Government Efforts in Intellectual Property Activities
With ongoing globalization of the economy, Japan is under intensified international competition. In order for Japan to further achieve sustained economic growth under such circumstance, it is important to "promote innovation," and intellectual property strategies hold the key.

In February 2002, the (then) Prime Minister Junichiro Koizumi announced, in his policy speech, a national goal of making Japan an intellectual property-based nation. Since then, with the aim of achieving the goal, all government ministries and agencies have been making intense and expeditious efforts. In July 2002, the Intellectual Property Policy Outline was formulated, and in December of that year, the basic concept of activation of an intellectual creation cycle was established in accordance with the Intellectual Property Basic Act. In March 2003, the Intellectual Property Policy Headquarters, headed by the former Prime Minister Junichiro Koizumi, was established, and in July 2003, the Strategic Program for the Creation, Protection and Exploitation of Intellectual property (Intellectual Property Strategic Program) was adopted. Following the yearly reviews, at present, the Intellectual Property Strategic Program 2008 has been adopted. Furthermore, the Economic Growth Policy Outline, revised on June 19, 2007 and reported to the Council on Fiscal and Economic Policy, includes a goal of "promotion of expeditious and global patent acquisition and enhanced protection/utilization of intellectual property," thus regarding promotion of efforts such as the international harmonization of patent system and the international work sharing for patent examination as a goal to be achieved by the whole government.

In order to achieve these national strategies, the Ministry of Economy, Trade and Industry (METI), which plays a central role in intellectual property measures, is giving its total efforts to promoting the measures encompassing all areas. On January 29, 2007, METI established the "Headquarters for Expeditious and Efficient Patent Examination," headed by Minister Amari, where they formulated the "Advanced Measures for Accelerating Reform toward Innovation Plan in Patent Examination 2007 (hereinafter referred to as the "AMARI Plan 2007") consisting of four intensive measures: i) promotion of global patent acquisition and strengthening of protection of intellectual property; ii) further efforts by the JPO for acceleration and efficiency promotion of examination; iii) promotion of strategic intellectual property managements in enterprises; and iv) strengthening of support for intellectual property utilization of region / medium and small-sized enterprises. In response to this plan, also at present, various efforts are promoted. In addition, due to the economic globalization, advancement / complication of technology and further development of Information Technology (IT), the number of patent applications of the world has surged and the open innovation has grown, so that the situation around intellectual property in the world has been largely changed in recent years. For responding to such a change in the situation, the METI established "Policy Committee on Innovation and Intellectual Property" since December 2007 and is now investigating the future at which the

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1 Advanced Measures for Accelerating Reform toward Innovation Plan in Patent Examination
intellectual property system of the JPO should aim and is promoting the efforts to establish the intellectual property system for the innovation promotion.

2. Intellectual Property Strategic Program 2008

(1) Review by the Intellectual Property Strategy Headquarters

In March, 2003, in order to make Japan an intellectual property-based nation, the "Intellectual Property Strategy Headquarters" headed by the Prime Minister and comprised of all the cabinet members including the Prime Minister and experts, has been established. Under the Headquarters, a specialized research council for investigating specifically the important policy task is established and on the basis of the investigation in the specialized research council and the situation of the efforts of each ministry, in every year, mainly the experts compiles the "Intellectual Property Strategic Program" in the Headquarters.

(2) Developments in Intellectual Property Strategies

Hitherto in Japan, since the then Prime Minister Junichiro Koizumi's policy speech in February 2002, with the aim of achieving an intellectual property-based nation, the government has implemented measures in rapid succession, as seen in the establishment of the Strategic council on Intellectual Property, the formulation of the Intellectual Property Policy Outline, the enactment of the Intellectual Property Basic Act, and the establishment of the Intellectual Property Policy Headquarters.

In the three-year period from the enforcement of the Intellectual Property Basic Act to 2005, Phase I, the government improved various intellectual property systems and the frameworks for supporting them. In Phase II, the government, for enhancing the international competitive edge utilizing further the intellectual property, is aiming at achieving the most advanced intellectual property-based nation in the world, while producing material results from the reforms developed in the first term. 2008 falls under the last year of the Phase II.

(3) Basic Concept of "Intellectual Property Strategic Program 2008" -Enhancement of intellectual property strategy with the world in view-

To enhance the international competitive edge, it is considered necessary that Japan achieves a larger and stronger "Intellectual Creation Cycle" with it's eyes set on the world more than ever before, in other words, Japan enhances the efforts for the "development of intellectual property frontier" in which Japan challenges the most advanced R&D (creation), establishes a system for protecting appropriately the advanced technology (protection),
and challenges the expansion of a new market (utilization).

Under such recognition, the "Intellectual Property Strategic Program 2008" states the effort to "enhance the intellectual property strategy with the world in view" with the "furthermore enhancement of Japan's international competitive edge in the priority strategic fields", the "enhancement of the development into the international market" and the "exhibition of the leadership in the efforts for the global common issues and various issues of Asia" as three bases, by understanding comprehensively the intellectual property strategy from the international viewpoint in the progression of a rapid globalization of the business development.

The Intellectual Property Strategic Program 2008 contains the measures to which the effort should be made with particularly putting the energies based on the above three bases as the "paragraph for priority issues". The major points of the "paragraph for priority issues" are as follows.

I. Enhancing furthermore Japan's international competitive edge in the priority strategic fields

I. Leading the world in advanced technology fields, which will be led to the innovation of the whole society

(1) Securing the untrodden basic patent and promoting strategically the innovative technology development

It is important to create a landmark intellectual property capable of leading the world, to secure the assets thereof as the basic patent and to link the patent to the enhancement of the growing strength of Japan.

Therefore, the efforts will be strategically made to the development of the innovative technologies, such as the technologies contributing to the enhancement of the international competitive edge of the Japanese industries and the environment / energy technologies, the technologies contributing to the construction of the healthy society including the regeneration medicine technology utilizing the iPS cell and the technologies contributing to the guarantee of security of Japan and the World by overcoming the constraints of food, resource etc., which were shown in the "innovative technologies strategy" formulated by the Council for Science and Technology Policy in May of this year. Simultaneously, in order to generate continuously the innovative technology, the basic research will be strategically promoted so as to enable an efficient acquisition of the basic patent.

<Specific Countermeasures>

- Accelerating R&D related to the innovative technology
  Establishing the "expense for promoting the innovative technology" for the mobile fund infusion by the Government.

- Promoting original / innovative researches
  Increasing the support for the high-risk research and the research of fusing the knowledge in different fields, for example by setting the "quota for the great challenge research" in the competitive fund system.

- Making the basic researches the strategic priority issues
  Adding the item related to the intellectual property strategy to the selecting standard of the competitive fund system (objective basic research).

(2) Linking performance of basic research to international business development by strengthening technology transfer system

With respect to a breakthrough invention such as a research related to the iPS cell, not only for securing the basic patent at home and abroad, but also for linking to the commercialization, it is necessary to make the related technologies and applied technologies to the intellectual properties. For this purpose, it is required to establish a system for linking the research performance to the creation of a new innovation by mobilizing all available resources of the government-academia-industry.

Further, in order to link the performance of the basic research widely and actively to the international business
development, the functions of the university intellectual property headquarters and TLO will be radically enhanced and it will be promoted to advise the researchers in an early stage of R&D with an eye to making the intellectual property in the future, to make the obtained performance to the intellectual property, to form the patent portfolio and further to act as a bridge to the industry etc. for the commercialization of the intellectual property.

<Specific Countermeasures>

- Establishing comprehensive support system for accelerating R&D and commercialization of iPS cell

The support system for the accurate making-intellectual property and commercialization of the iPS cell research performance by the nation-wide efforts will be established.

- Enhancing function of university intellectual property headquarters and TLO

It will be promoted to formulate and implement "comprehensive intellectual property strategy" from the intellectual property creation and the utilization of the performance thereof, to review the track record according to a middle-term business plan, and to promote the efficiency of the organization including the integration thereof. The university etc. making efforts to the strategic intellectual property activity will be supported.

- Strengthening support for venture business emerging out of university

Taking a legal action for enabling the enforcement of the stock option which a national university person in law has acquired as the consideration of the license.

(3) Backing-up new market creation by new technology-innovation

While innovative technologies have been developed one by one, in order to develop the whole economic society of Japan, it is important that the concerned technologies are appropriately protected by the intellectual property right. By revising ceaselessly the intellectual property system and at this time, in order for the right to be granted promptly and accurately, the quality enhancement and acceleration of the patent examination will be strongly promoted.

<Specific Countermeasures>

- Investigating what the protection in advanced medicine field including iPS cell-related technology ought to be

- Starting to investigate what the appropriate patent protection in advanced medicine field including iPS cell-related technology ought to be

- Promoting the flexible patent examination corresponding to various needs of the applicant

Conducting a pilot program of the super-accelerated examination system further more accelerated than the current accelerated examination system

2. Making further more use of world’s best information infrastructure

(1) Enhancing efforts for the open innovation by improving radically information access

Following the progression of the open innovation, the efforts for the open innovation conducting from the technology development to the commercialization by utilizing globally the resources at home and abroad, are progressing world-wide. The situation is now such that the success or failure of the strategic utilization of the intellectual property is directly linked to the competitive edge of the enterprises and the whole economic society more than ever. Also in the industry of Japan under an exact competitive situation, the efforts with indomitable resolve are required.

Japan possessing world’s best information infrastructure, has advantageous conditions for promoting the open innovation, such as prompt collection and analysis of the external information and active transmittance of information within the own company. Therefore, by making full use of such advantageous conditions to encourage the industry to establish an advanced intellectual property strategy corresponding to the open innovation and
by converting the intellectual property law institution including the Copyright Act into that corresponding to the
digitalization and the networking, the necessary improvement of the environment to be able to accelerate the
efforts of the industry will be promptly conducted.

