

Outline of Patent Quality Management System in Intellectual Property Corporation of Malaysia (MyIPO) and the Japan Patent Office (JPO)

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【Abstract】 This paper highlights the efforts that has been made and proposed to be made at Intellectual Property Corporation of Malaysia (MyIPO) on patent examination quality management. This paper also highlights the outline of patent quality management system done by the Japan Patent Office (JPO), and how such efforts could be done by MyIPO as well.

【Keywords】 patent quality management external experts

1. Introduction

Intellectual property (IP) refers to the creation of the mind. The purpose of IP legislation is to ensure that the creators (inventors, authors, owners, etc.) of the IP has the exclusive right to exploit the IP. In patent specifically, through a proper patent legislation, not only the patent owners will have the exclusive right to exclude others from monetizing their inventions, the patent system will also foster innovation that can drive a nation's economy.

In Malaysia, IP rights is administered by Intellectual Property Corporation of Malaysia (MyIPO). MyIPO is the granting authority for all industrial property rights that want to get protection in Malaysia. The patent division in MyIPO currently has 103 staffs handling for-

mality and examination matters pertaining to patent applications and registrations.

Malaysia has become a signatory of the Trans-Pacific Partnership Agreement (TPPA)(The Star Online, 2016) that requires Malaysia to align its intellectual property protection with the minimum standards stipulated under the provisions of the TPPA. With the Malaysian Patents Act 1983 is expected to be amended by yearend, the time frame would enable Malaysia to carry out its obligations and commitments in the TPPA prior to ratification. Requirements such as disclosing patent examination report to the public and patent term restoration (Ministry of International Trade and Industry, 2016) if the delay is caused by the patent office has never been implemented in MyIPO.

Patent Quality Management is essential because there is a need to avoid issues that may arise if exami-

nations are done by inexperienced examiners. Poor understanding of technology and search strategy, erroneous decision regarding patentability and inadequate drafting of examination reports could provide a drawback to these inexperienced examiners in career advancement, and also would not be in line with MyIPO’s vision of becoming one of the leading intellectual property organizations and MyIPO’s mission to provide strong legal infrastructure and effective administration regime to enhance greater creativity and exploitation of IP.

2. Basic Information

2.1. Background on Patent Office Management/ Patent Quality

Quality in patent management (and subsequently in patent examination report) is not a new global issue. The trilateral offices (United States Patent and Trade-

mark Office (USPTO), European Patent Office (EPO) and JPO) who are considered by many (including (Thomas, 2002)) as the patent giants have long been pressed to address the issue on quality patents, more so since whatever practices adopted by these offices are likely to be emulated by other patent offices around the world.

In USPTO, there is a division (namely the Office of the Deputy Commissioner for Patent Quality) dedicated to uphold the Enhanced Patent Quality Initiative pillars :

- i. Excellence in Work Products
- ii. Excellence in Measuring Patent Quality
- iii. Excellence in Customer Quality

The office is comprised of four divisions, with the job scope of each division is as shown in Figure 1.

Meanwhile in EPO ((EPO, 2015)), the department directly involved in quality management is as shown in Figure 2.

Figure 1 Job scope of each division in Office for Patent Quality in USPTO

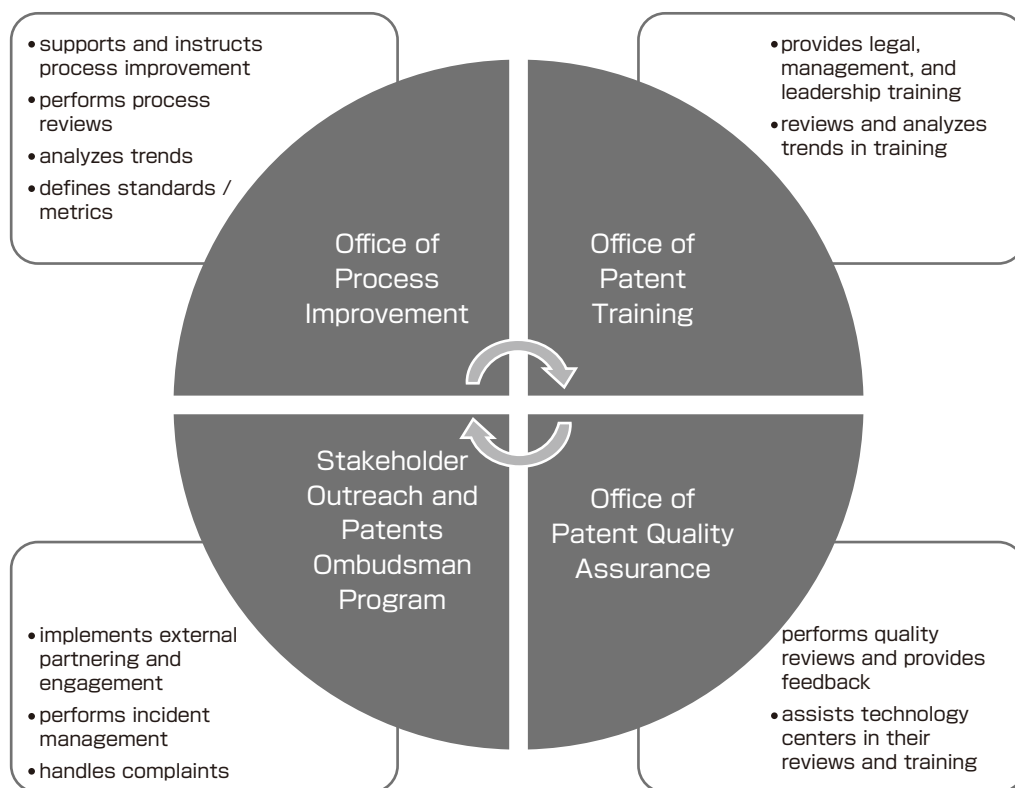
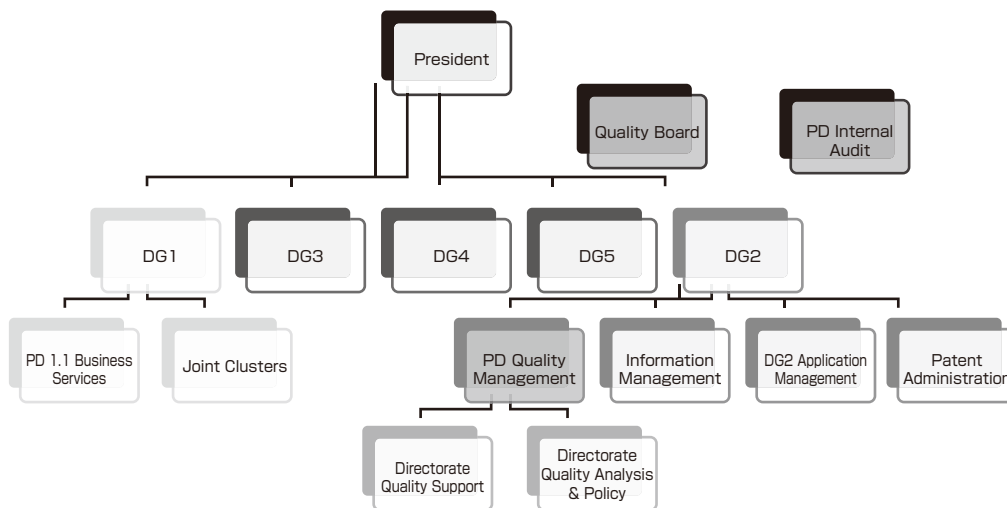


