



T O P I C

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日本政府 不使用商標対策の強化を検討

The Intellectual Property Strategy Headquarters of the Japanese government incorporated the reinforcement of existing measures regarding unused trademarks in the Intellectual Property Promotion Plan 2009 issued on June 24, 2009.

In order to improve the current situation, in which the possibilities of creating new trademarks are limited by the existence of so-called sleeping trademarks, the government will look into measures likely to reduce the number of unused trademarks and thus ease the acquisition of trademark rights, through a series of surveys and studies to be conducted within the current fiscal year.

In addition to the above, the Intellectual Property Promotion Plan 2009 includes the following items in connection with trademarks matters:

- ◆ Promotion of regional collective trademarks; introduction of examples of registered regional collective trademarks and of their use;
- ◆ Expansion of the list, prepared by the Trilateral Offices (the JPO, the EPO and the USPTO), of the designated goods and services common to the three Offices;
- ◆ Reinforcement of the measures taken regarding the problem of Japanese regional names being registered as trademarks abroad;



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◆ Tentative review of the existing trademark system, regarding the protection scope of well-known trademarks and the opposition system against registration;

◆ Revision of the criterion for the determination of similar goods and services, in accordance with the revision of the International Classification scheduled for 2012.

Reference:

(i) <http://www.kantei.go.jp/jp/singi/titeki2/090624/2009keikaku.pdf>

日本政府の知的財産戦略本部は、2009年6月24日に決定した「知的財産推進計画2009」に、不使用商標対策を強化する方針を盛り込んだ。

休眠商標が新しい商標選択の幅を狭めている現状を改善するため、不使用商標を削減し、商標権を円滑に取得するための方策について、2009年度中に調査・研究を行う予定。

そのほか「知的財産推進計画2009」に挙げられた商標関連の施策は下記のとおり。

- ◆ 地域団体商標の活用促進: 登録された地域団体商標や権利の活用事例の紹介等
- ◆ 三庁リスト(日米欧の三極間で相互間共通の指定商品・役務表示のリスト)の拡充
- ◆ 日本の地名等に係る海外における商標登録問題に対処するための体制強化
- ◆ 商標制度の見直し: 著名商標の保護範囲や登録異議申立制度の見直しを検討
- ◆ 2012年の国際分類の改訂に合わせて、類似商品・役務審査判断基準の改訂を検討

【参照URL】

(i) <http://www.kantei.go.jp/jp/singi/titeki2/090624/2009keikaku.pdf>



JPO publishes a draft revision of the Examination Guidelines regarding “industrially applicable inventions” and “medicinal inventions” 【特許庁】「産業上利用することができる発明」および「医薬発明」の改定審査基準案を発表

The JPO published on August 6, 2009 a draft revision of the Examination Guidelines focusing on the concepts of “industrially applicable invention” and “medicinal invention”, and is currently gathering comments from interested parties. The outlines of the draft revision are as follows:

Regarding “industrially applicable inventions”

- ◆ A method to gather data from the human body will not be considered as “a method of diagnostic practiced on the human body” as long as it doesn’t contain surgical/therapeutic steps, processes to determine the condition of a human disease for a medical purpose or the like.
- ◆ Examples of inventions related to a combination of products (combinations of physical means and biochemical means, combinations of tissue-derived materials and scaffolding materials, combinations of tissue-derived materials and medicine, etc.) will be added.
- ◆ The fact that methods for cellular differentiation, cellular induction and the like are not considered as “methods for treatment of the human body by surgery or therapy and diagnostic methods practiced on the human body” will be clarified. Examples of inventions in related technological fields will be added.
- ◆ Examples of inventions in technological fields related to assisting devices will be added.

Regarding “medicinal inventions”

- ◆ Novelty will be recognized in the case that the medical purpose (i.e. the application of a specified method of administration or dosage to a specific disease) is different from that of the conventional medicine.
- ◆ Examples of inventions using tissue-derived materials such as cells will be added.
- ◆ Examples of inventions using, for a medical purpose, cells specified in the manufacturing process will be added.

Reference:

- (i) http://www.jpo.go.jp/torikumi/t_torikumi/toriatukai_sangyouhatumei_iyaku.htm
- (ii) http://www.jpo.go.jp/iken/sangyouhatumei_iyaku.htm



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2009年8月6日、特許庁は、「産業上利用することができる発明」および「医薬発明」について、改訂審査基準案を発表し、現在パブリックコメントを募集中である。

改訂審査基準案のポイントは、以下のとおり。

《「産業上利用することができる発明」について》

- ◆人体から各種の資料を収集する方法は、手術や治療の工程や、医療目的で人間の病状等を判断する工程を含まない限り、「人間を診断する方法」に該当しないこととする
- ◆組合せ物（物理手段と生化学手段との組合せ、生体由来材料と足場材料との組合せ、生体由来材料と薬剤との組合せ等）の事例を追加した
- ◆細胞の分化誘導方法等が「人間を手術、治療又は診断する方法」に該当しないことを明記し、関連技術の事例を追加した
- ◆アシスト機器関連技術の事例を追加した

《「医薬発明」について》

- ◆医薬発明において、特定の用法・用量で特定の疾病に適用するという医薬用途が公知の医薬と相違する場合には、新規性を認めることとする
- ◆細胞等の生体由来材料の用途に特徴のある発明の事例を追加した
- ◆製造方法で特定された細胞の医薬用途に特徴のある発明の事例を追加した

【参照URL】

- (i) http://www.jpo.go.jp/torikumi/t_torikumi/toriatukai_sangyouhatumei_iyaku.htm
- (ii) http://www.jpo.go.jp/iken/sangyouhatumei_iyaku.htm



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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.

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