

Book II: Post-grant patent procedures Documentary opinion Limitation/Surrender Opposition

Guidelines for patents and utility certificates

April 2025

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INPI – Post-grant procedures – Guidelines for patent and utility certificate applications – April 2025

SECTION A – DOCUMENTARY OPINION

[L.612-23](#)
[R.613-60 to 62](#)

C. Cass.
M. L. v. decision
of the CEO of
the INPI
27 May 1997

The documentary opinion is a document drawn up by the INPI, which cites the elements of the prior art relevant to assessing the novelty and inventive step of an invention that is the subject of a patent application.

The documentary opinion is not a decision of the INPI; it is merely a piece of information that is not binding on the INPI or the judge.

- Conditions:
A documentary opinion can be requested for a granted patent.

It may be requested by any interested party, including the owner, or by any administrative authority. The request must be accompanied by proof of payment of the required fee.

- Procedure:
The documentary opinion is drawn up on the basis of the search report and, where applicable, documents not cited in the search report, which the requester wishes to be taken into consideration. These documents shall be appended to the request. If they are written in a foreign language, a translation may be required by the INPI.

The request may be accompanied by observations expressing the requester's opinion on the patent concerned, based on the documents to be taken into consideration during the examination.

If the requester is not the owner, the INPI will notify the owner of the request for an opinion, together with any observations filed by the requester. The requester shall be given a period of time to submit his/her observations and, if necessary, to appoint a representative.

The examiner then assesses the patentability of the invention, in terms of novelty and inventive step, on the basis of the last claims filed or those granted. He/she drafts a documentary opinion, which is communicated to the parties. The latter are given a period of time to discuss the draft.

If the person requesting the documentary opinion is not the owner of the patent, any observations made by one party shall be made known to the other.

The final documentary opinion will then be drawn up and added to the patent file. Its publication shall be mentioned in the BOPI. It is then made available to the public.

SECTION B – LIMITATION AND SURRENDER PROCEDURE

[L. 613-24](#)
[R. 613-45](#)

The owner of the patent may, at any time, either surrender the entire patent (full surrender) or one or several claims (partial surrender), or limit the scope of the patent by amending one or more claims (limitation).

Nature of the patent

This applies to French patents and to the French part of European patents, without unitary effect, and allows the owner to amend his/her claims in order to limit the subject matter after the patent has been granted.

1. ADMISSIBILITY OF REQUESTS FOR SURRENDER OR LIMITATION

[R. 613-45](#)

The grounds for inadmissibility of requests for surrender or limitation are listed exhaustively in French law.

According to Article [R. 613-45](#) of the French Intellectual Property Code (*Code de la propriété intellectuelle*, hereinafter the "CPI"): "To be admissible, the request must:

1. Be made by the patent owner registered, on the day of the request, in the French Patent Register, or by his/her representative, who, unless he/she is an industrial property attorney or lawyer, must attach a special authorisation for surrender or limitation to the request. If the patent belongs to several individuals, the request for surrender or limitation can only be made if requested by all of the individuals concerned (see [1.1](#) below);

2. Be accompanied by proof of payment of the applicable fee (see [1.2](#) below);

3. Only concern one patent (see [1.3](#) below);

4. Be accompanied, if rights in rem, pledges or licenses have been registered in the French Patent Register, by the written consent of the holders of those rights (see [1.4](#) below);

5. Be accompanied, where limitation is requested, by the full text of the amended claims and, where applicable, the description and drawings as amended (see [1.5](#) below);

6. Where applicable, be submitted, where limitation is required, after publication of the new patent specification document attesting to the compliance of the amended patent with the decision of partial revocation or invalidation pursuant to Article [R. 612-73](#)."

[L. 114-5 CRPA](#)
[L. 114-6 CRPA](#)
(French Code of Relations between the Public and the Administration)

According to Article [L. 613-24](#) of the CPI "A request for limitation of a patent made after an opposition request has been filed shall be inadmissible as long as the decision ruling on the latter is subject to appeal, unless the limitation is required as a result of an invalidity action of the patent filed as a principal claim or as a counterclaim before a court."

[L. 613-24](#)

If any of the conditions for admissibility of the request are not met, it may be deemed inadmissible. Before the request is declared inadmissible, notification is sent to the applicant who shall have a non-extendible period of two months from the date of receipt of the notification to complete or correct the request or to submit observations. In the absence of a satisfactory response, the applicant will be sent a notice of inadmissibility.

If the request is inadmissible, the limitation or surrender fee shall not be reimbursed.

1.1. 1st condition: the request must be made by the patent owner

1.1.1 Identification of the applicant

The request must be made by the patent owner listed in the French Patent Register on the day of the request, or by his/her representative.

Any discrepancy between the name of the applicant on the request and the name on the register of entries in the French Patent Register shall render the request inadmissible.

If the patent belongs to several persons, the request for surrender or limitation is only admissible if made by all of the persons concerned.

1.1.2 Errors contained in the request

If the request contains an error, for example in the name of the owner, which makes it impossible to identify the owner registered in the French Patent Register on the day of the request, it shall be deemed inadmissible.

1.1.3 Appointment of a representative and requirements regarding authorisations

In accordance with Article [L.422-4](#) of the CPI, in order to carry out a limitation, the owner being represented may only appoint an authorised representative, i.e.:

- a professional registered on the list of industrial property (IP) attorneys drawn up by the CEO of the INPI and specialising in “patents”;
- a lawyer;
- a company or government-controlled entity with which the applicant is contractually linked;
- a specialised trade association,
- a professional appearing on a special list, provided for by Article [L. 422-5](#) of the CPI and drawn up by the CEO of the INPI, of intellectual property specialists other than industrial property attorneys,
- a professional based in a Member State of the European Union or of the European Economic Area, entitled to represent third parties before the industrial property office of their country and acting on a casual basis.

If the request is made by a representative, he/she must attach a special authorisation, i.e., an authorisation specifically granted to carry out the limitation or surrender of the patent identified in the request (this excludes “general authorisations”), unless the representative is an industrial property attorney or lawyer.

In the absence of such an authorisation or if the latter does not comply with the above requirements, the request shall be deemed inadmissible.

1.2 2nd condition: payment

The request must be accompanied by proof of payment of the required fee, on pain of inadmissibility.

1.3. 3rd condition: only one patent

The request must relate to only one patent, on pain of inadmissibility.

1.4. 4th condition: written consent of the holders of rights in rem, pledges or licences

The request must be accompanied, if rights in rem, pledges or licenses have been registered in the French Patent Register, by the written consent of the holders of those

Order in force on the procedural fees collected by the INPI
Art. L.612-20

Order on the procedural fees collected by the INPI
[L. 612-20](#)

rights. The INPI shall verify the status of the entries in the French Patent Register to see if there are any holders of rights in rem, pledges or licences.

The consent of a rights holder may take the form of a written statement duly signed by the latter, for example a statement signed by the licensee.

This statement must be provided on the day of the request, on pain of inadmissibility.

1.5. 5th condition: full text of the amended claims (required for limitation requests only).

The request must be accompanied, where limitation is requested, by the full text of the amended claims and, where applicable, the description and drawings as amended, on pain of inadmissibility.

No auxiliary claim sets may be filed. Only the primary set of claims may be examined. Where the primary set is not identified, the applicant is asked to send only one set of claims accompanied by the description and drawings where applicable.

1.6. 6th condition: taking into account interactions with other post-grant procedures

[L. 613-24](#)

1.6.1 Opposition proceedings pending on the date of the request for limitation

A request for limitation shall be inadmissible if it is filed while opposition proceedings before the INPI or EPO are pending or an opposition decision is still open to appeal.

However, the request for limitation shall be admissible if it is required as a result of a request for invalidation of the patent filed as a principal claim or as a counterclaim before a court.

[R. 613-45 6](#)

1.6.2 Opposition or judicial proceedings having resulted in a final decision on the date of the request for limitation

If a request for limitation is filed after a decision of partial cancellation or revocation, it shall be inadmissible until a new patent specification showing compliance with the decision of partial cancellation or revocation pursuant to Article [R. 612-73](#) of the CPI has been published.

2. SURRENDER

Whether the request concerns a full or partial surrender, it must not contain any claims.

The submission of a set of amended claims as part of a request for surrender (full or partial) is not provided for.

The applicant will be notified that the request is inadmissible and will have to choose between continuing with the surrender procedure or withdrawing it and filing a new request for limitation.

If the applicant chooses to continue with the surrender procedure, the set of claims provided with the request will not be taken into account.

If the applicant does not make a choice, the request will be rejected.

If all of the requirements for admissibility of the request are met, it will be recorded in the French Patent Register. A notice of entry will be sent to the surrender applicant.

3. LIMITATION (IF ADMISSIBLE)

[L.613-24](#)
[R. 613-45-3](#)

3.1. Interaction of an admissible limitation with other proceedings

3.1.1 Opposition filed after limitation

If limitation proceedings for a patent are pending on the date on which an opposition is filed against the patent, the INPI shall terminate the limitation proceedings, unless the limitation is required as a result of an invalidation action filed before a court as a principal claim or as a counterclaim.

In the event of termination, the limitation request fee shall be reimbursed and the patent owner shall be notified of the termination.

3.1.2. Limitation proceedings before the EPO

Where limitation proceedings relating to a European patent or an appeal against a decision on limitation is pending before the EPO, the INPI shall examine the request for limitation submitted to it.

3.1.3 Several requests for limitation before the INPI

If the holder files a request for limitation while a previous request is under examination, said request shall only be examined once the examination of the first request is complete. Due to the retroactive nature of limitation, only one request may be examined at a time, in the chronological order of submission.

3.2. Earlier patent to take into consideration

The examination is based on the patent as amended in the most recent proceedings, i.e., as granted or previously limited or amended, in particular, as a result of opposition, limitation, surrender or invalidity proceedings. "Earlier claim" shall then mean a claim prevailing prior to acceptance of the limitation.

3.2.1. French patents

For a French patent having been partially revoked or maintained in an amended form as a result of an opposition or partial judicial cancellation, the text in the new patent specification must be taken into account to examine the limitation.

3.2.2. French part of European patents

For European patents, a request containing documents submitted in French must limit the scope of the earlier patent in the language of the proceedings (see 3.4 Specificity of European patent examination).

