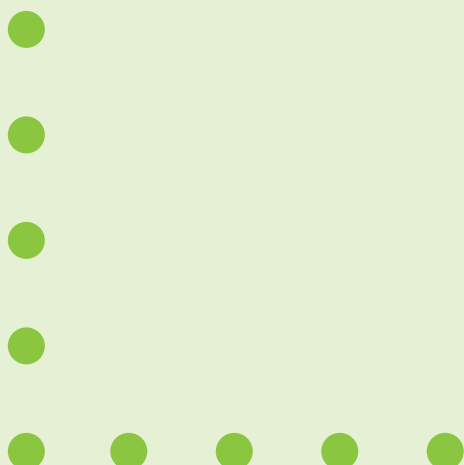


Part 1

Trends in Industrial Property Rights



Chapter 1

Current Status of Applications and Registrations and the Current Status of Examination and Appeals/Trials at Home and Abroad



1. Patents

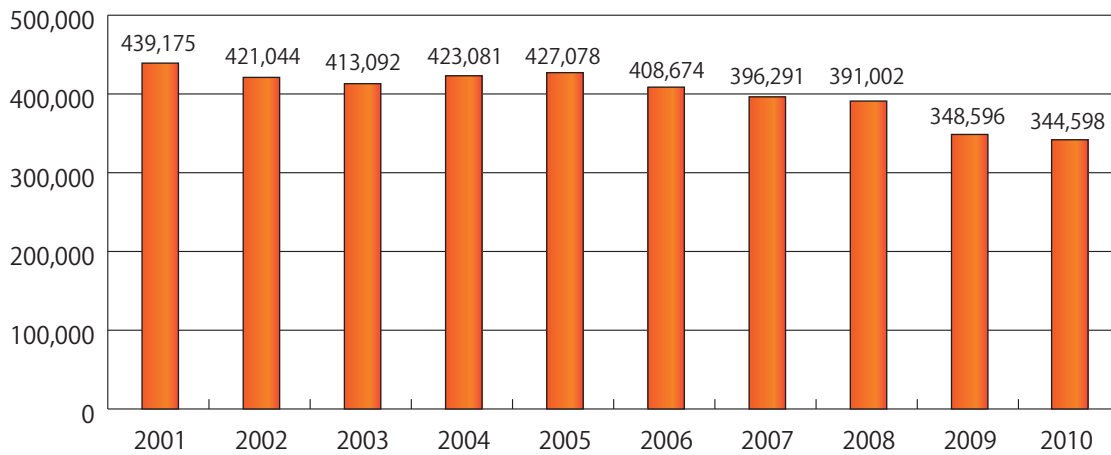
(1) Changes in the Number of Patent Applications and Requests for Examinations, and the Current Status of Patent Examination in Japan

1) Patent Application Shifting toward Acquisition of Beneficial and High-quality Patent Rights and Increasing PCT Applications

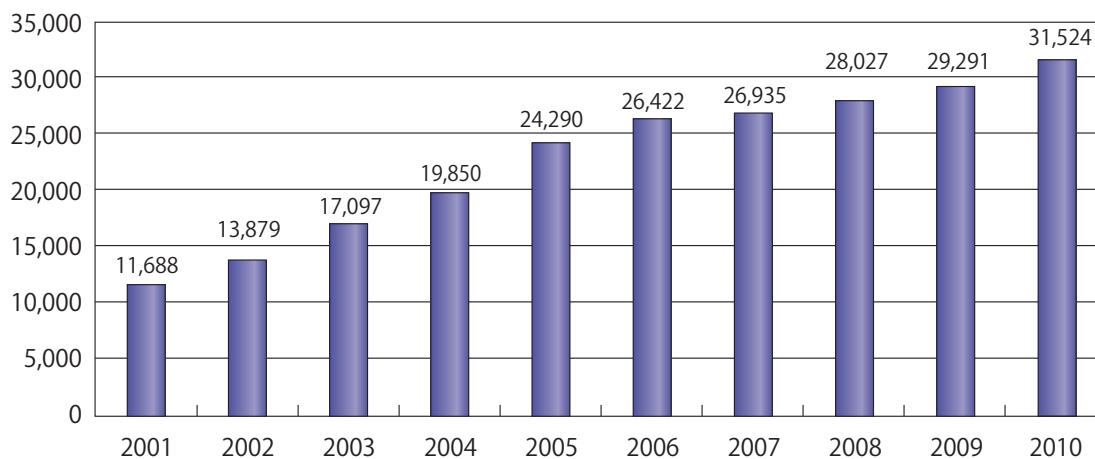
Although the annual number of patent applications filed in Japan had remained high at more than 400,000, it has gradually decreased since 2006, and showed a sharp drop in 2009. The number of patent applications in 2010 was 344,598 (down 1.1% from the previous year), almost unchanged from the previous year. One possible reason behind the decline is that, forced by the economic conditions, applicants are more selective in choosing their patent applications and are eager to adopt a patent filing strategy that will help them file high-quality applications so that these applications will serve as the core of business development. Going forward, what needs to be watched is the amount of impact that these changes in the Japanese economic climate will have on the number of applications.

Meanwhile, the number of international applications under the PCT whose receiving office is the JPO, has been on an upward trend, amounting to 31,524 in 2010, up 7.6% from the previous year. This reflects the applicants' increased focus on international filings amid the ongoing globalization of markets.

Changes in the Number of Patent Applications



Changes in the Number of PCT Applications



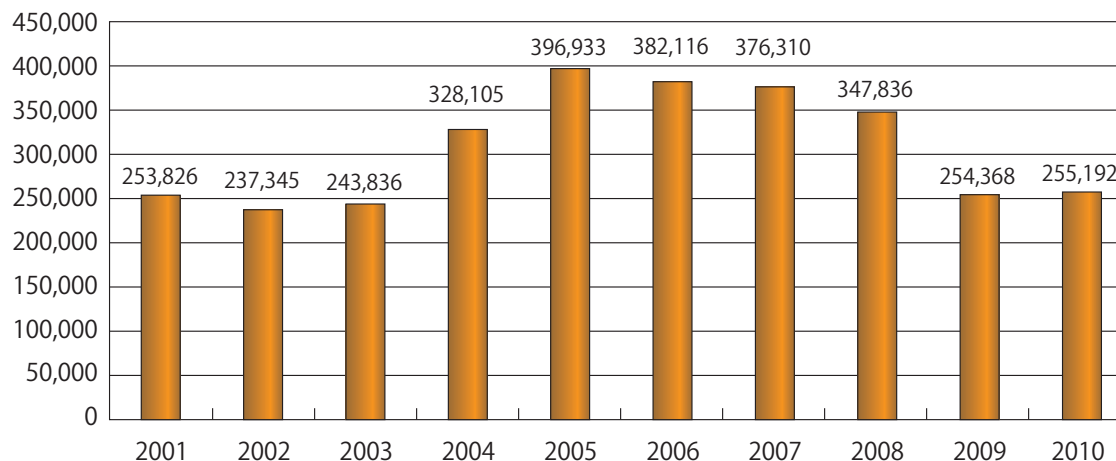
2) Emergence and End of "Bump in Requests"

The number of requests for examinations saw a temporary surge (a so-called "bump in requests") after the period for examination requests was reduced from seven years to three years for applications filed in and after October 2001. But this bump in requests ended at the end of September 2008 and the number had decreased sharply going into 2009. The number of requests for examinations in 2010 stayed at almost the same level as that in 2009, at 255,192 (up 0.3% from the previous year).

The final rate of requests for examinations for applications that were filed in and after October 2001 remained high, ranging between 65% and 70% after the period for examination requests had been reduced to three years. However, the rate began to decline in 2004 and fell to 64.2% for applications filed in 2007. One possible reason behind the decline is that, as is the case with the number of applications, in addition to the impact of the recent downturn in the economy, applicants are more selective when making requests for examinations.

¹ The rate of the applications for which requests for examinations were made prior to the time limit that was set for making the requests for examinations in the patent applications filed within the predetermined period.

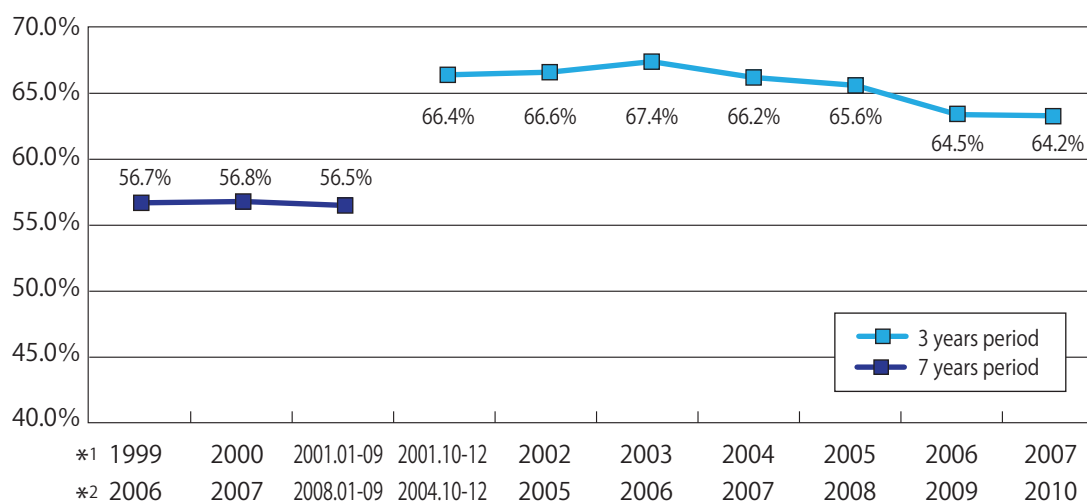
Changes in the Number of Examination Requests



Note:

The number of requests for examinations made in 2009 and 2010 includes those that used the Examination Request Fee Deferral System.²

Changes in the Final Rate of Requests for Examination



*1 The year when the application was filed

*2 The final year to file the request for examination

Notes:

1. An international application year is calculated as the application year in which Japan was the designated country for the PCT applications.
2. The final rate of examination requests for applications that were filed in 2007 and entered their final year of request in 2010 includes those that used the Examination Request Fee Deferral System.

² The system that allows applicants to postpone payment of the examination request fee up to one year from the date of filing a written request for examination, if they indicate their intention of postponement in their written request for examination.

