

裁判救濟程序

Adjudication Relief Proceedings

壹、 智慧財產法院之教示條款（民事訴訟事件）

Legal Notice Provisions for the Intellectual Property Court (Civil Litigation Matters)

311 得上訴

如不服本判決，應於收受送達後 20 日內向本院提出上訴書狀，其未表明上訴理由者，應於提出上訴後 20 日內向本院補提理由書狀（均須按他造當事人之人數附繕本），上訴時應提出委任律師或具有律師資格之人之委任狀；委任有律師資格者，應另附具律師資格證書及釋明委任人與受任人有民事訴訟法第 466 條之 1 第 1 項但書或第 2 項（詳附註）所定關係之釋明文書影本。如委任律師提起上訴者，應一併繳納上訴審裁判費。

附註：

民事訴訟法第 466 條之 1（第 1 項、第 2 項）

對於第二審判決上訴，上訴人應委任律師為訴訟代理人。但上訴人或其法定代理人具有律師資格者，不在此限。

上訴人之配偶、三親等內之血親、二親等內之姻親，或上訴人為法人、中央或地方機關時，其所屬專任人員具有律師資格並經法院認為適當者，亦得為第三審訴訟代理人。

311 Appealable

If a party disagrees with this judgment, a written appeal petition shall be filed with the Court within 20 days calculated from the date of service of the judgement. If the reasons are not set forth in the appeal petition, a supplemental petition may be filed with the Court within 20 days after filing the appeal. (The number of the written copies thereof to be submitted shall all be the same as the number of opposing parties.) When an appeal is filed, a power of attorney retaining an attorney or a person qualified to act as an attorney shall be submitted; In retaining a person qualified to act as an attorney, the attorney's certificate and the photocopy of the identification document making a preliminary showing that there is the relationship between the appointor and appointee specified under the Code of Civil Procedure, Article 466-1, the proviso of paragraph 1, or paragraph 2 (see the postscript for details) shall be additionally submitted. If the appeal is filed by a retained attorney, the court costs on the appeal shall be paid along with the filing.

Postscript:

The Code of Civil Procedure, Article 466-1 (paragraph 1 and paragraph 2)

Unless the appellant or his/her statutory agent himself/herself is qualified to act as an attorney, an appellant shall appoint an attorney as his/her advocate in the appeal from the judgment of a court of second instance.

In cases where the spouse, or a relative by blood within the third degree or a relative by marriage within the second degree to the appellant is qualified to act as an attorney, and in cases where the appellant is a juridical person or a central or local government agency and has a full-time personnel who is qualified to act as an attorney, such persons may act as the advocate for the appellant in the third instance if the court considers it appropriate to permit such appointment.

312 不得上訴

本件不得上訴。

312 Non-appealable

This case is not appealable.

313 得抗告

如不服本裁定，應於送達後 10 日內向本院提出抗告狀，並繳納抗告費新臺幣 1,000 元。

313 Right to interlocutory appeals

A person who disagrees with this ruling shall file a written petition of appeal against the ruling to the Court within 10 days calculated from the date of service of this ruling, and the court costs of NTD1,000 on an appeal against a ruling shall be paid.

314 不得抗告

本件不得抗告。

314 No appeals may be raised against the ruling.

No appeals may be raised against this case.

315 不得抗告 (核發秘密保持命令裁定)

本件不得抗告。

本秘密保持命令，自本命令送達相對人時起發生效力。

315 No appeals may be raised against the ruling. (A ruling granting a confidentiality preservation order)

No appeals may be raised against this case.

This confidentiality preservation order shall become effective upon being served to the counterparty thereto.

316 再抗告

本裁定除以適用法規顯有錯誤為理由外，不得再抗告。如提起再抗告，應於收受後 10 日內委任律師為代理人向本院提出再抗告狀。並繳納再抗告費新台幣 1 千元。

316 Right to re-appeals against rulings

No re-appeals may be taken from this ruling except that it is based on the ground that there is a manifest error in the application of law in such ruling. If a party files a re-appeal against this ruling, a written interlocutory re-appeal petition shall be filed with the Court by the attorney retained as the agent within 10 days calculated from the date of service of the ruling, and court costs of NTD1,000 on a re-appeal from a ruling shall be paid.

317 部分不得抗告、部分得抗告

就准許部分不得聲明不服；就駁回部分如不服本裁定，應於送達後 10 日內向本院提出抗告狀，並繳納抗告費新臺幣 1,000 元。

317 Partially not appealable and partially appealable against rulings

For the part that is granted for an appeal, no objection may be raised; for the part that is dismissed for an appeal, a person who disagrees with this ruling shall file a written petition of appeal against the ruling to the Court within 10 days calculated from the date of service of this ruling, and the court costs of NTD1,000 on an appeal against a ruling shall be paid.

