

## 23—09 P U D T

### Document Certifying Authority of Representation

1. Only for the procedures that are disadvantageous to a demandant such as abandonment or withdrawal of the application, or that notify appointment or change, etc. of an agent, an agent shall submit a document certifying authority of representation upon the procedures because there is possibility to arise disputes regarding the existence or scope of authority of representation (Enforcement Regulations of the Patent Act Article 4-3, Enforcement Regulations of the Patent Registration Order Article 13-2).

When a chief administrative judge finds it necessary for an procedure undertaken by an agent, he/she may order to submit a document certifying authority of representation regardless of the regulations of Enforcement Regulations of the Patent Act Article 4-3(1), (3) (Enforcement Regulations of the Patent Act Article 4-3(4)).

#### 2. Types of procedures

(1) Procedures that require a power of attorney in a trial/appeal

A. Special authorization regulated under the Patent Act Article 9 (Enforcement Regulations of the Patent Act Article 4-3(1), Enforcement Regulations of the Utility Model Act Article 23(1), Enforcement Regulations of the Design Act Article 19(1), Enforcement Regulations of the Trademark Act Article 22(1))

B. Certification of legal authority of representation (Enforcement Regulations of the Patent Act Article 4-3(1), Enforcement Regulations of the Utility Model Act Article 23(1), Enforcement Regulations of the Design Act Article 19(1), Enforcement Regulations of the Trademark Act Article 22(1))

C. Notification for appointment or change of an agent in the middle of the procedures or after patented (Acceptance in the middle of the procedures)

(Enforcement Regulations of the Patent Act Article 4-3(2), Enforcement Regulations of the Utility Model Act Article 23(1), Enforcement Regulations of the Design Act Article 19(1), Enforcement Regulations of the Trademark Act Article 22(1))

D. Intermediate procedures undertaken by an agent different from an agent notified at the time of filing an application without submitting a notification of appointment of a new agent (Enforcement Regulations of the Patent Act Article 4-3(3), Enforcement Regulations of the Utility Model Act Article 23(1), Enforcement Regulations of the Design Act Article 19(1), Enforcement Regulations of the Trademark Act Article 22(1))

E. Notification of succession of a right to obtain a patent, a petition of succession of procedures (Enforcement Regulations of the Patent Act Article 4-3(1)(i)(ii))

F. Request for an advisory opinion (Enforcement Regulations of the Patent Act Article 4-3(1) (vi), Enforcement Regulations of the Utility Model Act Article 23(1), Enforcement Regulations of the Design Act Article 19(1), Enforcement Regulations of the Trademark Act Article 22(1))

G. Request for an opposition to grant of patent (Enforcement Regulations of the Patent Act Article 4-3(1)(ix))

H. Request for an opposition to registration of trademark (Enforcement Regulations of the Trademark Act Article 22(1))

I. Filing a written opinion (the Patent Act Article 120-5(1), 174(1), the Trademark Act Articles 43-12, 60-2(1), 68(4), 68(5)) (Enforcement Regulations of the Patent Act Article 4-3(1)(xi), Enforcement Regulations of the Trademark Act Article 22(1))

J. Demand for a trial/appeal (except an appeal against examiner's decision of refusal and an appeal against decision to dismiss amendment) (Enforcement Regulations of the Patent Act Article 4-3(1)(xii), Enforcement Regulations of the Utility Model Act Article 23(1), Enforcement Regulations of the Design Act Article 19(1), Enforcement Regulations of the Trademark Act

Article 22(1))

K. Filing a written reply (the Patent Act Article 71(3), the Utility Model Act Article 26, the Design Act Article 25(3), the Trademark Act Article 28(3), the Patent Act Articles 84, 92(7), 93(3), the Utility Model Act Articles 21(3), 22(7), 23(3), the Design Act Article 33(7), the Patent Act Article 134(1), the Utility Model Act Article 39(1), the Design Act Article 52, the Trademark Act Article 56(1), the Patent Act Article 174(3), the Design Act Article 58(4), the Trademark Act Article 61) (Enforcement Regulations of the Patent Act Article 4-3(1)(viii),(xiii), Enforcement Regulations of the Utility Model Act 23(1), Enforcement Regulations of the Design Act 19(1), Enforcement Regulations of the Trademark Act Article 22(1))

L. Request for intervention (the Patent Act Articles 119(1), 148(1)(3), 174(1)(3), the Utility Model Act Articles 41(1), 45(1), the Design Act Articles 52, 58(4), Trademark Act Articles 43-7, 56, 61) (Enforcement Regulations of the Patent Act Article 4-3(1)(x)(xiv), Enforcement Regulations of the Utility Model Act Article 23(1), Enforcement Regulations of the Design Act Article 19(1), Enforcement Regulations of the Trademark Act Article 22(1))

M. Request for preservation of evidence (Enforcement Regulations of the Patent Act Article 4-3(1)(xv), Enforcement Regulations of the Utility Model Act Article 23(1), Enforcement Regulations of the Design Act Article 19(1), Enforcement Regulations of the Trademark Act Article 22(1))

N. Demand for retrial (Enforcement Regulations of the Patent Act Article 4-3(1)(xvi), Enforcement Regulations of the Utility Model Act Article 23(1), Enforcement Regulations of the Design Act Article 19(1), Enforcement Regulations of the Trademark Act Article 22(1))

