

Examinations/Trials and Appeals

審査・審判

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, the associated examination results will be upheld overseas to facilitate the smooth acquisition of rights abroad. 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 (IP) creation cycle, comprised of IP creation, the establishment of rights, and utilization of rights, there is a growing need to shorten total pendency, and the JPO has been engaging in initiatives to speed up examinations. [Figure 2-1-1] [Figure 2-1-2]

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, including fixed-term examiners.

- For FY2022, the JPO secured a capacity of 1,662 examiners (including fixed-term examiners).

(ii) Outsourcing Prior Art Searches

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

- As of November 2022, there were 9 registered search organizations.
- In FY2022, approx. 143 thousand searches were outsourced, all of which involved searching patent documents in Japanese. Some also included searching patent documents in English (approx. 73 thousand), in Chinese or Korean (approx. 15 thousand in total), and in German (approx. 3 thousand).

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おり、審査の迅速化に取り組んでいる。[2-1-1図] [2-1-2図]

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、任期付審査官を含め、必要な審査官の確保に努めている。

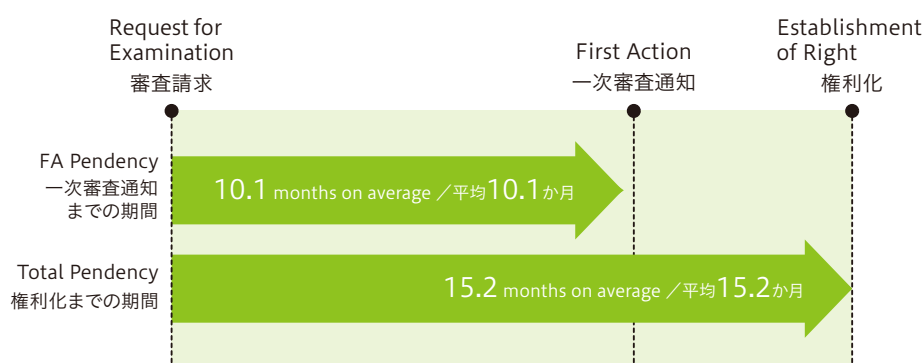
- 2022年度は、審査官1,662名（任期付審査官を含む。）の定員を確保。

(ii) 先行技術文献調査の外注

審査官が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の迅速化と品質向上を図っている。

- 登録調査機関の数は、2022年11月時点で9機関。
- 2022年度の発注件数は約14.3万件で、全案件において日本語特許文献調査を実施。さらに、一部の案件においては、英語特許文献調査（約7.3万件）、中国語及び韓国語特許文献調査（約1.5万件）、独語特許文献調査（約3千件）も実施。

Figure 2-1-1 FA Pendency and Total Pendency for Patent Examinations in FY2021
2021 年度における特許審査の FA 期間及び権利化までの期間



Note: • The first action pendency (FA pendency) is the period from the date of examination request until the JPO sends the first notice of examination results to the applicant, etc. (for the most part, either a notice of patent grant or a notice of reasons for refusal).
• The total pendency (also called the “standard pendency”) is the period from the date of examination request 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 due to the amendments submitted by the applicant, and where the applicant performs procedures they are allowed to use, such as requests to the JPO for extension of the period of response and for an accelerated examination).

備考: • 一次審査通知までの期間 (FA 期間) は、審査請求日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。
• 権利化までの期間 (「標準審査期間」ともいう。) は、審査請求日から取下げ・放棄又は最終処分を受けるまでの期間 (出願人が補正等をすること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。)

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

(Year / 年)	2018	2019	2020	2021	2022
Number of FAs FA 件数	232,701	227,293	222,344	232,070	242,626
Number of Patents Granted 特許査定件数	177,852	167,945	164,846	172,996	187,794
Number of International Search Reports Established 国際調査報告作成件数	47,934	51,666	50,338	48,502	49,154

Note: • The number of first actions in patent examinations is the number of first notices of examination results (for the most part, either a notice of patent grant or a notice of reasons for refusal) issued by examiners to applicants, etc.
• The number of patents granted 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).
• The number of international search reports established 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”).

備考: • 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。
• 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。
• 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。)

3) Accelerated Examination and Super-Accelerated Examination

Under certain conditions, the JPO offers accelerated examinations and super-accelerated examinations that, upon the request of an applicant, expedite the commencement of an examination. [Figure 2-1-3]

(i) Accelerated Examination^{*1}

- The accelerated examination system for patent applications may be applied for applications that are also filed in one or more other countries and applications by small and medium-sized enterprises, etc.
- In 2022, first action pendency from request for accelerated examination was 2.3 months on average.

(ii) Super-Accelerated Examination^{*2}

- The JPO is running pilot programs for a super-accelerated examination system for applications of higher importance including the applications for inventions that have already been put into practice and are filed in one or more other countries.
- First action is issued within one month from the request, in principle (within two months, in principle, in the case of DO applications^{*3}).^{*4}
- In 2022, there were 1,241 requests, and first action pendency from request for super-accelerated examination was 0.6 months on average (1.4 months for DO applications).

3) 早期審査・スーパー早期審査

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・スーパー早期審査を実施している。[2-1-3図]

(i) 早期審査^{*1}

- 特許出願に関する早期審査の対象は、外国にも出願している出願、中小企業等の出願等。
- 2022年の、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。

(ii) スーパー早期審査^{*2}

- 既に実施している発明に係る出願かつ外国にも出願している出願等の、より重要度の高い出願を対象としてスーパー早期審査を試行。
- 申請から原則1か月以内（DO出願^{*3}については原則2か月以内）に一次審査結果を通知^{*4}。
- 2022年の申請実績は1,241件、スーパー早期審査の申出から一次審査通知までの期間は平均0.6か月（DO出願については平均1.4か月）。

*1



English
<https://www.jpo.go.jp/e/system/patent/shinsa/jp-soki/index.html>



日本語
<https://www.jpo.go.jp/system/patent/shinsa/soki/v3souki.html>

*2



English
https://www.jpo.go.jp/e/system/patent/shinsa/jp-super_soki/index.html



日本語
https://www.jpo.go.jp/system/patent/shinsa/soki/super_souki.html

*3

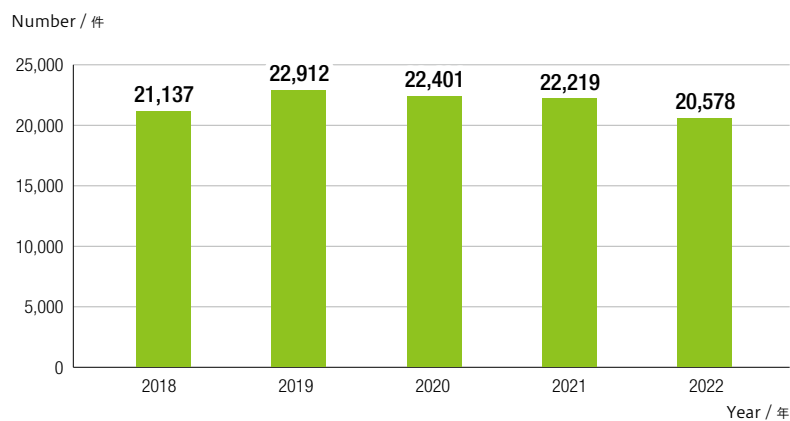
Applications that have entered the national phase after international application.
国際出願後、国内段階に移行した出願。

*4



日本語
<https://www.jpo.go.jp/system/laws/rule/guideline/patent/document/index/supersoukisinsa.pdf>

Figure 2-1-3 Number of Requests for Accelerated Examinations for Patent / 特許早期審査の申出件数



Note: ・The number of requests for accelerated examinations is the number of “Written Explanation of Circumstances Concerning Accelerated Examination” that were submitted.

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。

4) Quality Management Initiatives

Under the “Quality Policy on Patent Examination”, which constitutes the JPO’s fundamental principles of quality management, and the “Quality Management Manual for Patent Examination”, which documents quality management and its implementation system, the JPO has been engaging in the following initiatives in order to realize the utmost quality of patent examinations in the world.*5

(i) 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 managers or other examiners in order to share search know-how and knowledge, etc. to curb search and decision discrepancies among examiners.

(ii) Quality Verification

- Decisions and notices, etc. prepared by examiners are audited by quality management officers to check compliance and validity in terms of content and format before sending official documents to applicants and agents.
- In order to ascertain various user needs, the JPO conducts interviews at informal meetings with businesses, accepts information provided in relation to individual cases, and implements user satisfaction surveys. [Figure 2-1-4]
- 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, and has been implementing initiatives for the quality management of patent examinations, based on reports by this subcommittee.

