

4 Desirable Amendment and Other Procedures and Systems under the Patent Registration Order ^(*)

Patent rights are an exclusive right of control, and their change, etc. is publicly notified through adoption of a registration system in order to prevent the change, etc. from causing unanticipated damages to a third party. The Patent Registration Order that provides for registration has not been drastically revised since its enactment, and includes no provisions on amendment of procedures. In this regard, some users request introduction of an amendment system. In addition, an amendment system is available for some procedures under the Real Property Registration Act that was used as a reference when enacting said Order.

Furthermore, in Japan, discussions have been carried forward with a view to accession to the Patent Law Treaty (PLT). The Regulations under the Patent Law Treaty requires that the Office of a Contracting Party accept correction of a mistake in some of the application procedures for a certain period of time.

Therefore, this research study was conducted to prepare basic material to be used in considering introduction of an amendment system in the Patent Registration Order by figuring out problems with the impossibility of making an amendment under the current Japanese industrial property right registration system, the actual conditions thereof, and related user needs, as well as by studying and analyzing amendment and other procedures under the Real Property Registration Act and under other countries' industrial property right registration systems.

I Introduction

1 Background and Purpose of This Research Study

Patent rights are an exclusive right of control, and it is thus necessary to prevent them from causing unanticipated damages to a third party by publicly notifying the existence, content, attribution and change of a patent right. Therefore, the registration system is adopted in Japan as a method of giving a public notice, and the Patent Registration Order provides for the system.

On the other hand, the Patent Registration Act was enacted in 1909 by using the Real Property Registration Act as a reference, and it has not been drastically revised since then. The Act does not include any provisions on amendment of procedures permitted at the time of examination of an application. Therefore, if an application includes a defect, the date of receipt is not secured and the registration loses its effect even if the defect is minor. Consequently, users have requested the introduction of an amendment system. In this regard, an amendment procedure was introduced in relation to some of the procedures under the Real Property Registration Act that was used as a reference.

Moreover, in Japan, discussions have been carried forward with a view to accession to the Patent Law Treaty (PLT). The Regulations under

the Patent Law Treaty requires, in Rules 15 to 18, that the Office of a Contracting Party accept correction, etc. of a mistake in application procedures, such as one for the recordation of a change of the name of the right holder or a change of indication of the name or address of the right holder, for a certain period of time.

From the above, it is also necessary to consider the necessity of introducing provisions that accept amendment, etc. into the Patent Registration Order, etc. Therefore, this research study is intended to prepare basic material to be used in considering introduction of an amendment system in the Patent Registration Order by organizing problems with the impossibility of making an amendment under the current Japanese industrial property right registration system, by studying and analyzing the actual conditions of amendment and other procedures under the Real Property Registration Act, etc. and under other countries' industrial property right registration systems, and by surveying the existence of user needs for amendment, etc.

2 Method of This Research Study

In this research study, a domestic interview survey was conducted to collect cases where Japanese users, including right holders, feel inconvenience in relation to the current registration application procedure, to understand

(*) This is an English summary by Institute of Intellectual Property based on the FY2013 JPO-commissioned research study report on the issues related to the industrial property rights system.

the actual conditions of practice and needs, and to consider the hypothetical cases of introduction. In addition, an overseas questionnaire survey was conducted targeting intellectual property offices in the United States, the United Kingdom, Germany, France, Canada, China and South Korea in order to understand the operations, etc. of registration application procedures in other countries. Moreover, texts of law, documents and other materials in Japan and other countries were studied and examined through domestic and international public information searches. Furthermore, intellectuals were called for advice.

