

26-03 P U D T**Special Provision to Time Limit for Demand/Request
for Trial/Appeal (Retrial)**

1. If a demandant/appellant is not possible to file a demand/request for a trial/appeal (retrial) in a legal period due to reasons not attributable to a demandant/appellant (the Patent Act Articles 121(1), 173(1), the Utility Model Act Articles 45, the Design Act Articles 46(1), 47(1), 58, the Trademark Act Articles 44(1), 45(1), 61, 68(4)(5)), the demandant/appellant may file within 14 days (for overseas residents, within 2 months) from the date on which such reasons no longer exist, but not later than 6 months after the lapse of said legal period (the Patent Act Articles 121(2), 173(2), the Utility Model Act Article 45, the Design Act Articles 46(2), 47(2), 58, the Trademark Act Articles 44(2), 45(2), 61, 68(4)(5)).

2. Court Cases

A. Even though a person responsible for maintenance management work related to industrial property rights in a company is busy, it does not fall under “the reason not attributable to a demandant” (1972 (Gyo-U) 110, Judgment of the Tokyo High Court, Nov 16, 1973).

B. Even though a demandant goes to hospital and has an operation, it cannot be said there is extremely difficult to prepare and submit a demand for trial except when a person suffers from a serious pain after the operation, it does not fall under “the reason not attributable to a demandant” (1980 (Gyo-Ke) 227, Judgment of the Tokyo High Court, Jan 27, 1981).

C. Even though a demandant is an overseas resident and a domestic agent is ill, it does not fall under “the reason not attributable to a demandant” (1982 (Gyo-Ke) 91, Judgment of the Tokyo High Court, Oct 28, 1982).

D. Even though it is negligence of a clerk of the agent office, it does not fall

under the “reason not attributable to a demandant” (1989 (Gyo-Tu) 8, Judgment of the Supreme Court, Third Petty Bench, Apr 11, 1989).

(Revised Feb 2015)