3.3. Substantive examination

According to Article [R. 613-45](#) of the CPI: "Where limitation is requested, if the amended claims do not constitute a limitation in relation to the earlier claims of the

patent or if they do not comply with the provisions of Article L.612-6 of the CPI, a notice stating the reasons will be sent to the applicant.”

Thus, the examiner in charge of examining the limitation request must ensure that the amended claims meet two conditions:

They must constitute a limitation in relation to the earlier claims (see [3.3.2](#) below) and they must comply with Article [L. 612-6](#) of the CPI (see [3.3.1](#) below).

Once the request for limitation has been filed, the owner cannot extend the text of the patent at his/her initiative. He/she may only amend its text where required in order to remedy deficiencies notified to him/her (see 3.5 Dealing with deficiencies)

3.3.1. “Comply with Article L. 612-6”

According to Article [L. 612-6](#) of the CPI: “The claims define the matter for which protection is sought. *They shall be clear and concise and be supported by the description.*”

The examination of this requirement is identical to that carried out during the patent grant procedure.

If a request for limitation is made for a divisional patent, claims must be supported by the description of the divisional patent being the subject of the limitation, and not by the description of the parent patent.

3.3.2. “Constitute a limitation”

The term “limitation” should be interpreted as meaning a reduction in the scope of protection conferred by the claims.

For example, mere clarifications, corrections of errors or amendments made, in particular to protect a different subject matter, should not be considered as limitations.

A claim may be limited by a combination of earlier claims or by the introduction of one or several characteristics from the description.

As provided by Article [R.613-45](#) of the CPI, the claims in the request must constitute a limitation. Therefore, in a request for limitation, the same claim may only be limited once, by the addition of one or several technical features.

To determine whether amendments to claims are a limitation, three criteria must be cumulatively met.

The amendment:

- 1) must not constitute new subject-matter (technical solution to the technical problem);
- 2) must not extend the scope of the patent;
- 3) must effectively limit earlier claims.

Special cases may arise:

(a) Limitation of a dependent claim without limitation of the main claim

Under Article [L. 613-24](#) of the CPI one or more claims can be amended without requiring the amendment of the main claims of the patent. It is therefore possible to accept a limitation on one or more dependent claims alone.

(b) Deletion of a claim

Insofar as a claim, even a dependent claim, confers a rights on the owner, the deletion of a claim restricts the rights conferred on the patentee and is in effect a limitation.

(c) Addition of a claim

Each change made must constitute a limitation or be necessary as a result of the limitation. Thus, the following are not accepted:

- the addition of a claim with a scope broader than the subject-matter of the patented invention;
- the addition of claim with a narrower scope, even where this addition is not an extension of the general scope of the patent, when said addition aims to enhance protection and not limit earlier claims.

(d) Editorial changes

Article [R. 612-36](#) of the CPI does not apply to limitations. Thus, corrections of errors of wording or of copying, as well as of material errors, are not permitted. Nor is it possible to take advantage of a limitation request to make non-restrictive amendments aimed, for example, at improving the wording of the claims.

Each amendment to the patent must in itself constitute a limitation.

Editorial changes that do not constitute a limitation are not acceptable unless they are required as a result of the limitation

Amendments to correct an incorrect reference to a dependent claim will be refused.

However, writing out the earlier use claim is accepted, when the product claims to which it referred have disappeared; due to the loss of this reference, the applicant has no choice but to write out the use claim to include the content of the deleted product claims; as the editorial change is a necessary consequence of the limitation made, it may be accepted.

Similarly, the deletion of the words “in particular”, “for example” or “notably” constitutes a limitation as it renders an optional feature mandatory.

(e) Case of changes in the category

A change in claim category shall only be accepted if the change does not constitute new subject-matter, does not extend the scope of the patent, and effectively limits an earlier claim.

3.3.3 Amendment of the description and drawings

Article [R. 613-45](#) of the CPI provides that the request for limitation must be accompanied by the full text of the amended claims “*and, where appropriate, the description and drawings as amended*”.

Thus, the description and drawings may be amended to the extent necessary to comply with the limited claims.

3.4. Specificity of European patent examination

3.4.1. Patent already limited by the EPO

A European patent limited by the EPO does not require any additional proceedings before the INPI for said limitation to be effective in France.

3.4.2. Language and translations

The request documents, in particular the amended pages of the patent, submitted to the INPI in the context of a limitation procedure must be in French.

As the provisions resulting from the London Agreement are procedural provisions with immediate effect, they are intended to apply to any European patent, whether filed/granted before or after the date of entry into force of said provisions.

According to Article [L. 614-7](#) of the CPI, “The text of the European patent application or of the European patent drafted in the language of the proceedings before the European Patent Office created by the Munich Convention shall constitute the authentic text”.

The INPI must therefore check that the amendments made to claims are supported by the description, in the light of the text drafted in the language of the proceedings, with no French translation of the description being required.

To check that amended claims are a limitation, the INPI compares these claims to the earlier claims in the language of the proceedings.

Whatever the language of proceedings, only the text of the claims in French is recorded in the French Patent Register.

3.5. Dealing with deficiencies

In the event of any deficiency, in accordance with Article [R. 613-45](#) of the CPI, a notification will be sent to the applicant, giving him/her a period of time in which to rectify his/her request for limitation or to submit his/her observations. This two-month period may be extended once, at the applicant’s written request, before expiry of said period.

The applicant’s response to the notification must make it possible to rectify the limitation, failing which his/her request will be rejected.

The INPI will not examine any document submitted outside the time limit.
The owner may, however, withdraw the request and file a new one.

If the applicant provides several proposals for rectification in response to a notification, he/she will be informed that they are not admissible. The applicant may rephrase his/her response as long as the original time limit set out in the notification of deficiency has not expired.

3.6. Communication from a third party

Third-party observations are not admissible under proceedings for limitation and are dismissed without further action. The documents concerned are not made known to the examiner in charge of the request.

3.7. Withdrawal

The owner may at any time request the withdrawal of his/her request for limitation. The INPI will notify the applicant that the request has been dismissed without further action. No reimbursement will be made.

The withdrawn request for limitation will be made public.

3.8. Rejection and appeal

The request for limitation will be rejected if it is not rectified within the set time limit (see [3.5](#) above).

The decision on whether to reject a request for limitation shall be made by the CEO of the INPI and may be appealed before the Paris Court of Appeal within the time limits provided for in the CPI (*see the Guidelines for patent and utility certificate applications and their maintenance, section E, 3.2.*).

3.9. Approval

After the request has been recognised as complying with the provisions of Articles [L. 613-24](#) and [R. 613-45](#) of the CPI, the limitation shall be accepted. A decision of acceptance will be sent to the applicant.

4. REGISTRATION AND INSPECTION OF DOCUMENTS

All documents exchanged in the context of surrender or limitation proceedings, except those expressly excluded by Article [R.612-41](#) of the CPI shall be available for inspection.

Requests for limitation or surrender are recorded in the French Patent Register and are published in the BOPI. A notice of entry is sent to the applicant seeking the surrender or limitation.

5. IMPLIED REJECTION OF A REQUEST FOR SURRENDER OR LIMITATION PURSUANT TO FRENCH DECREE NO. 2015-1436 OF 6 NOVEMBER 2015

[R. 613-45-1](#)

Under French decree no. 2015-1436 of 6 November 2015, the request for surrender or limitation is subject to the “no reply constitutes refusal” principle after a period of one year from the filing date of the request. This period shall be interrupted in the event that the INPI provides notification of a deficiency. This decree shall be applicable to all surrender or limitation requests filed after 12 November 2014.

In the case of requests for limitation, it follows that all deficiencies affecting the request shall be notified within one year of its filing. If the observations submitted do not dispel any objections or if the deficiencies are not remedied within the specified time limit, the request for limitation will be rejected.

The rejection decision shall be issued within a period of one year from the date of the applicant’s reply to the notification.

SECTION C – PATENT OPPOSITION PROCEDURE

Ordinance No. 2020-116 of 12 February 2020 and Decree No. 2020-225 of 6 March 2020 established the right to oppose patents and entered into force on 1 April 2020. Opposition proceedings may be brought against patents for which the mention of the grant has been published in the Official Bulletin of Industrial Property (BOPI) on or after that date.

1. GENERAL REMARKS

1.1. Nature of the IP right being contested

[L. 613-23](#)

Any patent granted pursuant to Article [L. 612-17](#), for which the mention of the grant was published from 1 April 2020 in the INPI's BOPI, may be subject to opposition proceedings before the Chief Executive Officer of the French Patent & Trademark Office (INPI).

[L. 611-2](#)

The opposition procedure shall only be applicable to patents granted by the INPI and shall not be applicable to:

- utility certificates,
- supplementary protection certificates (SPCs).

1.2. Capacity to act and representation of the opponent

[L. 613-23](#)

Any natural or legal person may file opposition proceedings, with the exception of the owner of the contested patent. The opponent shall not be required to demonstrate legitimate interest.

[R. 613-44](#)
[R. 612-2](#)

The opponent may choose to represent him- or herself or appoint a representative who meets the conditions laid down in [R. 612-2](#) (*see. 1.7 Requirements regarding authorisations*).

The opponent is obliged to appoint a representative if:

- the opponent is not domiciled or does not have his/her registered office in France, in a Member State of the European Union or in a State that is a signatory to the European Economic Area (EEA) Agreement;
- there are several joint opponents who have come together to file a single opposition; in which case a common representative must be appointed.

In such cases, the representative must be appointed at the latest within the nine-month period for filing opposition proceedings (*see the Guidelines for patent and utility certificate applications and their maintenance, BOOK I, Section B – Formal Examination, Chapter II - The Compliance Examination, 2. Representation*).

1.2.1. Joint opponents filing a single opposition

[R.613-44, 4°](#)

[R. 612-2](#)

Several opponents may come together to file a single opposition. In this instance, only one notice of opposition may be filed by submitting a single form online and only one opposition fee will be due. The joint opponents must appoint a common representative at the latest within the nine-month period for filing opposition proceedings (*see 1.2. Capacity to act and representation of the opponent*).

In this instance, all of the joint opponents shall be treated as a single party. They shall act jointly and severally. The identities of all of the joint opponents must be known at all times.

