

Topics Revision of Utility Model System February 2005

Utility Model System of Japan is about to be revised and such revised system will be applied to the applications to be submitted on and after April 1, 2005.

One of the major points in the revision at this time concerns the valid term of the registration. To be specific, those applications to be submitted on and after April 1, 2005 will be granted the valid term of ten years (four years longer than current six years).

Accordingly, the registration fee of utility model will be greatly reduced. The following fee structure will be applied to those applications to be submitted on and after April 1, 2005:

At the time of submission of the application the fees for the first three years should be paid in a lump sum: (¥2,100 + ¥100 × number of claims) × 3

Fourth – sixth year (¥6,100 + ¥300 × number of claims)/year

Seventh – tenth year (¥18,100 + ¥900 × number of claims)/year

The revised Utility Model System will accommodate wider range of permitted correction of claims after registration. Under the current system, only cancellation of claims is permitted. Under the revised system, in addition to such cancellation, you can make, though only once, correction such as restriction on the scope covered by a claim, correction of clerical error, and clarification of vague description after the receipt of U.M. search report and at the time of invalidation trial.

Under the current system, you can shift the application for the registration of utility model to the patent application, however, once the registration is completed, such shift is not permitted. The revised system will allow you, even after the registration is made, to redirect your utility model registration to the patent application in case you should wish for the patent right which offers high stability for longer period of time, although the following restrictions are imposed: (1) such shift is not allowed after the third anniversary date of your submission of the application for utility model registration; (2) such shift is not allowed after the applicant himself/herself has requested for evaluation of his/her registered Utility Model; (3) such shift is not allowed after thirty days have passed since you receive the first notice of the third party's request for examination of your utility model, and; (4) such shift is not allowed after the term for submission of your first answer to the request for invalidation trial of your registered utility model has lapsed. Further, you must give up your registered utility model after the shift of such to the patent application.

The above summarizes the revised Utility Model System. No revision is made on the following:

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- 1) Only the shape and structure of the article or the combination of such are protected.
- 2) You cannot obtain both patent and utility model protections on the same subject.
- 3) No examination is required.
- 4) Your rights based on your registered utility model can be exercised on the third party who infringes on your such rights only after you have received the U.M. search report prepared by the Japanese Patent Agency and have warned such third party by showing such report.