

Denmark

Administrative procedure

The law of Denmark covers the autonomous outlying regions of Greenland and the Faroe Islands. However, the EPC has not been approved for those regions and does not in any way cover them.

Pre-grant observations and disputes

A third party may file pre-grant observations on an application, but will not be party to the proceedings before the Danish Patent and Trademark Office (hereinafter the "Patent Office"). The observations will be considered by the examiner, and the applicant is informed of them.

If a third person claims before the Patent Office to be entitled to the invention, the Patent Office may invite him to bring the case before the court within a specific period (Section 17 PA). If that happens, the grant proceedings can be suspended until a final decision in the legal proceedings has been given (pre-grant disputes – Section 17(2) PA).

Opposition

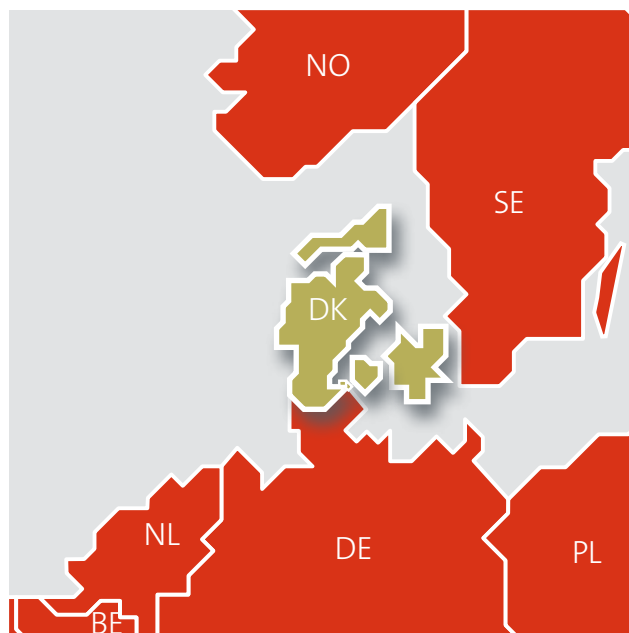
Post-grant opposition is available. It must be filed within nine months from publication of the grant (Section 21 PA). The opposition may be considered by the Patent Office even if the opposition is withdrawn or the patent has lapsed (Section 23(2) PA).

Re-examination

Any person may file a request with the Patent Office to have a granted patent reexamined.

A request may not be filed during the period allowed for opposition or as long as an opposition remains to be finally decided upon or a case before the courts concerning the patent is pending (Section 53b (2) PA).

If proceedings concerning a patent are instituted before the courts prior to a final decision of re-examination the Patent Office suspends re-examination until the case before the court has been finally decided upon, unless the request has been filed by the proprietor of the patent (Section 53b (3) PA).



The proprietor of the patent may request that his patent be limited by amendment of the description, claims or drawings as long as there is no pending opposition or a pending case before the courts (Section 53e (1) PA).

Appeal

Final decisions of the Patent Office may be appealed to the Board of Appeal (Section 24 PA). Any party may bring an action within two months. New evidence not previously used may be submitted. The Board of Appeal is independent of the Patent Office.

An unfavourable decision of the Board of Appeal may be appealed to the Maritime and Commercial Court and further to the High Courts or if certain criteria are met to the Supreme Court.

Civil procedure

Infringement

Civil actions must be brought to the Maritime and Commercial Court. The panel of the Maritime and Commercial Court uses both legally and technically qualified judges.

Nullity/counterclaim for revocation

Any person may institute proceedings for full or partial invalidation of a patent at any time after grant (Section 52 PA). The action may be brought before the Maritime and Commercial Court.

Proceedings on the grounds that the patent has been granted to a person other than the one entitled to it may be instituted only by the person claiming entitlement. Such proceedings must be brought within one year after the entitled person obtained knowledge of the grant of the patent and of the other circumstances on which the proceedings are based. If the proprietor received the patent in good faith, action may not be brought later than three years after grant (Section 52(4) PA).

Invalidity of the patent may only be raised as a defence if a claim for revocation is made against the proprietor of the patent under special proceedings summoning the patentee before the court. The defendant may adduce the nullity of the patent only against the owner of the patent if a claim is raised and is properly communicated (Section 61 PA).

