Part I  Outline of Examination

Figure 1. Flow of the Examination

First examination
- Specifying claimed invention
- Decision of the subject of search
- Prior art search
- Are the reasons for refusal found?
  - Yes
  - Non-final notice of reasons for refusal
    - Submission of the written opinion, the amendment etc.
    - Scrutiny of the written opinion, the amendment etc.
    - Are the reasons for refusal resolved?
      - Yes
      - Decision to grant a patent
      - No
      - Are the other reasons for refusal found?
        - Yes
        - Should it be “final”? (*)
        - No
        - Reconsideration by examiners before appeal proceedings
          (Figure 3)
    - No
    - Decision to grant a patent

Examination after the response to the non-final notice of reasons for refusal
- Scrutiny of the written opinion, the amendment etc.
- Are the reasons for refusal resolved?
  - Yes
  - Decision of refusal
    (Note1)
  - No
  - Are the other reasons for refusal found?
    - Yes
    - Reconsideration by examiners before appeal proceedings
      (Figure 3)
    - No
    - Decision to grant a patent

Examination after the response to the final notice of reasons for refusal
- Scrutiny according to procedures in the Figure 2 (the amendment is dismissed depending on a situation)
- Are the reasons for refusal resolved?
  - Yes
  - Decision of refusal
    (Note1)
  - No
  - Are the other reasons for refusal found?
    - Yes
    - Reconsideration by examiners before appeal proceedings
      (Figure 3)
    - No
    - Decision to grant a patent

(Note1) Even in a case where the notified reasons for refusal are not resolved, when the examiner can show a response that can be taken by the applicant for the purpose of resolving the reasons for refusal, and when it is determined that establishment of the agreement with the applicant about taking the response is estimated, communication with the applicant is attempted. If the agreement is established, "the final notice of reasons for refusal" is notified.

(Note2) In the case, those in which the descriptions, etc. were amended in the request for appeal

Related parts to “Chapter 2 Procedures of Examination”

Section 1 Specifying Claimed Invention
Section 2 Prior Art Search and Determination of Novelty, Inventive Step, etc.
  2. Subject of Prior Art Search
  3. Prior Art Search
  4. Determination of Novelty, Inventive Step, etc.
Section 3 Notice of Reasons for Refusal
  2. Types of notice of reasons for refusal
    3.1 First notice of reasons for refusal
    3.2 Second or later notice of reasons for refusal
Section 4 Handling of Written Opinion, Written Amendment, etc. Required for the Examination
Section 5 Decision
  2. Decision to Grant Patent
  3. Decision of Refusal
Section 6 Decision of Dismissal of Amendment
  2. Consider Whether or not Sending the Final Notice of Reasons for Refusal was Appropriate
  3. Consider of Dismissal of Amendment
Section 7 Reconsideration by Examiners before Appeal Proceedings
Section 8 Communication with Applicant and Request for Documents etc. Required for the Examination

Note: When any ambiguity of interpretation is found in this provisional translation, the Japanese text shall prevail.
Figure 2. Flow of the Examination in a Case Where an Amendment is made as a Response to the "Final Notice of Reasons for Refusal"

- Was it appropriate to give the "final" notice of reasons for refusal?
  - Yes
  - No

- Is the amendment an amendment intended to add a new matter?
  - Yes
  - No

  (Article 17bis(3))

- Is the claims amended?
  - Yes
  - No

- Is the amendment an amendment which changes the special technical feature of the invention?
  - Yes
  - No

  (Article 17bis(4))

- Is the amendment an amendment not intended for any of the following purposes?
  - Yes
  - No

  (Article 17bis(5))
  a. Removal of claims (item (i))
  b. Restriction of claims in a limited way (item (ii))
  c. Correction of errors (item (iii))
  d. Clarification of an ambiguous statement (item (iv))

Cases where the purpose includes b:

- Are the reasons for refusal pointed out in the "final notice of reasons for refusal" resolved?
  - Yes
  - No

  (Note)

- Are there the other reasons for refusal?
  - Yes
  - No

Decision to grant a patent

- Notice of reasons for refusal (To First Figure *)

