

Opposition systems

Poland

Pursuant to Article 246 of the Industrial Property Law of 2000 as amended on 27 February 2020, any person may, within six months from the publication in “Wiadomości Urzędu Patentowego” of the mention of the grant of a patent, give a reasoned notice of opposition to a final decision of the Patent Office on the grant of a patent.

The opposition may be filed on the same grounds on which a patent, may be revoked, i.e.:

- (i) the requirements for the grant of a patent have not been satisfied, or
- (ii) the invention has not been disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art, or
- (iii) the patent has been granted for an invention not covered by the contents of the application or of the original application, or
- (iv) the claims do not define the matter for which protection is sought in a clear and concise manner or they are not fully supported by the description.

Patent Office without delay communicates the opposition filed to the right holder and invites them to file their observations within a fixed time limit. Where following the communication of the Patent Office the right holder claims the opposition to be unjustified, the case is submitted for examination in litigation proceedings. Otherwise the Patent Office decides to repeal the decision on the grant of a patent and discontinues the proceedings.

In accordance with article 89[1] of the aforementioned Act, at the request of the proprietor, the patent may be limited by an amendment of the claims. If the Patent Office considers that the request for limitation of the patent is justified, it shall decide to limit the patent, otherwise, it shall refuse the limitation or discontinue the proceedings.

The patentee may apply for the limitation of the patent during the opposition proceedings until the opposition is responded to or during the patent revocation proceedings before the hearing. In this case, the Patent Office may decide, at the request of any party, to combine the request for the patent limitation with the pending opposition or invalidation proceedings for the purpose of their joint examination in this proceeding, if it will speed up or streamline these proceedings. Otherwise the opposition or revocation proceedings shall be suspended, if the examination of the request for the limitation of the patent has a direct impact on the opposition or the revocation proceedings.

A patent, to the extent to which it has been limited, has no legal effects from the date of filing the invention.