

Opposition systems

New Zealand

Anyone may apply to the Commissioner to oppose grant of a patent under Sections 92 to 93 of the Patents Act 2013, and Regulations 92 to 94 of the Patents Regulations 2014, on one or more of the following grounds:

- (a) that the invention, so far as claimed in a claim, is not a patentable invention under [section 14](#);
- (b) that the nominated person is not entitled to the patent;
- (c) that the complete specification does not comply with [subpart 2](#) (which relates to specification requirements) other than [section 39\(2\)\(a\)](#) (which requires claims to relate to 1 invention only);
- (d) that the applicant is attempting, or has attempted, to obtain the grant of a patent by fraud, false suggestion, or a misrepresentation;
- (e) that the invention, so far as claimed in a claim, was secretly used in New Zealand before the priority date of that claim;
- (f) that granting the patent would be contrary to law.

An opponent must file a notice of opposition within 3 months from the date of publication of acceptance of the patent application, with a further time available on request of up to 1 month without applicant's consent, and 2 months with the applicant's consent.

The opponent is required to file a statement of case with the notice of opposition, to which the applicant is required to respond with a counter-statement. Each party may then file evidence. The Commissioner will decide the case after providing both parties with an opportunity to be heard.

The Commissioner will consider whether any grounds have been established on the balance of probabilities. The grounds may either be those relied on by opponent or other grounds which the Commissioner has decided to take into account.

The Commissioner may refuse to grant the patent, or require amendment to the complete specification before it can be granted.