

第1章 審査・審判

Chapter 1 Examinations/Trials and Appeals

1 特許

特許庁は、我が国で特許を取得すれば、その審査結果が海外でも通用して、海外でも権利を速やかに取れるような「世界最速・最高品質の特許審査」の実現を目指している。そして、この「世界最速・最高品質の特許審査」を実現するため、「迅速性の堅持」、「質の高い権利の付与」、「海外特許庁との連携・協力」を柱とする種々の取組を実施している。

1) 審査実績

知的創造、権利設定、権利活用の知的創造サイクルを加速する上で、権利化までの期間の短縮へのニーズが高まってきている。これを踏まえ、2014年3月、新たな10年目標を設定しつつ、審査の迅速化に取り組んでいる。

- 新たな10年目標とは、2023年度までに特許の「権利化までの期間」と「一次審査通知までの期間」(FA期間)をそれぞれ、平均14か月以内、平均10か月以内とすること。
- 2016年度(2016年4月－2017年3月)には2-1-1図の各期間を達成。

1 Patents

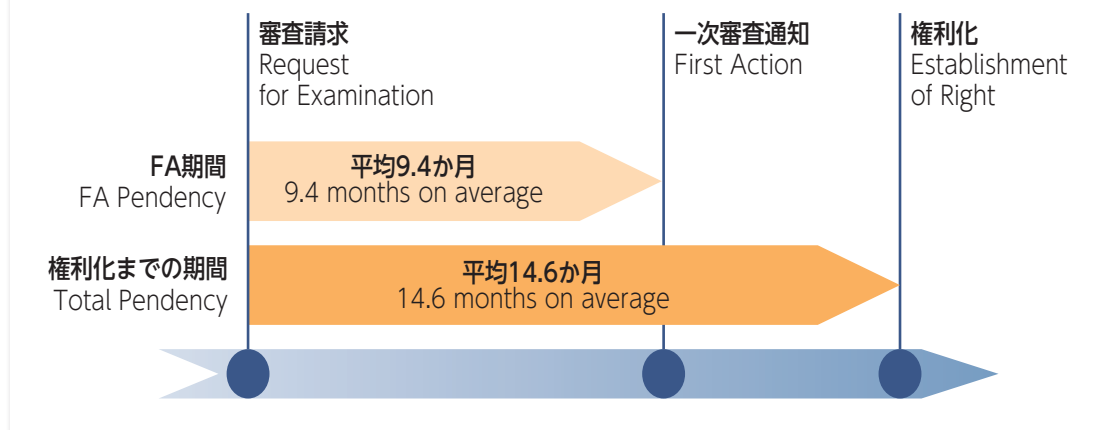
The JPO has been aiming to achieve the “world’s fastest and utmost quality patent examinations” so that once applicants obtain patents in Japan, they may also be able to obtain patents abroad, even smoothly on the ground that the JPO’s examination results are used as trustworthy judgements when foreign IP offices conduct examinations. To this end, the JPO has been implementing various measures focused on “maintaining speed”, “granting high quality rights”, and “cooperating and collaborating with foreign IP offices”.

1) Examination Performance

With the acceleration of the intellectual property creation cycle, which comprises of intellectual property creation, the establishment of rights, and utilization of rights, there is a growing need to reduce the time of total pendency. To do so, the JPO has been focusing on speeding up examinations with the next decade goal established in March 2014.

- The next decade goal is to bring the “total pendency” and the “first action pendency” (“FA pendency”) to an average of 14 months or less and an average of 10 months or less by 2023 respectively.
- In FY2016 (April 2016 – March 2017), the JPO achieved the periods shown in Figure 2-1-1.

2-1-1図：2016年度における特許審査の権利化までの期間及びFA期間
Figure 2-1-1: Total Pendency and FA Pendency for Patent Examinations in FY2016



(備考)

- ・ 権利化までの期間(「標準審査期間」ともいう。)は、審査請求から取下げ・放棄又は最終処分を受けるまでの期間(出願人が補正等を行うことに起因して特許庁から再度の応答等を出願人に求めるような場合や、特許庁に応答期間の延長や早期の審査を求める場合等の、出願人に認められている手続を利用した場合を除く。)
- ・ FA期間は、審査請求から審査官による審査結果の最初の通知(主に特許査定又は拒絶理由通知書)が出願人等へ発送されるまでの期間。

Notes:

- The total pendency (also called the “standard pendency”) is the period from the request for examination to withdrawal or abandonment or until a final disposition (excluding cases where the JPO requests an applicant to respond to the second notice of reasons for refusal and where the applicant performs procedures they are allowed to use, such as requests for extension of the period of response and for an accelerated examination).
- The FA pendency is the period from the request for examination to issuing the first notice of examination (which are mainly notices of patent grants or reasons for refusal for a patent application) by an examiner to the applicant.

2-1-2図：特許審査のFA件数、特許査定件数及び国際調査報告作成件数の推移

Figure 2-1-2: Number of Patent Examination FAs, Number of Patents Granted, and Number of International Search Reports Established

(年/Year)	2013	2014	2015	2016	2017
FA件数 ¹ The Number of FAs	356,179	255,001	235,809	246,879	239,236
特許査定件数 ² The Number of Patents Granted	260,046	205,711	173,015	191,032	183,919
国際調査報告作成件数 ³ The Number of International Search Reports Established	42,384	40,079	43,571	44,321	45,948

(備考)

- 1 FA件数は、審査官による審査結果の最初の通知（主に特許査定又は拒絶理由通知書）が出願人等へ発送された件数。
- 2 特許査定件数は、拒絶査定不服審判請求以降（前置審査を含む）の特許された案件は含まれない件数。
- 3 国際調査報告作成件数は、PCTの国際調査機関として日本国特許庁が作成・発送した国際調査報告の発送年別件数（国際調査報告には、「国際調査報告を作成しない決定」が含まれる。）。

Notes:

1. The number of first actions in patent examination is the number of first notice of examination results (which are mainly notices of patent grants or reasons for refusal) issued by examiners to applicants.
2. The number of patents grants excludes the number of patents granted after a request for appeals against an examiner's decision of refusal was filed (including patents granted through reconsideration by examiners before appeal proceedings).
3. The number of international search reports prepared is the number by year of issuance of international search reports prepared and issued by the JPO as the International Searching Authority (ISA) under the PCT (the number of international search reports includes that of "decisions of not preparing an international search report.")

2) 審査の迅速化に関する取組

(i) 審査官の確保

特許審査体制の整備・強化のため、任期満了を迎えた任期付審査官の一部を再採用、必要な審査官の確保などに努めている。

- 2017年度は、審査官1,696名（任期付審査官を含む。）の定員を確保。

(ii) 先行技術文献調査の外注

審査官の行う先行技術文献調査を登録調査機関へ外注し、民間活力の利用による審査迅速化の推進を図っている。

- 登録調査機関の数は、2017年12月現在で10機関。
- 2017年度の発注件数は、約15.3万件であり、その内約4分の3の約11.4万件については日本語特許文献に加え外国語特許文献も調査対象。

2) Initiatives to Speed up Examinations

(i) Securing the Necessary Number of Examiners

In order to maintain and strengthen the patent examination system, the JPO is working to secure the necessary number of patent examiners and to rehire some of the fixed-term examiners whose term of employment had expired.

- For FY2017, the JPO secured a capacity of 1,696 examiners (including fixed-term examiners).

(ii) Outsourcing of Prior Art Searches

By outsourcing prior art searches to registered search organizations, the JPO promotes the speeding up of examinations through utilization of the private sector.

- As of December 2017, there were ten registered search organizations.
- In FY2017, the number of search outsourced was approximately 153,000, and of those, approximately three-quarters (or approximately 114,000 searches) also involved searches of foreign patent documents in addition to patent documents in Japanese.



登録調査機関の検索者から審査官への調査結果報告の様子

A searcher from a registered search organization reports search results to an examiner.

3) 早期審査

一定の要件の下で、出願人からの申出を受けて審査の着手時期を通常に比べて早める早期審査制度を実施している。

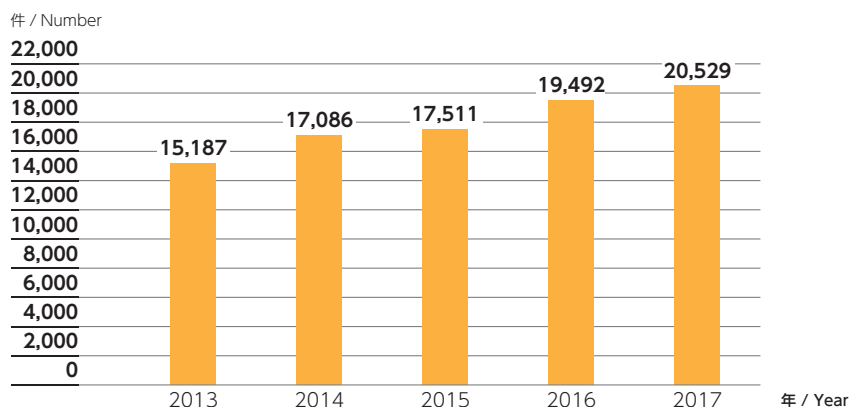
- 特許出願に関する早期審査制度の対象は、(i) 既に実施している発明に係る出願、(ii) 外国にも出願している出願、(iii) 中小企業等の出願、(iv) 震災による被害を受けた企業等の出願、(v) 環境関連技術に関する出願（試行）。
- 2017年は、早期審査の申出から一次審査通知までの期間は平均2.3か月。

3) Accelerated Examination

Under certain conditions, the JPO offers an accelerated examination system that expedites the commencement of an examination, upon the request of an applicant.

- The accelerated examination system for patent applications may be allowed in the following conditions: (i) applications for inventions that have already been put into practice; (ii) applications that are also filed in one more other countries; (iii) applications by small and medium-size enterprises, etc.; (iv) applications by businesses, etc. that have suffered damage due to an earthquake; or (v) applications involving environment-related technologies (pilot program).
- In 2017, there was 2.3 months on average from a request for accelerated examination to the first action.

2-1-3図：特許早期審査の申出件数の推移
Figure 2-1-3: Number of Requests for Accelerated Examinations for Patent



(備考)
早期審査の申出件数は、「早期審査に関する事情説明書」が提出された件数。

Note:
The number of requests for accelerated examinations is the number of Explanations of Circumstances Concerning Accelerated Examination that were submitted.

