

Outline of the results of the survey “Questionnaire for Utility Model System”

- *1 Enterprises capitalized at over 100 million yen are classified as “large enterprises,” and those capitalized at under 100 million yen are classified as “small & medium enterprises.”
- *2 The figures for questions with multiple selections are divided by the total answers, by each category, (large enterprises, small & medium enterprises and individuals).

Advantages and disadvantages of the Utility Model System (Question 3-1 and 3-2)

When asked about the advantages of the Utility Model System (multiple selections), the top selection by large enterprises and small & medium enterprises was “early registration,” at 28% and 23% respectively. The top selection by individuals was “granting of right even to small inventions” at 22% followed by “early registration” at 19%.

When asked about disadvantages (multiple selections), the top selection was “the right is unstable because of the non-substantive examination system” for all large enterprises, small & medium enterprises and individuals (35%, 27% and 23% respectively), followed by “the term is short” (22%, 24% and 20% respectively).

When improving the Utility Model System, it is necessary to consider how to remove fears concerning unstable rights and term while maintaining the advantage of early registration.

Enforcing and enforcement of utility model right (Questions 3-3 to 3-6)

Those who answered “have enforced the right” were 7% for large enterprises, 4% for small & medium enterprises and 4% for individuals. Those who answered “have been enforced” were 4% for small & medium enterprises and 1% for individuals, but 16% for large enterprises, showing a relatively high ratio.

When asked about the measure taken when the right was enforced (multiple selections), the percentages of “avoided a law suit and reached settlement” (32%) and “no measures were taken because the registrability report was not presented” (23%) were higher than the percentage of “filed a law suit” (20%) at large enterprises.

Enforcement of the utility model right tends to be more frequent among large enterprises than small & medium enterprises or individuals, but the mandatory presentation of the registrability report at enforcement seems to prevent abuse of the right to a certain degree and to discourage law suits.

Effects of amendment of the patent examination request fee on the Utility Model System (Question 3-7)

When asked whether they would consider exploiting the Utility Model System after

amendment of the patent examination request fee, the top selection by large enterprises was “No” at 81%. On the other hand, the top selection by small & medium enterprises was “Yes” at 45% and by individuals was “Yes” at 55%.

Thus, the Utility Model System instead of the Patent System is more likely to be exploited by small & medium enterprises and individuals after the patent examination request fee is amended.

Case of applying for utility model registration (Question 3-8)

The top three answers to the question of when to apply for utility model registration (multiple selections) were “for techniques with lower levels than those for the Patent System,” “for techniques for products with a short lifecycle,” and “for techniques that must be granted the right early” for all large enterprises, small & medium enterprises and individuals.

Request for utility model registrability report (Questions 3-9 to 3-11)

Over 80% of large enterprises and small & medium enterprises selected the item “requests for a registrability report for applications for utility model registration or utility model rights are under 30%” and over 60% of individuals selected the same item. The answer “no request at all” also accounted for a majority. As for the time to request a registrability report (multiple selection), the top selection by individuals was “at application” at 61%, but it was “at enforcement” for large enterprises and small & medium enterprises at 45% and 43% respectively. The main reason for the request for a registrability report (multiple selections) was “for enforcement” for large enterprises, small & medium enterprises and individuals at 60%, 51% and 61% respectively.

One of the reasons why the ratio of the requests for a registrability report is lower than the ratio for requests for examination of a patent application (around 50%) may be that the request is not given until enforcement becomes truly necessary, unlike requests for examination in patent applications.

Effects of the amendment of the Law in 1993 (Questions 3-12 to 3-14)

The top selection to the question “reason(s) for exploitation of the former Utility Model System” (multiple selections) was “for techniques with lower levels than those for the Patent System” for all large enterprises, small & medium enterprises and individuals at 43%, 38% and 50% respectively. When asked about the handling of techniques for which the former Utility Model Law was exploited (multiple selections), the top selection was “applied for a patent” for large enterprises at 72%, small & medium enterprises at 38% and individuals at 34%.

The top selection to the item “reason(s) of no exploitation of new Utility Model System (multiple selections)” was “concern about the stability of the right due to no substantive examination” for large enterprises at 40%, small & medium enterprises at 34%, and individuals at 25%, followed by “short term of the right” (29% for large enterprises, 23% for small & medium enterprises and 22% for individuals).

Many of the techniques for which applications had been made for utility model registration before the amendment of 1993 seem to have been for a patent. The possible reasons include concern about the stability of the right due to no substantive examination and short term of the right.

Co-existence of the Patent System and Utility Model System (Questions 4-1 and 4-2)

Among large enterprises, 75% selected “Only the Patent System is adequate.” The main reason (multiple selections) was “It is not necessary to protect techniques with two systems” at 42%.

A larger percentage of small & medium enterprises and individuals selected “Co-existence of the Patent System and Utility Model System is necessary” (including “Necessary but needs to be improved”), with 59% for small & medium enterprises and 71% for individuals.

Points to be improved in the Utility Model System (Question 4-3)

Comparatively frequent selections for improvements in the Utility Model System (multiple selections) were “conversion to a patent application after registration”, “extension of the term” and “enlargement of the subjects for granting of rights”, all at around 20%.

Regarding coordination with the Patent System, the selection of “co-existence of patent and utility model right” was the smallest for all large enterprises, small & medium enterprises and individuals, and more selected “conversion to a patent application after registration” and “protection with the utility model right until a patent is granted”.

Desirable Utility Model System improvement (Questions 4-4 to 4-8: Asked to those who selected “the Utility Model System should be improved”)

With regard to the subject for granting of right, for large enterprises and individuals, the selections “should be enlarged” and “should remain as it is” were both around 50%, but for small & medium enterprises, while the selection of “should remain as it is” was 37%, the selection of “should be enlarged” was 55%. When asked to those who answered “should be enlarged” concerning the degree of enlargement, the selections of “to enlarge to all ‘products’” and “to contain the same scope as that of the Patent System” were both around 50%.

Regarding the term, the selection of “should be amended” was 64% for large enterprises, 66% for small & medium enterprises and 83% for individuals. Among those who selected amendment, 73% of large enterprises, 74% of small & medium enterprises and 76% of individuals answered “ten years from the filing date.”

Regarding corrections, there were significantly more selections of “to enlarge the scope within which corrections are allowed” (77% of large enterprises, 78% of small & medium enterprises and 89% of individuals) than those of “should remain as it is (deletion of claims only)” (23% of large enterprises, 22% of small & medium enterprises and 11% of individuals). The selection of “reduction of the scope of claims’ should be allowed” was comparatively small for individuals at 14%, but it was 32% and 24% for large enterprises and small & medium enterprises respectively, showing a slightly greater preference.

Measures after amendment of the Utility Model System (Questions 4-9 and 4-10)

The top selection by large enterprises was “will not exploit the Utility Model System even after amendment.” On the other hand, the top selection by small & medium enterprises and individuals was “the number of applications for utility model will increase after amendment of the Utility Model System” at 45% and 54% respectively. When asked about the number of applications for a patent after amendment of the Utility Model System, 23% of large enterprises, 21% of small & medium enterprises and 37% of individuals answered “will decrease.”

Thus, it seems that after the Utility Model System is amended, the overall number of patent applications will decrease, and the number of applications for utility model registrations by mainly small & medium enterprises and individuals will increase.