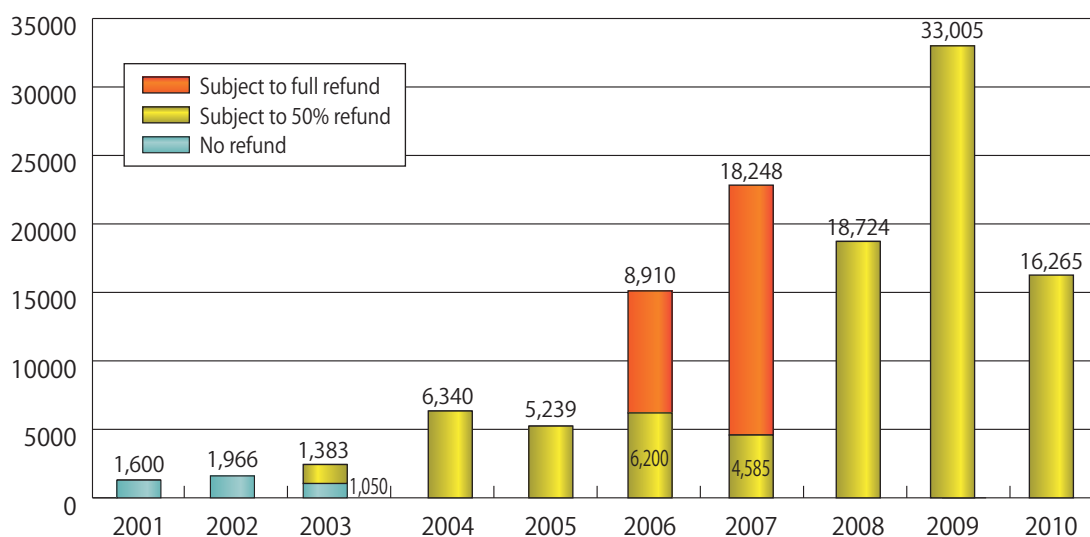
3) Surge in the Number of Withdrawals/Abandonments before the First Action after Having Requested Examination³

In April 2004, a new system of refunding the examination request fee went into effect. Under the new system, if an applicant withdraws or abandons the application (in and after October 2003) before the first action after having requested an examination, and requests a refund of the examination request fee within six months from the withdrawal or abandonment, a part (50%) of the fee is refunded to the applicant. In addition, a system was introduced for one year, from August 9, 2006, to August 2008, 2007, to refund the full amount of the examination request fee.

Even after the full-refund system ended, the number of withdrawals/abandonments of applications before the first action has been larger than before the system was implemented. Applicants seem to continue their practice of reconsidering the need for patent registration even after requesting an examination.

The number of withdrawals/abandonments before the first action in 2010 was 16,265 (down 50.7% from the previous year). This was a significant drop from 2009, a year that saw a surge due to the economic downturn.

Changes in the Number of Withdrawals/Abandonments before First Action



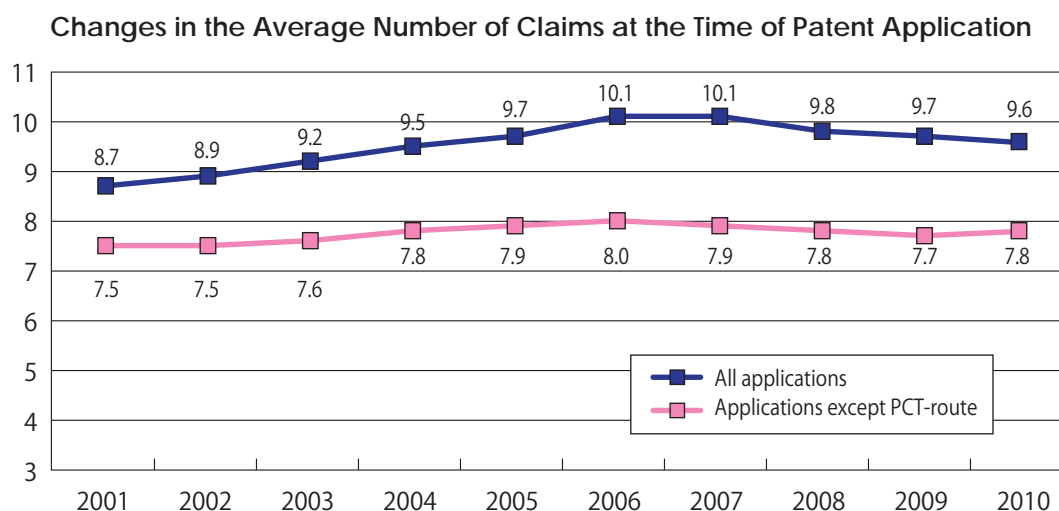
Note:

The figures are based on the year the withdrawal or abandonment was made. The figures for 2003 therefore include cases in which a withdrawal or abandonment was made in October 2003 and thereafter and a request for the fee to be refunded was made in April 2004 and thereafter.

³ Before the delivery of the documents for the patent examination such as Notification of Reasons for Refusal etc. to the applicant.

4) Changes in the Average Number of Claims

As technological advances and complexities led to an increased focus on the necessity of differentiating products from other competing products, the content of patent applications has become more sophisticated and complex. Under these circumstances, there has been a slight downward shift ever since 2007, even though the average number of claims in patent applications filed in Japan had continued to increase 2006. In particular, the average number of claims for all applications, which include PCT applications that have entered the Japanese national phase, has been on a decline.



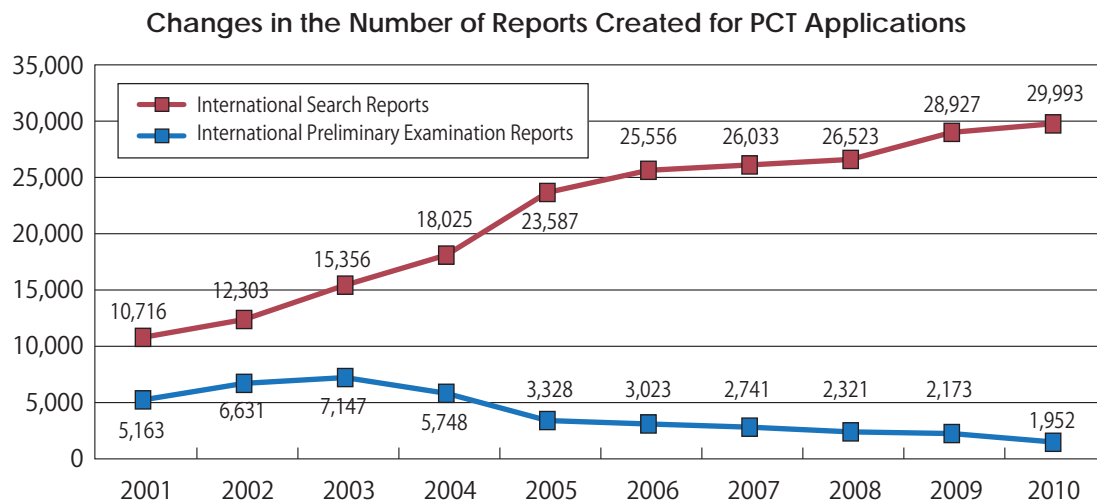
5) Increase in the Number of International Search Reports⁴ of PCT Applications

In line with the increase in the number of PCT applications as shown in 1) above, the number of international search reports created by the JPO as an international search organization increased from 28,927 in 2009 to 29,993 in 2010, up 3.7% over the previous year.

On the other hand, the number of international preliminary examination reports⁵ has been decreasing since 2004. This decline is due to the Enhanced International Search System being introduced in 2004, in which a written opinion (similar to the one that used to be prepared at the international preliminary examination phase) has to be established at the same time as the international search report.

⁴ When an international PCT application is filed and the JPO is selected as the international searching authority, an examiner searches relevant prior art and establishes an international search report.

⁵ The examiner establishes an international preliminary examination report to indicate his/her final decision in the international preliminary examination.



6) Increase in the Number of First Actions⁶ and Decrease in the Number of Patent Backlogs

The workload of patent examinations has increased every year due to the following four reasons: (1) the complex and sophisticated content of applications, (2) the increase in the number of accumulated documents covered by prior art searches, (3) the increase in the number of international search reports to be established within the time limit set by the treaty, and (4) the increase in the examination workload per PCT application with the introduction of the Enhanced International Search System. In order to conduct prompt and proper patent examination under these circumstances, the JPO is strengthening its examination workforce and improving the efficiency of its examination work by steadily implementing various measures, including hiring about 500 fixed-term examiners and increasing the outsourcing of prior art searches.

As a result of these efforts, the number of first actions in the JPO has steadily increased over the past several years, experience an increase from 292,756 in 2006 to 377,089 in 2010 (an increase of 28.8%). As was the case in 2009, the number of first actions exceeded the number of requests for examination in 2010. As a result, the number of the applications awaiting the first action (backlogs) decreased to 573 thousand (down 20.0% from the previous year) as of the end of 2010. The period from the date of request for examination to the date when the first notice of examination results is made (first action pendency), which had a tendency to be longer until 2009, also shifted downward in 2010, resulting in 28.7 months. The number of backlogs and first action pendencies are expected to continue to decrease.

The JPO has been making various efforts⁷ toward expeditious and efficient patent examination. This helped achieve year-on-year increases of 10% in the number of subsequent examinations⁸ and 11% in the number of reconsiderations by examiner before appeal

⁶ First action is an examination performed at first following the request for the examination by the applicant.

⁷ See Part 2, Chapter 2.

⁸ Examinations conducted in response to a written opinion or a written amendment submitted by the applicant

proceedings in 2010.⁹

In line with an increasing number of examinations, the number of decisions granting patents reached 206 thousand in 2010. The rate of decisions to grant a patent was 54.9%.

Changes in Patent Examination Performance

Record	2006	2007	2008	2009	2010	Year on year
Number of First Actions	292,756	307,665	342,654	361,439	377,089	104%
Number of Subsequent Examinations	226,815	264,776	283,638	306,018	336,613	110%
Number of International Search Reports of PCT	25,556	26,033	26,523	28,927	29,993	104%
Number of International Preliminary Examination Reports of PCT	3,023	2,741	2,321	2,173	1,952	90%
Number of Reconsiderations by Examiner before Appeal Proceedings	22,289	27,432	28,478	24,131	26,707	111%
Number of Reports of Expert Opinion on Registrability of the Utility Model	1,052	1,116	880	718	717	100%
Total	571,491	629,763	684,494	723,406	773,071	107%

Notes:

1. The "year-on-year" column is a comparison between 2010 and 2009.
2. The "number of reconsiderations by examiner before appeal proceedings" is the total number of decisions to grant a patent in the procedure,¹⁰ reconsideration reports made to the JPO Commissioner,¹¹ and notifications of reasons for refusal made in the procedure

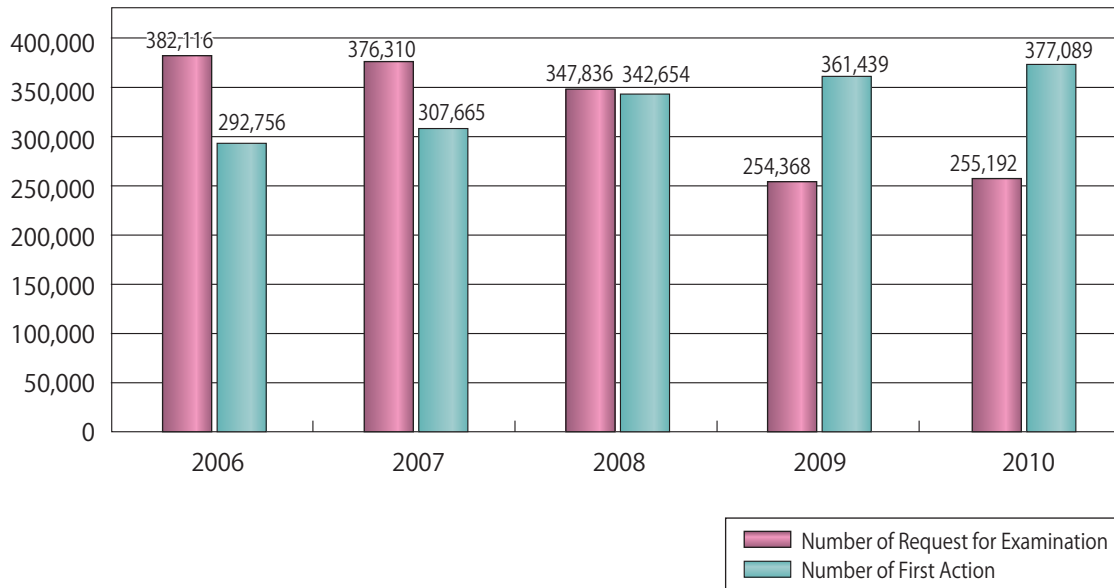
following the first action.

