

Procedural Rules and Guidelines of the IPHC of Japan

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Judge of the IP High Court of Japan

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- Suits against appeal/trial decisions made by JPO

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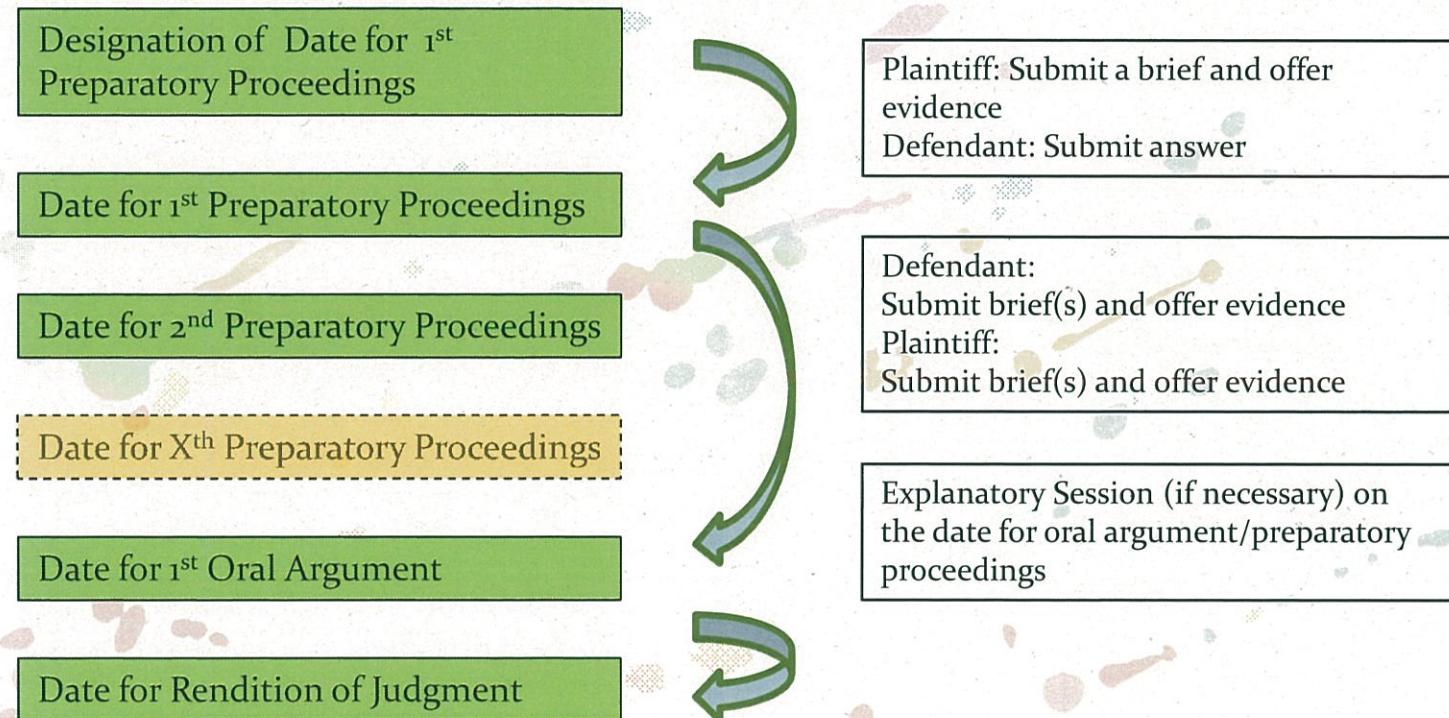
- Appeals against judgments made by district courts in civil cases related to IP

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1. Procedure (1)

- Suits against appeal/trial decisions made by JPO

● Outline (Patent Case)



1. Procedure (1) - Suits against...

- Filing of action ~ the 1st date for preparatory proceedings

- Plaintiff

- Submit a brief presenting all of the reasons for seeking rescission of the JPO decision
 - Offer evidence

- Defendant

- Submit answer

1. Procedure (1) - Suits against...

- On the 1st date for preparatory proceedings
 - Arrange issues and evidence through discussion between both parties and the court
 - Discuss the schedule
 - Counterarguments by defendant
 - Counterarguments against it above by plaintiff
 - necessity of explanatory session, etc.

