Report on Consultations with Users

June 2013
Japan Patent Office

Contents

1. Implementation Methods

At the 3rd Meeting, held in October 2012, the participants agreed that the next steps should be widely disseminating the 4 Tegernsee Expert Group studies and holding consultations such as round-table discussions with a broad cross-section of stakeholders regarding these studies.

Based on this agreement, the JPO held user consultations in Japan. More specifically, the JPO conducted 1) a questionnaire survey that used the User Consultation Questionnaire made by the Tegernsee Expert Group, and 2) roundtable discussions.

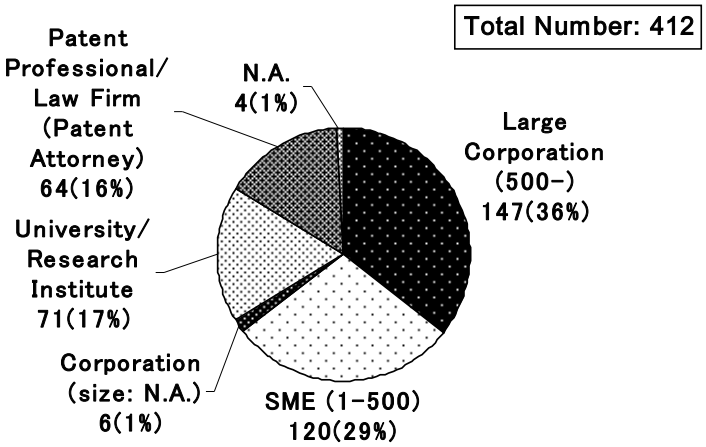
1) Questionnaire Survey

In order to collect responses from a wide range of users, the JPO conducted a questionnaire survey between mid-January and mid-March in 2013, in cooperation with some groups, including the Japan Institution for Promoting Invention and Innovation.

Thanks to these groups, the JPO was able to conduct the questionnaire survey, reaching a wide-range of users such as SMEs and universities by e-mail or letters. Moreover, the audience of the roundtable discussions (please refer to "2) Roundtable" below) was also asked to respond to the questionnaire survey. The deadline to submit these responses was March 15, 2013.

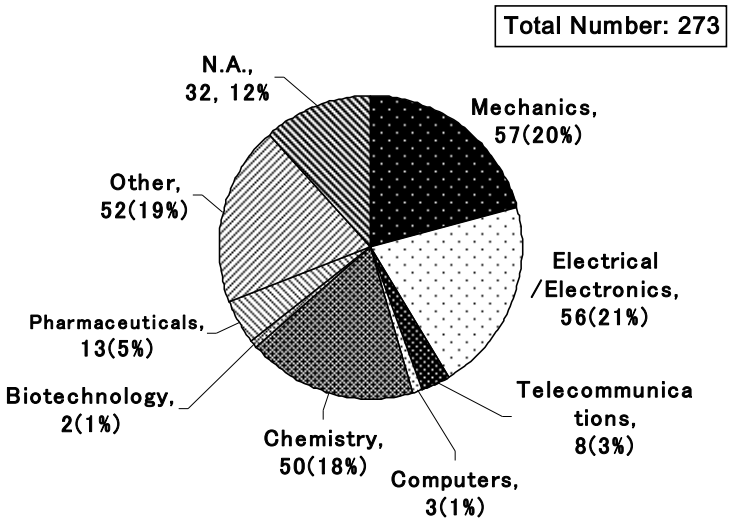
Ultimately, the JPO received 412 responses. The breakdown of the respondents is shown in the following pie charts.

Fig.1 Affiliation of Respondent (Q.II-1)



Also, among the respondents, 411 responded that the area in which they are mainly doing business is “Japan.” 400 responded that the IP office where they file applications most frequently is the “JPO.”

Fig.2 Area of Technology (Q.II-2b)



2) Roundtables

The JPO held two roundtable discussions that were conducted as symposiums. One was held in Osaka on February 28, 2013, and the other in Tokyo on March 12, 2013.

The same format was used for both roundtable discussions. More specifically, experts in each sector were invited as panelists, and a panel discussion was conducted. Panelists consisted of two representatives from large companies, one representative from SMEs, one university professor, and one attorney. In the panel discussion, four issues in the Questionnaire, namely, the “Grace Period,” the “18-month Publication requirement,” “Conflicting Applications,” and “Prior User Rights” were discussed.

There were 70 people who attended in Osaka, and 140 people in Tokyo.