1.2.2. Existence of several oppositions

Oppositions filed by different opponents may relate to the same patent. In this case, each opponent must file a notice of opposition online by filling in the necessary form and a fee must be paid for each opposition.

In this situation, each opponent is treated as an individual and independent party.

The various oppositions filed against the same patent will be consolidated by the INPI and examined as a single procedure, subject to their admissibility. The parties will be notified of this consolidation (*see 3.1.7. Consolidation of proceedings*).

1.3. Opposition period

The time limit for filing an opposition is nine months from the publication of the mention of the grant of the contested patent in the Official Bulletin of Industrial Property (BOPI).

The application for restoration provided for under Article [L. 612-16](#) is not applicable to this time limit.

In order to calculate this time limit, see paragraph *4.3. Calculation of time limits*.

1.4. Grounds for opposition

Oppositions can only be based on one or more of the following grounds:

1) The subject-matter of the patent is not patentable in accordance with Articles [L. 611-10](#), [L. 611-11](#) and [L. 611-13](#) to [L. 611-19](#) on the grounds that:

- the subject-matter of the patent is not new ([L. 611-10, 1.](#), [L. 611-11](#) and [L. 611-13](#));
- the subject-matter of the patent does not involve an inventive step ([L. 611-10, 1.](#) and [L. 611-14](#));
- the subject-matter of the patent is not susceptible of industrial application ([L. 611-10, 1.](#) and [L. 611-15](#));
- the subject-matter of the patent is not an invention ([L. 611-10, 1. to 3.](#));
- the subject-matter of the patent consists of a method for the surgical or therapeutic treatment of the human or animal body or a diagnostic method applied to the human or animal body (Art. [L. 611-16](#));
- the subject-matter of the patent relates to an invention whose commercial exploitation would be contrary to human dignity, public policy or morality (Article [L. 611-17](#));
- the subject-matter of the patent concerns an invention relating to the human body, its elements and products (Art. [L. 611-18](#));
- the subject-matter of the patent concerns an invention relating to animal varieties, plant varieties, essentially biological processes for the production of plants and animals, processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes (Art. [L. 611-19](#)).

Each of the grounds listed above is considered a separate ground for opposition.

[R. 613-44-3](#)

[L. 613-23](#)
[Art. R. 613-44, 1°](#)

[L. 612-16](#)

[R. 613-8](#)

[L. 613-23-1](#)

[L. 613-23-1, 1°](#)

[L. 613-23-1, 2°](#)

2) The patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art (Art. [L.613-23-1, 2°](#)).

3) The subject-matter of the patent extends beyond the contents of the application as filed or, where the patent has been granted on the basis of a divisional application, the subject-matter extends beyond the contents of the parent application as filed. (Art. [L.613-23-1, 3°](#)).

For the examination of these grounds, refer to the patent guidelines (*Guidelines for patent and utility certificate applications and their maintenance, Section C - Technical Examination, Chapter VII - Patentability*).

Grounds that do not constitute grounds for opposition

Oppositions may not be based on any ground other than those listed above.

Thus, an opposition cannot be based, for example, on the assertion that the claims lack clarity or are not supported by the description ([L. 612-6](#)), that there is a lack of unity of invention ([L. 612-4](#)), that the designation of the inventor is incorrect or that the owner of the patent is not entitled to the French patent.

Nor can an opposition be validly based solely on the allegation that priority has not been validly claimed. However, in opposition proceedings, the question of priority must be examined when it determines the prejudicial nature of a prior art cited in relation to a ground for opposition referred to in Article [L.613-23-1, 1°](#).

1.5. Scope of the opposition

The opposition may relate to all or part of the granted patent. The opponent must make it clear whether the opposition is directed against the whole patent (all the claims or the description and, where applicable, the drawings) or only against certain claims. In the case of the latter, the opponent must indicate the claims to which the opposition relates.

1.6. Parties to the opposition proceedings

The parties to the opposition proceedings are the owner of the patent entered in the French Patent Register and all the opponents whose opposition is admissible.

Where several opponents jointly file a single opposition, all of the joint opponents shall be treated as a single party (*see 1.2.1 Joint opponents filing a single opposition*).

Where several oppositions are filed by different opponents for the same patent, each opponent shall be considered an individual and independent party (*see 1.2.2. Existence of several oppositions*).

Where an opposition is withdrawn, the opponent is no longer a party to the proceedings from the date of receipt of the withdrawal of the opposition (*see 4.8. Withdrawal*).

When the contested patent is owned by several joint owners, all joint owners are considered as one single party and must appoint a joint representative (*see 3.2.1. Phase consisting of informing the patent owner and obtaining his/her opinion - Representation of the owner and 1.2.1. Joint opponents filing a single opposition*).

Third parties may not intervene in the opposition proceedings nor make observations during the opposition proceedings. Third party observations shall be declared inadmissible in such proceedings and be dismissed without further action. The

documents concerned are not made known to the persons in charge of the file nor to the public.

1.7 Requirements regarding authorisations

In accordance with Article [L.422-4](#) of the CPI, in order to represent a party during the opposition proceedings, the party being represented may only appoint an authorised representative, i.e.:

- a person registered on the list of industrial property (IP) attorneys drawn up by the CEO of the INPI and specialising in “patents”;
- a lawyer;
- a company or government-controlled entity with which the applicant is contractually linked;
- a specialised trade association,
- a person appearing on a special list, drawn up by the CEO of the INPI under Article L.422-5 of the CPI, of industrial property specialists other than industrial property attorneys,
- a professional based in a Member State of the European Union or of the European Economic Area, entitled to represent third parties before the industrial property office of their country and acting on a casual basis.

The representative must provide a special authorisation, i.e., an authorisation specifically granted to represent a party during opposition proceedings (this excludes “general authorisations”, in which opposition proceedings are not explicitly mentioned), unless the representative is an industrial property attorney or lawyer.

In case of deficiencies in the authorisation or in the representation of the opponent, the opposition may be deemed inadmissible (*see 3.1.2. Grounds for inadmissibility for the opponent and 3.1.4. Notification before inadmissibility decisions*)

In case of deficiencies in the authorisation or in the representation of the owner, the latter may not take part in the proceedings and his/her exchanges with the INPI will not be taken into account in the proceedings until a representative has been duly appointed (*See 3.2.1. Phase consisting of informing the patent owner and obtaining his/her opinion*)

1.8. Team responsible for examining the opposition

The admissibility examination is carried out by an administrative examiner. From the beginning of the examination phase, the opposition is examined by a lead examiner – an engineer. He/she is assisted by two engineer examiners specialised in the technical field of the contested patent. Depending on the circumstances, the lead examiner may also be assisted by a legal expert from the INPI.

During the oral phase, an opposition board shall be formed by the lead examiner, two assessors, usually the two engineer examiners who assisted him/her during the examination phase and, where applicable, the legal expert, in order to hear the oral observations of the parties. The discussions shall be led by the lead examiner who is authorised to do so by decision of the CEO of the INPI.

The lead examiner guarantees the proper conduct of the proceedings and the quality of the examination. His or her opinion shall prevail throughout the examination phase. The lead examiner cannot be the same person who examined the contested patent application.

1.9. Registration and inspection of documents

To ensure that third parties are kept properly informed, oppositions are entered in the French Patent Register as soon as they are filed. Inadmissibility and closure decisions as well as decisions on oppositions are also recorded in the Register.

[R. 613-44-6](#)

[R. 613-44](#)

[R. 612-2](#)

[Art. 4 of Decision no. 2020-34 on opposition proceedings](#)

[Art. 6 of Decision no. 2020-34 on opposition proceedings](#)

[R. 613-44-5](#)

[R. 613-44-2, 5°](#)

[R. 613-44-12, 3°](#)

[R. 613-44-7, 2°](#)

Furthermore, after the expiry of the nine-month opposition period, the contents of opposition files shall be available online, free of charge, at the following link <https://data.inpi.fr/>. The contents of inadmissible opposition files shall also be available at the same address.

[R. 612-41](#)

However, the following items will not be made available to the public, including:

[L. 312-1-2 CRPA](#)

-documents not communicated to the parties used in the preparation of decisions and opinions;

-documents containing personal data; the INPI will only make such items public after concealing this data;

-documents likely to compromise trade secrets at the request of the party concerned. The request must be accompanied by a statement setting out the reasons why the documents in question should not be disclosed. Pending a decision on the request, the documents in question shall not be disclosed. In accordance with the adversarial principle, such a request cannot prevent the transmission to the other party of the documents communicated in connection with the opposition proceedings.

2. HOW TO FILE AN OPPOSITION

2.1. Online filing

2.1.1. Patent opposition portal

[R. 613-44-1](#)

Patent opposition notices, as well as the related supporting documents, must be submitted online, by any individual or legal entity meeting the conditions laid down in Articles [L. 613-23](#) and [R. 612-2](#) (see 1.2 *Capacity to act and representation of the opponent*).

Online support describing the features of the patent opposition portal is available at the following address: https://oppobrv.inpi.fr/asset/pdf/aide_en_ligne_oppobrv.pdf

Patent opposition notices must be filed online by means of the form made available on the patent opposition portal.

[Arts. 1-4, 8, 9 and 11 of Decision no. 2020-34 on opposition proceedings](#)

The INPI's patent opposition portal can be accessed 24 hours a day, 7 days a week. To access the patent opposition portal, the opponent must have access to the Internet and have a valid email address.

The patent opposition portal is accessible via the INPI's e-procedures portal at <https://procedures.inpi.fr>. The opponent must log in:

- by entering his/her personal login details (email address and password), if he/she already has an account;
- by creating an e-procedures account, if he/she does not have an account.

Once logged into the e-procedures portal, the patent opposition portal can be accessed via the designated entry in the "PATENTS" menu.

The opponent can create draft opposition notices, which are saved for at least nine months, i.e., the duration of the opposition period. He/she may suspend or cancel such draft notices at any time.

Draft opposition notices are not entered in the Register or made available on public databases.

All documents from the opponents must be submitted exclusively via the patent opposition portal preferably in the form of PDF (Portable Document Format) files. They must be of good quality and legible.

