



Rules for Practicing the Profession of a Patent and Trademark Attorney in European Countries

Polish Chamber of Patent Attorneys



Rules for practicing the profession of a patent and trademark attorney in European countries

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Introduction

Dear Sirs and Madams,

It is our great satisfaction and pleasure to present you this publication which is result of co-operation of our colleagues practising the profession of patent attorney.

Poland can boast of a history of the profession of patent attorney which is longer than one hundred years. The beginnings date back to 1918 when Józef Piłsudski, the Chief of State, in his Provisional Decree of 13 December 1918 on the Patent Office, introduced the option of being represented before the Patent Office by attorneys who are residents in Poland, hold an academic degree, specifically in technical sciences, and who are registered on the Patent Office's list of attorneys. First attorneys (six of them) were registered on the Office's list as early as in April 1919.

The title of the profession itself – “patent attorney” – was introduced in the Act of 5 February 1924 on Protection of Inventions, Designs, and Trademarks.

History of Polish Chamber of Patent Attorneys as a professional self-government associating persons practising as patent attorneys starts with establishing of the Association of Patent Attorneys early in 1980s; for many years of its existence, the Association has been laying foundations for a professional self-government, which resulted in adoption of the Patent Attorneys Act of 9 January 1993. The Act made it possible to establish Polish Chamber of Patent Attorneys in the same year and stipulated that the organisation's governing bodies include: National Assembly of Patent Attorneys, National Council of Patent Attorneys, Audit Committee, Disciplinary Board of Appeals, Disciplinary Board, and Disciplinary Ombudsman.

This legislative act was followed by first National Assembly of Patent Attorneys held in Warsaw on 28 August 1993. It was attended by 725 patent attorneys. The Assembly adopted then the Charter of Polish Chamber of Patent Attorneys and elected members of each of the Chamber's governing bodies. It was a momentous

event in our Chamber's history. Throughout long history of our self-government, fourteen National Assemblies have been held so far.

Self-government of patent attorneys operating as a part of Polish Chamber of Patent Attorneys derives its existence also from Article 17 of Constitution of Republic of Poland, according to which professional organisations, representing persons practising professions of public confidence and taking care of due performance of these professions in line with and to protect public interest, can be established by acts of law.

We practice our profession with great passion, as it combines technical and legal aspects. It is an interdisciplinary profession. It is also characterised by a significant degree of creativity, as well as responsibility in performing daily professional duties.

The year 2023 is a special year for us, Polish patent attorneys, since it brings the 30th anniversary of our self-government – Polish Chamber of Patent Attorneys.

It was our Chamber's jubilee that encouraged us not only to tighten our relations with colleagues practising the profession in other countries but also to start discussing and thinking about the profession of patent attorney beyond the domestic perspective.

It turns out that in various places worldwide the profession not only has different names but also the scope of competence of patent attorneys is defined differently. In some countries, a technical degree is required to practice this profession. Other countries have no such requirement. Consequently, this differentiation affects the authorisation to represent exclusive right holders before courts of common jurisdiction and to conduct litigation in cases of infringements of intellectual property rights. Every country has its own legal environment and different methods of practising the profession.

In collaboration not only with our Polish colleagues but also with colleagues from other European countries, we have managed to prepare this study showing the diversity of activities of patent attorneys.

In Poland, patent attorney is a business consultant who – in addition to providing consultancy services – also represents exclusive right holders before Polish Patent Office, EUIPO, WIPO, and before administrative courts and courts of common jurisdiction. Some of us are also European patent attorneys authorised to act before EPO or UPC.

Legal systems in different countries are changing, with systemic solutions being developed on a global or regional scale; the nature of our profession is changing as well.

Hopefully, our study will let you learn about the profession of patent attorney and encourage you to obtain the relevant qualifications.

It is published not only on the occasion of celebrations of the anniversary of Polish Chamber of Patent Attorneys, but also of meeting of ANIPA – an association of representatives of patent attorney self-governments and organisations – being held in Poland.

We believe the publication will be a nice souvenir from this meeting, as well as a revival of the tradition of publishing information about our profession in different countries.

We would like to thank everyone who contributed to submission of materials concerning the profession of patent attorney in each country, and our colleague Ms Anna Kawalec of Polish Chamber of Patent Attorneys who took care to prepare a coherent and interesting compilation based on the materials received. Our thanks also go to persons involved in organising ANIPA meeting in Poland for Polish Chamber of Patent Attorneys, specially to Mr Paweł Kurcman, Vice-President, who took every effort to make it an unforgettable experience for all ANIPA meeting attendants, and to members of Board of the Lesser Poland District of Polish Chamber of Patent Attorneys, specially to Ms Patrycja Rosół, the Dean of the District, for their invaluable assistance in organising this event.

We wish you pleasant reading.

Warsaw, November 2023

Dorota Rzążewska

President of Polish Chamber
of Patent Attorneys

Paweł Kurcman

Vice-President of Polish Chamber of
Patent Attorneys

A few words about our project

Effective management of intellectual property mostly involves obtaining protection and its enforcement in more than one country. This makes international co-operation a prominent element in the work of attorneys in intellectual property matters, including Polish patent attorneys. Naturally, as a consequence, when we meet colleagues working in the same profession in other countries, we want to discuss both the commons and the differences between legal regulations and functioning of our profession.

The “Rules of Practicing the Profession of Patent and Trademark Attorney in European Countries” is a publication drafted by the Committee for National and International Co-operation of the Polish Chamber of Patent Attorneys, created by a group of people who wanted to study and share, how our profession is practiced in various European countries. The information received from foreign professional organizations and associations helped us to focus on differences in our competences and duties, and on numerous similarities. The differences can also be noticed in our profession and the related detailed scopes of authorizations.

These are the most important issues elaborated on in this publication and we believe that it will have a follow-up. We would not have been able to prepare this publication without the involvement of our members and facilitators of this project. The idea for this project was submitted by Dorota Rzążewska – the President of the Polish Chamber of Patent Attorneys and the Chairwoman of the Committee for National and International Co-operation. Team members working on this project include: Dorota Rzążewska, Anna Kawalec, Magdalena Augustyniak, Justyna Alchimionek, Anna Gdula, Anna Kanadys, Monika Weingärtner, Łukasz Bogdan, Arkadiusz Kalinowski, Klaudia Błach-Morysińska, Katarzyna Prędotą, Oskar Gińko, Maciej Stodulski, Paweł Kurcman, Małgorzata Kluczyk, Piotr Adamczyk. In organizational matters, we were also assisted by Anna Gębska and Marta Grochowska from the Chamber’s office.

This paper is based on answers given to questions included in a survey, submitted by organizations associating attorneys in intellectual property matters from various European countries. We would like to thank everyone who agreed to participate in preparation of this publication and shared their materials and information with us.

Anna Kawalec

Project Coordinator
The Committee for National
and International Co-operation

AUSTRIA

Österreichische Patentanwaltskammer

Who can represent clients in IP cases in Austria?

According to the Austrian Patent Attorney Act ("Patentanwaltsgesetz"), as a rule, only persons entered in the list of patent attorneys shall be entitled to practice this profession. However, the Austrian law enables registered patent attorney firms and temporarily active European patent attorneys to act as a patent attorney. Attorneys-at-law and public notaries can also represent clients before the Austrian Patent Office.

How to become patent attorney in Austria?

In order to be entered on the list of Austrian patent attorneys, it is necessary to prove that the following **requirements** are met:

1. Austrian nationality (the citizenship of a Contracting State to the Agreement on the European Economic Area or of the Swiss Confederation is treated as equivalent to Austrian citizenship);
2. self-entitlement;
3. a permanent office in a Contracting State to the Agreement on the European Economic Area or in the Swiss Confederation;
4. completion of studies leading to a diploma, master's degree or doctoral degree, or equivalent studies at a university in the European Economic Area or in the Swiss Confederation, the subject of which is a technical or natural science major, or the recognition of relevant foreign academic degrees with a scope of study of at least 270 ECTS points of which at least 210 ECTS credits are to be attributed to technical or scientific subjects;
5. undergoing practical vocational training;
6. successful passing of the patent attorney examination at the earliest one year before the end of the apprenticeship;
7. liability insurance pursuant and
8. studies of Austrian law.

The undergoing practical vocational training is to be acquired e.g. through the following actual uses in normal working hours:

- a) by employment as a patent attorney trainee with a patent attorney entered in the list of patent attorneys or with a patent attorney society entered in the list of patent attorney societies for a period of four years;
- b) six and a half years of practical experience in the field of industrial property protection corresponding to the duties of a patent attorney;
- c) nine years of service as a technical member of the Patent Office.

Patent attorney trainees must fulfil the requirements prescribed in points a, b and d above as well as must have his/her permanent residence in an EEA State or in the Swiss Confederation. The list of patent attorney trainees shall be maintained by the Chamber of Patent Attorneys. An application for entry in the list of patent attorney trainees shall be submitted to the Chamber of Patent Attorneys by the patent attorney with whom the patent attorney trainee is employed. Registration shall be effected, when proof of all legal requirements has been furnished. The practice of the patent attorney candidate shall be counted from the day of receipt of this application.

The **patent attorney examination** shall be taken at the Patent Office in German. The candidate shall be admitted to the examination, if the requirements for entry in the list of patent attorneys under the points a, b, d and e) mentioned above are met. The President of the Patent Office shall decide on the application for admission to the patent attorney examination after hearing the Chamber of Patent Attorneys.

The examination shall be taken before an examination board, consisting of a legally qualified member of the Patent Office as chairman, a technical member of the Patent Office, and two patent attorneys as assessors.

A candidate must demonstrate a thorough knowledge of the Austrian legal provisions in the field of patent, utility model, protection certificate, semiconductor protection, trademark, design, plant variety protection and patent attorney law as well as of intergovernmental contract law and in the field of expert evidence and the preparation of expert opinions. It shall further satisfy itself whether he is familiar with the provisions of Austrian competition law and with the most important foreign legal provisions in these fields as well as with the Austrian legal provisions in the field of constitutional law, administrative law, civil law, commercial law, civil procedural law and European law, insofar as these provisions are relevant for the activity of a patent attorney. Finally, the examination board shall satisfy itself as to whether the candidate possesses the necessary professional knowledge, the understanding, judgement and fluency required for the practical application of the regulations, as well as an orderly presentation. The oral examination shall be preceded by a written examination.

If, on the basis of the examination paper, at least three members are convinced that the candidate has not sufficiently mastered the subject matter, the examination shall be deemed to have been “failed” without an oral examination being held.

The oral examination shall last at least one hour for each candidate and shall be open to the public. It may be conducted with a maximum of three candidates at the same time. If three candidates are examined at the same time, the total examination time may be reduced to two hours.

If the candidate fails the examination, it may be repeated after a period of time to be fixed by the Commission, taking into account the gaps in knowledge revealed during the examination, which may not be less than three months but not more than one year. A further repetition of the examination is possible at the earliest after one year since the last examination. The examination may be repeated three times.

Competences of the Austrian patent attorney

Patent attorney in Austria is entitled to give professional advice in the field of protection of inventions, plant varieties, semiconductors, trademarks and designs, and to represent clients before the Patent Office, in appeal proceedings against decisions of the Patent Office before the Higher Regional Court of Vienna, and in matters of plant variety protection before the competent administrative authorities. A patent attorney is also allowed to speak in legal disputes regarding the abovementioned matters. The patent attorney is also entitled to prepare expert opinions and to act as an expert in the abovementioned matters.

There are no restrictions on the territorial scope of services provided by Austrian patent attorneys.

Forms of practising the profession

The profession of a patent attorney may be performed in the form of a sole proprietorship and in the form of a civil law partnership, in the legal form of a general partnership or limited partnership (patent attorney partnership) and in the legal form of a limited liability company, and may only be practiced in accordance with the provisions of professional law. Entry in the list of patent attorney companies is required. Registered patent attorney companies shall be subject to the disciplinary provisions (Section V). The disciplinary sanctions referred to in section 48(1) may also be imposed, *mutatis mutandis*, on patent attorney companies.

According to the Guidelines, patent attorney may freely agree on his **fee** – including a lump-sum fee – and may also demand advance payments. The Austrian Patent Attorney Act, however, regulates only that the patent attorney is entitled to a reasonable fee for his services to the party.

The patent attorneys entered in the List of Patent Attorneys shall **form the Chamber of Patent Attorneys**. A patent attorney is to comply with the instructions given to him by the Chamber of Patent Attorneys and fulfil his duties towards the Chamber.

Codes of conduct and duties of the Austrian patent attorney

There is **no code of conduct** of the patent attorneys in Austria as such. However, there are some provisions of the Austrian Patent Attorney Act and Guidelines on the professional practice of patent attorneys that require patent attorneys to maintain high standards of services provided.

For example, pursuant to the provision of section 17 of the Austrian Patent Attorney Act, the patent attorney is obliged to conduct the assumed representations with conscientiousness and to protect the interests of his party with zeal and fidelity and must regard to the honour and dignity of his profession (Sec. 18).

The Austrian patent attorney is in particular bound to **secrecy** concerning the matters entrusted to him in his capacity as patent attorney and may also refuse to give evidence as a witness before the courts and before the administrative authorities with regard to these matters.

The Patent Attorney is also to refuse to advise or represent a party, if he represents or has represented the other party in this or in a directly related matter, or if he becomes aware that the advice or representation could bring him into **conflict** with the duties he has assumed.

Before being entered on the list of patent attorneys, every Austrian patent attorney is obliged to prove to the Board of the Chamber of Patent Attorneys that, in order to cover claims for damages against him arising from his professional activity, he has taken out **liability insurance** with an insurer authorised to do business in Austria. The insurance is to be maintained for the duration of professional activity of the patent attorney.

There is no explicit obligation for the patent attorneys to continue **professional development**.

Advertising

As for the regulations regarding **advertising of services of the Austrian patent attorney**, the Guidelines indicate that the patent attorney is to advertise primarily through the quality of his legal services. Advertising as such is to be admissible, provided that it is truthful, factual, in accordance with the honour and reputation of the profession, the professional duties and the function of the patent attorney in the administration of justice. In particular, the following are inadmissible:

1. self-promotion by means of advertising in a blatant manner;
2. comparative advertising vis-à-vis other professional party representatives which is misleading or unfair;
3. acquisition of mandates by exploiting a coercive situation or by criticising the performance of other professional party representatives;
4. providing power of attorney forms to third parties for the purpose of passing them on to an unspecified group of persons;
5. naming clients without their consent;
6. offering or granting benefits for the performance of a mandate.

The right of **supervision** over Austrian patent attorneys is vested in the President of the Patent Office. A patent attorney, who violates the duties of his profession or who, by his conduct within or outside his profession, impairs the honour and reputation of the profession, shall be subject to disciplinary treatment. **Disciplinary sanctions** are:

- a) written reprimand;
- b) fines of up to € 45 000;
- c) suspension from practicing the profession of patent attorney for a period of up to one year; instead of this penalty, a patent attorney trainee shall be ordered to forfeit the right to represent his employer for a maximum period of one year, and to postpone for the same period the date on which he may take the patent attorney examination or be entered on the list of patent attorneys;
- d) disqualification from practising as a patent attorney or from practising as a trainee patent attorney.

BELGIUM

(Institute of Patent Attorneys)

One has to make a distinction between patents on the one hand and on the other hand – trademarks and industrial designs. Patents are handled by the Belgian Patent Office. Trademarks and Industrial designs are handled by the Benelux Office of Intellectual Property. Basic act which regulate IP professionals is Code of Economic Law.

Who can be an attorney in intellectual property matters, and represent clients in matters of patents, trademarks and industrial designs?

1. any patent attorney who is a member of the Institute of Patent Attorneys;
2. any lawyer who is registered with the Bar Association or on its list of trainees;
3. any lawyer who is a national of a Member State and is authorized to practice this profession in a Member State;
4. any lawyer who, pursuant to a law or an international agreement, is authorized to practice this profession in Belgium.

Professional requirements for becoming an attorney in intellectual property matters in Belgium

Any person wishing to be entered in the Register of Authorized Agents must meet the following conditions:

1. possess the capacity of natural person;
2. be a national of a member state and be domiciled in a member state;
3. not be the subject of a judicial protection measure;
4. have not been convicted in Belgium or abroad for one of the offences mentioned in Royal Decree no. 22 of October 24, 1934, relating to the judicial prohibition to certain convicts and bankrupts from holding certain offices, professions or activities.

The conditions need not be fulfilled by the person exempted therefrom, either under an international treaty or by virtue of an exemption granted by the King by way of reciprocity.

Any person wishing to be entered in the Register of Authorized Agents must meet the following conditions:

1. hold Belgian university degree or Belgian diploma of higher education, with the duration of at least four years, relating to a scientific, technical or legal discipline;
2. have exercised an activity related to invention patents, the duration and details of which are determined by the King (NOTE: 3 years);
3. have passed an examination on industrial property and mainly on invention patents, to be taken before the Commission for the recognition of agents at the latest two years after the cessation of the activity referred to in para. 2 above.

The diplomas awarded abroad after at least four years of study in the same disciplines are accepted, provided their equivalence has been recognized by the competent Belgian authorities.

Rights, duties, responsibilities

Belgian patent attorney can advise his client on all aspects related to patents applicable in Belgium. Based on his/her expertise and training, he/she can also advise on contractual aspects, such as licensing, trade secrets and/or on litigation. They must first and foremost be a reliable and competent advisor for his mandatary.

The member should act as an independent advisor by serving the interests of his serve the interests of his/her mandate without regard to his personal feelings or interests.

Each member of the Institute of Patent Attorneys must observe the disciplinary regulations, the rules of conduct, the regulations governing the organization of continuing education, and the internal regulations. Also must, for the liability resulting from his profession as a patent attorney, be covered by professional liability insurance. When a member of the Institute of Patent Attorneys in his capacity as a patent attorney is consulted, no communications exchanged or communications intended for exchange between such patent attorney and his client may be disclosed or be compelled to disclose them in the context of judicial or administrative proceedings, unless the client has expressly waived this right. The first paragraph applies exclusively to members of the Institute, subject to the provisions of international treaties. The communications referred to shall include all communication concerning:

1. the assessment of the patentability of an invention or of the opportunity to file a patent application;
2. the preparation of a European patent application, or an international application designating Belgium, or the related procedure;
3. any opinion concerning the validity, the scope of protection of, or the infringement of, a European patent or a European patent application.

Territorial scope

Belgian patent attorney can represent his/her clients (or when working in industry: his/her employer) before the Belgian Patent Office and act, in cooperation with an attorney-at-law, before Belgian courts.

Form of training and certification

There is no official training program to prepare for the Belgian qualifying examination. Currently, there is, every 2 years, a training program in Dutch with a corresponding book. Everybody may pass an examination on industrial property and mainly on invention patents, to be taken before the Commission for the recognition of agents, at the latest two years after the cessation of the activity referred to, have passed an oral test, in case the training he has received, according to the provision relates to fields of expertise which are substantially different from those covered by the evidence of formal qualifications prescribed in Belgium, relates to fields of expertise which are substantially different from those covered by the evidence of formal qualifications prescribed in Belgium.

The examination shall be organized at least once a year, on the date determined by the Minister. The examination shall consist of a written and an oral test. Only those who have passed the written test are admitted to the oral test second (NOTE: passing the EQE). The written test shall, at the choice of the candidate, relate to the sector either of general mechanics, electricity and electronics, or chemistry and pharmacy.

The candidate makes his choice, when applying for registration.

The written test consists at least of the drafting of:

1. one or more patent applications, on the basis of a technical note and according to the rules of Belgian law;
2. an answer to a question from the (NOTE: Belgian Patent) Office concerning the procedure for the delivery of Belgian invention patent; and
3. a note, in the form of a consultation or of an opinion, of the validity or counterfeiting of Belgian invention patent.

The oral test consists at least of:

1. the dissection and discussion of a problem of counterfeiting concerning Belgian invention patents or European patents with legal effects in Belgium; and
2. the dissection and discussion of a problem concerning the application of the European or international treaties, of the Belgian legislation or foreign legislation on industrial property, in particular concerning invention patents.

NOTE: patent attorneys from a member state can be asked to do an oral test focusing on the differences between Belgian law and their national law.

Legal training, internship

Belgian patent attorney is subjected to a continuous professional education. A trainee must have work under supervision of Belgian patent attorney (or act is an authorised employee) for 3 years full-time involvement, be involved in the study, preparation, drafting and granting of invention patents. Experience gained in another Member State or before the European Patent Office which corresponds to that determined in the first paragraph, shall be taken into account for the calculation of the required three years of professional experience.

Proceedings

Belgian patent attorney can assist his client in obtaining Belgian patent application by directly filing with the Belgian patent office. He/she can advise his/her client on all aspects related to patents applicable in Belgium, obtained directly (Belgian patent office) or indirectly (EPO, PCT). Based on his/her expertise and training, he/she can also advise on contractual aspects such as licensing, trade secrets and/or on litigation. The Belgian patent attorney has a client-attorney privilege and the right to be heard before Belgian Courts. Belgian patent attorney can represent his clients before the Belgian Patent Office and act, in cooperation with an attorney-at-law, before Belgian courts.

Methods of practising

Belgian patent attorney can practice his/her profession as employee in industry, as self-employed (full time or secondary profession) or as member/employee of a patent law firm. He/she cannot be member of an attorney-at-law firm (because of limitations imposed on attorney-at-law) or of business consulting firm (e.g. PWC) (because of conflict of interest). Belgian patent attorney in private practice is free to determine his/her fee and fee structure.

