

★★★ 2008年度第7回知的財産翻訳検定<英文和訳> ★★★

≪ 1級・知財法務実務 ≫

【解答にあたっての注意】

1. <スタート> から<エンド> までを英訳してください。
2. 問題は3題あります。それぞれの問題の指示に従い、3題すべて解答してください。
3. 解答語数に特に制限はありません。
4. 課題文に段落番号がある場合、これを訳文に記載してください。
5. 課題に図面が添付されている場合、該当する図面を参照してください。

★「課題図表の表示／非表示」リンクで表示

問1 次の英文を読みその内容を日本語150字以内で要約しなさい。下線を施したタイトルの訳は不要です。

Amendment After Official Action

In replying to the first Official Action on the merits of an application, the applicant has nearly complete freedom to amend the disclosure and claims within the permissible boundaries determined by the supporting disclosure present in the originally filed application.

Any number of claims may be added after the first action if the proper fee is paid and the claims do not become unduly multiplied. The added claims may be broader or narrower than initially filed and directed to embodiments or features (or both) of the invention that were or were not claimed earlier in the application. Claims in different statutory categories, i.e., machine, article, process and composition, may also be added to the application.

The applicant may then request reconsideration and further examination of any new claims or amended claims in the application; he may also request reconsideration of any claims that had not been amended.

The applicant must explain the basis he urges for patentability of all of the amended claims and additionally presented claims included in his reply to the first Official Action.

It is highly desirable for the practitioner to introduce as soon as possible a full spectrum of claims from the broadest obtainable in view of the prior art to the narrowest reasonably useful, and this should be done at the latest when replying to the first Official Action.

Either the application is allowed, or a second Official Action is

forwarded to the applicant after further examination and reconsideration by the examiner.

Under current PTO practice, however, non-final second Official Action on the merits of an application is not usual. They normally occur only in situations where significantly better prior art is found by the examiner after the first office action or where the examiner must significantly shift his basis for rejection. The applicant has the same freedom in reply to a non-final second Office Action as with replying to the first Office Action.

問2 以下に示す米国特許法の規定に関する英文を、適切な日本語に翻訳してください。翻訳の対象は、*** Start *** と *** End *** で挟まれた部分とします。

Section 101 of the patent Statute, 35 USC §101, reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title. (Emphasis added)

**** START ***

The emphasized language has been interpreted as limiting an inventor to only one patent per invention. A double patenting rejection arises where an inventor files more than one application claiming the same invention. In addition to examining the application and the invention disclosed therein for patentability under Sections 102, 103 and 112 of the statute, the examiner will compare related applications of which he is aware to determine whether more than one application has claims directed to the same invention. If so, and that invention is otherwise patentable, the examiner will allow those claims in only one such application.

Any claims in other applications that are directed to the same invention will be rejected on the grounds of double patenting over the claims of that allowed application when it issues as a patent. Copending applications and patents are "related" if they are (1) filed by the same

inventive entity, (2) are assigned to the same assignee, or (3) have at least one common inventor. It should be borne in mind that application claims may not be rejected over a previously-issued patent of the same inventive entity under Section 102(e), because the patent is not that of "another". Only a double patenting rejection prevents the issuance of a second patent on the same invention to the same inventive entity under those circumstances.

It is easy to see why the practice of double patenting should be prohibited. The patent system is designed to reward the inventor for making and disclosing his invention with a grant of a limited time during which the patentee can exclude others from making, using, offering to sell or selling the invention. If the inventor were allowed to obtain a temporally extending series of patents covering the same invention, he could in effect extend the exclusionary term of his patent coverage for that single invention beyond the term intended by Congress.

*** End ***