1. Procedure (1) - Suits against...

- The 2nd ~ the Xth date(s) for preparatory proceedings
 - Before the 2nd date for preparatory proceedings
 - Defendant
 - Submit brief(s) stating all of its counterarguments to plaintiff's arguments and evidence
 - Plaintiff
 - Submit brief(s) stating counterarguments against defendant's above and evidence (if necessary)
 - The 2nd date for preparatory proceedings and...
 - Based on the results of the 1st date for preparatory proceedings and briefs above, both parties and the court continue to discuss to arrange issues and evidence
 - The preparatory proceedings will be terminated on the 2nd date for it

1. Procedure (1) – Suits against...

- Explanatory Session

- Purpose

- To obtain oral explanation from the parties concerned with regard to technical matters
- Not only for the cases in the field of highly specialized technology, but also for a wide variety of cases where common general technical knowledge in the art is at issue, etc.

1. Procedure (1) - Suits against...

- Explanatory Session
 - Held on the date for oral argument/preparatory proceedings
 - Participants:
 - Judge(s) and judicial research official in charge
 - Both parties
 - Technical advisors

1. Procedure (1) - Suits against...

● Explanatory Session



Explanatory Session (技術説明会)

- ① Attorney for the Plaintiff (原告代理人)
- ② Technical Advisor (専門委員)
- ③ Judge (裁判官)
- ④ Judicial Research Official (裁判所調査官)
- ⑤ Attorney for the Defendant (被告代理人)

1. Procedure (1) - Suits against...

- The date for oral argument
 - In some cases, each of parties makes a brief presentation on the issue(s)
 - Conclusion of the oral argument
 - Render the judgment



2. Procedure (2)

- Appeals against judgments made by district courts in civil cases related to IP

- Procedure of 1st Instance

- 1st Stage: Stage for Examination on Infringement

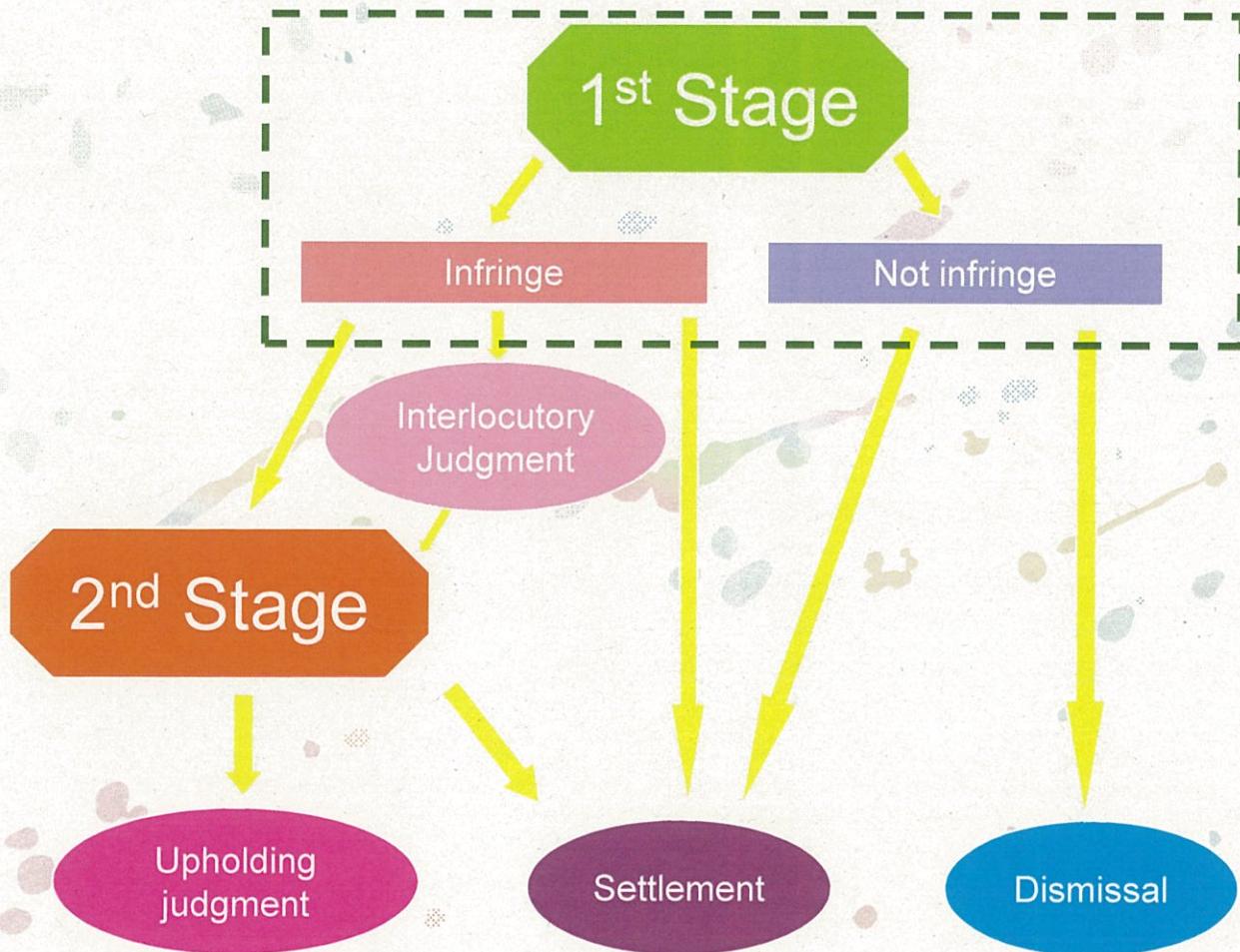
- Whether or not the patent has been infringed

