

61-11 P**In Appeal Against Examiner's Decision of Refusal for a Patent Application, a Notice to the Patentees When an Invention Claimed in the Patent Application Is the Same Invention that Has Been Filed on the Same Day by a Different Applicant and Already Registered**

1. According to "Patent Act Article 39" in Examination Guidelines, when an invention claimed in a patent application is the same invention that has been filed on the same day by a different applicant and already registered, the handling is as follows (→Examination Guidelines, Part III, Chapter 4 Prior Application (Patent Act Article 39), 4.4.2(1)b(b)).

"When issuing a notice of reasons for refusal under Article 39(2) or (4), the examiner shall notify the patentee or the owner of a utility model right of the fact."

2. In response to this, when the same case occurs in an appeal against examiner's decision of refusal, handle the case in the same way.

(1) Clerical procedures of administrative judges

See the third page of this section for a text of a notice.

Enter a patent application number, a patent registration number, etc.

A. Notify all patentees or right holders of utility model right respectively.

B. When a patentee is not an overseas resident, enter a name of patentee.

A name of patentee is inquired with a registration master using online inquiry terminal.

C. When a patentee is an overseas residence, enter as follows.

As a result of inquiring with a registration master, when a patent administrator is appointed and registered, a name of patent administrator is entered. When a patent administrator is not appointed, a name of the agency of patent application at registration of establishment of the patent is inquired with a registration master and entered it.

(Revised June 2019)

