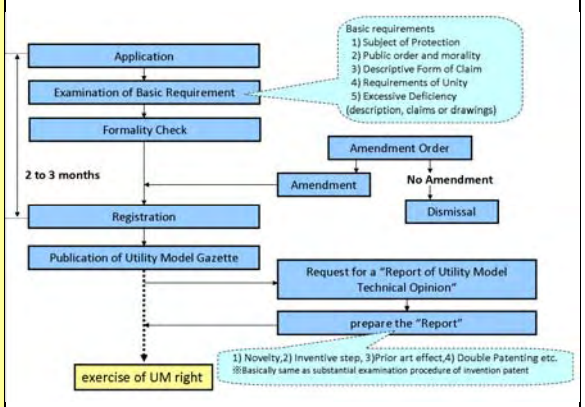
JP-CN-KR Comparative Table of the Utility Model protection
(approved in the 12th trilateral policy dialogue meeting among JPO-SIPO-KIPO)

		Japan	People's Republic of China	Republic of Korea
1. Subject to be protected		The creation of technical ideas utilizing the laws of nature, which relates to the shape or structure of an article or combination of articles and is industrially applicable (Article 1, 2, 3) Article : possesses a certain shape that is fixed spatially, a freely transportable, purpose is clear Shape : external figuration expressed in the line, the surface Structure : constructed spatially and 3-dimensionally Combination : Two or more articles are spatially separated respectively and those have independently fixed structure or shape, value of use is produced where those relate to each other functionally by using those. (GL Part X Chapter2 3.1)	Any new technical solution relating to the shape, the structure, or their combination, of a product, which is fit for practical use (Article 2.2).	The creation of technical ideas utilizing the laws of nature, which relates to the shape or structure of an article or combination of articles and is industrially applicable (Article2 and 4)
		<The purpose of the rule & comment> If such "methods", which cannot be judged externally from programs, chemical substance, drawings, etc., are considered as the subject for grant under the utility model system, it will be difficult for the third party to judge the content of right.	<The purpose of the rule & comment> Utility model is to promote the protection and utilization of minor inventions relating to the improvement of the shape, the structure, or their combination, of a product, and thereby to promote the progress of science and technology. The range of subject matter protected by utility model patent is narrower than that of invention patent.	<The purpose of the rule & comment> Article 1 (Purpose) The purpose of this Act is to encourage, protect and utilize practical devices, thereby improving and developing technology, and to contribute to the development of industry.
2. Terms of protection		A utility model right shall become effective upon registration of its establishment and expire after a period of 10 years from the filing date (Article 14 and 15).	The utility model patent right shall become effective as of the date of announcement. (Article40) The duration of the invention patent right shall be 20 years and that of the utility model patent right shall be 10 years respectively, all commencing from the date of application. (Article42)	(1)The term of a utility model right commences on the date the utility model is registered under Article 21(1) and ends on the date that marks the lapse of 10 years since the filing date of the utility model application. (Article22)
		<The purpose of the rule & comment> The purpose is to protect technologies for early implementation and short-life cycle. Also, we decided it for 10 years taking the applicant's request and international harmonization into account.	<The purpose of the rule & comment> In order to harmonize the interests between the holders of utility model patent and the public, an exclusive right to utilize the utility model for a limited period of ten years is given to the utility model patent holder. The protection term of utility model patent is shorter than that of the invention patent.	<The purpose of the rule & comment> The utility model act aims to recognize a utility model right for a certain period of time to harmonize the interest of a utility model right holder with the interest of the general public by putting a limit on the term of a utility model right as well as to allow the general public to freely exercise the utility model right once the term of the utility model right expires.
