

*[Note: When any ambiguity of interpretation is found in this translation, the Japanese text shall prevail.]*

**Quality Management Manual for Trademark  
Examination  
(Quality Manual)**

**July 2022  
Japan Patent Office**

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#### **History of Revision**

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## Introduction

The Trademark Act states “The purpose of this Act is, through the protection of trademarks, to ensure the maintenance of business confidence of persons who use trademarks and thereby to contribute to the development of the industry and to protect the interests of consumers” (Article 1). Due to this nature, the Trademark system targets at a wide range of users, and therefore not only right holders (applicants) but business operators or consumers, etc. are also widely affected as users by the Trademark system. A trademark is a mark to distinguish one’s goods and services from any other persons’ goods and services, guaranteeing a certain level of quality of goods and services, and serving as an advertisement for goods and services.

In recent years, the importance of brand is increasingly gaining attention in business activities and local economic development. As the awareness of the trademark system is increasing in general, people’s expectation for the trademark system that supports their brand strategy is getting higher. In addition, Commercial transaction itself is facing further rapid change. For example, a wide spread use of smartphones and tablets has brought further advancement of electronic commerce.

Under such circumstances, in order that a trademark may play its role, such as a function of distinguishing goods and services from those of others, and that consumers may smoothly engage in consumption activities trusting the mark, through utilizing trademark rights of business operators, it is important for the JPO to sufficiently research on actual state of the transaction and to conduct consistent and objective trademark examination concerning the distinctiveness and similarity, etc. of the trademark in the application according to the guidelines, such as Laws and Regulations, or the Examination Guidelines for Trademark.

In order to protect and enhance the brands, and to contribute to the smooth consumption of goods and services, the JPO formulated the “Quality Policy on Trademark Examination” (hereinafter referred to as “Quality Policy”) in August 2014 aiming at conducting appropriate trademark examination, and making it clear, internally and externally, that it has committed to maintaining and improving the quality of trademark examination. The Quality Policy outlines the fundamental principles for the quality management of trademark examination, and it is important that the Trademark Examination Sector, which is responsible for trademark examination practices and examination management, implement the quality management according to the fundamental principles, making efforts to maintain and improve the examination quality.

The JPO formulates this “Quality Management Manual for Trademark Examination” to implement the standardized quality management according to the fundamental principles prescribed in the Quality Policy.

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The Quality Management Manual for Trademark Examination (“Quality Manual”) is a document that describes the quality management itself and its implementation system in line with the fundamental principles stipulated in the Quality Policy. The Quality Manual will be revised if any change is made on the quality management itself or its implementation system.

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## **Scope**

This manual applies to each of the Trademark Examination Sector that are involved in trademark examination practices, and to the assignments of the staff that belong there.

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## **I. Quality Management System**

### **1. Relationship with Quality Policy**

#### **(1) General Statement**

Quality Policy on Trademark Examination<sup>1</sup> (hereinafter referred to as “Quality Policy”) outlines the fundamental principles of quality management of trademark examination, aiming toward the realization of trademark examination that can contribute to the protection and enhancement of brands, and to the smooth consumption of goods and services, based on which the JPO may make efforts to maintain and improve the quality of trademark examination.

To this end, the Trademark Examination Sector conducts trademark examination appropriately through implementing quality management according to the Quality Policy. In addition, it plans and makes proposals for initiatives for trademark examination that can satisfy wide-ranging needs and expectations of users, etc., and implement them, while continuously reviewing and improving them.

The JPO’s Quality Management is a comprehensive body of measures for trademark examination, based on the Quality Policy and a PDCA cycle method<sup>2</sup>, where activities are interactively connected to each other, from the perspective of maintaining and improving the quality of trademark examination. To steadily carry it out, it is necessary to establish an implementation system where the role of each division and its personnel is made clear.

The Quality Management System for Trademark Examination (hereinafter referred to as “Quality Management System”) consists of the above-mentioned Quality Management and its Implementation System.

This Quality Management Manual for Trademark Examination (hereinafter referred to as “Quality Manual”) is a document that outlines the above-mentioned Quality Management System, aiming to contribute to implementing the standardized quality management according to fundamental principles prescribed in the Quality Policy.

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<sup>1</sup> For the Quality Policy, please see Reference 1 attached to the end of this document.

<sup>2</sup> This is a management method for the continuous improvement of the business process by repeating the four steps of plan-do-check-act.



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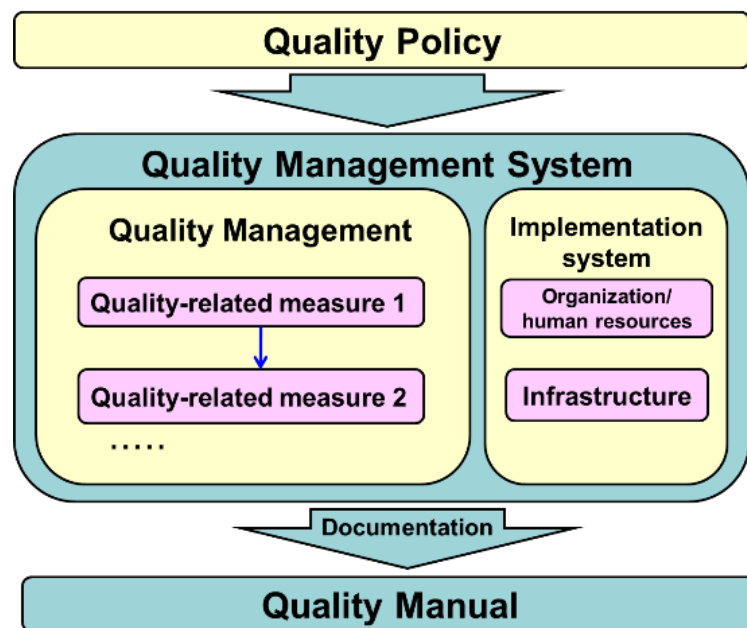


Figure 1: Relational Diagram of Quality Policy, Quality Management System and Quality Manual

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## **(2) Direction of Measures Required based on the Quality Policy**

Since the Quality Policy is the fundamental principle of the quality management, each measure that constitutes the Quality Management in the Trademark Examination Divisions should be closely associated with what is prescribed in the Quality Policy.

This section explains that the direction of measures that are required based on the fundamental principle of the Quality Policy.

(i) The JPO contributes to the protection and enhancement of brands and the smooth consumption of goods and services

The Trademark Act aims, “through the protection of trademarks, to ensure the maintenance of business confidence of persons who use trademarks and thereby to contribute to the development of the industry and to protect the interests of consumers” (Article 1). The trademark examination is to judge, based on the provisions of the Trademark Act, whether or not the trademark in the application can be registered. Adequate trademark examination and granting rights can contribute to the protection and enhancement of brands and the smooth consumption of goods and services. In addition, when considering initiatives, it is important to plan and make proposals having in mind both the purpose of contributing to the development of the industry and the purpose of protecting interests of users.

(ii) The JPO conducts consistent and objective trademark examination.

As mentioned earlier, since trademark examination should be conducted based on the provisions of the Trademark Act, each examiner must conduct examination following the guidelines, including the Examination Guidelines for Trademarks, which stipulates the interpretation of laws and regulations, and prescribes how to implement them. Furthermore, as the actual state of the transaction is changing, whether or not distinctiveness and similarities exist is also changing. Therefore, it is necessary to make decision in trademark examination based on sufficient research on the actual state of the transaction. It is expected that consistent and objective trademark examination results would be achieved by sufficiently understanding the actual state of the transaction, and conducting examination according to the guidelines including the Examination Guidelines for Trademarks, etc.