<Specific Countermeasures>

- Promoting intellectual property strategy appropriate to open innovation in enterprise
- Solving legal problems for facilitating information utilization in R&D
  
  Taking the legal action for enabling the replication etc. caused in the process of the information collection and
  utilization for the R&D related to the innovation creation by the science and technology.
- Enhancing convenience of search system for the information integrating patent information and academic
  information
  
  Enhancing the convenience of "Patent/paper information integrating search system" and familiarizing the system
to the public

(2) Forming virtuous cycle between creation and circulation of digital contents and developing world leading
contents industry

Due to the digitalization and networking of information, now is an age in which irrespective of the type of
the terminals such as TV, radio etc., the contents can be enjoyed without limitation of time and place. Already in
Europe and U.S., irrespective of the TV program and the type of the terminals, the contents can be viewed through
the internet at any time. Further, such a new business named "Moving image sharing cite" that any one can become
creator has been generated.

In order for Japanese contents industry to make use of such a chance, it is required that the industry itself
challenges daringly the establishment of a new business model. The government will pursue the formulation of a
new contract rule supporting this challenge and the improvement of the intellectual property system such as the
Copyright Act etc. and with a rapid technological development expected in the future in view, the government will
establish a system capable of coping promptly and flexibly with legal problems having a fear of becoming a hindrance
in the development of a new business model.

<Specific Countermeasures>

- Supporting new business of digital contents
  
  Promoting the utilization of the technical means for the package licensing conclusion between the contents
sharing service undertaker and the right holder and for purging the illegal contents. Investigating the indirect
infringement of the copyright.
- Improving intellectual property system for supporting promotion of contents industry corresponding to digital
  and net age
  
  Investigating what the intellectual property system capable of coping with the technical progression etc.
including the introduction of a framework for the circulation promotion with the utilization forms of new contents
in view and of a comprehensive regulation for the right limitation, ought to be.

II. Strengthening development in international market

I. Improving international market environment

(1) Enhancing countermeasure against counterfeiting goods and piracy

While the economic globalization in which persons, things, moneys and information move beyond the border is
progressing, it is required to improve the environment in which the Japanese enterprises etc. can easily conduct the
activity in the international market.

The circulation of the counterfeiting goods and piracy distorts the competition between the undertakers, robs the profit which the right holder should essentially earn, and makes new intellectual creation reluctant. The circulation of counterfeiting goods and piracy in overseas including in Asian countries shows no sign of significant decrease and on the internet through which the information is circulated at once beyond the border, the damage by the piracy has increased. Therefore, countermeasures against the counterfeiting goods and piracy in the overseas and the piracy on the internet will be strengthened.

<Specific Countermeasures>

• **Strengthening countermeasure against piracy on internet**

   The Japanese government will work on the government of other countries for the purge of illegal contents on the moving image sharing site in the overseas.

• **Supporting piracy countermeasure collaborated by provider and right holder group**

   Supporting the efforts for sending the warning mail against the person sending the file with infringing the copyright by using the file sharing software.

2. Responding to international trademark issues

   It is considered that when a place name etc. of Japan which can become a brand name of the Japanese product or a Japanese generic name is registered to the trademark in the foreign countries, there can be a case where the business development of the Japanese undertaker in the concerned country might be hindered.

   Therefore, while paying attention to the influence on the trademark system of Japan, the specific countermeasures for the issue in which the Japanese place name is registered to the trademark in the overseas will be taken.

<Specific Countermeasures>

• **Working on improvement of system to protect place names or famous trademarks of Japan**

   The improvement of the system and operation for the public-known standard for the name of production place will be worked on each country so that the trademark registration of the production place name of product, generic name etc. of a foreign country or the registration of a foreign famous trademark for an illegal purpose will be appropriately refused or cancelled.

• **Supporting right protection and ex post facto countermove for trademark in overseas**

   In order to support the trademark registration in the overseas, the application procedure information of the concerned country will be provided to the undertaker etc. The countermove manual when the Japanese place name has been registered in the overseas will be formulated and propagated.

2. Accelerating development in overseas

(1) **Strengthening Japanese brand transmitting power**

   In recent years, the Japanese culture and life style rooted in the ingenuity, tradition and harmonization with nature is being widely accepted in the overseas. Based on such a situation, the trans-fields Japan Brand including besides the cuisine culture, fashion and region brand which are the performance of the Japanese excellent life style, the contents and such as the animation, comics, games etc. traditional culture will be established and be transmitted widely to the world, which also leads to the image enhancement of Japan. On the other hand, the image of Japan which the peoples in the overseas have, is varied depending on the region of the overseas, therefore, for making the Japan Brand to penetrate, a countermeasure corresponding to each region and each objective will be taken.

<Specific Countermeasures>
• Establishing Japan Brand strategy corresponding to region and objective

In order to transmit the Japan Brand trans-fields to the world, the strategy corresponding to the region and objective will be established and the action plan therefor will be formulated under the collaboration of the concerned government ministries.

(2) Promoting international right acquisition

In accelerating the development of the enterprises etc. in the oversea, it is necessary to improve the environment to be able to acquire easily the intellectual property in the foreign countries. For this purpose, the consistency of the intellectual property system among countries will be furthermore promoted, as well as the load of the university and the medium and small-sized enterprises for the international application will be alleviated.

• Promoting world-wide facilitation of examination by expanding international work sharing

Expanding the objective Offices of the Patent Prosecution Highway and introducing "JP-FIRST" (mechanism in which the examination of the application to be filed in Offices of overseas will be started accelerated by the JPO).

III. Exhibiting leadership in efforts for world’s common issues or Asian various issues

1. Assuming leading role in field for which the world should collaborate, such as International Standard.

○ Enhancing efforts for international standardization

In order to propagate the technology useful for the development of a new market or the society, Japan will assume the leading role in the region in which the world should collaborate such as enhancing the efforts for the international standardization by making use of the Japanese technology.

<Specific Countermeasures>

• Encouraging implementation of action plan by industry itself

Implementing steady "International standard comprehensive strategy". Formulating the action plan corresponding to the characteristics or actual circumstances of each industry field and conducting the follow-up according to each implemented situation.

• Enhancing efforts for developing international standard human resources

Considering the establishment of a screening system for the standardization etc. and taking the countermeasures necessary therefor.

2. Fulfilling actively role which Japan should assume in Asia

○ Supporting introduction and propagation of intellectual property system

In order to promote the active business activity of the Japanese enterprises in Asia region maintaining a high economical growth, Japan will furthermore support the introduction and propagation of the intellectual property system in Asian countries where the system has not yet been satisfactorily improved. At this time, since for the introduction and propagation of the system, the development of the intellectual property human resources in each country is inevitable, Japan will actively collaborate as the basis for developing the intellectual property human resources of Asia.

<Specific Countermeasures>

• Supporting development of resources for intellectual property in Asian countries

Practicing the support related to the development of human resources for administration officials and private enterprises etc. of Asian countries making actively effort to protect or utilize the intellectual property right.

• Working on Asian countries to introduce early copyright system

Working on Asian countries to join to the copyright-related treaty or supporting the propagation and
improvement of the copyright system.

The concerned plan consists of three parts such as the above-described "paragraph for priority issues", "main part" showing various measures, enforcement agencies etc., and "attached material" introducing technical committee members, the story until the formulation of "Intellectual Property Strategic Program 2008" etc. Particularly, "main part" is divided into each field such as "Chapter 1 Creation of intellectual property", "Chapter 2 Protection of intellectual property", "Chapter 3 Utilization of intellectual property", "Chapter 4 Development of culture creating nation making use of contents" and "Chapter 5 Development of human resources and enhancement of national consciousness", so that the constitution is such that the main concept of the measures can be understood at one view.

**Column -" Policy Committee on Innovation and Intellectual Property "-**

Recent years have witnessed drastic changes in the environment surrounding the intellectual property (IP) system such as economic globalization, sophistication of high-technology, and development of open-innovation. Against this backdrop, active discussions have been held on a desirable IP policy all around the world.

In the U.S., for instance, various discussions have been held in industrial and academic circles about enhancement of patent quality, upsurge in filings, and increase in litigation costs. These discussions have led to a report issued by the Federal Trade Commission (FTC) in October 2002 and a report published by the National Research Council (NRC) in April 2004. In addition, the U.S. Supreme Court has issued a series of epoch-making decisions. And the Congress is considering Patent Reform Act of 2007.

In Europe, the European Patent Office (EPO) published the scenario for the future of IP system in the world. Also, the World Intellectual Property Organization (WIPO) and other international fora have been having animated discussions about roles expected of IP for the growth of developing nations.

Japan has been working to encourage innovations based on its pro-patent policy. A discussion from a global perspective on a new IP policy that can keep up with the recent changes is essential to further promote innovations in the drastically changing environment surrounding the IP system.

For this purpose, the Policy Committee on Innovation and Intellectual Property (PCIIP) was set up on December 18, 2007. The Policy Committee discussed Japan’s desirable IP policies from different angles. Then, in accordance with the basic concept of the pro-patent policy to encourage innovations and with the aim of developing a new pro-innovation IP system responsive to changes in the environment surrounding the IP system, the Policy Committee published a study report containing the following goals.

I. Realization of a Sustainable Global Patent System
II. Reducing the Amount of Uncertainty in the Patent System
III. Development of an Infrastructure for the Promotion of Innovation

### 3. Efforts for agriculture-commerce-industry collaboration for intellectual property

(1) Collaboration between the Ministry of Agriculture, Forestry and Fisheries (MAFF) and the Ministry of Economy, Trade and Industry (METI) in intellectual property field.

On October 30, 2007, the former Minister of Agriculture, Forestry and Fisheries, Mr. Wakabayashi and the
former Minister of Economy, Trade and Industry, Mr. Amari reached a consensus that the intellectual property assumes an important role in the creation of the added value in the agriculture, forestry and fisheries. They also reached a consensus that both ministries should cooperate to pursue the measures for the intellectual property field as follows in order to contribute to the activation of the regional economy through promoting creation, protection and utilization of the intellectual property by the close and organic cooperation and collaboration between both ministries.

**Agriulture-Commerce-Industry Collaboration in Intellectual Property Field**

In order to further promote “creation/protection/utilization” of the intellectual property in the region, the Ministry of Agriculture, Forestry and Fisheries and the Ministry of Economy, Trade and Industry will cooperate closely and organically in the intellectual property field to operate actively various measures.

