

# 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 FY2018 (April 2018–March 2019), 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, including fixed-term examiners.

- For FY2019, the JPO secured a capacity of 1,682 examiners (including fixed-term examiners).

##### (ii) Outsourcing Prior Art Searches

By outsourcing prior art searches to registered search organizations, the JPO promotes the speeding up of examinations through utilization of the private sector.

- As of December 2019, there were 9 registered search organizations.
- In FY2019, the number of outsourced searches was approx. 150,000, of which around three-fourths or approx. 113,000 involved searches for foreign patent documents in addition to Japanese patent documents.

### 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。

- 2018年度（2018年4月–2019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、任期付審査官を含め、必要な審査官の確保に努めている。

- 2019年度は、審査官1,682名（任期付審査官を含む。）の定員を確保。

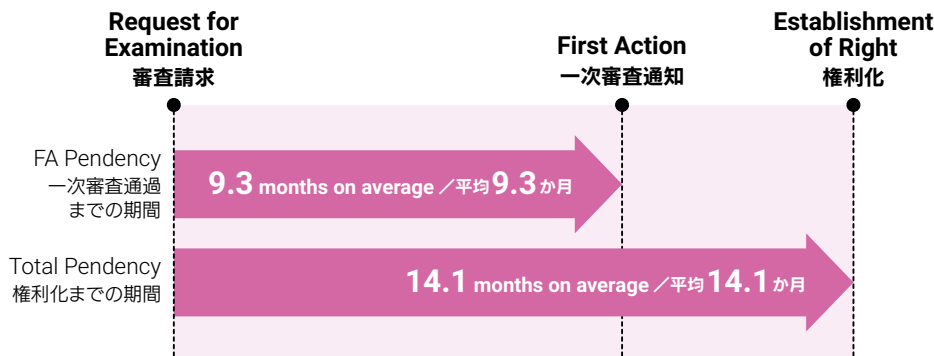
##### (ii) 先行技術文献調査の外注

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、民間活力の利用による審査迅速化の推進を図っている。

- 登録調査機関の数は、2019年12月現在で9機関。
- 2019年度の発注件数は、約15.0万件であり、その内約4分の3の約11.3万件については日本語特許文献に加え外国語特許文献も調査対象。

Figure 2-1-1 | 2-1-1 図

FA Pendency and Total Pendency for Patent Examinations in FY2018  
2018年度における特許審査のFA期間及び権利化までの期間



Note: • The first action pendency (FA pendency) is the period from the date of examination request until the JPO sends the first notice of examination results to the applicant, etc. (for the most part, either a notice of patent grant or a notice of reasons for refusal).  
• The total pendency (also called the “standard pendency”) is the period from the date of examination request 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 due to the amendments submitted by the applicant, and where the applicant performs procedures they are allowed to use, such as requests to the JPO for extension of the period of response and for an accelerated examination).

備考: • 一次審査通知までの期間（FA期間）は、審査請求日から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るまでの期間。  
• 権利化までの期間（「標準審査期間」ともいう。）は、審査請求日から取下げ・放棄又は最終処分を受けるまでの期間（出願人が補正等を行うことに起因し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や、特許庁に応答期間の延長や早期の審査を求め場合等の、出願人に認められている手続を利用した場合を除く。）。

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	2015	2016	2017	2018	2019
<b>Number of FAs<sup>1</sup></b> FA件数 <sup>1</sup>	<b>235,809</b>	<b>246,879</b>	<b>239,236</b>	<b>232,701</b>	<b>227,293</b>
<b>Number of Patents Granted<sup>2</sup></b> 特許査定件数 <sup>2</sup>	<b>173,015</b>	<b>191,032</b>	<b>183,919</b>	<b>177,852</b>	<b>167,945</b>
<b>Number of International Search Reports Established<sup>3</sup></b> 国際調査報告作成件数 <sup>3</sup>	<b>43,571</b>	<b>44,321</b>	<b>45,948</b>	<b>47,934</b>	<b>51,666</b>

Note: 1. The number of first actions in patent examinations is the number of first notices of examination results (for the most part, either a notice of patent grant or a notice of reasons for refusal) issued by examiners to applicants, etc.  
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 established 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。）。

### 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 2019, first action pendency from request for accelerated examination was 2.5 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 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 2019, there were 1125 requests, and first action pendency from request for super-accelerated examination was 0.6 months on average (1.3 months for DO applications).

### 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。
- 2019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2.5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等である、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。
- 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。
- 2019年は1125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0.6か月（DO出願については1.3か月）。

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

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

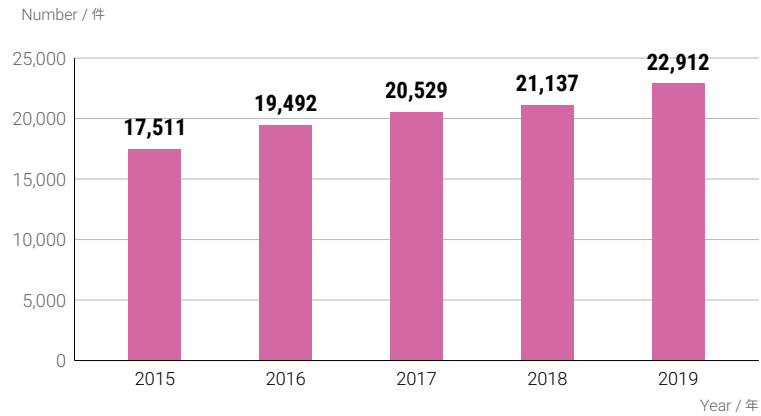
\*2 Applications that have entered the national phase after international application.  
国際出願後、国内段階に移行した出願。

\*3  日本語  
<https://www.jpo.go.jp/system/laws/rule/guideline/patent/document/index/supersoukisinsa.pdf>

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。

#### 4) 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\*4.

##### (i) 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.

##### (ii) 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 the scope of 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.

#### 4) 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。

##### (i) 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。

##### (ii) 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月から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



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



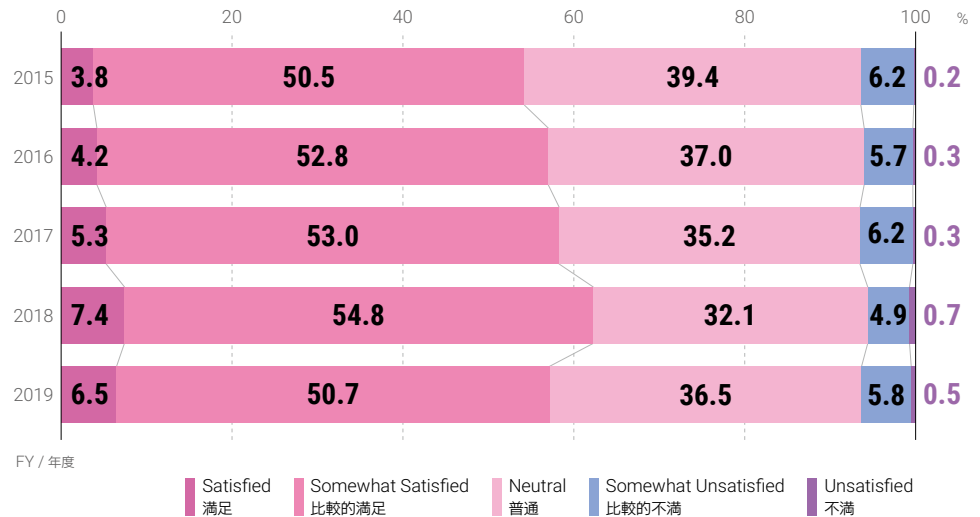
日本語  
<https://www.jpo.go.jp/introduction/hinshitu/shinsa/index.html>

