

# Annual Financial Report 2008

## Nordic Patent Institute

(Final version)



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# 1. Company Profile

## 1.1 Mission Statement of Nordic Patent Institute

Nordic Patent Institute (NPI) is an Intergovernmental Organisation established and controlled by the governments of Denmark, Iceland and Norway.

The cooperation under Nordic Patent Institute shall contribute to stimulating Nordic companies, in particular small and medium sized enterprises, to innovation and economic growth. This shall be achieved by maintaining and further developing the national patent offices as competence centres for industrial Property Rights in the individual countries, capable of offering customised services of a quality and efficiency which is competitive by international standards.

The Institute shall also contribute positively to the European Patent Network based on the European Patent Convention and on cooperation between the European Patent Office and the national patent offices.

The overall aim is to offer Nordic users the best possible platform for operating in a global market that becomes increasingly patent active. This does not only cover access to patent protection, but also access to patent information in a broad sense.

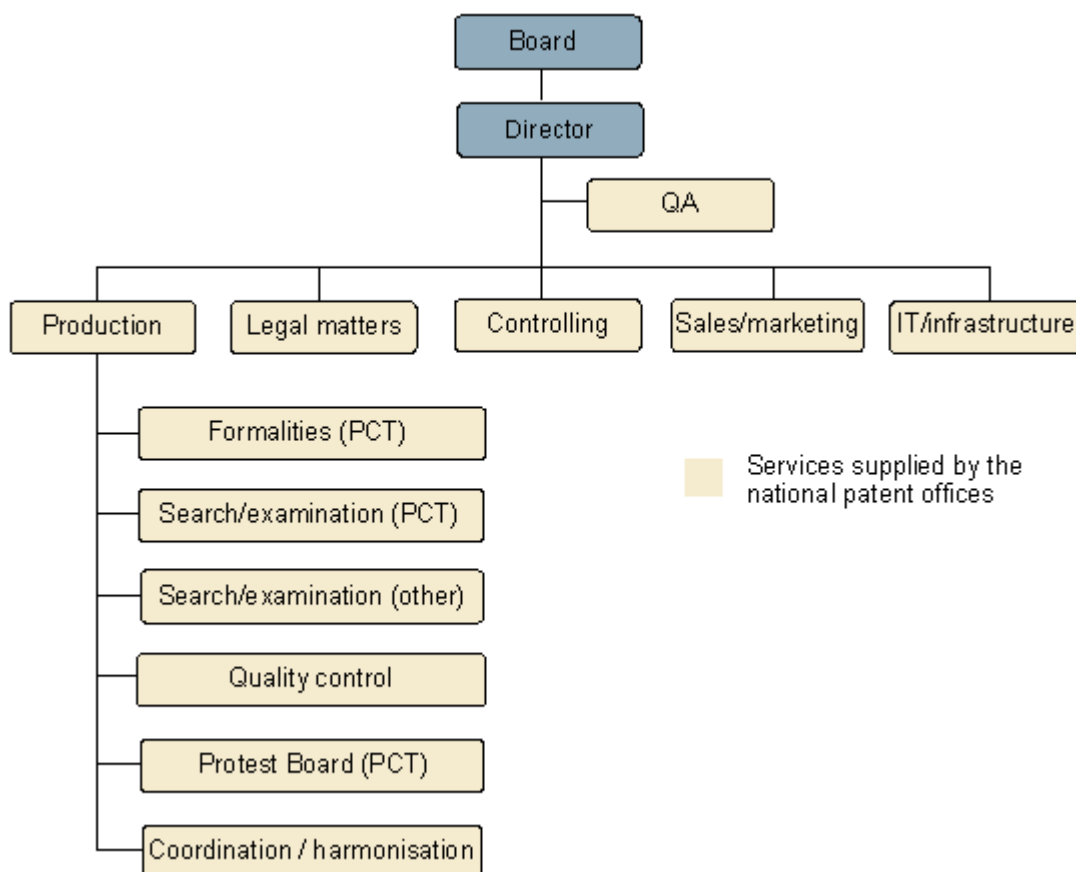
On this background, the Mission Statement of NPI is as follows:

“Nordic Patent Institute shall supply international patenting and information services in close cooperation with the participating national patent offices in order to stimulate industrial innovation in the contracting states.”

In accordance with this mission, NPI acts as a PCT authority and also offers patent related services on a contract basis. This may be searches for other patent authorities or searches etc on a commercial basis to private customers.

