

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

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25—01.1 P U D T

List of Important Time Limits (1)

(Ex parte Appeal, Opposition to Registration of Trademark, Advisory Opinion (*Hantei*))

(Patents (excluding Trial for invalidation, Trial for Correction))

Procedure	Legal provisions on which the procedure is based (application mutatis mutandis · similar laws/regulations)	Initial date	Time limit (extension)		Remarks
			Domestic resident	Overseas resident	
【 Legal period 】					
Amendment of specification · claims · drawings	Patent Act Article 17-2	Application date	a service date of a transcript of Decision of Patent (excluding after receiving the decision of refusal)		
	Patent Act Article 17-2(1)(iv)	At the same time of requesting an appeal against the	-	-	

		examiner's decision of refusal			
Amendment of abstract	Patent Act Article 17-3	Application date or Priority date	1 year and 3 months	1 year and 3 months	
Application for exceptions to lack of novelty	Patent Act Article 30(1)(2)	Date of loss of novelty	6 months	6 months	
Filing a certificate certifying exceptions to lack of novelty	Patent Act Article 30(3)	Application date	30 days	30 days	
Application claiming priority	Patent Act Articles 43(1), 43-2(1)(2) Paris Convention Article 4C(1)	Application date of a first country	Patent 12 months Design → Patent 6 months	Patent 12 months Design → Patent 6 months	
Filing a priority certificate	Patent Act Articles 43(2), 43-2(3)	Priority date	1 year and 4 months	1 year and 4 months	

	Patent Act Articles 44(3), 46(5)	Priority date	1 year and 4 months or 3 months from filing date of new application, whichever is the latest*		In case of divisional application, or converted application
Application claiming domestic priority	Patent Act Article 41(1)	Earlier application date	1 year	1 year	
Translation for foreign language written application	Patent Act Article 36-2(2)	Application date or Priority date	1 year and 2 months ☆	1 year and 2 months ☆	
Conversion of application (Utility Model →Patent)	Patent Act Article 46(1)	Application date	During the pendency of the utility model application, but within 3 years from the filing date		
Conversion of application (Design →Patent)	Patent Act Article 46(2)	a. Filing date of a design application b. a Service date of a transcript of the decision of refusal	3 years 3 months	3 years 3 months	A first decision of refusal

		of design application			
Payment of patent fee	Patent Act Article 108(1)	a Service date of a transcript of the examiner's decision of patent or trial/appeal decision of patent	30 days (30 days extension by request)	30 days (30 days extension by request)	
Request for appeal against examiner's decision of refusal	Patent Act Article 121(1)	a Service date of a transcript of the decision of refusal	3 months	3 months (1 month extension by ex officio)◇	
Request for retrial	Patent Act Article 173(1)	Date known the reason for retrial after the trial decision becomes final and binding	30 days (15 days extension by ex officio)*	30 days (60 days extension by ex officio)	
Action against trial decision	Patent Act Article 178(3)	Service date of a transcript of the	30 days (15 days additional time frame)*	30 days (90 days additional time frame)	

		trial/appeal decision			
【 Designated time limit, etc.】					
Amendment of Specification · Claims · Drawings	Patent Act Article 17-2(1)(i)(iii)	Dispatching date of a notice of reasons for refusal	60 days or 75 days* (1 month extension by request)	3 months (3 months extension by request)	
	Patent Act Article 17-2(1)(ii)	Dispatching date of a notice under Patent Act Article 48-7	30 days or 45 days*	60 days	
Order for amendment of formalities	Patent Act Articles 17(3), 133(1)(2), 71(3), 174(2)	Dispatching date of a written invitation	30 days	30 days	
Filing a written explanation	Patent Act Articles 18-2(2), 133-2(2), 73(3), 174(2)	Dispatching date of a notice of reasons for dismissal	30 days	30 days	

Time limit of succession by order	Patent Act Article 23(1)	Dispatching date of an order of succession	60 days or 75 days*	3 months	
Filing a written opinion (Statement of opinion)	Patent Act Article 50, 67-4, 71(3), 150(5), 159(2), 163(2), 174(2)	<ul style="list-style-type: none"> • Dispatching date of a notice of reasons for refusal • Dispatching date of a notice of proceedings results • Dispatching date of a notice of results of examination of evidence or preservation of evidence 	60 days or 75 days* (1 month extension by request)	3 months (3 months extension by request)#	
	Patent Act Article 48-7	Dispatching date of a notice under Patent Act Article 48-7	30 days or 45 days* In case of dispatching together with a notice of	60 days In case of dispatching together with a notice of	

			reasons for refusal, 60 days or 75 days*	reasons for refusal, 3 months	
Filing a written opinion on an advisory opinion	Patent Act Article 71(3)	Dispatching date of a notice of results of examination of evidence or preservation of evidence	30 days	60 days	
Filing a written reply on an advisory opinion	Patent Act Article 71(3), Enforcement Regulations of the Patent Act Article 40	Dispatching date of a duplicate of request for an advisory opinion	30 days	60 days	
Filing a refutation on an advisory opinion	Enforcement Regulations of the Patent Act Article 47-3(1)	Dispatching date of an invitation of refutation	30 days	60 days	

Written reply on an inquiry	Patent Act Article 134(4), 174(2)	Dispatching date of an inquiry	60 days or 75 days* (1 month extension by request)	3 months (3 months extension by request)#	Possible to specify a different time limit
	Patent Act Article 71(3)	Dispatching date of an inquiry (Advisory opinion)	30 days	60 days	
Filing a receipt of registered mail, etc.	Patent Act Articles 71(3), 134(4), 174(2), 194(1)	Dispatching date of a notice of request for submission of articles	10 days	10 days	

Note 1. * is for those reside in remote areas or an area with transportation difficulty

Note 2. # shows 60 days depending on reasons (see Manual for Trial/Appeal Proceedings 25-01 2. (1))

Note 3. Regarding *, in case of a filing date of an original application is before December 31, 1998 is 1 year and 4 months

Note 4. Regarding ☆, when a divisional application, a converted application or an application based on the utility model registration is filed after more than 1 year has passed from the original filing date (in case of an application claiming priority under the Paris Convention, a priority date), within 2 months from the date of filing said divisional application, etc.