Figure 2-1-4 | 2-1-4 図

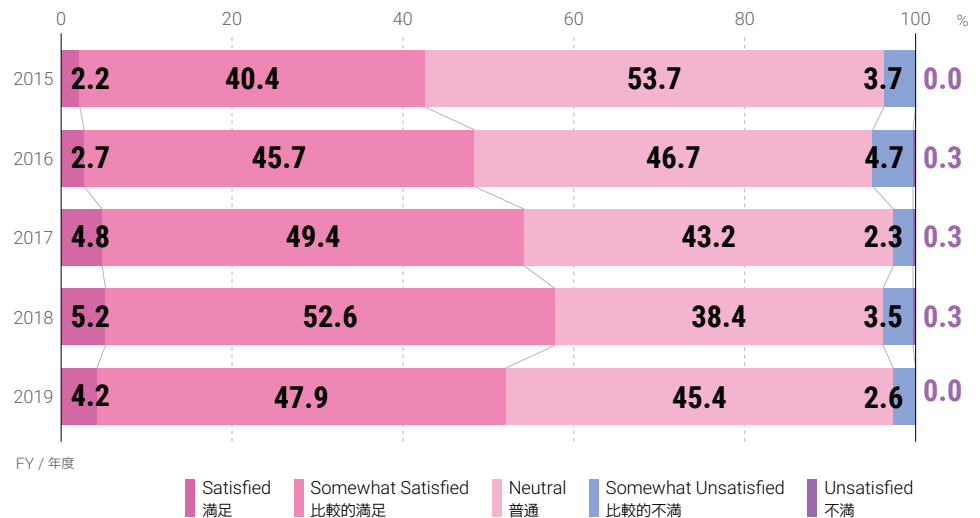
## Results of User Satisfaction Survey on Patent Examination Quality

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  
(国内出願における特許審査の質全般の評価)

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国際出願における国際調査等の質全般の評価)

## 5) Revision of Examination Guidelines and Handbook

### (i) Revision of "Examination Guidelines on Extension of Patent Term"

Article 67, etc. of the Patent Act have been revised, pursuant to the Act on the Development of Related Legislation Following the Conclusion of the Trans-Pacific Partnership Agreement and the Conclusion of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership. The revisions added a system that extends the patent term as compensation for the curtailment of the term, which compensates the patent term in cases where at least a certain period is required until the patent establishment is registered. Accordingly, the JPO revised the Examination Guidelines\*5 in March 2019, which has added a chapter on "Extension of a Patent Term as Compensation for the Curtailment of the Term".

### (ii) Case Examples Pertinent to AI-related Technologies

Use of vast data and artificial intelligence (AI) is expected to result in the fourth industrial revolution. Against this backdrop, the JPO became a global pioneer by publishing Case Examples pertinent to AI-related technologies. The purpose was to increase the transparency and predictability of patent examinations for AI-related technology patent applications, and to disseminate information to other countries regarding the operation of such patent examinations. Specifically, the JPO listed 10 cases, in Japanese and English, pertaining to inventions that have applied AI to various technical fields. In January 2019, these cases were added to the "Examination Handbook for Patent and Utility Model in Japan"\*6.

## 6) Examination Measures for Addressing Various User Needs

### (i) Interview Examinations

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

- In 2019, there were 3,748 interview examinations (of these, 773 were conducted on-site, and 190 were conducted by video conference).
- To meet user needs, including enhanced convenience, the video conferencing interview system is installed. It allows inventors and patent attorneys, etc. in remote areas to participate in the interview examination.

## 5) 審査基準・ハンドブックの改訂

### (i) 「特許権の存続期間の延長に係る審査基準」の改訂

「環太平洋パートナーシップ協定の締結及び環太平洋パートナーシップに関する包括的及び先進的な協定の締結に伴う関係法律の整備に関する法律」により、特許法第67条等が改正され、特許権の設定登録までに一定以上の期間を要した場合に権利期間を補償する、期間補償のための特許権の存続期間の延長の制度が追加された。これに伴い、審査基準\*5において「期間補償のための特許権の存続期間の延長」に関する章を新設する改訂を2019年3月に行った。

### (ii) AI関連技術に関する事例

大量のデータとAI（人工知能）の利用によって、第四次産業革命の実現が期待されている。この状況を踏まえ、AI関連技術の特許出願に対する特許審査の透明性と予見性の向上と、その特許審査の運用の諸外国への発信を目的として、AI関連技術に関する特許審査事例を世界に先駆けて整備した。具体的には、AIを様々な技術分野に応用した発明の10の特許審査事例を日本語及び英語で作成し、2019年1月に、これらの特許審査事例を「特許・実用新案審査ハンドブック\*6」に追加した。

## 6) 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。

- 2019年の実績は3,748件（内、出張面接審査773件、テレビ面接審査190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。

\*5  English  
[https://www.jpo.go.jp/e/system/laws/rule/guideline/patent/tukujitu\\_kijun/](https://www.jpo.go.jp/e/system/laws/rule/guideline/patent/tukujitu_kijun/)

 日本語  
[https://www.jpo.go.jp/system/laws/rule/guideline/patent/tukujitu\\_kijun/](https://www.jpo.go.jp/system/laws/rule/guideline/patent/tukujitu_kijun/)

\*6  English  
[https://www.jpo.go.jp/e/system/laws/rule/guideline/patent/handbook\\_shinsa/index.html](https://www.jpo.go.jp/e/system/laws/rule/guideline/patent/handbook_shinsa/index.html)

 日本語  
[https://www.jpo.go.jp/system/laws/rule/guideline/patent/handbook\\_shinsa/index.html](https://www.jpo.go.jp/system/laws/rule/guideline/patent/handbook_shinsa/index.html)

## (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 2019, there were 39 applications for Collective Examinations for IP Portfolio Supporting Business Strategy.
- Of these, there were 354 patent applications, 7 applications for design registration, and 3 applications for trademark registration.

## (ii) 事業戦略対応まとめ審査

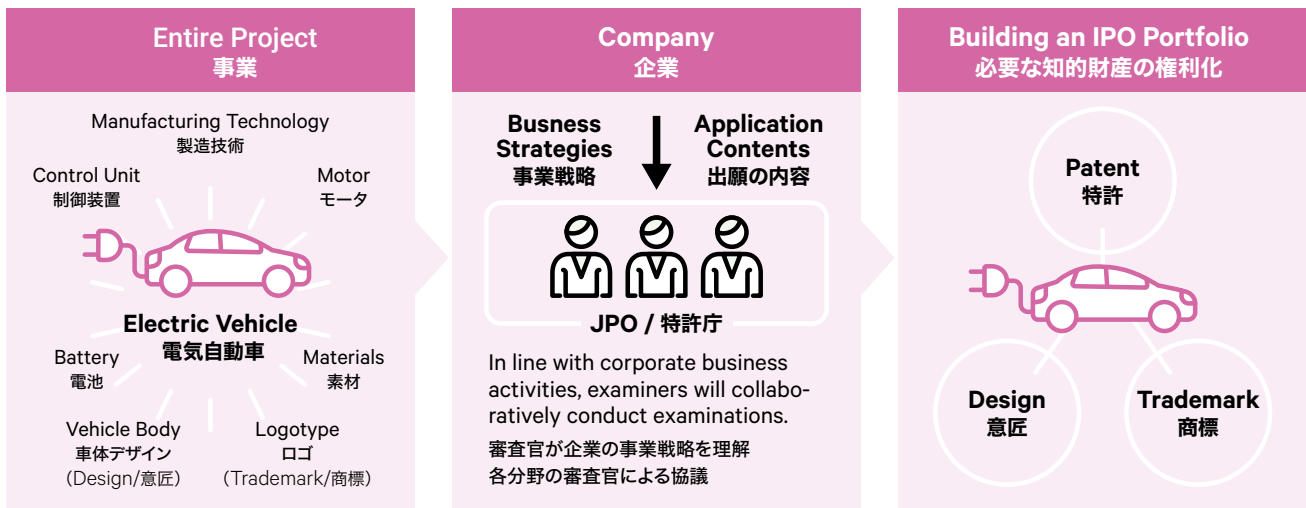
事業戦略対応まとめ審査は、事業に関連する複数の出願（特許・意匠・商標）を対象として、各分野の審査官が連携しながら審査を行い、事業展開に合わせたタイミングでの権利化を支援する施策である。[2-1-5図]