O. Notification of deposit number of microorganisms (Enforcement Regulations of the Patent Act Article 4-3(1)(xvii))

P. Request for a renewal registration of the right of trademark registration (only when decreasing a number of classes for goods and services)

(Enforcement Regulations of the Trademark Act Article 22(1))

Q. Request for renewal registration based on the right of defensive mark registration (Enforcement Regulations of the Trademark Act Article 22(1))

R. Application for consolidation of classification, replacement of Goods and Class (Enforcement Regulations of the Trademark Act Article 22(1))

S. Submission of name (appellation), address (residence), general power of attorney, etc. under the special provisions (Enforcement Regulations for the Act on Special Provisions for Procedures related to Industrial Property Right Article 5-2(1))

T. Request for identification number, notification of input/output device, submission of statement of advance payment, etc. under the special provisions (Enforcement Regulations for the Act on Special Provisions for Procedures related to Industrial Property Right Article 5-2(1))

U. Request for identification number, etc. under the provisions of Article 3-2(1) of Ministerial Ordinance (Ministerial Ordinance on Cash) on the procedure of paying in cash for fees, etc. related to Industrial Property Right (2) Procedures not require a power of attorney

A. Submission of explanation of situation for accelerated examination

B. Submission of information statement (Enforcement Regulations of the Patent Act Articles 13-2, 13-3)

### 3. Documents certifying authority of representation

#### (1) Legal agent

A. Documents certifying authority of representation of a legal agent for a minor are a transcript (an abstract) of the family register and a copy of the certificate of the residence of a minor, and a copy of the certificate of the residence of a legal agent

B. Documents certifying authority of representation of a legal agent for an adult ward are a certificate of registered matters on the guardianship registration (when guardianship registration has not registered, a transcript

(an abstract) of the family register and a copy of the certificate of the residence of an adult ward, and a copy of the certificate of the residence of a legal agent)

When a guardian is a legal agent, if there is a supervisor of guardian, an agreement and a certificate of the residence of a supervisor of guardian.

(2) Voluntary agent

A. Voluntary agent (attorney), Patent administrator

A power of attorney (Note)

(Note) A types of power of attorney includes a power of attorney for a particular case and a general power of attorney not specified a particular case and submitted before the Commissioner of the JPO in advance. When certifying authority of representation by a general power of attorney, it is necessary to state that a general power of attorney is used (Enforcement Regulations of the Patent Act Article 9-3(1), Enforcement Regulations of the Utility Model Act Article 23(1), Enforcement Regulations of the Design Act Article 19(1), Enforcement Regulations of the Trademark Act Article 22(1), Enforcement Regulations for the Act on Special Provisions for Procedures related to Industrial Property Right Article 6(1)(4)).

B. Authorized agent

A certificate of designation

4. Scope of Authority of Representation

(1) Regarding a legal agent (→ 23-01), a patent administrator (→ 23-04), and an authorized agent (→ 23-03), the scope of authority of representation is respectively regulated under Civil Code or the Patent Act, etc.

(2) When a power of attorney certifying authority of representation by voluntary agent indicates the scope of authority of representation, describe a name of attorney (... designate Mr.(Ms.) XX as an attorney and authorize him(her) to conduct the following matters) and specify matters to be authorized and describe “a case number” and “matters concerning ~” as the

authorized matters.

Regarding authority of representation of an agent for a certain application in which a power of attorney has been submitted, when the power of attorney states the procedures of the patent right (the utility model right, the design right, the trademark right), except when there is no particular restriction of the scope of authority of representation of an agent, since the authority of representation has been continued until the right is extinguished, the agent can undertake the following procedures as an agent of the right holder without submitting a power of attorney again: an opposition to grant of patent, an opposition to registration of trademark, a trial for invalidation, a trial for correction, a trial for rescission of trademark registration, etc.

When matters that require the special authorization also authorize an agent, such as withdrawal of the application, abandonment of the patent right, a request for appeal against examiner's decision of refusal, a request for appeal against examiner's decision to dismiss amendment of a design (trademark) application, or appointment of sub-agent, describe clearly in the power of attorney to that effect (the Patent Act Article 11, the Utility Model Act Article 2-5(2), the Design Act Article 68(2), the Trademark Act Article 77(2)).

## 5. Wordings of Authorization and Interpretation of the Scope

### (1) Interpretation of "Appeal"

Regarding handling of a power of attorney in a demand for an ex parte appeal case, when a power of attorney submitted for the original appeal has a wording of "appeal", the Trial and Appeal Department of the JPO considers "matters related to an appeal" are also included in the authorized matters.

### (2) Interpretation of "filing an application of intervention"

When authorizing filling an application of intervention, the authorization shall be extended to representation of allegation when realizing the intervention.

(3) Interpretation of “Statement at the court in the oral proceedings”

There is no authorization for the matters after the statement in the oral proceedings.

(4) Interpretation of “Others”, “All others”

It does not include an action adversely affects the person, such as withdrawal of an application, withdrawal of a request, abandonment of the right.

It is not necessary a special authorization for a patent administrator of an overseas resident (→ 23-04 2.), except in cases where an overseas resident restricts the scope of authority of representation of a patent administrator.

(Revised December 2020)