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### Legislation Partially Revising Patent Law, etc. - Enactment Date and Related Ordinances Prepared 特許法等の一部を改正する法律の施行日及び関係政令の整備

Legislation Partially Revising Patent Law, etc., which was established in July 2015, will be enacted on April 1, 2016.

The legislation makes revisions to the employee inventions system, including changes so that the right to obtain a patent regarding employee inventions will from the outset revert to the employer. It also makes partial changes to patent fees, etc., and makes preparations for the introduction of the Patent Law Treaty (PLT) and the Singapore Treaty on the Law of Trademarks (STLT).

Preparations have also been made for related ordinances accompanying the revisions. A general overview is as follows:

- Overseas users will be able to directly file patent applications with the JPO (excluding divisional and converted applications) and carry out certain procedures established by ministerial ordinance as well as annuities procedures for the 4th and subsequent years.
- Even after a due date designated by the JPO has elapsed, within a certain period it will be possible to file a time extension.
- Changes to official fees

2015年7月に成立した特許法等の一部を改正する法律が2016年4月1日に施行される。職務発明に関する特許を受ける権利を原始的に法人へ帰属させることを認める等の職務発明制度に関する改正、特許料等の一部料金変更、特許法条約（PLT）及び商標法に関するシンガポール条約（STLT）への加入のための規定の整備に関するものである。

改正に伴い関係政令も整備された。主な概要は下記のとおりである。

- 在外者も直接、特許庁に対して特許出願（分割・変更出願を除く）及び省令で定める手続き、第4年目以降の年金納付手続きができる。
- 指定期間を経過した後でも一定期間内であれば期間延長ができる。
- 料金の変更

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## Changes to Handling of Extensions to Response Period for Notices for Reasons for Refusal

### 拒絶理由通知の応答期間の延長に関する運用の変更

Together with the enactment of Legislation Partially Revising Patent Law, etc., the handling of extensions to the response periods for notices for reasons for refusal in patent application and trademark application cases will change as follows.

(1) Patent applications (excluding cases in which an appeal against a decision of refusal has been filed)

(a) Requests for time extension which are filed before the due date

Applicant(s)	Maximum extension possible	Extension procedure	Logical reason for extension
Resident in Japan	Two months	A two-month extension can be made by filing a single request for time extension.	Not required
Resident outside Japan	Three months	A two-month extension can be made by filing a single request for time extension. A second request for time extension may be filed to request a further one-month extension. (It is also possible to file the first and second requests simultaneously).	Not required

(b) Requests for time extension which are filed after due date has elapsed

- If the due date for responding to an office action has elapsed, a request for time extension will be accepted provided it is filed within the prescribed period (two months) from the due date.
- A two-month extension can be made by filing a single request for time extension.
- A logical reason for filing the request for time extension is not required.
- Fees for filing requests for time extension filed after the due date has elapsed are higher than for those filed before the due date (JPY 51,000).

If a request for time extension has already been made prior to the due date, a further request for time extension may not be filed after the due date has elapsed. Also, if a response to the office action has been filed during the original response period, it is not possible to file a request for time extension after the due date has elapsed.

(2) Trademark applications (excluding cases in which an appeal against a decision of refusal has been filed)

(a) Requests for time extension which are filed before the due date

- Even if the applicant (s) are resident in Japan, it is possible to file a request for time extension (previously, this option was only available to applicants not resident in Japan).
- A one-month extension can be made by filing a single request for time extension.
- A logical reason for filing the request for time extension is not required.

(b) Requests for time extension which are filed after due date has elapsed

- If the due date for responding to an office action has elapsed, a request for time extension will be accepted provided it is filed within the prescribed period (two months) from the due date.
- Unlike (a) above, A two-month extension can be made by filing a single request for time extension.
- A logical reason for filing the request for time extension is not required.
- Certain fees are charged for filing requests for time extension which are filed after the due date has elapsed.

