

Greece: Patent system moves towards substantive examination

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Constantinos Kilimiris of Patrinos & Kilimiris explains how a recent amendment in the provisions of the Greek patent law resolves a long-standing issue which prevented amending applications

The Greek patent system is one that does not provide for substantive examination of patent applications. A national patent application will receive formalities examination and, upon payment of the search fees, a search report on prior art will be provided with the option of obtaining a reasoned opinion from the examiner. The patent will be granted, upon payment of the grant fees, and the search report will be published together with the granted patent.

The validity of such patents can be challenged at court by any third party either in nullity proceedings, or as a defense, in infringement proceedings. In this way, substantive examination on patentability is in practice deferred until a patent is actually litigated and the court will have the chance to rule on patentability on the basis of the search report and opinion accompanying the granted patent.

One of the problems arising with the above patent system was that, upon receipt of the search report, the applicant did not have the possibility to amend his application in order to address the examiner's objections based on the prior art cited.

This problem has now been resolved with a recent amendment in the provisions of the Greek patent law (1733/87). According to the new provisions, the applicant now has the possibility, within three months from receipt of the search report, to limit his application by submitting amendments in the claims and description addressing the prior art cited.

The examiner will consider the amended claims and draft a final search report that will be published with the granted patent.

While the recent amendments in the patent law still do not provide for substantive examination, they do provide the applicant with the possibility of limiting his application and obtaining a favourable search report, without the need to do so in litigation proceedings.

This seems to take a step towards the introduction of a long-awaited substantive examination patent system in Greece.

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