

62-04 P**Handling of the Publication of Unexamined Utility Model
Applications Used as Cited Publications**

In the proceedings of appeal, considering a publication of unexamined utility model application is totally different from a microfilm or CD-ROM of a specification and drawings as a cited publication (evidence), when a publication of unexamined utility model application is used as a cited publication, it is handled as follows.

1. In an appeal of examiner's decision, when a cited publication is a publication of unexamined utility model application, a strict determination is made whether the original decision can be maintained only with the content of the publication of unexamined utility model application (claims, drawings, and a brief description of the drawings) (the detailed description of the device which is not described in the publication of unexamined utility model application cannot be a basis of or cannot be taken into consideration of the determination).

2. When based on the detailed description of the device, a notice of reasons for refusal is issued in the appeal on this case. A format of the description of a publication is as follows (when an issuance is after January 8, 1993, CD-ROM).

① Microfilm of a specification and drawings (JPO issued on D/M/Y) attached to the application of Utility Model Application No. OO-OOO (Unexamined Utility Model Application Publication No. OO-OOO)

② Microfilm of Utility Model Application No. OO-OOO (Unexamined Utility Model Application Publication No. OO-OOO)

③ CD-ROM of a specification and drawings (JPO issued on D/M/Y) attached to the application of Utility Model Application No. OO-OOO (Unexamined Application Publication No. OO-OOO)

④ CD-ROM of Utility Model Application No. OO-OOO (Unexamined Utility Model Application Publication No. OO-OOO)

3. The proceedings of appeal are conducted respecting the purpose of the above items 1., 2., even when a cited publication in the examination is a publication of unexamined utility model application and a reason for request for appeal stating in a written request for appeal is based on the entire specification of the utility model application.

(Revised Feb 2015)