

02—03 PUDT

Guideline for Designating Trial and Appeal Decision Classification and Court Decision Classification

I. General

1. When multiple “classifications under types of holdings” are provided as a trial and appeal decision classification or a court decision classification of a trial and appeal decision, an opposition decision, a court decision, etc. (hereinafter simply referred to as “a trial and appeal decision, etc.”), a main part is classified into a main classification and a part other than the main part is classified into a subclassification.

A subclassification shall be written under the main classification of the “classification under types of holdings” with the periods aligned as below.

(Example 1) P1651.113-Z (H04N) main classification

.02 subclassification

(Example 2) D1113.121-Z (L4-2)

.03

2. When certain classification items are comprised of the upper classification and the lower classification, the upper classification is provided for classifying matters which do not belong any lower classification.

(Note 1) When matters to be classified fall under both upper and lower classifications, only lower classification should be provided (not provided with the upper classification).

(Note 2) When matters to be classified exist more than one, and among these matters, there are matters fall under both upper and lower classifications while other matters fall under only the upper classification (not the lower classification), these lower classification and upper classification shall be written down together.

3. Contents of each subclassification item of “Proceedings in general 0” are as shown in Table IV.

II. Classification of Trial and Appeal Decisions

1. Notes when providing the classification under various interlocutory decisions

(1) A decision of dismissal of amendment does not include the first auxiliary classification (conclusion).

(Example 1) T193.1-(103)

(Example 2) D193.2-(L4-2)

(2) A decision on approval/disapproval of intervention and of succession does not include the classification under types of holdings.

A trial decision of the case where a decision on approval/disapproval of intervention is made, an appended table of 091 (→02-02.1 ~02.4 Appended tables (subclassification of proceedings in general)) is written together as a subclassification.

(Example) D191. -ZDecision on approve/disapprove of intervention

D111.11-Z(117)....Trial decision on a case where approve/disapprove
of intervention is made

.091

Classification of trial decisions and decisions provided in making various decisions stated above are shown in the following table.

Types of decisions	Examples of the classification according to trial decisions • decisions
Decision on an opposition to grant of patent (Enforcement on April 1, 2015)	Decision..... P1651.113 -Y Decision..... P1652.121 -Z
Decision on an opposition to registration of trademark (Enforcement on April, 1, 1997)	Decision..... T1651.262 -Y(011) Decision..... T1651.262 -Z(040) Decision..... T1651.13 -ZC(038) Decision..... T1652.272 -ZD(030)
Decision on approval/disapproval of intervention	Decision..... D191. -Z .091
Trial decision of the case where a decision on approval/disapproval of	Decision..... D1113.11 -Z (17) .091

intervention	
Decision on approval/disapproval of succession	Decision..... D195. -Z

2. When, in an ex parte appeal, an appeal decision may not support a reason for refusal of the original decision, but when a request for appeal may not be approved based on a reason for refusal in the appeal of this case or in the reconsideration by the examiner before appeal, or other reasons for refusal in the prior examination, WZ should be written as a classification of conclusion.

3. A decision of exclusion or recusation does not include the classification under types of holdings.

(Example) U151.-Y(D04H)

4. Examples for providing the classification relating to “full invalidation (revocation)” and “partial invalidation (revocation)”

(Examples)

P1113.111 – Z (C07D) Approval of a request for a trial for full invalidation

P1123.111 – Z (C07D) Approval of a request for a trial for partial invalidation

P1113.111 – ZC (C07D) Partial approval of a request for a trial for full
invalidation

P1123.111 – ZC (C07D) Partial approval of a request for a trial for partial
invalidation

T131.1 – Z (4) Approval of a request for a trial for full revocation

T132.1 – Z (4) Approval of a request for a trial for partial revocation

T131.1 – ZC (4) Partial approval of a request for a trial for full
revocation

T132.1 – ZC (4) Partial approval of a request for a trial for partial
revocation

5. When providing the “classification under types of holdings” of the requirements for independent patentability (575 or 856), matters determined by the requirements for independent patentability (for example, 121 for inventive step. If more than one, all major ones) are listed just below the classification (→02-02.1 2.(1) (Note)) (→9. (1) A~C, E, 9. (3)).