- 2019年における事業戦略対応まとめ審査の申請実績は39件。
- 対象とされた特許出願は354件、意匠登録出願は7件、商標登録出願は3件。

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





## 7) 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 has been preparing for years full text Japanese translations of US, EP, and WIPO patent documents in English and patent documents from China and South Korea, and has been accumulating those translations on the 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\*7 and F-Term\*8 the IPCs, and is currently engaged in discussions to this end (In 2019, discussions covered 12 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, the JPO's original classification, must be compliant with the latest IPC, in order to search efficiently for domestic and foreign patent documents. In FY2019, the JPO amended the FI scheme for 195 main groups, and conducted F-Term maintenance for 5 themes.
- The JPO assigns the newly established broad facet classification code\*9 ZIT for cross-sectional extraction of patent documents that concern IoT-related technologies.
- The IPC subclass G16Y entered into force in January 2020, following discussions by the IP5 Offices and WIPO regarding a proposal to create an IPC classification for IoT-related technologies based on ZIT.

## 7) 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、及び中国、韓国の特許文献の全文日本語翻訳文を特許・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FI\*7、Fターム\*8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に、IPC改正の提案を積極的に実施、現在議論中 (2019年は、機械、化学、電気の幅広い12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、日本国特許庁独自の分類である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。2019年度は、195メイングループのFI分類表を改正し、5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した広域ファセット分類記号\*9ZITの付与を実施。
- ZITの内容を踏まえた、IoT関連技術のための分類をIPCに創設する提案について、五庁 (IP5) 及びWIPOでの議論を経て、IPCのサブクラスG16Yが2020年1月に発効。

\*7 An FI (File Index) means an original classification by the JPO that is a further development of the IPC.  
FI (File Index)とは、IPCを細展開した日本国特許庁独自の分類。

\*8 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).  
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。

\*9 A broad facet classification code means a classification that is assigned from a cross-sectional perspective spanning multiple fields.  
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。



## 8) Recent Trends in AI-related Inventions

Taking into account recent advances in AI technology centering on deep learning, the JPO studied the status of patent applications for AI-related inventions in Japan and overseas and released a report and previous data\*10 in July 2019\*11. This study defines “AI-related invention”\*12 as (1) AI core invention (FI: G06N) and (2) inventions in which AI has been applied to various technical fields, and examined such inventions. An overview of the study findings is as follows.

- Domestic patent applications for AI-related inventions have increased rapidly since 2014 due to the impact of the third AI boom. [Figure 2-1-6]
- Applications for AI-related inventions referring to deep learning have increased rapidly since 2014. In 2017, nearly half of domestic patent applications for AI-related inventions referred to deep learning.
- For AI-applied areas, applications stand out in the fields of image processing, information retrieval and recommendation, business-related, and medical diagnosis. Between 2015 and 2017, applications for control and robotics fields increased in particular.
- Applications related to AI core technology (IPC: G06N) are on the rise, both to the IP5 Offices and PCT. Among them, the number of applications to the USPTO and the CNIPA is particularly high.

## 8) AI 関連発明の出願状況調査

近年の深層学習を中心としたAI技術の進展を踏まえ、特許庁はAI関連発明の特許出願について国内外の状況を調査し、2019年7月、報告書とバックデータ\*10を公開した\*11。本調査では、(1) AIコア発明 (FI: G06N)、及び(2) AIを各技術分野に適用した発明を「AI関連発明」\*12と定義し、調査対象とした。本調査結果の概要は以下のとおりである。

- AI関連発明の国内特許出願は、第三次AIブームの影響で2014年以降急増。[2-1-6図]
- 深層学習に言及するAI関連発明の出願は2014年以降急増しており、2017年のAI関連発明の国内特許出願の約半数は深層学習に言及。
- AIの適用先として目立つ分野は、画像処理や情報検索・推薦、ビジネス関連、医学診断。2015－2017年にかけて特に制御・ロボティクス分野への適用が増加。
- AIのコア技術に関する出願 (IPC:G06N) は、五庁及びPCT国際出願のいずれにおいても増加傾向であり、中でもUSPTOとCNIPAへの出願件数は突出。

\*10 Excel data related to the chart data in the report, and a list of AI-related inventions for which patent applications have been filed since 2014.  
報告書中の図表データに関するエクセルデータ、及び、2014年以降出願のAI関連発明の一覧データ

\*11  English  
[https://www.jpo.go.jp/e/system/patent/gaiyo/ai/ai\\_shutsugan\\_chosa.html](https://www.jpo.go.jp/e/system/patent/gaiyo/ai/ai_shutsugan_chosa.html)  
 日本語  
[https://www.jpo.go.jp/system/patent/gaiyo/sesaku/ai/ai\\_shutsugan\\_chosa.html](https://www.jpo.go.jp/system/patent/gaiyo/sesaku/ai/ai_shutsugan_chosa.html)

\*12 The above definition of “AI-related invention” is used only in this research, and does not represent an official definition by the JPO. 「AI関連発明」の定義は本調査内でのみ有効なものであり、特許庁として公式な定義を表明するものではない。