**Measures of Ministry of Economy, Trade and Industry**

1. Creation of base for protection and utilization of intellectual property related to agriculture, forestry and fisheries

2. Strengthening cooperation function through cooperation between Regional Agricultural Administration Office and Regional Economic Affairs Bureau

3. Strengthening function of spreading and enlightening the system

4. Strengthening cooperation function through cooperation between regional Agricultural Administration Office and Regional Economic Affairs Bureau

5. Jointly-hosting seminar and charge-free consultation meeting corresponding to realities of each region by field offices of both ministries in the whole country

6. Utilizing the support for technology search before examination request for the medium- and small-sized enterprises (charge-free) also in agriculture, forestry and fisheries field.

7. Development of human resources for intellectual property

8. The training knowhow for developing the human resources utilizing the intellectual property such as the human resources having the work experience related to the intellectual property circulation in the manufacturing industry (Hirotec, about 200 OB human resources of the enterprise have been utilized as a patent licensing advisor) is provided for developing human resources in the agriculture, forestry and fisheries field.

9. Improving the environment in which the patent attorney will acquire the intellectual property-related knowledge in the agriculture, forestry and fisheries field and the food industry.

10. Utilizing patent licensing database etc.

11. Investigating cooperatively the information providing means by which the patent licensing database is effectively utilized for the utilization of the intellectual property in the agriculture, forestry, fisheries and foods field.

12. Strengthening protection of intellectual property in various foreign countries

13. Promoting system harmonization in intellectual property field

14. In order to achieve the system harmonization in the intellectual property field, the information on the situation of negotiation with various governments etc. will be shared and the cooperation will be strengthened.

15. Strengthening cooperation function against counterfeiting goods (TextView)

16. Cooperation to strengthen cooperation against counterfeiting goods by utilizing knowhow possessed by Ministry of Economy, Trade and Industry and network of overseas representatives.

17. Search and support of damages caused by counterfeiting goods in the agriculture, forestry and fisheries field.

18. Information sharing and cooperation strengthening in request and cooperation proposal to various governments.

19. Sharing of information on intellectual property system and activity of counterfeiting goods-free base.

(2) Liaison conference for promoting intellectual property cooperation

For the above cooperation, the first liaison conference was held on October 30, 2007 and the establishment of the working group for the cooperation was discussed. As a result, (i) establishment of base for protection and utilization of intellectual property, (ii) strengthening protection of intellectual property in various foreign countries, and (iii) establishment of working group for intellectual property right system, have been determined and the more specific establishment of the cooperation becomes to be discussed in the clerical section.
Further, on March 24, 2008, the second liaison conference was held and the progression of the cooperation measure and the plan of the cooperation since FY 2008 were discussed.

(3) Specific results in FY 2007

The cooperation of both ministries in the intellectual property field has been repeatedly investigated to achieve specific performances in the working group. As a result, for the purpose of promoting the protection, creation and utilization of the intellectual property in the agriculture, forestry and fisheries in the region, in December 2007, MAFF launched inquiry counters for the intellectual property in Regional Agricultural Administration Offices and in the Okinawa General Bureau. Responding to this, METI has enhanced the consultation function for the intellectual property through the cooperation between the inquiry counters of Bureaus of Economy, Trade and Industry and the Okinawa General Bureau and the inquiry counters of Regional Agricultural Administration Offices. Specifically, a scheme in which the consulters can promptly solve the problems has been established. The scheme is that for technical inquiries related to patents or trademarks received by the Regional Agricultural Administration Office, it works with the Bureau of Economy, Trade and Industry to respond to such inquiries and that for inquiries related to the agriculture, forestry and fisheries received by the Bureau of Economy, Trade and Industry, it works with the Regional Agricultural Administration Office to respond to such inquiries. In addition, the Regional Agricultural Administration Office and the Bureau of Economy, Trade and Industry has cooperated to hold an intellectual property right seminar etc. corresponding to the actual situation of the region.

(4) Plans for the future

It has been also determined that MAFF and METI will hold the liaison conference and the meeting of working group continuously also since FY2008, and while following up or revising various measures which both ministries have investigated and pursued hitherto, by further promoting the creation, protection and utilization of the intellectual property, both ministries will cooperate to pursue the measures for contributing to the activation of the regional economy.
Progress and plans for future cooperation between Ministry of Agriculture, Forestry and Fisheries and Ministry of Economy, Trade and Industry in intellectual property field

1. Cooperation for establishment of base for protection and utilization of intellectual property in agriculture, forestry and fisheries

- **Establishment of inquiry information sharing mechanism**
  - In the Regional Agricultural Administration Office etc., the inquiry counter was launched (in December of the last year), and the consultation system by the cooperation between the Regional Agricultural Administration Office and the Bureau of Economy, Trade and Industry was established.
  - The Regional Agricultural Administration Office and the Bureau of Economy, Trade and Industry have cooperated to host jointly the intellectual property seminar etc. (about 200 persons have participated therein at three sites in the whole country).
  - Both Ministries have sent staff members of each other as the instructors to the training conducted by each other.

- **Sharing patent licensing know-how**
  - The examination and utilization of intellectual properties in the agriculture, forestry and fisheries field has been investigated.

- **Investigation of organic cooperation for intellectual property database**
  - The system constitution in which the functions of the intellectual property utilization database in the agriculture, forestry and fisheries field and of the patent licensing database will be cooperated, has been investigated.

2. Cooperation for enhancing protection of intellectual property in various foreign countries

- **Exchanging information for international system harmonization**
  - In order to promote the export of the farm and fishery products with the Japan Brand, the information on countermeasures against counterfeiting goods related to farm and fishery products both Ministries participated in a public-private joint mission (in India) sent in February of this year.

- **Participating jointly in public-private joint missions**
  - To cooperate to request the countermeasures against the counterfeiting goods related to farm and fishery products, both Ministries participated in a public-private joint mission.

3. Cooperation for utilization of regionally based collective trademark system

- **Familiarization and spread of regionally based collective trademark system in jointly-hosted seminars**
  - The regional based collective trademark system has been familiarized and spread in a seminar hosted by the cooperation between the Regional Agricultural Administration Office and the Bureau of Economy, Trade and Industry (about 200 persons have participated therein at three sites in the whole country).

4. Exchange opinions on intellectual property right system

- **Exchanging opinions slowly**
  - Opinions on the utilization of the intellectual property right system and the trademark system overseen by both Ministries have been exchanged.

**Level up of inquiry service**
- By sharing the inquiry information among the regional offices of both Ministries, both Ministries make efforts to provide effective solutions in short period.
- The environment for the acquisition of the intellectual property-related knowledge in the three sites in the whole country will be enhanced.

**Promoting cooperation for international system harmonization**
- With respect to the efforts for the system harmonization, both Ministries will exchange continuously the information and will cooperate.

**Enhancing cooperation between both Ministries for supporting right protection in overseas**
- In order to promote the export of the farm and fishery products with the Japan Brand, the information on countermeasures against counterfeiting goods, trademark issues etc. in the overseas such as Asia will be exchanged and for supporting the damaged enterprises and providing them with the information, the cooperation will be performed. In addition, the cooperation in requesting system improvement to countries in which the issues have been caused will be promoted (e.g. jointly-participating in the public-private joint non-profit mission).

**Promoting cooperation for international system harmonization**
- The information on the effects of both Ministries for the system harmonization with various foreign countries has been exchanged.

**Investigating intellectual property right system capable of being easily utilized**
- Both Ministries will continuously exchange the opinions with respect to the intellectual property right system overseen by both Ministries and will pursue the investigation with respect to what the system which the user can easily utilize ought to be.
Efforts Related to Patents

1. Securing a Necessary Number of Examiners through Employing New Fixed-term Examiners

The JPO has established, ahead of other countries, a paperless system for all procedures, from the filing of an application to the examiner’s decision, thereby enabling active promotion of the World’s first outsourcing of prior art searches to private sectors. As a result, it has enhanced efficiency to a considerable degree, as seen in the JPO’s performance level in the number of patent examinations processed, which is 3 times that in the USPTO and 5 times that in the EPO. While the JPO will inevitably continue to promote efficiency, it will be necessary to increase the number of patent examiners in order to greatly enhance its examination capability. Although this is not easy under the current government's policy of decreasing the number of public officers, the JPO achieved recruitment of 113 persons including 98 persons of fixed-term examiners and secured about 500 persons of fixed-term examiners in 5 years from FY 2004 to FY 2008. Though FY 2008 falls under the final year of the five-year plan in accordance with which the JPO will recruit fixed-term examiners in a large scale, it will continue to strive to secure the necessary number of examiners in 2009, as well as by investigating a further utilization of the examination performance of fixed-term examiners, it will also continue to strive to secure the necessary examination performance.

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<td>1468 (+110)</td>
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Number of Applications Examined per Examiner

Note:
Number of applications examined is equal to the number of first actions plus the number of international search reports. Sources: Calculated from the Trilateral Statistical Report and the respective offices' annual reports. Data for USPTO and EPO are based on the calendar year 2005 data. Data for JPO are based on the fiscal year 2005 data.
2. Increase in Volume of the Outsourcing of Prior Art Document Searches to the Private Sector

As a result of the efforts having been made to promote scale expansion and efficiency, the number of prior art searches outsourced to private increased in FY 2007 by 8.1% from FY 2006 to 213,000, of which the dialog-type outsourcing1 with high efficiency became 79.3% of the total number of prior art searches outsourced to private sectors to 169,000.

This increase is mainly due to the recruitment of searchers in the registered search organizations. In FY 2007, about 160 company researchers were newly employed in comparison with in the last FY.

Transition of number of search outsourcing cases

![Transition graph]

Remarks: “Delivery-type” is an outsourcing method in which the results of the search are reported by the search report.
Data: The JPO has prepared.

Furthermore, for the purpose of the further expansion of the number of search organizations, the JPO also strived to publicize the registered search organization system in FY 2007, by holding explanatory meetings on the system. As a result, the number of registered search organizations came to a total of eight in addition to the existing five organizations, with three new entrant of a private businesses such as Patent Online Search Corp. (division 8: amusement; entered in July 2007), Pasona Group Inc. (division 10: automatic control; entered in February 2008) and Protec Ltd. (division 23: semiconductor device). Further, among the existing organizations, Techno Search, Inc. and Technology Transfer Service Corp. have been additionally registered, respectively in division 15: conveyance and assembly and division 18: thermal component in December 2007, and in division 19: welfare and service apparatus in April 2008, so that together with the entry of newly registered search organizations, private sector activities have been furthermore utilized.

