

3-12 Reconsideration by Examiner before Appeal

"In the case of a demand for an appeal against an examiner's decision of rejection, if an amendment is made to a description, claims or drawings at the same time with the demand, an examiner who examined the patent application, reexamines the patent application (Art.162). This is a kind of pre-appeal procedure. It is noted that if an amendment is not made, appeal examination (by a collegial body of appeal examiners) will begin without the pre-appeal procedures.

In the reconsideration, if the examiner considers that the rejection(s) have been overcome by the amendment, the examiner annuls the examiner's decision of rejection and issues a decision to grant a patent (Art.164(1)). Except for this situation, the examiner reports to the Director-General of the Patent Office the result of the examination without rendering a decision on the demand for the said appeal (Art.164(3)).

As a general rule, questioning is directed to all appeal cases having reports prepared as described above. The written questioning is sent to the appellant, and the appellant is given an opportunity to submit a written reply. After submission of the written reply, appeal examination by a collegial body of appeal examiners is initiated."