

Finland

Administrative procedure

Opposition

A post-grant opposition procedure is available in Finland. Within nine months from the date of the grant of the patent anyone may file a notice of opposition (Section 24 PA).

The Finnish Patent and Registration Office (hereinafter the "Patent Office") may take an opposition into account even if it is withdrawn or after the patent has lapsed. If the opposing party withdraws his opposition, he may not appeal against the Patent Office's final decision (Section 24(5) PA).

Anyone may file pre-grant observations which are of importance for the examination of the application. The Patent Office notifies parties of the possibility of filing an opposition if the patent is granted (Section 26a PD).

Appeal

Appeals against final decisions of the Patent Office may be filed with the Market Court within 60 days (Section 27 PA).

Appeals may be filed by the applicant, proprietor or opponents or by persons claiming to be the owner of the invention (Sections 26 and 54 PA).

Further appeal may be made to the Supreme Administrative Court within 30 days after receipt of the decision of the Market Court. However, leave must first be granted by the Supreme Administrative Court.

Civil procedure

Infringement

The patent owner may bring a civil action to the Market Court. A licensee may sue the infringer in his own name, provided that he duly notifies the owner.

A dispute on infringement, entitlement, compulsory licensing, a declaratory judgment or compensation relating to a European patent may not be heard by the Market Court if the same dispute between the same parties is pending



before the court of another country that is party to the EPC. If the competence of the foreign court is contested, the Market Court postpones its hearing of the case until the question of competence has been finally decided upon by the foreign court.

In patent infringement matters the Market Court may ask the Patent Office for an opinion.

Nullity/counterclaim for revocation

Any person, who suffers prejudice on account of the patent, or a public authority appointed by the government for reasons of public interest, may institute proceedings for the invalidation of a patent. The action must be brought before the Market Court.

In patent invalidation matters the Market Court may ask the Patent Office for an opinion.

Nullity may be used as a defence, provided that a nullity action against the patent is pending or will be brought to the court within a period determined by the Market Court. Infringement and nullity actions are as a rule dealt with in the same proceedings. However, the Market Court may stay the infringement proceedings until the counterclaim for nullity has been decided if there are particular reasons for doing so. Patent claim limitation is allowable in nullity/counterclaim for revocation proceedings.

Remedies

Damages, compensation, injunction, destruction, seizure, alteration, surrender and fines (Chapter 9 PA).

Other actions

Other civil actions based on the PA (i.a. declaratory actions for ownership of the patent, declarations of non-infringement) may be brought to the Market Court.

Appeal

Decisions and judgments of the Market Court may be appealed against before the Supreme Court, provided that the Supreme Court grants leave to appeal.

Parallel proceedings

In a patent invalidation case the court may, at its discretion, postpone the taking of a decision on a principal claim referred to it if the action has been brought in a competent authority before expiry of the time limit for filing opposition after the grant of the patent or before a final decision has been issued on the opposition.

In practice the court takes its decision whether or not to stay the proceedings on a case-by-case basis after consultation of the parties.

Arbitration/mediation

Arbitration is in principle available in patent litigation proceedings, with the exception for revocation actions. The parties are in principle free to agree whether to use the Arbitration Institute of the Finland Chamber of Commerce or *ad hoc* arbitration.

Enforcement

The authority responsible for enforcing an order both during the proceedings and after termination or final decision of the court is the bailiff (Enforcement Code No. 705/2007).

Compulsory licence

Compulsory licences may be granted by the Market Court in cases of non-working, public interest, dependent patents and prior use (Sections 45–50 PA).

Relevant national law

Patents Act – No. 550/1967, as amended by Acts No. 653/1967, No. 575/1971, No. 407/1980, No. 387/1985, No. 801/1991, No. 577/1992, No. 1034/1992, No. 1409/1992, No. 593/1994, No. 717/1995, No. 1695/1995, No. 243/1997, No. 650/2000, No. 990/2004, No. 896/2005, No. 295/2006, No. 684/2006, No. 392/2010, No. 954/2010, No. 478/2011, No. 743/2011, No. 863/2011, No. 1096/2011, No. 101/2013, No. 23/2016 and No. 717/2016 [cited as: PA];

Patents Decree – No. 669/1980, as amended by Decrees No. 505/1985, No. 583/1992, No. 71/1994, No. 595/1994, No. 104/1996, No. 246/1997, No. 674/2000, No. 1200/2004, No. 144/2006, No. 1118/2007, No. 603/2008, No. 1097/2011 and No. 580/2013 [cited as: PD];

Market Court Procedure Act No. 100/2013, as amended by Acts No. 594/2013, No. 23/2014, No. 554/2016, No. 678/2016, No. 1495/2016, No. 1095/2017, No. 1124/2017, No. 600/2018, No. 1122/2018, No. 417/2019 and No. 549/2019;

Enforcement Code No. 705/2007, as amended by Acts No. 987/2007, No. 365/2009, No. 521/2009, No. 932/2009, No. 1417/2009, No. 1614/2009, No. 1756/2009, No. 397/2010, No. 652/2010, No. 99/2011, No. 1161/2013, No. 741/2014, No. 1125/2014, No. 408/2015, No. 637/2015, No. 26/2016, No. 323/2016, No. 864/2017, No. 60/2018, No. 134/2018.

Competent authorities or courts



