

61-03 P D T**Time When a Request for Appeal Against Examiner's Decision
of Refusal Can Be Filed**

1. Time when a request for appeal can be filed

(1) An appeal can be filed within three months from the date on which a certified copy of a decision of refusal was served (Patent Act Article 121(1), Design Act Article 46(1), Trademark Act Article 44(1)).

An appeal against examiner's decision of refusal can be filed only after a certified copy of the decision of refusal is served.

If an appeal against examiner's decision of refusal is requested without receiving a decision of refusal, the request is dismissed by decision.

(Clause example of reasons for dismissal)

Since a request for appeal for the case was filed before a decision of refusal is made, the request is against the provision of Patent Act Article 121 (1) and this deficiency cannot be amended. Therefore, the appeal decision is rendered as concluded.

(2) If a person requesting an appeal may not file a request within the above period due to reasons not attributable, the person may file an appeal within 14 days (or within two months if the person is an overseas resident) after the date on which the reasons disappeared but within six months after the above period has been passed (Patent Act Article 121(2), Design Act Article 46(2), Trademark Act Article 44(2)).

(3) The Commissioner of the JPO may extend the term provided in Patent Act Article 4 (Design Act Article 68(1), Trademark Act Article 77(1)) for a person in a remote area or an area with transportation difficulty by request or ex officio (→25-01). However, the term except for an appeal against examiner's decision of refusal of a patent application (Patent Act Article

121) will not be extended in principle (→25-04 2., 4.).

(Revised Feb 2015)