



The Legal 500 Country Comparative Guides

Poland: Patent Litigation

This country-specific Q&A provides an overview to patent litigation laws and regulations that may occur in Poland.

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1. What is the forum for the conduct of patent litigation?

The patent infringement cases, concerning both interim and final measures, are recognised by non-specialised, common civil courts composed of lawyers. There are no technical judges or assistants who could support judges having only legal background.

Regional courts have jurisdiction in first instance.

The lawsuit may be filed to the court having jurisdiction based on the defendant's seat or place of business or the place where infringement occurred. The choice of the court amongst those having jurisdiction in a given matter is within the plaintiff's discretion.

Due to a generally small number of patent litigation cases in Poland, plaintiffs most commonly choose a more experienced court amongst those allowable in a given matter.

2. What is the typical timeline and form of first instance patent litigation proceedings?

Poland has a bifurcated system of recognizing patent infringement and validity. Invalidation proceedings are handled by the Patent Office in the administrative procedure.

Infringement proceedings cover all steps of assessing the alleged infringement: determination what actions were taken by the defendant with regard to the allegedly infringing product or process, claim construction and establishing whether the defendant's actions encroach upon the construed scope of the patent. Liability is usually determined together with all requested remedies, although formally Polish procedural law allows for a separate determination of liability and remedies.

As Polish civil courts do not compose of technical judges, a court-appointed expert opinion is usually deemed necessary to recognize the infringement case. Obtaining and commenting such opinion can be very time-consuming thus typically it takes more than 2 years to obtain a decision in the first instance.

The validity proceedings are even longer, it may take more than 3 years until a decision is issued by the Patent Office.

3. Can interim and final decisions in patent cases be appealed?

Infringement:

Preliminary injunction decisions of the first instance courts are immediately enforceable and may be appealed within 7 days from receipt of the decision to the courts of appeal. Their enforceability may be stayed pending the appeal. The second instance decision is rendered in camera usually within 3-6 months.

Judgments of the regional courts (first instance) are not enforceable and may be appealed within 14 days from receipt of the copy of judgment with written grounds (or 21 days from

the publication of the judgment) to the courts of appeal (second instance). The second instance decision is taken after an open hearing usually within 6 months up to 1 year but it strongly depends on the workload of a given court.

Judgements of the courts of appeal are final and enforceable. Under certain circumstances explicitly set out by the law, the final and legally binding judgment of the court of appeal may be subject to a cassation appeal to the Supreme Court, which is not legally bound to hear the case brought before it. If the a cassation appeal is filed, the enforceability of the second instance judgement may be stayed.

Validity:

Decisions of the Polish Patent Office (both first instance and the second instance decisions) may be appealed to the Voivodeship Administrative Court in Warsaw. The proceedings before this court usually take 1,5-2 years. Judgments of the Voivodeship Administrative Court in Warsaw could be further appealed to the Supreme Administrative Court but the cassation appeal in the administrative course of action is not an extraordinary appeal and, once filed, has to be decided. The proceedings before the Supreme Administrative Court usually take 1-2 years.

4. Which acts constitute direct patent infringement?

According to Article 66 of the Polish Industrial Property Law, the patent holder shall have the right to prevent any third party not having his consent from exploiting his invention for profit or for professional purposes by:

(i) manufacturing, using, offering, putting on the market a product that is the subject matter of the invention, or importing the product for such purposes, or

(ii) employing a process that is the subject matter of the invention, as well as using, offering, putting on the market or importing for such purposes the product directly obtained by that process.

5. Do the concepts of indirect patent infringement or contributory infringement exist? If, so what are the elements of such forms of infringement?

Polish law does not contain any provisions which would expressly address the issue of indirect (contributory) infringement. A relevant amendment to the IPL introducing the concept of the indirect infringement was discussed at the beginning of 2018 but has been relinquished recently without any explanation. Therefore, presently this remains a doctrinal concept inferred from general principles of civil law, i.e. torts (delicts). Relevant provision of the civil law gives ground to the liability of three categories of perpetrators: accessories, instigators and persons who knowingly took advantage of the damage caused to the injured entity.

Being a doctrinal concept it is obviously controversial and specific prerequisites for a contributory infringement remain grey area. However, it is usually assumed that a wilful act is required for this type of liability to occur. It may consist in encouraging the direct infringer to engage in an unlawful use of the invention or assisting him in implementing the invention with the knowledge that the product or device supplied may serve to make use of the patent. The fault may also be attributed to the indirect infringer when there were reasonable reasons to believe that the product or device could be acquired to implement the patented invention.

