

33-02 P U D T**Change of the Designated Date of Oral Proceedings**

When a chief administrative judge designates the date of oral proceedings, he/she may change the date by request or ex officio (the Patent Act Article 5(2), the Utility Model Act Article 2-5(1), the Design Act Article 68(1), the Trademark Act Article 77(1)).

1. Change of Date by Request

A request for changing the date should clear the reason of change the date (Enforcement Regulations of the Patent Act Article 4-2(2)(3), Enforcement Regulations of the Utility Model Act Article 23(1), Enforcement of Regulations of the Design Act Article 19(1), Enforcement of Regulations of the Trademark Act Article 22(1), Rules of Civil Procedure Article 36).

(1) In a case where change of the date is accepted

A. When consent of the other party (Note 1) is indicated in a request for change of the date

B. When a good reason (Note 2) is specifically described in a request for change of the date. It does not matter whether there is consent of the other part.

(2) In a case where change of the date is not accepted (Enforcement Regulations of the Patent Act Article 4-2(4), 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), Rules of Civil Procedure Article 37).

A. When one of the parties has two or more agents, and one of the agents has a reason of requesting for change of the date.

- B. When the same date and time is designated for the date of another case after the date of the case is fixed.
- C. When there is a request for change of the date immediately before the designated date, and there is no likelihood of announcing the change to a witness and other persons who are summoned on the designated date. It does not matter whether there is consent of the other party

2. Change of Date Ex Officio

A chief administrative judge changes a date of oral proceedings ex officio only when there is an unavoidable reason.

3. Procedures for Change of Date

- (1) When the date is changed by request or ex officio, a new date should be determined as early as possible after the designated date unless there are special circumstances.
- (2) Procedures for a new designated date (→ 33-01)

(Note 1) The other party means the other party as a party concerned, and it does not include an intervener, an applicant for intervention and an opponent of opposition to registration of trademark.

However, if a party concerned requests the change of the date to examine a witness who is offered by an intervener, an applicant of intervention and an opponent of opposition to registration of trademark, the intervener, the applicant for intervention and the opponent of opposition to registration of trademark shall be considered as the other party.

(Note 2) [Examples of a good reason]

- (1) When a reason for not being able to appear is clear under the situation that a party concerned without an agent, an agent or a witness is sick and a medical certificate of doctor

is attached.

- (2) When the designated date is competed with the previously designated date of court or oral proceedings of trial.
- (3) When a reason for not being able to appear is clear under the situation that a party concerned without an agent, an agent or a witness is in official business or other unavoidable conditions.
- (4) When there is a reason equivalent to (1), (2) or (3) with the third party's certificate, and a chief administrative judge admits as a good reason.

(Revised March 2012)