

# Statistics regarding Recent Trend of Japanese Patent Practice



**JAPAN PATENT ATTORNEYS ASSOCIATION**

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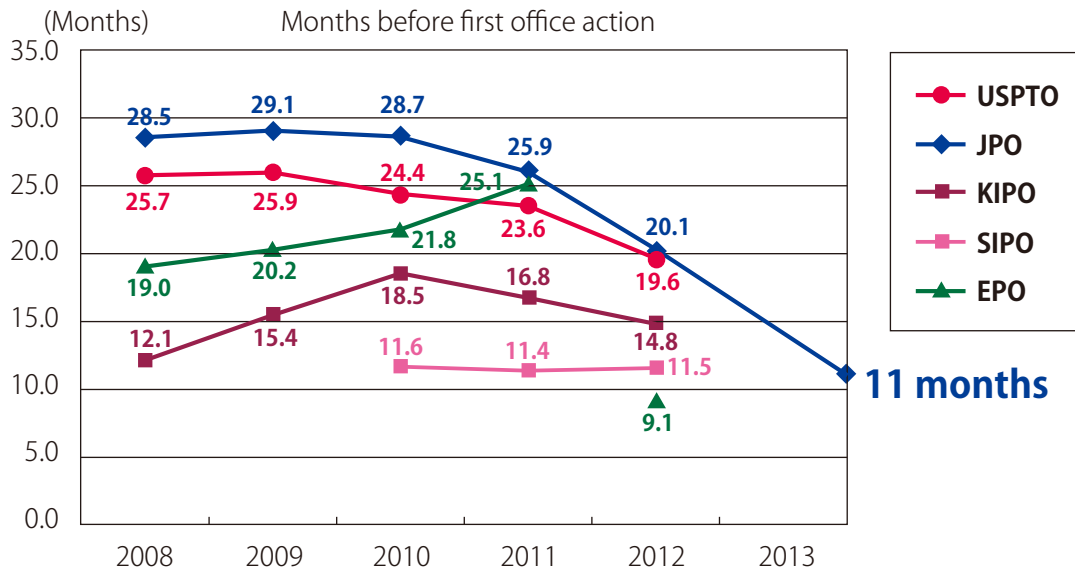
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Japan Patent Office (JPO) issues an annual report every year, including statics such as patent grant rate, duration of waiting time for substantial examination, etc.

In this brochure, the recent trend of Japanese patent practice is summarized on the basis of the report.

## Speed of Examination



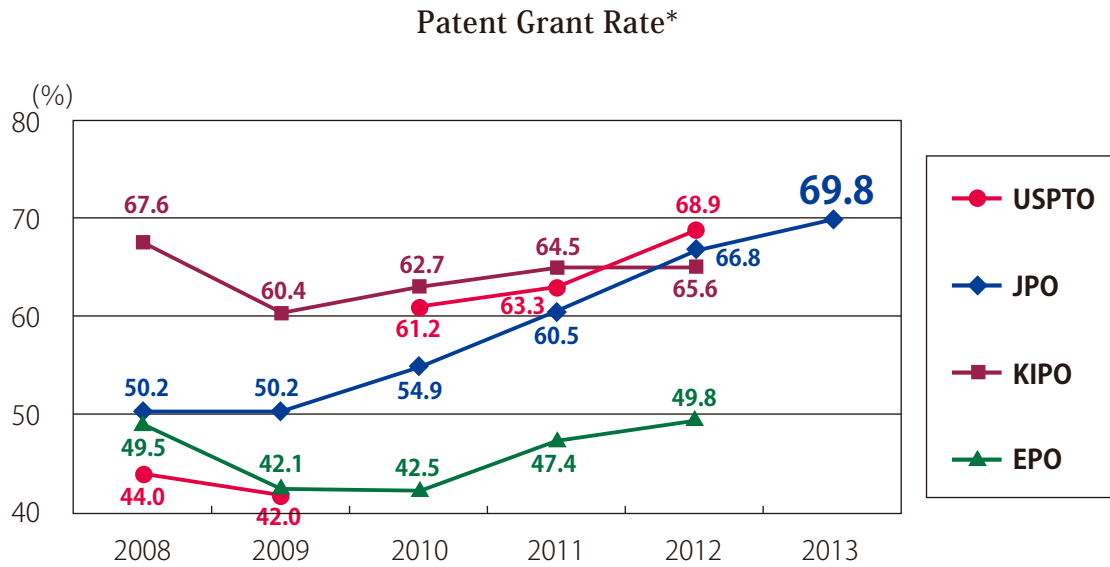
(Source) JPO Annual Report 2014  
Figs. 1-1-5 and 1-1-25

In the past, the JPO had a huge backlog of applications and thus the waiting time for examination was as long as about two and half years until 2009. However, due to an increase in the number of Examiners, etc., the waiting time has decreased dramatically - the waiting time was eleven months at the end of 2013.

