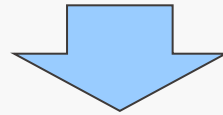


### **3.Trial for Invalidation**

## 3.(1) Trial for Invalidation

Art. 123(1) of Patent Act

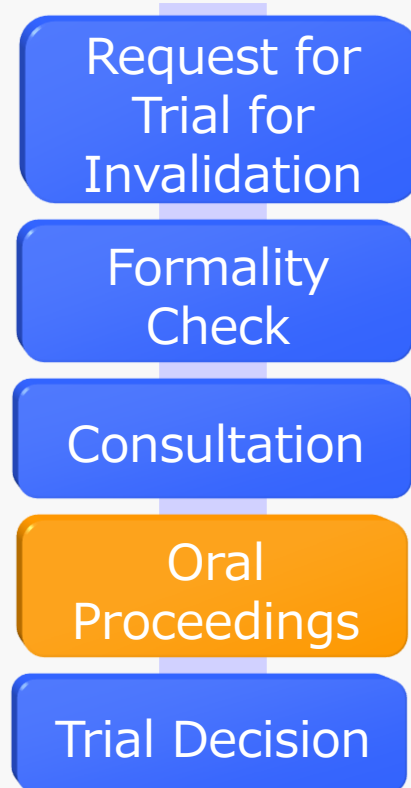
Where a patent falls under any of the following, a request for a trial for patent invalidation may be filed.



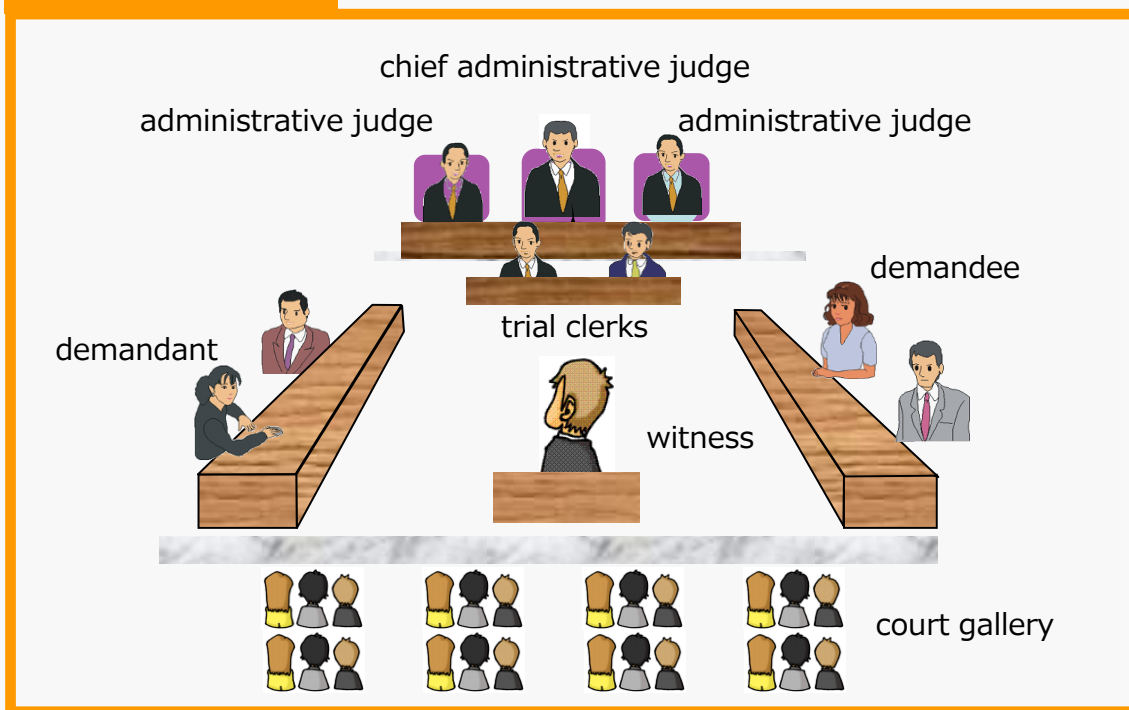
- A trial for invalidation serves as the means to invalidate a patent if the patent is suspected to be invalid.
- A trial for Invalidation for a patent shall be conducted by oral proceedings in principle. (Art. 145 of Patent Act)

