

**43-05 P U D T****Partial Withdrawal of Demand/Request for Trial/Appeal  
(Opposition to Grant of Patent (Registration of Trademark))**

1. A partial withdrawal of demand/request for trial/appeal is to withdraw a part of subject of a trial/appeal (opposition) based on a free will of a demandant (petitioner). For example, an invalidation trial (opposition) is demanded (alleged) for two inventions A and B of a patent right, then, a part of the inventions, either A or B, is withdrawn of the demand (petition).

2. Possibility of Partial Withdrawal of Demand/Request for Trial/Appeal (Opposition)

(1) A demand for a patent (utility model registration) invalidation trial including two or more claims covered in the patent (utility model registration) may be withdrawn for each claim (Patent Act Article 155(3), Utility Model Act Article 41).

For a patent application filed before December 31, 1987, a patent invalidation trial including two or more inventions covered in the patent may be withdrawn for each invention.

(2) A demand for an invalidation trial for design registration may not be withdrawn partially.

(3) An invalidation trial under Trademark Act Article 46(1) may be withdrawn for each designated good or service under Patent Act Article 155(3) applied mutatis mutandis to Trademark Act Article 56(2).

(4) A trial for rescission provided under Trademark Act Articles 50(1), 51(1), 52-2(1), 53(1) and 53-2 respectively may not be withdrawn partially since there is no application of the provision under Patent Act Article 155(3).

(5) An opposition to grant of patent for two or more claims covered in the patent may be withdrawn for each claim (Patent Act Article 120-4 → Patent Act Article 155(3))(→67-03).

(6) Regarding an opposition to registration of trademark for two or more designated goods or services may be withdrawn for each designated good or service (Trademark Act Article 43-11(2) → Patent Act Article 155(3)).

(7) For an appeal against an examiner's decision of refusal (Patent Act Article 121(1), Design Act Article 46(1), Trademark Act Article 44(1)), an appeal against an examiner's decision to dismiss amendment (Design Act Article 47(1), Trademark Act Article 45(1)), a trial for correction (Patent Act Article 126(1)), a demand/request for trial/appeal may not be partially withdrawn since there is no provision for partial withdrawal. However, when a trial for correction is demanded for two or more corrections, an amendment of partial deletion is sometimes accepted (→54-05.1 2.(3)).

(8) When a trial for correction is demanded for each claim (or a group of claims) covered by a patent having two or more claims, the trial correction may not be withdrawn for each claim (or a group of claims) (Patent Act Article 155(4)).

### 3. Notes for Partial Withdrawal of Demand/Appeal for Trial/Appeal

Requirements for withdrawal and procedures of a trial clerk and administrative judges are the same as 43-01 and 43-02. In the case of a partial withdrawal, reasons and evidence for the partial withdrawal fall under "reasons not pleaded by a party or an intervenor" under Patent Act Article 153(1).

(Revised Feb 2015)