Note 5. Regarding ◇, in case where an appeal against examiner's decision of refusal regarding registration of extension of the term, the time limit shall not be extended. (Design • Trademark (excluding Trial for invalidation, Trial for Correction))

Procedure	Legal provisions on which the procedure is based (application mutatis mutandis · similar laws/regulations)	Initial date	Time limit (extension)		Remarks
			Domestic resident	Overseas resident	
【 Legal period 】					
Amendment	Design Act Article 60-3, Trademark Act Article 68-40(1), Supplementary provisions of the Trademark Act Article 24		During the pendency of examinations, proceedings for opposition to registration of trademark, a trial or a retrial		
	Trademark Act Article 68-40(2)		At the same time of payment of the registration fee of the trademark (Amendment for reducing the number of classes in the trademark application)		

Application for exceptions to lack of novelty	Design Act Article 4(1)(2)	Date of loss of novelty	6 months	6 months	
Filing a certificate for the above exceptions to lack of novelty	Design Act Article 4(3)	Application date	30 days	30 days	
Application to be applied special provisions at the time of filing	Trademark Act Article 9(1)	Date when a trademark used for goods or services listed or exhibited at an exhibition	6 months	6 months	
Filing a certificate for the above special provisions	Trademark Act Articles 9(2)	Application date	30 days	30 days	
Application claiming priority	Design Act Article 15(1), Trademark Act Article 13(1), 68(1), Paris	Filing date of a first country	Design · Trademark 6 months Trademark · Utility Model → Design	Design · Trademark 6 months Trademark · Utility Model → Design	

	Convention Articles 4C, E1		6 months	6 months	
Filing a priority certificate	Design Act Articles 15(1), Trademark Act Articles 13(1), 68(1)	Date of a domestic application (not applicable to legal fiction)	3 months	3 months	
Conversion of application (Patent → Design)	Design Act Article 13(1)	Service date of a transcript of the decision of refusal	3 months	3 months	A first decision
Conversion of application (Utility Model → Design)	Design Act Article 13(2)		During the pendency of the utility model application		
New application after dismissal of amendment (Examination stage)	Design Act Article 17-3(1), Trademark Act Articles 17-2(1), 68(2)	Service date of a transcript of decision of dismissal of amendment	3 months	3 months	

New application after dismissal of amendment (Appeal stage)	Design Act Article 50(1), Trademark Act Articles 55-2(1), 68(3)	Service date of a transcript of decision of dismissal of amendment	30 days (15 days extension by ex officio)*	30 days (60 days extension by ex officio)	
Payment of registration fee	Design Act Article 43(1), Trademark Act Articles 41(1), 65-8(1)(2)	Service date of a transcript of the decision of patent or trial/appeal decision	30 days (30 days extension by request)*	30 days (30 days extension by request)	
Inspection to application documents, etc.	Trademark Act Articles 18(4), 68(3)	Date of issue of a trademark gazette	2 months	2 months	
Request for opposition to registration of trademark	Trademark Act Articles 43-2, 68(4)	Date of issue of a trademark gazette	2 months	2 months	
Amendment of reasons, etc. for requesting an	Trademark Act Articles 43-4(2), 68(4)	Last day of the time limit for requesting an opposition	30 days (15 days extension by ex officio)*	30 days (60 days extension by ex officio)	

opposition to registration of trademark					
Request for appeal against examiner's decision of refusal	Design Act Article 46(1), Trademark Act Articles 44(1), 68(4), Supplementary Provisions of the Trademark Act Articles 13, 23	Service date of a transcript of the decision of refusal	3 months	3 months	
Request for appeal against examiner's decision to dismissal of amendment	Design Act Article 47(1), Trademark Act Articles 45(1), 68(4)	Service date of a transcript of the decision of dismissal of amendment	3 months	3 months	
Request for retrial	Design Act Article 58(1), Trademark Act Articles 61,	Date known the reason for retrial after the trial	30 days (15 days extension by ex officio)*	30 days (60 days extension by ex officio)	

	68(5), Supplementary Provisions of the Trademark Act Article 20	decision becomes final and binding			
Action against trial decisions, etc.	Design Act Article 59(2), Trademark Act Articles 63(2), 68(5), Supplementary Provisions of the Trademark Act Articles 22(2), 23	Service date of a transcript of the trial/appeal decision	30 days (15 day additional time frame)*	30 days (60 day additional time frame)	
【 Designated time limit, etc.】					

Order of amendment of formalities	Design Act Articles 25(3), 52, 58(2)(3), 68(2), Trademark Act Articles 28(3), 43-14(1), 56(1) 62(1)(2), 68(4), 77(2), Supplementary Provisions of the Trademark Act Articles 17(1), 21, 23, 27(2)	Dispatching date of an order of amendment	30 days	30 days	
Filing a written reply on an advisory opinion	Design Act Article 25(3), Enforcement Regulations of the Design Act Article 19(4), Trademark Act Article 28(3), Enforcement	Dispatching date of an invitation of written reply	30 days	60 days	

	Regulations of the Trademark Act Article 22(6)				
Filing a refutation on an advisory opinion	Enforcement Regulations of the Design Act Article 19(4), Enforcement Regulations of the Trademark Act Article 22(6)	Dispatching date of an invitation of refutation	30 days	60 days	
Filing a written opinion (Statement of opinion)	Design Act Articles 19, 50(3), 57(1), Trademark Act Articles 15-2, 15- 3(1), 43-12, 55- 2(1), 60-2(1)(2), 65-5, 68(2)(4)(5), Supplementary Provisions of the	<ul style="list-style-type: none"> • Dispatching date of a notice of reasons for refusal • Dispatching date of a notice of reasons for rescission 	40 days or 55 days*	3 months (1 month extension by request) 40 days depending on the reasons	

	<p>Trademark Act</p> <p>Articles 7, 16, 19, 23, Supplementary Provisions of the 1996 Act on Partial Revision of the Trademark Act, etc.</p> <p>Article 12</p>				
<p>Statement of opinions on investigation of evidences or preservation of evidences</p>	<p>Design Act Articles 52, 58(2) , Trademark Act Article 43-8, 56(1), 68(4), Supplementary Provisions of the Trademark Act Articles 17(1), 21</p>	<p>Dispatching date of a notice of results of investigation or preservation of evidences</p>	<p>40 days or 55 days</p>	<p>3 months (1 month extension by request)</p>	

Filing a written explanation	Design Act Articles 25(3), 52, 58(2)(3), 68(2), Trademark Act Articles 28(3), 43-14(1), 56(1), 62(1)(2), 77(2), 68(4), Supplementary Provisions of the Trademark Act Articles 17(1), 21, 23, 27(2)	Dispatching date of a notice of reasons for dismissal	30 days	30 days	
Written supplement	Trademark Act Article 5-2(2)	Dispatching date of an invitation	1 month or 1 month + 15 days*	2 months	
Time limit of succession by order	Design Act Article 68(2), Trademark Act Article 77(2)	Dispatching date of an order of succession	60 days or 75 days*	3 months	

Written reply on an inquiry	Design Act Articles 52, 58(2)(3), Trademark Act Article 56(1)	Dispatching date of an inquiry	40 days or 55 days *	3 months (1 month extension by request)	Possible to specify a different time limit
	Design Act Article 25(3), Trademark Act Article 28(3)	Dispatching date of an inquiry (Advisory opinion)	30 days	60 days	
Filing a receipt of registered mail, etc.	Design Act Articles 25(3), 52, 58(2)(3), 68(2), Trademark Act Article 28(3), 43-14(1), 56(1), 62(1)(2), 77(2), 68(4), Supplementary Provisions of the Trademark Act Articles 17(1), 23, 27(2)	Dispatching date of a notice of request for submission of articles	10 days	10 days	

Note 1. * is for those reside in remote areas or areas with transportation difficulty.

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25—01.2 P U D T

Designated Time Limit of Trial for Invalidation, Trial for Correction, and Trial for Rescission of Trademark Registration

For a trial for invalidation, a trial for correction, and a trial for rescission of trademark, a time limit designated by a chief administrative judge based on the provisions of laws and ministerial ordinances (the designated time limit) is determined below as the standard designated time limit.

The same applies to a retrial for a final and binding decision of a trial for invalidation, a trial for correction, and a trial for rescission of trademark.