The date of receipt by the INPI of the opposition notice shall be the effective date of the payment. The opposition will only be deemed to have been filed after the opposition fee has been paid (*see 2.2.5. Proof of payment of the opposition fee*).

An opposition number and the date of the opposition notice will then be assigned by the INPI and communicated in a receipt sent electronically to the opponent. This opposition number (e.g., DMxxxxxxx) must be mentioned on all documents provided by the opponent during the proceedings (*see the online help section of the patent opposition portal: https://oppobrv.inpi.fr/asset/pdf/aide_en_ligne_oppobrv.pdf*).

In case of failure of the INPI's online service, and in this instance alone, the notice may be filed by fax, provided that it is confirmed on the INPI's patent opposition portal within two working days of receipt of the fax. Under these conditions, the opposition is deemed to have been filed on the date of receipt of said fax.

2.1.2. Signature of the notice of opposition

The opposition notice may be filed by the opponent him-/herself or by an appointed representative. Either way, the signatory of the opposition notice must have the capacity to act or to represent (*see 3.1.2. Grounds for inadmissibility*).

2.2. Content of the notice of opposition

Art. *R. 613-44-1*:

"The notice of opposition shall be filed in writing in accordance with the terms & conditions and procedures specified by decision of the CEO of the French Patent & Trademark Office. It shall include:

- 1. The identity of the opponent;*
- 2. The references of the patent against which the opposition is being filed;*
- 3. A declaration specifying the scope of the opposition, the grounds on which it is based and the facts invoked, in addition to the documents produced in support of said grounds;*
- 4. Proof of payment of the fee due.*
- 5. Where appropriate, the name of the representative and, unless he/she is an industrial property attorney or lawyer, his/her authorisation.*

*The documents and information referred to in paragraphs 1 to 5 must be provided within the time limit mentioned in Article *R. 613-44*. The basis and scope of the opposition may not be extended after the expiry of that period.*

The opposition shall be recorded in the French Patent Register."

2.2.1. Identity of the opponent

When filing the opposition notice, the opponent must provide information on his/her identity on the patent opposition portal.

If the opponent is a natural person, he/she must provide his/her first name, last name and address.

If the opponent is a legal person, the opponent must provide the company name, the legal form and the address of the registered office.

[R. 613-44-1, 5°](#)

[Art. 4 of Decision no. 2020-34 on opposition proceedings](#)

[R. 613-44-1, 2°](#)

[R. 613-44-1, 3°](#)

[Art. 4 of Decision no. 2020-34 on opposition proceedings](#)

2.2.2. Designation of the representative

Where applicable, the opponent must designate the representative appointed at the latest within the nine-month period for filing opposition proceedings, indicating his/her identity and, unless he or she is an industrial property attorney or lawyer, a copy of his/her authorisation (*see 1.2. Capacity to act and representation of the opponent*).

The authorisation must be dated, bear the handwritten signature of the opponent and, in the case of a legal person, state the capacity of the signatory (*see 1.7 Requirements regarding authorisations*).

Nevertheless, the INPI remains free to demand the presentation of the original document at any time during the proceedings.

2.2.3. References of the patent against which the opposition is being filed

The opponent must provide the information necessary to identify the contested patent. He/she must enter the publication number of the contested patent on the patent opposition portal. The portal automatically runs a search of the INPI patent database and, subject to the control and confirmation of the opponent, fills in the following information: the title, the main international classification, the filing date, the publication date of the patent application and the publication date of the mention of the grant of the contested patent.

2.2.4. Declaration specifying the scope of the opposition, the grounds on which it is based and the facts invoked, in addition to the documents produced in support of said grounds

The opponent must provide a full declaration, including:

- the scope of the opposition;
- all of the grounds on which the opposition is based;
- the statement of opposition, i.e., the facts and arguments cited in support of these grounds;
- and the documents produced in support of the statement.

Scope and grounds of the opposition

The opponent must fill in the online form on the patent opposition portal and indicate:

- the scope of the opposition, i.e., whether the opposition is directed against the entire patent or only against certain claims (*see 1.5. Scope of the opposition*);
- all of the grounds on which the opposition is based (*see 1.4. Grounds for opposition*).

The statement of opposition

The opponent must submit a statement of opposition and upload it onto the patent opposition portal.

The statement of opposition must be written in full in French in accordance with Act No. 94-665 of 4 August 1994 on the use of the French language (*see 4.6. Language*).

The statement must specify the facts and arguments in support of the grounds on which the opposition is based. Each ground of opposition must be fully argued and substantiated by facts and documents where appropriate.

The mere filing of evidence or reference to a fact without substantiation is insufficient to support a ground for opposition.

Documents produced in support of the statement of opposition

R. 411-17

Order of 6 March 2020 on the procedural fees collected by the INPI

Art. 9 to 11 of Decision no. 2020-34 on opposition proceedings

Documents cited in the statement of opposition in support of the facts and arguments raised may include publications of patent documents, scientific publications, press articles, evidence of prior use or personal accounts.

These documents must be provided via the patent opposition portal.

The documents attached to the opposition, both at the time of filing and throughout the proceedings, must be filed in French or, where applicable, be provided with a translation into French, failing which they will be considered inadmissible (*see 4.6. Language*).

2.2.5. Proof of payment of the opposition fee

The amount of the opposition fee is set by ministerial order (*arrêté*).

The reduction of fees provided for in Article L. 612-20 is not applicable for opposition proceedings.

The fee must be paid online within the nine-month period for filing an opposition:

- by direct debit order on a client account opened with the INPI provided it has sufficient funds;
- by bank card.

The date on which the fee shall be considered to be duly paid is:

- the date of the debit order from the client account with sufficient funds;
- the date of the transaction in case of payment by bank card.

The opposition will only be deemed to have been filed after the fee has been paid.

2.2.6. Documents and information submitted after the filing of the opposition notice

Within the opposition period

The opposition notice can be supplemented up to the expiry of the opposition period via the patent opposition portal. In order to do so, the opponent can access his/her opposition via the portal using the opposition number (e.g., DMxxxxxxx) that was communicated to him/her by the INPI upon the filing of the opposition notice. He/she can file a document using the designated function (*see 2.1. Online filing*).

After expiry of the opposition period

The basis and scope of the opposition may not be extended after the expiry of the opposition period.

Documents filed after the nine-month opposition period will be considered late (*see 4.5. Late submissions*).

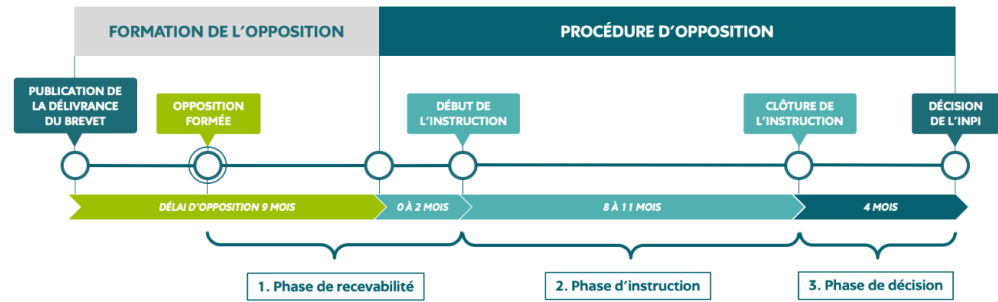
3. EXAMINATION OF THE OPPOSITION AND CONDUCT OF THE PROCEEDINGS

Art. 1 of Decision no. 2020-34 on opposition proceedings

The filing of an opposition against a patent, as well as any further correspondence from the opponent, the owner of the contested patent or their representatives, shall be carried out online via the patent opposition portal on the INPI's website.

Via this portal, the parties can consult all of the documents relating to the procedure (statement of opposition, observations, letters, opinions, decisions, etc.) and submit documents or proposals to amend the patent. Appointment of a representative is also possible at any time via the opposition portal.

The opposition procedure consists of three phases: an admissibility phase, an examination phase and a decision phase.



3.1. Admissibility phase

The owner is informed as soon as the opposition is filed by a notification specifying how to access the opposition file on the patent opposition portal.

3.1.1. Examination of admissibility

As soon as an opposition is filed, the INPI carries out an examination of the admissibility of the opposition. This examination, carried out by an administrative examiner, consists of verifying compliance with the formal requirements for filing an opposition, without examining the merits.

3.1.2. Grounds for inadmissibility

In accordance with Article [R. 613-44-2](#), the opposition shall be declared inadmissible in the cases described below.

The opposition is filed by the owner of the contested patent

Any person other than the owner of the contested patent can file an opposition. Therefore, the owner of the contested patent cannot file an opposition (*see 1.2. Capacity to act and representation of the opponent*).

The opposition is filed after the expiry of the opposition period

The opponent has a period of nine months to file an opposition from the publication of the mention of the grant of the contested patent in the Official Bulletin of Industrial Property (BOPI). Any opposition filed after this period shall be declared inadmissible. The application for restoration of rights under Article [L. 612-16](#) shall not be applicable to this time limit (*see 1.3. Opposition period*).

The INPI assigns a date to the opposition notice when it is filed (*see 2.1.1. Patent opposition portal*).

The opposition is filed against a patent application

If the opposition is filed before the publication in the BOPI of the mention of the grant of the contested patent, it shall be declared inadmissible.

The opposition is filed against a European patent, a utility certificate or a supplementary protection certificate

Oppositions can only be filed against a patent granted by the INPI (*see 1.1. Nature of the IP right being contested*). Any opposition filed against another IP right shall be declared inadmissible.

The opposition has not been filed using the designated IT tool

The opposition must be filed online via the designated portal. Any other method of filing shall be declared inadmissible.

[R. 613-44-2](#)

[R. 613-44-2, 1°](#)

[R. 613-44-2, 2°](#)
[R. 613-44, 1°](#)

[L. 611-2](#)

[Decision no. 2017-102 of the CEO of the INPI](#)

In case of failure of the INPI's online service, and in this instance alone, the notice of opposition may be filed by fax, provided that it is confirmed on the INPI's website within two working days of receipt of the fax.

The opponent is not identified

The opposition notice must be sufficiently clear so that the person filing the opposition can be identified. Otherwise, the opposition will be declared inadmissible (*see 2.2.1. Identity of the opponent*).

