

**57-05 P U D T**  
**Effects of Intervention**

1. Trial Procedures

An intervenor may submit a document stating a method of allegation or evidence in a trial, and act any other trial procedures (Patent Act Article 148(4), Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56(1), 68(4)).

2. Use of Trial Procedures by Applicant for Intervention

An applicant for Intervention may act trial procedures with applying an intervention (Code of Civil Procedure Article 43(2)).

It is interpreted that trial procedures acted by an applicant of intervention are effective when a party is used it regardless of the time of the use by a party, even if a decision of disapproval of the intervention becomes determined (Analogous to the Code of Civil Procedure Article 45(4)).

3. Suspension or Termination of Procedures of Intervenor

When a reason for suspension or termination of procedures of an intervenor (Patent Act Articles 22~24, Utility Model Act Article 2-5(2), Design Act Article 68(2), Trademark Act Article 77(2)) is occurred, trial procedures themselves are stayed (Patent Act Article 148(5)).

4. Withdrawal of Intervention

(1) Timing of withdrawal

Withdrawal of intervention is equivalent to withdrawal of a demand for a trial (Patent Act Articles 155(1), Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56(1), 68(4)), the withdrawal may be

accepted at any stage of a trial until a trial decision becomes final and binding.

## (2) Conditions of withdrawal

It is interpreted that a consent of any party is not required for withdrawal of intervention because withdrawal does not harm the interests of the original party (a party that includes an intervenor) and the other party, and the effects of a trial decision extend to the intervenor.

There is an exception when an intervention is under Patent Act Article 148(1)(intervention as a co-demandant) and a trial demandant withdraws a trial and only an intervenor proceeds a trial proceedings, after a demandee submits a written reply against a statement of the intervenor, it is interpreted that a consent of the demandee is required for the withdrawal of intervention by analogy with the provision of Patent Act Article 155(2) (Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56(1), 68(4)).

## (3) Procedures of withdrawal

Withdrawal is conducted orally in oral proceedings and in writing in other cases. When withdrawal is conducted in writing, both parties shall be notified to that effect.

## 5. Lapse of Intervention

Intervention is lapsed when non-permission of intervention is determined, a trial decision becomes final and binding, or an application of intervention is withdrawn.

## 6. Relationship with Withdrawal of Trial

When a demandant/appellant withdraws a demand for trial, a consent of an intervenor is not required.

When a trial is withdrawn, an intervenor under Patent Act Article 148(1) (intervention as a co-demandant) may continue the trial proceedings (Patent Act Article 148(2)), but an intervenor under Patent Act Article 148(3)

(Supporting intervention) will lose the status as an intervenor.

#### 7. Effects of Trial Decision

When a trial decision is made, effects of the decision extend to an intervenor. A person whose application of intervention is rejected may file an action against the trial decision (Patent Act Articles 178(2), Utility Model Act Article 47(2), Design Act Article 59(2), Trademark Act Article 63(2)). Considering this, it is interpreted that effects of a trial decision extend to a person whose application of intervention is rejected.

(Rev Feb 2015)