

Note: When any ambiguity of interpretation is found in this provisional translation, the Japanese text shall prevail.

Part X Utility Model

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Chapter 1 Basic Requirements for Utility Model Registration

10101 Cases of Applicability to Shape, Structure, or Combination of the Item

(Cases of applicability to "shape" of the item)

Case 1: Nonskid dispersion powder for the road consisting of crushed quartz which is painted by a single color such as red and shaped into star forms

(Cases of applicability to "combination" of the item)

Case 2: A remote control network system for patients' data, consisting of input device for entering medical examination data of patients, a recording device for storing the medical examination data having been entered, and a display device for showing medical examination data by accessing said recording device through communication lines.

Case 3: A remote monitoring system which includes a monitoring camera for capturing images of the subject and a data processing terminal for receiving via communication lines the data, images of which have been captured by said monitoring camera, and which is characterized by a means for analyzing the received data and an alarm means for emitting a warning tone depending on the result of said data processing terminal.

10102 Handling of Violation of Public Order , Morality,etc. Regarding Application for Utility Model Registration

The following rule of handling applies where any statement that may contravene public order, morality, or public health has been found in the description, etc. attached to the application for utility model registration in the course of the examination of the basic requirements for utility model registration.

1. Case where the device defined by the recitations of the claim clearly contravenes the public order, morality, or public health

An amendment shall be ordered in accordance with Article 6bis(ii) of the Utility Model Act.

2. Case where the description or drawing contains any matter or content that clearly contravenes the public order and morality

The request of amendment under Article 6bis(ii) of the Utility Model Act shall not be made, but the applicant shall be contacted regarding the need for amendment, and the applicable matter or content shall be corrected ex officio.

Also, where all of the drawings are to be deleted as a result of the ex-officio correction made to the drawings, a request of amendment shall be made to present a supplementary drawing or drawings.

(Explanation)

Since a request of amendment under Article 6bis(ii) of the Utility Model Act is to be made with regard to the device claimed in the claim, it is not possible to make the request of amendment based on Article 6-2 (i) of Utility Model Act when any matter or content that clearly contravenes the public order and morality is only described in the description or drawings. Further, with regard to the publications of registered utility model application, there is no provision that is related to exemption from publication of the matters or content in violation of the public order and morality (Article 14(3) of the Utility Model Act). As such, it is necessary to provide appropriate measures to ensure that the matters or content that clearly contravenes the public order and morality does not appear in the publications of registered utility model application.

Also, every application for utility model registration must be accompanied by a drawing (Utility Model Act Article 5(2)). Accordingly, where all of the drawings are to be deleted, it is

necessary to make a request of amendment to submit a supplementary drawing or drawings.

Chapter 2 Utility Model Technical Opinion

10201 Preparation of a Report of Utility Model Technical Opinion

Article 12(4) of Utility Model Act

Where a request [a request for expert opinion on registrability of utility model] under paragraph (1) is filed, the JPO Commissioner shall direct an examiner to prepare a written report containing expert opinion on registrability of the utility model for which the request is filed (hereinafter referred to as "report of expert opinion on registrability of the utility model").

With regard to preparation of the report of expert opinion on registrability of the utility model, see APPENDIX C "Handbook for preparation of report of expert opinion on registrability of the utility model."

10202 Handling of Information Provided

- (1) Anyone can submit information concerning an application for a utility model registration or a utility model registration, such as publications (Article 22, Article 22bis of the Regulations under the Utility Model Act Article).
- (2) The examiner shall carefully review details of the information which has been provided and which becomes available upon preparing an opinion.
- (3) The examiner shall determine, with regard to the publications and the like relating to the information provided, which the examiner reviewed upon preparing an opinion, whether or not they are regarded as prior art documents denying novelty and the like of a device for the claims, and shall indicate the decision in the description of the scope of the research in the opinion.

10203 Interview^[A1], etc.

An Examiner should not hold interview pertain to a claim to meet requirements for novelty etc. (communication via telephone or facsimile is included). However, an examiner may as well hold an interview to receive technical explanations from an applicant, a right holder or his/her representative. If the interview is taken place to receive technical explanations, an examiner must keep a record of the explanations.