A new version of J-PlatPat featuring new functions was released at 9:00 a.m. on May 7, 2019. The major new functions are as follows.

1. Shortened Time Lag and Expanded Referenceable Documents
   Although it used to take around three weeks from the date of submission to the JPO for information concerning the course of an examination/appeal to be made available, with the new functions it now takes a day in principle. Moreover, referenceable documents have been expanded to include not only those regarding patents and utility models but also designs and trademarks. However, in the case of design and trademark documents, only those documents dated from January 2019 (and only registered designs) are referenceable.
2. Expanded Database
It is now possible to search for trademark applications which were rejected by the JPO's examination, and trademarks whose rights have lapsed. In addition, it is now possible to search in Japanese for Chinese patent documents, which have been rapidly increasing in number in recent years.

3. Improved Quality of Machine Translation
The latest machine translation algorithm uses AI to provide better quality Japanese-English translations.

4. Improved Screen Layout for Ease-of-use
The menu and the start screen have been reorganized to make it easier even for new users to use J-PlatPat smoothly.

The introduction of the new functions enables users to grasp quickly and accurately the results of examinations/appeals in their own cases and in the cases of others. Moreover, as the prior art search is more accurate and efficient, it enables users to avoid duplicate applications and to formulate more suitable strategies for overseas applications.
The revised design examination guidelines are being applied to examinations for design applications filed on or after May 1, 2019. The JPO homepage contains information on the content of the revisions to the guidelines. With the aim of improving operating performance and international cooperation under the Hague Agreement, the revised design examination guidelines ease the requirements for applications and drawings. Moreover, this revision includes other major amendments, such as changes to how prior applications are judged regarding partial designs and whole designs, etc. (see the excerpts from the JPO homepage below)

1. Abolishment of the Requirement of 'a Set of Drawings'

Prior to the revision, the JPO required applicants to submit drawings of a design from six directions in orthographic projection (a set of drawings). However, it was indicated to the JPO that this system is not preferable from the perspective of international cooperation, as it places additional strain on applicants when preparing drawings, and in some cases designs are issued with invitations to amend because the drawings do not satisfy formal requirements in Japan, even though the same drawings can be registered without any problems in other countries. Thus, the JPO no longer requires a specific number of drawings to be submitted as long as the drawings are sufficient to clearly show the design.

However, applicants should be aware that their application will be in violation of Article 3, Section 1 main paragraph of the Design Law if comprehensive judgement of the application document and drawings etc. concludes that it is impossible to derive a specific design from the application since a set of drawings was not submitted.
2. Abolishment of the Section [Partial Design] in Application Documents

Prior to the revision, when filing a design application for a component of a product it was necessary to include the section "[partial design]" in the application document. Following the revision, this section is no longer required.

3. Acceptance of the Inclusion of Descriptions of Articles other than those for which a Design Registration is sought

The revised guidelines permit applicants to show articles in the drawings other than those for which a design registration is sought, provided that the articles are clearly distinguished in the drawings or in descriptions.

4. Relaxation of Methods for Indicating Partial Omissions

Providing that the clarity of the design does not suffer, the revised guidelines allow applicants to use various methods to indicate omissions. They also remove the requirement to indicate in the application document the measurements of parts that are omitted.

5. Judgement on Prior Applications in cases of Partial Designs and Whole Designs

When judging whether or not the regulations of Article 9 Sections 1 and/or 2 of the Design Law apply, not only will applications for whole designs be compared to other applications for whole designs and applications for partial designs compared to other applications for partial designs, but whole designs and partial designs will be compared to one another. For example, when a partial design is filed first, and a whole design regarding the same or similar articles is filed some days later, the prior application will be registered while the subsequent application for the whole design will be rejected if it is similar to the prior partial design, according to the regulations of Article 9 Section 1 of the Design Law (Examination Guideline 61.1.1)
The examination guidelines describe the method of judging the similarity of whole designs and partial designs. (Examination Guideline 71.9.2)

6. Related Designs in cases of Partial Designs and Whole Designs

It is judged whether or not the regulations of Article 9 (prior applications) and Article 10 (related designs) of the Design Law apply, both in cases comparing partial design applications with other partial design applications and cases comparing whole design applications with partial design applications. (Examination Guideline 71.9.1)

Regarding the judgement of similarity of whole designs and partial designs in the case of related designs, please refer to the above-mentioned Examination Guideline 71.9.2.