特許法等の一部を改正する法律案の施行に伴い、特許出願及び商標登録出願における拒絶理由通知の応答期間の延長に関する運用が以下の通り変更される。

(1) 特許出願（拒絶査定不服審判請求後を除く）

(a) 応答期間内に行う延長請求

出願人	最大延長期間	延長手続き	合理的理由の有無
国内居住者	2か月	1通の請求で2か月の応答期間の延長が認められる。	不要
在外者	3か月	1通の請求で2か月の応答期間の延長が認められる。2通目の請求で更に1か月の延長が認められる（1通目および2通目の請求を同時に行うことも可）。	不要

(b) 応答期間経過後に行う延長請求

- 応答期間経過後延長が可能な期間（2か月）内であれば請求により期間の延長が認められる。
- 1通の請求で2か月の応答期間の延長が認められる。
- 請求のための合理的な理由は不要。
- (a)の場合よりも高額な手数料(51,000円)が必要となる。

但し、(a)の延長が認められたときは、応答期間経過後の延長請求はできない。また、当初の応答期間内に応答をした場合は、応答期間経過後の延長請求はできない。

(2) 商標登録出願（拒絶査定不服審判請求後を除く）

(a) 応答期間内に行う延長請求

- ・ 出願人が国内居住者である場合にも、期間の延長が認められる（従来は在外者のみ延長可）。
- ・ 1通の請求で1か月の応答期間の延長が認められる。
- ・ 請求のための合理的な理由は不要。

(b) 応答期間経過後に行う延長請求

- ・ 応答期間経過後延長が可能な期間（2か月）内であれば請求により期間の延長が認められる。
- ・ (a)と異なり、1通の請求で2か月の応答期間の延長が認められる。
- ・ 請求のための合理的な理由は不要。
- ・ 所定の手数料が必要となる。

## JPO Director General's Start-of-Year Impressions 特許庁長官による年頭所感を発表

On January 4, 2016, the JPO published the start-of-year impressions of its Director General for 2016.

The Director General expresses the view that in order to realize the primary thrust of the government's "contribution from the entire population" policy, "a strong economy bringing forth hope," the continued creation of the innovations necessary for realizing economic growth is essential, and therefore the JPO is working to support Japan's 'innovation system' via intellectual property administration. The Director General also describes the stable implementation of the many revisions to systems that have taken place over the past two years, while the JPO promotes the two pillars of (1) building the fastest and highest-quality examination system in the world and (2) strengthening support for regional development and small and medium-sized enterprises as the source of economic growth.

Further, based on the general agreement over the TPP, national implementation of the time extension system regarding patents and the damages system regarding unauthorized use of trademarks, etc. as required by the TPP will undergo rapid consideration, and necessary measures therefor will be devised.

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特許庁は2016年1月4日、特許庁長官による2016年度の年頭所感を発表した。

長官は、政府の「ニッポン一億総活躍プラン」の第一の矢である「希望を生み出す強い経済」実現に向けて、経済成長実現に必要なイノベーションの継続的な創出が必要不可欠であるとして、特許庁は、知財行政を通じて日本のイノベーション・システムを支えていく旨を表明した。そして、2つの柱（第1の柱：世界最速・

最高品質の審査システムの構築、第2の柱：経済成長の源泉となる地域創生・中小企業支援の強化)の推進とともに、この2年間で行われた様々な制度改正の実施を着実なものにしていくと述べた。

さらに、TPPの大筋合意を踏まえ、TPP協定の国内実施に必要な特許期間延長制度や商標の不正使用に対する損害賠償制度について早急に検討を行い、必要な措置を講じていくとしている。

## First Regional Collective Trademark Registrations by an Association of Commerce and Industry and a Chamber of Commerce and Industry 商工会及び商工会議所による地域団体商標の初めての登録

The regional collective trademark applications for “氏家うどん” (Ujiie Udon) and “中津からあげ” (Nakatsu Karaage), made by the Ujiie Association of Commerce and Industry and the Nakatsu Chamber of Commerce and Industry respectively, have been registered. This is the first time regional collective trademarks have been registered to an association of commerce and industry and a chamber of commerce and industry.