Figure 2 An organizational chart showing all those bodies and individuals responsible for the QMS in EPO



As can be seen from the chart, quality management are the responsibility even for the President of EPO. The Quality Board is responsible for upholding the quality principles of EPO :

- i. Legal certainty
- ii. Service
- iii. Continual improvement
- iv. Involvement
- v. Informed decision making
- vi. Openness
- vii. commitment

The task of the Quality Board includes monitoring the implementation and the effectiveness of the actions taken by operational departments and Principle Directorate Quality Management. The Principle Directorate Quality Management includes two Directorates : Directorate Quality Analysis & Policy (responsible for facilitating the policy making process by providing information, data, metrics analysis and recommendations to management) and Directorate Quality Support (responsible for managing the Quality Management System by the development and maintenance of quality services).

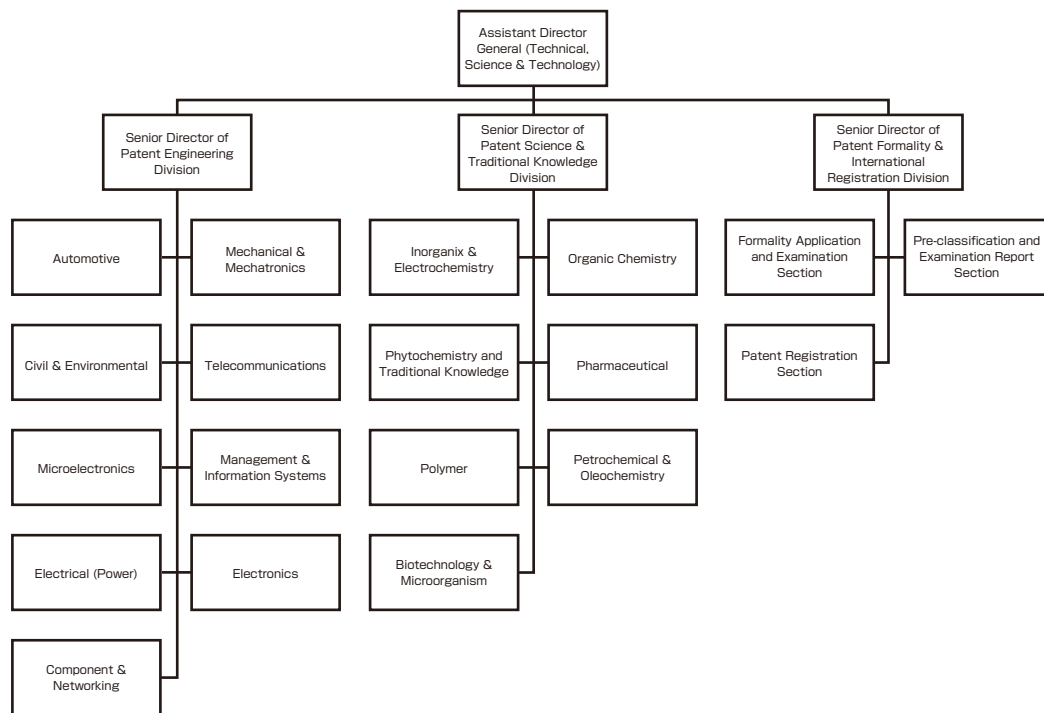
Regarding human resource development scheme, the training for examiners is managed by Directorate

Recruitment & Talent Management (DG4 in the chart above) together with Directorate HR Coordination (DG1), while training for formality officers is managed by the same directorate in DG4 together with Patent Administration training team. As a result of the reforms to strengthen the structure and efficiency of patent in Europe, in 2015 EPO achieved the best performance yet, over 14% increase of searches, examinations and oppositions and 6% increase of patents being granted over 2014 (EPO, 2015). In 2015 EPO also obtained ISO 9001 certification for its patent information and post-grant activities (EPO, 2015).

2.2. Organizational chart of the Patent Division in MyIPO

The organizational chart of the Patent Division in MyIPO is at Figure 3. Patent is divided into three divisions ; Patent Formality & International Registration, Patent Science and Traditional Knowledge, and Patent Engineering. Currently there are around 103 staffs in patent, with 80 of them are patent examiners from the examination divisions. Each examination division is further divided into several units led by a head of unit. Each head of unit may have around 3-7 patent examiners under his/her supervision.

Figure 3 Organizational Chart of Patent Divisions in MyIPO



Below is the statistics of patent applications for the last 10 years in MyIPO.

2.3. Efforts in Quality Management

MyIPO receives around 7,400 patent applications, with around 83% of the applications are from foreign countries. Table 1 shows the number of patent applications received for the last 10 years.

According to Picard (Prerre M. Picard, 2011),

A high quality patent system can therefore be defined as the one that discriminates between inventions keeping the same inherent and idiosyncratic error risk. A medium quality patent system makes more errors and grants more than necessarily monopolistic rights to applicants. A zero quality patent system would always grant a patent and would simply consist in stamping and recording the patent application files.

Taking into account that most applicants are likely to commercialize their inventions, a patent of high quality

is of utmost importance, since a low quality patent would likely trigger a series of patent disputes that are often costly and time-consuming. The uncertainties of a low quality patent can add to private and social costs to the patent system, making the system unreliable.

Below are the initiatives taken by MyIPO towards quality management of patent in Malaysia :

i) Enhancement of examiner's skill and knowledge

As stated above, there are competency-based training module for newly recruited examiners, refresher program using Regional Patent Examination Training (RPET) syllabus, and expert training from other IP offices. Additionally MyIPO has also set up an education fund for patent examiners to further their studies in their respective technology field. RPET program (IP Australia, 2016) is a program provided by IP Australia to selected examiners, where the examiners will have to undergo 2 years of training and assessment through virtual lectures, one-on-one mentoring and online