## 3.(2) Procedures for Trial for Invalidation

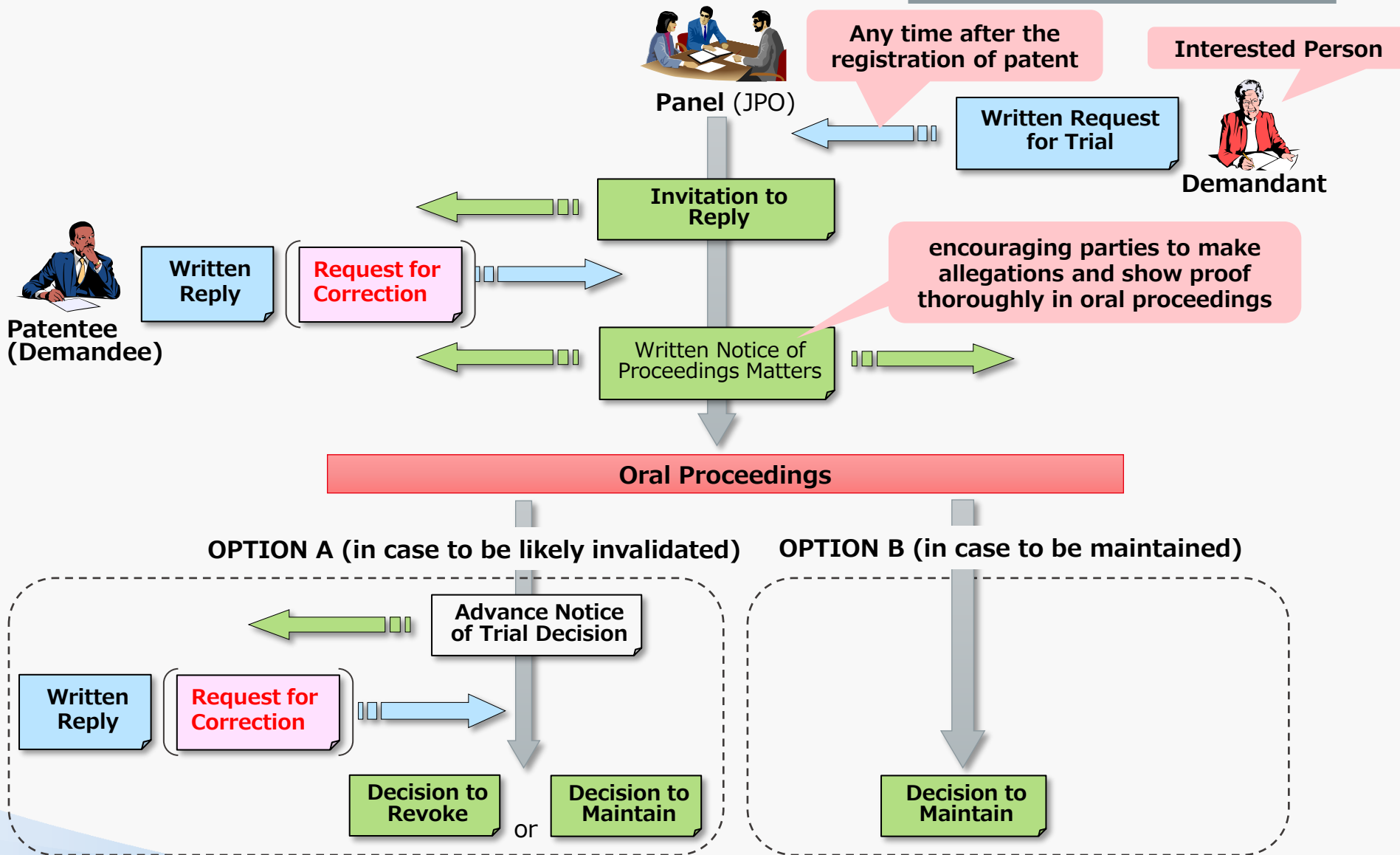
- In a trial for invalidation, a trial decision shall be made by the panel after going through multiple stages (a request for trial for invalidation, formality check, consultation, and oral proceedings)
- In oral proceedings, the panel and the parties concerned meet together to discuss the issues in dispute