3. Legal effect	Right to the holder	A holder of utility model right shall have the exclusive right to make, use, assign, lease, export, import or offer for assignment or lease (including displaying for the purpose of assignment or lease) an article which embodies the device as a business (Article 2 and 16).	After the patent right is granted for an invention or a utility model, unless otherwise provided for in this Law, no unit or individual may exploit the patent without permission of the patentee, i.e., it or he may not, for production or business purposes, manufacture, use, offer to sell, sell, or import the patented products, use the patented method, or use, offer to sell, sell or import the products that are developed directly through the use of the patented method. (Article11)	The owner of a utility model right has an exclusive right to work the registered utility model commercially and industrially. However, where the utility model right is the subject of an exclusive license, this provision does not apply to the extent that the exclusive licensee has the exclusive right to work the registered utility model under Article 100(1) of the Patent Act as applied mutatis mutandis under Article 28 of this Act. (Article23)
	Liability of holder of utility model right	Where a trial decision to the effect that the utility model registration is to be invalidated has become final and binding after the holder of utility model right or exclusive licensee exercised his/her right against, or gave warning thereof to, an Infringer, etc., the holder or exclusive licensee shall be held liable to compensate damage sustained by the Infringer, etc. as a result of the exercise of his/her right or the warning; provided, however, that this shall not apply where the holder or exclusive licensee exercised his/her right or gave warning thereof based on the Utility Model Technical Opinion stated in the Report of Utility Model Technical Opinion or with other reasonable care. (Article 29ter)	No	No
		<The purpose of the rule & comment> Because a right has to be exercised (including 'warning') with more prudent judgment under the non-substantive examination system so as not to abuse any defective right.	<The purpose of the rule & comment> Right to the holder of utility model patent is the same as the holder of invention patent. The holder of utility model patent has the exclusive right to utilize or exploit his patent.	<The purpose of the rule & comment> An exclusive licensee who received an exclusive license from a utility model right holder shall hold the right to exercise the utility model as a business within the scope of the registration.

3. Legal effect	Crime of infringement Crime of fraud Crime of false marking	Infringement imprisonment with work for a term not exceeding five years or a fine not exceeding 5,000,000 yen or combination thereof. (Article 56) (invention; imprisonment with work for a term not exceeding ten years or a fine not exceeding 10,000,000 yen or combination thereof.) Fraud, false marking imprisonment with work for a term not exceeding one year or a fine not exceeding 1,000,000 yen. (Article 57,58) (Invention; fraud and false marking imprisonment with work for a term not exceeding three years or a fine not exceeding 3,000,000 yen.) Crimes of infringement, fraud and false marking are regarded as offenses prosecutable upon no complaint.	Where any person passes off a patent, he shall, in addition to bearing his civil liability according to law, be ordered by the administrative authority for patent affairs to correct his act, and the order shall be announced. His illegal earnings shall be confiscated and, in addition, he may be imposed a fine of not more than four times his illegal earnings and, if there is no illegal earnings, a fine of not more than RMB 200,000 Yuan. Where the infringement constitutes a crime, he shall be prosecuted for his criminal liability. (Article 63). The penal or compensation provisions about infringement or other crime referring to utility model patent is same as invention patent.	Article 45 (Offense of Infringement) (1) A person who infringes a utility model right or exclusive license is liable to imprisonment with labor not exceeding seven years or to a fine not exceeding 100 million won. (2) Prosecution for offenses under paragraph (1) are initiated upon the filing of a complaint by an injured party. Article 48 (Offense of False Marking) A person who violates subparagraphs 1 to 3 of Article 224 of the Patent Act as applied mutatis mutandis under Article 44 of this Act is liable to imprisonment with labor not exceeding three years or to a fine not exceeding 20 million won. Article 49 (Offense of Fraud) A person who fraudulently or unjustly obtains a utility model registration, a decision on a technical evaluation, or an official or trial decision in an opposition to a utility model registration is liable to imprisonment with labor not exceeding three years or to a fine not exceeding 20 million won.