## 1.2 Organisation

The Institute is organised in the following manner:



The operation of the Institute is based on cooperation between the national patent offices of the three contracting states and exploitation of the existing resources and competencies of the national offices.

This implies that all production is carried out by the examiners of the Danish and Norwegian patent office. Support services such as financial support, IT, secretarial assistance, legal support, marketing etc are also provided by the national patent offices (NPOs).

Nordic Patent Institute pays the NPOs for these services and has signed service agreements with all of the offices, specifying the terms and conditions for the deliveries.

### 1.3 Legal Basis of Nordic Patent Institute

The legal basis governing the establishing and operation of the Institute comprises the following:

1. Agreement Establishing the Nordic Patent Institute (NPI Agreement).
2. Additional provisions, in particular the Regulations under the Agreement, the Protocol on Privileges and Immunities, and the Seat Agreement with the Danish State.
3. The Agreement with WIPO concerning the activity of NPI as an ISA and IPEA under the PCT.

4. The Agreement with EPO regarding the activity of NPI as a PCT authority under the European Patent Convention.

#### **1.4 Company Details**

Domicile: Helgeshøj Alle 81, 2630 Taastrup, Denmark

Phone: +45 4350 8500

Fax: +45 4350 8008

Web: [www.npi.int](http://www.npi.int)

Email: [npi@npi.int](mailto:npi@npi.int)

Bank: Danske Bank, Taastrup Hovedgade 54, 2630 Taastrup.  
Account no.: 3129 3129750790.

Company Registration Number in Denmark: 3093 5942

Auditors: Rigsrevisionen, Landgreven 4, 1022 København K, Denmark.

## 2. Statement on the Annual Financial Report

This Annual Financial Report of Nordic Patent Institute covers the fiscal year 2008 (running from 1 January 2008 to 31 December 2008).

The annual report gives true and fair information on the operation of the Institute.

The report has been drawn up in accordance with the provisions in the NPI Agreement, i.e. in compliance with the Danish Act on Financial Statements.

The accounting principles and policies applied for NPI are considered appropriate for providing a true and fair view of the Institute's operational results and financial position. The activities of NPI and the reporting of these activities are in compliance with the legal basis of NPI, supplementary decisions taken by the Board, and normal practice. Details of the accounting principles and policies are explained in section 5 of the report.

NPI has established its working procedures from scratch. These have been continuously improved during the year and are now considered appropriate for an efficient and reliable operation of the Institute.

When assessing the results for 2008, it should in particular be kept in mind that this is the first year of operation of NPI. A number of budgetary assumptions were therefore established on a rather uncertain basis. Furthermore, the budget applies a number of simplified interrelations and a number of rough estimates of figures given the small numbers.

The difference between the actual result and the budget is due, in particular, to the following factors:

- PCT work is the only activity that can create a surplus for NPI, and the number of PCT cases was only around 50% of the number assumed in the budget.
- Capacity costs are, at the present level of activities, to a large extent independent of PCT workload.
- Deviations in capacity costs.
- The budget is based on the assumption that almost all PCT cases would be entitled to a 25% fee refund. The actual figure has turned out to be around 80%.
- The budget does not take account of the time lag between receipt of the fee and reimbursement to the NPO (at least 3-4 months).
- Applicants pay the full fee at filing. The refund to applicants, if an earlier search report can be used, is only issued when the case has been completed (i.e. 3-4 months later). The budget does not take account of this.
- Finally, the currency exchange rates of NOK and ISK against DKK have dropped during the financial crisis (by almost 15% for NOK, 50% for ISK). This has a significant impact on NPI, because Norwegian and Icelandic customers pay the fee for an international search in their national currency. These amounts are set by WIPO and only adjusted with a time lag of several months.

## Endorsement

The annual report covers the fiscal year 2008.

We hereby declare,

1. that the annual report gives fair and true information,
2. that the financial transactions included in the financial statement are consistent with the legal provisions governing the operation of NPI, any further agreements made, and general practice, and
3. that the operating procedures of NPI are appropriate for ensuring an efficient conduct of NPI's business in relation to all activities covered by the annual report.

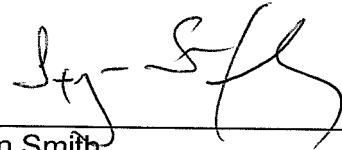
Date:



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Niels Ravn  
Director

Date:



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Jørgen Smith  
Chairman, NPI Board

### **3. Independent Auditor's Statement**

#### **Aim of the Statement**

The purpose of the audit opinion is to provide the Board with an overall assessment of NPI's account and financial administration based on the audit conducted in the financial year 2008.

