

47-02 P U D T
Determination of the Amount of Costs in Connection with
Trial/Appeal

1. General Information

(1) An amount of costs for a trial/appeal is determined by Commissioner of the JPO upon request (Patent Act Article 169(5), Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56(1), 68(4)).

Before determining an amount of costs, the other party shall be demanded to submit a statement of costs, a document necessary for clarification of the costs, and a statement on the content of the statement of costs prepared by a person who requests a determination of the costs within the designated period. However, when only the other party bears the costs for a trial/appeal and the amount of costs to be paid are clear on record, there is no need to demand submission of the documents (Enforcement Regulations of the Patent Act Article 50-8(1)).

(2) A request for determination of the costs should be made after a trial/appeal decision or a decision of intervention becomes final and binding, and within the period of keeping the trial/appeal record.

(3) A person who requests a determination of the amount of costs for a trial/appeal shall submit Request for Determination of Amount of Costs for Trial/Appeal according to Form 1 with Statement of Costs according to Form 2 and a document required for clarification of the amounts of costs (Enforcement Regulations of the Patent Act Article 50-7, Rules of Civil Procedure Article 24(2)).

(4) If requested, a trial clerk shall conduct a clerical work for it.

2. Formality Examination of Request for Determination of Amount of Costs

When there is a request for determination of the costs, a record of the case is borrowed from the National Center for Industrial Property Information and Training to check required items in the request against the record and to examine deficiencies in the request, and if there is a deficiency, a notice of reasons for dismissal or an order of amendment is issued.

(1) For a burden of the costs, if there is a collation mismatch in a conclusion of trial/appeal decision and a petition in the request, an amendment is ordered to be consistent with a conclusion of a trial/appeal decision.

(2) An address and name of a requester and the other party

If there is a deficiency, an amendment shall be ordered.

(3) A power of attorney if there is an agent

If a request does not include a power of attorney (except a case where there is an authorization for the case), an amendment shall be ordered.

(4) Presence or absence of submission of duplicates equivalent to the number of the other parties

If there are not enough duplicates, an amendment shall be ordered.

(5) When items of a statement of costs exceed a scope of costs (→47-03), or the amount requested exceeds the designated amounts, an amendment shall be ordered.

(6) Status of whether the case becomes final and binding

When a case is pending, notify reasons for dismissal and dismiss a request.

3. Preparation and Service of Written Demand

(1) When a formality of request for determination of amount of costs is completed, a letter of demand is prepared according to Form 3, and after obtaining an approval, it is served to the other party with each duplicate of a statement of costs and a document clarifying the amount of costs. An opportunity of submitting a statement of opinion is given to the other party by designating an appropriate period in consideration of circumstances.

However, in a case where only the other party bears costs for a trial/appeal, when a burden of costs which is borne by a requester is clear on record (for example, bearing only a handing fee for a trial for rescinding a registration of trademark), this shall not apply to the case (Patent Act Article 169(2), Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56(1), 68(4), Rules of Civil Procedure Article 25(1)).

(2) When a statement of opinion is submitted by the other party to a letter of demand, calculate the trial/appeal costs based on a statement of costs of a requester and a statement of opinion of the other party after a duplicate of the statement of opinion is served to a requester. When a statement of opinion is not submitted by the other party, calculate the costs only based on a statement of costs of a requester (Patent Act Article 169(2), Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56(1), 68(4), Rules of Civil Procedure Article 25(2), Enforcement Regulations of the Patent Act Article 50-8).

4. Determination of Amount of Costs for Trail/Appeal

When the amount of costs is determined, a determination letter of the amount of costs for trial/appeal is prepared according to Form 4, and after obtaining an approval, a certified copy thereof shall be served to parties after affixing a seal overlapping two pages of the copy for authentication.

