

25—01 P U D T**Designated Time limit of Ex parte Appeal, Opposition to Registration of Trademark, Advisory Opinion (*Hantei*)**

Designated time limit of an ex parte appeal, an opposition to registration of trademark, and an advisory opinion (*hantei*) is as described in this chapter. For the following cases where this section (25-01) does not apply, please refer to each section below:

Designated time limit of a trial for invalidation, a trial for correction and a trial for rescission of trademark registration (→ 25-01.2)

Designated time limit of an opposition to grant of patent (→ 25-01.4)

Extension of the designated time limit (→ 25-04)

I. Principle

The designated time limit is in principle handled as follows (The same applies to the opposition to registration of trademark).

When, however, there is an agreement with a demandant/appellant, etc., it could be designated a time limit different from the following designated time limit.

1. In case where a person performing a procedure is a domestic resident (a resident in Japan)

(1) Based on the provisions of the law and the ministerial ordinance, a time limit designated by the Commissioner of the Japan Patent Office or a chief administrative judge, or the designated time limit, shall be 60 days for a patent, 40 days for a design and a trademark, 30 days for a utility model, except for the followings.

(2) The designated time limit for submitting a written amendment and a written explanation is 30 days (the Patent Act Article 17(3), the Utility Model Act Article 2-2(3), the Design Act Article 68(2), the Trademark Act Article

77(2), the Patent Act Article 18-2(2), the Utility Model Act Article 2-5(2), the Design Act Article 68(2), the Trademark Act Article 77(2), the Patent Act Articles 133(1)(2), 133-2(2), the Utility Model Act Article 41, the Design Act Article 52, the Trademark Act Articles 43-14, 56(1), 68(4)).

(3) Regarding a time limit of submitting a written opinion, when requesting JPO for preparing the written opinion to issue a copy of document such as a cited document in a notice of reasons for refusal, an original time limit shall be extended for 23 days from the date on which a copy or an abstract of the document is dispatched (except for patents).

(4) Regarding a time limit of submitting a certificate of experimental results, or a special model or sample for a written reply against an inquiry (the Patent Act Article 134(4), the Design Act Article 52, the Trademark Act Articles 43-15(1), 56(1), 68(4), the Patent Act Article 174(2), the Design Act Article 58(2)(3), the Trademark Act Articles 62(1)(2), 68(5)), a different time limit from one designated in (1) may be designated considering each case.

(5) When a date stamp of the document or article with a designated time limit for submission made by a postal mail or correspondence delivery service is not clear, it may be required to submit a receipt of a registered mail receipt, a special record mail receipt, etc. In that case, the designated time limit may be 10 days.

(6) When the person performing the procedures and his/her agent is recognized as being unable to perform procedures within the time limit specified in above (1) and (2) due to reasons not attributable to the person performing the procedures and the agent, a new time limit different from a time limit designated in above (1) and (2) may be designated, or an extension of a required time to perform the procedures may be allowed.

(7) An extension time limit for those who are in a remote area or an area with transportation difficulty (the Patent Act Article 4, the Design Act Article 68(1), the Trademark Act Article 77(1), the Design Act Article 17-4, the Trademark Act Article 17-2(2)) is applied where a person performing

procedures or his/her agent resides in areas shown in an annexed table, and the extension time limit shall be 15 days. However, it is not allowed to extend a time limit for requesting an appeal against examiner's decision of refusal (the Patent Act Article 121(1), the Design Act Article 46(1), the Trademark Act Article 44(1)), and for requesting an appeal against examiner's decision to dismiss amendment (the Design Act Article 47(1), the Trademark Act Article 45(1)).

Note that, it is not allowed to extend a time limit for filing a new application after dismissing amendment in an examination (the Design Act Article 17-3(1), the Trademark Act Article 17-2(1)), whereas it is allowed to extend a time limit (the Design Act Article 17-4(2), the Trademark Act Article 17-2(2)) for filing a new application after dismissing the amendment in an appeal (the Design Act Article 50(1), the Trademark Act Article 55-2(1)).

2. In case where a person performing a procedure is an overseas resident

(1) A designated time limit for submitting documents and other articles shown below shall be 3 months for patents, designs, and trademarks, and 60 days for utility models. However, when it is found an agent prepare the articles by himself/herself, the designated time limit shall be the same as regulated in above 1. (1).

A. Written opinion (excluding a written opinion described in the Patent Act Article 48-7)

B. Written reply (only for arbitration cases)

C. Document responding to an order for consultation (the Patent Act Article 39(6), the Design Act Article 9(4), the Trademark Act Article 8(4))

D. Time limit for above 1. (3)

E. Written amendment (except a written amendment submitted by a person who is ordered to amend procedures regarding the Patent Act Article 17(3), the Utility Model Act Article 2-2(3) and the Patent Act Article 133(1)(2)).

(2) A designated time limit for submitting a written amendment or a written explanation for above 1. (2) shall be 30 days.

(3) A designated time limit for submitting articles other than those specified in each item of above (1) shall be a time limit specified in above 1. (1).

(4) Regulations in above 1. (3) ~ (5) are applied mutatis mutandis to cases where an overseas residents perform a procedure.

(5) An extension time limit for those who are in a remote area or an area with transportation difficulty (the Patent Act Article 4, the Design Act Article 68(1), the Trademark Act Article 77(1), the Design Act Article 17-4, the Trademark Act Article 17-2(2)) shall be 60 days. However, an extension time limit for requesting an appeal against examiner's decision of refusal of patent (the Patent Act Article 121(1) (excluding an appeal against examiner's decision of refusal regarding an application for a registration of extension of patent term)) shall be one month. It is not allowed to extend a time limit for requesting an appeal against examiner's decision of refusal of design or trademark (the Design Act Article 46(1), the Trademark Act Article 44(1)) and an extension of time limit for requesting an appeal against examiner's decision to dismiss amendment (the Design Act Article 47(1), the Trademark Act Article 45(1)).

Note that, it is not allowed to extend a time limit for filing a new application after dismissing amendment in an examination (the Design Act Article 17-3(1), the Trademark Act Article 17-2(1)), whereas, it is allowed to extend a time limit (the Design Act Article 17-4(2), the Trademark Act Article 17-2(2)) for filing a new application after dismissing the amendment in an appeal (the Design Act Article 50(1), the Trademark Act Article 55-2(1)).

II. Designated Time limit of Advisory Opinion

1. A designated time limit for filing a written opinion, a written reply or a refutation shall be, common to all laws, 30 days for a domestic resident and 60 days for an overseas resident (no extension is allowed by request).

2. A time limit for filing a written opinion or a written explanation is designated as in above I 2. (2).

(→ regarding the time limit in general, please refer to Formality Examination Manual (04. Time Limits))

Annex Table

Tokyo	Izu Islands ・ Ogasawara Islands
Ishikawa Prefecture	Hegura Island, Ama-cho, Wajima-shi,
Kagoshima Prefecture	Nansei Islands
Okinawa Prefecture	Surrounding Islands except the main island of Okinawa
Hokkaido	Surrounding Islands around Hokkaido

(Revised Oct 2015)