

[Annex C]

Handbook  
for Preparing Report of the Utility Model Technical Opinion

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

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## 1. Confirmation of Relevant Documents

Prior to preparing the report of the opinion, the examiner should confirm whether or not the following records are presented by the Registration Managing Master and the like. In addition, if it took several days to prepare the report of the opinion, the examiner should re-confirm whether or not any additional matter has been added to the matters that have been confirmed prior to the preparation of the report of the opinion by the Registration Managing Master and the like at the time of drafting the report of the opinion.

Even when the appeal/trial decision does not become final and conclusive at the time of inquiring the Registration Managing Master and the like, the examiner should prepare the report of the opinion without waiting for the appeal/trial decision becoming final and conclusive. In addition, in such a case where the formality checks for the procedures for the amendment or the correction of the description, claims of utility model or the drawings, and the withdrawal or the waiver of the application are not completed, the examiner should contact the Mechanical Business Coordination Section of the Coordination Division and return the relevant documents, etc. for preparing the report of the opinion to the Mechanical Business Coordination Section of the Coordination Division. The Mechanical Business Coordination Section of the Coordination Division should in turn confirm the completion of the formality checks for these procedures, re-set a new schedule as required, and return the relevant documents, etc. for preparing the report of the opinion to the examiner.

### (1) Records of Amendment, Correction and Appeal/Trial

When the amendment or the correction was made at the time of the preparation of the report of the opinion, the examiner should prepare the report based on the amended or corrected description, etc. even in the case where the amendment or the correction includes a new matter.

With regard to claims, a part of which is invalidated in the invalidation trial, and claims, a part of which is deleted by the correction, the examiner should not prepare the report of the opinion for these invalidated/deleted claims. In addition, with regard to claims for which no ground for invalidation has been found in the invalidation trial, the examiner should make the assessment taking the trial decision into consideration at the time of the preparation of the report of the opinion. Even when the trial decision does not become final and conclusive, the examiner should make the assessment taking into

consideration the evidences and the like relating to the ground for invalidation which were submitted in the invalidation trial.

(2) Withdrawal, Waiver, etc. of Application

If the application is withdrawn or waived prior to its registration, or if all claims are invalidated in the invalidation trial, no report of the opinion is to be prepared by the examiner. In this case, the examiner should contact the Mechanical Business Coordination Section of the Coordination Division.

(3) Information Offer Form and Written Petition

When an information offer form or a written petition has been submitted, the examiner should make the assessment taking its content into consideration. If publications and the like which can be prior art are stated in the written petition, the examiner carries out the handling of the written petition in accordance with the handling of the content in the information offer form.

(4) Report of Utility Model Technical Opinion That Has Already Been Prepared

In a case where a report of Utility Model Technical Opinion has already been prepared, the examiner makes the assessment taking its content into consideration. In this case, after the preparation of the report of Utility Model Technical Opinion that has already been prepared, consideration is given to whether or not there are any changes of circumstances that would be appropriate for changing the content of the opinion, including (i) a case in which the scope of literature that is available for search is expanded; and (ii) a case in which publications of prior art literature and the like that are useful for denying the novelty, etc. have been submitted.

2. Bibliographic Items

- (1) "1. Registration Number," "2. Application Number," "3. Filing Date," "4. Priority Date/Original Filing Date," "5. Title of Device" and "6. Applicant of Utility Model Registration/Holder of Utility Model Right"

The examiner should state these items that are stated in the relevant documents,

etc. for preparing the report of the opinion except for the following cases:

- a Where the "1. Registration Number" is not stated in the relevant documents, etc. for preparing the report of the opinion, it is confirmed by reference to the Registration Managing Master and the like. If the registration number is registered, the registered number is stated.
- b In a case after registration, concerning the "6. Applicant of Utility Model Registration/Holder of Utility Model Right," the correct information should be confirmed by reference to the Registration Managing Master and the like to state the holder of utility model right.

(2) "7. Drafting Date" and "9. Examiner Drafting the Opinion"

The examiner should state the date on which the report of the opinion was drafted in the "7. Drafting Date." Also, the examiner should only state the name of the predetermined examiner in charge who has actually prepared the report of the opinion, and should not state the name and the like of the examiner who was asked to make searches. No affixation of seal for the preparing person is necessary.

In addition, the examiner should state the code for examiner and the code for Art Unit.