		<The purpose of the rule & comment> Because the utility models are basically regarded as less significant inventions, crimes of the utility models are lighter than those of invention patent.	<The purpose of the rule & comment> Although there is no difference about the provisions referring to infringement or other crime between utility model patent and invention patent, in practice, the people's court may determine the damage or crime depends on the actual factors, such as the type of patent right, the nature and the circumstance of the infringing act.	<The purpose of the rule & comment> A utility model right and exclusive license are devised by the State to protect the utility model and promote its use. However, in order to properly protect and use the utility model right and exclusive license, merely granting people such rights is not enough. Also, in case the system of a utility model right and exclusive license is violated, such preventive measures should be in place. In this sense, the utility model act holds any violation against the system accountable under the civil act as well as promotes the protection of rights.
	Presumption of negligence	No; When a right holder demands compensation for damage from an infringer, it will be necessary to prove that the infringement was intentional or the result of negligence according to the Civil Code (Article 709). There is a Presumption of negligence in the Patent Law (Article 103).	No	Article 30 (Mutatis Mutandis Application of the Patent Act) Articles 126, 128, 130, 131 and 132 of the Patent Act apply mutatis mutandis to protection of the owner of a utility model right. Notes ; Article 130 (Presumption of Negligence) of the Patent Act A person who has infringed a patent right or exclusive license of another person is presumed to have been negligent regarding the act of infringement.
		<The purpose of the rule & comment> Without conducting a substantive examination prior to registration, it is not appropriate to impose on a person skilled in the art a duty of investigating all the registered rights including their validity. Thus, Article 103 of the Patent Law shall not be applied mutatis mutandis.	-	<The purpose of the rule & comment> As for the damage claim in case of infringement of a utility model right, a utility model right holder bears responsibilities of proving negligence of infringers, but acts of negligence are hard to be proven in general. Therefore, the presumption of negligence intends to shift the proof responsibility to infringers by presuming the negligence of infringers based on the public notification of a utility model right in the official gazette of utility model and the utility model register.
4. Examination procedure	Substantial examination before the registration	No	No	(1)An application for utility model registration may be examined only when the applicant requests an examination. (2)Any person who has filed an application for utility model registration may submit a request for an examination to the Commissioner of the KIPO within 3 years of the filing date however, an applicant for utility model registration may request an examination only if a detailed statement specifying the scope of claims for utility model registration is attached to the application. (Article12)
		<The purpose of the rule & comment (reason to adopt the non-substantive examination system)> In order to protect technologies that are implemented at an early stage	<The purpose of the rule & comment (reason to adopt the non-substantive examination system)> To provide a quick, low cost examination procedure to utility model applications.	<The purpose of the rule & comment> Substantive examination is conducted on application requested for examination. The system of request for examination has been introduced together with the system for the laying-open of applications to reduce the backlog of applications of utility model registration. Not all applications of utility model registration need to be registered, such as defensive applications used as tools to prevent others' application from being registered or applications unnecessary to be registered due to the change in technology or the relationship with competitors.

4. Examination procedure	Examination procedure		1.Receiving applications; 2.Classification; 3.Preliminary examination; 4.Grant a patent; 5.Publication	Same as the procedure of patent examination
	Organization	For "Basic requirement" 1. Examination Promotion Office (Utility Model Section) > Classification researchers for examination material (3 persons) pre-check "Basic requirement" > Staff members of UM Section (2 persons) check invitation for amendments and coordinate other related work 2. Examination Department > Patent Examiners (4 persons) who are selected by each department examine "Basic requirement" For "Formality check" Formality Examination Division (not divided between Patent and UM) For "Report of Utility Model Technical Opinion" Patent Examination Departments (not divided between Patent and UM)	Utility model examination department of SIPO	Same as patent examiner.
	Pendency time	Deal with 200 applications per a week (include written amendment); 7 weeks at the earliest from filing to registration (For amendment of description, scope of claims, drawings or the abstract attached to the application, one month from the filing date.)	4~5 months for examination procedure ; 2~3 months waiting for publication	The pendency time of utility model application in KIPO is the same as that of patent application. The yearly average pendency time of patent application in 2011 was 16.8 months.
