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特許行政年次報告書2008年版



The JPO starts the pilot program Super Accelerated Examination 特許庁、スーパー早期審査の試行を開始

In an attempt to further reduce the length of the patent examination process, the JPO started a pilot program called Super Accelerated Examination on October 1, 2008. Through the Super Accelerated Examination program, it will be possible for applicants to have their patent applications registered earlier than with the current accelerated examination program. In a global environment where competition is constantly intensifying, it has indeed become crucial for companies to reap the benefits of their R&D efforts as early as possible by reducing the length of the examination process. It is in this view that the Super Accelerated Examination program was started on a trial basis. The program aims at reducing the period until the notification of the results of the primary examination (first office action or decision to grant a patent) to less than one month, thus making it twice faster than the current program (2.2 months on average).

Only applications which the applicant files abroad and intends to use commercially are eligible for the Super Accelerated Examination program. If an application is examined with the Super Accelerated Examination program, the JPO will notice the applicant of the results of the primary examination within one month and of the final results within three or four months - a significant reduction compared to the current Accelerated Examination program (an average 5.9 months until the notification of final results).

After a trial period of approximately six to twelve months, the JPO will review the conditions of eligibility of the program before its full implementation.



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On a related note, the JPO announced that a patent was granted on October 17, 2008 for the patent application *Tokugan* 2007-054284, a mere two weeks after the applicant filed a Request for examination and a request for Super Accelerated Examination on October 1, 2008.

Reference websites:

- (i) http://www.jpo.go.jp/torikumi/t_torikumi/souki/supersoukisinsa.htm
- (ii) <http://www.business-i.jp/news/kinyu-page/news/200810020056a.nwc>
- (iii) <http://www.jpo.go.jp/torikumi/hiroba/supersouki.htm>

特許庁は2008年10月1日から、特許審査期間のさらなる短縮を図るため、早期審査制度よりも早く審査を終える「スーパー早期審査」の試行を始めた。グローバル化が進み、企業間の競争が激しくなるなか、審査期間短縮による研究開発成果の早期活用が欠かせなくなってきたため、1次審査の結果が出るまでの期間は、早期審査(平均期間2.2カ月の半分以下、1カ月以内を目指す。

海外への出願と製品化の予定という2つの条件を満たす出願に限って、スーパー早期審査の対象にする。スーパー早期審査の対象になれば、1次審査結果が1カ月以内になる。最終結果が出るまでには3~4カ月かかる見込みだが、早期審査(5.9カ月)からは大幅に短縮される。

スーパー早期審査は半年か1年程度の試行の後、スーパー早期審査の対象条件などを検討したうえで、本格実施する予定だ。

特許庁は、2008年10月1日に審査請求及びスーパー早期審査の申立がなされた出願(特願2007-054284)について2008年10月17日に特許査定がなされたと発表した。

- (i) http://www.jpo.go.jp/torikumi/t_torikumi/souki/supersoukisinsa.htm
- (ii) <http://www.business-i.jp/news/kinyu-page/news/200810020056a.nwc>
- (iii) <http://www.jpo.go.jp/torikumi/hiroba/supersouki.htm>

Trademark registration: Japanese place name Sanuki,
already registered in Taiwan, is now applied for in China
商標登録:台湾の「讃岐」問題、中国でも申請

The name of the former Japanese region Sanuki (now Kagawa prefecture), known for its local production of udon noodles, which was previously registered as a trademark in Taiwan by Namchow Chemical Industrial Co. Ltd., a major frozen-food producer located in Taipei, is under the spotlight again. Indeed, it has now been revealed that the same company filed another trademark application on March 2008, this time in order to register Sanuki in China. Kagawa prefecture and the local *sanuki* udon noodle companies are studying the possibility to take common measures regarding this issue.

According to the prefecture authorities, Namchow Chemical Industrial Co. Ltd. filed a trademark application with the Chinese Trademark Office on March 24, 2008 in order to register "讃岐" (in Chinese characters) and "SANUKI" (in Roman alphabet) as a restaurant name as well as a brand name for noodles.