- Patent invalidity defense

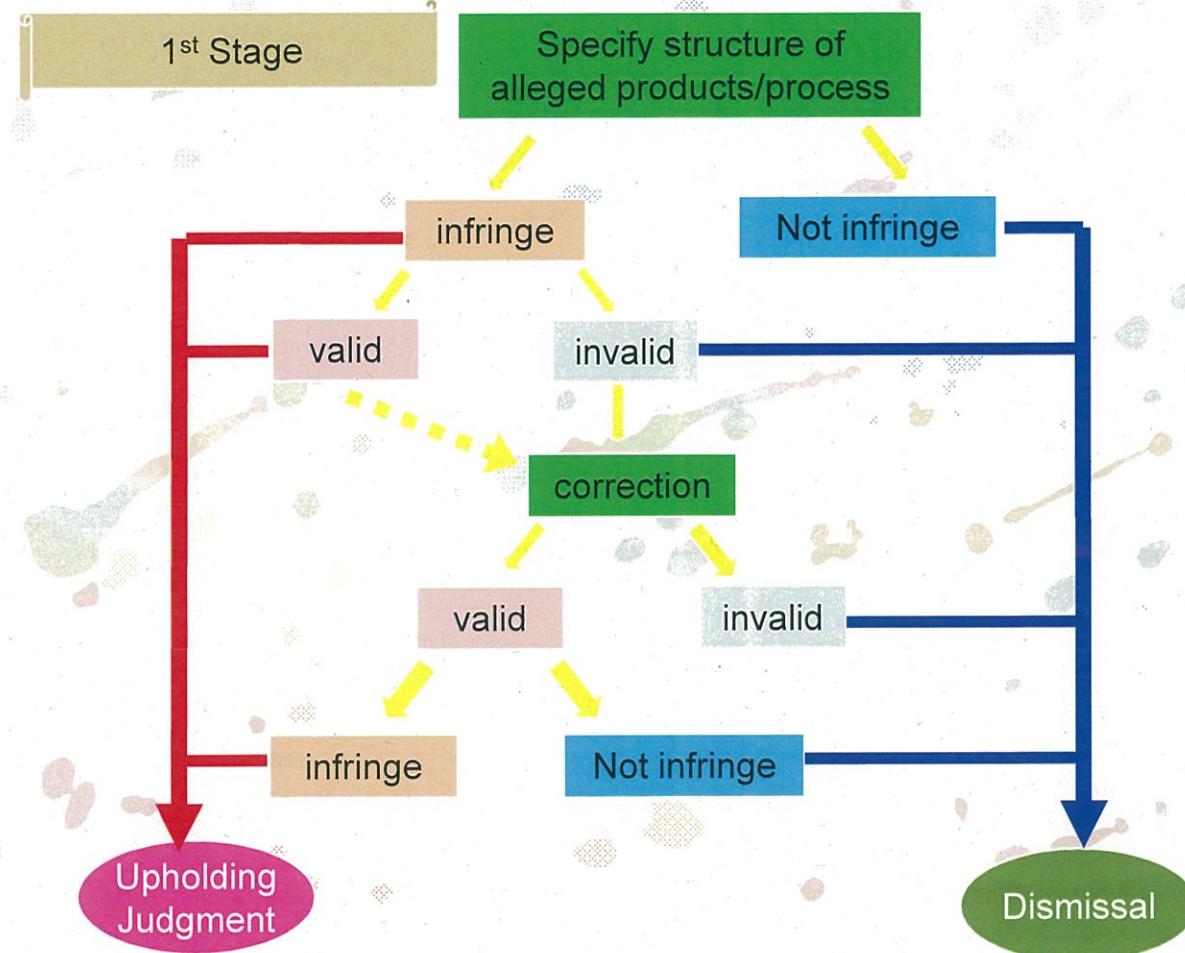
- 2nd Stage: Stage for Examination on Damages