5. Report of technical opinion	Obligation to present the report of technical opinion	A holder of a utility model right or an exclusive licensee may not exercise his/her utility model right or exclusive license against an Infringer, etc. unless he/she has given warning in the Report of Utility Model Technical Opinion regarding the registered utility model. (Article:29bis)	No related provisions. But in practice, a holder of a utility model patent must offer the evaluation report of the patent when he institutes legal proceedings in the people's court because of dispute of the infringement of the patent right.	No (Already evaluated through substantial examination)
		<The purpose of the rule & comment> In order to avoid giving a third party an unexpected disadvantage as well as to prevent rights being abused, as a result that a utility model right was granted with no substantive examination.	<The purpose of the rule & comment> To prevent abuse of a utility model patent right.	-
	Eligible claimants for the report of technical opinion	Any person may file (Article:12)	A patentee or an interested party of the utility model (Rule 56 of the Implementing Regulations of the Patent Law). "interested party" refers to the person who has the right to file a lawsuit before the People's Court or requests the administrative authority for patent affairs to handle the matter. For example, the license of exclusive patent license contract and the license of common patent license contract who has been authorized right of action by the patentee.	-
		<The purpose of the rule & comment> In order to reduce the surveillance burden on a third party in terms of validity of the right	<The purpose of the rule & comment> Evaluation report of patent is used as evidence for the people's court or administrative authority in hearing or handling the patent infringement dispute. It is not an authorized decision whether or not the patent is valid. Any entity or individual may view or copy the evaluation report of patent.	-

5. Report of technical opinion	Number of request of the report of technical opinion	No limitations（any number of times)	Only once; Where two or more persons request for the evaluation report of patent in respect of a same patent for utility model, the patent administration department under the State Council shall make one evaluation report only. (Rule 57 of the Implementing Regulations of the Patent Law).	-
		<The purpose of the rule & comment> There is a column of "Demandant's opinion" in the report of technical opinion. When a person skilled in the art is not satisfied with the report, the person shall be able to request for another report of technical opinion by attaching his/her own opinion on the original report concerned. It is thus expected in this context that a higher level of the report will be prepared to satisfy the person skilled in the art. In addition, although it is not allowed to exercise a right before the presentation of a report on utility model technical opinion, a request for a report on utility model technical opinion can be made per each claim because a right of utility model can be exercised for each claim. Also, it is possible to add corrections to descriptions, claims or drawings during the period between the registration date of utility model and the lapse of two months after the day of sending an authenticated copy of the report. Therefore, if the number of making a request for a report on utility model technical opinion is restricted to only once, it is likely that a request for a report on utility model technical opinion for the sake of exercising a right(Article 29-2) may occur and problems may arise. Thus, the number of requesting times is not restricted.	<The purpose of the rule & comment> Only the patentee and the interested party could request SIPO to make the evaluation report of the utility model patent. Typically, the patentee or the interested party would not propose or offer evidence or opinion which is unfavorable to their patent right. Where the department undertaking the evaluation report of the utility model patent finds there is any mistake in the report, the department may correct the report on its own initiative. Where the petitioner thinks that in the evaluation report exists any mistake which needs to be corrected, he may request to correct the report. The corrected evaluation report shall be sent the petitioner timely. After the evaluation report is made, other person could view or copy the report.	-
	Contents of the report of technical opinion	The regulation of an application for a utility model registration of relating to -Novelty of publication or internet public known -Inventive step of publication or internet public known -Prior art effect and precedent application (containing patent application) -Registrability report relating to utility model registration (Article 12).	Content involved in an evaluation report of patent for a utility model includes the scope of the: (1)subject matter which is nonpatentable (2)objects fall into technical solutions proposed for the shape and structure of a product, or the combination thereof, which are fit for practical use (3)practical applicability (4)description of the utility model sufficiently disclose the claimed subject matter (5) novelty (6)inventive step and whether the application is in accordance with A26.4, A33,A9 of Patent Law and R20.2, R43.1of the Implementing Regulations of the Patent Law, (3.2.1, Chapter 10, Part5 of the Patent Examination Guidelines)	-