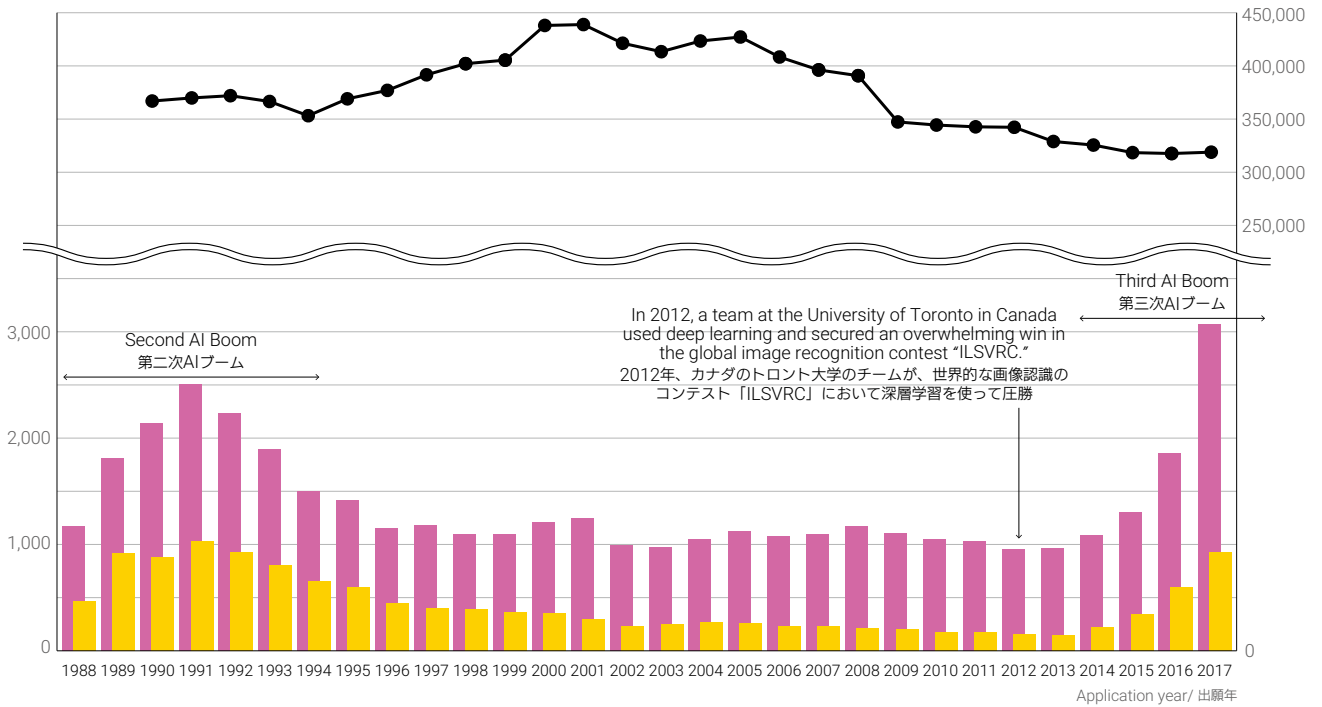
Figure 2-1-6 | 2-1-6 図

### Number of Domestic Patent Applications for AI-related Inventions

#### AI関連発明の国内特許出願件数の推移

■ AI-related invention (left axis) AI関連発明 (左軸)    ■ AI-related inventions to which G06N is assigned (left axis) AI関連発明のうちG06Nが付与されているもの (左軸)    ● [Ref.] Total number of domestic applications (right axis) 【参考】国内全体の出願件数 (右軸)

Number of domestic applications for AI-related inventions AI関連発明の国内出願件数    Total number of domestic applications 国内全体の出願件数



	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000				
■ AI-related invention (left axis) AI関連発明 (左軸)	1,167	1,811	2,137	2,509	2,237	1,891	1,495	1,412	1,150	1,183	1,096	1,091	1,209				
■ AI-related inventions to which G06N is assigned (left axis) AI関連発明のうちG06Nが付与されているもの (左軸)	467	912	881	1,032	926	807	654	599	444	403	393	363	353				
● [Ref.] Total number of domestic applications (right axis) 【参考】国内全体の出願件数 (右軸)	-	-	367,590	369,396	371,894	366,486	353,301	369,215	376,615	391,572	401,932	405,655	436,865				
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
■ AI-related invention (left axis) AI関連発明 (左軸)	1,242	988	975	1,047	1,126	1,080	1,096	1,167	1,100	1,052	1,031	952	963	1,084	1,304	1,858	3,065
■ AI-related inventions to which G06N is assigned (left axis) AI関連発明のうちG06Nが付与されているもの (左軸)	297	229	249	266	254	235	233	208	203	174	174	151	150	221	343	595	924
● [Ref.] Total number of domestic applications (right axis) 【参考】国内全体の出願件数 (右軸)	439,175	421,044	413,092	423,081	427,078	408,674	396,291	391,002	348,596	344,598	342,610	342,796	328,436	325,989	318,721	318,381	318,479

## 2 Designs

The JPO has been implementing a variety of initiatives including accelerated examinations, quality management, and the revision of the Examination Guidelines, 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 FY2018 (April 2018–March 2019), the JPO achieved the “first action pendency” (FA pendency) and “total pendency” periods shown in Figure 2-1-7. [Figure 2-1-7] [Figure 2-1-8]

### 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\*1. [Figure 2-1-9]

- 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\*2; (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 2019, first action pendency from request for accelerated examination was 1.7 months on average.

## 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、審査基準の改訂等、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、2018年度（2018年4月2019年3月）は、2-1-7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。[2-1-7図][2-1-8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\*1。 [2-1-9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\*2、(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。
- 2019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1.7か月。

\*1  English  
[https://www.jpo.go.jp/e/system/design/shinsa/soki-isyou\\_soukisinri.html](https://www.jpo.go.jp/e/system/design/shinsa/soki-isyou_soukisinri.html)

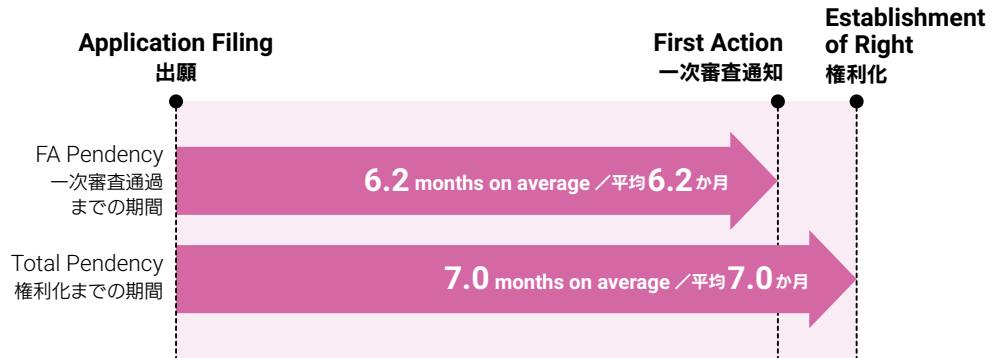
 日本語  
[https://www.jpo.go.jp/system/design/shinsa/soki/isyou\\_soukisinri.html](https://www.jpo.go.jp/system/design/shinsa/soki/isyou_soukisinri.html)

\*2 Among (i), 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 2019, the above period was 0.5 months on average. (i)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、2019年の前記期間は平均0.5か月。

Figure 2-1-7 | 2-1-7 図

### FA Pendency and Total Pendency for Design Examinations in FY2018

2018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。）。

Figure 2-1-8 | 2-1-8 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	2015	2016	2017	2018	2019
<b>Number of FAs FA件数</b>	<b>29,752</b>	<b>30,448</b>	<b>31,600</b>	<b>31,266</b>	<b>31,749</b>
<b>Number of Decisions of Registration 登録査定件数</b>	<b>26,286</b>	<b>26,156</b>	<b>27,976</b>	<b>27,301</b>	<b>27,909</b>

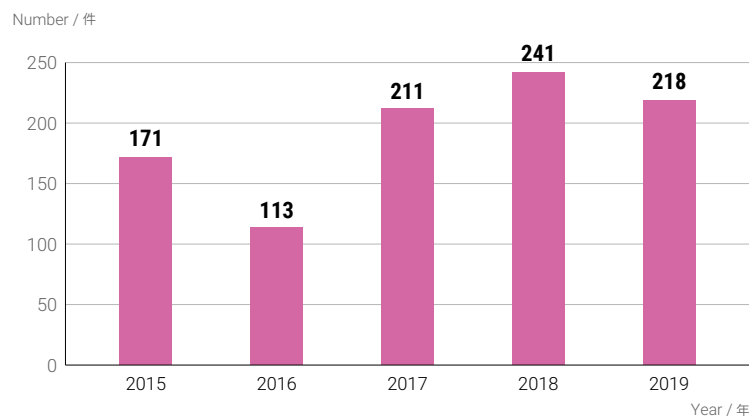
Note: The number of first actions is the number of first notices of examination results sent by examiners to applicants, etc. (for the most part, either a decision of registration or notices of reasons for refusal).

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 2-1-9 | 2-1-9 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」が提出された案件数。

### 3) 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), the JPO has been engaging in the following initiatives in order to realize the utmost quality of design examinations in the world\*3.

#### (i) 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.

#### (ii) 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 2-1-10]
- 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.

