

**JAPAN**

*Status as of May 2005*

<b>FEATURES</b>	<b>STATUS</b>	<b>CHANGES IN LAWS SINCE 1990</b>
<b>Types of protection for inventions</b>	<ul style="list-style-type: none"><li>• Patents</li><li>• Utility models</li></ul>	N.A
<b>Term of protection</b>	<ul style="list-style-type: none"><li>• Patents: 20 years from the filing date</li><li>• Utility models: 10 years from the filing date</li> <li>• Extension of patent term is possible on the following grounds:<ul style="list-style-type: none"><li>- Regulatory approval for pharmaceuticals</li><li>- Regulatory approval for agricultural chemicals</li></ul></li></ul>	<p>April 1, 2005 – Extension of term of protection for utility models from 6 years to 10 years from the filing date.</p> <p>January 1, 2000 – Lower requirement for the extension of patent term: it became possible to request an extension of the patent term (no more than 5 years) in case the patent could not be exploited after the grant. Before 2000, it was required that the patent could not be exploited during 2 years.</p> <p>July 1, 1995 – Revision of term of protection for patents from 15 years from the publication of examined application (and not exceeding 20 years from the filing date) to only 20 years from the filing date.</p> <p>January 1, 1994 – Revision of term of protection for utility models from 10 years from the publication of examined application (and not exceeding 15 years from the filing date) to 6 years from the filing date.</p>

<b>Subject matters excluded from patentability or not considered to be inventions</b>	<ul style="list-style-type: none"> <li>• The following subject matter is excluded from patentability: <ul style="list-style-type: none"> <li>- Inventions contrary to morality/public order</li> </ul> </li> <li>• The following subject matters are not considered to be inventions: <ul style="list-style-type: none"> <li>- Discoveries</li> <li>- Scientific theories/ mathematical methods</li> <li>- Aesthetic creations</li> <li>- Mental acts</li> <li>- Presentation of information</li> <li>- Business methods</li> <li>- Isolated parts of human beings</li> <li>- Diagnostic, therapeutic and surgical methods for the treatment of humans and animals</li> </ul> </li> </ul>	July 1, 1995 – Transformed nuclear material was removed from the category of unpatentable invention.
<b>Filing language</b>	<ul style="list-style-type: none"> <li>• Filing a patent application in another language (English) than the official language is possible provided that the request form is in Japanese. The time limit to provide translation into Japanese is 2 months from the filing date.</li> </ul>	July 1, 1995 – Introduction of the possibility to file a patent application in another language than Japanese.
<b>Certain requirements relating to filing</b>	<ul style="list-style-type: none"> <li>• The inventor never waives his right to be mentioned in the patent.</li> <li>• It is not possible to file provisional applications.</li> <li>• The most frequent route used by foreign applicants to file patent applications is the PCT procedure (Patent Cooperation Treaty).</li> </ul>	No
<b>Link between different inventions in the same application</b>	<ul style="list-style-type: none"> <li>• The applicable law allows multi-claims in a patent application relate to a group of inventions.</li> </ul>	January 1, 2004 – Amendments of the requirements of unity of invention.
<b>Publication</b>	<ul style="list-style-type: none"> <li>• The information related to a patent application is published or open for public access after 18 months from the filing date or from the priority date and when the patent is granted.</li> </ul>	April 1, 2005 – Introduction of online publication of registered utility models.  January 1, 1996 – Abolition of publication of examined application (for opposition).
<b>Classification system</b>	<ul style="list-style-type: none"> <li>• The patent classification system used is the International Patent Classification (IPC) system.</li> </ul>	N.A

<p><b>Search and examination</b></p>	<ul style="list-style-type: none"> <li>• The applicable law establishes a substantive search and examination system. Search and examination are combined.</li> <li>• For patents: The applicant is required to request for examination (including search) within 3 years from the filing date. If the applicant fails to do so, the application shall be deemed to be withdrawn.</li> <li>• For utility models: There is no procedure of filing a request for examination. If an applicant needs to obtain an evaluation about the validity (novelty and inventive step) of registered utility models, the applicant is required to file a request for the registrability report. Anyone can request the registrability report at anytime after the filing; the search is then undertaken during this evaluation process.</li> <li>• During the examination procedure for patents, the following criteria are examined: <ul style="list-style-type: none"> <li>- Novelty</li> <li>- Inventive step/non obviousness</li> <li>- Industrial applicability/utility</li> <li>- Claims and description comply with law and regulation</li> <li>- No prior application is filed on the same invention</li> <li>- Amendment does not include a new matter which was not inherently presented in the description</li> <li>- The invention is not against public order and morals.</li> <li>- The invention meets the requirements of unity of invention.</li> </ul> </li> </ul>	<p>January 1, 1994 – Abolition of substantive examination system of utility model.</p>
<p><b>Specific legal provision regarding ownership of patents derived from public (government) research funding</b></p>	<ul style="list-style-type: none"> <li>• Yes – The Law of Special Measures for Industrial Revitalization. This law states that a trustee, under certain conditions, may own the patent right derived from public research funding.</li> </ul>	<p>October 1, 1999 – Introduction of the Law of Special Measures for Industrial Revitalization.</p>

<p><b>Exceptions to exclusive rights conferred by a patent</b></p>	<ul style="list-style-type: none"> <li>• There are exceptions to the exclusive rights conferred by a patent as follows: <ul style="list-style-type: none"> <li>- Private use</li> <li>- Compulsory licenses</li> <li>- Research and/or experimental exception</li> <li>- Preparation of medicines in accordance with medical prescriptions by physicians</li> <li>- Clinical trials for the purpose of obtaining a generic drug's regulatory approval</li> <li>- Prior user's right</li> <li>- Exceptions of Article 5 ter of the Paris Convention</li> <li>- Products existing in Japan prior to the filing of the patent application</li> </ul> </li> </ul>	<p>No</p>
<p><b>Options to challenge a patent</b></p>	<ul style="list-style-type: none"> <li>• There are different options to challenge a patent or a utility model as follows: <ul style="list-style-type: none"> <li>- Post-grant administrative procedure (Appeal for invalidation) within no time limit</li> <li>- Court procedure</li> </ul> </li> </ul>	<p>January 1, 2004 – Introduction of the new invalidation trial system.</p> <p>December 2003 – Abolition of the post-grant opposition system.</p> <p>January 1, 1996 – Abolishment of pre-grant opposition system and establishment of post-grant opposition system.</p> <p>January 1, 1994 – Simplification of appeal procedure (abolishment of appeal against examiner's decision to dismiss/decline amendment)</p>