

**REPORT ON PRESENT SITUATION OF
“LICENCE OF RIGHT” SYSTEM IN
SELECTED EPC MEMBER STATES**

Contents

| | |
|--|----|
| Chapter 1 – Overview of Report Specifications | 7 |
| Part 1 – Purpose | 7 |
| Part 2 – Scope of research | 7 |
| Chapter 2 – The LOR system in the United Kingdom | 9 |
| Part 1 – Existence or non-existence of a LOR system | 9 |
| Part 2 – Formal Requirements for registration at the UKIPO | 9 |
| Part 3 – Timing Requirements for obtaining registration at the UKIPO..... | 10 |
| Part 4 – Impact of registering a LOR declaration at the UKIPO..... | 10 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 12 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 13 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 13 |
| Part 8 – Relation of the UK’s LOR system to the UPC | 14 |
| Part 9 – UKIPO: Statistics | 14 |
| Chapter 3 – The LOR system in Albania | 23 |
| Part 1 – Existence or non-existence of a LOR system | 23 |
| Part 2 – Formal Requirements for registration at the Albanian General Directorate of Patents and Trademarks (GDPT)..... | 23 |
| Part 3 – Timing Requirements for obtaining registration at the GDPT..... | 27 |
| Part 4 – Impact of registering a LOR declaration at the GDPT..... | 28 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 30 |
| Part 6 – Requirements for the prospective license under the LOR system | 31 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 31 |
| Part 8 – Relation of Albania’s LOR system to the UPC | 31 |
| Part 9 – GDPT: Statistics | 32 |
| Chapter 4 – The LOR system in Bulgaria..... | 33 |
| Part 1 – Existence or non-existence of a LOR system..... | 33 |
| Part 2 – Formal Requirements for registration at the Bulgarian Intellectual Property Office (BGIPO)..... | 33 |
| Part 3 – Timing Requirements for obtaining registration at the BGIPO..... | 34 |
| Part 4 – Impact of registering a LOR at the BGIPO | 34 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 34 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 34 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 34 |
| Part 8 – Relation of Bulgaria’s LOR system to the UPC | 34 |
| Part 9 – BGIPO: Statistics | 35 |

| | |
|--|----|
| Chapter 5 – The LOR system in the Czech Republic | 36 |
| Part 1 – Existence or non-existence of a LOR system | 36 |
| Part 2 – Formal Requirements for registration at the Czech Republic IPO (IPO CZ)..... | 36 |
| Part 3 – Timing Requirements for obtaining registration at the IPO CZ..... | 36 |
| Part 4 – Impact of registering a LOR declaration at the IPO CZ..... | 36 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 37 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 37 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 37 |
| Part 8 – Relation of the Czech Republic’s LOR system to the UPC | 37 |
| Part 9 – IPO CZ: Statistics | 38 |
| Chapter 6 – The LOR system in Germany..... | 41 |
| Part 1 – Existence or non-existence of a LOR system | 41 |
| Part 2 – Formal Requirements for registration at the DPMA..... | 41 |
| Part 3 – Timing Requirements for obtaining registration at the DPMA..... | 41 |
| Part 4 – Impact of registering a LOR declaration at the DPMA..... | 42 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 43 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 43 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 43 |
| Part 8 – Relation of Germany’s LOR system to the UPC..... | 44 |
| Part 9 – DPMA: Statistics | 44 |
| Chapter 7 – The LOR system in Greece..... | 46 |
| Part 1 – Existence or non-existence of a LOR system | 46 |
| Part 2 – Formal Requirements for registration at the Greek Patent Office (Greek PO) | 46 |
| Part 3 – Timing Requirements for obtaining registration at the Greek PO..... | 46 |
| Part 4 – Impact of registering a LOR declaration at the Greek PO..... | 46 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 47 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 47 |
| Part 7 – The Greek PO and dispute resolution regarding licence terms..... | 47 |
| Part 8 – Relation of the Greek LOR system to the UPC | 47 |
| Part 9 – Greek PO: Statistics | 48 |
| Chapter 8 – The LOR system in the Republic of Ireland..... | 49 |
| Part 1 – Existence or non-existence of a LOR system | 49 |
| Part 2 – Formal Requirements for registration at the IPO of Ireland (IPOI) | 49 |
| Part 3 – Timing Requirements for obtaining registration at the IPOI..... | 51 |

| | |
|--|----|
| Part 4 – Impact of registering a LOR declaration at the IPOI | 52 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 52 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 54 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 54 |
| Part 8 – Relation of the Republic of Ireland’s LOR system to the UPC..... | 55 |
| Part 9 – IPOI: Statistics | 55 |
| Chapter 9 – The LOR system in Italy | 58 |
| Part 1 – Existence or non-existence of a LOR system..... | 58 |
| Part 2 – Formal Requirements for registration at the Italian Patent and Trade Mark Office (IPTO)..... | 58 |
| Part 3 – Timing Requirements for obtaining registration at the IPTO | 58 |
| Part 4 – Impact of registering a LOR declaration at the IPTO | 59 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 59 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 60 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 60 |
| Part 8 – Relation of the Italian national system to the UPC..... | 61 |
| Part 9 – IPTO: Statistics | 62 |
| Chapter 10 – The LOR system in Latvia | 63 |
| Part 1 – Existence or non-existence of a LOR system..... | 63 |
| Part 2 – Formal Requirements for registration at the Patent Office of the Republic of Latvia (LRPV)..... | 63 |
| Part 3 – Timing Requirements for obtaining registration at the LRPV | 63 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 64 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 64 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 64 |
| Part 8 – Relation of Latvia’s LOR system to the UPC | 65 |
| Part 9 – LRPV: Statistics..... | 65 |
| Chapter 11 – The LOR system in the Republic of Lithuania | 66 |
| Part 1 – Existence or non-existence of a LOR system..... | 66 |
| Part 2 – Formal Requirements for registration at the State Patent Bureau of the Republic of Lithuania (SPB)..... | 66 |
| Part 3 – Timing Requirements for obtaining registration at the SPB..... | 66 |
| Part 4 – Impact of registering a LOR declaration at the SPB..... | 66 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 67 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 67 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 67 |

| | |
|---|----|
| Part 8 – Relation of the Republic of Lithuania’s LOR system to the UPC | 67 |
| Part 9 – SPB: Statistics | 68 |
| Chapter 12 – The LOR system in Luxembourg | 73 |
| Part 1 – Existence or non-existence of a LOR system | 73 |
| Part 2 – Formal Requirements for registration at the Luxembourg IPO (Luxembourg OPI) | 73 |
| Part 3 – Timing Requirements for obtaining registration at Luxembourg OPI..... | 73 |
| Part 4 – Impact of registering a LOR declaration at the Luxembourg OPI | 74 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 74 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 75 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 75 |
| Part 8 – Relation of Luxembourg’s LOR system to the UPC | 75 |
| Part 9 – Luxembourg OPI: Statistics..... | 75 |
| Chapter 13 – The LOR system in Malta | 76 |
| Part 1 – Existence or non-existence of a LOR system | 76 |
| Part 2 – Formal Requirements for registration at the Intellectual Property Office of Malta - Industrial Property Registrations Directorate (MIPO) | 79 |
| Part 3 – Timing Requirements for obtaining registration at MIPO | 80 |
| Part 4 – Impact of registering a LOR declaration at MIPO..... | 80 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 81 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 81 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 81 |
| Part 8 – Relation of Malta’s LOR system to the UPC | 81 |
| Part 9 – MIPO: Statistics | 83 |
| Chapter 14 – The LOR system in San Marino..... | 84 |
| Part 1 – Existence or non-existence of a LOR system..... | 84 |
| Part 2 – Formal Requirements for registration at the IPO of the Republic of San Marino (USBM – Ufficio di Stato brevetti e Marchi) | 84 |
| Part 3 – Timing Requirements for obtaining registration at the USBM..... | 85 |
| Part 4 – Impact of registering a LOR declaration at the USBM..... | 85 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 85 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 86 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 86 |
| Part 8 – Relation of the Republic of San Marino’s LOR system to the UPC | 87 |
| Part 9 – USBM: Statistics | 88 |
| Chapter 15 – The LOR system in Slovakia | 89 |

| | |
|--|-----|
| Part 1 – Existence or non-existence of a LOR system..... | 89 |
| Part 2 – Formal Requirements for registration at the Industrial Property Office of the Slovak Republic (INDPROP) | 89 |
| Part 3 – Timing Requirements for obtaining registration at the INDPROP..... | 90 |
| Part 4 – Impact of registering a LOR declaration at the INDPROP..... | 90 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 90 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 91 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 91 |
| Part 8 – Relation of the LOR system of the Slovak Republic to the UPC..... | 92 |
| Part 9 – INDPROP: Statistics | 92 |
| Chapter 16 – The LOR system in Spain..... | 97 |
| Part 1 – Existence or non-existence of a LOR system..... | 97 |
| Part 2 – Formal Requirements for registration at the Spanish Patent and Trademark Office (Oficina Española de Patentes y Marcas ‘OEPM’)..... | 97 |
| Part 3 – Timing Requirements for obtaining registration at the OEPM..... | 98 |
| Part 4 – Impact of registering a LOR declaration at the OEPM..... | 98 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 98 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 99 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 100 |
| Part 8 – Relation of Spain’s LOR system to the UPC | 101 |
| Part 9 – OEPM: Statistics | 102 |
| Chapter 17 – The LOR system in Turkey | 104 |
| Part 1 – Existence or non-existence of a LOR system..... | 104 |
| Part 2 – Formal Requirements for registration at Turk Patent; the Turkish Patent and Trade mark Office (TPTO) | 104 |
| Part 3 – Timing Requirements for obtaining registration at the TPTO..... | 105 |
| Part 4 – Impact of registering a LOR declaration at the TPTO | 105 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 105 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 105 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 105 |
| Part 8 – Relation of the Turkish LOR system to the UPC..... | 106 |
| Part 9 – TPTO: Statistics..... | 106 |
| Chapter 18 – The LOR system under the UPC | 109 |
| Part 1 – Existence or non-existence of a LOR system..... | 109 |
| Part 2 – Formal Requirements for registration at the EPO | 109 |
| Part 3 – Timing Requirements for obtaining registration at the EPO | 110 |

| | |
|---|-----|
| Part 4 – Impact of registering a LOR declaration at the EPO | 110 |
| Part 5 – Reversal / withdrawal of a LOR declaration | 110 |
| Part 6 – Requirements for the prospective licensee under the LOR system | 111 |
| Part 7 – The IPO and dispute resolution regarding licence terms..... | 111 |
| Part 8 – Relation of the UPC system to the UPC | 111 |
| Part 9 – EPO: UPC Statistics..... | 111 |
| Contacts | 112 |

Chapter 1 – Overview of Report Specifications

Part 1 – Purpose

To gather information on the existence and use of “Licence of Right” (**LOR**) systems in selected European Patent Convention (**EPC**) member states and under the rules of the Unitary Patent Court (**UPC**).

Part 2 – Scope of research

(Scope corresponding to paragraphs; 2, 3(1), 3(2) and 3(3) of the Jetro Research Specification Document.)

Investigate the existence of LOR systems in each of the EPC member states / systems specified in Table 1. below:

Chapter 1. Table 1. EPC member states / systems included in scope of research

| | | |
|---------------------------|------------------------|------------------------|
| Chapter 2. United Kingdom | Chapter 8. Ireland | Chapter 14. San Marino |
| Chapter 3. Albania | Chapter 9. Italy | Chapter 15. Slovakia |
| Chapter 4. Bulgaria | Chapter 10. Latvia | Chapter 16. Spain |
| Chapter 5. Czech Republic | Chapter 11. Lithuania | Chapter 17. Turkey |
| Chapter 6. Germany | Chapter 12. Luxembourg | Chapter 18. UPC |
| Chapter 7. Greece | Chapter 13. Malta | |

An LOR system is understood to mean a system whereby an applicant for, or holder of an intellectual property right (**IPR**) such as a patent, registered design, utility model or trade mark, can register a declaration with the relevant national intellectual property office (**IPO**) that they will not refuse to grant a licence of their IPR on application by a prospective licensee. Registering such a declaration in advance also often results in the reduction of registration and other fees at the relevant IPO.

For each of the specified EPC member states, this report will identify:

Part 1 – The existence or otherwise of the LOR system in that state.

Part 2 – The formal requirements for the LOR declaration itself and the registration process.

Part 3 – Timing requirements for registration of the LOR declaration in respect of the lifetime of the IPR.

Part 4 – The impact of the registration of the LOR declaration on fees and enforcement remedies.

Part 5 – Whether the registration of the LOR declaration is reversible and the impact of such withdrawal – including retroactive payment of previously reduced fees.

Part 6 – Requirements for the licensee’s offer procedure including whether a prescribed form exists and if direct contact should be made to the IPR holder or via the relevant national IPO.

Part 7 – The existence or otherwise of any dispute resolution procedure provided by the relevant national IPO in the event of disagreement or conflict between the IPR holder and the prospective licensee.

Part 8 – The relationship and connection of the state’s LOR system with the rules of the UP with respect to the above.

Part 9 – Statistics and information on the following for each of the relevant EPC member states:

- 9.1 – Publication status and contents of the register of LOR declarations (i.e. what information is published in addition to the patent application specifics;
- 9.2 – How many registered LOR declarations are recorded on the register;
- 9.3 – How many applications / offers for registrations of LOR declarations each year;
- 9.4 – Top company users of the LOR system; and
- 9.5 – Top industry users of the LOR system;
- 9.6 – Estimated change in income at the relevant national IPO for each specified EPC member state.

Chapter 2 – The LOR system in the United Kingdom

Information provided by Mewburn Ellis LLP

Part 1 – Existence or non-existence of a LOR system

In the UK, under the UK Intellectual Property Office (**UKIPO**) a LOR system exists and applies formally to Patents and informally to UK Design Rights. It does not apply in respect of Registered UK Designs or to UK Trade Marks. In addition, the ‘Utility Patent’ does not exist in the UK as an IPR.

As a result, this Chapter of the report will discuss Patents and UK Design Rights only.

Part 2 – Formal Requirements for registration at the UKIPO

2.1 Patents

The terms ‘LOR endorsement’ or ‘declaration of LOR endorsement’ are both used to refer to the UKIPO’s approval of the registration of a LOR against a patent on the UKIPO patent register.

To apply for a LOR endorsement from the UKIPO, the patent holder must complete and submit Patents Form 28¹. There is no fee associated with this form.

If the patent holder grants a licence to a licensee under the LOR system, the patent holder should inform the UKIPO by completing and submitting Patents Form 21². This is not a strict requirement, but registration of the licence will put any third parties who subsequently acquire rights in the patent on notice of the licensee’s interest (section 33(3) Patents Act 1977 (**PA 1977**)). Registration ensures that any such third parties will be bound by the licensee’s prior interests.

If the licensee notifies the UKIPO, they must provide additional information such as the date of the licence, the details of all parties involved and the relevant patent number. Notification by the licensee does not require a specific form.

2.2 UK Design Rights

UK design rights protect the appearance of purely functional (not aesthetic), articles, i.e. the internal or external shape or configuration of an original design.

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945412/PF28-Dec20-EU.pdf

² <https://www.gov.uk/government/publications/application-to-register-or-give-notice-of-rights>

A UK design right will last for 10 years from the date of the first marketing of product(s) made to the design, or for 15 years from the date of creation of the design – whichever is the shorter.

Under section 237(1) of the Copyright, Designs and Patents Act 1988 (**CDPA 1988**), in the final 5 years of the UK design right's existence, it automatically becomes subject to a LOR. This means that without the design right holder taking any action, any third party will be entitled to take a license to make and sell products copying the design.

As the UK design right doesn't require any formal registration or grant process, there is no database of UK design rights against which the automatic LOR can be recorded. This therefore means there is no official resource for prospective licensees to search when looking for UK design rights to take a licence of under the LOR system.

Part 3 – Timing Requirements for obtaining registration at the UKIPO

3.1 Patents

Section 46(1) PA 1977 states that the patent holder may apply for a LOR endorsement from the UKIPO at any time after the grant of the patent. It is not possible to register a LOR against a patent application prior to grant.

When submitting the completed Patents Form 28, the patent holder must ensure that it will reach the UKIPO at least 10 working days before the renewal fee falls due for the relevant patent. This is to ensure that the application can be processed in time for the discount to be applied to the renewal fee (see Part 4).

3.2 UK Design Rights

There are no formal procedures or requirements for UK design rights. A LOR arises automatically in respect of a UK design right when it reaches the final 5 years of its lifetime.

Part 4 – Impact of registering a LOR declaration at the UKIPO

4.1 Patents

4.1.1 Fees

If a patent holder registers a LOR declaration at the UKIPO the registration fees will be reduced by half. As of the date of this report, the relevant UKIPO registration fees for a patent are set out in Chapter 2 – Table 1 below.

Chapter 2 – Table 1. Renewal Fee Reductions for Patents endorsed with a LOR declaration

| Fee category | Renewal year | Fee (£) | Reduced Fee (£) |
|---|------------------|---------|-----------------|
| Patent application fee | | £75 | £35.50 |
| Patent renewal fee (the patent holder must renew its patent on the fourth anniversary of filing – i.e. the 5 th year, and every year thereafter up to a maximum of 20 years) | 5 th | £70 | £35 |
| | 6 th | £90 | £45 |
| | 7 th | £110 | £55 |
| | 8 th | £130 | £65 |
| | 9 th | £150 | £75 |
| | 10 th | £170 | £85 |
| | 11 th | £190 | £95 |
| | 12 th | £220 | £110 |
| | 13 th | £260 | £130 |
| | 14 th | £300 | £150 |
| | 15 th | £360 | £180 |
| | 16 th | £420 | £210 |
| | 17 th | £470 | £335 |
| | 18 th | £520 | £260 |
| | 19 th | £570 | £285 |
| | 20 th | £610 | £305 |

4.1.2 Limitations – injunctions and damages

Under section 46(3) PA 1977, in the event that a patent holder brings a claim for patent infringement against a third party in respect of a patent against which it has registered a LOR declaration at the UKIPO, the scope of its remedies will be limited in two key ways:

- The court will not grant an injunction prohibiting the infringing party's actions providing that it undertakes to enter into a licence of the patent.

- The infringing party may limit its own liability as to damages to a maximum of 2X the royalties under the licence.

4.1.3 Substitution of existing licences

In addition, if the patent holder has already entered into licences with other parties before registering its LOR declaration, those licensees may apply to the UKIPO / the Comptroller to replace their existing licence with a new licence agreement on terms settled by the UKIPO / the Comptroller (section 46(3)(b) PA 1977).

4.1.4 Licensee enforcement rights

Furthermore, section 46(4) of the PA 1977 provides that where the licensee obtained their licence under the LOR system and where the licence does not explicitly provide otherwise, it may require the patent holder to issue court proceedings to prevent the infringement of the licenced patent (and to join the proceedings as a defendant without cost liabilities). Further, if the patent holder does not issue within two months, the licensee has the ability to issue proceedings itself.

4.2 UK Design Rights

From a commercial perspective, the value of a UK design right is considered to diminish in the final 5 years of its lifetime as it becomes automatically subject to a LOR.

Part 5 – Reversal / withdrawal of a LOR declaration

5.1 Patents

The patent holder can request the cancellation of a LOR endorsement at any time by completing and submitting Patents Form 30³. The UKIPO will require the payment of the standard renewal fees which will be backdated to your renewal date that year (i.e. topping up the savings in the cancellation year, resulting from the reduced fees).

When the UKIPO receives the Patents Form 30, it will advertise the patent holder's application to cancel the LOR endorsement in the Patents Journal⁴. If after 4 weeks, no one has opposed the patent holder's cancellation request, the LOR endorsement will be cancelled – provided there are no existing licences, and the balance of that year's renewal

³ <https://www.gov.uk/government/publications/cancel-entry-in-register-that-licences-under-the-patent-are-available-as-of-right>

⁴ <https://www.gov.uk/check-the-patents-journal>

fees have been paid. If anyone opposes the cancellation request, this must be resolved before cancellation can proceed.

5.2 UK Design Rights

A UK design right is automatically made subject to a LOR in the final 5 years of its lifetime and there is no elective procedure to remove or prevent it.

Part 6 – Requirements for the prospective licensee under the LOR system

6.1 Patents

The prospective licensee must approach the patent holder directly. They may use the contact information provided on the UKIPO's Database for Patents Endorsed Licence of Right⁵.

There are no requirements regarding the form of contact that the prospective licensee must use. The negotiation of the terms of the licence (including royalties etc.) will be a private, commercial matter between the patent holder and the licensee. (Refer to Part 7 below regarding intervention by the UKIPO in the event that the terms of a licence cannot be agreed.)

6.2 UK Design Rights

As the UK design right arises automatically, there is no application or registration process in respect of the LOR system. This means that there is no database of UK design rights and no official record for prospective licensees to search when looking for UK design rights to take a licence of, under the LOR system.