2. Summary of Results

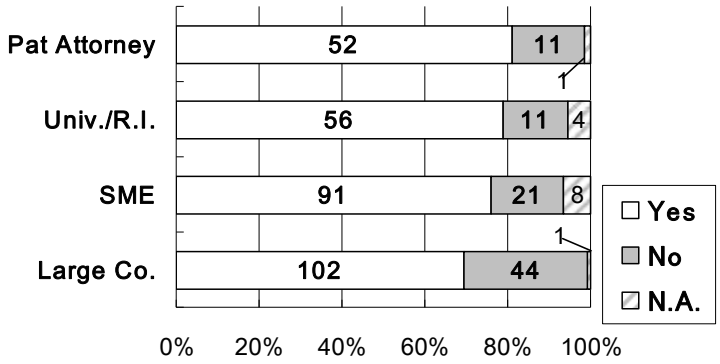
1) Grace Period

Users’ attitude toward GP

According to the results of the questionnaire survey, 75% of the respondents

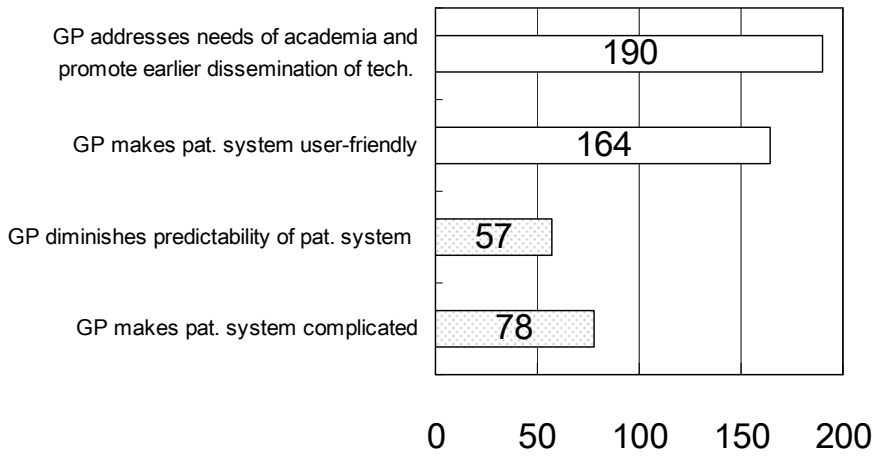
(308/412) supported a grace period (GP). Also, based on the breakdown of the respondents, 69% of large companies, the sector with the lowest rate of support, were still in favor of the GP (See Fig.3; Q.III-9).

Fig. 3 **Are You in favor of GP? (Q.III-9)**



Moreover, support for the GP was also shown in the answers to the survey question Q.III-11 about users' perceptions of the GP. Multiple options, including both positive and negative implications of the GP, had been prepared. Each respondent was able to select any options in response, with multiple answers allowed. As a result, as seen in the chart below, the number of positive options selected was 2.6 times more than that of negative options (354/135). (In the answers, the number of the respondents who selected the option "other" and indicated their specific ideas for the responses was 39. Half of these respondents stated that the GP as a system should be used only in exceptional cases or as a safety net.)

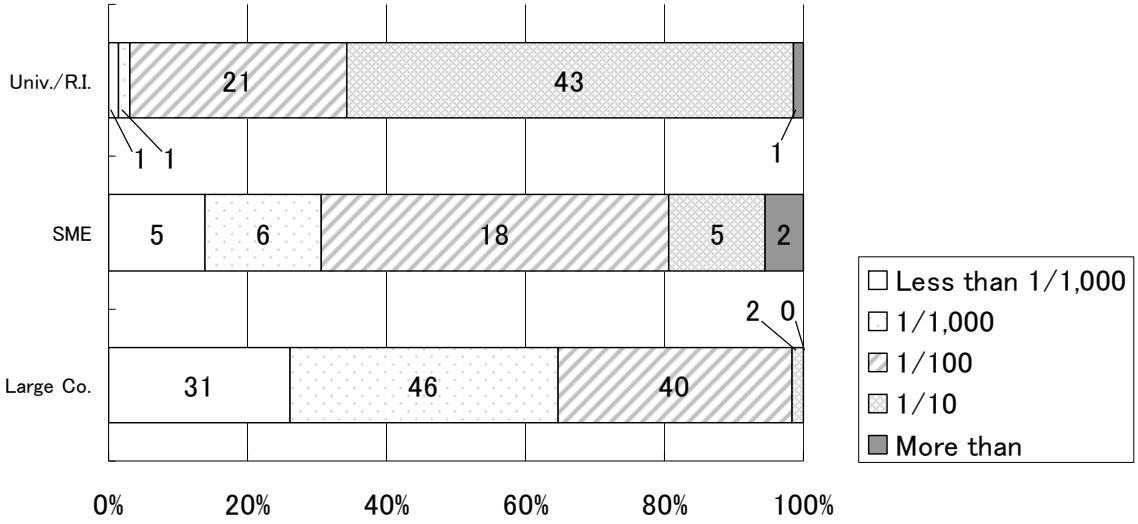
Fig.4 Perception about GP (Q.III-11)



i) Large companies

It is believed that large companies rarely use the GP. More than 60% of large companies responded that they use the GP for not more than 1 out of 1000 patent applications (See Fig.5; Q.III-4b).

Fig. 5 Frequency of Relying on GP (Q.III-4b)



However, according to the answers to question Q.III-4, “Have you or your client(s) ever relied on the grace period?”, 81% of large companies (119/147) responded that they had experienced using the GP.

The fact that a large majority of large companies had used the GP was an unexpected result. Several reasons can be considered for such responses. Thanks to the answers to question Q.III-2a, we can understand these reasons.

For large companies, the most common situation requiring patent applications to be filed (after inventions had been disclosed) was after presentations had been made at academic conferences (90). With open innovation becoming more advanced, companies have had more opportunities for conducting joint research projects with universities/research institutes. In response to question Q.III-1, 81% of the large companies (119/147) responded that they had conducted joint research with universities/research institutes. We think that in conducting joint research projects, the circumstances of universities were taken into account, and that there were inevitable cases when they were forced to make presentations at academic conferences on joint-research results before they could file patent applications. At the roundtable discussions, the following comment was made on this issue, “In conducting joint

research projects, there are some cases in which the circumstances of universities are taken into account, so the GP is used." Large companies are said to pay particular attention to managing their intellectual property (IP), as well as being careful not to disclose their inventions before filing patent applications. However, there were some situations beyond their control, when they weren't able to sufficiently manage their IP.

In addition, there were some other reasons for using the GP. Quite a few companies indicated they used it due to "error." (58), indicating that they cannot always perfectly manage IP. For example, when hundreds of patent applications are being filed, human error becomes a factor. In fact, a respondent raised a case, stating, "By mistake, our person in charge of public relations used reference materials on a new invention while conducting IR activities for investors." Also, some cases were not based on "error." Even with employees doing their best, it was inevitable that some patent applications simply could not be filed before presentations were made at academic conferences (Q.III-4a).