318 得異議

不服本裁定者，應於送達後 10 日內，以書狀向司法事務官提出異議。

318 Objectionable

If a party disagrees with this ruling, an objection to this ruling in writing shall be raised to the Court Administrator, within 10 days starting from the day following the service of this ruling.

貳、 智慧財產法院之教示條款（刑事訴訟案件）

Legal Notice Provisions for the Intellectual Property Court (Criminal Litigation Matters)

319 得上訴

如不服本判決應於收受本判決後 10 日內向本院提出上訴書狀，其未敘述上訴理由者，並得於提起上訴後 10 日內向本院補提理由書狀（均須按他造當事人之人數附繕本）『切勿逕送上級法院』。

319 Appealable

If a party disagrees with this judgment, a written appeal petition shall be filed with the Court within 10 days calculated from the date of service of the judgement. If the reasons are not set forth in the appeal petition, a supplemental petition may be filed with the Court within 10 days after filing the appeal. (The number of the written copies thereof to be submitted shall all be the same as the number of opposing parties.) [Please do not submit it directly to the Court of Appeal.]

320 **得上訴** (不得上訴第三審判決之例外情形)

依刑事訴訟法第 376 條第 1 項但書規定，被告或得為被告利益上訴之人，如不服本判決，應於收受送達後 10 日內向本院提出上訴書狀，其未敘述上訴之理由者並得於提起上訴後 10 日內向本院補提理由書（均須按他造當事人之人數附繕本）「切勿逕送上級法院」。

320 **Appealable** (The exception that may be appealed to the court of third instance)

In accordance with the proviso of Paragraph 1 of Article 376 of the Code of Criminal Procedure, where the defendant or a person who may appeal for the interest of the defendant disagrees with this judgment, he/she shall file a written petition of appeal to the Court within 10 days calculated from the date of service of this judgement; A person who fails to set forth ground of reasons in a written petition of appeal may file a supplemental petition with ground of reasons in writing to the Court within 10 days after the filing of the appeal. (The number of the written copies thereof to be submitted shall all be the same as the number of opposing parties.) [Please do not submit it directly to the Court of Appeal.]

321 **不得上訴**

本件不得上訴。

321 **Non-appealable**

This case is not appealable.

322 **得抗告**

如不服本裁定，應於裁定送達後 5 日內向本院提出抗告狀。

322 **Right to interlocutory appeals**

A person who disagrees with this ruling shall file a written petition of an appeal against the ruling to the Court within 5 days calculated from the date of service of this ruling.

323 **得再抗告**

如不服本裁定，應於收受送達後 5 日內向本院提出再抗告狀。

323 **Right to re-appeals against rulings**

A person who disagrees with this ruling shall file a written petition of a re-appeal against the ruling to the Court within 5 days calculated from the date of service of this ruling.

324 不得抗告

本件不得抗告。

324 No appeals against rulings

No appeals may be raised against this case.

325 不得再抗告

本件不得再抗告。

325 No re-appeals against rulings

No re-appeals may be raised against this case.

參、 智慧財產法院之教示條款 (行政訴訟事件)

Legal Notice Provisions for the Intellectual Property Court (Administrative Litigation Matters)

326 得上訴

如不服本判決，應於送達後 20 日內，向本院提出上訴狀並表明上訴理由，其未表明上訴理由者，應於提起上訴後 20 日內向本院補提上訴理由書；如於本判決宣示後送達前提起上訴者，應於判決送達後 20 日內補提上訴理由書（均須按他造人數附繕本）。

上訴時應委任律師為訴訟代理人，並提出委任書（行政訴訟法第 241 條之 1 第 1 項前段），但符合下列情形者，得例外不委任律師為訴訟代理人（同條第 1 項但書、第 2 項）。

得不委任律師為訴訟代理人之情形	所需要件
(一)符合右列情形之一者，得不委任律師為訴訟代理人	<ol style="list-style-type: none"> 1. 上訴人或其法定代理人具備律師資格或為教育部審定合格之大學或獨立學院公法學教授、副教授者。 2. 稅務行政事件，上訴人或其法定代理人具備會計師資格者。 3. 專利行政事件，上訴人或其法定代理人具備專利師資格或依法得為專利代理人者。
(二)非律師具有右列情形之一，經最高行政法院認為適當者，亦得為上訴審訴訟代理人	<ol style="list-style-type: none"> 1. 上訴人之配偶、三親等內之血親、二親等內之姻親具備律師資格者。 2. 稅務行政事件，具備會計師資格者。 3. 專利行政事件，具備專利師資格或依法得為專利代理人者。 4. 上訴人為公法人、中央或地方機關、公法上之非法人團體時，其所屬專任人員辦理法制、法務、訴願業務或與訴訟事件相關業務者。
<p>是否符合(一)、(二)之情形，而得為強制律師代理之例外，上訴人應於提起上訴或委任時釋明之，並提出(二)所示關係之釋明文書影本及委任書。</p>	

