

Japan's Implementation of the PLT

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1 Japan's Implementation of the PLT

Japan's Implementation of the PLT -Background-

The JPO supports the objectives of the PLT:

- **Harmonize and simplify procedures for obtaining and maintaining patents**
- **Provide more user-friendly procedures and remedy measures**

An increasing number of countries have acceded to the PLT:

- **The U.K. in 2006, Australia in 2009, France in 2010, the U.S. in 2013**



Japan acceded to the PLT in 2016 to promote harmonization of the administrative processes for patent applications and patents, thereby reducing the burden of users in patent acquisition.

Japan's Accession to the PLT -preparations-

The JPO revised the Patent Act in three stages, and modified its IT systems for conducting formality examination, in preparation for its future accession to the PLT.

2011

- Restoration of Patent rights by late payment of patent fees
- Remedy for late submission of translation of patent applications in a foreign language, etc.

2014

- Restoration of priority rights
- Correction or addition of priority claim, etc.
- Remedy for late request for patent examination

2015

- Requirements for filing dates
- Relief in respect of designated time limits, etc.

The Balance to be considered between right holder's and third parties' benefits!!

Japan's Accession to the PLT -other preparatory measures-

Structure

The JPO set up a new section to examine petitions for reinstatements of rights.

Guideline

The JPO published “Guidelines Concerning Remedial Provisions Applicable after the Expiration of a Time Limit”, which elaborates the criteria for the reinstatement of rights as applied by the JPO.



These efforts enable users to enjoy the benefit of remedy measures based on the PLT standards.


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Recent Changes of national system relating to the PLT

Recent Changes regarding the PLT

Points at issue

- The JPO was more strictly applying “Due Care” criteria in deciding whether to grant relief in respect of time limits, compared with European countries and the U.S..
- Easing requirements are more user-friendly.



The JPO did consider changing the standard from “Due Care” to “Unintentional”, along with the introduction of restoration fee to encourage the timeliness of applications.

Shift to “Unintentional” for Reinstatement of rights

The Criteria for Reinstatement of right and restoration of priorities in Japan, corresponding to PLT- Article 12, changed from “Due Care” to “**Unintentional**”.

applies to expiration of period for procedures after April 1, 2023.

PLT Article 12 provides the Office shall reinstate the rights, where an applicants or owner has failed to comply with a time limit and that **failure has the direct consequence of causing a loss of rights...**

ex. under the Japanese Patent Act

- Request for examination of an application
- Submission of a translation for a national and PCT application filed in a foreign language
- Late payment of a patent fee, etc.

& Restoration of Priority right under the Paris Convention

JPO collects a sufficient reinstatement fees to prevent abuse of the system and to provide incentives for compliance with the procedure period.

- Patent ¥ 212,100
- Utility Model ¥ 21,800
- Design ¥ 24,500
- Trademark ¥ 86,400

*RO/JP does not collect any fees for Restoration of Priority Right in the international phase of PCT.

Promotion of further digitization of procedures

- The JPO digitized patent application in 1990.
- However, there were still some procedures which could not be accepted via online as of last year.
- The JPO formulated the “Plan on Promotion of Digital JPO Procedures” in March 2021, which includes promoting digitization of all procedures.
- A system to accommodate the digitalization is now launched from January 2024.

Total number of documents Approx. 3.1million

Documents accepted online
(Approx. 300 types,
90% of submitted documents)

Documents not accepted online
(Approx. 500 types,
10% of submitted documents)

Examples:

- Power of attorney
- Procedure for transfer of rights
- written request for trial/appeal procedure)

To digitize all procedures in principle
from January 2024

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Conclusion & Some thoughts **- From the JPO's Experience -**

Conclusion & Messages – From the JPO's Experience

- **It is possible to make revisions in several stages and users can gradually enjoy the benefits of the provision of the PLT.**
- **For the PLT accession, it is necessary to implement a number of remedial measures, which impact the balance between right holders' and third parties' benefits.**
- **We had better not forget there are varieties of need of users.**
- **The COVID-19 emergency has shown the importance of remedial measures.**
- **Global users hope an increasing number of countries will harmonize and streamline their formality procedures.**

Thank you