⁹ Examination conducted by the examiner in accordance with Article 162 of the Patent Act when an amendment has been made to the scope of claims, etc. prior to filing an appeal against the examiner's decision of refusal.

¹⁰ The number of cases in which the examiner's decision of refusal was cancelled and a decision to grant a patent was made, as a result of a reconsideration by the examiner.

¹¹ The number of cases in which the examiner's decision of refusal was upheld, as a result of a reconsideration by the examiner.

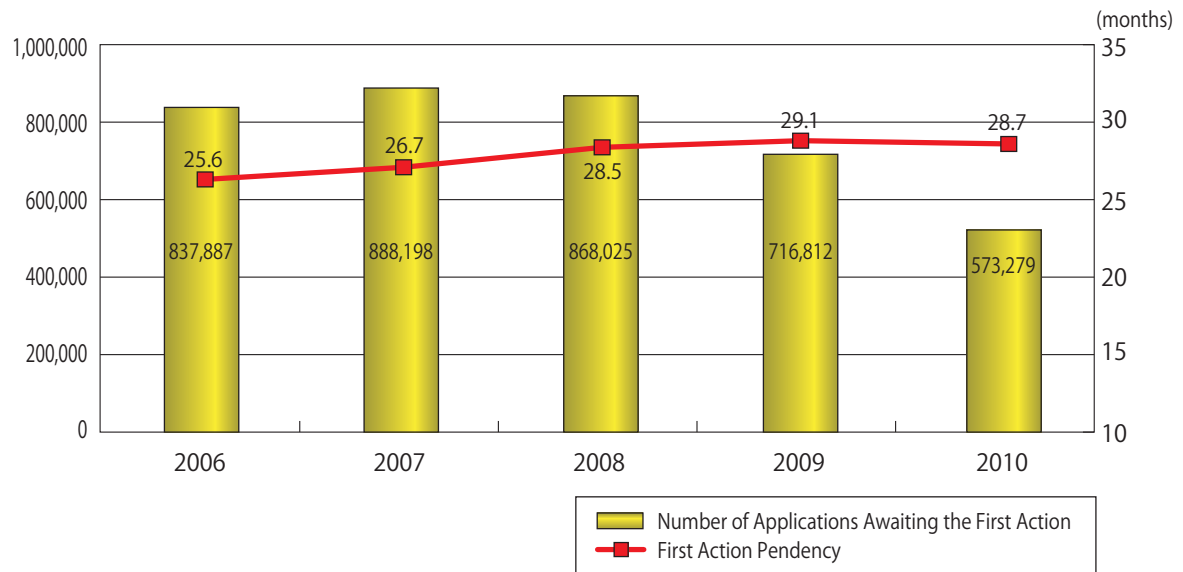
Changes in the Number of Requests for Examination and Number of First Actions



Note:

The number of requests for examination in 2009 and that in 2010 include those which were applied for requests for deferred payment of examination request fees.

Changes in the Number of Applications Awaiting the First Action and First Action Pendency



Notes:

1. The number of applications awaiting the first action does not include those for which the examination fee has not been paid under the Examination Request Fee Deferral System.
2. The number of applications awaiting the first action is based on the figure as of the end of each year.

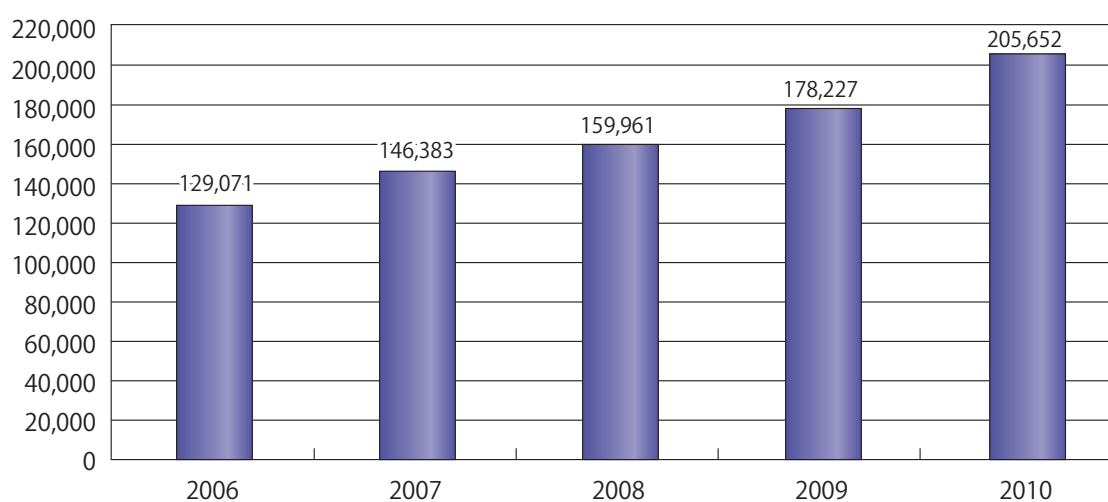
Changes in Final Decision Performance

Performance	2006	2007	2008	2009	2010	Year-on-year
Number of Decisions to Grant a Patent	129,071	146,383	159,961	178,227	205,652	115%
Number of Decisions of Refusal	129,400	147,678	154,163	171,396	164,639	96%
(Of which number of decisions of refusal without a dissenting response from the applicant)	68,879	78,246	85,443	105,004	100,951	96%
Withdrawals/Abandonment After the First Action	7,915	5,567	4,779	5,169	4,600	89%
Rate of Decisions to Grant a Patent	48.5%	48.9%	50.2%	50.2%	54.9%	-
Rate of Decisions of Refusal	51.5%	51.1%	49.8%	49.8%	45.1%	-

Notes:

1. "Number of Decisions of Refusals without a dissenting response of the applicant" is the number of decisions of refusal without a dissenting response of the applicant from the notice of reason for refusal issued by the examiner.
2. "Withdrawals/Abandonments after the first action" is the number of applications withdrawn/abandoned after the first action.
3. "Rate of Decisions to Grant a Patent" is the number of decisions in which a patent was granted divided by (1) the number of decisions to grant a patent plus (2) the number of decisions of refusals plus (3) the number of withdrawals/abandonment after the first action.
4. "Rate of Decisions of Refusal" is the number of decisions in which a patent was not granted (refusal) plus the number of withdrawals/abandonments after the first action, divided by (1) the number of decisions to grant a patent plus (2) the number of decisions of refusal plus (3) the number of withdrawals/abandonments after the first action.

Changes in the Number of Decisions to Grant a Patent

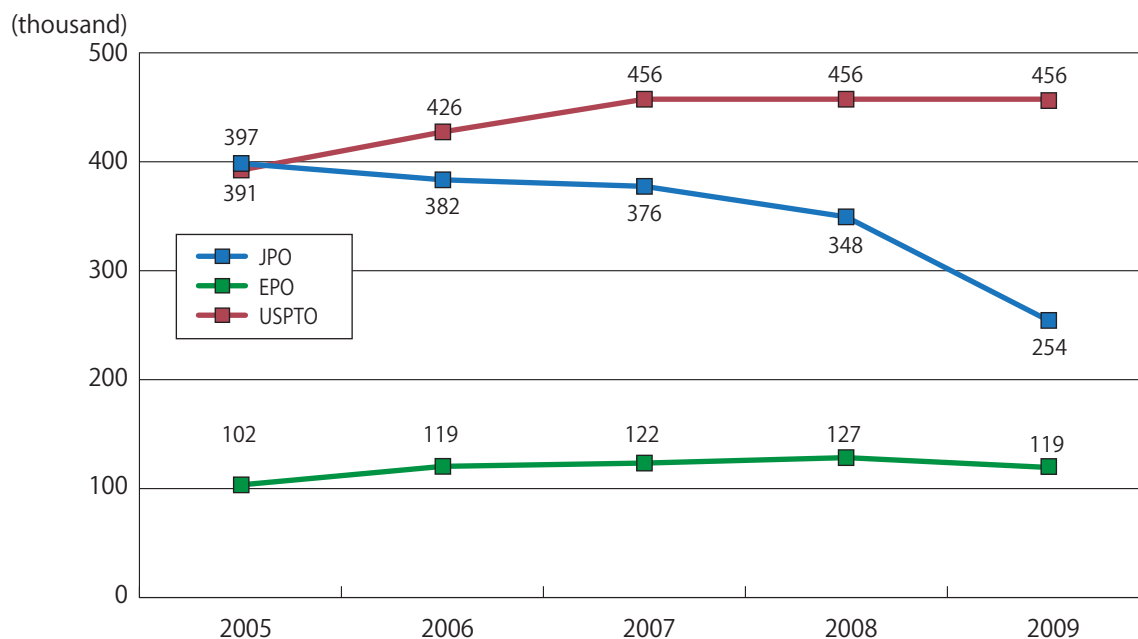


Not only Japan but also Europe and the United States face the issue of prolonged examination pendency. In recent years, the number of requests for examination in Europe and the number of patent applications in the United States remain high. This trend has caused an increase in the workload on the patent examination and a prolongation of both the first action pendency and the final decision pendency.

In response to this situation, the EPO and the USPTO have dramatically increased examiners. To be more precise, the EPO has increased the number of its examiners by about 1,100 and the USPTO has increased the number by about 3,000 during the ten years from 2001 to 2010.

Similarly, the JPO additionally hired 607 examiners more during the ten years from 2001 to 2010, including 490 fixed-term examiners who were hired under its recruitment project since 2004.

