

# **Comparative Study on Fast-track Proceedings among KIPO, JPO and CNIPA**

(in the 9<sup>th</sup> JEGTA Meeting, 24 November, 2022 via VICO)

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## Introduction

Since the 1<sup>st</sup> Joint Experts Group for Trial and Appeal (JEGTA) Meeting held in 2013 in Japan, the Korean Intellectual Property Office (KIPO), Japan Patent Office (JPO) and China National Intellectual Property Administration (CNIPA) have continued to conduct comparative studies in the field of patent trials and appeals in order to better understand respective practices: this includes not only studies on specific type of proceedings, such as “an appeal against an examiner’s decision to reject application”, “patent invalidation trial”, “trial to confirm the scope of rights”, etc., but also includes studies on procedures necessary for reviewing the case, such as “oral hearings”, etc.

The topic of present comparative study, “fast-track proceedings”<sup>1</sup>, was proposed during the 9<sup>th</sup> JEGTA meeting (November, 2022). In all 3 Offices, cases are, in principle, reviewed and heard in order of the request. Fast-track proceedings refer to a program under which trial or appeal proceedings can be exceptionally advanced out of turn, regardless of the order of date of petition for a trial/appeal is filed, if deemed necessary. Hopefully, the present comparative study could contribute to the further improvements in trial and appeal systems in all 3 offices and making the users better understand and utilize fast-track proceedings.

The purposes of the present comparative study are as follows:

- To identify the general concept of the fast-track proceedings in each country
- To compare and identify various characteristics of the fast-track proceedings in each country

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<sup>1</sup> The present study focuses on fast-track proceedings for cases involving patent, utility model and design rights. However, for the user’s convenience, KIPO and JPO also include some information concerning trademark rights.

(※ Please note that the present study is prepared based on the materials provided by each Office on the following date: KIPO – 13 November 2023, JPO – 1 November 2023, CNIPA – 24 November 2022)

## Chapter 1: Characteristics and comparison of fast-track proceedings in Korea, Japan and China

### 1. General trial/appeal proceedings

In principle, KIPO and JPO reviews the case in order of the date of request. CNIPA gives priority to the review of invalidation cases, but invalidation and reexamination cases are allocated and reviewed respectively according to the technical fields and the order of filing date.

That is, there could be slight differences, but in all 3 Offices, cases are, in principle, reviewed and heard in order of the request.

### 2. The time when the fast-track proceedings are launched and its legal grounds

#### (1) Korea

KIPO first introduced accelerated proceedings in 1998, and prioritized proceedings, under which cases are reviewed even faster than the accelerated proceedings, were introduced in 2008. Thus, the existing 2-track proceedings have been refined to 3-track system, which includes regular, accelerated and prioritized proceedings (This is different from CNIPA and JPO in that they run 2-track proceedings). Regulations on fast-track proceedings are stipulated under the Trial Practice Regulations.

## (2) Japan

JPO launched fast-track proceedings for patents in 1986 (in 1987 for designs and in 1997 for trademarks). There are no relevant laws and regulations but is handled by operation.

## (3) China

CNIPA launched fast-track proceedings in 2017, which is relatively more recent, in order to promote the implementation of the national intellectual property right strategy, build a powerful intellectual property nation, and serve the innovation-driven development. Fast-track proceedings are operated according to the Measures for the Administration of the Prioritized Examination of Patents.

## 3. Target cases (Cases eligible for fast-track proceedings)

### (1) Korea

KIPO gives priority to the cases involving infringement lawsuit and reviews them under the prioritized proceedings, and other cases that are considered urgent and require expedited decisions, such as cases in which IPTAB decision is revoked in court revocation action, are reviewed under the accelerated proceedings.

#### <Example cases for accelerated proceedings>

- Appeal against an examiner's decision to reject application whose applications has been examined on an expedited basis as cutting-edge technologies;
- Cases revoked in court revocation action;

<Example cases for prioritized proceedings>

- Cases related to intellectual property disputes pending before external organizations, including judicial authorities, etc. (infringement lawsuit pending before the Court, case related to an investigation of unfair trade practices notified by the Korea Trade Commission, and trial to confirm the scope of rights, trial for invalidation, trial for correction and trial for revocation that are related to cases booked by the police or the prosecution)
- Trials for correction filed by a right holder regarding the registered right subject to the lawsuit before the Patent Court concludes arguments in invalidation trials

(2) Japan

Unlike KIPO and CNIPA, fast-track proceedings can be requested for only “Appeal cases against examiners’ decisions of refusal”.

<Example cases for fast-track proceedings>

- Cases concerning patent applications in which appellants or licensees have already worked the invention, or plan to work the invention within 2 years from the filing date of a request for fast-track proceedings
- Appellants of the inventions, in whole or in part, are SMEs or individuals, or universities, public research institutes or approved/accredited technology transfer organizations (TLOs)
- Appeal cases relating to patent applications that intend to obtain patents of green inventions
- Appeal cases relating to patent applications which appellants, in whole or in part, are those who

have a domicile or residence in the specified disaster-struck area to which the Disaster Relief Act applies

### (3) China

CNIPA prioritizes the cases that are considered to be significant in national or public interests under the fast-track proceedings, and the target cases are set respectively for reexamination and invalidation cases.