Part 7 – The IPO and dispute resolution regarding licence terms

7.1 Patents

If the patent holder and the prospective licensee cannot agree the terms of their licence, either party can apply to the Patent Comptroller to settle the terms under section 46(2) PA 1977. The Patent Comptroller will consider what the fair and 'going' rate would be in similar commercial agreements and make a ruling.

⁵ <https://www.ipo.gov.uk/p-dl-licenceofright.htm>

This is incredibly rare, however. In fact, according to paragraph 46.11 of the Manual of Patent Practice (in respect of section 46(3) PA 1977) there has only been one such reported case (Cassou's Patent [1971] RPC 91).

7.2 UK Design Rights

Although the right to take a licence of a UK design right arises automatically in the last 5 years of the right's lifetime, if the parties cannot agree the terms of that licence, section 237(2) CDPA 1988 states that the terms will be settled by the Comptroller-General of Patents, Designs and Trade Marks.

Part 8 – Relation of the UK's LOR system to the UPC

A 15% reduction in renewal fees and any other fees can be obtained if the UP holder files a statement with the European Patent Office (EPO) to state that they are willing to allow any third party to take a licence of the right for appropriate consideration.

The registration of a LOR against a UP can be withdrawn at any time. However, if a UP is subject to an exclusive licence or a request to record such a licence is pending before the EPO, an application to register a LOR will be rejected.

Part 9 – UKIPO: Statistics

9.1 Publication status and contents of the UKIPO register

The UKIPO's Database for Patents Endorsed of Right ⁶ provides the following information for each patent with a LOR:

- LOR start date.
- Patent publication and application numbers (including a link to its case details on the UKIPO Online Patent Information and Document Inspection Service).
- The registered name of the patent holder (company or individual).
- The IPC categories for the patent.
- The filing date of the patent.
- Title of the granted patent.

9.2 Current registered LOR declarations

⁶ <https://www.ipo.gov.uk/p-dl-licenceofright.htm>

There are currently 9,138 valid patents on the UK IPO register that have been endorsed with LOR declarations⁷.

9.3 Applications for LOR declarations per year

We do not have access to the number of total applications to register a LOR declaration at the UKIPO, only those that have been granted. Chapter 2 – Table 2 below shows the number of registrations reported per year between 2015 and 2020 in the UKIPO's Facts and Figures 2020 publication.⁸

Chapter 2 – Table 2. UK Registrations of LOR declarations per year

| <u>Year</u> | <u>No. registered LOR declarations</u> |
|-------------|--|
| 2020 | 1,054 |
| 2019 | 1,354 |
| 2018 | 1,615 |
| 2017 | 1,101 |
| 2016 | 1,306 |
| 2015 | 1,228 |

The UKIPO's 2021 report has not yet been published, but we can see from the database that 123⁹ patents were – and still are – endorsed with a LOR declaration with a start date in 2021. However, we do not know how many applications were submitted, withdrawn, rejected, or are still pending.

A secondary database also records patents that have expired, been revoked or are otherwise no longer valid but which, prior to their expiration, were endorsed with LORs. This database has been maintained since January 1989 and indicates that since that time 1,661,431 patents on the UK register, have been endorsed with a LOR¹⁰.

9.4 The companies making the most use of the LOR system

The 3 companies / corporate groups who make the greatest use of the LOR system are set out in Chapter 2 – Table 3 below.

⁷ As of the date of collection of this data: 16/12/2021.

⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888845/Facts-and-figures.pdf

⁹ As of 16/12/2021.

¹⁰ As of 16/12/2021.

Chapter 2 – Table 3. Top 3 users of the UK LOR system (companies)

| <u>Name of company / corporate group (including alternative names and group members)</u> | <u>No. patents held and endorsed with LOR</u> | <u>% of total patents with LOR</u> |
|--|---|------------------------------------|
| IBM (International Business Machines Corporation) | 1,987 | 21.74% |
| Toyota Jidosha Kabushiki Kaisha | 1,926 | 21.07% |
| PSA Automobiles S.A / PSA Peugeot Citroen Automobiles S.A / Peugeot Citroen Automobiles Société Anonyme / Peugeot Citroën Automobiles SA | 1,084 | 11.86% |

9.5 The industries making the most use of the UK LOR system

The 3 industry sectors who made the greatest use of the LOR system in the UK are set out in Chapter 2 – Table 4. below.

Chapter 2 – Table 4. Top 3 users of the UK LOR system (industry sectors)

| <u>Industry sector</u> | <u>IPC classification</u> | <u>Patents with LOR</u> | <u>% of Total</u> |
|---|---------------------------|-------------------------|-------------------|
| Measuring apparatuses, photographic equipment and processes, computing, information and communication technology and nuclear engineering, | G. Physics | 2,521 | 27.58% |
| Electric communication techniques and equipment, basic electronic circuitry, generation and distribution of electric power | H. Electricity | 2,170 | 23.74% |
| Vehicles, railways and transportation methods, machinery, equipment and industrial processes and microstructural and nanotechnology | B. Performing Operations | 2,021 | 22.11% |

9.6 Estimated change in income at the UKIPO.

The total, pure renewal fees for a patent over its standard maximum lifetime (not including Supplementary Protection Certification) come to £4,715 which is reduced to

£2,455.50 over the lifetime of the patent if it is endorsed with a LOR. (Refer to “Chapter 2 – Table 1. Renewal Fee Reductions for Patents endorsed with a LOR declaration” for a breakdown of these figures). This reduction would therefore result in a loss in renewal fees to the UK IPO of £2,259.50 per patent per maximum patent lifetime.

There are currently 9,138 valid patents that have a LOR declaration registered against them so the greatest reduction in fees, over the lifetimes of each of these patents could be as high as £20,647,311.00.

As mentioned above, since January 1989 there have been 1,661,431 patents that have been endorsed with a LOR. In theory therefore, the greatest reduction in fees over the lifetime of each of these patents could be as high as £3,754,003,344.50.

However, these calculations assume that each patent was endorsed with a LOR immediately on grant and remained in place for the maximum lifetime of each patent. It does not take into consideration the possibility / likelihood that the LOR declarations were only filed several years into their patents’ lifetime, that the LOR declarations were withdrawn or that the patents were terminated ahead of their maximum lifetime. This ‘ceiling’ figure is therefore simply speculative.

Annex to Chapter 2 – The LOR system in the United Kingdom: Additional statistics and analysis

Chapter 2 – Table 5. Numbers of LOR endorsed patents in each International Patent Classification category.

| IPC category | Total | % of Total |
|--|--------------|-------------------|
| <u>A. Human Necessities</u> (Agriculture, Foodstuffs, Tobacco, Personal or Domestic Articles, Health, Life-saving, Amusement) | 712 | 7.80% |
| <u>B. Performing Operations; Transporting</u> (Separating, Mixing, Shaping, Printing, Transporting, Microstructural Technology, Nanotechnology) | 2,021 | 22.11% |
| <u>C. Chemistry; Metallurgy</u> (Chemistry, Metallurgy, Combinatorial Technology) | 103 | 1.13% |
| <u>D. Textiles; Paper</u> (Textiles or flexible materials not otherwise provided for, Paper) | 168 | 1.84% |
| <u>E. Fixed Constructions</u> (Building, Earth or Rock Drilling, Mining) | 76 | 0.83% |
| <u>F. Mechanical Engineering; Lighting; Heating; Weapons; Blasting</u> (Engines or Pumps, Engineering in General, Lighting, Heating, Weapons Blasting) | 1,367 | 14.95% |
| <u>G. Physics</u> | 2,521 | 27.58% |
| <u>H. Electricity</u> | 2,170 | 23.74% |

Chapter 2 – Table 6. Top company users of the UK LOR system in each IPC class.

| <u>A. Human Necessities</u> | <u>No. patents</u> |
|---|---------------------------|
| <u>Entities with more than 15 patents with endorsed LOR (Including Multiple Members of Corporate Groups)</u> | <u>with LOR</u> |
| Koninklijke Philips N.V. | 283 |
| Miele & Cie. KG | 225 |
| Honda Motor Co., Ltd. | 35 |
| Toyota Jidosha Kabushiki Kaisha | 27 |

| | |
|--|---------------------------|
| Kenwood Limited | 26 |
| CNH Industrial Belgium nv / CNH Industrial Österreich GmbH / CNH Industrial Italia S.p.A. | 25 |
| International Business Machines Corporation | 19 |
| Mitsubishi Electric Corporation / Mitsubishi Denki Kabushiki Kaisha | 13 |
| Entities and individuals with fewer than 10 patents with endorsed LOR | 59 |
| <u>B. Performing Operations</u> | <u>No. patents</u> |
| <u>Entities with more than 15 patents with endorsed LOR (Including Multiple Members of Corporate Groups)</u> | <u>with LOR</u> |
| Toyota Jidosha Kabushiki Kaisha / Kabushiki Kaisha Toyota Jidoshokki / Denso Corporation | 850 |
| PSA Automobiles SA / PSA Peugeot Citroen Automobiles S.A. / Peugeot Citroen Automobiles Société Anonyme / Peugeot Citroën Automobiles SA | 616 |
| Land Rover / Jaguar Land Rover Limited | 201 |
| Honda Motor Co., Ltd. / Honda Research Institute Europe GmbH | 91 |
| International Business Machines Corporation (IBM) | 41 |
| NCR Corporation | 37 |
| Ford Global Technologies LLC / Ford Motor Company | 27 |
| Toyoda Gosei Co., Ltd. / Toyoda Iron Works Co., Ltd | 24 |
| Mitsubishi Electric Corporation / Mitsubishi Denki Kabushiki Kaisha | 21 |
| Koninklijke Philips N.V. | 18 |
| Sumitomo Riko Company Limited / Sumitomo Wiring Systems, Ltd. / Sumitomo Electric Industries, Ltd. | 9 |
| Entities and individuals with fewer than 10 patents with endorsed LOR | 86 |
| <u>C. Chemistry; Metallurgy</u> | <u>No. patents</u> |
| <u>Entities with more than 2 patents with endorsed LOR (Including Multiple Members of Corporate Groups)</u> | <u>with LOR</u> |
| Toyota Jidosha Kabushiki Kaisha | 38 |
| International Business Machines Corporation | 20 |
| Sony Corporation / Sony Deutschland GmbH | 4 |

| | |
|---|---------------------------|
| Sumitomo Riko Company Limited / Sumitomo Electric Industries Ltd. | 3 |
| PlasmidFactory GmbH & Co. KG | 2 |
| Mitsubishi Electric Corporation | 2 |
| Entities and individuals with fewer than 2 patents with endorsed LOR | 34 |
| <u>D. Textiles; Paper</u> | <u>No. patents</u> |
| <u>Entities with patents with endorsed LOR (Including Multiple Members of Corporate Groups)</u> | <u>with LOR</u> |
| Miele & Cie. KG | 164 |
| Fisher & Paykel Appliances Limited | 1 |
| Vestel Beyaz Elya Sanayi Ve Ticaret A.S. | 1 |
| International Business Machines Corporation | 1 |
| <u>E. Fixed Constructions</u> | <u>No. patents</u> |
| <u>Entities with patents with endorsed LOR (Including Multiple Members of Corporate Groups)</u> | <u>with LOR</u> |
| Mitsui Kinzoku ACT Corporation | 13 |
| Keller Grundbau GmbH / Keller Holding GmbH / KGS Keller Geräte & Service GmbH | 7 |
| About Time Design Limited | 5 |
| David William Beddoes | 5 |
| Hettich-Heinze GmbH & CO. KG | 5 |
| Entities and individuals with fewer than 2 patents with endorsed LOR | 41 |
| <u>F. Mechanical Engineering</u> | <u>No. patents</u> |
| <u>Entities with more than 10 patents with endorsed LOR (Including Multiple Members of Corporate Groups)</u> | <u>with LOR</u> |
| Toyota Jidosha Kabushiki Kaisha / Denso Corporation | 554 |
| PSA Automobiles SA / Peugeot Citroen Automobiles S.A. | 351 |
| Mitsubishi Electric Corporation | 192 |
| Honda Motor Co., Ltd. | 69 |
| Miele & Cie. KG | 57 |
| Jaguar Land Rover Limited | 30 |
| Koninklijke Philips N.V. | 11 |
| Entities and individuals with fewer than 10 patents with endorsed LOR | 63 |

| <u>G. Physics</u> | <u>No. patents</u> |
|---|--------------------|
| <u>Entities with more than 15 patents with endorsed LOR (Including Multiple Members of Corporate Groups)</u> | <u>with LOR</u> |
| International Business Machines Corporation (IBM) | 1224 |
| Koninklijke Philips N.V. | 387 |
| Sony Corporation / Sony Depthsensing Solutions SA/NV / Sony Mobile Communications Japan, Inc. / Sony Ericsson Mobile Communications AB / Sony Deutschland GmbH / Sony France S.A. / Sony Europe Limited | 168 |
| Toyota Jidosha Kabushiki Kaisha / Toyoda Iron Works Co., Ltd. / Denso Corporation | 146 |
| Ncr Corporation | 113 |
| Mitsubishi Denki Kabushiki Kaisha / Mitsubishi Electric Corporation | 82 |
| Thomson Licensing / Thomson Licensing DTV | 78 |
| Pioneer Corporation | 58 |
| Honda Motor Co., Ltd. / Honda Giken Kogyo Kabushiki Kaisha / Honda Research Institute Europe GmbH | 36 |
| Panasonic Corporation | 36 |
| Peugeot Citroën Automobiles SA | 54 |
| Miele & Cie. KG | 14 |
| Jaguar Land Rover Limited / Jaguar Land Rover / Land Rover | 14 |
| Softkinetic Sensors Nv / Softkinetic Software | 11 |
| Entities and individuals with fewer than 10 patents with endorsed LOR | 100 |
| <u>H. Electricity</u> | <u>No. patents</u> |
| <u>Entities with more than 15 patents with endorsed LOR (Including Multiple Members of Corporate Groups)</u> | <u>with LOR</u> |
| International Business Machines Corporation (IBM) | 677 |
| Toyota Jidosha Kabushiki Kaisha / Denso Corporation | 346 |
| Sony Corporation / Sony Ericsson Mobile Communications AB / Sony Mobile Communications / Sony Depthsensing Solutions SA/NV / SONY EUROPE B.V. | 325 |
| Thomson Licensing DTV | 181 |
| Mitsubishi Electric Corporation / Mitsubishi Denki Kabushiki Kaisha | 158 |

| | |
|--|-----|
| Koninklijke Philips N.V. / Philips Lighting Holding B.V. | 155 |
| PSA Automobiles SA / Peugeot Citroen Automobiles S.A. | 50 |
| Honda Research Institute Europe GmbH | 46 |
| Miele & Cie. KG | 41 |
| Panasonic Corporation | 33 |
| Sumitomo Wiring Systems, Ltd | 31 |
| Pioneer Corporation | 16 |

Chapter 3 – The LOR system in Albania

Information provided by Karapici & Associates (Dr Raimonda Karapici)

Part 1 – Existence or non-existence of a LOR system

IPRs covering the LOR system in Albania are as follows¹¹:

- Patents for invention.
- Utility models.
- Trademarks.
- Industrial Designs.
- Geographical indications.

In Albania, LOR declarations can only be registered in respect of Patents for Invention.

Part 2 – Formal Requirements for registration at the Albanian General Directorate of Patents and Trademarks (GDPT)

2.1 Patents

2.1.1 Patents – LOR declaration

The LOR declaration is made by a written declaration as follows:

- The owner of a patent informs the GDPT in a written statement (declaration) that he is ready to allow any person to use the invention as a licensee in return for appropriate compensation.
- No official fee is required in addition to the written declaration.
- On the basis of the statement, any Person shall be entitled to use the invention as a licensee in conformity with the conditions defined in the implementing regulation and shall be obliged, at the end of every calendar year, to give the owner of the patent data about the manner of its use and to pay the respective compensation.
- The written statement mentioned above shall not be valid for as long as an exclusive licence is registered in the patent register or a request for the recording of such a licence is filed before the GDPT.
- A licence obtained under the above terms shall be treated as a contractual licence.¹²

¹¹ Law no.9947 on “Industrial Property” (revised), Chapter I, Article 1

¹² Law no.9947 on “Industrial Property” (revised), Chapter VI, Article 49, section 1 & 3

2.1.2 Patents – The Licence Agreement

- A licensing agreement shall be made in writing and shall be signed by the parties. Otherwise, it shall be considered invalid.
- The object of the licensing agreement may be a patent application or a patent.
- The licence shall be registered in the patent register subject to the payment of a fee.
- The licensor shall have the right to bring a judicial proceeding for a licensing agreement only if it is registered in the patent register.
- The licensing of a patent application or a patent shall have effects *vis-a-vis* third parties, only after entry in the Patent Register. Nevertheless, such an act, before it is entered, shall have effects *vis-a-vis* third parties who have acquired the licence rights concerning the patent after the date of that act but who knew of the act at the date on which the rights were acquired.
- If the owner of a patent does not pay the relevant fee in conformity with Industrial Property Law of Albania, and a licence in favor of a third Person is entered in the Patent Register, the GDPT shall notify the licensee that the fee has not been paid and that he (the licensee) may pay the fee within six months from the date of notification, in order to keep the validity of the licence registered.
- In case of a disagreement about securing the registered rights of the licensee, the court may decide that the patent shall be transferred to the licensee.¹³

2.1.3 Patents – Submission of the request to register a licence contract for a patent

The request (the form) for registration of the licence contract for a patent, provided by Article 46 of the Industrial Property Law of Albania, is submitted to the GDPT by the patent owner. Along with the application, the applicant must submit the following documents:

- the document of payment of the respective fee;
- authorization of representation when the request is submitted by the representative of the patent owner;
- the licence contract (in Albanian language) which must have the form of a notarial act.

¹³ Law no.9947 on “Industrial Property” (revised), Chapter VI, Article 46

Provided that the request for registration of the licence contract complies with these requirements, the GDPT will register the licence contract in the patent register, notify the applicant and publish the licence contract in the Industrial Property Bulletin.¹⁴

2.2 Trade marks

2.2.1 Trade marks – The Licence Agreement

There are no provisions for registering LOR declarations in respect of trade marks in Albania.

- A mark may be licensed for some or all of the goods or services for which it was registered.
- A licence may be exclusive or non-exclusive.
- The licence agreement, which will be filed in the GDPT, shall be in written form and signed by the two parties.
- The owner of a licensed mark may use the rights that registration of the mark gives against a licensee who violates the conditions set in the contract for its time extent, the form in which the mark may be used, the sphere of the goods or services for which the licence was issued, the territory where the mark is used or the quality of the products produced or the services secured by the licensee.
- A licence contract will not be valid when it does not contain the obligations that the licensor puts on the licensee for its time extent, the form in which the mark may be used, the sphere of goods or services for which the licence has been issued, the territory where the mark is used or the quality of the products produced or the services secured by the licensee.
- A licence agreement does not have legal effect if it has not been registered in the register of marks.
- Without prejudice to the provisions of the licensing contract, the licensee may bring proceedings for infringement of a trade mark only if the licensor consents thereto. However, the holder of an exclusive licence may bring such proceedings if the licensor, after formal notice, does not himself bring infringement proceedings within an appropriate period.

¹⁴ Decision no.1707 for “Patents and Utility Models Regulations” (revised), Chapter XV

- A licensee shall, for the purpose of obtaining compensation for damage suffered by him, be entitled to intervene in infringement proceedings brought by the licensor.¹⁵

2.2.2 Trade marks – Submission of the request to register a licence contract for a trade mark

The request for registration of the licence contract for a trade mark is submitted through the form for registration of a change in the trade mark register, in which the following data will be specified:

- Licence agreement / contract, which is signed by both parties and notarized.
- Licence duration.
- Regulation of use of the trademark by the licensee.
- Goods and / or services for which the licence has been granted.
- Territory where the trademark for which the licence was granted will be used.
- Quality of the goods produced or the services provided.
- Obligations that the licensee imposes on the licensee for the implementation of the conditions set out in the contract.
- Type of licence: exclusive or non-exclusive license.¹⁶

2.3 Industrial Designs

2.3.1 Industrial Designs – Licence Agreement

There are no provisions for registering LOR declarations in respect of industrial designs in Albania.

- A licence contract is made in writing and is signed by the parties to the contract, otherwise it is invalid.
- A licence may be exclusive or non-exclusive.
- The owner of a design may invoke the rights conferred by the registration of the design against a licensee who contravenes any provision in his licensing contract with regard to its duration, the form in which the design may be used, the range of products for which the licence is granted and the quality of products manufactured by the licensee.

