

Unofficial Translation**Act on Patent and Market Courts**

(Swedish Statute Book, SFS, 2016:188, as last amended by Act 2018:1691)

Chapter 1. Introductory Provisions

Article 1. This Act deals with the procedures in cases and court matters in the Patent and Market Court and in the Appellate Patent and Market Court and procedures in the Supreme Court following from the provisions in this Act.

Article 2. The District Court of Stockholm shall serve as Patent and Market Court.

The Svea Court of Appeal shall serve as Appellate Patent and Market Court.

Article 3. Unless otherwise provided, the judgments and decisions of the Patent and Market Court may be appealed to the Appellate Patent and Market Court.

Unless otherwise provided, the judgments and decisions in criminal cases of the Appellate Patent and Market Court may be appealed to the Supreme Court.

The judgments and decisions in civil cases of the Appellate Patent and Market Court may not be appealed. The Appellate Patent and Market Court may, however, except in cases referred to in Chapter 4, Article 13, of the Competition Act (2008:579), admit that a decision be appealed to the Supreme Court if it is considered to be important as a guidance for the application of the law that the appeal be considered by the Supreme Court.

Article 4. The Patent and Market Court handles cases and court matters pursuant to the provisions in

1. the Act (1949:345) on the Right to Inventions by Employees, the Patent Act (1967:837), the Act (1971:1078) on Defence Inventions, the Act (1978:152) on the Competence of Swedish Courts in Certain Cases in the field of Patent Law, etc. and the Act on Plant Breeders' Rights (1997:306).
2. the Act (1960:729) on Copyright in Literary and Artistic Works, the Design Protection Act (1970:485), the Act (1992:1685) on Protection of Topographies in Semiconductor Products, the Trademark Act (2010:1877), the Act (2017:322) on Mediation in certain Copyright Disputes, the Act (2018:1653) on Trade Names, and the Act (2018:1654) on the Protection of Indications for Agricultural Products and Foodstuff.
3. the Competition Act (2008:579), the Act (2008:486) on Market Practices, the Act (1984:292) on Contractual Clauses between Businessmen, the Act (1994:1512) on Contractual Clauses in Consumer Relations, the Act (2000:1175) on Right of Certain Foreign Consumer Authorities and Consumer Organizations to Institute Proceedings, the Act (2005:104) on Insurance Contracts, the Act (2005:590) on Control of Certain Financial Transactions, etc., the Act (2006:484) on the Obligation of Franchise Providers to Submit Information, the Act (2010:510) on Air Transports, the Act (2010:1350) on the Obligation to Provide Information Relating to Market and Competition Relations, the Act (2014:836) on Prohibition to Undertake Business Activities, and the Act (2014:1344) with Additional Provisions to the European Union Train, Ship and Bus Passenger Regulations, the Act (2016:964) on Competition Damages, and the Act (2016:977) on Collective Management of Copyright, and
4. any other Acts. Act (2018:1691).

Article 5. In connection with a civil case referred to in Article 4, the Patent and Market Court may consider also any other civil case between the same or different parties, if the Court considers this appropriate taking into account the inquiry and other circumstances. The Court must, however, not examine any case that shall be handled pursuant to the Act (1974:371) on Proceedings in Labour Disputes.

Article 6. The provisions of Chapter 19, Articles 3 to 12, of the Code of Judicial Procedure shall apply also with respect to the Patent and Market Court and the Appellate Patent and Market Court, in which context the Patent and Market Court shall be equivalent to such other General Court of First Instance referred to in Chapter 19, Article 9, first Paragraph, of the Code of Judicial Procedure. In respect of indictments for violations referred to in Article 4, item 1, the provisions in Chapter 19, Articles 3, 6 and 7 of the Code of Judicial Procedure shall, however, not apply.

Article 7. The Appellate Patent and Market Court examines applications for a new trial and complaints concerning an error by a Court and questions dealing with restitution of time expired, relating to a judgment or a decision of the Patent and Market Court or a decision of an Administrative Authority, if that decision should have been appealed to the Patent and Market Court. As regards the handling, the Code of Judicial Procedure applies if the application relates to a decision in a case and otherwise the Act (1996:242) on Court Matters.

Chapter 2. Members

Article 1. The Patent and Market Court and the Appellate Patent and Market Court shall be composed of Legally Trained Judges and Patent Judges.

In the Courts, jurisdiction is exercised also by Technical and Economic Experts and Lay Judges. Patent Judges and Technical Experts are in this Act referred to as Technical Members.

