

Although the DKPTO must comply with public legislation, the DKPTO keeps trade secrets of companies confidential and inaccessible to the companies' competitors and the public in general, this includes internal and confidential information, including product development plans, marketing strategies, technologies etc.

The confidentiality clause in each of the employees' contracts as well as the general provisions in the Danish Act on public administration on professional secrecy and the provisions in the Danish Criminal Act on the public sectors responsibility to observe professional secrecy put the DKPTO's employees under strict rules on confidentiality. Confidential Information will therefore be kept strictly secret and not divulged or made accessible in any way to any third party.

Conclusion

In accordance with Danish law, the commercial services performed by the DKPTO can be considered as "technological services" and therefore the Danish Act on Public Access to Documents in Administrative Files does not apply to these services. All information exchanged between a company and the DKPTO is therefore treated confidentially.

All employees hired by the DKPTO are covered by strict rules on confidentiality when performing commercial services for DKPTO's customer companies. The DKPTO therefore undertakes to keep all confidential information strictly secret and not to divulge or make accessible in any way any confidential information to any third party



DECLARATION

Legal Memorandum

The Danish Patent and Trademark office's responsibility to maintain commercial information confidential.

The Danish Patent and Trademark Office

The Danish Patent and Trademark Office (the DKPTO) is a market and customer oriented public authority under the Danish Ministry of Economic and Business Affairs.

As a public authority, the DKPTO grants patents and registers trademarks, utility models and designs. As Denmark's representative in international negotiations concerning the patent and trademark systems, the DKPTO contributes to the work pertaining to harmonisation and development of international rules and legislation. Equally, the DKPTO is involved in ensuring an efficient and up-to-date legislation in Denmark.

The DKPTO is also the Danish centre for strategic information and protection of technology and trademarks. The DKPTO offers a wide range of commercial services that assist businesses in their innovation process and prevent infringements of the rights of others. These commercial services include: Different searches on patents, trademarks and designs, technical surveillances and profile analyses. The DKPTO cooperate extensively with other national authorities all over the world who make use of our expertise.

Confidential Information

The commercial services performed by the DKPTO often concerns companies' commercial development and future earnings. The services performed are of substantial economic and strategic value to companies.

Access to documents

The DKPTO is a public authority and must therefore comply with the rules set down in the Danish Act on Public Access to Documents in Administrative Files.

According to the Danish Act on Public Access to Documents in Administrative Files, the Act applies to all public activities performed by public authorities. This means that the public as a general rule has the right to gain access to documents in administrative files, if such access is relevant to a particular case.

However, the act comprises an exception to the general rule. This exception excludes specific information from the public. All administrative files regarding trade secrets and company economy must be kept confidential and the public therefore has no access to such information.

In order for the information to be excluded from access, the information in question has to be of essential or economical importance to the company or person whom it concerns.

Besides the more general exception clause in the Danish Act on Public Access to Documents in Administrative Files, all "technological services" performed by the DKPTO are now explicitly excluded from the public's access by the Danish Intellectual Property Rights (IPR) legislation.

Confidentiality

All employees at the DKPTO sign a contract upon employment which includes a confidentiality clause. The wording of the confidentiality clause is as follows: "as a natural result of their employment with the DKPTO all employees at the DKPTO will somehow become acquainted with information which should be treated as confidential information. This information can neither be discussed internally within the DKPTO nor in public. The confidentiality requirement does not cease upon resignation."

Besides the individual confidentiality agreement between DKPTO employees and the DKPTO, all employees in the public sector are bound to observe professional secrecy in accordance with The Danish Act on public administration. Finally, the duty to observe professional secrecy is directly regulated in the Danish Criminal Act.

DKPTO's commercial services

Since the DKPTO utilize confidential information for the performance of its commercial services, the commercial services including search and examination performed by the DKPTO are, in most cases, covered by the above mentioned exception in the Danish Act on Public Access to Documents in Administrative Files.

For the same reasons, the commercial services, including search and examination, which are performed by the DKPTO constituting "technological service" is therefore excluded from public access by the IPR legislation.