- Judgment/Settlement

2. Procedure (2) – Appeals against...



2. Procedure (2) – Appeals against...



2. Procedure (2) – Appeals against...

- Procedure of 2nd Instance
 - Basically same as other kind of civil cases
 - Focused on the issue(s) which the appellant requests to revise the conclusion of in the judgment by the 1st instance
 - Judgment/Settlement
 - Explanatory session (if necessary)

3. Dissemination of Information

- Disclose procedural rules and guidelines through our website as below;
 - IPHC
 - <http://ip.courts.go.jp/tetuduki/form/index.html>
 - IP Div. of Tokyo/Osaka District Court
 - <http://www.courts.jp/tokyo/saiban/>
 - http://www.courts.jp/oSsaka/saiban/tetuzuki_ip/

(Only Japanese versions are available now.)

3. Dissemination of Information

IPHC

The screenshot shows a computer monitor displaying the official website of the Intellectual Property High Court of Japan. The page is titled "審決取消訴訟（特許・実用新案）の進行について" (Procedure for Patent and Utility Model Litigation Cancellation). The content includes instructions for parties involved in such lawsuits, detailing the preparation required by both plaintiffs and defendants. On the right side, there are several sidebar menus with links to various sections like "About the IP High Court", "Court Overview", "Procedure", and "Case Status". The browser's address bar shows the URL: www.ip.courts.go.jp/tetuduki/form/form_youkou/index.html. The system tray at the bottom right indicates the date as April 4, 2018, and the time as 14:53.

3. Dissemination of Information

IP Div. of Tokyo District Court

The screenshot shows a computer screen displaying the Tokyo District Court's website for intellectual property disputes. The main content area is titled "特許権侵害訴訟の審理要領" (Procedure for Patent Infringement Litigation). It contains several paragraphs of text explaining the two-stage trial procedure, mentioning the adoption of a hybrid model where the first stage involves a hearing on whether there is infringement, and the second stage involves a damages hearing if the plaintiff can prove infringement. It also discusses the preparation of a trial model document and the involvement of technical experts. At the bottom, there are links for "別紙1「特許権侵害訴訟の審理モデル（侵害論）」(PDF:1,061KB)" and "別紙2「特許権侵害訴訟の審理モデル（損害論）」(PDF:1,245KB)". The right sidebar features a vertical menu with links to internal pages like "裁判所情報", "司法統計", and "見学・傍聴案内". The bottom of the page includes standard browser navigation buttons and a status bar showing the date and time.

Thank you for your attention!

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IPHC of Japan

* Our guidebook is available on
<http://www.ip.courts.go.jp/eng/documents/index.html>