

54-05 P

Proceedings of a Trial for Correction

1. Proceedings of a Trial for Correction

The panel shall determine whether a request of a trial for correction meets the requirements stipulated under the Patent Act Article 126 on the basis of a written request for trial and the statement in the description, claims, or drawings attached thereto (→38-02-03.). Where a request for a trial for correction is filed for each claim (or each group of claims) (→38-00-2.), the correction is judged for each claim (or each group of claims).

2. Notice of Reasons for Rejecting a Request for Correction

(1) Where a request for a trial for correction does not correspond to one of the purposes in the proviso to the Patent Act Article 126 (1) or does not comply with provisions of the Patent Act Article 126 (5), (6), or (7), the chief administrative judge shall notify the requester of reasons therefor and shall provide the requester an opportunity to submit a written opinion by designating an adequate time limit (the Patent Act Article 165).

(2) Examples of reasons for rejecting a request for correction are as follows.

(Example 1) ... Thus, the present request for a trial for correction does not correspond to one of the purposes in the proviso to the Patent Act Article 126 (1).

(Example 2) ... Thus, the present request for a trial for correction does not comply with provisions of the Patent Act Article 126 (5), (6), or (7).

(3) Where a written opinion has not been submitted within a designated time limit, or a written opinion has been submitted, but an opinion has not been adopted, a notice of the conclusion of proceedings shall be issued, and a trial decision of disapproval (in some cases, partial approval) of the request shall be rendered.

(4) Where the purport of the request (such as a correction item) described in a written request for trial has been amended in response to the notice of reasons for rejecting a request for correction, and the gist of the written request has not been changed by the amendment, the amended purport of the request (such as a correction item) shall be further examined. Where the gist of the written request has been changed by the amendment, the said amendment shall not be adopted, and a trial decision shall be rendered with issuance of notice of the conclusion of proceedings. In this case, reasons for the trial decision shall contain refusal of the amendment and reasons therefor (→54-04-4 (2) 54-05.1).

3. Handling Associated with a Trial for Patent Invalidation or an Opposition to Grant of Patent

(1) Handling associated with a trial for invalidation (→51-22)

(2) Handling associated with an opposition to grant of patent (→67-10)

(Revised Jun.2019)