4) 審査品質の更なる向上

(i) 品質管理に関する取組

品質管理の基本原則となる「特許審査に関する品質ポリシー」、及び、品質管理及びその実施体制について文書化した「特許審査の品質管理に関するマニュアル」（品質マニュアル）を公表している。この品質ポリシーと品質マニュアルの下、世界最高品質の特許審査の実現に向けて以下の取組を行っている。また、2017年3月には、2017年度に達成すべき、特許審査の質に関する定量目標を設定した^{*1}。更なる詳細については、特許庁ウェブサイト^{*2}を参照されたい。

4) Further Improvement of Examination Quality

(i) Quality Management Initiatives

The JPO has published its “Quality Policy on Patent Examination”, which constitutes the JPO’s fundamental principles of quality management, and its “Quality Management Manual for Patent Examination” (Quality Management Manual), which documents quality management and its implementation system. Under the Quality Policy and the Quality Management Manual, the JPO has been engaging in the following initiatives towards realizing the utmost quality of patent examinations in the world. Moreover, in March 2017, the JPO established quantitative goals for the quality of patent examinations to be achieved in FY2017.^{*1} For more details, please see the JPO’s website.^{*2}

※1 日本語

http://www.meti.go.jp/policy/policy_management/jissityou-hyouka/29fy-mokuhyou/29fy-jissityou-mokuhyou.pdf

英語

http://www.jpo.go.jp/torikumi_e/hiroba_e/pdf/170711_goals_2017/01.pdf

※1, *1

(日本語)



※1 Japanese

http://www.meti.go.jp/policy/policy_management/jissityou-hyouka/29fy-mokuhyou/29fy-jissityou-mokuhyou.pdf

English

http://www.jpo.go.jp/torikumi_e/hiroba_e/pdf/170711_goals_2017/01.pdf

※1, *1

(英語)



a. 品質保証

- 審査官による通知・査定等に係る書面について、出願人・代理人に発送される前に、審査室の管理職が実体面・形式面にわたり全件チェック。
- サーチノウハウ、知識等を共有化し、審査官の間のサーチや判断の相違を抑制するため、審査官は他の審査官と協議を実施。
- 2017年度は、他庁を受理官庁とする英語によるPCT国際出願や3回目以降の拒絶理由を通知する案件について、審査官は他の審査官と協議を行うことを義務化。

b. 品質検証

- 審査官による通知・査定等に係る書面を対象に（対象は無作為に抽出）、品質管理官がその通知・査定等の判断及びその結果として作成された起案書の適否について監査を実施。
- 品質管理官による前記監査について、2015年7月より起案書の発送前に実施。これにより、監査を通じて発見された誤りを解消した上で、起案書を出願人・代理人に発送することが可能。
- ユーザーニーズ把握のため、日本企業、外国企業、代理人を対象としたユーザー評価調査を実施。
- 企業との意見交換会でのヒアリングや個別案件に関する情報提供の受付を実施。

c. 審査品質管理小委員会

- 品質管理の実施体制・実施状況についての客観的な検証・評価を受け、それを品質管理体制に反映することを目的として、2014年8月に産業構造審議会知的財産分科会の下に、外部有識者からなる審査品質管理小委員会を設置。
- 審査品質管理小委員会の報告を踏まえ、特許・意匠・商標の審査の品質管理における取組を実施。

a. Quality Assurance

- Before sending applicants and agents documents by examiners regarding notices and decisions, etc., managers in the examination office check substantive and formal aspects of such documents for all cases.
- Examiners consult with other examiners to share search know-how and knowledge, etc., in order to curb search and decision discrepancies among examiners.
- In FY2017, it became a requirement for examiners to conduct a consultation with other examiners in cases of a PCT international application that has been filed in English with foreign IP offices as a receiving office, and in cases of issuing a third or later notice of reasons for refusal for a patent application.

b. Quality Verification

- The JPO randomly selects notices and decisions, etc. prepared by examiners and quality management officers audit them as to the appropriateness of examiners' judgements including notices and decisions, etc. and official notices drafted as a result of such judgements.
- Since July 2015, quality management officers have conducted audits prior to sending documents. Therefore, it became possible to send documents to applicants or agents after resolving mistakes that are discovered through the audit.
- The JPO conducts user satisfaction surveys targeting Japanese businesses, foreign businesses, and agents in order to ascertain user needs.
- The JPO conducts interviews at informal meetings with businesses and accepts the provision of information concerning individual cases.

c. Subcommittee on Examination Quality Management

- In August 2014, the JPO established the Subcommittee on Examination Quality Management, which consists of external experts, under the Intellectual Property Committee of the Industrial Structure Council of the Ministry of Economy, Trade and Industry, for the purpose of receiving objective validation and evaluation regarding the implementation system of the quality management implementation system and its implementation status, and reflecting them in the quality management system.
- The JPO implements initiatives in the quality management of patent, design, and trademark examinations based on reports by the Subcommittee on Examination Quality Management.

※2 日本語

<http://www.jpo.go.jp/seido/hinshitsukanri/hinshitsukanri.htm>

htm

英語

http://www.jpo.go.jp/seido_e/quality_mgt/quality_mgt.htm

htm

※2, ※2
日本語
Japanese

※2 Japanese

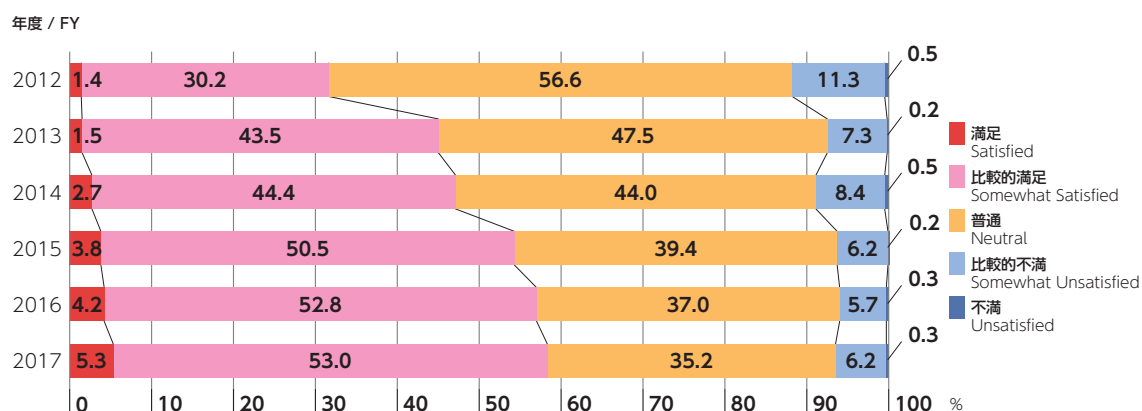
<http://www.jpo.go.jp/seido/hinshitsukanri/hinshitsukanri.htm>

English

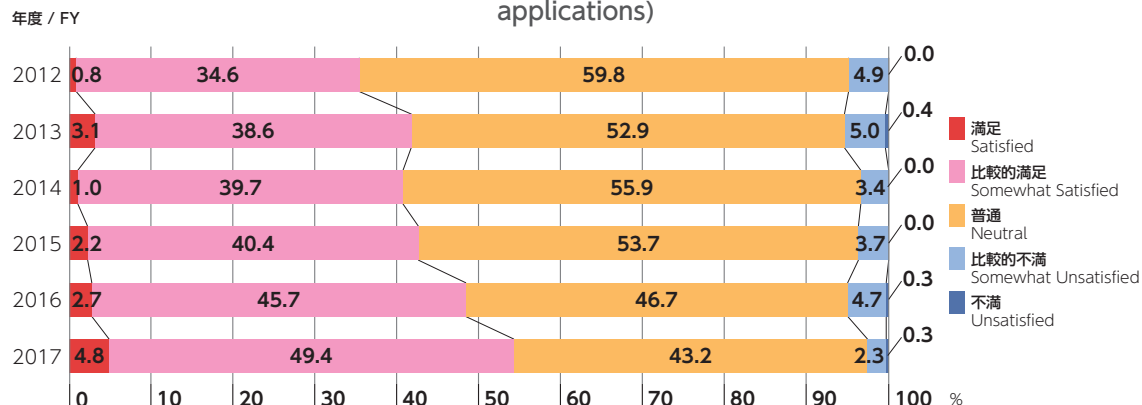
http://www.jpo.go.jp/seido_e/quality_mgt/quality_mgt.htm※2, ※2
英語
English

2-1-4図：特許審査の質に関するユーザー評価調査の結果
Figure 2-1-4: Results of User Satisfaction Survey on Quality of Patent Examinations

ユーザー評価調査の結果（国内出願における質全般の調査）
Results of User Satisfaction Survey (Overall quality of examination on national applications)



ユーザー評価調査の結果（PCT国際出願における質全般の調査）
Results of User Satisfaction Survey (Overall quality of examination on PCT international applications)



(ii) IoT、AI等の新技術に対応した取組

「第4次産業革命」において、IoT（Internet of Things、モノのインターネット）やAI、ビッグデータ等の利活用が積極的に検討される中、サービスとモノとが結びついたビジネス関連発明や学習済みモデル、データ構造等の発明が、特許出願される傾向にある。

このような状況の下、特許出願の審査の質を維持・向上させるための取組を実施している。

a. 特許・実用新案審査ハンドブックに関する取組

- 2017年3月、審査の運用をユーザーに分かりやすく示すため、AIの学習済みモデルや、IoT、3Dプリンティング関連技術におけるデータ・データ構造等に関する11審査事例を「特許・実用新案審査ハンドブック^{※3}」に追加、日本語及び英語にて公表。

(ii) Initiatives to Respond to New Technologies such as IoT and AI

In the “fourth industrial revolution”, there is a trend towards patent applications for inventions relating to businesses that connect services and things and inventions of trained models and data structures and the like, amidst active study into the utilization of the Internet of things (IoT), artificial intelligence (AI), big data and the like.