Membership

Belgian patent attorney must be a member of the Institute of Patent Attorneys.

Codes of conduct

Belgian patent attorney must comply with a disciplinary regulation and a code of conduct and is bound by duty of discretion and a client-attorney privilege.

Disciplinary regulation.

Without prejudice to the legal obligations imposed on the member of the Institute regarding professional secrecy, he/she is also bound by a duty of discretion. This duty of discretion implies for the member of the Institute the confidentiality of

information that has been expressly or implicitly entrusted to him/her in his capacity as patent attorney, as well as other information of a confidential nature within the framework of the exercise of his/her profession.

Belgian patent attorney has client-attorney privilege. When a member of the Institute of Patent Attorneys in his/her capacity as a patent attorney is consulted, no communications exchanged or communications intended for exchange between such patent attorney and his/her client may be disclosed or be compelled to disclose them in the context of judicial or administrative proceedings, unless the client has expressly waived this right. These rules applies exclusively to members of the Institute, subject to the provisions of international treaties.

Suspension

Any member of the Institute may request a temporary suspension of his/her membership.

Membership in the Institute shall expire:

1. for any person who is removed from the register of authorized representatives in application;
2. for any member who is by the disciplinary committee of the Institute sentenced to removal from the Institute's membership list;
3. for any member who no longer meets the conditions (NOTE: external patent attorney from a member state);
4. for any member who fails to pay the established annual dues.

This is detailed in the code of conduct.

Advertising

Advertising is generally permitted, provided that it is truthful, objective and in accordance with basic principles, such as integrity and compliance with professional secrecy. The following are exceptions to the permission to advertise:

1. the identification of a mandate holder without the express consent of this mandant;
2. the advertisement, announcement or publication of offers concerning the purchase, sale or mediation of industrial property rights, except upon express instruction of a mandant.

Regulation governing the organization of a continuing education.

Belgian patent attorney is obliged to continue his/her professional development in the field of intellectual property. Each year he/she has to spend 16 hours of training (or equivalent as stipulated in this regulation).

CZECH REPUBLIC

(Komora patentových zástupců České republiky)

Who can be an attorney in intellectual property matters in Czech Republic?

A patent attorney who is listed on a Registers of persons authorized to provide services of patent attorneys pursuant to Act No. 417/2004 maintained by the **Chamber of Patent Attorneys of the Czech Republic**. Lawyers may also act in intellectual law matters, as well as an employee of a legal or natural person or cooperative which, by virtue of their employment relationship, performs activities for the employer, which are by their nature equivalent to patent attorney services.

How to become patent attorney in Czech Republic?

Anyone who meets the statutory conditions can become a patent attorney. The first condition is full legal capacity and integrity. The other condition is the basic qualification requirement of a university degree, i.e. at least a bachelor's degree, whereby the field of study in which the university degree is obtained is not determinative or prescribed in any way. Another condition is the acquisition of relevant professional experience through the continuous and regular performance of activities in the field of industrial rights lasting at least three years. A further legal condition is that the applicant has not been removed from the list of patent attorneys or is treated as if no disciplinary measure had been imposed on him/her. The last conditions for obtaining the status of patent attorney are passing the professional examination of a patent attorney and taking the oath in the hands of the President of the Chamber.

Rights, duties and responsibilities of an attorney in intellectual property matters

In the provision of patent attorney services, there are also a number of situations in which a patent attorney must refuse to provide his or her services.

A typical example is a situation where the provision of patent attorney services would result in the commission of a criminal offence. Another example is where a patent attorney has previously provided services to another entity in the same or a related matter whose interests conflict with the interests of the one requesting the services of the patent attorney. Such a restriction also applies to a patent attorney who, with that patent attorney, carries on patent attorney activities in an association or society of patent attorneys.

A patent attorney shall also cease to act in the same matter for both/all clients who have previously acted in concern and between whom a conflict has arisen for any reason which places the patent attorney in danger of a breach of trust or jeopardizes the independence of the patent attorney.

A patent attorney shall also be obliged to refuse to provide services, if the information that he or she has about another client or a former client might unduly favour the one who requests the services of the patent attorney. This typically involves the representation of different entities in the same or similar fields of business or technology, whereby the patent attorney obtains information from different clients in the course of providing services that can be used in the representation of other clients, e.g. the preparation of applications for inventions in similar or the same fields of technology for different entities by one patent attorney, etc. Similarly, a patent attorney may not use information obtained from a prior client that is not publicly available in the representation of a new client, if the use of that information for the benefit of the new client could be considered by the prior client to be to its detriment or would confer an unfair advantage on the new client.

Also, if the interests of the person requesting the services of the patent attorney conflict with the interests of the patent attorney or a person close to the patent attorney, the patent attorney is obliged to refuse to provide the services. If such instruction cannot be refused without risk of damage, the patent attorney shall accept it, but shall comply with it only to the extent necessary to avoid damage. Thereafter, the patent attorney must withdraw from the case.

Under the Rules of Professional Ethics and Competition for Patent Attorneys, a patent attorney is also required to refuse to provide patent attorney services for which he or she is not qualified or has insufficient experience or does not feel qualified. He should, however, refer to a specialized colleague.

If the patent attorney becomes aware of the facts which cause him to refuse to provide his/her services after the fact, he or she shall be obliged to withdraw from the contract for the provision of services of a patent attorney and the provision of such services may not be continued.

If the necessary trust between the patent attorney and the client is violated during the provision of the patent attorney's services, if the client does not provide the necessary cooperation or if the client has not deposited a reasonable deposit for the fee for the representation and the provision of the patent attorney's services without good cause, although he has been requested to do so by the patent attorney, the patent attorney shall be entitled to withdraw from the patent attorney's service contract.

However, in all cases of withdrawal and termination of representation, the patent attorney shall, for a period of 15 days from the date of withdrawal and termination of representation, take all necessary and urgent steps to ensure that the client is not prejudiced in his rights or legitimate interests. This shall not apply, if the patent

attorney agrees otherwise with the client or if the client takes other measures. If the client informs the patent attorney that it does not insist on compliance with this 15-day obligation, the patent attorney shall not be further bound by this obligation.

Form of training and certification

An assistant patent attorney performs professional practice at the patent attorney's office, at a patent attorney's company or at a foreign form of organisation, etc., the purpose of which is to acquire, under the guidance and supervision of the patent attorney, the knowledge and skills necessary to perform the activities of a patent attorney. The compulsory traineeship is three years and its completion is one of the necessary conditions for the registration of the applicant on the list of patent attorneys. The assistant is also obliged to comply with Act No 417/2004 Coll., on patent attorneys, and the professional regulations, a number of which are applicable to patent attorneys and apply, *mutatis mutandis*, to assistants. The assistant also has the right to attend the Chamber's assembly, however, without the right to vote or to be elected.

The unsuccessful candidate may apply to the Office for a retake of the examination, which the Office shall not allow until three months have elapsed from the date of the examination in which the candidate failed. In the event of a second failure, the candidate may apply to the Office for a second retake of the examination, which the Office shall allow no earlier than one year after the date of the first retake, i.e. the second in order, of the professional examination in which the candidate failed. In the event of the applicant's further failure, the re-examination shall not be permitted again until one year has elapsed from the date of the previous unsuccessful attempt. If a candidate who has taken the examination in both areas fails in one of the separate areas, he or she may request a retake in that area only with the above-mentioned intervals between attempts.

Scope of rights and kind of services which can be provided by attorney in intellectual property matters

The services of patent attorneys are the provision of professional assistance to natural or legal persons in matters relating to industrial property. The services of patent attorneys include not only representation before state administration authorities, but also representation before courts (under specified conditions).

Patent attorneys may provide an independent expert advice and other services related to the protection of industrial property.

The Czech attorney in intellectual property matters can act before state administration authorities, courts, EUIPO.

A patent attorney shall perform his/her activities for remuneration and shall have the right to request a reasonable deposit from the client. The advance requested must not be in manifest disproportion to a sober estimate of the total remuneration and expected out-of-pocket expenses. In doing so, the patent attorney shall provide the client in advance with truthful information about the expected scope of his performance and shall, at the client's request, explain to him the method of calculation and the amount of the contractual fee.

Membership in a professional's organization

Pursuant to Act No 417/2004 Coll., on patent attorneys, and subject to the fulfilment of the statutory conditions, only patent attorneys, patent attorney companies, foreign organizational forms and foreign patent attorneys registered in the relevant Registers maintained by the Chamber of Patent Attorneys of the Czech Republic may provide patent attorney services.

Codes of conduct

In the form of the **Rules of Professional Ethics and Competition of Patent Attorneys**, adopted by the Assembly of the Chamber of Patent Attorneys on 22 October 2004 and amended on 12 October 2007, patent attorneys registered in the Registers maintained by the Chamber have adopted a conscious, free and voluntary standard of conduct.

The Rules are ethical professional principles and every patent attorney is bound by them, irrespective of his own interests and those of third parties. Violation of these Rules shall, unless the matter must be dealt with otherwise, lead to disciplinary action. The provisions of these Rules shall apply, *mutatis mutandis*, also to assistant patent attorneys registered in the list of assistants maintained by the Chamber of Patent Attorneys of the Czech Republic.

The patent attorney shall also be responsible for the compliance with these Rules by his assistants and the employees of his office. Every patent attorney or assistant shall be obliged to be familiar with these Rules and shall not excuse any failure to comply with them by ignorance.

A patent agent shall act honestly, conscientiously, courteously and consistently. If a patent attorney receives an obviously inappropriate instruction from a client, he or she shall be obliged to warn the client of this before carrying out such instruction, or may refuse to provide services pursuant to Act No 417/2004 Coll., on patent attorneys, or shall be obliged to withdraw from the contract.

A patent attorney is not entitled to justify non-compliance with the rules of professional ethics and competition of patent attorneys by referring to obviously inappropriate instructions of the client.

In addition to being bound by the law and, within the limits of the law, the client's instructions, the patent attorney is also obliged **to maintain the confidentiality** of all facts of which he or she becomes aware in connection with the provision of services by the patent attorney. The obligation of confidentiality may only be waived by the client by written declaration. After the client's death or dissolution, a written waiver of confidentiality is only possible by the successor in title. Even a patent attorney who has been removed from the list of patent attorneys or whose practice has been suspended shall be bound by the obligation of confidentiality. The legal obligation of confidentiality is thus not limited in time. However, the patent attorney is automatically exempted from it, if the classified information is officially disclosed. All information contained in the client files or electronic media of the patent attorney that has not been officially disclosed is subject to professional secrecy and the duty of confidentiality.

If the patent attorney entrusts the performance of individual acts of the services of the patent attorney to another person who is himself/herself under an obligation of confidentiality, the patent attorney shall not be under an obligation of confidentiality towards that person.

Where proceedings are pending before a court or other authority in respect of a dispute between the patent attorney and the client or his/her successor in title, the patent attorney shall not be under an obligation of confidentiality to the extent necessary for those proceedings.

Furthermore, a patent attorney shall not be bound by the duty of confidentiality in disciplinary proceedings, nor may he/she invoke the duty of confidentiality in such proceedings against the chairman and members of the supervisory committee investigating his/her disciplinary misconduct. The duty of confidentiality shall apply, *mutatis mutandis*, to the members of the Chamber's bodies and its staff, as well as to all persons involved in the disciplinary proceedings, including the chairman and members of the supervisory committee responsible for preparing the disciplinary proceedings and for investigating whether disciplinary misconduct has occurred. However, this confidentiality shall not apply to members of the Chamber bodies in proceedings before the courts in these matters.

It also follows from the above that if a person who is registered in the list of patent attorneys performs any activity which is not the provision of services of a patent attorney pursuant to Act No 417/2004 Coll., on patent attorneys, then the performance of such activity is not subject to the obligation of confidentiality.

If a patent attorney communicates with another non-contracting patent attorney, especially a foreign patent attorney, on confidential matters and wishes to treat the communication as confidential, he/she shall disclose this fact immediately/at the beginning of the communication. If the patent attorney, as the recipient of the information, is unable to ensure the required level of confidentiality, he is obliged to bring this to the attention of his colleague.

A **disciplinary offence** may result in a written warning, a public reprimand, a fine of up to CZK 100 000, suspension of the authorisation to provide services as a patent attorney for up to three years or removal from the list of patent attorneys.

For disciplinary offences, an assistant may be given a written warning, a public warning, or a fine of up to CZK 50,000 or removal from the list of assistants.

A company of patent attorneys may be given a written warning, a public warning, a fine of up to CZK 1 000 000, suspension of the authorisation to provide patent attorney services for up to three years or removal from the list of companies of patent attorneys for disciplinary offences.

When imposing disciplinary measures, the severity of the infringement, in particular the manner of its commission, its consequences and the circumstances under which it was committed shall be taken into account.

Principles of advertising the services of an attorney in intellectual property matters

A patent attorney shall have the right to inform the public about the services he/she provides, provided that such information is accurate, truthful and objective, not misleading and respects the fundamental principles of integrity and professional secrecy. Personal publicity of the patent attorney in the information media, in the press, radio, television, electronic commercial communications, etc. shall be permitted provided that the above conditions are met.

A patent attorney and an established foreign patent attorney shall use the designation “patent attorney” when providing patent attorney services. A patent agent company shall use the designation “patent agent company”. In addition, the patent agent, the established patent agent and the patent agent company may use other indications, such as the place of business, where applicable, or the places of work, of the performance of expert or interpreting activities, their trademark or other indications, provided that such additions do not raise any doubt as to the manner of carrying on the activity, i.e. that it is the performance of the activity of a patent agent.

DENMARK

(Association of Danish Intellectual Property Attorneys)

Anyone in the European Economic Area (EAA) can represent third party before the Danish PTO and can give legal advice in IP matters in Denmark, including matters concerning patents, trademarks, and designs. No authorization is needed.

Although there are no Danish national IP authorizations, ADIPA of course strongly recommends using a **Danish qualified IP consultant**, preferably a member of ADIPA organization. Only a Danish lawyer ("advokat") can represent clients in Danish courts.

Concerning **the rights, duties and responsibilities** of an attorney in intellectual property matters the Danish law in general is applied.

ESTONIA

(Patendivolinike Koda)

Who can be an attorney in intellectual property matters in Estonia?

Estonian patent attorney profession is regulated by Patent Attorneys Act. A person who is a member of the Chamber of Patent Attorneys and who has been awarded, on the bases and pursuant to the procedure provided for in this Act, may act as a patent attorney. A person who has acquired the profession of a patent attorney abroad may also act as a patent attorney, if his or her professional qualification has been recognized in accordance with the Recognition of Foreign Professional Qualifications Act and if he or she is a member of the Chamber of Patent Attorneys.

How to become patent attorney in Estonia?

A person may be awarded the profession of a patent attorney, if he or she has active legal capacity, is a citizen of Estonia or a Member State of the European Union and his or her permanent place of residence is in Estonia, has at least a nationally recognized Master's degree, or an equivalent qualification within the meaning of subsection 22 of § 28 of the Republic of Estonia Education Act, or an equivalent qualification of a foreign state. In addition, a successful candidate has oral and written proficiency in Estonian, and, prior to applying for the profession of a patent attorney, has worked for a patent attorney or for a company of patent attorneys in the area in which he or she is applying for the profession for at least four years during the last ten years. Such person must be proficient in two foreign languages to the extent necessary for the professional activities of a patent attorney and at least one of these foreign languages shall be an official language of the European Patent Office. Finally, a candidate cannot be punished pursuant to criminal procedure for an intentionally committed criminal offence.

For the patent attorneys **the education** must be in technical field. In his or her area of professional activities, a patent attorney is competent to provide legal services, represent a person before state authorities, in court, and in other cases, collect evidence, in the provision of legal services to persons, freely choose and use the means and methods prescribed by law and certify translations and copies of documents concerning industrial property which are to be submitted to authorities.

Competences, rights and duties of the Estonian patent attorney.

A patent attorney is required to use all means and methods prescribed by law in the interests of the person who authorized him or her while preserving his or her

professional integrity and dignity, inform the person who authorized him or her of acts related to the provision of legal services, maintain a list of acts related to the provision of legal services. A patent attorney shall not provide legal services to a person whose interests are in conflict with the interests of another person to whom the patent attorney provides or has provided legal services in the same matter, and in other cases prescribed by law. A patent attorney may refuse to provide legal services to a person on the initiative of the patent attorney, if the person has requested to perform such as the patent attorney should violate a law or the requirements of professional practice, repeatedly fails to pay for the legal services on time, renders, by his or her action, the provision of legal services to the person impossible, or abuses the name or profession of the patent attorney.

In the provision of legal services, a **patent attorney shall be independent** and shall act pursuant to law, the requirements of professional practice, good morals and conscience.

Information disclosed to a **patent attorney shall be confidential**. Patent attorneys and the employees of a company of patent attorneys shall not be heard as witnesses with regard to information which became known to them in the provision of legal services nor shall explanations be requested from them with regard to such information.

Any data received in the course of provision of legal services shall not be confiscated from patent attorneys or the employees of a company of patent attorneys, or from a company of patent attorneys.

A patent attorney is required to maintain the confidentiality of business secrets that have become known to him or her in the provision of legal services. Such obligation shall not be limited in time and it shall also apply after the discontinuation of the professional activities of the patent attorney. The specified obligation shall extend to the employees of a company of patent attorneys and to public servants to whom a patent attorney's professional secret has become known in connection with the performance of their official duties. A person or his or her legal successor may, by his or her written consent, exempt a patent attorney from the professional secrecy obligation. The professional secrecy obligation shall not extend to the collection of costs for legal services provided by a patent attorney. Disclosure of information to an official exercising state supervision of the professional activities of a patent attorney shall not be deemed to be a violation of the professional secrecy obligation.

Estonian trademark attorney is authorized to represent before EUIPO. In general a master degree is required, and in patents field a technical master degree is required.

A patent attorney is competent to provide legal services, represent a person before state authorities, in court, and in other cases, collect evidences, in the provision of legal services to persons, freely choose and use the means and methods prescribed by law and certify translations and copies of documents concerning industrial property which are to be submitted to authorities.

Estonian attorney in intellectual property matters can act before Patent Office, EUIPO (trademark attorneys), Board of Appeal, civil courts (1st and 2nd instance independently, Supreme Court – jointly with attorney at law).

A patent attorney may operate as a sole proprietor, through a company of patent attorneys or, holding the profession of a patent attorney, on the basis of an employment contract entered into with another person. Data on a patent attorney operating as a sole proprietor shall be entered in the commercial register.

A patent attorney operating as a sole proprietor or a company of patent attorneys shall inform the register about the contact details of the patent attorney and the company of patent attorneys. Information concerning patent attorneys operating through a company of patent attorneys shall be forwarded to the register by the company. A person who is the professional patent attorney and operates on the basis of an employment contract entered into with another person shall submit his or her contact details and the contact details of his or her employer to the register.

Company of patent attorneys shall not provide any services except legal services. A company of patent attorneys may merge only with another company of patent attorneys. The partnership agreement of a company of patent attorneys operating as a general partnership or limited partnership shall be entered into in writing and it shall be appended to the petition for entry of the company in the commercial register. The business name of a company of patent attorneys or a patent attorney operating as a sole proprietor shall contain the words “patent bureau” or “patent attorney”. The Chamber of Patent Attorneys fixes the profession exam fee (300 euro) and annual fee (300 euro per attorney). Membership in Chamber of Patent Attorney’s is compulsory to practice as a patent attorney.

Law and Chamber’s Code of Conduct regulations of professional ethic and secrecy

The professional activities of a patent attorney shall be suspended, if the patent attorney is unable to perform his or her duties because of health issues or other reasons for more than six consecutive months, the patent attorney is bankrupt, the company of patent attorneys through which the patent attorney provides legal services is bankrupt, the patent attorney has filed a request for suspension with the register.

The patent attorney shall submit an application for suspension of the professional activities of the patent attorney and a document certifying the grounds for suspension to the Chamber of Patent Attorneys within five working days after the date on which the grounds for suspension of the professional activities arose. The patent attorney shall notify persons to whom he or she provides legal services of the application for suspension of the professional activities of the patent attorney within five working days after the date on which the grounds for suspension of the professional activities arose.

In order to resume the professional activities of a patent attorney, the patent attorney shall submit to the Chamber of Patent Attorneys an application and documents certifying that the grounds for suspension of professional activities have ceased to exist.

A patent attorney shall be deprived of his or her profession as a patent attorney, if the patent attorney has violated the law in the professional activities of the patent attorney or repeatedly fails to perform the duties.

Advertising

Advocates, companies of advocates, sworn translators, patent attorneys and companies of patent attorneys **may advertise** their activities, if the advertising is not contrary to the requirements for the professional ethics and the advertising does not invite people to enter into a contract. An advocate and a company of advocates are deemed to be the same as within the meaning of the Bar Association Act, a sworn translator is deemed to be the same as within the meaning of the Sworn Translators Act, and a patent attorney and a company of patent attorneys are deemed to be the same as within the meaning of the Patent Attorneys Act.

