Re-examination systems

Norway

Norway provides for an additional administrative review. According to Section 52b of the Norwegian Patent Act, anyone may file a request with the Norwegian Industrial Property Office that a patent shall be declared invalid in full or in part. After a written request containing the necessary documents and based on the grounds for invalidation, the patent office shall notify the patent holder and grant a reasonable time limit in which to submit observations and, if possible, correct the deficiencies. If the deficiencies are not corrected by the patent holder before the expiration of the time limit, the request must be rejected. The Norwegian Industrial Property Office may consider a request for an administrative review even if the patent has no longer been in force, if the party requesting an administrative review has a legal interest in having this matter reviewed.

A request for an administrative review cannot be filed before the time limit for oppositions has expired or while an opposition procedure or patent limitation proceedings requested by a patent holder are pending. The same shall apply for as long as legal proceedings regarding the patent are pending before the courts. If legal proceedings regarding the patent are brought before the courts before a final decision has been made on a request for an administrative review, the Norwegian Industrial Property Office shall suspend its handling of the administrative review until the legal proceedings have been finally decided if the administrative review has been requested by other parties than the patent holder. The party requesting an administrative review cannot institute legal proceedings regarding the patent while administrative review proceedings are pending before the Norwegian Industrial Property Office.

According to Section 52d of the Norwegian Patent Act, a request for an administrative review may only be filed on the grounds of non-fulfillment of the patentability criteria. If the Norwegian Industrial Property Office finds that the patent has been granted in contravention of sections 1 and 2, i.e., the patentability criteria, it 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.

According to Section 52e Patent Act, a decision on a request for an administrative review by the Norwegian Industrial Property Office may be appealed against to the Board of Appeals by the party against whom the decision of the Norwegian Industrial Property Office has gone.

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