

Opposition systems

Pakistan

The Patent law of Pakistan provides pre-grant opposition and post-grant revocation mechanisms, both conducted before the patent office. Under Section 23 of the Patents Ordinance 2000 (as amended by Patents Ordinance 2002), at any time within four months from the date of advertisement of the acceptance of a complete specification, any person may give a notice of opposition to the Controller to the grant of a patent on any of the following grounds:

- (i) the applicant for the patent obtained the invention or any part thereof from him or from the person of whom the opponent is the legal representative, assignee, agent or attorney;
- (ii) the invention is not a patentable invention within the meaning of the Patent Ordinance;
- (iii) the specification does not disclose the invention in a manner clear and complete enough for it to be carried out by a person skilled in the art;
- (iv) the claims are not clear or extend beyond the scope of the disclosure in the complete specification as originally filed;
- (v) the complete specification describes or claims an invention other than that described in the provisional specification and such other invention either forms the subject of an application made by the opponent for a patent, which, if granted, would bear a date in the interval between the date of the application and the leaving of the complete specification, or has been made available to the public by publication in any document in that interval.

Upon receiving a notice of opposition from the interested person, the Controller shall send the notice of the opposition to the applicant, and shall, before deciding the case, give the applicant and the opponent an opportunity of being heard. In concluding the argument of both parties, the opposition is decided by the Controller of Patents.

According to Section 50 of the Patents Ordinance 2000, the Controller of Patents exercises powers of Civil Court in opposition proceedings. An appeal can be filed against the decisions of the Controller of Patents with the High Court under Section 69 of the Patent Ordinance 2000, to be filed within 90 days. If no appeal is filed with the High Court within 90 days, the patent is sealed and granted upon the final determination of the opposition proceedings.

In addition to the pre-grant opposition mechanism, a system of revocation of patents by the Controller is provided for under Section 47 of the Patents Ordinance 2000, according to which at any time within twelve months after the sealing of a patent, any interested person who did not oppose the grant of the patent may apply to the Controller for an order revoking the patent on any one or more of the grounds upon which the grant of the patent could have been opposed, provided that when an action for infringement, or proceedings for the revocation, of a patent are pending in any court, an application to the Controller under this section shall not be made except with the leave of the court.

Where a request for revocation is made under Section 47, the Controller shall give notice to the patentee and shall give to the person requesting such revocation and the patentee an opportunity of being heard before deciding the case. If the Controller is satisfied that any of

the grounds are established, he may order that the patent shall be revoked either unconditionally or unless within such time as may be specified in the order the complete specification is amended to his satisfaction (Section 47 of the Patents Ordinance 2000).