Changes in the Situation of Trilateral Offices (Number of Requests for Patent Examination Filed with the JPO and EPO and Number of Patent Applications Filed with the USPTO)

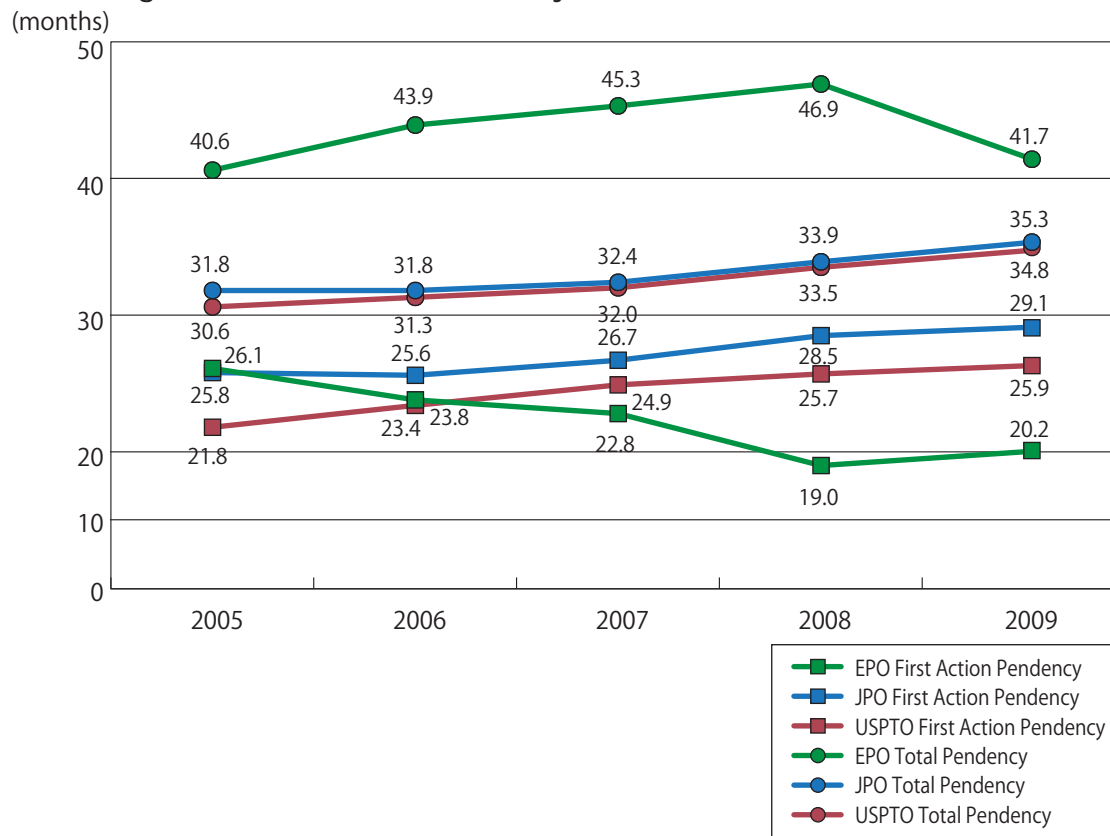


Sources:

USPTO webpage

EPO Annual Report

Changes in the Examination Pendency and Final Decision Term at Trilateral Offices

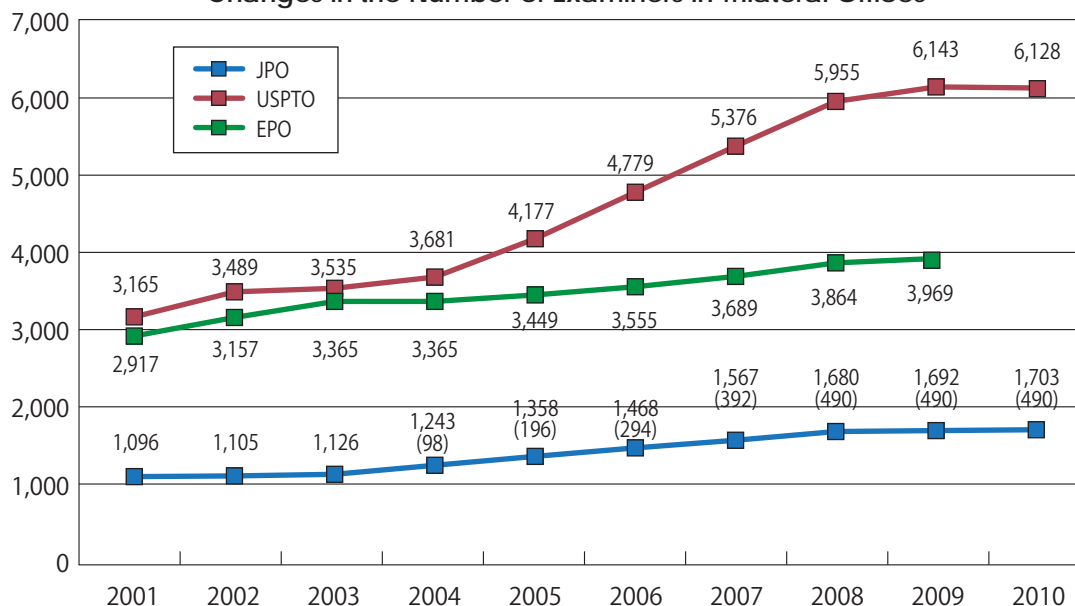


Notes:

1. The JPO's first action pendency is the period from the date of request for examination to the first action.
2. The first action pendency of the USPTO and EPO is the period from the filing date to the first action.

Source: Trilateral Statistical Report, Four Office Statistics Report

Changes in the Number of Examiners in Trilateral Offices



Note:

The numbers in the brackets of the JPO from 2004 to 2010 are those of fixed-term Examiners.

Sources:

USPTO: Annual Report

EPO: Trilateral Statistical Report, Four Office Statistics Report

2. Utility Models

(1) Changes in the number of utility model applications in Japan

The number of utility model applications had decreased since the utility model system was changed to a non-substantive examination system in 1994. In such a situation, the amended utility model system came into force in April 2005 in order to make the system more attractive. The outline of the amended utility model system is (i) extension of the term of utility model right, (ii) reduction in the annual fee for utility model right, (iii) expansion of the allowable scope of correction, and (iv) allowance of filing a patent application based on a utility model registration.

With the amended utility model system in place, the number of utility model applications reached a peak of 11,386 in 2005, increasing by 43% from the previous year. The number has seen a gradual decline over the years, totaling 8,679 in 2010.

Changes in the Number of Applications Filed under the New Utility Model System

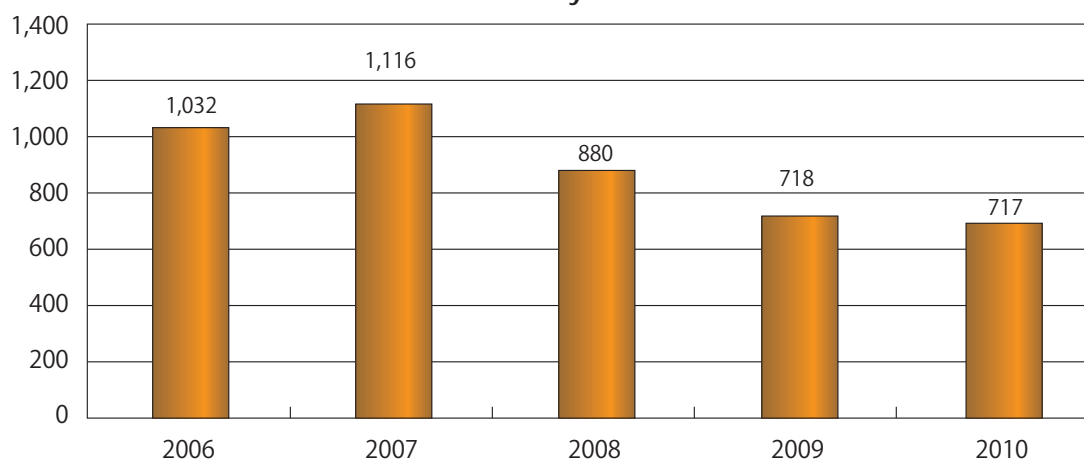
	2003	2004	2005	2006	2007	2008	2009	2010
Utility Model Applications	8,155	7,983	11,386	10,965	10,315	9,452	9,507	8,679

(2) Status of Technical Reports of Expert Opinion on Registerability of the Utility Model in Japan

Under the new utility model system, which adopts the non-substantive examination principle, the owner of a utility model right first needs to give a warning by presenting a technical report of expert opinion on registerability of the utility model when enforcing the right (Article 29-2 of the Utility Model Act). The technical report is created by a JPO examiner who evaluates the novelty and inventive step of the filed device to determine the validity of any right and notifies the requester (Articles 12 and 13 of the Utility Model Act).

The number of the prepared reports of expert opinion on registerability of the utility model was 717 in 2010, almost unchanged from the previous year.

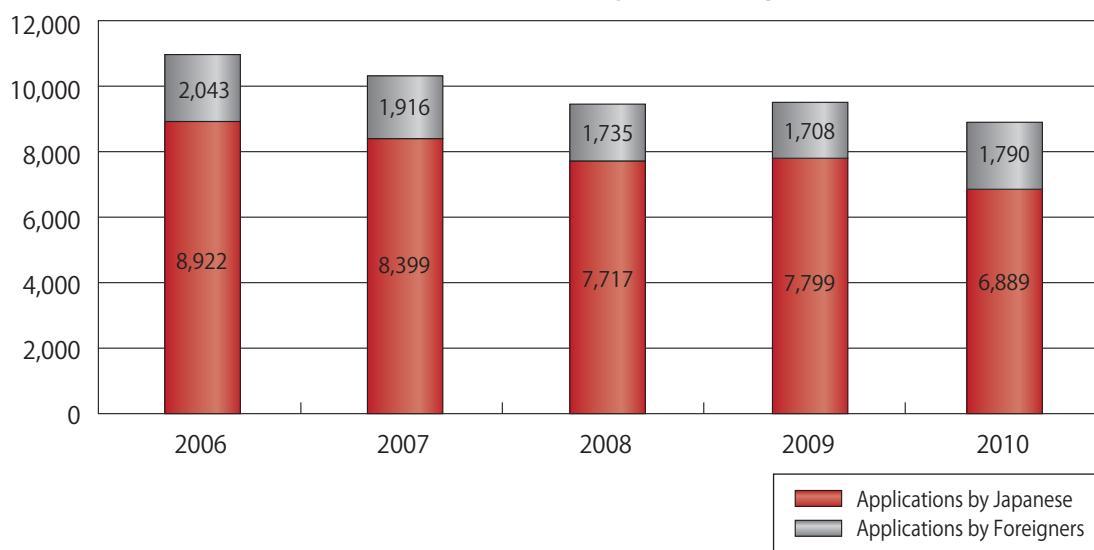
Changes in the Number of Prepared Reports of Expert Opinion on Registrability of the Utility Model



(3) Breakdown of Applicants for Utility Model Registration in Japan

The ratio of the number of foreign applications to total applications has remained around 20% of the total applications.

Composition of Applicants for Utility Model Registration in Japan



3. Designs

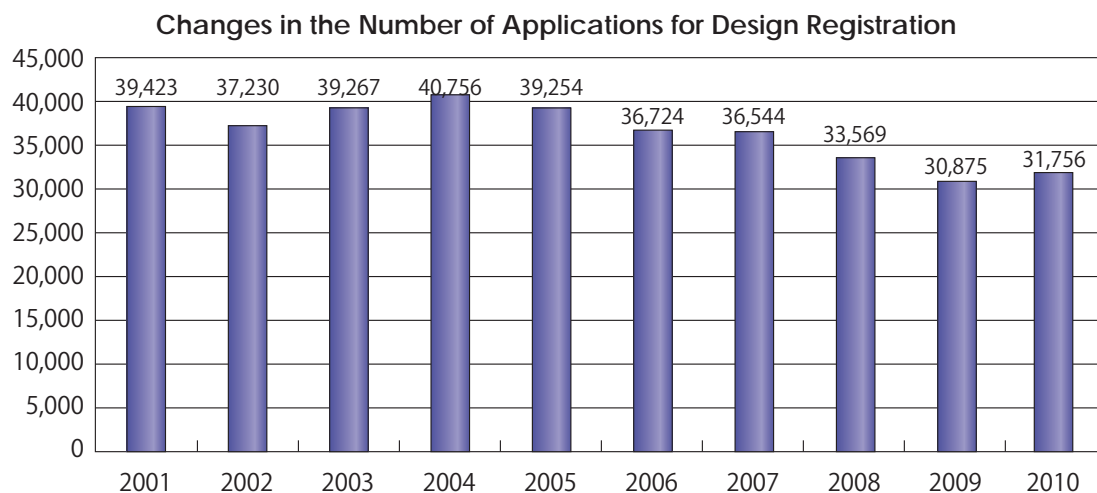
(1) Changes in the Number of Design Applications and Status of Design Examination in Japan

1) Trends in Applications for Design Registration

The changes in the number of applications after 2001 showed a downward trend after the number reached its peak of 40,756 in 2004, but it took an upward turn in 2010 (up 2.9% from the previous year). A rebound in the number of applications in the field of electrical and electronic equipment and apparatus in particular has raised the overall number.