Professional training

A patent attorney shall undergo periodic professional **in-service training** in every area of the professional activities of a patent attorney for which he or she has been awarded the profession of a patent attorney. The bases, procedure and volume of in-service training shall be decided by the board of the Chamber of Patent Attorneys. The specialization of a patent attorney in the area of professional activities shall be taken into account while organizing in-service training. The professional qualifications committee verifies the compliance with the in-service training obligation once in five years. If a patent attorney has not undergone in-service training in a required volume during an evaluation period or has not submitted data on undergoing in-service training to the professional qualifications committee by a specified date, the professional qualifications committee requires the patent attorney to take a professional examination. The examination shall be taken within four months after the requirement for taking the examination was made. If the patent attorney fails the examination, the patent attorney shall be required to take a re-examination. If the patent attorney does not appear to take an examination or re-examination without good reason, he or she is deemed to have failed the examination.

If a patent attorney does not appear to take a re-examination without good reason or fails to pass the examination at a second attempt, the professional qualifications committee submits a proposal to the board of the Chamber of Patent Attorneys to deprive the person of the profession of a patent attorney.

FINLAND

(Suomen Patenttiasiamiesyhdistys ry)

Who can represent clients in IP cases in Finland?

Anyone can represent to FIPTO in matters of patents, trademarks and industrial designs. In disputes only qualified attorney may represent parties.

How to become attorney in intellectual property matters Finland?

To become an attorney in intellectual property matters in Finland it is necessary to have master's degree, practicing for one year and passing FIPTO exam. The training covers one year of work and is finished by FIPTO exam.

The attorney in intellectual property matters in Finland can act in various IP related services. The attorney may act before FIPTO and, in some matters, before Finnish Market Court. Territorial scope of legal and technical assistance of an attorney in intellectual property matters is Finland.

Competences, rights and duties of Finnish patent attorneys

The attorney in intellectual property matters **may voluntary be a member** of Finnish Patent Attorney Association.

Method of determining fees for the professional activities of attorneys in intellectual property matters is not regulated.

Finnish Patent Attorney Association has **professional ethics regulations** and there is professional secrecy. Suspension of the right to practice the profession and removal from the list of attorneys in intellectual property matters is subject to supervision by FIPTO and an annual supervision fee to FIPTO. Principles of advertising the services of an attorney in intellectual property matters are subjected to appropriate professional practice.

Obligation of continuing **professional development** is not specified.

FRANCE

(Compagnie Nationale des Conseils en Propriété Industrielle)

Patent and/or Trademark Attorneys are highly qualified professionals.

How to become patent attorney in France?

Required qualifications for Patent and/or Trademark Attorneys in France are:

1. scientific, legal or technical degree at masters' level:
 - Scientific or Technical Degree ► Patent Attorney;
 - Legal Degree ► Trademark & Design Attorney;
2. CEIPI (Centre d'Etudes Internationales de la Propriété Industrielle) specialised IP degree;
3. At least three years professional practice;
4. Qualifying examination.

According to data sourcing since January 2023 there are:

- **1107 Patent and/or Trademark Attorneys in France,**
- 283 principal firms throughout France and 476 firms, including branch offices.

In this profession are employed about 7000 persons, including consultants. Most of the patents filed in France are deposited by a CPI.

Patent & Trademark Attorney is:

1. a regulated title, ensuring that work is carried out by a skilled and responsible expert;
2. a profession which is regulated providing client protections (e.g. financial guarantees, public liability, professional ethics, etc.) for
 - French clients, with international interests,
 - international clients with European interests, including in France.

Other activities or obligations of Patent & Trademark Attorney:

1. participation in free consultations,
2. training of young professionals,
3. promoting IP and the Profession.

Scope of rights concerning which Patent and/or Trademark Attorneys can represent clients:

1. patents,
2. trademarks/designs,
3. vopyright,
4. domain Names.

Kind of services which can be provided by Patent and/or Trademark Attorneys:

1. arbitration,
2. contracts,
3. due diligence,
4. evaluation,
5. filing,
6. litigation,
7. pre-litigation (seizure of counterfeit goods),
8. prior art searches,
9. strategy.

Commercial relationships with clients:

1. fixed fees in agreement with the client,
2. amount of the fee depends on several factors: difficulty, urgency, time spent, financial interest at stake, level of experience of the attorney,
3. success fees are allowed only over and above normal fees,
4. ees and expenses must be clearly identified on invoice.

French Patent & Trademark Attorneys Institute was created in 1990 (Law N° 90-1052 of 1990, November 26) and is a successor to the French Patent Attorneys Institute. French Patent & Trademark Attorneys Institute is linked to the French Patent and Trademark Office (INPI).

French Patent & Trademark Attorneys Institute is unique professional association representing all 1107 French patent and/or trademark attorneys (the profession) with privileged interface between the profession and the public. The Institute guarantees competence, independence and ethics, and proactive proposals concerning IP matters.

The French Patent & Trademark Attorneys Institute mission is to:

1. represent the patent and/or trademark attorneys' profession,
2. ensure compliance with the professional ethics (Code of Conduct),
3. defend the profession's interests,
4. develop and promote the profession and IP in general.

Patent and/or trademark attorneys are **custodians of very sensitive information for their clients**. Patent and/or trademark attorneys respect very strict rules of conduct:

1. defined professional ethics and obligations towards clients,
2. respect professional secrecy,
3. conflicts of interest are forbidden,
4. disputes are resolved by disciplinary committee.

Obligation of professional secrecy cannot be waived by the courts or the client. Disrespect of this obligation of confidentiality can lead to professional and criminal sanctions.

GERMANY

(Patentanwaltskammer)

Who can represent clients in IP cases in Germany?

An attorney, who is – by way of admission to the patent bar – entitled to represent clients in intellectual property matters in Germany, is a patent attorney (“Patentanwalt”). German attorneys at law, however, are allowed to represent clients in all kinds of legal matters and, therefore, also in matters of patents, trademarks and industrial design.

How to become patent attorney in Germany?

To become a patent attorney, a university degree in engineering or natural sciences is required. As additional requirement, before being able to start the training to become a patent attorney, the candidate has to prove at least 12-month period of working experience in a technical environment, such as in a company.

After that, 34 months training period with a patent attorney, the German Patent and Trademark Office and the Federal Patent Court is required. First 26 months are spent with a senior patent attorney, who takes responsibility for the training. Further parts of education are conducted by the German Patent and Trademark Office (two months) and the Federal Patent Court (six months). Patent attorney candidate can also apply for a two-month training period at a civil court handling patent infringement cases during this six-month period.

In parallel, patent attorney candidate has to take courses in general law and IP law and exams at the University of Hagen, a university training course which is predominantly carried out as a distant-learning course with particular segments given in person.

After 34 months training period, the candidate can sit an exam comprising written and oral examinations. After having passed the examination and being qualified as „Patentassessor“, such person can file for admission as patent attorney.

Competences of the German patent attorney

The **territorial scope of legal and technical assistance** is, in principle, restricted to German law. However, German patent attorney involves foreign colleagues, if legal and technical assistance is required by the client for legal issues outside Germany.

Patent attorney **may act in any proceedings** before the German Patent and Trademark Office and, in addition, in any proceedings before the Federal Patent Court, so he may represent in any application or opposition procedure and, in addition, in any other revocation procedure. In infringement cases, an attorney at law has to be involved, who will be representing the client before court. The patent attorney has, however, the right to be heard.

Patent attorney may give advice to his clients in all matters of intellectual property, so he or she may assist the client, e.g. in questions of strategic planning, concluding license agreements, including drafting such license agreements, etc. As a member of the legal profession, he or she may also participate in inspection proceedings, in which company premises of an alleged infringer are inspected. In these proceedings, patent attorney is not allowed to discuss with his own clients details of the inspection proceedings, unless the findings are released by the courts.

Briefly summarized, German patent attorney can act before the Patent and Trademark Office, before the Federal Patent Court, before the Supreme Court (in nullity cases) and before the EUIPO.

Forms of practicing the profession.

Patent attorney **may practice the profession as sole practitioner or together with colleagues in a patent attorneys firm.** Several types of associations are allowed. Above that, patent attorney can also be employed by a company and act as patent attorney for his/her employer under the title "Patentanwalt (Syndikuspatentanwalt)".

In general, there is **no official fee schedule** for the professional activities of patent attorneys. Patent attorney either reaches an agreement pertaining to the fees with the client or simply charges an appropriate fee for his services. In matters, where the patent attorney directly represents his/her clients in court (either alone, or together with an attorney at law), he or she might be bound by a fee system applicable to the attorneys at law. However, patent attorney (and attorney at law) would be allowed to deviate from this official fee schedule, if they reach an agreement with their clients in this respect.

By law, German patent attorney is a **member of the Chamber of Patent Attorneys** ("Patentanwaltskammer"). All other memberships are optional, such as to be member of the Federal Association of Patent Attorneys ("Bundesverband Deutscher Patentanwälte").

Codes of conduct and duties of the German patent attorney

A patent attorney has to **obey the rules of conduct** as set out by the Patent Attorneys Act ("Patentanwaltsordnung") and the Code of Conduct ("Berufsordnung der Patentanwälte"). The Patent Attorneys Act ("Patentanwaltsordnung") was subject

to major amendment effective as of August 1st, 2022. The Code of Conduct (“Berufsordnung”) is a codification based on the Patentanwaltsordnung, decided upon by the Assembly of the Chamber of Patent Attorneys and approved by the Ministry of Justice. Among the core duties are **confidentiality** and the avoidance of conflicts of interests [The core professional ethical duties in the Patentanwaltsordnung are specifically set forth in Secs 39 to 52. The **professional confidentiality** is codified in particular in Sec. 39 a].

Among duties of patent attorney is also the **duty to continue professional education** to keep information updated on any new developments in his field and to know the relevant legal background including any pertinent decisions [see Sec. 39a para. 8 Patentanwaltsordnung].

Advertisement is allowed only within the limits of Sec. 39b Patentanwaltsordnung, according to which advertisement has to be carried out in an informative and factual manner. In any case, such advertisement may not be directed towards acquiring a specific single case from a specific client.

The **revocation** of the admission as patent attorney is codified in Sec. 21 Patentanwaltsordnung. There are, of course, very specific circumstances under which proceedings for the revocation of the admission are possible.

HUNGARY

(Magyar Szabadalmi Ügyvivői Kamara)

Who can represent clients in IP cases in Hungary?

Patent attorneys, patent attorney candidates, community representatives (professional representatives of industrial property rights of the European Communities), and, within the framework of general legal practice and under special conditions, attorneys at law, attorney at law candidates, European Community jurists, foreign legal counsels, legal counsels and legal advisors registered with the bar association.

How to become a patent attorney in Hungary?

Candidates for association membership must be a Hungarian citizen or a national of any EEA Member State, or must have the right of permanent residence or an immigration permit. Candidates may not have prior criminal record and must have a university level degree, or masters training, in engineering, information technology or in other field of healthcare or natural sciences, such as a doctor of medicine, veterinarian, biologist, chemist, pharmacist, mathematician or physicist. Candidates must also pass a patent attorney examination which may be taken after working for three years as a patent attorney candidate.

Within one month from the time of admission to the association, patent attorneys must take an oath before the President of association.

Rights, duties and responsibilities of a patent attorney in Hungary

Patent attorney may not undertake practicing the legal profession for clients whose interests are in conflict, or if the client's interests are in conflict with the attorney's interests outside the case. This prohibition shall also be applied, if a future conflict of interest can be foreseen.

Patent attorneys shall conscientiously handle all matters entrusted to them to the best of their abilities, in observation of the relevant statutory provisions and the code of ethics of patent practitioners and shall engage in conduct worthy of the profession of patent attorney at all time.

Any activity that might be considered to prejudice the independence of patent attorney activities and the legitimate interests of the patent attorney's clients shall be considered incompatible with patent attorney activities. Patent attorneys shall perform patent attorney activities separate from all other activities.

Patent attorneys shall keep a file or record on the handled cases containing facilities to permit their substitute or successor to take over and carry on the case where necessary for a period of five years from the date of termination of the appointment.

Patent attorneys shall identify themselves in proceedings before a court and other authorities with the official picture identification card issued by the Association.

A patent attorney may act in the following:

1. patent proceedings, plant variety right proceedings, actions for design protection, utility models, topographies, trademarks and geographical indications and the related proceedings of legal remedy and enforcement proceedings conferred under the jurisdiction of the Szellelemi Tulajdon Nemzeti Hivatala (Hungarian Intellectual Property Office);
2. proceedings launched in connection with any infringement of inventions and patents, plant varieties and plant variety rights, designs rights and design protection rights, utility models and utility model protection rights, semiconductor topographies and infringement on such topographies, trademarks and geographical indications;
3. proceedings initiated in connection with the compulsory licensing of patents, plant variety rights and design rights, with any prior user rights or continued user rights;
4. proceedings launched in connection with any infringement of rights on computer programs and their documents, on any database recognized as collection of works and other databases, on works accessible by computing equipment, works of applied art and industrial designs, on copyright or any right related to copyright on the design of engineering works, as well as proceedings relating to the voluntary register of works;
5. proceedings concerning authorship, entitlement and remuneration in connection with the rights mentioned hereinbefore;
6. proceedings in connection with protection of know-how of persons with regard to their technical, economic and other practical knowledge of value, including accumulated skills and experience and any combination thereof;
7. proceedings initiated on account of any violation of the prohibition of unfair competition and unfair manipulation of business decisions, provided that they relate to inventions or other technical solutions, designs, plant varieties, computer programs and their documents, rights on applied arts and industrial design arts, rights on the plans of engineering works, business secrets – including technical, economic and other practical knowledge (know-how), unique external appearance, packaging, marking or naming of goods and services, furthermore, the use of any name, marking or indication of goods used in economic activities.

Before which institutions does the Hungarian attorney in intellectual property matters can act?

Primarily the Hungarian Intellectual Property Office, but also any further possible institutions in intellectual property matters, as well as all courts handling intellectual property matters.

The amount and **terms of payment** of the patent attorney's remuneration shall be freely decided.

Membership in the Hungarian Chamber of Patent Attorneys is compulsory.

Codes of conduct

Patent attorneys must conscientiously and professionally perform their duties defined by law. Their **professional functioning and human behavior should correspond to the dignity of the profession of patent attorneys**. Information and advice given to clients by the patent attorney must be reliable. Representation of the client's interests should be carried out as an independent expert, impartially, without prejudice, and without personal feelings. Patent attorneys are also responsible for ensuring that the non-patent attorney persons employed or commissioned by them or their office in the exercise of their profession comply with the provisions of the code of ethics in the scope of employment or assignment. Patent attorneys cannot claim a share of an intellectual work as a compensation for their work as a patent attorney. Patent attorneys should maintain a good collegial relationship with other patent attorneys. Good collegial relationship includes, in particular, mutual courtesy and refraining from unfairly acquiring clients from each other. Competition between patent attorneys – including price competition – must be fair in all respects, law-abiding and in accordance with the higher moral level expected from patent attorneys. Patent attorneys are entitled to request a case-by-case resolution from the Chamber's Ethics Committee on ethical issues.

All information obtained while performing patent attorney activities are considered to be **patent attorney secret and are confidential**. Patent attorneys must refuse to testify and give evidence about any patent attorney secret in administrative and court proceedings, except if released from the confidentiality obligation by the holder of such patent attorney secret.

A membership of a patent attorney in the association **shall terminate**, if the patent attorney:

1. has so requested in writing;
2. is banned from public affairs or a license to practice has been suspended by a final peremptory court decision;
3. has a criminal record;
4. has been expelled from the association in a disciplinary action;
5. ignores the payment notice received after falling behind in paying membership dues;
6. is no longer a citizen of Hungary or a national of any EEA Member State, or his/her right of permanent residence or immigration permit is terminated or withdrawn;

7. is placed under guardianship or conservatorship or under the effect of advocated decision-making;
8. is working at an authority or a court acting in matters related to industrial property rights;
9. is no longer covered by liability insurance;
10. has no longer an office appropriate for conducting patent attorney activities, if required;
11. is subject to a conflict of interest due to activity that might be considered to prejudice the independence of patent attorney activities, or
12. dies.

Furthermore, the **disciplinary board** may suspend the patent attorney if:

1. the person pursuing the activity of patent attorney is implicated in a criminal proceeding for the commission of an intentional criminal offense, except private prosecution or substitute private prosecution cases, or
2. the pursuit of patent attorney activities is likely to diminish or jeopardize the rights or legitimate interests of clients, or the public confidence in patent attorney activities to a degree that overrides the harm of individual interests resulting from the suspension.

Principles of advertising the services of an attorney in intellectual property matters

On the patent attorney's nameplate, office, stamp, letterhead, business card, in other printed matter or in any other way patent attorneys may not use a designation that is misleading to the public.

A patent attorney may inform the public and/or acquire clients by publishing advertisements and engage in advertising activities, provided that advertisement and advertising is limited to fair, real professional information, moderate and does not violate good taste and the dignity of the patent attorney profession. Patent attorneys cannot create an advertisement in a deceptive comparative manner, using the clients' name without the clients' consent, using, without a written agreement, the name of other patent attorneys, patent attorney offices, patent attorney firms or other persons or organizations professionally engaged in client representation, and announcing, mediating or negotiating a transfer of intellectual property rights without the client's mandate.

There is **no obligation of continuing professional development** for qualified patent attorneys, however, patent attorneys should ensure that their professional knowledge is kept up to date.

IRELAND

(Association of Patent and Trade Mark Attorneys)

Who can represent clients in IP cases in Ireland?

Any of the following can be an attorney in intellectual property matters in Ireland:

1. lawyers (solicitor or barrister);
2. registered trade mark attorney;
3. registered patent attorney.

How to become a patent and trademark attorney in Ireland?

Professional requirements for becoming an attorney in intellectual property matters in Ireland include residency and having a place of business in Ireland, as well as possessing the requisite educational and professional qualifications.

The conduct of the attorney must not be “disgraceful” to the profession.

Separate qualification required to become a European patent attorney. A registered trade mark attorney is automatically entitled to entry on the register before EUIPO.

Trade mark attorneys simply need to pass the examination held by IPOI. The exam is annual. Patent attorneys must pass a set of examinations as well as having knowledge (usually to degree level) of engineering, chemistry, physics or other technical subject. There is also a requirement of not less than three years training.

Competences, rights and duties.

Patent and trade mark attorney can act before the Intellectual Property Office of Ireland (IPOI). They cannot act before the courts. Patent and trade mark attorneys have also the right to prepare certain documents pertaining to intellectual property rights as well as documents for proceedings before the courts.

There are no regulations in place. It is contrary to competition law to agree on professional fees.

Membership of a professional organization is not mandatory. Many patent and trade mark attorneys are members of APTMA (Association of Patent and Trade Mark Attorneys).

There are no set **codes of conduct** covering registered patent and trade mark attorneys except for a requirement not to act in a manner being “disgraceful” to the profession.

Suspension of the right to practice the profession and removal from the list of patent and trade mark attorneys can arise for any conduct bringing disgrace to the profession.

There are no specific regulations governing the **advertising** of services by registered patent or trade mark attorneys. There are advertising codes as members of APTMA. Membership of APTMA is not mandatory.

There are no requirements of continuing **professional development**.

ITALY

(Ordine dei Consulenti in Proprietà industriale)

Who can represent client in IP cases in Italy?

In Italy, attorneys who can represent clients in industrial property matters, including patents, trademarks, and industrial designs, are:

1. qualified legal professionals registered with the Bar Association (i.e., holding a law degree and the title of “avvocato” – attorney at law), who can represent clients for both prosecution before administrative institutions (in Italy, the Italian Patent and Trademark Office) and litigation before courts (in Italy, the courts specialized in IP);
or
2. professionals having a university degree or equivalent title and who have passed the Italian qualifying examination(s) as patent and design representatives and/or trademark and design representatives, who can represent clients for both prosecution before administrative institutions (in Italy, the Italian Patent and Trademark Office) and prosecution before the judicial Board of Appeal; such professionals are called “patent attorneys”, when they have passed the Italian patent and design qualifying examination only, “trademark attorneys”, when they have passed the Italian trademark and design qualifying examination only, and “industrial property attorneys” when they have passed both.

How to become an attorney in industrial property matters in Italy?

Concerning professional requirements for becoming an attorney in industrial property matters in Italy, a person can become a qualified representative in IP matters, provided that he/she:

1. enjoys civil rights and has a good civil and moral standing;
2. is either an Italian citizen or EU citizen, or a citizen of any other country having reciprocity with Italy and has a professional domicile in Italy or EU (if EU citizen); domicile in Italy is not strictly required for citizens of non-EU countries which allow reciprocity to Italian citizens; has passed the qualifying examination defined in art. 207 of the IP Code.

According to art. 207.2 of IP Code, admission to the qualifying examination requires:

1. university degree or equivalent title, or a post-secondary school certificate, issued by a EU country, of technical-professional academic course (on a subject matter of interest for IP) having a duration of at least three years;
2. two-year training in a company, firm or office dealing with IP matters.

Qualified European patent representatives are automatically admitted to the qualifying examination. No examination is required for Italian citizen having attended duties as examiner at the EPO for at least five years. The profession of qualified IP representative is incompatible (art. 205 IP Code) with public employment, private employment except within companies dealing with IP, commerce, profession of notary public, professional journalist, mediator, stockbroker or tax collector.

The title of industrial property attorney is reserved to the persons registered in the Register of Certified Industrial Property Attorneys (subject to the above described requirements and certification). The persons registered only in the patents section must use the title in the form of patent attorney, and the persons registered only in the trademarks section must use the title in the form of trademark attorney. The persons registered in both sections may use the title of industrial property attorney without further specification.