#### **Management Responsibility**

The management of Nordic Patent Institute is responsible for the preparation and fair presentation of the annual report. This responsibility includes securing that

- The annual report is correct, i.e. free of material misstatements and omissions.
- The financial transactions included in the financial statement are consistent with legislation and other provisions, agreements made, and general practice.

#### **Basis of Audit**

Rigsrevisionen has audited the financial year 2008 for Nordic Patent Institute. The audit has been conducted in accordance with good public sector auditing standards. Cf. the Auditor General's Act, section art. 3, this means that Rigsrevisionen has reviewed whether the transactions included in the financial statement are consistent with legislation and other provisions, agreements made, and general practice.

With this report, we consider the audit of the financial year 2008 completed. However, Rigsrevisionen may take up questions relating to this and past accounting years for further examination. This may lead to disclosure of new information resulting in a renewed evaluation of specific items which have been examined in this report.

#### **The Audit conducted**

The audit has been planned and conducted on the basis of an assessment of materiality and risk, and based on sample tests and a review of business procedures and internal controls.

The audit of Nordic Patent Institute covered the financial year 2008 and was conducted as a closing annual audit.

#### **Conclusions**

On the basis of the audit conducted, Rigsrevisionen has concluded that:

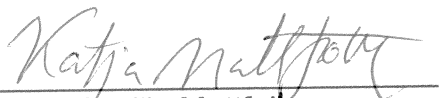
- The accounts are true and fair, i.e. free of material errors and omissions.
- Appropriate business procedures and internal controls have been established to ensure that the transactions included in the financial statement are to the widest possible extent consistent with legislation and other provisions, agreements made, and general practice.

Our audit did not result in any qualification.

### Supplementary Information

Without qualifying the audit opinion, Rigsrevisionen is referring to Nordic Patent Institute's Annual Financial Report, section 4.3, "Plans for the Future". This section presents the three contracting parties' commitment to provide the required working capital for Nordic Patent Institute. The Management's statement is duly noted by Rigsrevisionen.

Date:



Katja Cecilia Mattfolk  
Director

## **4. Activity Report by the NPI Director**

### **4.1 General Assessment**

Nordic Patent Institute has been operational for one year.

The PCT status of NPI is the backbone of the Institute, and the main focus has therefore been on PCT work, in particular regarding timeliness and high quality of search reports.

The number of PCT applications has been around 50% of what was foreseen in the budget. This is considered satisfactory given the fact that the budget was drawn up from scratch and could not be based on experience from earlier years. Furthermore, the lower activity made it possible to give more attention to delivering high quality search reports, harmonising practice between the Danish and Norwegian offices, and establishing all the internal and external procedures properly.

There has not been any activity on commercial services (work for other authorities and private customers). This is neither considered surprising nor is it a big problem at this stage for the following reasons:

- The Board has decided that commercial services to Danish and Norwegian private customers shall be delivered by the national offices, not NPI
- The Danish office has a number of foreign customers for commercial services (private as well as other authorities). Although these are potential NPI customers, they continue to use the Danish office until NPI has been better established as a brand.
- The Norwegian office has no foreign customers for commercial services and does not at this stage need further work.
- Commercial service activities do not generate any surplus to NPI.

### **4.2 Activity Report**

#### Production

Input and output for PCT activities has been as shown in the table below:

PCT Activity (accumulated)	2007	2008									
	Out	Q1		Q2		Q3		Q4		Total	
		In	Out	In	Out	In	Out	In	Out	In	Out
<u>ISR/WO</u>											
- total (applications)		20		35	28	29	31	24	21	108	80
- dk		7		11	10	13	7	11	11	42	28
- no		13		24	18	16	24	12	10	65	52
- is		0		0	0	0	0	1	0	1	0
- ISR+WO, full price		-		-	4	-	6	-	5	-	15
- ISR+WO, 25% refund		-		-	24	-	25	-	16	-	65
- ISR+WO, 50% refund		-		-	0	-	0	-	0	-	0
- additional searches					0		0		0		0
<u>IPER</u>											
<u>ITS</u>											
- total				1	0	2	2		1	3	3
- dk				1	0	2	0			3	3
- no				0	0	0	0			0	0
- is				0	0	0	0			0	0
- high fee		-		-		-	0	-		-	0
- low fee		-		-		-	2	-	1	-	3
<u>Protests</u>											

The total number of applications filed in 2008 was 108 (DK: 42; NO: 65; IS: 1). Last part of the year saw an increase in the percentage of applications from Danish applicants towards a more even distribution between Danish and Norwegian applicants. All cases have been delivered within the agreed time limits.

