

23—11 P U D T

Handling of the Death of an Agent

1. Authority of representation shall be extinct by death of an agent (Civil Code Article 111(1)(ii)). After filing a demand/request for trial/appeal, a trial decision or a court decision made after death of an agent in the case only includes a name and its domicile (residence) of a demandant or a demandee, but not include a name and its domicile (residence) of the agent whose authority of representation was extinct due to the death.

2. Procedures When Death of an Agent

(1) In case of death of a legal agent, procedures shall be suspended until a legal agent of the party concerned or the party concerned who has acquired the capacity to act (→ 22) shall continue the procedures (→ 26-01) (The Code of Civil Procedure Article 124(1)(iii), the Patent Act Article 24, the Utility Model Act Article 2-5(2), the Design Act Article 68(2), or the Trademark Act Article 77(2) shall apply mutatis mutandis).

(2) In case of death of a voluntary agent, the procedures afterward will be carried out with a party concerned.

However, in the case of a patent administrator (→ 23-04), an overseas resident cannot proceed with the procedures without a patent administrator (Patent Act Article 8(1), Utility Model Act Article 2-5(2), Design Act Article 68(2), Trademark Act Article 77(2)), therefore, the related documents shall be directly sent to the party concerned and notify the party concerned to appoint a patent administrator (→ 23-10).

(3) When a sub agent has been appointed

Authority of representation of a sub agent is not extinct due to death of an agent. However, the principal is not prevented from dismissing the sub agent.

A. Considering the purpose of smooth and prompt operation of litigation representation under the Code of Civil Procedure, it is understood that authority of representation of a sub agent is not extinct despite death of a litigation agent.

B. Patent procedures are performed in a series of flows of applications, examinations, trials, etc. and considered like litigation procedures, and thus, authority of representation of a sub agent shall not be extinct due to death of an agent.

3. In Case of Death of Sub Agent

In case of death of a sub agent, the procedures afterwards will be carried out with an agent.

(Revised February 2015)