1 “Dialog-type outsourcing” means an outsourcing method in which the orderer receives the report of the search result from the searcher together with the oral presentation of the searcher and on the basis of this report, when necessary, the searcher conducts further a supplementary search.
3. Promotion of Quality Management of Patent Examination

In promoting the acceleration and efficiency of the patent examination, the JPO is making efforts to secure the accuracy of the patent examination. The continued maintenance and improvement of the quality of examination are required.

Also in the "Advanced Measures for Accelerating Reform toward Innovation Plan in Patent Examination 2007 (AMARI PLAN 2007)" formulated in January 2007, the efforts for maintaining and improving the quality of patent examination have been incorporated as one of priority measures.

(1) International Trends in the Quality of Patent Examination

High quality patent examination is a precondition of several ongoing studies to make use of results which were searched and/or examined by other Offices for the purpose of international work sharing between the Trilateral Offices (the JPO, the USPTO, and the EPO) or between the JPO, the SIPO, and the KIPO. It’s a common problem at each Office to improve a framework and procedures for such high quality patent examination, so each Office makes efforts to maintain and improve patent examination quality.

In addition, regarding international patent application under PCT, the PCT International Search and Preliminary Examination Guidelines² (the PCT Guidelines) provide the basic requirements of a quality framework for international search and preliminary examination, and also require high quality international searches and international preliminary examinations of International Searching Authorities and International Preliminary Examination Authorities, including the JPO.

(2) Measures for Maintaining and improving the Quality of patent examination

The JPO has maintained and improved the quality of patent examination through both 1) "Quality Control" performed for each patent application at each Art Unit and 2) "Quality Management" exercised from a cross-sectional point of view.

1) Quality control of examination for each patent application

Each Art Units at which applications of each technical field are examined continue to perform the "Quality Control" of examinations for proper examinations of individual cases based on the Examination Guidelines

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by unifying application of judgment standards between each examiner through checks of examinations by the administrative level for examination of individual cases, consultations between examiners, etc.

2) The Cross-sectional "Quality Management"

Furthermore, the "Quality Management Office," established in April 2007, plays a central role in maintaining a quality management system (QMS) and procedures to continuously improve the examination quality at the JPO as a whole. These efforts are based on a concept of the quality management cycle (PDCA cycle) for the continuous improvement of examination quality. Under this concept, examination results are post-measured and analyzed objectively, and then the results are reflected to the implementation plan to maintain and improve examination quality.

As efforts for Quality Management, for example, the internal review by the third party in the JPO is implemented, the evaluation criteria of which reflects the result of User review. The Art Units and examiners use the feedback from the analyses of the internal review for the Quality Control at each Art Unit or for the examiner's self-managing.

Each Art unit implements (Do) the Quality Control such as the examination and the check of examination based on the implementation plan formulated (Plan) by the Patent Examination Department. The Quality Management Office post-measures and analyzes (Check) the Quality of examination and provides the result to the Department (Act) in charge of the related measures and reflect the above result to the related measures. Then, by incorporating these measures into the next implementation plan (Plan), in the above Basic Concept, as drawing the spiral, the Quality is improved per one circuit.

4. Efforts to Conduct Patent Examinations that Meet the Needs of Applicants

Due to diversified needs of applicants, such as securing multifaceted patent rights according to the products, obtaining patents at an early stage, or taking a strategy based on a global perspective to obtain patents, the JPO has implemented the following measures in conducting patent examinations to support the IP strategy of applicants.

(1) Promotion of Use of the Accelerated Examination System

In an effort to help applicants promote creative technical development, and utilize R&D results at an early stage, the JPO conducts accelerated examinations in response to the submission of the "explanation of circumstances"
with respect to applications relating to inventions that have already been put into practice (or planned to be put into practice within two years), those also filed in foreign countries, those filed by SMEs and venture businesses that lack funds, and those filed by universities/TLOs, and public research institutes that are expected to return their fruits to the society.

The JPO has been striving to improve the convenience of the system through the following: expanding the scope of applications subject to "internationally filed applications" and the scope of "SMEs" in 2004; reducing the burden of prior art search in the case of requests filed by SME applicants, and revising the guideline to review the requirements for prior art search in the case of joint applications filed together with a large-scale business, in July 2006. As a result of these efforts, the number of requests for accelerated examination has been increasing every year.

4 The scope of applications subject to "internationally filed applications" was expanded to include the corresponding national applications of PCT applications in the international phase. The scope of SMEs was expanded to the same extent as the scope of SMEs subject to the "Patent Prior Art Search Support System."

5 The guidelines were revised so that the system does not necessarily require SMEs to conduct prior art searches for disclosure of information on prior art, but only requires SMEs to fill out prior art documents they know when filing a request. This is also applicable in the case of joint applications filed along with a large-scale business if certain requirements are satisfied.
In 2007, the average first action pendency for applications using the accelerated examination system was about 2.2 months from the request, much shorter compared to the average for other applications. Applications using the system also maintained a higher patent grant ratio than other applications by more than 10%. This seems to be attributable to the fact that applicants carefully selected their applications as the inventions are supposed to be put into practice and the system requires applicants to conduct prior art search before filing a request.

In the future, the JPO will further expand the accelerated examination system and by investigating a measure of making the examination timing of multistage, while responding flexibly to various needs of applicants, the JPO pursues a further facilitation of the patent examination.

(2) Promotion of Interview Examination

1) In order to communicate smoothly between the examiner and the applicant or the attorney to contribute to the efficiency promotion of the examination procedure, the interview examination is conducted within the JPO.

2) Since FY1996, the JPO has implemented examination by visits in which examiners visit applicants, particularly SMEs, venture businesses, universities and TLOs in the interview site of rural areas, and the examiner meets directly the applicant to conduct the consultation on the application and the technical contents. Also in FY 2007, under the aim of conducting examination by visit for all of the applications for which the request has been made, the JPO has attained the goal regarding 1,310 cases.

(3) Revision of Guideline for Examination by Visits

The examination by visits between the examiner and the applicant or the attorney has been effectively conducted according to the guideline for the examination by visits which was formulated in July 1995 while securing the promptness and accuracy of the examination. However, responding to the change in various social situations such as several amendments of the Patent Law and revisions of the examination standard or the amendment of the Patent Attorney Act in 2006, from the necessity for causing what the examination by visits ought to be of hitherto to have further rationality to contribute to further promptness and accuracy of the examination, the guideline for the examination by visits has been pursued to be revised and has been revised in November 2007.
The revised guideline for the examination by visits is published on the Home page of the JPO.

(4) Steady Implementation of Consolidated Examinations for Relevant Applications

The JPO has implemented consolidated examinations for relevant applications, where, with a systematic grasp of the art through interviews and descriptions of the art, the examiner examines a technically closely related group of patent applications collectively and simultaneously. By appropriately reviewing consolidated examinations for relevant applications so it will further reflect needs, the JPO will continue to support applicants for the strategic acquisition of patent right.

(5) Provision of Predicted Period for Starting Patent Examination

In order to support the strategic patent management of the applicant and the attorney, since October 2003, the JPO has provided the predicted period for starting the examination for the application of which examination is not yet started (except the application before the publication thereof) per an applicant or an attorney through "Inquiry of predicted period for starting patent examination" on the Home Page of the JPO.

In addition, in May 2007, the function is extended so that also the third party can see the above predicted period.

By providing the predicted period for starting the examination to encourage the applicant to investigate the necessity for protecting the right of the application, the JPO will support the applicant so that the applicant can use, if necessary timely the accelerated examination system, the system for examination by visits, the information providing system, and the examination request fee returning system.

(6) Information Providing System

For enhancing the accuracy and promptness of the examination, the JPO accepts widely the request for the information provision. It is possible to provide the information useful for the examination such as that the invention related to the patent application has not novelty or inventive step, or that the invention does not fulfill the requirements for the description (Ordinance for Enforcement of the Patent Act Section 13-2), and 76% of the provided information have been utilized for Notification of Reason(s) for Refusal. In addition, within the end of FY 2008, the information provision limited only through the provision of the written information becomes able to be conducted through the online.
5. Promotion of International Cooperation for Patent Examination

Following the global increase of the patent application under the background of ongoing globalization of economy, the number of the so-called duplicate applications which mean that the same inventions are applied in multiple Offices, is increasing, and the examination load of each Office has been enlarged. Under such a situation, aiming at the establishment of a more substantial framework of international cooperation - a Virtual Global Patent Office - in which one invention can be efficiently and reliably examined and the applicant can protect the one invention efficiently and globally as intellectual properties, the JPO is promoting the work sharing of the patent examination with various Patent Offices.

(1) International Work Sharing in Patent Examination

The principle of the work sharing of the patent examination is that the Office (Office of First Filing) at which the application was filed first releases the results of the search and examination first and the other Offices utilize the results in the examination. This has become a common view not only among the Trilateral Offices (the JPO, the USPTO and the EPO), but also among various Offices such as the SIPO and the KIPO.

Here, the work sharing for making use of the search and examination results includes those at various levels such as (a) that making use of only the search results of prior art, (b) that making use the logic of the judgment for the patentability in addition to the search results, and (c) that making use of all examination results including the final decision. The degree of the usefulness of them in the examination differs from each other. However, it is possible not only to promote the efficiency of the examination, but also to make the examination result to be more appropriate by considering the validity of the examination result of the Office of First Filing at any one level of (a) to (c). Using a valid part can eliminate the duplicate work. Complementing an invalid part can improve the examination quality.

Therefore, utilization of work results at each level is effective for improvement of patent quality and enhancement of examination efficiency. Thus, it is important for promoting the work sharing to promote the mutual utilization of the search and examination results at various levels.
1) Patent Prosecution Highway

The Patent Prosecution Highway (PPH) is a framework for allowing, on request by the applicant, accelerated examination in the Office of Second Filing with simplified procedures, with respect to the application whose claims are determined to be patentable in the Office of First Filing. By this framework, through the making use at the above level (c), that is, the making use of all examination results including the final decision in the Office of Second Filing, an efficient acquisition of a stable and strong patent right in multiple Offices, is supported.

