

Triggered by the spread of the COVID-19 pandemic, ideal approaches to economic activities have dramatically changed as seen in digitalization, remote work and contact-less services. To address these changes, the Japan Patent Office (JPO) decided to revise the Patent Act and other Acts,* placing emphasis on the following: **(1) developing new procedures (e.g., digitalization of procedures) to address the spread of the COVID-19 pandemic, (2) reviewing the protection of rights to address changes in corporate activities that accompany the advancement of digitalization and other technologies and (3) enhancing the foundation of the intellectual property systems, including reviews of procedures for litigation or fee structures.**

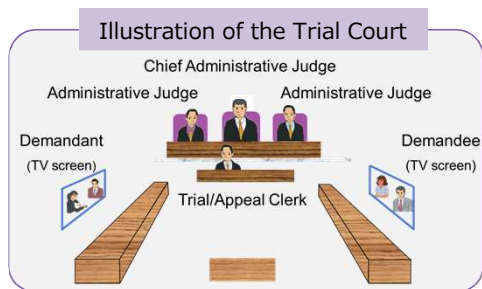
* Patent Act (Patent), Utility Model Act (Utility), Design Act (Design), Trademark Act (Trademark), Act on Special Provisions of Procedures, etc. Concerning Industrial Property Rights (Industrial), Act on International Applications under the Patent Cooperation Treaty (International), Patent Attorney Act (Attorney)

(1) Developing new procedures (e.g., digitalization of procedures) to address the spread of the COVID-19 pandemic

① Oral proceedings for trials or appeals by video conferencing

[Patent·Utility·Design·Trademark]

- ✓ In trials for invalidation of patents, etc., oral proceedings have been conducted by appearing in person in the Trial Court. This will become possible via a **video conference system** at the decision of the chief administrative judge.



② Abolition of the depositing of patent revenue stamps and the introduction of alternative means of fee payment [Property]

- ✓ Allowing users to pay patent and other fees **in advance using bank transfers and other transfer methods (abolishment of advance payment by revenue stamps)** or using credit card and other means of payment at specific service counters

③ Digitization of international design and trademark applications

[Design·Trademark]

- ✓ Simplifying the procedures for informing applicants of the decisions on registration of their designs or trademarks filed as international applications (e.g., **allowing the JPO to electronically send** such notifications via the International Bureau instead of sending them by postal mail which may stop in response to the spread of the COVID-19 pandemic)

④ Exemption from surcharges due to processing periods expiring as a result of a disaster, etc. [Patent·Utility·Design·Trademark]

- ✓ If the payment for patent fees is overdue due to the spread of infectious diseases or a disaster, **additional surcharges will be exempted for the relevant period of time.**

(2) Reviewing the protection of rights to address changes in corporate activities in line with the advancement of digitalization and other technologies

① Tightening regulations on the influx of counterfeit goods from overseas

[Design·Trademark]

- ✓ In response to increases in the importing of counterfeit goods for private use, **overseas vendors bringing counterfeit goods into Japan commercially via postal mail, etc. will be newly specified as an infringement of trademark rights.**



Red starburst: Acts that will be newly specified as an infringement on trademarks or design rights. Yellow starburst: Acts that are specified on trademarks and design rights under current law.

② Review of requirements for consent of non-exclusive licensees in trials for correction, etc. [Patent·Utility·Design]

- ✓ Responding to the increasing complexity of patent-right licensing forms along with advancement of digital technologies, etc., **removing the requirement for licensors to gain consent from non-exclusive licensees (licensed persons) in correcting patent rights, etc.**

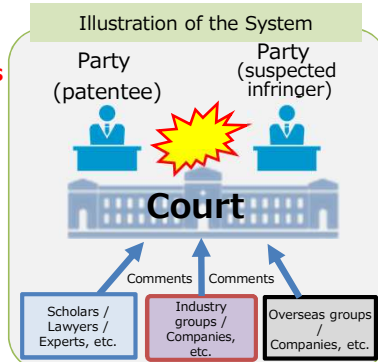
③ Relaxation of requirements for reinstatement of rights such as patent Rights [Patent·Utility·Design·Trademark]

