

Norway

(Norwegian Industrial Property Office)

With reference to Circular 8893 regarding follow-up on the *Standing Committee on the Law of Patents (SCP/30)*, the Norwegian Industrial Property Office (“NIPO”) has the following comments concerning:

(i) ***Certain aspects of the applicable national or regional patent law, available at http://www.wipo.int/scp/en/annex_ii.html.***

- a. Under “Opposition and Administrative Revocation Mechanisms” à “Re-examination Systems” à “National/regional laws” à “Norway”, we have a few amendments to the third paragraph of the text on administrative review. We suggest that the existing third paragraph is replaced with this slightly amended text:

“According to Section 52 d of the Norwegian Patents Act, a request for an administrative review may only be filed on the grounds that the patent has been granted in contravention of the requirements (patentability criteria) in sections 1 and 2, or section 8, second paragraph, third to fifth sentence. However, a request for administrative review may not be filed on the grounds that the patent has been granted to another party than the party who is entitled to the invention, cf. section 1, first paragraph. If the Norwegian Industrial Property Office finds that the patent has been granted in contravention of sections 1 and 2, or section 8, second paragraph, third to fifth sentence, the patent 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. NB: A request for administrative review filed on the grounds that the patent has been granted in contravention of the requirements in section 8, second paragraph, third to fifth sentence, can only be submitted to NIPO 1 July 2019 or later.”

- b. Under “Opposition and Administrative Revocation Mechanisms” à “Submission of information by third parties” à “National/regional laws” à “Norway”, we suggest that you add a paragraph with this wording:

“Norway also provides for the opportunity of third party observations, in the form of protests, during oppositions, cf. section 35 of Regulations under the Norwegian Patent Act. If the Norwegian Industrial Property Office during an opposition receives a protest of significance to the assessment of the patent, the Norwegian Industrial Property Office shall notify the patent holder and the opponent thereof and give them the opportunity to comment on the protest. Persons submitting a protest during an opposition will not be a party to the opposition proceedings.”

The above-mentioned adjustments/corrections are mostly due to amendments in our national legislation that entered into force 1 July 2019.

Should you have any questions or comments, please do not hesitate to contact me. We would also like to take the opportunity to thank you for your valuable assistance in keeping information about applicable laws and systems in Member States and Regional Patent Offices up-to-date.