出願日が2019年5月1日以降の意匠出願の審査に、改訂された意匠審査基準が適用される。特許庁のHPに今回
の改訂の内容について記載されている。ハーグ協定の運用実績や国際協調の観点から願書及び図面の記載要件
が緩和されている。さらに、部分意匠と全体意匠について先後願が判断される等大きな改正も含まれている。
（以下、特許庁HPより抜粋）

1.「一組の図面」の要件廃止

改訂前の運用では、正投影図法による六面図（一組の図面）の提出が求められていた。しかし、図面作成負
担が大きいことや、他国では問題なく登録される意匠図面が、日本では方式要件を満たさないとして補正指令
を受けるなど、国際協調の観点から好ましくないとの指摘があった。そこで、意匠を明確に表す十分な数の図
の提出があれば、提出する図の数は不問となった。

ただし、一組の図面の提出が無いために、願書や図面の記載等から総合的に判断して、具体的な意匠の内容
を導き出せない場合には、3条1項柱書違反となることに注意が必要である。

2. 順番の【部分意匠】の欄の廃止

改訂前の運用では、物品の部分について意匠登録を受けようとする場合、願書に【部分意匠】の欄を設ける
ことが必要だったが、改訂後は、当該記載が不要となった。
3. 意匠登録を受けようとする物品以外のものの記載を容認

明確な図面の描き分けがなされているか、説明が記載されている場合は、意匠登録を受けようとする物品以外のものを図面の中に表すことができるようになった。

4. 中間省略の記載方法の緩和

意匠の明確性に支障がないことを条件に、様々な省略のための表現方法を許容するとともに、願書における中間省略の寸法の記載も不要となった。

5. 部分意匠と全体意匠について先後願の判断

意匠法第9条第1項又は第2項の規定は、全体意匠の意匠登録出願同士又は部分意匠の意匠登録出願同士に加え、全体意匠と部分意匠についても、その適用について判断する。例えば、先に部分意匠の出願がされ、後日に全体意匠の出願が同一又は類似の物品についてされた場合、先願が登録され、後願の全体意匠が先願の部分意匠に類似しているときには、後願の全体意匠は意匠法第9条第1項の規定により拒絶される。 (審査基準61.1.1)

審査基準には、全体意匠と部分意匠との類否判断の手法について記載されている。 (同71.9.2)

6. 部分意匠と全体意匠についての関連意匠

意匠法第9条（先願）及び第10条（関連意匠）の規定は、部分意匠の意匠登録出願同士及び全体意匠と部分意匠の意匠登録出願の間でも、その適用について判断する。 (同71.9.1)

関連意匠の場合の全体意匠と部分意匠との類否判断についても、上記審査基準71.9.2の記載が参照される。
A law partially revising the Patent Law, which was approved by a Cabinet decision on March 1, 2019, was approved by the House of Councilors on May 10, 2019, and promulgated on May 17, 2019.

The major changes to the Patent Law are as follows:

1. The foundation of a system in which neutral technical specialists carry out local investigations (verifications)

2. Revision of methods for calculating damages

Under the system mentioned in (1), if there is a possibility a patent right has been infringed, neutral technical specialists can inspect a suspected infringer's factory etc., carry out a search for evidence necessary for verifying infringement of a patent right, and submit a report to a court.

