

## 67-00 P

### Opposition to Grant of Patent

#### 1. Objective of the System

The System of Opposition to Grant of Patent provides third parties with a wide range of opportunities to seek review of a patent within a fixed period after the grant of the patent so that the Japan Patent Office examines the appropriateness of the disposition of the patent in response to an opposition thereto and, if defects are found in the patent, attains early stabilization of the patent through corrections.

#### [Comparison with the System of Trial for Invalidation]

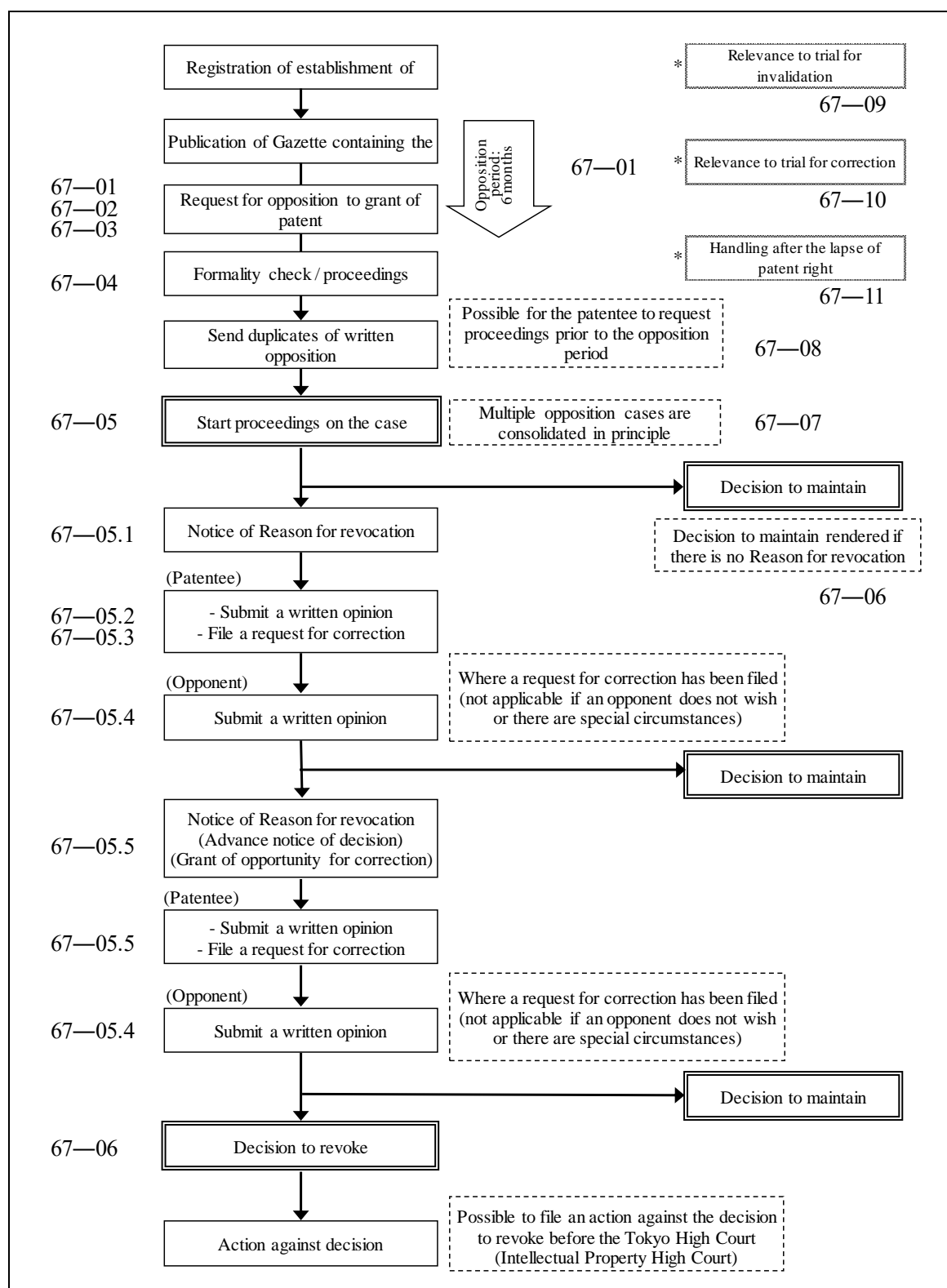
	System of Opposition to Grant of Patent	System of Trial for Invalidation
Purport of the System	To realize stable establishment of patent rights at an early stage	To resolve disputes between parties regarding the validity of a patent
Procedures	Ex-parte procedures (carried out between the Japan Patent Office and the patentee in principle)	Inter-partes procedures (carried out between a demandant and a demandee or patentee)
Eligible Opponent/ Demandant	Any persons (no anonymous person)	Interested persons only
Opposition/ Request Period	Within six months from the publication date of the patent gazette containing the patent (not possible after the lapse of the patent right)	Any time after the registration of establishment (possible even after the lapse of the patent right)
Opposition/ Request and Withdrawal thereof	Possible on a claim-by-claim basis Withdrawal is not possible after notice of reasons for revocation	Possible on a claim-by-claim basis Withdrawal after submission of written reply is possible with consent of the counterparty
Reasons for Opposition/ Invalidation	(1) Reasons of public interest (lack of novelty, lack of inventive step, violation of description requirements, etc.)	(1) Reasons of public interest (lack of novelty, lack of inventive step, violation of description requirements, etc.) (2) Reasons related to attribution of rights (usurped application, violation of joint application) (3) Reasons occurring after the grant of patent (violation of enjoyment of rights, violation of treaties)

Method of Proceedings	Documentary proceedings (no oral proceedings)	Oral proceedings in principle (documentary proceedings are also possible)
Handling of Multiple Oppositions/Cases	Consolidated proceedings in principle	Proceedings on a case-by-case basis without consolidated proceedings in principle
Advance Notice of Decisions/Trial Decisions	Notice of reasons for revocation before decision to revoke is made (advance notice of decision)	Advance notice of trial decision before decision to uphold demandant's claim (trial decision on invalidation)
Decisions/Trial Decisions	Decision to revoke or maintain, or decision to dismiss	Trial decision to approve, reject or dismiss
Appeal	An action may be filed by a patentee against a decision to revoke before the Tokyo High Court (Intellectual Property High Court) by appointing the Commissioner of the Japan Patent Office as a defendant. An appeal against a decision to maintain or a decision to dismiss is not possible.	An action may be filed by both a demandant of a trial and a patentee before the Tokyo High Court (Intellectual Property High Court) by appointing the counterparty as a defendant.
Fees	16,500 yen + (the number of claims opposed × 2,400 yen)	49,500 yen + (the number of claims requested × 5,500 yen)

## 2. Applicable Subjects

An opposition to a patent is applicable to patents contained in the patent gazette published on April 1, 2015 or later (Act No. 36 of 2014, Supplementary Provision Article 2 (16), Government Ordinance No. 25 of 2015).

## Procedure Flow of Patent Opposition System



\* Numbers in the figure (e.g. 67-01) refer to sections (or chapters) describing related matters.

(Revised Sep. 2018)