cross-examine the other party's witness. The court may also address questions to the witnesses. Expert witnesses may play a key role in complex patent cases, especially owing to the fact that Greek judges have only a legal but not a technical background.

The hearing in main infringement proceedings takes place approximately five months after the filing of the action, and

a decision may be expected after approximately six months.

Law stated - 15 February 2022

Proof requirements

What are the burdens of proof for establishing infringement, invalidity and unenforceability of a patent?

For establishing infringement, the plaintiff must prove that the patent upon which its action is based is valid, as well as the way in which the defendant is infringing the patent. In invalidity cases, the plaintiff must prove the grounds of invalidity of the contested patent.

If a party claims unenforceability of a patent, that party must prove that:

- the lawsuit for infringement or for compensation has not been filed in a timely manner;
- the acquiescence of the plaintiff created the impression to the defendant that it would not bring a lawsuit against the same;
- the defendant's use had been made for non-professional or for experimental purposes (and, in the case of pharmaceuticals, possibly that the Bolar provision applies); or
- the plaintiff's patent was null.

Law stated - 15 February 2022

Standing to sue

Who may sue for patent infringement? Under what conditions can an accused infringer bring a lawsuit to obtain a judicial ruling or declaration on the accusation?

Those who have standing to sue are the patent owner, the exclusive licensee, whoever has a right to the invention and the owner of a pending patent application. In the case of an owner of a pending patent application, the court may order the postponement of the hearing until the grant of the patent.

According to the leading opinion, for the exclusive licensee to have the right to bring an action independently, the licence must be recorded at the Greek Patent Office. An accused infringer may request a declaratory judgment recognising that he or she is not infringing. Such a judgment is enforceable between the parties only.

Law stated - 15 February 2022

Inducement, and contributory and multiple party infringement

To what extent can someone be liable for inducing or contributing to patent infringement? Can multiple parties be jointly liable for infringement if each practises only some of the elements of a patent claim, but together they practise all the elements?

Greek patent law does not have any specific provisions concerning inducement and contributory infringement; however, general legal provisions may be applicable depending on the case.

Apart from the actual infringer, the plaintiff may also sue any intermediaries, the services of whom are used by a third party to perform infringement, and directors or employees of a legal entity provided that they committed the infringing acts and that they acted for the infringing entity, but only if their personal actions constitute a tort. In the case of

multiparty infringement, each party will be liable to the extent of its own infringing actions.

Law stated - 15 February 2022

Joinder of multiple defendants

Can multiple parties be joined as defendants in the same lawsuit? If so, what are the requirements? Must all the defendants be accused of infringing all the same patents?

Multiple parties may be joined as defendants in the same lawsuit, provided that each of them contributes to the infringement in some way. Not all the defendants must be accused of infringing all the same patents, but there must be a connection on the basis of which the court may allow multiple defendants.

Law stated - 15 February 2022

Infringement by foreign activities

To what extent can activities that take place outside the jurisdiction support a charge of patent infringement?

Infringement must be committed on Greek territory since, as a rule, the principle of territoriality applies.

Law stated - 15 February 2022

Infringement by equivalents

To what extent can 'equivalents' of the claimed subject matter be shown to infringe?

The Greek legal system accepts the doctrine of equivalents, which applies in cases where some of the technical characteristics of the invention are identical to those of the infringing embodiment, and some characteristics of the latter can be considered to be imitations or variations of the patented invention.

An infringing means, which as a rule consists of copying a technical characteristic of the patented invention, is considered to be equivalent if it is obvious to the average technical expert that when using this means, the result would be substantially the same as that of the technical characteristics of the claims of the invention.

Law stated - 15 February 2022

Discovery of evidence

What mechanisms are available for obtaining evidence from an opponent, from third parties or from outside the country for proving infringement, damages or invalidity?

Greek law does not provide for pretrial discovery; however, the patent owner has the right to preserve evidence and request that the defendant provide information such as invoices or details on the amount of products that have been distributed, within the framework of a trial.

Law stated - 15 February 2022

Litigation timetable

What is the typical timetable for a patent infringement lawsuit in the trial and appellate courts?

In main infringement action proceedings, the time of the hearing is scheduled specifically, and the parties may expect the issuance of the court decision within six to eight months from the hearing. The average duration of appeal proceedings is 18 months; however, proceedings may last longer in certain circumstances.

Law stated - 15 February 2022

Litigation costs

What is the typical range of costs of a patent infringement lawsuit before trial, during trial and for an appeal? Are contingency fees permitted?

