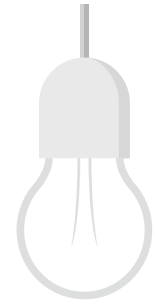


Examinations / Trials and Appeals

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

The acceleration of the intellectual property (IP) creation cycle, comprised of IP creation, establishment of rights, and utilization of rights, requires shortening total pendency. Accordingly, 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 FY2023, the JPO secured a capacity of 1,663 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 2023, there were 9 registered search organizations.
- In FY2023, approx. 142 thousand searches were outsourced, all of which involved searching patent documents in Japanese. Some also included searching patent documents in English (approx. 74 thousand), in Chinese or Korean (approx. 12 thousand in total), and in German (approx. 2 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に「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化が求められるため、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。

- 2023年度は、審査官1,663名（任期付審査官を含む。）の定員を確保。

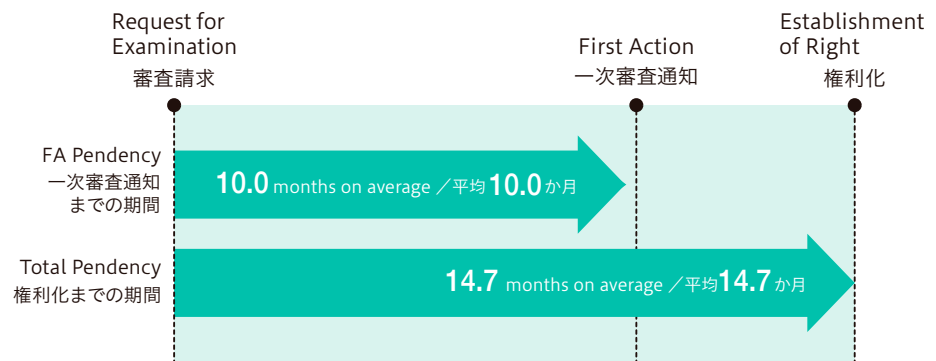
(ii) 先行技術文献調査の外注

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、2023年11月時点で9機関。
- 2023年度の発注件数は約14.2万件で、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7.4万件）、中国語及び韓国語特許文献調査（約1.2万件）、独語特許文献調査（約2千件）も実施。

Figure 2-1-1

FA Pendency and Total Pendency for Patent Examinations in FY2022
 2022 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。）

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)	2019	2020	2021	2022	2023
Number of FAs FA 件数	227,293	222,344	232,070	242,626	246,410
Number of Patents Granted 特許査定件数	167,945	164,846	172,996	187,794	194,708
Number of International Search Reports Established 国際調査報告作成件数	51,666	50,338	48,502	49,154	47,332

- 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 2023, first action pendency from request for accelerated examination was 2.2 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 2023, there were 1,224 requests, and first action pendency from request for super-accelerated examination was 0.8 months on average (1.3 months for DO applications).

3) 多様なユーザーニーズ・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。
- 2023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2.2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。
- 申出から原則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}。
- 2023年の申請実績は1,224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0.8か月（DO出願については平均1.3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



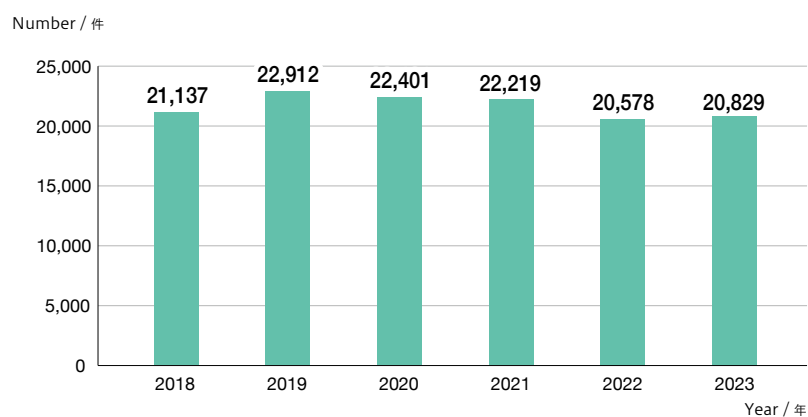
日本語

<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 any decisions and notices, etc. prepared by examiners, managers of examination offices check their substantive and formal aspects for all cases.
- Examiners consult with managers and other examiners in order to share search know-how and knowledge, etc. to improve consistency of search and judgement among examiners.

(ii) Quality Verification

- Some of decisions and notices, etc. prepared by examiners are randomly chosen, and 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

特許審査の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

- 審査官による処分等の判断及びその結果として作成される起案書について、出願人・代理人への発送前に、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均質性を向上させるため、審査官は管理職や他の審査官との協議を実施。

(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について、出願人・代理人への発送前にサンプル抽出し、品質管理官がその適否を監査。
- 様々なユーザーニーズを把握するため、企業等との意見交換会、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。毎年度、当該小委員会を開催し、その報告を踏まえ、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

