裁判救濟程序

Adjudication Relief Proceedings

壹、智慧財產及商業法院智慧財產法庭之教示條款（民事訴訟事件）

I. Legal Notice Provisions for the Intellectual Property Tribunal in the Intellectual Property and Commercial Court (Civil Litigation Matters)

311 得上訴（民事一審）

一、如不服本判決，應於送達後 20 日內，向本院提出上訴狀。

二、如委任律師提起上訴者，應一併繳納上訴審裁判費。

311 An appeal is permitted (Civil proceedings in the first instance)

(1) If there are any disagreements with this judgment, an appeal should be filed with this Court within 20 days from the date of service of the judgment.

(2) If an attorney is retained to file such an appeal, the attorney shall also pay the fee for the appeal court cost.

312 得上訴（民事二審）

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

二、 上訴時應委任律師為訴訟代理人，並提出委任書（民事訴訟法第 466 條之 1 第 1 項本文）。但符合民事訴訟法第 466 條之 1 第 1 項但書或第 2 項（詳附註）所定情形者，不在此限。

三、 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。

312 An appeal is permitted (Civil proceedings in the second instance)

(1) If there are any disagreements with this judgment as served, a written appeal stating reasons of appeal shall be filed with this Court within 20 days after the service of the judgment. If the reasons for the appeal are not stated, the appellant may submit an additional statement of reasons to this Court within 20 days of filing the appeal. If an appeal is filed before service of this judgment, after it is announced or published, an additional statement of reasons shall be submitted within 20 days after service of the judgment (in either occasion, attach the number of transcript copies as per the number of persons in the other parties).

(2) Upon appeal, an attorney shall be retained as an agent ad litem and a letter of retainer shall be submitted (Article 466-1 Paragraph 1 of the Taiwan Code of Civil Procedure). However, the circumstances as stipulated in proviso to Article 466-1, or provision of paragraph 2 (see Note for details), of the Taiwan Code of Civil Procedure, shall not apply.

(3) 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.

313 不得上訴

不得上訴。

313 No appeal is permitted.

No appeal is permitted.

314 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，並繳納抗告裁判費新臺幣 1,500

元。

314 An interlocutory appeal is permitted

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 NTD1,500 on an appeal against a ruling shall be paid.

315 不得抗告

不得抗告。

315. No Interlocutory appeal is permitted.

No Interlocutory appeal is permitted.

316 不得抗告（核發秘密保持命令裁定）

不得抗告。

316 No Interlocutory appeal is permitted. (A ruling granting a confidentiality preservation order)

No Interlocutory appeal is permitted.

317 再抗告

一、如不服本裁定，應於送達後 10 日內向本院提出再抗告狀（須按他造人數附繕本），並繳納再抗告裁判費新台幣 1,500 元。

二、再抗告僅得以適用法規顯有錯誤為理由，且應委任律師為代理人，並提出委任書。

三、如委任律師提起再抗告者，應一併繳納再抗告裁判費新臺幣 1,500 元。

317 Second Interlocutory Appeal against the ruling

(1) If there are any disagreements with this ruling as served, a second interlocutory appeal should be filed with this Court within 10 days from the date of service of the ruling (attach the number of transcript copies as per the number of persons in the other parties), and pay the court cost of NT$1,500 for a second interlocutory appeal.

(2) A second interlocutory appeal shall only be filed on the grounds that the applicable law is clearly erroneous, and that an attorney shall be retained as an agent and a letter of retainer shall be submitted.

(3) If an attorney is retained to file a second interlocutory appeal, the attorney shall also pay the court cost of NT$1,500 for the second interlocutory appeal.

318 部分不得抗告、部分得抗告（證據保全）

就本裁定准許部分不得聲明不服；就本裁定駁回部分不服，應於送達後 10 日內，向本院提出抗告狀，並繳納抗告裁判費新臺幣 1,500 元。

318 Partially not appealable and partially appealable against rulings (Perpetuation of Evidence)

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 NTD1,500on an appeal against a ruling shall be paid.

