

57-07 P U D T**Decision to Approve or Disapprove Intervention**

1. Procedures of Decision to Approve or Disapprove Intervention

(1) When an application for intervention is filed, a chief administrative judge shall serve a duplicate of a written application for intervention to both parties and intervenors (who have already obtained an approval of intervention) and shall give them an opportunity to state their opinion against the request within specified period of time (Patent Act Article 149(2), Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56(1), 68(4)).

Documents other than a written application for intervention submitted by an intervenor will be handled according to item 4. below.

(2) As a result of hearing the opinion in the above (1), when eligibility of being a demandant for intervention under Patent Act Article 148(1) (intervention by a third party as a party), or interests under Patent Act Article 148(3)(assisting intervention), are not clear, a chief administrative judge shall inquire the applicant to clarify it (a reason for intervention) (Analogous to the Code of Civil Procedure Article 44(1)).

(3) After the specified period has been passed, a decision to approve or disapprove intervention shall be made. Administrative judges (a panel) shall decide it by trial (Patent Act Article 149(3), Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56(1), 68(4)).

In the Code of Civil Procedure, only when a party (Code of Civil Procedure includes an intervenor in parties) objects against the intervention, approval or disapproval of the intervention is decided (Code of Civil Procedure Article 44), whereas in the Patent Act, approval or disapproval shall be decided regardless of whether opinions are submitted from parties and intervenors.

(4) A decision to approve or disapprove intervention shall be made in writing

and a reason therefore shall be included in the decision (Patent Act Article 149(4), Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56(1), 68(4)) (→3.).

2. Decision to Approve or Disapprove Intervention

Requirements for intervention is a matter to be examined ex officio.

In deciding approval or disapproval of intervention, a reason for the request and the opinion against this request shall be examined.

Approval or disapproval of intervention is determined by the presence or absence of eligibility of being a demandant in case of intervention under Patent Act Article 148(1) and by the presence or absence of interests in case of intervention under Patent Act Article 148(3).

3. Form of Decision to Approve or Disapprove Intervention

(1) Matters to be stated in a decision to approve or disapprove intervention is determined in Enforcement Regulations of the Patent Act Article 50-6 (Enforcement Regulations of the Utility Model Act Article 23(10), Enforcement Regulations of the Design Act Article 19(8), Enforcement Regulations of the Trademark Act Article 22(5), (6)).

A. Trial number

B. Name or appellation of parties and intervenors, and their agent

C. Name or appellation and address or domicile of an applicant for intervention, and name or appellation of the agent

D. Conclusion and reasons for the decision

E. Date of the decision

An administrative judge affixes the name and seals on a decision (Imprint alternative measure →00-02 2.).

Parties and intervenors to be stated in the decision are as below.

(A) Demandant

(B) Intervenor of demandant's side

(C) Demandee

(D) Intervenor of demandee's side

(2) Indication of conclusion (→45-04 6. (3))

4. Documents Submitted by Applicant for Intervention

An applicant for intervention may request for intervention and conduct the trial procedures as an intervenor in parallel (→57-05 2.), therefore, a duplicate of the documents submitted by the applicant shall be served to parties even before deciding approval or disapproval of intervention, and any opinions, if necessary, may be asked.

5. Dissatisfaction against Decision to Approve or Disapprove Intervention

Dissatisfaction may not be filed against a decision to approve or disapprove intervention (Patent Act Article 149(5), Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56(1), 68(4)).

An applicant for intervention whose application has been rejected may also institute an action if dissatisfied with the trial decision (Patent Act Article 178(2), Utility Model Act Article 47(2), Design Act Article 59(2), Trademark Act Articles 63(2)).

(Revised Feb 2015)