The contested patent is not identified

The opposition notice must be sufficiently clear so that the patent against which the opposition is being filed can be identified. Otherwise, the opposition will be declared inadmissible (*see 2.2.3. References of the patent against which the opposition is being filed*).

The declaration of opposition is not compliant

In order to be admissible, the declaration must comply with the requirements of Article R.613-44-1, 3°.

Scope and grounds of the opposition

The declaration must specify the scope of the opposition, i.e., whether the opposition is directed against the entire patent or only against certain claims. In the case of the latter, the opponent must indicate the claims to which the opposition relates (*see 1.5. Scope of the opposition*). The declaration must also raise at least one ground of opposition (*see 1.4. Grounds for opposition*) to the claims or to the entire patent against which the opposition is being filed.

If the opposition does not specify the scope or raise any of the grounds for opposition, it shall be declared inadmissible.

The statement of opposition

The opposition shall be declared inadmissible if the statement of opposition:

- is not provided;
- is not written in or translated into French within the nine-month opposition period (*see 4.6. Language*);
- contains arguments, the nature of which is clearly not related to one of the grounds for opposition (*see 2.2.4. Declaration specifying the scope of the opposition, the grounds on which it is based and the facts invoked, in addition to the documents produced in support of said grounds*).

Where an opposition is based on several grounds, it shall be admissible only if the declaration accompanying it meets, at least for one of these grounds, the provisions of Article [R. 613-44-1](#), paragraph 3. It shall be deemed to be unfounded for the grounds for opposition which do not meet this condition.

Each ground for opposition must be legally and factually substantiated and, where appropriate, be supported by evidence attached to the opposition. In the absence of a sufficient substantiation to support a ground for opposition, the opposition will be deemed unfounded for that ground.

For example, merely stating that all the features of the opposed claims are known is not sufficient to support the ground of lack of novelty, if the opponent has not provided at least one prior art document disclosing those features. The opponent must also specify in which parts of the document the features can be found.

If the opposition is deemed to be unfounded for all of the grounds cited, it shall be declared inadmissible.

The opposition fee has not been paid

[R. 613-44-2, 2°](#)
[R. 613-44-1, 1°](#)

[R. 613-44-2, 2°](#)
[R. 613-44-1, 2°](#)

[R. 613-44-2, 2°](#)
[R. 613-44-1, 3°](#)

[R. 613-44-2, 2°](#)
[R. 613-44-1, 3°](#)

[R. 613-44-2, 3°](#)

R. 613-44-1, 4°

If the fee has not been paid in full by the end of the nine-month opposition period, the opposition shall be declared inadmissible (*see 2.2.5. Proof of payment of the opposition fee*).

L. 422-4

R. 613-44, 2°

Lack of authorisation or representation

The opponent may choose to act on his/her own or be represented by a representative who meets the conditions laid down in Article R.612-2. If the rules regarding representation or authorisations are not complied with, the opposition shall be declared inadmissible (*see 2.2.2. Designation of the representative*).

The capacity of the signatory is not compliant

The notice of opposition must be signed by the opponent him-/herself or by his/her representative where applicable.

If the notice is filed by an opponent who is a natural person, the signatory must be the opponent him-/herself.

If there are several joint opponents, the notice of opposition must be signed by their common representative (*see 1.2.1. Joint opponents filing a single opposition*).

If the notice of opposition is filed by an opponent who is a legal person, the signatory must be a representative of said legal person.

If the notice of opposition is filed by a representative who is a natural person, the signatory must be the representative him-/herself.

If the notice of opposition is filed by a representative who is a legal person, the signatory must be a proxy of said representative.

Irrespective of the circumstances, the capacity of the signatory (e.g., opponent, IP attorney or lawyer, manager or managing director of the opponent where the opponent is a legal person, etc.) must be indicated.

Any notice of opposition where the signatory does not have the capacity to act or to represent shall be declared inadmissible (*see 2.1.2. Signature of the notice of opposition*).

3.1.3. Notification for information purposes

The administrative examiner may inform the opponent of the abovementioned deficiencies (*see 3.1.2. Grounds for inadmissibility*) concerning admissibility before the expiry of the nine-month opposition period if it is still possible to correct them within this period. The opponent cannot hold the INPI responsible for the absence of such information.

3.1.4. Notification before inadmissibility decisions

After the nine-month opposition period, only deficiencies concerning the representative's authorisation can be corrected.

In the event of inadmissibility raised by the INPI ex officio after the nine-month period for filing an opposition, the administrative examiner shall notify the opponent or his/her representative of the reasons for such inadmissibility.

The latter will then be given a two months period of time within which he/she may contest this inadmissibility or, in the case of the authorisation provided for under Article R. 613-44-1, para. 5, rectify his/her opposition notice.

3.1.5. Inadmissibility decisions

In the absence of a reply making it possible to lift the objection, the opposition shall be declared inadmissible.

R. 613-44-2, 4°

R. 618-4

R. 613-44-2, 5°

The opponent will be notified of this decision, which will be entered in the French Patent Register. The decision may be appealed before the Court of Appeal (*see 3.4.1. Appeals*).

The owner will be informed by the INPI of the decision of inadmissibility.

3.1.6. Opposition deemed admissible

An opposition is deemed admissible when it has not been declared inadmissible by the INPI.

Even when an opposition is deemed admissible by the INPI, the owner may challenge the admissibility of the opposition during the examination phase, particularly in response to the statement of opposition.

3.1.7. Consolidation of proceedings

If, after the expiry of the nine-month opposition period and the completion of the admissibility examination, several oppositions relating to the same patent are found to be admissible, the INPI shall order the consolidation of said oppositions (*see 1.6. Parties to the opposition proceedings*).

The parties will be notified of this consolidation (*see 4.1.6. Adversarial principle*).

3.2. Examination phase

After the expiry of the nine-month opposition period and the completion of the admissibility examination, the opposition or consolidated oppositions deemed to be admissible (*see 3.1.7. Consolidation of proceedings*) shall enter the examination phase, which in turn includes up to four phases.

3.2.1. Phase consisting of informing the patent owner and obtaining his/her opinion

Owner of the contested patent or his/her representative

The owner of the contested patent is understood to be the most recent owner(s) entered in the French Patent Register.

Notification of the opposition

The INPI shall notify the patent owner without delay of all admissible oppositions in order to obtain his/her opinion on the grounds for opposition cited by the opponent.

This notification will be sent to **the owner unless a representative** is appointed before the INPI on the day of notification.

In the case of joint owners, where no common representative has been appointed, at the beginning of the phase consisting of informing the patent owner and obtaining his/her opinion, the INPI shall send this notification to each joint owner, to the last addresses indicated on the French Patent Register.

If several oppositions are deemed admissible, the INPI will also provide the other opponents with access to the admissible oppositions.

From the date of receipt of the notification by the owner or his/her representative, the owner shall have a non-renewable period of three months to submit a reply (*see 4.2. Time limits*). This period defined by Article *R. 613-44-6 1°* will be referred to as the “first period” hereinafter.

This reply may take the form of observations and/or a proposal to amend the patent under the conditions set out in paragraph *4.4. Amendments to the patent*. In the case

R. 613-44-3

L. 613-23-2, 1°
R. 613-44-6, 1°

R. 613-44-6, 1°

Art. 5 of decision
no. 2020-34 on
opposition
proceedings

R. 613-44, 5°

of a proposed amendment to the patent, the owner must specify the grounds of opposition cited by the opponent on which the proposed amendments to the patent are based and how these amendments address these grounds. The owner must also demonstrate that the amendments comply with Article [L. 613-23-3](#) (see [4.4. Amendments to the patent](#)).

Representation of the owner

The owner must within this same first period, if necessary, appoint a representative in accordance with the terms of representation set out in Article [R. 613-44, 5°](#).

The owner of the contested patent is subject to the same terms of representation as the opponent set out in Article [R. 612-2](#) (see [1.2. Capacity to act and representation of the opponent](#)).

[R. 612-2](#)

A new representative must necessarily be appointed through the INPI patent opposition portal (see [1.7. Requirements regarding authorisations](#)).

3.2.2. Phase relating to the preparation of the preliminary opinion by the INPI

Within three months after the expiry of the first period granted to the owner of the contested patent to make his/her observations and/or amend the patent, the INPI shall communicate a preliminary opinion to the parties.

[R. 613-44-6, 2°](#)
[R. 618-4](#)

This shall be accompanied, where applicable, by the observations or proposed amendments to the patent submitted by the owner of the contested patent.

This preliminary opinion shall indicate the INPI's provisional position on the opposition. It is drafted on the basis of the elements provided in the opposition (see [2.2.4. Declaration specifying the scope of the opposition, the grounds on which it is based and the facts invoked, in addition to the documents produced in support of said grounds](#)) and taking into account the reply of the owner of the contested patent.

The INPI shall grant the parties a non-renewable two-month period, so-called "second period", to respond to the preliminary opinion. The parties may submit observations and the owner may also submit new proposed amendments to his/her patent under the conditions provided for in paragraph [4.4. Amendments to the patent](#).

[L. 613-23-3](#)

3.2.3. Written phase

If, in response to the preliminary opinion, the opponent or the owner submits observations or if the owner proposes amendments to his/her patent, a written phase shall commence after the expiry of the second period granted to the parties to respond to the preliminary opinion. In this event, the observations or proposed amendments to the patent by one party shall be communicated to the other parties.

[R. 613-44-6, 3°](#)

A new so-called non-renewable "third period" of two months will then be granted to the parties to submit new observations; the owner shall also have the possibility of proposing amendments to his/her patent.

If, at the end of this third period, one of the parties has submitted a reply, the other parties will be notified thereof, for information purposes; however, they shall not be obligated to reply.

3.2.4. Oral phase

Preparing for the oral phase

The oral phase shall take place if at least one of the parties makes such a request when submitting his/her written observations. It may be requested at any time until the end of the examination phase (see [3.2.5. End of the examination phase](#)).

[R. 613-44-6, 4°](#)

The INPI may also invite the parties to take part in an oral phase if it considers it necessary for the examination.

The oral phase is not mandatory. If none of the parties request an oral phase, and if the INPI does not consider it necessary, the decision on the opposition shall be based solely on the written observations of the parties.

