

Examinations/ Trials and Appeals

審査・審判

1 Patents

The JPO has been aiming to achieve the “world’s fastest and utmost quality patent examinations”, so that once applicants obtain patents in Japan, the associated examination results will be upheld overseas to facilitate the smooth acquisition of rights abroad. To this end, the JPO has been implementing various measures focused on “maintaining speed”, “granting high quality rights”, and “cooperating and collaborating with foreign IP offices”.

1) Examination Performance

With the acceleration of the intellectual property creation cycle, comprised of intellectual property creation, the establishment of rights, and utilization of rights, there is a growing need to shorten total pendency, and the JPO has been engaging in initiatives to speed up examinations.

- In FY2017 (April 2017–March 2018), the JPO achieved the periods shown in Figure 2-1-1. **[Figure 2-1-1] [Figure 2-1-2]**

2) Initiatives to Speed up Examinations

(i) Securing the Necessary Number of Examiners

In order to maintain and strengthen the patent examination system, the JPO is working to secure the necessary number of patent examiners and to rehire some of the fixed-term examiners whose terms of employment had expired.

- For FY2018, the JPO secured a capacity of 1,690 examiners (including fixed-term examiners).

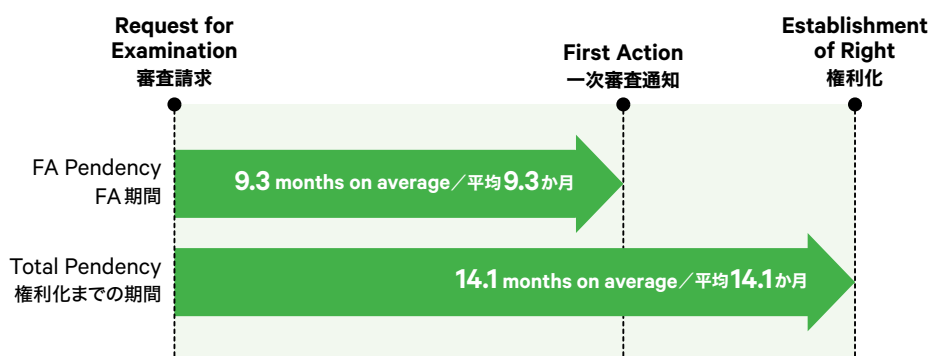
(ii) Outsourcing Prior Art Searches

The JPO is working to promote the speeding up of examinations by outsourcing prior art searches to registered search organizations.

- As of December 2018, there were 10 registered search organizations.
- In FY2018, the number of outsourced searches was approx. 152,000 (of which approx. 116,000 involved searches for foreign patent documents).

Figure 2-1-1 | 2-1-1図

Total Pendency and
FA Pendency for Patent
Examinations in FY2017
2017年度における
特許審査の権利化までの
期間及びFA期間



- Note:
- The total pendency (also called the “standard pendency”) is the period from the request for examination to withdrawal or abandonment or until a final disposition (excluding cases where the JPO requests an applicant to respond to the second notice of reasons for refusal and where the applicant performs procedures they are allowed to use, such as requests for extension of the period of response and for an accelerated examination).
 - The FA pendency is the period from the request for examination to issuing the first notice of examination (which are mainly notices of patent grants or reasons for refusal for a patent application) by an examiner to the applicant.
- 備考:
- FA 期間は、出願から審査官による審査結果の最初の通知（主に登録査定又は拒絶理由通知書）が出願人等へ発送されるまでの期間。
 - 権利化までの期間は、出願から最終処分までの期間（国際意匠出願を除く。また、出願人が制度上認められている期間を使い補正等を行うことによって、特許庁から再度の応答を求められる場合等を除く）。

Figure 2-1-2 | 2-1-2 図

Number of Patent Examination FAs, Number of Patents Granted, and Number of International Search Reports Established
特許審査のFA件数、特許査定件数及び国際調査報告作成件数の推移

Year / 年	2014	2015	2016	2017	2018
Number of FAs ¹ FA件数	255,001	235,809	246,879	239,236	232,701
Number of Patents Granted ² 特許査定件数	205,711	173,015	191,032	183,919	177,852
Number of International Search Reports Established ³ 国際調査報告作成件数	40,079	43,571	44,321	45,948	47,934

- Note: 1. The number of first actions in patent examinations is the number of first notices of examination results (which are mainly notices of patent granted or reasons for refusal) issued by examiners to applicants.
2. The number of patents granted excludes the number of patents granted after a request for appeals against an examiner's decision of refusal was filed (including patents granted through reconsideration by examiners before appeal proceedings).
3. The number of international search reports prepared is the number by year of issuance of international search reports prepared and issued by the JPO as the International Searching Authority (ISA) under the PCT (the number of international search reports includes that of "decisions of not preparing an international search report").

- 備考: 1 FA件数は、審査官による審査結果の最初の通知(主に特許査定又は拒絶理由通知書)が出願人等へ発送された件数。
2 特許査定件数は、拒絶査定不服審判請求以降(前置審査を含む)の特許された案件は含まれない件数。
3 国際調査報告作成件数は、PCTの国際調査機関として日本国特許庁が作成・発送した国際調査報告の発送年別件数(国際調査報告には、「国際調査報告を作成しない決定」が含まれる。)

1 特許

特許庁は、我が国で特許を取得すれば、その審査結果が海外でも通用して、海外でも権利を速やかに取れるような「世界最速・最高品質の特許審査」の実現を目指している。そして、この「世界最速・最高品質の特許審査」を実現するため、「迅速性の堅持」、「質の高い権利の付与」、「海外特許庁との連携・協力」を柱とする種々の取組を実施している。

1) 審査実績

知的創造、権利設定、権利活用の知的創造サイクルを加速する上で、権利化までの期間の短縮へのニーズが高まってきており、審査の迅速化に取り組んでいる。

- 2017年度(2017年4月－2018年3月)には2-1-1図の各期間を達成。【2-1-1図】【2-1-2図】

2) 審査の迅速化に関する取組

(i) 審査官の確保

特許審査体制の整備・強化のため、任期満了を迎えた任期付審査官の一部を再採用、必要な審査官の確保などに努めている。

- 2018年度は、審査官1,690名(任期付審査官を含む。)の定員を確保。

(ii) 先行技術文献調査の外注

審査官の行う先行技術文献調査を登録調査機関へ外注し、審査迅速化の推進を図っている。

- 登録調査機関の数は、2018年12月現在で10機関。
- 2018年度の発注件数は、約15.2万件(その内約11.6万件については外国語特許文献も調査対象。)

3) Accelerated Examination System/ Super-accelerated Examination System

Under certain conditions, the JPO offers an accelerated examination system/super-accelerated examination system that, upon the request of an applicant, expedites the commencement of an examination. **[Figure 2-1-3]**

(i) Accelerated Examination System

- The accelerated examination system for patent applications may be applied for applications that are also filed in one or more other countries and applications by small and medium-sized enterprises, etc. For more details, please visit the JPO website.*¹
- In 2018, first action pendency from request for accelerated examination was 2.3 months on average.

(ii) Super-accelerated Examination System

- The JPO is running pilot programs for a super-accelerated examination system for highly important applications, such as applications for inventions that have already been put into practice and that are also filed in one or more other countries.
- In July 2018, in relation to applicable startups, conditions were eased to allow super-accelerated examinations for applications for inventions that have already been put into practice.
- In principle, this system aims for the period from request to first action to be within one month (within two months for DO*² applications). For more details, please visit the JPO website.
- In 2018, there were 685 requests, and first action pendency from request for super-accelerated examination was 0.7 months on average (1.1 months for DO applications).

4) Further Improvement of Examination Quality

(i) Quality Management Initiatives

Under the “Quality Policy on Patent Examination”, which constitutes the JPO’s fundamental principles of quality management, and the “Quality Management Manual for Patent Examination” (Quality Management Manual), the JPO has been engaging in the following initiatives in order to realize the utmost quality of patent examinations in the world. For more details, please visit the JPO website*³.

a. Quality Assurance

- Before sending applicants and agents documents by examiners regarding notices and decisions, etc., managers in the examination office check substantive and formal aspects of such documents for all cases.
- Examiners consult with other examiners in order to share search know-how and knowledge, etc., in order to curb search and decision discrepancies among examiners.

* 1  English
<https://www.jpo.go.jp/e/system/patent/shinsa/jp-soki/index.html>

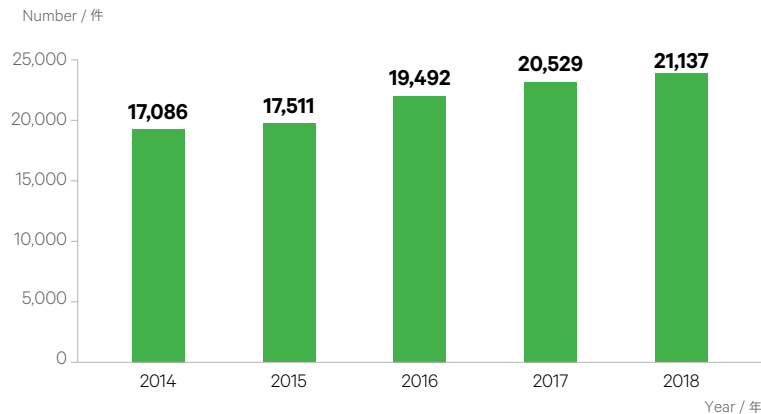
* 3  English
<http://www.jpo.go.jp/e/introduction/hinshitsu/shinsa/index.html>

* 2 Applications that have entered the national phase after international application.