319 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。

319 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、智慧財產及商業法院智慧財產法庭之教示條款（刑事訴訟案件）

2. Legal Notice Provisions for the Intellectual Property Tribunal in the Intellectual Property and Commercial Court (Criminal Litigation Matters)

320 得上訴

如不服本判決，應於送達後 20 日內向本院提出上訴書狀，並應敘述具體理由；其未敘述上訴之理由者，應於上訴期間屆滿後 20 日內向本院補提理由書（均須按他造人數附繕本）「切勿逕送上級法院」。

320 An appeal is permitted

If a party disagrees with this judgment, a written petition of appeal stating reasons of appeal shall be filed with the Court within 20 days calculated from the date of service of the judgement. If the reasons for the appeal are not stated, the appellant may submit an additional statement of reasons to 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.) [Please do not submit it directly to the Court of Appeal.]

321 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，應於送達後 20 日內向本院提出上訴書狀，並應敘述具體理由；其未敘述上訴之理由者，得於提起上訴後 20 日內向本院補提理由書（均須按他造人數附繕本）「切勿逕送上級法院」。

321 An appeal is permitted (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 stating reasons against the ruling to the Court within 20 days calculated from the date of service of this judgement; If the reasons for the appeal are not stated, the appellant may submit an additional statement of reasons to the Court within 20 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.]

322 不得上訴

不得上訴。

322 Non-appealable

This case is not appealable.

323 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。

323 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 10 days calculated from the date of service of this ruling.

324 得再抗告

如不服本裁定，應於送達後 10 日內，向本院提出再抗告狀。

324 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 10 days calculated from the date of service of this ruling.

325 不得抗告

不得抗告。

325 No Interlocutory appeal is permitted

No interlocutory appeal is permitted.

326 不得抗告（核發秘密保持命令裁定）

不得抗告。

326 No Interlocutory appeal is permitted (Ruling for the issuance of confidentiality preservation order).

No interlocutory appeal is permitted.

327 不得再抗告

不得再抗告。

327 No re-appeals against rulings

No re-appeals may be raised against this case.

參、智慧財產及商業法院智慧財產法庭之教示條款（行政訴訟事件）

3. Legal Notice Provisions for the Intellectual Property Tribunal in the Intellectual Property and Commercial Court (Administrative Litigation Matters)

328 得上訴

一、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 日內向本院補提理由書；如於本判決宣示或公告後送達前提起上訴者，應於判決送達後 20 日內補提理由書（均須按他造人數附繕本）。

二、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）。

三、符合下列情形者，得例外不委任律師為訴訟代理人（行政訴訟法第 241 條之 1 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	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	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。
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。	

328 An appeal is permitted

(1) If there are any disagreements with this judgment as served, a written appeal stating reasons of appeal shall be filed with this Court within 20 days after the service of the judgment. If the reasons for the appeal are not stated, the appellant may submit an additional statement of reasons to this Court within 20 days of filing the appeal. If an appeal is filed before service of this judgment, after it is announced or published, an additional statement of reasons shall be submitted within 20 days after service of the judgment (in either occasion, attach the number of transcript copies as per the number of persons in the other parties).

(2) Upon appeal, an attorney shall be retained as an agent ad litem and a letter of retainer shall be submitted (Administrative Litigation Act, Article 241-1, the fore part of paragraph 1).

(3) However, provided that the following conditions are met, an appellant may exceptionally not to appoint a lawyer as his/her advocate.（Administrative Litigation Act, Article 241-1, the proviso of paragraph 1 and paragraph 2）

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	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.

appoint a lawyer as his/her advocate.	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 act as an advocate in the appellant court.	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. 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.	

329 得抗告

如不服本裁定，應於送達後 10 日內，以書狀敘明理由向本院提出抗告狀（須按他造人數附繕本）。

329 An interlocutory appeal is permitted

If a party disagrees with this ruling, a written petition of interlocutory appeal stating reasons against the ruling 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.)

330 不得抗告

不得抗告。

330 No appeals may be against the ruling

No appeals may be raised against the ruling.

331 不得抗告（核發秘密保持命令裁定）

不得抗告。

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

No appeals may be raised against the ruling.

332 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送達後 10 日內，以書狀敘明理由向本院提出抗告狀（須按他造人數附繕本）。

332 Partially not appealable and partially appealable against rulings (A ruling granting a confidentiality preservation order) (Ruling for the issuance of 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 interlocutory appeal stating reasons against the ruling to the Court within 10 days calculated from the date of service of this ruling. (The number of the written copies thereof to be submitted shall be the same as the number of opposing parties.)

333 不得聲明不服

不得聲明不服。

333 No objection

No objection may be raised against the ruling.