Under these circumstances, the JPO is implementing initiatives to maintain and improve the quality of patent application examinations.

a. Initiatives Related to the Examination Handbook for Patent and Utility Model

- In March 2017, in order to clearly show the practice of examination to the users, the JPO added 11 case examples to the Examination Handbook^{※3} for Patent and Utility Model, including the cases of trained AI models and the cases of data, data structures and the like of IoT or 3D printing related technologies, and published it in Japanese and English.

※3 日本語 http://www.jpo.go.jp/shiryou/kijun/kijun2/handbook_shinsa.htm
英語 http://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/handbook_sinsa_e.htm



※3 Japanese http://www.jpo.go.jp/shiryou/kijun/kijun2/handbook_shinsa.htm
English http://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/handbook_sinsa_e.htm



b. 特許分類整備に関する取組

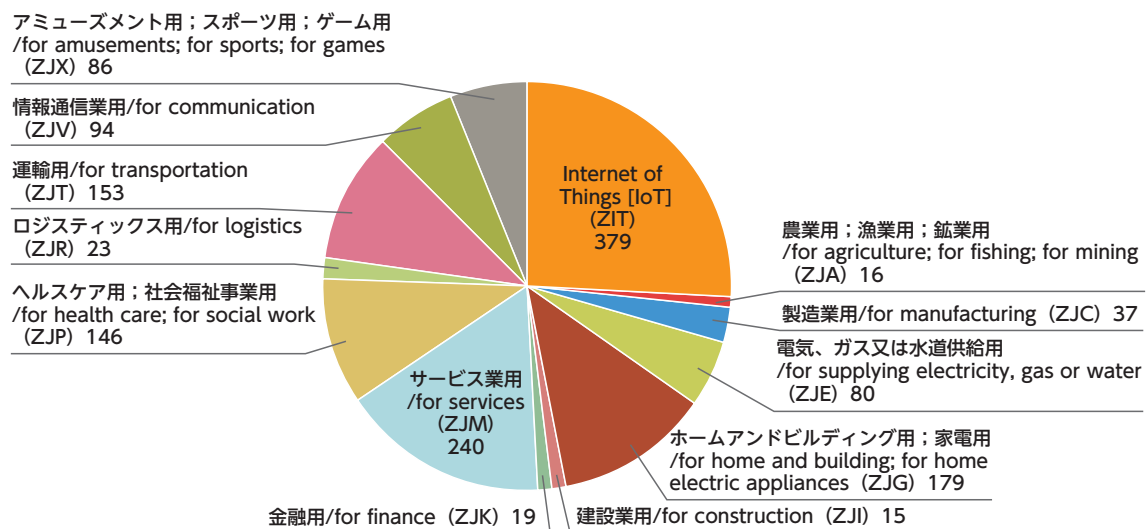
- IoT関連技術についての特許文献の分野横断的な抽出を目的として、広域ファセット分類記号^{※4}ZITを付与。
- 2017年4月、用途別のIoT関連技術の抽出を可能とするため、ZITをヘルスケア用、製造業用といった用途別に細分化をして新たな分類項目を設立^{※5}。
- 2018年3月8日時点で、ZIT～ZJXの広域ファセット分類記号が付与された公報数は1,424件であり、各広域ファセット分類記号の付与件数内訳は、2-1-5図のとおり^{※6}。
- 日本語特許文献のみならず、外国語特許文献についても同様の観点での抽出を可能とするため、当該用途別の分類項目の国際特許分類（IPC）化を海外特許庁に提案。

b. Initiatives Related to Improvement of Patent Classifications

- The JPO assigns the broad facet classification code^{※4} ZIT for cross-sectional extraction of patent documents that concern IoT-related technologies.
- In April 2017, to make extraction of IoT-related technologies possible according to classified by use, the JPO established new classifications entries by subdividing ZIT by use, such as healthcare use and manufacturing use.^{※5}
- As of March 8, 2018, there were 1,424 official gazettes for which the JPO assigned the broad facet classification codes ZIT-ZJX, and the breakdown of the number of assignments of each broad facet classification code is as shown in Figure 2-1-5.^{※6}
- The JPO has proposed to foreign IP offices that such classification entry by use be made into an international patent classification (IPC) so as to make it possible to extract not only Japanese patent documents, but also patent documents in foreign languages from the same perspective.

2-1-5図：広域ファセット分類記号の付与件数

Figure 2-1-5: Number of Assignments of Broad Facet Classification Codes



c. 審査体制整備に関する取組

- 2017年4月、質の高い特許権設定に向けた均質な特許審査を担保するため、管理職員等からなるIoT委員会と、同委員会委員及びIoT関連発明に精通したIoT担当官から構成されるIoT審査チームを発足。
- IoT審査チームにおいて、最新のIoT関連技術や審査事例についての知見を共有。
- IoT担当官は、IoT関連発明を審査する各分野の審査官と協議を実施。

c. Initiatives concerning Improvement of the Examination System

- In April 2017, the IoT Committee, which is comprised of managers, etc., and the IoT Examination Team, which is comprised of members of the IoT Committee and IoT advisers who are well versed in IoT-related inventions, were launched. These were established to ensure uniform quality in patent examinations, which would lead to high quality patent rights.
- The IoT Examination Team shares knowledge of the newest IoT-related technologies and examples of examinations.
- The IoT advisers consult with examiners in various fields who examine IoT-related inventions.

※4 広域ファセット分類記号とは、各分野に跨り横断的な観点から付与される分類。

※5 細分化された具体的な分類項目については、次のHPを参照のこと。

「IoT関連技術の特許分類の細分化」：

日本語

https://www.jpo.go.jp/shiryou/s_sonota/iot_bunrui_saibunka.htm

※6 一つの案件に複数の広域ファセット分類記号が付与され得るので、2-1-5図の総公報数は1,424件を超過。

※4 A broad facet classification code means a classification that is assigned from a cross-sectional perspective spanning multiple fields.

※5 Refer to the following website for the specific subdivided classification entries. Subdivision of Patent Classification for IoT-Related Technologies: Japanese https://www.jpo.go.jp/shiryou/s_sonota/iot_bunrui_saibunka.htm

※6 Since there may be multiple broad facet classification codes assigned to one official gazette, the total number of official gazettes in Figure 2-1-5 exceeds 1,424.

5) 多様なユーザーニーズに対応するための審査施策

(i) 面接審査

審査官と代理人等との間において、円滑に意思疎通を図ることを目的として、面接審査を実施している。

- 2017年の実績は4,239件（内、出張面接審査1,168件、テレビ面接審査52件）。
- 出張面接審査において、利便性向上等のユーザーニーズに応えるため、遠隔地の開発者や弁理士等が参加可能となるよう、テレビ面接システムを活用。
- 2017年4月に地域イノベーション促進室を新設。面接審査の拡充に伴う、充実した面接審査支援体制を整備。
- 2017年7月に開所したINPIT-KANSAI（第2部第3章1.3）参照）では、出張面接審査の重点実施日を設定（2017年12月末時点では毎月第1・第3金曜日）。

(ii) 事業戦略対応まとめ審査

事業戦略対応まとめ審査は、事業に関連する複数の出願（特許・意匠・商標）を対象として、各分野の審査官が連携しながら審査を行い、事業展開に合わせたタイミングでの権利化を支援する施策である。

- 2017年における事業戦略対応まとめ審査の申請実績は42件。
- 対象とされた特許出願は471件、意匠登録出願は4件、商標登録出願は13件。

6) 先行技術文献調査のための基盤整備

先行技術文献調査は、審査の質の維持・向上のための重要な柱の一つであり、そのための基盤を特許文献・非特許文献ともに恒常的に整備することが重要である。

- 基盤整備の一環としてFI^{*7}、Fターム^{*8}の優れた分類項目を国際特許分類（IPC）化すること等を目的として、IPC改正の提案を積極的に実施。
- 2017年度には、機械、化学、又は電気に関する幅広い8つの技術分野について、IPC改正提案を実施。
- 標準関連文書に対する検索環境の整備の一環として、2017年度は国際電気通信連合（ITU）との間で、標準関連文書の特許庁への提供等について正式に合意。
- コンピュータソフトウェア関連の非特許文献を効率良く検索するため、より細分化したCSターム^{*9}の付与を開始。

5) Examination Measures for Addressing Various User Needs

(i) Interview Examinations

The JPO conducts interview examinations to facilitate communication between examiners and agents, etc.

- In 2017 there were 4,239 interview examinations (of these, 1,168 were conducted on-site and 52 were conducted by video conference).
- A video conferencing interview system is employed to meet user needs such as greater convenience in on-site interview examinations. This system allows inventors and patent attorneys, etc. who are in remote areas to participate.
- In April 2017, the JPO newly established the Regional Innovation Promotion Office. This office develops robust interview examination support systems in conjunction with the expansion of interview examinations.
- At INPIT-KANSAI (see Part 2, Chapter 3, 1.3), which was opened in July 2017, on-site interview examinations are given especially on certain days (the first and third Fridays of the month as of the end of December 2017).

(ii) Collective Examination for IP Portfolio Supporting Business Strategy

The Collective Examination for IP Portfolio Supporting Business Strategy is a measure that supports the acquisition of rights in time with operations of businesses by having examiners for multiple applications related to the business (patent, design, and trademark applications) coordinate with each other to conduct their respective examinations.

- In 2017, there were 42 applications for IP Portfolio Collective Examinations to Support Business Strategy.
- Of these, there were 471 patent applications, 4 applications for design registration, and 13 applications for trademark registration.

6) Improvement of the Foundation for Prior Art Searches

Prior art searches are one of the important pillars for maintaining and improving examination quality, and a constant improvement of the foundation for prior art searches for both patent documents and non-patent literature is therefore crucial.

- As part of improving the foundation for prior art searches, the JPO actively proposes to revise International Patent Classification (IPC) so as to make the superior classification entries of FI^{*7} and F-Term^{*8} the IPCs.
- In FY2017, the JPO made IPC revision proposals for eight broad technical fields in mechanical, chemical, and electrical areas.
- As part of improving the search environment for standards-related documents, in FY2017 the JPO made a formal agreement with the International Telecommunication Union (ITU) to provide standards-related documents to the JPO.
- The JPO is beginning to assign further subdivided CS Terms^{*9} in order to search for computer software-related non-patent literature efficiently.