Furthermore, both the possibility of employing general principles of tort law as a legal basis of the contributory infringement of intellectual property rights but also the scope of claims available against the contributory infringer is a subject of differing views. Sometimes it is accepted that all claims typical for intellectual property protection may be pursued (in particular injunctive reliefs) but recently the Supreme Court ruling in a copyright case diverted towards a narrow scope of claims - i.e. only for damages as regulated in the general civil law provisions.

6. How is the scope of protection of patent claims construed?

The extent of protection conferred by a national patent is determined by the terms of the claims. Polish courts tend to apply a strict meaning to the patent claims. One of the major differences between the EPC and Polish law is that the latter does not require to use the description and drawings in claim construction as they may be used to interpret the claims when necessary. Thus, based on the *clara non sunt interpretanda* principle, Polish courts, especially in the preliminary injunction proceedings, often do not refer to the description or the drawings if the claims are *prima facie* clear and unambiguous.

In the main action, claims are almost always construed with the assistance of a court-appointed expert.

The prosecution files are not used for construing the claims although there is no such explicit prohibition.

There is very little case law pertaining to infringement under the doctrine of equivalents in Poland. Polish courts accept that in certain instances patent protection may extend beyond the literal meaning of the claims. Furthermore, in a most recent judgment in that respect, the Supreme Court (case V CSK 149/15) confirmed that the patent infringement needs to be evaluated also in the context of the doctrine of equivalents involving particular consideration as to whether the gist of invention have been used in the contested solution.

7. What are the key defences to patent infringement?

Key defences comprise patent invalidity (although disregarded by Polish courts), no direct infringement and claim construction issues, abuse of patent right, prior user rights, and -

quite often – allegedly infringing object forming part of the state of the art.

In addition, Polish law has introduced several limitations of exclusivity including:

- an invention relating to means of transport and parts or devices thereof that are in Poland temporarily and goods in transit;
 - public (state) interests, particularly as regards public safety and order;
 - research, experimentation and teaching purposes exemption;
 - Bolar exemption;
 - producing a medicine in a pharmacy according to an individual medical prescription.
- Polish law also provides for an exhaustion of rights.

8. What are the key grounds of patent invalidity?

Patent may be invalidated the grounds that the invention does not meet the patentability requirements set forth in the relevant provisions of the Industrial Property Law, i.a. lack of novelty, lack of inventive step and/or lack of industrial applicability.

In 2015, an additional grounds of invalidity have been introduced. The patent may be invalidated due to insufficient disclosure (previously argued within the “lack of industrial applicability” ground), i.e. if the patent description does not describe the invention clearly and comprehensively, in a way enabling an expert to implement it. Also, a separate ground occurs if the patent was granted for an invention different than in the one applied for.

Finally, the patent may be invalidated if granted to a person who was not entitled to submit the application.

9. How is prior art considered in the context of an invalidity action?

Novelty is considered in the light of the prior art defined as follows: everything that before the date of priority has been made available to the general public in the form of a written or oral description, by use, issue or disclosure in a different manner. The prior art includes the patent or utility models applications with an earlier priority even if not yet disclosed to the public, provided that they are subsequently published in the manner specified in the Industrial Property Law.

Novelty is not destroyed if the disclosure of the invention took place not earlier than six months before the date of filing and was caused by an obvious abuse against the applicant or his legal predecessor.

The prior art taken into account when assessing the obviousness does not include documents which were not made publicly available before the priority date.

10. Can a patentee seek to amend a patent that is in the midst of patent litigation?

Post-grant patent amendment has not been regulated so far. In the revocation proceedings, amendment may be considered only in relation to a partial patent invalidation (i.e., if the Patent Office considers the patent to be valid in part). It is, however, even controversial to what extent a patent may be partially invalidated by the Patent Office.

Even if a possibility to partially invalidate the patent is considered and the patent holder files proposals for amendment of patent claims, they are not binding for the Patent Office.

In practice, so far both the Patent Office and administrative courts have been very reluctant to allow partial invalidation and have limited it to maintaining the patent with regard to one or more categories of claims but disallowed any amendment to the patent claims per se.

11. Is some form of patent term extension available?

Poland is bound by the SPC (Supplementary Protection Certificate) regulations.