Since the introduction of the partial design system¹² in 1999, the ratio of applications for partial design has been increasing each year, reaching over 30% of all the applications in 2010.

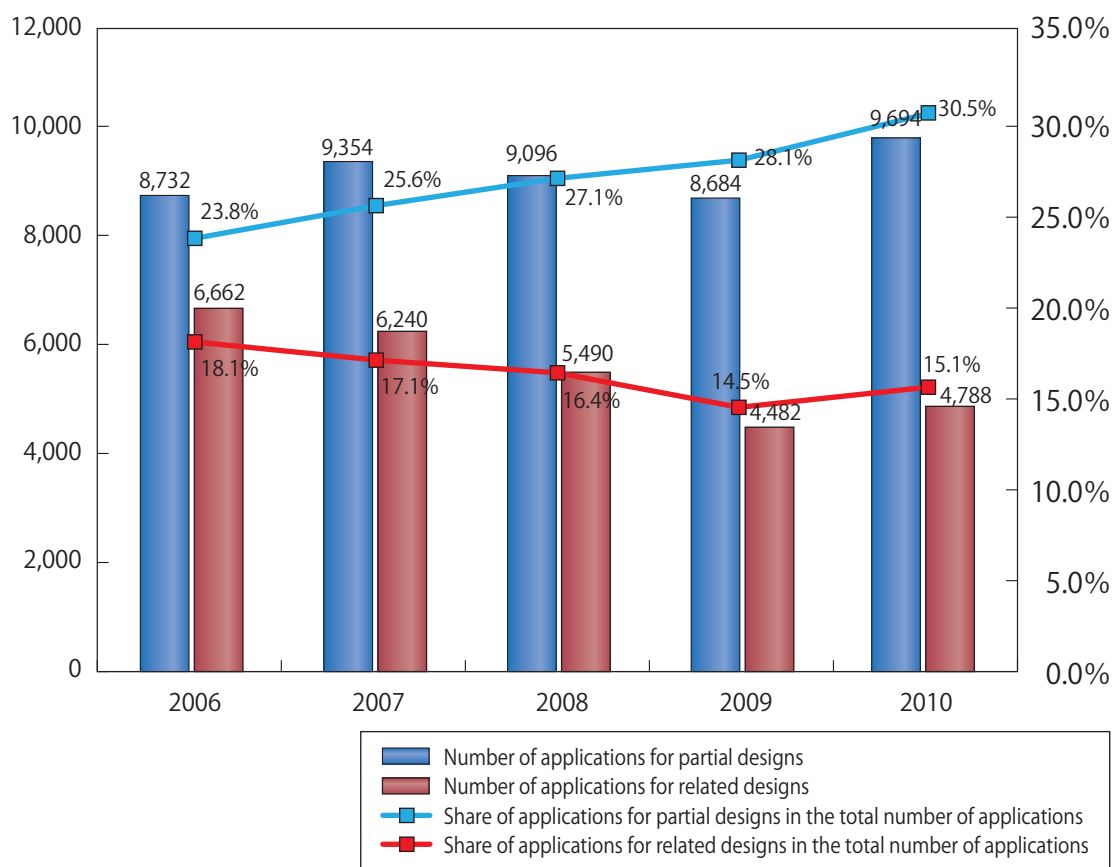
The rate of applications for the related design system¹³, introduced in the same year, recorded a slight increase in 2010 after showing a downward trend since 2006.



¹² Registering a design that is a part of an article: Since the amended Design Act went into effect in 1999, it became possible to register a design, which forms a part of an article, that even cannot be physically separated from the entire article.

¹³ The related design system enables the design rights to be enforced as a related design which is similar to the principal design only when the design application for the related design is filed as the principal design by the same applicant. This system was introduced in 1999.

Changes in the Number and the Rate of Applications for Partial Designs and Related Designs

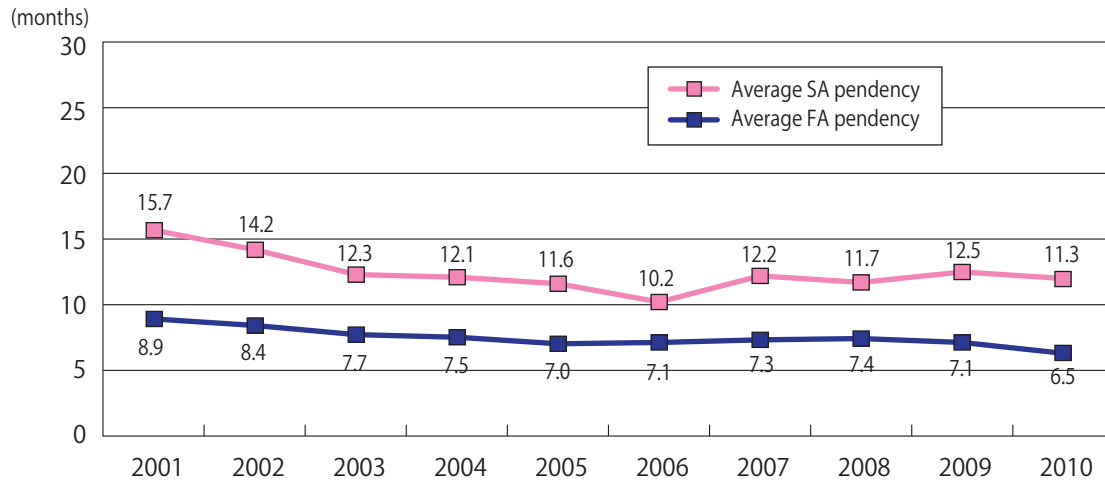


2) Status of Design Examination

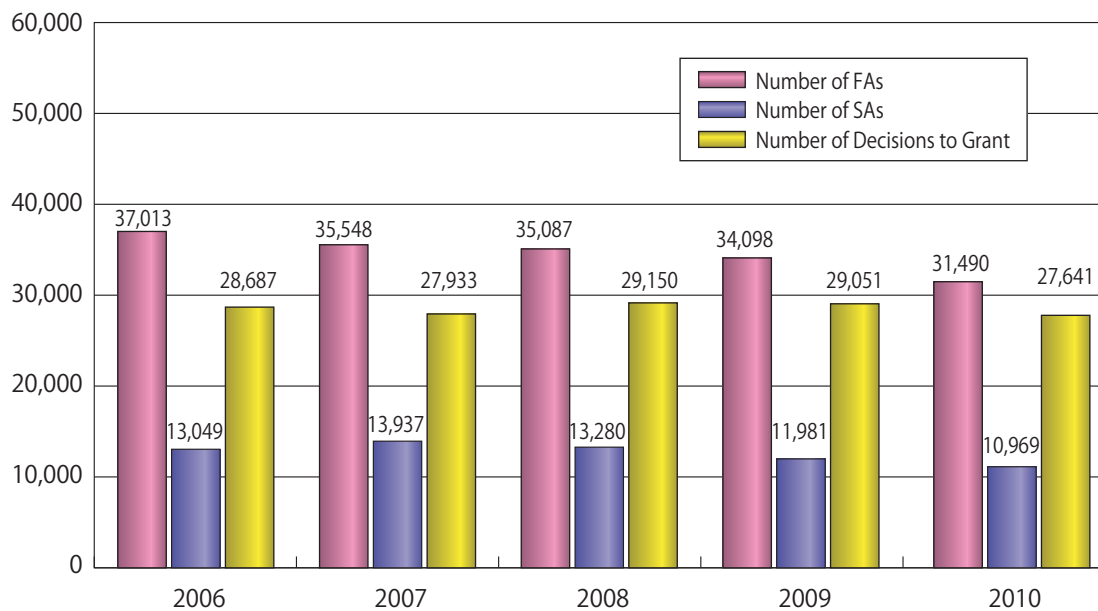
The number of first actions (number of FAs) fell from 34,098 in 2009 to 31,490 in 2010. The decline is due to a drop in the number of applications filed in 2009 compared to the number in 2008. The period from the filing date to the date when the first notice of examination results is issued (first action pendency, or FA pendency) was reduced from the previous year to 6.5 months in 2010.

The number of applications for which the decision following the first action was issued (number of SAs) was 10,969 in 2010. The period from the filing date to the date when the decision following the first action (second action) is issued (SA pendency) was 11.3 months. Meanwhile, the average number of design registrations has remained at around 30,000 for the last five years.

Changes in the Average First and Second Action Pendency of Design Application



Changes in the Number of First and Second Actions and Decisions to Grant



Note:

The number of decisions to grant is the total number of decisions to grant as the first action and those as the second action.

4. Trademarks

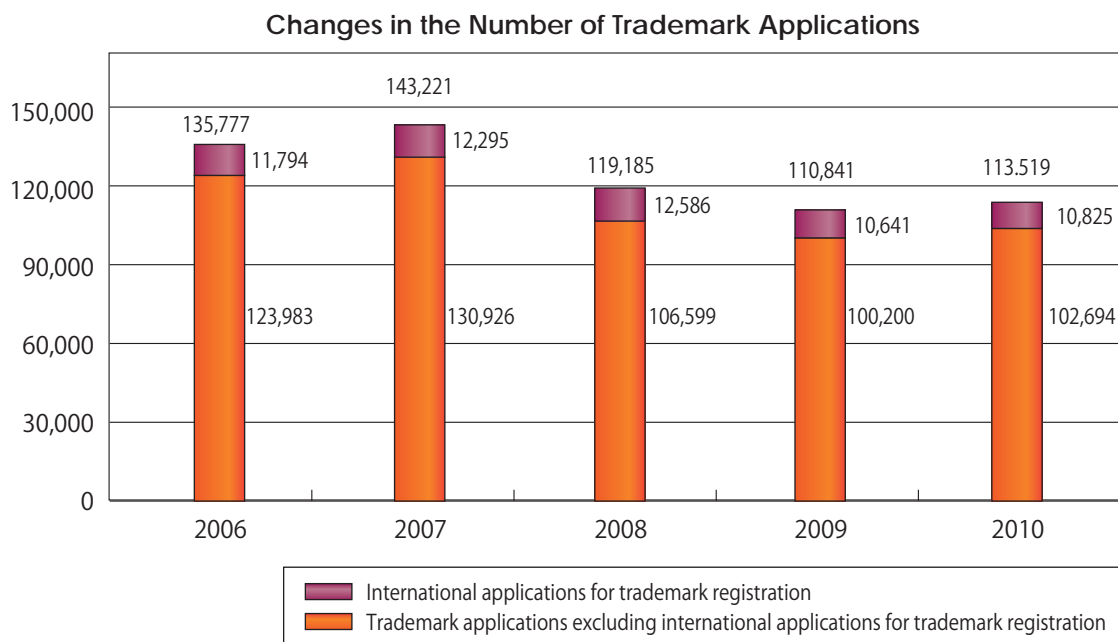
(1) Changes in the Number of Trademark Applications and Status of Trademark Examination in Japan

