

“The Industrial Property Rights System in Japan”

Chapter 2. The Patent System and Utility Model System

Patent Examination

A “formality examination” checks whether or not an application document fulfills the necessary procedural and formal requirements. A “substantive examination” checks the specific technical content of the application as well as whether it fulfills the patentability requirements, and determines whether there are any reasons for refusal.

If an examiner finds reasons for refusal, a notification of this result is sent to the applicant.

An applicant can subsequently submit a written opinion describing how the invention does in fact differ from existing technologies, referred to as “prior art”, issue an amendment providing further description, or amend, for example, the scope of the claims. If the reasons for the initial refusal are deemed to have been eliminated, then the examiner may make the decision to grant a patent.

The duration of a patent right generally expires 20 years after the filing date of the application.

If the examiner determines that the reasons for refusal have not been eliminated through the amendments, another decision of refusal will be made. If dissatisfied with the decision, the applicant has the right to appeal against it.

For a variety of reasons, some applications require the speedy granting of a patent. In order to respond to such needs, the Japan Patent Office will carry out expedited examinations that are faster than usual if the applications satisfy certain requirements.

As of 2012, the period of first action in the case of normal applications for examination is about 20 months from the date of request. Expedited examinations, however, take only two months on average.