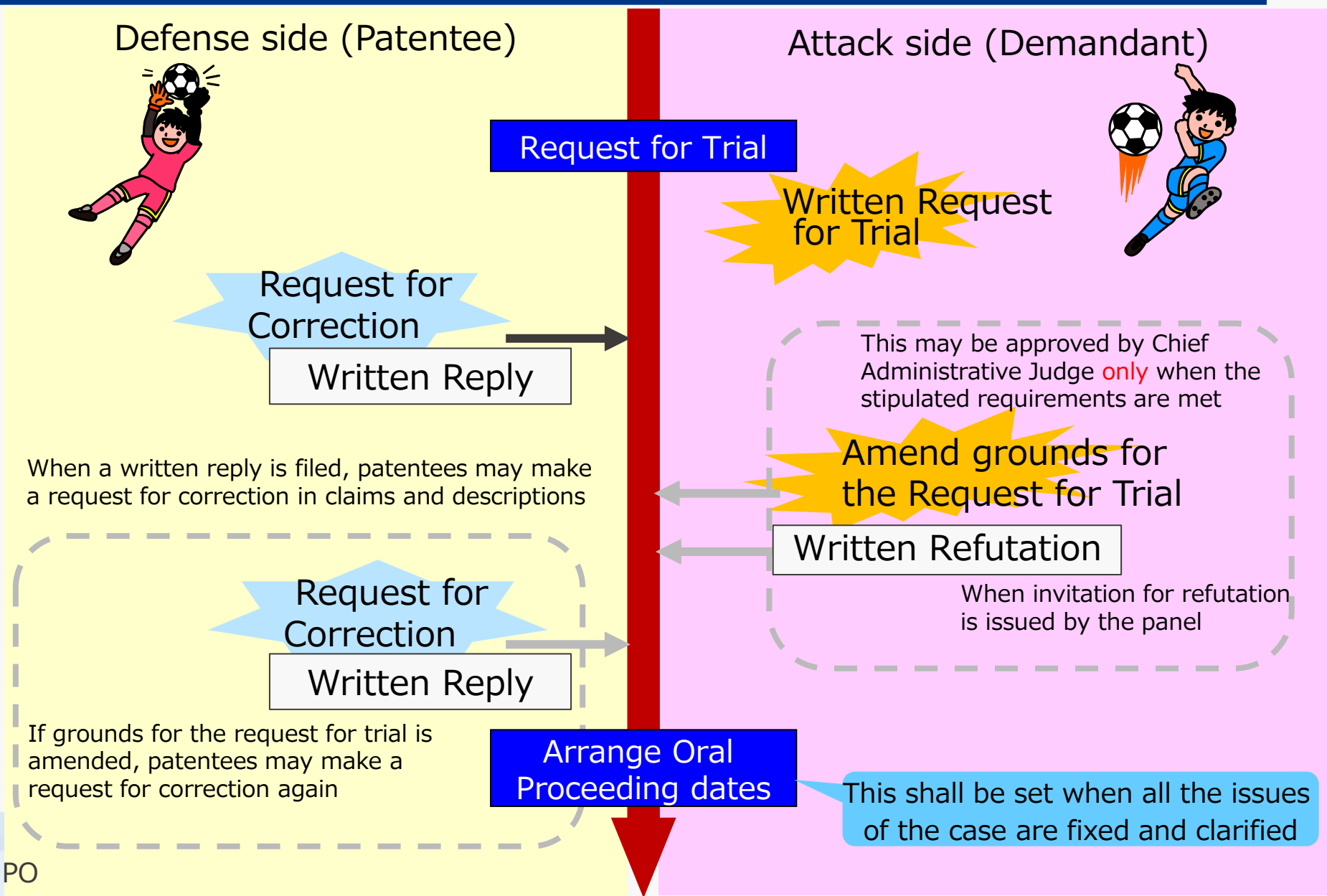
### Trial Court



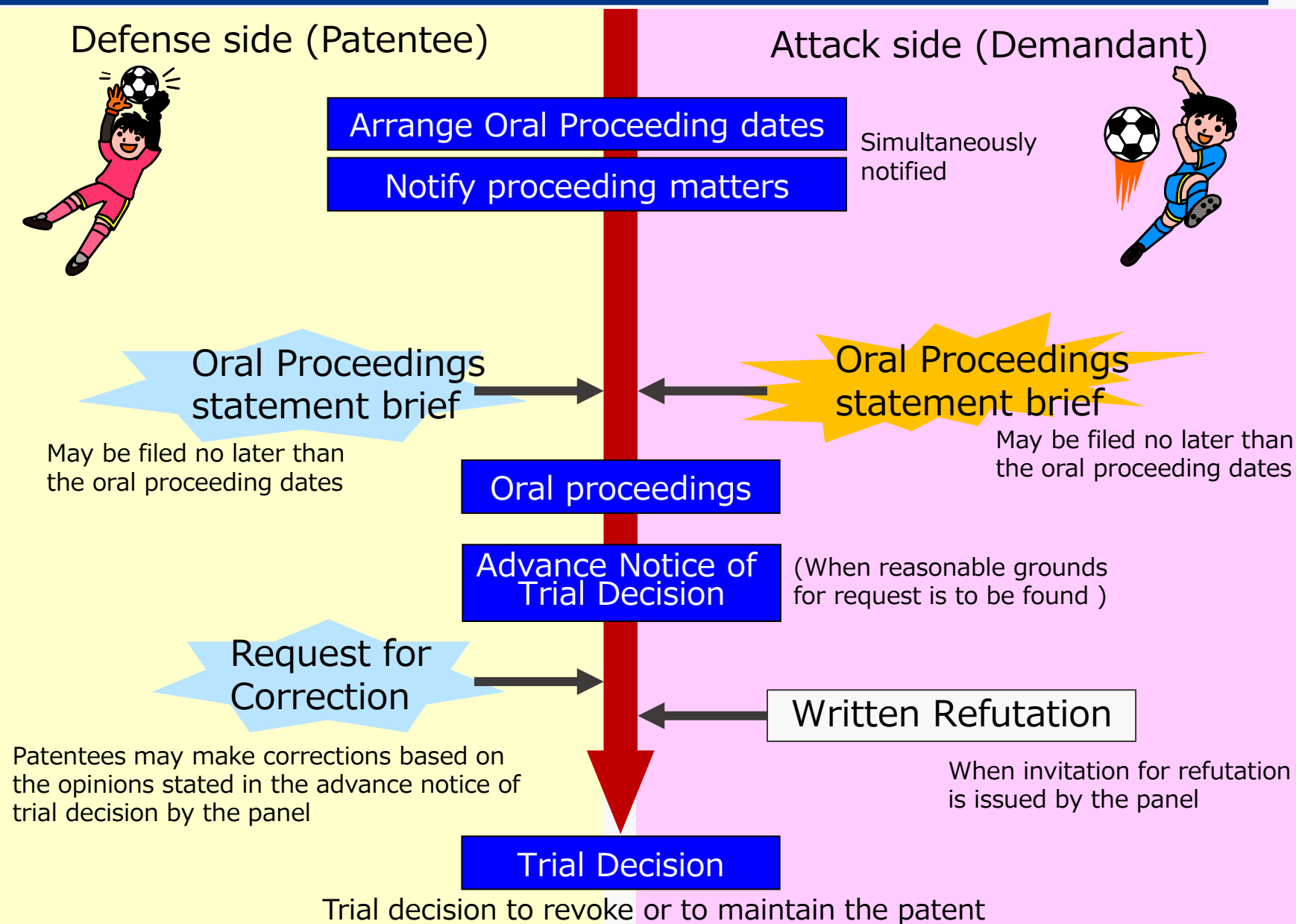
# 3.(3) Procedures for Trial for Invalidation



### 3.(4) Attack and Defense in Trial for Invalidation



### 3.(4) Attack and Defense in Trial for Invalidation



## 3.(5) Request for Correction



Defense side (Patentee)

### Request for Correction



#### <Requirements for the contents of the correction> (Art. 134-2)

Correction may be made in descriptions, claims or drawings under the following conditions

- Correction is limited to one of the following purposes (Art. 134-2(1))
  - Restricting the scope of claims
  - Correcting errors or incorrect translations
  - Clarifying ambiguous description
  - Dissolving citation relation between the claims
- New matters may not be added (Art. 126(5))
- Correction shall not substantially enlarge or alter the scope of claims (Art. 126(6))

## 3.(6) Oral Proceedings

Trial for invalidation is examined by **oral proceedings in principle**

- Expeditiously sort out issues in dispute and precisely conduct proceedings
- To improve reliability and feeling of satisfaction of parties concerned about proceedings



Oral proceedings

- Enable the panel and the parties concerned to precisely grasp and sort out issues in dispute through verbal communication
- Enable the panel to precisely conduct proceedings at once rather than exchanging documents multiple times even for a complicated case in which the issues in dispute are intricately intertwined or a case in which the parties' allegations are not clear

Documentary proceedings

- Enable the parties concerned to describe their allegations in detail and to accurately express highly technical matters in writing

Compared to those of civil lawsuits:

1. In order to solve the case, administrative judges may also ex officio demand the parties concerned provide a clarification of the non-conflict issues at oral proceedings if it is needed for proceedings
2. There is neither binding force for extrajudicial confessions nor fictional confession system
3. Since allegations in writing are also legally valid, it is not necessary for the parties to reiterate allegations at oral proceedings

Features



## 3.(7) Trial Decisions

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### Trial decisions

- Describe issues in dispute and determination thereof in “reasons for trial decisions”
- In “reasons for trial decisions,” all reasons (why a demandant has filed a request and why a panel has sent a notice of reasons for invalidation ex officio) shall be determined and conclusions of the determinations as well as concrete reasons shall be mentioned in principle

### Procedures after a trial decision is rendered

Those who is not satisfied with a trial decision (demandant, patentee, intervenor) may make a “revocation action against the trial decision.”

A revocation action may be made with the IP High Court, the other party as a defendant. (The JPO will not be a defendant.)