It is important to note that in order to use the above system, the following conditions must be met:

(i) the subject of the investigation must be materials owned by the other party which are necessary for verifying an act of infringement ('necessity')

(ii) it must be recognized that there is a probability of infringement of the patent right by the other party ('probability')

(iii) it must not be easy to collect the subject material by any other means ('supplementing')

(iv) it must not be judged that collection of the subject material is inappropriate due to imposing a disproportionate burden (time, money) on the other party, or for other reasons ('appropriateness')

In addition, the 'revision of methods for calculating damages' ((2) above), specifies that in contrast to the previous version of the law, right holders can now claim damages equivalent to a licensing fee on suspected infringing goods etc. that exceed their own production and sales capabilities. It also specifies that calculation of damages equivalent to a licensing fee can be carried out on the assumption that a court has found the patent to be valid and that infringement has occurred.

The due date for enforcement of the above law partially revising the Patent Law is set by government ordinance to within one year from the promulgation date. The law partially revising the Patent Law will therefore be enforced within one year.
2019年3月1日に閣議決定した「特許法の一部を改正する法律」が、2019年5月10日に参議院にて可決され、2019年5月17日に公布された。

主な改正内容は、以下の(1)および(2)に示す内容である。
(1) 中立な技術専門家が現地調査を行う制度（査証）の創設
(2) 損害賠償額算定方法の見直し

(1) に記載の制度は、特許権の侵害の可能性がある場合、中立な技術専門家が、被疑侵害者の工場等に立ち入り、特許権の侵害立証に必要な調査を行い、裁判所に報告書を提出するという制度である。

上記制度を利用するためには、(ⅰ) 対象が、相手方当事者が所持する資料であり、侵害行為の立証に必要な物であること（「必要性」）、(ⅱ) 相手方当事者による特許権の侵害の蓋然性が認められること（「蓋然性」）、(ⅲ) 他の手段による収集が容易ではないこと（「補充性」）および(ⅳ) 収集による相手方の負担（時間、費用）が不相当なものとなることその他の事情によって、収集を行うことが相当でないと認められるときに該当しないこと（「相当性」）の要件を充足する必要がある点には注意が必要である。

また、(2) に記載の「損害賠償額算定方法の見直し」は、従来は損害賠償を請求することができなかった、権利者の生産・販売能力を超える部分に関して、ライセンス料に相当する損害賠償を請求できるようになること、および、ライセンス料に相当する損害賠償額の算出においては、特許が有効であり侵害されたことが裁判で認定されたことを考慮できる旨明記されたことである。

なお、上記「特許法の一部を改正する法律」の施行期日は、公布の日から起算して1年を超えない範囲内において政令で定める日であり、上記「特許法の一部を改正する法律」は、1年以内に施行される。
Japanese and the Chinese researchers at the Institute of Intellectual Property collaborate on research into the state of the intellectual property system by comparing the intellectual property strategies and trends in legal amendments of Japan and China every year.


The themes of the report are as follows:
(1) Research into the intellectual property law system in relation to AI (with a focus on patents)
(2) Research into the exercising of rights of standard essential patents
(3) Research comparing the similarity judgement of trademarks in Japan and China

In (1) above, for example, it is proposed that a database should be developed and maintained regarding inventive step, since in numerous cases the prior art or business methods required in order to judge inventive step are not disclosed in documents. The study also proposes that in the same way as software patent inventions, AI-related inventions should be used as prior art or main references regardless of a difference in business methods if the technology is the same, since they can be used outside of their technical field.

In (2) above, for example, the study expresses the view that "regarding standard essential patents, both the patent right holder and the licensee have a responsibility to carry out good-faith negotiations, and if they fail to do so it is required that their right to demand an injunction and/or their right to demand damages is limited."
The first recruitment in 2019 for the Japan Patent Office's Intellectual Property Acceleration program for Startups (IPAS) began on April 26, 2019. This program is intended for venture companies in their start-up period and supports the construction of intellectual property strategies suitable for their business by dispatching a mentoring team consisting of intellectual property and business specialists.