Figure 4 Patent Applications and Growth 2006-2016

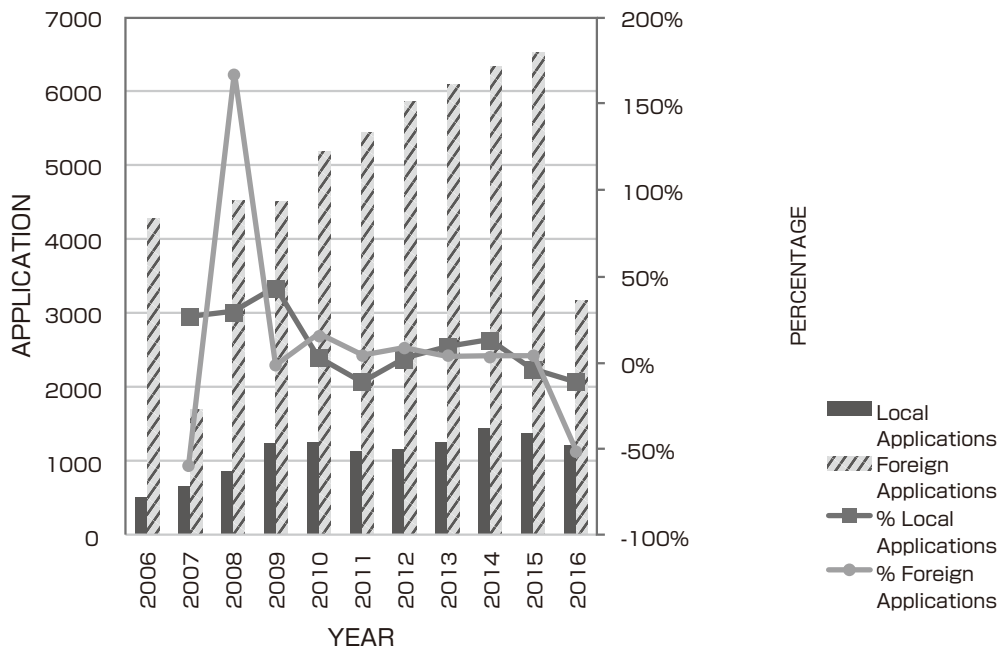


Table 1 Patent Applications received 2006-2016

IPR	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
PATENTS	4800	2372	5403	5737	6464	6559	7027	7350	7760	7907	7395
GROWTH (%)	-23.6	-50.6	127.8	6.2	12.7	1.5	7.1	4.6	5.6	1.9	-6.5

communities of practice facilitated by experienced examiners from IP Australia.

ii) Standardization of standard clauses

A committee to standardize the standard clauses to be used in examination report has been established in 2015. The purpose of this standardization is to ensure that examiners are conveying the right message in their reports and also in a clear and concise manner. The standard clauses are incorporated into report generated by system used by the examiners.

iii) Revision of patent examination guidelines

Apart from the committee for standard clause, a task force on the revision of patent examination guidelines has also been set up. The guidelines would probably include general examination guideline, and also specific examination guidelines

in the field of Computer, Biotechnology, Chemistry and Pharmaceutical. These revisions are due to Malaysian’s accession to the TPPA, in which the Malaysian Patents Act 1983 would also be amended. Currently the guidelines and the standardization of standard clauses are awaiting confirmation of the legislation amendment.

iv) Mentoring

Recently introduced, each head of unit must now conduct quality assessment and checking of every search and examination report produced by his/her subordinates before the report is sent to the applicant. Other than the report itself, the examiner must also submit search strategies and patentability assessment for the application to be assessed by the head of unit. The quality assessment is adapted from the one used by par-

ticipants in the RPET program.

v) Quality management system

MyIPO has also implemented an expedited examination route, where an applicant can request for his/her application to be examined and the examination report be produced within 8 weeks from such request (MyIPO, 2017). This type of examination for a clear cut case is certified with MS ISO 9001 : 2008 since 2011.

vi) Subscription of patent and non-patent searching tools

MyIPO also subscribed to a number of patent and non-patent searching tools to complement the free searching tools available for examiners' perusal. The subscribed searching tools are EP-OQUE Net, STN®, and MyTKDL (a closed system database for specific users as reference for examiners conducting search and examination for applications related to traditional knowledge (MyIPO, 2012)).

vii) Work-sharing with other IP offices

Regarding examination, MyIPO also implements several work-sharing programs that are intended to reduce the workload of examiners by sharing searching and examination results by examiners from other IP offices for the corresponding patent application.

a. Modified Substantive Examination

Under Section 29A(2) of Malaysian Patents Act 1983, an applicant can file for a request for modified substantive examination instead of a request for substantive examination. A request for modified substantive examination must be accompanied by certified true copy of a granted patent corresponding to the Malaysian application from a prescribed country or a prescribed treaty or Convention (Regulation 27A(5) lists out the prescribed country, treaty and Convention). The fee for this type of examination request is also lower than the request for substantive examination, considering the examiner in charge can use the grant-

ed patent and search report as a reference.

b. ASPEC

Launched in 2009, ASEAN Patent Examination Co-operation (ASPEC)(ASEAN Intellectual Property Portal, 2017) is a regional patent work-sharing program, where an applicant can file an ASPEC request to MyIPO if there is a first office action issued with at least one allowable claim from any of the ASEAN Member States (AMS) (ASEAN, 2014). This could prevent duplication of searching and examination, along with expediting the granting process.

c. PPH / PCT-PPH

While ASPEC is a regional work-sharing program among its AMS, Patent Prosecution Highway (PPH) and its Patent Cooperation Treaty counterpart, PCT-PPH is the product of a bilateral agreement between MyIPO and JPO. Similar to ASPEC, an applicant who has filed an application in both MyIPO and JPO can use the patentability report of one office to file a PPH request to another office to accelerate examination process, provided at least one of the claims is deemed allowable by the office. Figure 5 shows the outline of the PPH.

A PPH pilot program has also been initiated between MyIPO and EPO (EPO, 2017), with similar requirements as the PPH pilot program between MyIPO and JPO.

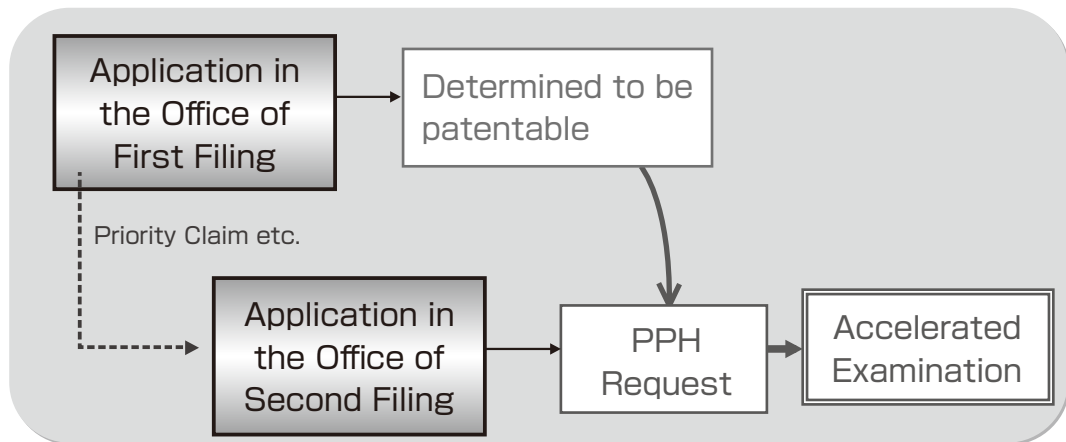
d. Use of Foreign Examination Reports (FERs)

Examiners are also always encouraged to make use of reports produced by other IP offices as reference during conducting substantive examination. Not only it could shorten the examination period, it could also prevent duplication of work among patent offices, and thus improve the efficiency of the patent office.

viii) New integrated system

Currently, MyIPO examiners are using different programs for different aspect of substantive examination. These multiple systems are to be replaced with a single integrated system, due to be

Figure 5 Outline of PPH Request



launched in 2018. This move is expected to make IP management more efficient, and thus of better quality.