(3) "8. Classification of Field of Device"

The examiner should in principle state the international patent classification based on the description of the relevant documents, etc. for preparing the report of the opinion. However, if it has been found that there is a mistake for the classification stated in the relevant documents, etc. for preparing the report of the opinion during the determination of the range to be searched, the examiner should state the correct classification in the report.

(Points to note)

When it has been found that there is a mistake in the classification stated in the relevant documents, etc. for preparing the report of the opinion, the examiner should modify FI data and the like by the function of online update of the search system for Patent and Utility Model. In addition, when it has been found that there is a mistake in the classification of the published publication, the examiner makes a request for a corrected publication.

(4) "10. Written Amendment/Correction Considered"

The examiner should identify the written amendment and the written correction that were considered by the date for submission stated in the documents. If there is no written amendment or written correction, no statement is to be stated by the examiner.

(Points to note)

The examiner should make the assessment based on the amended or corrected description, etc. regardless of whether or not the amendment or the correction adds the new matter (see section 3.1 of "Part X Chapter 2 Report of Utility Model Technical Opinion," the Examination Guidelines for Patent and Utility Model).

3. Description of the Section of "11. Scope of Documents under Prior Art Search"

(1) Case of a Series of Domestic Patent Literatures or Overseas Patent Literatures

The fields of "Type of Literature," "Field," and "Time Range" are used for identifying the scope of a series of patent literatures.

a Identification of "Type of Literature"

(a) In a case of a series of documents including domestic and overseas patent literatures, the examiner should state the type of the literature in the field of "Type of Literature."

(b) If "Japan Patent Publication and Publications of Utility Model Applications" is stated in the field of "Type of Literature," it denotes the following literature that has been published by the Japan Patent Office.

"Publications of unexamined patent applications, published Japanese translations of PCT international publications for patent applications, domestic re-publications of PCT international publications for patent applications, patent publication, descriptions of patented inventions, publications of unexamined utility model applications, microfilm, etc. of descriptions of published unexamined utility model applications (microfilm, etc. in which the content of

the description and drawings originally attached to the request for utility model registration application is photographed), published Japanese translations of PCT international publications for utility model applications, domestic re-publications of PCT international publications for utility model applications, publications of utility model applications and publications of registered utility model applications."

- (c) Where a domestic design bulletin, etc. or an overseas patent literature that does not fall under the above item (b) is searched, the examiner should additionally state the type of the bulletin or the literature. The description procedure for stating the type of the bulletin or the literature is based on No. 1208 of "Part I Chapter 2 Procedures for Examination."

b Identification of "Field"

- (a) The examiner should identify the field that has been searched using the international patent classification (at the level on sub-group) such that the range that has been searched is objectively and clearly understood.

Upon indicating the "Field," the examiner should state all IPC symbols that correspond to the range that has been searched, regardless of the relationship of hierarchy, in order to clarify the range that has been searched.

For example, where A63F 1/02 and A63F 1/04 are the more specific concept of A63F 1/00, and if all of these are the range to be searched, the examiner should identify the Art as A63F 1/00 - 1/04.

If A63F 1/00 is designated as the range to be searched and A63F 1/02 and A63F 1/04 are excluded from the range to be searched, then the examiner should identify the Art as A63F 1/00.

Notation	Examples
IPC Classification Symbols	A21D 2/04 E05D 15/00 - 15/58

- (b) The examiner must not identify anything which is related to the series of domestic patent literatures or overseas patent literatures among the range to be searched by any signs or symbols other than those of the international patent classification.

Accordingly, where any search tool such as free word and F term is used to search as the searching procedure for searches, the examiner should indicate the range to be searched by the international patent classification, and must not state any search formula such as the free word and the F term.

In addition, in the case of search with free word having no theme, or of search with a commercial database, the examiner should identify the range to be searched only by the international patent classification, so that any searching formula such as the F term is not to be stated as the range to be searched.

- (c) With regard to the relevant prior art literatures that have been obtained as the result of searching outside of the range to be searched and identified with the international patent classification, the examiner should state them as an individual domestic patent literature or an overseas patent literature according to the following (2)b.

- (d) The examiner should indicate the "international patent classification" in the case of the series of domestic patent literatures or overseas patent literatures by the latest version at the time of preparing the report of the opinion. That is, identification of the range to be searched is made by the latest versions at the time of preparing the report.