1. Standard Designated Time Limit for Domestic Residents

(1) Standard designated time limit for an opportunity of substantial allegations and evidence

A. Opportunity for substantial allegations and evidence for a right holder

(A) After demanding a trial for invalidation and a trial for rescission of trademark registration, a legal time limit to reply (a time limit of request for correction) (the Patent Act Article 134(1), the Utility Model Act Article 39(1), the Design Act Article 52, the Trademark Act Article 56(1)) provided to a right holder for the first time shall be 60 days for patents, 30 days for utility models, or 40 days for designs and trademarks.

(B) For the second time for an opportunity to reply, there is an opportunity for legal reply when an amendment is made to change the gist of reasons for request (the Patent Act Article 134(2), the Utility Model Act Article 39(2), the Design Act Article 52), an opportunity for reply based on enforcement regulations (Enforcement Regulations of the Patent Act Article 47-2(1), Enforcement Regulations of the Utility Model Act Article 23(12), Enforcement Regulations of the Design Act Article 19(8), Enforcement Regulations of the Trademark Act Article 22(8)), or reapplication of the first

opportunity for legal reply (the Patent Act Article 134(1), the Utility Model Act Article 39(1), the Design Act Article 52, the Trademark Act Article 56(1)), and in any case of the above the time limit shall be 30 days.

(C) For an opportunity for correction against an advance notice of trial decision (the Patent Act Article 164-2(2)), a time limit provided to a right holder shall be 60 days.

B. Opportunity for substantial allegations and evidence for a demandant of trial for invalidation and a demandant for a trial for rescission of trademark registration

(A) A time limit for responding to a written refutation for a demandant of a trial for invalidation and a demandant of a trial for rescission of trademark registration against the written reply of the right holder shall be 30 days (Enforcement Regulations of the Patent Act Article 47-3(1), Enforcement Regulations of the Utility Model Act Article 23(12), Enforcement Regulations of the Design Act Article 19(8), Enforcement Regulations of the Trademark Act Article 22(6)).

C. A time limit for responding to a notice of results of ex officio proceedings

(A) 30 days for the following procedures: a time limit for filing a statement in responding to a notice of results of ex officio proceedings by a right holder (the Patent Act Article 153(2), the Utility Model Act Article 41, the Design Act Article 52, the Trademark Act Article 56(1)); a time limit for filing a statement in response to a notice of reasons for refusal of correction in a trial correction (the Patent Act Article 134-2(5)); and a time limit for filing a statement in response to a notice of results of investigation of evidence by ex officio (the Patent Act Article 150(5), the Utility Model Act Article 41, the Design Act Article 52, the Trademark Act Article 56(1)).

(B) A time limit for responding to an inquiry in document proceedings (the Patent Act Article 134(4), the Utility Model Act Article 39(3), the Design Act Article 52, the Trademark Act Article 56(1)) shall be about 15 days as a

reference, but a chief administrative judge shall designate a response time limit deemed appropriate considering the content of an inquiry.

(2) A standard designated time limit for procedures already prepared by the right holder

A. When a decision to reverse the trial decision to maintain the patent is fixed and binding in a suit rescinding a trial decision, a designated time limit for a patentee to request correction when initiating the proceedings of a patent invalidation trial which is re-pending before the JPO (the Patent Act Article 134-3) shall be a very short time limit, such as about 10 days.

(3) A standard designated time limit for a response not directly related to substantial allegations and evidence

A. A time limit for responding to a notice of confirmation of consent for confirming a consent of a right holder with an amendment to change the gist of reasons for request made by a demandant of an invalidation trial (the Patent Act Article 131-2(2)(ii), Enforcement Regulations of the Patent Act Article 47-4(1), the Utility Model Act Article 38-2(2), Enforcement Regulations of the Utility Model Act Article 23(12), the Design Act Article 52, the Enforcement Regulations of the Design Act Article 19(8)) shall be 10 days.

B. A designated time limit of expressing a statement of the party concerned, etc. about a request for intervention (the Patent Act Article 149(2), the Utility Model Act Article 41, the Design Act Article 52, the Trademark Act Article 56(1)) shall be 15 days.

C. A time limit for responding to an order of amendment in case of a violation of formality requirements (the Patent Act Article 133(1)(2), the Utility Model Act Article 41, the Design Act Article 52, the Trademark Act Article 56(1)) shall be 10 to 20 days.

However, among violation of formality requirements, a time limit for responding to a violation of description requirements in regards to reasons for request for a trial for invalidation (the Patent Act Article 131(2), the Utility Model Act Article 38(2), the Design Act Article 52), and in regards

to the gist of request and reasons therefor for a trial for correction (the Patent Act Article 134-2(9) → Article 131(3)) shall be 30 days.

D. A time limit of filing a written explanation to a notice of reasons for dismissal (the Patent Act Article 133-2(2), the Utility Model Act Article 41, the Design Act Article 52, the Trademark Act Article 56(1)) shall be 20 days.

E. Regarding a designated time limit for succession responding to an order of succession of procedures for trials/appeals, etc. (the Patent Act Article 133-2(2), the Utility Model Act Article 41, the Design Act Article 52, the Trademark Act Article 56), and a procedure time limit regulated under other enforcement regulations (Enforcement Regulations of the Patent Act the proviso of Article 50(3), Article 50-8(1), the proviso of Article 58-2(1), Article 58-17(3), Article 60(1), etc., Enforcement Regulations of the Utility Model Act Article 23(12), Enforcement Regulations of the Design Act Article 19(8), Enforcement Regulations of the Trademark Act Article 22(8)), they shall be designated in consideration of each condition, but not uniformly determined the standard designated time limit.

(4) A standard designated time limit for those reside a remote area or an area with transportation difficulty

For a party concerned or an intervener residing a remote area or an area with transportation difficulty, a time limit shall be added for 15 days to a standard designated time limit.

2. Standard Designated Time Limit for Overseas Residents

A standard designated time limit for overseas residents indicates below, whereas a standard designated time limit for domestic residents is described in the above 1.

(1) To add 30 days to a time limit on an initial statutory response for a right holder

(2) To add 20 days to a time limit from a second response for a right holder

- (3) To add 30 days to a designated time limit on a request for correction of a right holder against an advance notice of trial decision
- (4) To add 20 days to a time limit for filing a refutation of a demandant of a trial for invalidation and a demandant of a trial for rescission of trademark registration
- (5) To add 20 days to a time limit for responding to a notice of results of ex officio proceedings
- (6) To add 10 days to a time limit for replying an inquiry
- (7) There is no difference for the procedures already prepared by a right holder
- (8) A response time limit on procedures not directly related to allegations and evidence makes basically no difference, but adds 10 days for a statement of opinions to a request for intervention and for a response to an inappropriate power of attorney.

3. Designation of Time Limit Different from Standard Designated Time Limit

(1) Designation of a time limit shorter than the standard designated time limit

For the following cases, a chief administrative judge may designate a time limit shorter than the standard designated time limit stated in the above, considering the individual circumstance (Common to all laws, but the designated time limit may be extended after the designation by ex officio or by request of a person who performs procedures).

A concept of designating a time limit particularly shorter than the standard designated time limit for a specific case applies the same way to a domestic resident and an overseas resident.