<Example cases for fast-track proceedings: Reexamination case>

- Cases involving key national development industries
- Cases in which the applicant has been well prepared for the implementation or has already begun implementation, or involves rights
- Cases involving patent application which was first filed in China
- Cases involving matters of great significance to national or public interests

<Example cases for fast-track proceedings: Invalidation case>

- Cases involving intellectual property infringement disputes
- Cases involving matters of great significance to national or public interests

### 4. Application procedures and target pendency

In all three Offices, the procedures for fast-track proceedings are not so much different from those of regular proceedings, but pendency is shorter than the regular proceedings (In case of KIPO and CNIPA, once a petition for fast-track proceedings is granted, the pendency is stipulated to render

a decision within a specific period). There are no additional fees required and no specific Board designated for fast-track proceedings in all 3 Offices.

Detailed information on applications procedures and pendency of fast-track proceedings in 3 Offices are listed in the table below:

	Applicant	How to apply	Who grants a petition for fast-track	Expected Pendency
Korea	<ul style="list-style-type: none"> <li>• relevant parties</li> <li>• presiding administrative judge (ex officio)</li> </ul>	<ul style="list-style-type: none"> <li>• file an application form</li> <li>• application not required if the presiding administrative judge deemed it necessary</li> </ul>	<ul style="list-style-type: none"> <li>• Presiding administrative judge</li> </ul>	<ul style="list-style-type: none"> <li>• Accelerated proceedings: trial decisions shall be made within 4 months from the date when a petition for fast-track proceedings is granted or within 2.5 months from the date of receipt of final written opinion</li> <li>• Prioritized proceedings: if oral hearings to be held, trial decision shall be made within 2 weeks from the date of oral hearings; if oral hearings not held, within 1.5 months from the date on which the initial written reply is submitted</li> </ul> <p>※ However, the pendency may differ if there long-running disputes between the parties</p>
Japan	<ul style="list-style-type: none"> <li>• Petitioner</li> </ul>	<ul style="list-style-type: none"> <li>• file an application form</li> </ul>	<ul style="list-style-type: none"> <li>• Presiding administrative judge</li> </ul>	<ul style="list-style-type: none"> <li>• render a decision within 4 months</li> </ul>
China	<ul style="list-style-type: none"> <li>• Relevant parties</li> <li>• IP arbitration and mediation organization for infringement disputes</li> </ul>	<ul style="list-style-type: none"> <li>• file an application form</li> </ul>	<ul style="list-style-type: none"> <li>• PRD shall issue a notice of priority examination or no priority examination to the petitioner.</li> </ul>	<ul style="list-style-type: none"> <li>• reexamination case: conclude within 7 months</li> <li>• invalidation trial (patent): conclude within 5 months</li> </ul>



(Draft) Comparative Table of Fast-track Proceedings in Korea, China and Japan

Item	Item'	Korea	Japan	China																								
Pendency of regular proceedings	Pendency by different rights, by different types of trial/appeal proceedings	<div>- Patent/Utility Model: 6.5 months</div> <div>- Trademark/Design: 8.8 months</div> <div>- Ex parte: 9.1 months</div> <div>- Inter partes: 7.2 months</div> <div>- Total average: 7.9 months</div> <div>(Unit: Months)</div> <table><tr><th></th><th>2018</th><th>2019</th><th>2020</th><th>2021</th><th>2022</th></tr><tr><td>P &amp; U (Ex/Inter)</td><td>156 (167/99)</td><td>114 (119/74)</td><td>88 (84/96)</td><td>71 (68/82)</td><td>65 (64/66)</td></tr><tr><td>T &amp; D (Ex/Inter)</td><td>90 (134/78)</td><td>78 (92/73)</td><td>69 (84/64)</td><td>79 (95/76)</td><td>88 (132/74)</td></tr><tr><td>Total (Ex/Inter)</td><td>120 (159/81)</td><td>96 (113/73)</td><td>78 (84/72)</td><td>76 (73/77)</td><td>78 (91/72)</td></tr></table> <div>* Note: The above data represent average pendency in 2022 and please refer to the statistical data in Excel format for more detailed information.</div>		2018	2019	2020	2021	2022	P & U (Ex/Inter)	156 (167/99)	114 (119/74)	88 (84/96)	71 (68/82)	65 (64/66)	T & D (Ex/Inter)	90 (134/78)	78 (92/73)	69 (84/64)	79 (95/76)	88 (132/74)	Total (Ex/Inter)	120 (159/81)	96 (113/73)	78 (84/72)	76 (73/77)	78 (91/72)	<div>The average pendency for Appeal against Examiner's Decision of Refusal in 2022</div> <div>- Patent: 11.7 months</div> <div>- Design: 6.8 months</div> <div>- Trademark: 8.6 months</div>	<div>By 2021, 5.8 months for invalidation cases and 16.4 months for reexamination cases.</div>
	2018	2019	2020	2021	2022																							
P & U (Ex/Inter)	156 (167/99)	114 (119/74)	88 (84/96)	71 (68/82)	65 (64/66)																							
T & D (Ex/Inter)	90 (134/78)	78 (92/73)	69 (84/64)	79 (95/76)	88 (132/74)																							
Total (Ex/Inter)	120 (159/81)	96 (113/73)	78 (84/72)	76 (73/77)	78 (91/72)																							
Order of handling regular cases (cases that are not reviewed under the fast-track		<div>Trials shall, in principle, be heard in order of the date of request.</div> <div>(Trial Practice Regulations Article 31(1))</div>	<div>Appeals are, in principle, handled in order of the date of request.</div>	<div>PRD gives priority to the Examination of invalidation cases.</div> <div>The invalidation and</div>																								