326 Appealable

If a party disagrees with this judgment, a written appeal petition shall be filed with the Court within 20 days calculated from the date of service of the judgement indicating the reasons for the appeal. If the reasons are not set forth in the appeal petition, a supplemental petition shall be filed with the Court within 20 days after the filing of the appeal. If the petition is filed after the judgment is announced but before it is served, a supplemental

petition with reasons of the appeal shall be filed with the Court within 20 days after the judgment is served. (The number of the written copies thereof to be submitted shall be the same as the number of opposing parties.)

An appellant shall appoint an attorney as his/her advocate in the appeal and produce a power of attorney. (Administrative Litigation Act, Article 241-1, the fore part of paragraph 1). However, provided that any of the following conditions is met, an appellant may exceptionally not to appoint a lawyer as his/her advocate. (the proviso of paragraph 1 and paragraph 2 of the same Article)

Conditions under which an appellant may exceptionally not to appoint a lawyer as his/her advocate	Requirements
(1) When any one of the conditions set out in the right column is met, an appellant may exceptionally not to appoint a lawyer as his/her advocate.	<ol style="list-style-type: none"> 1. The appellant or his/her legal representative is qualified to act as an attorney or is a professor or an associate professor of public law in a university or independent college accredited by the Ministry of Education. 2. For tax administrative matters, the appellant or his/her legal representative is qualified to act as a certified public accountant. 3. For patent administrative matters, the appellant or his/her legal representative is qualified to act as a patent attorney or legally qualified to act as a patent agent.
(2) Where a non-lawyer meets any one of the conditions set out in the right column, and the Supreme Administrative Court considers it appropriate, such a non-lawyer may also	<ol style="list-style-type: none"> 1. Where the spouse, or a relative by blood within the third degree or a relative by marriage within the second degree to the appellant is qualified to act as an attorney. 2. For tax administrative matters, the person is qualified to act as a certified public accountant. 3. For patent administrative matters, the person is qualified to act as a patent attorney or legally qualified to act as a patent agent.

act as an advocate in the appellant court.	4. Where the appellant is a public legal person, a central or local government agency or an unincorporated group in public law and has full-time personnel who handle the legal system, legal affairs, petitions, or the business related to the litigation matter.
Whether it meets the conditions of (1) and (2) above to be an exception to the mandatory representation in court by an attorney, the appellant shall make a preliminary showing either upon appeal or upon appointing the advocate, and produce the photocopy of the document indicating the relationship specified in (2) above and the Power of Attorney.	

327 得抗告

如不服本裁定，應於送達後 10 日內向本院提出抗告狀（須按他造人數附繕本）。

327 Right to interlocutory appeal

If a party disagrees with this ruling, a written interlocutory appeal petition shall be filed with the Court within 10 days calculated from the date of service of the ruling. (The number of the written copies thereof to be submitted shall be the same as the number of opposing parties.)

328 不得抗告

不得抗告。

328 No appeals may be against the ruling

No appeals may be raised against the ruling.

329 不得抗告（核發秘密保持命令裁定）

不得抗告。

本秘密保持命令，自本命令送達相對人時起發生效力。

受秘密保持命令之人，其住所或居所有遷移時，應向法院陳明。

329 No appeals may be against the ruling (A ruling granting a confidentiality preservation order)

No appeals may be raised against the ruling.

This confidentiality preservation order shall become effective upon being served to the counterparty thereto.

A person subject to a confidentiality preservation order shall report to court any change of

his domicile or residence.

330 **部分不得抗告、部分得抗告** (核發秘密保持命令裁定)

本裁定准許秘密保持命令部分不得抗告，駁回秘密保持命令部分得於十日內抗告。

本秘密保持命令，自本命令送達相對人時起發生效力。

受秘密保持命令之人，其住所或居所有遷移時，應向法院陳明。

330 **Partially not appealable and partially appealable against rulings** (A ruling granting a confidentiality preservation order)

For the motion that is granted for an appeal against a confidentiality preservation order, no objection may be raised; for the motion that is denied for an appeal against a confidentiality preservation order, a person who disagrees with this ruling shall file a written petition of appeal against the ruling to the Court within 10 days calculated from the date of service of this ruling.

This confidentiality preservation order shall become effective upon being served to the counterparty thereto.

A person subject to a confidentiality preservation order shall report to court any change of his domicile or residence.

331 **不得聲明不服**

不得聲明不服。

331 **No objection**

No objection may be raised against the ruling.