The costs involved in taking a case through to a first-instance decision are difficult to estimate, as they depend on the complexity of the case, the duration of the proceedings, potential mediation costs, potential involvement of technical experts and possible translation costs.

Litigation costs in Greece are considerably lower than those in other EU member states. Nevertheless, the costs of preliminary proceedings and main patent proceedings can be roughly estimated to be between €14,000 and €30,000, but higher fees have to be expected in complicated cases where several technical experts must be involved and close cooperation between client and counsel is necessary for an extended time.

Law stated - 15 February 2022

Court appeals

What avenues of appeal are available following an adverse decision in a patent infringement lawsuit? Is new evidence allowed at the appellate stage?

Only decisions in main infringement action proceedings, and not preliminary injunction decisions, may be subject to appeal. All final decisions of the first-instance courts are open to appeal within 30 days of notification to the losing party in the case of Greek nationals and within 60 days of notification in the case of foreign nationals. If no official notification takes place, the decision may be appealed within two years of its publication.

The losing party may contest all aspects of the judgment in connection with legal issues or incorrect findings regarding the facts of the case. A second-instance decision may be appealed before the Supreme Court within 30 days of notification to the losing party in the case of Greek nationals and within 60 days of notification in the case of foreign nationals. As in the case of first-instance decisions, in the absence of official notification, the decision may be appealed within two years of its publication.

Submission of new evidence at the appellate stage is permitted only if such evidence had not been available at the first-instance trial.

Law stated - 15 February 2022

Competition considerations

To what extent can enforcement of a patent expose the patent owner to liability for a competition violation, unfair competition or a business-related tort?

Infringers may allege in their defence, in particular within the context of preliminary injunction proceedings, that the patent owner is acting in breach of the rules on unfair competition. The courts will assess such claims on a case-by-case basis.

Law stated - 15 February 2022

Alternative dispute resolution

To what extent are alternative dispute resolution techniques available to resolve patent disputes?

Under the Code of Civil Procedure, litigants in infringement cases have the option of seeking an out-of-court settlement. Mediation and arbitration are also available means for resolving IP rights disputes. Rules on arbitration are provided by article 867 et seq of the Code of Civil Procedure.

Neither mediation nor arbitration have been sufficiently tested in Greece in respect of patent disputes. Law 4512/2018 has initiated the compulsory use of mediation in legal disputes arising from patent, trademark and industrial design infringements. It introduced a compulsory initial mediation session before the hearing of the case. The session, along with proof of the lawyer's compliance with the obligation to inform the client in writing about the option of mediation, are now a prerequisite for the admissibility of a lawsuit.

Law stated - 15 February 2022

SCOPE AND OWNERSHIP OF PATENTS

Types of protectable inventions

Can a patent be obtained to cover any type of invention, including software, business methods and medical procedures?

For an invention to be patentable in Greece, it must be new, involve an inventive step and be susceptible to industrial application. A patentable invention may concern a product, process or industrial application.

For an invention to be considered as involving an inventive step, it must not be obvious to a person skilled in the art. For it to be considered susceptible to industrial application, it must be possible to produce or use the subject matter in any industrial field.

The following are exempt from patent protection:

- discoveries, scientific theories and mathematical methods;
- aesthetic creations;
- schemes, rules and methods for performing mental acts, playing games or doing business, and computer software;
- presentation of information;
- methods for treatment of the human or animal body by surgery or therapy;
- diagnostic methods practised on the human or animal body;
- inventions, the publication or exploitation of which would contravene public order or morality; and
- plant or animal varieties or biological processes for the production of plants or animals – this provision does not

apply to microbiological processes or the products thereof.

Software is expressly excluded from patentability; however, computer-related inventions are patentable in Greece to the extent that the European Patent Office considers them patentable. In this respect, an invention that uses a computer program must be a functional system accompanying specific hardware.

Law stated - 15 February 2022

Patent ownership

Who owns the patent on an invention made by a company employee, an independent contractor, multiple inventors or a joint venture? How is patent ownership officially recorded and transferred?

According to the Patent Law, an invention made by a company employee shall belong entirely to the employer, if it is the outcome of a contractual relationship between the employee and the employer for the development of inventive activity (service invention).

If the invention is made by an employee with the use of materials, means or information of the company in which he or she is employed, it will 40 per cent belong to the employer and 60 per cent belong to the employee (dependent invention). In such a case, the employer has the right to exploit the invention by priority against compensation to the inventor, which must be proportional to the economic value of the invention and the profit it brings.

