

35-12 P U D T**Expert Opinion**

1. Matters for Expert Opinion (Enforcement Regulations of the Patent Act Article 60, 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(5)(6), Code of Civil Procedure Article 129).

(1) When a party or an intervenor requests an expert opinion, a party or an intervenor shall submit a document including matters requesting an expert opinion at the same time. However, when there is an inevitable reason, it is sufficient to submit the document within a period of time designated by a chief administrative judge.

(2) The other party shall submit a written statement to a chief administrative judge if the other party has an opinion on the submitted document.

(3) A chief administrative judge determines matters for expert opinion after consideration of the written statement by the authority of chief administrative judge or by request.

(4) A chief administrative judge shall send a document stating matters for expert opinion to an expert.

2. Petition for Recusation Against an Expert (→34-01 6.) (Enforcement Regulations of the Patent Act Article 60-2-2, Rules of Civil Procedures Article 130)(→59-01)

(1) A petition for recusation against an expert is principally made in writing (a document is in accordance with Enforcement Regulations of the Patent Act Article 48-2 (Form 64) by analogy of Patent Act Article 142).

(2) A petition for recusation is also possible to conduct orally in oral proceedings or an examination of evidence.

3. Oath of Expert (Enforcement Regulations of the Patent Act Article 60-3)
(Similar laws or regulations: Rules of Civil Procedure Article 131)

(1) A written oath shall include a statement to the effect that an expert swears to give an expert opinion sincerely according to the dictates of an expert's conscience.

(2) It is also possible for an expert to submit a written oath to a chief administrative judge. In this case, it is also possible for a chief administrative judge to send a document to an expert including explanation on a purport of the oath and information on the punishment for false expert opinion.

4. Method of Statement of Expert (Enforcement Regulations of the Patent Act Article 60-4, Rules of Civil Procedure Article 132)

A chief administrative judge may have experts state the opinions jointly or individually.

5. Questioning of Expert (Enforcement Regulations of the Patent Act Article 60-5, Rules of Civil Procedure Article 133)

An expert may attend an examination of evidence and request a chief administrative judge to examine a witness or parties themselves, or ask questions to those directly with the permission of a chief administrative judge, if necessary for an oath.

6. Application of the Provisions Mutatis Mutandis (Enforcement Regulations of the Patent Act Article 60-6~8) (Similar laws and provisions: Rules of Civil Procedure Articles 134~136)

(1) Expert opinion

The provisions of an examination of witness shall apply *mutatis mutandis* to a writ of summons, a notice of nonappearance, an oath, a statement of opinions orally, and submission of a document in lieu of an examination.

(2) The provisions of an examination of witness shall apply *mutatis mutandis* to an examination of expert witness (an examination of the facts obtained through special academic experiences).

(3) The provisions of an expert opinion shall apply *mutatis mutandis* to commission of expert opinion except the provisions of an oath.

(Revised Oct 2015)