Subject to the above provisions, the representation of individuals or legal entities in proceedings before the Italian Patent and Trademark Office and the Board of Appeal may be taken only by certified attorneys registered in the Register established at the Board of Industrial Property Attorneys Institute and denominated the "Register of Certified Industrial Property Attorneys," as well as those who are admitted to the Bar.

Rights and duties of Italian IP representatives

Italian IP representative has the exclusive right of representation before the Italian Patent and Trademark Office and the relevant Board of Appeal. Article 206 of the IP Code provides that the qualified IP representative has a duty of confidentiality.

Responsibilities are not well codified in the law. Article 211 of IP Code refers to disciplinary penalties in case of abuses and actions putting at risk reputation of the profession and professional dignity. Further, a detailed Code of Professional Conduct has been enacted and approved by the competent Minister in March 1987 and subsequently updated (last revision October 2020): this code includes number of provisions regarding the professional duties and responsibilities put on a representative in connection with clients, colleagues, the Italian PTO and public at large.

According to art. 204.2 IP Code, qualified representatives may carry on any kind of service relating to IP matters on behalf of natural or legal persons. Representation before the Italian Patent and Trademark Office and the relevant Board of Appeal can be exclusively taken over by a qualified representative registered at the Industrial Property Attorneys Institute (i.e. "Ordine dei Consulenti in Proprietà Industriale") or by lawyers admitted to the bar and being members of the Bar Association. There is no explicit reference in the law to any territorial scope. However, the law is intended to regulate activities on the Italian territory and the Italian professionals only. There is no explicit reference in the law to any territorial scope. However, the law is intended to regulate only activities on the Italian territory and the Italian profession.

Any individual may be included in the Register of Certified Industrial Property Attorneys if he/she:

1. has all his/her civil rights in the national legal system and is a person of good civil and moral conduct;
2. is an Italian citizen or a citizen of the Member States of the European Union or a citizen of Foreign Countries with respect to which reciprocal treatment is accorded;
3. has a professional domicile in Italy or in the European Union, if the person is a citizen of an EU Member State;
4. has passed the qualification exam.

Certification is therefore granted after passing an exam. The qualifying exam may be taken after 18-month certified training period.

The legal training

The training is the period, during which the trainee pursues his/her cultural and professional training by acquiring the theoretical, practical and deontological foundations of the profession. The training is to be carried out in a company/firm specialized in IP matters under the supervision of a Trademark or Patent Attorney duly appointed in the Register of Certified Industrial Property Attorneys. The Supervisor takes care of the trainee's preparation, thus contributing to the training of a well-educated and seriously motivated industrial property attorney and at the end of each semester of traineeship he/she certifies that the trainee has actually carried out the traineeship. The period of training is limited to twelve months, if the candidate for the qualifying exam demonstrates that he/she has attended and received credit for a qualified training course for certified attorneys in matters of patents or trademarks, depending on the certification requested.

Competences of IP Attorneys

An attorney may represent client in any procedure before the Italian Patent and Trademark Office and the Board of Appeal. The right to represent clients may be conferred only to attorneys enrolled in a register set up for this purpose at the Board of Industrial Property Attorneys Institute (art. 202 of the Industrial property code).

Attorneys carry out on behalf of any natural or legal person (art. 204 of the Industrial property code) all the tasks provided for by the rules governing services relating respectively to patents for inventions, utility models, designs and models for new plant varieties, topographies of semiconductor products or to trade marks, designs and models and geographical indications, depending on the section in which they are registered (namely patents or trademarks). They may certify the conformity of translations into Italian and of any act or document coming from abroad to be produced to the Italian Patent and Trademark Office. The industrial property attorney has a duty of professional secrecy.

In compliance with the respective matters they are qualified for, the Italian IP attorneys can act before:

1. Italian Patent and Trademark Office and the relevant Board of Appeal;
2. EPO,
3. EUIPO,
4. WIPO.

The profession of IP attorney may be practiced either by patent and trademark qualified representatives being members of Industrial Property Attorneys Institute or by lawyers admitted to the bar and being members of the Bar Association. A trademark qualified representative can practice only as a trademark attorney, while a patent qualified representative can practice only as a patent attorney. According to the general law, both lawyers and qualified IP representatives can practice as natural persons (single representative) or in associated form within an association of professionals organized under a legal entity (all the various forms of legal entity are available; the various forms of relationship between the professionals and between professionals and the company only affects their liability and fiscal/social treatment).

The fees

There is no provision set in the law for a method of determining fees. According to art. 207.1 and art. 217.1(d) of the Italian IP Code, the board of the Industrial Property Attorneys Institute shall propose updates and amendments to the “professional schedule of fees”, which was however abolished in the past due to competition laws. Very recently (May 2023) a new law on fair compensation for professionals has entered into force: accordingly, a kind of “economic parameters” will be determined soon.

Membership in the association

Under Italian law, only members of the Industrial Property Attorneys Institute and lawyers admitted to the bar and being members of the Bar Association may represent third parties before the Italian Patent and Trademark Office.

The Industrial Property Attorneys Institute was established in 1981 and is currently regulated by the provisions of a special section of the Industrial property code (Title VI – articles 201 to 222).

Institute membership is allowed after completing a qualifying examination which entitles the attorney to be entered in the Industrial Property Attorneys Register.

The Register consists of a Patent section, including patent attorneys (qualified to advise on inventions, utility models, designs, plant variety rights and semiconductor topographies), and a Trademark section, including trademark attorneys (qualified to advise on distinctive signs, geographical indications and designs).

The Industrial Property Attorneys Institute covers all Italian territory and has no regional divisions. It is governed by a Board of 10 members, elected by the Assembly every three years. The Institute supervises also the continued education program of its members and, through a special organism, the compliance by the members of the Ethical Code of Conduct.

Forms of practice

Industrial property attorneys may practice individually or in partnership, or within a limited liability company, or as employees in commercial or industrial companies. The supervision of the exercise of the profession is carried out by the Italian Patent and Trademark Office.

Codes of conduct

Under the provisions of art. 210 of the Italian IP code: “A certified attorney is canceled from the Register:

1. when one of the requirements for registration is no longer present, as per Article 203;
2. when one of the cases of incompatibility is present as established by Article 205;
3. when the interested party so requests.

A certified attorney may request re-registration in the Register, when the causes for cancellation have ceased, without need to be re-examined.

A certified attorney shall be declared to be automatically suspended from the right to exercise the profession from the time he/she is subject to the coercive or restrictive measures indicated by sections II and III of section IV, title I, of the Code of civil procedure, until the time of revocation of those measures, and also in the case of failure to pay the annual fee by the set deadline, until the date on which it is demonstrated that the requirement has been fulfilled.”

As for the disciplinary sanctions, according to art. 211 of the Italian IP code: “Certified attorneys are subject to censure in cases of minor abuses and offenses, and to suspension for no more than two years in the case of serious abuses; to expulsion in the case of conduct that has seriously damaged the professional reputation and dignity.”

Professional education

The patent and trademark attorneys registered at Industrial Property Attorneys Institute shall have the duty to participate in the continuing professional education activities governed by the Rules of the Industrial Property Attorneys Institute, along the following lines.

The evaluation period lasts two years and is measured by professional training credits. To fulfil the obligations, the members must obtain at least thirty training credits in the two-year period, at least ten of which must be obtained in a single training year.

Each member shall freely choose the training events and activities to be carried out depending on his/her professional activity exercised. At least three credits must derive from training activities and events concerning the professional regulations and deontology.

The verification of the fulfilment of the duty of continuing professional development shall be exercised by the Board of the Industrial Property Attorneys Institute.

The Board of the Industrial Property Attorneys Institute shall prepare an annual training program and implement the professional training activities. In particular, the Board shall publish on its website the schedule of the training events that it has organized, and those that it has accredited, with indication of the training credits awarded for the participation in each event.

Training courses may be organized not only by Industrial Property Attorneys Institute, but also by professional associations of members of the Industrial Property Attorneys Institute and any other entities authorized by the Industrial Property Attorneys Institute.

The Board has the faculty to promote, where possible, free training, using its own resources or those obtainable from subsidies, or contributions granted by public or private financing bodies for participation in training events. The Board may enter into special agreements with Boards, Councils and/or Colleges of other Professional Associations and with the Universities, for the mutual acknowledgement of training credits or operate in cooperation with other entities.

The fulfilment of the professional training obligations is obtained thanks to the participation in the following events, organized or accredited even on a permanent basis by the Board:

1. updating courses and masters;
2. seminars, conventions, study days and roundtables;
3. commissions or working groups on industrial property matters set up by national and international bodies where accredited by the Board;
4. other events identified from time to time by the Board.

Credits may also be obtained by remote participation, being monitored.

The carrying out of the following activities fulfils the professional training obligations:

1. participation as a member of commissions for the examination for qualification in the field of trademarks or patents;
2. publication of scientific contributions in the field of industrial property in journals of national or international relevance, as well as contributions in volumes by various authors with ISSN or ISBN.

The Board, at the request of the interested party, may exempt the member from carrying out the training activity, even partially, in the following cases: maternity, up to the age of one year of the child; adoption, up to the age of one year of the adoption; serious illness or accident; interruption of professional activity for a period of not less than six months; other cases of temporary impediment at the discretion of the Board. Exemption may be granted limited to the period, in which the impediment occurs, and involves a proportional reduction in the professional training credits.

The Board may also exempt from compulsory training, in whole or in part, any member who so requests and who is at least 35 years of registration to Industrial Property Attorneys Institute and 65 years of age, taking into account, with reasoned decision, the sector of activity, the quantity and quality of professional activity and any other element that may be useful in assessing the request.

The Board shall verify the effective fulfilment of the training obligation by members by consulting the data in its possession or by asking the member and the entities that organized the training events for clarifications and supplementary documentation.

Failure to comply the training obligation and failure to certify or falsely certify the training course followed shall constitute a disciplinary offence and shall be sanctioned.

Advertising

With reference to principles of advertising the services of an attorney in industrial property matters, according to art. 2 of Italian Code of Conduct:

1. informative advertising having as an object the activity performed by the IP attorneys, their specialization, the titles relating to their profession, the structure of the law firm and the fees requested for their activities, is admitted by any means;
2. informative advertisement as referred above, must be functional to its aim, truthful and correct, it must not violate the obligation of professional secrecy and must not be equivocal, misleading or offensive.

In particular, it is considered that the following does not comply with the criteria set out under para 1 above:

1. advertising that directly or indirectly damages the professional image of other members or their professional title, in particular in the event qualities having no professional character are highlighted among the characteristics of their services or in the event the name of clients are cited without their written consent;
2. advertising or using letterhead or websites or disseminating by any means information likely to mislead the public or to create false or exaggerated expectations regarding its organization (including the corporate one), its real presence, also in terms of numbers, of the IP attorneys which are part of it and their qualifications in relation to their representation in the field of IP;

3. communications or indications, either by IT means, such as internet, or the so-called social media or by paper, telephone answers, even automatic, which may deceive third parties in relation to the real nature of the firm or company, to which the IP attorney belongs; in particular, it is considered that the unjustified indication of locations of its own firm, where there is no regular frequency of at least one IP attorney, may mislead the public;
4. use of letterhead and/or websites which does not indicate clearly and precisely the name of the IP attorneys who permanently or temporarily operate within firms or companies, on an exclusive or non-exclusive basis, in the field of IP and related matters;
5. advertising by any means, including use of internet or social media, able to mislead the public or to create false or exaggerated expectations, also by means of exaggerations, ambiguity or omissions, in relation to the characteristics or the results of the services provided, professional fees and official fees due, the conditions under which the services are provided.

LATVIA

(Latvijas Profesionālo Patentpilnvarnieku Asociācija)

Who can be an attorney in intellectual property matters in Latvia and represent clients in matters of patents, trademarks and industrial designs?

Since the general term “attorney” is used in the question, two different aspects should be distinguished: (a) right of representation before the national Patent Office and the Industrial Property Board of Appeals, and (b) right of representation before the national courts. In Latvia, as in many other jurisdictions around the world, only foreign clients (applicants), i.e., those, whose place of residence is outside of Latvia and those, who do not own an enterprise in Latvia, must be represented before the national Patent Office and/or the Industrial Property Board of Appeals by a professional patent and/or trademark attorney. This rule is applicable only to the procedures before the national Patent Office and the IP Board of Appeals. At the same time, the applicants residing in Latvia or having an enterprise in Latvia might be represented by any person, including an attorney-at-law, an employee or even third person by the means of a power of attorney or within the framework of authorization granted by the law, or articles of association. The same is applicable also to the representation before national courts, with an exception of cassation (higher) instance, where only qualified attorneys-at-law and professional patent (trademark) attorneys are admitted to represent clients independently of their residence and/or place of business. Thus, the applicants in Latvia can be represented in matters of patents, trademarks and industrial designs both by professional patent and trademark attorneys and other (presumably) qualified persons (such as, e.g., attorneys-at-law), but depending on the applicant’s domicile and place of the relevant proceedings (whether it is Patent Office/IP Board of Appeals or court).

Professional requirements for becoming an attorney in intellectual property matters in Latvia

Pursuant to the Law on Industrial Property Institutions and Procedures, a professional patent (trademark) attorney is a person who has been included in the List of Professional Patent [Trademark] Attorneys held by the Patent Office and provides services in the field of protection of industrial property. In order to be included in the list, a person must meet the following requirements:

1. be a citizen of Latvia or another European Union Member State;
2. be fluent in the official language and have knowledge of at least two foreign languages that is sufficient for professional co-operation with Latvian and foreign persons and institutions, providing that at least one of the foreign languages is

the official working language of the European Patent Office (if the person is applying to become a professional patent attorney) or the official working language of the European Union Intellectual Property Office (if the person is applying for specialization in the field of trade marks or designs);

3. have academic or second-level higher vocational education (diplomas issued by foreign institutions of higher education in the respective specialties must be recognized in Latvia), providing that if a person is applying to become a professional patent attorney specializing in the field of patents, such education shall be in the field of engineering or natural sciences or, if the person has the academic or second-level higher vocational education in another sector, that person shall acquire also at least first-level higher vocational education in the field of engineering or natural sciences, or other comparable professional qualification;
4. have at least four-year systematic work experience in the field of protection of industrial property in which respective work in international, regional or national industrial property institutions shall be included; providing that the work for a person who is applying to become a professional patent attorney in the field of patents must be acquired in practical work related to invention patent applications (their drafting, correction, examination), patent searches, study or consultations on issues of patent protection or in other comparable professional activities;
5. have passed the qualification examination of professional patent attorneys;
6. have professional civil liability insurance agreement;
7. have the address of place of practice in Latvia for correspondence with the Patent Office and clients.

Qualifications to practice as an attorney in intellectual property matters

The law provides that an attorney may have one or more following specializations: (a) in the field of patents, (b) in the field of trademarks, (c) in the field of designs. Under the law, the patent attorney also shall be competent to specialize in the field of supplementary protection certificates, plant varieties protection, and topographies of integrated circuits.

Rights, duties and responsibilities of an attorney in intellectual property matters

Rights: A professional patent (trademark) attorney, within the framework of his or her professional competence and in the procedures laid down in laws and regulations, is entitled:

1. to provide services in the field of industrial property in the area of specialization, according to which he or she has been included in the List of Professional Patent Attorneys;
2. to represent persons and to provide them assistance related to the protection of industrial property, if they have applied to the Patent Office or the Board of

- Appeal, other State and local government institutions, courts, or co-operate with other private persons;
3. to collect evidence, including to request the necessary documents from State and local government institutions and private persons;
 4. to become acquainted with the rulings of State and local government institutions and courts, laws and regulations, administrative acts, and other information necessary for the provision of assistance, as well as to receive true copies of these documents;
 5. on behalf of the persons to be represented to settle payments related to the protection of industrial property provided for in the industrial property laws and regulations at the Patent Office and the Board of Appeal, in the court and in international organizations;
 6. to carry out translation of documents related to the protection of industrial property and, in accordance with the procedures laid down in laws and regulations, certify such translations, true copies, and extracts of documents that must be submitted to the Patent Office, the Board of Appeal, courts, international organizations, or other persons;
 7. to provide other services that conform to his or her professional qualification;
 8. in providing services and representing persons, to freely choose the legal means and methods.

Duties: A professional patent (trademark) attorney, in providing services and representing persons, has an obligation to:

1. choose legal means and methods that will best ensure protection of the rights and legal interests of clients;
2. exercise the rights and fulfil the responsibilities, maintaining professional honor and dignity;
3. provide information to clients regarding all the activities carried out on their behalf and their results;
4. after termination of a matter, expiration of authorization or upon a request of the client to transfer to the client or – upon a request of the client – to another person, documents, evidence held by the professional patent attorney for conducting the matter, as well as payments received from the client in relation to protection of industrial property and not yet paid to the Patent Office, the Board of Appeal, court or international organizations;
5. comply with the rules of professional ethics adopted by the Association of Patent Attorneys;
6. avoid conflict of interest;
7. refrain from obtaining for himself or herself (also indirectly) or for any third person the right, which insofar as it is known to him or her, belongs to the person who he or she is representing or to whom he or she is providing services;

8. continuously improve his or her professional knowledge and skills;
9. have a valid professional civil liability insurance for an amount, which is not less than the one established by the law.

Territorial scope of legal and technical assistance

The patent (trademark) attorneys qualified in Latvia are admitted to represent the clients in Latvia and European Union Intellectual Property Office.

Form of training and certification

There is no legally determined form of training. Each candidate shall do training by himself/herself. Commonly a candidate for attorney works under a control and supervision of a qualified patent (trademark) attorney who also provides guidance for the candidate.

Certification is being made by the examination commission through examination of two parts (written and oral), where the candidate should fulfill a practical exercise and respond on randomly chosen theoretical questions related to all aspects of acquisition and enforcement of industrial property rights according to specialization selected by the candidate (patents, trademarks, designs).

Requirements for attorney in intellectual property matters, rules of legal training, practice and internships (exemption from the requirement to undergo the training, purpose of the training; recruitment for the training; duration and organization of the training)

There are no legally determined rules of legal training; however, there are commonly accepted list of themes and questions for examination, which should be known by the candidate.

A required practice (work experience) should be proved by the candidate by submitting appropriate evidence. Normally, a qualified attorney under which supervision a candidate worked to archive necessary working experience, gives a written confirmation and characteristic of a candidate.

Before which institutions does the Latvian attorney in intellectual property matters can act?

A professional patent (trademark) attorney qualified in Latvia is entitled to act before national Patent Office, Industrial Property Board of Appeals, national courts of all levels (including non-specialized courts), as well as before the World Intellectual Property Organization.

Methods of practicing the profession of an attorney in intellectual property matters (in what forms can the profession be practiced)

A patent (trademark) attorney may provide services either as an individual practitioner, or as an employee of a company. The typical legal form of patent and trademark attorney's agencies in Latvia is "limited liability company" (SIA).

Method of determining fees for the professional activities of attorneys in intellectual property matters

There are no any legal or common rules for determination of professional fees. Each patent (trademark) attorney or law firm independently determines professional fees depending on their own commercial strategy and preferences.

Membership in a professional's organization

The functions of the professional organization of Latvian professional patent attorneys upon the law had been carried out by the Association of Patent Attorneys of Latvia (LPPA). However, a participation in the sector's professional organization is not mandatory for patent (trademark) attorneys and is free choice of each patent/trademark attorney. At the same time, the code of ethics adopted by the association is binding to all patent and trademark attorneys in Latvia and the disciplinary body of the association has a competence of considering cases against any patent and trademark attorney in Latvia, even those, who are not members of the association. Currently there are about 60% of all registered patent (trademark) attorneys have joined LPPA.

Codes of conduct

The rules of professional ethics adopted by Association of Patent Attorneys of Latvia (LPPA) are binding to all professional patent (trademark) attorneys.

Professional patent attorney may not disclose secrets of a client, also commercial secrets. This requirement must be conformed to not only during the period of conducting a matter, but also after its completion and termination of the authorisation, as well as after termination of the professional activity of the professional patent attorney. The professional patent attorney shall ensure that these requirements are also complied by the employees working under his or her management who, in carrying out their work tasks, have become aware of the secrets of a client of the professional patent attorney. The law provides for the client – attorney privilege for patent and trademark attorneys in Latvia (article 128 part 1 and 4 of the Law on Industrial Property Institutions and Procedures).

Suspension

Professional activity of a professional patent (trademark) attorney might be suspended by an order of the Director of the Patent Office:

1. for a time period while the patent (trademark) attorney fulfils the obligations of a public official, is elected to a State or local government institution, political party, alliance of political parties;
2. in any other situation where a conflict of interest is possible;
3. upon request of the professional patent/trademark attorney during a training period, long-term disease, and in other cases;
4. for the duration of the examination of a disciplinary matter, if during this period of time the fulfilment of the obligations of the patent attorney may harm the interests of clients or dignity and honour of the professional patent attorney;
5. for the duration of pre-trial criminal proceedings and proceedings in a criminal case, if a professional patent (trademark) attorney is suspected or accused of committing an intentional criminal offence or to whom prohibition from a specific employment has been applied as a security measure.