Summons to the oral phase

For the oral phase, the parties shall be summoned in writing and invited to attend in person or to be represented by their appointed representative.

The summons may be accompanied by an agenda encouraging the parties to focus on one or more points that are particularly relevant to the decision and/or require further information.

Public nature of the hearing

The oral proceedings shall be open to the public. For organisational purposes, members of the public wishing to attend a hearing should preferably make themselves known to the INPI in advance. If the circumstances so require, in particular for organisational or confidentiality reasons, the chairperson may restrict or refuse access to a hearing.

Where the complexity of the case so requires, and subject to the agreement of the parties, the hearing may be recorded by the board. No other recording shall be allowed.

Conduct of the hearing

The discussions during the hearing will be led by a chairperson; the lead examiner of the opposition board shall be appointed to fulfil these duties by decision of the CEO of the INPI. The hearing chairperson shall be assisted by two technical assessors, usually the two engineer examiners who assisted him/her during the examination phase. *(See 1.8. Team responsible for examining the opposition).*

Where the circumstances so require, particularly in the case of complex legal issues (validity of a contract, hearing of an intervener, etc.), the chairperson may be assisted by a legal expert from the INPI. In this case, the legal expert will sit on the opposition board.

The hearing shall begin with the verification of the identity of the parties and, where applicable, the authorisations of their representatives or proxies. An attendance sheet drawn up by one of the technical assessors will be signed by the chairperson, the parties present and their representatives or proxies. This sheet includes the number of the procedure to which the hearing relates, the date of the hearing, the names of the INPI staff present, the parties and their representatives or proxies.

If one of the parties, who has been duly summoned, does not appear, the chairperson shall record the failure of the absent party to appear and the board shall hear the other parties.

The hearing will be conducted in French *(see 4.6. Language)*.

At the beginning of the hearing, the chairperson shall announce the agenda. The parties will then be invited in turn to briefly state their requests.

All requests or pieces of evidence submitted by the parties for the first time on the day of the oral phase shall be considered late and their admissibility shall be subject to the approval of the opposition board after the other parties have been heard on this matter *(see 4.4. Amendments to the patent and 4.5. Late submissions)*.

In accordance with the adversarial principle, the oral discussions will focus on the issues necessary for the opposition board to reach its decision in accordance with the

agenda, as well as on any relevant issues that may arise as a result of the discussions during the oral phase.

The opposition board deals with the items one by one in accordance with the agenda. The board then hears the parties' arguments in support of their requests in the order determined by the chairperson. The oral phase should not be used by the parties to merely reiterate the arguments they have already presented in writing.

During the hearing, the party at the origin of the assertion being examined speaks first, followed by the other party. For example, on grounds for the opposition, the opponent speaks first; on compliance of a proposal to amend a patent, the owner speaks first. Where there are several opponents, it may be appropriate to give the floor to the patent owner after each opponent has spoken. Both the opponents and the patent owner should be given the opportunity to respond to the other party's presentation in order to close their arguments.

The chairperson also allows each member of the board, if he/she so wishes, to ask questions. The chairperson may fix the time at which such questions may be asked.

Indication of the opposition board's provisional opinion on a particular issue

The chairperson may adjourn the hearing in order to discuss certain issues with the assessors in the absence of the parties. Before the adjournment, he/she shall inform the parties of the issues to be discussed and of the content of the subsequent discussions. When the hearing resumes, the chairperson may indicate that he/she has closed the discussions on these issues and announce a preliminary opinion on each one.

Closure of discussions and end of the oral phase

When the chairperson considers that the board has been sufficiently informed and has ensured that the parties have had the opportunity to present all of their arguments, he/she shall close the hearing of the oral phase and thus end the examination phase.

Minutes

Minutes will be drawn up in order to record the key points of the hearing. They shall be drawn up by one of the technical assessors, signed by the chairperson and sent to the parties as soon as possible.

Presentation by an intervener during the oral phase at a party's request

A party may invite a person deemed an intervener to make a presentation during the oral phase with the authorisation of the board.

The party must inform the board of their intention to invite an intervener as soon as possible, specifying the name and position of the person – for example an inventor or expert –, along with the reasons and, preferably, a brief summary of his/her presentation. No unscheduled and unauthorised presentation will be admitted on the day of the oral phase.

During the oral phase, the intervener may speak under the authority of the representative of the party having invited him/her.

3.2.5. End of the examination phase

The examination phase shall end:

- on expiry of the second period, set by the INPI pursuant to Article [R. 613-44-6](#), para. 2, in the absence of a response from the parties to the preliminary opinion sent by the INPI and of a request for the submission of oral observations;
- on expiry of the third period, set by the INPI pursuant to Article [R. 613-44-6](#), para. 3, in the absence of a request for the submission of oral observations and if at least one reply to the preliminary opinion has been submitted by one of the parties;
- at the latest, after closure of the oral phase by the chairperson.

In any event, the parties shall be notified by the INPI of the date of the end of the examination phase.

3.3. Decision phase

The decision phase shall commence on the date of the end of the examination phase.

3.3.1. No reply implies rejection

The opposition is deemed to be rejected if the INPI has not taken a decision within four months of the end of the examination phase (*see 3.2.5. End of the examination phase*).

[L. 613-23-2, 3°](#)

3.3.2. Decision on opposition

During the decision phase, the INPI shall draw up a reasoned decision on the opposition which will be communicated to the parties.

Once notification of this decision has been sent, the decision phase shall be considered closed.

The appeal period for each party starts from receipt of the notification of this decision.

Decisions on oppositions shall have absolute effect and shall have retroactive effect as from the date of filing of the patent application. These decisions, which have the effect of a court decision within the meaning of Article [L. 111-3](#) of the French Code of Civil Enforcement Procedures, are deemed enforceable.

[L. 613-23-6, 1°](#)

[L. 613-23-2, 2°](#)

[L. 613-23-4](#)

The decision on the opposition may involve:

- the full or partial revocation of the patent;
- maintaining the patent, albeit in amended form; or
- maintaining the patent as granted.

a. Full revocation

The opposition proceedings may result in the full revocation of the patent if requested by at least one opponent. In this instance, the INPI upholds the opposition on at least one of the grounds mentioned in Article [L. 613-23-1](#) and raised by the opponent.

b. Partial revocation

The opposition proceedings may result in the partial revocation of the patent. In this instance, the INPI upholds the opposition on at least one of the grounds mentioned in Article [L. 613-23-1](#) and raised by the opponent.

Partial revocation may result from a request for partial revocation. For example, the opponent only seeks revocation of claim 1 for lack of novelty. If the INPI upholds the opposition for lack of novelty of claim 1 and the owner does not propose any amendment of his/her patent or proposes amendments that do not meet the requirements of Article [L. 613-23-3](#), the INPI shall partially revoke the patent.

However, a partial revocation decision may also result from a request for full revocation that the INPI has not deemed wholly justified. For example:

- where the opponent requests the revocation of the patent as a whole for lack of novelty of all ten claims,
- that such grounds for opposition are only deemed founded for claims 1 to 5,
- that the owner has not proposed any amendment to its set of claims in accordance with the requirements of Article [L. 613-23-3](#),

[L. 613-23-6, 2°](#)

the INPI shall uphold the opposition insofar as it is justified and shall decide to partially revoke the patent by revoking claims 1 to 5. Consequently, claims 6 to 10 that were unjustly challenged in the opposition are maintained.

Where an opposition decision partially revokes the patent, the owner must apply to the INPI for an amendment of his/her patent in accordance with the partial revocation decision (*see 3.4.2. After a partial revocation decision*).

c. Patent maintained in amended form

The opposition proceedings may result in the patent being maintained in an amended form in accordance with the proposal for amendment of the patent submitted by the owner during the proceedings. In this instance, the INPI upholds the opposition on at least one of the grounds mentioned in Article [L. 613-23-1](#) and raised by the opponent.

d. Patent maintained as granted

The opposition proceedings may result in the patent being maintained as granted, where the INPI considers that none of the grounds mentioned in Article [L. 613-23-1](#) and raised by the opponent call into question the validity in whole or in part of the patent as granted. In this case, the opposition will be rejected.

3.3.3. Apportionment of costs

[L. 613-23-5](#)

Each party is bound to bear the costs they have incurred in the course of the proceedings.

However, the INPI may decide on a different apportionment of costs, according to a scale fixed by way of an order (*arrêté*), for reasons of equity, i.e., when costs are incurred by one party as a result of irresponsible or even malicious actions by the other party. For example, a different apportionment of costs may be decided where material is filed late without good reason by one party, resulting in additional costs that would not otherwise have been incurred.

[L. 613-23-2, 2°](#)

A different apportionment of costs may be requested by one of the parties or decided at the INPI's initiative. However, this request must be made before the end of the examination phase (*see 3.2.5. End of the examination phase*).

Art. 1 of the Order of 4 December 2020 on the apportionment of costs incurred in patent opposition proceedings

How costs are apportioned, where a different apportionment of costs is decided, is part of the opposition decision which is enforceable within the meaning of Article [L. 111-3](#), para. 6 of the French Code of Civil Enforcement Procedures.

Nature of costs	Maximum amount charged to the parties (in euros)
Costs incurred during the written phase	600
Costs incurred during the oral phase	100
Representation costs	500

3.4. After the opposition decision

3.4.1. Appeals

Appeals against the decisions of the CEO of the INPI, where the latter has ruled on opposition filed against patents, fall within the exclusive jurisdiction of the Paris Court of Appeal. Such appeals may be brought against any decision rendered in the course

[L. 411-4](#)

[D. 411-19-2](#)

[R. 411-19](#)

of the opposition procedure that adversely affects a party, in particular inadmissibility decisions and decisions ruling on the merits. These appeals shall have suspensive effect and constitute appeals for reversal: they shall refer the entire dispute to the court and the court shall review both issues of fact and law.

The appeal period shall last one month from receipt of the notification of the decision concerned. This period may be extended:

- by one month where the appeal is brought before the Paris Court of Appeal by appellants residing in Guadeloupe, French Guiana, Martinique, Reunion, Mayotte, Saint Barthélemy, Saint Martin, Saint Pierre and Miquelon, French Polynesia, the Wallis and Futuna Islands, New Caledonia or the French Southern and Antarctic Lands.
- by two months if the appellant lives abroad.