*7 FI (File Index) とは、IPCを細展開した日本国特許庁独自の分類。

*8 Fターム (File forming Term) とは、技術分野（テーマ）ごとに種々の技術的観点（目的、用途、構造、材料、製法、処理操作方法、制御手段等）を展開した日本国特許庁独自の分類。

*9 CSターム (Computer Software Term) とは、コンピュータソフトウェア文献検索用に開発した分類。ソフトウェアマニュアル、非技術雑誌等を含むコンピュータソフトウェア関連技術の文献を蓄積したCSDB(Computer Software Database) において、CSタームによる検索が可能。

*7 An FI (File Index) means an original classification by the JPO that is a further development of the IPC.

*8 An F-Term (File Forming Term) means an original classification by the JPO expanded to various technical aspects (e.g., purpose, use, structure, material, manufacturing method, processing and operational method, and means of control) by technical area (theme).

*9 A CS Term (Computer Software Term) means a classification developed for use in searching for computer software literature. CS term searches can be made in the CSDB (Computer Software Database), where computer software-related technical literature, including software manuals and non-technical magazines, etc., are accumulated.

2 意匠

特許庁では、適切な意匠の保護やユーザーの利便性向上のため、早期審査、品質管理、意匠審査基準の改訂等、種々の取組を実施している。

1) 審査実績

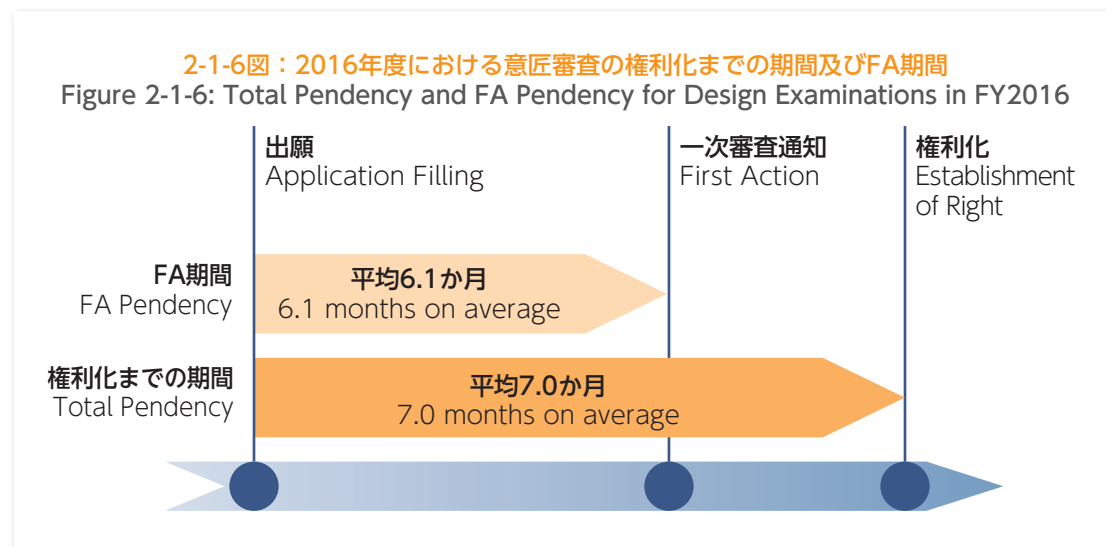
ユーザーの利便性を念頭に審査の効率化を進めており、2016年度（2016年4月－2017年3月）は、2-1-6図の「権利化までの期間」及び「一次審査通知までの期間」（FA期間）を達成した。

2 Designs

The JPO has been implementing various initiatives including accelerated examinations, quality management, and revision of the Examination Guidelines for Design in order to appropriately protect designs and to improve convenience for users.

1) Examination Performance

The JPO is working to make examinations more efficient for user convenience. In FY2016 (April 2016-March 2017), the JPO achieved the “total pendency” and “first action pendency” (“FA pendency”) periods shown in Figure 2-1-6.



(備考)

・権利化までの期間は、出願から最終処分までの期間（国際意匠出願を除く。また、出願人が制度上認められている期間を使い補正等を行うことによって、特許庁から再度の応答を求められる場合等を除く。）。

・FA期間は、出願から審査官による審査結果の最初の通知（主に登録査定又は拒絶理由通知書）が出願人等へ発送されるまでの期間。

Notes:

The total pendency is the period from the application filing to a final disposition (excluding international applications filed to register designs under the Hague Agreement, as well as cases in which applicants are required to respond to the second notices from the JPO for amendments submitted by the applicants within a certain period of time.).

The FA pendency is the period from the application filing until the JPO sends the first notice of examination results to the applicant, etc. (for the most part, either a decision to grant a registration or a notice of reasons for refusal).

2-1-7図：意匠審査のFA件数及び登録査定件数の推移
Figure 2-1-7: Number of FAs and Registration Decisions for Design Examinations

(年／Year)	2013	2014	2015	2016	2017
FA件数 The Number of FAs	31,268	30,581	29,752	30,448	31,600
登録査定件数 The Number of Registration Decisions	28,208	27,358	26,286	26,156	27,976

(備考)

FA件数は、審査官による審査結果の最初の通知（主に登録査定又は拒絶理由通知書）が出願人等へ発送された件数。

Note:

The number of first actions is the number of first notices of examination results sent by examiners to applicants, etc. (for the most part, either decisions to grant a registration or notices of reasons for refusal).

2) 早期審査

一定の要件の下で、出願人からの申出を受けて審査の着手時期を通常に比べて早める早期審査制度を実施している。

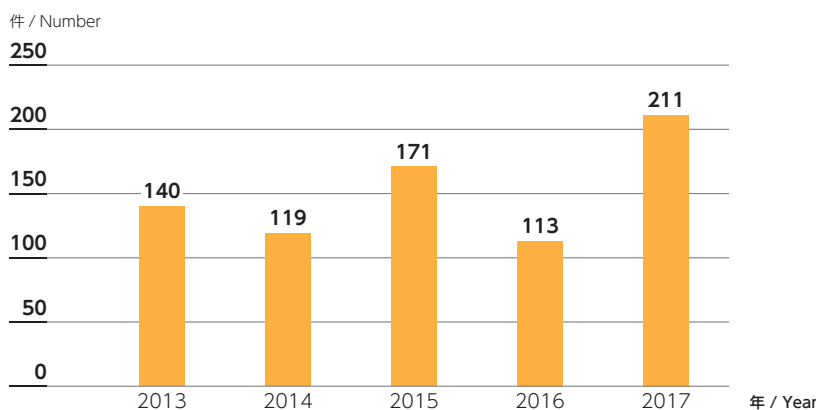
- 早期審査制度の対象は、(i) 権利化について緊急性を要する実施関連の意匠登録出願、(ii) 外国にも出願している意匠登録出願、(iii) 震災による被害を受けた企業等の意匠登録出願。
- 2017年は、早期審査の申出から一次審査通知までの期間は平均1.9か月。
- 前記(i)のうち、実際に模倣品が発生したものであって、出願手続に不備のない出願については、より一層早期に着手する取組を実施しており、2017年の前記期間は平均0.7か月。

2) Accelerated Examination

Under certain conditions, the JPO offers an accelerated examination system that, upon the request of an applicant, expedites the commencement of an examination.

- The accelerated examination system may be allowed in the following conditions: (i) applications for design registration related to implementations with an urgent need for registration; (ii) applications for design registration that are concurrently filed in one more other countries; or (iii) applications by businesses, etc. that have suffered damage due to an earthquake.
- In 2017, the period from an application for accelerated examination to the first action was 1.9 months on average.
- Among the applications under (i) above, the JPO is implementing an initiative to commence examination even earlier for applications where there are counterfeits already in existence and there are no problems in the application procedure. In 2017, the above period was 0.7 months on average.

2-1-8図：意匠早期審査の申出件数の推移
Figure 2-1-8: Number of Requests for Accelerated Examinations for Design



(備考)
早期審査の申出件数は、「早期審査に関する事情説明書」が提出された案件数。

Note:
The number of requests for accelerated examinations is the number of Explanations of Circumstances Concerning Accelerated Examination that were submitted.

3) 審査品質の更なる向上

(i) 品質管理に関する取組

品質管理の基本原則となる「意匠審査に関する品質ポリシー」、及び、品質管理及びその実施体制について文書化した「意匠審査の品質管理に関するマニュアル」(品質マニュアル)を公表している。この品質ポリシーと品質マニュアルの下、世界最高品質の意匠審査の実現に向けて以下の取組を行っている。また、2017年3月には、2017年度に達成すべき、意匠審査の質に関する定量目標を設定した^{*10}。更なる詳細については、特許庁ウェブサイト^{*11}を参照されたい。

3) Further Improvement of Examination Quality

(i) Quality Management Initiatives

The JPO has published its “Quality Policy on Design Examination”, which constitutes the JPO’s fundamental principles of quality management, and its “Quality Management Manual for Design Examination” (Quality Management Manual), which documents quality management and its implementation system. Under the Quality Policy and the Quality Management Manual, the JPO has been engaging in the following initiatives towards realizing the utmost quality of design examinations in the world. Moreover, in March 2017, the JPO established quantitative goals for the quality of design examinations to be achieved in FY2017.^{*10} For more details, please see the JPO’s website.^{*11}

※10 日本語 http://www.meti.go.jp/policy/policy_management/jissityou-hyouka/29fy-mokuhyou/29fy-jissityou-mokuhyou.pdf
英語 http://www.jpo.go.jp/torikumi_e/hiroba_e/pdf/170711_goals_2017/01.pdf