Reference websites:

- (i) <http://mainichi.jp/area/kagawa/news/20081001ddlk37040733000c.html>
- (ii) http://www.shikoku-np.co.jp/kagawa_news/administration/article.aspx?id=20080930000123

うどんの産地として知られる香川の旧国名「讃岐」などが台湾で商標登録されていた問題で、商標を持つ台湾の大手冷凍食品メーカー「南僑化学工業」(台北市)が2008年3月、中国でも商標登録を申請していたことが分かった。県は讃岐うどん業界などと対応を協議している。

県によると、同社は2008年3月24日、飲食店名とめん類の商品名として「讃岐」と「SANUKI」の商標登録を中国の商標局に申請した。

- (i) <http://mainichi.jp/area/kagawa/news/20081001ddlk37040733000c.html>
- (ii) http://www.shikoku-np.co.jp/kagawa_news/administration/article.aspx?id=20080930000123

Microsoft wins a patent infringement suit connected to MP3 technology MP3技術巡る特許侵害訴訟でMicrosoftに軍配

In the protracted patent dispute between Microsoft and Alcatel-Lucent, the Federal Appellate Court issued on September 25, 2008 a ruling in favor of Microsoft, sustaining the decision of the lower court ruling that Microsoft is not infringing on one of the two patents in suit and that Alcatel-Lucent has no right to file a suit regarding the other patent. Accordingly, the Federal Appellate Court ruled that Microsoft does not need to pay an indemnity to Alcatel-Lucent.

The suit began in 2003 when Lucent Technologies (Alcatel and Lucent merged in 2006) filed an infringement suit against Dell and Gateway, alleging that the two companies were infringing fifteen of its patents. Since the disputed technology was used in Microsoft's well-known operating system Windows, Microsoft filed a counter suit against Lucent Technologies, in response to which Lucent Technologies sued Microsoft.

On February 22, 2007, the jury of the Federal District Court of South California alleged that Microsoft infringed an Alcatel-Lucent patent related to MP3 encoding/decoding and ordered Microsoft to pay an indemnity of approximately one billion five hundred and twenty million US dollars.

However, on August 6, 2007, Mr. Rudi Brewster, judge of the Federal District Court, cancelled the previous decision of the jury, stating that the jury's decision recognizing that Microsoft infringed one of the two patents was not adequate.

In response to this decision, Alcatel-Lucent had filed an appeal with the Federal Appellate Court on July 7, 2008.

Reference websites:

- (i) <http://journal.mycom.co.jp/news/2007/02/23/101.html>
- (ii) <http://www.afpbb.com/article/environment-science-it/it/2264844/2008798>
- (iii) <http://japan.cnet.com/news/biz/story/0,2000056020,20380986,00.htm>

2008年9月25日、連邦控訴裁判所はMicrosoftとAlcatel-Lucentとの間で長期化していた特許紛争で損害賠償を支払う必要はないとした下級裁判所の判断を支持した。連邦控訴裁判所は、問題とされた特許のうち、1件についてはMicrosoftは侵害しておらず、他の1件についてはAlcatel-Lucentには訴えの資格がないとする下級審の判断を支持した。



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今回の訴訟は、2003年にLucent Technologies(2006年にAlcatelとLucentが合併)がDellとGatewayを15の特許侵害で訴えたのを発端とする。Windowsに組み込まれた技術が対象となっていたためMicrosoftが反訴。これを受けてLucentもMicrosoftを訴えた。

2007年2月22日、南カリフォルニア州の連邦地方裁判所で、MicrosoftがAlcatel-Lucentが持つMP3のエンコーディング/デコーディング特許を侵害したとして、約15億2000万ドルの損害賠償支払いを命じる陪審判断が下された。

しかし、2007年8月6日、連邦地方裁判所のRudi Brewster判事は、2件の特許のうちの1件をMicrosoftが侵害したと認定した陪審員団の判断は適切ではなかったとして、同社に賠償金の支払いを命じた陪審員団の評決を破棄した。

これを不服として、2008年7月7日、Alcatel-Lucentは控訴裁判所へ上訴していた。

- (i) <http://journal.mycom.co.jp/news/2007/02/23/101.html>
- (ii) <http://www.afpbb.com/article/environment-science-it/it/2264844/2008798>
- (iii) <http://japan.cnet.com/news/biz/story/0,2000056020,20380986,00.htm>

Publication of the Japan Patent Office Annual Report 2008 特許行政年次報告書2008年版

On September 19, 2008, the JPO published the English version of the Japan Patent Office Annual Report 2008.

The English version of the annual report is based on the Japanese version, published on June 27, 2008.

Reference websites:

- (i) (English version) http://www.jpo.go.jp/shiryuu_e/toushin_e/kenkyukai_e/annual_report2008.htm
- (ii) (Japanese version) http://www.jpo.go.jp/cgi/link.cgi?url=/shiryuu/toushin/nenji/nenpou2008_index.htm

2008年9月19日、特許行政年次報告書2008年版の英語版が公表された。この報告書は、2008年6月27日に公表された日本語版の報告書に基づいて作成されたものである。

- (i) http://www.jpo.go.jp/shiryuu_e/toushin_e/kenkyukai_e/annual_report2008.htm (英語版)
- (ii) http://www.jpo.go.jp/cgi/link.cgi?url=/shiryuu/toushin/nenji/nenpou2008_index.htm (日本語版)



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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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