2.4. Feedbacks from Users

In an effort to improve quality of examination, MyIPO makes use of feedbacks from users. There are several ways where users can leave their feedbacks.

MyIPO has established a joint task force with Malaysian Intellectual Property Association (MIPA) to tackle quality-related issues on patent. Meetings are held twice a year, where the outcomes of the meetings are conveyed to the management.

Users are also encouraged to provide feedbacks through email. The users can either email directly to the examiner in charge, to the senior directors, or even to the general email found on MyIPO’s website.

Apart from emails, users can also leave their feedbacks to MyIPO’s social medias like Facebook or Twitter. MyIPO also regularly conduct public sessions where users / stakeholders can come and meet up with the representatives of MyIPO.

3. Patent Quality Management System in JPO

3.1. Overview of JPO

Figure 6 shows the organizational chart of JPO :

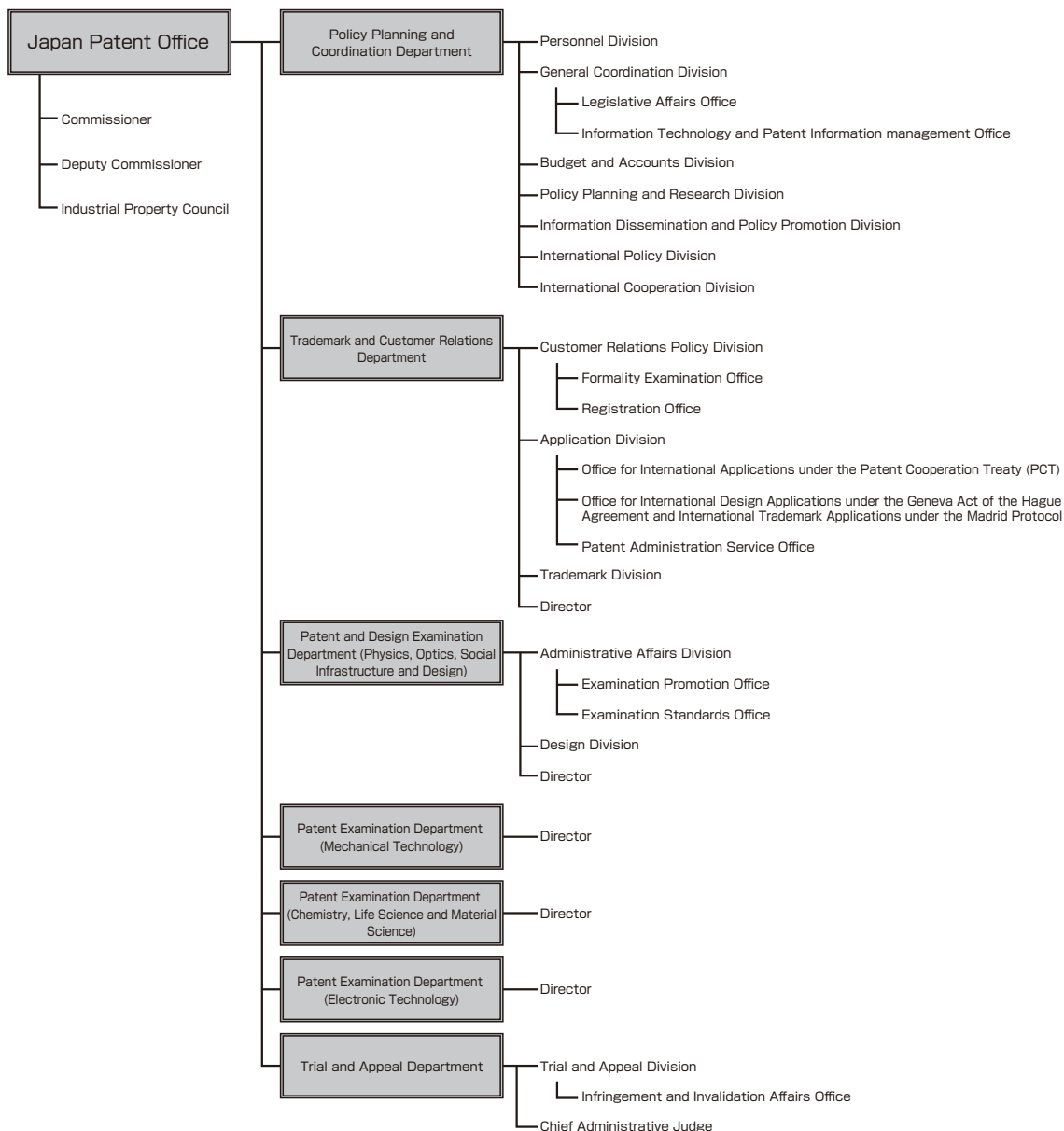
The breakdown of personnel in JPO (for FY2015) are as shown in Figure 7.

3.2. Quality Management of Patent Examination

3.2.1. Background of Quality Management in JPO

Before 2007, quality of notices produced by examiners was monitored by a quality subdivision under examination guidelines division. The directors of each examination department also managed the quality of examination of their subordinates on a routine basis. In addition to working as a member of the committee and managing the examination process, directors of the examination departments at the JPO also conducted examinations on actual applications and check and approve the drafts issued by examiners. However, a proposal to set up an independent office handling quality matters was raised due to the heavy burden of the guidelines division, since the quality division would also have to involve in the planning and implementation of quality management. Additionally quality was

Figure 6 Organizational chart of JPO

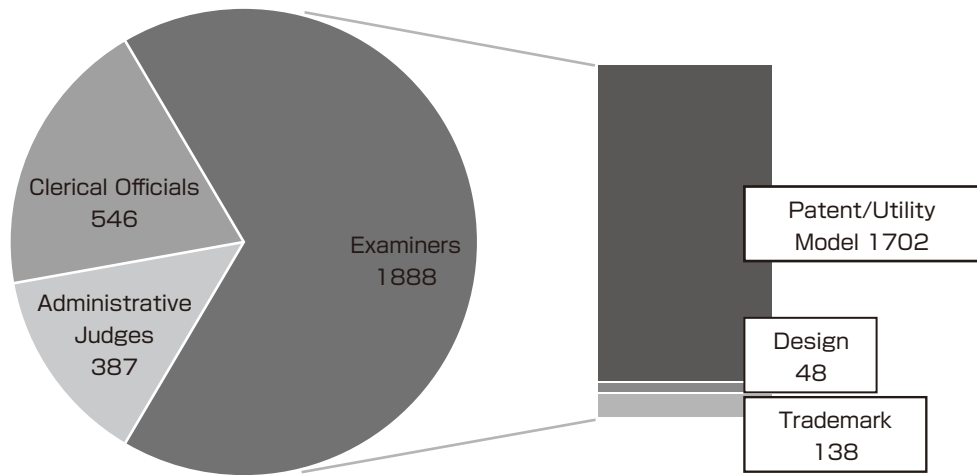


also a pressing issue from users during meetings held between JPO and private sectors. As a result, a Quality Management Office (QMO) was established in 2007, which is a separate office under Administrative Affairs Division. QMO specially focuses on managing the quality of examinations collaboratively on a cross-sectional basis in terms of technology, in order to evaluate whether quality management practices underway were

fully functional as well as to maintain and enhance the quality of examinations.