Removal from the list

A professional patent (trademark) attorney with an order of the Director of the Patent Office shall be excluded from the List of Professional Patent Attorneys:

1. if he or she has submitted a respective written request;
2. if he or she no longer is a citizen of Latvia or another European Union Member State;
3. if the court has established trusteeship over him or her;
4. if his or her address of correspondence is no longer in Latvia;
5. if with a court judgement he or she has been deprived of the rights to act as a professional patent attorney or other restrictions have been determined that prevent execution of professional obligations;
6. according to a decision of the commission of disciplinary matters;
7. if he or she has falsely stated the information on citizenship, language knowledge, educational background, work experience or valid civil insurance;
8. if he or she has passed away or declared missing.

Principles of advertising the services of an attorney in intellectual property matters

A professional patent (trademark) attorney upon carrying out his or her economic activity shall provide information regarding it and offer his or her services so as not to mislead on the nature and substance of activities and services of the professional patent attorney. These requirements shall also apply to the selection of a firm name of the merchant, if a professional patent attorney conducts commercial activity. All

other effective legal requirements with regard to advertising (e.g., rules on comparative advertising etc.) apply.

Obligation of continuing professional development

The law and the code of conduct prescribe that a professional patent (trademark) attorney throughout his or her professional activity continuously improves his or her professional knowledge and skills. There are no rules on continuing professional education control mechanism or sanctions provided. The code of conduct provides that preferable minimum yearly number of continuing professional education hours is 16. Nevertheless, the fulfilment of this obligation and its control is on each individual attorney.

LITHUANIA

(Patentinių Patikėtinių Asociacija)

Who can represent clients in IP cases in Lithuania?

Patent attorney or attorney at law can represent clients in matters of patents, trademarks and industrial designs in Lithuania.

How to become patent attorney in Lithuania?

To become a patent attorney, a person must:

1. have a bachelor's or master's degree or a qualification recognized by the competent authority as equivalent in the physical, biomedical, technological or social sciences;
2. have at least two years practical experience in the field of industrial property protection. The period of practical experience in the field of protection of industrial property shall be deemed to be the performance of regular functions in the field of protection of industrial property after the person seeking to become a Patent Attorney has acquired the education referred to above;
3. be of impeccable repute;
4. pass an exam for patent attorneys.

After becoming a patent attorney, it is necessary to continuously improve the qualification and collect qualification points.

Patent attorneys shall not be required to collect qualification points in the year in which any of the following circumstances exists:

1. the patent attorney is engaged in teaching activities in the field of intellectual property law at a higher education institution;
2. the patent attorney is delegated by the Lithuanian Institute of Patent Attorneys to participate in a working group on drafting legislation;
3. the patent attorney has been included in the list of practising patent attorneys of the Lithuanian Patent Attorneys' Institute for 25 years or more;
4. the patent attorney has obtained a doctorate degree in social sciences in the field of law and is engaged in scientific activity in the field of law.

Rights, duties and competences

Patent attorneys have the right to advise on industrial property protection issues and to represent natural and/or legal persons before the State Patent Office, as well as in their relations with other natural and legal persons, i.e.:

1. to prepare and submit applications, requests, appeals, oppositions and other documents for the registration of a patent, trademark, design, topography of semiconductor products and other objects of industrial property;
2. to represent clients before the State Patent Office in obtaining documents for the protection of an invention, trademark, design, topography of semiconductor products and other industrial property objects;
3. to represent the interests of clients in concluding and registering licensing, transfer of industrial property rights and other agreements;
4. to represent clients' interests in relation to the protection of industrial property in the import and export of goods;
5. to represent the interests of clients in court together with the persons who, under the Civil Code of Lithuania, can act as a representative by assignment before the court;
6. to represent clients' interests before international industrial property protection authorities;
7. to request from natural and legal persons documents or copies thereof necessary for the provision of services related to the legal protection of industrial property;
8. to collect and provide evidence by lawful means and to certify copies of documents relating to the protection of industrial property submitted to the State Patent Office, the courts or other institutions or bodies;
9. to choose a specialisation.

Patent attorneys must:

1. perform their professional duties in good faith;
2. comply with the Code of Ethics for patent attorneys;
3. use only lawful means and methods to protect the interests of their clients;
4. protect and not disclose professional secrecy and confidential information which has come to their knowledge in the course of the provision of their services, except in cases provided for by law;
5. maintain and preserve the records of the activities of patent attorneys;
6. keep up-to-date with their professional qualifications in accordance with the procedures laid down by the Institute and report to the Institute every five years on the updating of their professional qualifications;
7. to provide the State Patent Bureau and/or the Institute with the information necessary for the fulfilment of the functions established by this Law;
8. to notify clients without delay of the suspension or termination of his/her activity as a patent attorney;

9. to pay the contributions for financing the activities of the Institute;
10. have professional civil liability insurance.

Territorial scope of legal and technical assistance

Patent attorneys can represent client's interests before Lithuanian and international industrial property protection authorities.

Form of training and certification

Patent attorneys must keep up-to-date with their professional qualifications in accordance with the procedures laid down by the Institute and report to the Institute on the updating of their professional qualifications.

Requirements for attorney in intellectual property matters, rules of legal training, practice and internships (exemption from the requirement to undergo the training, purpose of the training; recruitment for the training; duration and organization of the training)

Patent attorney must obtain in one calendar year at least six qualification points, if he or she has been practising for not more than five years, and three qualification points, if he or she has been practising for more than five years.

Qualification points are awarded for professional development exclusively on intellectual property law and for continuing professional development on non-legal, but topics relevant to the professional activities of a patent attorney, such as legal reasoning, collegiality, effective time management in the activities of a patent attorney, etc.

Patent attorneys shall not be required to collect qualification points in the year, in which any of the following circumstances exists:

1. the patent attorney is engaged in teaching activities in the field of intellectual property law at a higher education institution;
2. the patent attorney is delegated by the Lithuanian Institute of Patent Attorneys to participate in a working group on drafting legislation;
3. the patent attorney has been included in the list of practising patent attorneys of the Lithuanian Patent Attorneys' Institute for 25 years or more;
4. the patent attorney has obtained a doctorate degree in social sciences in the field of law and is engaged in scientific activity in the field of law.

In what proceedings does the attorney in intellectual property matters in Lithuania can act?

Patent attorneys provide services (advice, drafting, representation) in the field of industrial property protection. They can represent the interests of clients before the State Patent Office, international industrial property protection authorities, represent the interests of clients in concluding and registering licensing, transfer of industrial property rights and other agreements, represent client's in relation to the protection of industrial property in the import and export of goods; represent the interests of clients in court together with the persons who, under the Civil Code of Lithuania, can act as a representative by assignment before the court.

What additional rights does patent attorney have, apart from representation in the matter of industrial property rights?

Patent attorney has right to:

1. request documents or copies thereof necessary for the provision of services related to the legal protection of industrial property from natural and legal persons;
2. collect and provide evidence by lawful means and to certify copies of documents relating to the protection of industrial property submitted to the State Patent Office, the courts or other institutions or bodies.

Before which institutions does the Lithuanian attorney in intellectual property matters can act?

State Patent Office, international industrial property protection authorities, court together with the persons who, under the Civil Code of Lithuania, can act as a representative by assignment before the court. Patent attorney may also apply to other institutions for data and information in order to represent the client's interests in relation to industrial property.

Methods of practising the profession of an attorney in intellectual property matters (in what forms can the profession be practised)

Patent attorneys can act:

1. individually;
2. in the forms prescribed by the Law on the Bar of the Republic of Lithuania – patent attorneys who are attorneys at law;
3. by concluding an employment contract in which the function of employment is specified – protection of industrial property;
4. by choosing other legal forms of activity.

Patent attorneys may act by choosing one or more forms of activity, as well as change the form of activity.

Method of determining fees for the professional activities of attorneys in intellectual property matters

The amount of the fee and the procedure for payment for professional activities of attorneys in intellectual property matters shall be determined by agreement between the patent attorney or his/her employer and the client or his/her representative.

Membership in a professional's organization

All patent attorneys are members of the Institute of Patent Attorneys.

Codes of conduct:**Professional ethics regulations**

All patent attorneys are bound by a Code of Professional Conduct. The Code of Professional Conduct for patent attorneys establishes the basic principles of professional ethics and conduct for patent attorneys, such as legality, confidentiality, trustworthiness (loyalty to the client), impartiality and avoidance of conflicts of interest, integrity, professional reputation, independence of the patent attorney, respect for human rights and society, the principles of professionalism and cooperation of the patent attorney.

Professional secrecy

The professional secrecy of a patent attorney shall consist of the fact of contacting the patent attorney, the terms of the contract with the client, the information and data provided by the client, the nature of the advice given, and the data gathered by the patent attorney on the client's behalf, with the exception of the information and data disclosed by the client himself/herself or to the disclosure of which the client has given his express consent.

Patent attorneys shall be obliged and shall be responsible for the protection of professional secrecy against third parties, as well as for the protection of such secrecy of other persons engaged by patent attorneys in the course of the provision of services.

Patent attorney is prohibited from using the patent attorney's professional secrets, information constituting the patent proprietor's proprietary rights in his/her own or another person's interest in an unlawful manner.

Patent attorney shall have the right to disclose, without the client's consent, the patent attorney's professional information constituting the legal practitioner's professional secrecy where it is strictly necessary to do so:

1. for human life preservation purpose;
2. to protect the rights and legitimate interests of the client, his/her heir or successor;
3. to protect the rights of the patent attorney in a dispute with a client, but only to the extent necessary for the dispute to resolve the dispute fairly.

Suspension of the right to practice the profession and removal from the list of attorneys in intellectual property matters

Suspension of the right to practice:

1. upon the filing by the patent attorney with the Institute of a petition for suspension;
2. upon imposition of the disciplinary sanction of suspension of the patent attorney's professional activities.

Patent attorneys shall cease to act if:

1. he/she submits to the Institute a declaration of termination;
2. a court has taken a decision to withdraw the special right to practise as a patent attorney;
3. it appears that the person does not meet the requirements in order to become a patent attorney laid down in legal acts;
4. the person continues to act as a patent attorney after the suspension of the patent attorney;
5. the patent attorney carries out his/her activity without being covered by insurance of professional civil liability of patent attorneys and has been disciplined for that reason;
6. a decision has been taken to impose the disciplinary sanction of withdrawal of the right to provide patent attorney services;
7. the patent attorney has died or has been declared dead or missing.

Principles of advertising the services of an attorney in intellectual property matters

There is no special rules or requirement.

Obligation of continuing professional development

Patent attorneys must keep up-to-date with their professional qualifications in accordance with the procedures laid down by the Institute and report to the Institute on the updating of their professional qualifications.

NETHERLANDS

(De Orde van Octrooigemachtigden)

Who can represent clients in patent cases in Netherlands?

Clients can be represented by registered attorneys at law, dutch patent attorneys, or by a patent attorney from a EU member state who applied for temporary or permanent admission to the register of the Dutch Patent Office.

How to become a Dutch patent attorney?

To register as Dutch patent attorney, one has to:

1. have a Masters Degree in a technical or scientific subject;
2. pass the patent bar exam, (or the admission test of suitability);
3. have practiced under supervision of a registered patent attorney for at least three years.

There is a **course training** for the Dutch Patent Attorney exam. The ministry of economic affairs is responsible for the exam. The exam is set by the exam committee, in which Patent attorneys, lawyers, the patent office and the ministry of economic affairs are represented. After passing the exam, the Minister of economic affairs provides successful candidates with a certificate.

To register as patent attorney at the patent office, the candidate needs to submit the exam certificate, and evidence of 3 years of training. The supervisory board verifies the evidence before the President of the patent office decides about registration.

There is a requirement for **continued education**, where a minimum of 16 points per annum need to be obtained. A point is generally equivalent to 1 effective hour of training (a full day course is generally 5-6 points).

The **membership of the Netherlands Institute of Patent Attorneys** is mandatory by law.

Rights and duties

Registered patent attorneys can act before the patent office and also plead intellectual property matters in a courts of law.

Codes of conduct

The Institute, has an independent, elected, supervisory board, with a disciplinary responsibility, i.e. to enforce the code of conduct. Confidentiality / professional secrecy governed by Art 23b of the patent act and is regulated in the code of conduct.

Concerning **suspension** of the right to practice the profession and removal from the list of patent attorneys it is governed by the supervisory board, and regulated by the code of conduct.

Principles of **advertising** the services of an attorney in intellectual property matters are regulated by the code of conduct (Art 2):

1. needs to be in alignment with the law;
2. needs to be true and meeting the requirements of integrity and secrecy etc.;
3. cannot refer to individual clients (without permission);
4. cannot refer to IP transactions (except when instructed to do so by a client).

POLAND

(Polska Izba Rzeczników Patentowych)

Who can represent clients in IP cases in Poland?

In Poland, clients in intellectual property matters can be represented by patent attorneys. To file applications for inventions, utility models, topographies of integrated circuits, and validate European patents, clients can only be represented before Patent Office of Republic of Poland by a patent attorney. To file applications for trademarks and industrial designs, they can be represented by patent attorneys, but also by advocates or attorneys-at-law. Education and practice of Polish patent attorneys is focused on industrial property law, technical aspects of solutions to be protected, as well as copyright and prevention, and fighting acts of unfair competition.

How to become patent attorney in Poland?

The right to practice the profession of patent attorney is granted to a person who took an oath and has been entered on to the **list of patent attorneys**. To be entered on the list of patent attorneys, in accordance with the Patent Attorneys Act, a person must:

1. be a citizen of any EU Member State;
2. have full legal capacity and enjoy full public rights;
3. be of irreproachable character and his/her previous conduct guarantees due practice of the profession of patent attorney;
4. hold a Master's degree in a field useful in practicing the profession of patent attorney, particularly in technical or legal studies;
5. complete the patent attorney traineeship and pass the qualifying examination.

Future patent attorneys prepare for independent and due practice of the profession by taking the **patent attorney traineeship**. In order to be admitted to the list of trainees and to commence the training, candidates must file an application and pass a competitive examination. The three-year traineeship is held and conducted by the National Board of Patent Attorneys. During the traineeship, the trainee regularly attends classes and undergoes practical training under the guidance of his/her patron who assigns him/her work and practical tasks, and controls them. The cost of traineeship is covered by the traineeship fees paid by the trainees. Upon completion of patent attorney traineeship, qualifying examination must be passed to qualify to practice as a patent attorney. The examination checks whether the trainee is

prepared for independent and due practice of the profession. During the qualifying examination, the candidate must prepare:

1. documentation for an application for protection of an invention;
2. procedural document in administrative proceedings, administration court proceedings, or civil court proceedings;
3. opinion based on the presented facts of the case or solution to legal problem based on a case study.

The examination tests knowledge and skills in the field of:

1. industrial property law, including European and international law;
2. copyright law;
3. civil, economic, and administrative laws;
4. administrative procedure, administrative court procedure, and civil procedure;
5. international procedure in intellectual property matters;
6. methodology of practicing the profession, in particular how to obtain, maintain, exercise, and pursue the rights to objects of industrial property;
7. rules of practicing the profession of patent attorney and rules of ethics of patent attorneys.

Competences, rights and obligations of Polish patent attorneys

The profession of patent attorney is a profession of public trust. The rules and terms of practicing the profession are defined in the Patent Attorneys Act.

In performance of professional activities, patent attorneys have guaranteed use of freedom of speech and writing within the boundaries set by the regulations and the actual necessity.

The Act states the functions which cannot be held simultaneously with practicing as a patent attorney. The right to practice the profession shall be suspended in case of:

1. employment with Patent Office of Republic of Poland, the office dealing with the minister for economy, an administrative court, European Patent Office, or European Union Intellectual Property Office;
2. holding the office of judge, assistant judge, practicing the profession of notary, court enforcement officer, holding the position of prosecutor, assistant prosecutor or assistant notary, or being, in general, judge, prosecutor, notary or court enforcement officer traineeship, and in the case of undertaking employment with judiciary or law enforcement authorities.

Polish patent attorneys represent and advise clients on both legal and technical aspects. They represent clients in proceedings before Patent Office of Republic of Poland and courts of common jurisdiction, including the Supreme Court;

administrative courts, including the Supreme Administrative Court (but they cannot represent their clients in criminal or fiscal penal proceedings). In civil procedure, patent attorneys act as litigators in industrial property cases and in proceedings in intellectual property cases other than industrial property cases, such as copyright matters, protection of personal rights to the extent the personal right is used for customisation, advertising, or promotion of business, goods, or services, protection of personal rights in connection with research or inventive activities, as well as in cases related to prevention and fighting of acts of unfair competition.

Polish patent attorneys are also qualified to act before EUIPO and WIPO.

Patent attorneys advise, give opinion, and file applications for exclusive rights of protection for inventions, utility models, industrial designs, topographies of integrated circuits, trademarks, trade names, and geographic indications. They can also represent their clients in disputes and assist them in claiming protection of the rights granted to them. Patent attorneys also advise on protection strategies, or commercialisation of intellectual property rights.

Forms of practicing the profession

Patent attorneys may practice their profession in a patent law firm, as an employee, or under civil law contracts. When practicing the profession in an employment relationship, patent attorney must have an independent position reporting directly to the head of the business unit. If there is more than one patent attorney in that business unit, then one of them acts as the coordinator.

Patent law firm may be operated:

1. individually by a patent attorney working independently, as a sole proprietor of the business;
2. as a civil partnership, registered partnership, professional partnership, limited partnership, partnership limited by shares, limited liability company or joint-stock company on terms defined in the Patent Attorneys Act.

Method of determining fees for the activities of patent attorneys

Fees for activities of patent attorneys are determined in the agreement between law firm or attorney, and client. Therefore, the fees are determined by the attorneys themselves. The Regulation of Minister for Justice stipulates minimum amounts of fees for activities of patent attorneys before law enforcement authorities and Patent Office of Republic of Poland, acting in disputes and opposition proceedings. They are the basis for determination of costs of legal representation which can be awarded by court or ruled by Patent Office, having taken into consideration complexity of the case and workload involved.

Structure of the professional association of patent attorneys

Polish Chamber of Patent Attorneys has decision-making, executive, disciplinary authorities and units representing patent attorneys on regional level, in a total of 12 regions.

The authorities include:

1. National Assembly of Patent Attorneys;
2. National Council of Patent Attorneys;
3. President of Polish Chamber of Patent Attorneys;
4. Audit Committee;
5. Disciplinary Court of Appeals;
6. Disciplinary Court;
7. Disciplinary Ombudsman;
8. Regional assemblies of patent attorneys;
9. Regional councils of patent attorneys.

Membership in professional association

Membership in professional association of patent attorneys is obligatory. Polish Chamber of Patent Attorneys is made up of all Polish patent attorneys and patent attorney trainees. Pursuant to the Patent Attorneys Act, "Polish Chamber of Patent Attorneys represents its members and supervises due practicing of the profession of patent attorney within the limits of and to protect public interests." Independence of Polish Chamber of Patent Attorneys is subject to judicial protection. The Patent Attorneys Act stipulates that the responsibilities of Polish Chamber of Patent Attorneys specifically include:

1. taking actions to ensure the conditions for due practicing of the profession of patent attorney;
2. representing patent attorneys and trainees, and protection of their professional interests;
3. working together on creating and application of industrial property law, and on organisation and practice of the profession of patent attorney;
4. professional development of patent attorneys and education of trainees;
5. supervising due practicing of the profession by patent attorneys and trainees;
6. conducting research in industrial property matters.

According to the Statue of Polish Chamber of Patent Attorneys, responsibilities of the patent attorneys' professional association also include:

1. taking actions, presenting proposals and opinions on industrial property matters and on intellectual property matters other than industrial property matters;
2. working together on creating and application of intellectual property law in matters other than industrial property matters;

3. promoting the profession of patent attorney, taking actions to improve its importance and prestige, protecting the professional title;
4. promoting industrial property matters and intellectual property matters other than industrial property matters;
5. conducting research in intellectual property matters other than industrial property matters, providing training in this field;
6. promoting the rules of ethics and rules of fair competition among the association's members.

Patent attorneys are obliged to pay regular membership fees to the association.

Rules of ethics

In their work, patent attorneys are obliged to act with **due diligence and in compliance with the law and rules of ethics**. According to the rules of ethics applicable to patent attorneys, a patent attorney should:

1. act as a trusted and independent advisor to parties interested in industrial property matters, and take care of client's interest without inhibitions, regardless of the attorney's personal feelings or interests;
2. take adequate measures to protect the client's interests in the case he/she is unable to provide his/her services;
3. perform their profession conscientiously and in a manner corresponding with its dignity, in particular not intentionally make any false or misleading statements;
4. take care of the profession's dignity when performing professional activities, as well as in their public activities and activities in the professional association;
5. observe the principles of loyalty and *esprit de corps* in relation to all members of the association.

Patent attorney who holds a position in the professional association should in his/her work for the association be guided by professional interests of patent attorneys, the association's objectives, and the will of his/her electors, and perform his/her duties fairly and with utmost diligence.

Patent attorneys are obliged to be familiar with the rules of ethics in force; in case of any breach thereof, they cannot plead ignorance of rules of ethics, invoke the client's instruction or – unless the regulations stipulate otherwise – expectations of the client, administrative authorities, courts, or third parties. Provision of services by a patent attorney must not be aimed at facilitating a criminal offence.

Patent attorneys are bound by **professional secrecy**. They are obliged to keep confidentiality of any information obtained in connection with their professional activities.

Suspension or removal of the qualification to practice the profession

Patent attorneys and trainees are subject to disciplinary liability for culpable, undue practicing of the profession and performance of other duties stipulated in the Patent Attorneys Act, specifically for any acts in conflict with their oath or with the rules of ethics of patent attorneys.