※10 Japanese http://www.meti.go.jp/policy/policy_management/jissityou-hyouka/29fy-mokuhyou/29fy-jissityou-mokuhyou.pdf
English http://www.jpo.go.jp/torikumi_e/hiroba_e/pdf/170711_goals_2017/01.pdf



a. 品質保証

- 審査官による通知・査定等に係る書面について、出願人・代理人に発送される前に、審査室の管理職が実体面・形式面にわたり全件チェック。
- 審査官の間のサーチや判断の相違を抑制するため、一定の条件に該当する案件については、審査官は管理職と協議を実施。

a. Quality Assurance

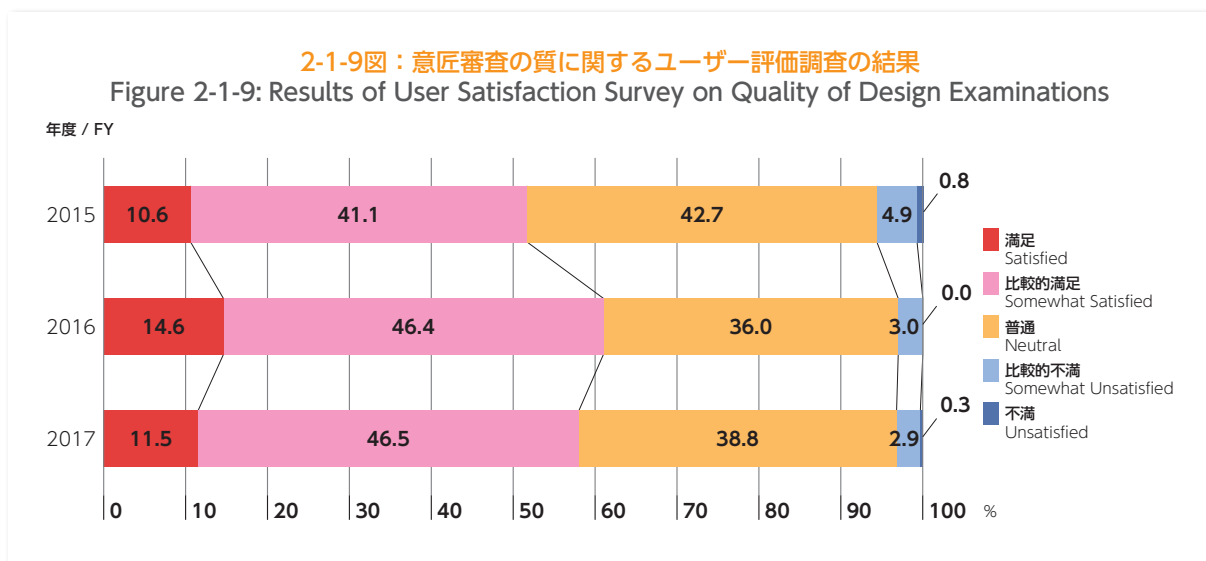
- Before sending applicants and agents documents by examiners regarding notices and decisions, etc., managers of the examination office check substantive and formal aspects of such documents for all cases.
- Examiners consult with supervisors about cases that meet certain conditions in order to curb search and decision discrepancies among examiners.

b. 品質検証

- 審査官による通知・査定等に係る書面を対象に（対象は無作為に抽出）、品質管理官がその通知・査定等が法令、審査基準等の指針にのっとり行われているかといった観点から監査を実施。
- 品質管理官による前記監査について、2017年4月より起案書の発送前に実施。これにより、監査を通じて発見された誤りを解消した上で、起案書を出願人・代理人に発送することが可能。
- ユーザーニーズ把握のため、日本企業、外国企業の代理人を対象としたユーザー評価調査を実施。
- 企業との意見交換会でのヒアリングや個別案件に関する情報提供の受付を実施。

b. Quality Verification

- The JPO randomly selects notices and decisions, etc. prepared by examiners and quality management officers audit them as to whether those notices and decisions, etc. follow laws and regulations, examination guidelines and other guidelines.
- In April 2017, quality management officers began to conduct audits prior to sending documents. With this, it became possible to send documents to applicants or agents after resolving mistakes that are discovered through the audit.
- The JPO conducts user satisfaction surveys targeting Japanese businesses and agents of foreign businesses in order to ascertain user needs.
- The JPO conducts interviews at informal meetings with businesses and accepts the provision of information concerning individual cases.



c. 審査品質管理小委員会

- 審査品質管理小委員会の報告を踏まえ、特許・意匠・商標の審査の品質管理における取組を実施（第2部第1章1.4）（i）c. 参照）。

c. Subcommittee on Examination Quality Management

- The JPO implements initiatives in the quality management of patent, design, and trademark examinations based on reports by the Subcommittee on Examination Quality Management (see Part 2, Chapter 1, 1.4) (i)c.).

※11 日本語 <http://www.jpo.go.jp/seido/hinshitsukanri/hinshitsukanri.htm>
 英語 http://www.jpo.go.jp/seido_e/quality_mgt/quality_mgt.htm



*11 Japanese <http://www.jpo.go.jp/seido/hinshitsukanri/hinshitsukanri.htm>
 English http://www.jpo.go.jp/seido_e/quality_mgt/quality_mgt.htm



4) 制度の利便性向上のための意匠審査基準改訂

企業活動のグローバル化やハーグ協定への加入を背景に、意匠制度の利便性を向上させるべく、手続の簡素化・明確化等に向けた検討を行った結果を踏まえ、下記の点について意匠審査基準^{※12}の改訂を行い、2017年4月1日から審査される意匠登録出願に適用している。

- 意匠の新規性喪失の例外規定の適用に係る運用の簡素化・明確化
- 願書及び図面の記載要件の緩和
- 参考図の取扱いの明確化

4) Revision of the Examination Guidelines for Design to Improve the User-friendliness of System

Under the circumstances of the globalization of corporate business activities, and in line with Japan's accession to the Hague Agreement, in order for the design system to improve its user-friendliness, the JPO revised the Examination Guidelines for Design^{*12} with respect to the following points based on the results of studies and deliberations to simplify and clarify filing procedures, etc. The revised version of the Examination Guidelines for Design has been applied to applications for design registration to be examined on April 1st, 2017 and after.

- Simplification and clarification of the operational standards for application of the provisions on the exception to the lack of novelty of design
- Relaxation of requirements for the statements in the application and drawings
- Clarification of handling of a reference view

※12日本語 https://www.jpo.go.jp/shiryou/kijun/kijun2/isyou-shinsa_kijun.htm
英語 http://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/design_es.htm

※12, *12
(日本語)
(Japanese)



* 12 Japanese https://www.jpo.go.jp/shiryou/kijun/kijun2/isyou-shinsa_kijun.htm
English http://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/design_es.htm

※12, *12
(英語)
(English)



3 商標

特許庁では、適切な商標の保護やユーザーの利便性向上のため、早期審査、品質管理、新しいタイプの商標の保護、地域団体商標の保護等、種々の取組を実施している。

1) 審査実績

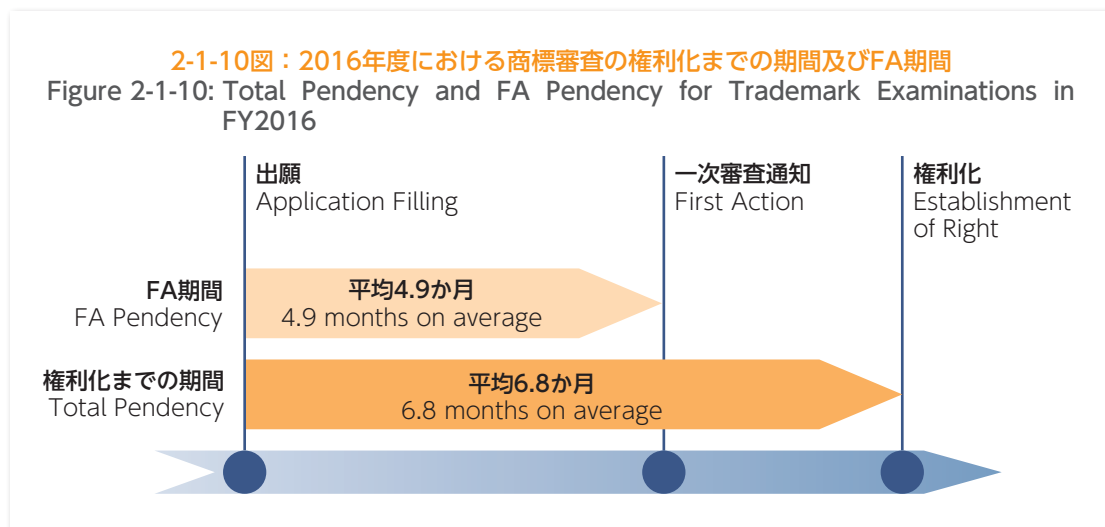
ユーザーの利便性を念頭に審査の効率化を進めており、2016年度（2016年4月-2017年3月）は、2-1-10図の「権利化までの期間」及び「一次審査通知までの期間」（FA期間）を達成した。

3 Trademarks

The JPO has been implementing various initiatives including accelerated examinations, quality management, protection of non-traditional trademarks, and protection of regional collective trademarks in order to appropriately protect trademarks and to improve convenience for users.

1) Examination Performance

The JPO is working to make examinations more efficient for user convenience. In FY2016 (April 2016-March 2017), the JPO achieved the “total pendency” and the “first action pendency” (“FA pendency”) shown in Figure 2-1-10.



(備考)

- ・権利化までの期間は、出願から最終処分までの期間（新しいタイプの商標の出願（第2部第1章3、5）参照）を除く。また、出願人が制度上認められている期間を使って補正等を行うことによって特許庁から再度の応答等を出願人に求めるような場合等を除く。）。
- ・FA期間は、出願から審査官による審査結果の最初の通知（主に登録査定又は拒絶理由通知書）が出願人等へ発送されるまでの期間。

Notes:

- The total pendency is the period from application filing to final disposition (excluding non-traditional trademarks (see Part 2, Chapter 1, 3. 5)); also, excluding cases such as where the JPO asks the applicant to make a second response or the like as a result of the applicant taking advantage of the period allowed under the system to make an amendment, etc.).
- The FA period is the period from the application filing until the JPO sends the first notice of examination results to the applicant, etc. (for the most part, either a decision to grant a registration or a notice of reasons for refusal).

2-1-11図：商標審査のFA件数及び登録査定件数の推移
Figure 2-1-11: Number of FAs and Registration Decisions for Trademark Examinations

(年/Year)	2013	2014	2015	2016	2017
FA件数 The Number of FAs	121,254	122,048	111,831	131,624	126,407
登録査定件数 The Number of Registration Decisions	106,885	105,637	100,244	113,025	115,754

(備考)

FA件数は、審査官による審査結果の最初の通知（主に登録査定又は拒絶理由通知書）が出願人等へ発送された件数。

Note:

The number of first actions is the number of first notices of examination results sent to applicants, etc. (for the most part, either a decision to grant a registration or a notice of reasons for refusal).