¹⁵ Law no.9947 on “Industrial Property” (revised), Chapter XXV, Article 163, sections 1-5

¹⁶ Decision no.315 on “Trademarks Regulation” (revised), Chapter VII, Article 34, section 6.3

- A licence contract is registered in the GDPT, in the register of designs, against a set tariff.
- The licensee has the right to turn to the court as to a licence contract only after it is registered in the register of designs.
- Without prejudice to the provisions of the licensing contract, the licensee may bring proceedings for infringement of a design only if the licensor consents thereto. However, the holder of an exclusive licence may bring such proceedings even without the consent of the licensor if the later, having been given notice to do so, does not himself bring infringement proceedings within an appropriate period.
- A licensee shall, for the purpose of obtaining compensation for damage suffered by him, be entitled to intervene in an infringement action brought by the licensor.¹⁷

2.3.2 Industrial Designs – Submission of the requests

The registration of the licence contract consists of Application (form) in which the following data are presented:

- Licence agreement / contract signed by both parties and notarized.
- Duration of the licence.
- Form of use of the design by the licensee.
- List and quality of products that will be produced by the licensee.
- The territory where the design for which the licence was granted will be used.
- Obligations that the licensor imposes on the licensee for the implementation of the conditions defined in the contract.
- Type of license: exclusive or non-exclusive licence.¹⁸

Part 3 – Timing Requirements for obtaining registration at the GDPT

The object of the licensing agreement may be a patent application or a granted patent; however, a LOR declaration can only be registered following the grant of a patent.¹⁹

With respect to the validity of the registered licence; if the owner of a patent does not pay the renewal fee and a licence in favour of a third party is registered in the patent

¹⁷ Law no.9947 on “Industrial Property” (revised), Chapter XIX, Article 129, sections 1-2

¹⁸ Decision no.270 on “Industrial Designs Regulation” (revised), Chapter VI, Article 22, section 6.4

¹⁹ Law no.9947 on “Industrial Property” (revised), Chapter VI, Article 46, sections 2-3

register, then according to Article 41 of the Industrial Property Law of Albania, the GDPT will notify the licensee of this non-payment. This notification will be made no later than 8 weeks before the deadline for the renewal payment, and the licensee must pay the fee within 6 (six months) from the date of notification, in order to maintain the validity of the registered license.²⁰

Part 4 – Impact of registering a LOR declaration at the GDPT

4.1 Fees

If the owner of a patent informs the GDPT in a written declaration that he is ready to allow any Person to use the invention as a licensee in return for appropriate compensation, the renewal fees which fall due after receipt of the statement shall be reduced by 50% .

The written statement mentioned in above shall not be valid for as long as an exclusive licence is registered in the patent register or a request for the recording of such a licence is filed to the GDPT.

On the basis of the statement, any Person shall be entitled to use the invention as a licensee in conformity with the conditions defined in the implementing regulation and shall be obligated, at the end of every calendar year, to give the owner of the patent information about the manner of its use and to pay the respective compensation. A licence obtained under the above terms is treated as a contractual licence.²¹

4.2 Infringement of rights and the right to act against the violation of rights

The right to file a lawsuit in court for violation of rights, according to the law of Industrial Property of Albania, belongs to the holder of an exclusive licence for a patent or patent application, as well as the holder of a licence for an industrial design or trade mark.

When the licensee has an exclusive licence on a patent or patent application, he has the right to initiate legal proceedings, if the owner of the patent or patent application, after official notification by the licensee, does not initiate legal proceedings against the infringement, within a reasonable period of time.

²⁰ Decision no.1707 for “Patents and Utility Models Regulations” (revised), Chapter XVI, section 4

²¹ Law no.9947 on “Industrial Property” (revised), Chapter VI, Article 49, sections 1,2,4

If the patent licence is non-exclusive, the licensee may initiate legal action against the infringement only if its owner or patent applicant consents. The patent owner or patent applicant has the right to participate in the litigation against the infringement initiated by the licensee.

In case the trial against the infringement is initiated by the patent owner, the licensee has the right to participate in the trial as a third person.²²

However, the registration of a declaration of LOR will not have a particular impact on the ability to enforce – other than the fact that licensees under a LOR will only have non-exclusive rights and so will only be permitted to participate in proceedings with the patent owner's consent.

4.3 Procedures in case of violation of rights

1. The persons mentioned in article 184 /a (subsection 1c) of Industrial Property Law of Albania, have the right to go to court against any person, who violates these rights to claim:
 - a) Prohibition of goods / services that violate the rights of persons provided in Article 184/a.
 - b) The removal or blocking from the civil circulation of materials, equipment, instruments and tools mainly used for the creation or production of goods or services that infringe rights.
 - c) In the case of counterfeiting goods, the mere removal or detachment of the mark affixed to such goods is not sufficient, except in exceptional cases to permit the placing on the market of such goods.
 - d) The publication of the final decision of the court in the public media at the expense of the person who committed the violation, according to the manner provided by the court.
2. The court orders the implementation of the measures provided in point 1, letters "b" and "c", of this paragraph, 4.3, at the expense of the offender, unless there are special

²² Law no.9947 on “Industrial Property” (revised), Chapter XXXII, Article 184/a, section 1c, 3

reasons to decide otherwise. In reviewing the request for taking the measures provided in point 1, letters "b" and "c", the court assesses the proportionality between the gravity of the violation and the ordered measure, as well as the interests of third parties.

3. The measure provided in letter "a", of point 1, of this paragraph 4.3, can also be taken against an intermediary, whose services are used by a third party to violate an industrial property right.
4. The lawsuit against the violation of rights must be filed in court, within three years from the date when the plaintiff becomes aware of the violation and the offender.²³

4.4 Compensation for damages

The offender is liable for all damages caused to the plaintiff.

The court, in accordance with the provisions of the legislation in force, decides on the measure of compensation, unless otherwise provided. The court, in determining the measure of compensation:

- a) takes into account any effective and real damage, including the lost profit, suffered by the injured party, any unjust profit, realized by the offender, as a result of unfair competition and, as the case may be, moral damage caused to the holder of rights from violation, infringement of his trade name or reputation, etc.
- b) depending on facts of the case, The Court may order immediate compensation for the damage by calculating the profits that would be secured or received if the infringer had sought authorization to exercise the industrial property right in question.²⁴

Part 5 – Reversal / withdrawal of a LOR declaration

The owner of a patent may register in the GDPT a written declaration that he is ready to allow any person to use the invention as a licensee in return for appropriate compensation.

²³ Law no.9947 on “Industrial Property” (revised), Chapter XXXII, Article 184/b

²⁴ Law no.9947 on “Industrial Property” (revised), Chapter XXXII, Article 184/c

The owner has the right to withdraw such declaration at any time, by written notification to the GDPT, provided that no person has notified the patent owner of the intention to use the invention.

The written statement referred to above shall not be valid as long as an exclusive licence has been registered in the patent register or as long as a request recording of such licence has been made to the GDPT.²⁵

In addition, there is no legal procedures in the Patent regulation for impact of the withdrawal of the declaration.

Part 6 – Requirements for the prospective license under the LOR system

In addition to Article 49 section 1 of the Industrial Property Law of Albania, any Person shall be entitled to use the invention as a licensee in conformity with the conditions defined in the implementing regulation. No regulation has been drafted to date. Direct contact will be made via the GDPT.

Part 7 – The IPO and dispute resolution regarding licence terms

The GDPT does not offer any dispute resolution procedure in the event of disagreement or conflict between the patent holder and the prospective licensee. There is no legal provision regarding the issue.

In case of a disagreement about securing the registered rights of the licensee, the court is the Authority that may decide that the patent shall be transferred to the licensee.²⁶

Part 8 – Relation of Albania’s LOR system to the UPC

Due to the fact that the UP system is applicable only in the European Union States and Albania is not part of the European Union, there is no relation between Albania and the Unitary Patent Convention.

²⁵ Law no.9947 on “Industrial Property” (revised), Chapter VI, Article 49, sections 1-3

²⁶ Law no.9947 on “Industrial Property” (revised), Chapter VI, Article 46, section 5

Part 9 – GDPT: Statistics

There is a register in the GDPT called SAPI, responsible for registration of objects of Industrial Property Rights.

SAPI represents the unique register that collects and processes the data of industrial property objects, including all requests related to industrial property objects filed by local or foreign individuals / entities in the Republic of Albania, in accordance with the legislation in force for industrial property where licence of rights declarations are also registered.²⁷

According to our research in collaboration with the General Directorate of Industrial property of Albania, our findings are as below:

- the number of LOR declarations that have been registered is: ZERO.
- the details of the corresponding IPRs (such as Pharmaceutical patents or Telecommunications patents) are: ZERO.
- the companies and industry sectors who make the greatest use of the LOR system by registering declarations in respect of their IPR (such as, the top 10 users of the system) are: ZERO.
- the estimated change in income at our national IPO is: ZERO.

²⁷ Law no.9947 on “Industrial Property” (revised), Chapter XXXI/a, article 183/a & 183/b

Chapter 4 – The LOR system in Bulgaria

Information provided by Iskra Christova & Partners Ltd.

Part 1 – Existence or non-existence of a LOR system

The LOR system in Bulgaria covers only the unregistered and registered Patents. The LOR system does not apply in respect to the Utility Models or any other IPR.

Part 2 – Formal Requirements for registration at the Bulgarian Intellectual Property Office (BGIPO)

In order to register a LOR it is necessary to file a Declaration according to Art. 30 of the Law on Patents and Registration of Utility Models. There is a specific form for register of the LOR which can be provided by the BGIPO. The Declaration must be sent to the BGIPO. There is no fee for filing the Declaration.

Please find below the relevant texts of the Law on Patents and Registration of Utility Models:

Art. 30.

(1) (suppl. SG 66/02, amend. – SG, 92/20) Upon request from the applicant or the proprietor of the patent and provided that he has not as yet granted an exclusive license for the invention, it may be one time offered publicly for use.

(2) (Amend. – SG, 92/20) The request of the applicant or the proprietor of the patent must contain a statement that he permits any person to use the invention under a non-exclusive license in exchange for the obligation to be paid a fair fee.

(3) The statement provided for in the preceding paragraph shall be published in the official bulletin of the Patent Office.

(4) The licensee may at any moment renounce the license in writing by informing the proprietor of the patent.

(5) The placing of the patentable invention under a regime of license readiness (license by operation of law) leads to a reduction of the annual patent fees by 50 per cent, except those which have already been paid.

(6) The proprietor of the patent may at any time request in writing the termination of the license readiness (license by operation of law). The withdrawal of the statement for license readiness shall be published in the official bulletin of the Patent Office and shall lead to a loss of the rights provided for in the preceding paragraph.

(7) The withdrawal of the licence readiness shall not have an effect with regard to already granted or requested licenses.

Part 3 – Timing Requirements for obtaining registration at the BGIPO

The LOR could be registered at any time, it could be registered also before the grant of the Patent. The procedure is the same for granted patents and for the patent applications.

Part 4 – Impact of registering a LOR at the BGIPO

The fees will be reduced by 50% in respect to a Patent with a registered LOR. The reduction of the fees does not apply retrospectively.

Part 5 – Reversal / withdrawal of a LOR declaration

The Patent Owner or the applicant could withdraw at any time the declaration for LOR. There is no retroactive payment of previously reduced fees. There is no form for withdrawal of the declaration. The withdrawal request has to be sent to the BGIPO. There are no fees for withdrawal of the LOR.

Part 6 – Requirements for the prospective licensee under the LOR system

There are no requirements for the prospective licensee's offer procedure. A prescribed form does not exist. A direct contact could be made to the IPR holder. Information that declarations are filed are published in the Official Bulletin of the BGIPO. The prospective licensee could check the Official Bulletin and could obtain the necessary information from there.

Part 7 – The IPO and dispute resolution regarding licence terms

There is no dispute resolution procedure in the event of disagreement or conflict between the IPR holder and the prospective licensee.

Part 8 – Relation of Bulgaria's LOR system to the UPC

The UP provides 15% reduction and the Bulgarian Law on Patents and Utility Models provides 50% reduction of the renewal fees.

Part 9 – BGIPO: Statistics

9.1 Publication status and contents of the BGIPO register

There is no dedicated BGIPO register that includes registered LORs.

9.2 Current registered LOR declarations

The total number is unknown.

9.3 Applications for LOR declarations per year

The number of the LOR declarations is very low. Every Official Bulletin has between one and five publications concerning the declarations according to Art. 30 of the Law on Patents and Utility Models.

9.4 The companies making the most use of the LOR system

The companies who make the greatest use of the LOR system are mainly State Companies, mainly the Institutes of the Bulgarian Academy of Science, natural persons and micro legal entities.

9.5 The industries making the most use of the LOR system

The main technical fields are electronics and electrical engineering. There are also registered LOR declarations in the field of agriculture.

9.6 Estimated change in income at the BGIPO

Since the number of the LOR declarations is very low there is no significant change in income at the BGIPO.

Chapter 5 – The LOR system in the Czech Republic

Information provided by Korejzova Legal vos.

Part 1 – Existence or non-existence of a LOR system

The LOR system in the Czech Republic covers patents and validated European patents only.

Part 2 – Formal Requirements for registration at the Czech Republic IPO (IPO CZ)

The formal requirements for registering a LOR declaration against an identified IPR (i.e. patent or validated European patent) include the written (electronic) form.

The request for the registration is made via electronic form available on the IPO CZ's website and can be filed by the patent owner (applicant) or its representative (who shall provide the IPO CZ with the Power of Attorney simply signed by the patent owner / applicant).

The request for registering a LOR declaration is free of charge (there is no administrative fee).

Part 3 – Timing Requirements for obtaining registration at the IPO CZ

According to Section 19 of Act No. 527 / 1990 Coll., on Inventions and Rationalisation Proposals, the LOR declaration can be registered before the grant of a patent.

Part 4 – Impact of registering a LOR declaration at the IPO CZ

According to Section 19 of Act No. 527 / 1990 Coll., on Inventions and Rationalisation Proposals, the maintenance of validity of a patent, for which the holder offered a licence, shall be subject to fees only in a half amount.

According to our experience, there are no consequences in case of enforcement of remedies. The fact that a person is entitled to exploit the invention shall not prejudice the right of the proprietor of the patent to obtain compensation with respect to the value of the licence granted under the LOR system.

Part 5 – Reversal / withdrawal of a LOR declaration

According to Section 19 of Act No. 527 / 1990 Coll., on Inventions and Rationalisation Proposals, if the applicant or the proprietor of a patent declares to the IPO CZ that he is prepared to offer right to exploit the invention to any person (**Offer of Licence**), the declaration of Offer Of Licence is irrevocable.

Part 6 – Requirements for the prospective licensee under the LOR system

According to the Czech law, any person who accepts the Offer of Licence and notifies the fact in writing to the patent owner / applicant shall be entitled to exploit the invention. Based on these facts it is clearly intended that the notification (acceptance) shall be made in writing and directly to the patent owner / applicant. The IPO CZ is not involved in the process of the acceptance.

Part 7 – The IPO and dispute resolution regarding licence terms

There is no dispute resolution procedure offered by the IPO CZ in case of a conflict between the IPR holder and the prospective licensee.

By operation of law, any litigation in respect of IPR enforcement is handled by the IP specialist senate at the Prague Municipal Court.

Part 8 – Relation of the Czech Republic's LOR system to the UPC

So far, the differences we are aware of are that:

- The renewal fees for a UP which fall due after receipt of a statement that the proprietor is prepared to allow any person to use his invention as a licensee in return for appropriate consideration, will be reduced by 15% (this reduction is 50% in the Czech Republic as discussed at Part 4 of this Chapter). Any additional fee for belated payment of a renewal fee will be calculated on the basis of the reduced renewal fee.
- Patent proprietors may withdraw their statement at any time by filing a communication to this effect with the EPO. Such withdrawal will take effect only if the amount by which the renewal fees were reduced is paid to the EPO. The withdrawal should preferably be filed using dedicated EPO Form (not possible in the Czech Republic).

- A request for recording of an exclusive licence in the Register for UP Protection is no longer admissible once a LOR declaration has been filed, unless that statement is withdrawn (unlike in the Czech Republic, where such a statement of offer of licence is irrevocable).

Part 9 – IPO CZ: Statistics

Please note that there is no 'Register of Licences of Right' available in the Czech Republic.

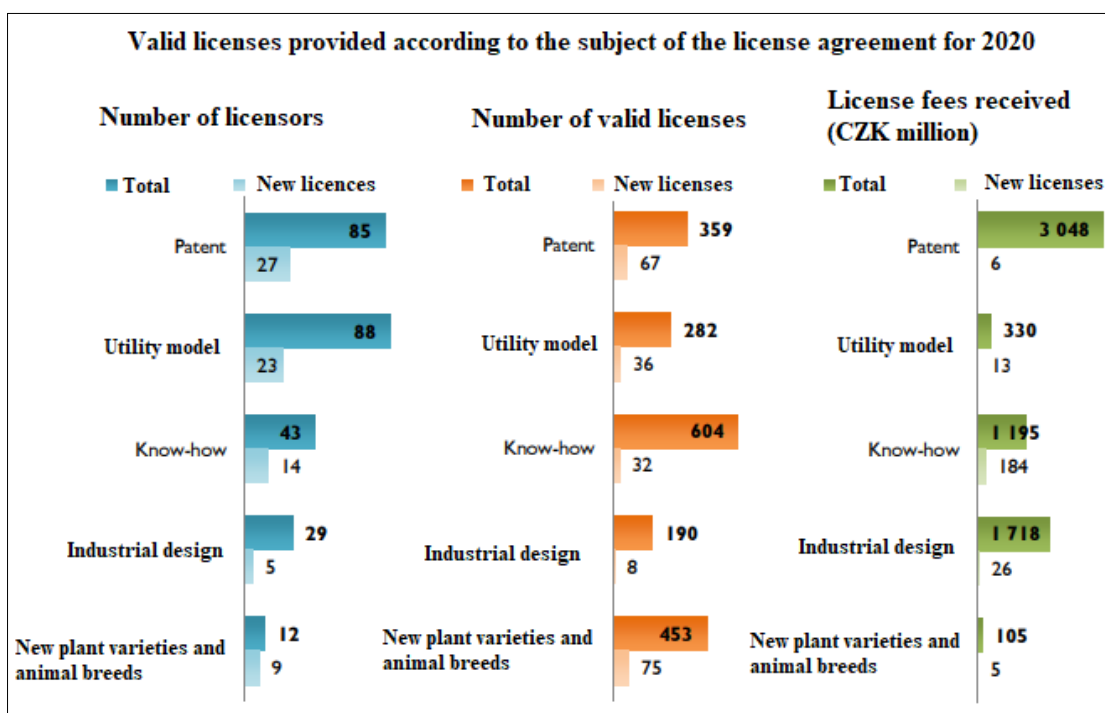
By searching for a licence registration, it is possible to view the details of patents which are the subject of registered licences and then to cross refer to the Official Bulletin where the LOR declaration is registered. However, we are not able to generate relevant statistics from the published data.

The Czech Statistical Office publishes statistics regarding registered patent licences in general. However, it is important to note that the figures shown below do not distinguish between registered licence agreements that have been negotiated and entered into between the parties with or without the prior registration of a LOR declaration.

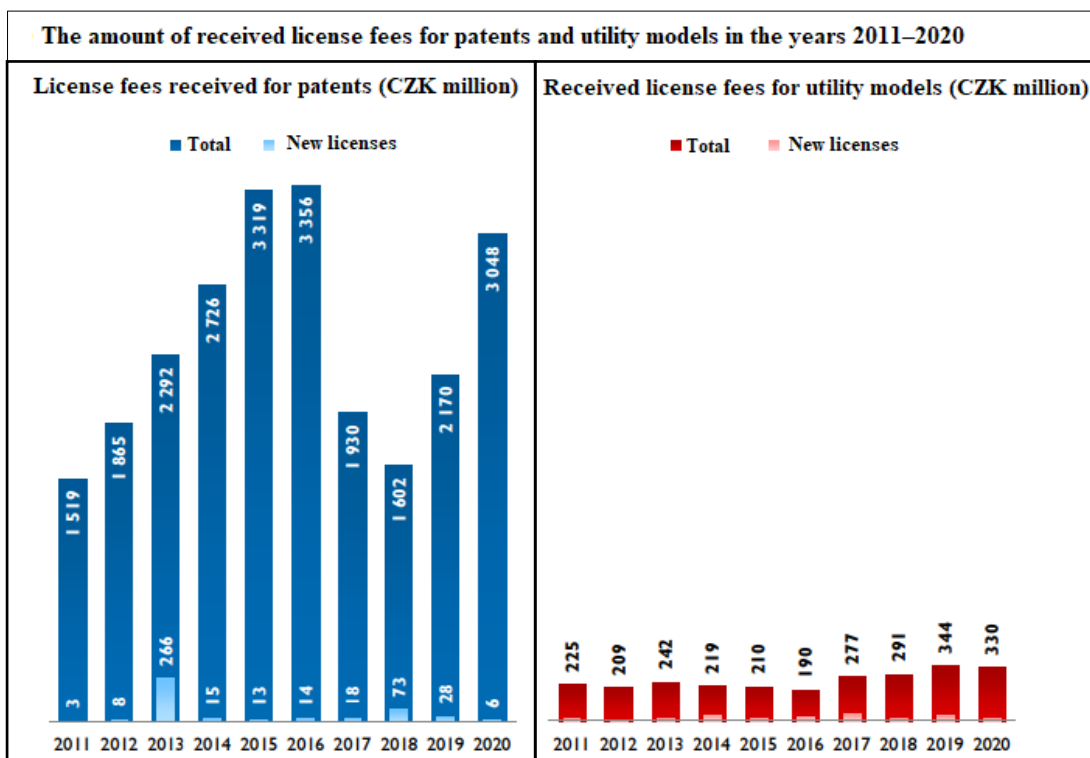
Nevertheless, kindly find below what was published for 2020 year (2021 year is not available so far). While not strictly relevant to the query regarding statistics, these may still be of some use²⁸.