II Outline of the Japanese Registration System

An application for registration is filed by a written application, and the matters to be stated in a written application and the method of stating them are provided for by laws and regulations, etc. Whether a written application should be accepted is examined through a formality check. In this formality check, an application is examined only on whether it fulfills certain formal requirements. An application for registration is dismissed if it falls under the provisions of any of the items of Article 38, paragraph (1) (Dismissal) of the Patent Registration Order. If the Commissioner of the JPO intends to make such a dismissal, he/she notifies the applicant of reasons for the dismissal and gives to the applicant an opportunity to submit a written explanation with a reasonable time limit designated. However, this opportunity to submit a written explanation is an opportunity for the applicant to assert the injustice of the reasons for the dismissal where the reasons for the dismissal are unjust, and it is not to permit making an amendment, etc.

There are no express provisions on the withdrawal of an application for registration. However, it is permitted to withdraw a written application for registration in practice. It is possible to withdraw an application for registration only before the administrative processing of the registration and before a dismissal of the application.

III Outline of Amendment and Other Systems in Major Countries' Registration Procedures (Including Outline of the Patent Law Treaty)

1 Outline of the Patent Law Treaty

The Patent Law Treaty is an international treaty that was adopted in June 2000 and came into effect in April 2005 with the aim of reducing applicants' burden through unification of domestic application procedures that differ depending on the country and other measures and promoting relief for applicants by restoring patent rights that have lost their effects due to expiration of a time limit for a procedure under certain requirements. As of February 1, 2014, the number of the Contracting Parties is 36. In addition, although the European Patent Office (EPO) has yet to accede to the Patent Law Treaty, it has taken action concerning the major items of the Patent Law Treaty, such as "relief after expiration of the designated time limit" and "restoration of rights." In Japan, measures have been carried forward with a view to accession to the Patent Law Treaty.

The Regulations under the Patent Law Treaty provides, in Rules 15 to 18, that the Office of a Contracting Party shall accept correction, etc. of a mistake in a recordation of a change in the registered (recorded) content, recordation of a license or a security interest, or registration for a certain period of time. Japan has to adjust to this requirement to accede to the Patent Law Treaty.

2 Amendment System in the Registration Procedure in the United States

In relation to an application for registration in the United States (37CFR (Code of Federal Regulations) §3.24), an opportunity to make a correction is given if the content stated in the written application (37CFR §3.31) contains a certain defect. If a written application cannot define the patent covered by the application, statements in the cover sheet are insufficient, or the requirements, such as payment of fees, are not satisfied, the application is not registered (37CFR§3.21). If these requirements are satisfied, the date on which the written application was submitted to the United States Patent and Trademark Office (USPTO) becomes the date of registration (37CFR§3.51).

If an application does not satisfy the requirements, it is returned to the applicant with a prescribed time limit for resubmission of a corrected application (37CFR§3.51). If the applicant resubmits a corrected application within the prescribed time limit, the original date of filing the application is deemed to be the date of submission (37CFR§3.51). The prescribed time limit for resubmitting the application will not be

extended.

The United States acceded to the Patent Law Treaty on December 18, 2013.

3 Amendment System in the Registration Procedure in the United Kingdom

Rule 47 of the Patents Rules 2007 of the United Kingdom provides for correction of a submitted document. Where the United Kingdom Intellectual Property Office (UKIPO) accepts an application for recordation of an assignment and considers the submitted information as insufficient to renew the patent register in relation to a change of the right holder, it will communicate with the applicant of the recordation of the change of the right holder to request that the applicant submit more information and additional evidence or give an explanation on a specific matter. If the UKIPO receives no reply from the applicant within two to three months from the UKIPO's request for more information or explanation, it sends a notice requesting additional information (follow-up letter) again. If the UKIPO receives no reply from the applicant despite the second request for provision of information, it dismisses the application and does not register the change.

The United Kingdom acceded to the Patent Law Treaty on March 22, 2006.

4 Amendment System in the Registration Procedure in Germany

In Germany, there is the right to be heard as a general principle of law. The provisions similar thereto are the second sentence of Section 42, subsection (3) and the second sentence of Section 48 of the Patent Act (Patentgesetz) concerning examination. An application for registration of a change is refused if there is a reasonable doubt in the proof of the change based on submitted documents or circumstances or if such a doubt cannot be eradicated even through submission of additional documents. A person who has filed such an application is given the right to be heard and an opportunity to express an opinion before the rendering of a decision of refusal. An applicant is given an opportunity to express his/her opinion if the application contains a defect that constitutes noncompliance with the requirements provided for in Sections 27, 28 and 29 of the DPMAV (Verordnung über das Deutsche Patent- und Markenamt).

