

## **58-14 PUDT**

### **Asking Opinions and Statement of Opinions**

#### **1. Outline of System of Seeking Opinions and System of Stating Opinions**

In a suit against the decision, such as in a trial for invalidation, etc. (including a trial for invalidation of registration of an extension of a patent term, a trial for rescission of a registered trademark not in use, and a trial for rescission for unfair use; the same applies to the present section 58-14 hereinafter), the court may seek an opinion of the Commissioner of the Japan Patent Office on an application of the Patent Act, etc. or any other necessary matters relating to the case concerned (the system of seeking opinions) (the Patent Act Article 180-2(1) and (3)).

In a suit against the decision, such as in a trial for invalidation, the Commissioner of the Japan Patent Office may, upon the court's consent, state an opinion to the court regarding an application of the Patent Act, etc. or on any other necessary matters relating to the case concerned (the system of stating opinions) (the Patent Act Article 180-2(2) and (3)).

#### **2. The Purport of Establishment of the Systems of Seeking Opinions and Stating Opinions**

In a suit against the decision, such as in a trial for invalidation, the Commissioner of the Japan Patent Office may not participate as a party to the case in the proceedings thereof. However, when the Patent Office's legal interpretations or application standards has become a point of issue in a trial for invalidation, and the court makes a decision rescinding a trial decision based on its legal interpretations or application standards differing from those of the Patent Office, said court decision thus made may have a great impact on the legal interpretations or application standards of the Patent Office. Accordingly, in a suit against the decision, such as in a trial for invalidation, it is desirable that the point of view of the Japan Patent Office, the specialized government office, be reflected in the trial proceedings and that a determination be made in consideration thereof.

Accordingly, in a suit against the decision, such as in a trial for invalidation, the system of seeking an opinion is established, wherein the court may seek an opinion of the Commissioner of the Japan Patent Office, and the system of stating an opinion is also established, wherein the Commissioner of the Japan Patent Office may state an opinion to the court upon a motion made by the Patent Office and upon the court's consent.

(Revised Jun.2019)