²⁸ Licence na Předměty Průmyslového Vlastnictví (Licenses Of Intellectual Property Rights) Český Statistický Úřad <https://www.czso.cz/documents/10180/143060179/21300221.pdf/c66dc555-0edc-42e2-8301-42184244c2ac?version=1.5>

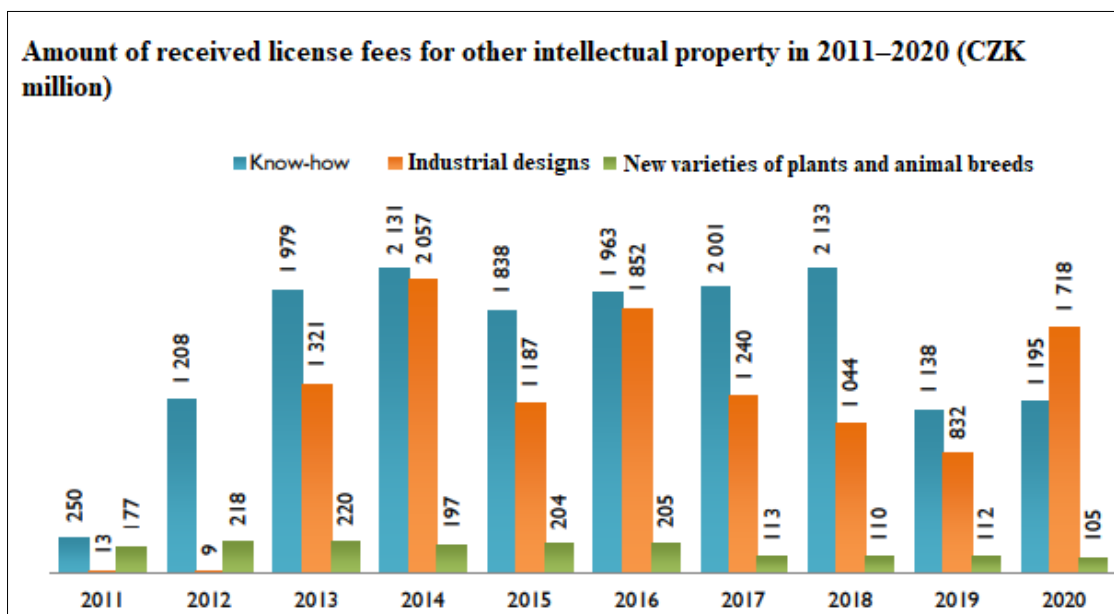
Chapter 5 – Figure 1. Valid licences provided according to the subject of the license agreement for 2020



Chapter 5 – Figure 2. The amount received from license fees for patents and utility models in the years 2011 – 2020



Chapter 5 – Figure 3. Amount of received license fees for other intellectual property in 2011 – 2020 (CZK million)



Chapter 5 – Table 1. Patent and utility model licenses in 2020 (statistics collected by the Czech Statistical Office (Český statistický úřad))

Sold patent and utility model licenses by CZ-NACE of the providing enterprises in 2020

| Group of branches | Patent licenses | | | | Utility model licenses | | | |
|-------------------------------------|--------------------|------------|---------------------------|--------------|------------------------|------------|---------------------------|---------------|
| | Number of licenses | | License fees (CZK thous.) | | Number of licenses | | License fees (CZK thous.) | |
| | Total | incl.: new | Total | incl.: new | Total | incl.: new | Total | incl.: new |
| Agriculture | 1 | 1 | 50 | 50 | - | - | - | - |
| Industry | 52 | 3 | 69 737 | 69 | 103 | 10 | 293 097 | 10 210 |
| Construction | 3 | - | 40 | - | 12 | - | 2 372 | - |
| Services sector | 81 | 15 | 47 463 | 2 246 | 50 | 5 | 19 844 | 221 |
| from which Research and Development | 23 | 4 | 5 000 | 5 | 14 | 2 | 19 527 | - |
| Total | 137 | 19 | 117 290 | 2 365 | 165 | 15 | 315 313 | 10 431 |

Source: CZSO, Lic 5-01

Chapter 6 – The LOR system in Germany

Information provided by Mewburn Ellis LLP.

Part 1 – Existence or non-existence of a LOR system

In Germany, LOR declarations are available for national patents, but not for trade marks, utility models or designs. For trade marks, it is possible to register the non-binding willingness to grant licences or to sell the trade mark. Thus, the following report will focus primarily on patents and select additional information will be provided for trade marks where relevant.

Part 2 – Formal Requirements for registration at the DPMA

2.1 Patents – Voluntary LOR declaration - § 23 PatG

To register a LOR declaration for a patent application or patent, the applicant / proprietor must declare vs. the German Patent and Trade Mark Office (**DPMA**) for an entry to be made on the patent register of the patent application or the patent to the effect that licences regarding the invention are available in return for reasonable remuneration. Such a declaration may be given at any time. This applies to German national patent applications filed with and German national patents granted by the DPMA as well as EP patents after having been validated in Germany. The voluntary licence extends to potential divisional applications which are filed after the LOR declaration, as well as patents of addition and SPCs.

The declaration needs to be submitted in writing, i.e., with a handwritten signature. A declaration by fax is inadmissible, but use of an electronic signature is allowed, e.g., when using the electronic filing system of the DPMA.

2.2 Trade Marks – Voluntary LOR declaration - § 42c MarkenV

The applicant of a trade mark application or the proprietor of the trade mark entered in the register may declare in writing to the DPMA his non-binding willingness to grant licences or to sell the trade mark. Such a declaration may be given at any time.

Part 3 – Timing Requirements for obtaining registration at the DPMA

3.1 Patents

The applicant or patent proprietor can submit the LOR declaration at any time, including prior to grant. However, a LOR declaration may only be registered as long as there is no exclusive licence registered in the patent register and no such registration is requested. Likewise, an exclusive licence may be registered in the patent register only as long as a LOR declaration does not exist.

3.2 Trade Marks

The trade mark applicant or trade mark proprietor can submit the non-binding willingness to grant licences at any point of time, including prior to registration. However, such a declaration may only be registered as long as there is no exclusive licence registered in the trade mark register and no such registration is requested.

Part 4 – Impact of registering a LOR declaration at the DPMA

4.1 Patents

When the LOR declaration is registered, any renewal fees that are due after the declaration are half of the amount which would be payable if the LOR declaration had not been made. (§23 (1) PatG)

Once the LOR declaration is registered, any third party that intends to use the invention needs to inform the applicant/proprietor. This information statement shall include how the invention is used. After filing this information statement, the third party is allowed to start using the invention. (§23 (3) PatG)

The party making the notification is obliged to provide the applicant / proprietor with information on the use made every quarter and to pay remuneration for this use. If the third party does not fulfil this obligation within a reasonable period of time, the right holder may prohibit them from further use after a grace period has expired. (§ 23 Abs. 3 S. 5, 6 PatG)

The remuneration must be reasonable; the law does not specify further details. The determination is generally left to the parties involved. If they do not agree, each of them may obtain a determination by the DPMA.

4.2 Trade Mark

The non-binding willingness to grant licences is of informative nature only and does not have any further effect.

Part 5 – Reversal / withdrawal of a LOR declaration

5.1 Patents

The LOR declaration can be withdrawn at any time as long as no third party has indicated that they want to use the invention. The withdrawal needs to be a written request submitted with the DPMA. The applicant / proprietor needs to refund the difference in renewal fees within a month (without surcharge, or within another four months with surcharge). Non-payment results in the expiry of the patent / patent application. (§ 23(7) PatG)

5.2 Trade Marks

The non-binding willingness to grant licences may be withdrawn by a written request at any time.

Part 6 – Requirements for the prospective licensee under the LOR system

Patents

After the entry of the declaration in the register, any third party may obtain the right to use the invention protected by the patent by notifying the applicant / proprietor. The notification needs to be in writing and addressed to the applicant / proprietor, and shall indicate how the invention is to be used. The indication shall be decisive for the content and scope of the authorisation to use the invention. An amendment by renewed notification is possible.

Part 7 – The IPO and dispute resolution regarding licence terms

Patents

The DPMA, upon request of one of the parties, may set the amount of an appropriate licence fee by an appealable decision. The DPMA will not decide whether a licence fee as such needs to be paid, i.e., whether the invention is actually used. The fee to apply for a settlement of the amount of the licence fee is €60 (§ 23(4) and (5) PatG).

If circumstances arise which make the determined remuneration appear obviously unreasonable, a request may be made to change the determination after one year at the earliest (§ 23(5) PatG).

Alternatively, the amount of the licence fee can be determined in a court of law. Further, the decision of the DPMA may be appealed and reviewed in a subsequent lawsuit.

Part 8 – Relation of Germany’s LOR system to the UPC

A LOR declaration may be filed in relation to a UP with the EPO. After receiving the declaration, renewal fees are reduced by 15%.

The holder may withdraw the declaration at any time by notifying the EPO accordingly. However, the withdrawal shall not take effect until the amount by which the renewal fees have been reduced has been repaid to the EPO.

Part 9 – DPMA: Statistics

9.1 Patents

The DPMA does not provide a searchable public database which would enable directed searches for patents with LOR declarations registered against them. It is therefore not possible to carry out the requested statistical analysis. However, in the course of the preparation of the 8th Edition of a leading textbook on German patent law, “Patentrecht”²⁹ various searches of the German patent register, carried out in January 2020, showed a total of 84,610 LOR declarations for the years 1992 to 2017. The annual number ranged between about 4,900 (2000) and 768 (2017), with an annual average of 3,254.

In the last 10 years, the number has dropped significantly; from 4,267 (2005) to 2,900 (2010) by initially about 1000 declarations per year, since then again massively from 1,793 declarations (in 2015) to 768 declarations of readiness for licensing in 2017.

²⁹ Lehrbuch zum deutschen und europäischen Patentrecht und Gebrauchsmusterrecht, 8th Ed. 10 December 2021, C.H.BECK. by Christoph Ann & Lena Maute

Following express enquiry to the DPMA, further, limited statistics were provided and have been included at Chapter 6 – Table 1. LOR and non-binding willingness to grant licences, below.

9.2 Trade Marks

As with patents, the DPMA does not provide a searchable database. However, a brief statement, regarding registrations of declarations of willingness to license, is included within the trade marks section.³⁰ According to the DPMA, almost 20,000 trade mark cases include a declaration of licence and / or offer to sell the trade mark. Only 71 cases, however, show a recorded licence between the proprietor and a further person.

Following express enquiry to the DPMA, further, limited statistics were provided and have been included at Chapter 6 – Table 1. DPMA Statistics regarding LOR and non-binding willingness to grant licences, below.

Chapter 6 – Table 1. DPMA Statistics regarding LOR and non-binding willingness to grant licences

| Year | Non-binding willingness to grant LOR declaration acc. Ro licences (Trade marks) | Sec. 23 PatG |
|-------------|--|---------------------|
| 2014 | 2,150 | 4,311 |
| 2015 | 1,738 | 5,355 |
| 2016 | 1,836 | 4,485 |
| 2017 | 1,582 | 5,371 |
| 2018 | 1,535 | 5,736 |
| 2019 | 1,513 | 7,077 |
| 2020 | 1,421 | 6,838 |

³⁰ https://www.dpma.de/english/trade_marks/trade_mark_protection/mamog/licences/index.html

Chapter 7 – The LOR system in Greece

Information provided by Dr Helen G. Papaconstantinou & Partners.

Part 1 – Existence or non-existence of a LOR system

A LOR system is provided by the Greek law, for Patents, Utility Models and Industrial Designs. There are no relevant provisions as regards Trade Marks.

Part 2 – Formal Requirements for registration at the Greek Patent Office (Greek PO)

The only formality required for registering a LOR declaration against an identified IPR with the Greek PO, is the filing of a statement of the IPR owners explicitly mentioning that they are prepared to allow any person to use their invention as an exclusive or non-exclusive licensee, in return for appropriate consideration.

There is no specific official form for such declaration and the registration is free of charge.

Part 3 – Timing Requirements for obtaining registration at the Greek PO

There are no provisions regarding the timing for registering a LOR declaration, however, the registration of the licence itself may be effectuated at any time within the lifetime of the IP title, even while the grant of such title is still pending.

Once the LOR declaration has been registered, it will have a duration of two years and can be renewed periodically at no cost for the IPR holder.

Part 4 – Impact of registering a LOR declaration at the Greek PO

As regards patents and utility models for which annual renewal fees are due, the Greek PO offers a 40% discount to the fees due during the time of validity of the LOR declaration.

As regards industrial designs, which are renewable every 5 years, the 40% discount is applied proportionally.

No limitations to the IPR holder are provided by the law in case of infringement.

Part 5 – Reversal / withdrawal of a LOR declaration

Proprietors may withdraw their declaration at any time by filing a communication to this effect with the Greek PO.

Such withdrawal will however take effect only if the amount by which the renewal fees were reduced is paid to the Greek PO.

Part 6 – Requirements for the prospective licensee under the LOR system

The law does not provide any details on the procedure to be followed by a prospective licensee and / or the owner of the IPR title and there is no prescribed form.

The Greek PO does not interfere in the procedure and the prospective licensee is expected to contact the IP holder directly.

Part 7 – The Greek PO and dispute resolution regarding licence terms

The Greek PO does not offer any dispute resolution procedure and does not interfere in the negotiations or disputes between the IPR holder and the prospective licensee in any way.

Part 8 – Relation of the Greek LOR system to the UPC

The procedure and requirements of the Greek law as regards the LOR systems are, in essence, very similar to the relevant rules of the UP system. The only difference is the amount of the discount, which according to the rules of the Unitary Patent Convention is 15%, whereas according to the Greek relevant system the discount is 40%.

While the Unitary Patent system advises that specific EPO forms 7001 and 7002 are used for registration and withdrawal of LOR respectively, use of such forms is not obligatory.

As already mentioned above, the Greek PO Office has no official relevant form.

Part 9 – Greek PO: Statistics

The existence of a LOR is only mentioned in the records of the particular IPR titles (patent, utility model or design) concerned and is announced in the Official Bulletin of the Greek PO. However, the Greek PO does not keep a separate register of LOR declarations. Consequently, no official information on statistics is available.

Chapter 8 – The LOR system in the Republic of Ireland

Information provided by FR Kelly.

Part 1 – Existence or non-existence of a LOR system

Voluntary LORs and compulsory licences are available for patents in Ireland.

Compulsory licences are available for registered designs in Ireland.

There are no provisions for LOR declarations or compulsory licences for trade marks in Ireland.

Part 2 – Formal Requirements for registration at the IPO of Ireland (IPOI)

2.1 Patents

2.1.1 Voluntary LOR

To register a voluntary LOR of a patent, the proprietor can submit an application to the Controller for an entry to be made on the register of the patent to the effect that licences under the patent are to be available as of right. This may be done any time after grant.

The application for an entry under this section must contain a statement that the proprietor is not precluded by contract from granting licences under the patent.³¹ Evidence verifying the statement must be provided.³² As of December 2021, the fee for requesting such an entry to the register is €25.³³

2.1.2 Compulsory licence

For a compulsory licence under a patent, any person can apply to the Controller for a licence under the patent or for an entry in the register of the patent to the effect that licences under the patent are to be available as of right on any of the following grounds:

- (a) (i) a demand in the State (Ireland) for the subject matter of the patent is not being met or is not being met on reasonable terms, or
- (a) (ii) a demand in the State (Ireland) for a product which is protected by the patent is being met by importation other than from a member of the World Trade Organisation;

³¹ Patents Act 1992, Part IV, section 68 (4)

³² Patents Rules 1992, Rule 46

³³ <https://www.ipoi.gov.ie/en/manage-ip/apply/statutory-fees/patent-schedule-of-fees.pdf>

- (b) that the establishment or development of commercial or industrial activities in the State (Ireland) is unfairly prejudiced.³⁴

There are also provisions for a situation when an invention protected by a patent (**the second patent**) cannot be exploited in the State (Ireland) without infringing rights deriving from another patent (**the first patent**). In such a scenario, the proprietor of the second patent may apply to the Controller for a compulsory licence under the first patent.³⁵

The application for a compulsory licence must be accompanied by evidence that the applicant sought a licence from the proprietor but was unable to obtain one on reasonable terms or within a reasonable time. The requirement for such evidence can be waived if the compulsory licence is requested on the grounds of a national emergency or for public non-commercial use.³⁶ As of December 2021, a fee of €310 is payable with the application for a compulsory licence.³⁷

If the Controller is satisfied that the criteria for compulsory licencing are met, the relevant entry will be made on the register. Unlike voluntary licences of right, compulsory licences may be granted regardless of whether the proprietor was precluded by a contract from granting further licences.

The conditions for licences granted under compulsory licencing are:

- (a) any licence granted shall be non-exclusive;
- (b) any licence granted shall be predominantly for the supply of the market in the State (Ireland);
- (c) any licence granted may only be assigned with the prior authorisation of the Controller;
- (d) the patentee must be remunerated;
- (e) the scope and duration of the licence shall be limited to the purpose for which it is granted;

³⁴ Patents Act 1992, Part IV, section 70 (1)

³⁵ Patents Act 1992, Part IV, section 70 (2)

³⁶ Patents Act 1992, Part IV, section 73

³⁷ <https://www.ipoi.gov.ie/en/manage-ip/apply/statutory-fees/design-schedule-of-fees.pdf>

- (f) any licence granted due to a demand in the State (Ireland) in respect of a patent which relates to semi-conductor technology shall only be for public non-commercial use;
- (g) the proprietor of the second patent must grant the proprietor of the first patent a cross-licence on reasonable terms.³⁸

Furthermore, any Minister of the Government may apply to the Controller on the grounds given above for granting a compulsory licence under a patent, for an entry in the register of the patent that licences are available as of right.³⁹

Any order made by the Controller under the Patents Act 1992 for the grant of a licence will have effect as if it were executed by the proprietor of the patent and all other necessary parties, granting a licence in accordance with the order.⁴⁰

2.2 Designs – Compulsory licence

Compulsory licences may be granted for registered designs when:

- (a) a demand in the State (Ireland) for a product incorporating the design is not being met or is not being met on reasonable terms; or
- (b) a demand in the State (Ireland) for a product incorporating the design is being met by importation other than from a member of the World Trade Organisation.⁴¹

The applicant for a compulsory licence shall pay the fee which is €310 (as of December 2021). The Controller will notify the proprietor and determine the procedure to be followed before deciding the issue.⁴² An order for the grant of a compulsory licence under a design will have effect as if it were a deed executed by the registered proprietor and all other necessary parties granting a licence in accordance with the order.⁴³

Part 3 – Timing Requirements for obtaining registration at the IPOI

3.1 Patents

³⁸ Patents Act 1992, Part IV, section 70(3)

³⁹ Patents Act 1992, Part IV, section 72

⁴⁰ Patents Act 1992, Part IV, section 75

⁴¹ Industrial Designs Act, 2001, section 49(1)

⁴² Industrial Designs Regulations 2002, section 38

⁴³ Industrial Designs Act, 2001, section 49(2)

3.1.1 Voluntary LOR

The proprietor of the patent may apply for a LOR entry any time after grant of a patent.

3.1.2 Compulsory licence

Any person may request that compulsory licences are available under a patent from three years after the date of grant, however, this period may be changed.

3.2 Designs – Compulsory licence

Any person may apply to the Controller for the grant of a compulsory licence of a registered design any time after registration.

Part 4 – Impact of registering a LOR declaration at the IPOI

4.1 Patents – Voluntary LOR

The impact of registering a LOR declaration is that renewal fees are half of the renewal fees which would be payable if the declaration had not been made.⁴⁴

If, during proceedings for patent infringement, the defendant agrees to take a licence for the patent, no injunction will be granted against him, and the amount recoverable against him by way of damages shall not exceed double the amount which would have been payable as a licensee if such a licence had been granted before the infringement.⁴⁵

4.2 Designs – Compulsory licence

If a LOR for a design is available under a compulsory licence order, and during infringement proceedings the defendant agrees to take a licence:

- (a) no injunction shall be granted against the defendant,
- (b) no order for delivery up shall be made,
- (c) the amount recoverable against the defendant by way of damages or on an account of profits shall not exceed 3 times the amount which would have been payable by the defendant as licensee where a licence on those terms had been granted before the earliest infringement.

