

Modifying translation before it is  
filed, for reducing prosecution fees  
in Japan

在提交前修改翻译, 减少日本手续费



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# Modifying translation before it is filed

## 在提交前修改翻译

If an amendment clearly does not introduce a new matter;

如果修改明显没有引入新事项：

⇒ The amendment can be reflected to the translation before it is filed.

在提交翻译之前可以把该修改直接翻译出来。

⇒ Our service fees for preparing and filing separate amendment is saved.

可以节省我方额外准备和提交补正所收取的服务费。

# No formality objection

## 不会因形式问题而被拒绝

Formality of translation is NOT objected.  
不会因翻译的形式而被拒绝。

- ∴ Formality Examiners do not examine whether the translation is accurate or not.
- ∴ 进行形式审查的审查员不会审查翻译内容是否准确。

# No reason for rejection

## 不会成为驳回理由

Inaccuracy of translation is not reason for rejection, unless a new matter is introduced.

翻译的不准确不会成为驳回的理由，除非是引入了新事项。

In an event the examiner objects to the inaccuracy:

如果万一审查员对翻译的准确性有异议：

⇒ Applicant can correct translation,  
based on original language application.

申请人可以根据原申请语言来修改翻译。

# No ground of invalidation 不构成无效理由

The inaccuracy is not a ground of invalidation,  
unless a new matter is introduced.

翻译的准确性与否不构成无效理由，除非是引入了新事项。

Defendant may assert that translation was not filed, because it was not “translation.”

被告可能想主张翻译没有被提交，因为这不是“翻译”。

However: 但是：

1. “Non-translated portion” is deemed not existed

from the filing date (Art. 36, 184). “未翻译部分”被认为自申请提交之日起不存在（《日本专利法》36条，184条）。

2. Introducing a new matter in translation is ground for rejection and invalidation (Art. 123, 125), which could be cured.

如引入了新事项则构成驳回和无效的理由（《日本专利法》123条，125条），不过可以通过补救消除导致驳回和无效的理由。

Those inaccurate translations are still considered as “translation.”  
那些不准确的翻译仍然被看作为“翻译”。

⇒ Defendant fails. 被告败诉。

# Our Suggestions 我方建议

If a new matter is clearly not introduced

如果明显没有引入新事项

⇒ Make modifications within translation.

可以直接在翻译中做修改。

If it is questionable or if the top priority is to leave no room for any counter assertion;

如果不确定是否会引入新事项，或首要目的是不被驳回或者无效掉

⇒ Modification should be made by formal amendment for letting the examiner examine the new matter.

那还是以提交正式补正的形式来让审查员审查新事项。

# Four measures for filing a divisional app.

## 进行分案的四个办法

Expensive 费用高	Divisional in parent language + Accurate translation + Preliminary amendment 与外语申请相同的语言&内容，进行分案 + 正确翻译 + 主动修改
	★ Divisional in parent language + Modified translation ★ 与外语申请相同的语言&内容进行分案 + 修改翻译
	Divisional in Japanese + Preliminary amendment 与日语申请相同的内容，进行分案 + 主动修改
Economical 费用低	Divisional in modified Japanese 在日语申请的基础上修改的内容，进行分案



# Reducing OA fees 减少OA 费用

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