The appellant shall have a period of three months from the date of the notice of appeal within which to file his/her submissions with the court registry, failing which the notice of appeal shall be set aside *ex officio*. He/she must send his/her submissions by registered letter with acknowledgement of receipt to the CEO of the INPI and provide proof thereof to the court registry within the same time limit and subject to the same penalty.

3.4.2. After a partial revocation decision

Where an opposition decision is a partial revocation decision and is no longer subject to appeal, the patent owner must file a request with the INPI, via the patent opposition portal, to amend his/her patent so as to bring it into line with the partial revocation decision.

The owner has no set time limit for submitting the request for amendment.

The INPI shall examine whether the amendment to the patent complies with the decision of partial revocation. This amendment is examined as part of different proceedings to the opposition proceedings in which the opponent is not involved.

If the request for amendment complies with the decision of partial revocation, a new patent specification will be published by the INPI (*see 3.4.3. Publication of a new patent specification*). The publication of this new specification is a prerequisite for the admissibility of a subsequent limitation procedure.

If the amendment is not in accordance with the partial revocation decision, the owner will be notified. The notification shall specify the changes to be made and the deadline by which the owner must make such changes.

The request for amendment will be rejected:

- if the owner of the contested patent does not respond to the above notification within the time limit specified or does not submit observations contesting its merits within the same time limit;
- if the observations submitted are not accepted and the owner does not respond to the abovementioned notification within the new time limit set by the INPI.

An appeal to set aside the decision rejecting the request to amend the patent may be lodged before the Paris Court of Appeal (*see the Guidelines for patent and utility certificate applications and their maintenance, BOOK I, SECTION E- REJECTION, 3. APPEALS, 3.2. Appeal to set the decision aside*).

[R. 411-21](#)

[R. 411-23](#)

[R. 411-29](#)

[R. 411-43](#)

[L. 613-23-6](#)

[R. 612-73, 2°](#)

[R. 613-45, 6°](#)

[R. 612-73, 3°](#)

[R. 612-73, 4°](#)

[R. 612-73-3](#)

[R. 411-19, 1°](#)

[R. 612-73-1](#)

[R. 612-73-2](#)

The request to amend the patent is deemed to be rejected if the INPI does not take a decision within 12 months of its filing. This period may be interrupted by the notification provided for above until the request is put in order.

3.4.3. Publication of a new patent specification

The publication of a new patent specification by the INPI shall be carried out:

- as soon as the opposition decision ruling on the maintenance of the patent in an amended form is no longer subject to appeal or;
- when the INPI has accepted a request for amendment of the patent submitted by the owner, the request being in accordance with the partial revocation decision (see 3.4.2. *After a partial revocation decision*).

The publication of this new specification document is a prerequisite for the admissibility of a subsequent limitation procedure. (See Section B: Paragraph 1. *Admissibility of requests for surrender or limitation*).

[R. 613-44-9](#)

[R. 612-73, 2°](#)

4. DETAILS AND SPECIFIC TERMS OF THE PROCEEDINGS

4.1. Adversarial principle

The opposition procedure is subject to the adversarial principle.

The INPI can only base its decision on the grounds, explanations and documents put forward or produced by the parties, provided that they have been admitted into the proceedings and that the parties have been given the opportunity to discuss them on an adversarial basis.

Should any observations or documents be introduced by one of the parties during the proceedings, the INPI shall immediately notify the other parties and make such items available to the public (see 1.9 *Registration and inspection of documents*).

Any communication between a party and one of the INPI's member of staff handling the opposition proceedings must be communicated to the other party. If necessary, a party may communicate with the administrative examiner in charge of examining the admissibility of the opposition, regarding any formal or organisational issues, in particular with regard to the holding of the oral phase.

4.2. Time limits

The time limits set by the INPI shall not be less than two months nor more than four months. The time limit for the owner to respond to the statement of opposition is three months (see 3.2.1. *Phase consisting of informing the patent owner and obtaining his/her opinion*). All other time limits during the opposition procedure shall have a duration of two months.

The time limits set during the opposition procedure are not renewable and must be respected by the parties (see 4.3. *Calculation of time limits*).

Failure to comply with the time limits set by the INPI may result in the response and its contents being disregarded on the grounds of late filing (see 4.5. *Late submissions*).

[R. 613-44-4](#)

[R. 613-44-7](#)

[R. 618-4](#)

[L. 612-16](#)

No appeal for the restoration of rights can be made in the event of non-compliance with these time limits.

4.3. Calculation of time limits

[R. 618-3, 2°](#)

Any time limit expressed in months will expire “on the day of the last month [...] having the same number as the day [...] of the event triggering the start of the time limit”.

However, “if the relevant subsequent month has no day with the same number, the time limit shall expire on the last day of the month”. For example, if the mention of the grant of a patent is published on 31 July, the nine-month period will expire on 30 April of the following year.

[R. 618-3, 5°](#)

If the time limit expires on a Saturday, Sunday, holiday or non-working day, e.g., a day on which the INPI is closed by decision of the CEO of the INPI, the time limit “shall be extended to the next working day”.

Example: if the date of publication in the BOPI of the mention of the grant of a patent is Friday 3 April 2020, the opposition period shall expire on 3 January 2021, which is a Sunday. Thus, the period shall be extended to Monday 4 January 2021.

The starting point of a time limit set by the INPI during the opposition proceedings shall be the date on which the notification is delivered to a party, as indicated on the acknowledgement of receipt. However, if there is no indication on the receipt of the date of delivery to the addressee (even if a “presentation” date is indicated), the notification shall be deemed to have been received on the date of the forwarding stamp on the acknowledgement of receipt. Thus, the starting point of a time limit may be different for each party.

4.4. Amendments to the patent

Common provisions for patent amendments

[L. 613-23-3](#)

During the examination phase, the owner of the contested patent may submit proposals for amendments to his/her patent:

[R. 613-44-6](#)

- a first period, within the first time limit set by the INPI to respond to the opposition;
- a second period, within the second time limit for responding to the preliminary opinion;
- a third period, where applicable, within the third time limit for responding to the opponent’s reply to the preliminary opinion.

[R. 613-44-7](#)

Any proposal for the amendment of the patent proposed by the owner outside the three time limits listed above, for example on the day of the oral phase ([see 3.2.4. Oral phase](#)) shall be deemed to be late and the admissibility of such a proposal for amendment into the proceedings shall be subject to the approval of the opposition board ([see 4.5. Late submissions](#)).

Any proposal for the amendment of the patent sent by the owner after the end of the examination phase ([see 3.2.5. End of the examination phase](#)) will not be taken into consideration.

[L. 613-23-3](#)

If the proposed amendment was filed by the owner within the time limits or filed late but admitted into the proceedings by the opposition board, it will only be accepted if it complies with all of the terms and conditions set out in Article [L. 613-23-3](#).

[L. 613-23-3, I.1°](#)

[L. 613-23-3, II.1°](#)

Amendments may relate to the claims and, in certain cases, to the description and drawings. They must be made in response to a ground for opposition put forward by

[L. 613-23-3, I.2°](#)
[L. 613-23-3, II.2°](#)

[L. 613-23-3, I.1°](#)

[L. 613-23-3, I.3°](#)

[L. 613-23-3, I.4°](#)

[L. 613-23-3, II.1°](#)

Art. 5, paras. 5
and 6 of
Decision no.
2020-34 on
opposition
proceedings

Arts. 17 of
Decision no.
2023-136 on
the filing
procedure

the opponent. The opposition procedure is not an invitation to improve the wording of the granted patent.

The proposed amendment must not have the effect of extending the subject matter of the patent beyond the contents of the application as filed. Furthermore, if the patent has been granted on the basis of a divisional application, the amendments made may not extend the subject matter beyond the contents of the parent application as filed.

Amendment of the claims

Amendments to the claims must address at least one of the grounds for opposition raised by the opponent.

Moreover, the proposed amendment to the claims must not result in the extension of the protection conferred by the patent.

Furthermore, the amendments made must comply with Articles [L. 611-10](#), [L. 611-11](#), [L. 611-13](#) to [L. 611-19](#), [L. 612-5](#) and [L. 612-6](#) as well as with the drafting rules as defined by a decree of the French Council of State (*Conseil d'Etat*) (*see Guidelines for patent and utility certificate applications and their maintenance, BOOK I, Section C - Technical Examination – Chapter IV. Claims – 3. Formal deficiencies*).

Amendment of the description and drawings

The patent owner may only amend the description and drawings of his/her patent to address the ground for opposition raised by the opponent in accordance with Article [L.613-23-1](#), paragraph 2: “The patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.”

Auxiliary requests

In the course of opposition proceedings, the owner may submit a main request, together with one or more auxiliary requests in order of preference. For example, the owner may submit a main request for maintenance of the patent as granted together with auxiliary requests for maintenance of the patent in amended forms as indicated in attached proposals for amendments, if maintenance of the patent as granted would not be possible.

If the main request is granted, the INPI shall disregard any auxiliary requests.

If the main request is not granted, the INPI will examine the auxiliary requests individually, in the order of examination requested by the owner.

If an auxiliary request is granted, the INPI shall disregard any subsequent requests.

If several requests are submitted, they must be presented in a clear order and their wording must show the content envisaged for the amended part(s) of the patent. The number of requests must be reasonable in view of the nature of the case.

The amendments requested in each request must comply with the conditions listed in Article 5 of Decision No. 34-2020 of the CEO of the INPI and be presented in accordance with Article 17 of Decision No. 2023-136 of the CEO of the INPI. Where proposals for amendment are not submitted in accordance with the above requirements, the INPI may disregard them.

The INPI can only make a decision on the amended content proposed by the owner of the contested patent. Therefore, the owner must unambiguously indicate the proposed content and, if he/she has submitted several requests, the order in which the INPI is to examine these requests. The owner must indicate which changes have been made to the contested patent, for example by submitting a set of claims with apparent amendments and specifying the grounds for such amendments. He/she must also provide the reasons for each of his/her requests and explain why they are compliant with the requirements of Article [L. 613-23-3](#).

If no such indication is made, the INPI will not be able to decide which content it should take into consideration. In this case, if a ground for opposition raised by the opponent is incompatible with the maintenance of the patent as granted, the patent shall be revoked in full or in part.

