Opposition systems

France

Opposition against French patents may be filed with INPI in regard to any French patent granted by INPI as of 1 April 2020. It is a post-grant opposition procedure. The set of guidelines is available at: https://www.inpi.fr/ressources/propriete-intellectuelle/directives

Opposition may be filed by any person other than the patentee. For the opposition to be admissible, the opposing party is not required to demonstrate an interest in bringing proceedings. The opposition procedure is subject to the same rules as the presentation of patent applications.

Opposition must be filed within **nine months following the publication of the grant of the contested patent** in the Official Bulletin of Industrial Property. This deadline can not be appealed for reinstatement. All oppositions must be filed electronically, which requires setting up an account with "**espace e-procédures de l'INPI**" at inpi.fr.

In the course of the online opposition procedure, the opponent must provide the following, in pdf format:

- The notice of opposition: this is a statement specifying the scope of the opposition, the grounds on which the opposition is based and the facts and supporting evidence.
- The opponent must also attach any document or evidence referred to in the notice of opposition, as well as a translation where applicable

Opposition may only be based on **one or several of the following grounds**:

- **The subject matter of the patent is not patentable under articles L. 611-10, L.611-11 and L. 611-13 to L. 611-19**; this list comprises the grounds: **lack of novelty, inventive steps and industrial applicability.**
- **The patent does not disclose the invention in a sufficiently clear and complete manner** to be carried out by a person skilled in the given field;
- **The subject matter of the patent extends beyond the content of the application as filed** or, where the patent has been granted on the basis of a divisional application, the subject matter extends beyond the content of the initial application as filed.

The opposition may concern **all or part of the patent granted.**

The procedure is "**adversarial**", which means that any observations transmitted to INPI by either of the parties must be sent to the other party to give the latter an opportunity to reply.

The opposition procedure consists of three phases:

- An **admissibility phase** during which the admissibility of the opposition is examined;
- An **investigation phase** involving an exchange among the parties and between the parties and INPI;
  A **decision phase** at the end of which the Director General of INPI rules on the opposition.

The opposition is deemed rejected if the Director of INPI does not rule on the opposition within four months of the conclusion of the investigation phase.

Oral proceedings shall take place:

- at the request of one of the parties,
- at the request of INPI if deemed necessary for the purposes of the

investigation The oral proceeding concludes the investigation phase.

As a result of the decision on the opposition, the patent may be: revoked in whole or in part, maintained in amended form, or maintained as granted.

The decision shall be reasoned and notified to all parties, it has **absolute effect and is retroactive to the filing date of the patent application**. **The decision can be appealed before the Paris Court of Appeal**. The appeal has suspensive effect and allows for the reversal of the decision of the Director General of INPI.