

Subject: Procedure ex officio suspension of opposition or cancellation proceedings in case of parallel proceedings; Articles 2.16(2)(a)(iii); 2.16(2)(c)(ii); 2.30b(2)(a)(iii); 2.30b(2)(c)(iii) BCIP.

Date: 2 April 2019

1. If one of the parties to opposition or cancellation proceedings (hereinafter "Proceedings") notifies BOIP that a claim for invalidity or revocation (hereinafter "Claim") relevant to the conduct of the Proceedings has been filed elsewhere, the Proceedings will be provisionally suspended ex officio (hereinafter "Provisional Suspension") from the date of receipt of the notification to BOIP.
2. BOIP shall communicate this Provisional Suspension to the parties and shall give them the opportunity to respond to it. In the absence of a (timely) response, the Provisional Suspension is automatically converted into a decision to suspend (hereinafter: "Definitive Suspension") the Proceedings.
4. If the other party indicates that it is not aware of the Claim or if there are other reasons to doubt the correctness of the notification to BOIP, the parties will be requested to submit evidence regarding the existence of this Claim. On the basis of the documents submitted, BOIP will assess the correctness of the Provisional Suspension.
 - 4.1 If it appears that the first communication to BOIP concerning the Claim was correct, the Provisional Suspension as such will be converted into a Definitive Suspension. This will be communicated to the parties.
 - 4.2 If it appears that the Claim has not been filed, BOIP will continue the Proceedings. The Provisional Suspension will then be considered null and void. This will be communicated to the parties.
 - 4.3 If it appears that the Claim was only filed after the notification to BOIP, then the date of the Definitive Suspension will be that of the actual filing of the Claim. This shall be communicated to the parties.
 - 4.4 If it appears that the Claim was instituted before the communication to BOIP, the date of suspension as previously determined shall be maintained in the Definitive Suspension. This shall be communicated to the parties.
 - 4.5 In the absence of a (timely) response to the request to submit evidence, the Proceedings shall continue. The Provisional Suspension will then be deemed null and void. This will be communicated to the parties.
5. In the situations referred to under 4.2, 4.3 and 4.5, any time-limits that had already been set for the party that notified BOIP of the Claim shall be deemed to have continued during the period that the ex officio suspension was wrongly set.