		<The purpose of the rule & comment> In order for the JPO to provide upon request objective materials for judging whether there is any novelty in terms of those prior art documents which are difficult to be judged between parties. In addition, this is not intended to influence the effects of rights.	<The purpose of the rule & comment> In order to make the patentee or the courts understand the validity of the patent, the evaluation report of patent analyzes and evaluates whether the relevant utility model patent is in accordance with all the substantive requirements not only the novelty and inventiveness.	-
	Open to public inspection or not	Anyone can access. Accessible on-line as well.	Any entity or individual may view or copy the evaluation report of patent. (Rule 57 of the Implementing Regulations of the Patent Law)	-
		<The purpose of the rule & comment> In order to reduce the surveillance burden on the third parties relating to the validity of rights	<The purpose of the rule & comment> Any entity or individual could access to the evaluation report of the relevant patent of utility model and get known about the validity of the patent.	-

6. Third party Observation		Any person can offer information, such as distributed publications against an application for utility model registration, or utility model registration (Article 22 of the regulations under Utility Model Act) Examiners must fully consider contents of offered information, which is avail able at the time of preparation of are port of utility model technical opinion. (GLPart X Chapter1 6.(2))	No related provisions. But in practice, if there exists information offered by third party, the information will be considered during the examination procedure or in the process of making the evaluation report of a utility model patent.	After a patent application has been filed, any person may provide the Commissioner of the KIPO with information and evidence of a ground for rejecting the patent application. (Article63bis)
		<The purpose of the rule & comment> In order to improve the timely and accelerated preparation of a report on technical opinion	<The purpose of the rule & comment> In order to examine the applications or make the evaluation reports more objectively, correctly and timely, in practice, the examiners would consider the information offered by the third party.	<The purpose of the rule & comment> The provision of information refers to the examination process conducted by the general public to prevent unpatentable articles from being granted utility model rights. This system contributes greatly to the improvement of examination quality by allowing the person who knows the ground for unpatentability of the concerned article to provide the exact ground.
7. Inventiveness standard of utility model		Where, prior to the filing of the application for a utility model registration, a person ordinarily skilled in the art of the device would have been exceedingly easy to create the device based on a device prescribed in any of the items of the preceding paragraph, a utility model registration shall not be granted for such a device notwithstanding the preceding paragraph. (Article 3(2)) In reference to the manner of the Examination Guide lines for inventive steps of patent applications, whether or not a claimed device involves inventive steps must be determined by ... (GL Part X Chapter1 4.(2))	Inventiveness means that, as compared with the prior art, the invention has prominent substantive features and represents a notable progress, and that the utility model has substantive features and represents progress. The difference in requirement of inventive step for a utility model and for an invention is mainly indicated by whether there exists a technical teaching in the prior art. In determining whether there exists a technical teaching in the prior art, a utility model differs from an invention in two points: field for prior art references; number of prior art references.	Article 4 (Requirements for Utility Model Registration) (1) A utility model may be granted for devices that are industrially applicable and relate to the shape or structure of an article or a combination of articles, unless they fall under either of the following subparagraphs: (i) devices publicly known or worked in the Republic of Korea before the filing of the utility model application; or (ii) devices described in a publication distributed in the Republic of Korea or in a foreign country before the filing of the utility model application or made available to the public through electronic telecommunication lines under Presidential Decree. (2) Not with standing paragraph (1), where a device could easily have been made before the filing of the utility model application by a person with ordinary skill in the art to which the device pertains, on the basis of a device referred to in either subparagraph of paragraph (1), a utility model registration may not be granted to that device.