Within the first five years of establishment, the Quality Management Office (QMO) dealt mostly with Human Resource matters, as the staff in both guidelines division and QMO were also patent examiners who were doing concurrent work as patent examiners. QMO also looked into the quality management model

Figure 7 Personnel composition of JPO

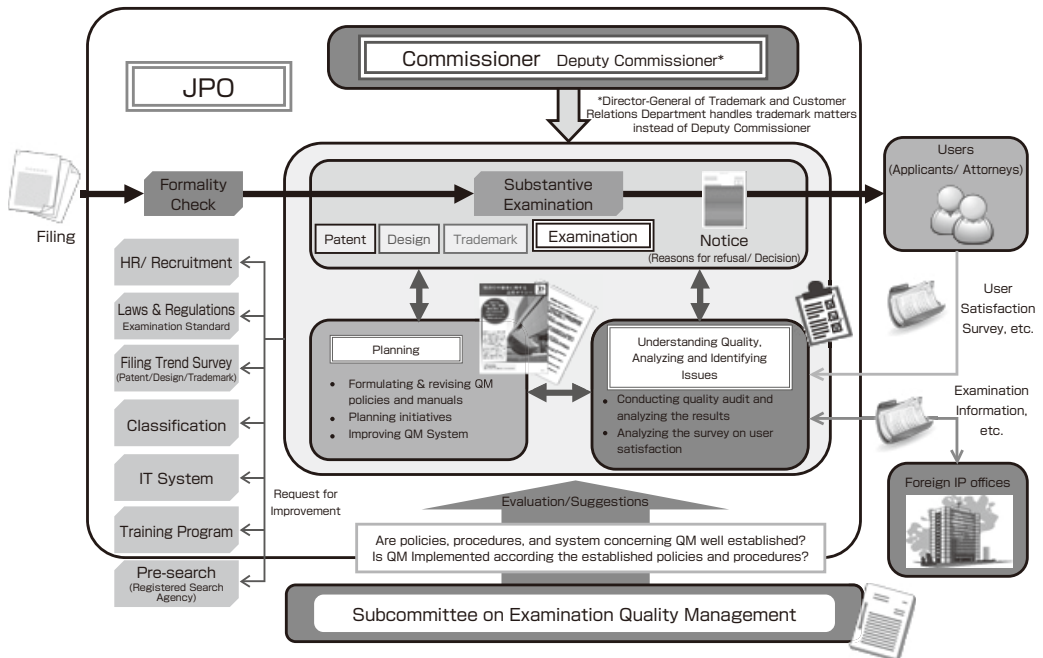


used by the EPO and USPTO, especially EPO since EPO is known to be quite advanced in that area. In 2012, the first user satisfaction survey was conducted in order to assess the quality level of patent granting procedures. The respondents of the survey were companies who filed many applications in that year (90% from the respondents were large companies). As a result of the survey, the management decided to come up

with quality policy on patent examination and quality management manual (which both were released in 2014 afterwards).

JPO has come up with an all-inclusive quality management system in order to realize globally reliable examination of high quality so patent owners can easily obtain their rights overseas through examination results produced by the examiners of JPO, Such as work-

Figure 8: Overview of JPO's Quality Management System



sharing initiatives with MyIPO through PPH / PCT-PPH as mentioned in 2.3 above. The overall quality management system practiced by JPO is represented as Figure 8 :

JPO published its Quality Policy on Patent Examination in April 2014 as fundamental principles for examination quality management in order to grant high quality patents. Along with the quality policy, JPO has also established several committee / offices to uphold the quality policy as follows :

I. Subcommittee on Examination Quality Management

Established in August 2014, this subcommittee is under Intellectual Property Committee of the Industrial Structure Council (Industrial Structure Council Organization Chart)(METI Japan, 2013). The purpose of this subcommittee is to receive objective validation and evaluation on quality management in JPO and the impact of the management towards examination quality. There are 11 external experts in the subcommittee. The subcommittee produces a written report based on their findings annually. The reports are published on JPO's website.

II. Quality Management Officers

Since April 2014, around 90 patent examiners have been designated as Quality Management Officers under Administrative Affairs Division. The Quality Management Officers are patent examiners with more than 20 years of experience in examination department and preferably also in administrative department (e.g. Trial and Appeal Division). Usually the director of examination department will appoint the patent examiners in his/her department to become quality management officers. The task of these officers is to audit the notices drafted by examiners. Random sampling is done to notices before they are dispatched to applicants. Any deficiencies found is reported to senior Quality Management Officers (currently there are 4 senior Quality Management Officers)

for review, and these senior quality management officers will provide feedbacks to the examiner involved and the director in charge of the examiner. Regarding the senior Quality Management Officers, they are generally patent examiners with also more than 20 years of experience and have been a director. They oversee the work of the quality management officers, including give briefings to newly-appointed Quality Management Officers. The Quality Management Officers are planned to hold the post for 2-3 years.

III. Quality Management Office (QMO)

QMO is the driving force of QMS in JPO. Its staff consists of 5 patent examiners (with more than 10 years of experience) as the director, deputy director and specialists, assisted by 27 researchers (also called quality management assistants), as written in Report of the Subcommittee on Examination Quality Management (FY2015)(JPO, 2016). QMO is responsible for supporting and planning initiatives decided by top management and obtaining facts and feedbacks on examination processes through the initiatives. It is necessary for the QMO to have patent examiners, as the skills and knowledge on patent examination is necessary in order to do quality management on examination. That would include planning and implementation of quality-related matters. QMO would also have to extract and analyze statistical data and apply the result into quality management. Usually QMO will have to handle 10 quality-related projects at one time.

The researchers' task is similar to that of the quality management officers in item (II) above, however they are only conducting random check on formality aspect of the notices drafted by examiners (partial audit).

QMO also has access to monitor the output of each examiner, so if an examiner has granted a questionable number of cases on first office action, QMO will alert the Director of the department in

charge, and the action taken would be up to the Director.

Every year, QMO would receive 2-3 Assistant Examiners as interns in the Office. Usually the interns are given projects to work on, particularly to expose them to the quality management of patent examination in JPO.

IV. Quality Management Committee (QMC)

QMC consists of a senior director as the chairperson and 3 directors from each of the 4 patent examination departments, making the total of the committee to 13. Its roles is to analyze and evaluate data on quality collected by QMO and to report the analysis to related units / departments / parties.