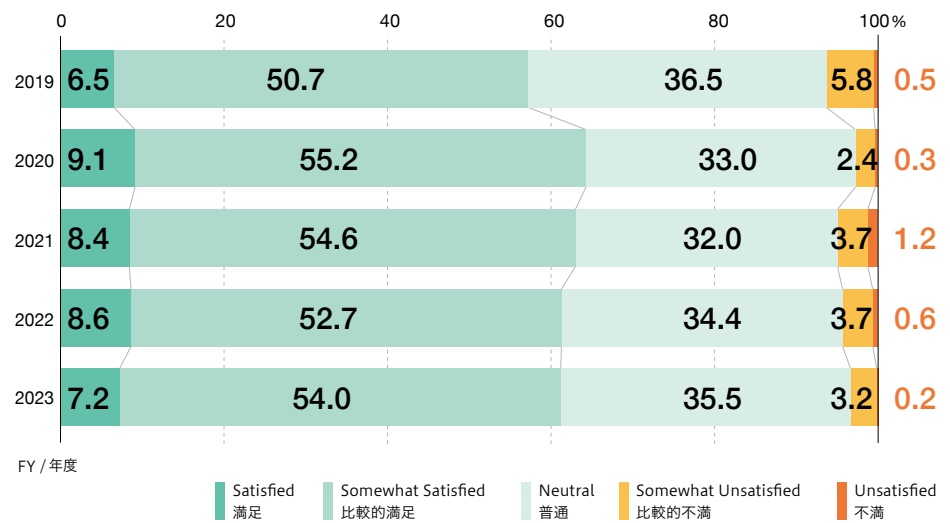
<https://www.jpo.go.jp/introduction/hinshitu/shinsa/index.html>

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

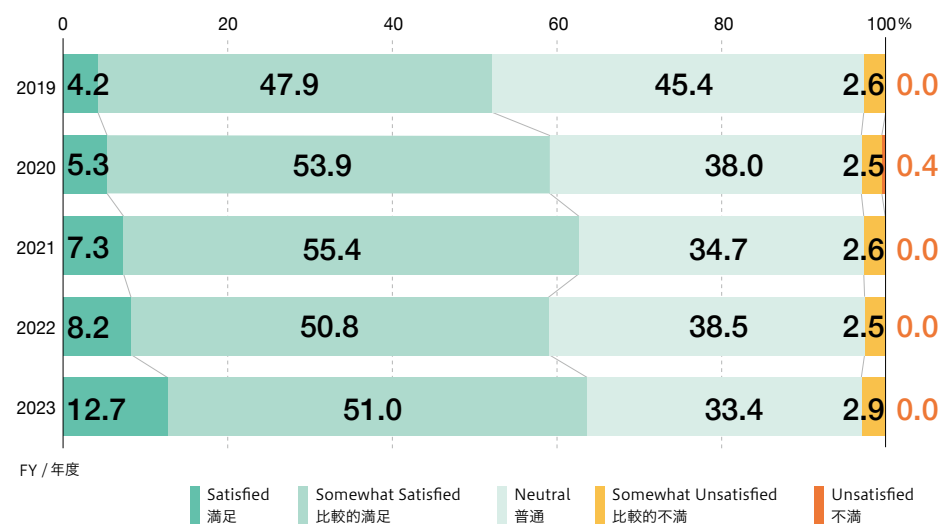
Overall quality of patent examination on national applications

国内出願における特許審査全般の質についての評価（全体評価）



Overall quality of the international search and international preliminary examination on PCT applications

PCT 出願における国際調査等全般の質についての評価（全体評価）



Source ・ JPO, "Report on FY2023 Annual User Satisfaction Survey on Patent Examination Quality" (October 2023)

資料 ・ 特許庁「令和5年度特許審査の質についてのユーザー評価調査報告書」（2023年10月）

5) Deliberation on Revising the Examination Handbook

Advances in AI-related technologies and a rising number of applications have left room for expounding on the case examples of AI-related technologies, such as adding categories that were not covered by existing case examples. In addition, the Intellectual Property Strategic Program 2023 sets forth the following short-term goal: “Enhance and disclose a wider range of AI-related invention examination case examples in light of the increasing potential for the broader utilization of AI in the creative process across various fields”. To this end, on December 8, 2023, the Working Group on the Patent Examination Standards held its 17th meeting^{*6} and deliberated on the Examination Handbook’s addition of case examples pertinent to AI-related technologies.

6) Examination Measures for Addressing Various User Needs

(i) Interviews^{*7}

The JPO conducts interviews 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 interviews in the JPO’s building, but also conducts on-site interviews and online interview.^{*8} It is also possible to conduct an interview 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 2023 was 51% (the ratio of online interviews in 2019 was 5%).

・ In 2023, there were 2,095 interviews (of these, 125 were conducted on-site, and 1,073 were conducted online).

5) 審査ハンドブックの改訂検討

AI関連技術の一層の発達と出願数の増加から、既存の事例ではカバーできていなかった類型を追加するなど、AI関連技術の事例には更なる充実の余地があり、「知財推進計画2023」においても、短期目標として「これまで以上に幅広い分野において、創作過程におけるAIの利活用の拡大が見込まれることを踏まえ、AI関連発明の特許審査事例を拡充し、公表する。」とされている。そこで、2023年12月8日に第17回審査基準専門委員会ワーキンググループを開催し^{*6}、審査ハンドブックへのAI関連技術に関する事例の追加について検討した。

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^{*7}

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のほか、出張面接やオンライン面接^{*8}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の5類感染症移行後も引き続きオンライン面接を積極的に実施した結果、2023年におけるオンライン面接比率は51%となっている（2019年におけるオンライン面接比率は5%）。

・ 2023年の実績は2,095件（内、出張面接125件、オンライン面接1,073件）。

* 6



日本語

https://www.jpo.go.jp/resources/shingikai/sangyo-kouzou/shousai/kijun_wg/index.html

* 7



English

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

* 8



日本語

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



日本語

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

(ii) Collective Examinations for IP Portfolio Supporting Business Strategy^{*9}

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 2023, there were 23 applications.
- Of these, there were 248 patent applications.

