

Authenticity of evidence questioned in patent cancellation proceedings

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Sunerja filed a design patent application and obtained Patent No 65740. Dwin appealed the grant of the patent. The Chamber of Patent Disputes considered the appeal and invalidated the patent on the grounds that the subject matter of the patent had been based on information made public before the priority date of the patent. The appeal included a catalogue available in a library in an Armenian town.

Sunerja appealed the Chamber of Patent Disputes decision to the IP court. Sunerja argued that the Chamber of Patent Disputes had issued a decision on the basis of a single piece of evidence: a simple unverified copy of the catalogue. The court obtained the administrative case documents from the patent office and confirmed that it was a simple copy. The court also examined a video recording of the Chamber of Patent Disputes hearing and found that the members of the examining board had not seen, nor did they request the appellant to produce, the original of the catalogue.

The court repeatedly asked the appellant to produce the original of the catalogue. It postponed the hearings several times to give the appellant the opportunity to do the needful; however, every time the appellant found reasons to avoid submitting the original catalogue.

The stubborn reluctance of the appellant led the court to doubt whether the original document existed at all. The court stated that the original catalogue had not been submitted at any hearing since examination of the case at the Chamber of Patent Disputes. The chamber examined the case and took its decision based on an uncertified copy of the document. Thus, a decision taken in these circumstances and in the absence of the original document had no legal force. This means that the circumstances proving that the patent did not meet the novelty criteria were established on the basis of an invalid document. Under these circumstances, the Chamber of Patent Disputes was responsible for issuing a decision that was contrary to existing law. The decision to cancel the patent was taken in contravention of the law, which violated the patent owner's rights. This formed the basis for recognising the patent office's decision as invalid. Accordingly, the IP court ordered the patent office to reinstate the validity of the patent. The appellant has the right to appeal again to the Chamber of Patent Disputes against the grant of the patent if its next appeal is accompanied by the original document.

The question of whether a forged document has consequences for the perpetrator may arise. Article 327 of the Criminal Code deals with the fabrication of forgeries, but focuses mainly on official documents. Whether this provision applies to other documents is unclear. When a document is forged, the user of the forged document should have sought advantages or additional rights, which was hard to prove in the case at hand. In addition, a catalogue cannot be recognised as an official document. Hence, the appellant received no satisfaction.

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