

Drafting in a Case Where an International Trademark Application Does Not Have a Domestic Representative

When the applicant of an international trademark application does not have a representative in Japan, the JPO conducts the necessary procedures directly with the applicant.

[Explanation]

When the applicant of a trademark application is a foreign resident (a person who does not have a domicile or residence (or establishment in the case of a legal entity) within Japan), the applicant cannot conduct procedures directly with the JPO and must appoint a representative residing in Japan (a trademark administrator) to conduct the procedures, pursuant to the provision of Article 8 of the Patent Act, which is applied mutatis mutandis in Article 77(2) of the Trademark Act. However, even if the applicant is a foreign resident applicant, an international trademark application filed by using the international registration system based on the Madrid Protocol would have the same effect as a filing procedure directly with the JPO, and the applicant of an international trademark registration may not have a representative residing in Japan (a trademark administrator).

In such a case, procedures from the JPO, such as sending a copy of the examiner's decision, etc., would be conducted directly with the applicant of an international trademark application. (See Article 192(2) of the Patent Act, which is applied mutatis mutandis in Article 77(5) of the Trademark Act.)

However, when the applicant of an international trademark application residing abroad conducts national procedures under the provisions of the Trademark Act (e.g. submission of a written argument or a written amendment), the applicant cannot conduct procedures directly with the JPO and must appoint a representative residing in Japan (a trademark administrator) to conduct procedures, pursuant to the provision of Article 8 of the Patent Act, which is applied mutatis mutandis in Article 77(2) of the Trademark Act.