Figure 2-1-3 | 2-1-3図

Number of Requests for Accelerated Examinations for Patent

特許早期審査の申出件数の推移



Note: The number of requests for accelerated examinations is the number of "Explanation of Circumstances Concerning Accelerated Examination" that were submitted.

備考: 早期審査の申出件数は、「早期審査に関する事情説明書」が提出された件数。

3) 早期審査制度・スーパー早期審査制度

一定の要件の下で、出願人からの申出を受けて審査の着手時期を通常に比べて早める早期審査制度・スーパー早期審査制度を実施している。【2-1-3図】

(i) 早期審査制度

- 特許出願に関する早期審査制度の対象は、外国にも出願している出願、中小企業等の出願等。更なる詳細については、特許庁ウェブサイト*1を参照されたい。
- 2018年は、早期審査の申出から一次審査通知までの期間は平均2.3か月。

(ii) スーパー早期審査制度

- 既に実施している発明に係る出願かつ外国にも出願している出願である、より重要度の高い出願を対象としてスーパー早期審査制度を試行。
- 2018年7月よりベンチャー企業については既に実施している発明に係る出願であればスーパー早期審査の対象となるよう要件を緩和。
- 申請から一次審査通知までを原則1か月以内(DO*2出願については原則2か月以内)で行う制度。更なる詳細については、特許庁ウェブサイト*3を参照されたい。
- 2018年は685件の申請があり、スーパー早期審査の申出から一次審査通知までの期間は平均0.7か月(DO出願については1.1か月)。

4) 審査品質の更なる向上

(i) 品質管理に関する取組

品質管理の基本原則となる「特許審査に関する品質ポリシー」、「特許審査の品質管理に関するマニュアル」(品質マニュアル)の下、世界最高品質の特許審査の実現に向けて以下の取組を行っている。更なる詳細については、特許庁ウェブサイト*4を参照されたい。

a. 品質保証

- 審査官による通知・査定等に係る書面について、出願人・代理人に発送される前に、審査室の管理職が実体面・形式面にわたり全件チェック。
- サーチノウハウ、知識等を共有化し、審査官の間のサーチや判断の相違を抑制するため、審査官は他の審査官と協議を実施。

*1  日本語
<https://www.jpo.go.jp/system/patent/shinsa/soki/v3souki.html>

*3  日本語
https://www.jpo.go.jp/faq/yokuaru/patent/document/super_souki_qa/supersoukisin.pdf

*2 国際出願後、国内段階に移行した出願。

*4  日本語
<http://www.jpo.go.jp/introduction/hinshitsu/shinsa/index.html>

b. Quality Verification

- Decisions and notices, etc. prepared by examiners are audited by quality management officers to check compliance and validity in terms of content and format before sending official documents to applicants and agents.
- In order to ascertain various user needs, the JPO conducts interviews at informal meetings with businesses, accepts information provided in relation to individual cases, and expands user satisfaction surveys covering overseas users and small-scale users. **[Figure 2-1-4]**
- In August 2014, the JPO established the Subcommittee on Examination Quality Management, which consists of external experts, under the Intellectual Property Committee of the Industrial Structure Council of the Ministry of Economy, Trade and Industry, and has been implementing initiatives in the quality management of patent, design, and trademark examinations, based on reports by the subcommittee.

(ii) Revision of Examination Guidelines for patent and utility model and Examination Handbook for patent and utility model**a. Revision of patent examination guidelines/handbook for CS-related inventions**

Regarding patent examination guidelines/handbook for software-related inventions, revisions intended to clarify issues concerning the patent eligibility and inventiveness of inventions without making any changes to the basic principles were published in March 2018.

b. Revision of patent examination guidelines/handbook for expansion of exception period for loss of novelty

With greater activities in joint research and university-industry collaboration through open innovation, there is increasing risk of losing novelty of invention due to disclosure by persons other than the principal parties. In view of these circumstances, Article 30 of the Patent Act was amended in 2018, and the exception period for loss of novelty was expanded from six months to one year. In line with this amendment, the patent examination guidelines/handbook was revised and published in June of the same year.

5) Examination Measures for Addressing Various User Needs**(i) Interview Examinations**

The JPO conducts interview examinations to facilitate communication between examiners and agents, etc.

- In 2018, there were 4,128 interview examinations (of these, 1,158 were conducted on-site, and 155 were conducted by video conference).
- To meet user needs, the video conferencing interview system is installed. It allows inventors and patent attorneys, etc. in remote areas to participate the interview examination.

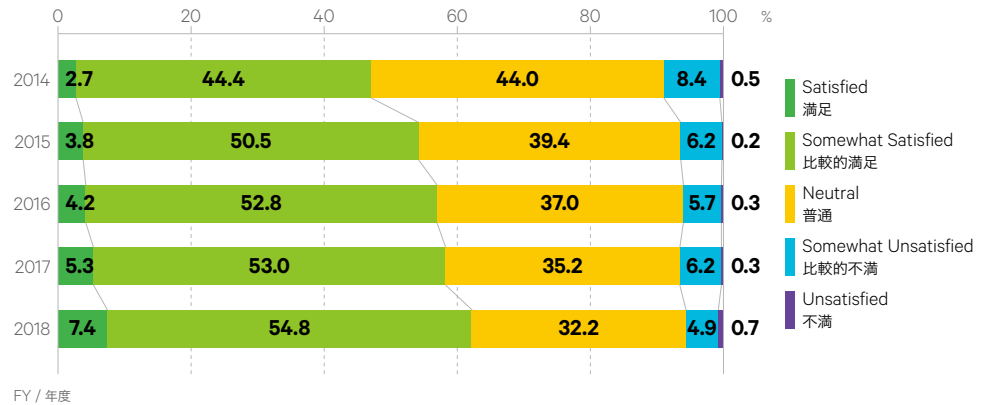
Figure 2-1-4 | 2-1-4図

Results of User Satisfaction Survey on Patent Examination Quality

特許審査の質に関するユーザー評価調査の結果

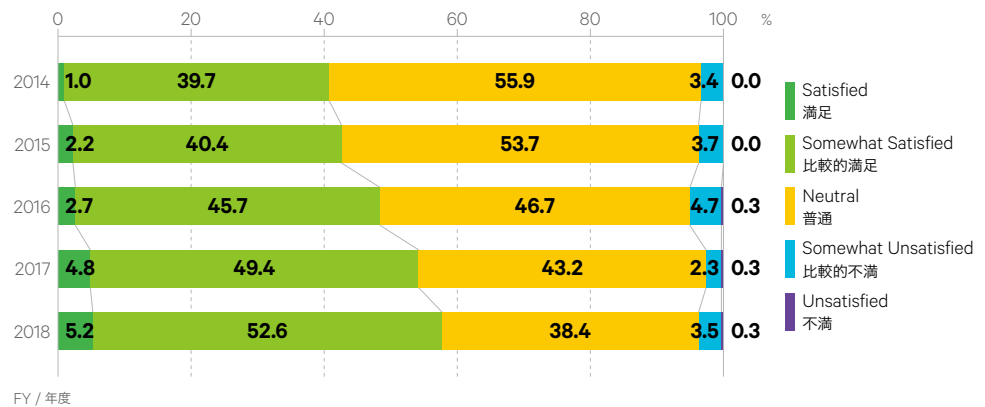
Results of User Satisfaction Survey (Overall quality of Patent examination on national applications)

ユーザー評価調査の結果(国内出願における質全般の調査)



Results of User Satisfaction Survey (Overall quality of the International search and International preliminary examination on PCT applications)

ユーザー評価調査の結果(PCT国際出願における質全般の調査)



b. 品質検証

- 審査官による処分等の判断及びその結果として作成される起案書の適否について、品質管理官が起案書発送前に監査を実施。
- 様々なユーザーニーズを把握するため、企業との意見交換会、個別案件に関する情報提供の受付、海外ユーザーや小規模ユーザーに対するユーザー評価調査の拡充を実施。

[2-1-4図]

- 2014年8月より産業構造審議会知的財産分科会の下に、外部有識者からなる審査品質管理小委員会を設置しており、当該小委員会の報告を踏まえ、特許・意匠・商標の審査の品質管理における取組を実施。

(ii) 特許審査基準・ハンドブックの改訂

a. CS関連発明に係る特許審査基準・ハンドブック改訂

ソフトウェア関連発明に係る特許審査基準・ハンドブックについて、基本的な考え方を変更せずに発明該当性や進歩性に関する明確化を図る改訂・公表を2018年3月に行った。

b. 新規性喪失の例外期間の延長に係る特許審査基準・ハンドブック改訂

オープン・イノベーションによる共同研究や産学連携の活発化に伴い、本人以外の者による公開によって新規性を喪失するリスクが高まっている。このような状況を踏まえ、2018年に特許法30条が改正され、新規性喪失の例外期間が6ヵ月から1年に延長された。これに伴って、同年6月に、特許審査基準・ハンドブックの改訂・公表を行った。

5) 多様なユーザーニーズに対応するための審査施策

(i) 面接審査

審査官と代理人等との間において、円滑に意思疎通を図ることを目的として、面接審査を実施している。

- 2018年の実績は4,128件(内、出張面接審査1,158件、テレビ面接審査155件)。
- 出張面接審査において、利便性向上等のユーザーニーズに応えるため、遠隔地の開発者や弁理士等が参加可能となるよう、テレビ面接システムを活用。

(ii) Collective Examinations for IP Portfolio Supporting Business Strategy

The Collective Examinations for IP Portfolio Supporting Business Strategy is a measure that supports the acquisition of rights in time with operations of businesses by having examiners for multiple applications related to the business (patent, design, and trademark applications) coordinate with each other to conduct their respective examinations.

