

## 02—03 PUDT

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

#### I. General

1. When the content of “holdings” in a trial/appeal decision covers more than two points, matters stating a main point is decided to be a main classification and matters stating references is decided to be a sub-classification.

A sub-classification shall be written down with characteristics of classification relating to “holdings” of a main classification:

(Example 1) P1112.121-Z (H04N) ..... main classification  
.02 ..... sub-classification

(Example 2) D 111.121-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 classifications.

(Note 1) When matters to be classified fall under only one or multiple lower classifications, the upper classification is not provided.

(Note 2) When matters to be classified exist more than one, and among these matters, one matter falls under the lower classification and other matters fall under the upper classifications, these lower classification and upper classifications shall be written down together.

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

#### II. Classifications of Trial/Appeal Decisions

1. Notes when providing the classifications under various interlocutory decisions

(1) Characteristics of the classifications of “Types of trials/appeals” under the determination of dismissal of amendment is 93, and all classifications except “Conclusion” needs to be described.

(Example 1) T193.1-(103)

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

(2) Decisions on approval/disapproval of intervention and of succession do not provide the classification relating to holdings.

When characteristics of the classifications are provided with a trial/appeal decision of the case where the decision on approval/disapproval of intervention is made, 091 shall be written together as a sub-classification.

(Example) D191.-Z Decision

D111.11-Z (117) Trial/appeal decision

.091

Classifications of trial/appeal decisions and decisions provided when making various decisions stated above are shown in the following table.

Types of decisions	Examples of the classifications according to trial/appeal 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 Decision..... D111.11 -Z(17) .091
Decision on approval/disapproval of succession	Decision..... D195. -Z

2. When, in an ex-parte appeal, an appeal decision is made to the effect that a reason for refusal in the original decision cannot be supported, but a request for appeal cannot be approved based on a reason for refusal in this appeal or in the reexamination by the examiner before trial, or other reasons for refusal in the preliminary trial, WZ shall be written as a classification of conclusion.

3. Classifications related to holdings are not provided with decisions of exclusion or recusation.

(Example) U151.-Y(D04H)

#### 4. Examples for providing the classifications relating to “full invalidation (rescission)” and “partial invalidation (rescission)”

(Examples)

P1112.111 – Z (C07D)	Approval of a request for a trial for full invalidation
P1122.111 – Z (C07D)	Approval of a request for a trial for partial invalidation
P1112.111 – ZC (C07D)	Partial approval of a request for a trial for full invalidation
P1122.111 – 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 rescission
T132.1 – Z (4)	Approval of a request for a trial for partial rescission
T131.1 – ZC (4)	Partial approval of a request for a trial for full rescission
T132.1 – ZC (4)	Partial approval of a request for a trial for partial rescission

#### 5. Notes for advisory opinion

(1) “Use” described in “holdings” of an 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 an 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 the 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)

#### 6. A characteristic of the classification of “types of level of instance” in a trial decision under a “retrial case” is shown as 5.

(Example) Ⓢ 5112.01-X (B01J)

#### 7. A chief administrative judge shall check the trial decision classifications or the court decision classifications designated by an administrative judge.

#### 8. Examples of use the classifications of trial/appeal decisions

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

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

(A) a statement of dissatisfaction was filed against the decision of dismissal of an

amendment in the preliminary trial, and the present trial supports this judgment 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 an amendment is legal.

(B) it is determined that a patent should not be refused based on reasons for refusal in the preliminary trial (the Patent Act Article 29 (1) (iii)), but the decision of refusal is maintained based on a reason for refusal in the present trial (the Patent Act Article 29(2)).

P18.121-WZB

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

(A) it is determined that the patent should not be refused based on the reason for refusal (the Patent Act Article 29-2) in the preliminary trial, and when another reason for refusal (Final, the Patent Act Article 29(1)(iii)) is notified in the present trial, an amendment is filed. However, a trial decision is made to the effect that a 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 the decision is made to dismiss the amendment.

P18.113-WZ

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

(A) a statement of dissatisfaction is filed against the decision of dismissal of an amendment in the preliminary trial, and the present trial supports this judgment to the effect that the patent after amendment cannot be granted independently pursuant to the Patent Act Article 29(2) and therefore it is determined that the dismissal of an amendment is legal.

(B) it is determined that the patent should not be refused based on the reason for refusal (the Patent Act Article 29-2) in the preliminary trial, and when another reason for refusal (Final, the Patent Act Article 29(1)(iii)) is notified in the present trial, an amendment is filed. However, a trial decision is made to the effect that a request is not approved due to a new matter introduced by said amendment, 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 the examiner's decision of refusal of a patent,

(A) a statement of dissatisfaction is filed against a decision of dismissal of an amendment in a preliminary trial, but the present trial supports this judgment to the

effect that a new matter is added by the amendment, therefore, it is determined that the dismissal of an amendment is legal.

P18.121-WZB

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

(A) a statement of dissatisfaction is filed against the decision of dismissal of an amendment in the preliminary trial, the present trial admits an error in the judgment where the patent after amendment cannot be granted independently pursuant to the Patent Act Article 29(2), and therefore it is determined that the dismissal is illegal.

(B) the trial decision is made to the effect that an 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

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(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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9. When 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

### III. Classifications of Court Decisions

1. When two or more conclusions exist in a court decision, classifications of each conclusion shall be described together.

2. Characteristics of the classifications of “Types of trials” and “Holdings” in court decisions regarding a suit against appeal (trial) decision shall follow those in 02-02(P · U), 02-02(D) and 02-02(T).

3. Characteristics of the classifications of “Types of trials” in court decisions regarding administrative litigations other than a suit against appeal (trial) decision shall be 02.

(Example) P 702.11 – Z (C08L)

4. A classification of “Conclusion” of a court decision shall be described just after that of a preliminary trial (court) decision. In this case, parentheses are needed for classifications of a court decision or a trial decision of a “Retrial case”, or “Conclusion” of a decision.

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

(High Court decision in the case of appeal against an appeal (trial) decision of a retrial case)

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

(High Court decision of a retrial case against a final and binding court decision regarding a suit against appeal (trial) decision)

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

(Supreme Court decision of a final appeal case against the High Court decision of Example 2)

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

(District Court decision of a retrial case against a final and binding court decision regarding a patent infringement suit)

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

(High Court decision of an intermediate appeal case against the district court 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 court decisions relating to the Copyright, the Unfair Competition Prevention Law), a characteristic of the classification of the first digit “Types of industrial property rights, etc.” is designated as E.

## IV. Definition or Example of Classifications 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 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 an 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 evidences, procedures for examination of evidences; 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 described in the claims
082	Not rights	Pending, or finding of gist of subject article in dispute (Object A)	

09	Others	Holdings not classified in 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 2020)