

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 creation cycle, comprised of intellectual property 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.

- In FY2018 (April 2018–March 2019), the JPO achieved the periods shown in Figure 2-1-1. [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 FY2019, the JPO secured a capacity of 1,682 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 through utilization of the private sector.

- As of December 2019, there were 9 registered search organizations.
- In FY2019, the number of outsourced searches was approx. 150,000, of which around three-fourths or approx. 113,000 involved searches for foreign patent documents in addition to Japanese patent documents.

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。

- 2018年度（2018年4月–2019年3月）には2-1-1図の各期間を達成。[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。

- 2019年度は、審査官1,682名（任期付審査官を含む。）の定員を確保。

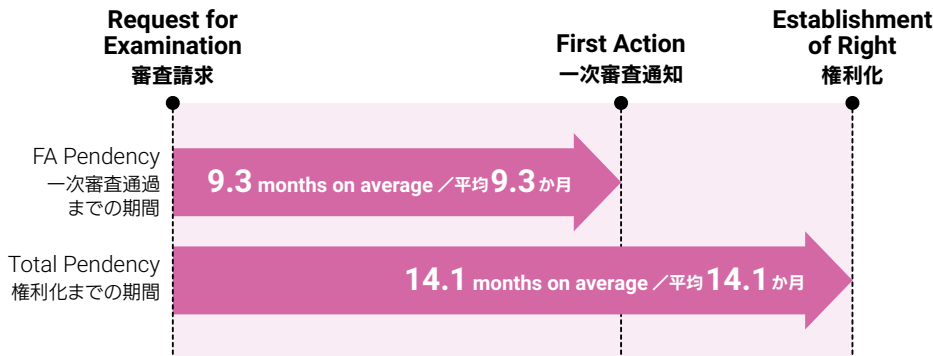
(ii) 先行技術文献調査の外注

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

- 登録調査機関の数は、2019年12月現在で9機関。
- 2019年度の発注件数は、約15.0万件であり、その内約4分の3の約11.3万件については日本語特許文献に加え外国語特許文献も調査対象。

Figure 2-1-1 | 2-1-1 図

FA Pendency and Total Pendency for Patent Examinations in FY2018
2018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 | 2-1-2 図

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の推移

| Year / 年 | 2015 | 2016 | 2017 | 2018 | 2019 |
|--|----------------|----------------|----------------|----------------|----------------|
| Number of FAs¹ FA件数 ¹ | 235,809 | 246,879 | 239,236 | 232,701 | 227,293 |
| Number of Patents Granted² 特許査定件数 ² | 173,015 | 191,032 | 183,919 | 177,852 | 167,945 |
| Number of International Search Reports Established³ 国際調査報告作成件数 ³ | 43,571 | 44,321 | 45,948 | 47,934 | 51,666 |

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

3) Accelerated Examination System/ Super-accelerated Examination System

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

(i) Accelerated Examination System

- 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. For more details, please visit the JPO website*1.
- In 2019, first action pendency from request for accelerated examination was 2.5 months on average.

(ii) Super-accelerated Examination System

- The JPO is running pilot programs for a super-accelerated examination system for highly important applications, such as applications for inventions that have already been put into practice and that are also filed in one or more other countries.
- In principle, this system aims for the period from request to first action to be within one month (within two months for DO*2 applications). For more details, please visit the JPO website.
- In 2019, there were 1125 requests, and first action pendency from request for super-accelerated examination was 0.6 months on average (1.3 months for DO applications).

3) 早期審査制度・スーパー早期審査制度

一定の要件の下で、出願人からの申出を受けて審査の着手時期を通常に比べて早める早期審査制度・スーパー早期審査制度を実施している。[2-1-3図]

(i) 早期審査制度

- 特許出願に関する早期審査制度の対象は、外国にも出願している出願、中小企業等の出願等。更なる詳細については、特許庁ウェブサイト*1を参照。
- 2019年は、早期審査の申出から一次審査通知までの期間は平均2.5か月。

(ii) スーパー早期審査制度

- 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である、より重要度の高い出願を対象としてスーパー早期審査制度を試行。
- 申請から一次審査通知までを原則1か月以内（DO*2出願については原則2か月以内）で行う制度。更なる詳細については、特許庁ウェブサイト*3を参照。
- 2019年は1125件の申請があり、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 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。

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