As stated above, even large companies, which pay considerable attention to carefully managing their IP, often wish to use the GP due to either external factors or errors. Thus, based on the survey, it is obvious that large companies also have high expectations for the GP to serve as a safety net in critical situations.

ii) SMEs

Following universities and research institutions, 74% (91/120) of SMEs expressed the next highest level of support for the GP. (See Fig.3; Q.III-9 stated above).

The percentage of SMEs that had experienced using the GP was only 30% (36/120) (Q.III-4), but this may show nothing more than the fact that in the first place, the number of patent applications filed by SMEs is very low. On the contrary, in response to question Q.III-2 whether they felt the necessity to file patent applications after they had disclosed their inventions, 63% of the respondents (75/120) indicated that they felt such necessity. The potential need for SMEs to use the GP was more than twice the percentage of their actual experience using it.

According to the answers to question Q.III-2a, specific cases in which SMEs felt the need for filing patent applications after they had disclosed their inventions are as follows: cases due to error, disclosure at exhibitions, disclosure at business meetings,

and presentations at academic conferences. The percentages of the each item are almost in the same range. Also, the percentages resulting from disclosure at exhibitions and business meetings for SMEs are higher than that for large companies and universities. It could be a characteristic of SMEs.

This characteristic of SMEs can be supported by the following comments made at the roundtable discussions. "In the consultations from SMEs, some SMEs had exhibited and sold their inventions, or disclosed them on their websites." "SMEs and venture companies would file patent applications only after they had manufactured their products and gotten positive customer feedback. In some cases, they were not able to use the GP when they tried to file patent applications."

Why did this happen? Representatives at the roundtable discussions mentioned, "It is a fact that SMEs have limited and insufficient capacity to manage IP. There is no specific department dealing with IP in many SMEs. On average, in companies with around 200 employees, there might be one, full-time designated staff in charge of IP and maybe two staff dealing with IP and doing other work beside."

It is very difficult to expect SMEs to manage IP at the same level as large companies do. Even large companies use the GP in some cases, so SMEs use it much more so. It can be said that the GP, which acts as a safety net, is more important for SMEs than for large companies.

iii) Universities/research institutions

The GP has been considered to be a system that was designed to be used mainly by academia, which in this survey is actually shown to be the case. Among universities/research institutions, the percentage of the respondents who actually support GP is 79% (56/71), higher than the percentage of respondents at large companies and SMEs (See Fig.3; Q.III-9 stated above). Also, the percentage of the university/research institution respondents who had experienced using GP is 94% (67/71), the highest (Q.III-4).

It is said that academia tends to attach greater importance to submitting research papers than filing patent applications. Accordingly, universities/research institutions are heavy users of the GP. Nevertheless, even though the GP exists, this does not necessarily mean that they simply publish their research articles before filing patent

applications. At the roundtable discussions, a representative commented on this issue, stating: “In 2004, national universities were incorporated and have earned income based on license agreements and joint research funds from companies. Companies told us that they would not want to conduct joint-research projects, unless a system to manage IP is established at universities.” Based on these reasons, universities have enhanced their management of IP. In fact, a representative commented, “We’ve used the GP for 14% of all patent applications that we have filed thus far. In recent years, however, the frequency of using the GP has decreased. It is now down to approximately 5% of the patent applications that we’ve filed over the past several years.” Thus, we can see that the trend in stronger IP management can be seen in real numbers.

Nevertheless, it may be difficult for universities, unlike large companies, to manage their IP. In academia, the concept of academic freedom still remains. At the roundtable discussions, a representative commented, “Some university professors coming from private companies have worked to introduce a mechanism that companies use for managing IP. However, universities are absolutely unable to accept such an idea. For university instructors, acquiring patent rights may be nothing more than another step in the research process, not the ultimate goal. There is a general practice at universities for university instructors themselves to be allowed to decide whether to acquire patents after making presentations at academic conferences. Some university instructors, in fact, feel that disclosing their inventions without acquiring patents is allowable.”

In any case, universities have also been enhancing their management of IP. Based on the results of the roundtable discussions, it can be clearly seen now that universities are not actively using the GP.

Impact resulting from using the GP

Thanks to the survey and the roundtable discussions, we find that large companies, SMEs, and even universities are not actively using the GP. In a sense, we should consider that the GP is being used solely as a safety net, receiving widespread support from large companies, SMEs, and even universities. As evidence of this, in response to question Q.III-10 about the purpose of using the GP, not many respondents (68/412) selected the option: “enables inventors to conduct market research and/or obtain financing before filing patent applications”.

Then, if a GP is used as a safety net, how much impact does it have on business activities?

In response to question Q.III-4c, 28% of the respondents (77/280) indicated that using the GP directly led to the success of their business activities and/or research activities. The definition of this "success" is not clear, however. Among the respondents, the percentage of university respondents who indicated that the GP led to their success was 37% (25/67), the highest among the different groups. For universities, one purpose of acquiring patents is to raise funds for research by earning license revenues and joint research funds based on their acquired patents. Thus, it is relatively easy to directly link the acquiring of patents with the objective of raising research funds. On the other hand, for SMEs and large companies, acquiring patents has not necessarily led to successful business results. Since there are various factors besides patent rights related to business success, it is difficult to link acquiring patents directly to success in business. Therefore, the percentage of SMEs who indicated that their acquiring patents had been connected to the success in their business was 22%; and the percentage at large companies was also 22% (26/119), less than that of universities.

Harmonization of GP

Then, is the GP perfectly functioning as a safety net? No, it isn't.