(ii) 事業戦略対応まとめ審査^{*9}

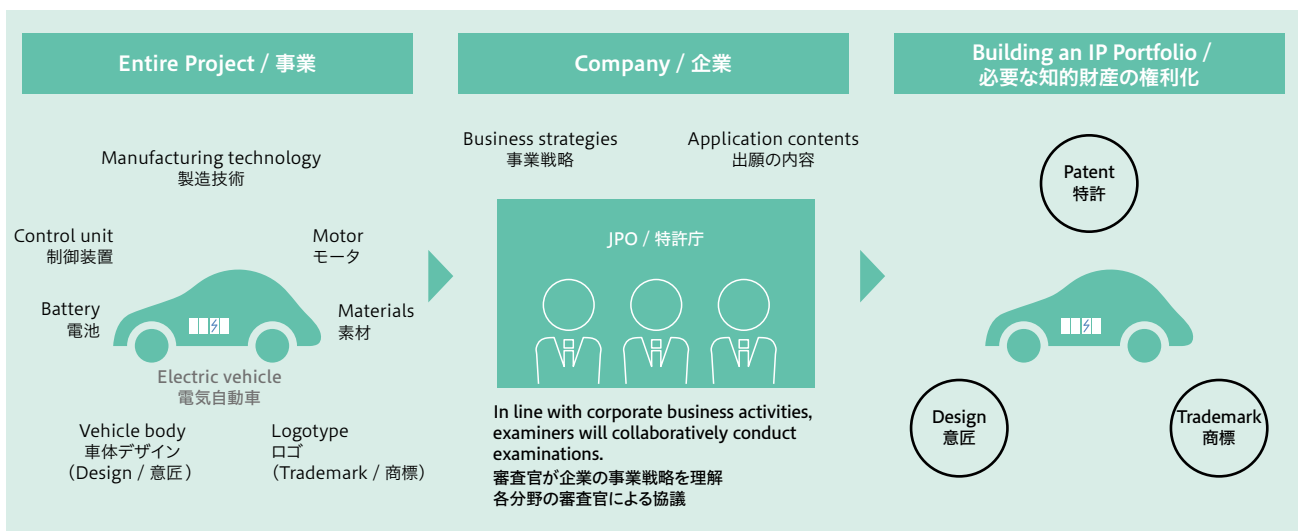
事業戦略対応まとめ審査は、事業に関連する複数の出願（特許・意匠・商標）を対象として、各分野の審査官が連携しながら審査を行い、事業展開に合わせたタイミングでの権利化を支援する施策である。[2-1-5図]

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。

- 2023年の申請実績は23件。
- 対象とされた特許出願は248件。

Figure 2-1-5

Collective Examinations for IP Portfolio Supporting Business Strategy
事業戦略対応まとめ審査



* 9



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) Suspension of Examination of a Divisional Application While the Original Application Is Pending Trial^{*10}

Since April 2023, Article 54 (1) of the Patent Act is being applied to divisional applications which have been filed in conjunction with a request for an appeal against an examiner's decision of refusal of the original application. The examination of such divisional applications will be suspended until either the result of the reconsideration by examiners before appeal proceedings or the appeal decision of the original application becomes known. For the applicant, being able to consider how to proceed with the divisional applications based on either result is expected to lead to a more efficient and effective filing strategy.

(iii) 原出願が審判係属中の分割出願に対する審査中止の運用^{*10}

2023年4月から、分割出願のうち、原出願の拒絶査定後、拒絶査定不服審判請求に合わせて出願されたものであって、申請がされた案件について、特許法第54条第1項を適用し、原出願の前置審査又は審判の結果が判明するまで当該分割出願の審査を中止する運用を開始した。出願人にとって、原出願の前置審査又は審判の結果を踏まえて分割出願の対応を検討できることは、より効率的かつ効果的な出願戦略の構築につながると期待される。

*10



日本語

https://www.jpo.go.jp/system/patent/shinsa/general/bunkatu-shutugan_chushi.html



English

https://www.jpo.go.jp/e/system/patent/shinsa/bunkatu-shutugan_chushi.html

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 the Development of Patent Classifications and Other Search Indices

- The JPO attended the IPC Union - Committee of Experts (54th session) and contributed to determining the procedures for revising the International Patent Classification (IPC), IPC revision projects, the Guide to the IPC, etc. (February 2023, online).
- As part of improving the foundation for prior art searches, the JPO discussed revising the IPC for approx. 70 technical areas, with aims such as introducing the superior classification entries of FI^{*11} and F-term^{*12} to the IPC (24th and 25th sessions of the IP5 Working Group 1-Working Group on Classification [March 2023, online and October 2023, online], 49th and 50th sessions of the IPC Union - IPC Revision Working Group [April 2023, online and November 2023, WIPO and online]).
- The JPO attended the 8th and 9th sessions of the Expert Group on Semiconductor Technology (EGST), which is made up of experts from 11 interested patent offices to discuss large-scale revision projects in the semiconductor classification (May 2023, WIPO and online and October 2023, Brazilian National Institute of Industrial Property [INPI-BR] and online).
- The JPO attended the Meeting of International Authorities under the PCT (November 2023, online)

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、そのための基盤の特許文献・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) 特許分類等検索インデックスの整備に関する取組