Disciplinary matters concerning patent attorneys and trainees, instigated by the Disciplinary Prosecutor, as well as complaints about the Disciplinary Prosecutor's decisions, shall be resolved by Disciplinary Court. The court's rulings can be appealed against to Disciplinary Court of Appeals.

Disciplinary penalties include:

1. admonition;
2. reprimand with a warning;
3. fine;
4. suspension of the right to practice the profession of a patent attorney;
5. removal the right to practice the profession of a patent attorney or – in the case of trainees – expulsion from the traineeship.

Rules of advertising

Patent attorneys are allowed to advertise their services in accordance with the advertising rules established and binding on the attorneys. According to the Patent Attorneys Act, however, the advertising rules must take into account the nature of the profession and the professional secrecy obligation.

Patent attorneys may inform about their services and advertise them lawfully and in observance of accepted principles of morality. Advertisements of patent attorneys should be objective and honest, and should contain accurate data.

Professional development obligation

Professional development is obligatory for Polish patent attorneys. In order to fulfil this obligation and take care of their professional development, patent attorneys attend professional training courses held for them by Polish Chamber of Patent Attorneys.

PORTUGAL

(Associação Portuguesa dos Consultores em Propriedade Intelectual)

Who can represent clients in IP cases in Portugal?

According to Decree-Law 15/95 (modified by Law 17/10), official industrial property agents are those:

1. professionals who have acquired or come to acquire this quality under the terms of this decree-law;
2. professionals who have been recognized as such;
3. nationals of member states of the European Union legally entitled to exercise the activity of an agent industrial property official and that meet the conditions provided for in this decree-law.

How to become an attorney in intellectual property matters in Portugal?

To acquire the status of official agent (attorney in intellectual property matters), the essential requirements are:

1. to be an adult citizen of a member state of the European Union, and not inhibited from their civil and political rights;
2. not to be inhibited from exercising the profession by final and unappealable decision;
3. to have an establishment in Portugal or in the territory of a member state of the European Union;
4. to hold an equivalent level of qualification to post-secondary school, lasting equal to or greater than three years;
5. to pass an exam with the aim to obtain the qualification of official industrial property agent, aimed at attesting the knowledge of industrial property laws in force in Portugal.

Rights, duties, responsibilities and competences

There are no specific provisions and no published regulation for the profession of "official industrial property agent", so there are no official rights, duties and responsibilities.

There is no other regulation available and previous (or continued) education is not required.

Rights, duties and responsibilities come indirectly from the rules established in the civil code for the mandate contract. A mandate is a contract, whereby one party undertakes to perform one or more legal acts on behalf of the other.

The territory scope of activity is Portugal and, fulfilled the necessary requirements from each jurisdiction, European Union.

There is no regulation in the profession on scope of rights and kind of services which can be provided by attorney in intellectual property matters.

An attorney in intellectual property matters has no additional obligation, apart from representation in the matter of industrial property rights.

The Portuguese attorney in intellectual property matters can act only before National Institute of Industrial Property.

Industrial property agents do not need to present a mandate (namely, power of attorney) when, before the National Institute of Industrial Property, they perform acts on behalf and in representation of their clients.

Other representatives, as is the case of lawyers or solicitors, need to present such mandate. The compliance of this formality by these representatives is a sine qua non condition for the validity of the act performed.

The fees are set by each practitioner on their own will.

There is no legal requirement to become member of professional association.

There is no obligation of continuing professional development.

Codes of conduct

There are no professional ethics or professional secrecy regulations. Official industrial property agents that are members of the Industrial Property Consultants Association (ACPI) must obey the rules of FICPI (ACPI is the Portuguese National Association of FICPI). In any case, being a member of ACPI is not mandatory, so any violation of such code of conduct has absolutely no effect in their qualification and ability to act before the PTMO.

A sanction regime for violation of professional duties is previewed in the law (since 1995) but it has never been any discussion or draft project of said regime.

Principles of advertising.

There are no principles of advertising the services of an attorney in intellectual property matters. In any case, the ethical rules resulting from the exercise of the mandate, as well as the specific rules laid down in the Advertising Code and the Consumer Protection Act, may be applied.

ROMANIA

(Camera Nationala a Consilierilor in Proprietate Industriala din Romania)

Who can represent clients in IP cases in Romania?

Representation before Romanian Patent Office (ROPTO) is allowed only for registered attorneys. In order to become a registered attorney, the candidate must pass the examination organized by ROPTO separately for patents, trademarks and designs. Thus, in order to become patent attorney, the candidate must pass the examination of the patent section, etc.

Representation before judicial authorities for litigation matters is carried out according to the rules regarding the profession of lawyer. Thus, lawyers are authorized to represent clients in court for litigations related to patents, trademarks and industrial designs.

There are two types of attorneys: the ones in free practice, who can represent any client, and the industry attorney, who can represent only their employer. Both types have the right to charge and to be paid for the services and to be members of an association. The membership to the Romanian chamber is mandatory in order to practice the profession.

How to become patent attorney in Romania?

In order to become a patent attorney in Romania, one must meet all the requirements set by law, namely:

1. the candidate has to be a citizen of an EU or EEA;
2. the candidate must have university degree either in technical or in juridical science;
3. the candidate must have at least three years of practice as trainee under guidance of a tutor and at least three years of practice in the basic profession;
4. the candidate cannot be convicted for criminal offences;
5. the candidate has to pass the examination organized by ROPTO (exception: former ROPTO officers and university professors teaching IP are exempt from the examination, if their practice is at least five years), and
6. has to be a member of the National Chamber (CNCPIR).

The candidate must start as a trainee under the supervision of a tutor, said tutor being a member of the Chamber having more than five years of practice.

Certification is done by the Romanian Patent Office in an examination session which in theory should be every year, and in practice is from time to time.

The duration of the training is at least three years before the date, when the candidate sits for examination. The tutor issues a paper certifying that the trainee completed the training. There are no rules for internship.

There are three sections: patents, trademarks and designs. The candidate must sit and pass the examination for the section in which he/she wishes to practice.

Competences of the Romanian patent attorney

The Romanian attorneys can represent the clients before the Romanian Patent Office (ROPTO) in the field of patents, trademarks, designs (provided that the attorney passed examination separately for the patents, trademarks, designs in order to represent respectively for each of them). For example, there are attorneys that have passed only the trademarks examination, thus they can represent only in trademark matters.

Attorneys also represent clients in their relationship with Romanian Custom Authorities for the procedures related to the protection of IP rights. Attorneys can as well represent clients in procedures with the International Bureau of WIPO, according to their respective specialization. Trademark and/or design attorneys can represent in procedures before EUIPO. The patent attorneys who are European patent attorneys can as well represent in procedures before the European Patent Office (EPO). The attorneys can also act before the court of law in cases regarding cancellation, revocation and legal action for infringement related to the trademarks, patents and designs.

Forms of practicing the profession

Attorneys are **free to choose the type of company and partnership**, they wish to practice in, depending on its size. The only requirement is that the subject of the company's activity is exclusively the protection of industrial property.

There is no method of determining **fees** for the professional activities of attorneys in intellectual property matters. Free market prices only apply.

Codes of conduct and duties of the Romanian patent attorney

Provisions regarding the **code of conduct** are included in various pieces of legislation: such as the law governing the profession, the statute of the Chamber (lastly revised in 2017) and the deontological code. The latter was drafted using the principles of FICPI (Fédération Internationale des Conseils en Propriété Industrielle) and approved in 2015.

Attorneys **are obliged** to carry out all activities bona fide and with diligence, to observe confidentiality agreements, to avoid representing parties in conflict, to avoid being at the same time officer of OSIM, to avoid carrying out commerce in the field of IP. Professional secrecy regulations are found in the law: attorney shall not disclose information from his client, except for the situations provided by the law.

As written in the statute, the attorney must take care of the **continuing professional development**, which includes the participation to at least one professional event per year. However in practice, there is no penalty for not complying the above requirement and no possibility to check whether the obligation is fulfilled or not.

According to the deontological code, the attorney must ensure that the **advertising materials** include correct and complete information about his/her person, his/her firm and the services offered. It is explicitly mentioned that the attorney must ensure that there are no confusions of his services or firm with the services and/or other institutions or firms.

Suspension of the right to practice can occur in three situations:

1. incompatibility (for example, the person is employee of the Patent Office);
2. the annual fee is not paid or
3. as consequence of a court decision.

Removal from the list follows the suspension.

SLOVAKIA

(Slovenská komora patentových zástupcov)

Who can be an attorney in intellectual property matters in Slovakia?

Slovak Act No. 344/2004 Coll. on Patent Attorneys regulates the prerequisites and method of execution of patent attorneys activities, duties, establishment, status and scope of the Slovak Chamber of Patent Attorneys.

Patent attorney is a natural person registered in the list of patent attorneys.

The Slovak Chamber of Patent Attorneys (The Chamber) shall enter in the list those, who

1. are capable of legal acts;
2. are blameless;
3. obtained a first-level university education at a university in the Slovak Republic or has a recognized document of first-level university education issued by a foreign university;
4. have completed at least three years of professional experience as an assistant of the patent attorney or at least four years of experience in the field of industrial rights;
5. do not have a legally imposed disciplinary measure of removal from the list of patent attorneys or is viewed as if such a disciplinary measure had not been imposed on him/her;
6. have not been removed from the list of patent attorneys due to legal bankruptcy against him/her or the legal entity providing patent attorney services of which he/she is a shareholder or partner, or due to the rejection of a bankruptcy petition due to lack of assets, if five years have not passed since the removal;
7. successfully passed the professional examination for a patent attorney;
8. fulfilled the obligations according to § 16 par. 1 and § 25 relating to the activity of a patent attorney and obligations of the patent attorney towards the Chamber in respect of the insurance that is obliged;
9. put the promise into the hands of the chairman of the Chamber.

How to become a patent attorney in Slovakia?

To become an attorney in intellectual property matters in Slovakia, a person shall obtain a first-level university education at a university in the Slovak Republic or has a recognized document of first-level university education issued by a foreign university. Such a person shall have gained at least three years of professional experience as an assistant of the patent attorney or at least four years of experience in the field of

industrial rights and successfully pass the professional examination for a patent attorney.

The legal training

The form of training is not directly prescribed. There is an exemption related to the European Community Patent Attorneys, who, instead of the prescribed patent attorney exam, are to successfully complete a qualification test in the official language and regulated by the same par. 6 on the prescribed patent attorney exam.

The exams are to evaluate theoretical and practical knowledge necessary to perform the patent attorney tasks, Slovak national law, as well as international treaties in force in Slovakia, and cover all objects of registered industrial property rights. The exam takes place once a year. Successful candidate receives the necessary certificate, needed for admission to the list of patent attorneys by the Chamber.

Rights, duties and competences of patent attorney in Slovakia

When providing patent attorney services, a patent attorney is independent, **bound by generally binding legal regulations** and, within their limits, by the client's instructions. If the client's instructions are in conflict with generally binding legal regulations or status regulations, he/she is obliged to instruct the client about this; the patent attorney is not bound by such instructions given by the client.

The patent attorney is obliged to **protect the rights** and legitimate interests of the client. He/she is obliged to act honestly and conscientiously, to consistently use all legal means and to apply in the interest of the client everything that he/she considers to be beneficial according to his/her conviction and the client's instructions; at the same time, he/she pays attention to the efficiency and economy of the services provided by the patent attorney.

The patent attorney is obliged to maintain confidentiality about all facts that he/she learns about in connection with the provision of patent attorney services. Only the client can relieve the patent attorney of the obligation to maintain confidentiality, and after the death or demise of the client, only his/her legal successor.

The patent attorney is obliged to refuse the provision of patent attorney services under conditions specified in the Act No. 344/2004 Coll. on Patent Attorneys.

The patent attorney is obliged to properly and timely pay the contribution to the activity of the chamber and make other payments established by the resolution of the conference of patent attorneys.

Territorial scope of legal and technical assistance is European Union

The activity of a patent attorney is to represent natural persons and legal entities before the Industrial Property Office of the Slovak Republic in all kinds of proceedings

(registration proceedings, cancellation proceedings and determination proceedings). Patent attorney can also represent his/her clients before other state administration bodies in proceedings related to industrial property. In the performance of his/her activities, patent attorney also provides professional advice in the field of industrial property rights, drafts legal documents in the field of industrial property rights and provides other forms of professional advice and assistance in the field of industrial property.

Patent attorney **has the right to vote** in the elections of the President of the Slovak Chamber of Patent Attorneys, Vice-President, members of Presidium and committees of the Chamber. Patent attorney also has the right to be elected in these elections.

The Slovak patent attorney can act before:

1. the Industrial Property Office of the Slovak Republic;
2. European Union Intellectual Property Office (EUIPO) – if entered on the List of EUIPO professional representatives;
3. European Patent Office (EPO) – if member of the epi – Institute of Professional Representatives before the European Patent Office (passed EQE exams or on the basis of grandfather's clause);
4. International Bureau of WIPO;
5. Customs offices – in the matter of requests for action to enforce intellectual property rights on goods liable to customs supervision or customs control;
6. Ministry of Agriculture and Rural Development of the Slovak Republic and its agencies;
7. the Central Control and Testing Institute in Agriculture (ÚKSÚP), Breeding services of the Slovak Republic, state enterprise (Plemenárske služby Slovenskej republiky, štátny podnik) and the State institute for drug control (ŠÚKL) – in the matter of new plant varieties, animal breeds, plant health care and veterinary care.

Methods of practicing the profession of an attorney in intellectual property matters

A patent attorney may execute the activities of a patent attorney independently, in an association with other patent attorneys, or in a company of patent attorneys.

The company of patent attorneys is a trading company,

1. in which the patent attorney is a partner, shareholder or employee; if it is a joint stock company, the company's share capital must be made up of registered shares, and
2. which is insured in case of liability for damage that could arise during the provision of patent attorney services.

Patent attorney may execute the activities of a patent attorney in only one of the ways mentioned above. Patent attorneys who are members of an association or

partners in a company of patent attorneys may agree on the temporary independent provision of patent attorney services in one matter or in several pre-defined matters, if the association agreement or partnership agreement of the company of patent agents does not specify otherwise.

Membership in the association

In Slovakia there is the **Slovak Chamber of Patent Attorneys** (Slovenská komora patentových zástupcov) which **associates patent attorneys and patent attorney trainees**. The Chamber was established by law in 1993. Its seat is in Bratislava. The Slovak Chamber of Patent Attorneys is the only Chamber competent to associate patent attorneys and patent attorney trainees in Slovakia.

The Chamber administers the lists of patent attorneys, patent attorney trainees and companies of patent attorneys.

Membership in the Chamber is **obligatory**, which means that every patent attorney willing to exercise his/her profession in Slovakia has to become a member of the Slovak Chamber of Patent Attorneys. The membership is subject to an annual fee. The Chamber also administers the collective insurance contract which members can join in case of interest.

The conditions of becoming a member of the Slovak Chamber of Patent Attorneys (entering in the List of patent attorneys) are indicated under point 1.

The Chamber also enters in the List of patent attorneys the person who has passed the competency examination and meets the conditions according stated under point 1 letters a, b, e, f, i and who has been recognized as having a professional qualification or other competence sufficient to exercise the profession of a patent attorney according to a special regulation.

Codes of conduct

The Code on Professional Ethics represents the rules of professional ethics that knowingly and voluntarily adopted as a standard of conduct by patent attorneys enrolled in the List of Patent Attorneys. Each patent attorney shall be bound by it in the conduct of his/her business, regardless of his/her own interests or the interests of others. Violation of these rules shall, unless it is necessary to deal with matters otherwise, lead to disciplinary action. These rules include, among others:

1. patent attorney should act in a way that the public appreciates the profession patent attorney, to honor his professional colleagues, and to respect the fact that he or she may represent clients before the Industrial Property Office of the Slovak Republic and other authorities;
2. patent attorney shall always be obliged to act in his/her activities in such a way that, not to directly or indirectly state any data and not to provide any information which could mislead the public;

3. patent attorney is obliged to protect the rights and legitimate interests of the client while acting honestly, conscientiously and responsibly, diligently using all legal means and applying everything that he/she believes and instructs the client to be beneficial to him/her;
4. patent attorney shall warn the client of the impropriety of his/her instruction before he or she commences to carry out such instruction, and he or she shall refuse to do so, if the execution of such instruction would result in a violation of legal or regulations;
5. patent attorney shall not himself/herself directly or indirectly derive any financial or other benefit from any right in the subject matter industrial property rights, if the circumstances would result in a conflict between professional duties and personal interest. A breach of this provision is a ground for removal from the list of patent attorneys from the Slovak Chamber of Patent Attorneys.

The Act on Patent Attorney stipulates in Section 18 rules regarding the **professional secrecy** as follows:

„(1) A patent attorney shall be obliged to maintain confidentiality of all facts of which he has become aware in connection with the provision of services of a patent attorney. Only the client and, after the death or dissolution of the client, his successor in title may relieve the patent attorney from the obligation of confidentiality.

(2) The obligation of confidentiality shall also apply to a person who has been struck off the list or who has been suspended as a patent attorney.

(3) The duty of confidentiality shall not apply in the case of a statutory obligation to prevent the commission of a criminal offence or to report the commission of a criminal offence.

(4) A patent attorney shall not be under a duty of confidentiality to a person whom he entrusts with the performance of particular acts of the services of the patent attorney if that person is himself under a duty of confidentiality under special regulations.

(5) A patent attorney shall not be bound by the duty of confidentiality to the extent necessary for proceedings before a court or other authority if the subject matter of the proceedings is a dispute between him and his client or his successor in title; nor shall a patent attorney be bound by the duty of confidentiality in disciplinary proceedings pursuant to Section 40 or in proceedings for an appeal against a decision of the Board. The duty of confidentiality may not be invoked by the patent attorney in disciplinary proceedings, even against the chairman and members of the review committee who are hearing the disciplinary misconduct of the patent attorney.

(6) The duty of confidentiality shall also apply to

(a) employees of the patent attorney, employees of the society of patent attorneys,

(b) members of the bodies of the Chamber and its employees, as well as to all persons participating in the disciplinary proceedings, including the chairman and members of the review committee charged with the preparation of the acts of the disciplinary proceedings and the deliberation as to whether a disciplinary offence has occurred; however, this shall not apply to the proceedings before the court in the aforementioned matters.”

The suspension is regulated in par. 9 of the aforementioned Act. The Chamber is to suspend the right to act as patent attorney, if the attorney started serving a prison sentence (provided the related act does not set a reason to delete the patent attorney from the list, such as the criminal act is related to his/her wrongdoing in the capacity being a patent attorney), or has received a penalty of prohibition to act as patent attorney, or after being admitted to the list of patent attorneys works as provides services which excluding his/her ability to act as patent attorney, or requests the Chamber for a suspension.

The Chamber may further suspend a patent attorney, if he/she is a subject of criminal investigation until a final judgment, is a subject of proceedings with regards to restriction of his/her legal capacity, is himself/herself the legal subject where he/she performs the role of a patent attorney subject of bankruptcy proceedings, or fails to pay his/her memberships fees.

Removal from the list is set in par. 10 of the aforementioned Act and is to be performed in the case the patent attorney decease, or having been officially legally incapacitated, having been sentenced related to his wrongdoing in the capacity being a patent attorney, having received such disciplinary penalty by the decision of the Chamber disciplinary committee, or having been himself/herself the legal subject where he/she performs the role of a patent attorney declared bankrupt, having been admitted to the list without really complying with the necessary criteria for, or having requested so by himself/herself.

The Rules on Professional ethics stipulate the principles of advertising:

Presentation of the patent attorney's activities and advertising:

1. patent agent shall conduct solicitation activities in a manner that does not diminish the dignity of the profession and does not jeopardize the confidence of clients;
2. patent attorney may inform the public about the services provided by the patent attorney by means of advertising, provided that such information is accurate, truthful and objective, and is not misleading, and respect the fundamental principles of integrity and the preservation of professional secrecy;
3. advertising by the patent attorney in information media, e.g., in the press, radio, television or electronic means of communication, shall be permitted within the scope of the conditions laid down in paragraphs 1 and 2;
4. where a patent attorney, in connection with the provision of services patent attorney, makes public appearances or statements to the media, he or she shall not, in doing so, highlight his or her person, his or her own activities or the activities of the activities of an association of which he/she is a member or the activities of a commercial company in which the activities of the patent attorney;
5. patent attorney shall not promise or give consideration for obtaining clients.

There is no formal obligations of continuing **professional development** set in the legislation.

SPAIN

(Colegio Oficial de Agentes de la Propiedad Industrial)

Who can represent clients in IP cases in Spain?

The Spanish Patent and Trademark Office shall be open to interested parties with capacity to act, and to industrial property agents.

How to become attorney in intellectual property matters in Spain?

Requirements to become an industrial property agent in Spain are as follows:

1. be of legal age and have full capacity to act;
2. have a place of business or professional establishment in a Member State of the European Union;
3. not have been convicted of an intentional crime, unless rehabilitation has been obtained;
4. official university degree of Bachelor's degree, graduate, architect or engineer or another official university degree recognized or equivalent to any of the above;
5. successful completion of an aptitude examination accrediting the knowledge necessary for the exercise of the professional activity of industrial property agent;
6. registration in the Special Register of Agents of the SPTO.