The percentage of the respondents who gave up acquiring patents due to the unavailability of the GP was 34% (139/412) (Q.III-5). Among these respondents, 67% (93/139) indicated that they gave up acquiring patents due to the differences in the GP in each country/region (Q.III-5a). Also, 51 of the respondents indicated Europe, while 17 indicated China as the countries/regions where they had been forced to give up acquiring patents (Q.III-5a).

And, 85% of the respondents (350/412) recognize the necessity to harmonize the GP (See Fig.6; Q.III-15). In response to question Q.III-16 about which areas of the GP should be harmonized, at least 300 or more responses were given each in regard to the following areas: mode of disclosure in which the GP can be applied; scope of the GP, duration, and date from which the term of the grace period is computed.

Fig.6 Should GP be harmonized? (Q.III-15)

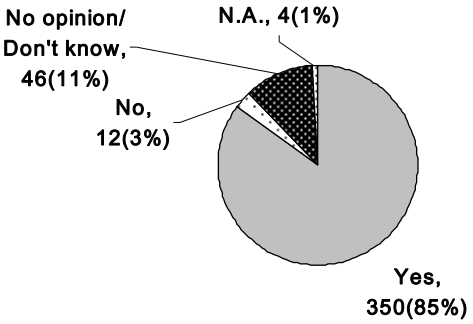
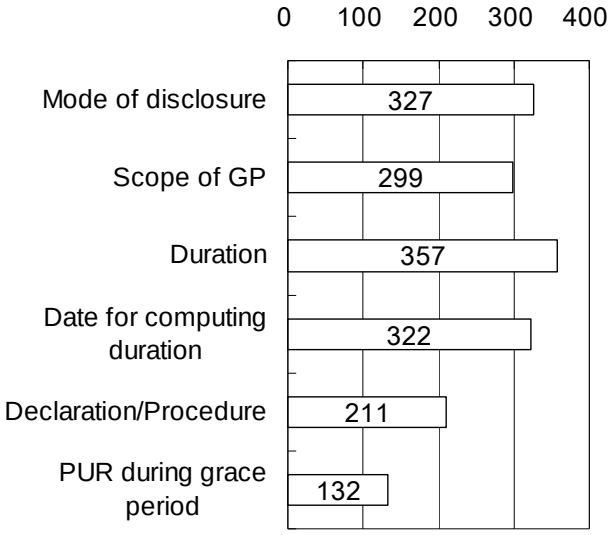


Fig.7 What matter of GP should be harmonized? (Q.III-16)



i) Mode of disclosure and scope of GP

In this questionnaire survey, there were no questions about how the GP should be harmonized in terms of the modes of disclosures in which the GP can be applied, and what exactly is eligible for the GP.

However, as shown in the beginning of this report, many respondents support the GP, and have high expectations for the GP to serve as a safety net.

Also at the roundtable discussions, some representatives expressed significant concerns that the scope of the GP was very limited in Europe and China. For example, we found the following opinions: “Differences in the scope of the GP in each country/region are problems. The scope of the GP in Europe and China is narrow, so that we are forced to give up acquiring patent rights in these areas.” “If we use a GP, we cannot file patent applications in foreign countries, including China.” “The fact that the GP is not available in Europe and China is a problem (SMEs).”

Based on these comments, it is obvious that in harmonizing the GP, most of the Japanese users hope that the GP is harmonized in such a way that it covers a broad scope.

Also, there was an opinion that if the scope of the GP were broadened, this could

lead to unstable patent rights. In fact, in response to question Q.III-11, 57 responded that they agreed with this opinion.

However, as far as we can see from the results of the questionnaire survey, such possibility would be very low. In response to question Q.III-7, the percentage of the respondents who had actually been negatively impacted by other applicants' using the GP was only 2%.

On the contrary, according to the results of the questionnaire survey, we were able to conclude the opposite opinion, in fact. In other words, because current GPs do not have wide-ranging scopes, this raises the possibility of rendering patent rights unstable. In response to question Q.III-2b, "What did you do when you felt the need to file a patent application after you or your client(s) disclosed a research (and/or product development) result?", 31% of the respondents (99/320) indicated that they went ahead and filed. In other words, according to the survey, many applicants tend to file patent applications, hoping that their making disclosures in advance, which could become reasons for refusal in the future, would not be grounds for refusal. If so, creating a GP system with a wide-ranging scope that gives reassurance to applicants when filing, on the contrary actually ensures more stable patent rights.

In addition, at the roundtable discussions, there was a comment on the stability of patent systems, "I heard some concerns that starting a GP system would lead to damaging the stability of patent systems. I believe that as in the case of Japan, by following certain prescribed procedures at the time of filing patent applications, the issue of unstability of patent systems could be mostly solved." And, according to the questionnaire survey, 64% of the respondents (264/412) indicated that applicants should be required to make certain declarations or similar prescribed procedures at the time of filing (Q.III-12). Among them, 220 stated that by making declarations or similar prescribed procedures, legal stability could be improved (Q.III-12a).

Also, the percentage of the respondents who indicated that harmonization of procedures in the GP would be necessary was only 51% (211/412).

ii) Duration

In response to question Q.III-13 about the duration of the GP, 65% of the respondents (266/412) are in favor of six months.

iii) Date from which the term of the grace period is computed

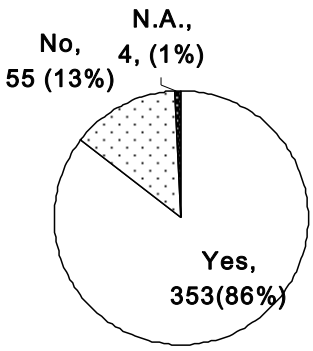
In response to question Q.III-14 about the date from which the GP is to be calculated, 63% of the respondents (261/412) hope that the date will be ”the filing date of a patent application or the priority date of the application.” At the roundtable discussions, a participant pointed out that there might be a problem with this in terms of conforming with the Paris Convention. Nonetheless, more participants hoped that the priority date would become the initial date on which the GP begins; in other words, the international GP.