(iii) The JPO promotes the utilization of the trademark system by closely communicating with applicants

In order to achieve consistent and objective examination results, decision criteria, etc. should be made clear as the prerequisite. Since the Examination Guidelines for Trademarks, etc. are the guidelines according to which trademark examination should be conducted, it is necessary to review them continuously. On the other hand, as far as the users of the

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trademark system, including applicants etc., are concerned, it is necessary to ensure predictability of trademark examination and to enhance its transparency. To this end, it is also necessary to promote disclosure of information on the guidelines of trademark examination.

In addition, in order to promote the utilization of the trademark system, it is necessary that notification documents to describe judgments or final decisions of examination, including notifications of reasons for refusal or notifications of decision of refusal, should be easy for applicants to understand, and to be supportive for them to obtain trademark rights. Even though the decision is right, it cannot be said that examiners have fulfilled their accountability to explain the examination if they are unable to explain how they reach the decision logically. In particular, since the ratio of individuals and SMEs among applicants is higher than that in other industrial property rights, extra care is required in drafting notification documents. Therefore, examiners are required not only to draft notification documents in a logical and convincing manner but also to write it in an easy-to-understand manner by choosing appropriate expressions depending on the circumstances. Furthermore, it is also expected to create an environment where applicants can safely utilize the trademark system based on the proper understanding of the content of applications or the intent of applicants through having close communication with applicants, etc. by face-to-face interviews, or communication by phone or e-mail, etc.

(iv) The JPO actively shares information with relevant persons inside and outside Japan in order to improve the quality of trademark examination.

In order to improve the quality of examination, the JPO needs not only to address issues to be improved and to make improvements by itself, but also to actively adopt opinions from outside in understanding the current problems and organizing the issues to be solved. It is necessary to hear from those who are involved in the trademark system (applicants or attorneys) about the current status of trademark examination, actively listen to their views, and to sincerely make efforts to solve those issues raised by them. Furthermore, it is important to actively exchange quality management related information (hereinafter referred to as “QM-related information”) with overseas IP offices, and to adopt their useful initiatives for the quality management.

(v) The JPO consistently improves our operations.

To improve the quality of trademark examination, it is important to consider necessary initiatives for examination practices conducted by examiners and examination management conducted by Directors, etc., while continuously monitoring the implementation status and the quality of trademark examination, and accurately understanding the current status.

In addition, the situations surrounding trademark examination are

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continuously changing due to the factors of the development of new products or the trend changes, etc., or due to the factors of decisions made by the Supreme Court or the Intellectual Property High Court. It is required that the Trademark Examination Sector provides various information on changing situations surrounding trademark examination and the quality of trademark examination for all the personnel who engage in trademark examination, and they in turn continuously make efforts for self-improvement based on the provided information. In order to achieve better results of trademark examination, each and every personnel who engage in trademark examination are expected to always have awareness of the problems to be solved while conducting their duties, and to continuously make efforts for improvements.

(vi) The JPO makes efforts to enhance knowledge and capabilities of its personnel.

Since trademark examination is conducted by examiners, it is indispensable to educate and train examiners in order to maintain and improve the quality of examination. Furthermore, it is also essential to enhance knowledge and capabilities of all the personnel who engage in trademark examination. Each and every personnel are expected to put their efforts into continuous self-education to strengthen their expertise necessary for their duties by, for example, actively participating in training programs. In addition, it is also important that the Trademark Examination Sector provides organizational strategic support for its personnel by, for example, providing sufficient opportunities for training to enhance their knowledge and capabilities.

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## **2. Outline of the Cycle for Maintaining and Improving the quality of Trademark Examination (PDCA Cycle)**

As mentioned above in Section 1. (1), measures that constitute the Quality Management should be interrelated to each other according to a PDCA cycle from the perspective of maintaining and improving the quality of trademark examination. Two levels of PDCA cycle are established; one is at the level of the Trademark Examination Sector, and the other is at the level of each examination office. The relational diagram between these two levels of PDCA cycle is shown in Figure 2.

### **(1) The Larger PDCA Cycle in the Trademark Examination Sector**

The PDCA Cycle of the Trademark Examination Sector (the larger PDCA cycle in Figure 2) functions as below.

The yearly policies of the Trademark Examination Sector are formulated [PLAN], based on which trademark examination and its relevant operations (hereinafter referred to as “trademark examination practices”) are conducted [DO]. The trademark examination practices are evaluated by various measurements including Quality Audit [CHECK], and trademark examination practices or policies of the Trademark Examination Sector are amended where necessary [ACT], which will be reflected on the next fiscal year’s policies [PLAN]. This cycle helps maintain and improve the quality of trademark examination.

### **(2) The smaller PDCA Cycle in the Examination Office**

In addition to the above-mentioned larger PDCA cycle, each examination office where trademark examination practices is actually conducted makes efforts to maintain and improve the quality of examination according to the PDCA cycle (the smaller PDCA cycle shown at right below of Figure 2).

Each examination office formulates policies based on the policies of the Trademark Examination Sector [plan], and examiners conduct trademark examination through utilizing consultations or interviews, etc. based on such policies [do]. The trademark examination (dispositions) conducted by examiners are subject to the approval process [check], and examiners are given instructions about decisions and drafting, where necessary, in order to make each disposition more appropriate [act], ensuring the quality of examination.

Utilizing various QM-related information, each examination office and examiner also improves trademark examination practices, shares information among examiners, and acquires knowledge and enhances capabilities through self-education and training programs, etc. [act].

Knowledge and information obtained through the above-mentioned measures will contribute to maintaining and improving the quality of trademark examination by being reflected on the subsequent measures for trademark examination [plan]. Besides, improvements of examination

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practices at each office are made, where necessary, in the everyday operation.

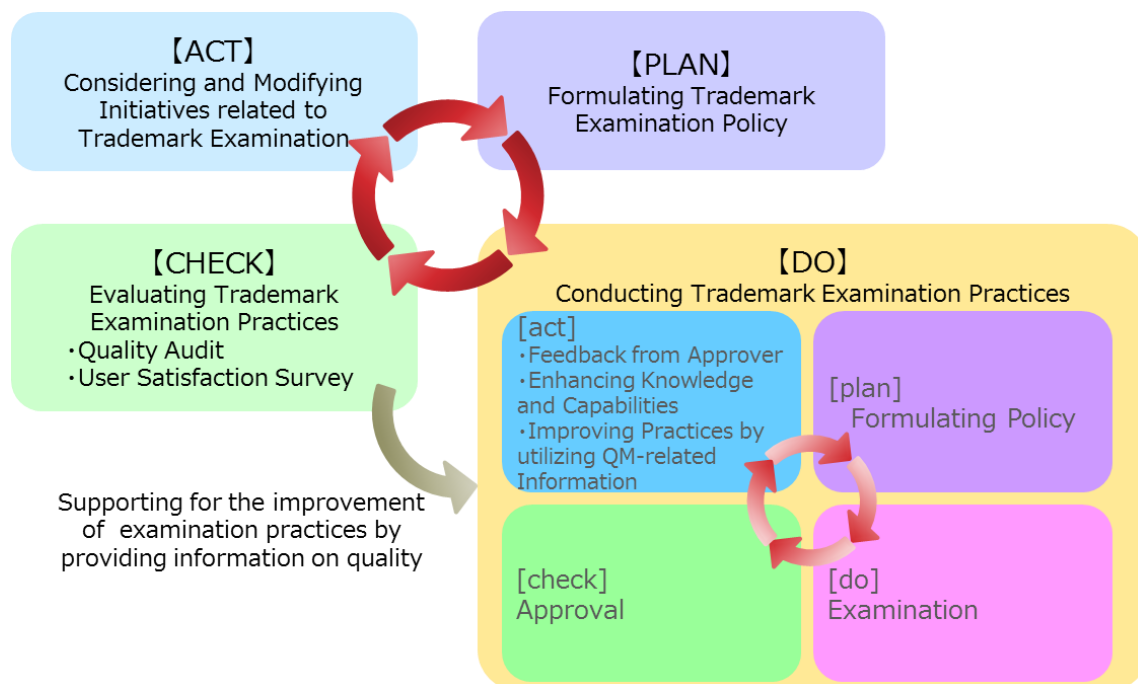


Figure 2: Conceptual Diagram of the PDCA Cycle for Continuous Improvement of the Quality of Trademark Examination

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### **3. Outline of framework for implementation System of Quality Management**

JPO Commissioner and Director-General of the Trademark and Customer Relations Department who administers the trademark examination practices are responsible for establishing and implementing the Quality Management System described in this Quality Manual. Under the leadership of JPO Commissioner and Director-General of the Trademark and Customer Relations Department, each division and its personnel engage in the duties assigned to them.