Competences, rights and duties

Industrial property agents are **legally qualified persons** who, as free professionals, offer and habitually provide their services to advise, assist and represent third parties in obtaining the various forms of industrial property and in defending the rights deriving therefrom before the Spanish Patent and Trademark Office.

Industrial property agents shall be obliged to maintain **the confidentiality** of the matters in which they intervene and shall be entitled to refuse to disclose the information exchanged with their clients or with third parties relating to the proceedings before the Spanish Patent and Trademark Office.

Agents may exercise their activity individually or through legal entities validly constituted in accordance with the legislation of a Member State of the European

Union and whose registered office or principal place of business is in Community territory. Both Agents and the legal entities through which they exercise their activity may be registered in the Special Register of Agents of the Spanish Patent and Trademark Office.

An attorney in intellectual property matters in Spain can **advise, assist and represent third parties** in obtaining all forms of industrial property. Spain attorney in intellectual property matters can act at the Spanish Patent and Trademark Office

With reference to **methods of practicing the profession** of an attorney in intellectual property matters it should be noticed that agents may exercise their activity individually or through legal entities validly constituted in accordance with the legislation of a Member State of the European Union and whose registered office or principal place of business is in Community territory. Both agents and the legal entities through which they exercise their activity may be registered in the Special Register of Agents of the Spanish Patent and Trademark Office.

There is no legal provision concerning method of determining fees for the professional activities of attorneys in intellectual property matters. The rules of free competition determine that the College of Agents may not set indicative fees.

There is no regulation concerning form of training or certification.

Concerning **membership in a professional's organization**, in order to join the Official Association of Industrial Property Agents, person has to proof that he or she:

1. is registered in the Special Register of Industrial Property Agents in accordance with the provisions of article 179.3 of Law 24/2015, of 24 July, on Patents;
2. paid the registration fee provided for in these Statutes, as well as the ordinary fee for the current year.

Codes of conduct

Concerning **professional ethics regulations**, the essential task of the profession is to advise, assist or represent by serving the interests of clients independently and impartially, in accordance with professional ethics and dignity and preserving the necessary confidence in the profession.

Every member shall be obliged not to divulge information accepted by him/her as confidential in the exercise of his/her profession. All members shall take appropriate

measures to ensure that the interests of their clients are safeguarded in the event that they are prevented from performing their duties.

Industrial property agents shall be obliged to maintain the confidentiality of the matters in which they intervene and shall be entitled to refuse to disclose information exchanged with their clients or with third parties relating to proceed before the Spanish Patent and Trademark Office. Among others, this includes any communication or any document relating to:

1. the assessment of the patentability of an invention, the registrability of an industrial design, a trade mark or a trade name;
2. the preparation or prosecution of an application for a patent, utility model, industrial design, trade mark or trade name;
3. any opinion concerning the validity, scope of protection or infringement of the subject matter of a patent, utility model, industrial design, trade mark or trade name, as well as of an application for any of these.

In order to preserve the prestige of the profession, it is necessary to maintain good fellowship relations between members, regardless of their personal feelings. Any competition between members must be fair.

The suspension of right to practice the profession or removal from the list of attorneys in intellectual property matters shall happen under following circumstances:

1. very serious misconduct – two-year suspension of membership, expulsion from the Association. Such misconduct includes:
 - a) intentional concealment of causes of incompatibility or incapacity to exercise the profession of industrial property agent,
 - b) failure to comply with the duty of professional secrecy and confidentiality provided for in the applicable legislation,
 - c) serious failure to exercise due diligence in the performance of professional duties,
 - d) being already sanctioned by the commission for two other infringements of the same nature in the five years immediately preceding such misconduct,
 - e) covering up or facilitating professional intrusion,
 - f) consciously and deliberately neglecting the obligations contracted with any client;
2. serious penalties -suspension of the status of member for two to six months due to:
 - a) unlawful advertising and acts of unfair competition,
 - b) acting in breach of professional ethics or dignity, or in breach of the rights of private individuals,

- c) failure to comply with the obligation to pay full membership fees for one calendar year,
- d) to perpetrate any kind of serious or offensive behavior against the honour or personal, or professional reputation of any other member of the Association,
- e) directly or indirectly providing professional services that are contrary to the current legal system, causing serious damage.

There is no regulation concerning **professional development**, neither concerning rules of advertising the services of an attorney in intellectual property matters.

SWEDEN (Sveriges IP-ombuds Samfund)

The Swedish system **differs quite significantly from most**, if not all other countries in the world and **basically anyone can be an attorney in intellectual property matters**. The only requirements the Swedish IP Office (PRV) put on an attorney is that he/she is resident in Sweden when representing an IP holder who is not domiciled in Sweden, and that he/she has the right to receive documents in cases and matters concerning the IP right on behalf of the holder. Even if this basically allows pure dilettantes to act as IP attorneys, this is – thankfully – quite rarely occurring in front of the PRV and generally never in litigations (probably due to the courts right to reject attorneys due to lack of knowledge). One important reason is no doubt that PRV and other relevant institutions strongly recommend using professional IP attorneys.

The requirements for acting as an attorney in litigation (any litigation, hence including IP litigations) are slightly more extensive, but still very modest. Only a person deemed suitable by the court, by reason of that person's honesty, knowledge, and earlier activities, may appear as an attorney. The attorney shall master the Swedish language, shall be resident in Sweden or another state within the European Economic Area, however, other persons may serve as an attorney, if, with regard to the circumstances, the court considers it to be appropriate.

A minor, a person who is declared bankrupt or has an administrator appointed under the Code on Parents, Guardians and Children, may not appear as an attorney.

An attorney in intellectual property matters in Sweden can act in any relevant proceedings in Sweden, i.e. before the PRV, as well as in front the relevant courts, at all levels. They can provide any kind of services in intellectual property matters, as long as the services are compatible with the ethical rules – if any – the attorney is bound to (a pure dilettante – see above – may in worst case of course not be bound to any such rules).

It should be noted that there are no general rules about legal training, practice and internships. The Patent Attorneys Board is only interested in that the candidates pass their tests (and not in how they prepare for this, hence similar to the EQE in that respect). Although the Swedish Intellectual Property Attorneys Association has a system for certification/authorization of IP attorneys, this certification/authorization has no legal implications. It is basically a “quality stamp” the attorney can use in relation to his/her (potential) clients, and hence also a guidance to the latter.

Basically, anyone can be **an attorney in intellectual property matters** in Sweden and represent clients in matters of patents, trademarks and industrial designs the practice of the profession can be in any form, e.g. in-house, as well as being an employee of a consultant firm or a law firm, or working independently. However, a litigation attorney cannot be a judge, law officer employed by a court of law, public prosecutors, or an enforcement officer.

Swedish Intellectual Property Attorneys Association requires that member's advertising and acquisition activities must be factual and correct. Its form and content must be such that it is not apt to discredit another member or another member's activities. A member may not participate in or accept that others carry out advertising or acquisition activities for him, which he himself may not carry out. Advertising and marketing must be designed so that it promotes and maintains public confidence in the intellectual property rights system and the IP attorney community.

Swedish Intellectual Property Attorneys Association, as well as Swedish Patent Attorneys Board require ten hours of **annual continuing professional development** of its members and authorized patent attorneys, respectively.

SWITZERLAND

(Verband Schweizerischer Patent- und Markenanwälte)

Who can represent clients in IP cases in Switzerland?

There is no specific limitation or requirement to be an attorney in intellectual property matters in Switzerland and represent clients in matters of patents, trademarks and industrial designs before the Swiss Federal Institute of Intellectual Property.

The only limitation relates to use of professional titles “patent attorney”, “Patentanwältin” or “Patentanwalt”, “conseil en brevets” and “consulente in brevetti” that are subject to specific requirements and qualifications. The Swiss Act on Patent Attorneys is applicable to persons who provide advice or representation in patent matters in Switzerland using any of the above-mentioned professional titles.

How to become patent attorney in Switzerland?

According to the Swiss Act on Patent Attorneys, any person who uses the title “patent attorney”, “Patentanwältin” or “Patentanwalt”, “conseil en brevets” or “consulente in brevetti” must:

1. possess a recognised higher education qualification in natural sciences or engineering;
2. have passed the Swiss Federal Patent Attorney Examination or a recognised foreign patent attorney examination;
3. have completed practical training;
4. possess at least an address for service in Switzerland; and
5. be registered in the Patent Attorney Register.

For patent attorneys, the practical training as defined in the Swiss Act on Patent Attorneys must be completed under the supervision of a registered patent attorney or a person with an equivalent professional qualification.

The duration of practical training has to last three years on a full-time basis for persons with a higher education qualification (Master’s, Diploma or Lizenziat degree) or a recognised equivalent qualification, and four years on a full-time basis for persons with a Bachelor’s degree or a recognised equivalent qualification. At least one year of the practical training must be related to Switzerland.

Practical training allows the candidate to obtain, under supervision, practical experience that enables him or her to work independently as a patent attorney.

Within the scope of obtaining the requisite practical training, the candidate shall, in particular:

1. acquire specialised knowledge and apply it in practice;
2. become familiar with the authorities competent for patent matters in Switzerland;
3. learn to draft patent applications on the basis of documentation provided by a client and represent the client in grant procedures;
4. become familiar with the formalities and time limits for the procedure of the grant of a patent in Switzerland.

The following persons may supervise practical training:

1. any person who is registered in the Patent Attorney Register as a patent attorney;
2. any person who has worked professionally as a patent attorney in Switzerland for at least ten years on a full-time basis without being registered in the Swiss Patent Attorney Register;
3. any person who has worked professionally as a patent attorney abroad for at least six years on a full-time basis as a regulated profession under the laws of the country of origin; or
4. any person who is registered in the list of professional representatives maintained by the European Patent Office and has worked professionally as a patent attorney in Switzerland for at least one year on a full-time basis.

A minimum of twelve months of the practical training must be completed on a full-time basis under a supervisor with a place of business in Switzerland.

Supervised professional work as a patent attorney in a foreign country will be recognised, when it was completed on a full-time basis for at least eighteen months and where, as a result, the candidate:

1. acquired the specialised knowledge according to the Act and applied it in practice;
2. became familiar with the authorities competent for patent matters in Switzerland; and
3. became familiar with the formalities and time limits for the procedure of the grant of a patent in Switzerland.

On completion of the candidate's practical training, the supervisor must certify the following in writing:

1. the duration of practical training;
2. the level of employment in relation to a full-time equivalent;
3. the place of employment;
4. the activities performed.

The Swiss Act on Patent Attorneys provides also an examination that serves as qualification and as proof of the specialised knowledge required for professional qualification as a patent attorney.

Concerning the Swiss Federal Patent Attorney Examination, the Swiss Government assigns to the joint association (Examination Board) of the Association of Swiss and European Patent Attorneys in Private Practice, the Association of Patent Attorneys in Swiss Industry and the Association of Swiss Patent and Trademark Attorneys the following duties:

1. administration of the Swiss Federal Patent Attorney Examination;
2. issuing guidelines for the Patent Attorney Examination;
3. appointment of examiners;
4. deciding on the passing or failing of the examination;
5. deciding on the recognition of foreign patent attorney examinations;
6. establishing fee regulations and submitting them to the Federal Council for approval;
7. maintenance of an office.

In the Swiss Federal Patent Attorney Examination, specialised knowledge is examined in the following areas:

1. European and international patent law; Swiss patent law;
2. Swiss procedural and organisational law relevant to industrial property rights;
3. trademark, design, copyright, competition and civil law to the extent required for working professionally as a patent attorney in Switzerland.

The Swiss Federal Patent Attorney Examination consists of four parts. The candidate is free to decide on the order in which the parts of the examination are completed. Parts 1 and 2 are conducted in accordance with the provisions of the Administrative Council of the European Patent Organisation on the European qualifying examination for professional representatives before the European Patent Office.

They cover the following:

1. Part 1: drafting of patent claims and the introductory part of a patent application (Examination Paper A);
2. Part 2: replying to an official communication in which prior art has been cited (Examination Paper B);
3. Part 3 covers:
 - a) Swiss patent law including the special provisions pertaining to international procedures,
 - b) the Swiss provisions in the area of administrative, criminal and civil procedure as well as the organisation of authorities and court applicable to patent matters;
4. Part 4 covers trademark, design, copyright, competition and civil law to the extent required for working professionally as a patent attorney in Switzerland.

Parts 1 and 2 must be completed within the framework of the European qualifying examination conducted by the European Patent Office. In exceptional circumstances, the Examination Committee may offer substitute examinations that are equivalent to Examination Papers A and B of the European qualifying examination.

Parts 3 and 4 of the Swiss Federal Patent Attorney Examination are held at least once a year. If less than four applications have been received, the Examination Committee may postpone the examination, whereby there may be no more than 25 months between two examination dates of any examination part.

The Examination Committee determines the application deadlines, the examination dates and the examination location and publishes these. Neither Part 3, nor Part 4 of the examination may be split across more than one examination date.

Part 3 of the examination is conducted in writing. At least one of the examiners who prepared this part of the examination must be present. He or she advises the candidate on the details pertaining to the conduct of the examination prior to commencement of the examination. This part of the examination shall last six hours. The candidate shall provide the answers to the examination in anonymised form. The examiners entrusted with marking the examinations shall determine their assessment jointly.

Part 4 of the examination is conducted orally. Two of the examiners who prepared this part of the examination must be present for Part 4. This part of the examination shall last one hour. In justified cases, it may be extended to a maximum of 75 minutes. The examiners shall determine their assessment jointly.

The Swiss Federal Patent Attorney Examination has been passed when all four examination parts have been passed. In this case, the Examination Committee issues confirmation in the form of a certificate.

Admission to the Swiss Federal Patent Attorney Examination shall be granted to:

1. any person who, on applying to take the examination, can provide proof of the requisite higher education qualification and of the requisite practical training; and
2. has paid the examination fee by the application deadline.

Any person who applies for admission to the examination must submit the following:

1. the documents evidencing his or her higher education qualification;
2. a certificate confirming the completion of practical training.

The Swiss Federal Institute of Intellectual Property maintains the Patent Attorney Register. Upon application and upon payment of a fee, the Swiss Federal Institute of Intellectual Property registers persons in the Patent Attorney Register who fulfil the requirements of the Swiss Act on Patent Attorneys. A certificate of registration is issued.

Concerning trademark attorneys and industrial design attorneys, there are no requirements and no protection of these professional titles. The above-mentioned training, examination and register requirements do not apply to attorneys dealing with trademark and industrial design matters.

Competences of the Swiss patent attorney

In proceedings concerning the validity of a patent, patent attorneys as defined in the Swiss Act on Patent Attorneys, may also represent parties before the Federal Patent Court, provided that they work in independent (private) practice. In all proceedings before the Federal Patent Court, patent attorneys shall be given the opportunity to present technical arguments concerning the facts of the case.

The attorney in intellectual property matters in Switzerland can represent parties in proceedings before the Swiss Federal Institute of Intellectual Property.

Concerning **trademark attorneys and industrial design attorneys**, there are no specific rights, duties and responsibilities. However, if a trademark/industrial design attorney is also qualified attorney at law, rights, duties and responsibilities are those related to attorneys at law in Switzerland.

There is no limitation to the territorial scope of legal and technical assistance.

Forms of practicing the profession

Attorney in intellectual property matters in Switzerland can practice the profession either in a law firm (independent/private practice), or in industry (as an in-house attorney).

Membership to Swiss professional organizations is not mandatory. The following professional organizations are available in Switzerland:

1. Association of Swiss Patent and Trademark Attorneys (Swiss branch of FICPI);
2. Association of European and Swiss patent attorneys in private practice;
3. Association of patent attorneys in Swiss industry (in-house attorneys);
4. AROPI (French-speaking intellectual property association).

There are no methods of determining fees for the professional activities of attorneys in intellectual property matters.

Codes of conduct and duties of the Swiss patent attorney.

There is no official act or regulation related to **the code of conduct** or professional ethics. Instead, Association of Swiss Patent and Trademark Attorneys has such a code of conduct, which is aligned with the code of conduct of FICPI.

Further, the code of conduct of European patent attorneys, as provided by the Institute of Professional Representatives before the European Patent Office, is applicable to the European patent attorneys working in Switzerland.

The Swiss Act on Patent Attorneys provides that patent attorneys are obliged to maintain **confidentiality** concerning all secrets that are entrusted to them in their professional capacity or which come to their knowledge in the course of their professional activities, this obligation being unlimited in time. They must ensure that persons assisting them maintain professional confidentiality.

There is no obligation of continuing **professional development**.

There is no official act or regulation related to **advertising** the services of an attorney in intellectual property matters. Association of Swiss Patent and Trademark Attorneys provides some indication on advertisement, which is aligned with the code of conduct of FICPI.

Where the professional conduct of a patent attorney gives rise to complaints, the Swiss Federal Department of Justice and Police (FDJP) may, after hearing the concerned person:

1. **admonish** him or her;
2. authorise the Swiss Federal Institute of Intellectual Property to **disqualify** him or her temporarily or permanently from using the professional title.

In assessing professional conduct, the patent attorney's entire business activities in Switzerland and abroad shall be taken into consideration.

The Swiss Federal Department of Justice and Police may order the publication of the admonition or the disqualification, as well as the deletion of the registration from the Patent Attorney Register.

TURKEY

(Patent ve Marka Vekilleri Derneği)

Patent and trademark attorneyship is a profession included in the tertiary sector and often practiced by experts who are authorized to conduct respective transactions (in the subjects of inventions, patents, utility models, designs, trade and service marks, geographical indications, traditional product names, integrated circuit topographies) on behalf of applicants before Turkish Patent and Trademark Office and who act as consultants and attorneys in the matter of protection of these rights.

How to become an attorney in intellectual property matters in Turkey?

The requisites of becoming a patent and trademark attorney in Turkey are:

1. to attain a bachelor's degree from any college/university that provides a four-year higher education program,
2. to pass the patent and trademark attorneys' qualifying exams of Turkish Patent and Trademark Office held every two years, and
3. to be registered in the Register of Patent and Trademark Attorneys of Turkish Patent and Trademark Office.

Patent and trademark attorney **qualifying exams** of Turkish Patent and Trademark Office are held for patent attorneys and trademark attorneys separately.

The trainings for the candidates who would like to take the qualification examinations are given by Patent and Trademark Attorneys' Association. Additionally, other associations and bar association give pre-examination trainings for candidates. Patent and trademark attorneys who passed the qualification examinations are also trained by Turkish Patent and Trademark Office and the associations in different ways, such as seminars, symposiums or conferences.

There are no special rules (as compulsory) for legal training, practice and internships for patent and trademark attorneys. Candidates are required to meet the following conditions to be able to take the patent and trademark attorney qualifying exam:

1. be a citizen of the Republic of Turkey (compulsory to be able to take the exam);
2. possess the capacity to act (compulsory to be able to take the exam);
3. graduate from one of the higher education institutions providing at least four-year undergraduate education or from one of the foreign higher education institutions that are recognized by competent authorities (compulsory to be able to take the exam);

4. not be convicted of dishonourable offenses (compulsory to be able to take the exam);
5. occupy a residence in Turkey (compulsory for registration);
6. pass the attorney qualifying exams held by the Turkish Patent and Trademark Office (compulsory for registration);
7. register in the Register of Patent and Trademark Attorneys of Turkish Patent and Trademark Office (compulsory for registration and working for patent and trademark attorney).

Patent and trademark attorney qualifying exams are held in one stage in every two years (every odd year).

Rights, duties and competences.

As applicants who desire to acquire rights for patents, utility models, trademarks, designs, geographical indications, traditional product names, and integrated circuit topographies may file their applications individually before the Turkish Patent and Trademark Office, they may also appoint and authorize a patent and/or trademark attorney.

Patent attorneys are individuals who are duly authorized to represent applicants before the Turkish Patent and Trademark Office in transactions carried out on the subjects of patents, utility models, designs, and integrated circuit topographies, to provide consulting services to applicants on these subjects, to take necessary steps, and to perform necessary operations in order to protect the industrial property rights of applicants.

Trademark attorneys, on the other hand, are individuals who are duly authorized to represent applicants before the Turkish Patent and Trademark Office in transactions conducted on the subjects of trademarks, geographical indications, traditional product names, and designs, to provide consulting services to applicants on said subjects, to take necessary steps, and to perform necessary operations in order to protect the industrial property rights of applicants.

Moreover, attorneys are responsible for the establishment and protection of the rights of respective persons before the Turkish Patent and Trademark Office, and for ensuring and maintaining all manner of relations with the management with respect to the establishment and protection of rights.

Patent and trademark attorneys in Turkey are authorized to represent their clients in front of the **Turkish Patent and Trademark Office**. They also represent their clients in other countries directly (if the legislation in that country allows so) or by representation of the patent and trademark attorneys in that country.

Industrial Property Law No. 6769 and Law on Patent and Trademark Attorneys No. 5000 are in force for definition of the **scope of rights and kind of services** which can be provided by Patent and Trademark attorneys in intellectual property matters in Turkey.

Apart from **representation** in the matter of industrial property rights, patent and trademark attorneys are authorized to perform:

1. preliminary searches for trademarks, designs, patents, utility models, etc., before filing application,
2. evaluation of documents for filing well-known trademark applications,
3. evaluation of proof of use documents for trademarks,
4. invalidity analysis for trademarks, designs, patents, utility models,
5. infringement analysis for trademarks, designs, patents, utility models,
6. freedom to operate (FTO) analysis for trademarks, designs, patents, utility models,
7. etc.