This is a short time compared to other Patent Offices such as the US Patent Office (USPTO), the Korea Patent Office (KIPO), the Chinese Patent Office (SIPO), and the European Patent Office (EPO).

Further, if you wish to further expedite the examination procedure, an expedited examination system is available. Under the expedited examination system, a first Office Action is issued in about two months (Ave.) from the filing of a request for expedited examination. In order to request an expedited examination, only a brief explanation of the differences between the invention of an application and prior art is required, with no official fee.

# High Patent Grant Rate (Examination Stage)



Patent Grant Rate\* = Number of Patent Grants/  
(Number of Patent Grants + Number of Final Rejections + Number of Patent Applications Withdrawn or Abandoned after First Office Action)

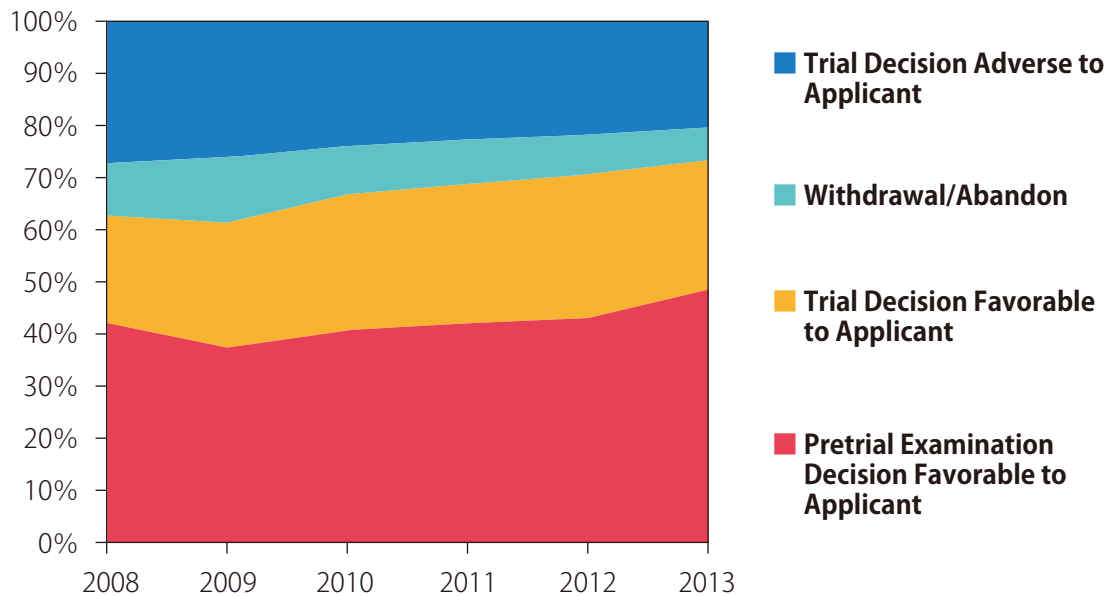
(Source) JPO Annual Report 2014  
Figs. 1-1-10 and 1-1-28

In the past, the JPO had a very strict stance regarding patentability, especially inventive step. However, this is no longer the case. The patent grant rate at the JPO increased steadily from 2009, finally reaching about seventy percent in 2013.

This number is high compared to other Patent Offices such as the US Patent Office (USPTO), the Korea Patent Office (KIPO), and the European Patent Office (EPO).

While there may be various reasons for this increase, it is apparent that recent patent owner / applicant-friendly IP high court decisions at least affect the attitude of the JPO.

## High Patent Grant Rate (Trial Stage)



(Source) JPO Annual Report 2014  
(Statistics) p. 5



The patent owner / applicant-friendly attitude of the JPO is evident not only in the examination stage, but also in a trial stage.