Of 2 cases from Iceland appointing NPI as ISA, only 1 is included in the table. The reason is that the other one by mistake was sent to EPO and was not formally received by NPI until after the accounting period.

80 international search reports have been completed (compared to 108 received). This is not a sign of backlog problems, but a simple consequence of the delivery time which is around 4-5 months.

The Danish cases have been in Mechanics, Food/agriculture/medico, Household/Building, and electronics. The Norwegian cases have been in Industrial chemistry, Human necessities, Vehicles/General technology, and Civil Engineering/Thermodynamics.

There have not been any activities under commercial services and contract work although a couple of requests for commercial services have been received. One request was made by a DKPTO customer who also requested the same service from DKPTO. The Danish office explained the situation to the customer and took over the task. The remaining requests for commercial services never materialised in any orders.

### Quality and Quality Management

One PCT application had more than one invention. This caused a slight delay in the processing, and the ISR/WO was delivered 4 months from filing. In all other PCT cases, the ISR/WO was delivered within 3 months from the filing date. All delivery times met the quality targets of NPI.

Work on finalising the NPI QM system has been intensified following the appointment of an NPI quality manager. A number of level 1 and 2 documents of the Quality Manual have been scrutinised and revised. It is foreseen that this task will be completed in Q2 2009.

The Danish and Norwegian offices have established a harmonisation group with the primary task of harmonising practice. The first meetings have taken place; in addition to harmonisation issues the group has also discussed procedures for SIS (Supplementary International Search).

### Sales & Marketing

The Marketing Coordination Network has started work. One of the first results was a draft for an SIS marketing strategy / plan as well as some promotional material for SIS.

Various general marketing activities have been carried out by the NPOs. A presentation of NPI has been given to the Swedish Association for IP Practitioners (at their request). General marketing material for NPI has been produced.

The EU trademark application in black/white has been approved for registration and the registration fee paid. In accordance with a decision by the Board, the two trademark applications in colour have therefore been abandoned without payment of the registration fee.

The procedure for protection of the name and logo under the Paris Convention (art. 6ter) has also been initiated.

### Website

The NPI website has been regularly updated. The statistics for the site are as follows for Q4 (figures for Q1 in brackets):

- Total visits: 1.420 (6.047)
- Total unique visitors: 558 (2.318)
- Total new visitors: 401 (1.835)
- Average number of visits per day: 46 (66)
- Total number of pages viewed: 7.191 (21.112)

### International and Legal Activities

The legal implementation of SIS has been carried out, in particular by the Norwegian office (Agreement with WIPO, NPI Regulations, etc).

NPI has been granted observer status at EPO. A request for observer status at relevant WIPO bodies has been filed and will be dealt with at the Assemblies in September 2009.

NPI has participated in the annual MIA meeting (Meeting of International Authorities) and in the cooperation meetings (PCHSA) between the European PCT Authorities).

### **4.3 Plans for the Future**

One of the main objectives of NPI over the next few years will be to get a balanced budget. In order to achieve this, the amount of PCT related work has to be increased.

Unless this is achieved, NPI will have to be partially financed by special contributions from the three contracting states in accordance with Article 8.1 of the NPI Agreement.

The budget is still negative for 2009 and becomes balanced in 2010, after which a surplus is foreseen. The "special contributions" from the contracting states in 2008 and 2009 is therefore considered as a loan to cover the deficit and to establish working capital for NPI. If the result for 2011 is still negative, it might be relevant to consider whether this loan (or part of it) should be considered as a true special contribution in the sense of article 8.1 of the NPI Agreement.

Another important objective will be to get the commercial services of NPI up and running. This is important because a certain workload in addition to the PCT work in a medium and longer term perspective is desirable as a basis for maintaining a sufficient number of experts.

Over the next years, starting already in 2009, a number of initiatives will therefore be taken, including

- Strengthening of sales and marketing activities
- Developing new and/or improved services for customers (PCT as well as commercial services)
- Reducing production costs
- Finalising the Quality Management System and getting ISO certification

## 5. Accounting Principles and Policies

### 5.1 General Principles

The financial statement is drawn up in compliance with the laws and provisions of the Danish State. The accounts for NPI are accrual based. The accounting policies applied are similar to the policies applied to comparable cases and companies.

