

61-06 P D T
Procedure of Proceedings on Appeal Against Examiner's
Decision of Refusal

1. Order of Proceedings

(1) Principle

A case of appeal against examiner's decision to dismiss amendment is examined according to an order of filing date of the request for appeal.

However, a case with an old filing date (including a retroactive filing date and a priority date of claiming priority) is examined promptly.

(2) In the following cases, not necessarily in order of the filing date, a case should be examined at an early stage.

A. When a written explanation of circumstances concerning the accelerated examination is submitted and the prescribed requirements are satisfied.

(→see Guideline for Accelerated Examination published on JPO' website)

B. When there are other special circumstances that an early examination is deemed necessary.

2. Documentary Proceedings

An appeal against examiner's decision of refusal is documentary proceedings.

A chief administrative judge, however, may conduct an appeal by oral proceedings by request of the party or ex officio (Patent Act Article 145(2), Design Act Article 52, Trademark Act Articles 56(1), 68(4)).

3. Oral Proceedings (→33-00)

4. Ex Officio Proceedings (→36-01)

In an appeal, reasons that a party or an intervenor does not allege may be examined. However, a purport of the request that an appellant does not allege may not be examined (Patent Act Article 153(1)(3), Design Act Article 52, Trademark Act Articles 56(1), 68(4)).

5. Consolidated Proceedings (→30-03)

Proceedings of an appeal against examiner's decision of refusal may be consolidated (Patent Act Article 154, Design Act Article 52, Trademark Act Articles 56(1), 68(4)).

6. Inquiry (→37-00~37-02)

A chief administrative judge may inquire a party (Patent Act Article 134(4), Design Act Article 52, Trademark Act Articles 56(1), 68(4)).

7. Suspension and Termination (→26-01~26-01.1)

When necessary for an appeal, the procedures may be terminated until an appeal decision of another appeal becomes final and binding or court procedures is completed (Patent Act Article 168, Design Act Article 52, Trademark Act Articles 56(1), 68(4)).

8. Others

Provisions for submission of a written reply, a request for correction, and an intervention and an application of intervention are not applied to an appeal against examiner's decision of refusal (Patent Act Article 161, Design Act Article 52, Trademark Act Articles 56(1), 68(4)) (→61-02 2.).

(Revised Feb 2015)