

Confidentiality of Communication between Clients and their Patent Advisors

Denmark

Article 170 of the Danish Administration of Justice Act secures confidentiality of communications between clients and certain professionals, such as doctors, lawyers, mediators and priests. As of July 1, 2018, that Article concerning witness exclusion includes patent advisors as defined in Article 134(1) of the European Patent Convention (EPC) on EPO's list of European patent advisors.

It entails that patent advisors are not obliged to provide evidence to the court during legal proceedings of knowledge acquired through their work. The purpose of including patent advisors in the Danish provisions on witness exclusion is to enhance the protection of companies when faced with patent proceedings both nationally and internationally.

The inclusion of patent advisors in the rules on witness exclusion facilitates the confidentiality of communications between clients and their patent advisors in cross-border proceedings and prevents the situation where the patent adviser would be obliged to give evidence to the court because of the lack of protection of patent advisors in the Danish rules.