Part 5 – Reversal / withdrawal of a LOR declaration

5.1 Patents

⁴⁴ Patents Act 1992, Part IV, section 68(2) (d)

⁴⁵ Patents Act 1992, Part IV, section 68 (2) (c)

5.1.1 Voluntary LOR

Voluntary licences as of right may be reversed by the patent proprietor by applying to the Controller to cancel the LOR entry in the register and paying the balance of the renewal fees that would have been paid if the LOR had never been available,⁴⁶ along with a prescribed fee of €50 (as of December 2021).

The application for cancellation of the entry must state the name and address of the applicant, the number of the patent, and contain a declaration that there are no existing licences under the patent or that all licensees have consented to the cancellation, along with evidence to support the declaration.⁴⁷

In addition to the above, any person may apply to the Controller to have a voluntary LOR entry cancelled, if they provide evidence that the proprietor was, by a contract in which the claimant is interested, precluded from granting licences under the patent at the time the entry was made.⁴⁸ Such an application for cancellation must be made within three months of the relevant entry.⁴⁹

If the Controller is satisfied by the evidence brought forward, the entry will be cancelled and the proprietor must pay the balance of renewal fees which would have been payable. If the proprietor does not pay the balance of fees within two months of the cancellation,⁵⁰ the patent will cease to have effect.⁵¹

After an entry is cancelled, an opposition to the cancellation may be brought by the patent proprietor or by any person⁵² within three months of the cancellation, setting out the grounds for the opposition. A fee of €25 is payable (as of December 2021).⁵³

5.1.2 Compulsory Licences

⁴⁶ Patents Act 1992, Part IV, section 69(1)

⁴⁷ Patents Rules 1992, Part IV, Rule 48 (1)

⁴⁸ Patents Act 1992, Part IV, section 69 (2)

⁴⁹ Patents Rules 1992, Part IV, Rule 48 (2)

⁵⁰ Patents Rules 1992, Part IV, Rule 48 (4)

⁵¹ Patents Act 1992, Part IV, section 69 (3)

⁵² Patents Act 1992, Part IV, section 69 (5)

⁵³ Patents Rules 1992, Part IV, Rule 49

When the grounds for the compulsory licence being granted no longer exist and are unlikely to recur, the compulsory licence may be cancelled.⁵⁴ A fee of €50 (as of December 2021) is payable on application for cancellation.

5.2 Designs – Compulsory Licences

Any person may apply to the Controller for an order amending or cancelling the compulsory licence if the circumstances which led to that order have changed or have ceased to exist and are unlikely to recur.⁵⁵

Part 6 – Requirements for the prospective licensee under the LOR system

6.1 Patents

The IPOI shall be informed of licences⁵⁶ by with the prescribed form “Application to register Licence / Mortgage / Security Interest”.

6.2 Designs

All licences shall be registered at the IPOI.⁵⁷ This should be accompanied by a certified copy of the instrument or document upon which the licence is based⁵⁸ and the prescribed form “Application to Register the recordal of a Design Licence”.⁵⁹

Part 7 – The IPO and dispute resolution regarding licence terms

Patents – Voluntary LOR

The Controller can settle the terms of a LOR in the event of a disagreement.⁶⁰

The proprietor, licensee or a person requiring a licence should apply to the Controller stating their name, address and the patent in question and setting out the details of the situation and the terms of a licence they are prepared to accept or grant. The fee to apply for a settlement of terms of a licence is €250 (as of December 2021).

⁵⁴ Patents Act 1992, Part IV, section 71

⁵⁵ Industrial Designs Act, 2001, section 49(3)

⁵⁶ Patents Act 1992, Part IV, section 85

⁵⁷ Industrial Designs Act, 2001, section 41

⁵⁸ Industrial Designs Regulations 2002, section 32

⁵⁹<https://www.ipoi.gov.ie/en/manage-ip/apply/forms/design-forms/design-application-forms.html>

⁶⁰ Patents Act 1992, Part IV, section 68 (2) (a)

A copy of the application and statement will be sent by the Controller to the other parties who will then have three months to file a counterstatement.

The Controller will give directions as to how to proceed.⁶¹

Part 8 – Relation of the Republic of Ireland’s LOR system to the UPC

The reduction in renewal fees upon filing a statement that a licence is available as of right for a patent under the UP system is 15%.

Part 9 – IPOI: Statistics

9.1 Publication status and contents of the IPOI register

Very limited data is available. However, it is possible to search the IPOI searchable HTML journal database for entries from January 2002 to December 2021.

These entries include the following information:

- Irish Patent Number.
- Technology.
- Validity of Patent.
- Years that renewal fees have been paid under LOR.

9.2 Current registered LOR declarations

There are 12 patents with LOR declarations registered in the Irish Patent Register.

Eight of these are currently in force (though one shows as having overdue renewal fees) and four have lapsed or expired.

9.3 Applications for LOR declarations per year

We do not have access to the number of applications submitted per year to the IPOI for the registration of LOR declarations, only those that have been granted.

9.4 The companies making the most use of the LOR system

Koninklijke Philips Electronics N.V. has registered LOR declarations in respect of 3 patents and so is the highest user of the Irish LOR system.

⁶¹ Patents Rules 1992, Part IV, Rule 47

Roentdek Handels GmbH has registered LOR declarations in respect of 2 patents and so is the second highest user of the Irish LOR system.

9.5 The industries making the most use of the UK LOR system

6 of the patents with registered LOR declarations are mechanical, 4 are IT, 1 is food processing and 1 is biotechnological.

9.6 Estimated change in income at the UKIPO.

The estimated difference in income due to the halving of the renewal fees to the IPOI is €7,264.

No results were returned for compulsory licences of design rights.

Chapter 8 – Table 1. Summary of IPOI Statistics

| Irish Patent No. | Proprietor | Technology | Valid? | Yrs fees paid under LOR | Income change |
|-------------------------|--------------------------------------|-------------------|-----------------------|--------------------------------|----------------------|
| 1592855 | Process Equipment & Design LLC | mechanical | No | None | €0 |
| 85225 | Peter Gerard Curtin | food process | Yes | Years 5-16 | €1391 |
| 1926093 | Koninklijke Philips Electronics N.V. | IT | No | Years 10-17 | €1186 |
| 1440440 | Koninklijke Philips Electronics N.V. | IT | No | Years 12-17 | €967 |
| 1717777 | Winkler, Klaus | IT | Yes (fees overdue) | Years 8-15 | €1014 |
| 1547372 | Koninklijke Philips Electronics N.V. | IT | Yes | Years 12-19 | €1390 |

| | | | | | |
|---------------|----------------------------------|---------------|-----|-------------|--------------|
| 1660361 | Van der Lingen, Theophilus W. | mechanical | No | Years 12-13 | €275 |
| 2376630 | Terranol A/S | biotechnology | Yes | Years 10-13 | €506 |
| 2673423 | Staley, Cyril | mechanical | Yes | Year 9 | €97 |
| 2776705 | Roentdek Handels GmbH | mechanical | Yes | Years 9-10 | €207 |
| 2646271 | LibroDuct GmbH & Co. KG | mechanical | Yes | Year 11 | €121 |
| 2683933 | Roentdek Handels GmbH | mechanical | Yes | Year 10 | €110 |
| Total: | | | | | €7264 |

Chapter 9 – The LOR system in Italy

Information provided by Studio Legale Jacobacci & Associati.

Part 1 – Existence or non-existence of a LOR system

According to Articles 80 and 86 of the Italian industrial Property Code (IPC), the LOR system covers patents and utility models.

Under Article 86, the rules governing the LOR system for utility models are applicable, *mutatis mutandis*, to those provided for patents. Therefore, unless expressly stated otherwise, when discussing the rules governing the LOR system in respect of patents in the following paragraphs, the same shall apply also to utility models (patents and utility models hereinafter jointly referred to as IPR).

Part 2 – Formal Requirements for registration at the Italian Patent and Trade Mark Office (IPTO)

Under Article 80(1) IPC, a LOR declaration can be recorded with the IPTO by the IPR holder / applicant, or by his authorized representative with the IPTO (upon the authorization of the applicant / holder), provided that:

- no exclusive licence has previously been recorded for the same IPR;
- the LOR offered to the public is not for the exclusive use of the IPR.

The IPTO does not provide specific forms to record of the LOR and no payment of government fees is required separately from, or in addition to, other fees that may be due in the application, prosecution of the IPR. The professional fees do not exceed €600.

Part 3 – Timing Requirements for obtaining registration at the IPTO

A LOR declaration can be made at any time during the IPR's lifetime in Italy, including before grant by the IPTO, at the time of the application.

Article 80(1) IPC, provides that a LOR declaration can be made by the patent holder or the applicant, or by their professional representatives (the same applies to utility models).

Once the LOR declaration is made, it is registered on the original copy of the application, is entered in the patent / utility model register and published in the IPTO Bulletin.

Part 4 – Impact of registering a LOR declaration at the IPTO

As per Article 80(5), the LOR declaration, in Italy, confers to the IPR holder / applicant the right to a 50% reduction of the annual renewal fee. Conversely, said declaration has no impact on enforcement remedies, nor it is beneficial (or detrimental) to the IPR holder / applicant in any other way whatsoever.

The limited benefits associated with a LOR declaration are likely to be among the causes for which the LOR system seems to have met with very little success in Italy.

Part 5 – Reversal / withdrawal of a LOR declaration

The LOR declaration is reversible in Italy. The IPC, however, provides little guidance as to the revocation procedure. In this regard, Italian scholars (including the author of this Chapter 962) qualify the LOR as an offer to the public, pursuant to Article 1336 of the Italian Civil Code, and, therefore, it is subject to the revocation requirements provided in said article.

The LOR declaration, as any other offer to the public, can be revoked at any time by the IPR holder / applicant, provided the revocation takes place in the same form as the offer. In the case of a LOR declaration, plausibly by filing a request with the IPTO to:

- enter the revocation in the IPR register; and
- publish it in the IPTO Bulletin.

With regard to the direct effect of the revocation, Article 80(6) IPC provides that the effects of the LOR declaration – i.e. the halving of annual renewal fees – continue until the same is revoked. Considering that nothing is said with regard to the retroactive payment of previously reduced fees, and in the absence of relevant case law addressing this point, it is considered that following the revocation the annual fees are due in full by the IPR holder / applicant who is not required, however, to pay the previously reduced fees retroactively.

⁶² Mr Fabrizio Jacobacci of Jacobacci & Associati <https://www.jacobacci-law.com>

With regard to the general effects of the revocation of an offer to the public according to Article 1336 of the Italian Civil Law Code, however, said revocation does not affect the rights acquired by third parties by accepting the offer at the time it was still valid. In the absence of any additional piece of legislation, as well as of Italian case law and / or legal doctrine addressing the issue, some doubts arise when assessing whether this rule aimed at protecting third parties' rights should apply also in case of revocation of a LOR declaration. If so, the Licence plausibly acquired by a third party – having accepted the offer – would remain valid and binding on both parties even after the revocation of the declaration.

Part 6 – Requirements for the prospective licensee under the LOR system

The IPC does not provide any requirement for the prospective licensee's offer procedure. Indeed, in the light of the referral to the offer to the public legal framework (Article 1336 Italian Civil Law Code), if the LOR declaration contains all essential terms for the validity of the contract, the prospective licensee can accept by means of the notification of acceptance to the IPR holder / applicant.

In addition, according to Article 80(2) IPC, the Licence of Right takes effect as soon as the IPR holder receives the notification of the acceptance of the offer. The immediate binding nature of the agreement is not affected by the circumstance that such third party did not accept the licence fee indicated in the declaration. In such case, a board of arbitrators appointed in accordance with Art. 80(3) IPC will determine the licence fee.

There is no prescribed form to notify the acceptance of the Licence (in this regard, the lack of a well-structured procedure might be due to the poor – if non-existent – use of the LOR system in Italy). In the absence of additional piece of legislation, as well as of Italian case law and / or legal doctrine addressing the issue, the notification from the prospective licensee should be made directly with the IPR holder.

Part 7 – The IPO and dispute resolution regarding licence terms

With regard to disagreements and / or conflicts between the IPR holder and the prospective licensee concerning the terms of the Licence, the IPC provides for an arbitration procedure only in respect of a dispute concerning the licence fee. Such dispute

may arise at the time of acceptance of the offer, in the event the prospective licensee is not willing to accept the licence fee requested or after conclusion of the agreement if supervening factual circumstances have shown a “clear inadequacy of the previously set fee” (Art. 80(4) IPC), which has then to be modified.

A Board of Arbitrators determines the licence fee or its modification. Said Board consists of three members, one appointed by each party and the third appointed by mutual agreement between them. In the absence of the agreement, the third member is appointed by the President of the IPTO Board of Appeal. The Arbitration Board must rule over the case and assess a fair royalty / licence fee based on an equitable evaluation (Article 80(3) IPC). If the assessment of the price is clearly unfair or erroneous, or in the event one of the parties refuses to appoint its arbitrator, the determination shall be made by the Court. According to Article 80(4) IPC, the same dispute resolution procedure is offered to the parties where particular circumstances have occurred, resulting in a clear inadequacy of the previously set price, which therefore has to be modified.

In the absence of any other piece of legislation and relevant case law addressing the issue, the Court – and, in particular, the Specialized Business Section – shall have jurisdiction over any other disputes arising between the IPR holder and the licensee or prospective licensee with regard to the LOR.

Part 8 – Relation of the Italian national system to the UPC

In the light of the very limited set of rules provided by the IPC and by Regulation N. 1257/2012 in relation to the LOR and the lack of pertinent Italian case law addressing it, we did not identify major differences between the procedures and requirements in our jurisdiction and the rules of the UP.

Under this point of view, in particular, we note that the UP (administered by the EPO) and the IPTO LOR system are different in the following aspects:

- The EPO provides the UP proprietors with a dedicated form, Form 7001, to file their Licence of Right declaration with the Office, while, as said, it seems that the IPTO does not provide IPR holder / applicant with such a form.

- Renewal fees for a UP which fall due after receipt of a statement under Rule 12(1) UPR are reduced by 15% (see Article 3 RFeesUPP) – as well as any additional fee for belated payment of a renewal fee (Rule 13(3) UPR and Article 2(1), item 2, RFeesUPP), which will be calculated on the basis of the reduced renewal fee. Conversely, as said, an Italian IPR subject to a Licence of Right system benefits a reduction of 50% of the renewal fees due after the receipt of the declaration, as per Article 80 (5) IPC.

- The EPO provides the UP proprietors with a dedicated form for the withdrawal of their Licence of Right statement, Form 7002, and said withdrawal takes effect only after the IPR holder has paid the amount by which previous renewal fees had been reduced (Rule 12(2) UPR). Conversely, as explained in Part 4 above, IPTO does not seem to be providing special form for the withdrawal of the declaration, nor it is requested to the IPR holder / applicant to pay retroactively the previously reduced fees.

Part 9 – IPTO: Statistics

There is no register of LOR declarations yet from which one may draw information. It is not possible, therefore, to provide statistics on the number of LOR declarations that have been registered in Italy, nor any detail concerning the corresponding IPRs and the companies or industry sectors who make the greatest use of said system in respect of their IPR.

Anecdotal evidence indicates that the LOR system is scarcely used, if at all, in Italy – plausibly because the reduction of renewal fees is a poor incentive for the IPR holder.

Chapter 10 – The LOR system in Latvia

Information provided by Tria Robit Agency.

Part 1 – Existence or non-existence of a LOR system

The LOR declaration system in Latvia covers Patents and Designs.

Part 2 – Formal Requirements for registration at the Patent Office of the Republic of Latvia (LRPV)

The only requirement is that a request should be filed to the LRPV for publication of a LOR declaration. There are no specific forms or fees in the registration / application process. The resulting licence agreements, if any, are to be registered according to standard procedure.

Part 3 – Timing Requirements for obtaining registration at the LRPV

3.1 Patents

Latvian Patent Law allows owner of a patent to register a LOR declaration, but the Law does not mention registration before the grant of a patent. Therefore, a LOR declaration can be registered only after the grant of a patent.

The declaration regarding the readiness to grant the open licence cannot be filed if there is an entry regarding the exclusive licence in the Patent Register or the LRPV has received a request to register an exclusive licence.

3.2 Designs

A LOR declaration may be submitted before the LRPV by the owner of a design or applicant of a design concurrently with the application or during the examination.

Part 4 – Impact of registering a LOR declaration at the LRPV

4.1 Patents

Following the publication of a LOR declaration, the fee of the current year for the maintaining the patent in force is reduced by 50%.

The licensee can bring a claim to court regarding an illegal use of a patent only with the consent of the owner of the patent.

4.2 Designs

From the day of submitting of a LOR declaration to the Latvian IPO the fees specified for further activities shall be reduced by 50%. The licensee can bring a claim to court regarding an illegal use of a design only with the consent of the owner of the design.

Part 5 – Reversal / withdrawal of a LOR declaration

5.1 Patents

A LOR declaration may be withdrawn at any time by filing a request to the LRPV with a condition that the owner of the patent is not informed regarding the wish to use the invention.

The withdrawal shall come into force on the day when the LRPV publishes the notification regarding the relevant request in the Official Gazette of the Patent Office.

The fee of the current year reduced by 50% shall be paid in full within one month from the date of withdrawal of the licence.

5.2 Designs

A LOR declaration may be withdrawn at any time by filing a request to the LRPV with a condition that the owner of the design is not informed regarding the wish to use the design.

If a LOR declaration is withdrawn, the fees shall be paid in full amount.

Part 6 – Requirements for the prospective licensee under the LOR system

There are no requirements for the prospective licensee's offer procedure and there are no prescribed forms.

A licensee must contact the IPR holder directly without involvement of the LRPV.

Part 7 – The IPO and dispute resolution regarding licence terms

All disputes between the IPR holder and the prospective licensee can be settled only before the Civil court.

There are no special procedures before the LRPV.

Part 8 – Relation of Latvia’s LOR system to the UPC

The main difference between Latvian system and Unitary Patent Convention is associated with fees. In Latvia the fee of the current year for the maintaining the patent in force is reduced by 50%, but Unitary Patent Convention determines that the renewal fees, which fall due after receipt of a statement, must be reduced by 15%.

Part 9 – LRPV: Statistics

Unfortunately, there is no register of LOR declarations published at the LRPV.

It is possible to file a request for information from the LRPV, but this will attract additional and unknown costs (official fees for information).

However, we have been able to find out that as of 27 December 2021 there are no LOR declarations for designs in force.

There are an unknown number of LOR declarations for patents, but without filing the aforementioned requests to the LRPV, we cannot provide any information about these patents.

Chapter 11 – The LOR system in the Republic of Lithuania

Information provided by AAA Law UAB.

Part 1 – Existence or non-existence of a LOR system

The LOR system in Lithuania covers only granted Patents, but not trade marks or designs.

Part 2 – Formal Requirements for registration at the State Patent Bureau of the Republic of Lithuania (SPB)

The patent proprietor should file a request to the SPB that he is prepared to allow any person to exploit the invention with a licensee's rights in return for a certain consideration. In such case, the annual fee for the patent validity shall be reduced by 50%.

The SPB shall refuse to accept the request where an exclusive patent licence granted by the proprietor of the patent for the same invention is already entered in the Register of Patents of the Republic of Lithuania

The request of the proprietor of the patent shall be published in the Official Bulletin of the SPB.

There is no specific form provided or official fees involved in the registration / application process.

Part 3 – Timing Requirements for obtaining registration at the SPB

There are no timing requirements for registration of a LOR declaration in respect of the lifetime of the patent. A LOR declaration cannot be registered before the grant of a patent.

Part 4 – Impact of registering a LOR declaration at the SPB

In case a LOR declaration is registered, the annual fee for the patent validity shall be reduced by 50%.

No provisions regarding impact of registering a LOR declaration on enforcement remedies are provided by the Patent Law of the Republic of Lithuania and there are no specific court practices regarding this issue.

Part 5 – Reversal / withdrawal of a LOR declaration

The proprietor of the patent may withdraw the request for a LOR at any time upon written notification to the SPB, provided that no one has previously informed the SPB in writing of the intention to exploit such invention. There is no retroactive impact on previously reduced fees.

Information about revocation of the request shall be published in the Official Bulletin of the SPB.

Part 6 – Requirements for the prospective licensee under the LOR system

A person who wishes to exploit the licence of right of right may submit a request to the SPB for the use of the license of right. Any licence so obtained shall be treated as non-exclusive.

As long as a patent has a LOR declaration registered against it, the SPB will refuse to enter an exclusive licence for the same invention, against that patent into the Register of Patents of the Republic of Lithuania – unless the LOR declaration is first withdrawn.

Part 7 – The IPO and dispute resolution regarding licence terms

No dispute resolution procedure in the event of disagreement or conflict between the patent holder and the prospective licensee, particularly regarding the terms of the licence is provided by the Lithuanian SPB. The parties of the licence agreement should refer to the court in case of a conflict.

