

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

< Relevant Provisions >

Patent Act

(Amendment of Description, Claim or Drawing attached to the application)

Article 17-2

An applicant for a patent may amend the description, scope of claims, or drawings attached to the application, before the service of the certified copy of the examiner's decision notifying that a patent is to be granted; provided, however, that following the receipt of a notice provided under Article 50, an amendment may only be made in the following cases:

- (i) where the applicant has received the first notice (hereinafter referred to in this Article as the "notice of reasons for refusal") under Article 50 (including the cases where it is applied mutatis mutandis pursuant to Article 159(2) (including the cases where it is applied mutatis mutandis pursuant to Article 174(2)) and Article 163(2), hereinafter the same shall apply in this paragraph) and said amendment is made within the designated time limit under Article 50;
- (ii) where, following the receipt of the notice of reasons for refusal, the applicant has received a notice under Article 48-7 and said amendment is made within the designated time limit under said Article;
- (iii) where, following the receipt of the notice of reasons for refusal, the applicant has received a further notice of reasons for refusal and said amendment is made within the designated time limit under Article 50 with regard to the final notice of reasons for refusal; and
- (iv) where the applicant files a request for a trial against an examiner's decision of refusal and said amendment is made at the same time as said request for said trial.

(2) (Omitted)

(3) Except in the case where said amendment is made through the submission of a statement of correction of an incorrect translation, any amendment of the description, scope of claims or drawings under paragraph (1) shall be made within the scope of the matters described in the description, scope of claims or drawings originally attached to the application (in the case of a foreign language written application under Article 36-2(2), the translation of the foreign language documents as provided in Article 36-2(2) that is deemed to be the description, scope of claims and drawings under Article 36-2(6) (in the case where the amendment to the description, scope of claims or drawings has been made through the submission of the statement of correction of an incorrect translation, said translation or the amended description,

scope of claims or drawings); the same shall also apply to Article 34-2(1) and Article 34-3(1).)

(4) In addition to the case provided in the preceding paragraph, where any amendment of the scope of claims is made in the cases listed in the items of paragraph (1), the invention for which determination on its patentability is stated in the notice of reasons for refusal received prior to making the amendment and the invention constituted by the matters described in the amended scope of claims shall be of a group of inventions recognized as fulfilling the requirements of unity of invention set forth in Article 37.

(5) In addition to the requirements provided in the preceding two paragraphs, in the cases of items (i), (iii) and (iv) of paragraph (1) (in the case of item (i) of said paragraph, limited to the case where the applicant has received a notice under Article 50-2 along with the notice of reasons for refusal), the amendment of the scope of claims shall be limited to those for the following purposes:

(i) the deletion of a claim or claims as provided in Article 36(5);

(ii) restriction of the scope of claims (limited to the cases where the restriction is to restrict matters required to identify the invention stated in a claim or claims under Article 36(5), and the industrial applicability and the problem to be solved of the invention stated in said claim or claims prior to the amendment are identical with those after the amendment);

(iii) the correction of errors; and

(iv) the clarification of an ambiguous statement (limited to the matters stated in the reasons for refusal in the notice of reasons for refusal).

(6) Article 126(7) shall apply mutatis mutandis to cases under item (ii) of the preceding paragraph.

Article 37

Two or more inventions may be the subject of a single patent application in the same application provided that, these inventions are of a group of inventions recognized as fulfilling the requirements of unity of invention based on their technical relationship designated in Ordinance of the Ministry of Economy, Trade and Industry.

(Dismissal of amendments)

Article 53

In the case set forth in Article 17-2(1)(i) or 17-2(1)(iii) (in the case set forth in

Article 17-2(1)(i), limited to the case where the examiner has given a notice under Article 50-2 along with the notice of reasons for refusal), if, prior to the service of the certified copy of the examiner's decision notifying to the effect that a patent is to be granted, an amendment made to the description, scope of claims or drawings attached to the request is found not to comply with paragraphs 3 to 6 of Article 17-2, the examiner shall dismiss the amendment by a ruling.

(2) and (3) (Omitted)

(Trial for Correction)

Article 126

The patentee may file a request for a trial for correction with regard to the correction of the description, scope of claims or drawings attached to the application; provided, however, that such correction shall be limited to the following:

(i) restriction of the scope of claims;

(ii) correction of errors or incorrect translations;

(iii), (iv) (Omitted)

(2) to (6) (Omitted)

(7) In the case of correction for any of the purposes as provided in item (i) or (ii) of the proviso to paragraph (1), an invention constituted by the matters described in the corrected scope of claims must be one which could have been patented independently at the time of filing of the patent application.

(8) (Omitted)

Regulations under the Patent Act

(Unity of Invention)

Article 25octies

(1) The technical relationship designated in Ordinance of the Ministry of Economy, Trade and Industry under Patent Act Article 37 means a technical relationship in which two or more inventions must be linked so as to form a single general inventive concept by having the same or corresponding special technical features among them.

(2) The special technical feature provided in the former paragraph stands for a technical feature defining a contribution made by an invention over the prior art.

(3) The technical relationship provided in the first paragraph shall be examined,

irrespective of whether two or more inventions are described in separate claims or in a single claim written in an alternative form.