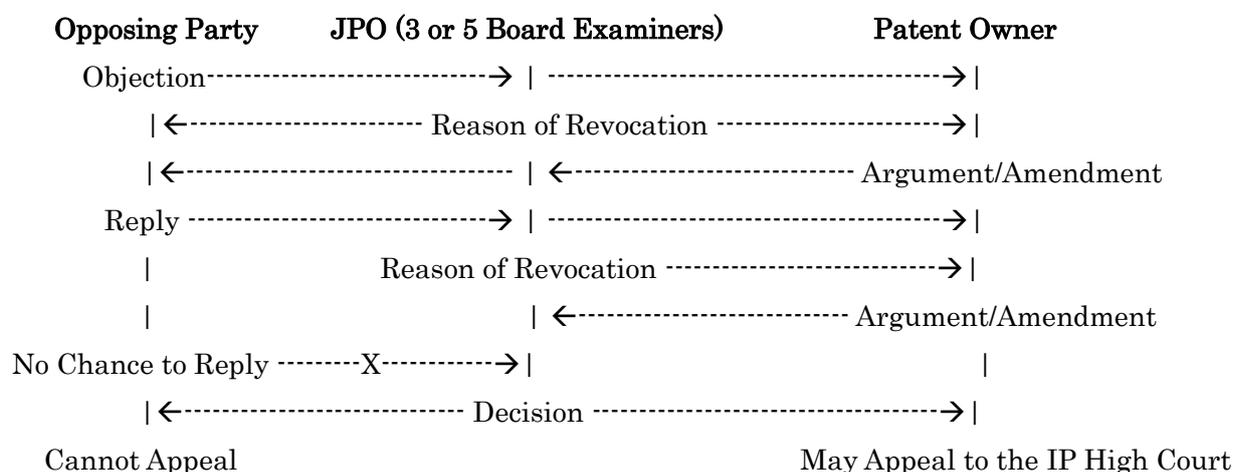


New Patent Opposition System Applies, if Granted*¹ on or after April 1st, 2015

February 4, 2015

	Third Party Observation	Opposition (New)	Invalidation Trial
Who can file?	Anyone	Anyone	Party in interest
Anonymous	OK	No	No
When	Anytime, even after Grant *1	Within 6 months from Grant *1	When patent is enforceable
Grounds (Unity of invention cannot be challenged)	<ul style="list-style-type: none"> • Non-Statutory Subject Matter • Double Patenting • Novelty / Inventive Step • New Matter • Claim Clarity • Enablement 	Same as Third Party Observation + <ul style="list-style-type: none"> • Personal Ineligibility • Public Order 	Same as Opposition + <ul style="list-style-type: none"> • Inventorship • Invalid correction of patent
Office Fees	Free	JPY 16,500 + 2,400 / Challenging claim	JPY 49,500 + 5,500 / Challenging Claim
Typical Attorney Fees	US\$200 to 1,500	US\$1,000 to 3,000	US\$5,000 to 20,000
Oral Hearing	--	None	Yes
Decision, typically	--	1 year from Grant *1	9 months from request
Can Patentee Limit Claims?	Yes (Liberal in Japan)		
Standard of review	--	Preponderance of evidence	

Opposition Procedures



¹Publication of issued patent

- The opposing party can file an invalidation trial on the same grounds using the same facts, if they have an interest (no estoppel).

Advice for Patentees

To avoid oppositions, the issue fee should be paid earlier, preferably by the middle of March.

It can be beneficial to wait to send warning letters until after the opposition period passes.

Advice for Challenging Parties: Negative Consequences?

Benefit of a Competitor's Patent

Competitors' patents exclude other competitors. If there are many competitors, and a license can be obtained, then it may be preferable for a competitor's patent to exist.

Lost Bargaining Chip

If a prior art reference invalidates a patent, then the patentee cannot exclude anyone or obtain any license fees. Therefore, un-submitted prior art references can be a negotiation tool for obtaining a license on more favorable terms, especially when there are many other competitors. By submitting the prior art references to the patent office, this bargaining power is lost.

Red Flag for the Patent Owner or Applicant

An opposition or third party observation indicates that some competitor considers the patent or application important or dangerous. In response, the patent owner with a divisional application or the applicant can:

1. Request accelerated examination and zealously prosecute the application,
2. Obtain divisional patents that cover different aspects of the invention,
3. Investigate competitors' products, and amend the claims to cover the products, and
4. Keep a divisional application pending to preserve the ability to amend the claims.

For the reasons above, we suggest opposing patents only when our client is likely the main target of the patent, and no divisional application is pending. Generally, we do not suggest third party observations. However, our suggestions depend on the specific business circumstances of each client.

What RYUKA Offers

When you are in danger of being the main target, we will watch for new patents of specific parties, and report the same with a copy of the corresponding English application or a computer translation of the claims, together with the information of any divisional applications.

The "watch" can be limited by applicant, technical terms, international classification, and/or the JPO's "F terms." If you are interested in the watching service, then please let us know so that we can refine the "watch" before the opposition system starts.

This information is provided for general informational purposes only, and is not intended as legal advice. Because every case is unique, readers should not take any action, or refrain from acting based on this information without first consulting their own attorneys. The law is constantly developing, and this information may not be updated with each and every development. The mere presentation of this information does not create an attorney-client relationship with RYUKA IP Law Firm. RYUKA IP Law Firm specifically and wholly disclaims liability for this information.