proceedings)					reexamination cases are allocated and examined respectively according to the technical field and the order of filing date.
Fast-track trial/appeal proceedings	Whether each office has fast-track proceedings	When it was launched on what legal grounds and for what purpose	<ul style="list-style-type: none"> <li>launched in 1998</li> <li>legal grounds: <i>Provided</i>, That the following cases that are requested for fast-track proceedings (Application form Annex No.4) may be advanced out of turn, if recognized to be necessary (for cases under the sub-paragraph (1) to (4) and (10), the chief administrative judge may grant fast-track proceedings only <i>ex officio</i>, not upon requests). (Trial Practice Regulations Article 31(1))</li> </ul>	<ul style="list-style-type: none"> <li>Launched in 1986 for patents, in 1987 for designs, and in 1997 for trademarks.</li> <li>There are no corresponding laws and regulations, therefore it is handled by operation.</li> <li>The purpose is to respond to the user's need to protect IP rights promptly.</li> </ul>	Yes. According to the Administrative Measures for Fast-track Examination of Patents issued in 2017 by CNIPA, the purposes include promoting the optimization and upgrading of the industrial structure, promoting the implementation of the national intellectual property right strategy and the building of a powerful intellectual property nation, serving the innovation-driven development, and improving the patent examination procedures.
	Who may request	Who shall grant (or deny) the requests	<ul style="list-style-type: none"> <li>Who may request fast-track proceedings? ⇒ parties concerned, or Chief Presiding Administrative Judge at his/her own discretion (<i>ex officio</i>)</li> <li>Who shall grant (or deny) the requests: ⇒ Chief Presiding Administrative Judge</li> </ul>	<ul style="list-style-type: none"> <li>Who may request? ⇒ Appellants or agents</li> <li>Who shall grant (or deny) the requests? ⇒ Director of the Board of Trial and Appeal grants (or denies) the requests based on opinions of administrative judges.</li> </ul>	<p>The parties in invalidation case and the applicant in reexamination cases may request.</p> <p>For invalidation case, the local intellectual property office, the people's court or the arbitration and mediation organization that handles or hears a case of infringement disputes over the patent may request.</p>