A. When a person performs a procedure consents to a time limit shorter than the standard designated time limit

B. When a party concerned is deemed to be able to handle in a time limit shorter than the standard designated time limit in view of the details and nature of a case.

C. When a time limit on submission of allegations and evidence is designated in the situation where the case is considerably ripe and it is unlikely that a party concerned prepares a new allegations and evidence.

D. When a particular prompt proceedings are required

E. In an infringement lawsuit between parties of the trial, when it is recognized that parties concerned are possible to prepare in a short time limit because allegations and evidence over the defense of patent invalidity based on the grounds for invalidation alleged in the trial have been already done.

F. In an invalidation trial of which examination is resumed due to a final and binding court decision rescinding the trial decision to invalidate the patent or design and to rescind the trademark registration, when an opportunity of submission of a written refutation is given to a demandant of invalidation trial.

(2) Designation of time limit longer than the standard designated time limit

If most of working days are spoiled due to Government Holidays such as year-end and New Year holidays, or Golden Week holidays in the middle of the response time limit when applied the standard designated time limit, a chief administrative judge may designate a response time limit extended to the standard designated time limit for a time limit corresponding to the number of spoiled days (When Government Holidays fall into the end of the time limit, not in the middle, the time limit is rather extended substantially and therefore an extension is not made).

4. Extension by request or by ex officio of the time limit which has been already designated (→ 25-04)

(Revised Feb 2015)

25—01.3 P U D T

List of Important Time Limits (2)

(Trial for Invalidation, Trial for Correction, Trial for Rescission)

(Patents (Trial for invalidation, Trial for Correction))

Procedure	Legal provisions on which the procedure is based (application mutatis mutandis · similar laws/regulations)	Initial date	Time limit (extension)		Remarks
			Domestic resident	Overseas resident	
【 Legal period 】					
Amendment of specification · claims · drawings attached to a trial for correction	Patent Act Article 17-4(2)	Time of demanding a trial for correction	Before arriving a notice of conclusion of trial proceedings (In case of reopen the proceedings, before arriving a notice of conclusion of trial proceedings after reopening)		

Request for correction after the decision to reverse the trial decision becomes final and conclusive	Patent Act Article 134-3 (2003) Article 134-3(1)		Fixed date of the decision	1 week	1 week	
Request for retrial	Patent Act Article 173(1)		Date known the reasons for retrial after the decision is becomes final and conclusive	30 days (15 days extension by ex officio)*	30 days (60 days extension by ex officio)	
Action against the trial decision	Patent Act Article 178(3)		Date of service of a transcript of a trial decision	30 days (15 days additional time frame)*	30 days (90 days additional time frame)	
【 Designated time limit, etc.】						
Filing a request for correction	Patent Act Articles	Patent Act Article	Dispatching date of an invitation to reply	60 days or 75 days* Utility Model : 30 days or 45 days*	90 days Utility Model : 60 days	

	134- 2(2)	134(1)	(An invitation to reply after the second time or more by re-applying 134(1) is same as 134(2))			
		Article 164-2(2)	Service date of a transcript of a trial decision	60 days or 75 days*	90 days	
		Articles 134(2) 153(2)	Dispatching date of an invitation to reply Dispatching date of a notice of reasons for invalidation	30 days or 45 days*	50 days	
Filing a request for correction at the commencement of the re-pending		Article 134-3	Dispatching date of a notice of designated time	10 days or 25 days*	10 days	

proceedings due to rescission of the trial decision		(2003) Article 134-3(1) (2)	limit for a request for correction			
Amendment for specification, claims, drawings attached to the request for correction	Patent Act Articles 17-4(1)	Patent Act Articles 134(1) 164-2(2)	<ul style="list-style-type: none"> • Dispatching date of an invitation to reply (An invitation to reply after the second time or more by re-applying 134(1) is same as 134(2)) • Date of service of a transcript of the advance notice of trial decision 	60 days or 75 days*	90 days	

		Patent Act Articles 134(2) 153(2) 134-2(5)	<ul style="list-style-type: none"> • Dispatching date of an invitation to reply • Dispatching date of a notice of reasons for invalidation • Dispatching date of a notice of reasons for refusal of correction 	30 days or 45 days*	50 days	
Amendment for specification, claims, drawings attached to the request for correction (contd.)	Patent Act Article 17-4(1)	Patent Act Article 134-3 (2003) Article 134-3(1)	Dispatching date of a notice of designation time limit for a request for correction	10 days or 25 days*	10 days	

	(2)				
Filing a first statutory reply	Patent Act Articles 134(1).174(3)	Dispatching date of an invitation to reply	60 days or 75 days* Utility Model: 30 days or 45 days*	90 days Utility Model: 60 days	
Filing a statutory reply after the second time when an amendment changing the gist of reasons for request is approved and decided	Patent Act Article 134(2)	Dispatching date of an invitation to reply	30 days or 45 days*	50 days	
Filing a written reply under Enforcement Regulations of the Act	Enforcement Regulations of the Patent Act Article 47-2(1) Enforcement Regulations of the	Dispatching date of an invitation to reply	30 days or 45 days*	50 days	

	Patent Act Article 50-16				
Filing a reply by re-applying the regulations of an opportunity of a first statutory reply	Patent Act Article 134(1)	Dispatching date of an invitation to reply	30 days or 45 days*	50 days	
Filing a written refutation	Enforcement Regulations of the Patent Act Article 47-3(1) Enforcement Regulations of the Patent Act Article 50-16	Dispatching date of an invitation for refutation	30 days or 45 days*	50 days	
Filing a written opinion (statement of opinion)	Patent Act Articles 153(2), 134-2(5), 165	• Dispatching date of a notice of reasons for invalidation	30 days or 45 days*	50 days	

		<ul style="list-style-type: none"> • Dispatching date of a notice of reasons for refusal for correction 			
	Patent Act Articles 150(5), 174(3)(4)	Dispatching date of a notice of results of investigation of evidence or preservation of evidence	30 days or 45 days*	50 days	
Filing a statement of a request for intervention	Patent Act Articles 149(2), 174(3)	Dispatching date of a notice of service of a duplicate of a request for intervention	15 days or 30 days*	25 days	
Filing a written reply to an inquiry	Patent Act Articles 134(4) 174(3)(4)	Dispatching date of an inquiry	About 15 days or 30 days*	About 25 days	

Order for formalities amendment	Patent Act Articles 133(1)(2) 174(3)(4)	Dispatching date of an order a. Insufficient payment of fees b. Insufficient Power of Attorney (2 or more principals or agents) c. Violation of description requirements of reasons for a request for trial, the gist of and reasons for a request for correction d. Other formality violation	10 days or 25 days* 10 days or 25 days* (20 days or 35 days*) 30 days or 45 days* 20 days or 35 days*	10 days 20 days 30 days 30 days 20 days	
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Written explanation	Patent Act Articles 133-2(2), 174(3)(4)	Dispatching date of a notice of reasons for dismissal	20 days	20 days	
Filing a written reply for consent	Patent Act Articles 131-2(2), Enforcement Regulations of the Patent Act Article 47-4(1)	Dispatching date of a notice of confirmation of consent	10 days or 25 days*	10 days	
Time limit of succession by order	Patent Act Article 23(1)	Dispatching date of an order of succession	Appropriate time limit considering circumstances	Appropriate time limit considering circumstances	

