

21—08 PUDT

Dismissal of Unlawful Procedures

1. When intermediate documents other than documents of a written demand for trial/appeal and an opposition to grant of patent (an opposition to registration of trademark) fall under the following items, a reason for dismissal shall be notified and dismiss the procedures upon giving an opportunity to submit a written explanation (Patent Act Articles 18-2, 133-2, Utility Model Act Articles 2-5(2), 41, Design Act Articles 52, 68(2), Trademark Act Articles 56(1), 68(4), 77(2)).

(1) When procedures are performed with documents or other articles whose purport of submission are not clear

(2) When procedures are performed with documents (excluding an information statement) which have neither identification number nor a name (trade name) of a person performing the procedures (except when the name (trade name) can be identified from the entire procedural documents).

(3) When a document such as a written opinion or a written reply is submitted after a certified copy of a trial decision or a dismissal of a written demand is served

(4) When an extension of term for a statutory period or a designated period is requested and such extension is not legally permitted, or an extension of term is requested after the period has expired (Patent Act Articles 4, 5, Utility Model Act Article 2-5(1), Design Act Article 68(1), Trademark Act Article 77(1)).

(5) When a procedure falls under any of the followings:

A. A content of amendment is not described in a written amendment (except when a method of amendment is “deletion”). Or a document (an article) to be attached is not attached therewith.

B. An article to be submitted is not attached to a written submission of

articles

- C. No description about who becomes a representative in a notification of appointment of representative
- D. No description of an identification number or a name (trade name) of a successor in a notification of change of applicant
- E. No description of an identification number or a name (trade name) of an agent in a notification of acceptance of appointment of agent
- F. No description of an identification number or a name (trade name) of an appointed agent in a notification of appointment of agent (a notification of change of agent, a notification of change of power of attorney, a notification of extinction of power of attorney)

The procedure is not dismissed if a content of notification can be specified from the attached certificate, etc. for the notification of C~F.

- G. No description of supplementary content or attachment which should be enclosed in a written supplement
- H. No description of agent who is restricted to use the comprehensive power of attorney in a notification of restriction on use of comprehensive power of attorney
- I. No description of a design feature in a feature statement for a design application
- J. No description of a new deposit number in a notification of change of deposit number on deposition of microorganism and a certificate to certify a new deposit number is not attached.

(6) When non-Japanese documents are used for the procedures (Enforcement Regulations of the Patent Act Article 2(1))

(7) When an overseas resident performs a procedure without an agent who has a domicile (residence) in Japan (Patent Act Article 8(1), Utility Model Act Article 2-5(2), Design Act Article 68(2), Trademark Act Article 77(2)).

(8) When a person who performs a procedure is different from one who is described such as in a written demand, an opposition to grant of patent (an

opposition to registration of trademark) (except when a procedure is performed by an agent and it is obvious a clerical error is made in preparing a procedural document).

(9) When an amendment of fees is required and such an amendment falls under any of the followings:

A. Using a deposit system

- (A) There is no deposit account number
- (B) A person (an agent if appointed) who performs a procedure is not a depositor (including a person who been notified as an agent pursuant to Enforcement Regulations of the Act on Special Provisions for Procedures Related to Industrial Property Right Article 41) of a deposit account number in a written amendment
- (C) Payment of expected fees cannot be applied due to insufficient balance in a deposit account

B. Using patent revenue stamps

A procedure is performed without affixing any patent revenue stamp

C. Using cash (electronic cash)

There is no fact of payment, or it is already used (returned)

D. Using account transfer

- (A) A person paying fees requests payment by account transfer in a written amendment
- (B) A person who performs a procedure (an agent if appointed) is not a person who is given a transfer number described in a written amendment (including a person who has been notified as an agent pursuant to Enforcement Regulations of the Act on Special Provisions for Procedures Related to Industrial Property Right Article 41).
- (C) Fees cannot be transferred due to no deposit account or insufficient balance in a deposit account, etc.

E. Using a designated advance payer

(A) A person paying fees requests payment by a person designated for replacement payment in a written amendment

(B) Fees cannot be paid due to such circumstances that a credit card is expired, etc.

(10) When the time or the time period for a procedure is designated under the Patent Act, the Utility Model Act, the Design Act or the Trademark Act, and the procedure is taken outside such the time or the time period

(11) When an application for intervention is submitted in an ex parte case (including a trial for correction)

(12) When a person who is not a representative performs a procedure although a notification for appointment of representative is filed (excluding a procedure the effect of which extends only to the person him/herself)

(13) When a procedure is taken after a written demand or an opposition to grant of patent (an opposition to registration of trademark) is withdrawn or dismissed, or when a procedure is taken after a trial decision or a decision becomes final and binding (excluding an amendment to reduce the number of classes for the trademark registration application made at the same time of payment of registration of the establishment under the Trademark Act Article 68-40(2) after a trial decision becomes final and binding).

(14) When a procedure which should be jointly done is performed by not all demandants (excluding when an agent performs a procedure and omits by error apparently in preparing procedural documents)

(15) In a written amendment (only limited to those for amending the specification, claims or drawings attached to the application, including correction of an incorrect translation) submitted with a written request for appeal against examiner's decision of refusal of patent, when the request for appeal is withdrawn or dismissed by appeal decision (however, this applies only when another request for appeal against examiner's decision of refusal is pending to the same patent application) (Patent Act Article 17-2(1)(iv)).

(Revised June 2019)