Examiners conduct substantive examination in the industrial field that is assigned to them under the management of Directors of the examination offices (hereinafter referred to as “Directors, etc.”). In each examination office, while they implement initiatives for the Quality Management planned and made proposals for by the Trademark Division (hereinafter referred to as “QM-related initiatives”), they also perform their own QM-related initiatives suitable for the industrial field assigned to them, aiming at improving the quality of trademark examination. Furthermore, examiners put their efforts into self-educating through taking training programs to acquire knowledge and enhance their capabilities.

The Trademark Division is responsible for administrative liaison and coordination concerning trademark examination, including planning and making proposals for policies on trademark examination.

The Quality Management Section is established within the Trademark Division. The Quality Management Section takes responsibility for the administrative affairs concerning the quality management of trademark examination, and planning and making proposals for QM-related initiative. Specifically, they are responsible not only for planning and making proposals for QM-related initiatives, such as the Quality Audit, user satisfaction survey and the utilization of information on trials/appeals, but also for collecting and analyzing various data related to the quality of trademark examination.

Moreover, there are Quality Management Officers in the JPO who are responsible for quality audits on trademark examination. The Quality Management Officers are in charge of the administrative works concerning the Quality Management of trademark examination. They are selected from examiners who have advanced knowledge and judgment concerning trademark examination. They check the decisions that examiners made and notification documents that they drafted. Moreover, they give feedbacks to the examination office and examiners about the results.

The Internal Committee on Quality Management of Trademark Examination, consisting of experts within the examination departments

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such as directors of the examination divisions is established within the JPO. The Committee analyzes and evaluates the quality of trademark examination. It also provides advices to draft initiatives for improving the quality presented by Quality Management Section as well as makes final decision on QM-related initiatives.

The committee consisting of external experts, including former practitioners and academic experts (Subcommittee on Examination Quality Management under the Intellectual Property Committee of the Industrial Structure Council, the Ministry of Economy, Trade and Industry) confirms whether the Quality Management System stipulated in this Manual is functioning appropriately for maintaining and improving the quality of trademark examination through the eyes of third parties, and provides objective evaluation on the implementing status and the implementation system of the Quality Management, etc. This Committee sets evaluation items and standards and objectively evaluates on the basis of them as well as makes recommendations on the implementation system of examination quality management and its current status at the JPO. Based on the results of the recommendations proposed by the Committee, the JPO reviews the issues to be addressed concerning examination quality management, and modifies QM-related initiatives [ACT], formulating policies for trademark examination [PLAN].

Users of the trademark system, including applicants and attorneys, are affected by the results of each trademark examination, and therefore, play an important role in directly evaluating the quality of trademark examination. Thus, the JPO collects information for maintaining and improving the quality of trademark examination through the user satisfaction survey or exchange of opinions with users.

The JPO actively shares information with overseas IP offices. The JPO obtains information from overseas IP offices and adopts useful QM-related initiatives for maintaining and improving the quality of trademark examination.

The overview of the Quality Management System that shows the relational diagram among the Implementation System of the Quality Management and each division/office/committee.



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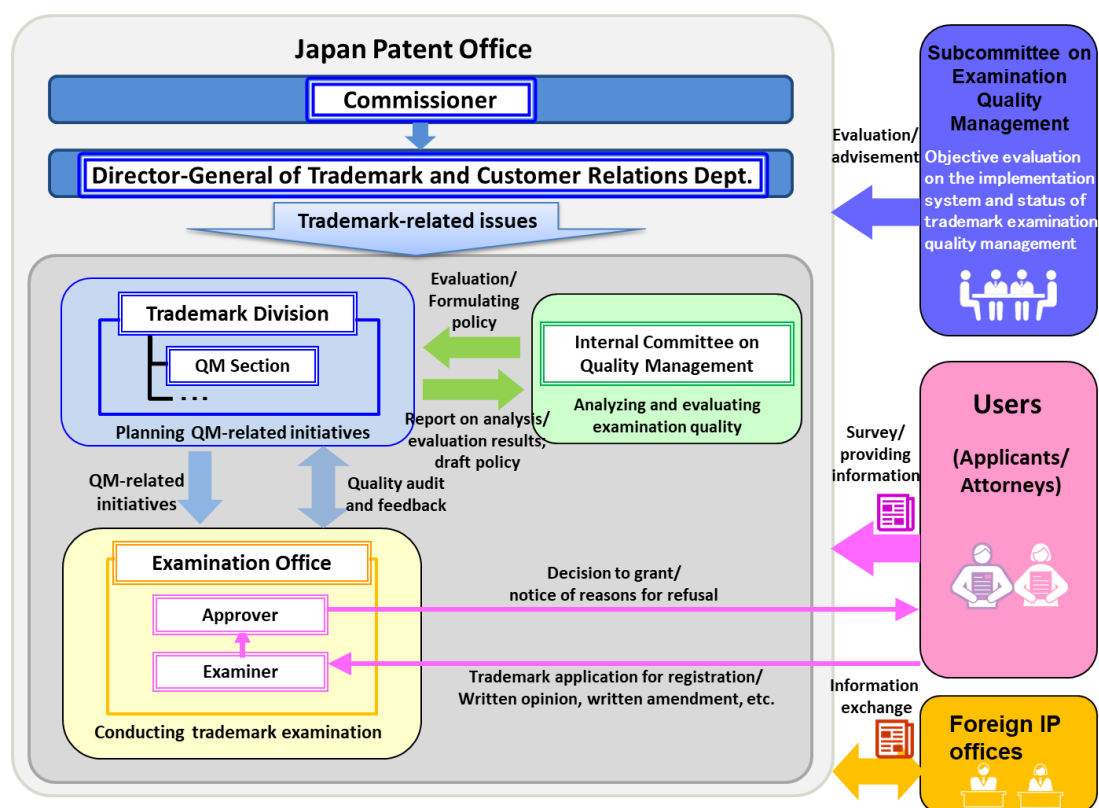


Figure 3: Overview of the Quality Management System

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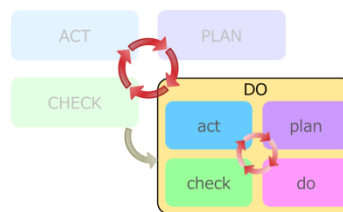
## II. Measures within the Trademark Examination Sector

In this chapter, measures included in the larger PDCA cycle designed for the Trademark Examination Sector, which were mentioned in 2. (1) of Chapter I, as well as the smaller PDCA cycle designed for each examination office, which were mentioned in 2. (2) of Chapter I, will be explained.