Germany has yet to accede to the Patent Law

Treaty, but signed it on May 29, 2001.

5 Amendment System in the Registration Procedure in France

In France, if a request for registration does not satisfy the requirements therefor, a reasoned notification is made to the requester. In this case, the requester must regularize the request or submit observations within a given time limit (Article R613-58 of the Intellectual Property Code).

The time limit for amendment is ordinarily two months and does not exceed four months. In addition, this time limit may be extended.

France acceded to the Patent Law Treaty on January 5, 2010.

6 Amendment System in the Registration Procedure in Canada

In Canada, there are no provisions to the effect that an application for registration can be amended.

Canada has yet to accede to the Patent Law Treaty, but signed it on May 21, 2001. In addition, discussions are ongoing on the necessary revisions to the procedures under its domestic law in order to accede to the Patent Law Treaty.

7 Amendment System in the Registration Procedure in China

China has not introduced an amendment system concerning the registration procedure.

China has neither acceded to the Patent Law Treaty nor signed it.

8 Amendment System in the Registration Procedure in South Korea

In South Korea, Article 29 of the Registration Order for Patents, etc. provides for an amendment concerning the registration procedure. The time limit for amendment is one month for domestic cases and two months for foreign cases.

Incidentally, drafting of a bill to partially revise the Registration Order for Patents, etc. is ongoing with the aim of expanding the amendment system and revising the procedure of registering the rights of right holders into a more prompt and convenient one. The revision that came into force on July 22, 2013, includes the content intended to "revise the procedure into

one whereby rights can be more promptly registered, by changing some of the existing items whose defect causes the remanding of an application for registration to the items that can be amended to expand an opportunity for applicants to make an amendment (Article 29(2) of the revised Registration Order for Patents, etc.)” under the title of “expansion of opportunity for registered right holders to make an amendment.” Furthermore, as a matter that was preannounced to be provided for by law on January 20, 2014, a system will be introduced whereby an examiner makes a correction ex officio only in the case of an obvious clerical error, in order to realize prompt formality check and improve user satisfaction.

South Korea has neither acceded to the Patent Law Treaty nor signed it.

IV Necessity of Amendment, etc. in the Registration Procedure for Patents, etc. in Japan

1 Current Situation of the Registration Procedure through Application

(1) Dismissal Cases

(i) Clerical Error in the Matters Stated in an Application and Procedural Mistake

Examples are as follows.

- In transferring a design right, it is necessary to submit an application for registration of transfer of a design right. However, the procedure was dismissed because the title of an application was erroneously written as “application for registration of transfer of a patent right.”
- It is necessary that the name of the applicant stated in an application for registration of transfer (a person who has obligation to register) is completely identical with the name stated in the registry. However, in the case of a foreign juridical person, subtle differences sometimes occur when indicating the sound of the name in katakana characters. The procedure was dismissed for the reason that the name of a company in katakana characters stated in an application is not identical with the name stated in the registry.

(ii) Defect in Relation to an Attached Document That Is Necessary for Registration

Examples of defects are as follows.

- When filing an application for registration of

transfer due to a merger of foreign companies, a notarized “certificate of merger” was attached as a document proving the cause of registration. However, the certificate of merger was not accepted because it was not stamped by the notary. Consequently, the procedure was dismissed.

- When filing an application for registration of transfer, it is necessary to submit a certificate of assignment as a document proving the cause of registration. It is necessary that the name and address of the assignor stated in a certificate of assignment be completely identical with those in the information on the right holder stated in the registry in order to confirm the identity between the assignor and the right holder. The procedure was dismissed because the address stated in a certificate of assignment was not identical with that stated in the registry.

