

33-08 P U D T
Notice of Proceeding Matters

1. Purpose of Notice of Proceeding Matters

A purpose of a notice of proceeding matters is to notify parties concerned a scheduled proceeding matters on the oral proceeding day, to encourage them to prepare an oral proceedings statement brief, etc. based on the notified proceeding matters, to develop the oral proceedings smoothly, and to collect necessary materials for a trial decision.

A notice of proceeding matters shall be filed in the record with other notices (→37-00 2.) , and is a subject for inspection to enhance transparency of the procedures. A trial decision includes this notice as one of the procedures.

2. Matters to Be Described in Notice of Proceeding Matters

A notice of proceeding matters (Form 1) is considered to include the following (1)~(3) principally to collect necessary materials for a trial decision, but the details of the matters to be described are made based on the determination of the panel depending on the case.

(1) Provisional view of a panel

Descriptions of a notice includes a provisional view of a panel on the finding of facts of the present invention, cited inventions, points in common and points of difference between them, etc.

(2) Opinion of parties

Parties concerned are requested their opinions on the provisional view of a panel on the finding of facts in (1). A panel specifically points issues, etc. on matters that parties are at issue and matters that a panel is discussing for drafting a trial decision. Thereby, the parties concerned may make sufficient

statement and proof.

Furthermore, a panel points out unclearness, etc. in a written demand for trial, a written reply, a request for correction, a written refutation, etc., and asks for explanation. In some cases, a panel encourages the withdrawal of the statement.

(3) Others

A panel encourages parties concerned to explain technical matters on the present invention and the background thereof, if necessary.

In an invalidation trial for patent, there is a related infringement lawsuit and defense of patent invalidity, a panel asks parties an explanation on difference in the reasons and evidence.

If there is evidence requiring confirmation of original, a panel encourages parties to bring on the date of oral proceedings.

At the end of a notice of proceeding matters, it is preferable to describe as “the same content of the notice of proceeding matters is notified to the other party”.

3. Sending Procedure of Notice of Proceeding Matters

(1) A trial clerk shall send a request for adjustment of date (→ 33-01 Form 1) and a notice of proceeding matters drafted by a panel (the date is not filled in because it has not been decided yet) to parties concerned by facsimile or e-mail.

For shortening the period of time for proceedings, it is possible to adjust date by a trial clerk and to draft a notice of proceeding matters by a panel at the same time. At that time, a panel should keep in mind that a preparation period of time for oral proceedings of parties becomes unreasonably short.

(2) A trial clerk adjusts the date with parties, and a template of acknowledgment of date shall be sent to parties concerned by facsimile or e-mail after obtaining acceptance of a panel.

- (3) A trial clerk informs a panel of a determined date when an acknowledgment of the date is prepared by both parties.
- (4) A panel fills in the date in a notice of proceeding matters on the day the date is informed in principle, and they finally approve.
- (5) A trial clerk shall send a notice of proceeding matters with the date of oral proceedings to parties concerned.

(Revised December 2020)

[Form 1] Notice of Proceeding Matters

Notice of Proceeding Matters

Date

Chief Administrative Judge, JPO

Trial Number

Invalidation No. 20xx-800xxx

(Patent Number)

(Patent No. xxxxxxx)

Demandant

Mr/Ms

Patent attorney as an agent

Mr/Ms

This notice informs you the proceeding matters which are to be examined in the oral proceedings on (date).

In submission of an oral proceedings statement brief, the brief should be prepared based on the following points and submitted or sent to Application Service Desk at the JPO two weeks prior to the oral proceedings date. On the same day as the submission of the brief to the JPO, the brief is also sent to a trial clerk in charge and the other party by facsimile or e-mail according to the instruction of the trial clerk in charge.

Note

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If you have any query on this notice, please contact below.

Administrative Judge XXXX

X Board of Trial and Appeal

Trial and Appeal Department, JPO

TEL: 03(3581)XXXX (Ext. XXXX) FAX: 03(3584)XXXX

(Revised December 2020)