

57-09 P U D T
Request for Intervention and
Dismissal or Withdrawal of Demand for Trial

1. Dismissal of Demand for Trial

When procedures for a written demand/request for trial/appeal have a deficiency, a demand/request for trial/appeal or a trial/appeal shall be dismissed. When an application for intervention is filed with a demand for trial with a deficiency, a chief administrative judge shall dismiss a written demand for trial by decision (Patent Act Article 133(3), Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56, 68(4)), or a panel shall dismiss a trial by trial decision (Patent Act Article 135, Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56, 68(4)), then, a chief administrative judge shall dismiss an application for intervention by decision (Patent Act Article 133-2, Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56, 68(4)).

2. Withdrawal of Trial Before Decision to Approve or Disapprove Intervention

An application for intervention is filed under Patent Act Article 148, Utility Model Act Article 41, Design Act Article 52, Trademark Act Articles 56, 68(4), when a trial is withdrawn before a decision to approve or disapprove intervention, the trial shall be ended.

3. Dismissal or Withdrawal of Trial After Decision to Approve or Disapprove Intervention

An intervenor under Patent Act Article 148(1) (intervention by a third party as a party) may continue the trial procedures (Patent Act Article 148(2)) even

after the original party (a party that includes an intervenor) withdraws the trial (Patent Act Article 148(2)), while an intervenor under Patent Act Article 148(3)(assisting intervention) will lose the status as an intervenor when a trial is withdrawn (→57-05 6.).

Even if a demandant does not satisfy eligibility of being a demandant and the trial shall be dismissed due to unlawful demand, when an intervenor under Patent Act Article 148(1) (intervention by a third party as a party) satisfies eligibility of being a demandant, the trial procedures may be continued.

(Example) A panel shall dismiss a demand for trial and a trial decision is rendered to invalidate the registration of utility model by request of an intervenor (under Patent Act Article 148(1) (intervention by a third party as a party) (Trial No. 14725, 1979 (Utility Model Registration No. 1059988)).

(Rev Feb 2015)