1) Trends in Trademark Applications

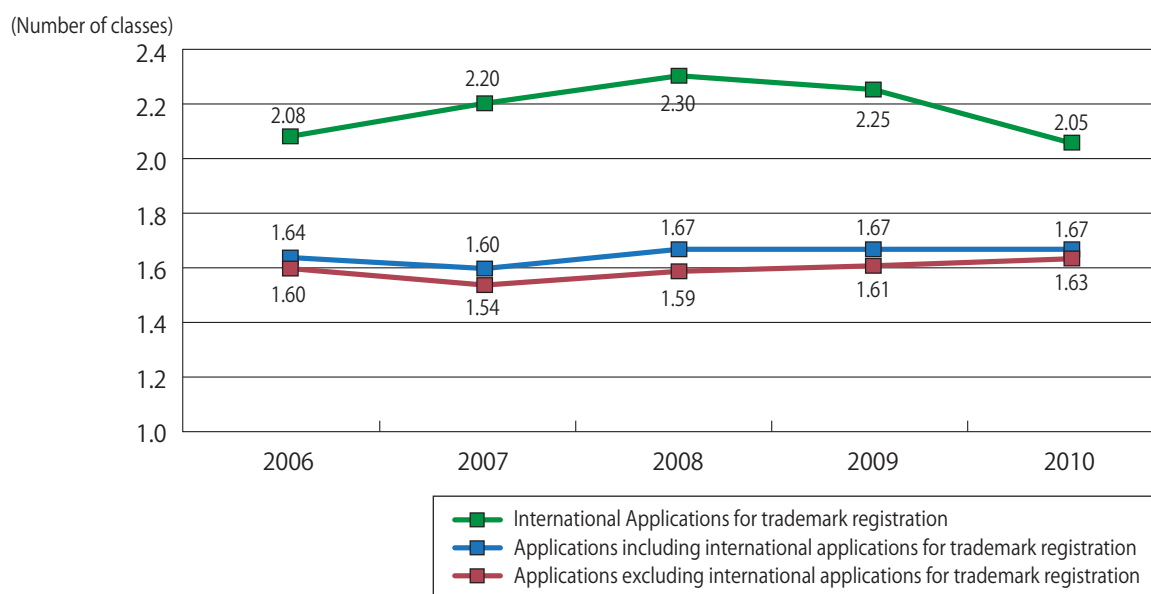
The number of trademark applications in 2010 reached 113,519, up 2.4% from the previous year. Within this number, the number of international applications for trademark

registration was 10,825, up 1.7% from the previous year.¹⁴

The average number of classes per trademark application (the multiple class rates)¹⁵ was 1.67 in 2010, unchanged from the previous year.



Changes in the Average Number of Classes Designed per Application (the multiple class rates)



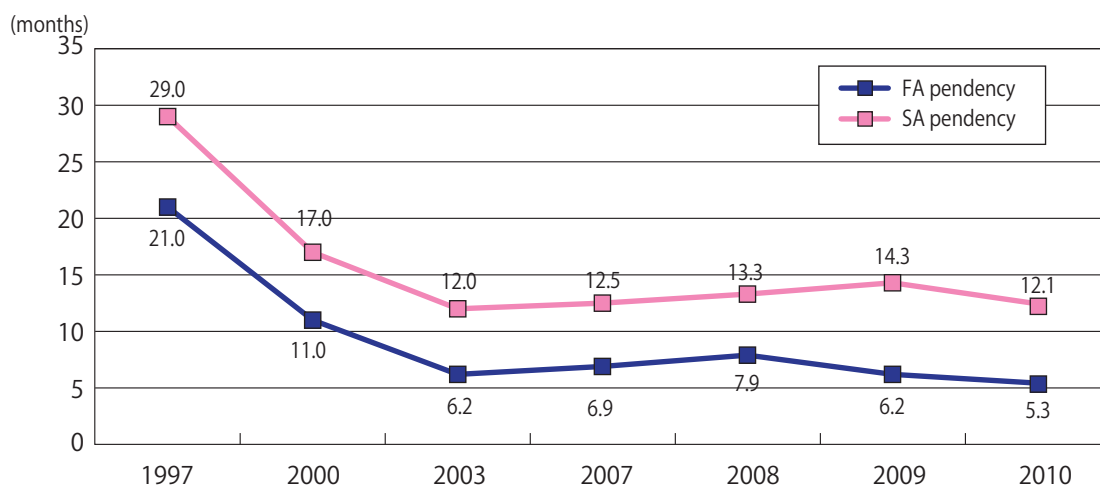
¹⁴ International applications under the Madrid Protocol designating the JPO (See Article 68-9 of the Trademark Act of Japan)

¹⁵ When filing a trademark application, the application must designate one or more goods (services) to which the trademark should be applied, and describe their corresponding classes in the request. Goods and services are classified into 45 classes.

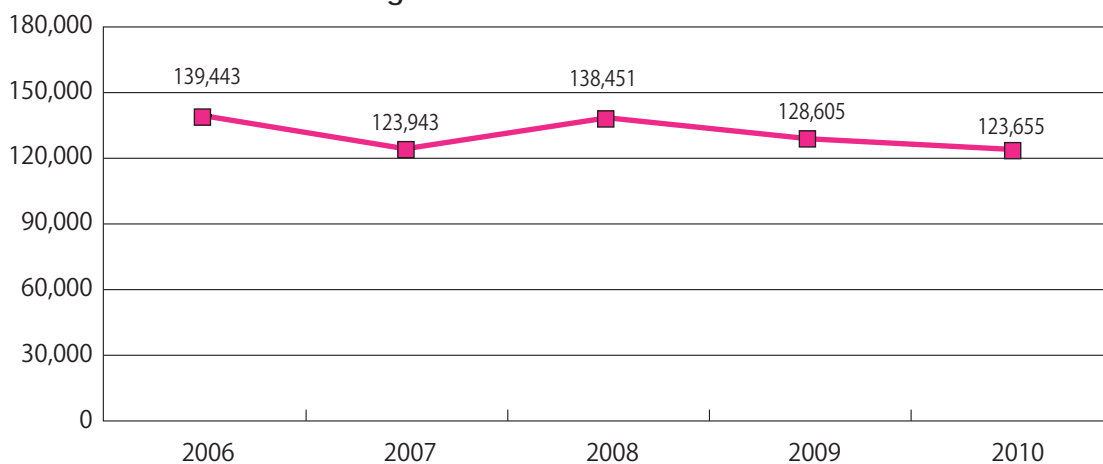
2) Status of Trademark Examination

The JPO has been working to improve the efficiency of the examination process through further automizing the examination process and using private-sector capacity.¹⁶ As a result, the period from the filing date to the date when the first notice of examination results is issued (first action pendency, or FA pendency) was 5.3 months and the number of first actions came to 123,655. The period from the filing date to the date when the decision following the first action (second action) is issued (SA pendency) was 12.1 months. The number of trademark registrations has continued to remain between 90,000 to 100,000.

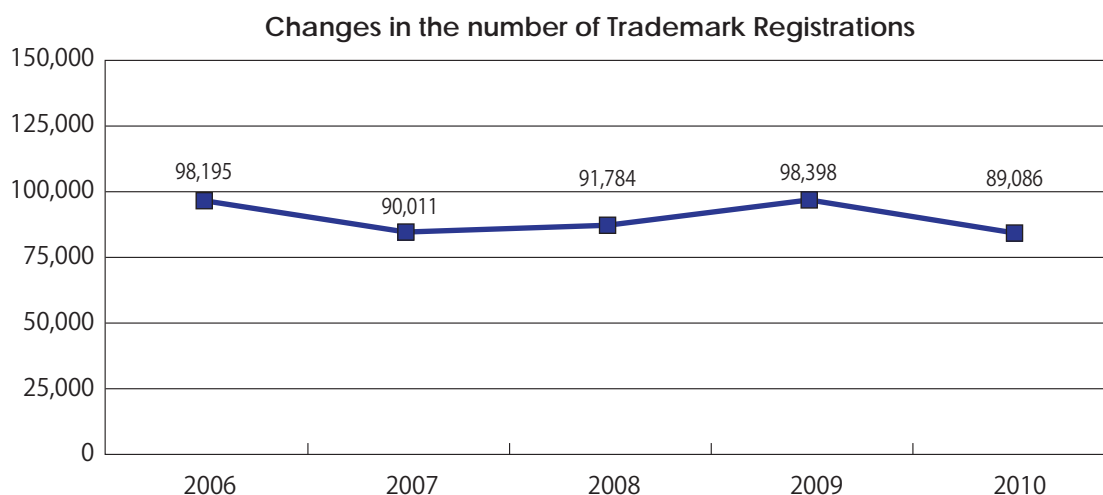
Changes in the Average FA and SA Pendency in Trademark Examination



Changes in the Number of First Actions



¹⁶ In FY2010, preliminary searches (on distinctiveness of trademarks, unclear indication of goods and services, and similarity of figures) required for trademark examinations were conducted by the Japan Patent Information Organization (Japio). Examiners make use of these search results in trademark examinations.



Note:

Figures do not include the number of international applications for trademark registration designating the JPO.

5. Appeals and Trials

(1) Status of Appeals and Trials

1) Trends in Appeals and Requests for Trials

The system of appeals and trials has two functions. One is to examine applications as the upper instance and the other is to settle disputes on the validity of patents. The trends of the former pre-grant appeals (including appeals against an examiner's decision of refusal¹⁷ whose main function is the role as the upper instance) are closely related to the trends of examination in the Examination Department, while the trends of the latter post-grant trials (including invalidation trials,¹⁸ whose main function is to settle disputes) are closely related to the trends of disputes concerning industrial property rights, such as infringement lawsuits.

a. Trends in Appeals against an Examiner's Decision of Refusal

As a result of both the economic downturn and the Patent Act revised in terms of extending the period for requesting an appeal against an Examiner's Decision of Refusal, the number of appeals against an examiner's decision of refusal for patent applications recorded a temporary, sharp drop in 2009, but it reached 27,889 in 2010 (up 16% from the previous year).

The number of appeals for designs and trademarks decreased by 9.0% year-on-year and the number for trademarks was down 6.3% year-on-year, reduced because of a decline in

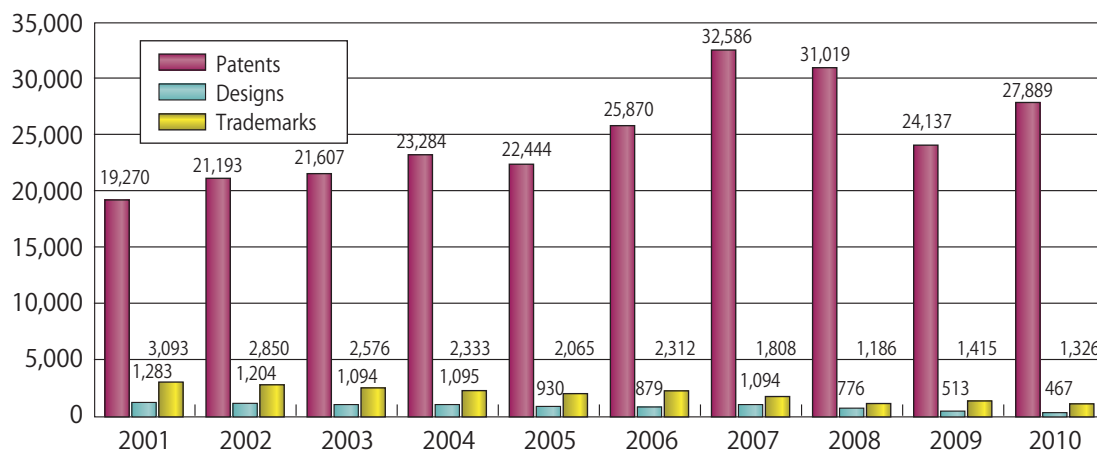
¹⁷ Appeals requested to the JPO in oppositions to the decision of refusal made by a patent examiner.

