



Accelerating Examination (JAPAN)

July, 2006

To: Our Clients and Associates

This is to inform you of accelerating examination system in Japan.

In order to accelerate examination, there are two ways, "Accelerated Examination" and "Preferential Examination." In case an application applies to both conditions mentioned below, an applicant can choose which procedure should be taken.

There is no difference in start of examination procedure between Accelerated Examination and Preferential Examination, so it is highly recommended that you should choose Accelerated Examination because of its simple process if your application applies to both undermentioned conditions.

1. Accelerated Examination

(1) Applications applied to the accelerated examination

The accelerated examination system is applicable to the following four types of applications of which a request for examination have been filed. If your application applies to several types below, you can choose one option for filing accelerated examination.

1) working invention-related applications

Applications filed by an applicant or a licensee who has already commercialized the invention or plans to commercialize the invention within two years from the filing date of a request for accelerated examination.

2) internationally-filed applications

Applications for inventions that were

- i) filed with at least one foreign IP office as well as JPO or
- ii) filed as international applications under the PCT and then entered the national phase in Japan.

3) academic institutes-related applications

Applications filed by a university, junior college, public research institute, approved TLO, or an authorized TLO.

4) SME (Small and Medium-sized Enterprise) or an individual-related applications

Applications filed by a SME or an individual.

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In case an application is applicable to one of the above types, the application will be early examined by filing an "Explanation of Circumstances Concerning Accelerated Examination."

(2) Explanation of Circumstances Concerning Accelerated Examination

In an explanation of circumstances concerning accelerated examination, both "circumstances" and "disclosure of prior arts and comparative explanation between the application and the prior arts."

For filing an explanation of circumstances concerning accelerated examination, the following information is required.

1) Internationally-filed applications

It is required to describe the filing date, application No., and publication No. of foreign/international applications. Filing documents of the foreign/international applications is basically not required, however, you have to file those documents if the corresponding foreign/international application No. has not been allotted.

In case you already have examination or search results of the corresponding foreign/international applications, it is required to file the results together with all cited references. In addition, if the corresponding application has been filed with USPTO, it is recommended to file a copy of "Information Disclosure Statement (IDS)" as well as any prior (or known) arts or reference cited.

In case you have not yet received any examination or search result of the corresponding foreign/international application, it is required to search prior arts by yourselves and file results of the search.

2) Working-related applications

It is required to describe working situations or working plans. It is also required to search prior arts by yourselves and file results of the search.

3) SME, an individual, or academic institutes-related applications

It is required to describe that the applicant is applicable to any of conditions. It is not required to search prior arts by yourselves, however, you need to describe any prior arts if you have already known of.

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2. Preferential Examination

The preferential examination system is applicable to an application in which a third party is working the invention as a business after published as a LOPI publication and the conflict between the applicant and the third party should be settled as early as possible.

In order to apply a preferential examination, an "Explanation of Circumstances Concerning Preferential Examination" must be filed. In the explanation, the following information and documents should be included.

{ Required information }

1) Working situation

- The name, address, and phone number of those who are working
- The relationship between those who are working and the applicant if they have any relationship with the applicant
- Products or method related to working of the invention
- The place of working the invention
- The period of working the invention
- The method of working such as manufacturing, using or selling, and the quantity or amount etc.

2) Influences of the working on the applicant

3) Process and result of negotiation between the third party and the applicant

{ Required documents }

1) Manual and necessary drawings describing products or method related to the third party's working

2) A copy of a warning letter

3) Evidences such as products, catalogs, samples, or photos

4) Documents certifying the fact of working by the third party

Should you need any further information, please feel free to contact us.

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