

## Administrative Revocation and Invalidation Mechanisms

### Norway

Pursuant to the Norwegian Patents Act<sup>1</sup> Section 52 litra b, any person may file a request with the Norwegian Industrial Property Office (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) 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) 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) 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 may not be filed on the grounds that the patent has been granted to another party than the party who is entitled to the invention, cf. Section 1, first paragraph. 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.<sup>2</sup>

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 find in favour of the claimant, but the patent holder is given the opportunity to amend the patent (if possible). If NIPO finds that the patent has been granted in contravention of Sections 1 and 2, or Section 8, second paragraph, third to fifth sentence, the patent shall be declared invalid if the grounds for such invalidity cannot be remedied through an amendment of the patent. The patent may only be maintained in amended form if the patent holder agrees with the amendments that the Norwegian Industrial Property Office intends to make. A decision to declare a patent fully or partly invalid shall take effect from the date on which the patent application was filed.

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<sup>1</sup> Norwegian Patent Act, as entered into force January 1, 2008, as amended.

<sup>2</sup> As of 9th of May 2023.

A request for administrative review filed on the grounds that the patent has been granted in contravention of the requirements in Section 8, second paragraph, third to fifth sentence, can only be submitted to NIPO on 1 July 2019 or later.

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.