

67-01 P

Reasons for Opposition to Grant of Patent and Time Limit for Filing a Request for Opposition to Grant of Patent

1. Opposition to Grant of Patent

(1) Any person may file to the Commissioner of the Japan Patent Office an opposition to grant of patent on the ground that a patent falls under any of the items of the Patent Act Article 113.

(2) In the event that a patent has two or more claims, an opposition to grant of patent may be filed for each claim. (Patent Act Article 113).

However, in the event that requests for an opposition to grant of patent are filed for all claims, a request shall be deemed to have filed for each claim.

(3) With regard to a patent of which patent right has lapsed, an opposition to grant of patent may not be filed (→ 67-11).

2. Reasons for Opposition to Grant of Patent

Reasons for opposition to grant of patent are restricted to those specified under the Patent Act Article 113 and the other reasons are not eligible.

(1) Reasons for Opposition to Grant of Patent Specified Under the Patent Act Article 113

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| A. Paragraph (1) related | new matter beyond the original text (excluding foreign language applications) (Patent Act Article 17-2 (3)) |
| B. Paragraph (2) related | Violation of requirements for enjoyment of rights by foreign nationals (Patent Act Article 25)
Violation of requirement for patentability (Patent Act Article 29, Article 29-2)
Unpatentable invention reason (Patent Act Article 32)
Earlier/later application (Patent Act Article 39 (1) to (4)) |
| C. Paragraph (3) related | Violation of a treaty (Patent Act Article 113 iii) |

- D. Paragraph (4) related Violation of description requirements (Patent Act Article 36 (4) i, (6) excluding iv)
- E. Paragraph (5) related New matter beyond the original text in foreign language applications (Patent Act Article 113 v)

(2) Relationship between the Reasons for Opposition and the Reasons for Refusal

Among the reasons for refusal as specified in the Patent Act Article 49, the following reasons shall not be grounds of opposition to grant of patent: formality reason (shift amendment, Patent Act Article 17-2 (4), Article 49 i), violation of ministerial ordinance requirements in description requirements (Patent Act Article 36 (6) iv, Article 49 iv), violation of requirements of unity of invention (Patent Act Article 37, Article 49 iv), violation of description requirements of information known through publication after notice under Patent Act Article 48-7 (Patent Act Article 36 (4) ii, Article 49 v) and reasons concerning attribution of right (violation of requirements of joint applications, Patent Act Article 38, Article 49 ii), and usurped applications (Patent Act Article 49 vii).

(3) Relationship between the Reasons for Opposition and Reasons for Invalidation

Among the reasons for invalidation as specified in the Patent Act Article 123 (1), the following reasons shall not be grounds of opposition to grant of patent: reasons concerning attribution of right (violation of requirements of joint applications, Patent Act Article 38, Article 123 (1) ii), usurped applications (Patent Act Article 123 (1) vi), reasons occurring after the grant of patent (violation of requirements for enjoyment of rights by foreign nationals and violation of a treaty due to reasons occurring after the grant of patent, Patent Act Article 123 (1) vii), and violation of correction requirements (Patent Act Article 123 (1) viii).

3. Time Limit for Filing a Request for Opposition to Grant of Patent

Any person may file to the Commissioner of the Patent Office an opposition to grant of patent within six months from the publication date of the patent gazette containing the patent (main paragraph of Patent Act Article 113).

An opposition to grant of patent that has been filed during the period other than the said period, or an opposition to grant of patent that has been filed within said period but after the lapse of the patent right is deemed to be an unlawful opposition which may not be corrected by an amendment, and therefore shall be dismissed by a decision by a panel (Patent Act Article 120-8 (1) → Patent Act Article 135) (→ 67-04, 67-11).

4. Inspection of Filed Documents, etc.

Matters recorded in a file of a patent application which has been registered (filed documents, etc.) may be inspected free of charge within one year from the publication date of the patent gazette containing the patent (Law concerning the Special Provisions to the Procedure, etc. relating to an Industrial Property Right Article 40 (1) ii, Special Decree for Fee Article 5 (2)).

(Revised Sep. 2018)