

**80-01 P U D T****Administrative Work Associated with Filing a Lawsuit**

## 1. Complaint

When a suit rescinding a trial/appeal decision, etc. (Patent Act Article 178(1), Utility Model Act Article 47(1), Design Act Article 59(1), Trademark Act Article 63(1)) is filed, a notice of filing a suit (hereinafter referred to as a “notice”), etc. are delivered (Patent Act Article 180(1)(2), Utility Model Act Article 47(2), Design Act Article 59(2), Trademark Act Article 63(2)) for a suit where the Commissioner of the JPO is not a defendant (inter partes case) from a clerk of the IP High Court (Sections 1-4), while a notice is delivered for a suit where the Commissioner of the JPO is a defendant (an ex parte case), and after that a complaint and summons for an appearance date are delivered (Administrative Case Litigation Act Article 7, Code of Civil Procedure Articles 138(1), 94).

## 2. Examination of Documents

The Litigation Affairs Office examines the above documents when receiving on the following points verifying with the record of the trial/appeal case in connection with the suit (including application documents if the case is an ex parte case).

- (1) Name of a party
- (2) Indication of a case
- (3) Period for filing a suit

## 3. Results of Verification

If there is a discrepancy in indications in the above documents or the above filing period has passed, an authorized agent in charge by each section of the

Litigation Affairs Office prepares and submits a written reply to dismiss the appeal to the court. However, when the case is inter partes case, they are notified to the court.

#### 4. Entry in the Ledger and Preparation for Record of Court Cases

The Litigation Affairs Office prepares a record of court cases, etc. by making an entry of required information based on the above documents to “Case Files” and “Due Date Book of Cases.”

#### 5. Authorization of Agent

An authorized agent is an official designated by the Commissioner of the JPO as executing a suit rescinding a trial/appeal decision, etc.

(Reference)

Act on the Authority of the Minister of Justice over Suits Relating to the Interests of the State Article 5(1)

An administrative agency may designate one of its officials to conduct a suit where the administrative agency is a party or intervenor.

An authorized agent has the authority to perform any and all acts in court with regard to a suit rescinding an appeal decision, etc., except for the appointment of an agent (Article 8 of the same Act in the above). When a suit rescinding an appeal decision, etc. is filed, the Litigation Affairs Office takes the procedure for designating an authorized agent of the defendant, the Commissioner of the JPO, and delivers a written designation of authorized agent to the IP High Court.

An authorized agent is a chief administrative judge and an administrative judge of the Department, and a chief administrative judge and an administrative judge of the Litigation Affairs Office. The former becomes a chief authorized agent. However, when reasons for rescission are related to a

general legal interpretation and application of the law, or when a case involves the violation of the Examination Guidelines or practices or requires the changes (common cases), the latter becomes a chief authorized agent.

(Revised Feb. 2015)