

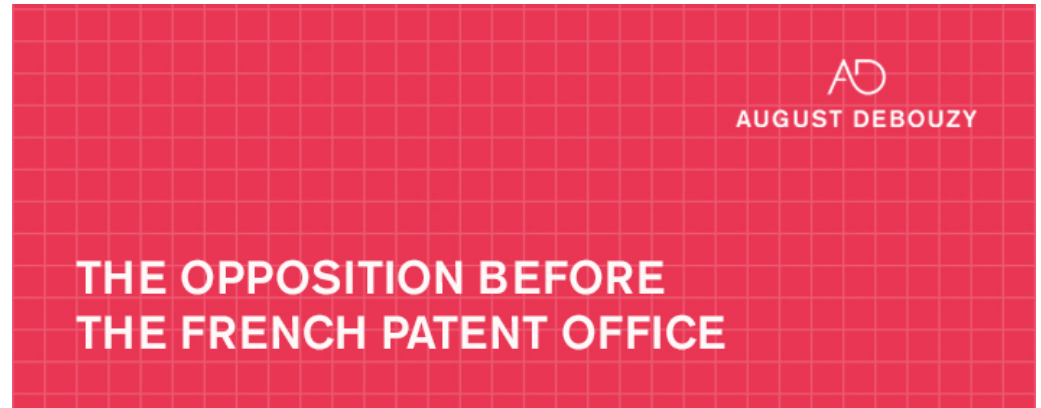
ARTICLE

THE OPPOSITION BEFORE THE FRENCH PATENT OFFICE

Patent Law | 01/04/20 | François Pochart Julia Cohen-Solal Lionel Martin Océane Millon de La Verteville



Updated on June 24th 2020



Since April 1st 2020, it is possible to oppose a French Patent before the French Patent Office ("Institut National de la Propriété Intellectuelle" or "INPI").

This procedure is a new way to challenge the validity of a French patent, alongside the claim for invalidity.

Opposition may be filed against any French patent which mention of grant has been published in the Official Bulletin of Industrial Property as of 1st April 2020.

On the face of it, this "French-style" opposition procedure seems relatively similar to that of the EPO.

However, its specificities should not be underestimated, and more specifically:

- overall shorter time limits before the INPI than those applicable before the opposition divisions of the EPO;
- an apparently more circumscribed oral phase, during which it should in particular not be possible for the patentee to make new proposals for amendments to those made during the written phase;
- Inadmissibility of third-party observations;
- the impossibility for the INPI to continue the procedure in the event the opponent would withdraw his claim and the impossibility for the INPI to automatically raise a ground without this ground having previously been raised by a party;
- an appeal before a court (the Paris Court of Appeal), which implies, in particular, that the parties are familiar with the case law of this court in matters of invalidity and that they anticipate, from the beginning of the proceedings before the INPI, the rules of civil procedure that will be applicable at the appeal stage.
- More details will be available on the specifics of this new procedure when the INPI publishes its guidelines in this respect.

The practical details of this procedure were specified by INPI in the decision No.2020-34 of 1st April 2020. Further details are expected to be provided by the future INPI guidelines on the opposition procedure currently under discussion.

Due to its specific features, the new opposition procedure requires the assistance, as early as the procedure before the INPI, of a counsel having both technical and scientific competence, experience of the opposition procedure before the EPO and experience of patent litigation in France, in order to determine the best possible strategy with regard to other options (invalidity, limitation, infringement, etc.) in terms of time, cost and chances of success, and to best anticipate the procedural rules applicable before the Court of Appeal, in particular inadmissibility .

August Debozy's patent team, comprising attorneys at law as well as French and European patent attorneys, has this three-fold expertise and is at your disposal to put it to good use in assessing the appropriateness, preparation and management of opposition proceedings in France.

For more details :





- Watch the 2020 "Atelier du Brevet" (webinar in French) regarding the comparison between opposition before the INPI and opposition before the OEB

- Download our documentation :

_DO and DON'T related to this new opposition procedure

_The main steps of the French-style opposition procedure

_Answers to all the questions that arise: who can file an opposition? Within what time period? etc.

- Provisions of the Intellectual Property Code on the INPI opposition procedure (English version as from 1st avril 2020)