As of April 2008, the PPH between JPO-USPTO, JPO-KIPO, JPO-UKIPO and JPO-GPTO have been conducted. The number of Offices with which the JPO conducts the PPH is expected to be expanded in the future. In addition, the JPO is making efforts for more enhancing the convenience of the PPH, for example revising the requirements appropriately, such as extending the applications which will be eligible for the PPH and reducing necessary documents to be submitted.

Regarding the PPH in the full implementation, as of April 2008, 343 requests to the USPTO and the 239 requests to the JPO have been filed in the US-JP PPH. 82 requests to the KIPO and 26 requests to the JPO have been filed in the KR-JP PPH. The PPH is expected to be used more in the future.

As described above, the principle of the work sharing of the patent examination is that the Office (Office of First Filing) at which the application was filed first releases the results of the search and examination first and the other Offices utilize the results in the examination. However, due to the prolonged first action pendency in the JPO, examination results of the JPO as Office of First Filing sometimes couldn’t be provided before initiation of the examination in other IP Office as Office of Second Filing so that the making use at the above level (b), that is, the making use of the logic of the judgment for the patentability in addition to the search results could not be achieved.

Thus, in order to solve the above problems, taking into consideration of the patent system of the JPO such as the examination request system and a framework of PCT for conducting the international search, JP-FIRST has been implemented since April 2008.

JP-FIRST is a frame work in which:

- the JPO prioritizes the examination of the patent application for which the examination has been requested within 2 years from the filing date among the patent applications which are the bases for priority under the Paris Convention (with proviso that the applications which are the bases for the PCT application are not subject to JP-FIRST).

- the JPO conducts the examination in principle within 6 months from the later date of the examination request date and the publication date, so that conducts the examination not later than after 30 months from the filing date.

Implementing this measure, by providing the results of the first action of the JPO at an early stage to promote the utilization of these results in the foreign Offices, it is expected to support an appropriate patent acquisition in the foreign Offices and to alleviate the whole examination load in various Offices as a whole.
3) New Route

New route is a framework in which an application under the Paris Convention is deemed to be filed in the Office of First Filing and the Office of Second Filing on the same date and by transmitting the results of the first action in the Office of First Filing to the Office of Second Filing within a certain period, not only the making use at the above level (b), that is, the making use of the logic of the judgment for the patentability in addition to the search results can be achieved, but also a thorough temporal grace (30 months from the filing date (priority date)) in which the applicant judges the probability for the entering of the application into the Office of Second Filing can be obtained.

In order to achieve the New Route, the change in the legal systems of both Offices becomes necessary, so that the JPO and the USPTO are conducting the analogous pilot program of the concept of the New Route since January 2008 using frameworks possible under the current legal systems.

4) Simultaneous Processing of International and National Applications

The PCT had been a framework in which by conducting the international search, the making use at the above level (a), that is, the making use of only the search results of prior art was possible. Through the discussion with a possibility of fusing the international phase procedures and the national phase procedures in a long term view, for the applications since January 2004, the written opinion would be made together with the international search report at the same time.

The JPO has been conducting the measure in which in the case where the international application is filed claiming priority to a national application and the examination is requested for the national application, the international search of the PCT and the examination of the national application are processed simultaneously, as well as is making efforts for enabling the nearly simultaneous processing of the PCT international search and the examination of the national phase application by encouraging not only the early entry into the national phase but also the request for the accelerated examination with respect to PCT international applications filed at the JPO as the receiving Office. Concerning the former measure, the efficiency of the examination in the JPO is enhanced, so that the JPO returns the international search fee partially to alleviate the burden of applicants’ cost for PCT international application.

(2) Efforts for Promoting Work Sharing of Patent Examination
1) Examiners Exchange Program

In order to promote the work sharing of the patent examination, it is important to build the mutual trust for the search and examination results of each Office, to harmonize the resulting quality of the patent including the examination judgment at high level, and to enhance the mutual understanding of the search DB/tools for the prior
arts and the patent classification. From these perspective, the JPO has been holding an examiner exchange program in which patent offices mutually dispatch their examiners to the other patent offices. In 2007 FY, the JPO held such an exchange with the EPO (sent: 17; accepted: 15), the German Patent and Trademark Office (sent: 4; accepted: 4), the KIPO (sent: 2; accepted:2) and the Australian Intellectual Property Office (accepted: 2), as well as has held the Trilateral Examiner Exchange, where examiners from the Trilateral Offices gathered and discussed the matters concerning patent examination (sent: 4; accepted: 8). In addition, the JPO held the harmony visit for considering the patent classification harmonization (sent: 7).

2) **Comparative Study on Examination Practice**

Unless the each Office's examination practice including the examination judgment and the examination standard is harmonized, the utilization of the search and results of other Offices is limited and the work sharing does not effectively function, so that it is important to compare the examination practice on the inventive step, description requirements and search methods.

The Trilateral Offices (the JPO, the USPTO and the EPO) are conducting comparative studies on such examination practices. In December 2007, the Trilateral Offices published the results of the comparative studies on the legislation and examination standard for the description requirements in the Trilateral Offices. In addition, the Trilateral Offices have conducted also the comparative studies specialized in a specific technology field such as biotechnology and, as a result, published "Trilateral Search Guidebook in Biotechnology Ver.2" in January 2008.

3) **Cooperation for Enhancement of Quality of Patent Examination**

In order to enhance the quality of the patent examination, the information on the measures of the quality management of the patent examination and the measures for improving the application quality by the applicant is being exchanged between each Office.

4) **Improvement of the Dossier Access System**

In order to utilize the results of search and examination of other Offices, the JPO is making efforts for improving the Dossier Access System which enables examiners in each Office to access online to the examination-related information (e.g., documents submitted by applicants and notifications of reasons for refusal) of the other offices.

As of April 2008, the examination-related information of the JPO is provided to 31 foreign Offices via the dedicated network or internet, as well as the examiners of the JPO can access online to the examination-related information of the USPTO, the EPO and the KIPO via the dedicated network.
Column Community Patent Review

1. What is "community patent review"?

The "community patent review" is an effort driven by the private sector in which a community consisting of civilians, including researchers and engineers at universities and companies, reviews a patent application under examination (in forms of information disclosure, discussion, etc. with respect to optimal prior art) on the internet and submits documents, etc. considered to be valuable prior art to the Patent Office as materials for examination.

2. Background of a community patent review generated

Due to the progress of information and communications technology and the globalization of innovation, etc., useful information on technology is scattered throughout the world in various forms such as patent documents, research papers, literatures, etc.

Under these circumstances, acquisition of more stable patent rights requires a framework for combining scattered technology information effectively and utilizing the information for patent examination.

The "community patent review" system which utilizes the expertise of third parties such as researchers has been proposed against this background, and a pilot project is presently underway in the U.S.

3. Merits of a community patent review

These efforts are intended to utilize the knowledge of researchers and engineers at universities and companies for patent examination and promote the work sharing between the public and private sectors in patent examination and are considered to be effective in the further improvement of the efficiency and quality of patent examination at the JPO.

Furthermore, the community patent review is considered to be a system that brings many merits not only to the Patent Office but also to an applicant.

Firstly, a public review of an applicant's own application enables the applicant to acquire a more stable and strong patent.
Secondly, since the applicant is able to see the public response to his/her own application, the applicant can grasp to what extent the application attracts public attention.

Thirdly, when the efforts of the community patent review go beyond the scope of the review in the current U.S. pilot project and, for example, when not only an application presently under examination but also an application already converted into a right is subjected to a review, the applicant can confirm beforehand the presence or absence of prior art documents which may be grounds for invalidation of the patent by requesting the public to review his/her own patent which the applicant intends to execute against a third party.

4. Japanese-version community patent review on a pilot basis

Considering that the introduction of the community patent review is also being discussed at the UKIPO, this system may become widespread throughout the world and may be considered as one of the global infrastructures of the intellectual property system in the future. For such a scenario, it is necessary for Japanese companies, etc. to experience this system at an early stage and to enhance the system for the management of technology information and documents on R&D so that Japanese companies can gain an advantage over foreign companies in the intellectual property strategy by utilizing this system effectively.

Based on the above, a pilot project of the community patent review just also started in Japan in July 2008.

1. Japanese-version CPR pilot project

- A CPR operation center will be selected. A website utilizing a commercial portal site will be created.
- Patent applications (projected to be about 30-40 applications), which some companies have allowed to be reviewed, will be placed on the CPR Website for a certain period to receive prior art documents/comments from reviewers.
- The operation center will select from among the submitted prior art documents those documents that are regarded as containing useful information for examination while considering the reviewers’ comments. Then, it will send the selected prior art documents to the JPO through an information and communications system.

2. Community Patent Review Committee (tentative name)

- The Committee is supposed to consist of about 7 people including university professors (in the fields of IP and engineering), corporate experts (IP and legal matters), corporate researchers, and patent attorneys.
1. Clarification of the Details of the Determination in Design Examinations

In order to respond to strong demands from design registration system users to clarify the details of the determination in design examinations, the JPO has been striving for clarification of examination details by conducting a trial practice to additionally describe the brief reason for determination made in the similarity examination between the design to the "notification of reasons for refusal based on Article 9(1) (prior application) of the Design Act" from October 2004.

In FY2007, as other trial practice, the JPO started to notify of reasons for refusal based on Article 3(1)(iii) of the Design Act (novelty) in order to clarify examination details by starting the reason for determination of similarity. Also in 2008 continuously, aimed at the notification of reasons for refusal falling under the prior art and the novelty, by attaching the reasons for the judgment, the JPO will make efforts to clarify the examination contents.

2. Provision of Design-related Information

(1) Publication of Design Examination Schedules

The JPO has made available the Design Examination Schedule on its website so that private business can consult it for planning to develop their products.

The design Examination Schedule provides applicants with a rough indication of date to receive examination results for their applications for design registration, allowing private businesses to utilize the information for the purpose of their business activities.

This Table indicates examination schedules for applications for design registration at Japanese design classifications, and is updated every quarter year by adding information on finalized examinations.