	<p>Cases eligible for fast-track proceedings (target case)</p>	<p>Which cases are eligible for fast-track proceedings and whether the requirements differ among different rights</p>	<p><b>&lt;Accelerated proceedings&gt;</b></p> <ol style="list-style-type: none"> <li>1. Cases concerning a decision to dismiss amendment;</li> <li>2. Cases revoked in court revocation action;</li> <li>3. Cases in which an examiner files a petition for a trial for invalidation;</li> <li>4. An appeal against an examiner's decision to reject application that is filed after a decision to revoke an application for which an appeal against rejection decision was filed in the past;</li> <li>5. A trial for correction to only correct the title of the invention (design);</li> <li>6. Cases required to be reviewed urgently for the national economy or to prosecute a war, such as providing military supplies, etc.;</li> </ol>	<p><b>&lt;Patent&gt;</b></p> <p>Appeal cases against examiner's decision of refusal that meet the requirements in any of cases (1) to (8) below are eligible for accelerated appeal proceedings.</p> <p>(1) Appeals cases relating to patent applications in which the inventions are worked by appellants themselves or by persons who have obtained a license to work the invention from the appellants.</p> <p>(2) Appeals cases relating to internationally-filed applications (such as patent applications that have been filed with both the JPO and at least one of foreign IP Offices, or intergovernmental organizations (IGO); and patent applications that have been filed with the IP Office as the Receiving Office under the PCT and then entered into the national phase in Japan)</p> <p>(3) Appellants of the inventions, in whole or in part, are universities, public research institutes, approved or accredited technology transfer organizations</p>	<p>Under any of the following circumstances, fast-track examination may be requested for reexamination case:</p> <p>(1) Energy conservation and environmental protection, a new generation of information technology, biology, high-end equipment manufacturing, new energy, new materials, new energy vehicles, intelligent manufacturing and other key national development industries are involved.</p> <p>(2) Industries that are encouraged by the people's governments at the provincial level and the districted city level are involved.</p> <p>(3) Internet, big data, cloud computing and other areas are involved, and the technologies or products are updated rapidly.</p> <p>(4) The applicant has been well prepared for the implementation or has already begun implementation, or there is evidence proving that others are implementing its</p>
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			<p>7. An appeal against examiner's decision to reject application which was designated by the Commissioner of the Korean Intellectual Property Office to be examined on an expedited basis as cutting-edge technologies significant to national economy and national competitiveness, such as semiconductors, etc.;</p> <p>8. Cases that are filed against patent rights registered in the patent list under Article 50-2 or 50-3 of the Pharmaceutical Affairs Act (if only a portion of the claims are registered, it shall be limited to those registered): <i>Provided</i>, That the same shall not apply to trials for patent rights related to drugs for which the expiration date of the re-examination period under the Article 32 or 42 of the Pharmaceutical Affairs Act is after 1 year from the date of request for prioritized trial;</p> <p>9. A trial to confirm the scope of rights or a trial for</p>	<p>(approved TLOs or accredited TLOs), or technology transfer organizations related to the research results of an experimental and research institute as defined in the act for establishment of each independent administrative agency (TLOs related to the experimental and research independent administrative agencies).</p> <p>(4) Appellants of the invention, in whole or in part, are SMEs or individuals</p> <p>(5) Appeal cases relating to patent applications in which persons who are not appellants (third party) have worked the invention after the publication of the patent applications of the appeal cases, but before the appeal decisions rendered.</p> <p>(6) Appeal cases relating to patent applications that intend to obtain patents of green inventions (inventions that save energy and reduce CO<sub>2</sub>).</p> <p>(7) Appeal cases relating to patent applications which appellants, in whole or in part,</p>	<p>invention and creation.</p> <p>(5) The first patent application filed in China for the same subject matter and then filed in other countries or regions.</p> <p>(6) Other matters of great significance to national interests or public interests need to be examined first.</p> <p>Under any of the following circumstances, fast-track examination may be requested for invalidation case:</p> <p>(1) For the infringement disputes over the patent involved in an invalidation case, the party has filed a request with the local intellectual property office for handling, filed a lawsuit with the people's court or filed a request with the arbitration and mediation organization.</p> <p>(2) The patent involved in an invalidation case is of great importance for the national interests or public interests.</p> <p>(See A3 and A4 of the Administrative Measures for</p>
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			<p>invalidation whose parties hereto are selected or confirmed as a specialization-leading enterprise under Article 13, specialized enterprise under Article 14, or hidden champion or start-up under Article 15 of the Act on Special Measures for Strengthening the Competitiveness of Materials, Components, and Equipment Industries;</p> <p>10. An appeal against an examiner's decision to reject application whose applications for patent, utility model, design, and trademark are examined together;</p> <p>11. A trial to confirm the scope of rights or a trial for invalidation of filing for an application for patent and utility model in which the new patent classification code relates to the Fourth Industrial Revolution prescribed by the Korean Intellectual Property Office. (Trial Practice Regulations Article 31(1))</p>	<p>are those who have a domicile or residence in the specified disaster-struck area to which the Disaster Relief Act applies, and those who have suffered damage as a result of the earthquake; or appeals which appellants are corporations and the business offices, etc. of the corporations located in the specified disaster-struck area were damaged as a result of the earthquake, and appeals relating to patent applications which inventions are made or to be worked at the business offices, etc.</p> <p>(8) Appeal cases relating to patent applications which appellants, in whole or in part, are company which is established to conduct research and development project approved under the Act on Special Measures for the Promotion of Research and Development by Certified Multinational Enterprises (Act for Promotion of Japan as an Asian Business Center), and appeals relating to patent applications related to inventions related to the results of the research and development project</p>	Fast-track Examination of Patents)
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			<p>12. A trial that confirms and invalidates a scope of rights and the party is a business which receives investment, contribution, support, or a loan from the government under Article 10(3) of the Support for Small and Medium Enterprise Establishment Act or a self-employed creative enterprise who receives support for R&amp;D, idea commercialization, and finances from the government under Article 11, 12, or 15 of the Act on the Fostering of Self-Employed Creative Enterprises;</p> <p>13. An invalidation trial filed only on a ground that a patent is of unentitled persons under the main clause of Article 33(1) of the Patent Act;</p> <p>14. A trial that confirms, invalidates, or revokes a scope of rights between SMEs and large companies. <i>Provided</i>, That the foregoing shall apply only when such trial is filed by SMEs.</p>	<p>&lt;Design&gt; Appeal cases against examiner's decisions of refusal that meet the requirements in (1) or (2) below are eligible for accelerated appeal proceedings.</p> <p>However, appeals concerning applications pertaining to new subject matters of design protection under the revised Design Act in 2019, namely, designs of buildings, graphic images and interiors are excluded from accelerated appeal proceedings for the time being, as they require more extensive search and careful determination to enhance the proceedings.</p> <p>(1) Appeal cases relating to applications in which the designs are worked by appellants themselves or by persons who have obtained a license to work the design from the appellants, or application for design registrations which are considerably advanced the preparation for working and there are urgent needs about</p>	
