

51-22.1 P U D T**Multiple Simultaneously Pending Trials for Invalidation****1. Proceedings of Multiple Trials for Invalidation Pending at the Same Time**

If two or more trials for invalidation are “simultaneously pending in the proceedings” for the same right (when one case is about to be examined and the other is ready to be examined, or when one becomes ready to be examined while the other is being examined), the proceedings should be conducted as follows.

(1) Consolidated Proceedings (→ 51-09 5.)

When multiple trials for invalidation are “pending” simultaneously, consider the possibility of consolidated proceedings; for cases that can be efficiently examined in such a manner, consolidate the proceedings (the Patent Act Article 154(1)).

(2) Factual Consolidated Proceedings

If conducting consolidated proceedings for multiple trials for invalidation which are pending simultaneously are inappropriate and if multiple, simultaneous proceedings of trials for invalidation do not preclude the smooth progress of the procedure, simultaneously examine multiple cases without conducting consolidated proceedings and make the trial decisions at the same time if possible.

By synchronizing timings of the answer invitation, the refutation invitation, the notice of reasons for invalidation, the oral proceedings, etc. in both cases, make the content and timing of attacks against the right holder as similar as possible and ensure proceedings so that the right holder’s defense methods are common to multiple cases.

(3) Prioritized Proceedings

When prioritizing a particular case can contribute to a prompt resolution of the dispute, decide the proceedings’ priority, select the most appropriately prioritized trial(s) for invalidation case(s) to be examined, and examine the trials for invalidation earlier than the remaining trials for invalidation.

A. Consider reasons, evidence, etc. asserted in the trial for invalidation case that is not

preferentially examined as a subject of ex officio proceedings in the trial for invalidation case that is preferentially examined.

B. In a trial for invalidation case that is not preferentially examined, in principle, a notice of suspension is prepared according to the Patent Act Article 168(1) (the Utility Model Act Article 40(1); the Design Act Article 52; the Trademark Act Articles 56(1), 68(4)). If a party submits a written request to cancel the suspension, considering that the presented reasons and evidence have already been taken into account in the priority proceedings, canceling the suspension is allowed only if it is considered useful for prompt resolution of the dispute.

C. Handling of the case in subsequent proceedings is decided according to the conclusion (whether the right is invalid or maintained) of the case that has been preferentially examined.

(A) If the conclusion of the preferentially examined case is invalid, in principle, proceedings of the subsequent case are suspended until the trial decision is decided.

(B) If the conclusion of the preferentially examined case is to preserve the rights, in principle, proceedings of the subsequent case are begun promptly thereafter.

In the patent, if a preferentially examined case of trial for invalidation is filed and if the correction in the said preferentially examined case of trial for invalidation has not been fixed, then set proceedings in consideration of consistency with the correction in the trial for invalidation which is subsequently examined (→ 51-22.2 2.(2)).

(Revised June 2019)