#### c Identification of "Time Range"

With regard to the time range, the examiner should identify the range that has been actually searched by the beginning and the ending of the time range. The examiner may omit the beginning of the time range except for the case particularly necessary (including a case in which the search of the literatures of the type in the art in the range to be searched is terminated in a midway).

With regard to the end of the time range, the examiner should state the date at which the search was ended. The reason for this statement is that the prior application that had been published by the date at which the search was ended is to be included in the range to be searched.



(2) "Other Literatures"

Where a non-patent literature and an individual patent literature are searched, the examiner should handle them as follows:

a Non-patent literatures such as independent books, serial publications, and irregular publications are to be stated in the field of "Other Literatures" according to No. 1208 of "Part I Chapter 2 Procedures for Examination."

b The domestic or overseas patent literatures that are individually searched in a range out of the range identified by the "Type of Literature," the "Field," and the "Time Range" indicated for the series of patent literatures are also to be stated in the field of "Other Literatures" with names of the literatures, etc.

c Search result of non-patent literatures by commercial database

When any non-patent literature was searched by a commercial database, etc., the relevant prior art literature (non-patent literature) obtained as the result of the search is to be stated in the field of "Other Literatures" as a literature that was searched without indicating any search formula.

d Description in the case where a publication, etc. has been submitted

Where the information offer form or the written petition is submitted at the time of preparing the report of the opinion, the prior art literature that is submitted in the information offer form or the written petition is to be stated in the field of "Other Literatures." Even where the prior art literature is included in the scope of the series of patent literatures that is stated as the range to be searched, it is to be stated in the field of "Other Literatures" as a literature that has been individually searched.

(Points to note)

The prior art literature, etc. that has been submitted in the information offer form or the written petition are to be stated in the field of "Other Literatures," regardless of whether they are recognized as prior art literature denying the novelty, etc.

#### 4. Description of the Section of "12. Opinion"

##### (1) "Claims"

The examiner should identify the claim or claims for which he/she made the assessment with an Arabic numeral or numerals. The examiner may collectively state the claims for which the same assessment and the explanation thereof have been made.

The examiner does not make the assessment for a claim that has been invalidated in the invalidation trial or a claim that has been deleted by the correction. In this case, the examiner should include such a statement as "No opinion is made for the claim x, since the claim has been already been invalidated." at the bottom of the section of "12. Opinion."

##### (Points to note)

The examiner should only make the assessment for the claims for which a request for the Utility Model Technical Opinion is filed. The examiner does not make the determination regarding the requirement of the unity of the invention. Even where it is recognized that claims fail to comply with the requirement of the unity of the invention, the examiner does not exclude these claims from the matters to be assessed (see section 3.3 of "Part X Chapter 2 Report of Utility Model Technical Opinion," the Examination Guidelines for Patent and Utility Model).

##### (2) "Opinion"

The examiner should select one or more corresponding opinions from among "Opinion 1" to "Opinion 6" that are stated in the bottom of the column of the report of the opinion and state the number of the claims for which the opinion is made in the corresponding column of the report of the opinion. "Opinion 1" to "Opinion 6" are selected in the following corresponding cases:

Opinion 1: A case in which the opinion as lacking novelty is made for the claimed device in light of the description of the cited documents (Article 3(1)(iii)).

Opinion 2: A case in which the opinion as lacking inventive step is made for the claimed device in light of the description of the cited documents (Article 3(2) (limited to the devices listed in Article 3(1)(iii)).

Opinion 3: A case in which the opinion is made for the claimed device to the effect that the device is identical with a device or invention described in the description, claims of utility model or the scope of claims, or drawings originally attached to a request for application of an application filed prior to filing of the present application and for which a publication of utility model applications is published or the patent publication is published or for which the publication of the application has been effected (Article 3bis).

Opinion 4: A case in which the opinion is made for the claimed device to the effect that the device is identical with a device or invention of an application filed prior to the filing date of the present application (Article 7(1) or (3)).

Opinion 5: A case in which the opinion is made for the claimed device to the effect that the device is identical with a device or invention of an application filed on the same date (Article 7(2) or (6)) (Note).

(Note) For an application filed from January 1, 1999 to March 31, 2012, "Article 7(6)" is replaced by "Article 7(7)." No replacement is necessary for an application filed on or before December 31, 1998.

Opinion 6: A case in which no prior art literature, etc. denying the novelty, etc. is found for the claimed device (including a case in which it is recognized that effective search is difficult due to unclear description, etc.).

