

PATENT OPPOSITION SYSTEM IN JAPAN

The new patent opposition system will allow a third party to request revocation of a granted patent, allow quick correction of patents and help ensure stronger granted patents.

Under the new system, oppositions can be filed against patents published from April 1, 2015.



SUMMARY OF NEW PATENT OPPOSITION SYSTEM

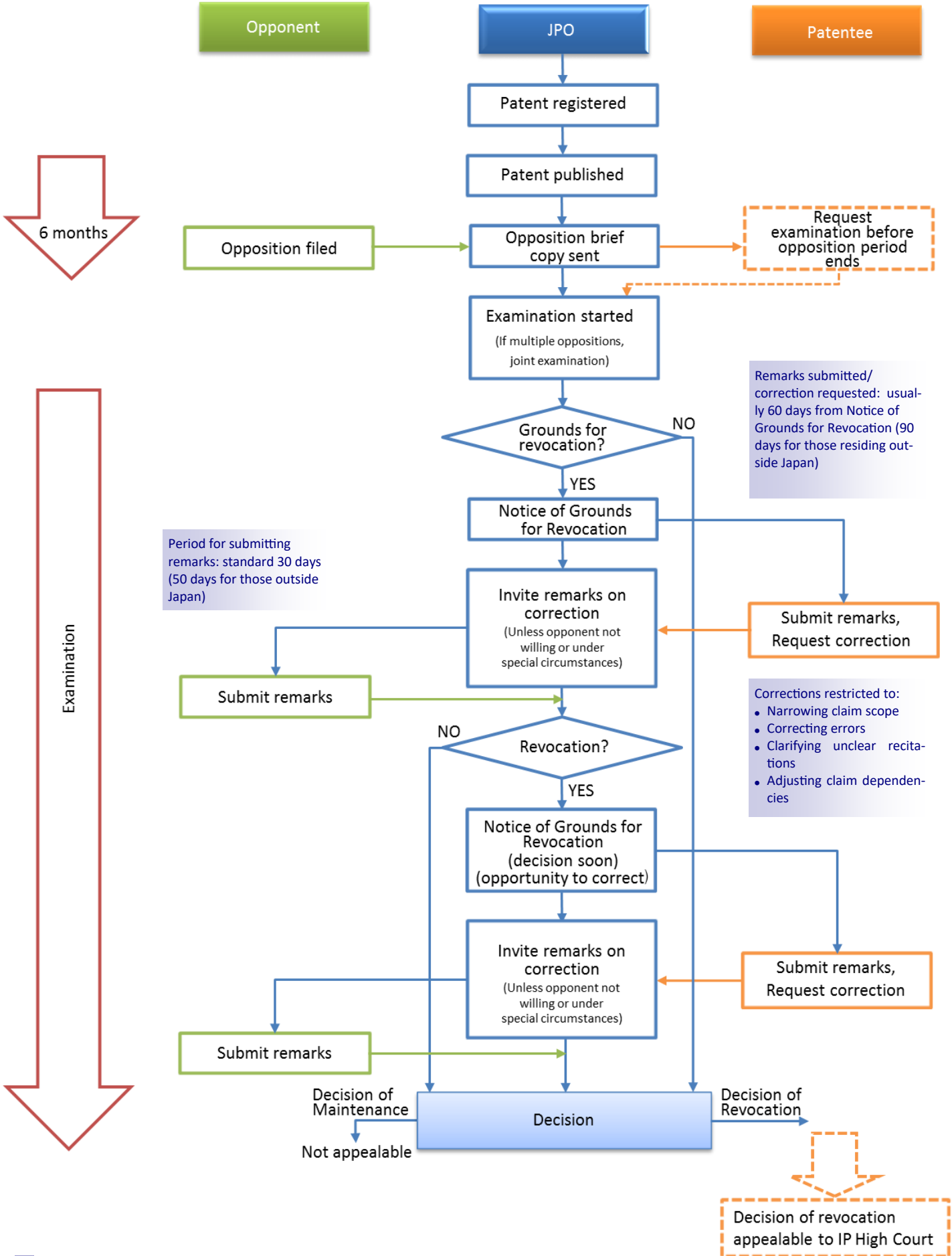
Opposition Brief must state:

- names and addresses of Opponent and agent
- patent number
- grounds for opposition and evidence

Once the JPO appeal board notifies the patentee of grounds for revocation after the opposition period ends, it is no longer possible to change arguments. Therefore, when filing an opposition, thorough searches should be made to gather evidence, and arguments should be carefully considered.

Opposition Period	6 months from patent publication beginning April 1, 2015
Opponent	Anyone (but not anonymous)
Grounds for Opposition	Public good (novelty, inventive step, clarity, support, enablement, new matter, double patenting, non-statutory subject matter, ineligibility of patentee, violation of treaties)
Examination	Written documents by JPO Appeal Examiners
Opposition Unit	Claim
<i>Ex officio</i> Examination	Unraised grounds also examinable
Patentee Procedure	May submit remarks or request correction after notice of grounds for revocation
Opponent Procedure	May submit remarks after request for correction by patentee
Multiple Oppositions	Joint examination
Withdrawal of Opposition	Until notice of grounds for revocation issued
<i>Ne bis in Idem</i> Rule	Not applicable
Fee	Less than invalidation
Appeal	Decisions of Revocation appealable to IP High Court

OPPOSITION from April 1, 2015



OPPOSITION VERSUS INVALIDATION

In an opposition, the opponent may only submit remarks when the patentee has requested correction.

For oppositions, third parties having an interest in the outcome may participate only on the patentee side.

Not grounds for opposition:
addition of new matter with respect to a translation of an application filed in a foreign language, amendments to change to other claims, violations of the description requirement in the specification, violation of the unity of invention requirement.

	Opposition	Invalidation
Purpose	Early reevaluation of patent after grant	Dispute resolution between concerned parties
Filing Period	6 months from patent publication	Any time after patent grant
Petitioner	Anyone (not anonymous)	Interested party
Grounds	Only public good (patentability, clarity, amendment, etc.)	Public good, ownership, post-grant grounds for invalidation, correction violations
Examining Body	JPO Appeal Board	JPO Appeal Board
Examination Format	Written documents only	Oral proceedings
Petitioner Procedure	May submit remarks after correction by patentee	Involved in procedure throughout
Fee	JPY 16,500 plus JPY 2,400 per claim	JPY 49,500 plus JPY 5,550 per claim
Appeal	Only patentee receiving decision of revocation may appeal to IP High Court	Either petitioner or patentee may appeal to IP High Court