¹⁸ Appeals and trials requested to the JPO for the invalidation of already-registered patents, utility rights, designs and trademarks

the number of examiner's decisions of refusal.

Looking at the results over the past several years, the number of examiners' reconsiderations,¹⁹ i.e. the original decision of refusal was cancelled and a decision to grant a patent was given, has been increasing. Since 2008, the number of granted patents in the reconsideration procedure has exceeded the number of applications for which the original decision of refusal was maintained (the number of maintained refusals).²⁰ The Appeals Department will continue to work on granting patents at an early stage of examination and examiner's reconsideration,²¹ in order to reduce the workload of the applicant and improve efficiency at the JPO's.

Changes in the Number of Appeals against an Examiner's Decision of Refusal

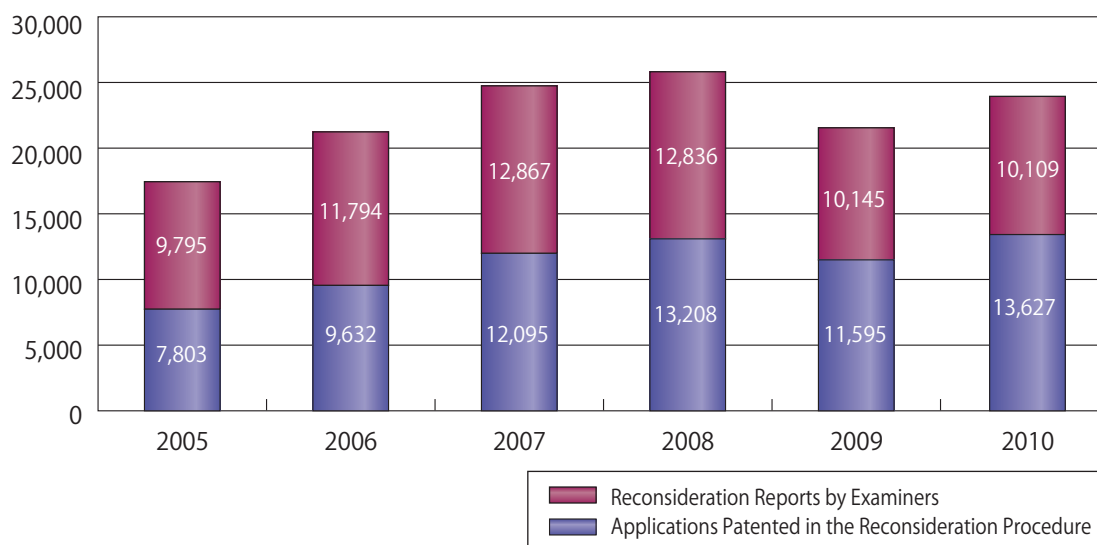


¹⁹ If the scope of claims has been amended at the time of requesting an appeal against an examiner's decision of refusal, the examiner first examines the amendment pursuant to Article 162 of the Patent Act. This procedure is called "reconsideration by an examiner before appeal proceedings."

²⁰ In the reconsideration by an examiner before appeal proceedings, if the examiner decides to maintain the decision of refusal even after the amendments, the examiner reports the results of the examination to the JPO commissioner. After this, an appeal examination is conducted by a board of appeal.

²¹ See Part 2, Chapter 5, 3.

Changes in Results of Reconsideration by an Examiner before Appeal Proceedings (Patents)

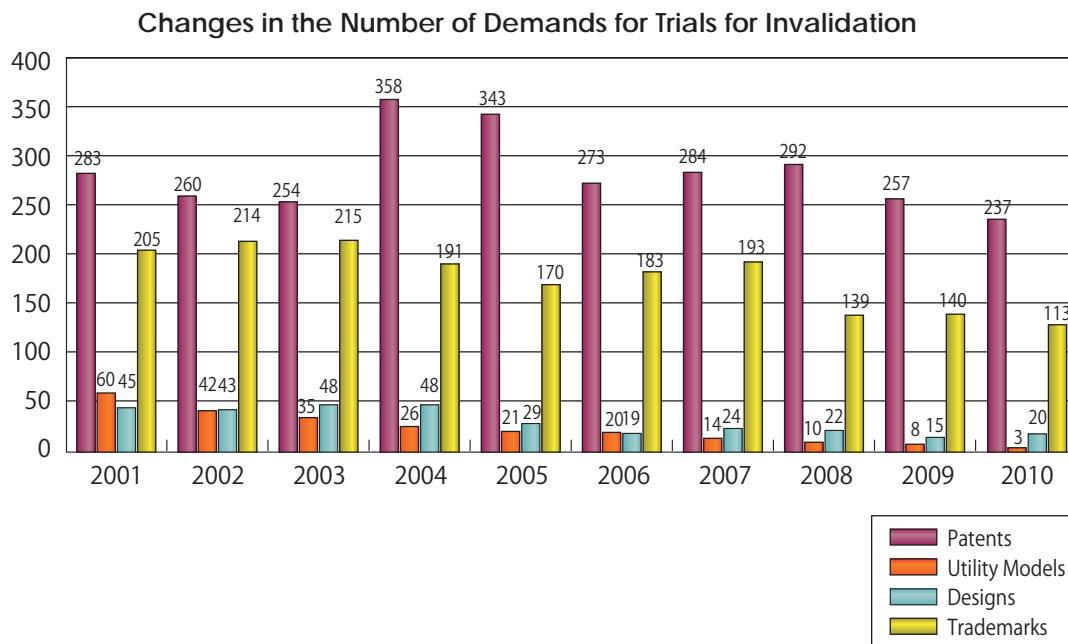


b. Trends in Invalidation Trials

As a result of the revision made to the Patent Law in 2003, the system of opposition to grant a patent²² was integrated into the invalidation trial system. This caused the number of demands for invalidation trials of patents to increase temporarily after 2004. Though it had remained almost unchanged after a fall in 2006, the number of demands decreased year-on-year in both 2009 and 2010.

The number of demands for invalidation trials for utility models and the number for trademark registrations have been declining, whereas the number of demands for an invalidation trial for design registrations increased compared to 2009.

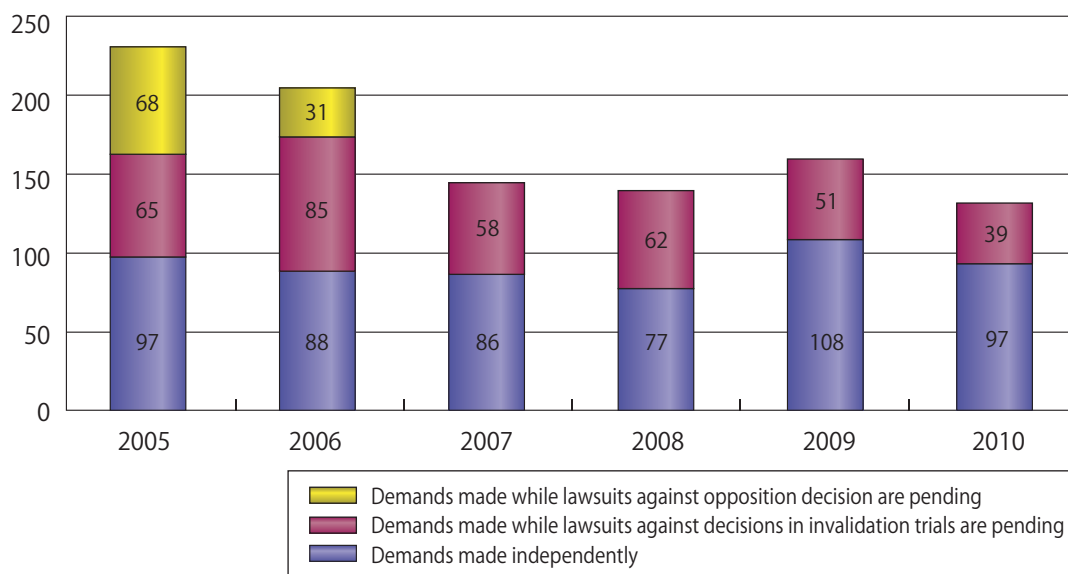
²² A system which permits the cancellation of a patent only within a certain period after the registration of the patent right



c. Trends in Limitation/Correction Trials²³ for Patents and Utility Models

The opposition system was abolished when the Patent Law was revised in 2003. As a result, the number of lawsuits against opposition decisions was decreased. This led to a decline in the number of demands filed during the pendency of lawsuits against decisions on opposition to the granting of a patent, which accounted for a certain percentage of demands for limitation/correction trials. After a period of falling decline because of this situation, the number of demands for limitation/correction trials of patents and utility models has remained around 150 for the last four years.

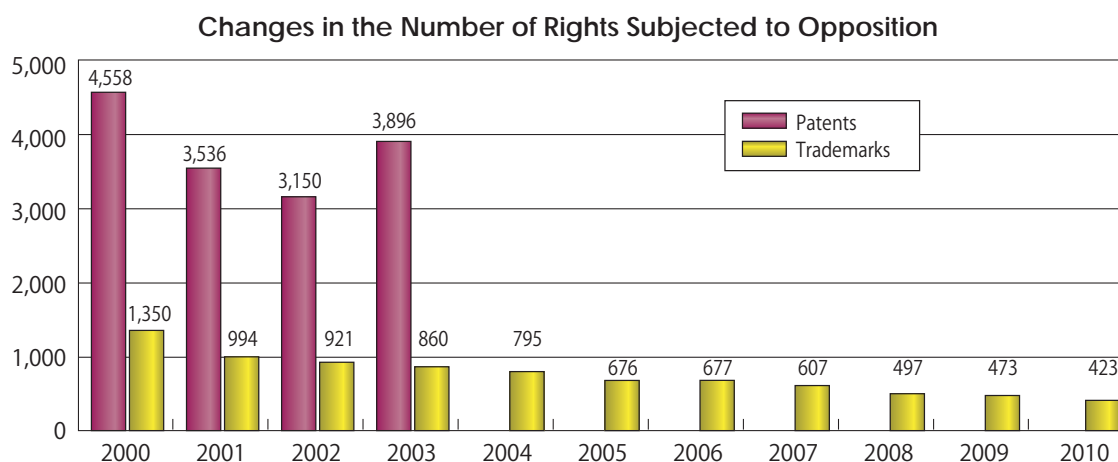
Changes in the Number of Demands for Limitation/Correction Trials (Patents and Utility Models Combined)



²³ Trials for limiting / correcting the description, claims or drawings on their own after patentees acquire the rights.