2) 早期審査

一定の要件の下で、出願人からの申出を受けて審査の着手時期を通常に比べて早める早期審査制度を実施している。

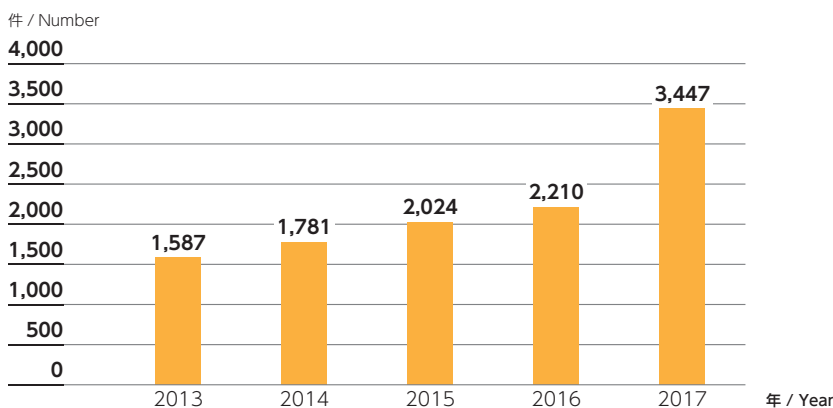
- 早期審査制度の対象は下記のとおり^{※13}。
 - ① 出願商標を指定商品・指定役務に既に使用している又は使用の準備を相当程度進めていて、かつ、権利化について緊急性を要する出願
 - ② 出願商標を既に使用している商品・役務又は使用の準備を相当程度進めている商品・役務のみを指定した出願
 - ③ 出願商標を指定商品・指定役務に既に使用している又は使用の準備を相当程度進めていて、かつ、商標法施行規則別表や類似商品・役務審査基準等に掲載されている商品・役務のみを指定した出願
 - ④ 震災による被害を受けた企業等の出願
- 2017年は、早期審査の申出から一次審査結果の通知までの期間は平均1.8か月。

2) Accelerated Examination

Under certain conditions, the JPO offers an accelerated examination system that, upon the request of an applicant, expedites the commencement of an examination.

- The accelerated examination system may be allowed in the following conditions:^{*13}
 - ① applications that the trademark is already used in designated goods or designated services, or preparations for use of the trademark are considerably advanced, and that there is an urgent need for registering the trademark;
 - ② applications that designate only goods or services in which the trademark is already used or goods or services for which preparations for use are considerably advanced;
 - ③ applications that the trademark is already used in designated goods or designated services, or preparations for use of the trademark are considerably advanced, and that only goods or services listed on the Examination Guidelines for Similar Goods and Services or the like are designated; or
 - ④ applications by businesses, etc. that have suffered damage due to natural disasters.
- In 2017, the period from an application for accelerated examination to the first action was 1.8 months on average.

2-1-12図：商標早期審査の申出件数の推移
Figure 2-1-12: Number of Requests for Accelerated Examinations for Trademark



(備考)
早期審査の申出件数は、「早期審査に関する事情説明書」が提出された件数。

Note:
The number of requests for accelerated examinations is the number of Explanations of Circumstances Concerning Accelerated Examination that were submitted.

3) 審査品質の更なる向上

(i) 品質管理に関する取組

品質管理の基本原則となる「商標審査に関する品質ポリシー」、及び、品質管理及びその実施体制について文書化した「商標審査の品質管理に関するマニュアル」（品質マニュアル）を公表している。この品質ポリシーと品質マニュアルの下、商標審査の質の維持・向上を図るため、以下の取組を行っている。また、2017年3月には、

3) Further Improvement of Examination Quality

(i) Quality Management Initiatives

The JPO has published its “Quality Policy on Trademark Examinations”, which constitutes the JPO’s fundamental principles of quality management, and its “Quality Management Manual for Trademark Examination” (Quality Management Manual), which documents quality management and its implementation system. Under the Quality Policy and the Quality Management Manual, the JPO has been engaging in the following initiatives

※13 新しいタイプの商標（第2部第1章3.5）参照）は、その審査の特殊性から審査の質を確保するため、早期審査の対象外。

*13 Non-traditional trademarks (see Part 2, Chapter 1, 3. 5)), due to the special characteristics of their examination, are excluded from accelerated examination in order to maintain the quality of examination.

2017年度に達成すべき、商標審査の質に関する定量目標を設定した^{※14}。更なる詳細については、特許庁ウェブサイト^{※15}を参照されたい。

in order to maintain and improve the quality of trademark examinations. Moreover, in March 2017, the JPO established quantitative goals for the quality of trademark examinations to be achieved in FY2017.^{※14} For more details, please see the JPO's website.^{※15}

a. 品質保証

- 審査官による通知・査定等に係る書面について、出願人・代理人に発送される前に、審査室の管理職が実体面・形式面にわたり全件チェック。
- 審査官の知見を共有し、迅速・的確な判断を行うため、審査官の間で協議を実施。

a. Quality Assurance

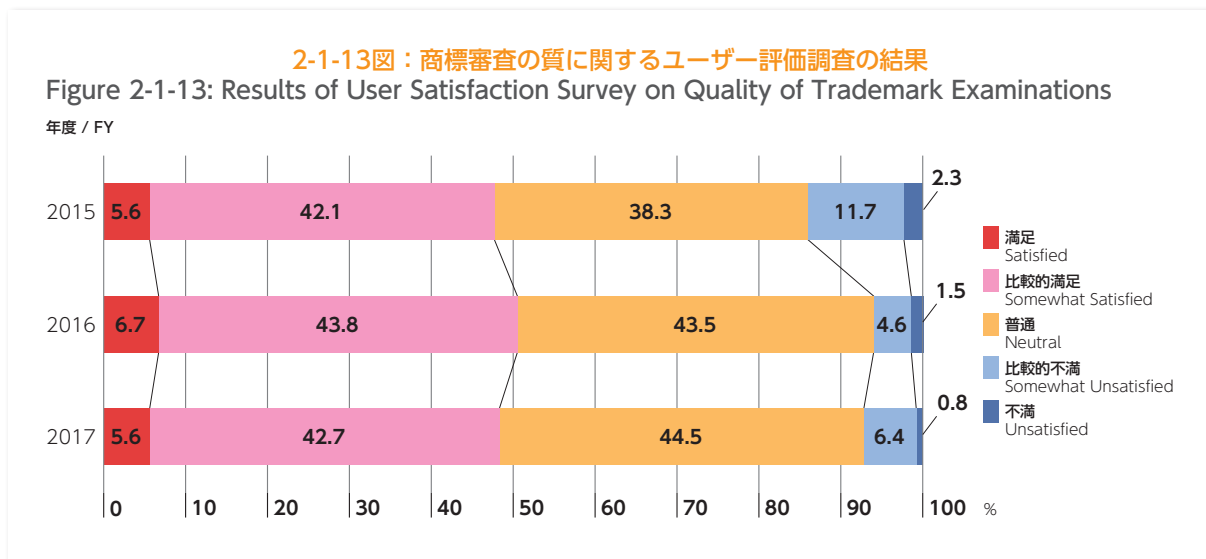
- Before sending applicants and agents documents by examiners regarding notices and decisions, etc., managers in the examination office check substantive and formal aspects of such documents for all cases.
- Examiners consult with other examiners in order to share knowledge and to make prompt and appropriate decisions.

b. 品質検証

- 審査官による通知・査定等に係る書面を対象に（対象は無作為に抽出）、品質管理官がその通知・査定等が法令、審査基準等の指針ののっとって行われているかといった観点から監査を実施。
- ユーザーニーズ把握のため、日本企業、外国企業の代理人を対象としたユーザー評価調査を実施。
- 企業との意見交換会でのヒアリングや個別案件に関する情報提供の受付を実施。

b. Quality Verification

- The JPO randomly selects notices and decisions, etc. prepared by examiners and quality management officers audit them as to whether those notices and decisions, etc. follow laws and regulations, examination guidelines and other guidelines.
- The JPO conducts user satisfaction surveys targeting Japanese businesses and agents of foreign businesses in order to ascertain user needs.
- The JPO conducts interviews at informal meetings with businesses and accepts the provision of information concerning individual cases.



c. 審査品質管理小委員会

- 審査品質管理小委員会の報告を踏まえ、特許・意匠・商標の審査の品質管理における取組を実施（第2部第1章1.4）（i）c. 参照）。

c. Subcommittee on Examination Quality Management

- The JPO implements initiatives in the quality management of patent, design, and trademark examinations based on reports by the Subcommittee on Examination Quality Management (see Part 2, Chapter 1, 1.4) (i) c.).

※14 日本語 http://www.meti.go.jp/policy/policy_management/jissityou-hyouka/29fy-mokuhyou/29fy-jissityou-mokuhyou.pdf

英語 http://www.jpo.go.jp/torikumi_e/hiroba_e/pdf/170711_goals_2017/01.pdf

※15 日本語 <http://www.jpo.go.jp/seido/hinshitsukanri/hinshitsukanri.htm>

英語 http://www.jpo.go.jp/seido_e/quality_mgt/quality_mgt.htm

※14, ※14
日本語
(Japanese)



※15, ※15
日本語
(Japanese)



* 14 Japanese http://www.meti.go.jp/policy/policy_management/jissityou-hyouka/29fy-mokuhyou/29fy-jissityou-mokuhyou.pdf

English http://www.jpo.go.jp/torikumi_e/hiroba_e/pdf/170711_goals_2017/01.pdf

* 15 Japanese <http://www.jpo.go.jp/seido/hinshitsukanri/hinshitsukanri.htm>

English http://www.jpo.go.jp/seido_e/quality_mgt/quality_mgt.htm

※14, ※14
英語
(English)



※15, ※15
英語
(English)



4) 商標審査基準の全面改訂

2015年度及び2016年度の2か年で、商標審査基準^{※16}の全面改訂を行った。下記の両項目について、商取引を取り巻く環境の変化やユーザーニーズ、近時の裁判例等の動向を踏まえて内容面を改訂するとともに、構成全体の整理や用語の統一等の観点から構成面を改訂した。

- 2015年度は、商標の識別力(主に商標法第3条)(2016年4月1日から適用)。
- 2016年度は、主に商標の不登録事由(主に商標法第4条)(2017年4月1日から適用)。

5) 新しいタイプの商標

2015年4月1日より、新しいタイプの商標についても商標登録が可能となった。これらの商標は、言語を超えたブランドの発信手段として、ブランド戦略に大きな役割を果たすことが期待される。

- 新しいタイプの商標とは、(i) 動き商標、(ii) ホログラム商標、(iii) 色彩のみからなる商標、(iv) 音商標及び(v) 位置商標。
- 全体の出願件数は1,607件、であり登録件数は352件(2017年12月末)。

6) 地域団体商標

(i) 地域団体商標制度の概要

地域団体商標制度とは、地域名と商品(サービス)名を組み合わせた地域ブランドを、商標権としてより適切に保護するために、2006年4月に導入された制度である。

- 導入前は全国的な知名度がなければ登録が認められなかったが、導入により一定範囲の需要者に認識されていれば登録可能となったことで、より早い段階で商標登録を受けることが可能。
- 2017年12月末までに1,192件が出願され、そのうち617^{※17}件が登録。

4) Complete Revision of Examination Guidelines for Trademark

Over the two years in FY2015 and FY2016, the JPO completely revised the Examination Guidelines for Trademark^{*16}. Along with making revisions to the Guidelines' contents with respect to the following two aspects in view of changes in the environment surrounding commercial transactions and trends in user needs and recent judicial precedents, etc., the JPO also made structural revisions to reorganize the overall structure and to standardize terms among other things.

