

Newsletter / IP Japan

New Patent Opposition System

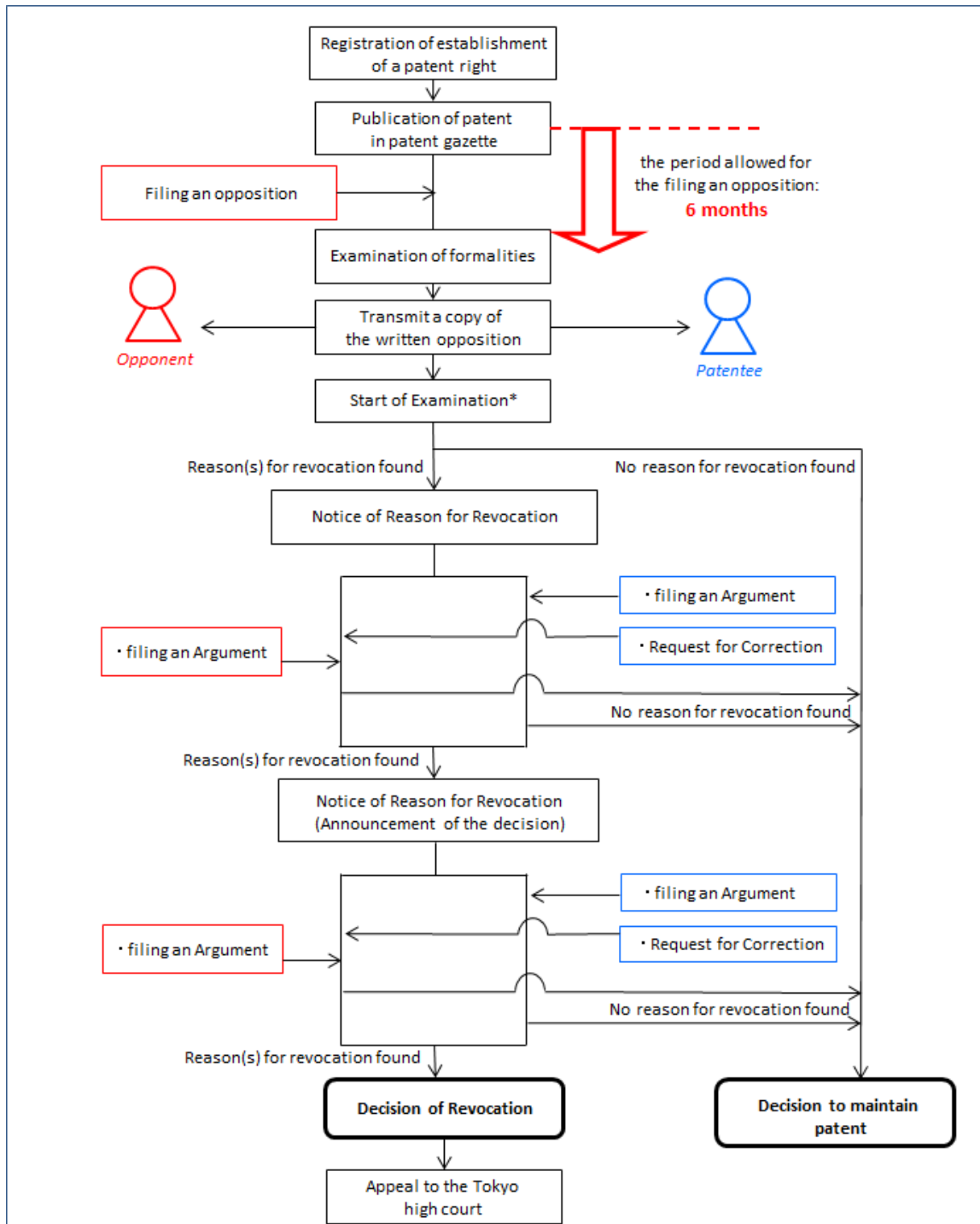
The Japan Patent Office will be implementing a new opposition system for granted patents on April 1, 2015. The new patent opposition system will apply to all patents published in the patent gazette on or after April 1, 2015.

A comparison of the new opposition system with the patent invalidation trial system is shown in Table 1 below.

Table 1

	New opposition system	Patent invalidation trial system
Intent and purpose of the system	Reviewing a patent right at early time after setting the patent right	To resolve disputes between parties over a validity of the patent right
Time period for requesting	Within six months from the date of publication in the patent gazette	Any time (including after the patent right was expired)
Opponent/ Demander	Anyone may request (anonymous requests are not permitted)	Only interested parties may request
Availability of the withdrawal	After a Reason for Revocation is dispatched to the patentee and opponent, the opponent cannot withdraw the opposition	After a written reply is filed, the demander can withdraw the invalidation trial when the patentee agrees the withdrawal
Reasons for opposition /invalidation	Reasons for public interest (lack of novelty or inventive step, insufficient descriptions of the specification etc.)	Reasons for public interest, reasons about disputes over ownership of the right etc.
System of the examination	<u>Documentary</u> proceedings only	Orally and documentary proceeding (in principle, orally proceeding)
Involvement for the examination of the opponent/demander	Ex parte, except that opponent may file an Argument if the patentee filed a Request for Correction in response to a Reason for Revocation issued by the JPO	Inter parte, the demander can wholly involve the examination
Official fee	Basic fee: 16,500JPY + 2,400JPY per claim	Basic fee: 49,500JPY + 5,500JPY per claim
Suit against the decision of opposition/trial	Patentee may appeal the decision of revocation to the Tokyo high court	Both the demander and patentee may appeal the trial decision to the Tokyo high court

The following flow-chart broadly shows the process of the new opposition system for granted patents.



*The Examination starts before passing a time period for filing an opposition by the patentee's request

(end)

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