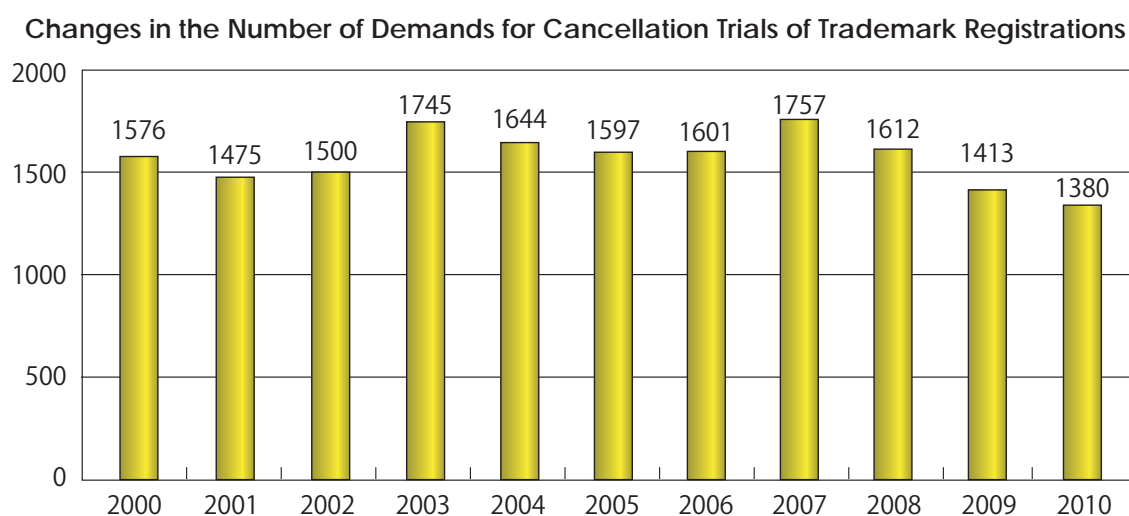
d. Trends in Oppositions

The number of oppositions to trademark registration²⁴ has been gradually declining.



e. Trends in Cancellation Trials of Trademark Registrations²⁵

The number of demands for cancellation trials of trademark registrations has been declining since 2007.



2) Trends of Examination by the JPO Appeals Department

a. Patents and Utility Models

The average first action pendency for appeals against an examiner's decision of refusal in 2010 was 23.7 months. In order to shorten the first action pendency for appeals against an examiner's decision of refusal, the Appeals Department will work to implement some measures

²⁴ A system which requests the cancellation of a trademark right after it has been registered for a certain period of time.

²⁵ Trials for cancelling a trademark where an owner of that trademark right has not used the trademark for more than 3 consecutive years:

that are currently underway. These include the use of appeal researchers, conducting questioning based on examiner's reconsideration reports, and implementing an appeal examination in a batch of related cases.

Looking at the appeal examination results related to patent applications, the percentage of decisions that sustained the appeal (appeal success rate²⁶) remained under 50% for the last several years, but it climbed to 52% in 2010.

With regard to invalidation trials, trial examinations are conducted on a preferential basis in order to contribute to early settlement of disputes over rights. In 2010, the average pendency in trials for invalidation was 9.8 months. Oral proceedings²⁷ were commonly used in the invalidation trials of patent/utility models in order to raise the quality of the trial examination process. As a result, the number of oral proceedings (including designs and trademarks) has increased to 243 in 2010.

Efforts were made to speed up limitation/correction trials because the trials were often required in connection with infringement lawsuits. As a result, the average trial pendency in 2010 was 2.0 months.

b. Design

The appeal examination process against an examiner's decision of refusal has become more efficient in recent years. The average first action pendency in 2010 was 6.3 months.

With regard to invalidation trials, trial examinations are conducted on a preferential basis in order to contribute to early settlement of disputes over rights. In 2010, the average trial pendency was 8.7 months.

c. Trademark

The appeal examination process against an examiner's decision of refusal has become more efficient in recent years. The average first action pendency in 2010 was 10.9 months.

With regard to invalidation trials, trial examinations are conducted on a preferential basis in order to contribute to early settlement of disputes over rights. As a result, the average trial pendency was 8.0 months in 2010, a shortening of 3.1 months from the previous year.

The average trial pendency for oppositions and that for trials for cancellation became shorter compared to the previous year, at 7.8 months and 5.4 months, respectively.

²⁶ The appeal success rate indicates the percentage of the Appeals Department decided that the appeal is approved to the total number of its decisions and rulings.

²⁷ In this system, the board of appeal conducts questioning orally so that the party concerned is encouraged to establish his appeal appropriately and points in issue are arranged.

Status of Appeal and Trial Examination Processing in 2010

	Appeals against an examiner's decision of refusal		Invalidation trials		Limitation / Correction trials		Oppositions		Cancellation trials	
	No. of first actions* ¹	Average first action pendency (months) ^{*2}	No. of cases processed ^{*3}	Average trial pendency (months) ^{*4}	No. of cases processed ^{*3}	Average trial pendency (months) ^{*4}	No. of cases processed ^{*3}	Average trial pendency (months) ^{*4}	No. of cases processed ^{*3}	Average trial pendency (months) ^{*4}
Patent/ Utility model	16,392	23.7	262	9.8	142	2				
Design	493	6.3	12	8.7						
Trademark	1,313	10.9	118	8			442	7.8	1,387	5.4

Notes:

1. Number of cases in which the first examination results were notified
2. Average period from the date of appeal until the date the notification of the first examination results in dispatched
3. Includes withdrawals
4. Average period from the date of demand for the trial until the date of the final disposition (decision or ruling)

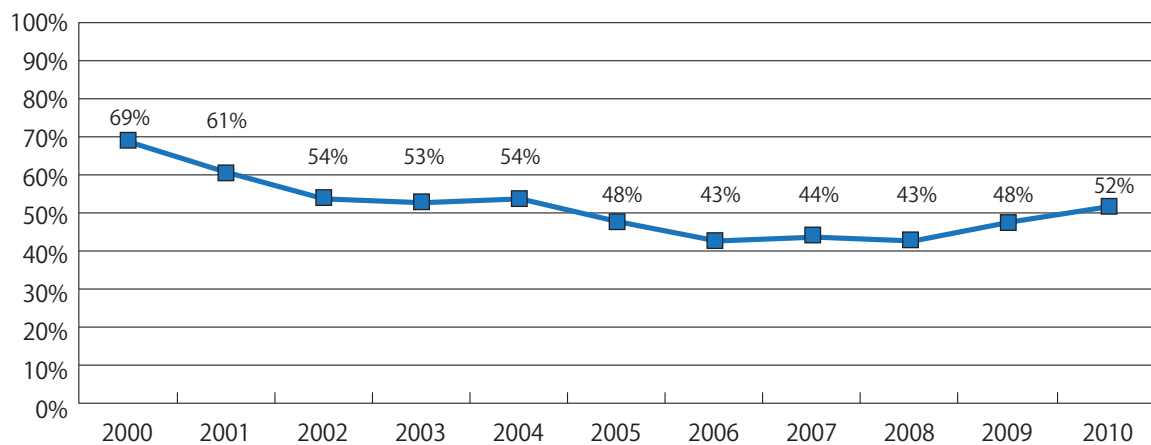
Appeal and Trial Examination Results in 2010

	Ex-parte appeals* ²		Inter-partes trials* ³		Oppositions	
	Appeal accepted	Appeal denied* ⁴	Appeal accepted	Appeal denied* ⁴	Appeal accepted* ⁵	Appeal denied* ⁶
Patent/Utility model	8,582	7,945	106	131		
Design	310	195	8	4		
Trademark	803	475	1,141	227	73	322

Notes:

1. Only those for which final appeal/trial decision has been made.
2. Appeals against an examiner's decision of refusal, appeals against an examiner's decision to dismiss an amendment, and limitation/correction trials
3. Invalidation trials and cancellation trials
4. Includes dismissals
5. Includes partial revoke
6. Includes withdrawals

Changes in Appeal Success Rate among All Appeals against an Examiner's Decision of Refusal (Patent)



Note:

The appeal success rate is the number of acceptances, divided by the total number of acceptances and the number of denials (including dismissals).

²⁸ (2) Status of Lawsuits against the JPO Appeals Department's Decisions

1) Trends of Lawsuits

The number of lawsuits against the JPO Appeals Department's decisions in 2010 shows that the number of ex-parte appeals decreased year-on-year in the field of patents and trademarks. The number of lawsuits against ex-parte appeal decisions related to patents in 2010, in which the Appeals Department denied the appeal was 7,945 and the number of lawsuits filed against such decisions was 179. The lawsuit-filed rate was 2.3%, a year-one-year increase of 1.8%.²⁹

The number of inter-partes trials showed a decline from 2009 in all fields of industrial property rights.

²⁸ An action taken for cancellation of a trial decision of the JPO by a person who wishes to appeal against the decision: It is filed to the IP High Court.

²⁹ The percentage of appeal decisions and rulings for lawsuits that have been filed in relation to the total number of appeal decisions and rulings.

Number of Actions in 2009 and 2010

	Patent/Utility model		Design		Trademark	
	2009	2010	2009	2010	2009	2010
Ex-parte appeals* ¹	143	179	4	1	19	24
Inter-partes trials* ²	176	153	6	2	86	50
Oppositions	1	0			5	0

Notes:

1. Appeals against an examiner's decision of refusal, appeals against an examiner's ruling to dismiss amendment, and limitation / correction trials
2. Invalidation trials and cancellation trials

2) Cancellation Rate of the JPO Appeals Department's Decisions

When looking at the status of lawsuits against the Appeals Department's ex-parte appeal decisions related to patents, the cancellation rate of the Appeals Department's decisions declined from 33% in 2009 to 22% in 2010. On the other hand, the cancellation rate for trademarks was up from 6.7% in 2009 to 26% in 2010 for ex-parte appeals and up from 26% in 2009 to 30% in 2010 for inter-parte trials. The JPO will continue to work in reducing the cancellation rate by further raising the quality of the appeal/trial examination process.

Number of Court Decisions in 2010^{*1} (2009 figures in parentheses)

	Patent/Utility model		Design		Trademark	
	Claim dismissed	Appeal Department's decision cancelled	Claim dismissed	Appeal Department's decision cancelled	Claim dismissed	Appeal Department's decision cancelled
Ex-parte appeals* ²	99(85)	28(42)	1(3)	0(3)	14(14)	5(1)
Appeal decision cancellation rate	22.0%(33.1%)		0.0%(50.0%)		26.3%(6.7%)	
Inter-partes trials* ³	68(78)	25(29)	2(2)	0(1)	44(45)	19(16)
Trial decision cancellation rate	26.9%(27.1%)		0.0%(33.3%)		30.2%(26.2%)	
Oppositions	0(0)	2(0)			2(0)	3(1)
Ruling cancellation rate	100.0%(—)				60.0%(100.0%)	

Notes:

- 1.Excludes court rulings to cancel the Appeal Department's decision pursuant to Article 181(2) of the Patent Act and the court decisions made because that corrections become final and conclusive during the pendency of the case
- 2.Appeals against an examiner's decision of refusal, appeals against an examiner's ruling to dismiss amendment, and limitation / correction trials
- 3.Invalidation trials and cancellation trials