- In FY2015, trademark distinctiveness (primarily Article 3 of the Trademark Act) (applied from April 1, 2016)
- In FY2016, primarily grounds for unregistrable trademarks (primarily Article 4 of the Trademark Act) (applied from April 1, 2017)

5) Non-Traditional Trademarks

Non-traditional trademarks also became registrable from April 1, 2015. These types of trademarks are expected to play an important role in branding strategies as a means of brand delivery that extends beyond words.

- A non-traditional trademark means a (i) motion mark, (ii) hologram mark, (iii) color per se mark, (iv) sound mark, or (v) position mark.
- Overall there have been 1,607 applications filed, and 352 trademarks have been registered (as of the end of December 2017).

6) Regional Collective Trademarks

(i) Outline of Regional Collective Trademark System

The regional collective trademark system was introduced in April 2006 in order to more appropriately protect as trademarks regional brands that combine the name of a region and the name of the goods (or service).

- Prior to the introduction of the system, registration of the regional brand was not allowed unless it had national recognition. However, with the introduction of this system, registration became allowed as long as there is recognition by consumers within a certain range. This makes it possible to obtain a trademark registration at an earlier stage.
- As of the end of December 2017 there were 1,192 applications filed, and of those, 617^{*17} were registered.

※16 日本語 https://www.jpo.go.jp/shiryou/kijun/kijun2/syohyou_kijun.htm
英語 http://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/tt1302-002.htm



* 16 Japanese https://www.jpo.go.jp/shiryou/kijun/kijun2/syohyou_kijun.htm
English http://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/tt1302-002.htm



※17 登録件数を地域別に見ると、北海道28件、東北48件、関東・甲信越94件、北陸54件、東海83件、近畿144件、中国40件、四国28件、九州80件、沖縄17件に加えて、外国からの出願も3件登録(複数都道府県にまたがるものはそれぞれカウント)。

* 17 Registration numbers by region are 28 for Hokkaido, 48 for the Tohoku region, 94 for the Kanto-Koshinetsu region, 54 for the Hokuriku region, 83 for the Tokai region, 144 for the Kinki region, 40 for the Chugoku region, 28 for Shikoku, 80 for Kyushu, 17 for Okinawa, and in addition, there were three registrations from abroad (registrations spanning more than one prefecture are counted as one in each region).

(ii) 地域団体商標制度の周知活動

地域団体商標制度の一層の普及と活用を促進するため、各種取組を実施している。

- 2017年は、全国各地で開催される巡回特許庁において、全国5か所で地域ブランドセミナーを開催。
- 国際的にも地域団体商標制度を周知するため、2017年2月には台湾、3月にはジュネーブで開催されたWIPO・SCTにおいて、セミナーを実施。また5月にはバルセロナで開催されたINTA総会において、パネル展示、及びパンフレット配布。
- 「地域団体商標ガイドブック」を作成し、地域団体商標制度説明会の参加者等に配布。
- 制度のシンボルマークとして「地域団体商標マーク」を策定。今後、特許庁及び権利者団体による使用を通じて、地域団体商標制度の一層の普及と活用を促進。

(ii) Activities to Publicize the Regional Collective Trademark System

The JPO is undertaking various initiatives to further spread and to promote the use of the regional collective trademark system.

- In 2017, the JPO held regional brand seminars in five locations nationwide through the Circuit Japan Patent Office that is held in areas throughout Japan.
- In order to also publicize the regional collective trademark system internationally, the JPO conducted seminars at the WIPO SCT held in Taiwan in February and in Geneva in March 2017. In addition, the JPO displayed panels and distributed brochures at the INTA annual meeting held in Barcelona in May.
- The JPO created the “Regional Collective Trademark System Guidebook” and distributed it to participants in seminars to explain the system.
- The “The mark of Regional Collective Trademark” was devised as the symbol mark for the system. Going forward, the JPO aims to promote the spread and use of the regional collective trademark system through the use of this symbol mark by the JPO and the holders of regional collective trademark.



地域団体商標マーク

The mark of Regional Collective Trademark

4 審判

審判は、審査の上級審として審査官がした拒絶査定を見直す役割や、産業財産権の有効性をめぐる紛争の早期解決に資する役割を担っている。これらの役割を十分に果たすため、審理の迅速化や審理内容の充実に向けた種々の取組を実施している。

1) 審判実績

審判においても迅速かつ的確な審理に取り組んでおり、2017年の審理の状況は2-1-14図のとおりである。

- 早期の判断を求めるニーズに応えるため、特定の要件を満たす拒絶査定不服審判事件について、申出により審理を優先的に行う早期審理を実施。
- 2017年における早期審理の申出件数^{*18}は特許で173件、意匠で3件、商標で7件であり、審理期間^{*19}は特許で平均3.7か月、意匠で平均2.9か月、商標で平均2.7か月。
- 無効審判等、権利付与後にその権利の有効性を争う審判事件については、紛争の早期解決を図るため、原則として査定系の審判事件より優先的に着手。

4 Trials and Appeals

Trials and Appeals play roles in reviewing examiner's decision of refusal as the upper instance of examination, and in contributing to early resolution of disputes over the validity of IP rights. To fulfill these roles, various initiatives have been taken toward expeditious proceedings and improvement of the contents of proceedings.

1) Performance of Trials and Appeals

The JPO has been working on expeditious and precise proceedings for trial and appeal cases. The status of the proceedings in 2017 is as shown in Figure 2-1-14.

- In response to the needs for early determination, the JPO conducts accelerated appeal proceedings under which the appeal against an examiner's decision of refusal case is prioritized in proceedings upon request, if the case satisfies the specific requirements.
- In 2017, the number of requests for accelerated appeal proceedings^{*18} was 173 for patents, 3 for designs, and 7 for trademarks. The average pendency period^{*19} was 3.7 months for patents, 2.9 months for designs, and 2.7 months for trademarks.
- Inter-partes trial cases, including trial for invalidation, where the validity of granted rights is disputed, are prioritized over ex-parte appeal cases in principle.

2-1-14図：2017年 審理の状況
Figure 2-1-14: Status of Proceedings in 2017

	拒絶査定不服審判 Appeals against an examiner's decision of refusal		無効審判 Trial for invalidation		訂正審判 Trial for correction		異議申立 Opposition		取消審判 Trial for rescission	
	処理件数 ¹ Number of Disposi- tions	審理期間 ² Pendency	処理件数 ¹ Number of Disposi- tions	審理期間 ² Pendency	処理件数 ¹ Number of Disposi- tions	審理期間 ² Pendency	処理件数 ¹ Number of Disposi- tions	審理期間 ² Pendency	処理件数 ¹ Number of Disposi- tions	審理期間 ² Pendency
特許・実用新案 ³ Patents & Utility Models	9,622	12.6	171	10.6	139	2.7	1,214	7.2	-	-
意匠 Designs	388	6.2	24	9.6	-	-	-	-	-	-
商標 Trademarks	464	6.0	89	10.3	-	-	463	6.4	983	6.5

(備考)

- 1 請求成立（含一部成立）、請求不成立（含却下）、及び取下げ・放棄の件数の合計。異議申立は権利単位の件数。
- 2 審判請求日（※1）から、審決の発送日（※2）、取下げ・放棄の確定日、又は却下の発送日までの期間の暦年平均。単位は箇月。
（※1）異議申立については異議申立日。特許拒絶査定不服審判において前置審査に係る事件については審理可能となった日（部門移管日）。
（※2）特許異議申立において取消理由通知（決定の予告）を行うものはその発送日、特許無効審判において審決の予告を行うものはその発送日。
- 3 無効審判の統計は実用新案を含む件数。

Notes:

1. The total number of requests granted (including requests partly granted), requests not granted (including dismissals), and withdrawals/abandonments. The number of oppositions is counted by opposed patent.
2. Average processing period in a calendar year from the date a request is filed (*1), to the date a trial/appeal decision is dispatched (*2), to the date a withdrawal or abandonment is finalized and concluded, or to the date a dismissal is dispatched. The unit is a month.
(*1) The date for opposition is the date an opposition is requested. The date for cases concerning "reconsiderations by examiners as one of appeal proceedings" in "appeal against examiner's decision of refusal" is the date it becomes ready to conduct proceedings (the date the case has been transferred to the board in charge).
(*2) In patent opposition cases, if a "notification of reasons for revocation" (advance notice of a trial decision) is to be made, it is the date the notice is dispatched. In trial for patent invalidation cases, if an "advance notice of a trial decision" is to be made, it is the date the notice is dispatched.
3. Trial for invalidation statistics include invalidation trials for utility models.