In the first section, the smaller PDCA cycle [plan, do, check and act] implemented in each examination office, which is the conducting of trademark examination practices [DO] that is the core of a series of measures, will be explained. The evaluation of trademark examination practices [CHECK], the consideration and amendment of initiatives related to trademark examination [ACT], and the formulation of policies for trademark examination [PLAN] will be described in Section 2 to 4<sup>3</sup>.

### 1. Conducting of the Trademark Examination Practices [DO] [PDCA Cycle in the Examination Office]

In this section, the trademark examination practices and measures contributing to maintaining and improving its quality, which are conducted in each examination office as the core activities mainly to ensure the quality of the trademark examination, will be explained according to the PDCA (DCAP) cycle.



First, we start with explaining examiners' conducting the trademark examination [do]<sup>4</sup>, which is the core of the measures, followed by [check] - [act] - [plan].

<sup>3</sup> In light of the importance of "do," there may be cases where the term "DCAP cycle" is used, instead of "PDCA cycle," to make "do" the head of the cycle.

<sup>4</sup> Here, "consultations" "interviews," "utilization of check sheet for examiners" are included, but the [check] and [act] measures for them are conducted as parts of the larger PDCA cycle, instead of in each examination office.

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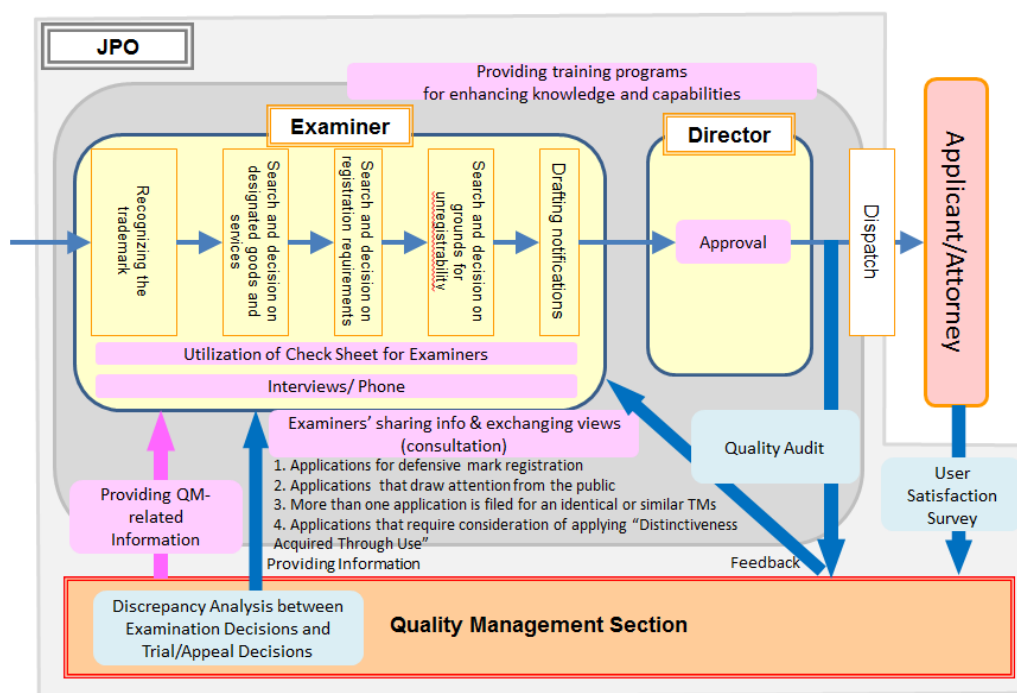
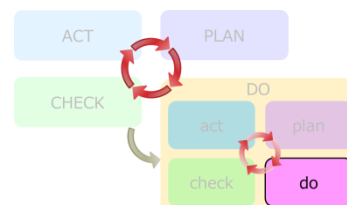


Figure 4 Overview of the Quality Management

## (1) Examiners' Conducting of the Trademark Examination [do]

### (i) Trademark Examination (Recognizing the Trademark, Search, Decision and Drafting)

Examiners conduct trademark examination, which includes the recognizing the trademark, conducting search and making a decision on designated goods and services, conducting search and making a decision on the registration requirements, conducting search and making a decision on whether any of the grounds for unregistrability exists, and drafting. In doing so, following the relevant laws and regulations including the Trademark Act, the Examination Guidelines that outlines the basic principles for applying the laws and regulations, and other guidelines that prescribes how to conduct other operations, examiners proceed each process of the trademark examination while checking whether or not there are any errors or mistakes in their works.



Specifically, examiners appropriately engage in all the following duties according to the principles defined by laws and regulations, as well as the Examination Guidelines for Trademark.

- Recognize the trademark;
- Conduct search and make a decision on designated goods and services;
- Conduct search and make a decision on registration requirements;

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- Conduct search and make a decision on whether any of the grounds for unregistrability exists; and
- Draft a notification of reasons for refusal or a notification of decision of registration, etc.;

Through these, examiners can steadily conduct high-quality and reliable trademark examination that is fair, transparent and consistent. As a result, the trademark can play its role fully by being adequately utilized, and furthermore, can contribute to protecting and enhancing brands, and to smoothing consumption activities.

#### Those who are responsible

Examiners are responsible for conducting trademark examination. After a filed application is assigned to an examination office according to the classification of the designated goods or services, it is assigned to an examiner selected among those in the office.

#### References

The Examination Guidelines for Trademark  
The Manual for Trademark Examination  
The Examination Guidelines for Similar Goods and Services

#### **(ii) Consultations**

Examiners have consultations with other examiners or Directors, etc., where necessary, on various issues concerning trademark examination. Consultations are held aiming at prompt and accurate trademark examination by putting together the know-how that each examiner has, and attempting to share the search method and knowledge, etc. Yet, examiners in charge make the final decision for the application assigned to them under their own responsibilities.

In addition to having consultations voluntarily, examiners are required to have consultations with other examiners in the following cases that fall under the conditions prescribed by the Trademark Examination Sector or each examination office (1. applications for defensive mark registration or for registration of renewal of the duration of a right based on defensive mark registration; 2. applications that need extra attention since a decision should be carefully made (i.e. applications that could draw attention from the public); 3. in cases where more than one application was filed for an identical trademark or very similar trademarks, and they are now being examined; 4. applications that require consideration of applying Paragraph 2 of Article 3 of Trademark Act (Distinctiveness Acquired Through Use).)

Having consultations certainly enables examiners to make an appropriate decision for the complicated application case, and to make a decision of trademark examination in a more objective manner, which could result in reducing the range of discrepancy of search or decisions among the

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examiners. As a result, the consistency and objectivity of trademark examination can be ensured, which could enhance the predictability for applicants to obtain trademark rights. Furthermore, sharing the search method or decisions of trials/appeals, etc. could lead to enhancing knowledge and capabilities of examiners.

#### Those who engage

Examiners in charge of an application for trademark registration have consultation with other examiners or Directors, etc.. In principle, examiners in charge choose appropriate persons according to the issue that they want to consult over. However, there may be cases where particular persons (e.g. Directors, etc.) are chosen as a part of measures of the Trademark Examination Sector and each examination office.

#### **(iii) Interviews, etc.**

Interviews are conducted according to the Interview Guidelines upon the request of either examiners or applicants, etc. (including attorneys if any; in cases where the applicant is a business cooperation, the representative, a person in charge of the intellectual property department, etc.; hereinafter referred to as “applicants, etc.”). Promoting communication on trademark examination through having an interview with applicants, etc. would, in general, contribute to maintaining and improving the quality of trademark examination. Communication by phone or e-mail, etc. is deemed as the same.

Interviews enable examiners to understand applicants’ intention accurately through their explaining on designated goods and services, the Written Opinion, etc., which would lead to producing the results of trademark examination that are highly convincing for applicants.