The President of the Court shall always be a Legally Trained Judge. When the Court is composed of more than one Legally Trained Judge, the provisions in Chapter 2, Article 3 f, of the Code of Judicial Procedure apply in the Patent and Market Court and the provisions in Chapter 2, Article 4 b, of the Code of Judicial Procedure in the Appellate Patent and Market Court. Act (2018:422).

Article 2. The Government or an Authority appointed by the Government shall designate which ones of the Legally Trained Judges at the District Court of Stockholm and the Svea Court of Appeal shall serve on the Patent and Market Court and the Appellate Patent and Market Court.

Article 3. The Act (2010:1390) on the Appointment of Regular Judges contains provisions on the appointment of Patent Judges.

The Government or an Authority appointed by the Government shall designate substitutes for Patent Judges and appoints Technical and Economic Experts in the Patent and Market Court and the Appellate Patent and Market Court.

Technical and Economic Experts are appointed for a specified time. If, when a Technical or Economic Expert participates in the consideration of a case or other court matter, circumstances occur which result in the termination of the appointment, that appointment shall nevertheless continue to apply in the ongoing case or court matter. Persons who shall serve as Technical or Economic Experts shall be Swedish citizens and must not be minors, in a state of bankruptcy or have an administrator pursuant to Chapter 11, Article 7, of the Parental Code.

Article 4. A Technical Member shall possess technical or other relevant education and experience of subject matters handled in the Patent and Market Courts.

An Economic Expert shall have economic or other relevant education and experience of subject matters handled in the Patent and Market Courts.

Article 5. The Lay Judges who shall participate in the decisions of the Patent and Market Court shall be Lay Judges at the District Court of Stockholm.

The Lay Judges who shall participate in the decisions of the Appellate Patent and Market Court shall be Lay Judges at the Svea Court of Appeal.

Chapter 3. The Procedure

Handling of cases

Article 1. As regards the handling of cases, the provisions on civil cases or criminal cases of the Code of Judicial Procedure apply, unless otherwise provided in this Act or any other Act.

Handling of court matters

Article 2. As regards the handling of court matters that are brought to the Patent and Market Court through an appeal against a decision by an Administrative Authority, the provisions in the Act (1996:242) on Court Matters apply, unless otherwise provided in this Act or any other Act,

Special provisions make the Act on Court Matters applicable, in certain cases, also to the handling of matters that are initiated in the Patent and Market Court by way of an application.

Article 3. The Patent and Registration Office shall not be a party in the Court in court matters relating to an opposition against a patent granted pursuant to the Patents Act (1967:837) or against a registration pursuant to the Design Protection Act (1970:485) or to the Trademarks Act (2010:1877). The Swedish Board of Agriculture shall not be a party in the Court in court matters relating to an opposition against a registration pursuant to the Act on Plant Breeders' Rights (1997:306).

Article 4. In court matters relating to an opposition against a patent granted pursuant to the Patents Act (1967:837), or against a registration pursuant to the Design Protection Act (1970:485), the Act on Plant Breeders' Rights (1997:306) or the Trademarks Act (2010:1877) each party shall be responsible for its litigation costs unless there are special reasons.

Handling of cases relating to the imposition of a fine.

Article 5. Cases relating to the imposition of a fine shall be handled in accordance with the provisions in the Code of Judicial Procedure on indictments for offences for which no higher penalty than fines is prescribed.

Combination of cases and court matters

Article 6. Also in situations other than those governed by the Code of Judicial Procedure, cases and court matters referred to in Chapter 1, Article 4, may be combined with other cases or court matters referred to in Chapter 1, Article 4, in one proceeding, if the Court considers this feasible with regard to the inquiry and other circumstances. Cases or court matters where there is a need for technical expertise may, however, not be handled in the same proceeding as cases or court matters where there is a need for economic expertise.

Cases and court matters which are handled together may be separated when there are reasons for this.

Article 7. A civil case referred to in Chapter 1, Article 4, and a civil case referred to in the same Chapter, Article 5, shall be handled together in in one proceeding.

Vote

Article 8. If the Court includes both Legally Trained Judges and Technical Members or Economic Experts, the Legally Trained Judges shall, in the vote, express their opinion first and thereafter the Technical Members and Economic Experts. If the case or court matter has been prepared by a certain member, he or she shall express his or her opinion first.

