

Comparison of Utility Model Systems by Nation

	Japan	Germany	France	Korea	China	Europe	Europe
	Utility Model Law	Utility Model Law	Intellectual Property Law	Utility Model Law	Exclusive Right Law	Proposed Directive for Approximation of Utility Model Systems	Proposed EU Utility Model System (draft)
Substantive examination	Non-substantive examination principle (basic requirement examination only) (Section 6-2 and Section 14)	Non-substantive examination principle (basic requirement examination only) (Section 8)	Non-substantive examination principle (basic requirement examination only) (Section 611-2)	Non-substantive examination principle (basic requirement examination only) (Sections 12 and 35)	Non-substantive examination principle (basic requirement examination only) (Section 40 and detailed rules Section 44)	Non-substantive examination principle (Section 15)	Non-substantive examination principle
Subjects for granting a right	Devices concerning a shape, structure or combination of these in an article (Section 1)	All patentable inventions except methods and processes (Section 2)	All patentable inventions (Section 611-10)	Devices concerning a shape, structure or combination of these in an article (Section 5)	New technical devices concerning a shape, structure or combination of these in an article that are suitable for practical applications (Detailed rules Section 2)	Patentable inventions excluding biological material related inventions scientific or medical substances, and inventions, related methods of science or medicine related (Section 4)	Products and methods
Term	Six years from the filing date (Section 14)	Ten years from next day after the filing date (Section 23)	Six years from the filing date (Section 611-2)	Ten years from the filing date (Section 36(1))	Ten years from the filing date (Section 44)	Maximum of ten years from the filing date (Six years from the filing date and renewable two times for two years. A search report is required at the first extension.) (Section 19)	Ten years from the filing date
Registrability report system	[Obligatory] Obligatory presentation of technical registrability report before enforcement of the right (Section 29bis) Third-party request is allowed (Section 12)	[Arbitrary] An arbitrary request may be made for issuing a search report consisting of a list of cited documents to be considered when judging registrability for protection of subjects. (Requests by third parties are allowed.) (Section 7)	[Obligatory] A search report must be submitted at filing infringement suits. (Section 615-6) Third-party requests are allowed. (Section 612-5)	[Obligatory] Presentation of the technical registrability report before enforcement of the right is obligatory. (Section 44) Requests by third parties are allowed. (Section 21(1)) After technical evaluation, if there is no reason for revocation such as lack of inventive step, maintenance of registration is decided (Section 25(2)). If there is a reason for revocation, revocation of registration is decided (Section 25(1)). Appeal for a trial against the decision for revocation is allowed. (Section 54) An opportunity to present an argument is allowed before the decision for revocation and corrections may be made then. (Section 25(3) and Section 27)	[Submit upon request] Utility model right-holders only may make the request. (Detailed rules Section 55) At appeal of a trial against infringement, according to a judge's demand, the right-holders must request making of the search report to the Patent Office and submit it to the judge. (Section 57)	[Obligatory] Submission of a search report at enforcement of the right is obligatory. (Section 16(4)) Requests by third parties are allowed. (Section 16(1))	[Obligatory] Presentation of a search report at enforcement of the right is obligatory. Requests by third parties are allowed.

Scope of Correction	Deletion of claims only (Section 14-2)	Deletion of claims only	Submission of new claims is not allowed after the granting of a right. (Section 612-13)	Reduction of claims, correction of errors in writing, and explanation of ambiguous expressions (Section 27(2))	Corrections may be made during the proceedings of the request for declaration of invalidation but extension of the protection scope is not allowed. (Detailed rules Section 68)	Unknown (no provisions in the proposal)	Unknown (no descriptions)
Relationship with the Patent System	[Duplicate applications and duplicate registrations are not allowed] Applications for a patent may be converted to applications for utility model registration within five years and six months from the filing date in principle if they are pending at the Patent Office. (Section 10) Applications for utility model registration may be converted to applications for a patent if they are pending at the Patent Office, but within three years from the filing date. (Patent Law Section 46) Upon conversion of applications, the initial applications are deemed to have been withdrawn. (Section 10 and Patent Law Section 46)	[Duplicate applications and duplicate registrations are allowed] Applicants may claim the filing date of a earlier patent application for application of utility model registration concerning devices that are the same as the content of the patent application within two months after completion of the disposition or opposition appeal procedure for the patent application. (Section 5(1)) Applications for a patent are allowed by claiming priority based on an earlier utility model registration application within twelve months from the filing date of the utility model registration application. (Patent Law Section 40(1)) The applications for utility model registration are not deemed to have been withdrawn. (Patent Law Section 40(5))	[Unknown for duplicate applications and duplicate registrations] Converting applications for utility model registrations to applications for a patent is not allowed. (Converting applications for a patent to applications for utility model registrations is allowed. (Section 612-15)	[Duplicate applications are allowed and duplicate registrations are not allowed] Applicants for a patent may apply for utility model registration while the patent application is pending. (Section 17) Applicants for utility model registration may apply for a patent for one year from the date to be registered of utility model right. (Patent Law Section 53) When the utility model right has been granted, if the utility model right is abandoned, the patent may be registered. (Patent Law Section 87)	[Duplicate applications and duplicate registrations are not allowed] Only one exclusive right is granted to the same invention or creation. (Detailed rules Section 13) When an invention or creation in the utility model registration application that is the same as those in the patent application on the same filing date by the same applicant is granted a right of utility model registration, if the said utility model right is abandoned, the applicant may register the patent. (Examination Standard, Section 2, Chapter 3)	[Duplicate applications are allowed and duplicate registrations are not allowed] The same inventions may form the subject-matter, simultaneously or successively, of a patent application and utility model application. (Section 23(1)) A utility model which has been granted shall be deemed to be ineffective where a patent relating to the same invention has been granted and published. (Section 23(2))	[Duplicate applications and duplicate registrations are allowed] Duplicate protection with the patent and utility model right is allowed for the same inventions.
Remarks	The non-substantive examination system was adopted from January 1, 1994.	The number of applications for utility model registration has been increasing since July 1, 1990 when the current system for the subjects for protection and the term of protection became effective. A search report is requested for applications for utility model registration or registered utility models. (Section 7(1)) A search report may be requested for applications for a patent as well. (Patent Law Section 43)	There are three ways to receive the utility model certificate: 1. to apply for a utility model certificate, 2. to receive it automatically when no search report is requested within eighteen months after application for a patent (Section 612-15), or 3. to convert voluntarily from application for a patent to that for a utility model certificate (Section 612-15).	Technical evaluations are requested for the registered utility models only. (Section 21(1)) Request for technical evaluation is allowed once. (Section 21(4)) Requests for technical evaluation are allowed only for all claims. (Section 21(1)) Corrections may be made during a trial for invalidation (Section 49(2)) and a trial for correction is allowed. (Section 51)	The Exclusive Right Law stipulates patents, utility models and designs. Requests for a search report must be made after publication of the decision to grant the utility model right. (Detailed rules Section 55)	Amended proposal in 1999	The outline only was proposed in 2001. Results of consultations announced on March 1, 2002 showed that 75% of those who responded were against the proposal.