(2) Provision of Similar Design Information

In order to provide useful information regarding the determination of similarity of designs, on March 27, 2006, the JPO launched the "similar design information" service in the Industrial Property Digital Library (hereinafter referred to as "IPDL"), by which a user can easily search the relationship between a principal design and similar or related designs.

The service allows users to refer, cases registered as a similar design or a related design by Japanese Design Classification. This service helps users grasp the determination standards, such as what sort of designs are considered similar in examination.
(3) Publication of Publicly Known Design Database

For the purpose of determining novelty and creativity in design examination, the Design Division of the JPO has collected and selected designs of new products from books, magazines, catalogs and the Internet, and digitized bibliographic data and photos or figures of those products.

Publication of the publicly known design data allows private business to utilize it for design development as well as for prior design search and design right search, which is expected to promote creation of further creative and value-added designs in Japan.

In March 2006, the JPO launched the "publicly known design inquiry" service in the IPDL to allow users to view, based on serial number, the bibliographic data and images of publicly known designs collected from the Internet. In FY 2007, the JPO started a program to obtain copyright licenses for the publicly known design data to be digitized by the JPO. Once licensed, the data will be made available through the IPDL, etc.

Outline of the Publication Program of the Publicly Known Design Database

3. Accelerated Examination for Anti-Counterfeiting Measures

The accelerated examination system for designs was introduced on December 15, 1987. Under this system, accelerated design examination is conducted for 1) an application with an urgent need for registering the design and 2) an application that is also being filed from overseas.

However, with the increasing importance of design rights as a countermeasure against counterfeiting in recent years, the "accelerated examination system for responding to anti-counterfeiting measures" was introduced in April 2005.

Under this system, if counterfeiting occurs, notification of the results of the first action will be made within one month from the request for accelerated examination, as long as no deficiency has been found in the application.

<Applications subject to the accelerated examination system for responding to anti-counterfeiting measures>

A design application is deemed to be subject to this system if it is an application for exploited design (exploited by the applicant) with an urgent need for registering the design, and a third party is apparently using or is making preparations to a significant degree to use, without the consent of the applicant or a licensee, a design identical or similar to the design in the application.
4. Newly Introduced System in accordance with the Revised Design Act

(1) Screen Design and Revised Japanese Design Classification

The revised Design Act that came into force on April 1, 2007 expanded the scope of protection to designs in a graphic image on a screen for the operation of the article and designs in a graphic image on a screen separated from the article. According to the revision of the Design Act, the number of applications for design registration including a graphic image on a screen is expected to rise. As the Japanese Design Classification, however, was not intended for designs in a graphic image on a screen, it was amended on April 1, 2007 so as to enable efficient and accurate design examination and prior design search.

The previous Japanese design classification that came into effect on January 1, 2005, was amended. Design classes for graphic images on a screen, were newly established by adding the letter "W" to the end of each minor class, instead of changing the whole construction of the Japanese design classification. Applications for graphic image on a screen filed on or after April 1, 2007 have been provided with one of these classes.

(2) Later Day Application of Related-Design

With respect to the related design accepted conventionally only when it is filed on the same day as the day on which the main design is filed, in the revised Design Act that came into force on April 1, 2007, the limitation for filing date has been relaxed, and when the related design is filed within before the date of the publication of the main design, the registration of the related design will be accepted.
(3) Secret Design¹

When design is disclosed, the content thereof is apparent at a glance and tends to easily be imitated, so that there is a secret design system. Conventionally, the request for keeping the design in secrecy is accepted only when the request is conducted at the same time as that of the design registration application. However, in the revised Design Act that came into force on April 1, 2007, the limitation for filing date has been relaxed, so that the request conducted at the same time as that of the registration fee payment for the first year for the design registration has become accepted.

¹The secret design system is a system present only in the Design Act in the intellectual property laws and by this system, a design can be kept in secrecy for at longest 3 years from the design registration. Normally, when an applied design is registered, the design is published by the design gazette. However, when the secret design system is utilized, the information capable of assuming the design such as the drawings, the article related to the design and the design classification are not described in the design gazette, and when a secret period designated by the applicant has passed, the design gazette describing the description contents such as the application and the drawings attached to the application, is published anew.
1. Implementation of Accelerated Examination Based on Applicant Needs

In response to the needs for accelerated examination of applications that are involved in counterfeiting and infringement cases and to the globalization of economic activities, the JPO has implemented an accelerated examination system in which the examination process is accelerated when there is an urgent need to register a trademark, such as in cases where the applicant has already started to use or has made preparations for using the trademark in an application and a third party is using the trademark without the applicant’s consent.

While the number of requests in 2007 came to 407, the period from the request to the date when the notification of the first examination result is dispatched was 1.3 months in average.

<Reference: Applications subject to the accelerated examination>

The accelerated examination applies to trademark applications that satisfy the following two requirements:

(i) The applicant himself/herself or a licensee has already started to use the trademark in the application or made preparations for using it to a significant degree for the designated goods or services (or some of the designated goods or services).

(ii) There is an "urgent need for registering a trademark" refers to any of the following situations:
- A third party is apparently using or is making significant preparations to use, without the consent of the applicant or a licensee, a mark identical or similar to the trademark in question in respect to goods or services identical or similar to those of the applicant or the licensee using or making preparations to use the trademark.
- The applicant has received a warning from a third party in regards to the use of the trademark in the application.
- A third party has sought a license for the trademark in the application.
- Trademark applications have also been filed with patent offices or intergovernmental agencies other than the JPO.

Requests for Accelerated Examination and Examination Period

Note:
Examination period: Period from the date of request for the accelerated examination until the first action.
Chapter 4

2. Efforts Related to Regionally-Based Collective Trademarks

(1) Background

In recent years, there have been active moves nationwide to develop regional brands that differentiate local specialty products from those of other regions, as part of regional development efforts. These regional brands often attach trademarks that combine the region name and the product name, such as adding the name of the production area or the sale area of the local specialty product.

Under the Trademark act before revision, a trademark that combines a region’s name and a product name or a service name, excluding those that have become famous nationwide or those combined with figures, could not be registered due to a lack of distinctiveness and not being fit to be monopolized by a specific party.

(2) Introduction of Regionally-Based Collective Trademark System

In order to provide thorough protection for regional brands that combine the region name and the product (service) name, the Trademark Act was partially amended in 2005, and the regionally-based collective trademark system was introduced in April 2006.

This system has been introduced aiming at such an effect that in regional efforts to stimulate local economies, local trade associations will actively use this system, which leads to a sustainable stimulation of local economies.

Specifically, the regionally-based collective trademark system allows a trademark consisting solely of a region name and a product (service) name to be registered as a regionally-based collective trademark. This applies if the trademark has become known to a certain extent as a mark used by an association or a member of the association, such as a business cooperative or an agricultural cooperative, through being applied to products that are closely related to the region (e.g., the production area) by the association.

This system will (i) allow a trademark that combines a region name and a product (service) name to be registered more quickly and eliminate free riding of the mark; and (ii) provide an incentive for business operators intending to conduct regional branding activities to register their trademarks, and lead to invigorating the region. Further, (iii) by utilizing effectively the registered regionally-based collective trademark and by managing the brand thoroughly etc., it is expected that a region brand in a developing stage gains national eminence.

(3) Status of Applications and Registrations for Regionally-Based Collective Trademark

1) Status of applications

Having started accepting applications for regionally-based collective trademarks on April 1, 2006, the JPO has accepted 807 applications as of the end of March 2008. Looking at the number of applications by field, agricultural products were dominant, followed by industrial products, processed food (including confectioneries and noodles), and others including liquors and hot springs.

By region, 36 from Hokkaido, 60 from Tohoku, 75 from Kanto, 55 from Koshinetsu, 57 from Hokuriku, 104 from Tokai, 233 from Kinki, 44 from Chugoku, 26 from Shikoku, 79 from Kyushu, 34 from Okinawa, and four from overseas.

2) Status of Registrations

The JPO dispatched notifications of its decision to grant registration with respect to 371 applications by the end of March 2008.
(4) Publicity Activities for the Regionally-Based Collective Trademark System

As an effort to publicize the regionally-based collective trademark system, in FY 2005, the JPO held explanatory meetings to outline the legal revision nationwide, as well as explanatory meetings on the guidelines including specific examination guidelines for regionally-based collective trademarks nationwide. Besides them, with the aim of publicizing and promoting the use of the system, it also created 50,000 copies of an easy-to-understand pamphlet on filing procedures and registration requirements for regionally-based collective trademarks, and distributed them at the above explanatory meetings and at related organizations.

Also in FYs 2006 and 2007 continuously, the JPO held the above "explanatory meetings on the guidelines" and the explanatory meetings on the regionally-based collective trademark system nationwide. Besides them, the JPO created 45,000 copies of a pamphlet containing examination practices and distributed them to related organizations.

In addition, in FY 2007, in order to promote the further spread of the regionally-based collective trademark system, the JPO published in June a pamphlet "regionally-based collective trademark 2007" introducing the contents of 185 products or services for which the trademarks has been registered in FY 2006.

3. Introduction of Trademark System for Retail and Wholesale Services

In line with the growth of the distribution industry in recent years, retail businesses, which provide high value-added services by bringing together a wide variety of goods and their unique sales forms to sell those products, has been making remarkable progress.

For example, department stores, convenience stores and supermarkets provide benefits to customers by bringing together through their own distribution system the products demanded by customers, and specialized stores, which bring together specific products, are also conducting service activities, such as improving convenience by expanding the range of goods so as to give customers a wider selection of products.

These acts, however, were not deemed as "services" under the Trademark Act, because they were considered incidental services to the sale of goods and payments are not made directly to the acts but made indirectly by passing on the prices to the prices of goods sold.

Trademarks used in a mode where a specific relevance with individual goods is difficult to recognize were not within the scope of protection under the Trademark Act, such as indicating a company emblem on shopping carts that customers use in its stores or on the uniforms etc. of its shop clerks.

For the purpose of solving these problems, in June 2006, the Trademark Act was partially revised, and the trademark system for retail and wholesale services entered into force on April 1, 2007.

