

Submission of Information by Third Parties

Japan

Rules 13-2 and 13-3 of the Regulations under the Patent Act provides that any person may submit information relating to patentability of claimed inventions contained in a patent application or a granted patent to the Commissioner of the Japan Patent Office (JPO). Such information can be submitted anonymously. The content of the submitted information is open to the public inspection. No fee is required for the submission of this information.

The information that third parties may submit shall be on the following grounds, which shall be substantiated by written evidence:

- the claimed invention is not patentable subject matter or it does not meet the requirement of novelty, inventive step or industrial applicability;
- double patenting or the claimed invention is contained in another application filed earlier but published later than the filing date of the application/patent concerned (non-compliance with Article 29-2 or 39(1) to (4) of the Patent Act);
- the description requirement has not been met (non-compliance with Article 36(4) or (6) (except (6)(iv)) of the Patent Act);
- the patent application was amended in a manner that new matter going beyond the scope of the disclosure at the time of the filing date has been included (non-compliance with Article 17-2(3) of the Patent Act);
- the scope of the Japanese translation of the application filed in a foreign language goes beyond the scope of the application as filed;
- the patent was corrected in a manner not in compliance with Article 126(1), proviso, (5), (6) or (7), Article 120-5, or Article 134-2, proviso.

The fact that the information has been submitted will be notified by the JPO to the applicant concerned (or the patentee concerned). Upon request, it is possible to obtain a feedback as to whether the submitted information has been utilized by an examiner for the purpose of substantive examination or not.

In addition to paper submissions, relevant information may be submitted on-line to the JPO.