The accounting period is the calendar year.

With the exception of purely commercial services, NPI is generally exempted from payment of tax and VAT on its activities (Protocol on Privileges and Immunities; Seat Agreement).

The NPI Agreement requires that the budget must be balanced over a span of a few years.

NPI income originates from fees and payments for services and, if necessary, from special contributions from the contracting states. NPI expenditure mainly consists of salary to NPI staff, payment to the national offices for the work they perform under the service agreements, and travelling costs.

In accordance with a decision taken by the NPI Board, the following principles shall apply to financing NPI operations:

- For PCT tasks, NPI shall keep all the fees paid by applicants and reimburse the NPOs a specific sum for each particular type of PCT work. The fees and reimbursements are established as part of the budget procedure and may be amended during the budget year as necessary. The fee income shall be higher than the reimbursements by an amount that is sufficient to cover the capacity costs of running NPI.
- For any other task, NPI shall receive the relevant fee from the customer and pass exactly the same amount on to the NPO that performs the task on behalf of NPI. This is on the understanding that the NPOs carry all their own costs for performing and marketing these tasks.

Some of the main fees for PCT (in particular the international search fee) are established by EPO as part of the agreement between EPO and all other PCT authorities in Europe. The remaining fees as well as the reimbursements are decided by NPI.

Fees due to NPI are entered in the books as income as soon as they have been received from the applicant. Reimbursements to the NPOs are entered in the books as expenditure when the actual task has been performed (often resulting in a considerable time lag between income and expenditure for a specific task). The same applies to refunds to applicants in cases where use can be made of an earlier search report.

In practical terms, this works as follows:

- Fees must be paid to the Receiving Offices of the NPOs or to NPI, depending on the type of task and the kind of fee. After completion of the formalities check, the full amounts will be transferred at monthly intervals to NPI (bank account) and will at that time be entered in the books as income.
- Reimbursement to the NPOs for work carried out on tasks for which NPI has received a fee is due (and will be entered as expenditure) when the task has been completed, again at monthly intervals. For PCT tasks, the production time is around 3 or 4 months, for commercial services usually only a few weeks.
- Applicants are in many cases entitled to a fee reduction, the size of which can only be determined when the task has been carried out. This refund is sent to the applicant (and entered as an expenditure) as soon as the task has been performed.
- Payment to the NPOs for support services is mainly established as fixed amounts which will be settled at regular intervals.

The time lag between book-keeping income and expenditure for a specific task implies that NPI constantly has a liability towards the NPOs on work for which NPI has received the fee but not yet paid the NPO for performing the task. This will be shown in the Financial Statement as (estimated) inactivated reimbursements in order to give a more true representation of the financial status. The same applies to fee refunds to applicants.

## **5.2 Special measures during the first years of operation**

The budget for the first few years of NPI operations shows a deficit because the number of PCT applications in the initial phase is too small to cover expenditures. After 3 or 4 years, NPI is expected to run with a surplus as a result of an increased number of PCT tasks. In the initial phase, there is therefore a need for funding via contributions from the contracting states. A special financial injection has also been necessary in order to establish a minimum working capital for the Institute.

It is the intention that any special contribution and financial injection shall be repaid to the NPOs as soon as the financial situation of NPI makes this possible.

## 6. Financial Statement

Amounts in DKK

	<b>Budget 2008</b>	<b>Result 2008</b>	<b>Budget 2009</b>	<b>notes</b>
<b>Income (operations)</b>				
PCT	2.096.000	1.132.830	4.453.350	
Other	0	0	0	
<b>Total revenue (operations)</b>	<b>2.096.000</b>	<b>1.132.830</b>	<b>4.453.350</b>	
<b>Expenditure (operations)</b>				
PCT	1.227.500	397.320	2.884.900	
Inactivated reimbursements	-	206.000	-	1
Inactivated refunds	-	73.000	-	2
<b>Direct costs (operations)</b>	<b>1.227.500</b>	<b>676.320</b>	<b>2.884.900</b>	
Salaries	780.000	855.952	780.000	3
Other expenses	830.000	814.754	1.315.000	4
<b>Capacity costs (operations)</b>	<b>1.610.000</b>	<b>1.670.706</b>	<b>2.095.000</b>	
<b>Financial costs</b>				
Financial income	0	9.386	0	
Financial expenses	0	0	0	
<b>Financial result</b>	<b>0</b>	<b>9.386</b>	<b>0</b>	
<b>Net result</b>	<b>-741.500</b>	<b>-1.204.810</b>	<b>-526.550</b>	

Notes on Financial Statement:

### 1. Inactivated reimbursements

NPI has paid the Danish and Norwegian offices a total of DKK 397.500 for PCT work which has been carried out in 2008. This means that NPI has paid for approximately 68 applications (assuming an average payment of DKK 5.900 per case).

