

67-02 P

Patentee, Opponent, and Intervenor of Opposition to Grant of Patent

1. Patentees

When a patent right is jointly owned, all of the joint owners of the said patent right are deemed to be patentees.

2. Patent Opponents

An opposition to grant of patent may be filed by "any person" without being restricted to interested persons (Patent Act Article 113). Specifically, a natural person, a juridical person, or an association or foundation which is not a juridical person, but for which a representative or an administrator has been designated may file an opposition (Patent Act Article 6 (1) ii). However, an opposition to grant of patent shall not be filed anonymously (Patent Act Article 115 (1) i).

When a patent opponent has died or has been extinguished as a result of merger, the status of the patent opponent may not be succeeded (→ 22-01, 26-01).

(Judicial precedent) (Oppositions before the grant of patent prior to December 31, 1995)

"The patent opposition system was established from the viewpoint of public interest to exclude any error in the examination of application for trademark registration and ensure appropriate examination by allowing any person, irrespective of whether the person has any interest or not, to file an opposition. If a company serving as an opponent has been extinguished as a result of merger, the opposition shall lapse by the merger and the status of the opponent shall not be succeeded to a company surviving the merger."

(Judgment of the Supreme Court, June 19, 1981 (Sho 53 (Gyo-Tsu) No. 103))

3. Intervenors (Patent Act Article 119 → Patent Act Article 148) (→ 57-00 to 09)

(1) Person Eligible to Intervene (→ 57-01)

A. A person who has a right related to a patent right, has an interest in other patent rights, and assists a patentee may intervene in the proceedings (Patent Act Article 119 (1)).

A person who has a right related to a patent right is, for example, an exclusive licensee or non-exclusive licensee.

B. Since intervention from the patent opponent side is not provided in the Patent Act, it shall not be granted.

(2) Effect of Intervention (→ 57-05)

To assist a patentee, an intervenor may advance allegations and evidence and undertake all procedures for opposition to grant of patent (Patent Act Article 119 (2) → Patent Act Article 148).

Related documents sent to a patentee shall also be sent to an intervenor.

In this Chapter 67, the "patentee" may include an "intervenor" to the extent of the purpose of assisting a patentee.

(3) Decision on Approval or Disapproval of Intervention (→ 57-07)

(Revised Sep. 2018)