#### Those who engage

Examiners in charge of the application for trademark registration conduct an interview with applicants, etc.

#### Reference

The Interview Guidelines for Trademark Examination

#### **(iv) Utilization of Check Sheet for Examiners**

The Check Sheet for Examiners were made by consolidating typical problem cases that have been revealed through various measures of the Quality Management, and organizing them as points that examiners should check in the process of examination. Examiners conduct examination utilizing the Check Sheet for Examiners, and submit this sheet with drafted documents to the approver. By doing this, examiners can avoid typical careless mistakes that could be made in the examination process, and the approver can easily check whether or not the examination has been done

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through the proper process.

The items of the Check Sheet for Examiners are upgraded for more appropriate ones, where necessary, based on the results of various measures for the Quality Management.

#### Those who engage

Examiners in charge of the application for trademark registration fill out the Check Sheet for Examiners. Quality Management Section makes a proposal for revising items of the Sheet, where necessary, and the Internal Committee of Quality Management of Trademark Examination determines whether or not to approve it.

### **(2) The Evaluation of the Quality of Trademark Examination in the Examination Office [check]**

#### **(i) Approvals**

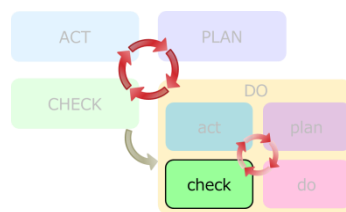
Dispositions made by examiners are reviewed through the Director's (Approver's) substantive and formal check of trademark examination, including the check of drafted documents for the purpose of quality assurance (hereinafter referred to as "approvals"), and then the documents that notify the dispositions are sent to the applicants.

Approvers check from the perspective of standardized criteria in accordance with the Approval Guidelines for Trademark Examination about whether or not dispositions comply with laws and regulations, guidelines, etc.; there are any errors or mistakes in the drafted documents; the necessary procedures for the Quality Management, such as having consultations, have been followed. They may provide feedbacks to the examiner, where necessary, such as returning the documents to the examiner who drafted it for amendment, or giving instructions to them for improvement.

In this way, the double check by approvers in addition to self-check by examiners themselves enables dispositions to be made in more appropriate and more objective manner, which could result in reducing the range of discrepancies of decisions and the contents of drafted documents among examiners.

#### Those who are responsible

In principle, Directors, etc. of the examination office that is in charge of the application for trademark registration are responsible for approvals.



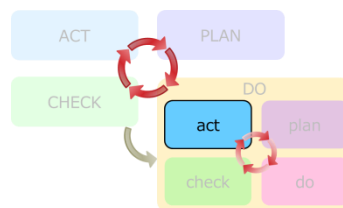
### **(3) Practices for Maintaining and Improving the Quality of Trademark**

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## **Examination in the Examination Office [act]**

### **(i) Improvement of the Quality based on the Results of Checking**

Having respect on the feedbacks from approvers mentioned (2) above, examiners amend the returned drafted documents by understanding the intent of the feedback providers, where necessary, and reconfirm the guidelines, when appropriate, in order to make efforts for conducting appropriate trademark examination.



#### Those who are responsible

Examiners in charge of the application for trademark registration are responsible for amending dispositions, etc. about which approvers have given feedbacks.

### **(ii) Organizational Sharing of Information**

Each examination office makes efforts for organizational utilization of knowledge obtained through conducting the examination practices, and for reducing the range of discrepancies of decisions and the contents of drafted documents among the examiners. For organizational utilization, it is important to design measures for how to share knowledge and information, and it would be effective to document it, where necessary, for sharing among the examiners.

#### Those who engage

In each examination office, examiners mainly are involved in organizational sharing of information. As for sharing information with other examination offices, Directors, etc. are mainly responsible for it.

### **(iii) Acquiring Knowledge and Enhancing Capabilities through Taking Training Programs, etc.**

Directors, etc. give guidance to examiners to take necessary training programs from the perspective of enhancing the quality of trademark examination. Examiners not only make efforts to acquire knowledge and enhance their capabilities, but also educate themselves voluntarily to perform better in their assignments.

Education through taking training programs, etc. can strengthen the expertise of examiners, which could result in making the trademark examination more accurate.

#### Those who are responsible

Examiners are responsible for acquiring necessary knowledge and enhancing their capabilities through taking training programs under the supervision of Directors, etc. They are also responsible for actively

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committing themselves to self-education.

#### **(iv) Utilization of QM-Related Information**

##### **(a) QM-Related Information concerning Examination**

In cooperation with the relevant offices and sections in the Trademark Division, Quality Management Section collects and provides the information on the examination, including the ratio of registration without notification of reasons for refusal, the ratio of issuing a notification of reasons for refusal by law provision. Examiners make efforts to maintain and improve the quality of trademark examination by utilizing QM-related information, such as evaluating their own practices objectively by comparing with others in their examination office as well as with those in the Trademark Examination Sector.

##### Those who engage

Examiners in each examination office engage in this effort.

##### **(b) Statistical Data on Trials/Appeals**

Since the analysis of trial/appeal decisions is deemed as contributing to understanding the current status of examination and points to be improved, Quality Management Section provides data on trials/appeals, including the decisions made at trials/appeals, to each examination office. Furthermore, when trial/appeal decisions or decisions on opposition have been made, they notify the examiner in charge of the examination for their review. After being notified, examiners make more efforts for maintaining and improving the quality of trademark examination on the basis of the results of trials/appeals, and by utilizing the data described below in 2. (1) (iii) as well.

##### Those who engage

Examiners in each examination office engage in this effort.

##### **(c) Utilization of Quality Audit or the Results of User Satisfaction Survey, etc.**

In light of the results of QM-Related information obtained through Quality Audit or User Satisfaction survey, or the results of general evaluation (report on measures) (please refer to 2.(2)(ii)), examination offices consider initiatives for maintaining and improving the quality of trademark examination, and make efforts for improving trademark examination procedures. Furthermore, confirming the feedbacks, they take proper measures not to repeat the same or similar mistakes.

##### Those who are responsible

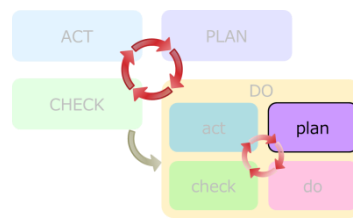
Directors, etc. in the examination offices are responsible for leading in this effort.



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#### **(4) Formulating Policies on Maintaining and Enhancing the Quality of Trademark Examination in Each Examination Office [plan]**

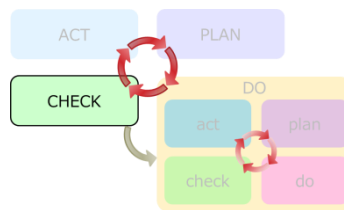
In each examination office, Director, etc. takes the lead in formulating its own policies suitable for the industrial field that is assigned to it, following the policies of the Trademark Examination Sector. These efforts will lead to continuous improvements of practices through understanding the current status, which would result in continuously providing high-quality trademark examination.



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## 2. Evaluation of Trademark Examination Practices [CHECK]

This section will explain the measures for the evaluation of trademark examination practices, which is conducted as the measures for the Trademark Examination Sector to maintain and improve the quality of trademark examination.



In order to continuously maintain and improve the quality of trademark examination, it is essential to analyze and evaluate the quality of trademark examination and understand the fact within the Trademark Examination Sector. To this end, Quality Management Section collects, analyzes, and evaluates various information to understand the current status.