(3) "Cited Documents, etc."

a The examiner should state the titles, etc. of the cited documents, etc. along with the cited document numbers in "The list of cited documents, etc." at the bottom of the section of "12. Opinion." The examiner should state the titles, etc. of the cited documents, etc. according to No. 1208 of "Part I Chapter 2 Procedures for Examination." The examiner should identify the cited document(s), etc. corresponding to a claim(s) by the cited document number(s).

b If the opinion is to the effect that the novelty, etc. of the claimed device is not denied, the examiner should identify at least one document showing the general state of the art and add parenthesized statement "(references showing the general state of the art)" following the cited document numbers.

- c Since the examiner can determine that a device according to a claim does not involve inventive step only if the device is the one that can be very easily invented based on distributed publications, the examiner should identify at least one distributed publication.
  
- d In cases where it is determined that a claimed device does not involve inventive step in view of a combination of a device described in at least one distributed publication and other prior art, if the other prior art is a well-known/commonly used art, the examiner should identify the documents showing the well-known/commonly used art unless the well-known/commonly used art is recognized as being well-known/commonly used to such an extent that no exemplification is needed.

(Points to note)

- a Documents showing the general state of the art should be provided only with regard to a claim falling under the opinion "6," which means that no particularly relevant prior art documents etc. are found. With regard to claims falling under the opinions "1" to "5," which mean that novelty, etc. are denied, the examiner must not provide the documents showing the general state of the art.
  
- b If it is not convincing that the novelty, etc. of a claim are denied based on the document(s) considered, the examiner should not provide the opinion to the effect that the novelty, etc. are denied (see section 3.5.1(1) of "Part X Chapter 2 Report of Utility Model Technical Opinion," the Examination Guidelines for Patent and Utility Model). Accordingly, in this case, the examiner should provide the opinion "6" to the effect that no particularly relevant prior art documents etc. are found. In addition, in this case, that/those document(s) are to be provided as a document(s) showing the general state of the art.
  
- c In cases where an information offer form or a written statement was submitted when the report of the opinion was prepared, the examiner should determine whether or not the publications, etc. submitted in the information offer form or the written statement are prior art document(s), etc. can serve as the ground for the assessment that the novelty, etc. of the claimed devices are denied (see No. 10202

of "Part X Chapter 2 Report of Utility Model Technical Opinion," and section 3.5.1(2) of "Part X Chapter 2 Report of Utility Model Technical Opinion," the Examination Guidelines for Patent and Utility Model). If the documents cannot serve as the ground for the assessment to the effect that the novelty, etc. of the claimed devices are denied, the examiner should consider identifying them as documents showing the general state of the art.

(4) "Explanation of Opinion"

a In cases where the novelty, etc. of a device are not denied according to the opinion (See "Explanation of Opinion" for the device claimed in claim 4 of Example 1.):

If no prior art documents etc. that deny the novelty, etc. of the device can be found although effective searches have been carried out, that fact should be stated in accordance with the following example:

"Although effective searches have been carried out, no prior art documents etc. that deny the novelty, etc. of the device can be found."

In addition, in cases where an information offer form or a written statement had been submitted when the report of the opinion was prepared, the examiner should concisely state, as needed, the determination of comparison between the claimed device and the prior art presented in the information offer form or the written statement.

b In cases where the novelty, etc. of a device are denied according to the opinion:

The examiner should state the explanation such that the requester can understand the reason(s) why the examiner determined that the novelty, etc. of the device was denied. Basically, the specific portion(s) among the statement(s) in the cited document(s) that constitute(s) grounds for determining that the novelty, etc. must be denied, should be identified by means of paragraph numbers, page numbers, line numbers, etc. In addition, how to find the device that denies the novelty, etc. of the claimed device based on the identified portions should be stated. For example, the comparison with matters specifying the claimed device should be pointed out. Further, in cases where inventive step is denied, how the device identified from the

cited document(s) logically supports the conclusion that inventive step is denied should be stated.

- c In cases where thorough the assessment of the novelty, etc. cannot be made by reference to the description as-is, for example, for the reason that the claimed device is not clearly stated (see Example 2):

The examiner should state what kind of deficiency is found in the description, etc., identifying that the relevant portion(s) in the description, etc. and details of the deficiency/deficiencies. In addition, with regard to a precondition for the assessment of the novelty, etc., the examiner should specifically state how matters specifying the device were interpreted in making the assessment.