(2) Processing after Dismissal

In the case of dismissal, a set of documents for an application are returned to the applicant. Consequently, the applicant files an application for registration again after correcting defects in the returned documents.

In the case of a clerical error in the matters stated in an application or a procedural mistake as cited in (1)(i) above, it is considered comparatively easy to correctly rewrite the application.

However, in the case of a defect in relation to an attached document that is necessary for registration as cited in (ii) above, labor to obtain necessary documents and physical problems that cannot be solved without receiving an attached document that the applicant has already submitted from the JPO are expected to occur. Consequently, in the case of (ii), it is often more difficult to file an application for registration again in a short time compared to the case of (i).

It takes a certain amount of processing time for the process from finding some sort of defect to sending a notice of reasons for dismissal and to returning a set of application documents to the applicant after the dismissal becomes final and binding after the lapse of the time limit for explanation. Therefore, in some cases, an applicant who wishes to carry forward the process of filing an application again at an early date actively withdraws the first application for registration. Although withdrawal of an application has been implemented in practice, almost all representatives subject to the

interview are aware of the fact of said practice and many of them utilize it.

2 Necessity of Amendment, etc.

With regard to dismissal cases extracted through the interview, there were many requests for permission to amend defects that are considered minor. In particular, many requests were in relation to cases where a defect can be eliminated by amending statements in an application. Many said that it is considered fine to permit making an amendment where a clerical error, etc. in statements in an application is clearly revealed based on attached documents. In addition, there was also a request for permission to amend a defect in relation to an attached document that is necessary for registration as cited in (ii) above if the defect is certainly a mistake. However, it is impossible to hold discussions on the cases where an attached document itself contains a defect and the cases of failure to submit a necessary attached document on an equal basis with the cases of a mere clerical error in an application. Therefore, it is necessary to carefully examine the content, etc. of requests for permission to make an amendment on a case-by-case basis.

V Consideration of Forms of Introducing Amendment, Etc. in the Registration Procedure for Patents, etc. in Japan

1 Consideration of Planned Systems for Introducing Amendment, etc.

(1) Hypothetical Case 1: Duplicate Assignment

Hypothetical case 1: Patentee A concluded a contract on transfer of a patent right to B and, almost at the same time, concluded a contract on transfer of the patent right to C. Although an application for the registration of the transfer from A to B (Application 1) was filed prior to an application for the registration of the transfer from A to C (Application 2), there was a defect in Application 1.

Incidentally, Application 1 was filed independently by B while Application 2 was filed independently by C.

(i) Planned System for Introduction 1 (Form Giving Priority to the Date on Which an Application Becomes Defect-Free)

Planned System for Introduction 1 is a system whereby the order of priority is decided on the basis of the time when an application becomes defect-free. Although Application 1 was filed prior to Application 2, there is a defect in Application 1 while there is no defect in Application 2. For Application 1, a notice giving an opportunity to make an amendment of procedures is made, and at least a two-month time limit for amendment is set. B makes an amendment to correct the defect within the time limit for amendment. On the basis of the time when the applications have become defect-free, Application 2 is given priority over Application 1, which leads to the same result as that under the current system. Thereby, Application 2 is registered. A problem with this Planned System for Introduction 1 is the point that “where the defect in Application 1 is minor (for example, a mere clerical error in the application), this system is severe for B who filed Application 1.”

(ii) Planned System for Introduction 2 (Form Giving Priority to the Date of Receipt of an Application)

Planned System for Introduction 2 is a system whereby even if there is a defect in an application received earlier, the application is registered with priority over a subsequent application, irrespective of the seriousness and content of the defect, as long as the defect is amended within the time limit for amendment. Although Application 1 was filed prior to Application 2, there is a defect in Application 1 while there is no defect in Application 2. For Application 1, a notice giving an opportunity to make an amendment of procedures is made, and at least a two-month time limit for amendment is set. B makes an amendment to correct the defect within the time limit for amendment. On the basis of the time when the applications were received, Application 1 is given priority over Application 2, which leads to a result different from that under the current system. Thereby, Application 1 is registered. Problems with this Planned System for Introduction 2 are the point that “where the defect in Application 1 is serious (for example, failure to attach a certificate of assignment), this system is not fair towards C who filed Application 2 that is a defect-free application” and the point that “where Application 2 is forced to wait until the result for Application 1 comes out, it seems to

be a problem that Application 2 is also affected by the result of the delay in the processing of Application 1.”