2) 18-month publication

User’s attitude toward Opt-out in US：

86% of the respondents (353/412) consider that all patent applications should be published at 18 months from the initial application filing. (See Fig.8; Q.IV-3)

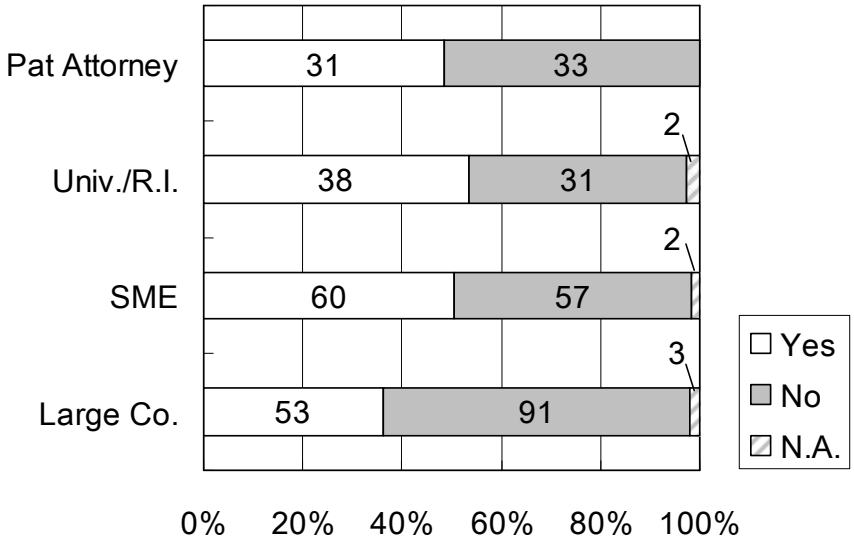
Fig.8 Should all application be published at 18-months? (Q.IV-3)



An opt-out option, which is used in the U.S., is a system that provides sufficient time for applicants who cannot conduct prior art searches for themselves to decide whether they should advance their patent applications or withdraw their patent applications to protect the contents claimed in their applications as trade secrets.

On the other hand, in order to enable applicants to decide whether they should keep their applications pending or should withdraw their applications, there is an opinion that instead of permitting such an opt-out option, prior search results and examination results should be provided before making publication of pending patent applications mandatory at 18 months after the initial application filing is done. According to the survey results, 46% (189/412) supported this idea, and 52% (215/412) opposed (See Fig.9; Q.IV-4).

Fig. 9 **Should SR be available in advance of 18 months (publication)? (Q.IV-4)**

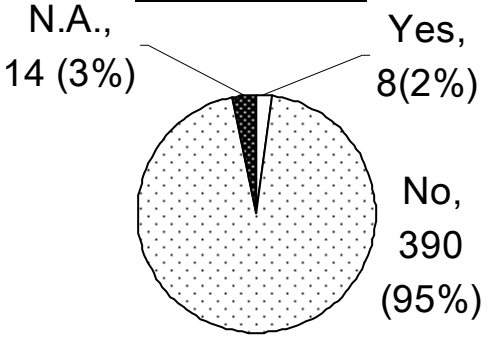


The ones opposed gave the following reasons: (1) in the first place, applicants should take full responsibility in deciding whether to have applications pending or to withdraw their applications, (2) a system has already been set up to enable applicants to easily conduct prior art searches, and (3) there is a concern that it may lead to an increase in the application fees.

At the roundtable discussions, protection for small and medium enterprises (SMEs) under the opt-out regime in the U.S. was discussed. While representatives from SMEs and attorneys shared the same feelings about the idea of protecting SMEs, they were not in a position to approve opt-out.

Also, at the roundtable discussions, various issues were mentioned about the opt-out option, including concerns that it would create a breeding ground for patent trolls and a sense of unfairness.

Fig.10 Experience of having been negatively affected because of opt-out (Q.IV-8)



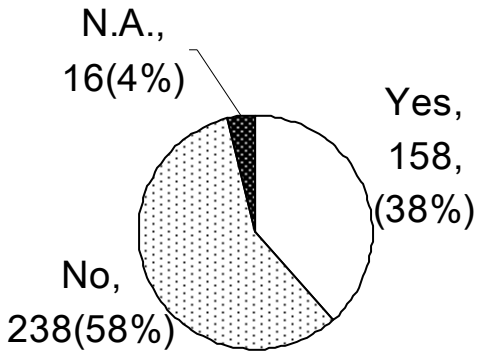
In regard to the opt-out option in the U.S., there are concerns that some patent applications would not be disclosed for a long time. However, the percentage of

respondents who had actually been negatively affected by the opt-out option was only 2% (8/412) (See Fig.10; Q.IV-8).

Harmonization of 18-month publication：

In the U.S., the percentage of applicants who requested the opt-out option has decreased. Also, based on a strategy to shorten the pending period for examinations to 10 months by 2014, 38% (158/412) of the respondents stated that the system was “already harmonized,” in response to the question whether 18-month publication systems are actually harmonized or not. On the other hand, 58% (238/412) responded “not yet harmonized.” (See Fig.11; Q.IV-10)

Fig.11 Are 18-month publication systems aligned? (Q.IV-10)



In the questionnaire survey, there was a question about harmonizing the 18-month publication system. When combining the percentages of responses of “critical” and “important” together, 95% of the respondents (391/412) indicated that they consider harmonization important (Q.IV-11). And, in answer to the question as to whether you would change your response if the GP is included in any harmonization issues, 82% (336/412) of the respondents indicated that their responses would not change (Q.IV-12), and that they were negative about linking the issue of GP with that of 18-month publication. Also, when responding to this question, some respondents additionally indicated the reasons for their responses. Among the respondents who indicated that they would change their responses, their major reason was that harmonization of the GP would be more important than that of 18-month publication. On the contrary, among the respondents who indicated that they would not change their responses, one reason for their responses was that 18-month publication is more important. In addition, another major reason was that the GP and 18-month publication systems have different concepts and characteristics, so that they should not be linked together.