Other procedures regulated in Enforcement Regulations of the Patent Act	Enforcement Regulations of the proviso to the Patent Act Article 50(3), Article 50-8(1), the proviso to Article 58-2(1), Enforcement Regulations of the Patent Act Articles 58-17, 60(1) , etc.	Dispatching date of a notice, etc.	Appropriate time limit considering circumstances	Appropriate time limit considering circumstances	
Filing a receipt of registered mail, etc.	Patent Act Articles 134(4), 174(3)(4)	Dispatching date of a notice of request for submission of articles	10 days	10 days	

Note 1. * is for those reside in remote areas or areas with transportation difficulty

(Design, Trademark (Trial for invalidation, Trial for Rescission))

Procedure	Legal provisions on which the procedure is based (application mutatis mutandis · similar laws/regulations)	Initial date	Time limit (extension)		Remarks
			Domestic resident	Overseas resident	
【 Legal period 】					
Request for retrial	Design Act Article 58(1), Trademark Act Articles 61, 68(5), Supplementary Provisions of the Trademark Act Article 20	Date known the reasons for retrial after the decision becomes final and conclusive	30 days (15 day extension by ex officio)*	30 days (60 day extension by ex officio)	
Proceedings against the trial decision	Design Act Article 59, Trademark Act Articles 63, 68-5,	Date of service of a transcript of a trial decision, etc.	30 days (15 days additional time frame)*	30 days (90 days additional time frame)	

	Supplementary Provisions of the Trademark Act Article 22(2)				
【 Designated time limit, etc.】					
Filing a first statutory reply	Design Act Articles 52, 58(4), Trademark Act Articles 56(1), 61, 68(4)(5), Supplementary Provisions of the Trademark Act Articles 17(1), 20	Dispatching date of an invitation to reply	40 days or 55 days*	70 days	
Filing a statutory reply after the second time when an amendment	Design Act Article 52	Dispatching date of an invitation to reply	30 days or 45 days*	50 days	

changing the gist of reasons for a request of correction is approved and decided					
Filing a written reply under Enforcement Regulations of the Acts	Enforcement Regulations of the Design Act Article 19(6) Enforcement Regulations of the Trademark Act Article 22(8)	Dispatching date of an invitation to reply	30 days or 45 days*	50 days	
Filing a reply by re-applying the regulations of an opportunity for a first statutory reply	Design Act Article 52, Trademark Act Articles 56(1), 61, 68(4)(5), Supplementary	Dispatching date of an invitation to reply	30 days or 45 days*	50 days	

	Provisions of the Trademark Act Articles 17(1), 20				
Filing a written refutation	Enforcement Regulations of the Design Act Article 19(4) Enforcement Regulations of the Trademark Act Article 22(8)	Dispatching date of an invitation for refutation	30 days or 45 days*	50 days	
Filing a written opinion (statement of opinion)	Design Act Article 52, Trademark Act Articles 56(1), 68(4), Supplementary Provisions of the Trademark Act Article 17(1)	<ul style="list-style-type: none"> • Dispatching date of a notice of reasons for invalidation • Dispatching date of a notice of results of 	30 days or 45 days*	50 days	

		proceedings by ex officio			
	Design Act Article 52, Trademark Act Articles 56(1), 61, 68(4)(5), Supplementary Provisions of the Trademark Act Articles 17(1), 20	Dispatching date of a notice of results of investigation of evidence or preservation of evidence	30 days or 45 days*	50 days	
Filing a statement of a request for intervention	Design Act Article 52, Trademark Act Articles 56(1), 61, 68(4)(5), Provisions of the Trademark Act Articles 17(1), 20	Dispatching date of a notice of service of a duplicate of a request for intervention	15 days or 30 days*	25 days	

Filing a written reply to an inquiry	Design Act Article 52, Trademark Act Articles 56(1), 61, 68(4)(5), Provisions of the Trademark Act Articles 17(1), 20	Dispatching date of an inquiry	About 15 days or 30 days*	About 25 days	
Order for formalities amendment	Design Act Article 52, Trademark Act Articles 56(1), 61, 68(4)(5), Supplementary Provisions of the Trademark Act Articles 17(1), 20	Dispatching date of an order a. Insufficient payment of fees b. Insufficient Power of Attorney (2 or more principals or agents) c. Other formality violation	10 days or 25 days* 10 days or 25 days* (20 days or 35 days*) 20 days or 35 days*	10 days 20 days 30 days 20 days	

	Design Act Article 52	<ul style="list-style-type: none"> • Dispatching date of an invitation • Violation of description requirements of reasons for request 	30 days or 45 days*	30 days	
Filing a written reply for consent	Design Act Article 52, Enforcement Regulations of the Design Act Article 19(6)	Dispatching date of a notice of confirmation of consent	10 days or 25 days*	10 days	
Written explanation	Design Act Articles 52, 58(4), Trademark Act Article 56(1), 61, 68(4) <u>(5)</u> , Supplementary Provisions of the	Dispatching date of a notice of reasons for dismissal	20 days	20 days	

	Trademark Act Article 17(1), 20				
Time limit of succession by order	Design Act Article 68(2), Trademark Act Article 77(2), Supplementary Provisions of the Trademark Act Article 27(2)	Dispatching date of an order of succession	Appropriate time limit considering circumstances	Appropriate time limit considering circumstances	
Other procedures regulated in Enforcement Regulations of the Acts	Enforcement Regulations of the Design Act Article 19, Enforcement regulations of the Trademark Act Article 22(8)	Dispatching date of a notice, etc.	Appropriate time limit considering circumstances	Appropriate time limit considering circumstances	
Filing a receipt of registered mail, etc.	Design Act Article 52, 58(2)(3),	Dispatching date of a notice of request	10 days	10 days	

	<p>Trademark Act</p> <p>Articles 28(3), 43-14(1), 56(1), 62(1)(2), 68(4),</p> <p>Supplementary Provisions of the Trademark Act</p> <p>Articles 17(1), 27(2), 23</p>	<p>for submission of articles</p>			
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Note 1. * is for those reside in remote areas or areas with transportation difficulty.

(Revised Oct 2015)

25—01.4 P**Designated Time Limit: Opposition to Grant of Patent**

For an opposition to grant of patent, a time limit designated by a chief administrative judge, the designated time limit, based on the provisions of laws and ministerial ordinances is determined as the standard designated time limit shown below.

The same applies to a retrial for a final and binding decision of an opposition to grant of patent.

1. Standard Designated Time Limit

(1) A time limit for filing a written opinion of a patentee against a notice of reasons for revocation (including an advance notice of decision) (the Patent Act Article 120-5(1)) shall be 60 days for a domestic resident and 90 days for an overseas resident.

(2) A time limit for filing a written opinion of a patent opponent against a request for correction of a patentee (the Patent Act Article 120-5(5)) shall be 30 days for a domestic resident and 50 days for an overseas resident.

(3) A time limit for filing a written opinion of a patentee against a notice of reasons for refusal of correction (the Patent Act Article 120-5(6)) shall be 30 days for a domestic resident and 50 days for an overseas resident.

(4) A time limit for those who perform the procedure or their agent reside a remote area or an area with transportation difficulty (→ 25-01 Attached table) shall be added 15 days to the above each time limit (1)~(3) for a domestic resident.