Apart from SPCs, there are no other patent term extensions available.

12. How are technical matters considered in patent litigation proceedings?

In the main action, claims are construed almost always with the assistance of a court-appointed expert. As a first step, the meaning of the words contained in the claim is determined on the basis of the patent description. Then, based on the court-appointed expert opinion, the court ascribes the usual meaning of such terms in the relevant area of technology.

Experts play a decisive role in recognition of patent infringement cases in Polish jurisdiction. Pursuant to the provisions of the code of civil proceedings, it is obligatory to admit the evidence of the court-appointed expert opinion if determination of certain matter requires special knowledge. A notion of "special knowledge" usually embraces technical matters, but a court-appointed expert opinion may be admitted also for determination of licence fees, damages, calculation of unlawfully obtained profits in accordance with accounting records, etc.

Experts are appointed by the court from the official list of court expert witnesses or ad hoc. In case of rare technical fields like bioinformatics, cytogenetics, etc, the parties usually present the lists of proposed expert to the court and the court chooses from such list. In complex cases any party may request that an institution be appointed as expert (eg, technical university, medical university, etc).

A court-appointed expert prepares a written opinion. It is usually followed by an oral testimony of the expert, which is however much different to a cross-examination (e.g. it is not

allowed examine court appointed by private experts and the judge decides whether to allow a question or not).

Evidence of a court-appointed expert opinion is not admitted in the PI proceedings. It is generally sufficient to present an opinion of a private expert. In isolated cases the courts decide that the complexity of the case requires an oral testimony of the court-appointed expert's opinion and dismiss PI requests.

Very rarely is a court(office)-appointed expert admitted in invalidity matters mainly as it is assumed that at least one of the examiners should have a relevant technical background in the field of the invention. The law allows for such an opinion only in exceptional instances.

13. Is some form of discovery/disclosure and/or court-mandated evidence seizure/protection (e.g. saisie-contrefaçon) available, either before the commencement of or during patent litigation proceedings?

The patent holder may file a request for preservation of evidence (this institution has been introduced to the Polish patent law on the basis of so-called Enforcement Directive - 2004/48/EC of 29 April 2004 on the enforcement of intellectual property rights). The request may also be filed prior to institution of the infringement proceedings. The preservation should be allowed when there is a risk that producing the evidence in the infringement case becomes impossible, or too difficult, or that for other reasons it is necessary to determine the existing state of things. The request is recognised *in camera*.

Also, prior or during the infringement proceedings, the patent holder may file for a preliminary injunction in the form of obliging the alleged infringer to provide information concerning the infringement; this institution also results from incorporation of so-called Enforcement Directive (a so-called "request for information"). The request for information is allowed if there is a high probability of patent infringement, and only after conducting an open hearing.

The applicant may request exclusively the following information:

- companies (names) and addresses of the manufacturers, distributors, suppliers and other previous holders of the goods or services that infringe the patent, as well as the envisaged wholesalers or retailers of these goods or services;
- quantities of produced, manufactured, sold, received or ordered goods or services which infringe the patent, as well as the price paid for the goods or service.

14. Are there procedures available which would assist a patentee to determine infringement of a process patent?

The infringement of a process patent may be confirmed using the preservation of evidence procedure described above.

The most efficient way of pursuing the process patent infringement is, however, the reversal of the burden of proof which applies in two instances:

- in relation to new products or

- when the patent holder shows that he could not determine, despite the proper efforts, the method of manufacturing the product actually used by the alleged infringer.

In such cases, it is presumed that a product that can be obtained by a patented method has been produced in this way.

15. Are there established mechanisms to protect confidential information required to be disclosed/exchanged in the course of patent litigation (e.g. confidentiality clubs)?

There are no mechanisms which would fully guarantee the protection of the confidential information disclosed/exchanged in the course of patent litigation. The regulation of that aspect is very limited and covers confidentiality of court files towards third parties and a possibility of closing a hearing for the public.

On the other hand, all information and evidence which may be taken into account by the court must be made available to all parties, their representatives, attorneys and experts and there are no legal measures to prevent such information or evidence from being disclosed to the opponent. In case of process patents and the reversed burden of proof described above, the law vaguely says that when taking the opposite evidence, the defendant's legitimate interest in the protection of his production and trade secrets should be taken into account. There are, however, no procedural mechanisms that would allow preventing such evidence from being disclosed to the plaintiff.