[Figure 2-1-5]

- In 2018, there were 41 applications for Collective Examinations for IP Portfolio Supporting Business Strategy.
- Of these, there were 461 patent applications, 2 applications for design registration, and 1 applications for trademark registration.

(iii) New Patent Examination-related Support Measures for Startups

In order to support early registration for startups, the JPO initiated accelerated examinations using interviews for start-ups from July 2018, as a patent examination-related support measure for startups, that will lead to the strategic acquisition of patent rights through interviews conducted prior to first action. At the same time, the JPO eased conditions for super-accelerated examinations for startups.

- In 2018, there were 9 requests for accelerated examinations using interviews for startups.
- In 2018, there were 42 requests for super-accelerated examinations for startups.

6) Improvement of Foundation for Prior Art Searches

Prior art searches are one of the important pillars for maintaining and improving examination quality, and a constant improvement of the foundation for prior art searches for both patent documents and non-patent literature is therefore crucial.

(i) Initiatives Related to Machine Translation Texts

- In order to expand prior art searches, the JPO is currently accumulating full text Japanese machine translations of US, EP and WIPO patent documents in English that have been created to date, and patent documents from China and South Korea, on a retrieval system for patents and utility models.

(ii) Initiatives Related to Improvement of Patent Classifications

- As part of improving the foundation for prior art searches, the JPO actively proposes to revise International Patent Classifications (IPC) so as to make the superior classification entries of FI*⁶ and F-Term*⁷, JPO's original classifications, the IPCs, and is currently engaged in discussions to this end (In 2018, discussions covered 20 JPO proposals in broad technical fields in mechanical, chemical, and electrical areas.).
- The JPO is in the process of further improving search index, under the principle that FI must be compliant with the latest International Patent Classifications (IPC), in order to search efficiently for domestic and foreign patent documents. In FY2018, the JPO amended the FI scheme for the 431 main groups, and conducted F-Term maintenance for 8 themes.
- Regarding the newly established and allocated broad facet classification code*⁸ ZIT for cross-sectional extraction of patent documents that concern IoT-related technologies, the JPO has proposed incorporation of ZIT into International Patent Classifications (IPC) to foreign IP offices, for enabling extraction of foreign language documents from the same perspective, as well as Japanese documents, and is currently engaged in discussions to this end.

* 6 An FI (File Index) means an original classification by the JPO that is a further development of the IPC.

* 7 An F-Term (File forming Term) means an original classification by the JPO expanded to various technical aspects (e.g., purpose, use, structure, material, manufacturing method, processing and operational method, and means of control) by technical area (theme).

* 8 A broad facet classification code means a classification that is assigned from a cross-sectional perspective spanning multiple fields.

(ii) 事業戦略対応まとめ審査

事業戦略対応まとめ審査は、事業に関連する複数の出願(特許・意匠・商標)を対象として、各分野の審査官が連携しながら審査を行い、事業展開に合わせたタイミングでの権利化を支援する施策である。【2-1-5図】

- 2018年における事業戦略対応まとめ審査の申請実績は41件。
- 対象とされた特許出願は461件、意匠登録出願は2件、商標登録出願は1件。

(iii) 特許審査に関する新たなベンチャー企業支援策

2018年7月より、ベンチャー企業の早期権利化を支援するために、特許審査に関するベンチャー企業支援策として、一次審査結果通知前に行う面接を通じて戦略的な特許権の取得につなげるベンチャー企業対応の面接活用早期審査を開始した。同時に、ベンチャー企業に対し、スーパー早期審査の要件を緩和した。

- 2018年におけるベンチャー企業対応の面接活用早期審査の申請実績は9件。
- 2018年におけるベンチャー企業対応のスーパー早期審査の申請実績は42件。

6) 先行技術文献調査のための基盤整備

先行技術文献調査は、審査の質の維持・向上のための重要な柱の一つであり、そのための基盤を特許文献・非特許文献ともに恒常的に整備することが重要である。

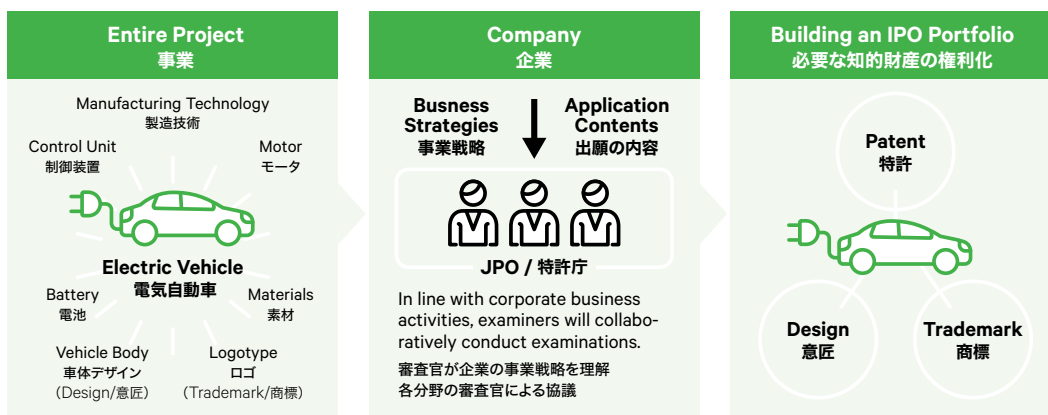
(i) 機械翻訳文に関する取組

- 先行技術文献調査を拡充するため、従前から作成していた米国、欧州、WIPOの英語特許文献、および中国、韓国の特許文献の全文日本語機械翻訳文を特許・実用新案の検索システムに順次蓄積中。

(ii) 特許分類整備に関する取組

- 基盤整備の一環として日本国特許庁独自の分類であるFI*6、Fターム*7の優れた分類項目を国際特許分類(IPC)化すること等を目的として、IPC改正の提案を積極的に実施、現在議論中(2018年は、機械、化学、電気の幅広い20の技術分野のJPO提案について議論。)
- 国内外の特許文献を効率良く検索するため、FIを最新版の国際特許分類(IPC)に準拠させることなどを原則として、検索インデックスの再整備を推進中。2018年度は、431メイングループのFI分類表を改正し、8テーマのFタームメンテナンスを実施。
- IoT関連技術についての特許文献の分野横断的な抽出を目的として新設、付与を行っている、広域ファセット分類記号*8ZITについて、日本語特許文献のみならず、外国語特許文献についても同様の観点での抽出を可能とするため、国際特許分類(IPC)化を海外特許庁に提案し、現在議論中。

Figure 2-1-5 | 2-1-5図

Collective Examinations for IP Portfolio Supporting Business Strategy**事業戦略対応まとめ審査**

*6 FI (File Index)とは、IPCを細展開した日本国特許庁独自の分類。

*7 Fターム(File forming Term)とは、技術分野(テーマ)ごとに種々の技術的観点(目的、用途、構造、材料、製法、処理操作方法、制御手段等)を展開した日本国特許庁独自の分類。

*8 広域ファセット分類記号とは、各分野に跨り横断的な観点から付与される分類。

2 Designs

The JPO has been implementing a variety of initiatives including accelerated examinations, quality management, and the compilation of the “Design-Driven Management”, in order to appropriately protect designs, improve convenience for users, and strengthen the competitiveness of Japan’s companies.

1) Examination Performance

The JPO is working to make examinations more efficient for user convenience. In FY2017 (April 2017–March 2018), the JPO achieved the “first action pendency” (FA pendency) and “total pendency” periods shown in Figure 2-1-6.

[Figure 2-1-6] [Figure 2-1-7]

2) Accelerated Examination

Under certain conditions, the JPO offers an accelerated examination system that, upon the request of an applicant, expedites the commencement of an examination.

[Figure 2-1-8]

- The accelerated examination system may be applied under the following conditions: (i) applications for design registration related to implementations with an urgent need for registration*; (ii) applications for design registration that are concurrently filed in one or more other countries; or (iii) applications for design registration by businesses, etc. that have suffered earthquake damage.
- In 2018, first action pendency from request for accelerated examination was 2.0 months on average.