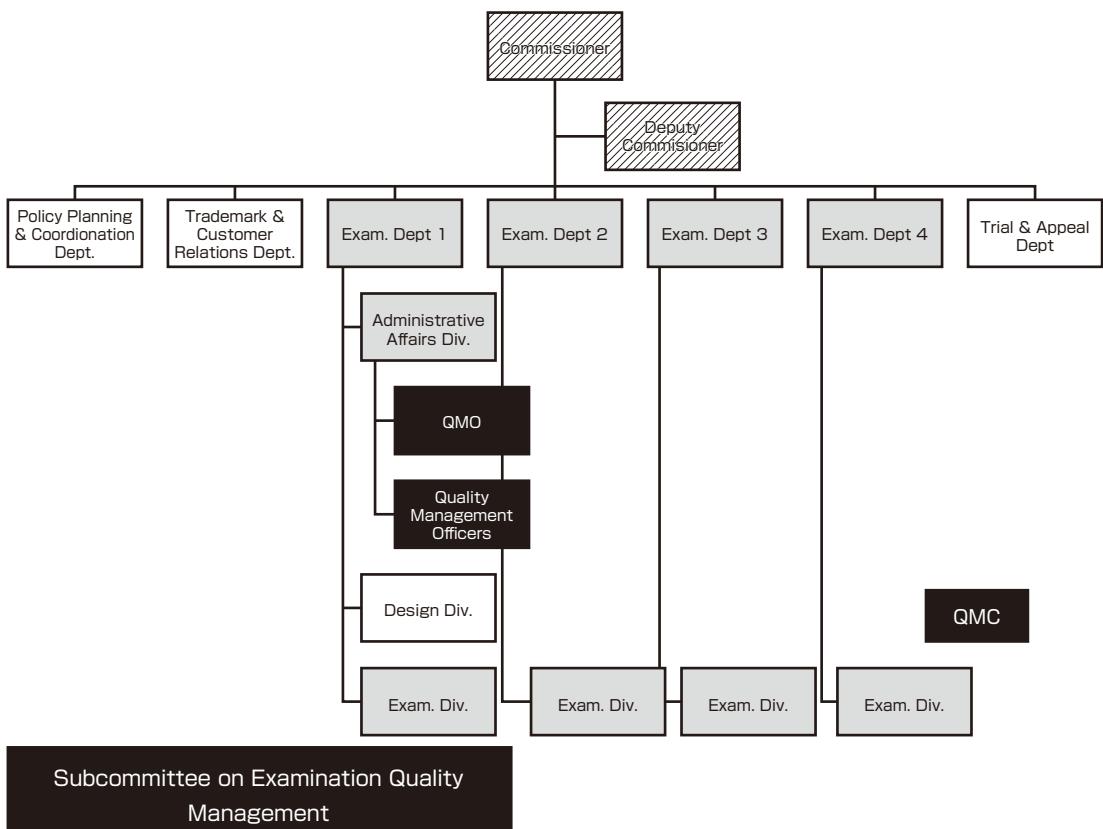
These committees and their places in the organizational chart of JPO is illustrated in Figure 9 :

All of the aforementioned committees and units work together for the purpose of maintaining that all notices issued by examiners are of utmost quality, and consequently the patents granted are also of high quality. They conduct quality verification through various methods that will be further explained below.

3.2.2. Quality Audit

The first step in quality assurance is by directors of an examination division. Directors are responsible for examination quality in the technical field in charge by reviewing the notices drafted by their subordinates. If there are any deficiencies, the directors will ask the examiner in charge to correct them. If the notices are approved by the directors, the notices will be dispatched to users. However, as stated above, these notices are subject to random sampling by quality management officers, so some of notices may go through

Figure 9 Organizational Chart of Quality Management System in JPO ; the green boxes are units that are directly responsible for quality management



quality management officers before being dispatched. Random sampling is done via a system monitored by the staffs in quality management office. The system is also capable of filtering the notices based on certain criteria (e.g. sampling from a specific technology field, a notice to grant first office action, etc.). A revised system is being developed so samples can be picked every day (currently samples are not picked every day).

During quality audit, the officers will conduct examination as if the cases are their own, so they will need to understand the invention, conduct additional prior art search and make their own judgment based on the prior art. Based on the results, these officers will check the notices in terms of substantive and formality issues and make a report for senior quality management officer's review. After reviewing, the senior officer will either give feedback to the examiners in charge and their director if there are any deficiencies in the notices, or send the notices to be dispatched if everything is according to examination guidelines. Around 3,000 notices are audited by the quality management officers every year, so one examiner could have been audited 0 – 2 cases per year. As a comparison, on average, 500,000 notices are dispatched every year (including further and final notice of refusals). Therefore only around 0.5-0.6% of the notices are subject to quality audit.

3.2.3. Partial Audit

Similar to quality audit, some of the notices drafted by examiners are also subject to random sampling in partial audit. While quality audit means a thorough auditing on entire examination process by an examiner, partial audit is focusing on the formality of the notices. This partial audit is carried out by the researchers from QMO. These researchers will report any deficiencies found to the QMO officers (who are also patent examiners), and upon reviewing the QMO officers will give the feedback to the examiners responsible for the notices and their directors.

3.2.4. Meeting with Users on Examination Quality

JPO conducts around 380 meetings annually with

various stakeholders (users) on examination quality. Among them are Japan Intellectual Property Association (JIPA), Japan Patent Attorneys Association (JPAA), applicants and also inventors.

JPAA, a professional bar association of Japanese patent attorneys, has extensive collaboration with JPO, extending beyond the normal interaction between a patent attorney and a patent examiner. JPAA has set up various committees (29 committees as of FY2016) concerning IP in Japan that sees these committees collaborate with JPO and other agencies on further developments in IP ecosystem. JPAA also has a representative in the Industrial Structural Committee established by METI as explained earlier, so there is no denying that JPAA has first-hand involvement on JPO's quality management.

Regarding patent quality, the committee involved conducts meetings with QMO of JPO once or twice a year. During that meeting, the members are presented with results and analysis of the user satisfaction survey, followed with action plan to overcome any issues raised from the survey. Other than that, the meeting would also involve any cases concerning quality that are received by the patent attorneys for JPO's attention. The QMO would also ask JPAA's opinions on public relations aspect, for example on the attitude of JPO's examiners during interviews and when answering the phone.

Other than examination quality, JPAA also contributes by providing opinion on revision of examination standards (which is handled by Examination Standards Office) and PCT route. JPAA is also an accredited observer in WIPO and usually sends delegates in WIPO's PCT sessions. Usually the delegates will discuss with JPO (as users of the PCT route) on feedback and ways to improve the PCT route. Similarly, JPO also provides instructors and materials for the training of patent attorneys of JPAA for some of the courses that patent attorneys have to take organized by the Training Institute of JPAA.