The inventor of the dependent invention has the obligation to notify the employer in writing on the accomplishment of the invention and to provide the necessary information for the filing of a joint patent application. If the employer does not reply to the employee in writing within four months of the notification that he or she is interested in jointly filing the patent application, the invention will belong entirely to the employee, who will have the right to file the application in his or her own name.

If the invention is neither a service invention nor a dependent one, it will belong entirely to the employee.

The ownership of an invention made by an independent contractor will depend on the relevant provisions of the agreement between him or her and the employer. If an invention has been achieved by multiple inventors, the rights thereto will be divided equally among them, unless otherwise provided for by an existing written agreement. In the case of a joint venture, the rights to an invention must be governed by a written agreement between the parties.

Patent ownership is officially recorded at the Greek Patent Office. Transfer of the patent must also be recorded at the Greek Patent Office so that it has effect against third parties.

Law stated - 15 February 2022

DEFENCES

Patent invalidity

How and on what grounds can the validity of a patent be challenged? Is there a special court or administrative tribunal in which to do this?

The validity of a patent may be challenged either independently before the competent civil courts by means of a full or partial nullity action or as a counterclaim within the framework of infringement proceedings. Objections of invalidity and nullity actions are defendants' most common defences.

Cancellation of a patent may be pursued on the following grounds:

- the patent owner is not the inventor or his or her assignee or beneficiary;
- the invention is not patentable in accordance with the provisions of the law;
- the description attached to the patent does not suffice for a person skilled in the art to carry out the invention; and
- the subject matter of the patent as granted extends beyond the scope of protection as requested with the application.

Amendment of a patent is not possible within the framework of patent litigation. Only within the framework of nullification proceedings, if the nullification action is directed against part of a patent, may the court order the restriction of the patent to that extent.

Law stated - 15 February 2022

Absolute novelty requirement

Is there an 'absolute novelty' requirement for patentability, and if so, are there any exceptions?

There is an absolute novelty requirement for patentability. Exceptions to this requirement are provided for only if the disclosure of the invention was made within six months prior to the filing or the priority date and under the conditions that the disclosure was owing either to an evident abuse of the rights of the applicant or its legal predecessor, or to the fact that the invention was displayed at an officially recognised international exhibition falling under the terms of the Convention on international exhibitions, signed in Paris on 22 November 1928. In such a case, upon filing the application, the applicant must state that the invention has been so displayed and submit the relevant certificate evidencing this statement.

Law stated - 15 February 2022

Obviousness or inventiveness test

What is the legal standard for determining whether a patent is 'obvious' or 'inventive' in view of the prior art?

An invention is considered new if it does not form part of the state of the art. This is considered to comprise anything that is available to the public anywhere in the world (universality principle) by means of a written or oral description or by any other means, before the filing date of the patent or before the priority date. In this respect, in the case of the manufacturing of a product, novelty exists if the product significantly differs from similar products by way of possessing substantially new elements.

According to case law, in the case of creating a result, the element of novelty is established if there is a significant improvement to an already known result, irrespective of whether the improvement only comprises:

- the method of manufacture or the result;
- the reduction of the production costs; or
- all the above and is not a mere adaptation of already known elements of methods that do not result in a significant improvement or simple use of a means that is known in environments other than the ones in which it had been previously used, but in the same way in which it had always been used for obtaining the same result (Supreme Court 545/1996; Supreme Court 1588/1991).

Theoretically, the element of novelty is connected to the object of the invention, which derives from the claims. In the case of infringement by an equivalent technical standard, the specification and drawings are used for the interpretation of the claims but do not extend the scope of protection to subject matter that has not been included therein. Further, an invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.

Consequently, it must be presented as something that exceeds normal technological progress and results in an achievement that is beyond the skills of the average person skilled in the art, namely if the solution to the technical problem was not foreseeable.

The combination of several technical means or processes aiming to provide a solution to a technical problem in a unitary way is considered an invention only in the case that the combination is not obvious to the average person skilled in the art. The application of equivalent means of a technical problem that has already been resolved is considered to constitute an invention only under the condition that the equivalent is not known to the average person skilled in the art.

Law stated - 15 February 2022

Patent unenforceability

Are there any grounds on which an otherwise valid patent can be deemed unenforceable owing to misconduct by the inventors or the patent owner, or for some other reason?

A patent infringement lawsuit may be rejected if it constitutes an abuse of right, namely if it is considered an act of bad faith or as contravening common practice. According to established case law, this may be the case if the patent holder has not taken any action for a long time, although it was aware of the infringing act, or by not exercising its right the patent holder had created the impression to the infringing party that it would not take any action, so that the infringer had proceeded to investments.

