

# 在日本专利局 复审程序是有益的

Appeal Procedure is Advantageous  
at the Japan Patent Office



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# 复审费用低于 分案申请的费用

Appeal fee is less than  
the fee for a divisional application

## 复审

专利局费用	美元\$ 450 + 50 x 权利要求 <sup>*1</sup>
	面谈和口头审理无需支付专利局费用
服务费用	美元\$1,550 至 2,550
总计	<b>美元\$2,000 至 3,000 + 50 x 权利要求</b>

## Appeal

Office fee	US\$ 450 + 50 x claims <sup>*1</sup>
	No office fee for interview or oral hearing
Service fee	US\$1,550 to 2,550
Total	<b>US\$2,000 to 3,000 + 50 x claims</b>

## 分案申请及其审查

专利局费用	美元\$1,300 + 36 x 权利要求 <sup>*2</sup>
服务费用	美元\$1,500 至 2,000
总计	<b>美元\$2,800 至 4,300 + 36 x 权利要求</b>

## Divisional and its examination

Office fee	US\$1,300 + 36 x claims <sup>*2</sup>
Service fee	US\$1,500 to 2,000
Total	<b>US\$2,800 to 4,300 + 36 x claims</b>

\*1 日元 49,500 + 5,500 x 权利要求

\*2 日元 140,000 + 4,000 x 权利要求

(假定1美元\$ = 110日元)

\*1 JPY 49,500 + 5,500 x claims

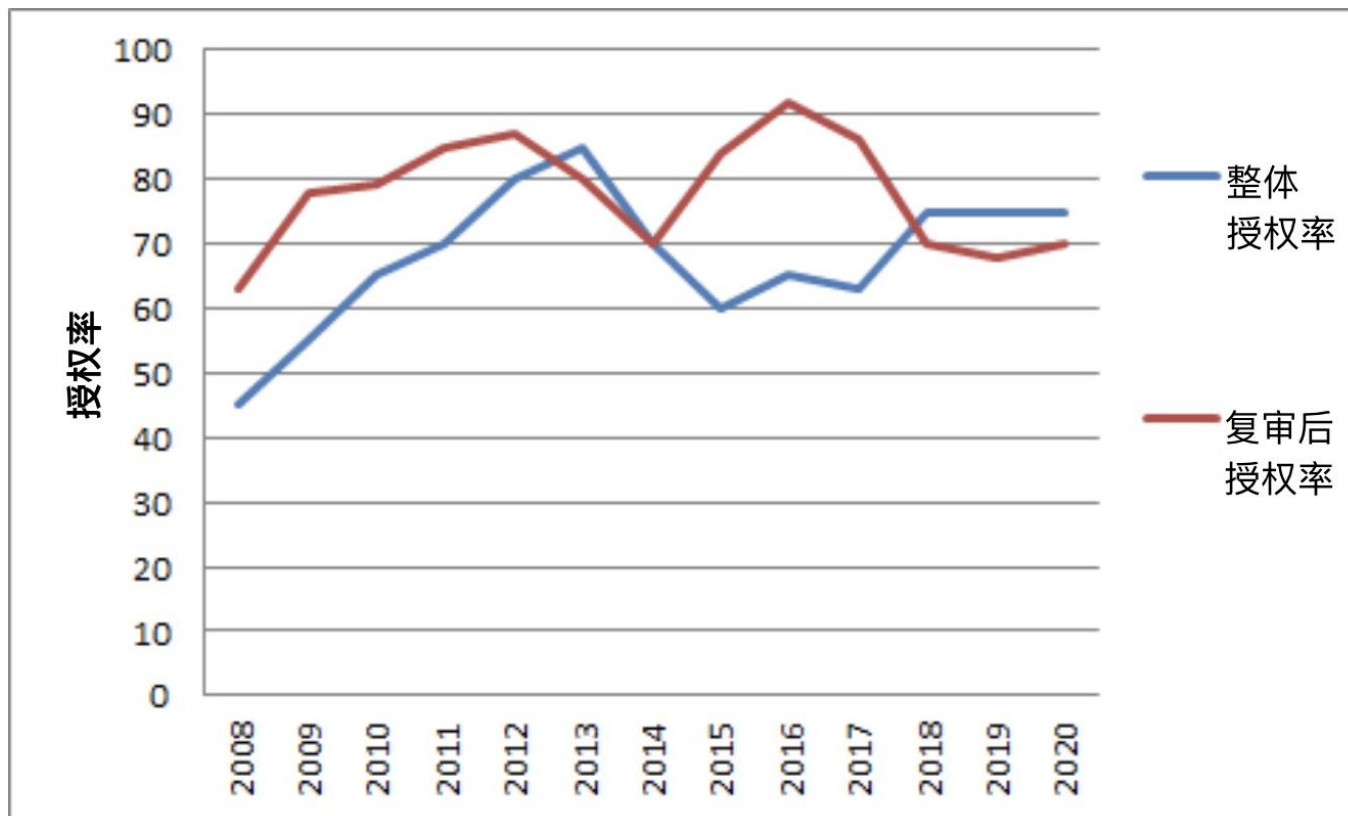
\*2 JPY 140,000 + 4,000 x claims

(If 1US\$ = JPY110)

# 日本专利局70%的复审案件 都得到了专利授权

70 percent of the appealed cases are allowed at the JPO

(%)



# 在申请复审时以及申请复审后 你都可以修改权利要求

You can amend claims  
when and after appealing the decision

第1步: 向审判部申请复审时进行修改

第2步: 原审查官对专利申请进行再次审查

第3步: 如果修改后的权利范围无法获得授权,

审查官通常会接受**面谈**,

在面谈中我们可以提出进一步的**修改**

第4步: 如果接受了我们提出的修改,

专利局会发行一份补充OA让修改正式生效,

并对专利予以授权

Step 1: Case appealed to Board with amendment

Step 2: Original examiner re-examines the application

Step 3: If amended claims are not allowable,

examiner typically accepts an **interview** where

we can propose a further **amendment**

Step 4: If proposed amendment is accepted,

a supplemental Office action is issued so that

amendment is formally entered and the case is allowed

# 审判部的审判官们 对于补正的要求相对宽松

Board examiners are less strict in entering amendments

如果原审查官维持了驳回决定，该案件将被转送至审判部。

- 能够提出修改的面谈机会
- 审判官对于是否接受修改，享有很大的裁量权，并且会试图就此解决案件，避免起诉至法院的情形。
- 审判部的审判官愿意接受修改，尤其是在面谈的过程中。
- 即使不同意我们提出的修改，他们也常常会提出可以获得授权的替代方案。

If the original examiner maintains the rejection, the case is transferred to the Board.

□ Interview opportunity to propose an amendment

-Examiners have much discretion to enter amendments, and try to settle the case for avoiding the appeal to the court.

□ Board examiners are willing to enter amendment, especially at the interview.

-Even when they do not agree with the proposed amendment,

□ they often suggest allowable alternatives.

# 在审判部的复审过程中 对创造性要件的要求较低

Inventive step standard is lower at the Board of Appeals

- 在过去五年中，知产高院撤销了许多审判部的决定。
  - 创造性的要求有所降低
- 仍然有部分的第一级审查官没有采纳近期的法院判决，而是维持着较高的创造性要求。
- 因此，审判部对于创造性的要求通常比第一级审查更低
  - 更宽范围的保护

- In the last five years, the IP High Court reversed many Board decisions.

- Inventive step standard has been lowered

- Still, some first-level examiners don't apply recent court decisions and maintain higher inventive step standard.

- Therefore, the inventive step standard is generally lower at the Board than in the first-level examination.

- Wider protection