It is noted that the examiner should not state any deficiency in a description, etc. in the report of the opinion when the thorough assessment of the novelty, etc. can be made on the basis of the statement of the claim(s), even if the deficiency exists in the description, etc.

- d In cases where an effective search is difficult:

If the case stated in section 3.6(3) of "Part X Chapter 2 Report of Utility Model Technical Opinion," the Examination Guidelines for Patent and Utility Model applies, the claim is assessed as falling under "Opinion 6," which means that no particularly relevant prior art documents can be found. The examiner should state the fact and the reason that an effective search could not be carried out in accordance with the following example.

- (a) A case of significant deficiency in the description (see "Explanation of Opinion" for the device according to claim 1 of Example 3):

"The statement of this claim (the portions concerned should be identified to the extent possible) is significantly indefinite. Accordingly, the claimed device cannot be expressly identified by reference to the detailed description and the drawing(s) of the device. Accordingly, an effective search could not be carried out."

- (b) A case where the search is difficult because the claimed matter does not

correspond to a statutory device (see "Explanation of Opinion" for the device according to claim 2 of Example 3),

"This claim states a matter that does not correspond to a device which is a technical idea utilizing a law of nature. An effective search could not be carried out because it was difficult to define the range to be searched."

e In a case where it is determined that division/conversion requirements are not complied with or the effect of claim of priority is not allowed (see Example 4):

The examiner should state, at the beginning of the section of the opinion, the reason for determining that division/conversion requirements are not complied with or that the effect of claim of priority is invalid, while identifying the relevant portions in the description, etc. In addition, the examiner should also state that the actual filing date was taken as the reference date for the assessment.

Even in cases where the novelty, etc. are not denied according to the assessment, the examiner should state that the actual filing date was taken as the reference date for the assessment, if it is determined that division/conversion requirements are not complied with or that the effect of claim of priority is invalid.

**Example 1**

· Typical example

Report of Utility Model Technical Opinion based on Provision of  
Article 12 of Utility Model Act

1. Registration Number	3012345
2. Application Number	Japanese Utility Model Application No. 2006-092345
3. Filing Date	May 1, 2006
4. Priority Date/Original Filing Date	
5. Title of Device	Stuffed Toy with Bedding
6. Applicant of Utility Model Registration/Holder of Utility Model Right	Taro JITSUYO
7. Drafting Date	September 1, 2006
8. Classification of Field of Device (International Patent Classification)	A63H 3/02 A63H 3/00 A63H 3/04 A47J 9/08
9. Examiner Drafting the Opinion	Kashiyo TAWARA (9136 3L)
10. Written Amendment/Correction Considered	
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11. Scope of Documents under Prior Art Search	
● Type of Literature	Japan Patent Publication and Publications of Utility Model Applications
Field	International Patent Classification A63H 3/00-3/04 A47G 9/00-9/08
Time Range	To September 1, 2006
● Other Literatures	· ____ ed. "Seikatsu Hyakka (Encyclopedia of Life)" (Storage Edition) (issued on May 6, 1991) ____ Publishers · JP S62-123456A · JP S63-246734A · Microfilm of Japanese Utility Model Application



No. S63-134587 (JP H01-023464 U)

(Note)

"Japan Patent Publication and Publications of Utility Model Applications" includes publications of unexamined patent applications, published Japanese translations of PCT international publications for patent applications, domestic re-publications of PCT international publications for patent applications, patent publication, descriptions of patented inventions, publications of unexamined utility model applications, microfilm, etc. of descriptions of published unexamined utility model applications, published Japanese translations of PCT international publications for utility model applications, domestic re-publications of PCT international publications for utility model applications, publications of utility model applications and publications of registered utility model applications, issued by the Japan Patent Office.

## 12. Opinion

- Claim 1 and 2
- Opinion 1
- Cited Document etc. 1
- Explanation of Opinion

Cited Document 1 states that "the claimed invention, in particular, is transformable into a toy for children. In that case, the invention relates to a sleeping bag for children wherein the sleeping bag itself is configured to be a stuffing material of the toy." in lines 2 to 5 of the lower-right column in page 3.

The "sleeping bag" of the device stated in Cited Document 1 corresponds to the "bedding" of the device claimed in claims 1 and 2 of the invention. Figure 1 of Cited document 1 also illustrates the device in the shape of a dog as a toy. The "toy" of the device stated in Cited Document 1 corresponds to the "stuffed toy" of the device claimed in claims 1 and 2 of the invention.