4) 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」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*5。

(i) 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、審査官は管理職又は他の審査官と協議を実施。

(ii) 品質検証

- 審査官による処分等の判断及びその結果として作成される起案書の適否について、品質管理官が起案書発送前に監査を実施。
- 様々なユーザーニーズを把握するため、企業との意見交換会、個別案件に関する意見受付、ユーザー評価調査を実施。[2-1-4図]
- 2014年8月から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しており、当該小委員会の報告を踏まえ、特許審査の品質管理における取組を実施。

*5



English

<https://www.jpo.go.jp/e/introduction/hinshitu/shinsa/index.html>

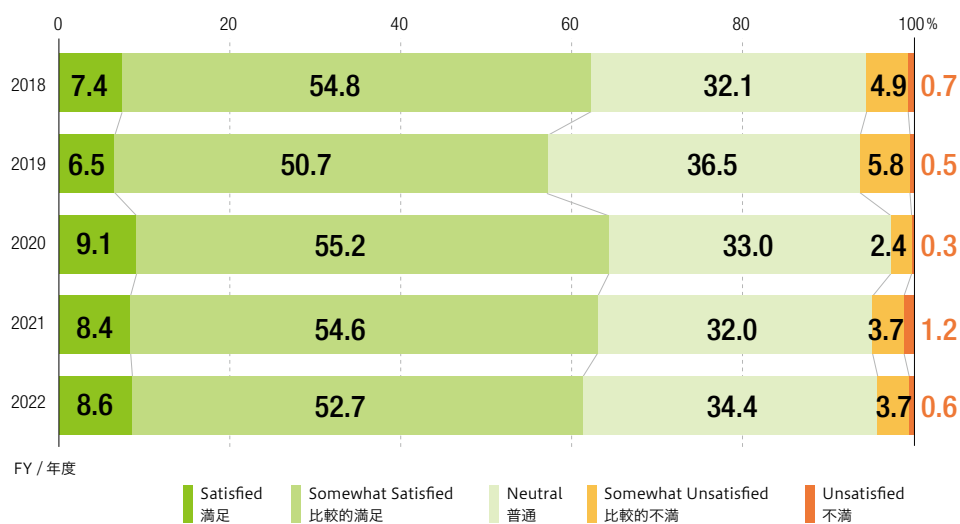


日本語

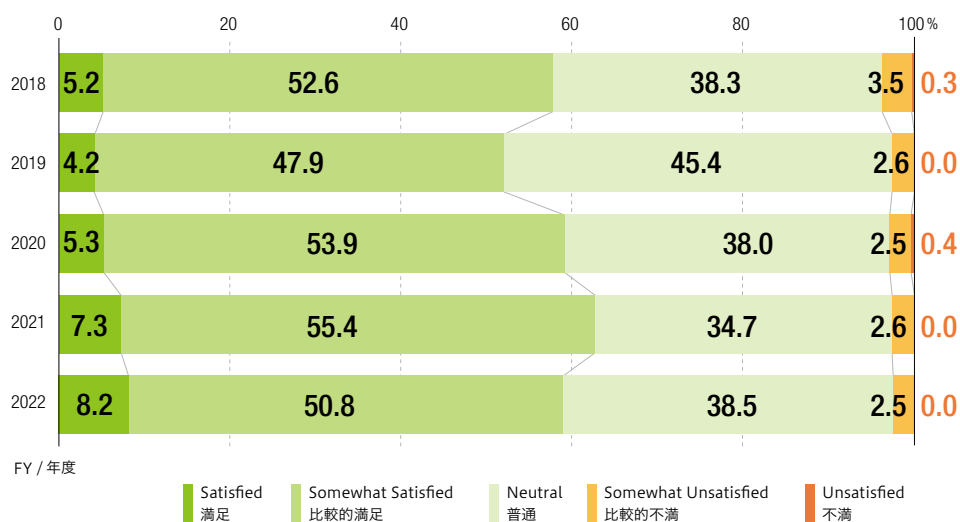
<https://www.jpo.go.jp/introduction/hinshitu/shinsa/index.html>

Figure 2-1-4 Results of User Satisfaction Survey on Patent Examination Quality
特許審査の質についてのユーザー評価調査の結果

Results of User Satisfaction Survey (Overall quality of patent examination on national applications)
ユーザー評価調査の結果（国内出願における特許審査全般の質の評価）



Results of User Satisfaction Survey (Overall quality of the international search and international preliminary examination on PCT applications)
ユーザー評価調査の結果（PCT 出願における国際調査等全般の質の評価）



Source: ・JPO, “Report on FY2022 Annual User Satisfaction Survey on Patent Examination Quality” (October 2022)

資料 ・特許庁「令和4年度特許審査の質についてのユーザー評価調査報告書」（2022年10月）

5) Revision of Examination Guidelines and Handbook

The JPO introduced the restriction of Multi-Multi Claims on April 1, 2022 for the purpose of promoting international harmonization as well as reducing the workload of examination and the burden of monitoring by third parties. Accordingly, in March 2022, the “Examination Guidelines for Patent and Utility Model”^{*6} was revised to mention the Multi-Multi Claim restriction, and necessary amendments were made to the relevant sections of the “Examination Handbook for Patent and Utility Model”.^{*7} In addition, the JPO provides a Multi-Multi Claim detection tool on its website^{*8} to enable applicants and patent agents to more appropriately comply with the restriction of Multi-Multi Claims.

6) Examination Measures for Addressing Various User Needs

(i) Interview Examinations^{*9}

The JPO conducts interview examinations to facilitate communication between examiners and applicants, etc. In response to the needs of applicants and agents, etc. in remote areas, the JPO not only conducts interview examinations in the JPO's building, but also conducts on-site interview examinations and online interview examinations.^{*10} It is also possible to conduct an interview examination with some of the participants participating online. With the spread of COVID-19, the JPO actively conducted online interviews from the viewpoint of preventing infection. As a result, the ratio of online interviews in 2022 was 72% (the ratio of online interviews in 2019 was 5%).

・ In 2022, there were 1,712 interview examinations (of these, 23 were conducted on-site, and 1,227 were conducted online).

5) 審査基準・ハンドブックの改訂

国際調和並びに審査処理負担及び第三者の監視負担の軽減の観点から、2022年4月1日にマルチマルチクレーム制限を導入した。これに伴い、2022年3月にマルチマルチクレームの制限に関する記載を「特許・実用新案審査基準^{*6}」に追加する改訂を行い、「特許・実用新案審査ハンドブック^{*7}」の関連する箇所について必要な修正を行った。また、出願人及び代理人がより適切にマルチマルチクレーム制限へ対応できるよう、特許庁ウェブサイト^{*8}においてマルチマルチクレーム検出ツールを提供している。

6) 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^{*9}

審査官と出願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。遠隔地の出願人や代理人等のニーズに応え、特許庁庁舎で実施する面接審査の他、出張面接審査やオンライン面接審査^{*10}も実施している。一部の参加者のみオンラインで参加して、面接審査を実施することも可能である。新型コロナウイルス感染症拡大に伴い、感染予防の観点からオンライン面接を積極的に実施した結果、2022年におけるオンライン面接比率は72%となっている（2019年におけるオンライン面接比率は5%）。

・ 2022年の実績は1,712件（内、出張面接審査23件、オンライン面接審査1,227件）。

*6



English
https://www.jpo.go.jp/e/system/laws/rule/guideline/patent/tukujitu_kijun/index.html



日本語
https://www.jpo.go.jp/system/laws/rule/guideline/patent/tukujitu_kijun/index.html

*8



English
<https://www.jpo.go.jp/e/system/patent/shinsa/multimulticla.ms.html>



日本語
<https://www.jpo.go.jp/system/patent/shinsa/letter/multimultichecker.html>

*10



日本語
https://www.jpo.go.jp/system/patent/shinsa/mensetu/telesys_mensetu.html

*7



English
https://www.jpo.go.jp/e/system/laws/rule/guideline/patent/handbook_shinsa/index.html



日本語
https://www.jpo.go.jp/system/laws/rule/guideline/patent/handbook_shinsa/index.html

*9



English
<https://www.jpo.go.jp/e/system/patent/shinsa/junkai.html>



日本語
<https://www.jpo.go.jp/system/patent/shinsa/mensetu/junkai.html>

(ii) Collective Examinations for IP Portfolio Supporting Business Strategy^{*11}

The Collective Examinations for IP Portfolio Supporting Business Strategy (CEIP) is a measure that supports the acquisition of rights in time with business development, with examiners for multiple applications related to the business (patent, design, and trademark applications) coordinating with each other to conduct their respective examinations. [Figure 2-1-5]

To further facilitate the use of CEIP, the JPO reviewed their implementation and revised the guidelines in July 2022.

- In 2022, there were 11 applications.
- Of these, there were 126 patent applications, 13 applications for design registration, and 3 applications for trademark registration.