New circumstances and new evidence

Article 9. The provisions in Chapter 42, Articles 15 and 15 a, and Chapter 50, Article 25, third Paragraph, of the Code of Judicial Procedure shall apply also in civil cases where a settlement out of court is not admitted, and in court matters.

Hearing of a party under affirmation to tell the truth

Article 10. In a court matter hearing of a party under an affirmation to tell the truth pursuant to Chapter 37 of the Code of Judicial Procedure is admitted.

Chapter 4. The Composition of the Patent and Market Court

Cases

Article 1. At a main hearing referred to in Chapter 1, Article 4, item 1, the Patent and Market Court shall be composed of four members, two of whom shall be Legally Trained Judges and two Technical Members. Where there are reasons for it, the number of Legally Trained Judges may be extended by one. The same applies to the number of Technical Members. Where there is no need for technical expertise, the Court may instead be composed of three Legally Trained Judges.

In cases referred to in Chapter 1, Article 3 a, second and third Paragraphs, of the Code of Judicial Procedure, the Court shall be composed of one Legally Trained Judge or one Legally Trained Judge and one Technical Member.

Article 2. In cases referred to in Chapter 1, Article 4, item 1, the Patent and Market Court shall, for the adjudication of a case without a main hearing and for any other handling which does not occur at a main hearing, be composed of a Legally Trained Judge or one Legally Trained Judge and one Technical Member. Where there are special reasons for it with regard to the nature of the case or the issue, the Court may, however, be composed in accordance with what is prescribed in Article 1, first Paragraph, for the adjudication of a case without a main hearing and when the examination concerns issues relevant for the proceeding.

Article 3. In cases referred to in Chapter 1, Article 4, item 1, the Patent and Market Court shall, in situations referred to in Chapter 1, Article 3 d, first Paragraph, of the Code of Judicial Procedure, be composed of one Legally Trained Judge or one Legally Trained Judge and one Technical Member.

Article 4. At a main hearing in cases referred to in Chapter 1, Article 4, item 3, the Patent and Market Court shall be composed of four members, two of whom shall be Legally Trained Judges and two Economic Experts. Where there are special reasons for it, the number of Legally Trained Judges may be extended by one. The same applies to the number of

Economic Experts. If there is no need for economic expertise, the Court may instead be composed of three Legally Trained Judges.

In situations referred to in Chapter 1, Article 3 a, second and third Paragraphs, of the Code of Judicial Procedure, the Court shall be composed of one Legally Trained Judge or one Legally Trained Judge and one Economic Expert.

Article 5. In cases referred to in Chapter 1, Article 4, item 3, the Patent and Market Court shall for the adjudication of a case without a main hearing and for any other handling which does not occur at a main hearing, be composed of one Legally Trained Judge or one Legally Trained Judge and one Economic Expert. Where there are special reasons for it with regard to the nature of the case or the matter, the Court may, however, be composed as indicated in Article 4, first Paragraph, for the adjudication of a case without a main hearing and when the examination concerns issues relevant for the proceeding.

Article 6. In cases referred to in Chapter 1, Article 4, item 3, the Patent and Market Court shall, in situations referred to Chapter 1, Article 3 d, first Paragraph, of the Code of Judicial Procedure, be composed of one Legally Trained Judge or one Legally Trained Judge and one Economic Expert.

Court Matters

Article 7. At decisions relating to the substance of court matters referred in Chapter 1, Article 4, item 1, the Patent and Market Court shall be composed of three members, of whom at least one shall be a Legally Trained Judge and, where technical expertise is needed, one or two shall be Technical Members. Where there are special reasons for it with regard to the matter, the Court may be composed of four members, two of whom shall be Legally Trained Judges and two shall be Technical Members.

Where this is sufficient with regard to the matter, the Patent and Market Court may instead be composed of one Legally Trained Judge or one Legally Trained Judge and one Technical Member.

At any other handling of a matter referred to in the first Paragraph, the Patent and Market Court shall be composed of one Legally Trained Judge or one Legally Trained Judge and one Technical Member.

Article 8. At decisions relating to the substance of matters referred to in Chapter 1, Article 4, item 3, the Patent and Market Court shall be composed of three members of whom at least one shall be a Legally Trained Judge and, where economic expertise is needed, one or two shall be Economic Experts. If there are special reasons for it with regard to the nature of the matter, the Court may be composed of four members, two of whom shall be Legally Trained Judges and two shall be Economic Experts.

Where this is sufficient with regard to the matter, the Patent and Market Court may instead be composed of one Legally Trained Judge or one Legally Trained Judge and one Economic Expert.