- ✓ **Relaxing the requirements for reinstatement of rights** which are lost due to the failure to comply with prescribed time limits

(3) Enhancing the foundation of the intellectual property systems

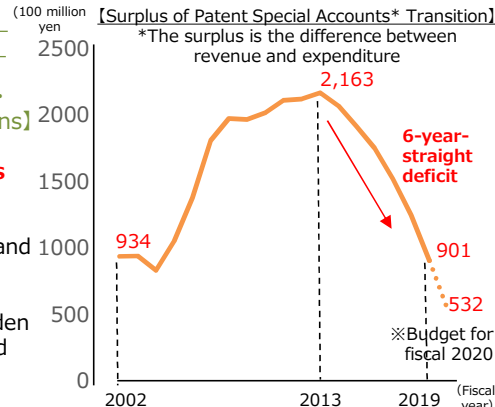
① Introduction of a system for calling for third-party comments in patent infringement litigation, etc. [Patent·Utility·Attorney]

- ✓ **Introduction of a system that allows courts to call for comments from a wide range of third parties** in patent infringement litigation, etc.
- ✓ Supplements of the collection of evidence by parties so that courts can make judgements based on a wide range of comments in cases which significantly impact society.
- ✓ Allows patent attorneys to respond to consultations under the system for calling for third-party comments.



② Review of the fee structure for patent fees, etc. [Patent·Utility·Design·Trademark·Applications]

- ✓ **Revision of fee structures such as for patent fees** in order to secure the balance of income and expenditure in response to the increase in the burden of examinations and the digitization of procedures.



③ Review of the patent attorney system [Attorney]

- ✓ Addition of **the business of agriculture, forestry and fishery intellectual property** as those which can be conducted by patent attorneys
- ✓ **Change of the Japanese name of Patent Attorneys Offices to "Benrishi Hojin"**
- ✓ **Introduction of single person professional corporation system**

新型コロナウイルスの感染拡大を契機に、デジタル化、リモート・非接触など経済活動のあり方が大きく変化。このような変化に対応すべく、
(1) 新型コロナウイルスの感染拡大に対応したデジタル化等の手続の整備、(2) デジタル化等の進展に伴う企業行動の変化に対応した権利保護の見直し、(3) 訴訟手続や料金体系の見直し等の知的財産制度の基盤の強化、を柱に特許法等※の改正を行う。

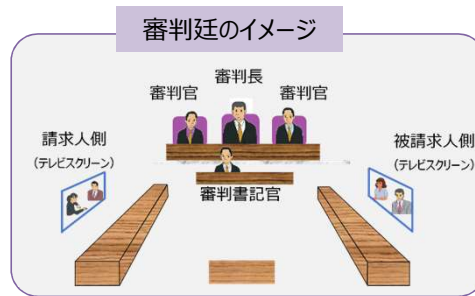
※特許法(特)、実用新案法(実)、意匠法(意)、商標法(商)、工業所有権に関する手続等の特例に関する法律(工)、特許協力条約に基づく国際出願等に関する法律(国)、弁理士法(弁)

(1) 新型コロナウイルスの感染拡大に対応したデジタル化等の手続の整備

① 審判口頭審理のオンライン化

【特・実・意・商】

- ✓ 特許の無効審判等は、従来、審判廷に出頭して対面で口頭審理。これを、審判長の判断で**ウェブ会議システム**でも可能とする。



② 印紙予納の廃止・料金支払方法の拡充【工】

- ✓ 特許料等の支払方法について、**口座振込等による予納(印紙予納の廃止)**や、窓口でのクレジットカード支払等を可能とする。

③ 意匠・商標国際出願手続のデジタル化【意・商】

- ✓ 意匠・商標の国際出願の登録査定のお知らせ等について、(感染症拡大時に停止のおそれのある)郵送に代えて、国際機関を経由した**電子送付を可能とする**など、手続を簡素化。