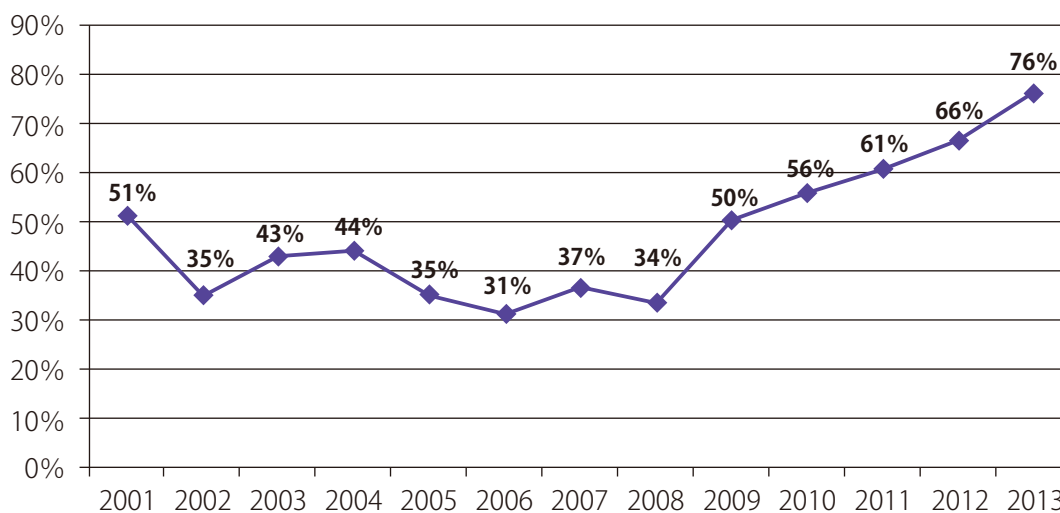
In 2013, even if patent applications were rejected in the examination stage, about half thereof were allowed in a pretrial examination, which is preliminarily conducted by the original Examiner after a patent application has been amended.

Further, even if patent applications are rejected in a pretrial examination stage, about half thereof are subsequently allowed in a trial examination. Therefore, in total, about seventy five percent of patent applications rejected in the examination stage are later allowed in a pretrial examination or trial examination stage.

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# Security of Patent Right

Patent Maintenance Rate\* as result of Invalidation Trial Decision



Patent Maintenance Rate\* = Number of Trial Decisions maintaining ALL claims / (Number of Trial Decisions maintaining ALL claims + Number of Trial Decisions invalidating at least one claim)

(Source) JPO Annual Report 2014  
(Statistics) p. 7



If granted patents are not secure, i.e. they are liable to be easily invalidated, then a high patent grant rate has little meaning.

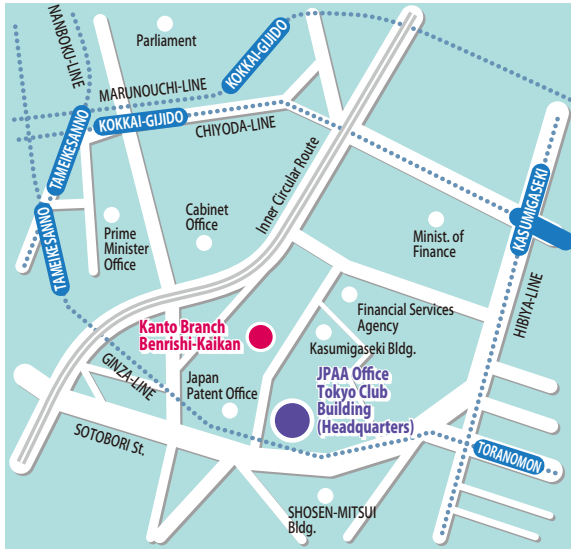
However, along with an increase in the patent grant rate, the rate of patents being maintained as a result of invalidation trial decisions has increased.

The patent maintenance rate as a result of invalidation trial decisions, i.e. the rate of invalidation decisions maintaining ALL claims, was about thirty to forty percent in 2002 to 2008. However, this rate increased steadily from 2009, and finally reached seventy six percent in 2013. In other words, among all invalidation trial decisions issued in 2013, only twenty four-percent of decisions invalidated at least one claim.

In turn, this means that patent rights are generally secure in the face of patent infringement lawsuits, since a large percentage of invalidation trials relate to infringement lawsuits, and judges assessing the merits of an infringement lawsuit usually refer to a co-pending invalidation trial decision relating to the same case.

# Location of Offices

The Headquarters of the JPAA is located in central Tokyo next to the JPO building as shown in the map below.



The JPAA has nine branch offices across the country, located in Kanto (Tokyo), Hokkaido (Sapporo), Tohoku (Sendai), Hokuriku (Kanazawa), Tokai (Nagoya), Kinki (Osaka), Chugoku (Hiroshima), Shikoku (Takamatsu) and Kyushu (Fukuoka). These branch offices provide support and information concerning IP rights not only to members of the JPAA, but also to any persons who have concerns that live in these areas.

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