Other than regular meetings, one of the other JPO's

initiative on quality improvement is discussions / study sessions with patent attorneys and applicants of cases involved in court (appeal cases). These study sessions are usually for cases that have passed the court phase and are brought back to JPO for further examination. It is likely that the aim of study sessions is to increase the likelihood of the patent application reaching a positive final stage.

3.2.5. User Satisfaction Survey

One of the ways to assess the impact and to formulate future planning for quality management is by knowing the level of acceptance of the end-users of the notices, meaning the applicants, attorneys and third parties. User satisfaction survey has been conducted annually since FY2012 (JPO, 2015). The survey revolves around four different topics :

- a) Overall quality in general of patent examinations on national applications
- b) Quality of patent examinations on specified national applications
- c) Overall quality in general of international searches

and international preliminary examinations on PCT applications

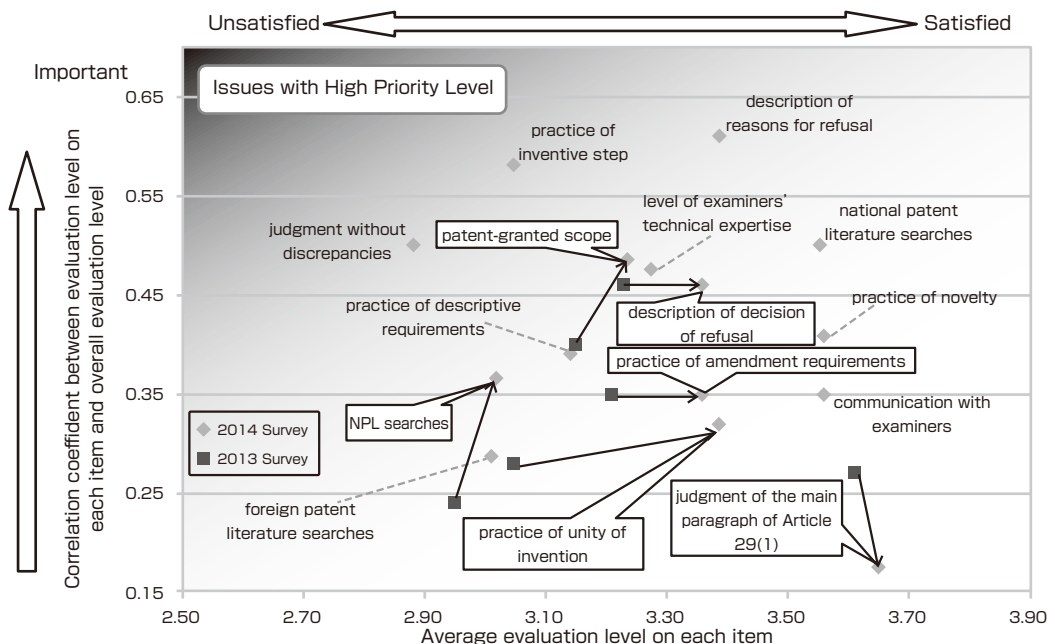
- d) Quality of international searches and international preliminary examinations on specified PCT applications

Around 780 users of more than 2,000 applications were invited to answer the survey, and around 90% of the users responded to the survey.

The survey uses a 5-grade evaluation scheme for each question, ranging from ‘Satisfied’ to ‘Dissatisfied’. QMO will calculate the grading for each question, and QMC will analyze and evaluate the results obtained in order to prioritize the next implementation plan to improve the quality of examination. The analysis will also be shared with the Examination Divisions, and if necessary, to the examiners in charge of the applications. As an example, the result of the analysis derived from the survey for FY2014 is as shown in Figure 10.

For the first time in FY2014, users can answer the survey anonymously as an opportunity for the users to express themselves freely and honestly in the survey.

Figure 10 Current level of satisfaction for each questionnaire item and correlation coefficient with the overall evaluation level (national applications)



The questionnaires were emailed to respondents who were asked to participate in the survey beforehand, and they were given one month to complete the questionnaires. The questionnaires were distributed and collected between August and November 2014. The respondents were selected randomly based on criteria determined, such as companies with 50 or more applications in 2012, enterprises capitalized at 300 million yen with 20-150 employees (manufacturers only) and so on (JPO, 2015).

3.2.6. Acceptance of Opinions on Examination Quality

Another venue to for the QMS in JPO to gather information on examination quality is via the JPO website itself. Users can leave feedback regarding examination quality by filling out the form on the website, although at the moment the form is only available in Japanese. For English version, users can leave feed-

back on the general email at the English version of JPO's website, which is also a general email for any issues of concern.

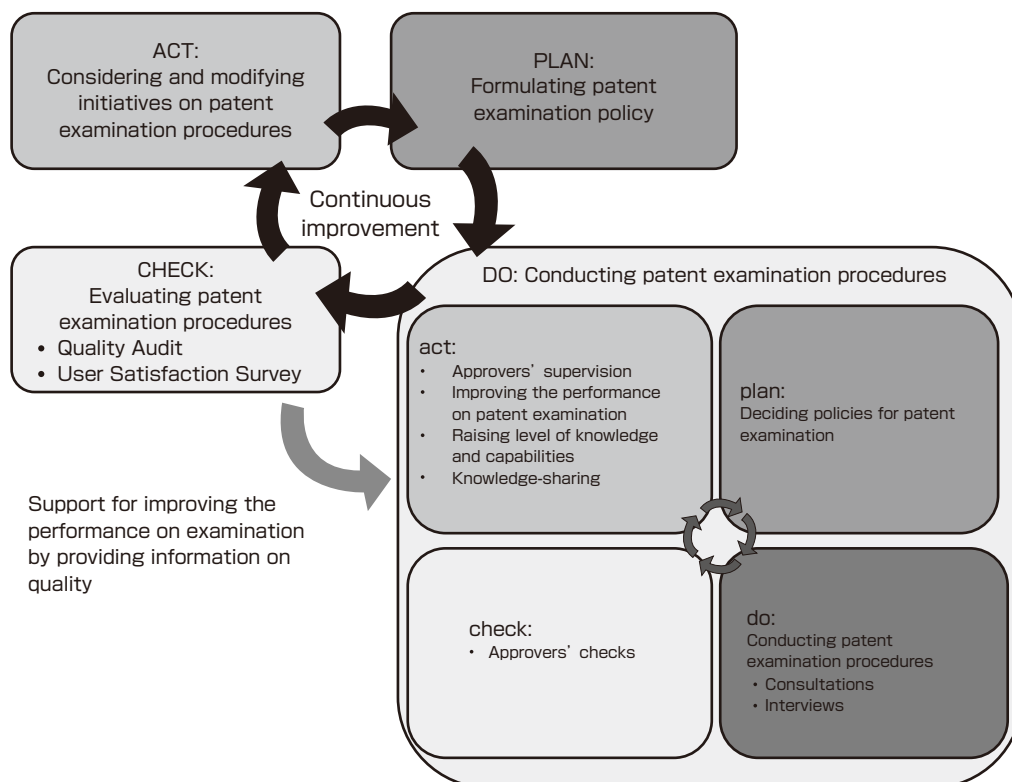
3.2.7. Continuous Enhancement by PDCA Cycles

As highlighted above, JPO established a Quality Policy on Patent Examination in April 2014 with 6 fundamental principles of quality management in patent examination (JPO, 2016) :

- We grant robust, broad and valuable patents
- We meet wide-ranging needs and expectations
- We all dedicate ourselves to improving quality, cooperating with concerned persons and parties
- We contribute to improving the quality of patent examination globally
- We continually improve operations
- We raise the knowledge and capabilities of our staff

In order to consistently improving the QMS in JPO,

Figure 11 Conceptual diagram of PDCA cycle for on the patent examination quality



JPO adopts the PDCA cycle which consists of two levels: all patent examination departments as a whole, and each examination division individually. PDCA (plan–do–check–act) is an iterative four-step management method used in business for the control and continual improvement of processes and products.