16. Is there a system of post-grant opposition proceedings? If so, how does this system interact with the patent litigation system?

An opposition against the national patent can be filed within 6 months from the publication of grant. Polish law does not distinguish between opposition proceedings and invalidity actions in terms of substantive prerequisites. There are however significant procedural differences: the opposition can be filed by anyone (no need to show the legitimate interest in invalidation the patent) and no new grounds of the opposition can be added after the lapse of the 6-month deadline to file such opposition.

There are no specific rules that would concern the interaction between the opposition and

infringement matters (bifurcated system). Similarly as for invalidity cases, it is unclear whether the infringement proceedings should or may be stayed pending the opposition proceedings. The Supreme Court has voiced for the stay in cases of industrial design infringement but this view has not been accepted by all courts in patent matters due to completely different rules of the patent prosecution.

17. To what extent are decisions from other fora/jurisdictions relevant or influential, and if so, are there any particularly influential fora/jurisdictions?

In general, Polish courts and the Patent Office tend to emphasise their independency from foreign judicial bodies. The Supreme Administrative Court has, however, ruled that in case of a relevant EPO decision (particularly but not limited to a decision concerning foreign equivalent of the patent in suit), the Patent Office should explain in detail why its decision differs from the EPO's view.

On the other hand, Polish courts pay certain attention to foreign judgements and in case of differing views from several jurisdictions may take into account a decision from the most similar legal system (especially from German courts).

In general though, Polish courts are very independent in ruling patent cases.

18. How does a court determine whether it has jurisdiction to hear a patent action?

The jurisdiction to hear a patent action may be based on the Regulation no. 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and national provisions applicable to non-EU disputes.

Polish courts do not accept jurisdiction over foreign patents validity or infringement; they do however accept jurisdiction against foreign entities for infringement of a Polish patent or an European patent validated in Poland.

There is no anti-suit injunction available in the Polish system.

19. What are the options for alternative dispute resolution (ADR) in patent cases? Are they commonly used? Are there any mandatory ADR provisions in patent cases?

There are several options for ADRs, including arbitration and mediation, the latter either within the framework of a pending litigation or outside of it - as a separate proceeding. ADRs are hardly ever used in Poland, though, mainly because of an attractive preliminary injunction system that encourages patent holders to initiate regular legal action instead of reaching to ADR.

What are the key procedural steps that must be satisfied before a patent action can be commenced? Are there any limitation periods for commencing an action?

There are no special procedural provisions governing the patent action that would differ from general civil proceedings.

Unlike many other jurisdictions, Polish law provides for relatively strict requirements for filing new arguments and evidence.

Each party is allowed to file one brief (statement of claim/statement of defence) which should, in principle, contain all arguments and evidence (including requests to produce evidence which is not available to that party - e.g., documents belonging to a third party). Additional submissions with complementary arguments (apart from statement of claims and response to the statement) may only be submitted upon the court's explicit permission. Any new evidence is allowed only when it would not be reasonably necessary to request in the statement for claim/statement of defence or if it will not delay the proceedings.

Each party is entitled to file written evidence, such as private or official documents, as well as to request oral examination of witnesses. As the Polish courts are not experienced in patent cases and are never composed of technical judges, typically each party would submit a private expert opinion.

The statement of claim must contain information on whether any attempt of an amicable resolution was exercised but there are no major effects linked with the failure to exercise such a measure.

Applicable limitation periods are in nature substantive law periods, i.e. referring to the statute of limitation.

The single procedural limitation period applies when a preliminary injunction has been granted prior to commencing a full legal action. In such event the full action must be commenced within a deadline prescribed by the court in the PI decision, no later than within 14 days from obtaining the PI or otherwise the PI will be cancelled.

21. Which parties have standing to bring a patent infringement action? Under which circumstances will a patent licensee have standing to bring an action?

An action for infringement may be brought by the patent holder and/or an exclusive licensee disclosed in the patent register maintained by the Polish Patent Office and only provided that the licence agreement does not exclude the standing to bring claims. The exclusive licensee must prove his/her standing to sue by filing an excerpt from the register, and it is not obligatory to disclose the full exclusive licence agreement in the infringement proceedings.

Certain limitations for actions filed by the exclusive licensee may be considered in relation to the monetary claims as regards the relevant damage incurred as a result of the infringing acts. Specifically, the licensee should have a standing to sue only for damages which he/she incurred and not the entire damage occurred due to the infringement.