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			<p>15. Case that falls under any of the following items in relation to the regulatory sandbox policies;</p> <p>a. Cases related to an application for prompt handling under Article 36, an application for temporary permission under Article 37, or an application for regulatory exceptions to demonstration under Article 38-2 of the Special Act on Promotion of Information and Communications Technology and Vitalization of Convergence Thereof;</p> <p>b. Cases related to an application for prompt verification of regulation under Article 10-2, an application for regulatory exemption under Article 10-3, an application for temporary permission under Article 10-6, or an application for conformity certification under Article 11 of the Industrial Convergence Promotion Act;</p>	<p>obtaining rights which fall under any of the cases below.</p> <p>i) In clear cases that a third party, without consent, has already worked, or considerably advanced the preparation for working the filed design or a design which is similar to the filed design.</p> <p>ii) In cases that appellants or the licensees have received a warning from a third party regarding the working (or the preparation for working) of the filed design.</p> <p>iii) In case that appellants have received a request to give consent to work the design in the application by a third party.</p> <p>(2) Appeal cases relating to applications for design registrations that have been filed with foreign IP offices other than the JPO, or intergovernmental organizations (IGO).</p> <p>(3) Appeal cases relating to applications for design registrations relating to earthquake disaster recovery</p>	
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			<p>c. Cases related to an application for designation as innovative financial services under Article 5 or an application for rapid verification of regulations under Article 24 of the Special Act on Support for Financial Innovation;</p> <p>d. Cases related to an application for verification of regulation under Article 85, an application for special cases for demonstration under Article 86, or an application for provisional permission under Article 90 of the Act on Special Cases Concerning the Regulation of Regulation-Free Zones and Special Economic Zones for Specialized Regional Development;</p> <p>e. Cases related to shaping smart innovation and demonstration projects as to a plan for smart innovation projects under Article 49 or a plan for smart demonstration projects under Article 50 of the Act on the Promotion of Smart City Development and</p>	<p>support-related applications.</p> <p>&lt;Trademark&gt; Appeal cases against examiner's decision of refusal, which fall under any of cases (1) to (4) below, are eligible for accelerated appeal proceedings.</p> <p>However, the following cases shall be excluded from accelerated appeal proceedings for the time being.</p> <p>- Appeals for non-traditional trademarks (motion trademarks, hologram trademarks, color trademarks (trademarks consisting solely of colors), sound trademarks, and position trademarks) and some three-dimensional trademarks. It is because there is special nature of proceedings and careful determination is needed on these types of trademarks</p> <p>- International applications for trademark registration under the Protocol relating to the Madrid Agreement (designating Japan). It is because the proceedings</p>	
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			<p>Industry;</p> <p>16. Cases which were referred to the Industrial Property Dispute Mediation Committee by the chief presiding administrative judge under Article 164-2 of the Patent Act, Article 33 of the Utility Model Act, Article 152-2 of the Design Protection Act, and Article 151-2 of the Trademark Act, and whose hearing was resumed after filing to reach a settlement.</p> <p>(Trial Practice Regulations 31(1))</p> <p><b>&lt;Prioritized proceedings&gt;</b></p> <p>1. Case on trial (trial to confirm the scope of rights, trial for invalidation, trial for correction and patent opposition) that is related to the following cases; a case pending before a Court as a dispute over infringement of intellectual property (including a request for preliminary injunction against infringement), a case on investigation of unfair trade</p>	<p>of those applications are different from those of the domestic appeal cases.</p> <p>(1) Appeal cases in which appellants (or licensees) have already used (or have prepared to a considerable extent to use) their filed trademarks on a part of designated goods and/or services; and have an urgent need to acquire trademark rights.</p> <p>(2) Appeal cases designating only goods and/or services on which appellants (or licensees) have already used (or have prepared to a considerable extent to use) the filed trademarks.</p> <p>(3) Appeal cases in which appellants (or licensees) have already used (or have prepared to a considerable extent to use) the filed trademarks for a part of designated goods and/or services and the cases which designated only goods and/or services that are listed in the Annexed Table of the Regulations under the Trademark Act, the</p>	
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			<p>practices for which notification is provided by the Korea Trade Commission, or a case booked by the police (including Special Judicial Police) or the prosecution; or a case on trial (trial to confirm the scope of rights, trial for invalidation and patent opposition) which is filed by the party who has received a warning notice, etc. from the right holder. <i>Provided</i>, That the foregoing shall not apply to a case on trial whose parties are not identical to those in the related cases in Court, etc.</p> <p>2. A trial for correction initially filed by a right holder for a registered right before the Patent Court closes arguments in a revocation action of invalidation trial or as a trial for correction filed in response to the submission of new evidence of invalidation (including grounds for invalidation);</p> <p>an appeal against a rejection decision for which the later date of 3 years and 6 months from the filing date of the patent application (filing date</p>	<p>Examination Guidelines for Similar Goods, etc.</p> <p>(4) Appeal cases relating to earthquake disaster recovery support-related applications</p>	
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			<p>of registration of utility model) and 2 years and 6 months from the date of requesting examination (excluding a period delayed by applicant under the Article 7-2 of the Enforcement Decree of the Patent Act and Article 54-5 of the Enforcement Rules of the same Act);</p> <p>3. An appeal against an examiner's decision to reject application for which the later date of 3 years and 6 months from the filing date of the patent application (filing date or registration of utility model) and 2 years and 6 months from the date of request for examination (excluding a period delayed by applicant under the Article 7-2 of the Enforcement Decree of the Patent Act and Article 54-5 of the Enforcement Rules of the same Act)</p> <p>(Trial Practice Regulations 31-2(1))</p>		
	Application procedures	Eligibility requirements, general application procedures, required	<ul style="list-style-type: none"> <li>Application procedure:</li> </ul> <p>1. Fill in an application for accelerated proceedings</p>	<ul style="list-style-type: none"> <li>When filing a request for accelerated appeal proceedings, appellants need to submit a "Written</li> </ul>	<p>1. To request fast track for a reexamination case, the consent of all applicants shall be obtained; and to request</p>

