

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

Part 1 Chapter 2 Section 4 Handling of Written Opinion, Written Amendment, etc.

Section 4 Handling of Written Opinion, Written Amendment, etc.

1. Overview

When finding reasons for refusal, the examiner shall notify reasons for refusal by designating a predetermined time limit. When receiving a notice of reasons for refusal from the examiner, the applicant may submit a written opinion (Article 50).

Further, the applicant may make amendment to the description, etc. within the predetermined time limit (Article 17bis).

When the applicant submits a written opinion, a written amendment, etc., the examiner conducts an examination after sufficiently reviewing details of them.

2. Handling of Written Opinion, Written Amendment, etc.

When the applicant submits a written opinion, a written amendment, etc., the examiner proceeds with the examination along the following procedures.

2.1 Handling of written opinion, written amendment, etc.

2.1.1 Handling of written opinion, certificate of experimental results, etc.

A written opinion or certificate of experimental results are no substitute for "Detailed Description of the Invention" in the description. However, these are submitted to clarify or verify that matters stated in the originally-attached description, etc., (referred to in this paragraph as "original description, etc.") are correct and reasonable. Therefore, when the written opinion or certificate of experimental results are submitted, the examiner shall sufficiently take details of them into account.

2.1.2 Handling of written amendment

When a written amendment is submitted before the first examination or in response to a non-final notice of reasons for refusal, the examiner shall conduct an examination on the basis of the description, claims or drawings amended by the written amendment.

When a written amendment is submitted in response to the final notice of reasons for refusal, the examiner shall accept the amendment if the decision to issue the "final notice of reasons for refusal" is inappropriate or if the amendment is legitimate, and shall conduct examination on the basis of the description, claims and drawings amended by the amendment. When the decision to issue the "final notice of reasons for refusal" is appropriate and when the amendment is illegitimate, the examiner shall dismiss the amendment and conduct examination on the basis of the description, claims and drawings before submission of the amendment (see 2. and 3. in "Section 6 Decision of Dismissal of Amendment".)

2.2 Review of details of written opinion, written amendment, etc.

When the written amendment is submitted before the first examination, the examiner shall conduct prior art search and review whether or not there is any reason for refusal after sufficiently going through details of the written amendment.

When the written opinion, the written amendment, etc. are submitted in response to the notice of reasons for refusal, the examiner shall sufficiently take details of them into account, confirm whether or not the reasons for refusal indicated in the notice of reasons for refusal were appropriate, and subsequently review whether or not the notified reason for refusal has been overcome, or there is any other reason for refusal.

When amendment is not submitted in response to the notice of reasons for refusal but a written opinion, etc. is submitted, the examiner shall confirm whether or not the notified reasons for refusal were appropriate after sufficiently taking details of the written opinion, etc. into account. Subsequently, the examiner shall review (i)whether or not the notified reasons for refusal have been resolved and (ii)whether or not there is any other reason for refusal.

Further, in the case where the written opinion, the written amendment, etc. is submitted in response to the final notice of reasons for refusal, when the examiner decides to decline the amendment in the written amendment, the examiner shall confirm, on the basis of the description, claims or drawings before submission of the written amendment, whether or not the notified reasons for refusal were appropriate. In addition, the examiner shall review (i)whether or not the notified reasons for refusal have been resolved and (ii)whether or not there is any other reason for refusal.