3) Conflicting Applications (CA)

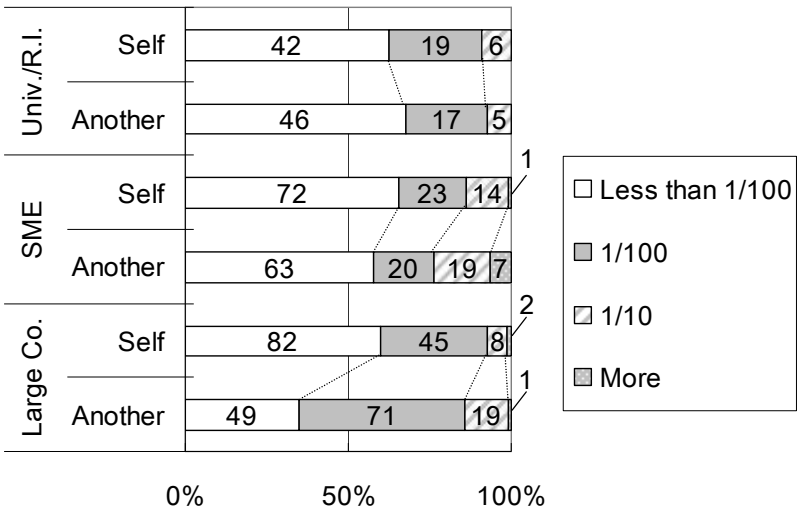
Actual Status of CA

As for the frequency of conflicting applications (CAs), we received the following survey results. The lower column of the chart shows the number of CAs resulting from applications filed by another applicant. The upper column shows the number of CAs resulting from the applicants themselves filing their own applications, namely, causing self collision. (See Fig.12; Q.V-1& 2)

We can see that CA occurs with greater frequency in large companies, since they tend to file a greater number of applications than do SMEs, universities, and research institutions. Also, the frequency of CAs resulting from the applicants' own filings, i.e., self collision, is lower than that of CAs resulting from applications filed by another applicant. However, CAs resulting from the applicants' own filings occurred several times out of 100 cases (although these cases occurred over several years, not in one year).

In regard to the issue of self-collision, all representatives from large companies mentioned at the roundtable discussions that they have already taken actions to deal with strict systems and operating procedures in some countries/regions. Nevertheless, the results of the questionnaire survey presented the fact that even large companies were not able to completely avoid self-collision. Also, at the roundtable discussions, one representative from an SME stated that his SME has responded to self-collision in the same way that large companies have done. However, another SME representative pointed out that his SME has not fully addressed the issue of self-collision.

Fig. 12 Frequency of situation of Conflicting Applications (Q.V-1&2)



The number of the respondents who indicated that they had actually experienced a case of CA between two pairs of patent families in several countries was 41 (Q.V-3). Among them, 28 respondents are companies involved in specific technical areas. (In Table 1, a simple calculation shows that the number of responding companies is 31 (18 plus 13), but among them, 3 are duplicate answers.) The breakdown of the technical areas is: mechanics 3, electricity/electronics 6, electricity-communications 0, computer 2, chemistry 11, biotechnology 0, pharmaceutical 4, and others 2. Differences in these numbers are not considered to be meaningful, if compared with the results of Fig.2.

Table 1 Have you ever had a case of conflicting applications involving the same two patent families in different jurisdictions that apply different rules on conflicting applications? (Q.V-3)

	Large Co.	SME	Univ./R.I.	Pat. Attorney
No	118	107	69	52
Yes, in two different jurisdictions	16	2	1	8
Yes, in three or more different jurisdictions	11	2	0	1

Also, among the respondents, 39 received different examination results from each country in regard to the same application. In most cases, the differences in examination results were due to variances in how CAs were handled (Q.V-5).

Among the respondents, 59, 14% (59/412), responded that due to the existence of "patent thickets," they had faced difficult situations. Also, the countries/regions in which they had experienced difficulties are as follows, in descending order of responses: Japan (27), the U.S. (19), and Europe (1) (Q.V-6-b-i). Most of the survey respondents indicated that they used the JPO most frequently (According to the result of Q.II-4, 400 out of 412 respondents answered that they filed applications to the JPO most frequently.), so it stands to reason that the respondents indicated that they had often been faced with patent thickets in Japan. Also, the possibility of facing patent thickets is different, depending on various factors such as the business conditions in which patents are utilized, the number of patents held in each country/region, and practices on inventive step in each country/region. In other words, it may be impossible to discuss the relationship between the differences in systems/operations dealing with CAs and