3) Further Improvement of Examination Quality

(i) Quality Management Initiatives

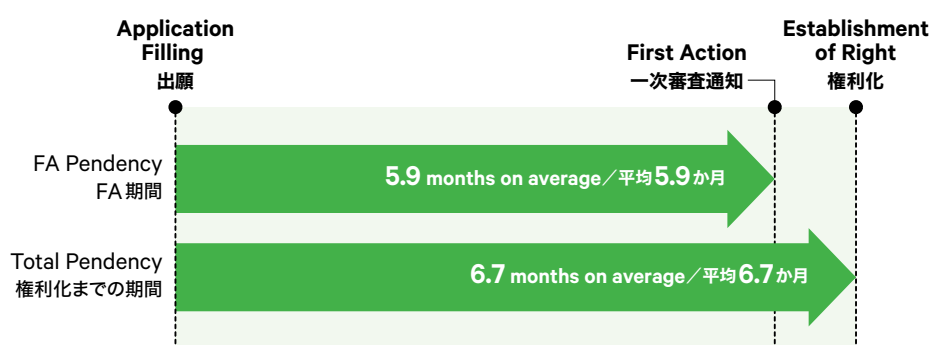
Under the “Quality Policy on Design Examination”, which constitutes the JPO’s fundamental principles of quality management, and the “Quality Management Manual for Design Examination” (Quality Management Manual), which documents quality management and its implementation system, the JPO has been engaging in the following initiatives in order to realize the utmost quality of design examinations in the world*². Moreover, in March 2018, the JPO established quantitative goals for the quality of design examinations to be achieved in FY2018.

a. Quality Assurance

- Before sending applicants and agents documents by examiners regarding notices and decisions, etc., managers of the examination office check substantive and formal aspects of such documents for all cases.
- Examiners consult with managers about cases that meet certain conditions in order to curb search and decision discrepancies among examiners.

Figure 2-1-6 | 2-1-6図

A Pendency and Total Pendency for Design Examinations in FY2017
2017年度における意匠審査のFA期間及び権利化までの期間



Note: • The FA pendency is the period from the application filing until the JPO sends the first notice of examination results to the applicant, etc. (for the most part, either a decision of registration or a notice of reasons for refusal).
• The total pendency is the period from the application filing to a final disposition (excluding international applications filed to register designs under the Hague Agreement, as well as cases in which applicants are required to respond to the second notices from the JPO for amendments submitted by the applicants within a certain period of time).

備考: • FA期間は、出願から審査官による審査結果の最初の通知(主に登録査定又は拒絶理由通知書)が出願人等へ発送されるまでの期間。
• 権利化までの期間は、出願から最終処分までの期間(国際意匠出願を除く。また、出願人が制度上認められている期間を使い補正等を行うことによって、特許庁から再度の応答を求められる場合等を除く。)

*1 Among the applications under (i) above, the JPO is implementing an initiative to commence examinations even earlier for applications where there are counterfeits already in existence and there are no problems in the application procedure. In 2018, the above period was 0.5 months on average.


*2  English
<http://www.jpo.go.jp/e/introduction/hinshi/tu/shinsa/index.html>

Figure 2-1-7 | 2-1-7図

Number of FAs and Decisions of Registration for Design Examinations

意匠審査のFA件数及び登録査定件数の推移

Year / 年	2014	2015	2016	2017	2018
Number of FAs FA件数	30,581	29,752	30,448	31,600	31,266
Number of Decisions of Registration 登録査定件数	27,358	26,286	26,156	27,976	27,301

Note: The number of first actions is the number of first notices of examination results sent by examiners to applicants, etc. (for the most part, either a decision of registration or notices of reasons for refusal).

備考: FA件数は、審査官による審査結果の最初の通知(主に登録査定又は拒絶理由通知書)が出願人等へ発送された件数。

2 意匠

特許庁では、適切な意匠の保護やユーザーの利便性向上、また我が国企業の競争力強化のため、早期審査、品質管理、「『デザイン経営』宣言」の取りまとめ等、種々の取組を実施している。

1) 審査実績

ユーザーの利便性を念頭に審査の効率化を進めており、2017年度(2017年4月-2018年3月)は、2-1-6図の「一次審査通知までの期間」(FA期間)及び「権利化までの期間」を達成した。【2-1-6図】【2-1-7図】

2) 早期審査

一定の要件の下で、出願人からの申出を受けて審査の着手時期を通常に比べて早める早期審査制度を実施している。

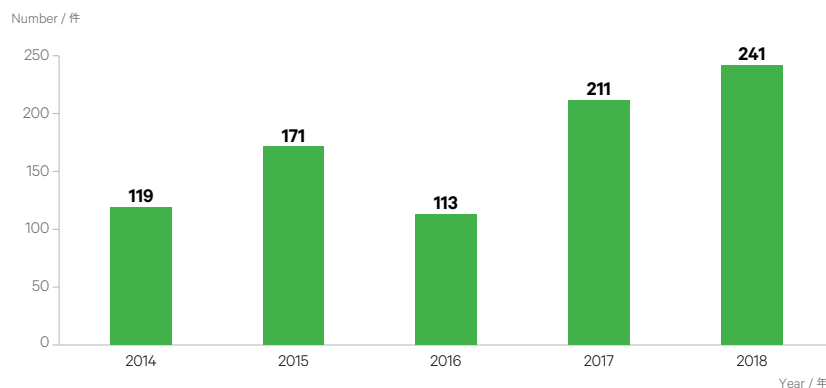
【2-1-8図】

- 早期審査制度の対象は、(i)権利化について緊急性を要する実施関連の意匠登録出願*1、(ii)外国にも出願している意匠登録出願、(iii)震災による被害を受けた企業等の意匠登録出願。
- 2018年は、早期審査の申出から一次審査通知までの期間は平均2.0か月。

Figure 2-1-8 | 2-1-8図

Number of Requests for Accelerated Examinations for Design

意匠早期審査の申出件数の推移



Note: The number of requests for accelerated examinations is the number of "Explanation of Circumstances Concerning Accelerated Examination" that were submitted.

備考: 早期審査の申出件数は、「早期審査に関する事情説明書」が提出された件数。

3) 審査品質の更なる向上

(i) 品質管理に関する取組

品質管理の基本原則となる「意匠審査に関する品質ポリシー」、及び、品質管理及びその実施体制について文書化した「意匠審査の品質管理に関するマニュアル」(品質マニュアル)の下、世界最高品質の意匠審査の実現に向けて以下の取組を行っている*2。また、2018年3月には、2018年度に達成すべき、意匠審査の質に関する定量目標を設定した*3。

a. 品質保証

- 審査官による通知・査定等に係る書面について、出願人・代理人に発送される前に、審査室の管理職が実体面・形式面にわたり全件チェック。
- 審査官の間のサーチや判断の相違を抑制するため、一定の条件に該当する案件については、審査官は管理職と協議を実施。

*1 上記実施関連の意匠登録出願のうち、実際に模倣品が発生したものであって、出願手続に不備のない出願については、より一層早期に着手する取組を実施しており、2018年の前記期間は平均0.5か月。

*2  日本語
<http://www.jpo.go.jp/introduction/hinshitu/shinsa/index.html>

*3  日本語
http://www.meti.go.jp/policy/policy_management/jissityou-hyouka/30fy-mokuhyou/30fy-jissityou-mokuhyou.pdf

b. Quality Verification

- The JPO randomly selects notices and decisions, etc. prepared by examiners, which are subsequently audited by quality management officers to verify compliance with laws and regulations, examination guidelines and other guidelines before sending official documents to applicants and agents.
- In order to ascertain various user needs, the JPO conducts interviews at informal meetings with businesses, accepts information provided in relation to individual cases, and implements user satisfaction surveys that also cover overseas users and small-scale users. **[Figure 2-1-9]**
- In August 2014, the JPO established the Subcommittee on Examination Quality Management, which consists of external experts, under the Intellectual Property Committee of the Industrial Structure Council of the Ministry of Economy, Trade and Industry, and has been implementing initiatives in the quality management of patent, design, and trademark examinations, based on reports by this subcommittee.

4) “Design-Driven Management”

In July 2017 the JPO jointly formed the “Study Group on Competitiveness and Design” with the Ministry of Economy, Trade and Industry, compiled and published the “Design-Driven Management” report*³ on May 23, 2018. This report organizes the methods and effects of utilizing “Design-Driven Management”, which utilizes design as an important

management resource for the improvement of corporate value, and policy recommendations for the promotion of “Design-Driven Management.” Taking the policy recommendations of this report on board, the JPO has implemented reviews of the design registration system to protect designs responding to social innovation caused by emerging technologies and designs contributing to brand building and has discussed revision of examination guidelines for design pertaining to appropriate disclosure requirement for a design, along with the following initiatives.

[Figure 2-1-10] [Picture 1]

- Launch of the Design-Driven Management Project Team (Part 2, Chapter 3 - 4.2).
- Establishment of a new “Companies Adopting Design-Driven Management” award category for the Intellectual Property Achievement Awards.