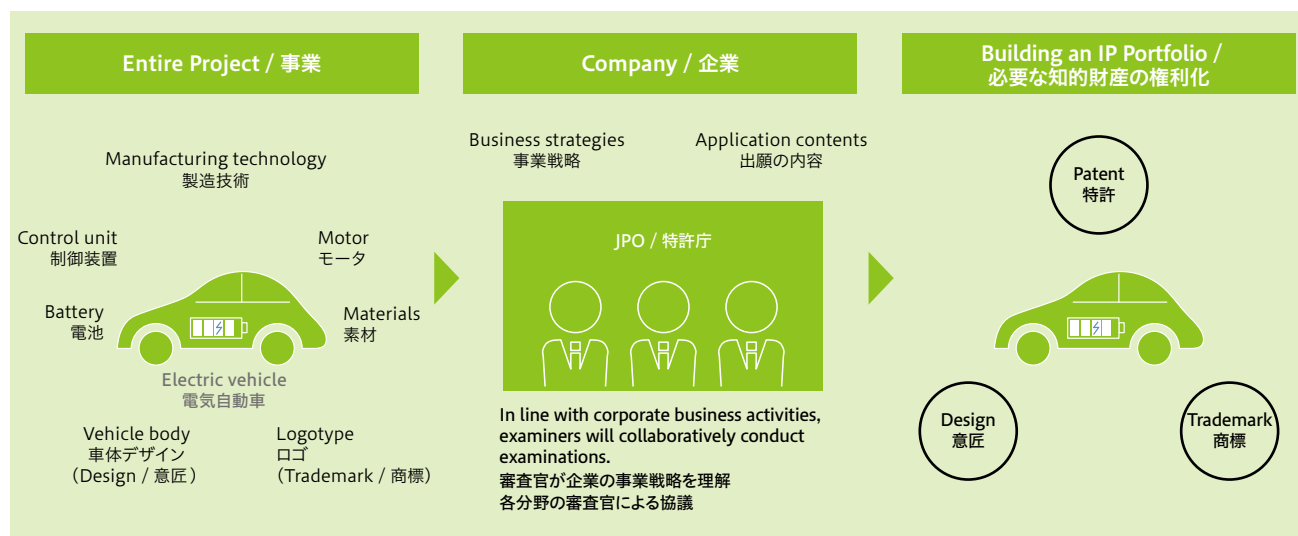
(ii) 事業戦略対応まとめ審査^{*11}

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。[2-1-5図]

2022年7月に、事業戦略対応まとめ審査がより活用しやすいように運用を見直し、ガイドラインを改訂した。

- 2022年の申請実績は11件。
- 対象とされた特許出願は126件、意匠登録出願は13件、商標登録出願は3件。

Figure 2-1-5 Collective Examinations for IP Portfolio Supporting Business Strategy / 事業戦略対応まとめ審査



*11



English
https://www.jpo.go.jp/e/system/patent/shinsa/matome_sinsa.html



日本語
https://www.jpo.go.jp/system/patent/shinsa/general/matome_sinsa.html

(iii) Phone Communication with Teleworking

Examiners^{*12}

As more examiners telework with the spread of COVID-19, the JPO has in place a mechanism for teleworking examiners to contact applicants, etc. by phone since April 2021. Even if examiners receive a phone call from applicants, etc. while teleworking, examiners can call them back, enabling smooth communication with users even in a telework environment. In response to the increase in phone communication and online interviews with teleworking examiners, the JPO has prepared a leaflet that introduces these communications.^{*13}

(iii) テレワーク中の審査官との電話連絡^{*12}

新型コロナウイルス感染症拡大に伴い、審査官のテレワークが増える中、2021年4月から、テレワーク中の審査官が出願人等に電話連絡する手段を整備している。これにより、テレワーク中の審査官に出願人等から電話連絡があった場合でも、審査官からの折り返しの電話連絡ができるようになり、テレワーク環境下においても、ユーザーとの円滑なコミュニケーションが可能となった。テレワーク中の審査官との電話連絡やオンライン面接の増加を受けて、これらのコミュニケーションについて紹介するリーフレット^{*13}を作成した。

*12



日本語

<https://www.meti.go.jp/press/2021/04/20210401001/20210401001.html>

*13



日本語 特許

https://www.jpo.go.jp/resources/report/sonota-info/document/panhu/tokkyo_communication.pdf



日本語 意匠

https://www.jpo.go.jp/resources/report/sonota-info/document/panhu/isho_communication.pdf



日本語 商標

https://www.jpo.go.jp/resources/report/sonota-info/document/panhu/shohyo_communication.pdf

7) Improvement of 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.

(i) Initiatives Related to Machine Translation Texts

- On the retrieval system for patents and utility models used by examiners, the JPO continues to accumulate full text Japanese machine translations of US, EP, and the World Intellectual Property Organization (WIPO) patent documents in English and CN and KR patent documents in order to retrieve and screen documents in Japanese.

(ii) Initiatives Related to Improvement of Patent Classifications

- As part of improving the foundation for prior art searches, the JPO discussed revising International Patent Classifications (IPC) for approx. 70 technical areas in 2022, with aims such as introducing the superior classification entries of FI^{*14} and F-term^{*15} to the IPCs.
- Under the principle that FI must be compliant with the latest IPC, in FY2022, the JPO amended the FI scheme for approx. 450 main groups and conducted F-term maintenance for approx. 20 themes in order to search efficiently for Japanese and foreign patent documents.
- AI is used to automatically assign FI and F-term to foreign patent documents. Both Japanese and foreign patent documents may be searched at once using common patent classifications.

7) 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。

(i) 機械翻訳文に関する取組

- 審査官が利用する特実検索システムにおいては、米国、欧州及び世界知的所有権機関（WIPO）の英語特許文献、中韓の特許文献について、日本語での検索及びスクリーニングのための全文日本語機械翻訳文を継続して蓄積。

(ii) 特許分類整備に関する取組

- 基盤整備の一環として、FI^{*14}、Fターム^{*15}の優れた分類項目を国際特許分類（IPC）化することなどを目的に、2022年は、IPC改正について約70の技術分野で議論。
- 日本及び外国の特許文献を効率良く検索するため、FIを最新版のIPCに準拠させることなどを原則として、2022年度は、約450メイングループのFI分類表を改正し、約20テーマのFタームメンテナンスを実施。
- AIを活用して、外国特許文献にFI、Fタームを機械的に付与。共通の特許分類を用いて、日本及び外国の特許文献を一括検索可能。

^{*14} FI (File Index) is an original patent classification system that is a subdivision of the IPC governed by the JPO.
FI (File Index) とは、IPC を細展開した日本国特許庁独自の分類。

^{*15} F-term (File forming term) is an original classification JPO expanded to various technical aspects (e.g., purpose, use, structure, material, manufacturing method, processing and operational method, and means of control) by technical scope (theme).
Fターム (File forming term) とは、技術範囲（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。

8) Initiatives for AI- and IoT-related Inventions

(i) Team for Supporting AI Examinations

In January 2021, in order to achieve efficient and high-quality examinations of AI-related inventions, the JPO inaugurated the Team for Supporting AI Examinations to improve the examination environment for AI-related inventions. The team consists of managers, etc. and experts on AI examination, who work together beyond their responsible technical fields to accumulate and share knowledge on the latest AI-related technologies and case examples of examination results, and to hold discussions on related measures for patent examinations. The experts on AI examination collect knowledge from the respective examination divisions, serving as a hub of examinations concerning AI-related inventions, provide consultation services to examiners outside the team and thereby support examiners in achieving efficient and quality examinations. In addition, in March 2022, officials in charge of AI provided training for examiners to share the collected knowledge and other information.

(ii) Examination Guidelines in Manga: AI/IoT Edition^{*16}

To further increase readership in ASEAN countries of the “Examination Guidelines in Manga: AI/IoT Edition,” a manga introducing the basic concepts of examination guidelines, the JPO created and released a Vietnamese version^{*17} in February 2022 in cooperation with the Japan International Cooperation Agency (JICA) and a Thai version^{*18} in August 2022 in cooperation with the Japan External Trade Organization (JETRO). In addition, the JPO created and released an English-language video of the Prologue and Chapter 1 in March 2022. [Figure 2-1-6]

8) AI・IoT 関連発明に関する取組

(i) AI審査支援チーム

2021年1月、AI関連発明の効率的かつ高品質な審査を実現するため、AI関連発明に関する審査環境の整備を担うAI審査支援チームを発足した。AI審査支援チームは、管理職等とAI担当官から構成され、担当技術分野を超えて連携し、最新のAI関連技術に関する知見や審査事例の蓄積・共有及び関連する特許審査施策の検討等を行うものである。AI担当官は、AI関連発明に関する審査の“ハブ”として、各審査部門の知見を集約し、AI審査支援チーム外の審査官からの相談に応じることで、効率的かつ高品質な審査の実現に向けた支援を行っている。また、2022年3月、AI担当官は、集約した知見等を共有するため、審査官向けの研修を実施した。

(ii) 漫画審査基準～AI・IoT編～^{*16}

審査基準の基本的な考え方を漫画化した「漫画審査基準～AI・IoT編～」について、ASEANへのさらなる普及を図るため、2022年2月には国際協力機構（JICA）と協力してベトナム語版^{*17}を作成し、2022年8月には日本貿易振興機構（JETRO）と協力してタイ語版^{*18}を作成し、それぞれ公表した。また、2022年3月にはプロローグと第1章について英語版の動画を作成し、公表した。[2-1-6図]

*16



English
https://www.jpo.go.jp/e/system/laws/rule/guideline/patent/comic_ai_iot_e.html



日本語
https://www.jpo.go.jp/system/laws/rule/guideline/patent/comic_ai_iot.html

*17



Vietnamese / ベトナム語
<https://www.jica.go.jp/project/vietnam/059/materials/index.html>

*18



Thai / タイ語
<https://www.jetro.go.jp/world/asia/th/ip/>

Click on the “法令・判例” link at the bottom of the page. ページ下部のリンクで「法令・判例」をクリック。

Figure 2-1-6 Examination Guidelines in Manga: AI/IoT Edition (left: Vietnamese, right: Thai)
 漫画審査基準～ AI・IoT 編～ (ベトナム語版 (左) とタイ語版 (右))

Thẩm định viên đánh giá trình độ sáng tạo một cách khách quan dựa trên bằng chứng, là tình trạng kỹ thuật.
 Hãy cũng xem phương pháp đánh giá trình độ sáng tạo được viết trong Hướng dẫn thẩm định nhé.

