

Administrative Revocation and Invalidation Mechanisms

Norway

Pursuant to the Norwegian Patents Act Section 56 litra b, anyone may file a request with NIPO that a patent shall be declared invalid in full or in part by a decision made by the NIPO. This is called an administrative review.

A request for an administrative review may only be filed on the following grounds:

- i) i) That the patent has been granted in contravention of the requirements of the Norwegian Patents Act Sections 1, 1A and 1B (lack of industrial applicability and inventions that are regarded as non-patentable, for example varieties of animals or inventions where commercial exploitation would be contrary to ordre public or morality.)
- ii) ii) That the patent has been granted in contravention of the requirements of the Norwegian Patents Act Section 2 (lack of novelty and inventive step)
- iii) iii) That the patent has been granted in contravention of the requirements of the Norwegian Patents Act Section 8, second paragraph, third to fifth sentence (the description of the patent does not disclose the invention clearly enough for it to be performed by a skilled person.)

The proceedings are quite similar to the opposition proceedings, and the decision is rendered by a committee of three selected persons working at NIPO. The proceedings are namely written, but NIPO can decide to hold an oral hearing if deemed necessary. An administrative review cannot be filed before the end of the opposition period, or if there are any ongoing oppositions, patent limitation proceedings or court proceedings, cf. the Norwegian Patents Act section 52 litra c. The fee for filing the administrative review is 4000 NOK.¹

NIPO shall notify the patent holder of the administrative review and give him an opportunity to file observations. The patent will be revoked if the committee finds in favour of the claimant, but the patent holder is given the opportunity to amend the patent (if possible).

In cases concerning an administrative review, the party in whose favour it is fully or substantially found can be awarded the necessary costs of the case from the opposing party, cf. the Industrial Property Office Act Section 9.

The decision can be appealed to the board of the appeals. A decision that finds in favour of the patent holder cannot be appealed to the courts, cf. The Norwegian Patents Act section 52 litra e.

¹ As of 9th of May 2023.