### (1) Collecting and Analyzing Data

#### (i) Quality Audit

A part of dispositions made by examiners is randomly selected after approval by approvers, and is audited by Quality Management Officers. Quality Management Officers check about whether or not dispositions comply with laws and regulations, guidelines, etc. They may provide feedbacks of the results to the examination office to which the examiner who drafted it belongs. Directors, etc. give instructions to the examiner, where necessary, based on the feedbacks.

Quality Audit is conducted by Quality Management Section for two kinds of checks; (1) Quality Management Officers' checking by re-examination (Quality Audit of registered applications); and (2) Quality Management Officers' checking based on the results of examination conducted by examiners (Quality Audit of refused applications). In Quality Audit of refused applications, not only whether or not the decision is appropriate, but also whether or not the contents of the drafted documents are appropriate (logical structure, way to disclose the evidences, etc.) should be checked in details.

Quality Audit aims to understand the situations of consistency of judgement among the examination offices, to support each examination office for their quality management through giving feedbacks about amending drafted documents to the examiner in charge, and to understand the situations of final decisions in each examination office.

#### Those who are responsible

Quality Management Section is responsible for conducting Quality Audit, collecting the checked results and analyzing them.

#### (ii) Understanding User Needs about the Quality based on User

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### **Satisfaction Survey**

In order to understand user needs, the JPO conducts user satisfaction surveys on the quality of trademark examination, and analyzes their evaluations on the quality both in general and for individual applications and the reasons behind their evaluations. The results of analysis are not only provided to each examination office to facilitate the improvements of practices and to help consider future policies, but also made public. Furthermore, the results of analysis on individual applications pointed out in the survey may be provided as feedbacks to the examiners in charge, as necessary.

#### Those who are responsible

Quality Management Section is responsible for conducting and analyzing user satisfactions surveys.

### **(iii) Discrepancy Analysis between Examination Decisions and Trial/Appeal Decisions**

Since discrepancy analysis between examination decisions and trial/appeal decisions provides useful information that could improve the quality of trademark examination, the JPO conducts this analysis across all the industrial fields, not specifying the scope of the industrial field. Specifically, discrepancy is analyzed, for example, for the cases where an applicant filed a request for a trial against the examiner's decision of refusal, and the decision has been overturned at the appeal phase. More specifically, those cases are analyzed through, for example, identifying the fields of goods or services where discrepancy between the two decisions are most found.

### **(iv) Understanding User Needs based on Users' opinion about the Examination Quality**

In addition to seeking opportunities for exchanging opinions with users, the JPO solicits opinions on trademark examination quality through the JPO website and other ways. Users' comments are to be promptly analyzed, in order to understand the existence of issues on the trademark examination process and to be provided to Directors, etc. in charge of those examination offices, but only in cases for which the providers give consent. Along with giving guidance and advice based on the feedback as necessary, directors follow-up to ensure that the feedback is reflected into examination practices in the future, based on approvals or an equivalent process.

#### Those who are responsible

Quality Management Section is responsible for collecting and analyzing user opinions and providing feedback to the Directors, etc. of the

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examination offices.

Directors, etc. are responsible for notifying the contents of feedback to the examiners, giving the instructions and following up.

**(v) Collecting the Results, etc. of Quality Management-Related Measures**

Quality Management Section collects information related to the Quality Management described in (i) to (iv) above. In addition, they collect information on the implementation status of Quality Management-related measures conducted in each examination office (e.g. consultation, etc.) and its results, in order to understand the current status concerning the activities for maintaining and improving the quality of examination in each office.

**(2) Evaluation on the Results of Data Analysis**

**(i) Identifying Issues on Trademark Examination Practices, etc.**

Based on the results of analysis on various data collected through the method described in (1) above, Quality Management Section identifies issues to be improved in the trademark examination practices, and reports them to the Internal Committee on Quality Management of Trademark Examination so that they may contribute to planning and making proposals for various initiatives and to improving trademark examination practices.

**(ii) General Evaluation (Report on Measures)**

In order to confirm whether the Quality Management System of the trademark examination is continuously appropriate and effective on the basis of the reports, etc. made by Quality Management Section, the Internal Committee on Quality Management of Trademark Examination makes a yearly report on the current status of trademark examination quality and the implementation status and the results of various measures (both measures conducted in each examination office and measures conducted in the Trademark Examination Sector). The implementation status and the results are shared within the Trademark Examination Sector in order to contribute to planning and making proposals for various initiatives and to improving trademark examination practices.

Those who are responsible

The Internal Committee on Quality Management of Trademark Examination is responsible for conducting general evaluation (report on measures).

**(3) Subcommittee on Examination Quality Management**

The JPO established the “Subcommittee on Examination Quality Management” under the Intellectual Property Committee of the Industrial Structure Council, in August 2014 for the purpose of obtaining objective evaluations and suggestions from external experts on the ways to

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implement quality management and to check the current status of implementation at the JPO.

Those who engage

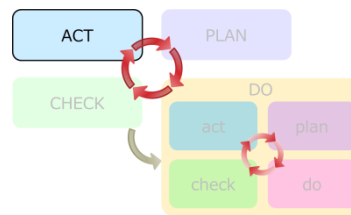
In the Subcommittee on Examination Quality Management, discussion is to be held by a wide-range of external experts from the private-business, legal, and academic fields.

Also, the Quality Management Office under the Administrative Affairs Division is in charge of work involving common quality management of patent, design, and trademark examination, as well as administrative work as the secretariat of the Subcommittee. Quality Management Section under the Trademark Division is in charge of quality management of trademark examination.

*[Note: When any ambiguity of interpretation is found in this translation, the Japanese text shall prevail.]*

### 3. Considering and Modifying Initiatives concerning Trademark Examination and Quality Management [ACT]

After understanding the current status and issues concerning the quality of trademark examination through the measures described in Chapter 2 [CHECK], it is necessary to introduce improvements, where necessary, based on the current status and proposals for improvement by Subcommittee on Examination Quality Management [ACT], and to reflect them to the subsequent planning process appropriately [PLAN].



In order to formulate policies for the next fiscal year, the relevant offices and sections in the Trademark Division plan and make proposals for various initiatives for maintaining and improving the quality of trademark examination [ACT]. As for QM-related initiatives, Quality Management Section is responsible for planning and making proposals [ACT].

#### (1) Considering Initiatives related to Trademark Examination

The relevant offices and sections in the Trademark Division (Trademark Examination Standard Office, International Trademark Classification Office, Electronic Trademark Examination System Planning and Coordination Office, Policy Planning and Research Section, etc.) plan and make proposals for various initiatives related to trademark examination, aiming toward not only creating (revising) and publishing the Examination Guidelines for Trademark, but also maintaining and improving the quality of trademark examination, on the basis of the results of general evaluation and information provided by Quality Management Section.

##### Those who are responsible

The relevant offices and sections of the Trademark Division are responsible for planning and making proposals for initiatives related to trademark examination under the supervision of Director of the Trademark Division.

#### (2) Considering Quality Management-related Initiatives

In order to make the Quality Management System for trademark examination efficient and effective, on the basis of the results of general evaluation (report on measures) and the results of evaluation made by Subcommittee on Examination Quality Management, Quality Management Section plans and makes various proposals for QM-related initiatives, where necessary.

##### Those who are responsible

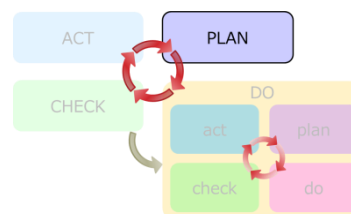
Quality Management Section is responsible for planning and making proposals for QM-related initiatives, and the Internal Committee of Quality

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Management for Trademark Examination is responsible for making final decision on QM-related initiatives.