Law stated - 15 February 2022

Prior user defence

Is it a defence if an accused infringer has been privately using the accused method or device prior to the filing date or publication date of the patent? If so, does the defence cover all types of inventions? Is the defence limited to commercial uses?

According to the Patent Law, whoever exploits his or her contrivance, or has proceeded with the preparations required for such exploitation at the time of the filing of a patent application by a third party or at the priority date, shall have the right to continue using the contrivance for its enterprise and its needs.

Law stated - 15 February 2022

REMEDIES

Monetary remedies for infringement

What monetary remedies are available against a patent infringer? When do damages start to accrue? Do damages awards tend to be nominal, provide fair compensation or be punitive in nature? How are royalties calculated?

The patent owner may request compensation on the basis of reasonable licensing fees and moral damages, but not punitive damages. To obtain compensation or moral damages, the plaintiff must prove the negligence of the infringer. The compensation claim is determined on the basis of the following three factors:

- the actual loss;
- the defendant's unfair profits; and
- reasonable licensing fees.

Proving the exact amount of damages or enrichment may often be quite difficult. Where the patent owner cannot collect enough evidence, it may request the infringer to provide information, such as invoices or the quantity of distributed products.

In addition to the compensation claim, a patent owner may request moral damages; however, the amount of moral damages is difficult to estimate.

Law stated - 15 February 2022

Injunctions against infringement

To what extent is it possible to obtain a temporary injunction or a final injunction against future infringement? Is an injunction effective against the infringer's suppliers or customers?

For a temporary restraining order to be granted for future infringement, the plaintiff must prove there is an imminent risk of infringement. A permanent injunction may only be obtained for a present infringement. In such a case, the petitioner must prove there is a serious and urgent infringement.

For an injunction decision to be effective against third parties, such as the infringer's suppliers and customers, the petition must also be directed against those parties.

Law stated - 15 February 2022

Banning importation of infringing products

To what extent is it possible to block the importation of infringing products into the country? Are there specific tribunals or proceedings available to accomplish this?

Patent owners have the option of establishing a customs watch system by filing a general request with the Central Customs Directorate. Customs will notify the patent owner or its representatives when suspected infringing goods are intercepted. The patent owner must initiate court proceedings within 10 days of notification. This term can be extended by another 10 days.

If an agreement is reached between the patent owner and the holder or owner of the infringing goods, customs can order the immediate destruction of the counterfeit goods via a simplified procedure, without the need for court proceedings. In those cases, if the owner of the goods does not expressly oppose the destruction within 10 days, its agreement is presumed.

Law stated - 15 February 2022

Attorneys' fees

Under what conditions can a successful litigant recover costs and attorneys' fees?

By virtue of the Code of Civil Procedure, the losing party must pay the winning party's legal fees, as these are determined by the court. This amount has often historically been calculated on a relatively conservative basis, not covering all the attorneys' fees; however, after the implementation of Directive 2004/48/EC into Greek law, the courts are obliged to determine the actual legal fees.

If the plaintiff seeks compensation, the related court costs may be much higher, depending on the requested amount.

Law stated - 15 February 2022

Wilful infringement

Are additional remedies available against a deliberate or wilful infringer? If so, what is the test or standard to determine whether the infringement is deliberate? Are opinions of counsel used as a defence to a charge of wilful infringement?

Wilful infringement forms the basis for the demand for compensation in a patent infringement case. If intentional infringement is proven, the plaintiff may obtain additional compensation for moral damages.

To determine that the infringement is deliberate, it must be proven that the defendant was aware of the fact that its actions were infringing the patent holder's rights and that its acts were intentional.

The plaintiff may also obtain compensation for moral damages if it proves negligence by the infringer.

Counsels' opinions may be invoked during the proceedings as a defence; however, taking them into account lies within the court's discretion.

Law stated - 15 February 2022

Time limits for lawsuits

What is the time limit for seeking a remedy for patent infringement?

An action on the merits becomes statute barred either five years after the date on which the patent owner became aware of the infringement or damage and the identity of the infringer, or 20 years after the date on which the infringement was committed.

With regard to nullity actions, there is no time limit; thus, these can be pursued at any time within the 20-year duration of a patent.

Law stated - 15 February 2022

Patent marking

Must a patent holder mark its patented products? If so, how must the marking be made? What are the consequences of failure to mark? What are the consequences of false patent marking?