However, NPI has received 108 applications in 2008 (with fees received by NPI in approximately 103 of these), implying that NPI still needs to pay the NPOs for approximately 35 applications for which it has received the fees. The corresponding amount is around DKK 206.000. This is shown in the table as inactivated reimbursements.

## 2. Inactivated refunds

Applicants are entitled to a 25% or 50% refund of the search fee if NPI can make use of an earlier search report. This can only be decided when the work has been carried out.

There are approximately 23 applications (103 - 80) for which the potential fee refund has not yet been established. In average there is a fee refund of 25% (DKK 3.170) in 80% of the cases; the number of cases with 50% fee refund has so far been zero. This means that NPI will owe applicants an estimated amount of DKK 73.000 (23 x 3.170) in fee refunds for applications where NPI has already received the fee. This is shown in the table as inactivated refunds.

## 3. Salary

The deviation from the budget covers two components: a) savings because salary for vacancy earned in 2007 is paid by the Danish Patent and Trademark Office and b) increase because a sum must be set aside by NPI to cover salary for unused vacancy when NPI staff leaves NPI.

## 4. Other external costs

This post includes expenditure which is due under the service agreements with the NPOs, such as rent of office space, IT-, secretarial- and financial assistance. It also includes expenditure for travelling, representation, bank fees and gain/loss of currency exchange.

It should be noted that the budget for 2009 is the one which was approved by the Board in late 2008. It was at that time expected that SIS (a new PCT activity) would provide some workload, but experience shows that this new service has not yet become popular with users. Furthermore, the filing figures for PCT applications are not quite as high as budgeted, possibly due to the financial crisis.

It should also be noted, that the budget does not take account of the time delay between income to NPI and reimbursements and refunds to the NPOs and applicants, respectively. Based on the budget for 2009, the inactivated reimbursements and refunds for 2009 are estimated at around DKK 1 m.

## 7. Balance Sheet

Amounts in DKK

<b>Assets</b>	<b>2007</b>	<b>2008</b>	<b>notes</b>
<b>Receivables</b>			
Debtors		286.647	1
Receivables, total		286.647	
<b>Cash</b>			
Danske Bank		396.797	
Cash, total		396.797	
<b>Assets</b>		<b>683.444</b>	

<b>Equity and liabilities</b>	<b>2007</b>	<b>2008</b>	<b>notes</b>
<b>Equity</b>			
Net result 2008		-1.204.810	2
Equity, total		-1.204.810	
<b>Liabilities</b>			
Salary liabilities		93.170	3
Other liabilities		734.360	4
Debt		1.060.724	5
Liabilities, total		1.888.254	
<b>Equity and Liabilities</b>		<b>683.444</b>	

Notes on Balance Sheet:

### 1. Debtor

This concerns mainly receivables regarding loan of liquidity from the 3 NPOs.

## 2. Net result

This is the net result for 2008, taken from the financial statement.

## 3. Salary liabilities

Danish law requires that 12.5% of the salary be set aside to cover holiday obligations upon termination of employment.

## 4. Other liabilities

Consists mainly of inactivated reimbursements to NPOs and refunds to applicants as well as pending payables under Service Agreements with the NPOs.

## 5. Debt

This amount represents the loan which NPI has taken from the NPOs to finance operations in the initial phase. NPI will start paying back as soon as the liquidity allows this. The loan is without interest.

## 8. List of Acronyms

EPO	European Patent Office (in Munich)
IPEA	International Preliminary Examining Authority (PCT Authority performing preliminary examinations)
ISA	International Searching Authority (PCT Authority performing international searches)
ISR	International Search Report (search report delivered by an ISA)
NPI	Nordic Patent Institute
NPO	National Patent Office
PCT	Patent Cooperation Treaty (administrated by WIPO). International system for co-operation on granting of patents, based on work performed of specially appointed authorities (PCT Authorities)
SIS	Supplementary International Search (supplementary, optional search delivered by an ISA)
WIPO	World Intellectual Property Organisation (an organisation under United Nations, administrating a number of international treaties on Intellectual Property)
WO	Written Opinion (opinion on patentability delivered by an ISA)