		documents to be submitted, etc.	<p>(Annex 4 of the Trial Practice Regulations) or prioritized proceedings (Annex 24 of the Trial Practice Regulations)</p> <p>2. A chief presiding administrative judge shall determine whether the case is subject to fast-track proceedings (accelerated/prioritized) within 10 days from the date a request for fast-track proceeding is transferred and notify the party of such facts.</p> <p>• Required documents: supporting documents that prove the grounds for fast-track proceedings (proof of eligibility) (Format-free submission; no specific format required)</p>	<p>Explanation of the needs of the Accelerated Appeal Proceedings” for each appeal case.</p> <p>• If Director of the Board of Trial and Appeal determines that “the appeal case is not eligible for accelerated appeal proceedings” as a result of the selection process, the director will notify the appellant (or agent) of the determination with the reasons.</p>	<p>fast track for an invalidation case, the consent of applicant or all patentees shall be obtained.</p> <p>For invalidation case, the local intellectual property office, the people's court or the arbitration and mediation organization that handles or hears a case of infringement disputes over the patent may request.</p> <p>2. The reexamination case requesting fast-track examination shall adopt electronic application.</p> <p>3. A party that files a request for fast-track examination for reexamination or invalidation case shall submit a written request and relevant certification documents. Except for reexamination cases in which fast-track examination has already been conducted in the substantive examination or preliminary examination procedure, the relevant department of the State Council or the provincial intellectual property office shall affix the recommendation opinions to the written request</p>
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					<p>for fast-track examination.</p> <p>A local intellectual property office, a people's court or an arbitration mediation organization that files a request for fast-track examination of an invalidation case shall submit a written request for fast-track examination and state the reasons.</p> <p>(See A5, A7 and A8 of the Administrative Measures for Fast-track Examination of Patents)</p>
	Application fee	Whether additional fee shall be charged and the cost of petition fee, whether there are any special relief measures for fee reduction or exemption	No additional fee required	No additional fee is required	Free of charge.
	Procedures (formalities)	The differences between the regular cases and cases under the fast-track	N/A	N/A	<p>Where CNIPA agrees to conduct the first-track examination, a case shall be concluded within the following time limit from the date of consent:</p> <p>A reexamination case shall be concluded within seven months.</p>