Claims relating to a patent infringement may be pursued in conjunction with claims stemming from other legal grounds, such as an act of unfair competition, if the plaintiff conducts its business activities concerning the infringed right on the territory of Poland.

22. Who has standing to bring an invalidity action against a patent? Is any particular connection to the patentee or patent required?

The applicant for invalidity is required to have legitimate interest in invalidating one's patent. A legitimate interest is interpreted, in general, as a serious and currently existing need for invalidating a patent (e.g. if the patent is already in suit or if the applicant has undertaken serious preparations to use the solution according to the patent). It is claimed that this interest needs to be real and imminent.

The legitimate interest has been the major obstacle in invalidating patents in Poland which resulted in broad and complex case-law of the administrative courts.

23. Are interim injunctions available in patent litigation proceedings?

A preliminary injunction (PI) may be requested prior to or during main proceedings. In order for the preliminary injunction to be granted, an applicant must corroborate (i) the infringement and (ii) legitimate interest in obtaining the PI.

The corroboration of infringement is understood twofold: firstly, this is understood as providing such evidence that is sufficient to establish that the claims are probable. Secondly, corroboration means that not all formal requirements have to be fulfilled for the evidence to be accepted in the PI proceedings. For instance, during the main action issues requiring special knowledge have to be proved by a court-appointed expert opinion, while in the PI proceedings it is generally sufficient to present a private opinion.

As to the legitimate interest, it exists when lack of the PI may render impossible or seriously hinder enforcement of a final decision in a case or otherwise render impossible or seriously hinder achieving the aim of the proceedings.

Preliminary injunction is typically granted in camera and *ex parte* - on the basis of the PI request only. The defendant usually does not participate in these proceedings until the PI is served on him - either by the court or the court enforcement officer (if a seizure of the products is ordered). Neither is the defendant notified about the filing of the PI request - however, if he/she learns about such request from any source he/she may file a brief

containing his/her arguments and it should be taken into account by the court.

The court may decide on the PI request in an open hearing although it happens very rarely, in most cases only if a *prima facie* convincing protective brief has been filed by the defendant.

PI cases are decided relatively quickly, in theory a patent case should be decided in 7 days from filing of the PI request. In practice, depending on the court, it takes from several days to several weeks at most.

One of the means of balancing the positions of the parties of PI proceedings is a security bond, the amount of which should correspond to the value of potential damage which may be suffered by the defendant due to the enforcement of the PI. Should the court demand such a security bond, the enforcement of the PI is conditional upon the payment of the deposit by the applicant to the court's bank account. No cross-undertaking concerning damages is required because the applicant for a PI is *ex lege* liable for any damages caused to the defendant in result of the PI enforcement. The case for damages has to be brought within one year after the infringement case was dismissed in a final and legally binding decision. It requires institution of a separate civil case.

24. What final remedies, both monetary and non-monetary, are available for patent infringement? Of these, which are most commonly sought and which are typically ordered?

The remedies available to the patentee under the Polish law are:

1. cessation of the infringement;
2. surrender of unlawfully obtained profits;
3. redress of damages (in the case of willful patent infringement):
 1. in accordance with the general principles of the Polish Civil Code, or
 2. by the payment of a sum of money in the amount corresponding to the licence fee, or other reasonable compensation, which would have been due on account of a consent given by the patent holder to exploit his invention;
4. publication of the court judgment (in full or in part);
5. the disposal of unlawfully manufactured or marketed goods owned by the infringing party (in particular withdrawal or destruction of these goods).

The notion of willful infringement encompasses intentional infringement and gross negligence.

Monetary claims are rarely awarded in practice because they require complex evidence, are rather expensive and are time-consuming.

On what basis are damages for patent infringement calculated? Is it possible to obtain additional or exemplary damages?

Damages are available in case of an intentional or negligent infringement. Damages may be pursued and awarded twofold: either as compensation for actual damage and hypothetical but highly probable profits (that is pursuant to general rules governing torts) or in the form of an adequate licence fee or other type of remuneration which would be due from the patent holder's consent to exploit the invention as of the date of pursuing this remedy.

In practice, damages are rarely pursued in patent litigation in Poland.

Neither punitive damages nor other types of civil penalties are available in patent cases, except for certain enforcement measures.