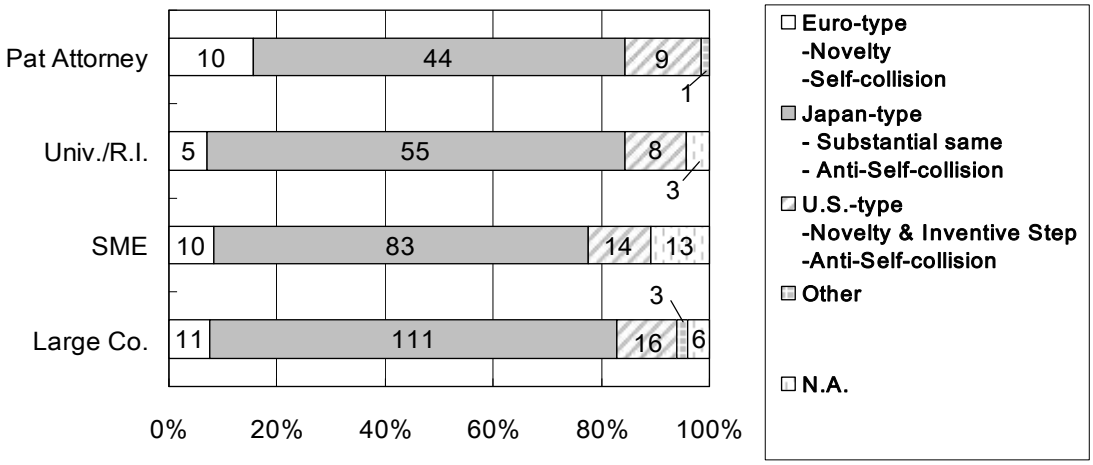
patent thickets by considering only the responses given to Q. V-6-b-i.

Harmonization of Treatment of CA：

In the questionnaire survey, when combining the responses of “critical” and “important,” 89% of the respondents (365/412) consider that harmonizing the ways that CAs should be handled is important (Q.V-7).

Moreover, when comparing the European, Japanese, and the U.S. ways to deal with CAs, most of the respondents, regardless of sector, considered the Japanese way to be the most well-balanced. Overall, 73% of the respondents (301/412) expressed support for the Japanese way, 11.4% (47/412) for the U.S. way, and 8.7% (36/412) for the European way (See Fig.13; Q.V-8).

Fig. 13 Which approach does strike best balance? (Q.V-8)



At the roundtable discussions, many respondents supported the principle of anti-self collision, when discussing the issue of harmonizing CAs. Their opinions were based on the ideas of giving preferential treatment to applicants of prior applications, as well as giving inventors their incentives to conduct applied inventions. On the other hand, based on Article 4 H of the Paris Convention, there was an opinion that the mechanism of anti-self collision in Europe is logical.

Also, at the roundtable discussions, in regard to how CAs should be handled in examination processes for later filed applications, some expressed concerns about the method used to deal with them in the U.S. That is because they had doubts about the

U.S. mechanism to decide the existence of an inventive step of inventions, based on unpublished prior art. In contrast, there was another opinion that such mechanism practiced in the U.S. might be appropriate.

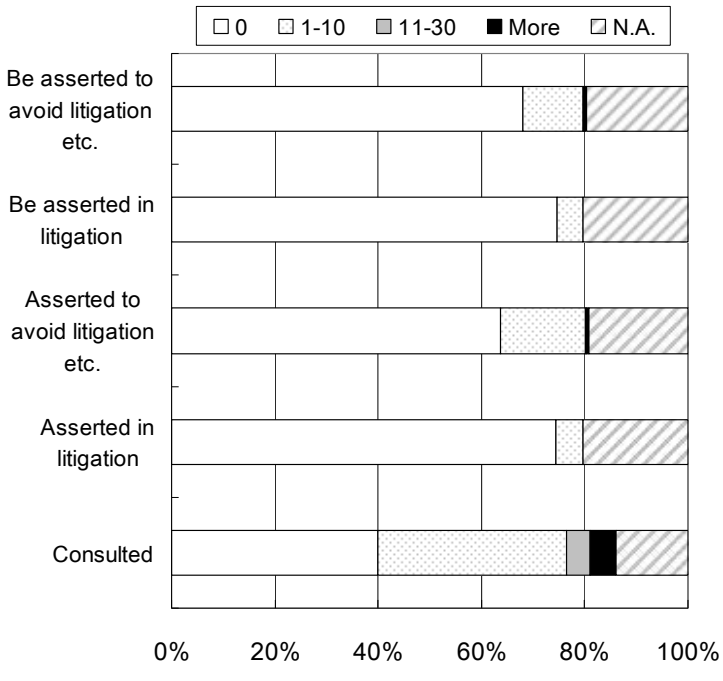
In the questionnaire survey, respondents were also asked about how CAs are being dealt with in international patent applications under the Patent Cooperation Treaty (PCT). 63% of the respondents (260/412) supported operations in which the prior art effective date of the conflicting PCT application should be the international filing date or the priority date, if claimed, only if the application enters the national/regional phase in the country/region in question. On the contrary, 27% of the respondents (110/412) supported operations in which the prior art effective date of the conflicting PCT application should be the international filing date or the priority date, if claimed, upon designation of the country or region in question and provided the application was published under the PCT (Q.V-9).

4) Prior User Rights (PURs)

Use of PURs

In the questionnaire survey, we received the following results about the actual use of prior user rights (PURs) (See Fig.14 Q.VI-1).

Fig.14 The Actual Use of PURs (Q.VI-1)



We found actual cases in which applicants claimed PURs (Prior User Rights) and/or PURs were claimed for applicants. However, we must note that in most cases, PURs were claimed in Japan. In Q.VI-1-a about the country/region where applicants claimed PURs, most respondents indicated that they had claimed PURs in Japan.

Besides in Japan, 12 responded that they claimed PURs in China, 8 in the U.S., 4 in Europe, 1 in Korea, 1 in Taiwan, and 1 in India. In addition, if we limit the respondents to only those who "faced the possibility to claim" 1 PUR in a lawsuit abroad, or who "avoided lawsuits", 4 responded that they had made claims of PURs in the U.S., 1 in Korea, and 1 in China. According to these results, we find that it is very rare for Japanese users to claim PURs outside Japan.