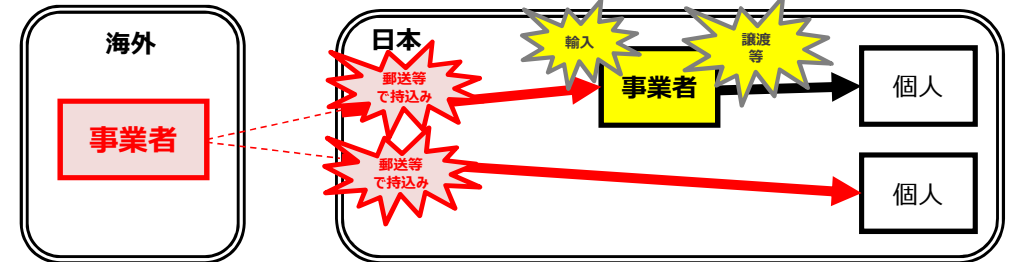
④ 災害等の理由による手続期間徒過後の割増料金免除【特・実・意・商】

- ✓ 感染症拡大や災害等の理由によって特許料の納付期間を徒過した場合に、**相応の期間内において割増料金の納付を免除**。

(2) デジタル化等の進展に伴う企業行動の変化に対応した権利保護の見直し

① 海外からの模倣品流入への規制強化【意・商】

- ✓ 増大する個人使用目的の模倣品輸入に対応し、**海外事業者が模倣品を郵送等により国内に持ち込む行為を商標権等の侵害として位置付ける**。



② 訂正審判等における通常実施権者の承諾要件見直し【特・実・意】

- ✓ デジタル技術の進展等に伴う特許権のライセンス態様の複雑化に対応し、**特許権の訂正等における通常実施権者(ライセンスを受けた者)の承諾を不要化**。

③ 特許権等の権利回復要件の緩和【特・実・意・商】

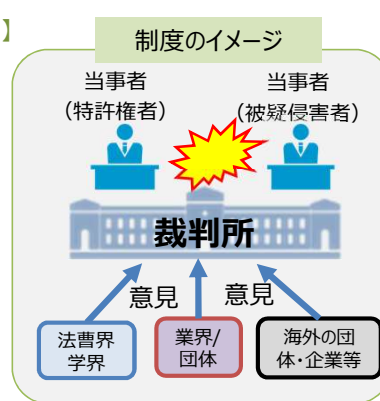
- ✓ 手続期間の徒過により特許権等が消滅した場合に、**権利を回復できる要件を緩和**する。

(3) 知的財産制度の基盤強化

① 特許権侵害訴訟における第三者意見募集制度の導入

【特・実・弁】

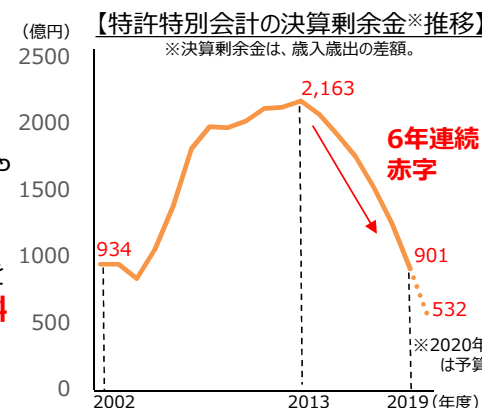
- ✓ 複雑化した特許権侵害訴訟において、**裁判所が広く第三者から意見を募集できる制度を導入**。
- ✓ 社会的影響の大きい事件において、裁判所が幅広い意見を踏まえて判断できるよう当事者の証拠収集を補完。
- ✓ 弁理士が「第三者意見募集制度」における相談に応じることを可能とする。



② 特許料等の料金体系見直し

【特・実・意・商・国】

- ✓ 審査負担増大や手続のデジタル化に対応し収支バランスの確保を図るべく、**特許料等の料金体系等を見直し**。



③ 弁理士制度の見直し【弁】

- ✓ 弁理士を名乗ることができる業務として、**農林水産知財業務**を追加
- ✓ **法人名称の変更**(「弁理士法人」への変更)
- ✓ **一人法人制度の導入**