

23-04 P U D T

Patent Administrator

1. Significance

The time- spent on the procedures under the patent system often becomes a problem while these procedures must be carried out under a time constraint. This would cause an overseas resident (a person not domiciled or resident (or an establishment in the case of a legal entity) within Japan) difficulties in terms of geography or time. The purpose of the system with regard to patent administrators is, therefore, to facilitate the progress of the procedures involved in the system by forcing the overseas resident to undertake such procedures through a representative domiciled or resident in Japan, who acts for such person in handling matters related to the person's patent.

With the exception of certain cases, no overseas resident may undertake procedures or institute an action against measures undertaken by a relevant administrative agency in accordance with the provisions of the Patent Act or an order issued under the Patent Act, except through a representative domiciled or resident in Japan, who is acting for such person in handling matters related to the person's patent (Patent Act Article 8 (1), Utility Model Act Article 2-5 (2), Design Act Article 68 (2), Trademark Act Article 77 (2)).

The certain cases referred to above are limited to the case where the overseas resident (or the representative of a legal entity), who has a patent administrator, is living in Japan (Order for Enforcement of the Patent Act Article 1).

2. Authority

A patent administrator shall represent the principal in all procedures and litigation against measures undertaken by any relevant administrative agency in accordance with the provisions of the Patent Act or an order issued under the Patent Act, including the cases expressly empowered (Patent Act Article 9); provided however, that this shall not apply where the overseas resident limits the scope of authority of representation of the patent administrator (Patent Act Article 8 (2), Utility Model Act Article 2-5 (2), Design Act Article 68 (2), Trademark Act Article 77 (2)).

Accordingly, in cases where the scope of authority of representation is not limited, the patent administrator has the authority of representation for all procedures.

The registration system for appointment of a patent administrator, etc. was abolished due to the partial amendment of the Patent Act in 1996, and if the written certificate of the authority of representation, which is submitted to the Patent Office during the filing of an application, mentions, among the matters entrusted to the patent administrator, the empowerment after the registration (including the cases where no limitation is placed on the scope of authority of representation), the patent administrator also has the authority of representation for the procedures after the registration as well as for the procedures pertaining to the patent right.

3. In the Event of Death of the Patent Administrator (→23-11)

(Revised Feb. 2015)