(iii) **Planned System for Introduction 3 (Hybrid Form)**

Planned System for Introduction 3 is a system whereby Planned System for Introduction 1 and Planned System for Introduction 2 are appropriately used on a case-by-case basis. Under this system, Planned System for Introduction 1 (Application 2 is registered) applies to cases where the content of a defect is serious while Planned System for Introduction 2 (Application 1 is registered) applies to cases where the content of a defect is minor. Although Application 1 was filed prior to Application 2, there is a defect in Application 1 while there is no defect in Application 2. For Application 1, a notice giving an opportunity to make an amendment of procedures is made, and at least a two-month time limit for amendment is set. B makes an amendment to correct the defect within the time limit for amendment. Which of the applications is registered differs based on the seriousness of the defect. A problem with this Planned System for Introduction 3 is “what determination standard should be used to divide defects in relation to their content and nature.”

(2) Hypothetical Case 2: Establishment of a Right of Pledge

A, who has a patent right (with a hypothetical value of 100,000,000 yen), received a loan of 100,000,000 yen from Bank X and Bank Y, respectively, using the patent right as a pledge (right of pledge). Although an application for the registration of the establishment of a right of pledge for Bank X (Application 1) was filed prior to an application for the registration of the establishment of a right of pledge for Bank Y (Application 2), there was a defect in Application 1 (interest is not taken into consideration for simplification of the problem).

In Hypothetical Case 1, Application 1 and Application 2 are in an incompatible relationship. However, in Hypothetical Case 2, both rights of pledge are registered as the primary right of pledge and the secondary right of pledge, respectively, as it is possible to register multiple rights of pledge.

However, if A does not pay back the loans and the rights of pledge are exercised (the patent right is brought to auction, and the pledgees are

preferentially reimbursed by money paid by the successful bidder), the pledgee of the primary right of pledge can be preferentially reimbursed up to 100,000,000 yen by money paid by the successful bidder, and thus can collect the entire amount of the loan. However, the pledgee of the secondary right of pledge can be preferentially reimbursed only by the remaining money after the pledgee of the primary right of pledge is preferentially reimbursed. In that sense, which right of pledge is registered as the primary right of pledge is a significantly important matter for both Bank X and Bank Y.

With regard to this Hypothetical Case 2, Planned Systems for Introduction 1 to 3 were considered in the same manner as for Hypothetical Case 1. The mainstream opinion was that there is no need of making a special difference in terms of the design of institutional arrangements between assignment and establishment of a right of pledge. However, there was also an opinion that some sort of arrangement should be made in consideration of the difference in the nature between assignment and establishment of a right of pledge.

(3) Determination Standard for Defects in Considering Planned System for Introduction 3 (Hybrid Form)

In considering Planned System for Introduction 3 (hybrid form) in relation to the two hypothetical cases, a certain standard for determining the content and nature of defects is considered to become necessary. An interview survey was also conducted regarding whether each example defect is considered minor or serious, showing assumed example defects as a basis for discussion. With regard to this determination standard, it is considered that the “determination result differs depending on the subjective view and situation of the applicant.”