		<The purpose of the rule & comment> At the time of establishment, as an industrial policy, difference was made to the provision of the Utility Model Law to protect small inventions that are not subject of protection by the Patent Law, in view of the fact that compared to foreign technology, technology level of Japan was low and existing technology was mainly improved technology. However, the difference of provisions is not something where a quantitative boundary line can be set in the first place. Therefore, after the Utility Model Law was enacted, the filing trend greatly changed and there was practically no actual difference between technology filed and examined for the patent system and utility model system in practice. Thus, at present, there is no great difference between the provisions.	<The purpose of the rule & comment> Utility model system is a second tier protection regime and a supplement to invention patent system. It offers protection to minor inventions or improved inventions of which the inventiveness is not up to the standard of the invention patent, so the law provides that the standard of inventiveness of utility model patent is lower than that of invention patent.	<The purpose of the rule & comment> The purport of Article 4 paragraph (2) of the Utility Model Act is not to grant a utility model registration to articles that could be easily made by a person skilled in the art because granting a utility model registration to such an article that does not contains any inventive step in technology compared to a prior art is against the objectives of the utility model system and not only gives an exclusive right to an inventor, but also even hampers the technical progress due to the limitation of accessing the technology by a third party.
8. Simultaneous filing or Conversion of patent and utility model application	Simultaneous filing of patent and utility model application	Only one of the applications, selected by consultations between the applicants, shall be entitled to obtain a patent or a utility model registration (Patent Act Article 39(4)). Where a trial decision to the effect that an utility model is to be invalidated has become final and binding, the utility model right shall be deemed never to have existed (Patent Act Article 125 as applied mutatis mutandis under Article 41(of Utility Model Act)).	Only one patent can be granted for the same invention. However, where the same applicant applies for a utility model patent and an invention patent with regard to the same invention on the same day, if the utility model patent acquired earlier is not terminated yet and the applicant declares his waiver of the same, the invention patent may be granted. (Article9)	(2)Where two or more applications related to the same device are filed on the same date, only the person agreed upon by all the applicants after consultation may obtain a utility model registration for the device. If no agreement is reached or no consultation is possible, none of the applicants may obtain a utility model registration for the device. (Article7-2)
	Conversion of application - from patent to utility model	Yes. Except for the following cases -After the expiration of 3 months from the date the certified copy of the examiner's initial decision to the effect that the patent application is to be refused has been served and after the expiration of 9 years and 6 months from the filing date of the patent application (Article 10).	No; But within twelve months from the date on which any applicant first filed in China an application for a patent for invention or utility model, he or it files an application for a patent or the same subject matter, he or it may enjoy a right of priority. (Article 29); Where the domestic priority is claimed, the earlier application shall be deemed to be withdrawn from the date on which the later application is filed. (Rule 32.3)	A patent applicant may convert a patent application to an application for utility model registration within the scope of matters stated in the description or drawing initially attached to the patent application; however, the conversion to an application for utility model registration is not permitted if more than thirty days have elapsed since the date on which a certified copy of refusal of the patent application was initially served. (Article10)

8. Simultaneous filing or Conversion of patent and utility model application	Conversion of application - from utility model to patent	Yes. Except for the following cases -After the expiration of 3 years from the filing date of the utility model registration application (Patent act Article 46).	No; But within twelve months from the date on which any applicant first filed in China an application for a patent for invention or utility model, he or it files an application for a patent or the same subject matter, he or it may enjoy a right of priority. (Article 29) Where the domestic priority is claimed, the earlier application shall be deemed to be withdrawn from the date on which the later application is filed. (Rule 32.3)	(1) An applicant who files a utility model registration application may convert the utility model registration application to a patent application within the scope of the matters disclosed in the description or drawing(s) originally attached to the written application of the utility model registration application. However, the applicant may not convert the application if thirty days have elapsed since the date on which the person received a certified copy of the first decision to reject the utility model registration application. (Patent Act Article53)
	Patent Application Based on Utility Model Registration	Yes. Except for the following cases (i) where 3 years have lapsed from the date of filing of an application for the said utility model registration; (ii) where a petition requesting the examiner's technical opinion as to the registerability of the utility model claimed in the utility model registration application or of the utility model registration, (in the following paragraph simply referred to as "utility model technical opinion"), is filed by the applicant of the utility model registration or the utility model right holder; (iii) where 30 days have lapsed from the date of receipt of initial notice under Article 13(2) of the Utility Model Act pertaining to a petition requesting the utility model technical opinion on the application for the utility model registration, or on the utility model registration filed by a person who is neither the applicant of the said utility model registration nor the said holder of Utility Model right; and (iv) where the time limit initially designated under Article 39(1) of the Utility Model Act for a utility model registration invalidation trial filed against the said utility model registration under Article 37(1) of the Utility Model Act has expired. (Patent act Article 46 bis).	No; But within twelve months from the date on which any applicant first filed in China an application for a patent for invention or utility model, he or it files an application for a patent or the same subject matter, he or it may enjoy a right of priority. (Article 29); Where the domestic priority is claimed, the earlier application shall be deemed to be withdrawn from the date on which the later application is filed. (Rule 32.3)	No