6. Notes for Hantei (advisory opinion)

(1) “Use” described in “holdings” of Hantei (advisory opinion) case refers to the relationship of use of rights, such as whether implementation of a thing (a subject article in dispute (Object A)) requires implementation of the present right.

(2) In Hantei (advisory opinion), when both subject matters are rights and have the same classification, an equal sign (“=”) shall be added at the end of the second auxiliary classification, and when both do not have the same classification, a class code of the other shall be added after =.

(Examples)

- Both are rights (a right vs a right) with the same classification:

P 12.2-YA (A01D=)

- Both are rights (a right vs a right) with the different classification:

P 12.1-ZB (D01H=B65H)

7. The classification of “types of level of instance” for a trial decision in a “retrial case” is designated as 5 (→02-02.1 ~ 02.4 1).

(Example) U5112.01-X (B01J)

8. A chief administrative judge checks the trial and appeal decision classification or the court decision classification that is designated by an administrative judge.

9. Examples of using the classification of trial and appeal decisions

(1) Case examples of a patent appeal against examiner’s decision of refusal

A. In a patent appeal against examiner’s decision of refusal,

(A) the appeal is filed against the decision of dismissal of amendment made in the prior examination, and the present appeal examination supports this decision to the effect that the patent after amendment cannot be granted independently pursuant to the Patent Act Article 29(2), therefore, it is determined that the dismissal of the amendment is legal;

(B) it is determined that the patent should not be refused based on the reasons for refusal made in the prior examination (the Patent Act Article 29 (1) (iii)); and

(C) an appeal decision is rendered that the decision of refusal is maintained based on a reason for refusal in the present examination(the Patent Act Article 29(2)).

P18.121-WZB

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B. In a patent appeal against examiner's decision of refusal,

(A) it is determined that the patent should not be refused based on the reasons for refusal (the Patent Act Article 29-2) in the prior examination;

(B) another reason for refusal (Final, the Patent Act Article 29(1)(iii)) is notified in the present examination; and

(C) an amendment is filed, however, an appeal decision is made to the effect that the request is not approved since the patent after amendment cannot be granted independently pursuant to the Patent Act Article 29(2), and at the same time a decision is made to dismiss the amendment.

P18.113-WZ

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C. In a patent appeal against examiner's decision of refusal,

(A) an appeal is filed against the decision of dismissal of amendment made in the prior examination, and the present appeal examination supports this decision to the effect that the patent after amendment cannot be granted independently pursuant to the Patent Act Article 29(2) therefore it is determined that the dismissal of the amendment is legal;

(B) it is determined that the patent should not be refused based on the reasons for refusal (the Patent Act Article 29-2) in the prior examination;

(C) an amendment is submitted in response to another notification of reasons for refusal (Final, the Patent Act Article 29(1)(iii)) made in the present appeal examination. However, an appeal decision is made to the effect that the request is not approved since said amendment introduces a new matter, and at the same time the decision is made to dismiss the amendment.

P 18.113-WZB

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D. In a patent appeal against examiner's decision of refusal,

(A) an appeal is filed against the decision of dismissal of amendment in the prior examination;

(B) the present examination supports this decision to the effect that the amendment introduces a new matter, and therefore it is determined that the dismissal of the amendment is legal; and

(C) an appeal decision is rendered that the decision of refusal is maintained based on the reasons for refusal in the prior examination (the Patent Act Article 29(2)).

P18.121-WZB

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E. In a patent appeal against examiner's decision of refusal,

(A) an appeal is filed against the decision of dismissal of amendment made in the prior examination, and the present appeal examination admits an error in the decision where the patent after amendment cannot be granted independently pursuant to the Patent Act Article 29(2). Therefore it is determined that the dismissal of the amendment is illegal;

(B) it is determined that the invention which was dismissed after amendment should not be rejected based on the reasons for refusal in the prior examination (the Patent Act Article 29(2)); and

(B) an appeal decision is rendered that the invention which was once dismissed after amendment should be patented.

P 18.121-WYA

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(2) Case example of a trial for invalidation of a patent

In a patent trial for invalidation, a request for correction is not approved on the grounds that a new matter is added to an invention after correction, and therefore a trial decision to invalidate the patent is made pursuant to the Patent Act Article 29 (1) (iii).

P 1112.113 - ZB

.841

(3) Case example of a trial for correction

In a trial for correction, a trial decision is made that a correction is not approved on the grounds that an invention after correction cannot be patented independently pursuant to the Patent Act Article 29 (2).