26. How readily are final injunctions granted in patent litigation proceedings?

Injunctive reliefs are believed to be the most adequate measure adopted in case of a patent infringement. Only exceptionally the court may dissent from this principle and the circumstances under which it may occur are provided in the relevant legal provisions.

If the plaintiff proves the infringement, as well as other necessary circumstances, depending on the kind of the enforced claims, the discretion of the court in ordering remedies is rather limited. The only discretionary decision which is worth mentioning is regulated in detail in the Polish Industrial Property Law - namely, the court may dismiss the injunctive relief and award a monetary compensation instead if the infringement was non-willful, the prohibition would be excessively severe for the defendant and the monetary compensation sufficiently meets the interests of the patent holder.

There is no case law which would explain specifically how the monetary compensation in lieu of the injunctive relief should be calculated.

27. Are there provisions for obtaining declaratory relief, and if so, what are the legal and procedural requirements for obtaining such relief?

A declaratory relief can be obtained on the basis of a general principle of the procedural law, namely upon the request of the plaintiff who proves having a legitimate interest in obtaining a declaration of non-infringement.

Proving the legitimate interest usually requires producing evidence which otherwise would not easily be available to the opponent, which - in the absence of mechanisms which would adequately guarantee the protection of the confidential information disclosed in the course of patent litigation - does not make Poland an attractive forum for declaratory actions.

25.

28. What are the costs typically incurred by each party to patent litigation proceedings at first instance? What are the typical costs of an appeal at each appellate level?

Court cost in patent cases can be divided in three major groups:

- Entry fee
- Court-appointed expert opinion costs
- Other expenses (e.g. reimbursement of expenses borne by witnesses), which are rather insignificant.

The entry fee is normally calculated as 5% of the value of the dispute, no more than PLN 100,000. There are not statutory guidelines as to how the value of the dispute should be calculated; attorney apply different methods - all of which can be accepted if reasonable and duly corroborated.

If there are no grounds to calculate the value of the dispute, e.g. when neither the patented product nor the allegedly infringing product is yet on the market, a temporary entry fee of up to 1,500 PLN may be established.

The appeal fees are identical, although the first instance judgment should determine the value of the dispute used for calculating the regular entry fee.


Fees in PI proceedings are much lower - entry fee within the limit of several hundred PLN and the appeal fee of 20% of the entry fee.

Costs related to court-appointed expert opinions are difficult to predict as they are calculated on an hourly basis and depend on the complexity of the case as well as the amount of work done by the expert. They also vary a lot depending on the required field of expertise.

29. Can the successful party to a patent litigation action recover its costs?

The prevailing party may request a reimbursement of legal cost, which consist of court costs (including court fees paid throughout the litigation in all instances, costs of court-appointed experts' opinions) and attorney fees. The amount of attorney fees is limited by the official tables of charges, which are very low, and partially depend on the value of claims. The court decides on the amount of reimbursed attorney fees taking into account the complexity and value of the case, although the total amount cannot exceed six times the official charges. It translates to the reimbursement of up to EUR 2,500 if no monetary claims were pursued and up to EUR 37,500 where monetary claims exceeding PLN 5 million were pursued.

30. What are the biggest patent litigation growth areas in your jurisdiction in terms of industry sector?



Traditionally, Poland with the relatively easily granted preliminary injunctions, remains an attractive forum for pharmaceutical innovator companies. Although we are now seeing more and more mechanical patents being enforced, the majority of cases pursued throughout all instances still concerns pharmaceutical patents.

31. What do you predict will be the most contentious patent litigation issues in your jurisdiction over the next twelve months?

In view of the widely discussed amendment of the Industrial Property Law, which may seemingly completely change the invalidation procedure, I expect to see more invalidity cases being decided quickly which will inevitably influence the infringement cases both on the preliminary injunction level as well as the full patent action.

32. Which aspects of patent litigation, either substantive or procedural, are most in need of reform in your jurisdiction?

There are two major aspects of patent litigation which need urgent reform in Poland: the legitimate interest as a requirement to initiate invalidity action and the lack of post-grant patent amendment procedure.

Both issues are addressed in the pending Industrial Property Law amendment.

Finally, an explicit regulation of the contributory infringement would certainly be appreciated by the practitioners.

33. What are the biggest challenges and opportunities confronting the international patent system?

The biggest challenge of the international patent system is creating one or more regional enforcement systems (such as the UPC system).