2 Results of Interview Survey about Planned Systems for Introducing Amendment, etc.

(1) Regarding Hypothetical Case 1

From a comprehensive perspective, most users desired Planned System for Introduction 2 (form giving priority to the date of receipt of an application) or Planned System for Introduction 3 (hybrid form). However, some users upheld Planned System for Introduction 1 (form giving priority to the date on which an application becomes defect-free), which is considered as easy

to introduce without significantly changing the current system. With regard to Planned System for Introduction 2 (form giving priority to the date of receipt of an application), there is concern about an increase in the number of applications that are filed only to secure the date of filing an application (so-called fictitious applications), though the anteroposterior relationship becomes very clear because the date of filing an application serves as a basis. On the other hand, there was an opinion that it is difficult for the JPO to operate Planned System for Introduction 3 (hybrid form) because of the difficulty of dividing defects based on their seriousness, though it is ideal. There was also a view that a system that follows the requirements for finding the filing date of an international application is good whereby clear availability of the minimum required documents is a requirement for finding the date of filing an application and it is permitted to amend a defect after finding of the date of filing an application.

(2) Regarding Hypothetical Case 2

With regard to Hypothetical Case 1 (double assignment) and Hypothetical Case 2 (right of pledge), the mainstream opinion was that there is no need of making a special difference in terms of the design of institutional arrangements between these cases. However, there was also an opinion that some sort of arrangement should be made in consideration of the difference in the nature between assignment and establishment of a right of pledge.

(3) Determination Standard for Defects in Considering Planned System for Introduction 3 (Hybrid Form)

With regard to the determination standard for defects in considering Planned System for Introduction 3 (hybrid form), opinions from users concerning Defects 1 to 5 cited as examples are stated below. For each item, there are competing opinions concerning the propriety of amendment, which highlights the difficulty of organizing the problem.

(4) Time limit for Amendment

Many said as follows: A longer time limit for amendment is convenient from the standpoint of applicants because applicants can have a margin of time for processing; however, attribution of rights remains unstable during the period when an amendment can be made; therefore, a two-month time limit is reasonable in terms of balance with the standpoint of a third party which

conducts trend surveys concerning applications for registration (due diligence). There was also an opinion that two months is not required for applications concerning right holders in Japan because necessary documents, etc. can be easily prepared in many cases. On the other hand, there was a request for considering extension of the time limit for amendment in relation to applications concerning right holders outside Japan because at least two months is required for making an amendment due to the necessity of time for communication between representatives and preparation of necessary documents, etc.

3 Amendment System under the Real Property Registration Act

The Patent Registration Order was enacted by using the Real Property Registration Act as a reference. In addition, although said Order has been revised several times so far, it has not been drastically revised. No provisions on amendment have been introduced in relation to the procedure of filing an application for registration. On the other hand, the Real Property Registration Act was drastically revised in 2004, and the amendment procedure was introduced in relation to some procedures (proviso to Article 25 of said Act). Therefore, in this research study, the background to the revision of the Real Property Registration Act that was revised in advance and the outline and problems, etc. of the amendment system are explained in considering introduction of provisions on amendment, etc. in the Patent Registration Order. The advantage of introduction of the amendment system is elimination of the burden of filing an application again due to a careless mistake while the problems include the existence of difference in the determination of whether a defect is within the scope that can be amended between the Legal Affairs Bureau and applicants.

4 Problems with Planned Systems for Introducing Amendment, etc.

(1) Problems Concerning Planned Systems for Introducing Amendment, etc.

(i) Problems Concerning Each Planned System for Introduction

Legal problems concerning the planned systems for introducing amendment, etc. were examined in consideration of the results of the domestic interview survey and the actual conditions of real property registration. A

standard for determining the “time when an application has become defect-free” is necessary in considering Planned System for Introduction 1. For Planned System for Introduction 2, it is necessary to give consideration to a feeling of injustice of applicants of subsequent defect-free applications who are forced to wait during the time limit for amendment. Moreover, regarding Planned System for Introduction 3, it is considered desirable to design a system whereby law enumerates amendable defects in a limited way whenever possible in order to realize a system that is clear to users and brings a sense of fairness to them by eliminating arbitrary operations in relation to the determination standard for the seriousness of defects to the extent possible.

(ii) **Key Points of Introduction of Amendment**

It is considered that problems in introducing amendment, etc. are consolidated into the following two key points.