With this revision, a trademark used in respect of comprehensive service activities for the benefit of customers provided in retail and/or wholesale services such as a billboard of retail shops and the trademark used in the shopping cart or the uniform of the clerk has fallen within the scope of protection under the Trademark Act as a trademark for services.
1. Efforts to Improve the Quality of Appeal/Trial Examination

One of the major missions of the JPO is to grant stable industrial property rights. Since precise examination is required in the appeal/trial proceedings, the JPO makes efforts to further improve the quality of appeal/trial examination by reviewing the court judgments in lawsuits against the JPO Appeals Department’s decisions and those related to the validity of rights in infringement lawsuits, and giving consideration to the evidentiary materials in patent-infringement lawsuits, which are acquired by exchanging information with courts.

The JPO also ensures better communications with the demandants through active use of appeal/trial examination by interviews, and actively conducts oral proceedings and appeal examination by visit in order to raise credibility of the party concerned in a trial for invalidation, sort out the issues in an expeditious way, and conduct accurate proceedings. Further, in the appeal against examiner’s decision of refusal, the so-called ”hearing for reconsideration by examiner before appeal” has been conducted as a measure for inviting the appellant to give his/her opinion on the report for the reconsideration by examiner before appeal formulated by the original instance examiner and as a measure for ensuring smooth communications between the appellant and the appeals examiner and for contributing to the improvement of the quality of the appeal, a further active use of the ”hearing for reconsideration by examiner before appeal” will be made in the future.

In addition, with the aim of clarifying judgment standards with regard to the inventive step of an invention, the JPO, with participants from industries etc., conducted a case study on the inventive step, and published the results thereof. The JPO, in cooperation with industries etc., will continue to make use of the consideration result also in FY2008.

Further, since the end of FY2007, the JPO recruited judicial competent persons as “appeal/trial adviser” so that advises on advanced judicial issues can be obtained and by utilizing the judicial competent persons as an instructor for the training etc., the ability of the trials examiner for finding a jury etc. will be enhanced and the operation in Appeals Department will be furthermore appropriated.

2. Measures for Timely Trials

The JPO preferentially examines post-grant trials, such as trials for invalidation, to other trials, as there is a social demand to ensure the effectiveness of the protection by quickly settling disputes over the validity of industrial property rights. In 2007, the average period for trial examination for invalidation was 9 months for patents, 9 months for designs and 11 months for trademarks.

The JPO is aiming to achieve efficient appeal/trial examinations in pre-grant appeals and trials, such as appeals against examiner’s decision of refusal, by paying attention to the appeal/trial pendency, by implementing a

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1 See Part 3, Chapter 1, 1., (4), 2)
"consolidated appeal examination" of related cases of the same appellant and by utilizing the assistant for the appeal examiner’s work with a central focus on appeals against examiner’s decision of refusal for the patent for which the number of request has surged following the increase of the number of examination processing, since it is useful for the applicant or the third party to judge promptly the consequence of the rights. In addition, by confirming the intention of maintaining the appeal examination of the appellant through the "hearing for reconsideration by examiner before appeal" in above 1., the JPO aims at the efficient processing of the appeals examination case through revising the request for the appeal examination no longer required.

With regard to appeals against examiner’s decision of refusal that satisfy specific requirements, the JPO implements an accelerated appeal examination system in which it conducts the appeal examination of the case in an accelerated manner upon request. In 2007, 264 requests were made for patents, no request for designs and eight requests for trademarks. Among them, for all requests for patents, the dispatch of appeal decision within one year which was set as a target to be achieved by the JPO in FY2007, has been achieved. For trademarks, the appeal decision has been conducted within 1.2 months in average from the request.

3. Efforts to Reform the Structure of Appeals in the Patent System

In the patent system, following the increase of the number of the examination processing, the number of the decision of refusal is also increasing and it is concerned that the period for the appeal examination pendency becomes long-term. Under such a situation, an invention essentially patentable is not granted in the examination phase and is transferred to the appeals against examiner’s decision of refusal, which not only is a demerit for the applicant, but also leads to the increase of the number of essentially unnecessary appeal examinations, so that it lowers the processing efficiency of the whole Patent Office through the examination and appeal examination and leads to the disadvantage for the whole users of the system such as other requesters for the examination and appeal examination and the third party bearing the load of supervising the applications related to the own business.

Therefore, the Appeals Department aims not only at decreasing the number of requests for the essentially unnecessary appeal examination, but also at decreasing the number of request cases for the appeal against examiner’s decision of refusal by increasing the rate of the applications granted at latest in the reconsideration by examiner before appeal to maintain an accelerated and accurate appeal examination.

(1) Appeal Examination Having High Foreseeability

In order to enable to make a sharp distinction between requesting or not requesting the appeal examination in the consideration stage thereof, the credibility of the appeal examination and the foreseeability of the result of the appeal examination will be increased. Particularly in the lawsuit against appeal decision, the rate of the appeal decision which is maintained has been maintained at high level for several years, and also in the future, the Appeals Department will aim to conduct stricter and high-quality appeal examination based on court rulings relating to patentability, such as the level of inventive step required, in lawsuits against the JPO Appeals Department’s decisions.

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*With regard to patents, appeals against the examiner’s decision relating to patent applications that satisfy any one of the following requirements are subject to accelerated appeal examination: (i) an application for an invention that is already being exploited by the appellant; (ii) an application that is also being filed overseas; (iii) an application filed by an SME, individual, university, TLO or public research institution; or (iv) an application for an invention that has been commercially exploited by a party other than the appellant (a third party) during the period after the laying open of the application and before the appeal decision.

In addition, with regard to designs and trademarks, appeals against the examiner’s decision relating to applications that satisfy the same requirements as those for the accelerated examination are subject to accelerated appeal examination.
(2) Unifying Judgment Standards of Examination and Appeal Examination

After making strict and improving the appeal examination as described above, by pursuing the unification of the judgment standards of the examination and appeal examination through an appropriate feedback of the results of the appeal examination in the Appeals Department to the Examination Department, an application for which the decision of refusal cannot be maintained in the appeal examination will be granted at latest in the reconsideration by examiner before appeal, so that the right for the invention having patentability will be accelerated protected and the number of cases transferred into the Appeals Department will be decreased.

(3) Strict Appeal Procedures

In order to establish practices that would fix the granting of rights or the issuing of refusals as much as possible at the examination phase, adequate counterarguments and amendments by the applicant are necessary to be made at latest before the request for appeal examination. Thus, based on the efforts shown in the above (1) and (2), in the case where an applicant has not made adequate counterarguments and amendments at the phase before the request for appeal examination, the Appeals Department imposes strict rules on the appeal proceeding, such as imposing restrictions on the applicant’s opportunity to make amendments at the appeal phase, and aims to achieve fair appeal examinations.

Such practices would promote the accelerated granting of rights for essentially patentable inventions, which is expected to reduce both the burden and costs to the applicants and the JPO.

By the efforts of above (1) to (3), 1) the amending rate at the phase of the request for appeal examination has increased gradually (while in 2004, for the applications for which the appeal examination has been requested, the amending rate was 84%, in 2007, it was 87%) and at the phase of the reconsideration by examiner before appeal, the rate to be granted also tends to increase (while in 2004, for the applications for which the appeal examination has been requested, the rate to be granted in the reconsideration by examiner before appeal was 42%, in 2007, it was 49%). In addition, 2) the appeal denial rate for decisions in appeals against examiners’ decisions of refusal tends to increase (while in 2004, it was 46%, in 2007 it was 56%) and 3) the rate of maintaining the appeal decision in the lawsuit against appeal decision in the above appeal examination case is maintained at such a high rate as 80 to 90%.

(4) Publicity of Appeal Examination Policy

The JPO aims to reduce the number of unnecessary appeals by using explanatory meetings to publicize to users such as appellants, the appeal/trial examination policies of the above (1) to (3) of the Appeal Department, and of the results of the study on inventive step and court decisions in specific technical fields, as well as aims to promote the accelerated right acquisition at the phase of the reconsideration by examiner before appeal by the furthermore reconsideration by examiner before appeal of the amendment at the phase of the demand for appeal examination.

4. Promotion of a Paperless Appeal/Trial Environment

With regards to appeals against examiners’ decisions of refusal, the JPO has achieved a paperless environment systematic from the examination phase by a paperless appeal system launched in January 2000. It also conducts operations related to drafting and approval in a paperless form for inter-parties trials.

In response to the Plan for Optimization of JPO Operations and Systems formulated in October 2004, the JPO

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3 Except the application for which the reconsideration by examiner before appeal has been not yet finished
4 See Part 1, Chapter 1, 5., (1), 2)
will also in the future conduct higher-quality support of the aspects of the plan related to the computer system for the efforts for accelerated and accurate appeal/trial examination, including promoting paperless operations for inter-parties trials, and will aim at further sophistication of the environment for the appeal/trial examination.

5. Efforts in Line with Amendments of the Industrial Property System

(1) Efforts in Line with Amendments of Design Act in 2006

Since in April 2007, the amended Design Act entered into force, particularly the definition of the design was revised, so that the range related to the screen design subject to the protection has been extended, the demand for an appeal trial against examiner’s refusal for the application corresponding thereto is expected to increase in the future. In order to respond appropriately to this demand, the Appeals Department will strengthen the appeal/trial examination infrastructure carefully.

(2) Efforts in Line with Amendments of Trademark Act in 2005 and 2006

Following the introduction of the regionally-based collective trademark system in April 2006, the Appeal Department has made efforts for the improved appeal/trial examination by strengthening the appeal/trial examination infrastructure such as providing a collegial body specific for the demand for the appeal against examiner’s refusal related to the regionally-based collective trademark application.

In addition, with respect to the trademark system for retail and wholesale services which was started in April 2007, the Appeals Department will strengthen the appeal/trial examination infrastructure such as thorough examination standard concerning retail and wholesale services in the Department, for the expected increase of the number of requests for the appeal against examiner’s refusal.