### 3) 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」、「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\*3。

#### (i) 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。

#### (ii) 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。[2-1-10]
- 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。

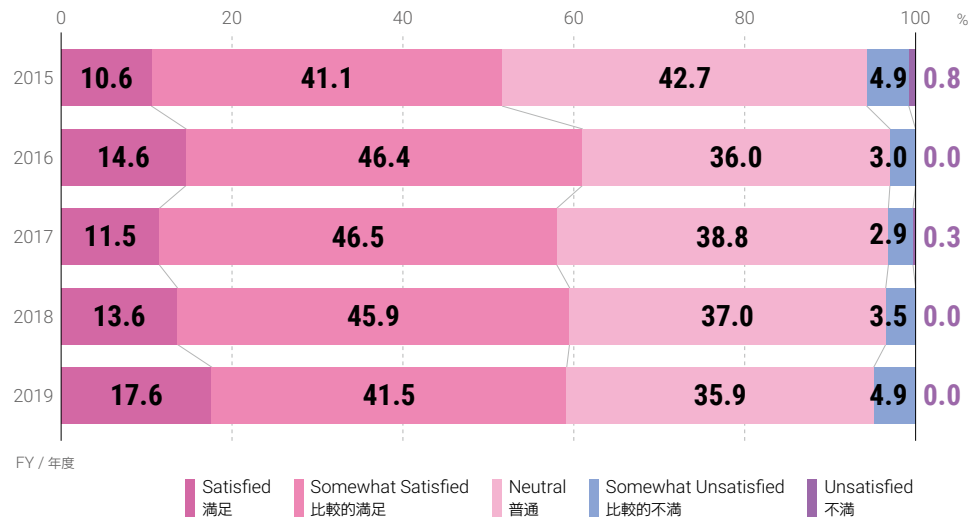
\*3  English  
<https://www.jpo.go.jp/e/introduction/hinshitu/shinsa/index.html>

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

Figure 2-1-10 | 2-1-10 図

### Results of User Satisfaction Survey (Assessment of overall quality of design examinations)

ユーザー評価調査の結果  
(意匠審査に関する質全般の評価)



#### 4) Revision of Examination Guidelines for Design

The JPO overhauled the Examination Guidelines for Design, in order to adapt the Guidelines to the revisions made to the Design Act in 2019 and make the text simpler and easier to understand. Following deliberations at the Working Group on the Examination Guidelines for Design, which took place from FY2018 to FY2019, mainly the following points were revised in accordance with the results of the deliberations.

- Easing of requirements for drawings, removal of the “partial design” column, determination of similarity between a whole design and a partial design of prior and later applications, and commencement of registration of related design (the revised Guidelines applies to applications filed on or after May 1, 2019).
- Development of examination guidelines that adapt to the revised Design Act which enters into force on April 1, 2020 (expansion of the scope of design protection for buildings and interior design, expansion for protection of designs for graphical user interface, enhancement of the related design system, raising of the level of creativity, enhancement of design for a set of articles, etc.).

#### 4) 意匠審査基準の改訂

令和元年の意匠法改正に対応するとともに、より簡潔でわかりやすい記載を目指して、意匠審査基準\*4の全面的な改訂を行った。改訂にあたっては、2018年度から2019年度にかけて、意匠審査基準ワーキンググループ\*5において検討を行い、その結果に則して主に以下の各点を改訂した。

- 図面の記載要件の緩和、【部分意匠】の欄の廃止、全体意匠と部分意匠の間の先後願の判断及び関連意匠の登録を開始（2019年5月1日以降の出願に適用）\*6。
- 2020年4月1日施行の改正意匠法に対応した審査基準の整備（建築物・内装の意匠の保護対象化、画像の意匠の拡充、関連意匠制度の拡充、創作非容易性水準の引き上げ、組物の意匠の拡充等）。

\*4  日本語  
[https://www.jpo.go.jp/system/laws/rule/guideline/design/shinsa\\_kijun/index.html](https://www.jpo.go.jp/system/laws/rule/guideline/design/shinsa_kijun/index.html)

\*5  日本語  
[https://www.jpo.go.jp/resources/shingikai/sangyo-kouzou/shousai/isho\\_wg/index.html](https://www.jpo.go.jp/resources/shingikai/sangyo-kouzou/shousai/isho_wg/index.html)

\*6  日本語  
[https://www.jpo.go.jp/system/laws/rule/guideline/design/shinsa\\_kijun/kaitei/190426\\_ishou\\_kaitei.html](https://www.jpo.go.jp/system/laws/rule/guideline/design/shinsa_kijun/kaitei/190426_ishou_kaitei.html)



### 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 FY2018 (April 2018–March 2019), the JPO achieved the “first action pendency” (FA pendency) and “total pendency” periods shown in Figure 2-1-11. In addition, as Figure 2-1-12 shows, the number of FA in 2019 was 134,834\*2. [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 Examinations for Trademarks”\*3 at the JPO website).

- The number of requests for accelerated examinations in 2019 was 8,110, an increase of approx. 54% over the previous year. [Figure 2-1-13]
- In 2019, first action pendency from request for accelerated examination was 1.7 months on average.

### 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\*2。

#### 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、2018年度（2018年4月–2019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。また、2-1-12図のとおり、2019年のFA件数は134,834件であった。[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\*3。）。

- 2019年における早期審査の申出件数は、前年比約54%増加となる8,110件。[2-1-13図]
- 2019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  「新しいタイプの商標の保護制度」  
日本語  
<https://www.jpo.go.jp/system/trademark/gaiyo/newtype/index.html>

\*2 See Part 2, Chapter 1, 3.6 “Regional Collective Trademarks”.  
第2部第1章第3節第6項「地域団体商標」参照

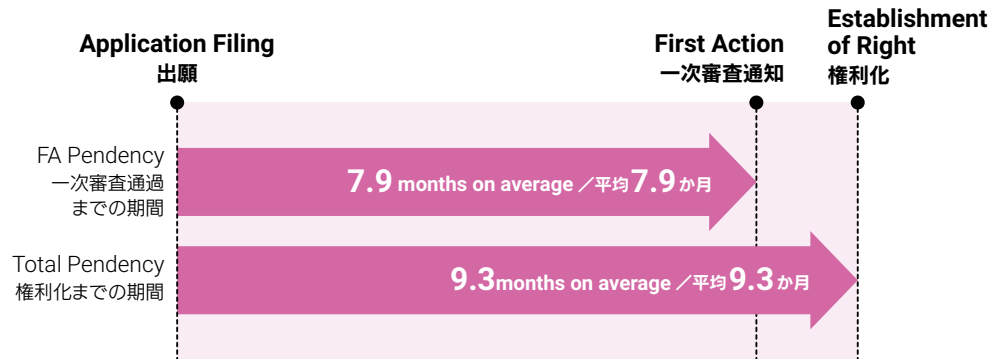
\*3  “Outline of Accelerated Examinations and Accelerated Appeal Examinations for Trademarks”  
English  
[https://www.jpo.go.jp/e/system/trademark/shinsa/outline\\_accelerated\\_trademark.html](https://www.jpo.go.jp/e/system/trademark/shinsa/outline_accelerated_trademark.html)

 「商標早期審査・早期審理の概要」  
日本語  
<https://www.jpo.go.jp/system/trademark/shinsa/soki/shkouhou.html>

Figure 2-1-11 | 2-1-11 図

### FA Pendency and Total Pendency for Trademark Examinations in FY2018

2018年度における商標審査の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) (excluding applications related to non-traditional trademarks and regional collective trademarks<sup>1</sup>).