#### 4. Formulating Policies for Trademark Examination [PLAN]

As for initiatives related to trademark examination which were planned and made proposals for by the relevant offices and sections in the Trademark Division (mentioned in 3.(1)), Director-General of the Trademark and Customer Relations Department makes final decisions for policies for each of them. The Internal Committee on Quality Management of Trademark Examination confirms whether each initiative related to trademark examination has been made as appropriate draft improvements on the basis of the results of general evaluation (report on measures) and objective evaluation by the Subcommittee on Examination Quality Management.



On the other hand, as for QM-related initiatives which were planned and made proposals for by Quality Management Section (mentioned in 3. (2)), the Internal Committee on Quality Management of Trademark Examination discusses whether each initiative related to trademark examination has been made as appropriate draft improvements, on the basis of the results of general evaluation (report on measures) and objective evaluation by the Subcommittee on Examination Quality Management, and makes final decisions for policies.

Moreover, the JPO defines the subjects to be taken in the quality management of examination under the Director-General of the Trademark and Customer Relations Department, in response to the statement by Subcommittee on Examination Quality Management, and publishes it.

These efforts will lead to continuous improvements of practices through understanding the current status, and planning and making proposals for various initiatives under the leadership of Directors, etc., which would result in continuously providing high-quality trademark examination.

### **III. Transacting with external organizations and persons**

In order to realize high-quality trademark examination, it is also important to cooperate with users. Receiving and utilizing information and opinions on the quality of trademark examination from users would enable the JPO to manage the quality on the basis of user needs. Furthermore, the quality of trademark examination is also improved by applicants' or attorneys' carefully determining the indication of designated goods or services before filing, their facilitating the enhancement of prior trademark search, and our encouraging general consumers and business traders to provide information on applications for trademark registration. Therefore, the JPO not only provides necessary information to users, but also requests users to provide necessary information on applications for trademark registration.

#### **1. Exchanging Opinions with Users**

The JPO has opportunities to exchange opinions with users from enterprises and industry groups, etc. Through the direct exchanges of opinions, the JPO hears opinions and needs for various issues, including the quality of trademark examination, so that the JPO can utilize them for planning and making proposals for various initiatives to improve the examination quality.

Furthermore, the JPO receives information through the direct exchanges of opinions regarding individual cases where the quality of examination may be compromised, and utilize them for planning and making proposals for various initiatives to improve the examination quality.

In addition, the JPO has opportunities to exchange opinions on various initiatives, including QM-related initiatives, with the IP related organizations and patent attorney organizations on a regular basis in order to understand the needs and concerns of applicants and attorneys. The regular meetings at the working level promote close communications between the JPO and users. Having user meetings enable the JPO to recognize and share the needs and concerns of applicants and attorneys through the reports made internally, while it would promote users to understand the JPO's policies and initiatives.

#### Those who engage

Director-General of the Trademark and Customer Relations Department, Directors, etc. of the examination offices and examiners attend the meetings with users. Quality Management Section collects and analyzes the information regarding individual cases where the quality of examination may be compromised, and utilizes them for planning and making proposals for various initiatives to improve the examination quality.



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## **2. Providing Information to Facilitate Users' Collaboration**

Encouraging applicants and attorneys to carefully determine the indication of designated goods or services before filing, and facilitating users and business traders to provide information on applications for trademark registration can contribute to enhancing the quality of trademark examination. To this end, the JPO provides users with necessary information on appropriate way to indicate designated goods or services, and also requests users to provide necessary information on applications for trademark registration through exchanging opinions, etc.

### Those who are responsible

The relevant offices and sections in the Trademark Division are responsible for providing necessary information that could contribute to improving the quality of examination. Director-General of the Trademark and Customer Relations Department, Directors, etc. of the examination offices and examiners are responsible for requesting users to provide necessary information at the meetings for exchanging opinions.

*[Note: When any ambiguity of interpretation is found in this translation, the Japanese text shall prevail.]*

## **IV. International Efforts**

### **1. Sharing Information on Quality Management System with Foreign IP Offices**

The JPO shares information on Quality Management System with foreign IP offices at the multilateral meetings such as the Meetings of Five Trademark Offices (TM5), and the expert meetings with foreign IP offices, and utilizes the information obtained there for planning and making proposals for QM-related initiatives. The JPO introduces its Quality Policy as well as its initiatives and measures for improving the quality to foreign IP offices, with an intention of not only contributing to improving the quality of trademark examination of other IP offices, but also making efforts to create reliability for the quality of trademark examinations of the JPO.

Through these efforts, the JPO intends to raise the overall level of the quality of trademark examination of foreign IP offices, which would result in increasing the predictability of obtaining rights overseas, and eventually contributing to global improvement of the quality of trademark examination.

#### Those who are responsible

Quality Management Section is responsible for sharing information on the Quality Management System with foreign IP offices.

*[Note: When any ambiguity of interpretation is found in this translation, the Japanese text shall prevail.]*

## Ref. 1 Quality Policy on Trademark Examination



### Quality Policy on Trademark Examination

A trademark is a mark to distinguish one's goods and services from any other persons' goods and services. It guarantees a certain level of quality of goods and services and serves as an advertisement for goods and services.

It is imperative for the JPO to conduct trademark examination to determine the existence or not of distinctive features, similarity of filed trademarks and so on, with consistency and objectivity in accordance with laws, regulations and the Trademark Examination Guidelines. The JPO also must conduct trademark examination by sufficiently researching the actual status of the commercial transactions related to such trademarks. Consequently, trademarks are able to fulfil their roles based on business operators utilizing their trademark rights, and doing so makes smooth consumption by consumers possible based on trust in the trademarks.

This quality policy outlines the fundamental principles of quality management in terms of maintaining and upgrading the quality of trademark examination and contributing to the protection and enhancement of brands and the smooth consumption of goods and services.

Under the leadership and participation of top management, each and every staff member involved in trademark examination in the JPO is to perform work in compliance with the following fundamental principles, demonstrating a strong sense of responsibility and motivation.

**We contribute to the protection and enhancement of brands and the smooth consumption of goods and services:**

The JPO performs appropriate trademark examination and grants trademark rights, enabling trademarks to fulfil their role based on the adequate utilization of trademark rights by their rights holders and contributing to the protection and enhancement of brands and the smooth consumption of goods and services by consumers.

**We conduct consistent and objective trademark examination:**

The JPO conducts trademark examination to determine the existence or not of distinctive features, similarities and so on, with consistency and objectivity in conformity to treaties, laws, regulations and the Trademark Examination Guidelines; and by sufficiently researching the actual status of commercial transactions.

**We promote the utilization of the trademark system by closely communicating with applicants:**

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In order to enhance the transparency and predictability of trademark examination, the JPO constantly reviews the guiding principles of the Trademark Examination Guidelines. Individual examiners formulate logical and persuasive written notifications that anyone can easily understand, supporting the acquisition of rights. Based on these points, the JPO enhances close communication with applicants, etc. and promotes the utilization of the trademark system.

**We actively share information with relevant persons inside and outside Japan in order to improve the quality of trademark examination:**

The JPO shares information with people connected with the trademark system and works to implement initiatives for improving the quality of trademark examination by putting such information to practical use.

**We consistently improve operations:**

Each and every staff member involved in trademark examination continually deliberates and evaluates the operations of trademark examination and examination management to improve our operations, never feeling satisfied with the status quo.

**We raise the knowledge and capabilities of our staff:**

The JPO cultivates human resources involved in trademark examination by having them conduct their daily work and attend training programs. At the same time, each and every staff member involved in trademark examination is to raise the level of knowledge on and capabilities in trademark examination by initiating his/her own voluntary efforts.

The JPO periodically reviews this policy on quality, so as to always maintain and even further improve its rationale and effectiveness.