- 第54回IPC同盟専門家委員会に参加し、IPC（国際特許分類）改正手続やIPC改正プロジェクト、IPC指針等の決定に貢献（2023年2月、オンライン）。
- 基盤整備の一環として、FI^{*11}、Fターム^{*12}の優れた分類項目をIPC化することなどを目的に、IPC改正について約70の技術分野で議論【五庁分類作業部会〔第24回（2023年3月、オンライン）、第25回（2023年10月、オンライン）〕、IPCリビジョン作業部会〔第49回（2023年4月、オンライン）、第50回（2023年11月、WIPO及びオンライン）〕】。
- 半導体分野の分類の大規模改正プロジェクトを議論する有志11庁の専門家からなる半導体技術専門家会合（EGST；the Expert Group on Semiconductor Technology）に参加【第8回（2023年5月、WIPO及びオンライン）、第9回（2023年10月、ブラジル産業財産庁及びオンライン）】。
- 配列表に関するWIPO標準ST.26の改定等に向け、PCT国際機関会合（2023年11月、オンライン）及びWIPO標準委員会（2023年12月、オンライン）等に参加。
- 日本及び外国の特許文献を効率よく検索するため、FIを最新版のIPCに準拠させることなどを原則として、2023年度は、約280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に。

^{*11} 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。

^{*12} F-term (File forming term) is an original classification 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 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。

and the Committee on WIPO Standards (December 2023, online) with a view to revising the WIPO Standard ST.26 regarding sequence listing, etc.

- Under the principle that FI must be compliant with the latest IPC, in FY2023, the JPO amended the FI scheme for approx. 280 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 can be searched at once using common patent classifications.

8) Initiatives for AI- and IoT-related Inventions

(i) Team Supporting AI Examinations

As is pointed out in the Intellectual Property Strategic Program 2023, with the advent of ChatGPT and other forms of easily publicly accessible AI, AI is expected to be utilized in creative processes in a wider range of fields than previously possible. Taking this into account, on October 1, 2023, the JPO increased the number of experts on AI examination in the Team Supporting AI Examinations, an internal body launched in January 2021, from 13 to 39, which is equivalent to at least one in each examination office, and thereby, enhanced the system for the team. The team consists of managers, other officials, and experts on AI examination, and is responsible for developing an examination environment for AI-related inventions. These experts collect insights from the respective examination divisions, serving as a hub of examinations concerning AI-related inventions, provide consultation services to examiners outside the team, and thus support examiners in achieving efficient and high-quality examinations.

(ii) Examination Guidelines in Manga: AI/IoT Edition^{*13}

To further increase foreign readership of the “Examination Guidelines in Manga: AI/IoT Edition”, a manga introducing the basic concepts of examination guidelines, the JPO created and released an Arabic version^{*14} in October 2023 in cooperation with the Japan External Trade Organization (JETRO). [Figure 2-1-6]



9th session of EGST (Photo: INPI-BR)

第9回EGSTの様子（写真提供：ブラジル産業財産庁）

8) AI・IoT 関連発明に関する取組

(i) AI審査支援チーム

「知的財産推進計画2023」で指摘されているように、ChatGPT等の万人が容易に利用可能なAIの出現によって、今後、これまで以上に幅広い分野で創作過程におけるAIの利活用が見込まれること等を踏まえ、2023年10月1日付けで、2021年1月に発足したAI審査支援チームのAI担当官を13名から各審査室に原則1名ずつの39名に増員し、AI審査支援チームの体制強化を行った。AI審査支援チームは、管理職等とAI担当官から構成され、AI関連発明に関する審査環境の整備を担うものであり、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。

(ii) 漫画審査基準～AI・IoT編～^{*13}

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、国外へのさらなる普及を図るため、2023年10月に日本貿易振興機構（JETRO）と協力してアラビア語版^{*14}を作成し、公表した。[2-1-6 図]

*13



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

*14



Arabic / アラビア語

https://www.jetro.go.jp/world/middle_east/ip/

Figure 2-1-6

Examination Guidelines in Manga: AI/IoT Edition (Arabic Version)

漫画審査基準～AI・IoT 編～(アラビア語版)



2 Designs

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

1) Examination Performance

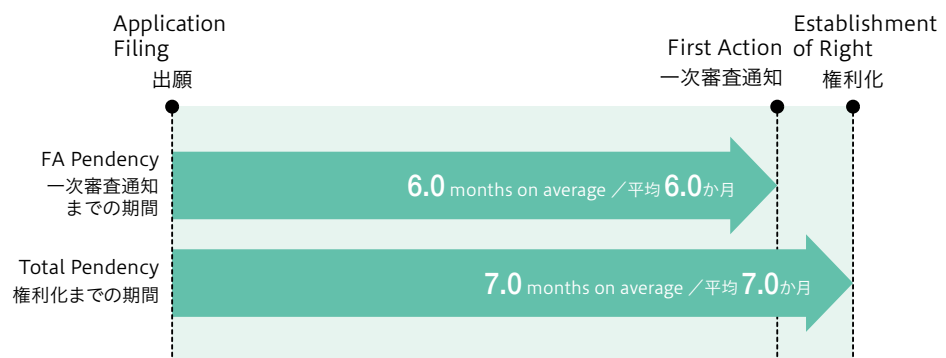
The JPO is working to make examinations more efficient in order to protect designs promptly and appropriately.

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

Figure 2-1-7

FA Pendency and Total Pendency for Design Examinations in FY2022

2022 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

- Excluding international applications filed to register designs under the Hague Agreement and applications for graphic image, building and interior designs, which are newly eligible for protection under the revised Design Act of 2019.
- 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).
- The total pendency (also called the "standard pendency") is the period from the application filing to the establishment of right (excluding 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).

備考

- 国際意匠登録出願、及び、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。
- 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。
- 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（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。）。

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)	2019	2020	2021	2022	2023
Number of FAs FA 件数	31,749	30,164	31,959	33,165	30,397
Number of Decisions of Registration 登録査定件数	27,909	26,465	27,773	29,901	27,000

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^{*15}

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; (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.^{*16}
- In the case of accelerated examinations in response to counterfeit goods in (i) above, first action is issued within one month from request, in principle. In 2023, there were 19 requests.
- In 2023, first action pendency from request for accelerated examination was 1.8 months on average.