By the amendments of Patent Act, Design Act and Trademark Act in 2008, not only the period for the filing an appeal against an examiner’s decision of refusal in the patent system (current: within 30 days) will be extended to within 3 months, but also the amendment of the claims, descriptions or drawings at the time of filing an appeal against examiner’s decision of refusal will be changed to be accepted only in the same time as the request for appeal against examiner’s decision of refusal\(^5\) (the date of enforcement of the Acts will be a date prescribed by Cabinet Order within one year from the date of promulgation (April 18, 2008) of the Acts). By this amendments, a period to consider amendment of claims, etc will be extended from the conventional period of within 60 days (= a period in which the appeal examination can be filed of within 30 days + a period in which the amendment of claims, etc after the filing for the appeal examination can be submitted of within 30 days) to within 3 months, so that the filing an appeal after the thorough consideration of the amendment content becomes more easy than ever. As described in the above 3. (3), in the case of such a request for the appeal examination with thoroughly considered amendments, the probability that the application is decided to be granted in the phase of the reconsideration by examiner before appeal becomes higher, so that it contributes both to an accelerated right acquisition and to an efficient processing of the whole JPO. The JPO will publicize such intention of an amendment of the system to the users of the system through the case of explanatory meetings etc.

\(^5\) With respect to appeals against examiner’s decision of refusal and appeals against examiner’s ruling to dismiss an amendment in the design system and the trademark system, by the law amendment in 2008, the demand period (in current within 30 days) has been extended to within 3 months, with proviso that as differing from in the case of the patent system, the change in the period in which the application can be amended, has been not made.

While the Japanese economy has growth constraints such as population decrease and intensified international competition, there is an urgent need to further promote innovation by accelerating the benevolent cycle of creation, protection and utilization for intellectual property, and to enhance the competitiveness of industries by improving medium- to long-term productivity.

Meanwhile, it has been decided to amend the following Acts from the viewpoint of strategic utilization and appropriate protection of intellectual property rights in order to establish a more convenient intellectual property right system which meets the needs of users: the Patent Act, Utility Model Act, Design Act, Trademark Act and Act on Special Provisions for Procedures related to Industrial Property Rights (hereinafter referred to as "the Special Act").

(1) Developments of Legal Amendment

While the liquidity of industrial property rights is increasing, and licenses are assigned (other parties are licensed) more frequently due to diversified intellectual property businesses, intensified transnational company reorganization (M&A), etc., there is a demand for an environment in which companies, etc. can steadily continue business activities based on licenses.

Therefore, Working Group on License Registration System was established under Patent System Subcommittee, Intellectual Property Policy Committee, Industrial Structure Council to assess a policy which may promote the utilization of the existing registration system for non-exclusive license, etc.

Furthermore, Patent System Subcommittee, Design System Subcommittee and Trademark System Subcommittee discussed the examination system, international work-sharing, patent and trademark-related fees, further computerization including the payment system, etc. in addition to items discussed by the above Working Group. In January 2008, a report was prepared for Intellectual Property Policy Committee and approved.

"The Bill to Partially Amend the Patent Act and Other IP-Related Acts" was formulated on the basis of the above report and, following the cabinet decision on February 1, 2008, submitted to the 169th ordinary session of the Diet on the same day. Reasons for proposal were explained at the Committee on Economy and Industry, the House of Representatives on March 26. Following questions and a vote on April 2, the bill was approved at the Plenary Session on April 3. Additionally, reasons for proposal were explained at the Committee on Economy and Industry, the House of Councilors on April 8. Following questions and a vote on April 10, the bill was approved and enacted at the Plenary Session on April 11.

(2) Outline of Legal Amendment

Concerning the Patent Act, Utility Model Act, Design Act, Trademark Act and Special Act, the following actions...
are taken to promote the strategic utilization of intellectual property rights and protect the rights appropriately.

1) Amendment of registration system for non-exclusive license, etc. [Patent Act and Utility Model Act]

a. Establishment of registration system related to licenses at the stage of patent application (related to Articles 27, 34 (2), 34 (3), 34 (4), 34 (5), 65, etc. of the Patent Act)

The existing registration system for non-exclusive licenses, etc. enables one to register only exclusive and non-exclusive licenses for patent rights, and no license can be registered at the stage of a patent application. However, in practice, a growing number of inventions are utilized at the stage of an application before the grant of a patent. Since there are strong needs for utilizing the system especially among university TLO’s, SMEs, venture companies, etc., it has been decided to establish a registration system in order to protect pre-grant licenses. More specifically, "provisional exclusive license" and "provisional non-exclusive license" have been established for pre-grant licenses. For "provisional exclusive license," registration is assumed to be requirements for effect. For "provisional non-exclusive license," registration is assumed to be requirements for opposition to the third party.*

*Effect of “provisional non-exclusive license” registration

i) If the right to receive a patent is assigned, a licensee (provisional non-exclusive licensee) can assert a provisional non-exclusive license against an assignee (new right holder).

ii) If a person who holds the right to receive a patent goes bankrupt, the license agreement of the licensee is not canceled.

b. Amendment of existing registration system for non-exclusive license (limit of disclosure) (related to Article 186 of the Patent Act, Article 55 of the Utility Model Act and Article 12 of the Special Act)

In the existing registration system for non-exclusive licenses, all registered items are disclosed by inspecting the Patent Registry (Article 186 of the Patent Act). However, there is a strong demand among companies to keep secret the details of registered licenses since these are information related to corporate trade secrets. It has been therefore pointed out that the existing registration system is not utilized.

Accordingly, among the registered items of non-exclusive licenses related to patent rights and utility model rights, it has been decided to disclose those only to a certain interested party which applicants strongly wish to keep secret.

*An exclusive license is a strong right which has proprietary exclusiveness within the set scope, and the setting can greatly affect a third party. Therefore, there is a strong demand for its publication, and all registered items are disclosed as before.
2) Amendment of period of appeal against examiner's decision of refusal [Patent Act, Design Act and Trademark Act]

(related to Articles 17 (2) and 121 of the Patent Act, Articles 46 and 47 of the Design Act and Articles 44 and 45 of the Trademark Act)

It has been decided to extend the period of filing an appeal against an examiner’s decision of refusal (current: within 30 days of delivering the copy of the decision) to "within 3 months" in order to guarantee procedures, etc. for applicants whose application has been refused by an examiner.

Furthermore, it has also been decided to change a period during which one can have the technical scope (patent claim), etc. amended in pursuit of rights (current: within 30 days of an appeal against an examiner’s decision of refusal) and to allow the amendment only at the same time with the appeal.

In the design system and trademark system, it has been decided to extend the period of not only an appeal against an examiner’s decision of refusal but also an appeal against an examiner's ruling to dismiss an amendment to "within 3 months" (current: within 30 days of delivering a copy of an examiner's ruling to dismiss an amendment).

3) Increase of countries whose priority documents are electronically exchanged [Patent Act and Utility Model Act]

(related to Article 43 of the Patent Act)

It has been decided to enable one to receive the data of priority documents* computerized not only by the originating office but also by other offices and international organizations in order to ensure the convenience of applicants and efficiency of administrative procedures.

*The documents prove that the date of an application to the Office of the First Filing becomes a reference date for the examinations of other Offices following the Office of the First Filing.

(When priority documents are not computerized in the Office of First Filing)

a. Reduction of patent-related fees (related to Article 107 of the Patent Act)

It has been decided to reduce patent fees which seem to burden small and medium-sized enterprises, etc. drastically from the 10th year (average 12% reduction).

<table>
<thead>
<tr>
<th>Patent fee</th>
<th>Before amendment</th>
<th>After amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every year from 1st to 3rd year</td>
<td>2,600 yen + Number of claims x 200 yen</td>
<td>8,300 yen + Number of claims x 200 yen</td>
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<tr>
<td>Every year from 4th to 6th year</td>
<td>8,100 yen + Number of claims x 600 yen</td>
<td>7,100 yen + Number of claims x 500 yen</td>
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<tr>
<td>Every year from 7th to 9th year</td>
<td>24,300 yen + Number of claims x 1,200 yen</td>
<td>21,400 yen + Number of claims x 1,700 yen</td>
</tr>
<tr>
<td>Every year from 10th year</td>
<td>81,200 yen + Number of claims x 6,400 yen</td>
<td>81,800 yen + Number of claims x 4,800 yen</td>
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</tbody>
</table>

b. Reduction of trademark-related fees (related to Articles 40, 41 (2), 65 (7) and 68 (30))

It has been decided to reduce trademark registration fees, renewal registration fees and individual commissions for trademark rights based on international registration (average 43% reduction) which are often utilized by small and medium-sized enterprises (36% in the number of cases) since these fees and commissions are higher at home than overseas.

<table>
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<tr>
<th>Registration fee</th>
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<th>After amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application for trademark registration</td>
<td>Number of classes x 66,000 yen</td>
<td>Number of classes x 37,000 yen</td>
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<tr>
<td>Application for trademark registration (installment payment)</td>
<td>Number of classes x 44,000 yen</td>
<td>Number of classes x 21,000 yen</td>
</tr>
<tr>
<td>Application for defensive mark registration</td>
<td>Number of classes x 66,000 yen</td>
<td>Number of classes x 37,800 yen</td>
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</table>

<table>
<thead>
<tr>
<th>Renewal registration fee</th>
<th>Before amendment</th>
<th>After amendment</th>
</tr>
</thead>
<tbody>
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<td>Number of classes x 151,000 yen</td>
<td>Number of classes x 48,500 yen</td>
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<tr>
<td>Application for trademark registration (installment payment)</td>
<td>Number of classes x 101,000 yen</td>
<td>Number of classes x 28,300 yen</td>
</tr>
<tr>
<td>Application for defensive mark registration</td>
<td>Number of classes x 130,000 yen</td>
<td>Number of classes x 41,800 yen</td>
</tr>
</tbody>
</table>

5) Introduction of account transfer system for payment [Special Act] (Articles 15 (2) and 16 of the Special Act)

Following the establishment of infrastructure for electronic payment of treasury funds, it has been decided to introduce the payment system by transfer from the bank account in addition to the payment methods with patent stamps, etc. in order to facilitate procedures for payment of patent fees, etc (limited to online applications only).

6) Effective date of amendment

It is assumed that the amendment will come into effect on a day designated by a separate ordinance within one year of promulgation. However, the provisions in 4) and 5) are assumed to come into effect on June 1, 2008 and January 1, 2009, respectively.

(Date of promulgation: April 18, 2008)