Marking of goods covered by a patent is not compulsory; therefore, there are no relevant specific rules or requirements. As a result, there are no adverse consequences if such markings are not effectuated. Nevertheless, it is advisable that

the goods be marked as a warning to possible patent infringers.

Since the marking of goods in Greece is not compulsory, there are no specific words or abbreviations to be used. European patent application or registration numbers or Greek patent application or registration numbers can be used. While it is preferable that the Greek language be used for marking, in practice various goods appear in the market bearing indications in English (eg, 'patent pending').

With regard to false marking, the law provides up to one year's imprisonment or a monetary penalty, or both, to whoever places on products or their wrapping, or on any kind of commercial document destined for the public or on other relevant means of publishing and advertising, a false statement that the objects in question are patent protected.

Law stated - 15 February 2022

LICENSING

Voluntary licensing

Are there any restrictions on the contractual terms by which a patent owner may license a patent?

Under Greek law, voluntary licences may be granted and can be exclusive or non-exclusive. As patent law does not provide for any restrictions on the contractual terms, general provisions of contractual and competition law apply.

Law stated - 15 February 2022

Compulsory licences

Are any mechanisms available to obtain a compulsory licence to a patent? How are the terms of such a licence determined?

Four years from the filing date or three years from the grant, any third party may demand before a court the concession of a compulsory licence based on lack of or insufficient exploitation of the patented invention. The third party must notify the patent holder of its intention to seek a compulsory licence, one month before filing a court action. The compulsory licence is granted by a three-member court.

The applicant for a compulsory licence may seek the opinion of the Greek Patent Office, concerning the existence of the prerequisites for the grant of the licence, as well as the amount, the terms of the compensation to be given to the owner of the patent, and the exclusive or non-exclusive character of the exploitation of the invention. No compulsory licence shall be granted if the patent owner can justify its failure to work the invention. Imports of the product will not constitute justification.

For reasons of public health or national defence, compulsory licences may be granted by ministerial decree in favour of public sector bodies on patents that have not been exploited in Greece or when production is insufficient to cover domestic needs. A compulsory licence shall be granted provided that reasonable royalties are paid.

Law stated - 15 February 2022

PATENT OFFICE PROCEEDINGS

Patenting timetable and costs

How long does it typically take, and how much does it typically cost, to obtain a patent?

As there is no substantial examination in Greek law, provided that a patent application meets all the formal requirements, a patent may be granted within 14 to 16 months of filing. The costs involved up to grant, in accordance

with the currently applicable official fees, are either €500 or €667, depending on whether the applicant will request the issuance of a simple or a justified search report. Higher fees must be expected if the application comprises more than 10 claims.

Law stated - 15 February 2022

Expedited patent prosecution

Are there any procedures to expedite patent prosecution?

The Greek law on patent protection allows the applicant to expedite the patent examination procedure. Applicants can waive their right to make use of the four-month period after filing, which otherwise allows for the late submission of the Greek translation and other supporting documents, provided that they have fulfilled all necessary requirements upon filing.

Law stated - 15 February 2022

Patent application contents

What must be disclosed or described about the invention in a patent application? Are there any particular guidelines that should be followed or pitfalls to avoid in deciding what to include in the application?

The specification of the invention must be complete and clear enough so that an expert skilled in the art may work the invention as described.

The specification must:

- determine the technical field to which the invention relates;
- indicate the state of the prior art, which is useful for understanding the invention;
- define the invention, as defined in the claims, using appropriate technical terms so that the technical problem the invention aims to solve and the provided solution can be understood;
- present the advantages of the invention in relation to the state of the prior art;
- contain a brief description of the figures in the drawings (if any);
- provide a detailed description of at least one way of carrying out the claimed invention, providing examples where possible; and
- provide an explicit clarification of the way in which the invention can be applied in industry.

The claims must define the subject matter for which protection is sought and must be fully supported by the specification.

Law stated - 15 February 2022

Prior art disclosure obligations

Must an inventor disclose prior art to the patent office examiner?

Ministerial Decision No. 15928/EFA/1253 invites the applicant to indicate the state of the prior art that he or she considers useful for understanding the invention. The documents reflecting the state of the prior art may be cited in the

specification; however, such disclosure is not obligatory.

Law stated - 15 February 2022

Pursuit of additional claims

May a patent applicant file one or more later applications to pursue additional claims to an invention disclosed in its earlier-filed application? If so, what are the applicable requirements or limitations?