August 2014  
Japan Patent Office

[Note: When any ambiguity of interpretation is found in this translation, the Japanese text shall prevail.]

## Ref. 2: Correlation of initiatives described in the Quality Policy and the Quality Manual

Quality Policy		Measures described in the Quality Manual	
		Places	Related measures
Introduction	- Sufficiently researching the actual status of the commercial transactions	Introduction I.1. Relationship between QMS and Quality Policy	
	- Trademark examination with consistency and objectivity		
	- The Quality Policy outlines the fundamental principles of quality management in terms of contributing to the protection and enhancement of brands and the smooth consumption of goods and services.		
	- Under the leadership and participation of the top management, all staff perform their work, demonstrating a strong sense of responsibility and motivation.		
The protection and enhancement of brands / the smooth consumption of goods and	- Performing appropriate trademark examination and grants trademark rights, enabling trademarks to fulfil their role and contributing to the protection and enhancement of brands and the smooth consumption of goods and services	II.1. Conducting of the Trademark Examination Practices [DO] [PDCA Cycle in the Examination Office]	- Trademark Examination (Understanding of the Application and Recognizing the Trademark, Search, Decision and Drafting) (II.1.(1)(i))

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services			<ul style="list-style-type: none"> <li>- Consultations (II.1.(1)(ii))</li> <li>- Interviews, etc. (II.1.(1)(iii))</li> <li>- Utilization of Check Sheet for Examiners (II.1.(1)(iv))</li> <li>- Approvals (II.1.(2)(i))</li> </ul>
Consistent and objective trademark examination	- Conducting trademark examination to determine the existence or not of distinctive features, similarities and so on, with consistency and objectivity in conformity to treaties, laws, regulations and the Trademark Examination Guidelines; and by sufficiently researching the actual status of commercial transactions	<p>II.1. Conducting of the Trademark Examination Practices [DO] [PDCA Cycle in the Examination Office]</p> <p>III.1. Exchanging opinions with users</p>	<ul style="list-style-type: none"> <li>- Trademark Examination (Understanding of the Application and Recognizing the Trademark, Search, Decision and Drafting) (II.1.(1)(i))</li> <li>- Consultations (II.1.(1)(ii))</li> <li>- Interviews, etc. (II.1.(1)(iii))</li> <li>- Utilization of Check Sheet for Examiners (II.1.(1)(iv))</li> <li>- Approvals (II.1.(2)(i))</li> <li>- Exchanging opinions with users (III.1.)</li> </ul>
The utilization of the trademark	- Constant review of the guiding principles in order to enhance the transparency and predictability of	II. 2. Evaluation of Trademark Examination Practices [CHECK]	- Understanding User Needs about the Quality based on User Satisfaction

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system by closely communicating with applicants	trademark examination	II. 3. Considering and Modifying Initiatives concerning Trademark Examination and Quality Management [ACT]  III.1. Exchanging opinions with users	Survey (II.2.(1)(ii)) - Understanding User Needs based on Users' opinion about the Examination Quality (II.2.(1)(iv))  - Considering Initiatives related to Trademark Examination (II.3.(1))  - Exchanging opinions with users (III.1.)
	- Formulating logical and persuasive written notifications that anyone can easily understand	II.1. Conducting of the Trademark Examination Practices [DO] [PDCA Cycle in the Examination Office]	- Trademark Examination (Understanding of the Application and Recognizing the Trademark, Search, Decision and Drafting) (II.1.(1)(i)) - Consultations (II.1.(1)(ii)) - Utilization of Check Sheet for Examiners (II.1.(1)(iv))

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			- Approvals (II.1.(2)(i))
	- Enhancing close communication with applicants, etc. and promoting the utilization of the trademark system	II.1. Conducting of the Trademark Examination Practices [DO] [PDCA Cycle in the Examination Office]  II. 2. Evaluation of Trademark Examination Practices [CHECK]	- Interviews, etc. (II.1.(1)(iii))  - Understanding User Needs about the Quality based on User Satisfaction Survey (II.2.(1)(ii)) - Understanding User Needs based on Users' opinion about the Examination Quality (II.2.(1)(iv))
		III.1. Exchanging opinions with users	- Exchanging opinions with users (III.1.)
Sharing information with relevant persons	- Actively sharing information with people inside and outside Japan connected with the trademark system - Working to implement initiatives for improving the quality of trademark examination	II. 3. Considering and Modifying Initiatives concerning Trademark Examination and Quality Management [ACT]	- Considering Initiatives related to Trademark Examination (II.3.(1)) - Considering Quality Management-related Initiatives (II.3.(2))



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		<p>III.1. Exchanging opinions with users</p> <p>III. 2. Providing Information to Facilitate Users' Collaboration</p> <p>IV. International Efforts</p>	<p>- Exchanging opinions with users (III.1.)</p> <p>- Providing Information to Facilitate Users' Collaboration (III.2.)</p> <p>- Sharing Information on Quality Management System with Foreign IP Offices (IV.1.)</p>
Continuous improvement of the operations of trademark examination	<p>- Continually providing trademark examination with consistency and objectivity</p> <p>- Improving operations by staying aware of current situations and taking a flexible approach to planning and proposing various measures</p>	<p>II.1. Conducting of the Trademark Examination Practices [DO] [PDCA Cycle in the Examination Office]</p> <p>II. 2. Evaluation of Trademark Examination Practices [CHECK]</p>	<p>- Formulating Policies on Maintaining and Enhancing the Quality of Trademark Examination in Each Examination Office [plan] (II.1.(4))</p> <p>- Collecting and Analyzing Data (II.2.(1)) Evaluation on the Results of Data Analysis (II.2.(2))</p> <p>- Subcommittee on Examination Quality Management (II.2.(3))</p>

*[Note: When any ambiguity of interpretation is found in this translation, the Japanese text shall prevail.]*

		<p>II. 3. Considering and Modifying Initiatives concerning Trademark Examination and Quality Management [ACT]</p> <p>II.4. Formulating Policies for Trademark Examination [PLAN]</p>	<p>- Considering Initiatives related to Trademark Examination (II.3.(1))</p> <p>- Considering Quality Management-related Initiatives (II.3.(2))</p> <p>Formulating Policies for Trademark Examination (II.4.)</p>
Improvement of knowledge and capabilities of all staff	<p>- Cultivating human resources by having all staff conduct their daily work and participate in training</p> <p>- Encouraging all staff to learn on their own</p>	II.1. Conducting of the Trademark Examination Practices [DO] [PDCA Cycle in the Examination Office]	<p>- Trademark Examination (Understanding of the Application and Recognizing the Trademark, Search, Decision and Drafting) (II.1.(1)(i))</p> <p>- Consultations (II.1.(1)(ii))</p> <p>- Utilization of Check Sheet for Examiners (II.1.(1)(iv))</p> <p>- Approvals (II.1.(2)(i))</p> <p>- Improvement of the Quality based on the</p>

*[Note: When any ambiguity of interpretation is found in this translation, the Japanese text shall prevail.]*

		II.1. (3) Practices for Maintaining and Improving the Quality of Trademark Examination in the Examination Office [act]	Results of Checking (II.1.(3)(i)) - Organizational Sharing of Information (II.1.(3)(ii)) - Acquiring Knowledge and Enhancing Capabilities through Taking Training Programs, etc (II.1.(3)(iii)) - Utilization of QM-Related Information (II.1.(3)(iv))
Review of the Quality Policy	- Periodically reviewing the Quality Policy, so as to always maintain and improve its rationale and effectiveness	II. 3. Considering and Modifying Initiatives concerning Trademark Examination and Quality Management [ACT]	- Considering Initiatives related to Trademark Examination (II.3.(1)) - Considering Quality Management-related Initiatives (II.3.(2))