Part 8 – Relation of the Republic of Lithuania's LOR system to the UPC

We are aware that the rules of the UP provide for the proprietor of a European Patent with unitary effect a right to file a statement with the EPO to the effect that the proprietor is prepared to allow any person to use the invention as a licensee in return for appropriate consideration. A licence obtained under this Regulation shall be treated as a contractual licence.

Part 9 – SPB: Statistics

9.1 Publication status and contents of the SPB register

There is no register of LOR declarations, and we cannot search them in the official patent database as well as the declarations are published only in the official bulletins of the SPB.

9.2 Current registered LOR declarations

We asked the SPB to provide statistics on the registered declarations (see Chapter 11 – Table 1 below) There have been 30 declarations registered in respect to national patents and 1 in respect to a European Patent.

Chapter 11 – Table 1. LOR declarations registered between 2002 – 2012

| Patent No. | Proprietor | Title of the invention | Publication |
|------------|--------------------------|--|-------------|
| 4098 | UAB Pharmcos | The medicative extract | 2002-05-27 |
| 4916 | Accel Elektronika | A sensor of intensity and a direction of a light source | 2002-06-25 |
| 4683 | Accel Elektronika | A method for measuring a rotational speed of a direct current engine | 2002-09-25 |
| 3031 | UAB Pharmcos | Composition of extract | 2002-12-30 |
| 4963 | Accel Elektronika | A luminous intensity transducer | 2003-01-27 |
| 4503 | Bioprocesas | Device for removing oily substances from sewage | 2004-07-26 |
| 3917 | Romaldas Sukarevičius | Explosive composition and process for preparing thereof | 2004-08-25 |
| 4730 | Vidmantas Unguraitis | A packing automatic device and a method | 2005-02-25 |
| 4629 | Arūno Medelio Imonė | Mechanical pushing device used like self-feed truck | 2005-07-25 |
| 5100 | Jevgenij Bugajec | An amplifier for a spark of a striking plug | 2006-05-25 |
| 5131 | Jevgenij Bugajec | Spark plug | 2006-06-27 |
| 5170 | Dalius Repčys | A reinforced package | 2006-06-27 |

| | | | |
|-----------|--|---|------------|
| 5258 | Dalius Repčys | A carpet | 2006-10-25 |
| 5471 | Remigijus Guobys | Additional safe device of a lock | 2008-06-25 |
| 5460 | Tomas Linkevičius | Tooth prosthesis system and method for making thereof | 2009-04-27 |
| 5114 | Vizualinių Komunikacijų Studija | Container with feeding device for cigarette boxes or like to it | 2010-12-27 |
| 5183 | Boris & Marina Stepanova | Method for processing meat product and the product obtained by this method | 2011-01-25 |
| 5363 | Herbertas Vinkleris | Gearwheel mechanism for the conversion of elliptical or rectilinear motion into rotary motion and vice versa | 2011-01-25 |
| 5398 | Herbertas Vinkleris | Piston mechanism without connecting rod | 2011-01-25 |
| 5364 | Herbertas Vinkleris | External gearing mechanism for the conversion of elliptical or rectilinear motion into rotary motion and vice versa | 2011-01-25 |
| 5483 | Herbertas Vinkleris | Piston mechanism without connecting rod | 2011-07-25 |
| 5380 | Herbertas Vinkleris | Piston mechanism without connecting rod | 2012-01-25 |
| EP1731697 | Mottura Serrature di Sicurezza S.p.A | Safety lock for doors of dwellings or the like | 2012-06-25 |
| 5348 | Rimantas Pleikys | Method and system of data storage | 2012-10-25 |
| 5274 | Jonas Čepurna | System for security of property | 2013-01-25 |
| 5531 | Saulius Goceikis & Vasilij Lenskij | A multipolar oscillation circuit | 2014-01-27 |
| 5288 | Gerva | Method of regeneration of ion exchange cartridge, ion exchange filter or potable | 2014-04-25 |

| | | | |
|------|------------------------------------|--|------------|
| | | water and means for denitrification of potable water | |
| 5531 | Saulius Goceikis & Vasilij Lenskij | A multipolar oscillation circuit | 2016-01-11 |
| 5672 | UAB Archiprojektas | Flight of stairs and method of construction thereof | 2017-02-10 |
| 6372 | Jonas Grudzinskas | Sleep mask | 2018-12-27 |
| 6249 | Audrius Klimkevičius | Remote control locking mechanism for lever handle door | 2021-05-25 |

9.3 Applications for LOR declarations per year

The table below sets out the numbers of LOR registrations made per year between 2002 and 2021.

Chapter 11 – Table 2. LOR registrations per year between 2002 – 2021

| Year | No. LOR | Year | No. LOR |
|-------------|----------------|-------------|----------------|
| 2002 | 4 | 2012 | 3 |
| 2003 | 1 | 2013 | 1 |
| 2004 | 2 | 2014 | 2 |
| 2005 | 2 | 2015 | 0 |
| 2006 | 4 | 2016 | 1 |
| 2007 | 0 | 2017 | 1 |
| 2008 | 1 | 2018 | 1 |
| 2009 | 1 | 2019 | 0 |
| 2010 | 1 | 2020 | 0 |
| 2011 | 5 | 2021 | 1 |

9.4 The companies making the most use of the LOR system

Accel Elektronika and UAB Pharmacos have both registered LOR declarations in respect of 2 patents making them the 2 highest users of the Lithuanian LOR system. However, the remaining LOR declarations appear to have generally been registered by individuals.

9.5 The industries making the most use of the LOR system

Field of mechanical engineering dominates. Validity of some patents has expired.

Annex to Chapter 11 – The LOR system in the Republic of Lithuania

Please find below a relevant extract from the Patent Law of the Republic of Lithuania.

Article 46. Licence of right

1. The proprietor of a patent may submit a request to the State Patent Bureau that he is prepared to allow any person to exploit the invention with a licensee's rights in return for a certain consideration. In such case, the annual fee for the patent validity shall be reduced by 50%.

2. The State Patent Bureau shall refuse to accept the request referred to in paragraph 1 of this Article where an exclusive patent licence granted by the proprietor of the patent for the same invention is already entered in the Register of Patents of the Republic of Lithuania.

3. The proprietor of the patent may withdraw the request referred to in paragraph 1 of this Article at any time upon written notification to the State Patent Bureau, provided that no one has previously informed the State Patent Bureau in writing of the intention to exploit such invention.

4. A person who wishes to exploit the licence of right of right may submit a request to the State Patent Bureau for the use of the license of right. Any licence so obtained shall be treated as non-exclusive.

5. Upon the receipt of a person's request for use of the licence of right, the State Patent Bureau shall have no right to enter into the Register of Patents of the Republic of Lithuania an exclusive patent licence issued for the same invention, except where request referred to in paragraph 1 of this Article later is withdrawn.

6. The request of the proprietor of the patent referred to in paragraph 1 of this Article and information about revocation of the request shall be published in the Official Bulletin of the State Patent Bureau.

Chapter 12 – The LOR system in Luxembourg

Information provided by Office Freylinger.

Part 1 – Existence or non-existence of a LOR system

In the jurisdiction of Luxembourg, the LOR system only covers Patents.

The legal grounds can be found in the *Law of the 20th July 1992 on the modification of the patent regime for invention*, more specifically in Art. 56 Licence of Right.⁶³

Part 2 – Formal Requirements for registration at the Luxembourg IPO (Luxembourg OPI)

To register a LOR the patent holder must give a written statement to the Luxembourg OPI that he is willing to allow any interested party to use the invention, as a licensee, against payment of an adequate royalty.

The declaration cannot be submitted when an exclusive licence is registered in the register or when an application for the registration of such a licence is filed with the Luxembourg OPI.⁶⁴

Once the parties have entered into the licence agreement, a scanned copy of the agreement signed by both parties is then sufficient for registration. The official fee to register a licence is 7 EUR per patent, it takes between 2 and 7 days for the registration to be done.

Part 3 – Timing Requirements for obtaining registration at Luxembourg OPI

LORs can be registered before a grant of patent if the conditions of Art. 35 of the *Law of the 20th July 1992 on the modification of the patent regime for invention* are met.

This means that 18 months from the filing date of the patent application or, if priority has been claimed, from the priority date the applicant must prove that a request for a search report has been made by a body designated by Grand Ducal Decree.

A request for the drawing up of a search is only admissible accompanied by a proof of payment of the search fees.

⁶³ Loi du 20 juillet 1992 portant modification du régime des brevets d'invention.

⁶⁴ Art 56 Loi du 20 juillet 1992 portant modification du régime des brevets d'invention.

LOR declarations cannot be submitted however, when an exclusive licence is registered in the register or when an application for the registration of such a licence is filed with the Luxembourg OPI.

Part 4 – Impact of registering a LOR declaration at the Luxembourg OPI

Art. 56.1 of the *Law on the modification of the patent regime for invention* indicates that the annual fees for the maintenance of the patent application or patent due after the receipt of the LOR declaration shall be reduced.

The amount of the reduction is determined by the *Grand-Ducal Decree of November 17, 1997, Determining the Fees and Remuneration to be Charged for Patents*. This Decree states that the annual fees payable in respect of the patent application, the patent and the supplementary protection certificate shall be reduced by 50%.

Art 56.5 provides that in the absence of an agreement between the parties, the amount of the appropriate royalty will be fixed by the court, which may modify it, at the request of one of the parties, if facts have arisen or become known which would make the amount appear to be grossly inadequate. The licensee may at any time renounce the licence.

Part 5 – Reversal / withdrawal of a LOR declaration

Any LOR declaration may be withdrawn at any time by a written declaration addressed to the Luxembourg OPI, provided that the patent owner has not yet been informed of the intention to use the invention. The withdrawal of the LOR declaration takes effect from the date of the filing of the written declaration requesting the withdrawal.

In the case of a withdrawal of the LOR declaration, the global amount of the reduction of the annual fees for the years that have passed would have to be paid back. The amount of the reduction of the annual fees shall be paid within one month of the withdrawal.

If the payment of an annual fee has not been made by the due date, such fee may still be validly paid within six months of the due date, subject to the concurrent payment of a surcharge.

Part 6 – Requirements for the prospective licensee under the LOR system

According to the Luxembourg OPI there are no pre-existing requirements for the prospective licensee offer procedure. Regarding this point, the Luxembourg OPI indicated that direct contact can be made to the IPR holder or through the Luxembourg OPI by letter.

Part 7 – The IPO and dispute resolution regarding licence terms

The Luxembourg OPI offers no dispute resolution procedure. If the parties can't come to an agreement, the dispute must be settled in court.

Art 56.5 in particular, provides that where the parties are unable to reach an agreement, the amount of the appropriate royalty will be fixed by the court. Furthermore, if facts have arisen or become known which would make the amount appear to be grossly inadequate, either party may request that the court modify it.

Finally, the licensee may at any time renounce the license.

Part 8 – Relation of Luxembourg's LOR system to the UPC

The main difference between Luxembourg's LOR system and the system set out for UPs, is that Luxembourg's system provides for a 50% reduction in renewal fees whereas the UPC only provides for a 15% reduction.

Part 9 – Luxembourg OPI: Statistics

According to our research and the national IPO a register of LOR can be found on the Luxembourg OPI website at patent.portal.lu.⁶⁵ Nevertheless, since there are no licences registered under this system no statistics can be provided.

⁶⁵ <https://patent.public.lu/fo-eregister-view/search>

Chapter 13 – The LOR system in Malta

Information provided by Salomone, Sansone & Co.

Part 1 – Existence or non-existence of a LOR system

Patent law in Malta is regulated in the Patents and Designs Act (Cap. 417 of the Laws of Malta), and in subsidiary legislation derived therefrom.

Malta's LOR system is primarily set out in Part XI of Cap. 417, consisting of Articles 39 and 40. These Articles have been set out below for reference while reviewing Parts 2 – 9 of this Chapter. The Articles are also published on Malta's national legislation site.⁶⁶ (n.b.: in the case of a discrepancy between the text in English and the text in the national language which is Maltese, the text of the latter prevails. This said there are no particular discrepancies of notable relevance between the two texts).

Malta's LOR system is solely licensee driven – there is no scope for a patent proprietor to register a declaration against their patent, stating that they will not refuse to grant a licence of that patent on application by a prospective licensee. Rather, prospective licensees have the option to apply directly to the Comptroller to direct the grant of a non-voluntary licence in respect of any qualifying patent.

There are no similar provisions in respect of any other IPR under the Trademarks Act, Cap. 597 Laws of Malta, Patents and Designs Act, Cap. 417 Laws of Malta or Copyright Act, Cap. 415 Laws of Malta does not contain any provisions in this regard.

Part XI of Cap. 417 – Article 39

- (1) The Civil Court, First Hall, may, on a sworn application filed by any person who proves his ability to work the patented invention in Malta, made after the expiration of a period of four years from the date of filing the application for the patent or three years from the grant of the patent, whichever is later, direct the Comptroller to grant a non-exclusive, non-voluntary licence if the patented invention is not worked or is insufficiently worked in Malta.

⁶⁶ <https://legislation.mt/eli/cap/417/eng> & <https://legislation.mt/eli/cap/417/20141214/mlt>,

- (2) The grant of the non-voluntary licence shall be subject to the payment of such equitable remuneration to the proprietor of the patent as may be determined by the Civil Court, First Hall, and may be permitted if, prior to the institution of such proceedings, the proposed user has made efforts to obtain authorization from the right holder on reasonable commercial terms and conditions and if such efforts have not been successful within a reasonable period of time.
- (3) Notwithstanding sub article (1), a non-voluntary licence shall not be granted if the Court is convinced that circumstances exist which justify the non-working or insufficient working of the patented invention in Malta.
- (4) In deciding whether to grant a non-voluntary licence, the Court shall give both the proprietor of the patent and the person requesting the non-voluntary licence an adequate opportunity to present arguments according to the provisions of the Code of Organization and Civil Procedure.
- (5) Any non-voluntary licence shall be revoked when the circumstances which led to its granting cease to exist, taking into account the legitimate interests of the proprietor of the patent and of the licensee. The continued existence of these circumstances shall be reviewed upon the request of the proprietor of the patent by sworn application before the Civil Court, First Hall.
- (6) Article 27(3)(a) of this Act shall be interpreted in the sense that if the patented product is put on the market by a licensee pursuant to a non-voluntary licence, it will not be deemed to have been put on the market with the express consent of the proprietor of the patent.
- (7) The scope and duration of a non-voluntary licence shall be limited to the purpose for which it was authorised and shall be:
 - (a) non-exclusive,
 - (b) non-assignable, except with that part of the enterprise or goodwill which enjoys such authorisation,
 - (c) terminated if and when the circumstances which led to it cease to exist, and
 - (d) predominantly for the supply of the domestic market.

- (8) The Civil Court, First Hall, may on a sworn application filed by the owner of a patent (the second patent) which cannot be exploited without infringing an earlier patent (the first patent), direct the Comptroller to grant a non-exclusive, non-voluntary licence provided that:
- (i) the invention claimed in the second patent shall involved an important technical advance of considerable economic significance in relation to the invention claimed in the first patent;
 - (ii) the owner of the first patent shall be entitled to a cross-licence on reasonable terms to sue the invention claimed in the second patent; and
 - (iii) the use authorised in respect of the first patent shall be non-assignable except with the assignment of the second patent.

- (9) Where a breeder cannot acquire plant variety protection or exploit a plant variety without infringing a prior patent, he may apply to the Civil Court, First Hall, for a compulsory licence for non-exclusive use of the invention protected by the patent in so far as the licence is necessary for the exploitation of the plant variety to be protected, subject to payment of an appropriate royalty. Where such a licence is granted, the holder of the patent will be entitled to a cross-licence on reasonable terms to use the protected variety:

Provided that an applicant for a licence referred to in above shall demonstrate that:

- (a) he had applied unsuccessfully to the holder of the prior patent to obtain a contractual licence;
 - (b) the plant variety constitutes significant technical progress of considerable economic interest compared with the invention claimed in the prior patent.
- (10) Where the holder of a patent concerning a biotechnological invention cannot exploit it without infringing a prior plant variety right, he may apply for a compulsory licence for non-exclusive use of the plant variety protected by that right, subject to payment of an appropriate royalty. Where such a licence is granted, the holder of the variety right will be entitled to a cross-licence on reasonable terms to use the protected invention:

Provided that an applicant for a licence referred to in above shall demonstrate that:

- (a) he had applied unsuccessfully to the holder of the prior plant variety right to obtain a contractual licence;
- (b) the invention constitutes significant technical progress of considerable economic interest compared with the plant variety protected by the prior plant variety right.

- (11) With regard to plant variety protection sub articles (9) and (10) shall only come into force when the relevant form of plant variety protection comes into force as provided in article 4(5)(e).

Part XI of Cap. 417 – Article 40

- (1) Where the national security or public safety so requires, the Minister may authorise, even without the agreement of the proprietor of the patent or the patent application, by notice published in the prescribed form, a Government agency or a person designated in the said notice to make, use or sell an invention to which a patent or an application for a patent relates, subject to payment of equitable remuneration to the proprietor of the patent or the application for the patent.
- (2) The conditions set out in article 39(7) and (8) shall also apply in respect of an authorisation issued by the Minister under this article.
- (3) Any decision taken by the Minister under this article may be the subject of an appeal in an action by sworn application before the Civil Court, First Hall.

Part 2 – Formal Requirements for registration at the Intellectual Property Office of Malta - Industrial Property Registrations Directorate (MIPO)

The way forward in any of the instances contemplated in art. 39 is by means of an application filed before the First Hall of the Civil Court of Malta, i.e. a court of first instance. For the purposes of any action in terms of ss. (1), (5) and (8) the procedure is by sworn application, while for the purposes of ss. (9) and (10) the procedure is initiated by application (which does not need to be sworn).

The way forward in the instance contemplated in art. 40 is by means of a sworn application filed before the First Hall of the Civil Court of Malta, i.e. a court of first instance.

As far as the author is aware however, there has never been any such case in Malta and therefore there is no precedent from which to better understand how fees / costs may be calculated.

By way of a rough estimate, one would imagine that professional fees charged out by this firm to any applicant wishing to pursue an action under art. 39 or 40, would range from EUR 6,500 – 10,000 while court costs would amount to approximately EUR 1200 (procedure by sworn application) / EUR 600 (procedure by application) and legal procurator fees would be in the region of EUR 250. Administration costs in the approximate amount of EUR 350-650 should also be factored in.

Part 3 – Timing Requirements for obtaining registration at MIPO

The action contemplated in art. 39(1) requires, as a minimum (a) a patent application and (b) lapse of 4 years from the date of filing the application for the patent or 3 years from the grant of the patent, whichever is later.

Each of the actions contemplated in art. 39(8), (9) and (10) requires, as a minimum, an “earlier patent” without distinguishing between “application” and “registration”, however in the absence of judicial interpretation in this regard it is submitted that, by virtue of the definition of “patent” contained in art. 2 of Cap. 417 (“patent” means the exclusive right granted by the Comptroller in terms of the provisions of this Act”), the reference must be to a GRANTED patent, i.e. a patent registration and not a mere patent application;

The action contemplated in art. 40 may be directed in respect of either a patent application or a patent registration.

Part 4 – Impact of registering a LOR declaration at MIPO

Maltese law is silent on this issue, hence suggesting no impact in this regard. Thus for instance, annuity fees need to be normally paid out by the patentee.

This said, with regard to an art. 39(1) action, it could perhaps be possible that the Court takes these issues into account when deciding on the issue of “equitable remuneration”.

Part 5 – Reversal / withdrawal of a LOR declaration

If granted (after taking into account the patentee’s submissions in terms of art. 39(4)), a LOR granted on an art. 39(1) action may be reversed or altered under art. 39(5) – namely, where the patent proprietor commences or recommences the working of their invention.

For each of the actions contemplated in art. 39(8), (9) and (10), the law is strangely silent, while for the art. 40(1) action there is a right of appeal on the patentee’s part in terms of art. 40(3).

Part 6 – Requirements for the prospective licensee under the LOR system

In the court action contemplated in art. 39(1) the applicant / proposed user / prospective licensee must prove, under art. 39(2) to have made efforts to obtain authorization from the right holder on reasonable commercial terms and conditions and if such efforts have not been successful within a reasonable period of time. There is no prescribed form as to how the “efforts” are to be advanced, and the law clearly indicates direct contact made to the patentee.

In the court actions contemplated in art. 39(8) and (9) and in the action contemplated in art. 40(1), the law is silent on any procedures to be followed prior thereto.

Part 7 – The IPO and dispute resolution regarding licence terms

No, the law is silent across the board in this regard.

Part 8 – Relation of Malta’s LOR system to the UPC

There are several differences between the LOR system of Malta and the rules regarding LORs under the UP, namely where the UP includes provisions where there are no equivalents under Maltese law.

