Opposition systems

Republic of Korea

The Republic of Korea (ROK) provides a mechanism for challenging granted patents through an invalidation trial system.

ROK introduced 'the post-grant opposition system', effective as of March 2017, to complement the existing framework. The revised system is aimed at reviewing a patent registered in the early stage, guaranteeing the stability of patent rights by removing erroneously granted patents at an early stage, and expanding opportunities for the public to be involved in patent examination.

Relevant Legal Provisions:
https://elaw.klri.re.kr/kor_service/lawView.do?hseq=68595&lang=KOR

Article 132-2 (Petition for Revoking Patents) of the Korean Patent Act

① In either of the following cases, any person may petition for revoking a patent to the Korean Intellectual Property Trial and Appeal Board by not later than six months after the date of public notice of registration of the patent from the date of registration of the grant of the patent. If the scope of claims contains two or more claims in such cases, a petition for patent revocation may be filed for each claim:

1. Where the patent violates Article 29 (excluding the cases that fall under Article 29 (1) 1 and the cases where it is easy to make another invention with an invention that falls under Article 29 (1) 1);

2. Where the patent violates any provision of Article 36 (1) through (3).

② Notwithstanding paragraph (1), no petition for patent revocation may be filed on a ground based on a prior art published in the Patent Gazette under Article 87 (3) 7.