

57-00 P U D T

Intervention

1. Significance of Intervention

Intervention means the third party participates trial procedures by joining one of the parties of the trial during the pendency of the trial.

A solution of dispute by a trial such as an invalidation trial is generally made between parties of the trial, thus it is in general not necessary to interfere of the third party. However, when the third party has any legal relationship with the party or based on extending an effect of a trial decision to the third party under the Patent Act, a result of a trial between other people sometimes directly or indirectly affects a legal position of the third party.

In this situation, the third party may suffer unforeseen legal damages depending on the result as just observing the proceeding of the trial procedures conducted by the parties. The third party in the situation intervenes a pending trial between parties to assist one of the parties or joins the trial as a demandant into one of the parties to state a purport of own demand against the opposite party. The system of intervention accepts proceeding the trial in this way.

2. Trials etc. to Which the Provision of Intervention Are Applied

An intervention is provided in Patent Act Articles 148, 149 (as applied mutatis mutandis pursuant to Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56(1) 68(4))

- (1) Invalidation trial
- (2) Invalidation trial for registration of the extension of the patent term
- (3) Opposition to grant of patent (Patent Act Article 119)
- (4) Rescission of trademark registration

- (5) Invalidation trial of reclassification of trademark registration
- (6) Opposition to registration of trademark (Trademark Act Article 43-7)
- (7) Re-trial against a final and binding trial decision of (1), (2), (4) or (5), and a final and binding decision to revoke of (3) or (6)

3. Trials to Which the Provision of Intervention Are not Applied

A provision of intervention does not apply to the following trials (the provision of Patent Act Article 161 (Design Act Article 52, Design Trademark Act Articles 56(1), 68(4)) and Patent Act Article 166).

- (1) Appeal against an examiner's decision of refusal (Patent Act Article 121(1), Design Act Article 46(1), Trademark Act Article s 44(1), 68(49))
- (2) Appeal against an examiner's decision to dismiss amendment of design or trademark application for registration (Design Act Article 47(1), Trademark Act Articles 45(1), 68(4))
- (3) Trial for correction of patent application (Patent Act Article 126)

(Revised Feb 2015)