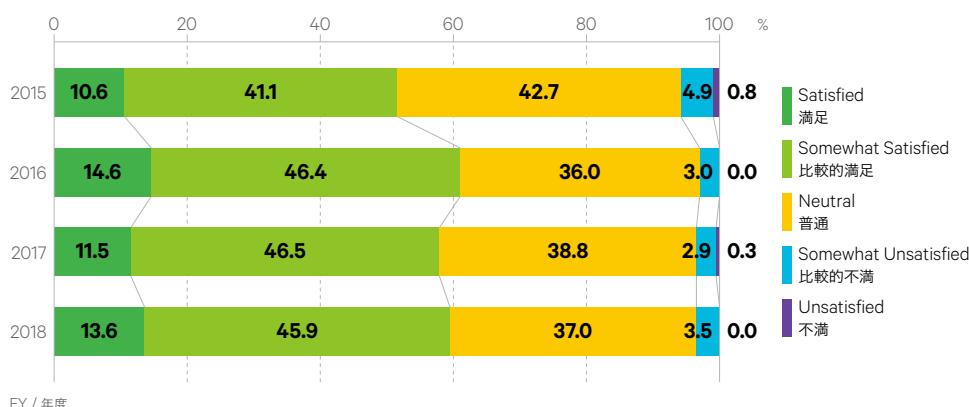
(i) Japan-China-South Korea Design Forum

The JPO hosted the 9th Japan-China-South Korea Design Forum in Tokyo in May 2018, under the theme, “Future of Design Management and Design Protection System”. Following the opening address by Commissioner Munakata of the JPO, speakers of the forum, consisting of management executives from design sensible global companies and the IP offices of the three countries, gave profound lectures and engaged in lively discussions concerning Design-Driven Management practices in companies and effective use of design protection systems. **[Picture 2] [Picture 3]**

Figure 2-1-9 | 2-1-9図

Results of User Satisfaction Survey on Quality of Design Examinations

意匠審査の質に関するユーザー評価調査の結果



* 3  English
http://www.jpo.go.jp/e/resources/report/document/design_driven_e/01.pdf

b. 品質検証

- 審査官による通知・査定等に係る書面を対象に(対象は無作為に抽出)、品質管理官がその通知・査定等が法令、審査基準等の指針にのっとって行われているかといった観点から、起案書発送前に監査を実施。
- 様々なユーザーニーズを把握するため、企業との意見交換会、個別案件に関する情報提供の受付、海外ユーザーや小規模ユーザーを含むユーザー評価調査を実施。【2-1-9図】
- 2014年8月より産業構造審議会知的財産分科会の下に、外部有識者からなる審査品質管理小委員会を設置しており、当該小委員会の報告を踏まえ、特許・意匠・商標の審査の品質管理における取組を実施。

4) 「デザイン経営」宣言

特許庁は、2017年7月に経済産業省と合同で「産業競争力とデザインを考える研究会」を立ち上げ、2018年5月23日に報告書『「デザイン経営」宣言』*4を取りまとめ、公表した。本報告書では、デザインを企業価値向上のための重要な経営資源として活用する「デザイン経営」の手法及び効果、並びに、「デザイン経営」を推進するための政策提言について整理されている。本報告書の政策提言を受け、特許庁は、新技術による社会変革に対応したデザインやブランド形成に資するデザインを保護するための意匠制度の見直しの検討、及び、意匠の適切な開示要件の在り方に係る審査基準等の改訂の検討を行った他、下記の取組を実施した。【2-1-10図】【写真1】

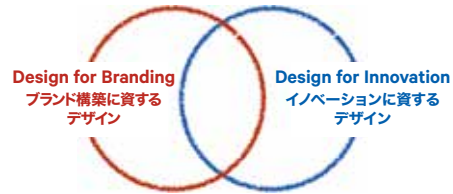
- デザイン経営プロジェクトチームの発足(第2部第3章1.7)。
- 知財功労賞の新たな表彰区分として「デザイン経営企業」を創設。

(i) 日中韓デザインフォーラム

2018年5月、「デザイン経営と意匠制度の未来」をテーマとして第9回「日中韓デザインフォーラム」を東京で開催した。フォーラムでは、宗像特許庁長官による開会挨拶の後、デザインを経営資源の一つとして活用する日中韓のグローバル企業の経営幹部や各国政府の意匠担当幹部による講演等を通して、企業における「デザイン経営」の実践や意匠制度の活用について、活発な議論が行われた。【写真2】【写真3】

Figure 2-1-10 | 2-1-10図

Effect of “Design-Driven Management” 「デザイン経営」の効果



Picture 1 | 写真1

Design-Driven Management
報告書「デザイン経営」宣言



Picture 2 | 写真2

Commissioner Munakata (JPO)
宗像長官



Picture 3 | 写真3

From left to right: Director General Lin (CNIPA),
Commissioner Munakata (JPO), Director-
General Sawai (JPO), and Director General Lee
(KIPO).

左から、リンCNIPA外観設計審査部長、宗像長官、
澤井審査第一部長、リKIPO商標デザイン審査局長

*4  日本語
<http://www.meti.go.jp/press/2018/05/20180523002/20180523002-1.pdf>

3 Trademarks

The JPO has been implementing various initiatives including accelerated examinations, fast track examinations, quality management, and protection of regional collective trademarks in order to appropriately protect trademarks, and to improve convenience for users.

1) Examination Performance

In order to promptly and appropriately protect users' trademarks and contribute to smooth business activities, the JPO is working to make examinations more efficient and reinforce the examination system. In FY2017 (April 2017–March 2018), the JPO achieved the “first action pendency” (FA pendency) and “total pendency” periods shown in Figure 2-1-11. **[Figure 2-1-11] [Figure 2-1-12]**

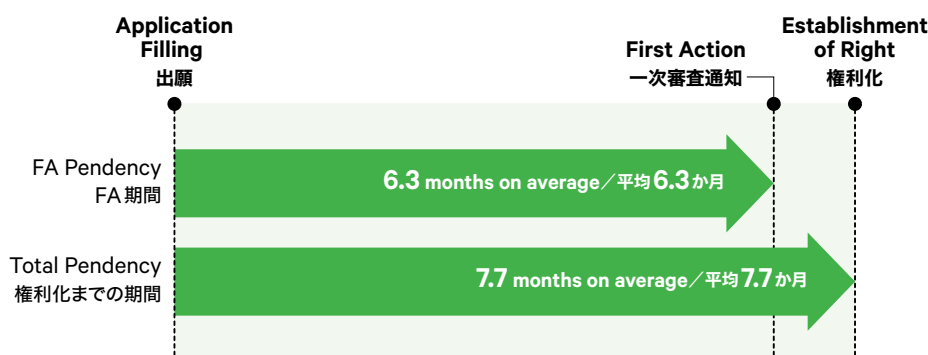
2) Accelerated Examination

Under certain conditions, the JPO offers an accelerated examination system that, upon the request of the applicant, expedites the commencement of an examination (for further details, please see “Outline of Accelerated Examinations and Accelerated Appeal Proceedings for Trademarks”^{*1} at the JPO website). **[Figure 2-1-13]**

- The number of requests for accelerated examinations in 2018 was 5,278 an increase of approx. 53% over the previous year.
- In 2018, first action pendency from request for accelerated examination was 1.7 months on average.

Figure 2-1-11 | 2-1-11 図

FA Pendency and Total Pendency in FY2017
2017年度におけるFA期間
及び権利化までの期間



Note: • The FA pendency is the period from the application filing until the JPO sends the first notice of examination results to the applicant, etc. (for the most part, either a decision of registration or a notice of reasons for refusal) (excluding applications related to non-traditional trademarks and regional collective trademarks).

• The total pendency is the period from the application filing to the registration (excluding applications related to non-traditional trademarks and regional collective trademarks, as well as cases in which applicants are required to respond to the second notices from the JPO for amendments submitted by the applicants within a certain period).

備考: • FA期間は、出願から審査官による審査結果の最初の通知(主に登録査定又は拒絶理由通知書)が出願人等へ発送されるまでの期間(新しいタイプの商標及び地域団体商標に係る出願を除く。)

• 権利化までの期間は、出願から最終処分までの期間(新しいタイプの商標及び地域団体商標に係る出願を除く。また、出願人が制度上認められている期間を使って補正等を行うことによって特許庁から再度の応答等を出願人に求めるような場合等を除く。)

*1 “Outline of Accelerated Examinations and Accelerated Appeal Examinations for Trademarks”



English
https://www.jpo.go.jp/e/system/trademark/shinsa/outline_accelerated_trademark.html

Figure 2-1-12 | 2-1-12図

Number of FAs and Decisions of Registration for Trademark Examinations

商標審査のFA件数及び登録査定件数の推移

Year / 年	2014	2015	2016	2017	2018
Number of FAs FA件数	122,048	111,831	131,624	126,407	137,463
Number of Decisions of Registration 登録査定件数	105,637	100,244	113,025	115,754	119,610

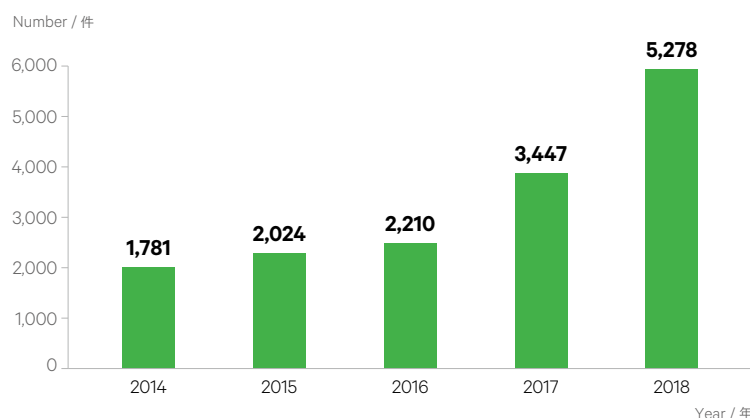
Note: The number of first actions is the number of first notices of examination results sent by examiners to applicants, etc. (for the most part, either a decision of registration or notices of reasons for refusal).