• 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。)

Figure 2-1-12 | 2-1-12 図

### Number of FAs and Decisions of Registration for Design Examinations

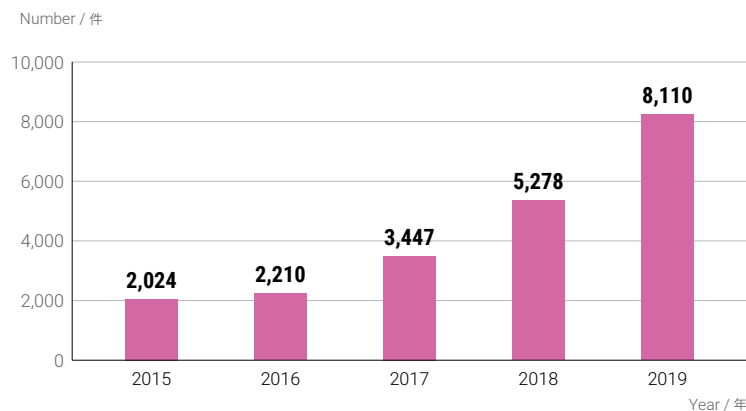
商標審査のFA件数及び登録査定件数の推移

Year / 年	2015	2016	2017	2018	2019
<b>Number of FAs FA件数</b>	<b>111,831</b>	<b>131,624</b>	<b>126,407</b>	<b>137,463</b>	<b>134,834</b>
<b>Number of Decisions of Registration 登録査定件数</b>	<b>100,244</b>	<b>113,025</b>	<b>115,754</b>	<b>119,610</b>	<b>117,186</b>

Figure 2-1-13 | 2-1-13 図

### Number of FAs and Decisions of Registration for Trademark Examinations

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" was 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) Quality Management Initiatives

As a policy for the reinforcement and organization of the trademark examination system, the JPO carries out "Fast Track Examination" pilot programs (for further details, please see "Fast Track Examination"\*4 at the JPO website). This is an initiative aimed at conducting examinations (first action) earlier than usual for applications that meet certain conditions. [Figure 2-1-14]

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.

Since October 1, 2018, the JPO has carried out pilot programs for conducting examinations (first action) about two months earlier than usual for eligible cases. For applications filed in February 2020 and after, the JPO has changed to conducting examinations (first action) in about six months from the filing of an application. This will enable users to predict first action pendency, irrespective of the progress of usual cases, and is expected to facilitate business planning.

- Applications that meet all the following conditions are eligible for fast track examination.
  - [Condition 1] Applications that only designated goods or services listed in any of the following at the time of filing.
    - ① Examination guidelines for similar goods and services
    - ② Regulation for Enforcement of the Trademark Act
    - ③ International Classification of Goods and Services (the Nice Classification)
  - [Condition 2] 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 procedures and handling fees are not required.


### 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」\*4の試行を行っている（詳細は特許庁HP「ファストトラック審査」を参照）。これは、一定の要件を満たした出願を、通常より早く審査（一次審査通知）するという試みである。[2-1-14図]

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。

2018年10月1日以降、対象案件について通常より約2か月早く審査（一次審査通知）を行う運用を試行してきたが、2020年2月の出願からは、出願から約6か月で審査（一次審査通知）を行う運用に変更した。これによって、ユーザーは通常案件の進捗によらず一次審査通知までの期間が予測できるため、事業計画が立てやすくなる効果が期待される。

- 以下全ての要件を満たす出願が対象。
  - 〔要件1〕 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2〕 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  "Fast Track Examination"  
English  
[https://www.jpo.go.jp/e/system/trademark/shinsa/shohyo\\_fast\\_e.html](https://www.jpo.go.jp/e/system/trademark/shinsa/shohyo_fast_e.html)

 「ファストトラック審査」  
日本語  
[https://www.jpo.go.jp/system/trademark/shinsa/fast/shohyo\\_fast.html](https://www.jpo.go.jp/system/trademark/shinsa/fast/shohyo_fast.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  
のイメージ



#### 4) 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), which documents the JPO’s quality management and its implementation system, the JPO has been engaging in the following initiatives in order to maintain and improve the quality of trademark examinations. Moreover, in March 2019, the JPO established quantitative goals for the quality of trademark examinations to be achieved in FY2019. For more details, please visit the JPO website\*6.

##### (i) 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.

##### (ii) 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.

#### 4) 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」、品質管理及びその実施体制について文書化した「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、2019年3月には、2019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\*5。更なる詳細については、特許庁HP\*6を参照されたい。

##### (i) 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。

##### (ii) 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月から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  日本語  
[https://www.meti.go.jp/policy/policy\\_management/jissityou-hyouka/2018/31fymokuhyou.pdf](https://www.meti.go.jp/policy/policy_management/jissityou-hyouka/2018/31fymokuhyou.pdf)

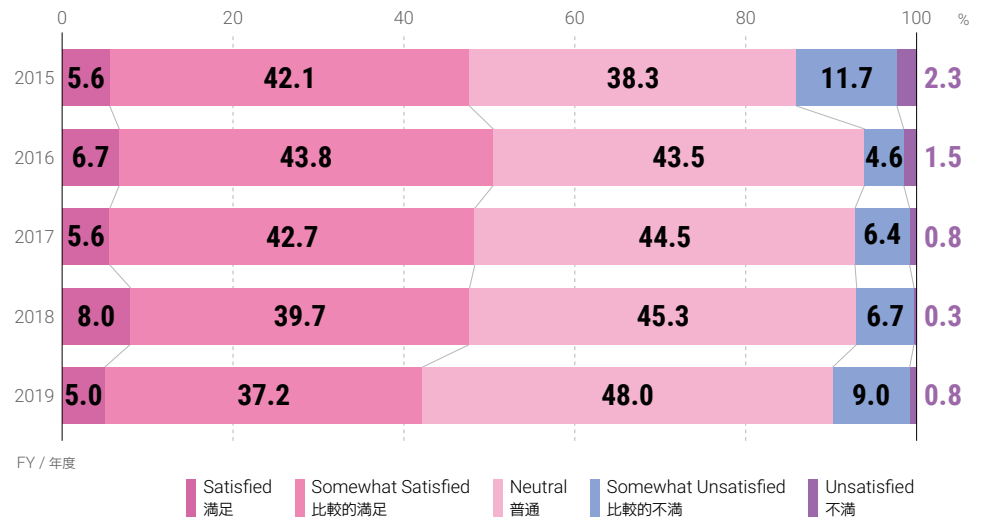
\*6  English  
<https://www.jpo.go.jp/e/introduction/hinshitu/shinsa/index.html>

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

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) Revision of Examination Guidelines for Trademarks

The JPO revised the Examination Guidelines for Trademarks, taking into consideration changes in the social circumstances and the environment surrounding commercial transactions, as well as the results in the User Satisfaction Survey Report concerning quality of trademark examinations\*7. The main revisions were as follows.

### (i) Further clarification of guidelines regarding distinctiveness (Trademark Act, Article 3(1)(iii))

It was made clear that Article 3(1)(iii) of the Trademark Act applies if a filed trademark is generally recognized among traders or consumers as indicating the characteristics, etc. of goods or services.

It was also made clear that, in order to be “generally recognized”, a trademark is not required to be actually used to indicate the characteristics, etc. of the goods or services.

### (ii) Trademarks indicating Japanese era names (Trademark Act, Article 3(1)(vi))

It was made clear that a filed trademark is a trademark lacking distinctiveness under Article 3(1)(vi) of the Trademark Act, if it is no more than recognized as indicating Japanese era names.

### (iii) Bad Faith trademark filing to hinder registration of the name of a variety (Trademark Act, Article 4(1)(vii))

Bad Faith trademark filing to hinder registration of the name of a variety was added as an example of trademarks falling under Article 4(1)(vii) of the Trademark Act.

