

45-06 P U D T**Correction of Trial and Appeal Decisions, etc**

1. Code of Civil Procedure provides “If there is a miscalculation, clerical error, or any other clear error equivalent to this in a judgment, the court may issue a corrective ruling (decision) at any time, upon petition or sua sponte (Code of Civil Procedure Article 257(1)). There is no similar provision in Patent Law, and it is not always clear that a trial/appeal decision, etc. may be corrected in a legal text. However, a court precedent consistently allows to correct a trial/appeal decision ((602 (O) 1923) Judgement of the Supreme Court, Dec 3, 1923); (673 (O) 1929), Judgment of the Supreme Court, Oct 16, 1929; (3120 (O) 1933) Judgment of the Supreme Court, May 8, 1934; 245 (Gyo-ke) 1992), Judgment by the Tokyo High Court, Oct 31, 1995).

2. As providing in Patent Act Article 157 (Utility Model Article 41, Design Act Article 52, Trademark Act Articles 56(1), 68(4)), a trial/appeal ends by a trial/appeal decision. Therefore, a trial/appeal decision which is an important disposal may not be reclaimed after service of the decision.

3. A corrective ruling (decision) is limited to correcting a fallacy of indication when the fallacy is obvious. A content of trial/appeal decision shall not be substantially changed by a corrective ruling (decision).

4. A corrective ruling (decision) is conducted by a panel of the board (department) making a trial/appeal decision by its authority or petition.

5. When a corrective ruling (decision) is conducted, a certificate of a written corrective ruling (decision) is served to a person to whom a trial/appeal decision was served.

6. A decision (including a decision of opposition to grant of patent (registration of trademark), a decision of dismissal of amendment) may be also corrected similar to a trial/appeal decision.

(Example) Corrective Ruling (Ex Parte Appeal) (Original)

Dispatch No. 112233 1/

Corrective Ruling

Appeal 20xx-000000

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Demandant OOOO

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Agent (Patent Attorney) OOOO

A case of an appeal against an examiner's decision of refusal of Patent Application No. 20xx-000000 has an obvious error in the appeal decision made on (m/d/y), so that a corrective ruling is conducted ex officio as below.

Note

In the item OO of the appeal decision, "△△△" is corrected to "□□□".

(Date)

A chief Administrative Judge	Administrative Judge of JPO	OOOO
	Administrative Judge of JPO	OOOO
	Administrative Judge of JPO	OOOO

(Teaching under the provision of Administrative Case Litigation Act Article 82)

If an applicant has any complaint against this disposition, a request for examination under Administrative Case Litigation Act may be filed against Commissioner of the JPO within 3 months from the following date on which this notification of disposition was received.

(Teaching under the provision of Administrative Case Litigation Act Article 46)

An action against this disposition may be filed against the government (Minister of Justice represents the country in an action) within 6 months from the following date on which this notification of disposition was received.

(Revised June 2019)