2) 早期審査^{*15}

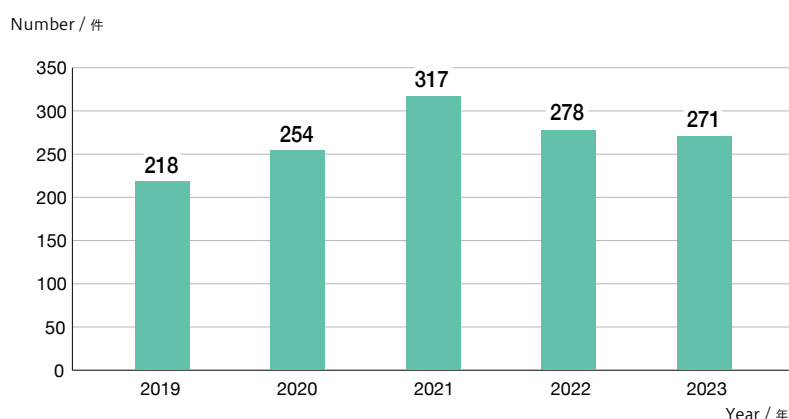
一定の要件の下で、出願人からの申出を受けて審査の着手時期を通常に比べて早める早期審査を実施している。[2-1-9図]

- 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、(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^{*16}。
- 上記(i)のうち、模倣品対応のための早期審査については、申出から原則1か月以内に一次審査結果を通知する運用を実施。2023年の申出実績は19件。
- 2023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1.8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。

*15



日本語

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

*16



日本語

https://www.jpo.go.jp/system/patent/shinsa/soki/souki_kaisi/index.html

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.*17

(i) Quality Assurance

- Before sending applicants and agents any decisions and notices, etc. prepared by examiners, managers of examination offices check their substantive and formal aspects 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*17。

(i) 品質保証

- 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。

*17



English

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

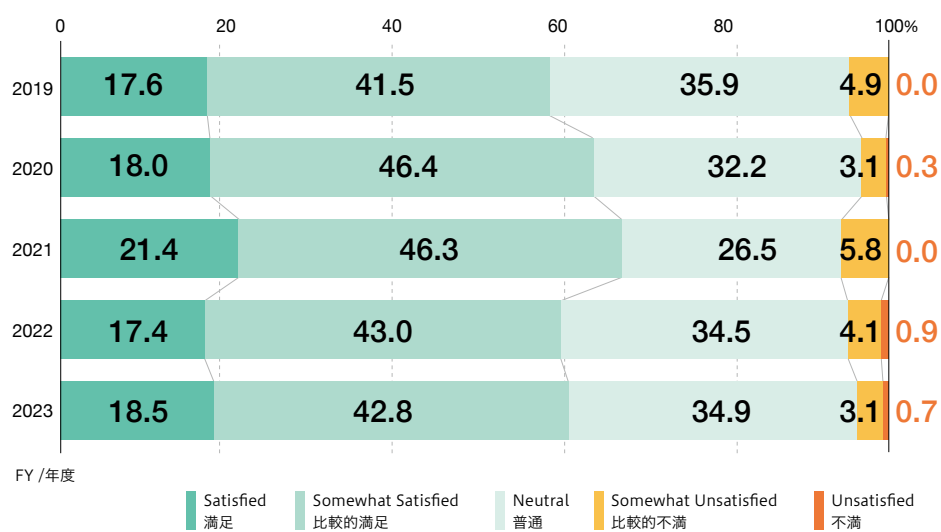


日本語

<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) Revision of the Examination Guidelines for Design

The Act Partially Amending the Unfair Competition Prevention Act, etc., which was promulgated as Act No. 51 on June 14, 2023, relaxed the procedures for applying the provision of exception to lack of novelty of design. To adapt to these changes, the Working Group on the Design Examination Standards reviewed and revised the Examination Guidelines for Design.^{*18} At the same time, the working group deliberated and revised the guidelines to clarify the scope of protectable graphic image designs in light of the use of graphic images in virtual space. In addition, the JPO updated and published on its website the “Q&As on the Provision of Exception to Lack of Novelty of Designs”^{*19} as reference for users who disclosed their designs prior to filing an application.

5) Interviews^{*20}

The JPO conducts interviews 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 interviews in the JPO's building, but also conducts on-site interviews and online interviews.^{*21} It is also possible to conduct an interview with some of the participants participating online.

- In 2023, there were 118 interviews (of these, 5 were conducted on-site, and 29 were conducted online).

6) Publication of a Guide Book for Overseas Users

In response to the recent increase in the number of applications for design registration by overseas users, the JPO published a guide book titled, “Your Key to Success: for Obtaining a Design Right in Japan” in January 2024. It introduces the features of design system in Japan and the points to consider when filing an application for design registration in Japan, as well as recent revisions made to laws, regulations and examination guidelines, in simple and easy-to-understand manner. [Figure 2-1-11]

4) 意匠審査基準の改訂

2023年6月14日に法律第51号として公布された「不正競争防止法等の一部を改正する法律」により、意匠の新規性喪失の例外規定の適用を受けるための手続が緩和されることから、意匠審査基準ワーキンググループにおいて検討を行い、これに対応した意匠審査基準^{*18}の改訂を行った。同時に、仮想空間において用いられる画像の存在を踏まえて、画像意匠として保護可能な範囲の明確化についても審議し改訂を行った。また、ユーザーが出願前に意匠を公開してしまった際の参考となるよう、「意匠の新規性喪失の例外規定についてのQ&A集」を刷新し、特許庁ウェブサイト^{*19}に公表した。