If an invention constitutes a modification of another invention already covered by a patent (main patent), the owner of the latter may apply for the grant of a patent of addition for the later invention, provided that the subject matter of the patent of addition is related to at least one claim of the main patent.

Law stated - 15 February 2022

Patent office appeals

Is it possible to appeal an adverse decision by the patent office in a court of law?

Decisions of the Greek Patent Office are enforceable administrative acts and as such they can only be challenged before the Council of State (the Supreme Administrative Court of Greece).

Law stated - 15 February 2022

Oppositions or protests to patents

Does the patent office provide any mechanism for opposing the grant of a patent?

Greek law does not provide for opposition procedures before the Greek Patent Office. The validity of a patent may be challenged only before the competent civil courts by means of a nullity action.

Law stated - 15 February 2022

Priority of invention

Does the patent office provide any mechanism for resolving priority disputes between different applicants for the same invention? What factors determine who has priority?

There are no mechanisms for resolving priority disputes before the Greek Patent Office. Such disputes may be resolved before the competent civil court, upon a lawsuit of any third party, claiming rights on the invention. If two or more persons have made an invention independently of each other, the priority right belongs to the first to file.

Law stated - 15 February 2022

Modification and re-examination of patents

Does the patent office provide procedures for modifying, re-examining or revoking a patent? May a court amend the patent claims during a lawsuit?

An ex parte post grant modification of national patents is not provided for by Greek law. Modification is only allowable

in the case of European patents upon the issuance of a 'decision to limit' in accordance with the relevant rules of the European Patent Convention. In such a case the modified translation of the patent must be submitted to the Greek Patent Office within three months of the date of publication of the aforementioned decision in the European Patent Bulletin.

A national patent can be modified by a decision of the competent civil court within the framework of a partial nullity action brought before the same by a third party, in which case the patent can be restricted to the extent requested. Re-examination of granted patents is not provided for by the law.

Law stated - 15 February 2022

Patent duration

How is the duration of patent protection determined?

National and secret patents enjoy 20-year protection and must be renewed annually. Patents of addition expire simultaneously with the main patent.

During its lifetime, a patent of addition may be made independent, upon a relevant request to the Greek Patent Office. In such a case, the duration is extended to 20 years from the day following the date of application for the grant of the patent of addition, provided that all annual fees are duly paid.

Patents covering medicinal and plant protection products may be extended for a period of up to five years from expiry thereof by way of a supplementary protection certificate (SPC), provided that the relevant legal requirements are satisfied. The option of obtaining a six-month extension of an SPC for paediatrics is also available where the relevant legal conditions are met.

Law stated - 15 February 2022

UPDATE AND TRENDS







Key developments of the past year








What are the most significant developing or emerging trends in the country's patent law?

The compulsory initial mediation session in legal disputes arising from patent infringement is a significant change that will affect patent litigation and will hopefully contribute to the reduction of the workload of Greek courts. This session, along with proof of the attorney's compliance to the obligation to inform the client in writing about the option of mediation, is, under the new legal provisions, a prerequisite for the admissibility of a lawsuit.

Law stated - 15 February 2022

Jurisdictions

	Australia	Griffith Hack
	Austria	Barger Piso & Partner
	Brazil	Bhering Advogados
	Canada	Gilbert's LLP
	China	Baker McKenzie
	Colombia	OlarteMoure
	Denmark	Accura Advokatpartnerselskab
	El Salvador	Mayora & Mayora
	France	Aramis Law Firm
	Germany	Meissner Bolte
	Greece	Dr Helen G Papaconstantinou and Partners Law Firm
	Guatemala	Mayora IP SA
	Honduras	Mayora IP SA
	India	Anand and Anand
	Israel	S Horowitz & Co
	Italy	Studio Legale Jacobacci & Associati
	Japan	Anderson Mōri & Tomotsune
	Kazakhstan	PETOŠEVIĆ
	Malaysia	Wong Jin Nee & Teo
	Mexico	Uhthoff, Gómez Vega & Uhthoff SC
	New Zealand	Griffith Hack
	Norway	Håmsø Patentbyrå AS
	Portugal	VdA
	Singapore	Davies Collison Cave
	South Africa	Spoor & Fisher

 Switzerland	CMS Switzerland
 Taiwan	Formosa Transnational Attorneys at Law
 Turkey	Moroğlu Arseven
 Ukraine	PETOŠEVIĆ
 United Kingdom	AA Thornton
 USA	Jenner & Block LLP
 Uzbekistan	PETOŠEVIĆ
 Vietnam	Pham & Associates