		<The purpose of the rule & comment> In regards to revisions, due to the reasons that applicants make mistakes in choosing an application format (patent application, application for utility model registration or application for design registration), or that applicants have changed their business plans after filing the applications, there may be a possibility that applicants would wish to change their application formats to other more favorable ones after filing applications. Accordingly, revisions of their application formats would be approved, and new applications could be considered to be the same applications as the original ones. In regard to patent applications based on utility model registrations, applications for utility model registration could be changed to patent applications. This is a system available for selecting an acquisition of patent rights for the same technology when the situations concerning technological trends, etc. have changed after acquiring utility model rights.	<The purpose of the rule & comment> Dual grant of the same invention is not permitted. The provision of Article 9 allows the applicant get utility model patent earlier and so protect his invention earlier. Then he could abandon the utility model patent as to acquire the invention patent for the same invention.	<The purpose of the rule & comment> Conversion of an application is designed to convert the original application into more favorable type of an application, retaining the filing date of the original application, when the applicant has incorrectly chosen application formalities (patent, utility model) because he/she has hurriedly filed the application under the first-to-file rule, misunderstood the patent system, or it was difficult for the applicant to define subject matter for which an application was filed.

9. Period for amendment of description, scope of claims, drawing(s) or the abstract attached to the application	For amendment of description, scope of claims, drawing(s) or the abstract attached to the application, one month from the filing date. Other, while the case is pending (Article 2bis, Article 1 of the order for Enforcement of Utility Model Act).	Within two months from the filing date, the applicant for a patent for utility model may amend the application for a patent for utility model on its or his own initiative(Rule 51 of the Implementing Regulations of the Patent Law). If the applicant receives the notification of opinions of the examination, he or it shall make the amendment directed to the defects pointed our by the notification in a time limit specified by the examiner in the notification. This specified time limit shall be in general two months, sometimes one month.	(1) An applicant may amend the description or drawing(s) attached to a written patent application within the period designated in any of the subparagraphs of Article 42(5) or before the examiner issues a certified copy of a decision to grant a patent under Article 66. However, after an applicant received a notification of the grounds for rejection under Article 63(1) (hereinafter “a notice of the grounds for rejection”), the applicant may only amend the description or drawing(s) within the periods (in the case of subparagraph (iii), at the time of a request for reexamination) designated in the following subparagraphs: (Patent Act Article 47 as applied mutatis mutandis under Article 11(of Utility Model Act))
	<The purpose of the rule & comment> The reason the period of time allowed for making amendments before registration was limited to within one month from the filing date was that during the period amendments can be made, description and drawings that determine the content of rights are not finalized and therefore it is necessary to wait for registration. If a long period is allowed, it will cause a delay in registrations which is contrary to the objective of the system of providing protection of rights at an early date.	<The purpose of the rule & comment> In order to ensure the efficiency of the examination procedure, this provision provides a limited period for the applicant to amend his application. While the application is pending, the applicant should amend his application according to the notification of the examiner in an appointed time limit.	<The purpose of the rule & comment> The amendment system of the description or drawing(s) is designed to address incompleteness of a description generated while an application of utility model registration is hurriedly filed under the first-to-file rule where the first person to file a utility model application for the same device is granted the utility model right for the device, and to draw measures to protect the rights of the applicant. Where a description is amended during the designated period or under the specified conditions after filing the application, the amendment shall take effect retroactively to the original filing date. In the meantime, if an amendment was made after the start of an examination, invalidation of examination results and examination delay would be possible. Therefore, the amendment shall be freely carried out before the start of the examination for the smooth progress of the examination. However, after an official notice of reasons for rejection, the amendment period is strictly limited to prevent a delay in the examination process. Moreover, if a device not set forth in the description or drawing(s) was added after the amendment, the newly-added content would unfairly take effect retroactively to the original filing date. This is against the first-to-file rule and is likely to do an unexpected damage to a third party, and therefore, the scope of amendment is strictly limited.