(5) A time limit for filing a written reply against an inquiry (the Patent Act Article 134(4)) shall be about 15 days for a domestic resident and about 25 days for an overseas resident.

(6) A time limit for expressing an opinion of a party concerned, etc. against a request for intervention, a time limit for responding to an order of amendment in case of violation of formality requirement, a time limit for filing a written explanation against a notice of reasons for dismissal, and a designated time limit for succession of procedures are referred to (→ 25-01.2 1. (3) B~D).

2. Extension by request or by ex officio of the time limit which has been already designated (→ 25-04)

(Revised Feb 2015)

25—01.5 P
List of Important Time Limits (3)
(Opposition to Grant of Patent)

(Opposition to Grant of Patent)

Procedure	Legal provisions on which the procedure is based (application mutatis mutandis • similar laws/regulations)	Initial date	Time limit (extension)		Remarks
			Domestic resident	Overseas resident	
【 Legal period 】					
Filing an opposition to grant of patent	Patent Act Article 113(1)	Issue date of the patent publication	6 months	6 months	
Request for retrial	Patent Act Article 173(1)	Date known the reasons for retrial after the decision of	30 days (15 days extension by ex officio)*	30 days (60 days extension by ex officio)	

			revocation becomes final and conclusive			
Proceedings against the trial decision of revocation	Patent Act Article 178(3)		Date of service of a transcript of a trial decision of revocation	30 days (15 days additional time frame)*	30 days (90 days additional time frame)	
【 Designated time limit, etc.】						
Filing a request for correction	Patent Act Article 120-5 (2)	Patent Act Article 120-5(1)	Dispatching date of a notice of reasons for revocation	60 days or 75 days*	90 days	
Amendment for specification, claims, drawings attached to the	Patent Act Article 17-5(1)	Patent Act Article 120-5(1)	Dispatching date of a notice of reasons for revocation	60 days or 75 days*	90 days	

request for correction		Patent Act Article 120-5(6)	Dispatching date of a notice of reasons for refusal of correction	30 days or 45 days*	50 days	
Filing a written opinion (statement of opinion)	Patent Act Article 120-5(1)		Dispatching date of a notice of reasons for revocation	60 days or 75 days*	90 days	
	Patent Act Article 120-5(6)		Dispatching date of a notice of reasons for refusal for correction	30 days or 45 days*	50 days	
	Patent Act Article 150(5)		Dispatching date of a notice of results of investigation of evidence or preservation of evidence	30 days or 45 days*	50 days	
Filing a written opinion by an	Patent Act Article 120-5(5)		Dispatching date of document with	30 days or 45 days*	50 days	

opponent on a request for correction		reasons for revocation			
Filing a written opinion on a request for intervention	Patent Act Articles 119(2), 174(1)	Dispatching date of a notice of service of a duplicate of a request for intervention	15 days or 30 days*	25 days	
Filing a written reply on an inquiry	Patent Act Articles 120-8(1), 174(1)	Dispatching date of an inquiry	About 15 days or 30 days*	About 25 days	

Order for formality amendment	Patent Act Articles 120-5(9), 120-8(1), 174(1)	Dispatching date of an order a. Insufficient payment of fees b. Insufficient Power of Attorney (2 or more principals or agents) c. Violation of description requirements of reasons for a request for trial, the gist of and reasons for a request for correction d. Other formality violation	10 days or 25 days* 10 days or 25 days* 20 days or 35 days* 30 days or 45 days* 20 days or 35 days*	10 days 20 days 30 days 30 days 20 days	
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Written explanation	Patent Act Articles 120-8(1), 174(1)	Dispatching date of a notice of reasons for dismissal	20 days	20 days	
Time limit of succession by order	Patent Act Article 23(1)	Dispatching date of an order of succession	Appropriate time limit considering circumstances	Appropriate time limit considering circumstances	
Other procedures regulated in Enforcement Regulations of the Patent Act	Enforcement Regulations of the proviso to Patent Act Article 50(3), Article 50-8(1), the proviso to Article 58-2(1), Enforcement Regulations of the Patent Act Articles 58-17, 60(1) , etc.	Dispatching date of a notice, etc.	Appropriate time limit considering circumstances	Appropriate time limit considering circumstances	
Filing a receipt of registered mail, etc.	Patent Act Articles 120-8(1) 174(1)	Dispatching date of a notice of request	10 days	10 days	

		for submission of articles			
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Note 1. * is for those reside in remote areas or inconvenient transportation areas

(Revised Feb 2015)

25—02 P U D T

Calculation of Time Limits

1. Calculation of time limits does not include the first day of the time limits, unless the time limits start from midnight. When the time limits are expressed by months or years, the calculation of the time limits follows the calendar. When initial date of the time limits are not a first date of month or year, the time limits expires the day before the day corresponding to the initial date in the last month or year of the time limit. However, if there is no corresponding day to the initial date in the last month, the time limits expires the last day of the last month. When the last day of the time limit falls into Government Holidays, the last day of the time limits shall be the following day of the holiday (the Patent Act Article 3, the Utility Model Act Article 2-5(1), the Design Act Article 68(1), the Trademark Act Article 77(1)).

2. An extended time limit (the Patent Act Article 4, the Utility Model Act Articles 39-2(4), 54-2(5), 45(2), the Design Act Article 68(1), the Trademark Act Article 77, the Patent Act Article 5, the Utility Model Act Article 2-5(1), the Design Act Article 68(1), the Trademark Act Article 77(1)) shall be integrated with the original time limit before extension and it becomes one total time limit during which procedures may be completed. In this case, “last day of the time limit” means the last day of one total time limit which is calculated from the initial date of the original time limit and then added the extended time limit.

Therefore, even if the last day of the time limit before extension falls on Saturday, Sunday, or a national holiday in Japan, etc., the Patent Act Article 3(2) is not applicable to the last day of the time limit before extension (1982 (Gyo-Ke) 94, October 21, 1982, Tokyo High Court), (2004 (Gyo-Ke) 61, April 27, 2004, Tokyo High Court).

(Revised Feb 2015)

25—03 P U D T
**Designation of Time Limit When a Duplicate of
a Written Reply, etc. Is Served**

When a chief administrative judge accepts a written reply or a request for correction (hereinafter referred to as “a written reply, etc.”) from a demandee against the service of a duplicate of a written demand, he/she shall serve the duplicate of the accepted written reply or the accepted request for correction to a demandant (the Patent Act Article 134(3), the Utility Model Act Article 39(3), the Design Act Article 52, the Trademark Act Articles 56(1), 68(4)).

The chief administrative judge take the following procedures for serving a duplicate of the accepted written reply, the accepted request for correction or the accepted written refutation to a counterparty, to give an opportunity to state an opinion.

1. When an opportunity to state an opinion is given by designating a time limit, a notice of dispatching a duplicate of a written reply shall be prepared and a duplicate of a written reply, etc. shall be served to a demandant.
2. When there is no need to designate a time limit, a notice of dispatching a duplicate of a written reply shall be prepared and a duplicate of a written reply, etc. shall be served to a demandant.
3. The same as 1 or 2 in the above shall apply to service (dispatch) of a duplicate of a written refutation.