Để thẩm định viên xác định độ sáng tạo hay không thì có tính chủ quan đúng không?
 Thẩm định viên đánh giá trình độ sáng tạo như thế nào?

Đánh giá trình độ sáng tạo bằng cách nào

Xác định xem người có hiểu biết trung bình trong lĩnh vực kỹ thuật tương ứng có dễ dàng thu được sáng chế được yêu cầu bảo hộ hay không

Multi-Factor Reasoning

GOAL
 Sáng chế được yêu cầu bảo hộ

START
 Giải pháp kỹ thuật đối chứng gần nhất

người có hiểu biết trung bình trong lĩnh vực kỹ thuật tương ứng
 → một người giả định mà có hiểu biết thông thường trong lĩnh vực kỹ thuật tương ứng với sáng chế được yêu cầu bảo hộ.

Ồ, tôi không biết là kỹ thuật này đã có rồi. Hãy đưa vào trong giải pháp kỹ thuật đối chứng gần nhất.

Sáng chế được yêu cầu bảo hộ không đáp ứng trình độ sáng tạo nếu có lý do cho thấy người có hiểu biết trung bình trong lĩnh vực kỹ thuật tương ứng có thể dễ dàng thu được sáng chế được yêu cầu bảo hộ cho dù người có hiểu biết trung bình trong lĩnh vực kỹ thuật tương ứng này không biết về sáng chế được yêu cầu bảo hộ.

Này, Ai, kể cả có nguy trạng rồi vẫn thấy rõ đấy là chi.

ฉันนี่เทียบเท่ากับโปรแกรมคอมพิวเตอร์
 โครงสร้างข้อมูลทีแน่นอน หรือข้อมูลที่มีโครงสร้าง
 ก็สามารถมีสิทธิ์รับสิทธิบัตรได้

เมื่อเร็ว ๆ นี้ มีการให้ความสนใจในคุณค่าของข้อมูลมากมาย
 แต่ข้อมูลสามารถขอรับสิทธิบัตรได้หรือครับ?

คำนิยามของการประดิษฐ์เกี่ยวกับซอฟต์แวร์

การประดิษฐ์ที่ **ซอฟต์แวร์** ถือว่าไม่บรรลุผลการประดิษฐ์

โปรแกรม
 ชุดคำสั่งที่จัดไว้บนคอมพิวเตอร์ซึ่งถูกเรียกใช้เพื่อทำงานใด ๆ หนึ่ง

ชุดคำสั่ง
 เดิมทีกับ "โปรแกรม เป็นคำ" ซึ่งไม่ได้มี เพราะการบัญญัติสิทธิบัตรผู้ประดิษฐ์

สิ่งที่ไม่เป็นคำสั่งใด ๆ ของคอมพิวเตอร์ซึ่งไม่สามารถเรียกใช้โปรแกรม แต่มีคุณสมบัติที่คล้ายกับโปรแกรมในแง่ของการกำหนดการประมวลผลของคอมพิวเตอร์

※ "การสั่ง" หรือ "ชุดคำสั่ง" หมายถึง "โปรแกรม" เท่านั้น

เออคือ มันต้องเทียบเท่ากับโปรแกรมคอมพิวเตอร์
 กล่าวคือ ต้องเป็นโครงสร้างข้อมูลที่กำหนดการประมวลผลคอมพิวเตอร์ออกมาดูตัวอย่างที่เรานี้

ถ้าอย่างนั้น เราก็สามารถได้รับสิทธิบัตรมากมายเกี่ยวกับโครงสร้างข้อมูลนะสิ!

2 Designs

The JPO has been implementing a variety of initiatives including accelerated examinations and quality management, in order to appropriately protect designs, improve convenience for users, and strengthen the competitiveness of Japan's companies.

1) Examination Performance

The JPO is working to make examinations more efficient in order to protect designs promptly and appropriately.

[Figure 2-1-7] [Figure 2-1-8]

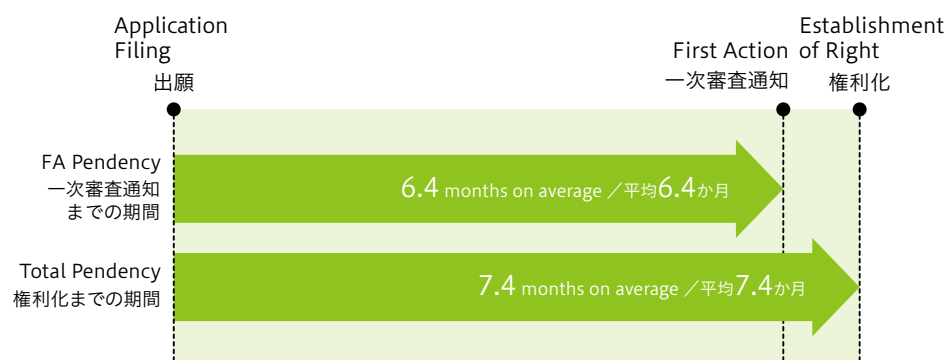
2 意匠

特許庁では、適切な意匠の保護やユーザーの利便性向上、また我が国企業の競争力強化のため、早期審査、品質管理等、種々の取組を実施している。

1) 審査実績

意匠を迅速かつ適切に保護すべく、審査の効率化を進めている。[2-1-7図] [2-1-8図]

Figure 2-1-7 FA Pendency and Total Pendency for Design Examinations in FY2021
2021 年度における意匠審査の FA 期間及び権利化までの期間



Note: • The first action pendency (FA pendency) is the period from the application filing until the JPO sends the first notice of examination results to the applicant, etc. (excluding international applications filed to register designs under the Hague Agreement, for the most part, either a decision of registration or a notice of reasons for refusal).
• The total pendency (also called the “standard pendency”) is the period from the application filing to the establishment of right (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).
• Excluding applications for graphic image, building and interior designs, which are newly eligible for protection under the revised Design Act of 2019.

備考: • 一次審査通知までの期間 (FA 期間) は、出願から審査官による審査結果の最初の通知 (国際意匠登録出願を除く。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。
• 権利化までの期間 (「標準審査期間」ともいう。) は、出願から権利化までの期間 (国際意匠登録出願を除く。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。)
• 令和元年改正意匠法により新たに保護対象となった建築物及び画像に係る意匠並びに内装の意匠等に係る出願の場合を除く。

Figure 2-1-8 Number of FAs and Decisions of Registration for Design Examinations
意匠審査の FA 件数及び登録査定件数

(Year / 年)	2018	2019	2020	2021	2022
Number of FAs FA 件数	31,266	31,749	30,164	31,959	33,165
Number of Decisions of Registration 登録査定件数	27,301	27,909	26,465	27,773	29,901

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 a decision of registration or notices of reasons for refusal).

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。

2) Accelerated Examination^{*19}

Under certain conditions, the JPO offers accelerated examinations that, upon the request of an applicant, expedite the commencement of an examination. [Figure 2-1-9]

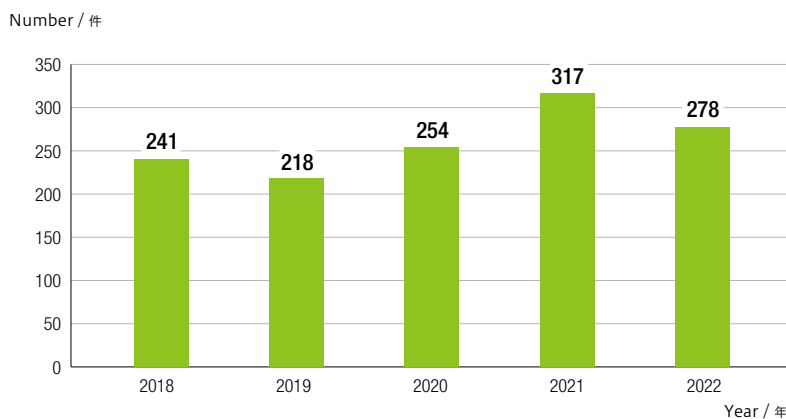
- The accelerated examination may be applied under the following conditions: (i) applications for design registration related to implementations with an urgent need for registration;^{*20} (ii) applications for design registration that are concurrently filed in one or more other countries; or (iii) applications for design registration by businesses, etc. that have suffered earthquake damage.
- In 2022, first action pendency from request for accelerated examination was 1.9 months on average.