Section F.III. Statement on licences of right, paragraph 118 of the Unitary Patent Guide states:

“Unitary Patent proprietors may file a statement with the EPO to the effect that they are prepared to allow any person to use their invention as a licensee in return for appropriate consideration (Article 8(1) Regulation (EU) No 1257/2012 and Rule 12(1) UPR).

A licence obtained under the system of licences of right will be treated as a contractual licence (Article 8(2) Regulation (EU) No 1257/2012).

The statement will be entered in the Register for Unitary Patent Protection free of charge.”

No provision analogous to paragraph 118 exists under Maltese law.

Section F.III. Statement on licences of right, paragraph 119 of the Unitary Patent Guide states that renewal fees for a UP which fall due after receipt of a statement under Rule 12(1) UPR will be reduced by 15% (see Article 3 RFeesUPP). Any additional fee for belated payment of a renewal fee (Rule 13(3) UPR and Article 2(1), item 2, RFeesUPP) will be calculated on the basis of the reduced renewal fee.

No provision analogous to paragraph 119 exists under Maltese law.

Section F.III. Statement on licences of right, paragraph 121 of the Unitary Patent Guide states:

“Proprietors may withdraw their statement at any time by filing a communication to this effect with the EPO. Such withdrawal will however take effect only if the amount by which the renewal fees were reduced is paid to the EPO.” (Rule 12(2) UPR).

No provision analogous to paragraph 121 exists under Maltese law.

Section F.III. Statement on licences of right, paragraph 122 of the Unitary Patent Guide states:

“... a request for recording of an exclusive licence in the Register for Unitary Patent Protection is no longer admissible once a statement on a licence of right has been filed, unless that statement is withdrawn” (Rule 12(4) UPR).

No provision analogous to paragraph 122 exists under Maltese law.

Part 9 – MIPO: Statistics

There is no database or register which provides any information on licenses obtained under the provisions of Article 39 or 40 of Part XI of Cap. 417. It is therefore not possible to supply any statistical analysis of such licences as requested.

Chapter 14 – The LOR system in San Marino

Information provided by Studio Legale Jacobacci & Associati.

Part 1 – Existence or non-existence of a LOR system

According to Articles 110 of the Law No. 79 of 25 March 2005, “Consolidated text on Industrial Property”, the LOR system – “Public Offer”, as referred to in the Law – only covers patents in San Marino.

Part 2 – Formal Requirements for registration at the IPO of the Republic of San Marino (USBM – Ufficio di Stato brevetti e Marchi)

The Consolidated text on Industrial Property does not provide for particular formal requirements. A Public Offer (the term used for a LOR declaration in the Republic of San Marino) against an identified IPR can be registered in the Republic of San Marino provided that:

- no exclusive licence has previously been registered for the same IPR;
- the Licence offered to the public is not for the exclusive use of the IPR.

The Public Offer must be filed in writing with the USBM. Article 110(1) of the Law No. 79 of 25 March 2005 provides that the Offer is made by the IPR holder / applicant; it is plausible, however, that the same could be also filed by the IP professional which is allowed to represent the IPR holder / applicant before the IPO, as it happens in the Italian jurisdiction.

With regard to the filing procedure, although the USBM expressly has the right to provide IPR holder / applicant with specific forms to perform some activities / comply with set terms with the IPO, at the present it seems that no specific form has been set up for the filing of the Public Offer (LOR declaration). Similarly, no specific government fee seems to be involved in the registration / application process, other than those ordinarily involved in the application / prosecution except the costs of the professional representative’s activities with the IPO.

Part 3 – Timing Requirements for obtaining registration at the USBM

A Public Offer can be made at any time during the IPR's lifetime in the Republic of San Marino, even at the time of the application, before the same is granted by the Office. Article 110(1), Law No. 79 of 25 March 2005, in fact, allows the Public Offer to be made by both the patent holder and the applicant for a patent.

Once the LOR declaration is made, it is registered on the original copy of the application, is entered in the patent register and published in the USBM Bulletin (Article 110(5), Law No. 79 of 25 March 2005).

Part 4 – Impact of registering a LOR declaration at the USBM

As per Article 110(4), the Public Offer (LOR declaration) in the Republic of San Marino confers to the IPR holder / applicant the right to a 50% reduction of the annual renewal fee.

In particular, Article 110(5) clearly provides that where the Public Offer (LOR declaration) is made after the filing of the patent application, the reduction shall cover only the renewal fees of the years following the communication of the Offer. Conversely, said declaration has no impact over the enforcement remedies, nor its benefits, or is detrimental to, the IPR holder / applicant in any other manner.

The limited benefits associated with the Public Offer are likely to be among the reasons explaining why the LOR system has apparently never been used in the Republic of San Marino.

Part 5 – Reversal / withdrawal of a LOR declaration

Yes, the LOR declaration is reversible in the Republic of San Marino.

Article 110(4) indeed expressly provides that:

“The Public Offer (Licence of Right) is recorded in the patent Register, published in the Official Bulletin and its effects last until it is revoked”.

It seems however that the IPR holder / applicant is not provided with a specific form to revoke his declaration, nor he is required to perform specific tasks or activities. In this

regard, considering that nothing is said with regard to the retroactive payment of previously reduced fees, and in the absence of relevant case law addressing this issue, it is considered that the IPR holder / applicant should not be required to pay the previously renewal fees retroactively.

After the revocation, however, renewal fees shall be due in full by the IPR holder / applicant.

Part 6 – Requirements for the prospective licensee under the LOR system

Law No. 79 of 25 March 2005 does not provide for any requirement for the prospective licensee's offer procedure; once he becomes aware of the Public Offer (LOR declaration), it is up to his discretion whether to accept it or not, and eventually to notify said acceptance to the IPR holder / applicant.

It is worth noting that, according to Article 110(2), the LOR takes effect as soon as the IPR holder / applicant has been notified with the acceptance of the offer by the prospective licensee, even where the royalty / licence fees set by the IPR holder / applicant were not accepted by the prospective licensee.

Nothing is said as regards the forms of a valid notification of acceptance to the IPR holder / applicant. Despite this, the USBM expressly has the right to provide the IPR holder / applicant with specific form to perform specific activities / comply with set terms with the IPO, at the present it seems that no prescribed form exists for the revocation of a Public Offer (LOR declaration).

In the absence of additional piece of legislation, as well as of relevant case law addressing the issue, it could be considered that the notification of acceptance could be made either directly from the prospective licensee to the IPR holder or via the IPO.

Part 7 – The IPO and dispute resolution regarding licence terms

With regard to disagreements and / or conflicts between the IPR holder / applicant and the prospective licensee on the determination of the royalty / licence fee and its payment terms, Article 110(2), Law No. 79 of 25 March 2005 provides for a specific dispute resolution procedure before an Arbitration Board in the Republic of San Marino.

Said Board consists of three members, one appointed by each of the parties and the third appointed by mutual agreement between them. In the absence of the agreement, the third member is appointed by the Commissioner of Law of the Republic of San Marino - whose jurisdiction is similar to that of an Italian Civil Court.

The Arbitration Board must rule over the case and assess a fair royalty / licence fee based on an equitable evaluation (Article 110(2) Law No. 79 of 25 March 2005). If the assessment of the price is clearly unfair or erroneous, or in the event one of the parties refuses to appoint its arbitrator, the determination shall be made by the Commissioner of Law of the Republic of San Marino.

According to Article 110(3) IPC, the same dispute resolution procedure is offered to the parties where supervening circumstances have occurred, resulting in a clear inadequacy of the previously set fee, which therefore has to be modified.

The Commissioner of Law of the Republic of San Marino shall have jurisdiction over any other dispute arising between the IPR holder / applicant and the prospective licensee with regard to the LOR.

Part 8 – Relation of the Republic of San Marino’s LOR system to the UPC

In the light of the very limited set of rules provided by Law No. 79 of 25 March 2005 and by Regulation N. 1257/2012 in relation to the LOR and the lack of pertinent San Marino case law addressing it, we did not identify major differences between the procedures and requirements in San Marino and the rules of the UP.

Under this point of view, in particular, we note that the EPO’s and the IPO of the Republic of San Marino’s LOR system differ in the following aspects:

- The EPO provides the UP proprietors with a dedicated form, Form 7001, to file their LOR declaration with the EPO, while, as said, it seems that the IPO of the Republic of San Marino does not provide IPR holder / applicant with such a form;
- Renewal fees for a UP which fall due after receipt of a statement under Rule 12(1) UPR are reduced by 15% (see Article 3 RFeesUPP), as well as any additional fee for belated payment of a renewal fee (Rule 13(3) UPR and Article 2(1), item 2, RFeesUPP), which will be calculated on the basis of the reduced renewal fee.

Conversely, as said, a patent registered or applied for in the Republic of San Marino, which fall under the LOR system, benefits a reduction of 50% of the renewal fees (Article 110(4) of the Law No. 79 of 25 March 2005);

- The EPO provide the UP proprietors with a dedicated form for the withdrawal of their LOR statement, Form 7002, and said withdrawal takes effect only after the IPR holder has paid the amount by which the renewal fees were reduced (Rule 12(2) UPR). Conversely, as per Part 4 above, the IPO of the Republic of San Marino does not seem to be providing special form for the withdrawal of the Public Offer and the IPR holder / applicant is not requested to return to the IPO the entirety of the renewal fees, halved when the Public Offer was registered.

Part 9 – USBM: Statistics

As for now, no register of Public Offers (LOR declarations) in the Republic of San Marino is published and made available to the public. It is not possible therefore to provide statistics on the number of Public Offers (LOR declarations) that have been registered at the present in San Marino, nor any detail concerning the corresponding IPRs and the companies or industry sectors who make the greatest use of said system in respect of their IPR.

To date, however, it seems that the LOR system is scarcely used, if at all, in San Marino, plausibly because the reduction of the renewal fees is a poor incentive for the IPR holder / applicant.

Chapter 15 – The LOR system in Slovakia

Information provided by Majlingova & Partners, s.r.o.

Part 1 – Existence or non-existence of a LOR system

The LOR system in Slovakia covers Slovak national patents and patent applications, European Patents validated in the Slovak Republic and Supplementary Protection Certificates.

Part 2 – Formal Requirements for registration at the Industrial Property Office of the Slovak Republic (INDPROP)

If an IPR holder files a written statement with the INDPROP that he is prepared to allow any person to use the invention in return for appropriate compensation (LOR declaration), INDPROP enters the LOR declaration into the Register.

There is no specific form of declaration available.

The Decree No. 223/2002 Coll. implementing the Act No. 435/2001 Coll. on Patents, Supplementary Protection Certificates and on Amendment of Other Acts (The Patent Act) as amended stipulates in its §14 sec. 1 that the LOR declaration shall further include:

- name, surname, and address of the licensor; or company name and its seat if the licensor is a company.
- identification details of the representative if the IPR holder is represented.
- patent registration number or patent application number.

After filing the request for registration of the LOR, the INDPROP examiner checks the details on the IPR holder and enters the LOR into the register without further delay.

The INDPROP notifies the applicant of the registration of the LOR and of the Bulletin number in which the LOR declaration will be published.

The LOR declaration is published in the Bulletin issued by the INDPROP and on the webpages of the INDPROP.

There is no fee for filing the request for registration of LOR declaration into the Register.

The LOR declaration will not be registered if an exclusive licence is registered for the subject IPR.

Part 3 – Timing Requirements for obtaining registration at the INDPROP

The LOR declaration can be filed anytime during the lifetime of the IPR. It can be also filed before the grant of a Slovak national patent, i.e. it can be filed against the Slovak patent application.

Part 4 – Impact of registering a LOR declaration at the INDPROP

Annual renewal fees are halved for patents / SPCs with registered LOR declaration.

If a LOR declaration is registered it is not possible to enter an exclusive licence into the Register until the Licence of Right declaration is withdrawn by the licensor.

Registering a LOR declaration has no impact on enforcement of remedies available to the IPR holder.

Part 5 – Reversal / withdrawal of a LOR declaration

The registration of a LOR declaration is reversible.

The LOR declaration can be withdrawn until a written statement proclaiming the acceptance of a LOR is delivered to the licensor.

If the LOR declaration is withdrawn, the retroactive payment of previously reduced fees is not required. Next annual renewal fee is payable in full amount.

In case a new IPR holder is entered into the Register as a result of the court proceedings regarding dispute on the entitlement to the right to the invention, the LOR declaration is deemed to be withdrawn on the day of entering the new IPR holder into the Register, unless the new IPR holder delivers a written request on maintenance of LOR declaration to the INDPROP within a time limit of 30 days from the day of entering the new IPR holder into the Register.

Part 6 – Requirements for the prospective licensee under the LOR system

Any person or entity who accepts a LOR declaration and communicates this acceptance in writing to the patent owner / licensor and also to INDPROP, shall receive the right to exploit the invention.

There does not exist a prescribed form of the acceptance.

The Decree No. 223/2002 Coll. implementing the Act No. 435/2001 Coll. on Patents, Supplementary Protection Certificates and on Amendment of Other Acts (The Patent Act) as amended stipulates in its §14 sec. 2 that the acceptance of the LOR declaration shall include:

- name, surname and address of the prospective licensee; or company name and its seat if the licensee is a company;
- identification details of the representative if the prospective licensee is represented; and
- express declaration of will, to accept the LOR declaration.

A licence obtained by accepting the LOR declaration is considered a contractual, nonexclusive licence, concluded for an indefinite period and valid within the territory of the Slovak Republic.

Part 7 – The IPO and dispute resolution regarding licence terms

The INDPROP does not offer any dispute resolution procedure in the event of disagreement or conflict between the IPR holder and the prospective licensee.

If no agreement on compensation for granted licence has been reached among parties to licence agreement, despite negotiations relating thereto, amount of an adequate compensation as well as terms of payment will be determined by a court of law on request of one of the parties to licence agreement taking into consideration importance of an invention and usual licence fees in particular field.

In case of a substantial change of circumstances decisive for determining an adequate compensation, the court is entitled on request of one of the parties to licence agreement

to change amount of a compensation or terms of payment originally negotiated or settled by a court, if no agreement has been reached among parties, despite negotiations relating thereto.

Part 8 – Relation of the LOR system of the Slovak Republic to the UPC

We are not aware of any significant differences between the procedures and requirements in Slovakia and with the rules of the UP (as stated in EU Regulation No 1257/2012) with respect to the matters discussed at Part 1 – 7 above.

Part 9 – INDPROP: Statistics

9.1 Publication status and contents of the Slovak IPO register

There is a list of Licence of Right declarations published at the INDPROP website⁶⁷ which provides:

- Patent Application and publication number (with a hyperlink to further details regarding the patent).
- Applicant / Proprietor.
- Patent Title.

9.2 Current registered LOR declarations

The number of Licence of Right declarations that are presently registered: 33

Chapter 14 – Table 1. Summary of INDPROP Statistics

| Application Number | Applicant | Title | Industrial area |
|---------------------------|------------------|---|------------------------|
| 784-2002 | VUP, a. s. | Method for the preparation of acetylenic alcohol and/or diol | C. Chemistry |
| 44-2007 | VUP, a. s. | Method for the preparation of nitroxyl radicals of piperidine type sterically hindered amines | C. Chemistry |

⁶⁷ <https://www.indprop.gov.sk/patenty/patenty/ponuky-licencii>
<https://www.indprop.gov.sk/en/patents/patents/licence-offers>

| | | | |
|-----------|--|---|-------------------------|
| 142-2004 | Fyzikálny ústav Slovenskej akadémie vied | Relative distortion sensor | G. Physics |
| EP1607969 | Pioneer Corporation | Write once type recording medium, recording device, and recording method for write once type recording medium, and reproduction device and reproduction method for write once type recording medium | G. Physics |
| EP1598824 | Pioneer Corporation | Write once recording medium, recording device, and recording method for write one recording medium, and reproduction device and reproduction method for write once recording medium | G. Physics |
| 119-2007 | VUP, a. s. | Process for preparing 2,2,6,6-tetramethylpiperidine-N-oxyl and its 4-substituted derivatives | C. Chemistry |
| 61-2008 | VUP, a. s | Process for the preparation of hydroxypivalic acid | C. Chemistry |
| EP1918444 | Miele & Cie. KG, Gütersloh, DE | Washing machine tub with ballast weight | D. Textiles; Laundering |
| EP2381029 | Miele & Cie. KG | Method for operating a washing machine and washing machine | D. Textiles; Laundering |
| 5092-2008 | Výskumný ústav stavebních hmot, a. s. | Cement clinker and method for production thereof | C. Chemistry; Cements |
| EP2428608 | Miele & Cie. KG | Method for operating a pump in a washing machine, mechatronic system and washing machine | D. Textiles; Laundering |
| EP2397598 | Miele & Cie. KG | Locking assembly for a washing processing machine such as a washing machine or a dryer | D. Textiles; Laundering |

| | | | |
|------------|---|--|--|
| 23-2016 | VUP, a. s. | Process for preparing unsaturated aromatic ketones | C. Chemistry |
| 5006-2010 | Fyzikálny ústav Slovenskej akadémie vied | Method for production of nanoparticles mono-layers and multi-layers | C. Chemistry |
| 68-2014 | Porubský Ivan, Ing. | Method of processing sheep wool and products containing it | D. Textiles; Laundering |
| PP24-2018 | Matula Peter, Ing. | Safety system of transportation by transport means and method of protection during transport | B. Transporting |
| PP104-2016 | The Technical University of Košice | Portable device for machines rigidity measuring | G. Physics |
| PP114-2013 | Institute of Construction and Architecture | Method and apparatus for indicating lightning threat | G. Physics |
| PP114-2013 | University of Žilina | Process for preparing an waveguide couplers of the siloxane polymer fibers | G. Physics & C. Chemistry |
| PP92-2013 | Institute Of Construction And Architecture – Slovak Academy Of Sciences | Isolation method of the circulating cells from the peripheral blood | C. Chemistry; Biochemistry & G. Physics; Measuring |
| 27-2014 | Jedlička Kristal, Ing. | Wind turbine with horizontal axis with rotary surfaces | F. Mechanical Engineering |
| 44-2013 | Institute Of Physics SAS | Construction element on the basis of single or multilayer metal glass | C. Chemistry |

| | | | |
|--------------|---|--|--|
| | | and a method for production thereof | |
| 107-2015 | The Technical University of Košice | Pipeline inspection robot | B. Performing Operations; Portable tools |
| 50079-2016 | Institute Of Electrical Engineering SAS | Method for preparation of manganite La-Sr-Mn-O layers having high onset temperature of transition to ferromagnetic state | C. Chemistry |
| EP 3 145 871 | Althoff, Klaus Jürgen | Fluidization Device | C. Chemistry & B. Performing Operations |
| EP 2728071 | Keller Holding GmbH | Method and device for producing wall-shaped floor elements | E. Fixed Constructions |
| EP 2730702 | Keller Holding GmbH | Method and device for the production of parallel ground bodies using jet nozzle tools | E. Fixed Constructions |
| PP 15-2016 | Vika Konštantín, Ing., CSc. | Ejectable anti-skid spikes | B. Performing Operations; Vibrations |
| PP50045-2014 | Institute of physics SAS | Multilayer ribbons based on metal alloys and the method of preparation thereof | C. Chemistry |
| EP 2646271 | LibroDuct GmbH & Co. KG | System for automatically connecting and disconnecting a catenary vehicle to and from the overhead line during travel | B. Performing Operations; Transporting |
| PP50025-2018 | The Technical University of Košice | The vibration absorbing crank to attachment of the rotor of the water turbine | F. Mechanical Engineering |
| PP50009-2018 | The Technical University of Košice | Stratificator for storage water heater | F. Mechanical Engineering |

| | | | |
|------------------|--|---|---|
| PP50071- 2018 | Institute Of Electrical Engineering SAS | Apparatus for uniform surface treatment of bulk materials in plasma | B. Performing Operations & H. Electricity |
|------------------|--|---|---|

9.3 Applications for LOR declarations per year

There is no data regarding the number of applications made per year.

9.4 The companies making the most use of the LOR system

The highest users of the LOR system in the Slovak Republic are Universities and Technical Institutes rather than companies.

9.5 The industries making the most use of the Slovak LOR system

Due to low number of the LOR declarations, it is not possible to provide robust statistics related to the details of the corresponding IPRs or the companies and industry sectors who make the greatest use of the LOR system. However, it seems that the industrial areas that make the most use of the LOR system are those in Chemistry and Physics.

9.6 Estimated change in income at the INDPROP.

The change in income at the INDPROP is negligible to zero, taking into account the number of LOR declarations registered.

Chapter 16 – The LOR system in Spain

Information provided by MLG Abogados Mònica López Gómez.

Part 1 – Existence or non-existence of a LOR system

In Spain the LOR system is expressly provided in the Spanish Patent Law (Law 24/2015 of July 24, 2015, on Patents) and it covers Patents and Utility Models. Thus, references to Patents in the answers below must be understood made to Patents and Utility Models.

