Quality Management of Trademark Examination

FICPI 18th Open Forum
October 11, 2019
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Japan Patent Office
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1. Quality Policy

The JPO published its “Quality Policy on Trademark Examination” in 2014.

https://www.jpo.go.jp/e/introduction/hinshitu/shinsa/policies.html

- We contribute to the protection and enhancement of brands and the smooth consumption of goods and services:
- We conduct consistent and objective trademark examination:
- We promote the utilization of the trademark system by closely communicating with applicants:
- We actively share information with relevant persons inside and outside Japan in order to improve the quality of trademark examination:
- We consistently improve operations:
- We raise the knowledge and capabilities of our staff:
2. Outline of Initiatives on Quality Management

Key Measures for JPO's Quality Management of Examinations

- **Initiatives to enhance the examination quality: Quality assurance**
  - Quality checks and approvals by directors
  - Consultations (Opinion exchange and knowledge sharing among examiners)
  - Check Sheets for examiners

- **Initiatives to verify the examination quality: Quality verification**
  - Quality Audits (based on sample checks)
  - User Satisfaction Survey
  - Opinion Exchange with Trial and Appeal Department

- **External evaluation of the quality management**
  - Subcommittee on Examination Quality Management
2. Outline of Initiatives on Quality Management

Overview of Quality Management System

- JPO
  - Commissioner
    - Director-General of Trademark and Customer Relations Dept.
      - Trademark Division
        - Quality Management Section
          - Planning QM-related initiatives
            - Examination Office
              - Director
                - Examiner
                  - Conducting TM examination
            - Quality audit / feedback
            - Decision to grant/ notice of reasons for refusal
            - Application / Written opinion / Written amendment, etc.
          - Internal Committee on Quality Management
            - Evaluation
              - Report
                - Subcommittee on Examination Quality Management
                - Evaluation
                  - User Satisfaction Survey, etc.
                  - Users
                    - (Applicants/ Attorneys)

Foreign IP offices
- Information exchange
2. Outline of Initiatives on Quality Management

Measure for Quality Management

Quality Management Section (Trademark Division)

- Providing QM-related Information
- Exchange of view between Examination and Appeal Dept.
- Quality Audit

Examiner

- Recognizing the trademark
- Search and decision on designated goods and services
- Search and decision on registration requirements
- Search and decision on grounds for unregistrability
- Drafting notices

Director

- Approval
- Dispatch

Applicant/Attorney

Check Sheet for Examiners

Consultations (Opinion exchange and knowledge sharing among examiners)

Training programs for enhancing knowledge and capabilities

Quality Assurance

Quality Verification

Quality Audit

User Satisfaction Survey
3. Initiatives for Quality Assurance

Quality checks and approvals by directors

Substantive and formality checks on examinations by Directors by checking all notices prepared by examiners.
Examiners have consultations with other examiners or directors in order to reduce disparities in terms of examination decisions and conduct appropriate examinations.
### 3. Initiatives for Quality Assurance

**Check Sheets**

<table>
<thead>
<tr>
<th>Special mention</th>
<th>Has priority been claimed?</th>
<th>Is this a divisional application?</th>
<th>Did third-parties provide information?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Search</strong></td>
<td>Are indications clear?</td>
<td>Has correct similarity group-code been assigned?</td>
<td></td>
</tr>
<tr>
<td><strong>Judgement Process</strong></td>
<td>Phonetic search conducted?</td>
<td>Internet/newspaper search conducted?</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Search report checked?</td>
<td>Figurative search conducted?</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Any related application(s) exist?</td>
<td>Applicable legal clause applied?</td>
<td></td>
</tr>
<tr>
<td><strong>Details of Notices</strong></td>
<td>Contact Information filled?</td>
<td>Any typos?</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Applicable legal clause been applied?</td>
<td>All necessary explanations provided?</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Concise and readable explanation?</td>
<td>Any amendment(s) proposed?</td>
<td></td>
</tr>
<tr>
<td><strong>For use by Directors</strong></td>
<td>Request re-examination</td>
<td>Request further search</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Conclusion reached following the request</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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**Notes:**

- **Trademark:** Has correct similarity group-code been assigned?
- **Goods & services:** Are indications clear?
- **Search:** Phonetic search conducted?
- **Judgement Process:** Search report checked?
- **Details of Notices:** Contact Information filled?
- **For use by Directors:** Request re-examination
Review the quality of examinations based on sample checks (to verify the quality of the entire examination process)

After the approval by directors, Quality Management Officers audit the quality of randomly selected notices to judge whether examinations were appropriate before these notices are sent to applicants.
4. Initiatives for Quality Verification

Quality Audits

Results of the Quality Audits (FY 2018)

<Number of Sample Checks>

Decisions to refuse: 1,500
Decisions to grant: 1,500

Results of Sample Checks on Decisions to Refuse Registration

96.0% Compliance

Results of Sample Checks on Decisions to Register Trademarks

99.5% Compliance
The percentage of “Average” or higher was 93.0%.
The combined percentage for “Satisfied” and “Somewhat Satisfied” reached 47.7%.
Feedback to the Examination Dept. on appeals against the examiner's decision of refusal

- Feedback on the results of appeals against the examiner’s decision of refusal case will be given to the Examination Dept.
- Examiners in charge will utilize the feedback for future examinations.
- It is possible to submit an opposing opinion about the feedback, if any.

Opinion Exchange with Trial and Appeal Department

Examples of Feedback

- Applicable Article is incorrect
- Inappropriate acknowledgment
- Error in judgement
- Thorough search not done

Examples of Agendas

- Appropriateeness of supporting evidence for acknowledgment
- Acceptance of elements constituting trademarks
- Lack of comprehensive consideration
- Descriptions of examiner’s decision of refusal are insufficient

Examination Dept. and Trial and Appeal Dept. exchange views

- They exchange views several times a year

4. Initiatives for Quality Verification
The Subcommittee is composed of a broad range of experts including those from companies, in the legal profession, and with academic experience.

The Subcommittee makes an objective evaluation and provides proposals for improvement, based on evaluating the JPO’s state of implementation and status of quality management.
Thank you for your attention