※18「早期審理に関する事情説明書」が提出され部門移管された件数。部門移管されなかった件数（前置登録された事件等）を含めると、2017年における早期審理の申出件数は、特許が181件、意匠が3件、商標が7件。

*18 The number of cases where the "the Written Explanation of Circumstances Concerning Accelerated Appeal Proceedings" was submitted and the cases were transferred to the board in charge. When the cases that were not transferred to the board in charge (including cases that involve decision to grant a patent upon reconsideration by examiner before appeal proceeding) are included, the number of requests for accelerated appeal proceedings made in 2017 was 181 for patents, 3 for designs, and 7 for trademarks.

2) 外部知見を活用した審理の一層の適正化

外部知見を活用して審理の一層の適正化を図るために、以下の取組を実施している。

(i) 審判実務者研究会

- 審判官に加えて、企業の知的財産部員、弁理士、弁護士等の実務者から構成される「審判実務者研究会」を例年開催。
- 2016年から裁判官がオブザーバーとして参加。
- 実例を題材に、審決・判決における判断手法について検討を行い、その結果を取りまとめた報告書^{※20}を公表。
- 2017年は、特許14事例、意匠2事例、商標4事例の計20事例を検討。

(ii) 審判参与

- 知的財産分野における経験が豊富な元裁判官や学識経験者を審判参与として採用。
- 高度な法律問題に対する助言を与える役割のほか、研修等の講師も担当。

(iii) 審・判決調査員

- 審理指揮の一層の向上に資するべく、法曹資格等を有する者を審・判決調査員として採用。
- 民事法的側面に関する助言を与えるとともに、口頭審理、審理事項通知書及び調書の内容について参考意見を作成・フィードバックを実施。

3) 審理内容の充実

審理内容をより一層充実させるため、以下の取組を実施している。

(i) 口頭審理の活用

- 無効審判や取消審判等の当事者系審判事件においては、的確な争点の把握・整理や当事者の納得感の向上のため、合議体と当事者双方が口頭でやりとりする口頭審理を積極的に活用。
- 特実部門及び意匠部門では、無効審判事件のうち当事者の全てが書面審理を申し立てている場合等を除いて、原則全件口頭審理を実施。
- 商標部門では、取消審判事件のうち答弁書及び弁駁書

2) Improving Proceedings Utilizing External Knowledge

The JPO is implementing the following initiatives in order to further improve proceedings by utilizing external knowledge:

(i) Trial and Appeal Practitioner Study Group

- The Trial and Appeal Practitioner Study Group, which is comprised of practitioners such as corporate IP personnel, patent attorneys, and lawyers, etc., in addition to JPO administrative judges, is convened every year.
- The Study Group has welcomed the judges as observers since 2016.
- The Study Group deliberates on the method of determination in making trial/appeal decisions or court decisions in actual cases, and publishes a report^{*20} that summarizes the results of its studies.
- In 2017, the Study Group studied a total of 20 cases: 14 patent cases, 2 design cases, and 4 trademark cases.

(ii) Executive Legal Advisors on Trials and Appeals

- The JPO has invited former judges and academic experts who have sufficient experience in the IP field as Executive Legal Advisers on Trials and Appeals.
- Executive Legal Advisers play a role in giving advice on advanced legal issues as well as teaching at training sessions, etc.

(iii) Consultants on Trial/Appeal Decisions and Court Judgements

- In order to contribute to further improvement in the proceedings, the JPO has appointed those who have judicial qualification, etc., as Consultants on Trial/Appeal Decisions and Court Judgements.
- Consultants on Trial/Appeal Decisions and Court Judgements provide advice on the aspect of civil law, and prepare and provide feedback on the contents of oral proceedings as well as written notice of proceeding matters and trial record.

3) Improving the Contents of Proceedings

The JPO is implementing the following initiatives in order to further improve the contents of proceedings:

(i) Utilization of Oral Proceedings

- In inter-partes trial cases (including trials for invalidation and trials for rescission), oral proceedings, where the panel and the parties orally communicate with each other, are proactively utilized in order to accurately grasp and sort out the points of dispute and to increase the parties' acceptance of the results.
- As for trials for invalidation for patents, utility models and designs, oral proceedings are conducted for all cases in principle except for those cases where all parties concerned request documentary proceedings.

※19 早期審理の対象となった事件について、申出がなされ審理可能となってから審決が発送されるまでの期間の暦年平均。

※20 日本語 https://www.jpo.go.jp/shiryoutoushin/kenkyukai/sinposei_kentoukai.htm
英語 https://www.jpo.go.jp/english/reference_room/reports/jitsumusya_kenkyukai_e.htm



*19 In the cases that are subject to accelerated appeal proceedings, the average pendency is an average CY period from the day when the proceedings can be initiated, after a request for appeal, to the day when an appeal decision is dispatched.

*20 Japanese https://www.jpo.go.jp/shiryoutoushin/kenkyukai/sinposei_kentoukai.htm
English https://www.jpo.go.jp/english/reference_room/reports/jitsumusya_kenkyukai_e.htm



が提出されたものについては、当事者の全てが書面審理を申し立てている場合等を除いて、原則全件口頭審理を実施。

- 当事者が持参した資料や証拠物品、審判書記官が作成した調書案等の内容を、参加者全員が迅速かつ的確に把握して、口頭審理をより円滑にするために、モニター等のIT機器を審判廷に導入。
- 2017年は、233件の口頭審理を実施。

(ii) 巡回審判・出張面接等の推進

- 地方の企業・大学等が審判事件の当事者である場合には、当事者の希望に応じて合議体が全国各地に赴き、巡回審判（無効審判の口頭審理）や、出張面接（審理に関して意思疎通を図るための面接）を実施。
- テレビ会議システムを用いて合議体が当事者と意思疎通を図るテレビ面接も行い、地方ユーザーを支援。
- 2017年は、35件の巡回審判、19件の出張面接、4件のテレビ面接を実施。

(iii) 裁判所の動向の把握・分析

- 的確な審理の遂行のため、審決取消訴訟判決や侵害訴訟判決における権利の有効性に関する判示内容を分析・共有。
- 無効審判等においては、裁判所との情報交換や当事者への確認を通じて、侵害訴訟で提出された無効の抗弁の主張に関する証拠資料を入手し、審理に活用。

(iv) 審査の品質の維持・向上への貢献

- 審判部は、審査の品質の維持・向上に貢献すべく、審査部への審理結果のフィードバックや、審査部との定期的な意見交換を実施。

- As for trials for rescission of trademark registration for which a written reply and a written refutation have been submitted, oral proceedings are conducted for all cases in principle except for those where all parties concerned request documentary proceedings.
- The trial/appeal court is equipped with IT apparatuses including monitors, etc., so that all the participants can grasp, in a prompt and accurate manner, materials and evidence brought by the parties concerned, as well as the contents of draft trial records prepared by the trial clerks, etc. and so that oral proceedings are more smoothly conducted.
- In 2017, 233 oral proceedings were conducted.

(ii) Promotion of Circuit Trials and Appeals On-Site Interviews, etc.

- When companies, universities, etc. in the local regions are the parties concerned, the panel may visit their regions at their request to conduct circuit trials and appeals (oral proceedings conducted for trials for invalidation) or on-site interviews (interviews aimed at facilitating communication on trial and appeal proceedings).
- The JPO also offers video conference interviews to facilitate communications between the panel and the parties concerned using a video conference system to support regional users.
- In 2017, 35 circuit trials and appeals, 19 on-site interviews, and 4 video conference interviews were conducted.

(iii) Understanding and Analyzing the Trends in Court Decisions

- To conduct accurate and appropriate proceedings, the JPO analyzes and shares court decisions regarding the validity of rights in revocation actions against trial/appeal decisions and infringement lawsuits.
- Regarding trials for invalidation, etc., the JPO obtains evidence submitted for invalidity defense in patent infringement lawsuits, through exchange of information with the court and confirmation to the parties concerned, and utilizes them for proceedings.

(iv) Contributing to the Maintenance and Improvement of Quality of Examination

- In order to contribute to maintaining and improving quality of examination, the Trial and Appeal Department provides the results of proceedings to the examination departments and exchanges opinions with the examination departments on a regular basis.

4) 審判制度の普及啓発

審判制度の普及啓発のために、以下の取組を実施している。

(i) 審決英訳の提供

- 審判に関する情報の国際発信を充実させるため、法解釈や運用の理解の参考となる審決、異議決定、判定の英訳を人手翻訳により作成し、特許庁ウェブサイト^{※21}に掲載。
- 2017年は、97件の審決英訳を提供。

(ii) 模擬口頭審理の実演

- 口頭審理の充実、巡回審判の一層の利用促進、及び、審判制度の普及・啓発を図るため、模擬口頭審理を実演。
- 2017年は、巡回特許庁や特許庁知財セミナーでの実演を実施。



巡回特許庁 in 東北における実演
Demonstration at "Circuit JPO in Tohoku"

4) Disseminating and Raising Awareness of the Trial and Appeal System

The JPO is engaged in the following initiatives to disseminate and raise awareness of the trial and appeal system:

(i) Providing English Translations of Trial/Appeal Decisions

- In order to improve international dissemination of information on trials and appeals of the JPO, the JPO has been providing manually-translated English edition of trial/appeal decisions, decisions on opposition, and Hantei (advisory opinions on the scope of industrial property rights), at the JPO's website,^{*21} that would help users with the understanding of the law interpretation and its practices in Japan.
- In 2017, the JPO provided English translations for 97 trial/appeal decisions.

(ii) Demonstrating Mock Oral Proceedings

- The JPO holds mock oral proceedings in order to improve oral proceedings, to further promote the use of circuit trials and appeals and to disseminate and raise awareness of the trial/appeal system.
- In 2017, the JPO demonstrated mock oral proceedings at the Circuit JPO sessions and at JPO IP seminars.



巡回特許庁 in KANSAIにおける実演
Demonstration at "Circuit JPO in KANSAI"

※21 日本語 <http://www.jpo.go.jp/seido/shinpan/shinketsu-eiyaku.html>
英語 https://www.jpo.go.jp/torikumi_e/t_torikumi_e/decisions.htm

※21, *21
(日本語)
(Japanese)

*21 Japanese <http://www.jpo.go.jp/seido/shinpan/shinketsu-eiyaku.html>
English https://www.jpo.go.jp/torikumi_e/t_torikumi_e/decisions.htm

※21, *21
(英語)
(English)