Decision of refusal

Decision of dismissal of the amendment

- Were the reasons for refusal pointed out in the "final notice of reasons for refusal" appropriate?
  - Yes
  - No

(Note) Whether or not the invention after the amendment is independently patentable is determined on the basis of the following requirements: Article 29, Article 29bis, Article 32, Article 36(4)(i) and (6)(i)-(iii), and Article 39(1)-(4).
Figure 3. Flow of Reconsideration by Examiners before Appeal Proceedings

Is the amendment an amendment intended to add a new matter? (Article 17bis(3))

- Yes
  - Notice of reasons for refusal (For the subsequent examination, refer to 3.4.)
  - Decision of dismissal of the amendment

- No
  - Is the claims amended?
    - Yes
      - Is the amendment an amendment which changes the special technical feature of the invention (Article 17bis(4))
        - Yes
          - Is the amendment an amendment not intended for any of the following purposes (an amendment for other than the prescribed purposes)? (Article 17bis(5))
            - a. Removal of claims (item (i))
            - b. Restriction of claims in a limited way (item (ii))
            - c. Correction of errors (item (iii))
            - d. Clarification of an ambiguous statement (item (iv))
              - No
                - Cases where the purpose is only a, c, or d

- No
  - Is the invention after restriction in a limited way independently patentable? (Note 1) (Article 17bis(6))
    - Yes
      - Are there the other reasons for refusal, for the application before the amendment?
        - Yes
          - Decision of dismissal of the amendment
        - No
          - Are there the other reasons for refusal, for the application after amendment?
            - Yes
              - Are the reasons for refusal only those necessitated to be newly notified due to the amendment? (Note 2)
                - Yes
                  - Notice of reasons for refusal, for the application after amendment at the request for trial and appeal
                - No
                  - Are the reasons for the decision of refusal resolved, for the application after amendment at the request for trial and appeal?
                    - Yes
                      - Notice of reasons for refusal, for the application after amendment at the request for trial and appeal
                    - No
                      - Are there the other reasons for refusal for the application after amendment?
                        - Yes
                          - Are the reasons for refusal, which have been raised by the decision of refusal but which have not been needed to be determined to the decision of refusal, and that are found as a result of occurrence of necessity of determination due to the amendment at the request for trial and appeal
                          - No
                            - Are there the other reasons for refusal, for the application before the amendment?
                              - Yes
                                - Decision of dismissal of the amendment
                              - No
                                - Are the reasons for refusal resolved, for the application after amendment at the request for trial and appeal?
                                  - Yes
                                    - Notice of reasons for refusal, for the application after amendment at the request for trial and appeal
                                  - No
                                    - Are the reasons for the decision of refusal resolved, for the application after amendment at the request for trial and appeal?
                                      - Yes
                                        - Notice of reasons for refusal, for the application after amendment at the request for trial and appeal
                                      - No
                                        - Are the reasons for the decision of refusal resolved, for the application after amendment at the request for trial and appeal?
                                          - Yes
                                            - Notice of reasons for refusal, for the application after amendment at the request for trial and appeal
                                          - No
                                            - Are the reasons for refusal, which have been raised by the decision of refusal but which have not been needed to be determined to the decision of refusal, and that are found as a result of occurrence of necessity of determination due to the amendment at the request for trial and appeal

(*) For a case that the examiner can show a response that can be taken by the requester for the purpose of resolving the reasons for the decision of refusal and the like, refer to 3.5.

(Note 1) Whether or not the invention after the amendment is independently patentable is determined on the basis of the following requirements: Article 29, Article 29bis, Article 32, Article 36(4)(i) and (6)(i)-(iii), and Article 39 (1)-(4).

(Note 2) The reasons for refusal necessitated to be newly notified due to the amendment, are reasons for refusal applicable to the following (i) or (ii).

(i) New reasons for refusal raised by the amendment at the request for trial and appeal

(ii) Reasons for refusal, which have been raised by the decision of refusal but which have not been needed to be determined to the decision of refusal, and that are found as a result of occurrence of necessity of determination due to the amendment at the request for trial and appeal