

Submission of Information by Third Parties

United Kingdom

Section 21 of the Patents Act 1977 provides that, where an application for a patent has been published but a patent has not been granted to the applicant, any other person may make observations in writing to the comptroller on the question whether the invention is a patentable invention, stating reasons for the observations. Such other person cannot become a party to any proceedings under the Act before the comptroller. In other words, apart from the receipt of acknowledgement, he has no right to discuss the matter directly with an examiner or request a notification about the decision taken by the examiner. The observations can be submitted anonymously. No fee is required for the submission of observations.

Rule 33 of the Patents Rules 2007 provides detailed procedures regarding third party observations. The comptroller must send to the applicant a copy of the observations on patentability, unless they disparage any person in a way likely to damage such person or are generally expected to encourage offensive, immoral or anti-social behavior. The comptroller may, if necessary, send to the applicant a copy of any document referred to in the observations. It is recommended that any observations be filed within three months after the application has been published, as a patent may be granted after that period.¹ The observations must be made in writing, and can be filed on paper or electronically. They shall be supported by evidence wherever possible.

The Office will acknowledge receipt of the submitted observations if contact information of the submitter is available. Where observations were made before the grant of the patent, an examiner will take them into account when deciding upon the patentability of the invention concerned. The observations will be added to the official file, which is available to the public, and a copy of the observations will be sent to the applicant. Even if the observations are received after the grant of the patent, they will be placed in the patent file, and a copy of the observations will be sent to the patentee.

¹ <http://www.ipo.gov.uk/types/patent/p-other/p-object/p-observation/p-observation-making.htm>.