IPAS establishes a team composed of specialists, including some who have experience of supporting venture companies, and identifies appropriate new technologies/ideas and exit strategies, constructs strategies for intellectual property, and supports intellectual property protection for the venture-company's business. The program launched in 2018.

Over the three months from October to December 2018, 10 companies received mentoring from IPAS.

The public recruitment in 2019 is different from the one last year. This year they will be held twice: during the first recruitment, applications are accepted from April 26 to June 9, and during the second recruitment, it is planned that applications will be received in July. The total number of companies selected to receive mentoring has also increased: 10 companies will be selected during the first recruitment and 5 companies will be selected during the second recruitment.

It can be expected that this trend will continue and that the number of companies selected to receive mentoring under IPAS will increase next year as well, and that support for venture companies will expand even more in the future.
Companies eligible for recruitment under IPAS are research-and-development type venture enterprises that fulfill requirements (1) - (7) below.

(1) The company must be a small or medium-sized enterprise that mainly operates in the manufacturing business, construction business, transporting business, or other businesses (excluding wholesale business, service business, and retailing business), and must either a) have capital or a sum of investment that is less than three hundred million yen, or b) have no more than three hundred regular employees. However, if the company corresponds to a), b), or c). below, it is not eligible for IPAS.

a). Half or more of the company's total issued stock is owned or total funding is invested solely by a single large-scale enterprise (i.e. an enterprise that does not qualify as a small or medium-sized enterprise).

b). Two-thirds or more of the company's total issued stock is owned or total funding is invested by multiple large-scale companies.

c). Half or more of the company's executives are concurrently the executives or staff members of a large-scale enterprise.

(2) The company's major products/services must be in the research-and-development stage.

(3) The company must by researching and developing products and services that make use of new technologies and ideas for which industrial property rights (patent rights, utility model rights, design rights, and trademark rights) can be sought.

(4) The company must have an awareness of issues related to intellectual property.

(5) The company must be unlisted in a stock market.

(6) The company must have corporation status in Japan.

(7) The company must not have connections to any form of antisocial influence or similar.
この流れから、来年からも上記IPASの採択数は増加し、ベンチャー企業への支援は、将来さらに拡充していくと考えられる。

上記IPASにおける募集対象は、以下の(1)～(7)の要件を充足する研究開発型ベンチャー企業となっている。
(1) 資本の額又は出資の総額が3億円以下、常時使用する従業員の数が300人以下、のいずれかの条件を満たし、製造業、建設業、運輸業、その他の業種（卸売業、サービス業、小売業を除く）に属する事業を主たる事業として営む、中小企業であること。ただし、以下の①～③の何れかに該当する場合を除く。
   ①一つの大企業（中小企業者以外の者）が発行済み株式総数又は出資総額の1/2以上を単独に所有又は出資している場合
   ②複数の大企業が発行済み株式総数又は出資総額の2/3以上を所有又は出資している場合
   ③役員の半数以上を大企業の役員又は職員が兼務している場合
(2) 主な製品・サービスが研究開発段階にあること
(3) 産業財産権（特許権、実用新案権、意匠権、商標権）取得の対象となり得る新規シーズ（技術やアイディア）を活用した製品・サービスを研究開発していること
(4) 知財に関して認識している課題があること
(5) 未上場であること
(6) 日本国内に法人格を有すること
(7) 反社会的勢力またはそれに関わるものとの関与がないこと
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.

Please visit our facebook pages below.

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- **BIO IP Information**
  - バイオ知財情報
- **IT IP Information**
  - IT知財情報
- **IoT × AI Support Station**
  - IoT×AI支援室
- **Food & Medical Business Support Station**
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- **Major & Emerging Economic Powers**
  - 諸外国知財情報
- **TPP I.P. Chapter**
  - TPP知財情報