

OPPOSITION SYSTEM IN PORTUGAL

Article nr. 17 of the Industrial Property Code (Portuguese Law) states that the time limit for submitting oppositions is two months as of publication of the application in the Industrial Property Bulletin. Applicants may reply to oppositions within two months as of notification thereof.

During the time limits established above and on justified request by the interested party, the Portuguese Office may grant a single extension of one month for opposition and reply, in which case the opposing party shall be notified.

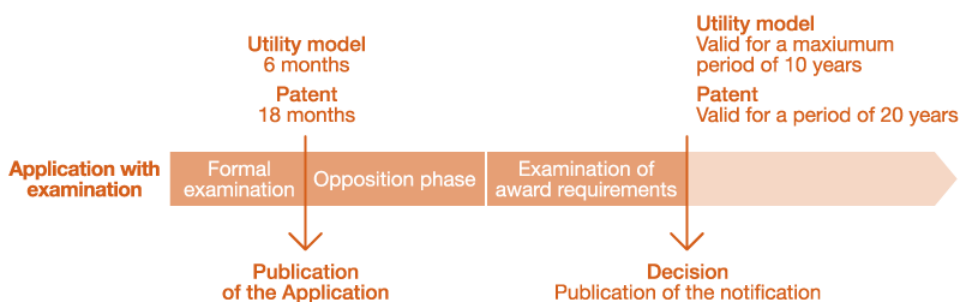
Opposition Practice

The opposition phase begins immediately after the patent application publication (at 18 months) and lasts for two months (see figure below). During that period of two months anyone who considers themselves harmed as a result of the grant of a patent application can file a complaint regarding that patent application in Portugal. The opposition must be filed in writing and includes reference to which patent application is opposed and the reasons on which the opposition is based. If the Portuguese Institute of Industrial Property receives such opposition, the patent applicant has the opportunity to submit comments on that opposition. To file an opposition, the opponent has to pay the opposition fee and if the patent applicant wishes to reply to an opposition it is also necessary to pay a fee (50,70 €, if submitted through our online services, or 101,40 € when submitted in paper form, in both cases).

The patent application examination phase starts after the opposition phase and if an opposition was submitted it will be considered by the examiner in the analysis of the patentability criteria (novelty, inventive step and industrial applicability). The conclusion of this examination process is the notification of grant, refusal, or partial grant, issued accordingly, and is communicated not only to the patent applicant but also to the opponent.

These decisions are subject to appeal at the Lisbon Commercial Court, in the two months that follow publication of the decision in the Industrial Property Bulletin.

Application with examination (patent and utility model)



Number of Oppositions

Below the number of oppositions filed at the Portuguese Institute of Industrial Property since the year 2005 is presented, please notice that these oppositions concern patent applications and also utility model applications.

Year	Number of Oppositions
2005	4
2006	6
2007	3
2008	2
2009	2
2010	8
2011	4
Total	29