
REQUESTS OR OPINIONS

August 24, 2004

To: Mr. Yoshihiko Miyauchi
Chairperson
Council for the Promotion of Regulatory Reform

Concerning Opening up the Patent Examination to the Private Sector (Plan)*

Japan Intellectual Property Association (JIPA) is an intellectual property-related nonprofit/nongovernmental organization with more than 840 Japanese companies. To contribute to the management of member companies, JIPA has promoted deep study of the intellectual property issues generally among its members, and also conducted research and studies to make recommendations to outside bodies.

Incidentally, the Council for the Promotion of Regulatory Reform approved the “Interim Summary (draft)” back on August 3rd, in which the council proposed opening up the patent examination to the private sector.

JIPA shows approval for the promotion of regulatory reform and opening up to the private sector in general, but we are strongly opposed to opening up the patent examination to the public sector. Therefore, we have announced our opinions on our website as in the attached paper.

With respect to opening up the patent examination to the private sector, we would like to ask the council to make careful considerations after listening to opinions from various fields, especially from the industry that uses the patent system.

Akira Miura
Chairperson
Japan Intellectual Property Association

Attachment

1. Concerning Opening up the Patent Examination to the Private Sector (Plan)

* “CHIZAI KANRI” (Intellectual Property Management), Vol. 54, No.11, pp. 1721-1722 (2004)

[Attachment]

Concerning Opening up the Patent Examination to the Private Sector (Plan)

— Opinions on the “Interim Summary (Draft)” of the Council for the Promotion of Regulatory Reform —

The Council for the Promotion of Regulatory Reform within the government (President: Yoshihiko Miyauchi, Chairman of ORIX Corporation) approved the “Interim Summary (draft)” (Note 1) on August 3, 2004. In it, the Council stated as follows in the section “Registration-related services” and recommended opening up the patent examination to the private sector.

“Especially, the processing of patents is incapacitated under the current circumstances where there are as many as several hundred thousand patent applications waiting to be examined and such a huge backlog cannot be resolved merely by increasing the number of examiners under the conventional system. Consequently, a large-scale promotion for the opening of patent registration services to the private sector is much desired in order to develop Japan into an intellectual property nation.” (p. 21)

Note 1: <http://www.kisei-kaikaku.go.jp/minutes/meeting/2004/02/agenda.html>

JIPA is strongly opposed to opening up the patent examination to the private sector for the following reasons.

- 1) The foundation of an intellectual property nation is respect for patents and other intellectual property rights, and if these rights are not granted by the authority, i.e. the government, they will never be respected.
- 2) Opening up examination to the private sector and leaving it to market mechanisms will bring about a meaningless competition between quality and cost of examination. This is not contribute to expediting examination. Furthermore, if examination is conducted by the private sector, an intellectual property division in the competitor of an applicant company will often examine the application. There might be concern about the harmful effect of leakage of the applicant company’s top secrets to competitors.
- 3) When the globalization of the intellectual property world is unavoidable, Japan alone should not establish a peculiar system.
- 4) The best measure to expedite examination is for the trilateral patent offices, JPO, USPTO and EPO, which examine most of patent applications in the world, to stop duplicate examinations through mutual cooperation and mutual recognition in examination.