Regional collective trademarks offer appropriate protection for regional brands, with the aim of strengthening competitiveness and boosting local economies by supporting trustworthiness. So far more than 580 regional collective trademarks have been registered. From May 2014, a revision to the Trademark Law expanded the groups eligible to register regional collective trademarks to include associations of commerce and industry, chambers of commerce and industry and non-profit organizations (NPOs).

Prior to these two most recent registrations, a single regional collective trademark for “小豆島オリーブオイル” (Shōdoshima Olive Oil) was registered to an NPO in October 2015.

氏家商工会による「氏家うどん」および中津商工会議所による「中津からあげ」の地域団体商標出願が、この度、商工会及び商工会議所による地域団体商標出願として初めて登録された。

地域団体商標は、地域ブランドを適切に保護することにより、信用力の維持による競争力の強化と地域経済の活性化を支援することを目的とし、これまでに580件以上が商標登録されている。2014年5月の商標法改正により、地域団体商標を登録できる主体の範囲が商工会や商工会議所、特定非営利活動法人（NPO）まで広げられた。

これまでに、2015年10月には、NPO法人による出願第1号として、「小豆島オリーブオイル」が商標登録されている。

## Most Recent Trends in Business-related Inventions ビジネス関連発明の最新動向

On December 22, 2015 the JPO published information on the most recent trends in business-related inventions.

There was a boom in applications for business-related inventions in Japan around the year 2000, with applicants seizing the opportunity provided by judicial rulings and litigation proceedings surrounding patents related to business methods taking place in the United States. Subsequently, such applications reached their peak in 2000, with the number of patent applications for business-related inventions falling steadily each year until 2011, when they began increasing again.

The percentage of applications for business-related inventions granted patents from 2003 to 2006 was around 8% (the average across all technical fields was 50%). However, since 2007 this figure has began rising, and in 2014 around 64% of applications for business-related inventions were granted patents (the average across all technical fields was 69%).

The JPO considers that the chief cause of this increase in the percentage of cases being granted patents is the permeation of knowledge amongst applicants of the JPO's examination standards regarding computer software-related inventions, particularly in the field of business. As a result, applicants have progressed in their ability to carefully select applications and make appropriate amendments, etc.

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特許庁は2015年12月22日にビジネス関連発明に関する最近の動向について発表した。

ビジネス関連発明は、米国でのビジネス方法に関する特許を巡る判決や訴訟を契機として、2000年頃に日本でも出願ブームとなった。その後、2000年をピークとして、ビジネス関連発明の出願件数は減少を続けていたが、2011年を底に増加傾向に転じている。

ビジネス関連発明に関する出願の特許査定率は、2003年～2006年では約8%（全分野の平均は約50%）であったのに対して、2007年以降上昇傾向にあり、2014年には約64%（全分野の平均は69%）まで上昇している。

特許査定率上昇の要因として、特許庁は、コンピュータ・ソフトウェア関連発明に関する審査基準、特にビジネス関連分野における審査基準が出願人に浸透し、出願人側で出願の厳選や適切な補正等の対応が進んできたことによるものとみている。

Revision of Official Fees  
 オフィシャルフィーの改訂

Due to the revision of Japanese patent laws etc., the following revised fees will apply after April 1, 2016.

Patents	Current fees (JPY)	Revised fees (JPY)
a. Patent applications (including divisional and conversion applications)	15,000	14,000
b. Applications in English language	24,000	22,000
c. Patent application referencing previous application	—	14,000
d. Entry of Japan national phase under the PCT	15,000	14,000
Time that the revised fees are applied		
<ul style="list-style-type: none"> <li>• a-c above: Apply to applications filed on or after April 1, 2016.</li> <li>• d above: Applies to cases for which 30 months from the earliest priority date comes on or after April 1, 2016 and for which the national phase entry is carried out on the same day or thereafter.</li> </ul>		

