



Korean Intellectual
Property Office

*Recent Patent Act revisions in Korea
To improve the quality of Patent*

25th SCP

The Republic of Korea

Background

To enhance quality of patents and reduce social cost by reviewing patents in early stage through public participation

Revised Act

⇒ To be applied to patents registered from March 1, 2017

If any party provides the ground for cancellation within 6 months from publication of registration, trial panel reviews the patent and cancels the patent in early stage if found to be defective

- (Period of request) 6 months from publication of registration
- (Ground of request) Novelty, Inventive Step based on publications and patent literature
 - * prior arts cited in the Office actions are not available
- (Judge) A panel of administrative patent judges in KIPO IPTAB
- (Trial) Written review only
- (Appeal) Appeal to Patent court allowed only for cancellation decision

❖ Comparison of opposition and invalidation

	Opposition	Invalidation
Purpose	Participation of the Public	Addressing inter parte conflict
Procedure	Ex parte	Inter parte
Hearing	Written review	Oral hearing
Period for request	6 months from publication of registration	Anytime
Ground for request	Novelty and inventiveness based on publication, patent literature etc.	Any invalidation reason
Appeal	Patentee only	A party lost the trial
Defendant in Appeal	KIPO	A party won the trial
Cost	Low	High

Background

To prevent registration of defective patents

Currently, reexamination is not allowed from the decision for grant until the patents taking effect (patent fee payment within 3 months after the decision for grant) even if found to be defective

Revised act

⇒ To be applied to applications decided to grant from March 1, 2017

Introduction of reexamination by examiner to **cancel the decision for grant and reopen the case** if **obvious ground for rejection** is found after the decision for grant

- Only when the obvious ground for rejection such as novelty exists
- Until publication of registration
- Opportunities for applicants to amend by sending a first office action when examination is resumed



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Thank You