備考: FA件数は、審査官による審査結果の最初の通知(主に登録査定又は拒絶理由通知書)が出願人等へ発送された件数。

Figure 2-1-13 | 2-1-13図

Number of Requests for Accelerated Examinations for Trademark

商標早期審査の申出件数の推移



Note: The number of requests for accelerated examinations is the number of applications for which "Explanation of Circumstances Concerning Accelerated Examination" were submitted.

備考: 早期審査の申出件数は、「早期審査に関する事情説明書」が提出された出願の件数。

3 商標

特許庁では、適切な商標の保護やユーザーの利便性向上のため、早期審査、ファストトラック審査、品質管理、地域団体商標の保護等、種々の取組を実施している。

1) 審査実績

ユーザーの商標を迅速・適切に保護し、円滑な事業活動に資するべく、審査の効率化・審査体制の強化を進めており、2017年度(2017年4月～2018年3月)は、2-1-11図のとおり「一次審査通知までの期間」(FA期間)及び「権利化までの期間」を達成した。【2-1-11図】【2-1-12図】

2) 早期審査

一定の要件の下で、出願人からの申出を受け審査を通常に比べ早く行う早期審査制度を実施している(詳細は特許庁HP「商標早期審査・早期審理の概要」を参照^{*1})。【2-1-13図】

- 2018年における早期審査の申出件数は、前年比約53%増加となる5,278件。
- 2018年は、早期審査の申出から一次審査結果の通知までの期間は平均1.7か月。

*1 「商標早期審査・早期審理の概要」



日本語
https://www.jpo.go.jp/system/trademark/s_hinsa/soki/shkouhou.html

3) Fast Track Examination

As a policy for the reinforcement and organization of the trademark examination system, the JPO has initiated “Fast Track Examination”^{*2} pilot programs (for further details, please see “Fast Track Examination” at the JPO website). This is a new initiative aimed at conducting examinations about two months earlier than usual for applications that meet certain conditions. By offering beneficial services in the form of earlier than usual examination in relation to applications in which there are clearly no problems concerning designated goods or designated services, an increase in the number of such applications, which will in turn lead to a reduction in examination burden, can be expected. As well as allowing early registration for applications for which fast track examination applies, the promotion of overall examination processing can also be expected. **[Figure 2-1-14]**

- Applications that meet all the following conditions are eligible for fast track examination.

[Condition 1] Applications submitted after October 1, 2018.

[Condition 2] Applications that only designated goods or services listed in any of the following at the time of filling.

- ① Examination guidelines for similar goods and services
- ② Enforcement Regulation of the Trademark Act
- ③ International Classification of Goods and Services (the Nice Classification)

[Condition 3] Applications that do not contain voluntary amendments related to designated goods or designated services prior to the initiation of examination.

- As the relevant conditions are checked automatically at the JPO, additional application procedures and handling fees are not required.

4) Further Improvement of Examination Quality

(i) Quality Management Initiatives

Under the “Quality Policy on Trademark Examination”, which constitutes the JPO’s fundamental principles of quality management, and the “Quality Management Manual for Trademark Examination” (Quality Management Manual), the JPO has been engaging in the following initiatives in order to maintain and improve the quality of trademark examinations. Moreover, in March 2018, the JPO established quantitative goals for the quality of trademark examinations to be achieved in FY2018. For more details, please visit the JPO website^{*3}.

a. Quality Assurance

- Before sending applicants and agents documents by examiners regarding notices and decisions, etc., managers of the examination office check substantive and formal aspects of such documents for all cases.
- Examiners consult with other examiners in order to share knowledge and to make prompt and appropriate decisions.

* 2 “Fast Track Examination”



English
http://www.jpo.go.jp/e/system/trademark/shinsa/shohyo_fast_e.html

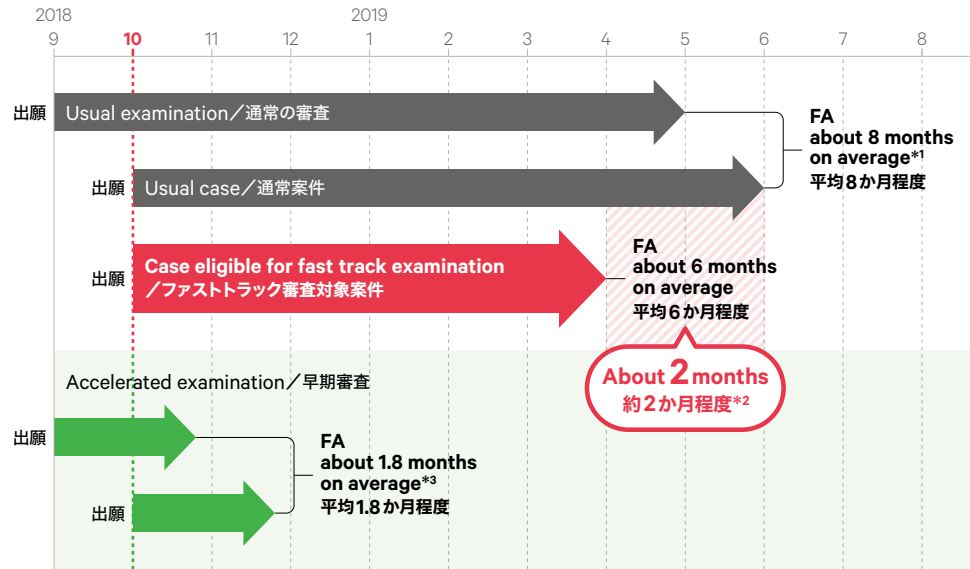
* 3



English
<http://www.jpo.go.jp/e/introduction/hinshitu/shinsa/index.html>

Figure 2-1-14 | 2-1-14 図

Envisaged Pendency for Fast Track Examination ファストトラック審査の審査期間イメージ



*1 Expected as of December 2018 / 2018.12月時点見込み

*2 May fluctuate depending on the status of ordinary examinations / 通常審査の状況により変動の可能性あり

*3 FY2017 performance / 2017年度実績

3) ファストトラック審査

商標審査体制を強化・整備するための施策の1つとして、「ファストトラック審査」の試行を開始した(詳細は特許庁HP「ファストトラック審査」*2を参照。)。これは、一定の要件を満たした出願を、通常より約2か月早く審査するという新しい試み。

指定商品・指定役務の記載に問題がないことが明らかな出願について、通常より早く審査を行うという形で優遇することにより、そのような出願が増え、審査負担の軽減につながることを期待できる。それによって、ファストトラック審査の対象となる出願について早期権利化を後押しできるだけでなく、審査全体の処理促進につながることも期待できる。

[2-1-14 図]

- 以下全ての要件を満たす出願が対象。

〔要件1〕 2018年10月1日以降にされた出願。

〔要件2〕 出願時に、次のいずれかに掲載されている商品・役務のみを指定している出願。

- ①類似商品・役務審査基準
- ②商標法施行規則の別表
- ③商品・サービス国際分類表

〔要件3〕 審査着手前に、指定商品・指定役務に関する自発的な補正が行われていない出願。

- 対象案件は特許庁で機械的に行うため、申請手続も手数料も不要。

4) 審査品質の更なる向上

(i) 品質管理に関する取組

品質管理の基本原則となる「商標審査に関する品質ポリシー」、 「商標審査の品質管理に関するマニュアル」(品質マニュアル)の下、商標審査の質の維持・向上を図るため、以下の取組を行っている。また、2018年3月には、2018年度に達成すべき、商標審査の質に関する定量目標を設定した*3。更なる詳細については、特許庁ウェブサイト*4を参照されたい。

a. 品質保証

- 審査官による通知・査定等に係る書面について、出願人・代理人に発送される前に、審査室の管理職が実体面・形式面にわたり全件チェック。
- 審査官の知見を共有し、迅速・的確な判断を行うため、審査官の間で協議を実施。

*2 「ファストトラック審査」



日本語
https://www.jpo.go.jp/system/trademark/s_hinsa/fast/shohyo_fast.html

*3



日本語
http://www.meti.go.jp/policy/policy_management/jissiyou-hyoka/30fy-mokuhyou/30fy-jissiyou-mokuhyou.pdf

*4



日本語
http://www.meti.go.jp/policy/policy_management/jissiyou-hyoka/30fy-mokuhyou/30fy-jissiyou-mokuhyou.pdf

b. Quality Verification

- Decisions and notices, etc., prepared by examiners are audited by quality management officers to check compliance in terms of content and format before sending relevant official documents to applicants and agents.
- In order to ascertain various user needs, the JPO conducts interviews at informal meetings with businesses, accepts information provided in relation to individual cases, and implements user satisfaction surveys that also cover domestic users, agents of overseas users, and small-scale users. **[Figure 2-1-15]**
- In August 2014, the JPO established the Subcommittee on Examination Quality Management, which consists of external experts, under the Intellectual Property Committee of the Industrial Structure Council of the Ministry of Economy, Trade and Industry, and has been implementing initiatives in the quality management of patent, design, and trademark examinations, based on reports by this subcommittee.