Registration/Annual fees (in case the request for examination was filed after April 1, 2004)	Current fees (JPY)	Revised fees (JPY)
a. 1st-3rd years	$(2,300+200/\text{claim}) \times 3$ (lump sum for 3 years)	$(2,100+200/\text{claim}) \times 3$ (lump sum for 3 years)
b. 4th-6th year	$(7,100+500/\text{claim})$ per year	$(6,400+500/\text{claim})$ per year
c. 7th-9th year	$(21,400+1,700/\text{claim})$ per year	$(19,300+1,500/\text{claim})$ per year
d. 10th year onwards	$(61,600+4,800/\text{claim})$ per year	$(55,400+4,300/\text{claim})$ per year
Time that the revised fees are applied		
<ul style="list-style-type: none"> <li>• a above: Applies to cases that for which the due dates of payment (including dates after a time extension) come on or after April 1, 2016 and for which the payment is carried out on the same day or thereafter.</li> <li>• b-d above: Apply to cases for which the due dates of the 4th annuity or later annuities come on or after April 1, 2016 and for which the payment is carried out on the same day or thereafter (if due dates of annuities come on or after the same day, payments within the period for late payment will be calculated based on the revised fees).</li> </ul>		



Trademarks	Current fees (JPY)	Revised fees (JPY)
a. Registration fee and Registration fee for defensive marks	37,600 × No. of classes	28,200 × No. of classes
b. Renewal	48,500 × No. of classes	38,800 × No. of classes
c. Renewal for defensive marks	41,800 × No. of classes	33,400 × No. of classes
Time that the revised fees are applied		
<ul style="list-style-type: none"> <li>• a above: Applies to cases for which the due dates of payment (including dates after a time extension) come on or after April 1, 2016 and for which the payment is carried out on the same day or thereafter.</li> <li>• b,c above: Apply to cases for which the due dates of renewal come on or after April 1, 2016 and for which the renewal is carried out on the same day or thereafter (if due dates of renewal come on or after the same day, renewal fees within the period for late payment will be calculated based on the revised fees).</li> </ul>		

PCT International Filing Application	Current fees (JPY)	Revised fees (JPY)
a. Fees for international search and for transmission	80,000	Japanese: 80,000 Other languages: 166,000
b. Additional fees for international search per invention	60,000	Japanese: 60,000 Other languages: 126,000
c. Fees for preliminary exam	26,000	Japanese: 26,000 Other languages: 58,000
d. Additional fees for preliminary exam per invention	15,000	Japanese: 15,000 Other languages: 34,000
Time that the revised fees are applied		
<ul style="list-style-type: none"> <li>• a,b above: Apply to cases for which the date of international filing is on or after April 1, 2016.</li> <li>• c,d above: Apply to cases for which the date of payment of fees for the preliminary exam is on or after April 1, 2016.</li> </ul>		

法改正に伴い、2016年4月1日より下記の新料金が適用される。

特許	現行	改正後（新料金）
a. 特許出願（分割・変更出願を含む）	15,000円	14,000円
b. 外国語書面出願	24,000円	22,000円
c. 先願参照出願	-	14,000円
d. PCT国内移行	15,000円	14,000円
新料金の適用時期		
<ul style="list-style-type: none"> <li>・ 上記a-c: 2016年4月1日以降の出願に適用。</li> <li>・ 上記d: 最先の優先日から30ヶ月の期限が2016年4月1日以降に到来し、かつ、同日以降に国内移行手続きをする案件に適用。</li> </ul>		

特許料（審査請求日が2004年4月1日以降の場合）	現行	改正後（新料金）
a. 第一年から三年	$(2,300円 + 200円/請求項) \times 3$ 年分	$(2,100円 + 200円/請求項) \times 3$ 年分
b. 第四年から六年	$(7,100円 + 500円/請求項)/年$	$(6,400円 + 500円/請求項)/年$
c. 第七年から九年	$(21,400円 + 1,700円/請求項)/年$	$(19,300円 + 1,500円/請求項)/年$
d. 第十年以降	$(61,600円 + 4,800円/請求項)/年$	$(55,400円 + 4,300円/請求項)/年$
新料金の適用時期		
<ul style="list-style-type: none"> <li>・ 上記a: 納付期限（延長後の期限を含む）が2016年4月1日以降に到来し、かつ、同日以降に納付する案件に適用。</li> <li>・ 上記b-d: 第四年目以降の納付期限が2016年4月1日以降に到来し、かつ、同日以降に納付する案件に適用（年金期限が同日以降に到来する場合は、追納期間内の納付金額も新料金に基づいて算出される）。</li> </ul>		