(Note) A time limit is designated for an inter partes trial to promote and facilitate the proceedings of a trial, and a party concerned may submit documents such as a written reply, etc. until a notice of conclusion of the

trial proceedings is issued under the Patent Act Article 156 (1965 (Gyo-Ke) 5, Judgment of the Tokyo High Court, Sep 3, 1974). Therefore, even the documents which are submitted after the designated time limit has been passed shall be subject to the proceedings.

(Revised Feb 2015)

25—04 PUDT

Extension of the Time Limit for Submission and Change of the Date of Submission

1. Extension of the Time Limit for Submission in General

The Commissioner of the Patent Office or a chief administrative judge may, upon request or ex officio, extend a legal period and a designated time limit.

A request for the extension of the time limit shall be made before the expiration of an original legal period or a designated time limit. Where the original expiration date falls on a Saturday, Sunday, or national holiday of Japan, the original expiration date shall become the next working day that the JPO is open and the request for the extension of the time limit may be made on that date.

2. Extension of a Legal Period

(1) The Commissioner of the Patent Office or a chief administrative judge may, ex officio, extend the period provided for only in the following for a person who undertakes a procedure or a representative in a remote area or an area with transportation difficulty (see the attached table 25-01).

The period for filing a new application after an amendment is dismissed during trial and appeal procedures (Design Act Article 50(1), Trademark Act Article 55-2(1)) 15 days

(2) Where a person who undertakes a procedure is an overseas resident, an appeal or a new application may be approved only during the following period.

A. The time limit for filing a request for an appeal against the examiner's decision of refusal (Patent Act Article 121(1)) 1 month

B. The period for filing a new application only after an amendment, that is in the process of examination, is dismissed (Design Act Article 17-3(1), Trademark Act Article 17-2(1))
60 days

3. Extension of a Designated Time Limit

The Commissioner of the Patent Office or a chief administrative judge may, upon request or ex officio, extend a designated time limit (Patent Act Article 5, Utility Model Act Article 2-5(1), Design Act Article 68(1), Trademark Act Article 77(1)).

(1) Extension of the time limit upon request by a person who undertakes a procedure

A. Extension of the time limit upon request in general (except the following B and C)

The extension of the time limit by request may be only approved where the time limit is designated for the purpose of enabling overseas residents to file certified experiment results or models/samples, etc. through a written opinion (excluding what is specified in the Patent Act Article 48-7), a written reply (limited to the case where an award is rendered) or inquiry.

In addition, where it is approved that it is due to grounds not attributable to a person who undertakes a procedure or a representative in a specific procedure (see 25-01-I-1.(1) and (2)), the extension of the necessary time limit may be approved irrespective of whether the person is a domestic resident or an overseas resident (see 25-01-I-1.(6)).

B. Trial for invalidation, trial for correction, trial for rescission of trademark registration and opposition to grant of patent

In consideration of the following requirements (A) and (B), the extension of the designated time limit upon request shall be exercised while the extension of the designated time limit upon request by a person who undertakes a procedure during the processes of trial for invalidation, trial for correction, trial for rescission of trademark registration and opposition to grant of patent shall not be exercised in principle. It is not necessary to extend the time limit as requested as long as the time limit to be extended shall be the standard time limit and additional 20 days at the maximum.

(A) After the designated time limit is passed, a request for the extension of the time limit shall be such that it is prohibited by law to undertake a procedure concerning important allegations or evidence during the designated time limit.

Specifically, a request for the extension of the time limit shall be approved only for the designated time limit only within which "a request for correction" (Patent Act Articles 134-2(1), 120-5(2)) and "amendment of the corrected description, etc. attached to a written request for correction" (Patent Act Article 17-5(1)&(2)) may be approved, namely; the time limit for the submission of a written reply, in trial for invalidation under the Patent Act and the old Utility Model Act, designated by law; the designated time limit for a request for correction to the Advance Notice of a Trial Decision; the time limit for responding to an office action for notice of reasons for invalidation; the time limit for responding to an office action for notice of reasons for revocation in the process of opposition to grant of patent; the time limit for responding to an office action for notice of reasons for rejecting a request for correction in the process of a request for correction; and the designated time limit for requesting for correction in the process of the second action pendency.

(B) A person who undertakes a procedure have paid the required fees (Patent Act Article 195(1)(i)) and submitted a written request for the extension of the period (format 3, Enforcement Regulations under the Patent Act Article 4-2, Form 3), sufficiently before the expiration of the designated time limit, while having described the following items in the column "contents of the claim" of the said written request.

a. Rational and concrete reasons that necessitate the extension of the time limit (the reason that cannot be attributed to a responsibility of a person who undertakes a procedure or a representative, or the reason that can be objectively examined)

b. Specifying the extended time limit that will be requested

c. Concrete reasons that rationalize the extended time limit that will be requested

C. Appeal against examiner's decision of refusal

The extension of the designated time limit of notice of reasons for refusal and inquiries in the appeal against examiner's decision of refusal procedure upon request shall not be approved in principle except in the following (A) and (B) cases.

(A) Patent applications

An extension of the designated time limit shall be limited to those for either of the following purposes a. or b.

a. Acquisition of the experimental data to compare the claimed invention with a cited invention indicated in the notice of reasons for refusal, etc.

b. Translation of trial and appeal procedure document

An extension of the designated time limit that can be granted shall be up to one month per request. A one-month extension can be granted only once for domestic residents for the purpose a. Additional one-month extension can be granted for overseas residents by filing the second request and the third request respectively. However, the extension based on the purpose a. shall be made only once irrespective of whether the person is a domestic resident or an overseas resident.

However, a person who undertakes a procedure should keep filing deadlines in mind and give herself/himself plenty of time in advance to submit a written request for the extension of the time limit, sufficiently prior to the expiry of the designated time limit (prior to the expiry of the extended designated time limit if overseas residents file the second and/or third request(s)).

(B) Design and trademark applications

Up to one-month extension of the designated time limit can be granted only to overseas residents by filing a request for extension.

D. Cases subject to accelerated appeal examinations

Where a request for an extension of the specified time limit for response is filed for a patent case that has been selected as a case subject to accelerated appeal examination, the case shall be treated in the same manner as it is treated as a regular case rather than being treated as an accelerated appeal examination.

(2) Extension of the time limit ex officio

A. Extension of the time limit ex officio in general (except for the extension for patent applications) (except for the following B)

Where a request for the issuance of a certified copy of documents or an extract of documents required to prepare a written opinion is filed within an original designated time limit, the extension of the time limit ex officio shall be exercised over the time limit for the submission of the written opinion irrespective of whether the person is a domestic resident or an overseas resident.

The extension shall be exercised by expressing the 23rd day as the 1st day that is the next day following the shipping date of a certified copy of documents. However, where 23 days or longer are left in the original designated time limit, the extension shall not be exercised.

B. Trial for invalidation, trial for correction and trial for rescission of trademark registration, and opposition to grant of patent

The extension of the designated time limit ex officio during the processes of trial for invalidation, trial for correction and trial for rescission of trademark registration, and opposition to grant of patent shall not be exercised in principle. However, the extension of the designated time limit may be exercised ex officio only where either of the following requirements (A) or (B) is fulfilled.