- Formulation of a clear standard for defects that are subject to amendment
- Clarification of the base date for the occurrence of the effect of an amendment

There were many comments requesting a simple procedure, a clear determination standard, and no unfair results arising from permission for an amendment from interviewees. It was possible to confirm the background of introduction of the amendment system and clear statements of the subject-matter of amendment in related provisions of law, from the practice of real property registration. It is required to design a new system in consideration of these key points in light of the requirements under the Patent Law Treaty.

(2) Measures That Are Considered Necessary in Introducing Amendment, etc.

In introducing an amendment system, there is concern about prolongation of the period during which the relationship of rights remains unstable. According to the provisions of the Patent Law Treaty, two months is required as this unstable period. It will be necessary to take some sort of measures in order to cope with new problems that may arise during this period. There were, for example, the following requests from the interviewees.

- It is anticipated that introduction of an amendment procedure will lead to requiring more time than in the past before the final result becomes clear in terms of whether an

application for registration is accepted or dismissed. Therefore, it is desired that the JPO immediately start processing if a written amendment of procedures is submitted.

- It is natural that the period during which the relationship of rights remains unstable is prolonged. However, it is possible to feel safe if there is a system whereby applicants can know the status of processing of applications for registration on a timely basis (for example, online inspection).

(3) Hypothetical Case of Duplicate Assignment in Other Major Countries

Hypothetical case 1: Patentee A concluded a contract on transfer of a patent right to B and, almost at the same time, concluded a contract on transfer of the patent right to C. Although an application for the registration of the transfer from A to B (Application 1) was filed prior to an application for the registration of the transfer from A to C (Application 2), there was a defect in Application 1.

Incidentally, Application 1 was filed independently by B while Application 2 was filed independently by C.

In the United States, Application 1 is sent back to the applicant for correction. Regarding Application 2, the United States Patent and Trademark Office (USPTO) shows no determination concerning the effect of the relevant document. Therefore, both Application 1 and Application 2 are registered.

In the United Kingdom, the United Kingdom Intellectual Property Office communicates with the original patentee, A, to clarify the situation, and requests that A provide information concerning which contract is effective and on which contract the rights for the patent are transferred and confirm which is the new right holder (B or C).

In Germany, handling differs on a case-by-case basis. However, both Applications are not approved because no disputed matter is recorded.

In France, Application 2 which satisfied the requirements first is registered.

In Canada, Application 2 which satisfied the requirements first is registered.

In China, if Application 1 has already been disposed of (Application 1 is deemed to have “not been submitted” as it does not satisfy the requirements) as of the time when Application 2 is submitted, Application 2 is registered. If

Application 2 is submitted before the processing of Application 1, a written notice is sent to the applicant of Application 1 and that of Application 2 to ask which contract is effective, and a conclusion is drawn after waiting for confirmation by the applicants.

In South Korea, the applicant of Application 1 is given an opportunity to comply with the requirements. If Application 1 comes to comply with the requirements as a result of the opportunity, only Application 1 is registered.

(4) Opinions about Online Procedure

It is expected that procedures will be computerized in the future. There was a majority opinion basically approving online procedures in the hope for a more prompt and simplified procedure. However, there was also a negative remark about the introduction of a system that leaves paper-based procedures, such as submission of original documents, in relation to attached documents.

In addition, there was also an opinion that introduction of online procedures is good as it would enable online payment, including prepayment, and would simplify the procedures more, though, in the current filing of an application for registration in writing, applicants pay registration and license taxes by attaching revenue stamps to written applications.

VI Conclusion

This research study revealed that many users request the introduction of an amendment system in the registration application procedure. On the other hand, in actually introducing an amendment system, there arises the necessity of formulating new standards, including clarification of defects subject to amendment and clarification of the base date for the occurrence of the effect of an amendment. Moreover, while processing is expected to be more prolonged than ever with the introduction of an amendment system, it is also necessary to take various actions against emerging problems by utilizing legislation, operations and systems.

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