

Feature Issue

Efforts for Recovering from the Great East Japan Earthquake

The JPO has taken relief measures in regard to application procedures for patents, utility models, designs and trademarks such as extending the period for procedures to be taken by applicants who were affected by the Great East Japan Earthquake. In addition, the JPO has also established consultation counters and actively worked to provide applicants with information, accelerated examinations and accelerated appeals examinations.

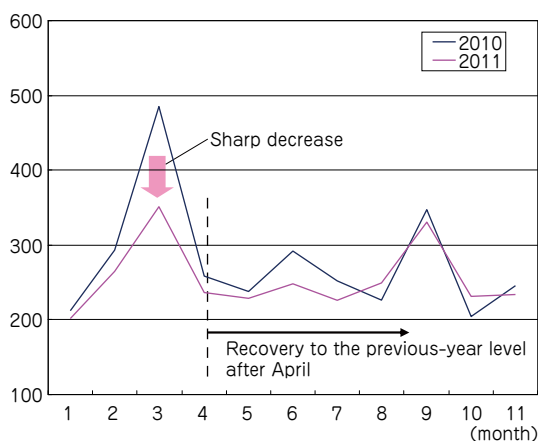
This feature issue reports on the actual status of intellectual property activities by companies in the disaster-stricken areas and on the various measures taken by the JPO.

1. Actual Status of Intellectual Property Activities in the Disaster-stricken Areas

(1) Trends in Patent Applications

The number of patent applications filed in the five disaster-stricken prefectures (Aomori, Iwate, Miyagi, Fukushima and Ibaraki) where the damage caused by the Great East Japan Earthquake was particularly enormous decreased sharply in March immediately after the Earthquake. However, since April 2011 the number has remained unchanged or slightly lower than that of the previous year.

【Change in the number of patent applications filed in the five disaster-stricken prefectures】



(2) Opinions and Requests Submitted to the JPO Based on Interviews

The JPO conducted telephone interviews with a total of 277 companies (mainly SMEs in the disaster-stricken areas), 5 universities, 1 TLO and 3 research institutions from mid-May to mid-June 2011 in order to grasp what kind of impact the disaster had on their intellectual property activities. In addition, officials from the JPO directly visited 15 companies (5 in Miyagi, 5 in Iwate, 2 in Fukushima, 2 in Ibaraki, and 1 in Aomori) to grasp the damage, asking their opinions and listening to their requests.

Overall, the disaster caused enormous damage to businesses, and the JPO received requests for support in terms of costs, procedures, and intellectual property.

The opinions and requests related to costs are: 1) exemption from or reduction of application fees, examination request fees and annual fees, 2) financial assistance for various fees and preferential IP collateral loans, and 3) reduction of patent attorney costs.

The opinions and requests related to procedures are: 1) extension of the period for requests for examination, 2) deferment of annual fee payments, 3) extension of the deferment system of examination request fee payments, 4) accelerated examinations for applications filed by companies in the disaster-stricken areas, 5) extension of the duration of patent rights, and 6) extension of the time limit for responding to notices of reasons for refusal.

In addition, some companies requested the JPO to announce that these companies in the disaster-stricken areas are effectively operating in spite of some harmful rumors such the disaster itself and the nuclear plant accident. They also asked help in promoting their patented products.

2. Measures taken by the JPO

(1) Extension of Periods for Procedures for Those Who Were Affected by the Disaster

The periods of time in which applicants can conduct certain procedures were extended up until the limit of August 31, 2011 based on provisions such as Article 3, Paragraph 3 of the Act on Special Measures concerning

Preservation of Rights and Interests of Victims of Specified Disasters¹ (hereinafter referred to as the “Act on Special Measures”) for those who were not able to conduct the prescribed procedures within the original periods.

Specifically, with respect to such procedures as filing of requests for patent examination and payment of annual fees, a measure was set in place to extend the expiration date until August 31, 2011 based upon applicants’ requests. The extension was granted based not only on direct reasons such as the fact that applicants who were going to perform the procedures were themselves affected by the disaster, but also on secondary reasons such as business interruptions due to the disruption of transportation caused by the planned blackouts. (In the case of any secondary reasons, applicants needed to undertake the procedures 14 days after the date on which the cause preventing them from performing the procedures ceased to exist.)

Furthermore, special considerations were taken for those who still could not perform the procedures after the expiry of the above-mentioned extended period, in addition to the nature of the patent rights which cannot be acquired again once they have been lost. In view of the above, pursuant to Article 3, Paragraph 4 of the Act on Special Measures, a Cabinet Order to Extend the Expiration Date with respect to Rights and Interests regarding Amendments made to Abstracts Attached to Applications in accordance with the Provision of Article 17-3 of the Patent Act for Victims of the Great East Japan Earthquake² was established to extend the period for procedures up until the limit of March 31, 2012 for persons who could not perform the procedures within the period extended by the Act on Special Measures due to particularly extenuating circumstances. As a result of these measures, 1,129 cases were granted extension.