(A) Where the length of the designated time limit is shorter than the standard designated time limit

Where either of the following a. or b. is fulfilled, the extension of the designated time limit may be exercised within a standard designated time limit at the maximum even after the designated time limit is extended.

a. A person who undertakes a procedure has submitted a written statement that states rational and concrete reasons that necessitate the extension of the designated time limit as long as the standard designated time limit, sufficiently before the expiration of the designated time limit.

b. Considering the contents of the written statement, etc. it is recognized that the extension of the time limit as long as the standard designated time limit shall be adequate.

(A) Where the longer length of the designated time limit for response is necessary arising from the quantity and quality of evidence, etc.

Where the following requirements a. to c. are met, the extension of the designated time limit upon request shall be exercised. Basically, a maximum of 30 days may be added to the standard designated time limit. (However, in a trial for rescission of trademark registration, where a demandee is an overseas resident and where there are rational reasons requiring the reasonable time limit of time compared to a period of time limit taken by a domestic resident to contact licensees, etc. in Japan, collect evidences disclosing a relationship between the said licensee and the demandee (right holder), etc., the extension may be permitted as an exception. Basically, a maximum of 50 days may be added to the first action period that is a legal standard designated time limit to submit a written reply.)

a. Where "evidence submitted by the parties is to be collected by themselves," both the need for presenting a certified experiment results and other evidence in a designated time limit, and the fact that it would take an extremely long period of time to collect evidence shall be recognized. Where "evidence submitted by the other parties or the opponent is to be analyzed," there is the fact that it would take an extremely long period of time to analyze and prepare the evidence because the quantity of the evidence submitted by the other parties or the opponent is enormous (hundreds of pages), or the nature of the evidence is extremely complicated and sophisticated.

b. An extension of the specified time limit for response (the opportunity of rebuttal, etc.) that is to be made by the demandant in a trial for invalidation where "evidence submitted by the parties is to be collected by themselves" is not aimed at submitting evidence that violates the limitation of correction of the grounds for the request for trial.

c. A person who undertakes a procedure has submitted a written statement that describes the following items, sufficiently before the expiration of the designated time limit.

- Rational and concrete reasons that necessitate the extension of the time limit
- Specifying the extended time limit that is required

- Concrete reasons that rationalize the extended time limit that is required

(3) Extension upon request and extension ex officio shall not be exercised concurrently. Extension upon request or extension ex officio, whichever its expiration date is later, shall be exercised.

(4) Procedures made with the JPO that is necessary to exercise extension of a designated time limit and related administrative work at the JPO

A. Both a written request for the extension of the time limit described in the above-mentioned (1)B. and a written statement for the purpose of the above-mentioned (2)B. shall be addressed to the "chief administrative judge of the JPO," and submitted to the JPO by either mail or in person sufficiently before the expiration of the designated time limit.

B. Where a written statement concerning extension of time limit or a written request for the extension of the time limit is submitted, a trial clerk immediately sends the said written statement or the said written request for the extension of the time limit to a chief administrative judge, and seeks the judgment of propriety of the extension of the time limit from the chief administrative judge.

C. Where extension of the time limit is approved, a person who undertakes a procedure will be notified of that and the time limit shall be managed henceforth based on the extended time limit. In addition, where there is no relation between the extension of the said time limit and the extension of the time limit that enables to request correction of a description, etc., communication may be made by either phone or facsimile even if the communication is made to notify that the extension of the time limit has been approved. D. Where extension of the time limit is not approved, a trial clerk notifies a person who undertakes a procedure that the specified time limit for response shall not be extended after making a telephone call to that effect.

4. Additional Time Limit

A chief administrative judge may ex officio designate an additional time limit for actions against trial decisions, etc. extending the invariable time limit for a person in a

remote area or an area with transportation difficulty (Patent Act Article 178(5), Design Act Article 59(2), Trademark Act Articles 63(2) and 68(5)) (→For a person who lives in the area indicated in the Appendix of 25-1 PUDT, an additional time limit shall be 15 days, and for an overseas resident, 90 days). The additional time limit shall be integrated into the original time limit in the same manner as prescribed for the extended time limit.

5. Change of Date

A chief administrative judge may, upon request or ex officio, change a date where the date is designated by the chief administrative judge in accordance with the provisions of the Patent Act.

For a request to change the above-mentioned date, the reason to require a change of the date shall be clarified (Enforcement Regulations under the Patent Act Article 4-2(3), Enforcement Regulations under the Utility Model Act Article 23(1), Enforcement Regulations under the Design Act Article 19(1), Enforcement Regulations under the Trademark Act Article 22(1)).

A request to change the above-mentioned date shall not be permitted in the following cases (1) or (2), except for where there are unavoidable reasons therefor (Enforcement Regulations under the Patent Act Article 4-2(4), Enforcement Regulations under the Utility Model Act Article 23(1), Enforcement Regulations under the Design Act Article 19(1), Enforcement Regulations under the Trademark Act Article 22(1)).

(1) Where several representatives have been appointed on either side of the party concerned and there is a reason to change representative(s).

(2) Where the same date is designated as a date for another case after the date has been designated.

6. Extension Based on the Act on Special Measures Concerning Preservation of Rights and Interests of Victims of Specified Disasters (Act No. 85 of 1996)

By prescribing various special measures concerning administrative extension, etc. of the expiration date of rights and interests by Cabinet Order, the Act on Special Measures concerning Preservation of Rights and Interests of Victims of Specified Disasters (Act No. 85 of 1996) enables to issue these measures in a prompt manner at the time of disaster, and is applied to large-scale extraordinary disasters (specified extraordinary disasters).

When the Pacific coast of Tohoku Earthquake of 2011 (Heisei 23) was designated as a specified extraordinary disaster, measures were taken to extend a legal period and a designated time limit for applicants who were not able to follow the necessary procedures with the JPO within the original time limit due to the enormous damages incurred by the earthquake disaster.

A request for the extension of a designated time limit was accepted as a valid procedure if an applicant filed the request attaching a document, explaining the situation where the applicant was not able to follow the necessary procedures within the original time limit and followed the procedures promptly as soon as it became possible.

Measures were taken to extend a legal period so that the expiration date of a procedural time limit would be extended as late as March 31, 2012 (H24).

Procedures for trials and appeals that were subject to the extension are as follows.

(1) A request for an appeal against examiner's decision of refusal

(Patent Act Article 121(1), Design Act Article 46(1), Trademark Act Articles 44(1), 68(4), Supplementary Provisions of the Trademark Act Article 13)

(2) A request for a trial for correction

(Patent Act Article 126(2))

(3) Filing a request for correction

(Patent Act Article 134-3(1))

(4) A request for a retrial against a final and binding decision

(Patent Act Articles 171(1), 172(1), Utility Model Act Articles 42(1), 43(1), Design Act Articles 53(1), 54(1), Trademark Act Articles 57(1), 58(1), 68(5), Supplementary Provisions of the Trademark Act Article 18)

(5) A request for an appeal against the examiner's decision dismissing an amendment

(Design Act Article 47(1), Trademark Act Articles 45(1), 68(4))

(6) An amendment of the Written Opposition to Registration of Trademark
(Trademark Act Articles 43-4(2), 68(4))

Where a large-scale disaster occurs and is designated as a specified extraordinary disaster in the future, it is considered that similar measures shall be taken.

(Revised December 2020)