10. Division of application	An applicant for a utility model may extract one or more new utility model applications out of an utility model application containing two or more devices only within the following time limits: (1)within the allowable time limit for amendments of the description, scope of claims or drawings attached to the application (one month from the filing date, Article 1 of the order for Enforcement of Utility Model Act); (2)within 30 days from the date on which a certified copy of an utility model is to be granted has been served; and (3)within 30 days from the date on which a certified copy of the examiner's initial decision to the effect that the application is to be refused has been served (Patent Act Article 44 as applied mutatis mutandis under Article 11(of Utility Model Act)).	Where an application for a patent contains two or more utility models, the application may, before the expiration of the time limit provided for in Rule 54, paragraph one of the Implement Regulations, submit to the patent administration department under the State Council a divisional application.(Rule 42); The applicant shall file a divisional application no later than the expiration of two months from the date of receiving the notification to grant patent right to the initial application issued by the Patent Office. After the expiration of the above time limit, or where the initial application has been rejected, or the initial application has been withdrawn, or is deemed to have been withdrawn and the right has not been restored, no division application shall be filed in general. (5.1.1, Part one, Chapter one, Guidelines for patent examination)	(1) An applicant who files a utility model registration application may convert the utility model registration application to a patent application within the scope of the matters disclosed in the description or drawing(s) originally attached to the written application of the utility model registration application. However, the applicant may not convert the application if 30 days have elapsed since the date on which the person received a certified copy of the first decision to reject the utility model registration application. (Patent Act Article 53 as applied mutatis mutandis under Article 11(of Utility Model Act) and Patent Act Article 132ter as applied mutatis mutandis under Article 33(of Utility Model Act))
11. Grace period	Devices that were publicly known against the will of the person having the right to obtain an utility model registration, or as a result of an act of the person having the right to obtain an utility model registration, such devices shall be deemed not have been publicly known (Applied to the application in which filing date is April 1, 2012 or later. (Patent Act Article 30 as applied mutatis mutandis under Article 11(of Utility Model Act))	Within six months before the date of application, an invention for which an application is filed for a patent does not lose its novelty under any of the following circumstances: (1) It is exhibited for the first time at an international exhibition sponsored or recognized by the Chinese Government; (2) It is published for the first time at a specified academic or technological conference; and (3) Its contents are divulged by others without the consent of the applicant. (Article24)	(1) Where a device that belongs to a person with the right to obtain a utility model registration falls under any of the following subparagraphs, the device is not considered to fall under either subparagraph of Article 4(1) where Article 4(1) or (2) applies if the utility model application is filed within six months of the applicable date: (i)where a person with the right to obtain a utility model registration causes the device to fall under either subparagraph of Article 4(1); however, this provision does not apply if an application is laid open or the registration is published in the Republic of Korea or in a foreign country in accordance with a treaty or applicable law. (ii)where the device falls under either subparagraph of Article 4(1) against the intention of the person with the right to obtain a utility model registration; (Article5)