

TOPIC

1. Draft Revision of Examination Guidelines Regarding Use Invention Is Announced
2. Agreement regarding Mutual Assistance in Customs Matters Was Concluded
3. "Known Data Numbers" Are Cited in Reference Sections of Design Gazettes



Draft Revision of Examination Guidelines Regarding Use Invention Is Announced

JPO announced that the draft of revised examination guidelines of "Part II, Chapter 2 Novelty and Inventive Step" would be made and that JPO would invite interested parties to submit written comments on the draft by May 8 (Mon), 2006. The purpose of this revision is to make clear the examination guidelines for novelty and inventive step regarding a use invention.

The draft revision concerns 1.5.2 "Method of Construing Particular Types of Claim Statements" in the "Examination Guidelines for Patent and Utility Model, Part II, Chapter 2 Novelty and Inventive Step". The gist of the draft revision is as follows.

(1) In finding a claimed invention having a statement of a limitation by use, it is made clear that there are two cases as follows;

A case where a limitation by use should be construed in such a manner that it means a structure etc. particularly suitable for the use.

A case where an invention with a limitation by use should be construed as so-called "a use invention".

(2) It is made clear that, in general, "a use invention" is construed as an invention based on a discovery of an unknown attribute of a product and suitability for a new use of the product due to the attribute.

(3) Expressions pointed out to be ambiguous such as "a product that is to be used solely for the use purpose" are made clear, and it is also made clear that they are examined by the way of the above-mentioned method.

(4) Examples of claimed inventions with a limitation by use are enriched.

Taking the submitted written comments into consideration, the definitive edition of the revised examination guidelines for "novelty and inventive step" will be made. An application examined on and after the date of announcement of the definitive edition is to be examined based on the revised examination guidelines regardless of the filing date of the application.

Agreement regarding Mutual Assistance in Customs Matters Was Concluded

Ministry of Finance Japan (MOF) announced that the agreement between Japan and China regarding mutual assistance and cooperation in customs matters ("Agreement between the government of Japan and the government of the people's republic of China regarding mutual assistance and cooperation in customs matters") was signed in Beijing and came into effect.

The agreement was concluded so that Customs Administrations of Japan and China can enforce their respective Customs laws more effectively. Besides, in order to make Customs clearance more prompt and to seize anti-social commodities such as illegal drugs and guns and commodities infringing intellectual property rights before they are imported to respective countries, the agreement provides a legal framework in which mutual assistance and cooperation, including information exchange, are realized.

Globalization proceeds in the economical and social fields, and people and commodities move more and more internationally. Under such circumstances, Customs Administrations are expected to seize illegal drugs, guns, commodities infringing intellectual property rights etc., and to cope with terrorism. As such, it is very important to proceed mutual assistance and cooperation between Japanese and foreign Customs Administrations. MOF has already concluded the similar agreements with Korea, U.S.A, Australia, Singapore etc., and is now negotiating with EU and Hong Kong so as to conclude the similar agreements.

"Known Data Numbers" Are Cited in Reference Sections of Design Gazettes

JPO announced that "known data numbers" would be cited in reference sections of design gazettes published on and after April 2006.

Reference materials to which "known data numbers" are assigned are known data which JPO has collected and sorted by assigning specific numbers (data extracted from magazines, catalogs, the Internet, and foreign design gazettes). The original reference materials can be read in National Center for Industrial Property Information and Training. Besides, "design known data reference" service in Industrial Property Digital Library (IPDL) allows reference to detailed bibliographic information and images of known data (only data allowed to be used) based on "known data numbers".

So far, design gazettes have cited "reference materials" which were referred to when designs were examined as to their novelty and inventive step. However, when the reference materials are old books, magazines, and catalogs in Japan and elsewhere, and foreign design gazettes, it is difficult to obtain them. As such, JPO decided to cite "known data numbers" in reference sections of design gazettes so as to provide a user with more convenience.

Please Contact us if You have any Comments or Require any Information.

Please acknowledge that the purpose of our column is to provide general information on the field of intellectual property, and that the description here does not represent our legal opinion on a specific theme.

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