Furthermore, in case it was impossible to perform on-line procedures because of blackouts, etc. caused by the earthquake and

aftershocks, applicants were allowed to file applications using magnetic disks, as provided in Article 6 of the Act on Special Provisions for Procedures related to Industrial Property Rights, without requesting prior approval from the Commissioner of the JPO.

(2) Requests to Other Countries for Preferential Measures

The JPO requested all intellectual property Offices in other countries and regions where patent applications were filed from Japan in the past three years, to provide relief measures for the statutory period, etc. for Japanese applicants and representatives who could not perform the prescribed procedures, or contact the Offices due to the earthquake. As a result, 48 countries and regions established special relief measures for Japan.

In addition, the JPO gathered information on the types and conditions of relief measures established by all the intellectual property offices in each country or region, in order to provide users with information about the relief measures taken by those intellectual property Offices. The JPO uploaded Japanese translations and continually updated the information on its website³.

(3) Efforts to Provide Information related to the Earthquake

In order to provide information and consultation in a comprehensive manner to applicants and representatives affected by the earthquake, the JPO established a section on its website where it provides information related to the Great East Japan Earthquake⁴. This section contains a summary of information on relief measures with respect to procedures affected by the Earthquake, support measures as an effort for the reconstruction, and a dedicated consultation service with its phone number in the JPO. This consultation service works in collaboration with the Intellectual Property Rights Portal, which is a one-stop

¹ Act No.85 of 1996.

² Cabinet Order No. 265 of August 26, 2011.

³ http://www.jpo.go.jp/cgi/linke.cgi?url=/torikumi_e/hiroba_e/measures_tohoku.htm

⁴ http://www.jpo.go.jp/cgi/linke.cgi?url=/torikumi_e/hiroba_e/tohoku_district_earthquake.htm

consultation service in the field of intellectual property.

In addition, a wide variety of information was provided utilizing various means such as related organizations, Twitter¹, and press releases.

Written notices about the relief measures and the consultation service were sent by mail to about 3,000 applicants and rights holders domiciled in the five most disaster-stricken prefectures (Aomori, Iwate, Miyagi, Fukushima and Ibaraki). These applicants and rights holders, who were considered eligible for the relief measures, were sent direct mailings because they might have had difficulty connecting to the Internet.

(4) Earthquake Disaster Recovery Support-related Accelerated Examination and Accelerated Appeal Examination

The earthquake disaster recovery support-related accelerated examination and accelerated appeal examination were started on August 1, 2011. Applicants/Appellants who were affected by the earthquake and had filed for patents, designs and trademarks would be allowed to have accelerated examinations and accelerated appeal examinations based on simplified procedures. These simplified procedures were established to promote a speedy recovery in terms of intellectual property in the disaster-stricken areas. (The number of applications filed by the end of April 2012 was 78 for patents, 9 for designs, 64 for trademarks, and 5 for appeals.)

Applicants/Appellants or applications/appeals subject to the earthquake disaster recovery support-related accelerated examination and accelerated appeal examination are as follows.

1) Applicants/Appellants Subject to the Earthquake Disaster Recovery Support-related Accelerated Examination and Accelerated Appeal Examination

Applicants/Appellants shall mean any applicants/appellants having a domicile or a residence in areas specified under the Disaster

Relief Act² (hereinafter referred to as the “Specified Disaster-stricken Areas” , which excludes Tokyo) and have incurred damage caused by the earthquake.

2) Applications and Appeals Subject to the Earthquake Disaster Recovery Support-related Accelerated Examination and Accelerated Appeal Examination

The following applications for patents, design registrations, trademark registrations, and appeals against an examiner’s decision of refusal are subject to the earthquake disaster recovery support-related accelerated examination and accelerated appeal examination.

- Applications applied by applicants, all or some of them have a domicile or a residence in the Specified Disaster-stricken Areas and have incurred damage caused by the earthquake, and appeals against an examiner’s decision of refusal related to those applications.
- In case applicants/appellants are legal entities and any place of business of these legal entities in the Specified Disaster-stricken Areas has incurred damage caused by the earthquake, any application for inventions, designs, or trademarks associated with the places of business and appeals against an examiner’s decision of refusal related to those applications.

¹ Trademark of Twitter, Inc.

² Act No.118 of 1947.