Remedies

Damages, compensation, confiscation of infringing products, additional decision on prevention of the abuse of products manufactured in accordance with the patent. The patent owner may also seek a preliminary injunction at the Maritime and Commercial Court (Section 58, 59 PA).

Other actions

Criminal actions should be brought by the injured party or at the request of the injured party by public authorities or by the public authorities. The corresponding remedies would be fines or imprisonment. (Section 57 PA).

Appeal

Appeals from the Maritime and Commercial Court may be made to the High Courts or to the Supreme Court. Appeal may be made to the Supreme Court if the case is of a principled nature and is of general importance to the

application of the law and to the development or significant social scope in general, or if there are other special grounds that the case is being considered by the Supreme Court as the second instance. The Supreme Court ensures that the conditions for appeal to the Supreme Court are met.

See also “Administrative procedure, Appeal” above.

Parallel proceedings

Invalidation proceedings concerning a patent in respect of which opposition is pending may be suspended by the Court until a final decision on the opposition has been taken by the Patent Office (Section 53a PA).

Proceedings for revocation instituted while an opposition is pending at the EPO may be suspended by the court until a final decision has been taken (Section 53a PA).

Arbitration/mediation

No information available.

Enforcement

Judgments and orders can be enforced by the bailiffs.

Compulsory licence

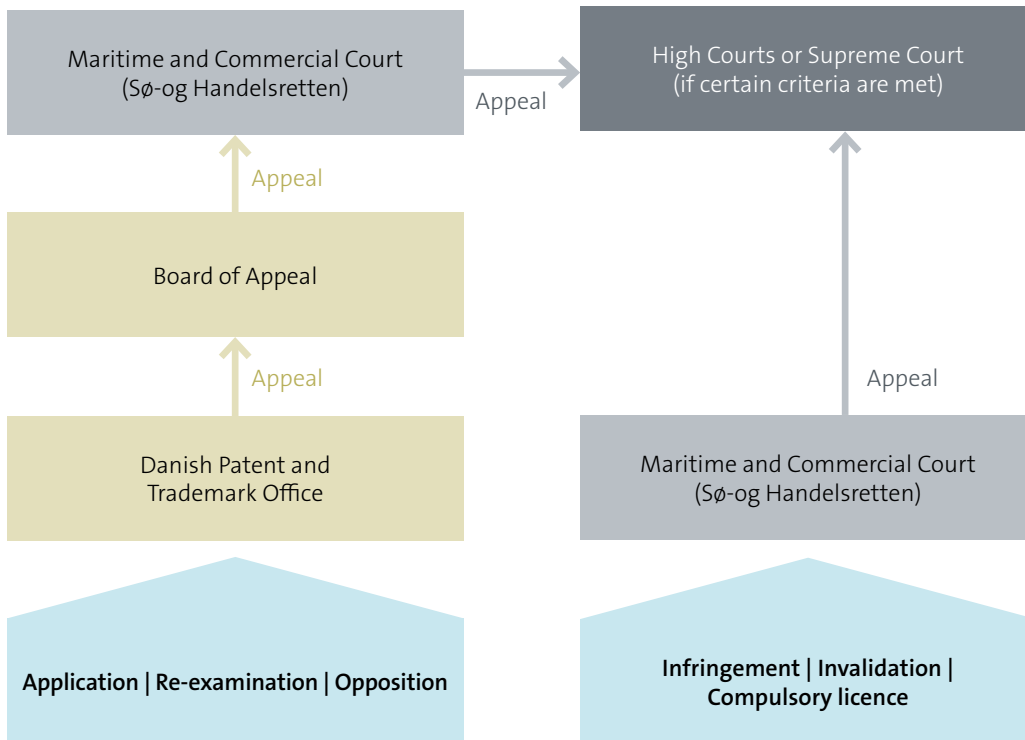
Compulsory licenses may be granted by the Maritime and Commercial Court, e.g. in cases of non-working, dependent patents or public interest (Sections 45-48 PA). The Court may, at the request of either party, modify the conditions of a compulsory licence or even revoke it.

Relevant national law

The Consolidated Patents Act (Consolidated Act No. 90 of 29 January 2019) [cited as: PA];

Order on Patents and Supplementary Protection Certificates (Order No. 25 of 18 January 2013 as amended by order no. 146 of 20 February 2014).

Competent authorities or courts



DK