商標	現行	改正後（新料金）
a. 設定登録料 防護標章設定登録料	37,600 円×区分数	28,200 円×区分数
b. 更新登録料	48,500 円×区分数	38,800 円×区分数
c. 防護標章更新登録料	41,800 円×区分数	33,400 円×区分数
新料金の適用時期		
<p>上記a: 納付期限（延長後の期限を含む）が2016年4月1日以降に到来し、かつ、同日以降に納付する案件に適用。</p> <p>上記b, c: 更新期限が2016年4月1日以降に到来し、かつ、同日以降に更新する案件に適用（更新期限が同日以降に到来する場合、追納期間内の更新費用も新料金に基づいて算出される）。</p>		

PCT国際出願	現行	改正後（新料金）
a. 国際調査手数料及び送付手数料	80,000円	日本語：80,000円 外国語：166,000円
b. 国際調査における1発明毎の追加手数料	60,000円	日本語：60,000円 外国語：126,000円
c. 予備審査手数料	26,000円	日本語：26,000円 外国語：58,000円
d. 予備審査における1発明毎の追加手数料	15,000円	日本語：15,000円 外国語：34,000円
新料金の適用時期		
<p>上記a, b：国際出願日が2016年4月1日以降の案件に適用。</p> <p>上記c, d：予備審査手数料の納付日が2016年4月1日以降の案件に適用。</p>		



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.

### OSAKA HEAD OFFICE

**ADDRESS:**  
 DAIWA MINAMIMORIMACHI BLDG.,  
 2-6, 2-CHOME-KITA, TENJINBASHI,  
 KITA-KU, OSAKA 530-0041, JAPAN

**E-MAIL:**  
 iplaw-osk@harakenzo.com

**WEBSITE:**  
<http://www.harakenzo.com>  
<http://trademark.ip-kenzo.com>  
<http://www.intellelution.com>

**TELEPHONE:**  
 +81-6-6351-4384 (Main Number)

**FACSIMILE:**  
 +81-6-6351-5664 (Main Number)



### TOKYO HEAD OFFICE

**ADDRESS:**  
 WORLD TRADE CENTER BLDG. 21F  
 2-4-1, HAMAMATSU-CHO,  
 MINATO-KU, TOKYO 105-6121,  
 JAPAN

**E-MAIL:**  
 iplaw-tky@harakenzo.com

**WEBSITE:**  
<http://www.harakenzo.com>  
<http://trademark.ip-kenzo.com>  
<http://www.intellelution.com>

**TELEPHONE:**  
 +81-3-3433-5810 (Main Number)

**FACSIMILE:**  
 +81-3-3433-5281 (Main Number)



### OSAKA 2nd OFFICE

**ADDRESS:**  
 MITSUI SUMITOMO BANK  
 MINAMIMORIMACHI BLDG., 1-29,  
 2-CHOME, MINAMIMORIMACHI,  
 KITA-KU, OSAKA 530-0054, JAPAN

**E-MAIL:**  
 iplaw-osk@harakenzo.com

**WEBSITE:**  
<http://www.harakenzo.com>  
<http://trademark.ip-kenzo.com>  
<http://www.intellelution.com>

**TELEPHONE:**  
 +81-6-6351-4384 (Main Number)

**FACSIMILE:**  
 +81-6-6351-5664 (Main Number)



### HIROSHIMA OFFICE

**ADDRESS:**  
 NOMURA REAL ESTATE  
 HIROSHIMA BLDG. 4F  
 2-23, TATEMACHI, NAKA-KU,  
 HIROSHIMA 730-0032, JAPAN

**E-MAIL:**  
 iplaw-hsm@harakenzo.com  
 (※updated on June 2012)

**WEBSITE:**  
<http://www.harakenzo.com>  
<http://trademark.ip-kenzo.com>  
<http://www.intellelution.com>

**TELEPHONE:**  
 +81-82-545-3680 (Main Number)

**FACSIMILE:**  
 +81-82-243-4130 (Main Number)

