

21—08 PUDT
Dismissal of Unlawful Procedures

1. When intermediate documents other than documents of a written demand for trial/appeal and opposition to grant of patent (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 (the Patent Act Articles 18-2, 133-2, the Utility Model Act Articles 2-5(2), 41, the Design Act Articles 52, 68(2), the Trademark Act Articles 56(1), 68(4), 77(2)).

(1) When a procedure is performed with a document or other articles which do not clarify a purport of submission

(2) When a procedure is performed with a document (excluding an information statement) which has neither identification number nor a name (appellation) of a person performing procedures (except when the name (appellation) can be specified 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 is expired (the Patent Act Articles 4, 5, the Utility Model Act Article 2-5(1), the Design Act Article 68(1), the 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 (an evidence) is not attached to a written submission of article

(evidence)

- 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 (appellation) of a successor in a notification of change of applicant
- E. No description of an identification number or a name (appellation) of an agent in a notification of acceptance of appointment of agent
- F. No description of an identification number or a name (appellation) 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)

A 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 supplementary description 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
- 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 an address (domicile) in Japan.

(8) When a person who performs a procedure is different from one who is described 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 clear a clerical error is made in preparing a procedural

document).

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

A. Using a deposit system

(A) There is no deposit account number

(B) A person who performs a procedure (an agent if appointed) is not a depositor of a deposit account described in a deposit account number of a written amendment (including a person who is appointed by notification of appointment of power of attorney pursuant to Enforcement Regulations on Special Exceptions for Procedures Related to Industrial Property Article 41)

(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 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 is appointed by notification of appointment of power of attorney pursuant to Enforcement Regulations on Special Exceptions for Procedures Related to Industrial Property Article 41).

(C) Fees cannot be transferred due to no deposit account or insufficient balance in a deposit account, etc.

E. Using a person designated for replacement payment

(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 even a notification for appointment of representative is filed (excluding a procedure the effect of which extends only to the person him/herself)

(13) 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 a procedure is taken after a trial decision or a decision is finalized (excluding an amendment that reduces 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).

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

(15) A written amendment (limited to those for amending a 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, and such demand is withdrawn or dismissed by appeal decision (however, when there is other pending request for appeal against examiner's decision to the same application) (the Patent Act Article 17-2(1)(iv)).

(Revised June 2019)