5) 面接^{*20}

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のほか、出張面接やオンライン面接^{*21}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、面接を実施することも可能である。

- 2023年の実績は118件（内、出張面接5件、オンライン面接29件）。

6) 海外ユーザー向けガイドブックの発行

近年の海外ユーザーによる意匠登録出願件数の増加を受け、特許庁は、日本の意匠制度の特徴や日本に意匠出願する際の留意事項、近年の法令改正や基準改訂事項を簡便に分かりやすく紹介するガイドブック「Your Key to Success: for Obtaining a Design Right in Japan」を2024年1月に発行した。[2-1-11図]

*18



English

https://www.jpo.go.jp/e/system/laws/rule/guideline/design/shinsa_kijun/index.html



日本語

https://www.jpo.go.jp/system/laws/rule/guideline/design/shinsa_kijun/index.html

*19



日本語

<https://www.jpo.go.jp/system/design/shutugan/tetuzuki/ishou-reigai-tetsuduki/document/index/ishou-reigai-qa24.pdf>

*20



日本語

https://www.jpo.go.jp/system/laws/rule/guideline/design/mensetu_guide_isyou.html

*21



日本語

https://www.jpo.go.jp/system/design/shinsa/general/tv_ishome.html

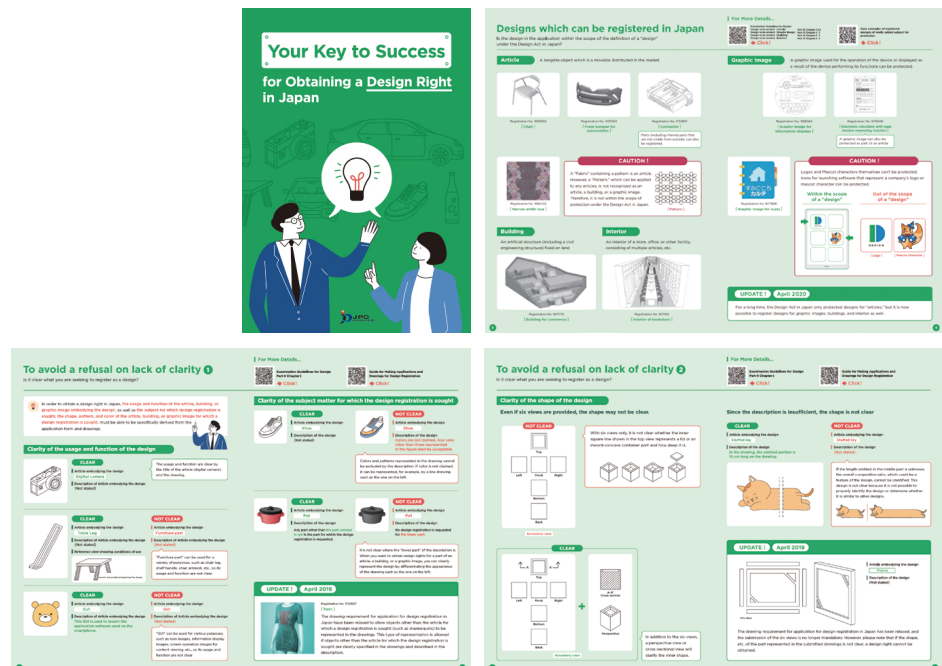
- The guide book explains using actual cases of design registration and hypothetical cases with a particular focus on points that are often mistaken by overseas users, such as the scope of protection under the Design Act in Japan, clarity of design, and procedures for claiming a priority under the Paris Convention and for applying the provision on exceptions to lack of novelty.
- An electronic version of the guide book can be downloaded from the JPO website.*22

- 意匠権の保護対象、意匠の明確性、パリ条約による優先権主張や新規性喪失の例外規定の適用のための手続など、特に海外ユーザーが間違えやすいポイントに絞って、実際の登録事例や仮想事例を交えながら解説。
- 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。

Figure 2-1-11

Guide Book for Overseas Users “Your Key to Success: for Obtaining a Design Right in Japan”

海外ユーザー向けガイドブック「Your Key to Success: for Obtaining a Design Right in Japan」



*22



English

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

3 Trademarks

The JPO has been implementing various initiatives including accelerated examinations, quality management, revising the Examination Guidelines for Trademarks, and protection of regional collective trademarks, in order to appropriately protect trademarks and 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*²³

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 2023, first action pendency from request for accelerated examination was 1.8 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、品質管理、商標審査基準の改訂、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、審査の効率化や任期付審査官の活用等による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*²³

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]
・ 2023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。

*23



English

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

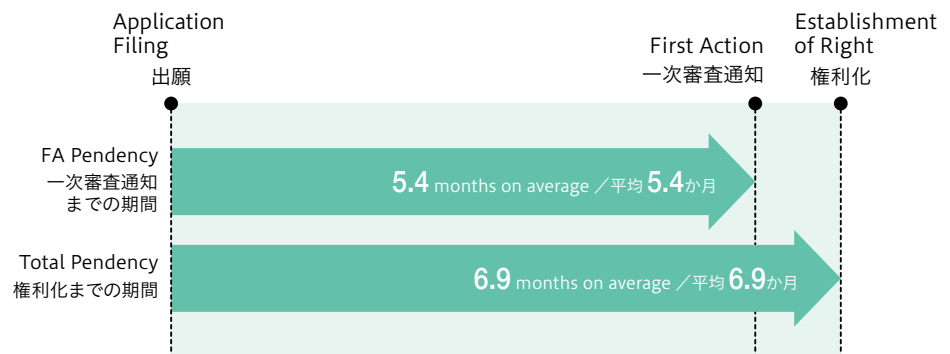


日本語

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

Figure 2-1-12

FA Pendency and Total Pendency for Trademark Examinations in FY2022
2022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 nontraditional 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の推移