At any other handling of a matter referred to in the first Paragraph, the Patent and Market Court shall be composed of one Legally Trained Judge or one Legally Trained Judge and one Economic Expert.

Preparatory measures

Article 9. As regards preparatory measures in cases and court matters referred to in Chapter 1, Article 4, items 1 and 3, the provisions in Chapter 1, Article 3 e, of the Code of Judicial Procedure apply.

Technical or economic expertise

Article 10. If persons other than Legally Trained Judges shall be members of the Court, the President of the Court decides which Technical Members or Economic Experts shall participate with regard to the type of expertise needed and other circumstances in the case or court matter.

Impediment for a Member

Article 11. If the Patent and Market Court, in a court matter referred to in Chapter 1, Article 4, or in a case referred to in the same Article, items 1 or 3, is composed of more than two members and one of the members is prevented from appearing after the main hearing or a corresponding handling has been initiated, the Court is nevertheless competent if one of the remaining members is a Legally Trained Judge.

Chapter 5. The Composition of the Appellate Patent and Market Court***Cases***

Article 1. At decisions in cases referred to in Chapter 1, Article 4, item 1, the Appellate Patent and Market Court shall be composed of at least three Legally Trained Judges. However, if three Legally Trained Judges have participated in the decision of the Patent and Market Court, at least four Legally Trained Judges shall participate in the decision of the Appellate Patent and Market Court. If one or more Technical Members have participated in the decision of the Patent and Market Court at least the same number of Technical Members shall participate in the decision of the Appellate Patent and Market Court. The Appellate Patent and Market Court is, however, competent without Technical Members if the participation of such members is not necessary. No more than five Legally Trained Judges and three Technical Members may participate in the decision of the Court.

The Court may be composed of one Legally Trained Judge for decisions on removal from the case list of a case referred to in the first Paragraph upon withdrawal or after the lapse of an appeal at a session referred in Chapter 50, Article 10, or Chapter 51, Article 10, of the Code of Judicial Procedure. The same applies to decisions on the setting aside of a decision of the Patent and Market Court after the withdrawal of the plaintiff's case.

Article 2. At a handling other than the adjudication of cases referred to in Chapter 1, Article 4, item 1, and at the consideration of issues relating to a review permit in such cases, the Appellate Patent and Market Court shall be composed of three Legally Trained Judges. One Technical Member may sit on the Court instead of one Legally Trained Judge. A review permit which is not limited pursuant to Chapter 14, Article 14 a, first Paragraph, of the Code of Judicial Procedure may be decided by one Legally Trained Judge if the issue is not complex.

Article 3. At decisions in cases referred to in Chapter 1, Article 4, item 3, the Appellate Patent and Market Court shall be composed of at least three Legally Trained Judges. However, if three Legally Trained Judges have participated in the decision of the Patent and Market Court, at least four Legally Trained Judges shall participate in the decision of the Appellate Patent and Market Court. If one or more Economic Experts have participated in the decision of the Patent and Market Court, at least the same number of Economic Experts

shall participate in the decision of the Appellate Patent and Market Court. The Appellate Patent and Market Court is, however, competent without Economic Experts if the participation of such Experts is not needed. No more than five Legally Trained Judges and three Economic Experts may participate in the decision of the Court.

The Court may be composed of one Legally Trained Judge for decisions on removal from the case list of a case referred to in the first Paragraph, upon withdrawal or after the lapse of an appeal at a session referred to in Chapter 50, Article 10, or Chapter 51, Article 10, of the Code of Judicial Procedure. The same applies to decisions on the setting aside of a decision of the Patent and Market Court after the withdrawal of the plaintiff's case.

Article 4. At a handling other than adjudication of cases referred to in Chapter 1, Article 4, item 3, and at the consideration of issues relating to a review permit in such cases, the Appellate Patent and Market Court shall be composed of three Legally Trained Judges. One Economic Expert may sit on the Court instead of a Legally Trained Judge. A review permit which is not limited pursuant to Chapter the 49, Article 14 a, first Paragraph, of the Code of Judicial procedure may be decided by one Legally Trained Judge if the issue is not complex.

Court matters

Article 5. At decisions in court matters referred to in Chapter 1, Article 4, item 1, the Appellate Patent and Market Court shall a be composed of four Members. If the Patent and Market Court has been composed of four Members, the Appellate Patent and Market Court shall instead be composed of five Members. The number of Technical Members who participate in the decision of the Appellate Patent and Market Court shall be the same as the number of Technical Members who have participated in the decision of the Patent and Market Court. The number of Legally Trained Judges who participate in the decision of the Appellate Patent and Market Court shall be higher than the number of Legally Trained Judges who have participated in the decision of the Patent and Market Court.