Accordingly, "a stuffed toy integrated with bedding" and "a stuffed toy integrated with bedding wherein the bedding is configured to be stuffed into the stuffed toy" are stated in Cited Document 1.

- Claim 3
- Opinion 2
- Cited Document etc. 1 and 2
- Explanation of Opinion

Identification of the device stated in Cited Document 1 is as stated in the

explanation of the opinion for claims 1 and 2.

In Figure 12 of Cited Document 2, a bag for holding bedding etc. wherein an opening of the bag is opened and closed using a fastener is stated. The button of the device stated in Cited Document 1 and the fastener of the device stated in Cited Document 2 have similar functions. Accordingly, replacing the button in the device stated in Cited Document 1 with a fastener is a matter at which a person skilled in the art could have very easily arrived.

- Claim 4
- Opinion 6
- Cited Document etc. 1, 2, and 3 (references showing the general state of the art)
- Explanation of Opinion

Although effective searches have been carried out, no prior art documents etc. that deny the novelty, etc. of the device can be found.

The list of cited documents etc.

1. JP S 59-54321A
2. \_\_\_\_ ed. "Seikatsu Hyakka (Encyclopedia of Life)" (Storage Edition) (issued on May 6, 1991) \_\_\_\_ company
3. JP S 59-23456A

Meanings of the numbers for the opinion

1. The device claimed in this claim, according to the statement in the cited documents, lacks novelty (Article 3(1) (iii) of the Utility Model Act).
2. The device claimed in this claim, according to the statement in the cited documents, does not involve inventive step (Article 3(2) of the Utility Model Act).
3. The claimed device is identical with a device or invention described in the description, claims of utility model or the scope of claims, or drawings originally attached to a request for application of an application filed prior to filing of the present application and for which a publication of utility model applications is published or the patent publication is published or for which the publication of the application has been effected (Article 3bis of the Utility Model Act).
4. The device claimed in this claim is identical with the device or invention claimed in another application filed prior to the filing date of the present application (Article 7(1) or 7(3) of the Utility Model Act).

5. The device claimed in this claim identical with the device or invention claimed in another application filed on the same day as the present application (Article 7(2) or 7(6) of the Utility Model Act).

6. No prior art documents etc. that deny the novelty, etc. of the device claimed in this claim can be found (including the cases where an effective search is found to be difficult due to, for example, ambiguity of statement.).

**Example 2**

Where the assessment of the novelty, etc. cannot be fully carried out due to unclarity of the device

Report of Utility Model Technical Opinion based on Provision of  
Article 12 of Utility Model Act

1. Registration Number	3012347
2. Application Number	Japanese Utility Model Application No. 2006-092347
3. Filing Date	May 1, 2006
4. Priority Date/Original Filing Date	
5. Title of Device	Chair
6. Applicant of Utility Model Registration/Holder of Utility Model Right	Taro JITSUYO
7. Drafting Date	September 1, 2006
8. Classification of Field of Device (International Patent Classification)	A47C 7/40
9. Examiner Drafting the Opinion	Kashiyo TAWARA (9136 3L)
10. Written Amendment/Correction Considered	
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11. Scope of Documents under Prior Art Search	
● Type of Literature	Japan Patent Publication and Publications of Utility Model Applications
Field	International Patent Classification A47C 7/40
Time Range	To September 1, 2006

(Note)

"Japan Patent Publication and Publication of Utility Model Applications" includes publications of unexamined patent applications, published Japanese translations of PCT international publications for patent applications, domestic re-publications of PCT international publications for patent applications, patent publication, descriptions of patented inventions, publications of unexamined utility model applications, microfilm, etc. of descriptions of published unexamined utility model applications, published Japanese translations of PCT international publications for utility model applications, domestic

re-publications of PCT international publications for utility model applications, publications of utility model applications and publications of registered utility model applications, issued by the Japan Patent Office.

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## 12. Opinion

- Claim 1
- Opinion 1
- Cited Document etc. 1
- Explanation of Opinion

Regarding the description of "comfortable as shown in Figure 1" of Claim 1, which matter shown in Figure 1 is meant is unclear, so that the claimed device of Claim 1 is unclear. Moreover, since the assessment of the novelty, etc. cannot be fully performed regarding the current Claim 1, the assessment is made on the premise that the wording of "comfortable as shown in Figure 1" means that "a concave portion corresponding to the back of a human is provided on a backrest" with reference to the description etc.