Patent and trademark attorneys in Turkey can act before Turkish Patent and Trademark Office. Additionally, they can be assigned as expert witness by judges in courts to prepare reports about the court case.

Patent and trademark attorneys in Turkey are **responsible for ensuring and maintaining all manner of relations** with the Turkish Patent and Trademark Office for establishment and protection of rights of applicants and opponents. They are obliged to conduct the correspondence between applicants and the Turkish Patent and Trademark Office on a regular basis, otherwise, they shall be held accountable for any potential loss of rights that may stem therefrom. They are also obliged to notify their clients regarding any and all decisions, notifications to be issued by the Turkish Patent and Trademark Office, the subsequent sequence of processes, potential situations, and costs. In addition, patent and trademark attorneys are obliged to protect their clients' benefits and act in compliance with the code of ethics of the profession.

In Turkey there is no minimum or advisory attorney fee schedule. So, the fees for professional activities of patent and trademark attorneys in intellectual property matters are determined by the attorneys separately.

Membership in professional's organization

In Turkey there is no professional's organization for patent and trademark attorneys. There are only Associations established by Patent and Trademark Attorneys such as our Association Patent and trademark Attorneys' Association. Additionally, FICPI Turkey and AIPPI Turkey are also other associations.

Codes of conduct

In Turkey, the following ethic regulations apply: Regulation for Qualification Examination, Registry and Discipline Rules for Patent and Trademark Attorneys. According to this regulation, the professional rules and the discipline penalties are defined. Additionally, the procedures for discipline complaints are defined.

Professional secrecy provisions are defined in the Regulation for Qualification Examination, Registry and Discipline Rules for Patent and Trademark Attorneys.

There are two punishments in the Regulation for Discipline Rules for Patent and Trademark Attorneys in Turkey:

1. **temporary detention from acting as an attorney**: it is prohibited from acting as an attorney for not less than three months and no more than one year. A temporary suspension from the activity of attorney is applied to the attorneys who receive a reprimand punishment but commit the same punishment within five years, or who use the rights and powers of attorneyship with an example contrary to the original of the power of attorney, or who use the title, internet domain name or other means of promotion belonging to the Turkish Patent and Trademark Office in a way that causes confusion;
2. **Removal from attorneyship register**: It is an indefinite ban from attorneyship activity. A penalty of dismissal from attorneyship is applied to those who are temporarily suspended from acting as attorneys and act within five years that require the same punishment. Those who are dismissed from patent attorneyship or trademark attorneyship as a result of a finalized disciplinary decision cannot be a patent attorney or trademark attorney again.

Without prejudice to the provisions of the special legislation, the patent or trademark attorney has the **right to advertise** in general, provided that it is truthful and impartial, and complies with basic principles, such as honesty and compliance with professional secrecy. However, without expressing the consent of his/her client, the advertising means such as redirecting the internet users to their own site or another site, such as revealing their identity, using the name or logo of institutions and organizations in a misleading way, trading or negotiating industrial property rights without the client's instruction, and leading to unfair competition with their colleagues are outside the scope of the right to advertise.

The obligations to **continue professional activities** includes renew the professional liability insurance and renew the registry record at Turkish Patent and Trademark Office every year.

UKRAINE

(National Association of Patent Attorneys of Ukraine)

Who can be an attorney in intellectual property matters in Ukraine and represent clients in matters of patents, trademarks and industrial designs?

National clients in the field of patents, trademarks and industrial designs can be represented by any person holding a power of attorney or other authorization to act on behalf of the clients. Non-residents of Ukraine, with the minor exceptions, can be represented only by attorney in intellectual property matters admitted to practice in Ukraine and listed in the State Registry of the attorneys in intellectual property matters of Ukraine.

Professional requirements for becoming an attorney in intellectual property matters in Ukraine

In order to be admitted to the practice an attorney shall have higher education and higher education in the field of the intellectual property, five years of practice in the field of the intellectual property and also pass professional exams: testing with respect to all IP objects and exams under each object in which an attorney would like to practice. In order to be admitted to the practice a candidate shall have higher education, special higher education in the field of intellectual property, not less than five years of experience in IP practice.

Rights, duties and responsibilities of an attorney in intellectual property matters

Attorney in intellectual property matters can provide any services in the field of IP, such as preparing and filing applications, prosecution, oppositions, transfer of rights, with the full scope of rights provided to the applicant: to file, to sign, to pay fees, to oppose, to take part in appeal proceedings, etc. Attorney in intellectual property matters has an obligation to maintain the professional level and to act in the best way for the interests of the client, keeping confidentiality and avoiding any conflict of interests. Attorney in intellectual property matters is responsible to the provision of high quality services in line with the national legislation.

Territorial scope of legal and technical assistance

Legal and technical assistance can be provided on all territory of Ukraine.

Form of training and certification

In order to be admitted to the practice, an attorney shall have higher education and higher education in the field of the intellectual property, and also pass professional exams: testing with respect to all IP objects and exams under each object in which an attorney would like to practice. After admission to the practice, an attorney shall proceed the trainings for improving professional skills, but the nature, duration and other requirements to such trainings are on the attorney's discretion. Before admission to practice as an attorney in intellectual property matters, a candidate shall have five years of practice in the field of the intellectual property. No obligatory internship is envisaged.

In what proceedings does the attorney in intellectual property matters in Ukraine can act?

Ukrainian intellectual property attorney can act before the National Intellectual Property Office, Board of Appeals thereof, and other institutions (when available) having authorities in the field of the intellectual property. Ukrainian intellectual property attorney cannot represent clients before the courts, unless the attorney also has a qualification of attorney at law. Attorney in intellectual property matters can provide any services in the field of IP, such as preparing and filing applications, prosecution, oppositions, transfer of rights, with the full scope of rights provided to the applicant: to file, to sign, to pay fees, to oppose, to take part in appeal proceedings etc. It is a right to send a cease and a desist letter to a website owner/hosting provider, requesting an immediate termination of copyright infringement in Internet related to digital content. Such right provides a possibility to stop copyright infringement in 48 hours.

Before which institutions does the Ukrainian attorney in intellectual property matters can act?

The Ukrainian intellectual property attorney can act before the National Intellectual Property Office, Board of Appeals thereof, and other institutions (when available) having authorities in the field of the intellectual property.

Methods of practicing the profession of an attorney in intellectual property matters (in what forms can the profession be practiced).

Practicing a profession could be done individually or as a patent firm. Determining fees for the professional activities of attorneys in intellectual property matters stays on the exclusive discretion of an attorney. Usually attorneys practice fixed fees for IP filings and prosecution and hourly rates for oppositions, proceeding in the Board of Appeals etc.

Membership in a professional's organization

Membership in a professional's organization is voluntary.

Codes of conduct

The Ukrainian intellectual property attorney's organizations can develop codes of conducts for both professional ethics regulations and professional secrecy. There is no information on the existing codes of conduct, but the National Association of Patent Attorneys of Ukraine stays in the process of approval of such codes of conduct that shall be finalized by September 1, 2023.

Suspension of the right to practice the profession and removal from the list of attorneys in intellectual property matters

Suspension of the right to practice the profession and removal from the list of attorneys in intellectual property matters may be done voluntarily by a request of the attorney, if attorney became a public servant, or in case of violation of legislation. However, the legislative act on the later obligatory suspension and removal has been revised now and will be approved during next few months.

Advertising shall follow general principle of fair advertising. There is an obligation of continuing professional development but principles and methods thereof are at the discretion of the attorney.

UNITED KINGDOM

(The Chartered Institute of Patent Attorneys and The Chartered Institute of Trade Mark Attorneys)

The Intellectual Property Regulation Board (IPReg) was set up in 2010 by the **Chartered Institute of Patent Attorneys (CIPA)** and the **Chartered Institute of Trade Mark Attorneys (CITMA)** to be the independent regulatory body for the Patent Attorney and Trade Mark Attorney professions.

“Lawyer” is a general term referring to an individual who provides legal advice. Within the legal profession there are a number of different types of qualified lawyers.

A “Patent Attorney” or “Patent Agent” and “Registered Trade Mark Attorney” or “Registered Trade Mark Agent” is a lawyer specifically qualified to advise on intellectual property law and they are subject to regulation by IPReg. Firms or individuals who use titles such as “patent consultant” or “patent advisor” and “trade mark consultant” etc. are unlikely to have any form of professional qualification.

Patent attorneys normally have a degree in a science or engineering as well as a legal qualification in intellectual property. Patent attorneys draft detailed descriptions of inventions for clients and apply to register these using the national and international protection systems. They also deal with conflicts and infringements of their clients’ patent rights. Many patent attorneys also practise in the field of industrial designs. It is a criminal offence for anyone to use the term “Patent Attorney” or “Patent Agent” unless he/she is on the patent attorney register.

Trade mark attorneys may have an arts degree or a general legal background before specialising as a trade mark advisor. They liaise with marketing personnel to help clients choose new brand names and then apply to register them. Increasingly their practice may involve domain name (website addresses) dispute issues. Trade marks can also overlap with design and copyright matters. They also deal with conflicts and infringements of their clients’ trade mark rights. Many trade mark attorneys also practise in the field of industrial designs.

It is a criminal offence for anyone to use the term “Registered Trade Mark Attorney” or “Registered Trade Mark Agent” unless he/she is on the trade mark attorney register. But the terms “trade mark attorney” and “trade mark agent” are not protected by law and anyone may use them.

To **become a patent or trade mark attorney**, you will be required to have a relevant undergraduate or postgraduate qualification and complete a number of exams as part of a wider work-based training programme. To train as a patent attorney you are likely to have a scientific or technical background, this usually means a science or engineering degree from a university or similar institution. This is because you will need to understand at a fairly specialist level the technical details of the client's idea.

Those looking to train as an attorney must have the ability to acquire, and enjoy exercising, legal skills of drafting, analysis and logical thought and have a good grasp of the English language. Many of these skills are obtained through a series of exams and on-the-job training. Getting the necessary legal skills to be an attorney is usually by means of working in firm or in a company's in-house legal department, supplemented by other studies. Admission to either Register requires the passing of examinations and completion supervised training. Where a person has had more than four years' full time practice in intellectual property, they can apply to the register on the basis of their unsupervised experience, but applicants should be prepared to provide a significant amount of evidence of their competence. It is usual for a person entering the profession to take four or five years to qualify.

To be admitted to the patent attorney register or the trade mark attorney register, applicants must:

1. complete the qualifying examinations;
2. meet the work experience requirements; and
3. meet IPReg's Character and Suitability requirements.

Attorneys must have no less than two years' full time supervised practice or four years' full time unsupervised practice in intellectual property with substantial experience in the relevant area of work (patent attorney work or trade mark attorney work). This work experience must be current, i.e. completed no longer than 12 months' before making the application for registration. If the work is supervised, the supervisor must be a registered attorney or a solicitor or barrister with substantial experience in patent attorney or trade mark attorney work as relevant. Your supervisor must have understood that they were supervising you for the purposes of your qualification as a registered attorney. Supervision whilst working as a paralegal or member of support staff in an IP team will not usually be considered to be supervised practice for the purpose of the regulations.

PRB and TRB either separately or together as IPReg and after consultation with CIPA and CITMA shall periodically issue Rules relating to the academic qualifications for admission of a person to the patent attorney register or the trade mark attorney register respectively and to the administration and conduct of periodic

qualifying examinations. An individual shall qualify for admission to the Patent Attorney Register, if he is able to demonstrate to the satisfaction of the Registrar of the Patent Attorney Register that he/she:

1. possesses the necessary academic qualifications required by PRB;
2. has passed the qualifying examinations required by PRB; and
3. either has satisfactorily completed not less than two years' full-time practice in the field of intellectual property, including substantial experience of patent attorney work, under the supervision of:
 - a) a registered patent attorney, or
 - b) a barrister, solicitor or advocate who is engaged in or has substantial experience of patent attorney work in the United Kingdom, or else has satisfactorily completed not less than four years' full-time practice in the field of intellectual property, including substantial experience of patent attorney work in the United Kingdom;and
4. is able to comply with such other rules or regulations made by PRB relating to the education and training required of registered persons and by IPReg, including character and suitability requirements of registered persons.

An individual shall qualify for admission to the Trade Mark Attorney Register, if he/she is able to demonstrate to the satisfaction of the Registrar of the Trade Mark Attorney Register that he/she:

1. possesses the necessary academic qualifications required by TRB;
2. has passed the qualifying examinations required by TRB; and
3. either has satisfactorily completed not less than two years' full-time practice in the field of intellectual property, including substantial experience of trade mark attorney work, under the supervision of:
 - a) a registered trade mark attorney, or
 - b) a barrister, solicitor or advocate who is engaged in or has substantial experience of trade mark attorney work in the United Kingdom, or else has satisfactorily completed not less than four years' full-time practice in the field of intellectual property, including substantial experience of trade mark attorney work in the United Kingdom; and
 - c) is able to comply with such other rules or regulations made by TRB relating to the education and training required of registered persons and by IPReg, including character and suitability requirements of registered persons.

Training differs for patent and trade mark attorneys. Patent attorneys will enter the profession generally with a Bachelor's degree in a scientific, engineering or other technical field. Trainee patent attorneys train on the job, supported by their firms and by CIPA, and work towards the PEB examinations. Currently, there are exemptions in relation to elements of the EQE. Qualification will typically take 3 – 5 years.

The rights, duties and responsibilities of an attorney.

The Rights to Conduct Litigation and Rights of Audience and Other Reserved Legal Activities Certification Rules 2012 set out the three tiers of litigation and advocacy qualifications available to attorneys.

All registered attorneys must hold at a minimum, the Intellectual Property Litigation Certificate, sometimes referred to as the “litigation skills certificate” or the “basic certificate”.

Trade mark attorneys will usually have obtained this certificate as part of their pre-registration qualifications (if they qualified after 1 January 2013 with the Professional Certificate in Trade Mark Practice; those with qualifications obtained prior to this will need to sit the Basic Litigation Skills Course).

Patent attorneys, unless a registered attorney as at 31 December 2012, must obtain the Intellectual Property Litigation Certificate within three years of the end of their first year of registration. For example, a patent attorney admitted to the patent register on 1 April 2022 must obtain the certificate by 31 December 2025.

Trade Mark attorneys who held the Advocacy Certificate under the ITMA (now CITMA) Trade Mark Litigator and Trade Mark Advocate Certificate Regulations 2009 were passported to a Higher Courts Litigator qualification and not a Higher Courts Advocate qualification.

Before which institutions does the United Kingdom attorney in intellectual property matters can act?

IP attorney can act before the UK Intellectual Property Office (IPO) (though there are no restrictions on representation before the IPO), the UK Intellectual Property Enterprise Court (IPEC) and other courts of first instance. Many patent attorneys have higher rights of audience, achieved through qualification.

Methods of practicing the profession of an attorney in intellectual property matters (in what forms can the profession be practiced)

Attorneys work in private practice or in-house, in industrial IP departments.

Membership in a professional's organization.

Patent attorneys are members of CIPA and trade mark attorneys are members of CITMA. A small number of attorneys are dual qualified. All attorneys are regulated by IPReg.

All practising patent and trade mark attorneys have a professional obligation to ensure that they maintain their skills and knowledge at the necessary level to be able to provide a competent service to existing and potential clients. The principle of Continuing Professional Development (CPD) or continuing competence is well established and its value is self-evident.

Obligation of continuing professional development.

On 1 July 2023, the way IPReg requires attorneys to identify appropriate continuing competence activities and to record them, changed. It has always been the case that IPReg expects attorneys to undertake activities that meet the needs of the attorney's individual practice and provide value to the attorney's clients. However, instead of requiring attorneys to undertake a minimum of 16 hours of continuing competence activities, IPReg now expects attorneys to evaluate the activities undertaken, and properly consider whether those activities met the development needs the attorney identified.

Why I became a patent attorney?

We asked our colleagues, why they became patent attorneys and here are their answers:

Aneta Balwierz-Michalska

I have been a patent attorney for 25 years for several main reasons that led me to this fascinating career: 1. Passion for innovation: From a very young age, I have been fascinated with new technologies and innovations. Being a patent attorney allows me to be close to the sources of such innovations, while assisting their authors in protecting their inventions, and contributing to technological development. 2. Promoting creativity: As a patent attorney, I have the honour of supporting the authors, scientists, and entrepreneurs in transforming their concepts into practical and legally protected solutions. It gives me an immense satisfaction to see abstract ideas come to life. 3. Protection of intellectual property: In the fast changing business environment nowadays, protection of intellectual property is crucial for competitiveness and success of businesses. As a patent attorney, I am able to help my clients successfully protect their innovations, thus allowing them to market their potential. 4. Intellectual challenges: Working as a patent attorney involves facing multiple intellectual challenges. Analysing various technologies, preparing legal arguments, and conducting litigation before patent offices require analytical thinking and creative approach at all times. 5. Long-term satisfaction: Patents and intellectual property rights affect innovations and social advancement over longer term. Working as a patent attorney allows me to leave a lasting mark by assisting creators in achieving success and by contributing to long-term technological development. 6. International co-operation: The world of patents is a global community, and as a patent attorney I have the opportunity to work with clients and professionals from many countries. This broadens my perspective and lets me learn on an international arena. 7. Developing interpersonal skills: Working as a patent attorney requires effective communication with the clients, patent offices, and – frequently – technical teams. This way, I keep improving my interpersonal and team-working skills. In conclusion, I am a patent attorney because of my passion for innovation, willingness to support the authors, ability to protect intellectual property, attractive intellectual challenges, ability to leave a lasting effect, international co-operation, and development of interpersonal skills. It is a great and satisfying experience which has already lasted for over two decades.

Rafał Danowski

Patent attorney is an interesting profession in which you need to keep learning, and promoting development in many aspects/fields of knowledge.

Konrad Futera

I have been a construction for 10 years, but creative work has one disadvantage. Companies usually manufacture a specific product. From time to time, a new model is made, but once you start making robots, then every project will be another robot. Work as a patent attorney is like a box of chocolates, I never know what I'm going to get.

Krzysztof Górak

Nihil sine labore

Mariusz Grzesiczak

It is a very interesting profession requiring versatile knowledge, both in technical and legal fields. I haven't met any attorney who would deem their work monotonous or boring. On the contrary, we are constantly facing new problems to solve, meet interesting people (authors of inventive projects, scientists, entrepreneurs) striving to ensure legal protection for their ideas or indications. Practicing a liberal profession also has many advantages, giving you a certain freedom of action, in spite of also involving high responsibility and requiring extraordinary reliability, diligence, and ethics.

Magdalena Heyck

Because it is an interesting profession offering an opportunity to keep expanding your knowledge in many fields; always giving you new challenges; giving the opportunity to meet interesting people/creators/visionaries, and madmen at times ;) My mother, who is a patent attorney and who has implanted on me the joy of practicing the profession, jokes that "she is a freelancer, therefore she is free to work as she pleases" – because this profession offers freedom not bound by rigid framework.

Anna Kawalec

It is an amazing profession in which we have many opportunities to develop our skills and work with very interesting people. Also new technologies, protection of computer programs, brand protection in the virtual world are just some of the many interesting issues on which we can work as patent and trademark attorneys.

Marek Kułacz

The manufacturing company I am employed with had an in-house patent attorney. Since he was retiring, my employer offered me the responsibilities related to inventions in the company. This offer involved the need to qualify as a patent

attorney. I have been working in this profession for the same employer for more than 20 years now. Throughout these years, the company has undergone many extensive reorganisations, in which I participated in the area of my competence and responsibility for inventions. My career path was, therefore, quite unusual for present times...

Ireneusz Nosiadek

It is a very interesting profession since it covers the entire scope of technology and positively requires expanding your knowledge beyond what you had learned, helps improve foreign language skills, and more often than not encourages you to learn another foreign language. Drafting protection claims gives me at least as much pleasure as solving crosswords. Moreover, active practicing of the profession in litigation considerably improves our legal knowledge which comes handy also in other problems in life. For these briefly mentioned reasons, practicing the profession of patent attorney gives immense satisfaction and prestige.

Dorota Rzażewska

Because it is an interdisciplinary profession which gives a lot of satisfaction to people with technical and with legal degree. It is a job for creative, open-minded people, giving much despite the changing reality around us. Its multidimensionality helps us feel that we make our contribution to global development. It is a profession for enthusiasts.

Jakub Siewiesiuk

It is a great profession – making active use of technical knowledge, command of foreign languages, involving relations with clients (industry, inventors), colleagues from all over the world (including during international conferences), renown organisations, institutions, and authorities (such as EPO). It gives immense satisfaction (for instance by the sense of impact, the clients' confidence, agency) and source of above-standard income, basically guaranteed until retirement or longer.

Stanisław Smreczyński

My first major job was as an invention technician and kept developing, until I decided to use the acquired knowledge and to try and qualify as a patent attorney (early in 1970s).

Jan Szuta

It was a coincidence. Following university graduation, I started to work as a constructor with a design office. I don't know what the Chief Constructor saw in me when he offered me a position in the inventions unit and promised to refer me for a patent attorney course. I agreed and thus became the head of the inventions unit,

and then a patent attorney. I have been forever grateful to that Chief Constructor since 1978.

Pawel Ziencik

At a key moment in my life, the profession of patent attorney has proved to be the answer to my career searches, by combining the technical sciences with liberal arts, in particular with aspects of management.



RZECZNIICY
PATENTOWI