2) 早期審査^{*19}

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を実施している。[2-1-9図]

- 早期審査の対象は、(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^{*20}、(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。
- 2022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。

Figure 2-1-9 Number of Requests for Accelerated Examinations for Design / 意匠早期審査の申出件数



Note: • The number of requests for accelerated examinations is the number of “Written Explanation of Circumstances Concerning Accelerated Examination” that were submitted.

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。

*19



日本語
https://www.jpo.go.jp/system/design/shinsa/soki/isyou_soukisinri.html

*20

Among (i), the JPO is implementing an initiative to commence examinations even earlier for applications where there are counterfeits already in existence and there are no problems in the application procedure. In 2022, the above period was 0.6 months on average.

(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、2022年の前記期間は平均0.6か月。

3) Quality Management Initiatives

Under the “Quality Policy on Design Examination”, which constitutes the JPO’s fundamental principles of quality management, and the “Quality Management Manual for Design Examination”, which documents quality management and its implementation system, the JPO has been engaging in the following initiatives in order to realize the utmost quality of design examinations in the world.*21

(i) 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 managers or other examiners in order to share search know-how and knowledge, etc. to curb search and decision discrepancies among examiners.

(ii) Quality Verification

- Decisions and notices, etc. prepared by examiners are audited by quality management officers to check compliance and validity in terms of content and format before sending official documents to applicants and agents.
- In order to ascertain various user needs, the JPO conducts interviews at informal meetings with businesses, accepts information provided in relation to individual cases, and implements user satisfaction surveys. [Figure 2-1-10]
- 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, and has been implementing initiatives for the quality management of design examinations, based on reports by this subcommittee.

3) 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」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*21。

(i) 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、審査官は管理職又は他の審査官と協議を実施。

(ii) 品質検証

- 審査官による処分等の判断及びその結果として作成される起案書の適否について、品質管理官が起案書発送前に監査を実施。
- 様々なユーザーニーズを把握するため、企業との意見交換会、個別案件に関する意見受付、ユーザー評価調査を実施。[2-1-10図]
- 2014年8月より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しており、当該小委員会の報告を踏まえ、意匠の審査の品質管理における取組を実施。

*21



English

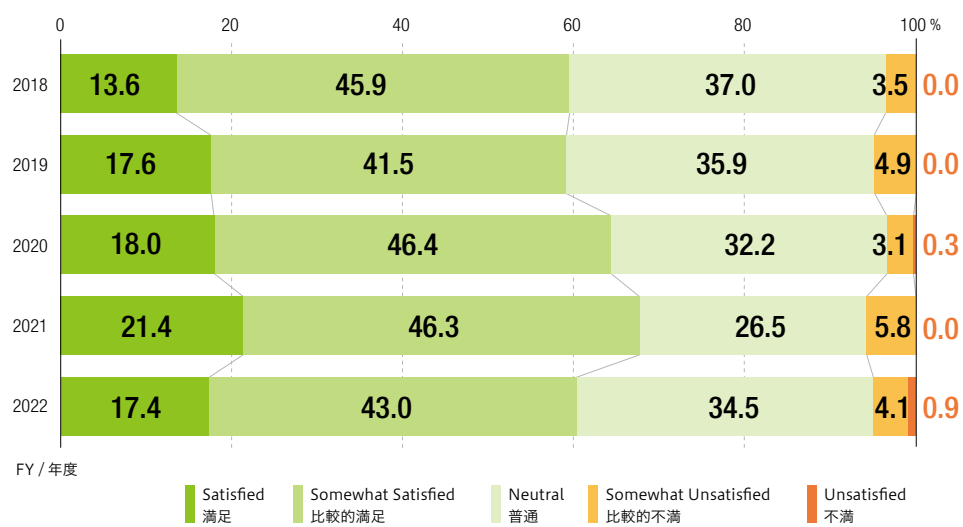
<https://www.jpo.go.jp/e/introduction/hinshitu/shinsa/index.html>



日本語

<https://www.jpo.go.jp/introduction/hinshitu/shinsa/index.html>

Figure 2-1-10 Results of User Satisfaction Survey on Design Examination Quality
意匠審査の質についてのユーザー評価調査の結果



4) Initiatives for Supporting Design System Users

(i) Publication of Guide Book for Beginners

In March 2022, the JPO published the “Your Design Rights: Various Kinds of Usage” guide book for beginners, namely, businesses thinking about introducing the design system based on the 2019 amendment of the Design Act and those who are not very familiar with the design system. This all-in-one book gives them a detailed understanding of the basics and merits of the design system and its effective uses for business, and even information about the basics of application procedures. [Figure 2-1-11]

- A total of ten hypothetical characters appear in the guide book, including a person who wishes to contain the cost of anti-counterfeit measures, a service provider, a BtoB company, a startup, and a sole proprietor. The uses of the design system tailored to their respective business and creations are explained in four-frame cartoons in storybook style.
- An electronic version of the guide book can be downloaded from the JPO website.^{*22} The printed version can be requested free of charge using the contact form on the JPO website. As of November 2022, 8,000 copies have been distributed.

(ii) Release of Case Examples of Registered Designs of Newly Added Subject for Protection under the Design Act as Revised in 2019

Under the Design Act as revised in 2019 which expanded the scope of protection, in January 2022, the JPO released “Case examples of registered designs of newly added subject for protection (graphic image, building and interior) under the Design Act as revised in 2019”,^{*23} and in September 2022, the “Case examples of related designs which were registered as designs including a graphic image”.^{*24}

4) 意匠制度活用を支援する取組

(i) 初心者向けガイドブックの発行

特許庁は、令和元年意匠法改正を機に新規に意匠制度の活用を検討することとなった事業者や、意匠制度にあまり詳しくない者へ向けて、意匠制度の基本やメリット、ビジネスに合わせた効果的な活用法などを詳しく理解し、さらに出願手続の基本までを学べるように、これらの情報を1冊にまとめた初心者向けのガイドブック「みんなの意匠権 十人十色のつかいかた」を2022年3月に発行した。[2-1-11図]

- 模倣品対策コストを抑えたい者、サービス業を営む者、BtoB 企業、ベンチャー企業、個人事業主等の計10人の仮想人物が登場し、それぞれのビジネスや創作の実情に合わせた意匠制度の活用方法を、4コマ漫画を用いたストーリー仕立てで紹介。
- ガイドブックの電子版は特許庁ウェブサイト^{*22}からダウンロード可能。冊子版は、特許庁ウェブサイトのお問い合わせフォームより無料で請求可能。2022年11月までに8,000部を配布済み。

(ii) 改正意匠法に基づく新たな保護対象の意匠登録事例集の公開

令和元年意匠法改正による保護対象の拡充に伴い、2022年1月、改正意匠法に基づく新たな保護対象（画像・建築物・内装）の意匠登録事例^{*23}、2022年9月、「画像を含む意匠の関連意匠登録事例集^{*24}」を公開した。

*22  日本語
https://www.jpo.go.jp/system/design/gaiyo/info/minnano_ishoken.html

*23  日本語
https://www.jpo.go.jp/system/laws/rule/guideline/design/kaisei_hogo.html

*24  日本語
https://www.jpo.go.jp/system/laws/rule/guideline/design/kanren_isho.html

Figure 2-1-11 Guide Book for Beginners “Your Design Rights: Various Kinds of Usage”
初心者向けガイドブック「みんなの意匠権 十人十色のつかいかた」



3 Trademarks

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

1) Examination Performance

In order to promptly and appropriately protect trademarks, the JPO is working to make examinations more efficient and reinforce the examination system, including increasing the maximum allowed number of trademark examiners. [Figure 2-1-12] [Figure 2-1-13]

2) Accelerated Examination^{*25}

Under certain conditions, the JPO offers accelerated examinations that, upon the request of an applicant, expedite the commencement of an examination. [Figure 2-1-14]

- ・ In 2022, first action pendency from request for accelerated examination was 1.9 months on average.

