

Opposition systems - Denmark

The Consolidated Patents Act¹ provides a post-grant opposition. Granted Danish patents may be opposed by any person within nine months of the date of the publication of the grant of a Danish patent in the Danish Patent Bulletin.²

The notice of opposition must be filed in writing and contain, *inter alia*, the grounds on which the opposition is based as well as the facts and evidence in support of the grounds.³

As provided by Section 21 of the Consolidated Patents Act, the opposition can only be based on the following grounds:

- i. The subject matter does not fulfill the patentability criteria (industrial applicability, novelty, inventive step),
- ii. It relates to an invention which is not disclosed in a manner sufficiently clear to enable a person skilled in the art to carry out the invention on the basis of the description, or
- iii. Its subject-matter extends beyond the contents of the application as filed.

After a hearing phase with the parties of the opposition case, the Opposition Division renders a decision. The result can be to reject the opposition, to revoke the patent or maintain the patent in amended form.

A notice of appeal must be filed to the Danish Board of Appeal within two months of notification of the opposition decision, and the fee for appeal must be paid.

¹ The Consolidated Patents Act No. 221 of 26 February 2017

² Section 21 of the Patents Act

³ Rule 48 of the Order on Patents and Supplementary Protection Certificates No. 25 of 18 January 2013