

4-3. Examination

Japan has adopted the examination system. All applications, including trademark applications based on the Protocol, are placed under substantive examination after formalities are checked. In the substantive examination, the presence or non-presence of both absolute grounds and relative grounds are examined.

➤ Absolute grounds

Whether the subject trademark possess sufficient distinctiveness is examined. The following marks cannot be registered as trademarks:

- (1) Common terms for designated goods or services;
- (2) Customary terms for designated goods or services;
- (3) Descriptive terms in relation to designated goods or services;
- (4) Commonplace surnames and appellations;
- (5) Extremely simple and common indications alone; or
- (6) Other marks incapable of indicating whose business they are related to.

➤ Relative grounds

Whether there already exist prior registrations held by others is examined. The following trademarks cannot be registered:

- (1) Trademarks identical or similar to already registered trademarks which are intended to be used for identical or similar goods or services;
- (2) Trademarks which are likely to cause confusion with well-known or famous trademarks of others; or
- (3) Trademarks which are likely to cause misconception about quality of goods or services.

In addition, the examination also covers whether the designated goods or services are properly described and whether classification of goods or services is inappropriately broad. A provisional refusal will be issued if any inappropriateness is found in the examination.

The applicant can respond to a provisional refusal within a three-month period by submission of an argument and/or an amendment. This three-month period is extendible for only one month by making such written request.