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、ファストトラック審査、品質管理、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

商標を迅速かつ適切に保護すべく、審査の効率化及び商標審査官の定員増加を含む審査体制の強化を進めている。[2-1-12図] [2-1-13図]

2) 早期審査^{*25}

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を実施している。[2-1-14図]

- ・ 2022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1.9か月。

*25



English

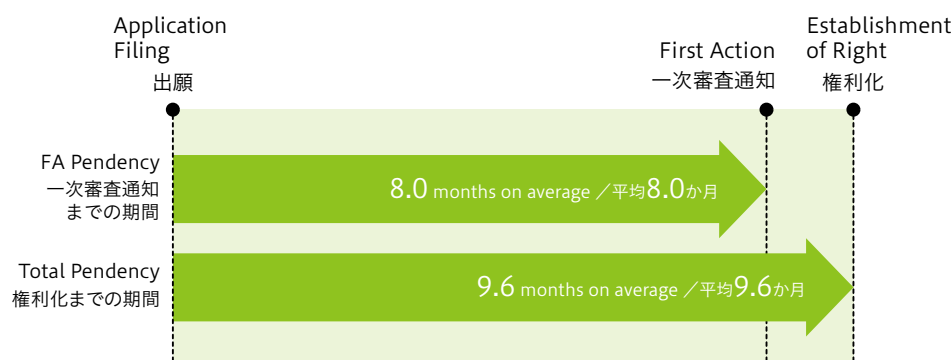
https://www.jpo.go.jp/e/system/trademark/shinsa/outline_accelerated_trademark.html



日本語

<https://www.jpo.go.jp/system/trademark/shinsa/soki/shkouhou.html>

Figure 2-1-12 FA Pendency and Total Pendency for Trademark Examinations in FY2021
2021 年度における商標審査の FA 期間及び権利化までの期間



Note: ・ The first action pendency (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 of registration or a notice of reasons for refusal) (excluding applications related to non-traditional trademarks and regional collective trademarks).
・ The total pendency is the period from the application filing to the registration (excluding applications related to non-traditional trademarks and regional collective trademarks, as well as cases where the JPO requests an applicant to respond to the second notice of reasons for refusal due to the amendments submitted by the applicant, and where the applicant performs procedures they are allowed to use, such as requests to the JPO for extension of the period of response).

備考: ・ 一次審査通知までの期間 (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 (新しいタイプの商標及び地域団体商標に係る出願を除く。)
・ 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及び地域団体商標に係る出願を除く。また、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を求める場合等を除く。)

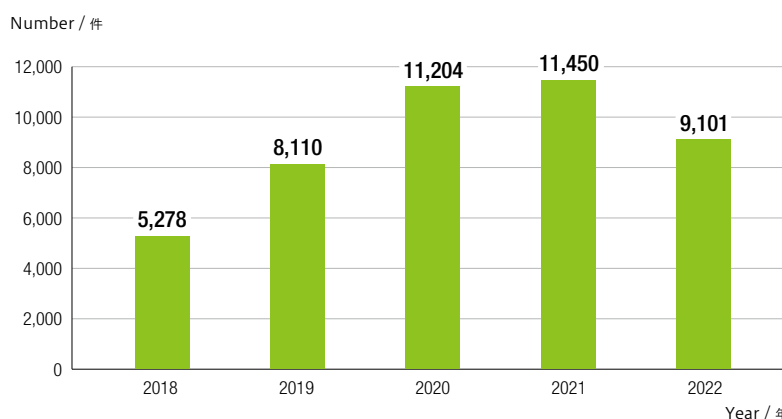
Figure 2-1-13 Number of FAs and Decisions of Registration for Trademark Examinations
商標審査の FA 件数及び登録査定件数

(Year / 年)	2018	2019	2020	2021	2022
Number of FAs FA 件数	137,463	134,834	172,931	213,224	208,740
Number of Decisions of Registration 登録査定件数	119,610	117,186	146,708	185,415	188,157

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 a decision of registration or notices of reasons for refusal).

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。

Figure 2-1-14 Number of Requests for Accelerated Examinations for Trademark / 商標早期審査の申出件数



Note: ・ The number of requests for accelerated examinations is the number of applications for which "Written Explanation of Circumstances Concerning Accelerated Examination" was submitted.

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」が提出された出願の件数。

3) Fast Track Examination^{*26}

The JPO carries out “Fast Track Examination” on a trial basis,^{*27} in an effort to accelerate the processing of overall examinations by increasing the number of applications that impose little burden on the examination on goods or services, while responding to the needs for early trademark registration. [Figure 2-1-15]
For an application that satisfies the following requirements, the first action is issued about six months from the filing of the application. Applications subject to the fast track examination are automatically selected by the JPO, so no special application procedure or fees are required for this examination.

[Condition 1] Applications that only designated goods or services listed in any of the following at the time of filing.

- ① Examination guidelines for similar goods and services
- ② Appended table of the Ordinance for Enforcement of the Trademark Act
- ③ International Classification of Goods and Services (the Nice Classification)

[Condition 2] Applications that have not amended the designated goods or designated services until the commencement of the examination.

3) ファストトラック審査^{*26}

商標の早期権利化ニーズに応えつつ、商品・役務の審査にかかる負担の少ない出願を増やすことで審査全体の処理促進を図べく、「ファストトラック審査」を試行的^{*27}に実施している。[2-1-15図]

次の要件を満たした出願については、出願から6か月程度で一次審査結果が通知される。同審査の対象となる案件は特許庁で機械的に抽出を行うため、同審査に関する申請手続及び手数料は不要。

〔要件1〕出願時に、次のいずれかに掲載されている商品・役務のみを指定している出願

- ①類似商品・役務審査基準
- ②商標法施行規則の別表
- ③商品・サービス国際分類表

〔要件2〕審査着手時までに指定商品・指定役務の補正を行っていない出願

*26



English

https://www.jpo.go.jp/e/system/trademark/shinsa/shohyo_fast_e.html



日本語

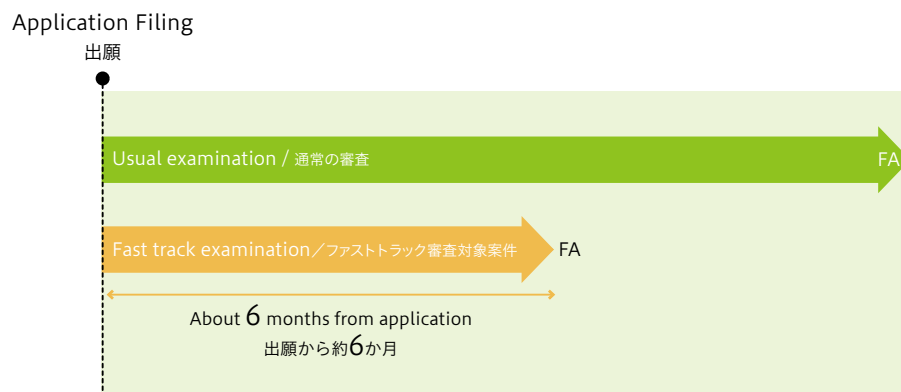
https://www.jpo.go.jp/system/trademark/shinsa/fast/shohyo_fast.html

*27

Implementation is reviewed based on the circumstances under the normal examination period and other factors.

通常の審査期間の状況等を踏まえて、運用の見直しを行う。

Figure 2-1-15 Envisaged Pendency for Fast Track Examination / ファストトラック審査の審査期間のイメージ



4) Quality Management Initiatives

Under the “Quality Policy on Trademark Examination”, which constitutes the JPO’s fundamental principles of quality management, and the “Quality Management Manual for Trademark Examination”, which documents quality management and its implementation system, the JPO has been engaging in the following initiatives in order to maintain and improve the quality of trademark examinations.^{*28}

(i) 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 managers or other examiners in order to share examination know-how and knowledge, etc. to make prompt and appropriate decisions.

(ii) Quality Verification

- Decisions and notices, etc. prepared by examiners are audited by quality management officers to check compliance and validity in terms of content and format before sending official documents to applicants and agents.
- In order to ascertain various user needs, the JPO conducts interviews at informal meetings with businesses, accepts information provided in relation to individual cases, and implements user satisfaction surveys. [Figure 2-1-16]
- 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, and has been implementing initiatives for the quality management of trademark examinations, based on reports by this subcommittee.

4) 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」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^{*28}。

(i) 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。
- 調査のノウハウ、知識等を共有化し、迅速・的確な判断を行うため、審査官は管理職又は他の審査官と協議を実施。

(ii) 品質検証

- 審査官による処分等の判断及びその結果として作成される起案書の適否について、品質管理官が起案書発送前に監査を実施。
- 様々なユーザーニーズを把握するため、企業との意見交換会、個別案件に関する意見受付、ユーザー評価調査を実施。[\[2-1-16図\]](#)
- 2014年8月より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しており、当該小委員会の報告を踏まえ、商標審査の品質管理における取組を実施。

*28



English

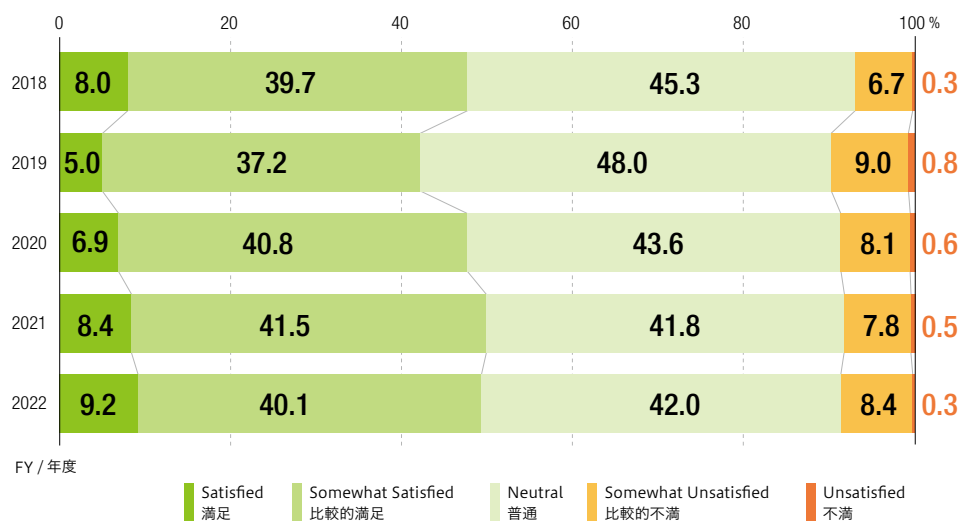
<https://www.jpo.go.jp/e/introduction/hinshitu/shinsa/index.html>



日本語

<https://www.jpo.go.jp/introduction/hinshitu/shinsa/index.html>

Figure 2-1-16 Results of User Satisfaction Survey on Trademark Examination Quality
商標審査の質についてのユーザー評価調査の結果



5) AI × Trademark: Image Search Competition ^{*29}

For searching figurative trademarks, the JPO has introduced on a trial basis a tool that uses AI technology to search for prior similar figurative trademarks (image search tool) since 2019. In order to improve the accuracy of this image search tool, the JPO held its first machine learning competition and called on the wider public to develop excellent prediction models.

