

69-02 D T**Examples of Appeal Decision of Appeal Against Examiner's
Decision to Dismiss an Amendment Case**

1. Example (Design)

Amendment 20xx-500000

Appeal Decision

Address or Domicile

Appellant Name/Appellation

Address or Domicile

Agent Name/Appellation

Regarding a case of an appeal against examiner's decision to dismiss amendment against a written amendment made on (D/M/Y) for Design Application No. 20YY-0000, an appeal decision shall be rendered as follows.

Conclusion

The original decision is revoked.

Reason

The present application was filed on (D/M/Y), and a written amendment was filed on (D/M/Y).

Against this amendment, the original decision is rendered as "the amended drawing in the written amendment shows an addition of new part of ΔΔ (Part ΔΔ) to a part of OO of Fig. OO in the drawings attached to the original application. This addition changes the gist of the application and the

drawings attached to the application originally and therefore, the application of the amendment shall be dismissed under Design Act Article 17-2.”

An appellant alleges “Part ΔΔ newly expressed in the amended drawing in the written amendment is limited to a part of the front view of the drawing and this amendment does not change the gist of the drawings attached to the original application.”

Then, we carefully reviewed the amended part in the amended drawing in relation to the entire drawings attached to the original application. The newly expressed Part ΔΔ in Part OO of Fig. OO makes unclear part in the shape of the article in the original drawing clearer and makes each drawing almost consistent by the amendment. It is considered such amendment falls within the range that a person having an ordinary skilled in the art to which the design pertains may naturally arrive. The above amendment does not change the gist of the original application and the drawings attached to the original application.

Therefore, the original decision may not prevent the revocation.

Hence, the appeal decision is rendered as concluded.

2. Example (Trademark)

Amendment 20xx-500000

Appeal Decision

Address or Domicile

Appellant Name/Appellation

Address or Domicile

Agent Name/Appellation

Regarding a case of an appeal against examiner’s decision to dismiss

amendment against a written amendment made on (D/M/Y) for Trademark Application No. 20YY-OOOO, an appeal decision shall be rendered as follows.

Conclusion

The request of the appeal is groundless. (Or the original decision is revoked.)

Reasons

The present trademark consisting of XX with designated goods of Class XX was filed on (D/M/Y), and a written amendment to amend it with OO was filed on (D/M/Y).

Against this amendment, the original decision makes that “OO with respect to the amendment is different from OO attached to (described in) the application in terms of its composition and mode (indication of the designated goods), and the amendment changes the gist of the application, therefore, the amendment shall be dismissed under the provision of Trademark Act Article 16-2(1).”

When carefully considered, the composition and mode (indication of the designated goods) of the trademark attached to (described in) the original application are (not) different in the composition and mode (indication of the designated goods) attached to (described in) the written amendment in terms of OO. Therefore, it should be saying that it changes (does not change) the gist of the trademark application.

Accordingly, the original decision to dismiss the amendment is appropriate (is not appropriate), and thus, there is no reasons to revoke the decision (the original decision may not prevent the revocation).

Therefore, the appeal decision is rendered as concluded.

(Revised June 2019)