It can be seen that quality verification is done in all stages of the PDCA cycle. Other than the items described previously (that mostly fall under ‘plan’, ‘check’ and ‘act’), quality assurance is also achieved through various other means. For example, under the ‘do’ cycle within conducting patent examination procedures, an examiner may consult with other examiners. Consultations enable the examiners to share their expertise through exchange of opinions. This would reduce discrepancies in prior art searches or judgments on patentability, and at the same time would encourage knowledge-sharing among examiners. JPO requires cases with certain criteria to be discussed through consultations. For example, every examiner must include consultations for 6 PCT cases every year. The consultation sessions are recorded on the case’s report. Around 83000 cases in FY2015 involved consultation among examiners. Consultations can be conducted not only with an examiner(s) from the same Examination Division, but also with a Director or an examiner(s) from another Examination Division.

Another measure towards quality assurance is the standardization of notices (JPO, 2016). Starting April 2015, a standardized notification form is used to make it easier for users to understand its content. A computer-aided drafting tool was provided to all examiners to facilitate with the standardization, which includes the order of items in the notices, automatic detection of non-compliant descriptions and formality flaws. This is well-received by the users, as shown in the user satisfaction survey (26% of the respondents answered “Improved”, 4.6% answered “Worsened”).

4. Recommendations to MyIPO

4.1. Quality Management of Patent Examination in MyIPO

Regarding quality management, MyIPO is in the right direction for implementing the requirement that the adverse report of cases must be checked by the Heads of Unit before being dispatched. However, an overall quality management should be conducted as well, utilizing the PDCA cycle implemented in JPO.

4.1.1. Quality Management Unit

A Quality Management Unit similar to the Quality Management Office under the Administrative Affairs Division could be set up to monitor all the quality management matters concerning patent examination. This unit could be placed within the Patent Division itself, and for starters this unit could focus only on the quality of reports issued by the examiners. Depending on suitability, the task of this unit may be expanded to cover the reports issued by the Formality Department, or even to other departments such as Trade Mark Division or Industrial Design Division.

Responsibilities of the Quality Management Unit may be as follows, according to priority :

1. Coordinating the quality audit method and review reports

It would be efficient to have an electronic system to pick random sampling of the reports issued by examiners, however as a start the random sampling could be picked manually. The unit could also come up with the criteria to be audited for use of the Heads of Unit, so that the report could be reviewed and analyzed accordingly.

2. User satisfaction survey

Considering the examination reports are eventually for the understanding of the users, it is imperative to know what the users think and want of the reports. The Quality Management Unit may propose a suitable form of survey to get the users’ views. However the survey must be of an in-

depth nature, as it would be more effective to get an honest opinion on a specific application, rather than a general opinion on general matters. The survey could be in the form of a face-to-face interview or a questionnaire accessible by the users. The Quality Management Unit would then analyze the result of the survey and propose the appropriate measures to the management in order to address the issues raised from the survey.

3. Meeting with users on examination quality

Apart from getting opinions from individual users for specific applications, the Quality Management Unit could conduct regular meetings with groups of the same interest to obtain collective views on examination quality. For example, the Unit could have a meeting with the IP unit of research institutes or industries and discuss the way forward regarding examination quality. This avenue could also be utilized for discussing other IP-related matters.

4. Monitoring the Quality Audit team

JPO has a team of patent examiners who are doing concurrent work as patent examiners and quality auditors, where 20% of their time is allocated for reviewing the random samples of notices made by examiners before the notices are dispatched. Similar approach has already been initiated in MyIPO, where the Head of Units check the first adverse report for an application before the reports are being dispatched. Nevertheless, this approach could be extended to interested and qualified examiners so more samples could be picked and reviewed. The selection of potential examiners would be much easier if a proper training and assessment plan for examiners were being executed, since the management would know for sure who is already at the expected level of knowledge and capability to become one. The Quality Management Unit would have to coordinate the cooperation between the Patent Examination Department and the management.

4.1.2. Quality Management Committee

In JPO, the Quality Management Committee serves as a think tank of quality management system. This committee analyzes and evaluates data on quality collected by the QMO and reports the analysis to management and related parties. MyIPO could adopt a similar approach by establishing a quality management committee as well. This committee will be responsible to achieve the objective of MyIPO's management through the work done by the Quality Management Unit.

Considering the limited resources of MyIPO, both Quality Management Committee and Quality Management Unit could be the same group of people, however it would be advantageous to have separate units as the differing job scope would likely mean different requirements. For example, the Committee preferably consists of Patent Directors and Head of Units as they are capable of analyzing and proposing measures that would impact the Human Resource Development of patent examiners, while the Quality Management Office would consist of senior and junior patent examiners who have to do the ground work of quality management.

4.2. Collaboration and/or Utilization of Experts outside MyIPO

The recommendations above, while may be quite straightforward to be implemented, would mean a number of examiners have to be pulled out of the examination sections. Subsequently it would mean the number of cases examined per year would decrease. Increasing the number of cases of remaining examiners to prevent potential backlogs would not be a recommended move, since it does not directly address the issue of quality management.

If MyIPO wants to maintain or increase the number of examination reports outputted and to reduce backlogs, it is highly recommended to utilize the existing experts outside of MyIPO. The utilization can be done in two ways, namely :

1. Outsourcing prior art search

In JPO, some of the prior art searches are outsourced to Registered Search Organizations (RSO). MyIPO could also implement the outsourcing of prior art by utilizing the existing Technology Innovation Support Centers (TISC) in Malaysia, and also private companies that provide prior art searching services to clients. This would surely be a cost-efficient move, because not only MyIPO would be utilizing existing staffs that are already trained in prior art searching, a good relationship between these centers and companies would also be formed that would reflect in the quality of the examination reports produced.

2. Hiring technical experts as technical advisors and trainers for patent examiners

A relatively small number of examiners in MyIPO compared to various fields of inventions filed would mean an examiner would get application that is not of his/her expertise. Instead of letting the examiner learn about the related technology background by himself/herself, MyIPO could make use of technical experts to become technical advisors to examiners. This way could reduce time taken in conducting examination and thus producing more examination reports of higher quality, and at the same time MyIPO could make use of existing knowledgeable experts available in Malaysia.

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