If there is, in the Appellate Patent and Market Court, no need for the participation of Technical Members despite the fact that one or more such Members have participated in the decision of the Patent and Market Court, the Court shall, instead of what follows from the first Paragraph, be composed of three Legally Trained Judges. The same applies if the Patent and Market Court has consisted of only one Legally Trained Judge.

The Court may be composed of one Legally Trained Judge for the decisions on removal from the list of a court matter referred to in the first Paragraph following a withdrawal and on the setting aside of the decision of the Patent and Market Court following a withdrawal of the application.

Article 6. At the handling of issues other than adjudication of court matters referred to in Chapter 1, Article 4, item 1, and at the consideration of issues relating to review permits in such court matters, the Appellate Patent and Market Court shall be composed of three Legally Trained Judges. One Technical Member may sit on the Court instead of one Legally Trained Judge. A review permit which is not limited pursuant to Chapter 49, Article 14 a, first Paragraph of the Code of Judicial Procedure may be decided by one Legally Trained Judge if the issue is not complex.

Article 7. At decisions in court matters referred to in Chapter 1, Article 4, item 3, the Appellate Patent and Market Court shall be composed of four Members. If the Patent and Market Court has been composed of four Members, the Appellate Patent and Market Court shall instead be composed of five Members. The number of Economic Experts who participate in the decision of the Appellate Patent and Market Court shall be the same as the number of Economic Experts who have participated in the decision of the Patent and

Market Court. The number of Legally Trained Judges who participate in the decision of the Appellate Patent and Market Court shall be higher than the number of Legally Trained Judges who have participated in the decision at the Patent and Market Court.

If there is, in the Appellate Patent and Market Court, no need for the participation of Economic Experts despite the fact that one or more Economic Experts have participated in the decision by the Patent and Market Court, the Court shall, instead of what follows from the first Paragraph, be composed of three Legally Trained Judges. The same applies if the Patent and Market Court has consisted of one Legally Trained Judge.

At a decision on removal upon withdrawal of a court matter from the list of court matters referred to in the first Paragraph and on the setting aside of the decision of the Patent and Market Court after the withdrawal of the application, the Court may consist of one Legally Trained Judge.

Article 8. At the handling of issues other than the adjudication of court matters referred to in Chapter 1, Article 4, item 3, and at the consideration of issues relating to review permits in such court matters, the Appellate Patent and Market Court shall be composed of three Legally Trained Judges. One Economic Expert may sit on the Court instead of one Legally Trained Judge. A review permit which is not limited pursuant to Article 49, Article 14 a, first Paragraph, of the Code of Judicial Procedure may be decided by one Legally Trained Judge if the issue is not complex.

Preparatory measures

Article 9. As regards preparatory measures in cases and court matters referred to in Chapter 1, Article 4, items 1 and 3, the provisions of Chapter 2, Article 4, fifth and sixth Paragraphs, of the Code of Judicial Procedure apply.

Specific legal remedies.

Article 10. At the consideration of an application for a new trial, a complaint relating to an error by the Court or the restitution of time expired relating to cases or court matters referred to in Chapter 1, Article 4, item 1, the Appellate Patent and Market Court shall consist of three Legally Trained Judges. One Technical Member may sit on the Court instead of one Legally Trained Judge.

For the purpose of examination of an application for a new trial, a complaint relating to an error by the Court or the restitution of time expired relating to cases or court matters referred to in Chapter 1, Article 4, item 3, the Court shall consist of three Legally Trained judges. An Economic Expert may sit on the Court instead of a Legally Trained Judge.

Technical or economic expertise

Article 14. If persons other than Legally Trained Judges shall sit on the Court, the President of the Court decides which Technical Members or Economic Experts shall participate with due regard to the expertise needed and other circumstances relating to the case or court matter.

Impediment for a member

Article 15. If the Appellate Patent and Market Court, in a court matter referred to in Chapter 1, Article 4, or in a case referred to in the same Article, items 1 or 3, consists of more than two Members and one of the Members is prevented from appearing after the main hearing or a corresponding handling has been initiated, the Court is nevertheless competent if one of the remaining members is a Legally Trained Judge.

This Act enters into force on September 1, 2016.