The refusal of each request made by the owner must be substantiated in the final decision. This decision will include a statement of the reasons for the refusal of the main request and of each of the auxiliary requests that have been refused, unless the requests in question have been withdrawn by the owner.

4.5. Late submissions

Legal grounds and factual grounds

The **legal grounds** are all the grounds for opposition (*see 1.4. Grounds for opposition*) raised by the opponent as well as the scope of the opposition (*see 1.5. Scope of the opposition*).

With respect to the opponent, the **factual grounds** are the facts and evidence submitted in support of the grounds of opposition. For the owner, they are the facts and evidence submitted to rebut the grounds of opposition raised and the proposed amendments to the patent (*see 4.4. Amendments to the patent*).

[R. 613-44-1](#)

Late submissions and examination of admissibility

The basis and scope of the opposition may not be extended after the expiry of the opposition period, the basis consisting of all of the grounds of opposition raised.

[R. 613-44-7](#)

[R. 613-44-4](#)

The CEO of the INPI may base his/her decision on facts invoked or documents filed after the expiry of the time limits mentioned in Articles [R. 613-44](#), [R. 613-44-1](#) and [R. 613-44-6](#), provided that the parties have been able to discuss the evidence on an adversarial basis. The CEO of the INPI may base his/her decision on evidence filed after the expiry of the time limits mentioned in Articles [R. 613-44](#), [R. 613-44-1](#) and [R. 613-44-6](#), provided that the parties have been able to discuss the evidence on an adversarial basis.

Their admissibility into the proceedings shall be subject to appraisal by the INPI, which shall assess in particular the relevance and the circumstances of the late filing and the possibility for the parties to discuss them on an adversarial basis. In any event, no late factual grounds will be admitted into the proceedings without the parties having been able to discuss them on an adversarial basis.

For example, a document submitted by one of the parties after the written phase is complete will not be admitted into the proceedings without the parties having been able to discuss them on an adversarial basis.

Nevertheless, the filing by the opponent, outside the opposition period but within one of the time limits set by the INPI according to Article [R. 613-44-6](#), of a document challenging the contribution to patentability of a feature of the description added by the owner to a claim following an amendment of the patent, could be admitted into the proceedings by the INPI.

4.6. Language

The language of the opposition proceedings is French in accordance with Act No. 94-665 of 4 August 1994 on the use of the French language.

Filing of the notice of opposition

The notice of opposition must be filed with the INPI in French within the 9-month opposition period, failing which it will be deemed inadmissible (*see 2.2. Content of the notice of opposition*).

Written exchanges and evidence provided during the procedure

All written submissions from the parties to the INPI must be in French, failing which they shall be deemed inadmissible.

The documents submitted during the opposition proceedings, both at the time of filing and throughout the proceedings, must be filed in French or, where applicable, accompanied by a French translation.

Where documents are not submitted in accordance with the above requirements, the INPI may invite the party concerned to rectify the situation, notably during the examination of the opposition's admissibility, by providing a full or partial translation within a given time limit.

Should the party fail to rectify the situation and should a document in a foreign language prevent the INPI or the other party from clearly and precisely determining its content and scope, it shall be declared inadmissible.

Oral phase

The hearing will be conducted in French.

During the oral phase, the parties may be assisted by an interpreter, at their own expense, if they do not have a sufficient command of the French language. The party wishing to have an intervener heard must provide an interpreter at its own expense if the witness or expert does not speak French.

4.7. Stay of proceedings

The examination phase and the decision phase may be stayed.

The parties shall be notified of the decisions to stay and to resume the proceedings.

Stay of proceedings and action to claim ownership or invalidity action

The opposition proceedings shall be stayed at the written request of any person who can establish that an action to claim ownership of the contested patent has been brought and that there has not yet been a final decision.

The opposition proceedings shall resume at the request of one of the parties (*see 1.6. Parties to the opposition proceedings*) upon presentation of the final decision on the ownership claim.

If the ownership claim results in a change of owner, the proceedings shall be resumed with the new owner of the contested patent recorded in the French Patent Register. The former owner shall no longer be a party to the proceedings.

The opposition proceedings shall also be stayed at the written request of any person who can establish that an invalidity action against the contested patent was initiated before the filing of the opposition pursuant to Article [R. 613-44-1](#) and that it has not yet given rise to a final decision.

The opposition proceedings shall resume at the request of one of the parties (*see 1.6. Parties to the opposition proceedings* 1.6) upon presentation of the final decision on the action for invalidity of the contested patent.

[Art. 7 of Decision no. 2020-34 on opposition proceedings](#)

[Art. 6 of Decision no. 2020-34 on opposition proceedings](#)

[R. 613-44-10](#)
[R. 613-44-10, 4°](#)
[R. 613-44-11, 4°](#)

[R. 613-44-10, 1°](#)

[R. 613-44-11, 1°](#)

[R. 613-44-10, 1°](#)

[R. 613-44-11, 1°](#)

If the invalidity action is brought while an opposition is pending before the INPI, the judge may decide to stay the proceedings for the proper administration of justice. The opposition proceedings can continue without interruption.

If the patent is declared totally invalid by a final decision, the opposition proceedings will be terminated (*see 4.9. Closure of proceedings*).

If the patent is declared partially invalid by a final decision or limited in the course of the invalidity proceedings, the opposition proceedings shall be resumed on the basis of the limited or partially invalidated patent.

Stay at the initiative of the INPI

If necessary, the INPI may stay the proceedings pending information that may have an impact on the outcome of the opposition.

For example, in the event that the contested patent is surrendered by its owner, the INPI shall suspend proceedings at its own initiative until the surrender is entered in the register, before resuming and closing proceedings.

[R. 613-44-10, 2°](#)

Joint request to stay the proceedings

All of the parties may jointly request the stay of proceedings only once during the examination phase for a period of four months, which may be renewed twice. The proceedings shall resume at the request of one of the parties or at the end of the time limit.

[R. 613-44-10, 4°](#)

[R. 613-44-11, 2°](#)

Change in the scope of the patent

When the opposition proceedings are resumed, if the scope of the patent has been changed, for example if the patent is declared partially invalid or limited in the course of an invalidity action brought before the filing of the opposition, the opponent shall be asked to file a new declaration within a time limit set by the INPI pursuant to Article [R. 613-44-1](#), paragraph 3.

[R. 613-44-11, 3°](#)

[R. 613-44-1](#)

4.8. Withdrawal

An opposition can be withdrawn at any time during the proceedings. No reimbursement will be made.

The INPI must be informed of the withdrawal via the patent opposition portal (*see 2.1.1. Patent opposition portal*) by the opponent or his/her representative, where applicable. It must be worded in such a way as to make it unconditionally and unequivocally clear that the opponent wishes to withdraw his/her opposition. In particular, the withdrawal of an opposition may not be made conditional on any action by the owner.

When all oppositions have been withdrawn, the opposition proceedings will be closed (*see 4.9. Closure of proceedings*).

In the case of an opposition filed jointly by several opponents, if one of them has been designated as the common representative but is neither an IP attorney nor a lawyer, the authorisation must expressly allow the representative to withdraw the opposition. Otherwise, a special authorisation for withdrawal is required. The withdrawal of one of the opponents shall have no effect on the continuation of the proceedings. Nevertheless, the INPI must be informed of any resulting change of representative (*see 1.2.1. Joint opponents filing a single opposition*).

The withdrawal of an opposition is not entered in the French Patent Register, except in cases where it leads to the closure of the proceedings (*see 4.9. Closure of proceedings*).

4.9. Closure of proceedings

The decision to close the opposition proceedings shall be communicated to the parties without delay and entered in the French Patent Register.

The opposition proceedings may be closed for the following reasons:

All oppositions against the patent have been withdrawn

The opposition proceedings will be closed when all of the opponents withdraw their respective oppositions (*see 4.8. Withdrawal*).

The patent has been declared invalid by a final court decision

If the patent has been declared invalid by a final court decision, the opposition proceedings shall be deemed devoid of purpose. They are thus closed.

The patent owner has surrendered the claims to which the opposition relates

If the opposition relates to only some of the claims of the contested patent and the owner of the patent surrenders these claims (*see Section B, paragraph 2. Surrender*), the proceedings shall be closed as they serve no further purpose.

The patent has ceased to have effect

If the patent ceases to have effect during the opposition proceedings without retroactive effect to the date of filing, the proceedings shall be closed.

However, an opponent who has a legitimate interest in obtaining a decision on the merits of the case may request that the proceedings be continued.

Legitimate interest can for example be justified in the event of the lapse or expiry of the patent. In such a case, the opponent may wish to have the patent invalidated retroactively by obtaining its revocation if certain alleged acts of infringement were committed before the expiry or lapse.

[R. 613-44-12](#)

[R. 613-44-12, 1°](#)

[R. 613-44-12, 2°](#)

[R. 613-44-12, 3°](#)

[R. 613-44-12, 4°](#)

5. INTERACTION WITH OTHER PROCEDURES

5.1. Interaction with limitation proceedings

A request for limitation shall be inadmissible if it is filed while opposition proceedings are pending and until such time as the decision on the opposition is no longer subject to appeal.

However, a request for limitation shall be admissible if it is filed because of an invalidation action brought against the patent before a court as a principal claim or as a counterclaim. In this case, the INPI shall stay the opposition proceedings.

If limitation proceedings for a patent are pending on the date on which an opposition is filed against the patent, the INPI shall terminate the limitation proceedings, unless the limitation is required because of an invalidation action brought before a court as a principal claim or as a counterclaim. The patent owner will be notified of the termination of the limitation proceedings and the limitation fee will be reimbursed by the INPI.

If a request for limitation is filed after a decision of partial revocation or cancellation, it shall be inadmissible until a new patent specification showing compliance with the decision of partial revocation or cancellation pursuant to Article [R. 612-73](#) has been published.

[L.613-24, 4°](#)

[L.613-24, 5°](#)

[R. 613-45-3](#)

[R. 613-45, 6°](#)

[R. 613-44-10, 1°](#)

5.2. Interaction with court proceedings

See paragraph [4.7 Stay of proceedings](#) for information on the interaction between opposition proceedings and court proceedings such as an action to claim ownership or an invalidity action.



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