Figure 1, etc. of cited document 1 describe a concave portion corresponding to the back of a human and is provided on a backrest. Accordingly, the cited document 1 discloses a "chair operable to swing back and forth with a concave portion corresponding to the back of a human provided on a backrest."

- Claim 2
- Opinion 2
- Cited Document etc. 1
- Explanation of Opinion

Since the device is unclear with the current description of Claim 2, the assessment is made on the premise that the wording of "as shown in Figure 1" means that "being operable to swing back and forth with a concave portion corresponding to the back of a human provided on a backrest" with reference to the description etc.

The admittance of the device stated in the cited document 1 is as stated in the explanation regarding the opinion on Claim 1. Further, in the statement in the cited document 1, applying leather as the material is merely selection of the material.

The list of cited documents etc.

1. JP H7-12345A

Meanings of the numbers for the opinion

1. The device claimed in this claim, according to the statement in the cited documents, lacks novelty (Article 3(1) (iii) of the Utility Model Act).
2. The device claimed in this claim, according to the statement in the cited documents, does not involve inventive step (Article 3(2) of the Utility Model Act).
3. The claimed device is identical with the device or invention described in the description, claims of utility model or the scope of claims, or drawings originally attached to a request for application of an application filed prior to filing of the present application and for which a publication of utility model applications is published or the patent publication is published or for which the publication of the application has been effected (Article 3bis of the Utility Model Act).
4. The device claimed in this claim is identical with the device or invention claimed in another application filed prior to the filing date of the present application (Article 7(1) or 7(3) of the Utility Model Act).
5. The device claimed in this claim is identical with the device or invention claimed in another application filed on the same day as the present application (Article 7(2) or 7(6) of the Utility Model Act).
6. No prior art documents etc. that deny the novelty, etc. of the device claimed in this claim can be found (including the cases where an effective search is found to be difficult due to, for example, ambiguity of statement.).

**Example 3**

- Where any significant deficiency exists in the description (Claim 1)
- Where the search is difficult due to non-statutory device (Claim 2)

Report of Utility Model Technical Opinion based on Provision of  
Article 12 of Utility Model Act

1. Registration Number	3012346
2. Application Number	Japanese Utility Model Application No. 2006-092346
3. Filing Date	May 1, 2006
4. Priority Date/Original Filing Date	
5. Title of Device	Coffee Maker
6. Applicant of Utility Model Registration/Holder of Utility Model Right	Taro JITSUYO
7. Drafting Date	September 1, 2006
8. Classification of Field of Device (International Patent Classification)	A47J 31/06 A47J 31/02
9. Examiner Drafting the Opinion	Kashiyo TAWARA (9136 3L)
10. Written Amendment/Correction Considered	
<hr/>	
11. Scope of Documents under Prior Art Search	
● Type of Literature	Japan Patent Publication and Publications of Utility Model Applications
Field	International Patent Classification A47J 31/02 A47J 31/06
Time Range	To September 1, 2006
● Other Literatures	· ____ ed. "Tasty Coffee," (issued on May 6, 1991), ____ Publishers

(Note)

"Japan Patent Publication and Publications of Utility Model Applications" includes publications of unexamined patent applications, published Japanese translations of PCT international publications for patent applications, domestic re-publications of PCT

international publications for patent applications, patent publication, descriptions of patented inventions, publications of unexamined utility model applications, microfilms, etc. of descriptions of published unexamined utility model applications, published Japanese translations of PCT international publications for utility model applications, domestic re-publications of PCT international publications for utility model applications, publications of utility model applications and publications of registered utility model applications, issued by the Japan Patent Office.

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## 12. Opinion

- Claim 1
- Opinion 6
- Cited Document etc. 1 (references showing the general state of the art)
- Explanation of Opinion

The meaning of the portion of "... .." of Claim 1 cannot be understood. Even with reference to the Detailed Description of the Device and the drawings, the claimed device of Claim 1 cannot be clearly admitted, so that any effective search has not been performed.

- Claim 2
- Opinion 6
- Cited Document etc. 1 (references showing the general state of the art)
- Explanation of Opinion

Claim 2 only states "manual of a coffee maker of Jitsuyo Co., Ltd.," and this is not applied to the device which is a technical concept utilizing a law of nature. Accordingly, since the determination of the range to be searched is difficult, any effective search has not been performed.

The list of cited documents etc.