					<p>An invalidation case for an invention or utility model shall be concluded within five months, and an invalidation case for design shall be concluded within four months.</p> <p>The cases under fast-track are generally distributed to the relevant divisions within 3 working days. The relevant division responsible for the examination should generally establish a collegial panel within 5 working days. If the parties submit intermediate documents, the collegial panel should generally transfer them to the other party within 3 working days from the date when the intermediate documents are filed. For cases that require oral hearing, the collegial panel shall generally issue the decision within one month after the oral hearing.</p>
	Procedures (merits)	How to make the case ripe for adjudication in early stage, etc.	Accelerate the ripeness of a case in an early stage by utilizing oral hearing, explanatory session (technical issues, trademark, design), evidence examination, interview, etc.	As a result of the selection, the panel in charge of the appeal cases that are eligible for accelerated appeal proceedings will promptly begin proceedings with prioritized over the regular appeal cases, and proceed	The pendency period of fast-track case is shorter, which can shorten the waiting time for administrative adjudication, mediation and litigation cases of infringement disputes.

			(Manual for Trial and Appeal Proceedings, p.189-190)	with the procedures so as to dispose of them without delay.	
	Expected pendency period (Target of issuing a decision)		<p><b>&lt;Accelerated proceedings&gt;</b>  In principle, cases subject to accelerated proceedings shall be handled within 4 months from the date the request for accelerated proceeding is granted. However, if the case is not yet ripe for adjudication and decision cannot be rendered, such case shall be handled within 2.5 months from date when the final written opinion is received.  (Manual for Trial and Appeal Proceedings, p.190)</p> <p><b>&lt;Prioritized proceedings&gt;</b>  3. As to a case that falls under Paragraphs (1)1, an oral hearing shall be held no later than one month from the date on which the deadline for submission of a written reply expires (in the case of a request for correction, the deadline for submission of a written opinion expires against a petitioner of invalidation trial upon the request for correction) and an trial decision shall be rendered no later than two weeks from the later date of the following,</p>	2-4 months	<p>Where CNIPA agrees to conduct the first-track examination, a case shall be concluded within the following time limit from the date of consent:</p> <p>A reexamination case is expected to be concluded within seven months.</p> <p>An invalidation case for an invention or utility model is expected to be concluded within five months, and an invalidation case for design is expected to be concluded within four months.</p>

			<p>unless the President of the Korean Intellectual Property Trial and Appeal Board recognizes otherwise:</p> <p>(1) A date on which an oral hearing is conducted (when continuing the oral hearing, a date on which the last oral hearing was conducted); or</p> <p>(2) Where new evidence or an argument is submitted, the date on which the deadline for submission of a written opinion expires.</p> <p>4. Where it is recognized that it is not required to conduct an oral hearing for a case that falls under any of subparagraphs of Paragraph (1) above, a trial decision shall be rendered by the later date of the following, unless the President of the Korean Intellectual Property Trial and Appeal Board recognizes otherwise:</p> <p>(1) 2.5 months from the date on which the request for prioritized trial is granted;</p> <p>(2) Where new evidence or an argument is submitted, 2.5 months from the date on which the deadline for submission of a written opinion expires; or</p>		
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			<p>(3) 1.5 months from the date on which the initial written reply is submitted. (Trial Practice Regulations Article 31-2(3), (4))</p>		
	Whether it is possible to stop or suspend the expedited proceedings in the course of trial/appeal proceedings		<p><b>&lt;Accelerated proceedings&gt;</b> Where a cause for accelerated trial ceases to exist or is determined erroneously in a case which is already determined to be subject to the accelerated trial, a chief presiding administrative judge may revoke the determination under Paragraph (3) above. In such cases, the chief presiding judge shall provide notification of such fact to the parties. (Trial Practice Regulations Article 31(4))</p> <p><b>&lt;Prioritized proceedings&gt;</b> Where a case on trial falls under any of the following subparagraphs, a chief presiding administrative judge may revoke the determination under Paragraph (2) above. In such cases, the chief presiding judge shall provide notification of such fact to the parties. 1. Where a ground for prioritized trial becomes</p>	<p>If an appellant requests an extension of time limit for responding to office actions, including the notice of reasons for refusal or interrogation, the case will be treated as a regular appeal case in principle thereafter, based on the purpose of accelerated appeal proceedings, even if the case is selected as a subject of accelerated appeal proceedings.</p>	<p>According to A13 of the Administrative Measures for Fast-track Examination of Patents, PRD may stop the fast-track proceeding according to the circumstances of the case.</p> <p>Where a reexamination or invalidation case under fast-track examination falls under one of the following circumstances, PRD may cease the fast-track examination, handle it under the normal procedures, and notify the applicant requesting fast-track in time:</p> <p>(1) An applicant postpones the reply in reexamination case.</p> <p>(2) After a request for fast-track has been agreed to, an applicant in invalidation case supplements the evidence and reasons.</p> <p>(3) After a request for fast-track has been agreed to, a patentee amends the claims</p>

			<p>extinct or is determined erroneously in cases already determined as subject to prioritized trial;</p> <p>2. Where a party files an application to revoke determination on prioritized trial with consent of the other party; or</p> <p>3. Where a trial loses its ground for prioritized trial due to the suspension of trial proceedings, etc. (Trial Practice Regulations Article 31-2(6))</p>		<p>by methods other than deletion.</p> <p>(4) The procedures of reexamination or invalidation has been suspended.</p> <p>(5) The examination of the case depends on the conclusion of another case.</p> <p>(6) Difficult and complicated case and approved by the director of PRD.</p>
	Whether there is a special Board designated to review the cases under the fast-track		No special Board designated for cases under the fast-track proceedings	No specific Board designated for cases under the accelerated appeal proceedings	No.
	Whether the expedited case under the fast-track could be further accelerated (e.g., FYI, IPTAB runs 3-track trial/appeal proceedings, which include regular, prioritized and	The difference between the general cases under fast-track (prioritized proceedings) and the special case which require even more expedited proceedings (accelerated proceedings), e.g., eligibility requirements, procedures, time	<p>As specified above, IPTAB operates prioritized proceedings, which requires even more expedited proceedings than the accelerated proceedings. (Prioritized proceeding first launched in 2009.)</p> <p>(IPTAB 3-track proceedings: regular-accelerated-prioritized proceedings)</p>	Only two types of proceedings are available: regular proceedings and accelerated appeal proceedings.	No.