(Year / 年)	2019	2020	2021	2022	2023
Number of FAs FA 件数	134,834	172,931	213,224	208,740	142,461
Number of Decisions of Registration 登録査定件数	117,186	146,708	185,415	188,157	125,973

Note

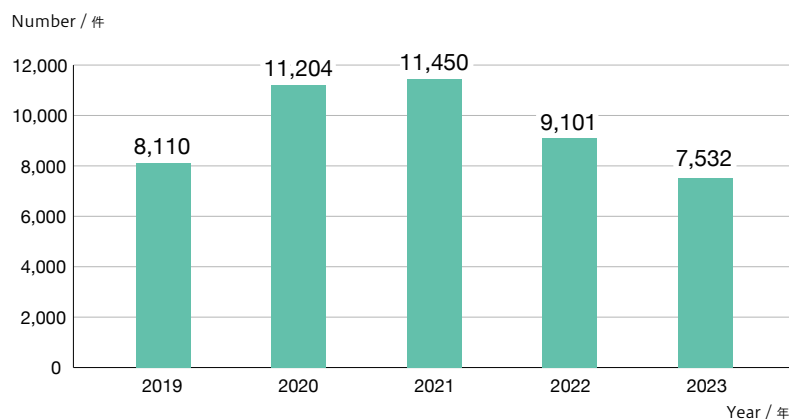
- The number of first actions is the number of first notices of examination results sent by examiners to applicants, etc. (for the most part, either a decision of registration or notices of reasons for refusal).

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の推移

**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) 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. ^{*24}

(i) Quality Assurance

- Before sending applicants and agents any decisions and notices, etc. prepared by examiners, managers of examination offices check their substantive and formal aspects for all cases.
- Examiners consult with managers or other examiners in order to share search 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 2-1-15]
- 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.

3) 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 ^{*24}。

(i) 品質保証

- 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、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。
[2-1-15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。

*24



English

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

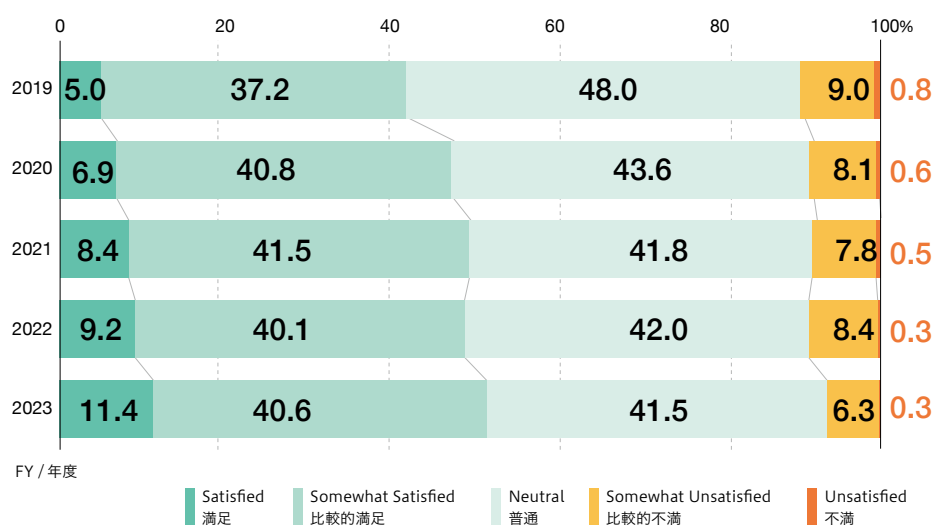


日本語

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

Figure 2-1-15

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



4) Revision of the Examination Guidelines for Trademarks

To adapt to the Act Partially Amending the Unfair Competition Prevention Act, etc., which was promulgated as Act No. 51 on June 14, 2023, the Working Group on the Trademark Examination Standards^{*25} met and discussed revisions to the Examination Guidelines for Trademarks.^{*26} The working group mainly discussed the following:

- Revisions associated with the introduction of a consent system (Article 4 (4), Article 8)
- Revisions associated with the relaxation of registration requirements for trademarks that include the name of another person (Article 4 (1), viii)

4) 商標審査基準の改訂

2023年6月14日に法律第51号として公布された「不正競争防止法等の一部を改正する法律」に対応するため、商標審査基準ワーキンググループ^{*25}を開催し、商標審査基準^{*26}の改訂に係る検討を行った。主な検討内容は以下のとおり。

- コンセント制度の導入に伴う商標審査基準の改訂について（第4条第4項、第8条）
- 他人の氏名を含む商標の登録要件緩和に伴う商標審査基準の改訂について（第4条第1項第8号）。

*25



日本語

https://www.jpo.go.jp/resources/shingikai/sangyo-kouzou/shousai/shohyo_wg/index.html

*26



English

<https://www.jpo.go.jp/e/system/laws/rule/guideline/trademark/kijun/index.html>



日本語

<https://www.jpo.go.jp/system/laws/rule/guideline/trademark/kijun/index.html>

5) Regional Collective Trademarks

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 services)^{*27}. 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 2-1-16]

・ As of the end of December 2023, there were 1,338 applications filed, and of those 759^{*28} 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 2-1-17]

・ As of the end of December 2023, 244 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 2023” booklet,^{*29} 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.