Part 2 – Formal Requirements for registration at the Spanish Patent and Trademark Office (Oficina Española de Patentes y Marcas ‘OEPM’)

The Patent proprietor must submit a request before the OEPM. The request must include:

- the identity of the Patent owner;
- if there is a representative acting on behalf of the Patent owner, the identity of such representative;
- number of the Patent application in relation to which the Patent owner wishes to have endorsed “licence of right;” and
- signature of the Patent owner or his representative.

Once the request has been received by the OEPM, the OEPM examines said request. If there is any irregularity or defect, the procedure will be suspended and the OEPM will notify those to the Patent proprietor in order that the Patent proprietor can correct them or make representations within two months from the publication of the suspension.

The OEPM will issue a decision by granting or denying the request. The decision will be published on the Official Bulletin of Industrial Property.

There is a specific form (the “Solicitud de Inscripción del Ofrecimiento de Licencias de Pleno Derecho” form) which is required in order to submit the aforementioned request. This is available from the OEPM website⁶⁸.

⁶⁸ https://sede.oepm.gob.es/eSede/comun/Formularios_web/3512X.pdf

It has to be taken into account that the LOR declaration may not be filed as long as an exclusive licence is recorded in the Register for Patents or a request for recording an exclusive licence has been filed.

Part 3 – Timing Requirements for obtaining registration at the OEPM

The Spanish Patent Law does not provide anything expressly in relation to the timing requirements for registration of the LOR declaration in respect of the lifetime of the IPR. Notwithstanding that, since the Spanish Patent Law expressly provides that the Patent and the Patent application can be licensed, thus it would seem possible to understand that a LOR could be registered also before the grant of the Patent.

Part 4 – Impact of registering a LOR declaration at the OEPM

Annual Patent fees (accrued after receipt of the declaration) are halved for Patents with LOR declaration. But the amount of said reduction must be paid in case of withdrawal of the declaration and the payment must be made within the month following the publication of the granting of the registration of such withdrawal.

The Spanish Patent Law does not refer to any impact of registering a LOR declaration on enforcement remedies.

It has to be taken into account that once the LOR declaration has been filed, no request for registering an exclusive licence on the Patent will be admitted, unless the declaration is withdrawn or it is considered withdrawn.

Part 5 – Reversal / withdrawal of a LOR declaration

The declaration of LOR can be withdrawn at any time as long as nobody has communicated to the Patent proprietor its intention of using the invention.

The Patent proprietor will have to submit a written request to the OEPM using the prescribed form⁶⁹ (the “Solicitud De Retirada Del Ofrecimiento De Licencias De Pleno Derecho” form) which is available on the OEPM website.

⁶⁹ https://sede.oepm.gob.es/eSede/comun/Formularios_web/3515X.pdf

The withdrawal will be effective from the moment the OEPM has been notified.

Once the request has been received by the OEPM, the OEPM will examine whether or not the documentation submitted fulfils the legal requirements and in particular whether or not a request for the use of the invention has been submitted.

If there is any irregularity or defect, the procedure will be suspended and the OEPM will notify them to the Patent proprietor in order that the Patent proprietor can correct them or make representations in writing within the two months following the publication of the suspension. After said period, the OEPM will issue a decision by granting or denying the request of withdrawal. The decision will be published on the Official Bulletin of Industrial Property.

The Spanish Patent Law also provides that in case of a change of ownership of the Patent due to somebody filing an action claiming the ownership of the Patent, it will be understood that the declaration of LOR has been withdrawn when the new owner has been registered.

In case of withdrawal of the declaration, the amount of previously reduced fees must be paid. The payment must be made within the month following the publication of the granting of the registration of such withdrawal.

Part 6 – Requirements for the prospective licensee under the LOR system

Anyone who wants to use the invention must submit a request to the OEPM using the prescribed form⁷⁰ (the “Solicitud de Utilización de Invención Sujeta al Régimen de Licencias de Pleno Derecho” form) which is available on the OEPM website. This form also requires the applicant to indicate the use to be made of the invention.

Once the request has been received by the OEPM, the OEPM will examine it. If there is any irregularity or defect, the procedure will be suspended and the OEPM will notify them to the prospective licensee in order that the prospective licensee can correct them or make representations in writing within the two months following the publication of the suspension. After said period, the OEPM will issue a decision on the request for obtaining a licence.

⁷⁰ https://sede.oepm.gob.es/eSede/comun/Formularios_web/3514X.pdf

In case that the OEPM considers that there is no obstacle, the OEPM will notify the request to the Patent proprietor and to the prospective licensee by indicating that after one month from the receipt of said communication, the prospective licensee is authorized to use the invention in the way he indicated in the request.

If the parties do not reach an agreement on the compensation to be paid by the licensee within the aforementioned period of one month, any of the parties may ask the OEPM to fix the appropriate amount of said compensation.

Also in the case that the established amount of the compensation appears manifestly inappropriate due to events that have occurred or have been known, any of the parties may request the OEPM to modify it.

It is important to note that, on enquiry, the OEPM reported that there have never been any cases of parties requesting modifications or compensations on these grounds.

At the end of each quarter of the natural year, the licensee must inform the Patent proprietor on the use that he has made of the invention and the licensee must pay the corresponding compensation.

In the event that the licensee does not comply with the aforementioned obligations, the Patent proprietor can give him an additional period that is reasonable to comply with them. If the additional period elapses without the licensee having complied with such obligations, the licence will be cancelled, upon justified request by the Patent proprietor.

Part 7 – The IPO and dispute resolution regarding licence terms

The Spanish Patent Law provides that in the event of no agreement between the parties on the compensation to be paid, the OEPM, upon prior request in writing by any of the parties and upon both parties have been heard, will fix the appropriate amount to be paid by the licensee or will modify the compensation in the case that the established amount of the compensation appears manifestly inappropriate due to events that have occurred or have been known.

The parties can only ask the OEPM to modify the compensation established in that way after one year has elapsed since it was last fixed.

Before issuing its decision, the OEPM will hear both parties and it could address the institution that it deems more convenient taken into account the circumstances of the case in order to request the appointment of an expert that can advise it in determining the compensation to be paid.

As mentioned above, on enquiry, the OEPM reported that there have never been any cases of parties requesting modifications or compensations on these grounds.

Part 8 – Relation of Spain’s LOR system to the UPC

In relation to the filing of LOR declaration: according to the Rules relating to UP protection, the LOR statement may not be filed as long as an exclusive licence is recorded in the Register for UP protection or a request for the recording of such a licence is pending before the EPO.

Regarding the impact of registering a LOR declaration: the Rules relating to UP protection provide that in the case that a LOR statement exists, the renewal fees for the European patent with unitary effect which fall due after receipt of the statement shall be reduced. But, according to Article 3 of the Rules relating to Fees for UP Protection, said fees will be reduced by 15%.

The Rules relating to UP protection also provides that no request for recording an exclusive licence in the Register for UP protection shall be admissible after the Licence of Right statement has been filed unless that statement is withdrawn.

Regarding the possibility of withdrawing the LOR declaration: the Rules relating to UP protection also provide that the aforementioned statement may be withdrawn at any time by a communication to this effect to the EPO, but that such withdrawal shall not take effect until the amount by which the renewal fees were reduced is paid to the EPO.

In relation to disputes related to the compensation: Pursuant to Article 32(1)(h) of the Agreement on a Unified Patent Court, the Court will have exclusive competence in

respect of actions for compensation for licences on the basis of Article 8 Regulation (EU) No 1257/2012 (article referred to LOR).

Part 9 – OEPM: Statistics

9.1 Publication status and contents of the OEPM register

There is not a specific register of LOR declarations, but the OEPM publishes in its website, information on national, Spanish patents, European patents and Utility Models that have been endorsed with a Licence of Right.

The information provided includes:

- The date of registration of the Licence of Right.
- Patent publication and application numbers (including a link to its case details on the OEPM Consulta de Expedientes website).
- Title of the patent
- IPC categories and descriptions

9.2 Current registered LOR declarations

Since 2000, there have been and are currently:

- 182 Spanish national patents endorsed with Licence of Right declarations⁷¹.
- 671 European patents endorsed with Licence of Right declarations⁷².
- 50 Spanish Utility Models, endorsed with Licence of Right declarations.⁷³

9.3 Applications for LOR declarations per year

There is no available data regarding annual application figures. However, assuming an even distribution of applications between 2000 and 2021, there has been an annual average of:

- LORs for Spanish national patents = 8.7
- LORs for European patents = 31.95
- LORs for Utility Models = 2.4

9.4 The companies making the most use of the LOR system

⁷¹https://www.oepm.es/export/sites/oepm/comun/documentos_relacionados/Propiedad_Industrial/ficheros_xlsx/Licencias_de_pleno_derecho_Patentes_nacionales.xlsx

⁷²https://www.oepm.es/export/sites/oepm/comun/documentos_relacionados/Propiedad_Industrial/ficheros_xlsx/Licencias_de_pleno_derecho_Patente_Europea.xlsx

⁷³https://www.oepm.es/export/sites/oepm/comun/documentos_relacionados/Propiedad_Industrial/ficheros_xlsx/Licencias_de_pleno_derecho_Modelos_Utilidad.xlsx

The data regarding the patent owners is not readily available for analysis.

9.5 The industries making the most use of the UK LOR system

The industry sectors making the greatest use of the LOR system in Spain with respect to Spanish patents, European patents and Utility Models respectively are as follows:

Spanish Patents:

1. Healthcare / rescue / entertainment.
2. Motors and pumps.
3. Transport, construction.
4. Medical / dental / hygienic purposes.
5. Lighting and Heating.

European Patents:

1. Transport.
2. Textiles.
3. Technology.
4. Instruments / tools.
5. Motors and Pumps.
6. Lighting and Heating.

Utility Models:

1. Domestic and Personal Objects.
2. Transport.
3. Healthcare.
4. Construction.
5. Instruments / tools.

9.6 Estimated change in income at the OEPM.

There is no data available.

Chapter 17 – The LOR system in Turkey

Information provided by Turklegal.

Part 1 – Existence or non-existence of a LOR system

The Turkish LOR system covers the Patents, including Utility Models, only in the Turkish jurisdiction. The other IPRs, i.e. Trade marks, Designs, and any others, are not covered by the LOR system.

Part 2 – Formal Requirements for registration at Turk Patent; the Turkish Patent and Trade mark Office (TPTO)

A simple request is sufficient to register a Licence of Right declaration at the TPTO. The request should be electronically filed by the Electronic Filing System (**EPATS**) of the TPTO.

The form associated with the LOR declaration is automatically created by the Electronic Filing System. An official fee (50 Turkish Lira – 2022) associated with registering LOR declaration should be paid together with the request. It is not allowed to non-electronically submit requests for registering LOR declaration.

There are specific conditions regarding the LOR declaration in terms of the exclusive right licence rights:

- If there is any exclusive licence which was registered in respect of patent or patent application in the patent registry, a patent applicant or holder is not allowed to register a LOR declaration for the same patent or patent application unless the registered exclusive licence is cancelled in the registry.
- Likewise, after registering a LOR declaration, a patent applicant or holder is not allowed to register an exclusive licence unless the LOR declaration is withdrawn.

After a LOR declaration is requested and registered by the TPTO, it is published in the Turkish Patent Bulletin. The publication covers patent application number, invention title, and patent applicant(s) / patent holder(s) of patent application / patent in respect of which the LOR declaration is registered.

Part 3 – Timing Requirements for obtaining registration at the TPTO

It is possible to register a LOR declaration against pending patent applications.

Part 4 – Impact of registering a LOR declaration at the TPTO

Registering a Licence of Right declaration does not have any impacts on fees and enforcement remedies. Any fees, including renewal fees, are paid without any reduction.

The registration of a LOR declaration has no effect on the enforcement of the patent rights.

Part 5 – Reversal / withdrawal of a LOR declaration

The registration of a LOR declaration is reversible at anytime. When a LOR declaration is withdrawn, the withdrawal is published in the Turkish Patent Bulletin. The withdrawal of a LOR declaration does not have any retroactive effect on the paid fees.

Also, there is one specific instance: When the patent holder or applicant is changed in the patent registry by a court decision, the LOR declaration registered is deemed to be withdrawn automatically.

Part 6 – Requirements for the prospective licensee under the LOR system

No, there is no specific requirement for the prospective licensee's offer procedure. The prospective licensee should directly contact the patent applicant or holder to negotiate the licencing terms and conditions.

The TPTO is not involved in the licensee's offer procedure.

Part 7 – The IPO and dispute resolution regarding licence terms

The TPTO does not offer any dispute resolution procedure in the event of disagreement or conflict between the IPR holder and the prospective licensee. The role of the TPTO consists of registering the licence agreement on which the parties agreed.

Part 8 – Relation of the Turkish LOR system to the UPC

Although Turkey is one of the member states of the European Patent Convention, she is not one of the participating Member States of the Unitary Patent Convention. In this regard, when the proprietor of a European patent with unitary effect has filed a request for registering a LOR declaration with the EPO, this may not have effect in the Turkish jurisdiction.

Part 9 – TPTO: Statistics

9.1 Publication status and contents of the Turkish register

The TPTO publishes Patent Bulletins which contain data regarding registered Licences of Right alongside the profile details of their respective patents (i.e. including grant number, owner, classification and title of invention).

9.2 Current registered LOR declarations

According to the Turkish Patent Bulletins published between 2012 and 2021 (including the data in the years 2012 and 2021), the total number of LOR declarations is 2009.

9.3 Applications for LOR declarations per year

The numbers of LOR declarations per year are set out in Table 1 below.

Chapter 17 – Table 1. Turkish Registrations of LOR declarations per year

| Year | Number |
|-------------|---------------|
| 2012 | 359 |
| 2013 | 270 |
| 2014 | 264 |
| 2015 | 288 |
| 2016 | 312 |
| 2017 | 169 |
| 2018 | 86 |
| 2019 | 90 |
| 2020 | 95 |

| | |
|------|----|
| 2021 | 76 |
|------|----|

9.4 The companies making the most use of the LOR system

According to the data in the Turkish Patent Bulletins published between 2012 and 2021 (including the data in the years 2012 and 2021), top 10 patent applicants or holders, who registered Licence of Right declarations with the Turkish IPO, are set out in Table 2 below.

Chapter 17 – Table 2. Top users of the Turkish LOR system (companies)

| Patent Holder | Number |
|---|---------------|
| Japan Tobacco Inc | 62 |
| Knorr-Bremse Systeme Für Nutzfahrzeuge Gmbh | 58 |
| Saf-Holland Gmbh | 44 |
| Telefonaktiebolaget L M Ericsson (Publ) | 44 |
| Vestel Beyaz Eşya Sanayi Ve Ticaret A.Ş. | 32 |
| Siemens Aktiengesellschaft | 29 |
| Teliasonera AB | 29 |
| Flooring Industries Limited Sarl | 24 |
| Nv Michel Van De Wiele | 24 |
| Thys Senkrupp Marine Systems Gmbh | 23 |

9.5 The industries making the most use of the Turkish LOR system

According to the data in the Turkish Patent Bulletins published between 2012 and 2021 (including the data in the years 2012 and 2021), the top 10 technology fields of the patents or patent applications in respect of which Licence of Right declarations are registered are set out in Table 3 below.

Chapter 17 – Table 3. Top users of the Turkish LOR system (industries)

| Technology Field | Number |
|---|--------|
| Transport | 207 |
| Pharmaceuticals | 201 |
| Handling | 124 |
| Textile and paper machines | 104 |
| Civil engineering | 102 |
| Telecommunications | 95 |
| Other special machines | 90 |
| Other consumer goods | 88 |
| Medical technology | 84 |
| Electrical machinery, apparatus, energy | 80 |

Note: Technology field is determined according to the technology classification of the WIPO⁷⁴ on the basis of the most relevant class of the patent or patent application.

9.5 Estimated change in income at the TPTO

No data available.

⁷⁴ https://www.wipo.int/export/sites/www/ipstats/en/statistics/patents/pdf/wipo_ipc_technology.pdf

Chapter 18 – The LOR system under the UPC

Information provided by Mewburn Ellis LLP.

Part 1 – Existence or non-existence of a LOR system

As the reader will be aware, the new system of the Unitary Patent (UP) and the Unitary Patent Court (UPC) is currently on track to commence in the second half of 2022. This report is therefore based solely on the information set out in the various key pieces of implementing legislation, secondary legislation and guidance including:

- The EU Regulation No. 1257/2012 (OJ EPO 2013, 111)⁷⁵ which creates a “European Patent with Unitary Effect” (**Regulation (EU) 1257/2012**).
- The Rules relating to Unitary Patent Protection (OJ EPO 2016, A39) (**UPR**)⁷⁶ and The Rules relating to Fees for Unitary Patent Protection (OJ EPO 2016, A40) (**RFeesUPP**)⁷⁷ which together set out the various procedures that the EPO will carry out under the regulations and also set out the fees to be paid to the EPO in respect of UPs.
- The Unitary Patent Guide (**UPG**)⁷⁸ which provides an accessible outline of the procedures involved in obtaining a UP from the EPO.

The LOR system for UPs has been created in particular, by Article 8(1) of Regulation (EU) 1257/2012 which states that:

“The proprietor of an European patent with unitary effect may file a statement with the EPO to the effect that the proprietor is prepared to allow any person to use the invention as a licensee in return for appropriate consideration.”

Part 2 – Formal Requirements for registration at the EPO

Rule 12(1) UPR states that in order to register a LOR declaration in respect of a UP, the proprietor must file a statement with the EPO. Section F.III. Statement on licences of right, paragraph 119 of the UPG expands on the term “statement” and requires that Official Form 7001⁷⁹ should be used to make this application to the EPO.

There is no official fee associated with Form 7001 or with the registration process.

⁷⁵ http://archive.epo.org/epo/pubs/oj013/02_13/02_1113.pdf

⁷⁶ <https://www.epo.org/law-practice/legal-texts/official-journal/2016/05/a39.html>

⁷⁷ <https://www.epo.org/law-practice/legal-texts/official-journal/2016/05/a40.html>

⁷⁸ <https://www.epo.org/law-practice/legal-texts/html/upg/e/index.html>

⁷⁹ <https://www.epo.org/applying/forms/forms.html> - Form 7001 is not yet available.

It is important to note that a LOR declaration cannot be registered with the EPO if an exclusive licence is already registered against the relevant UP or if a request to record such a licence is already pending (Rule 12(3) UPR).

Conversely, once a LOR declaration has been registered with the EPO against a particular UP, an exclusive licence cannot be registered against that same UP unless the LOR declaration is first withdrawn (Rule 12(3) UPR).

Part 3 – Timing Requirements for obtaining registration at the EPO

There are no specific timing requirements with respect to registering a LOR declaration for a UP. However, under Article 3(1) Regulation (EU) 1257/2012, Rule 5(2) UPR and Rule 138 of the European Patent Convention, in order to be eligible for registration as a UP, a European Patent must first have been granted with the same set of claims across all participating Member States. This suggests that it is only possible to register a LOR declaration against a UP once it has been granted. However, further guidance from the EPO will be necessary on this point.

Part 4 – Impact of registering a LOR declaration at the EPO

Once a UP proprietor submits their Form 7001 and it is received by the EPO, the renewal fees for the relevant UP will be reduced by 15% under Rule 3 RFeesUPP.

Furthermore, Rule 2(1)(2) RFeesUPP states that where a renewal fee is not paid in due time, the fee may still be paid within 6 months of the due date, provided that an additional fee is also paid within that period. Where a LOR declaration has been registered in respect of such a UP, Rule 13(3) UPR states that the amount of this additional fee shall be calculated based on the reduced fee amount rather than the total amount.

Part 5 – Reversal / withdrawal of a LOR declaration

UP proprietors may withdraw their LOR declaration at any time by filing a communication to this effect with the EPO using official Form 7002⁸⁰.

⁸⁰ <https://www.epo.org/applying/forms/forms.html> - Form 7002 is not yet available.

According to Rule 12(2) UPR “Such withdrawal shall not take effect until the amount by which the renewal fees were reduced is paid to the EPO.”

Part 6 – Requirements for the prospective licensee under the LOR system

There are no specific requirements for the prospective licensee under the LOR system for UPs. However, beyond the powers of the UPC mentioned at Part 7 below, it doesn't appear to play any part in the initial contact process and so licensees would be advised to make the initial approach themselves.

Part 7 – The IPO and dispute resolution regarding licence terms

Under paragraph 5 of the Explanatory Note to Rule 12 UPR, it states that the UPC shall have exclusive jurisdiction in respect of actions for compensation for licences granted under the LOR system. This means that in the event of a dispute, and at the request of either of the parties, the UPC will have to determine the amount of the “appropriate compensation” referred to in Article 8(1) Regulation (EU) No 1257/2012 and Rule 8(1) UPR.

Part 8 – Relation of the UPC system to the UPC

This section has been intentionally left blank.

Part 9 – EPO: UPC Statistics

The UPC is expected to come into force in the second half of 2022. This section has been intentionally left blank as there are no statistics at the time of writing.

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