accelerated proceedings.	limit, etc.																																		
Whether there is a limitation in the granted number of cases for the fast-track		No limits in the granted number of cases under the fast-track	There is no limitation in the granted number of cases under the accelerated appeal proceedings	The number of cases for fast-track is considered as a whole, about 500 reexamination cases and 250 invalidation cases every year, which may be adjusted according to work demand.																															
Key numbers in recent 5 years	Number of requests, the rate of cases under the fast-track among total cases, average pendency period, the rate of domestic/foreign requests, etc.	<p>* Number of accelerated proceedings:</p> <p>- 2017: 894 cases (9.1%)</p> <p>- 2018: 801 cases (7.6%)</p> <p>- 2019: 812 cases (6.4%)</p> <p>- 2020: 694 cases (8.0%)</p> <p>- 2021: 576 cases (7.4%)</p> <p>- 2022: 590 cases (9.0%)</p> <p>* Number of prioritized proceedings:</p> <p>- 2017: 375 cases (3.8%)</p> <p>- 2018: 350 cases (3.3%)</p> <p>- 2019: 314 cases (2.4%)</p> <p>- 2020: 314 cases (3.6 %)</p> <p>- 2021: 306 cases (3.9 %)</p> <p>- 2022: 294 cases (4.5%)</p> <p>* Average pendency: (unit: months)</p> <table><tr><td>Type</td><td>2017</td><td>2018</td><td>2019</td><td>2020</td><td>2021</td><td>2022</td></tr><tr><td>Prioritized</td><td>4.4</td><td>4.6</td><td>4.5</td><td>5.5</td><td>6.5</td><td>5.8</td></tr><tr><td>Accelerated</td><td>4.6</td><td>4.1</td><td>5.3</td><td>4.6</td><td>4.3</td><td>6.3</td></tr></table>	Type	2017	2018	2019	2020	2021	2022	Prioritized	4.4	4.6	4.5	5.5	6.5	5.8	Accelerated	4.6	4.1	5.3	4.6	4.3	6.3	<p>&lt;Patent&gt;</p> <p>* Number of requests for accelerated appeal proceedings</p> <p>- 2017: 274 cases (1.5%)</p> <p>- 2018: 262 cases (1.6%)</p> <p>- 2019: 288 cases (1.7%)</p> <p>- 2020: 269 cases (1.6%)</p> <p>- 2021: 288 cases (1.7%)</p> <p>* Average Pendency (months)</p> <table><tr><td>2017</td><td>3.7</td></tr><tr><td>2018</td><td>3.8</td></tr><tr><td>2019</td><td>4.0</td></tr><tr><td>2020</td><td>3.9</td></tr><tr><td>2021</td><td>4.3</td></tr></table> <p>&lt;Design&gt;</p> <p>* Number of requests for accelerated appeal proceedings</p> <p>- 2017: 3 cases (0.8%)</p> <p>- 2018: 2 cases (0.7%)</p> <p>- 2019: 1 case (0.3%)</p> <p>- 2020: 2 cases (0.5%)</p> <p>- 2021: 1 case (0.3%)</p>	2017	3.7	2018	3.8	2019	4.0	2020	3.9	2021	4.3	<p>By 2021, 246 invalidation cases under fast-track examination were concluded. The average pendency period from the date of consent is 3.8 months. And 287 reexamination cases with 3.3 months.</p> <p>By 2020, 128 invalidation cases with 4.0 months and 211 reexamination cases with 3.2 months.</p> <p>By 2019, 145 invalidation cases with 3.6 months and 84 reexamination cases with 3.5 months.</p>
Type	2017	2018	2019	2020	2021	2022																													
Prioritized	4.4	4.6	4.5	5.5	6.5	5.8																													
Accelerated	4.6	4.1	5.3	4.6	4.3	6.3																													
2017	3.7																																		
2018	3.8																																		
2019	4.0																																		
2020	3.9																																		
2021	4.3																																		

				Regular	11.6	14.0	12.2	9.2	8.1	8.5			
				* We do not have the rate of domestic/foreign requests for fast-track proceedings.							* Average Pendency (months)		
											20172.9		
											20181.8		
											20191.5		
											2020-		
											20216.2		
											<Trademark>		
											* Number of requests for accelerated appeal proceedings		
											- 2017: 7 cases (1.0%)		
											- 2018: 11 cases (1.3%)		
											- 2019: 24 cases (3.0%)		
											- 2020: 23 cases (3.1%)		
											- 2021: 27 cases (2.4%)		
											* Average Pendency (months)		
											20172.7		
											20183.5		
											20193.1		
											20202.5		
											20212.6		

\* Please kindly share the legal basis for “fast-track proceedings”, including the relevant legal grounds (law), regulations, guidelines, etc. in English.