P 141.856 - Z

.121

(4) Case example of an opposition to grant of patent

In a patent opposition, a decision to revoke a patent is made pursuant to the Patent Act Article 29 (2) on the grounds that a new matter is added to an invention after correction and therefore the correction is not approved.

P 1651.121 - ZB

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10. In the case of a trademark, descriptions in the second auxiliary classification and indications in a gazette are different.

(Example) (103) → (3), (211) → (old 11)

Description	Gazette	Description	Gazette
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III. Classification of Court Decisions

1. When two or more conclusions exist in a court decision, a classification of each conclusion is described together.

2. Classification of “Types of court trials” and “Holdings” in court decisions regarding a suit rescinding a trial decision follows those in 02-02(P • U), 02-02(D) and 02-02(T).

3. Classification of “Types of trials” in court decisions regarding administrative litigations other than a suit rescinding a trial decision is designated as 02.

(Example) P 702.11 – Z (C08L)

4. The first auxiliary classification (Conclusion) of a court decision is described just after that of the prior trial (court) decision. In this case, parentheses are needed for the first auxiliary classification of a court decision, a trial decision or a decision of a “Retrial case”.

(Example 1) U 3112.01 - (X) Z (G11B)

(High Court’s decision in a lawsuit against a trial decision of a retrial case)

(Example 2) U 3112.01- Z (X) (G11B)

(High Court’s decision in a retrial case against a final and binding court decision on a suit rescinding a trial decision)

(Example 3) U 4112.01 - Z (X) Z (G11B)

(Supreme Court’s decision in a final appeal case against High Court’s decision of Example 2)

(Example 4) P 704.01 - (X) (G11B)

(District Court’s decision in a retrial case against a final and binding court decision on a patent infringement suit)

(Example 5) P 301.01 - (X) Z (G11B)

(High Court’s decision on an appeal case against District Court’s decision of Example 4)

(Revised on March 30, 1985)

5. With respect to the related court decisions other than the decisions pertaining to the industrial property rights (such as those relating to the Copyright, the Unfair Competition Prevention Law), the classification of “Types of industrial property rights, etc.” is designated as E (→02-02.5 1.).

IV. Definition or Example of Classification for Proceedings in General

Classification	Holdings	Definition or Example	
0	Proceedings in general		
01	Indication of a written request/a written demand	Insufficient payment of fees; differences in an address, name, reference number of the right, etc.; inappropriate requests or reasons	
	Demand	A demand other than under jurisdiction of trial/appeal (for example, a demand for confirming the right of prior use); authority of representation (defectiveness of a Power of Attorney)	
02	Interest Eligibility as a party Benefit of request	A demand for a trial for invalidation from a licensee; a demand from not all persons receiving a decision or a trial decision, or jointly owned the right; a demand against an individual representative of a former right holder or a corporate right holder; a request for Hantei (advisory opinion) after extinction of the right	
03	Application date Priority date Date of demand Date of request	Finding of an application date, a priority date, or a date of demand; demands after the period of exclusion or the period of demand has passed, requests for an opposition after a designated period	
04	Subject matter	A demand for invalidated rights or pending applications; defectiveness, unclearness, a plurality, etc. of a subject article in dispute (Object A) in Hantei (advisory opinion); a demand for two rights; formal determination of acceptance or rejection of a written amendment (see 08)	
05	Method of proceedings	General policy or standards of proceedings	Except proceedings classified under 01-04 and 06-08.
	Procedures of proceedings	Legality of decision and procedures of proceedings.	
06	Evidence	Acceptance or rejection of evidence, procedures for examination of evidence; field verification, expert opinion, etc.	
07	Prohibition of double jeopardy	Proceedings related to prohibition of double jeopardy	
08	Finding of gist		
081	Rights	Finding of gist of the right after registration	Substantial determination on acceptance or rejection of a written amendment (see 04); Determination on matters which are not
082	Not rights	Pending, or finding of gist of subject article in dispute (Object A)	

			described in the claims
09	Others	Holdings not classified as 01～08	
091	Intervention	Proceedings rendered decisions on approval/disapproval of various interventions	
092	Opposition	Proceedings rendered various decisions on opposition (applied only to an opposition filed on or before December 1995)	

(Revised December 2023)