## 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\*8).

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 to a certain extent. [Figure 2-1-16]

## 5) 商標審査基準の改訂

社会情勢や商取引を取り巻く環境の変化、さらに商標審査の質に関するユーザー評価調査報告書の結果を踏まえ、商標審査基準の改訂を行った\*7。改訂を行った主な項目は以下のとおり。

### (i) 識別力に関する更なる基準の明確化

#### (商標法第3条第1項第3号)

出願された商標について、取引者又は需要者が商品又は役務の特徴等を表示するものとして一般に認識する場合は商標法第3条第1項第3号に該当する旨を明記した。

また、「一般に認識する場合」とは、その商標が商品又は役務の特徴等を表示するものとして現実に用いられていることを要するものではない旨を併せて明記した。

### (ii) 元号を表示する商標 (商標法第3条第1項第6号)

出願された商標が元号として認識されるにすぎないものである場合は、識別力を有しないものとして、商標法第3条第1項第6号に該当する旨を明記した。

### (iii) 品種登録を阻害する目的がある悪意の商標登録出願


#### (商標法第4条第1項第7号)

品種登録を阻害する目的がある悪意の商標登録出願について、商標法第4条第1項第7号に該当する例として、新たに追加した。

## 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\*8。）。

「地域名+商品（サービス）名」で構成される商標は、制度導入前は全国的な知名度がなければ登録が認められなかったが、制度導入後は一定範囲の需要者に認識されていれば登録可能となった。[2-1-16図]

\*7  “Examination Guidelines for Trademarks”  
English  
<https://www.jpo.go.jp/e/system/laws/rule/guideline/trademark/kijun/index.html>

 「商標審査基準」  
日本語  
<https://www.jpo.go.jp/system/laws/rule/guideline/trademark/kijun/index.html>

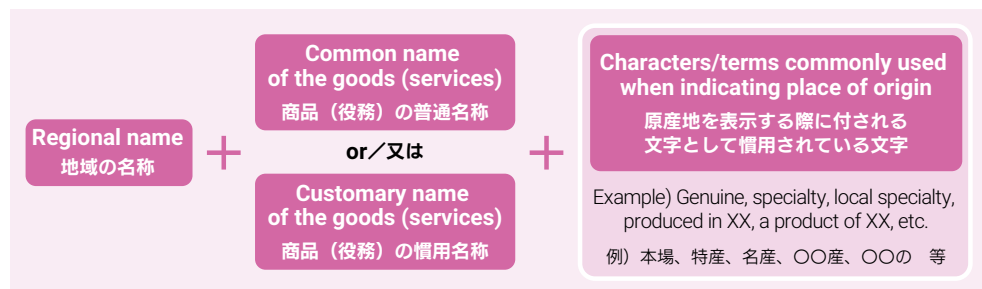
\*8  “Regional Collective Trademark System”  
English  
<https://www.jpo.go.jp/e/system/trademark/gaiyo/chidan/index.html>

 「地域団体商標制度」  
日本語  
[https://www.jpo.go.jp/system/trademark/gaiyo/chidan/L\\_dantai\\_syouhyou.html](https://www.jpo.go.jp/system/trademark/gaiyo/chidan/L_dantai_syouhyou.html)

- As of the end of December 2019, there were 1,258 applications filed, and of those 673\*9 were registered.
- In order to further increase awareness of this system, the General Election for Outstanding Regional Brands was held in March 2018 in the Kyushu region, in December 2018 in the Tokai-Hokuriku region, and the Tohoku region in December 2019. In the General Election program, local university students, regional collective trademark right holders, and others form teams, and based on interviews with such right holders, the students circulate information on the attractiveness of regional brands on Instagram® and present future business plans (By creating opportunities for student-organization collaboration to promote the attractiveness of regional brands, this program is expected to increase the system's use among general consumers and organizations considering acquisition of regional collective trademarks, and also further promote the use of regional collective trademarks. Furthermore, through the use of regional collective trademarks, the program is expected to lead to sustainable vitalization of regional economies.).
- The JPO published the booklet, "Regional Collective Trademark Guide Book 2019", based on a concept to compile key points of successful development of regional brands. The Guide Book introduces the latest examples of organizations taking advantage of regional collective trademarks, and also presents an outline of the system, the JPO's measures for supporting organizations, and 645 registered regional collective trademarks (as of the end of 2018). The Guide Book is distributed to various parties, including seminar participants, prefectures, municipalities, societies of commerce and industry, chambers of commerce and industry, tourist associations and existing right holders, for promoting widespread use of the system.
- 2019年12月までに1,258件が出願され、そのうち673件\*9が登録。
- 本制度の更なる周知を目的として、地元の学生と地域団体商標の権利者等がチームを組み、地元の学生が地域団体商標の権利者等への取材を通じて得た地域ブランドの魅力等を「Instagram® (インスタグラム)」で発信し、今後のビジネス展開等についても発表する「地域ブランド総選挙」を2018年3月に九州地域、12月に東海・北陸地域、2019年12月に東北地域で開催(学生と団体とのコラボレーションにより地域ブランドの魅力をもっとPRする機会を創出することで、一般消費者及び地域団体商標の取得を検討している団体への制度普及、並びに、地域団体商標の更なる活用促進を図るとともに、地域団体商標の活用を通じた地域経済の持続的な活性化に繋がることが期待される。)
- 「成功する地域ブランド虎の巻！」をコンセプトに、地域団体商標を活用している団体の最新事例を紹介するとともに、地域団体商標制度の概要、特許庁の支援策、登録されている645件(2018年末時点)の地域団体商標を掲載した冊子「地域団体商標ガイドブック2019」を作成し、説明会等の参加者や、各都道府県、市区町村、商工会・商工会議所、観光協会、既権利者等に配布し、対外的に広く普及活動を実施。

Figure 2-1-16 | 2-1-16 図

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



\*9 Registration numbers by region are 34 for Hokkaido, 54 for the Tohoku region, 103 for the Kanto-Koshinetsu region, 62 for the Hokuriku region, 89 for the Tokai region, 151 for the Kinki region, 49 for the Chugoku region, 28 for the Shikoku region, 84 for the Kyushu region, and 18 for the Okinawa region along with XX for overseas countries (registrations spanning multiple regions are counted as one in each region).  
登録件数を地域別に見ると、北海道34件、東北54件、関東・甲信越103件、北陸62件、東海89件、近畿151件、中国49件、四国28件、九州84件、沖縄18件に加えて、外国からの出願も3件登録されている(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 decisions as the upper instance of examination, and in achieving early resolution of disputes over the validity of IP rights. To fulfill these roles adequately, various initiatives to ensure a highly reliable trial/appeal decisions and its timeliness have been taken.

### 1) Performance of Trials and Appeals

The status of the proceedings in 2019 is as shown in Figure 2-1-17. [Figure 2-1-17]

- Inter-partes trial cases are prioritized over ex-parte appeal cases in principle for early dispute resolution.
- Appeals against an examiner's decision of refusal cases, if a case satisfies the specific requirements, the JPO gives priority to and conducts accelerated appeal proceedings for the case upon request. In 2019, the number of requests for accelerated appeal proceedings\*1 was 204 for patents, 1 for designs, and 22 for trademarks. The average pendency period\*2 was 4.0 months for patents, 1.5 months for designs, and 3.1 months for trademarks.

### 2) Revision of the Manual for Trial and Appeal Proceedings ("Manual")\*3

In 2019, the operation of the trial and appeal system was revised as follows.

- Revised the Manual for Trial and Appeal Proceedings for the purpose of elaborating described matters including trial/appeal decisions in trials for invalidation, etc., and began utilizing it on July 1, 2019.
- Added a new item regarding Hantei (advisory opinion) for an essentiality check, which commenced in April 2018 (Manual 58-04).
- Added a new description to the effect that, pursuant to the revision of the Patent Act, prohibition of inspection of any trade secret in documents pertaining to a Hantei (advisory opinion) became possible if a party to the case or an intervenor has given notice that a proprietary trade secret of the party or intervenor is included in those documents (Manual 01-01).