At the roundtable discussions, PURs were not a major discussion point. This may be because it is very rare for Japanese users to use PURs overseas, so that discussing this matter was difficult. At the roundtable discussions, no one had claimed PURs overseas. Instead, two mentioned that in case they do business overseas, they would file patent applications rather than consider claiming PURs overseas.

The results of the roundtable discussions also show that claiming PURs overseas is very rare.

Harmonization of PURs :

As to the question on whether PURs should be available or not in case bona fide third parties derive knowledge from inventors, 67% of the respondents (277/412) supported the idea that PURs should not be a possible option. 28% of the respondents (116/412) supported the option of PURs (See Fig.15; Q.VI-2-a).

Fig.15 PURs for derived knowledge from Patentee

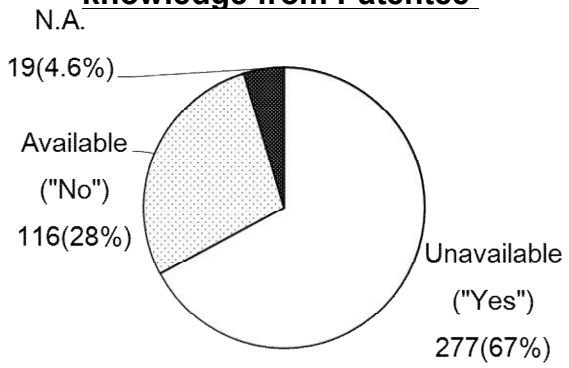
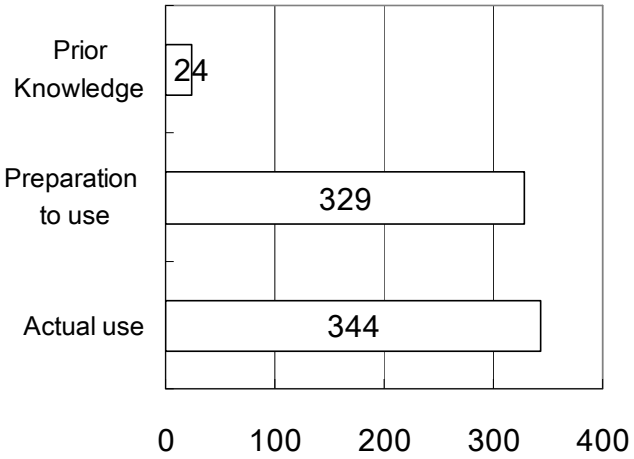


Fig.16 Activities give rise to PURs (Q.VI-2b)



As for the question about what kinds of activities could be used to claim PURs, most respondents seemed to fully understand the effects of "actual use" and "preparing for use." Only 24 responded that "prior knowledge"

would be sufficient to claim PURs
(See Fig.16; Q.VI-2b).

In the questionnaire survey, when combining the responses of "critical" and "important," 84% of the respondents (346/412) considered that harmonization of PURs should be important (Q.VI-3).

5) Others

In Japan, two symposiums using the roundtable-discussion format were held in Osaka and in Tokyo. The JPO conducted a brief questionnaire survey of the audiences in both roundtable discussions. In total, 119 participants in Osaka and Tokyo submitted the answer sheets when they left the symposiums.

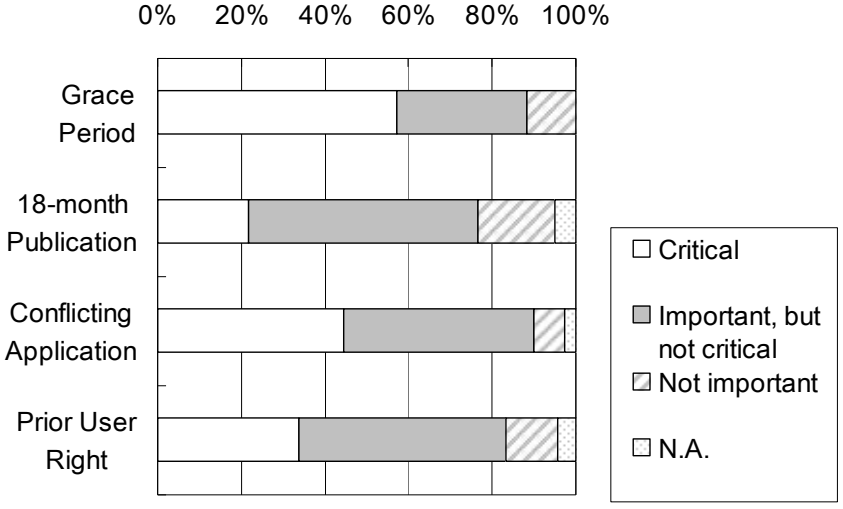
This brief questionnaire survey included a question on the importance of harmonizing four issues, namely, GP, 18-month publication, CA, and PURs, which were discussed in the roundtable sessions. In the questions, respondents were asked to check "Critical", "Important, but not critical", or "Not important."

The results of the responses are shown in the following graph.

When combining the responses of "Critical" and "Important, but not critical," approximately 80% of the respondents considered that harmonization should be important for each of the four issues. However, when focusing on "Critical," it was only GP for which more than 50% (57%, 68/119) of the respondents considered "Critical."

Fig.17 Importance to harmonize

《Answers from Participants in Roundtables》



At the last part of the questionnaire survey based on questionnaires made by the Tegernsee Expert Group, there was a question, “Other than these four issues, is there any issue that has caused problems due to differences in laws practiced in each country?” For this question, the JPO received many responses. The main issues that the respondents raised are as follows:

- Standards used to determine inventive step
- Standards used to determine novelty
- Descriptive requirements for specifications
- Description of claims (e.g., multiple dependent form claims, product-by-process claims)
- Limitations to amendments, etc.

3. Attachment

User Consultation Questionnaire

[End of Text]