(i) Overview of the AI Competition [Figure 2-1-17]

- The competition furnished actual image data used in trademark examinations, and data scientists competed on the accuracy of AI technology-based prediction models.
- Excellent models will be applied to the image search tool being piloted by examiners.
- The competition was held from November 2021 to January 2022.

(ii) Results

- The number of participants was 637, and the number of entries was 1,453.
- The accuracy of the winning prediction models was approx. 70% correct for the tasks presented by the JPO.
- This activity affirmed that AI competition is effective for considering improvements in the accuracy of the image search tool.
- The winning AI engines are being applied to the image search tool and are being offered on a trial basis to examiners.
- The JPO expects that improving the accuracy of the image search tool will increase its contribution to improving the quality of trademark examination.

5) AI × 商標：イメージサーチコンペティション^{*29}

特許庁では、図形商標の調査において、2019年からAI技術を利用した先行類似図形商標検索ツール（イメージサーチツール）を試験的に利用している。このイメージサーチツールの精度向上を目的として、特許庁初の試みである機械学習コンペティションを開催し、広く一般に優れた予測モデルの開発を募った。

(i) AIコンペ概要 [2-1-17図]

- 実際に商標審査に用いる画像データを提供し、AI技術を用いた予測モデルの精度を競うコンペティションを実施。
- 優れたモデルは審査官が試用するイメージサーチツールに搭載。
- 開催期間は、2021年11月から2022年1月。

(ii) 開催結果

- 参加者数は637名、応募数は1,453件。
- 入賞した予測モデルの精度は、特許庁が提示した課題に対して約70%の正解率。
- 今回の活動を通して、AIコンペがイメージサーチツールの精度向上の検討において有効であることを確認。
- 現在、入賞したAIエンジンをイメージサーチツールに搭載し、審査官向けに試行提供中。
- 今後、イメージサーチツールの精度が向上することで、商標審査の品質向上に寄与する度合いも高まることに期待。

*29



English

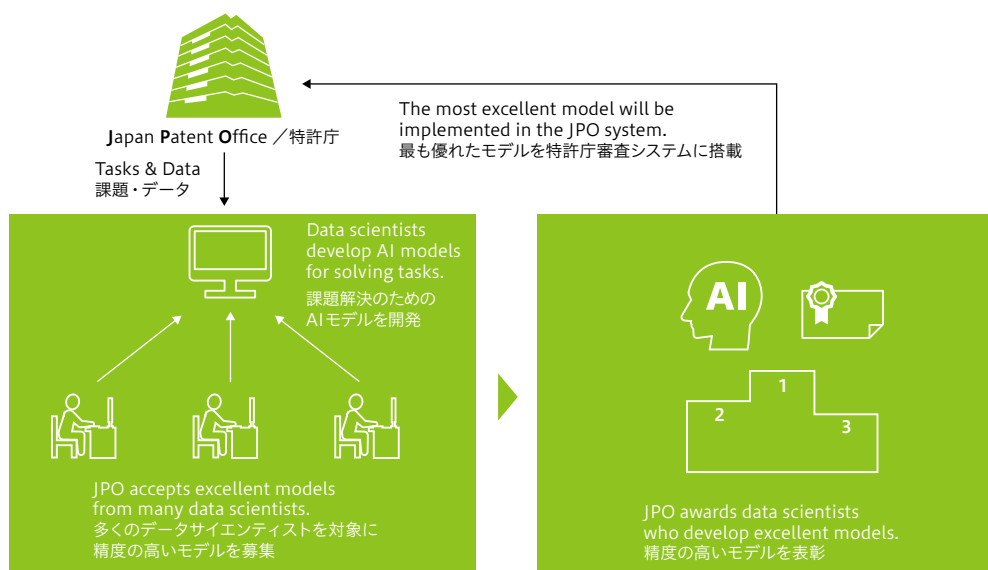
https://www.meti.go.jp/english/press/2021/1122_003.html



日本語

<https://www.meti.go.jp/press/2021/11/20211122001/20211122001.html>

Figure 2-1-17 AI × Trademark: Image Search Competition / AI × 商標：イメージサーチコンペティション



6) Regional Collective Trademarks

The regional collective trademark system^{*30} 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 services). Prior to the introduction of this system, trademarks comprised of “region name + goods (services) name” were not approved for registration unless they already possessed nationwide recognition. However, with this system, such trademarks can be now registered as long as there is recognition by consumers to a certain extent. [Figure 2-1-18]

・ As of the end of December 2022, there were 1,325 applications filed, and of those 742^{*31} were registered.

(i) The Logo Mark of Regional Collective Trademarks

“The Logo Mark of Regional Collective Trademarks”, which identifies that a local specialty is registered with the JPO as a regional collective trademark, was established with the aim of promoting the regional collective trademark system and enhancing the brand power of regional collective trademark products (services). In principle, only associations that own regional collective trademarks, the members of the associations, and those who have been licensed by associations to use regional collective trademarks may use the logo. The logo helps to differentiate products (services) from those of third parties. In addition, the logo is expected to help prevent trademark infringement by third parties by using it on product packaging, printed materials, and at events as a tool to publicize registration with the JPO as a regional brand. [Figure 2-1-19]

・ As of the end of December 2022, 228 associations were using the logo.

(ii) Dissemination and Awareness Raising

As a measure to further disseminate the regional collective trademark system, the JPO published the “Regional Collective Trademark Guide Book: Catalog Edition 2022” booklet,^{*32} which contains an overview of the regional collective trademark system, support measures related to the system such as consultation services for the filing of regional collective trademark applications and subsidies for foreign applications, and information on the registered regional collective trademarks. The Guide Book is distributed to various parties, including the Intellectual Property Comprehensive Help Desk, prefectures, municipalities, societies of commerce and industry, chambers of commerce and industry, and associations with regional collective trademarks, for promoting widespread use of the system.

6) 地域団体商標

地域団体商標制度^{*30}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。「地域名＋商品（サービス）名」で構成される商標は、制度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、制度導入後は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。[2-1-18図]

・ 2022年12月までに1,325件が出願され、そのうち742件^{*31}が登録。

(i) 地域団体商標マーク

「地域団体商標マーク」は、地域の名物が地域団体商標として特許庁に登録されていることを示す証で、地域団体商標制度の普及と地域団体商標産品（サービス）のブランド力向上を目的として策定した。原則、地域団体商標を保有する団体、団体の構成員及び団体から地域団体商標の使用許諾を受けた者のみが使用できる。マークの有無による、第三者産品（サービス）との差別化に役立つとともに、商品のパッケージや印刷物、イベントの際等に、地域ブランドとして特許庁に登録されていることをPRするツールとして活用することで、第三者による商標権侵害を未然に防止する効果が期待される。

[2-1-19図]

・ 2022年12月までに228の団体が活用。

(ii) 普及啓発

地域団体商標制度の更なる普及を促すため、地域団体商標制度の概要、地域団体商標の出願相談や外国出願補助金などの制度に関する支援策、登録されている地域団体商標の情報等を掲載した冊子「地域団体商標ガイドブック～カタログ編～2022^{*32}」を作成した。知財総合支援窓口、都道府県、市区町村、商工会・商工会議所、地域団体商標を保有する団体等に配布し、対外的に広く普及活動を行っている。