5) 地域団体商標

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^{*27}。「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。[2-1-16図]

・ 2023年12月までに1,338件が出願され、そのうち759件^{*28}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。

[2-1-17図]

・ 2023年12月までに244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～2023」^{*29}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 2-1-16

Regional Collective Trademark Composition

地域団体商標の構成

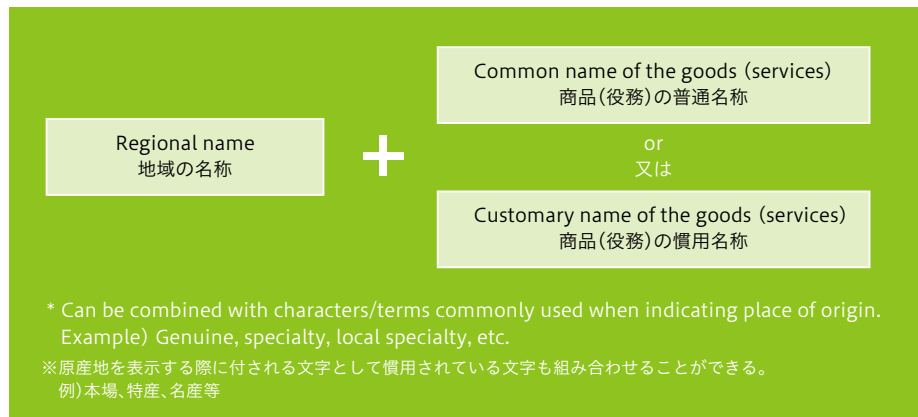


Figure 2-1-17

The Logo Mark of Regional Collective Trademarks

地域団体商標マーク



*27



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>

*29



日本語

"Regional Collective Trademark Guide Book: Catalog Edition 2023"
「地域団体商標ガイドブック～カタログ編～ 2023」
<https://www.jpo.go.jp/system/trademark/gaiyo/chidan/document/tiikibrand/guidebook-catalog.pdf>

*28

Registration numbers by region are 38 for Hokkaido, 60 for the Tohoku region, 119 for the Kanto-Koshinetsu region, 69 for the Hokuriku region, 101 for the Tokai region, 165 for the Kinki region, 54 for the Chugoku region, 34 for the Shikoku region, and 100 for the Kyushu region, and 18 for Okinawa region, along with three 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 38 件、東北 60 件、関東・甲信越 119 件、北陸 69 件、東海 101 件、近畿 165 件、中国 54 件、四国 34 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）。

4 Trials and Appeals

1) Performance of Trials and Appeals

The status of the proceedings in 2023 is as shown in Figure 2-1-18. [Figure 2-1-18]

- 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 2023, the number of requests for accelerated appeal proceedings^{*30} was 172 for patents, 3 for designs, and 25 for trademarks. The average pendency period^{*31} was 4.1 months for patents, 4.3 months for designs, and 3.6 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 2023, 81 oral proceedings (of which 50 [61.7%] 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.^{*32}
- Based on performance, the JPO is considering making improvements to the implementation of online oral proceedings, such as increasing the efficiency of pre-confirmations.

^{*30} 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 2023 was 307 for patents, 3 for designs, and 26 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、2023年における早期審理の申出件数は、特許が307件、意匠が3件、商標が26件。

4 審判

1) 審判実績

2023年の審理の状況は、2-1-18図のとおりである。[2-1-18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。2023年における早期審理の申出件数^{*30}は特許で172件、意匠で3件、商標で25件であり、審理期間^{*31}は特許で平均4.1か月、意匠で平均4.3か月、商標で平均3.6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。
- 2023年は、81件の口頭審理（内、オンライン口頭審理50件（61.7%））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^{*32}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。

^{*31} 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つてから審決が発送されるまでの期間の暦年平均。

^{*32}



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 2-1-18

Status of Proceedings in 2023
2023 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	8,887	12.1	109	13.9	173	3.2	1,356	7.8	-	-
Designs 意匠	285	6.7	10	11.9	-	-	-	-	-	-
Trademarks 商標	1,163	10.7	98	12.3	-	-	488	9.4	952	7.0

- 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 2023, 4 circuit trials and 7 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 seven themes and five cases related to patents, designs and trademarks and releases a report that consolidates its findings.*33

3) Revision of the Manual for Trial and Appeal Proceedings (MTAP)*34

In 2023, the following revisions were made to the implementation of the trial and appeal system, etc.

- Establishment of a new item on online oral proceedings launched in October 2021 (MTAP: 33-09)
- Addition of text on the special electronic application launched in January 2024 (MTAP: 00-02)
- Amendment of text on fax (MTAP: 33-01, etc.)
- Clarification of proceedings, such as trial for invalidation and opposition to grant of patent (MTAP: 12-04, 51-11, 51-21, 51-22, 57-05, 58-02, 67-09, etc.)

(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。
- 2023年においては、4件の巡回審判、7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、意匠及び商標で計7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*33を公表。

3) 審判便覧*34の改訂

2023年は、審判制度の運用等について、以下の見直しを行った。

- 2021年10月より開始しているオンライン口頭審理に関する項目を新設（審判便覧33-09）
- 2024年1月より開始している電子特殊申請に関する記載を追加（審判便覧00-02）
- ファクシミリに関する記載の修正（審判便覧33-01等）
- 無効審判、特許異議の申立て等、各種運用の明確化（審判便覧12-04, 51-11, 51-21, 51-22, 57-05, 58-02, 67-09等）

*33



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

*34



English

https://www.jpo.go.jp/e/system/trial_appeal/sinpan-binran.html



日本語

https://www.jpo.go.jp/system/trial_appeal/sinpan-binran.html