5) Non-Traditional Trademarks

Non-traditional trademarks also became registrable from April 1, 2015. These types of trademarks are expected to play an important role in branding strategies, as a means of brand delivery that extends beyond words.

- “Non-traditional trademark” means (i) motion mark, (ii) hologram mark, (iii) color per se mark, (iv) sound mark, or (v) position mark.

- Overall, there have been 1,746 applications filed, and 433 trademarks have been registered (as of the end of December 2018).

6) Regional Collective Trademarks

The regional collective trademark system was introduced in April 2006 in order to more appropriately protect, as trademarks, regional brands that combine the name of a region and the name of the goods (or services) (for further details about this system, please see the “Regional Collective Trademark System” at the JPO website*5).

Prior to the introduction of this system, trademarks comprised of “region name + goods (services) name” were not approved for registration unless they already possessed nationwide recognition. However, with this system, such trademarks can be now registered as long as there is recognition by consumers within a certain range.

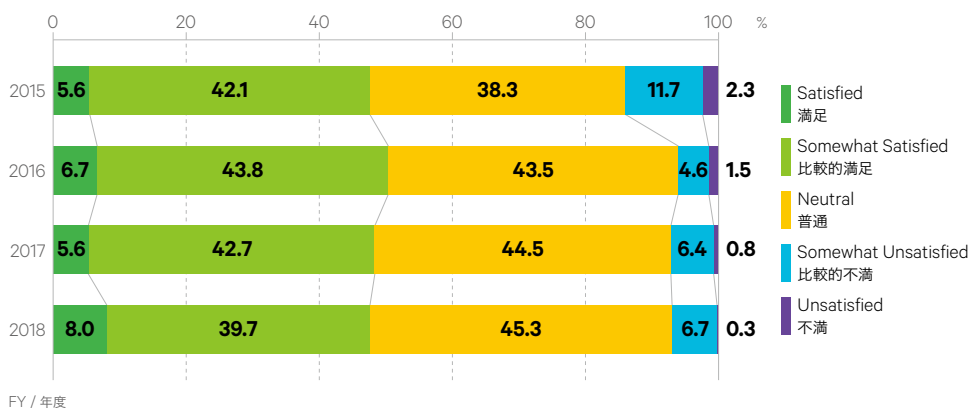
[Figure 2-1-16]

- As of the end of December 2018, there were 1,224 applications filed, and of those 645*6 were registered (2 applications from overseas were registered).
- Each year, the JPO creates a “Regional Collective Trademark System Guidebook”, which is used in seminars, etc. to explain the system.
- In 2018, the JPO held “Contest for Regional Brands”, in Oita (Kyushu) in March, and in Aichi (covering 7 Tokai/Hokuriku prefectures) in December, with the objective of publicizing this system.

Figure 2-1-15 | 2-1-15 図

Results of User Satisfaction Survey on Quality of Trademark Examinations

商標審査の質に関するユーザー評価調査の結果



* 5 “Regional Collective Trademark System”



English
<http://www.jpo.go.jp/e/system/trademark/gaiyo/chidan/index.html>

* 6 Registration numbers by region are 31 for Hokkaido, 53 for the Tohoku region, 123 for the Kanto-Koshinetsu region, 60 for the Hokuriku region, 86 for the Tokai region, 162 for the Kinki region, 44 for the Chugoku region, 28 for the Shikoku region, 81 for the Kyushu region, and 18 for Okinawa (registrations spanning multiple regions are counted as one in each region).

b. 品質検証

- 審査官による処分等の判断及びその結果として作成される起案書の適否について、品質管理官が起案書発送前に監査を実施。
- 様々なユーザーニーズを把握するため、企業との意見交換会、個別案件に関する情報提供の受付、国内ユーザー、海外ユーザーの代理人、小規模ユーザーを対象としたユーザー評価調査を実施。【2-1-15図】
- 2014年8月より産業構造審議会知的財産分科会の下に、外部有識者からなる審査品質管理小委員会を設置しており、当該小委員会の報告を踏まえ、特許・意匠・商標の審査の品質管理における取組を実施。

5) 新しいタイプの商標

2015年4月1日より、新しいタイプの商標についても商標登録が可能となった。これらの商標は、言語を超えたブランドの発信手段として、ブランド戦略に大きな役割を果たすことが期待される。

- 新しいタイプの商標とは、(i)動き商標、(ii)ホログラム商標、(iii)色彩のみからなる商標、(iv)音商標及び(v)位置商標。

- 全体の出願件数は1,746件、であり登録件数は433件(2018年12月末)。

6) 地域団体商標

地域団体商標制度とは、地域名と商品(サービス)名を組み合わせた地域ブランドを、商標権としてより適切に保護するために、2006年4月に導入された制度である(制度の詳細については、特許庁HP「地域団体商標制度」を参照*5。)

「地域名+商品(サービス)名」で構成される商標は、それまで全国的な知名度がなければ登録が認められなかったが、一定範囲の需用者に認識されていれば登録可能となった。

【2-1-16図】

- 2018年12月までに1,224件が出願され、そのうち645*6件が登録(海外からの出願は2件が登録。)
- 毎年、「地域団体商標ガイドブック」を作成し、説明会等で利用。
- 2018年は、この制度の周知を目的とし、3月に大分(九州)、12月に愛知(東海・北陸7県)で「地域ブランド総選挙」を開催。

Figure 2-1-16 | 2-1-16図

Regional Collective Trademark Composition
地域団体商標の構成



Note: Regional names include former place names, names of rivers, names of mountains, etc., as well as current place names.
備考: 地域の名称には、現在の地名だけでなく、旧地名、河川名、山岳名等も含む。

*5 「地域団体商標制度」



日本語
https://www.jpo.go.jp/system/trademark/gaiyo/chidan/t_dantai_syouhyou.html

*6 登録件数を地域別に見ると、北海道31件、東北53件、関東・甲信越123件、北陸60件、東海66件、近畿162件、中国44件、四国28件、九州81件、沖縄18件が登録されている(複数地域に跨がるものはそれぞれカウント)。

4 Trials and Appeals

Trials and Appeals play a role in reviewing examiner's decision of refusal as the upper instance of examination, and in contributing to early resolution of disputes over the validity of IP rights. To fulfill these roles, various initiatives to expedite and improve proceedings have been taken.

1) Performance of Trials and Appeals

The JPO has been working on expeditious and precise proceedings for trial and appeal cases. The status of the proceedings in 2018 is as shown in Figure 2-1-17.

[Figure 2-1-17]

- In response to the needs for early determination, the JPO conducts accelerated appeal proceedings under which the appeal against an examiner's decision of refusal case is prioritized in proceedings upon request if the case satisfies the specific requirements.
- In 2018, the number of requests for accelerated appeal proceedings*¹ was 188 for patents, 2 for designs, and 11 for trademarks. The average pendency period*² was 3.8 months for patents, 1.8 months for designs, and 3.5 months for trademarks.
- Inter-partes trial cases, including a trial for invalidation, where the validity of granted rights is disputed, are prioritized over ex-parte appeal cases in principle for early dispute resolution.

2) Revision of the Manual for Trial and Appeal Proceedings

Revised version of "Manual for Trial and Appeal Proceedings" aimed at reviewing operation of the System of Opposition to Grant of Patent, clarifying explanation of correction procedures in general, etc. has been used from October 1, 2018. Details of the revision regarding the System of Opposition to Grant of Patent are as follows.