Figure 2-1-18 Regional Collective Trademark Composition / 地域団体商標の構成

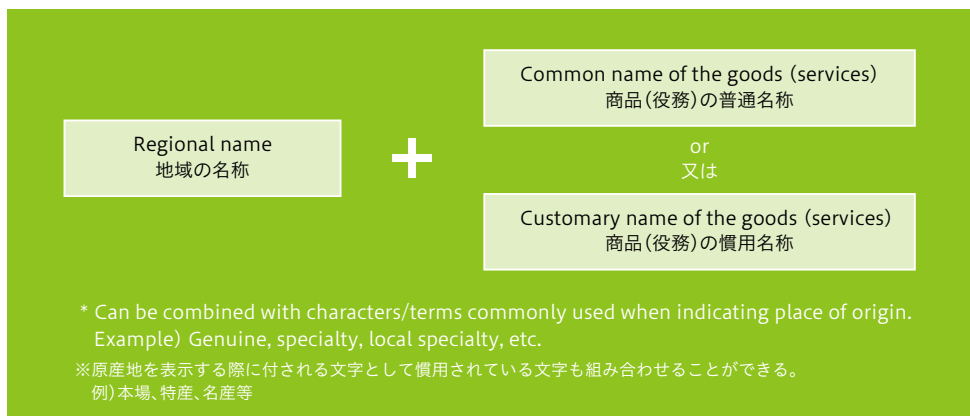


Figure 2-1-19 The Logo Mark of Regional Collective Trademarks / 地域団体商標マーク



*30



English
<https://www.jpo.go.jp/e/system/trademark/gaiyo/chidan/index.html>

日本語
<https://www.jpo.go.jp/system/trademark/gaiyo/chidan/index.html>

*31

Registration numbers by region are 36 for Hokkaido, 60 for the Tohoku region, 116 for the Kanto-Koshinetsu region, 66 for the Hokuriku region, 98 for the Tokai region, 163 for the Kinki region, 52 for the Chugoku region, 32 for the Shikoku region, and 100 for the Kyushu region, and 18 for Okinawa region, along with 3 for overseas countries (registrations spanning multiple regions are counted as one in each region).

登録件数を地域別に見ると、北海道 36 件、東北 60 件、関東・甲信越 116 件、北陸 66 件、東海 98 件、近畿 163 件、中国 52 件、四国 32 件、九州 100 件、沖縄 18 件に加えて、外国からの出願も 3 件登録されている（複数地域に跨がるものはそれぞれカウント）。

*32



日本語
<https://www.jpo.go.jp/system/trademark/gaiyo/chidan/document/tiikibrand/guidebook-catalog.pdf>

4 Trials and Appeals

1) Performance of Trials and Appeals

The status of the proceedings in 2022 is as shown in Figure 2-1-20. [Figure 2-1-20]

- Trial for invalidation, trial for correction, trial for rescission, and opposition are prioritized over ex-parte appeal cases in principle for early dispute resolution.
- The JPO gives priority to and conducts accelerated appeal proceedings for appeal against an examiner's decision of refusal cases upon request when the cases satisfy the specific requirements. In 2022, the number of requests for accelerated appeal proceedings^{*33} was 208 for patents, 14 for designs, and 35 for trademarks. The average pendency period^{*34} was 3.7 months for patents, 4.1 months for designs, and 2.7 months for trademarks.

2) Improvement of Proceedings

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

(i) Oral Proceedings

- In trials for invalidation and trials for rescission, oral proceedings where the panel and the parties orally assert against 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.
- In 2022, 95 oral proceedings (of which 68 [72%] were online oral proceedings) were conducted. The JPO compiled materials related to the online oral proceedings launched in October 2021 and has made them available on the JPO website.^{*35}
- Based on performance, the JPO is considering making improvements to the implementation of online oral proceedings, such as increasing the efficiency of pre-confirmations.

^{*33} The number of cases where 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 proceedings) are included, the number of requests for accelerated appeal proceedings made in 2022 was 337 for patents, 14 for designs, and 35 for trademarks.
「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、2022年における早期審理の申出件数は、特許が337件、意匠が14件、商標が35件。

4 審判

1) 審判実績

2022年の審理の状況は、2-1-20図のとおりである。[2-1-20図]

- 無効審判、訂正審判、取消審判及び異議申立てについては、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。
- 拒絶査定不服審判事件について、特定の要件を満たす場合、申出により審理を優先的に行う早期審理を実施。2022年における早期審理の申出件数^{*33}は特許で208件、意匠で14件、商標で35件であり、審理期間^{*34}は特許で平均3.7か月、意匠で平均4.1か月、商標で平均2.7か月。

2) 審理の充実

審理を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

- 無効審判や取消審判においては、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主張しあう口頭審理を積極的に活用。
- 2022年は、95件の口頭審理（内、オンライン口頭審理68件（72%））を実施。2021年10月から開始したオンライン口頭審理について、関係資料をまとめ、特許庁ウェブサイト^{*35}に掲載。
- オンライン口頭審理の運用について、実績を踏まえて事前確認の効率化などの改善を検討。

^{*34} In the cases that are subject to accelerated appeal proceedings, the average pendency is an average Calendar Year (CY) period from the date it becomes ready to conduct proceedings after a request is made, to the date an appeal decision is dispatched.
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。

^{*35}



English
https://www.jpo.go.jp/e/system/trial_appeal/oral_proceedings.html



日本語
https://www.jpo.go.jp/system/trial_appeal/general-koto/online-kankeishiryō.html

Figure 2-1-20 Status of Proceedings in 2022 / 2022 年 審理の状況

	Appeal against an examiner's decision of refusal 拒絶査定不服審判		Trial for invalidation 無効審判		Trial for correction 訂正審判		Opposition 異議申立て		Trial for rescission 取消審判	
	Number of dispositions 処理件数	Pendency 審理期間	Number of dispositions 処理件数	Pendency 審理期間	Number of dispositions 処理件数	Pendency 審理期間	Number of dispositions 処理件数	Pendency 審理期間	Number of dispositions 処理件数	Pendency 審理期間
Patents & Utility Models 特許・実用新案	8,046	11.7	119	13.4	216	3.6	1,275	8.2	—	—
Designs 意匠	313	6.8	12	12.3	—	—	—	—	—	—
Trademarks 商標	1,153	8.6	70	10.0	—	—	456	8.9	1,204	6.4

Note: ・ The number of dispositions (excluding oppositions) is the total number of requests granted (including requests partly granted), requests not granted (including dismissals), and withdrawals/abandonments. The number of dispositions (oppositions) is counted by opposed patent.

・ Pendency is the average processing period (in months) in CY 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.

(*1) The date a request is filed 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 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.

・ Only trial for invalidation is recorded for utility models.

備考: ・ 処理件数（異議申立てを除く）は、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。処理件数（異議申立て）は権利単位の件数。

・ 審理期間は、審判請求日（※1）から、審決（又は決定）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。単位は月。

（※1）異議申立て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）特許異議の申立てにおいて取消理由通知（決定の予告）を行ったものはその発送日、特許無効審判において審決の予告を行ったものはその発送日。

・ 実用新案は、無効審判についてのみ計上。

(ii) Circuit Trials and On-Site Interviews

- When companies, universities, etc. in the local regions are the parties concerned in trial and appeal cases, the panel may visit their regions at their request to conduct circuit trials (oral proceedings conducted for trials for invalidation) or on-site interviews (interviews aimed at facilitating communication on trial and appeal proceedings).
- In 2022, 11 circuit trials and 4 on-site interviews were conducted. Online interviews were conducted if onsite visits were difficult due to the COVID-19 outbreak.

(iii) Trial and Appeal Practitioner Study Group

- The “Trial and Appeal Practitioner Study Group”, which gathers together practitioners such as corporate IP personnel, patent attorneys and lawyers, in addition to JPO chief administrative judges and administrative judges, and which studies trial/appeal decisions and court decisions based on actual cases, is convened. Judges of the Intellectual Property High Court and the Tokyo District Court also participate as observers.
- The study group deliberates a total of five themes and five cases related to patents and trademarks and releases a report that consolidates its findings.*36

(iv) Phone Communication with Teleworking Administrative Judges

- As more administrative judges telework with the spread of COVID-19, the JPO has in place a mechanism for teleworking examiners to contact applicants, etc. by phone since April 2021.*37

(ii) 巡回審判・出張面接

- 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。
- 2022年においては、11件の巡回審判、4件の出張面接を実施。新型コロナウイルス感染症の影響で出張が困難な場合は、オンライン面接を活用。

(iii) 審判実務者研究会

- 審判長・審判官に加えて、企業の知的財産部員、弁理士、弁護士等の実務者が一堂に会して、実例に基づき審決及び判決についての研究を行う「審判実務者研究会」を開催。知的財産高等裁判所及び東京地方裁判所の裁判官もオブザーバー参加。
- 特許及び商標で計5テーマ及び5事例を検討し、その結果を取りまとめた報告書*36を公表。

(iv) テレワーク中の審判官との電話連絡

- 新型コロナウイルス感染症拡大に伴い、審判官のテレワークが増える中、2021年4月から、テレワーク中の審判官が出願人等に電話連絡する手段を整備*37。

*36



English
https://www.jpo.go.jp/e/resources/shingikai/kenkyukai/sinposei_kentoukai.html



日本語
https://www.jpo.go.jp/resources/shingikai/kenkyukai/sinposei_kentoukai.html

*37



日本語
<https://www.meti.go.jp/press/2021/04/20210401001/20210401001.html>