

(1) Use of the appeal/trial system, and issues to be discussed**[1] Use of the appeal/trial system**

- ① Appeals (appeals against examiner's decisions of rejection, and appeals against examiners' decisions to decline amendments)

The number of appeals in 2000 decreased in respect of designs and trademarks, but increased for patents.

·Paperless system

Procedures for appeals (including examiner reconsideration before appeals) from the application stage are lengthy, and since there was a great need both inside and outside the JPO for transforming such lengthy paper procedures into a consistently paperless process, an appeal/trial paperless system was launched in January 2000 simultaneously for patent, utility model, design and trademarks laws and concurrently with paperless procedures for designs and trademarks.

·Accelerated appeal examination system

For appeals against examiner decisions of rejections which satisfy specific requirements, the accelerated appeal examination system is employed to start early examinations of appeals based on motions.

For patents and utility models, requirements for early appeal examinations were eased in July 2000 and the Explanation of Circumstances concerning Accelerated Appeal/Trial Examination was simplified to render the system more convenient to use.

- ② Inter-parte trials (trials for invalidations, trials for corrections, trials for revocations, and advisory opinions on the technical scope of patented inventions)

The number of inter-parte trials is increasing with the increase in recent years of intellectual property rights disputes. Examinations of these trials are given precedence since they often relate to intellectual property right disputes such as infringement suits.

From July 2001, the so-called "planned proceedings" has been experimentally introduced to carry out each /trial examination according to the schedule established for the trial from invalidation until the transmission of trial decision.

- ③ Oppositions

The number of oppositions decreased overall in recent years. Since the system was

of Intellectual Property Disputes

changed in 1996 to allow post grant oppositions, it is estimated that oppositions have been more carefully considered.

[2] Issues to be discussed

① Substantiation of the contents of appeal/trial examinations

One of the essential duties of the JPO is to grant stable industrial property rights. It is therefore necessary to carry out appeal/trial examinations very precisely. Particular measures will be taken in the future regarding issues relating to the substantiation of the contents of appeal/trial examinations such as those described in "appeal/trial decisions supported in suits against the appeal/trial decisions" and "precise judgments based on the demands of the parties concerned".

(Reference) The Percentage of unaccepted appeals against examiners' decisions of rejections = (number of decisions - number of accepted appeals)/number of decisions

Time	First half of 1999	Latter half of 1999	First half of 2000	Latter half of 2000	First half of 2001
Percentage(%)	29.6	31.1	32.9	39.3	41.1

② Realization of prompt appeal/trial examinations

Inter-parte trials and oppositions are given precedence according to such issues as their social importance. Since this situation is unlikely to change, they will continue to be given such precedence. Furthermore, attention will be paid to the length of the appeal/trial examination periods in appeal cases.

For inter-parte trials for invalidations, since especially careful control of the trial period is needed, the idea of planned proceedings will be introduced for control of the appeal/trial examination period.

③ Improvement of the dispute settlement function

A framework for improving the dispute settlement function of the appeal/trial system is being constructed, including improvement of the advisory system on the technical scope of patented inventions, the creation of a system for part-time expert witnesses, execution of information exchanges with courts, the utilization of the dispute settlement function of oral appeal/trial proceedings, and experimental introduction of planned

appeal/trial proceedings. Upon the realization of this scheme, discussion will take place on how the efficiency of the dispute settlement function can be further improved.

④ Perfection of the appeal/trial examination environment

In the process of digitizing patent administration information as a whole, the appeal/trial examination environment based on digitalized information will be perfected and administrative services will improve. Measures will also be taken to allow ease of access for full utilization of the functions available in the appeal/trial examination system.