\*1 The number of cases where 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 2019 was 288 for patents, 1 for designs, and 24 for trademarks.  
「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。部門移管されなかった件数(前置登録された事件等)を含めると、2019年における早期審理の申出件数は、特許が288件、意匠が1件、商標が24件。

## 4 審判

審判は、審査の上級審として審査官がした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を図る役割を担っている。これらの役割を十分に果たすため、信頼性の高い審決及び審決の適時性の確保の実現に向けた種々の取組を実施している。

### 1) 審判実績

2019年の審理の状況は、2-1-17図のとおりである。[2-1-17図]

- 当事者系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。
- 拒絶査定不服審判事件について、特定の要件を満たす場合、申出により審理を優先的に行う早期審理を実施。2019年における早期審理の申出件数\*1は特許で204件、意匠で1件、商標で22件であり、審理期間\*2は特許で平均4.0か月、意匠で平均1.5か月、商標で平均3.1か月。

### 2) 審判便覧\*3の改訂

2019年は、審判制度の運用について、以下の見直しを行った。

- 無効審判における審決等の記載事項の充実化等を目的として審判便覧を改訂し、2019年7月1日より運用。
- 2018年4月より開始している標準必須性に係る判断のための判定に関する項目を新設(審判便覧58-04)。
- 特許法改正に伴い、申出により、判定に係る書類の営業秘密の閲覧制限が可能になった旨の記載を追加(審判便覧01-01)。

\*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 accelerated appeal proceedings, to the date an appeal decision is dispatched.  
早期審理の対象となった事件について、早期審理の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。

Figure 2-1-17 | 2-1-17 図

## Status of Proceedings in 2019

## 2019年 審理の状況

	Appeals against an examiner's decision of refusal 拒絶査定不服審判		Trial for invalidation 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* <sup>1</sup> 処理件数* <sup>1</sup>	Pendency* <sup>2</sup> 審理期間* <sup>2</sup>	Number of dispositions* <sup>1</sup> 処理件数* <sup>1</sup>	Pendency* <sup>2</sup> 審理期間* <sup>2</sup>	Number of dispositions* <sup>1</sup> 処理件数* <sup>1</sup>	Pendency* <sup>2</sup> 審理期間* <sup>2</sup>	Number of dispositions* <sup>1</sup> 処理件数* <sup>1</sup>	Pendency* <sup>2</sup> 審理期間* <sup>2</sup>	Number of dispositions* <sup>1</sup> 処理件数* <sup>1</sup>	Pendency* <sup>2</sup> 審理期間* <sup>2</sup>
Patents & Utility Models* <sup>3</sup> 特許・実用新案* <sup>3</sup>	<b>8,024</b>	<b>12.3</b>	<b>166</b>	<b>12.2</b>	<b>164</b>	<b>3.0</b>	<b>1,037</b>	<b>7.4</b>	-	-
Designs 意匠	<b>268</b>	<b>6.0</b>	<b>13</b>	<b>11.9</b>	-	-	-	-	-	-
Trademarks 商標	<b>839</b>	<b>8.8</b>	<b>73</b>	<b>13.1</b>	-	-	<b>415</b>	<b>9.0</b>	<b>934</b>	<b>6.4</b>

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 (又は決定) 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 無効審判の統計のみ実用新案を含む件数。

\*3



English  
[https://www.jpo.go.jp/e/system/trial\\_appeal/sinpan-binran\\_18.html](https://www.jpo.go.jp/e/system/trial_appeal/sinpan-binran_18.html)



日本語  
[https://www.jpo.go.jp/system/trial\\_appeal/sinpan-binran\\_18.html](https://www.jpo.go.jp/system/trial_appeal/sinpan-binran_18.html)

### 3) Improvement of Proceedings

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

#### (i) Encouragement of in-depth discussions through oral Proceedings

- In inter-partes trial cases (including trials for invalidation and trials for rescission), oral proceedings, where the panel and the parties orally assert against 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 2019, 135 oral proceedings were conducted. Starting in April 2020, oral proceedings will take place multiple times for each trial for invalidation case (patents) before a panel to sort out the points of dispute, etc. with the parties, pursuant to a plan for proceedings that shall be agreed in advance between the panel and the parties.

#### (ii) Circuit Trials and On-Site Interviews

- When companies, universities, etc. in the local regions are the parties concerned in trial and appeal cases, 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 2019, 22 circuit trials and 44 on-site interviews were conducted.

#### (iii) Trial and Appeal Practitioner Study Group

- The "Trial and Appeal Practitioner Study Group," which gathers together practitioners such as corporate IP personnel, patent attorneys and lawyers, in addition to JPO chief administrative judges and administrative judges, and which studies trial/appeal decisions and court decisions based on actual cases, is convened every year. The Study Group publishes a report\*4 that summarizes the results of its studies. Judges of the Intellectual Property High Court and the Tokyo District Court also participate as observers. In 2019, the Study Group studied a total of 11 cases: 8 patent cases, 1 design case, and 2 trademark cases.

### 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) 口頭での議論の充実

- 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主張しあう口頭審理を積極的に活用。2019年においては、135件の口頭審理を実施。また、事前に合意した審理計画に基づき、当事者と対面で争点整理等を複数回行う、無効審判（特許）の新たな審理モデルの試行を4月から開始予定。

#### (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。2019年においては、22件の巡回審判、44回の出張面接を実施。

#### (iii) 審判実務者研究会

- 審判長・審判官に加えて、企業の知的財産部員、弁理士、弁護士等の実務者が一堂に会して、実例に基づき審決及び判決についての研究を行う「審判実務者研究会」を例年開催。その結果を取りまとめた報告書\*4を公表。知的財産高等裁判所及び東京地方裁判所の裁判官もオブザーバー参加。2019年は、特許8事例、意匠1事例、商標2事例の計11事例を検討。

\*4



English  
[https://www.jpo.go.jp/e/resources/shingikai/kenkyukai/sinposei\\_kentoukai.html](https://www.jpo.go.jp/e/resources/shingikai/kenkyukai/sinposei_kentoukai.html)



日本語  
[https://www.jpo.go.jp/resources/shingikai/kenkyukai/sinposei\\_kentoukai.html](https://www.jpo.go.jp/resources/shingikai/kenkyukai/sinposei_kentoukai.html)

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

The JPO is implementing the following initiatives in order to disseminate and raise awareness of the trial and appeal system:

##### (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 a manually-translated English edition of trial/appeal decisions, decisions on opposition, and Hantei (advisory opinions on the technical scope of industrial property rights), at the JPO's website\*5, that would help users with the understanding of the law interpretation and its practices in Japan. In 2019, the JPO provided English translations for 87 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 and appeal system. In 2019, the JPO demonstrated mock oral proceedings at seminars for practitioners, etc.

#### 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\*5に掲載。2019年は、87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。2019年は、実務者向け説明会等での実演を実施。



Demonstration of mock oral proceedings at seminar for practitioners  
実務者向け説明会における模擬口頭審理の実演

\*5



English  
[https://www.jpo.go.jp/e/system/trial\\_appeal/info-general-shinketsu-eiyaku.html](https://www.jpo.go.jp/e/system/trial_appeal/info-general-shinketsu-eiyaku.html)



日本語  
[https://www.jpo.go.jp/system/trial\\_appeal/info-shinketsu-eiyaku.html](https://www.jpo.go.jp/system/trial_appeal/info-shinketsu-eiyaku.html)