- Enhance the contents of a notice of reasons for revocation
- Shorten pendency period by making the second notice of reasons for revocation as an advance notice of reasons for revocation in principle
- Make an inquiry with the opponent and hear opinions of the opponent as necessary even if no request for correction is filed
- Adopt any publication submitted by a third party after the expiration of time limit for opposition to grant of patent (opposition period) where it is at a glance obvious that the reasons constitute appropriate reasons for revocation

4 審判

審判は、審査の上級審として審査官がした拒絶査定を見直す役割や、産業財産権の有効性をめぐる紛争の早期解決に資する役割を担っている。これらの役割を十分に果たすため、審理の迅速化や充実に向けた種々の取組を実施している。

1) 審判実績

審判においても迅速かつ的確な審理に取り組んでおり、2018年の審理の状況は2-1-17図のとおりである。

[2-1-17図]

- 早期の判断を求めるニーズに応えるため、特定の要件を満たす拒絶査定不服審判事件について、申出により審理を優先的に行う早期審理を実施。
- 2018年における早期審理の申出件数*¹は特許で188件、意匠で2件、商標で11件であり、審理期間*²は特許で平均3.8か月、意匠で平均1.1か月、商標で平均3.5か月。
- 無効審判等、権利付与後にその権利の有効性を争う審判事件については、紛争の早期解決を図るため、原則として査定系の審判事件より優先的に着手。

2) 審判便覧の改訂

特許異議申立制度の運用の見直しや、訂正一般についての説明の明確化等を目的として改訂された審判便覧は、2018年10月1日より運用されている。特許異議申立制度に関する主な改訂内容は、以下のとおりである。

- 取消理由通知の内容の充実化。
- 原則、2回目の取消理由通知を決定の予告とすることで、審理期間を短縮。
- 訂正請求がない場合であっても、必要に応じて、特許異議申立人に対して審尋を行い、特許異議申立人の意見を聴取。
- 異議申立期間経過後に提出された文献は、適切な取消理由を構成することが一見して明らか場合には、証拠として採用。

Figure 2-1-17 | 2-1-17 図

Status of Proceedings in 2018

2018年審理の状況

	Appeals against an examiner's decision of refusal 拒絶査定不服審判		Invalidation trial 無効審判		Trial for correction 訂正審判		Opposition 異議申立		Trial for rescission 取消審判	
	Number of dispositions ¹ 処理件数	Pendency ² 審理期間	Number of dispositions 処理件数	Pendency 審理期間	Number of dispositions 処理件数	Pendency 審理期間	Number of dispositions 処理件数	Pendency 審理期間	Number of dispositions 処理件数	Pendency 審理期間
Patents & Utility Models ³ 特許・実用新案	8,418	12.4	129	11.1	202	2.8	1,160	7.2	—	—
Designs 意匠	367	6.7	11	9.8	—	—	—	—	—	—
Trademarks 商標	658	7.7	76	9.5	—	—	329	6.6	1,026	6.1

Note: 1. The total number of requests granted (including requests partly granted), requests not granted (including dismissals), and withdrawals/abandonments. The number of oppositions is counted by opposed patent.
 2. Average processing period in CY from the date a request is filed (*1), to the date a trial/appeal decision is dispatched (*2), to the date a withdrawal or abandonment is finalized and concluded, or to the date a dismissal is dispatched. The unit is a month.
 (*1) The date a request is filed for opposition is the date an opposition is requested. The date for cases concerning "reconsiderations by examiners as one of appeal proceedings" in "appeal against examiner's decision of refusal" is the date it becomes ready to conduct proceedings (the date the case has been transferred to the board in charge).
 (*2) In patent opposition cases, if a "notification of reasons for revocation" (advance notice of a decision) is to be made, it is the date the notice is dispatched. In trial for patent invalidation cases, if an "advance notice of a trial decision" is to be made, it is the date the notice is dispatched.
 3. Trial for invalidation statistics include invalidation trials for utility models.

備考: 1 請求成立(含一部成立)、請求不成立(含却下)、及び取下げ・放棄の件数の合計。異議申立は権利単位の件数。
 2 審判請求日(※1)から、審決の発送日(※2)、取下げ・放棄の確定日、又は却下の発送日までの期間の暦年平均。単位は箇月。
 (※1) 異議申立については異議申立日。特許拒絶査定不服審判において前置審査に係る事件については審理可能となった日(部門移管日)。
 (※2) 特許異議申立において取消理由通知(決定の予告)を行うものはその発送日、特許無効審判において審決の予告を行うものはその発送日。
 3 無効審判の統計は実用新案を含む件数。

*1 The number of cases where the "the Written Explanation of Circumstances Concerning Accelerated Appeal Proceedings" was submitted and the cases were transferred to the board in charge. When the cases that were not transferred to the board in charge (including cases that involve decision to grant a patent upon reconsideration by examiner before appeal proceeding) are included, the number of requests for accelerated appeal proceedings made in 2018 was 262 for patents, 2 for designs, and 11 for trademarks.

*2 In the cases that are subject to accelerated appeal proceedings, the average pendency is an average Calendar Year (CY) period from the date it becomes ready to conduct proceedings, after a request for appeal, to the date an appeal decision is dispatched.

*1 「早期審理に関する事情説明書」が提出され部門移管された件数。部門移管されていない件数(前置登録された事件等)を含めると、2018年における早期審理の申出件数は、特許が262件、意匠が2件、商標が11件。

*2 早期審理の対象となった事件について、申出がなされ審理可能となってから審決が発送されるまでの期間の暦年平均。

3) Improvement of Proceedings

The JPO is implementing the following initiatives in order to further improve proceedings:

(i) Oral Proceedings

- In inter-partes trial cases (including trials for invalidation and trials for rescission), oral proceedings, where the panel and the parties orally communicate with each other, are proactively utilized in order to accurately grasp and sort out the points of dispute and to increase the parties' acceptance of the results. In 2018, 202 oral proceedings were conducted.

(ii) Circuit Trials and On-Site Interviews

- When companies, universities, etc. in the local regions are the parties concerned, the panel may visit their regions at their request to conduct circuit trials (oral proceedings conducted for trials for invalidation) or on-site interviews (interviews aimed at facilitating communication on trial and appeal proceedings). In 2018, 34 circuit trials and 41 on-site interviews were conducted.

(iii) Trial and Appeal Practitioner Study Group

- "The Trial and Appeal Practitioner Study Group," which is comprised of; practitioners such as corporate IP personnel, patent attorneys, lawyers, etc.; and the judges as observers; in addition to JPO administrative judges, is convened every year. The Study Group deliberates on the method of determination in making trial/appeal decisions or court decisions in actual cases, and publishes a report*³ that summarizes the results of its studies. In 2018, the Study Group studied a total of 12 cases: 8 patent cases, 1 design cases, and 3 trademark cases.

4) Dissemination and Awareness Raising of the Trial and Appeal System

The JPO is implementing the following initiatives in order to further improve proceedings:

(i) English Translations of Trial/Appeal Decisions

- In order to improve international dissemination of information on trials and appeals of the JPO, the JPO has been providing manually-translated English edition of trial/appeal decisions, decisions on opposition, and Hantei (advisory opinions on the scope of industrial property rights), at the JPO's website*⁴, that would help users with the understanding of the law interpretation and its practices in Japan. In 2018, the JPO provided English translations for 105 trial/appeal decisions.


(ii) Demonstration of Mock Oral Proceedings


- The JPO holds mock oral proceedings in order to improve oral proceedings, to further promote the use of circuit trials and to disseminate and raise awareness of the trial/appeal system. In 2018, the JPO demonstrated mock oral proceedings in seven locations at the Circuit JPO sessions, etc. [Picture 4]



Picture 4 | 写真4

Demonstration of mock oral proceedings at the Circuit JPO session
巡回特許庁における模擬口頭審理の実演

* 3  English
https://www.jpo.go.jp/e/resources/shingikai/kenkyukai/sinposei_kentoukai.html

* 4  English
https://www.jpo.go.jp/e/system/trial_appeal/info-general-shinketsu-eiyaku.html

3) 審理の充実

審理を一層充実させるため、以下の取組を実施している。

(i) 口頭審理

- 無効審判や取消審判等の当事者系審判事件においては、的確な争点の把握・整理や当事者の納得感の向上のため、合議体と当事者双方が口頭でやりとりする口頭審理を積極的に活用。2018年においては、202件の口頭審理を実施。

(ii) 巡回審判・出張面接

- 地方の企業・大学等が審判事件の当事者である場合には、当事者の希望に応じて合議体が全国各地に赴き、巡回審判(無効審判の口頭審理)や、出張面接(審理に関して意思疎通を図るための面接)を実施。2018年においては、34件の巡回審判、41件の出張面接を実施。

(iii) 審判実務者研究会

- 審判官に加えて、企業の知的財産部員、弁理士、弁護士等の実務者及びオブザーバーとしての裁判官から構成される「審判実務者研究会」を例年開催。実例を題材に、審決・判決における判断手法について検討を行い、その結果を取りまとめた報告書^{*3}を公表。2018年は、特許8事例、意匠1事例、商標3事例の計12事例を検討。

4) 審判制度の普及啓発

審判制度の普及啓発のために、以下の取組を実施している。

(i) 審決英訳

- 審判に関する情報の国際発信を充実させるため、法解釈や運用の理解の参考となる審決、異議決定、判定の英訳を人手翻訳により作成し、特許庁ウェブサイト^{*4}に掲載。2018年は、105件の審決英訳を提供。

(ii) 模擬口頭審理

- 口頭審理の充実、巡回審判の一層の利用促進、及び、審判制度の普及・啓発を図るため、模擬口頭審理を実施。2018年は、7か所にて巡回特許庁等での実演を実施。【写真4】

*3  日本語
https://www.jpo.go.jp/resources/shingikai/kenkyukai/sinposei_kentoukai.html

*4  日本語
http://www.jpo.go.jp/system/trial_appeal/info-shinketsu-eiyaku.html