

3-11 Post-Grant Opposition System & Invalidation Trial

Post-Grant Opposition System will be introduced in 2015. There are two ways to terminate patent right.

Any person can file an opposition against the grant of patent within six months from the date of publication of the bulletin (Art.113). On the other hand, interested person can file a demand for an invalidation trial at anytime even after the expiration of the patent (Art.123). The grounds for opposition (invalidation) are similar to those for rejecting a patent application during examination (Art.113(1), Art.123(1)).

A patentee can file a trial for correction to remove the grounds for opposition (invalidation) under limited conditions (Art.120-5, Art.134-2). An opposition (invalidation) trial case is usually handled by a three-member panel of trial examiners. A patent right that has been declared invalid is deemed to have not existed from the issue of the patent (Art.115, Art.125)."