(Revised Dec 2020)

Form 1

Request for Determination of Amount of Costs for Trial

(Date:)

To: Commissioner of the JPO

1. Trial/Appeal No.

Invalidation 20XX – 800XXX

2. Requester (Trial Demandant)

Address:

Name:

3. Agent

Address:

Name:

4. The other party (Trial Demande)

Address:

Name:

5. Purport of Request

Regarding the above trial case, a trial decision is rendered on (D/M/Y) and it is requested to determine the amount of costs for the trial according to the statement of costs.

6. List of Attached Documents

- | | |
|--|-----------------|
| (1) Statement of costs | X copy (copies) |
| (2) Document clarifying the amount of costs | X copy (copies) |
| (3) Copy of a certified copy of trial decision | X copy (copies) |
| (4) Duplicate of a request for determination of
the amount of costs for trial | X copy (copies) |
| (5) Power of Attorney | X copy (copies) |

Form 2

Statement of Costs

Identification of Case

Invalidation 20XX-800XXX

Amount for Payment JPY56, 500

(Statement of Items)

1. Revenue stamp fee affixing a demand for trial (a handling charge)

JPY 55,000

2. Preparation and Submission fees for a written demand for trial and other documents

(Basic fee + Additional fee + Additional fee) x O JPY 1,500

Form 3

Letter of Demand

Date:

The Other Party (Demandant(Demandee of Trial)

Mr./Ms. XXXXXX

Commissioner of the JPO

Invalidation 20XX-XXXXXX

Requester (Trial Demandant (Demandee)

Address

Name

Agent Attorney of Requester

Address

Name

The Other Party (Trial Demandant (Demandee)

Address

Name

Regarding the above case, a demandant (demandee) for the trial has submitted a petition for requesting a determination of the amount of costs for the trial and has submitted the statement of costs in a separate sheet. Then, a statement of opinion against the statement of costs shall be submitted within 60 days on which this notice was dispatched.

If a statement of opinion is not submitted within the designated period, please be advised that only documents submitted by a requester (trial demandant (demandee)) may be a basis of the determination of the costs.

If you have any inquiry on the notice, please contact below.

Infringement and Invalidation Affairs Office,

Trial and Appeal Department, Japan Patent Office

[Tel:03\(3581\)1101](tel:03(3581)1101) Ext.xxxx

Fax:03(3580)xxxx

Form 4

Invalidation 20xx- 8000xx

Determination Letter of Amount of Costs for Trial

Requester (Trial Demandant (Demandee))

Address

Name

Agent Attorney of Requester

Address

Name

The Other Party (Trial Demandant (Demandee))

Address

Name

A requester requests a determination of the amount of costs for the trial, and the request is considered appropriate, and it is determined as follows.

Main Text

It is determined that the amount of costs which should be borne by the other party is 00.000 yen as stated in the attached statement of costs according to a trial decision made on (D/M/Y).

(Teaching based on Administrative Complaint Review Act Article 57)

When dissatisfied with this disposition, an opposition may be filed under Administrative Complaint Review Act against Commissioner of the JPO within 60 days from the day following the day of receiving this notice.

(Teaching based on Administrative Case Litigation Act Article 46)

An action against this disposition may be filed against the government as defendant (for lawsuits, the Minister of Justice shall represent the

country) within 6 months from the day following the day of receiving the decision of the opposition on this disposition.

An action against this disposition may be filed after the decision of the opposition on this disposition is rendered; provided, however, this shall not apply for a case falling under any of the cases below and an action may be filed against this disposition without obtaining the decision of the opposition: (1) when no decision is made even after 3 months have been passed from the filing date of the opposition, (2) when there is an urgent necessity to avoid significant damages that would be caused by the disposition, the execution of disposition, or the continuation of the proceedings, or (3) when there are other reasonable grounds for not obtaining the decision.

Patent No. OOO (D/M/Y)

(D/M/Y)

Commissioner of Patent Office (name and seal)

If you have any inquiry on the decision, please contact below.

Infringement and Invalidation Affairs Office,

Trial and Appeal Department, Japan Patent Office

[Tel:03\(3581\)1101](tel:03(3581)1101) Ext.xxxx

Fax:03(3580)xxxx

(Revised June 2020)