### 1. JP S62-12345A

Meanings of the numbers for the opinion

1. The device claimed in this claim, according to the statement in the cited documents, lacks novelty (Article 3(1) (iii) of the Utility Model Act).
2. The device claimed in this claim, according to the statement in the cited documents, does not



involve inventive step (Article 3(2) of the Utility Model Act).

3. The claimed device is identical with a device or invention described in the description, claims of utility model or the scope of claims, or drawings originally attached to a request for application of an application filed prior to filing of the present application and for which a publication of utility model applications is published or the patent publication is published or for which the publication of the application has been effected (Article 3bis of the Utility Model Act).

4. The device claimed in this claim identical with the device or invention claimed in another application filed prior to the filing date of the present application (Article 7(1) or 7(3) of the Utility Model Act).

5. The device claimed in this claim is identical with the device or invention claimed in another application filed on the same day as the present application (Article 7(2) or 7(6) of the Utility Model Act).

6. No prior art documents etc. that deny the novelty, etc. of the device claimed in this claim can be found (including the cases where an effective search is found to be difficult due to, for example, ambiguity of statement.).

**Example 4**

·Where Division/Conversion Requirement is not satisfied

Report of Utility Model Technical Opinion based on Provision of  
Article 12 of Utility Model Act

1. Registration Number	3012348
2. Application Number	Japan Utility Model Application No. 2006-092348
3. Filing Date	May 1, 2006
4. Priority Date/Original Filing Date	January 1, 2004
5. Title of Device	Air Conditioner
6. Applicant of Utility Model Registration/Holder of Utility Model Right	Taro JITSUYO
7. Drafting Date	September 1, 2006
8. Classification of Field of Device (International Patent Classification)	F24F 11/00
9. Examiner Drafting the Opinion	Kashiyo TAWARA (9136 3L)
10. Written Amendment/Correction Considered	Written amendment of May 15, 2006

11. Scope of Documents under Prior Art Search

● Type of Literature	Japan Patent Publication and Publications of Utility Model Applications
Field	International Patent Classification F24F 11/00
Time Range	To September 1, 2006

(Note)

"Japan Patent Publication and Publications of Utility Model Applications" includes publications of unexamined patent applications, published Japanese translations of PCT international publications for patent applications, domestic re-publications of PCT international publications for patent applications, patent publication, descriptions of patented inventions, publications of unexamined utility model applications, microfilm, etc. of descriptions of published unexamined utility model applications, published

Japanese translations of PCT international publications for utility model applications, domestic re-publications of PCT international publications for utility model applications, publications of utility model applications and publications of registered utility model applications, issued by the Japan Patent Office.

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## 12. Opinion

The description "moreover, by providing a temperature detector at a plurality of portions, a more appropriate defrosting time can be set" stated in the paragraph [0020] of the present description is not at all stated in the originally attached description etc. of the original application, and not admitted as an obvious matter from the originally attached description etc. of the original application. Accordingly, the present application is not admitted as a legitimate conversion of the application, and the assessment has been made with the filing date of May 1, 2006 which is an actual filing date.

·Claim	1 to 10
·Opinion	1
·Cited Document etc.	1
·Explanation of Opinion	

The Cited Document 1 which is the publication of an application which could have been the original application of the present application if a legitimate conversion has been made states the same feature as that of the claimed devices of Claims 1 to 10 of the present application.

The list of cited documents etc.

### 1. JP 2005-12345A

#### Meanings of the numbers for the opinion

1. The device claimed in this claim, according to the statement in the cited documents, lacks novelty (Article 3(1) (iii) of the Utility Model Act).
2. The device claimed in this claim, according to the statement in the cited documents, does not involve inventive step (Article 3(2) of the Utility Model Act).
3. The claimed device is identical with a device or invention described in the description, claims of

utility model or the scope of claims, or drawings originally attached to a request for application of an application filed prior to filing of the present application and for which a publication of utility model applications is published or the patent publication is published or for which the publication of the application has been effected (Article 3bis of the Utility Model Act).

4. The device claimed in this claim is identical with the device or invention claimed in another application filed prior to the filing date of the present application (Article 7(1) or 7(3) of the Utility Model Act).

5. The device claimed in this claim is identical with the device or invention claimed in another application filed on the same day as the present application (Article 7(2) or 7(6) of the Utility Model Act).

6. No prior art documents etc. that deny the novelty, etc. of the device claimed in this claim can be found (including the cases where an effective search is found to be difficult due to, for example, ambiguity of statement.).