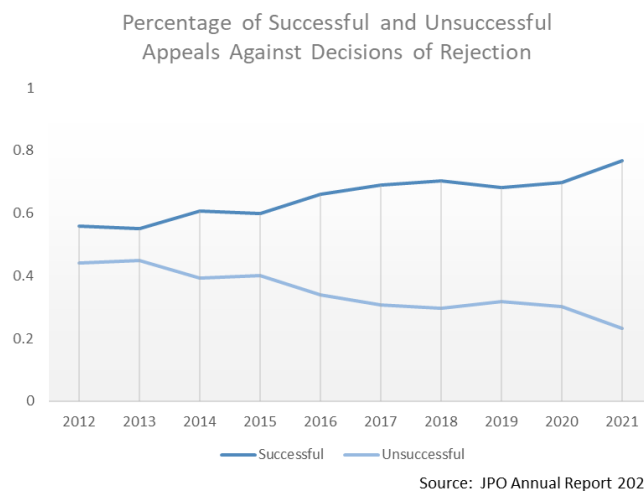
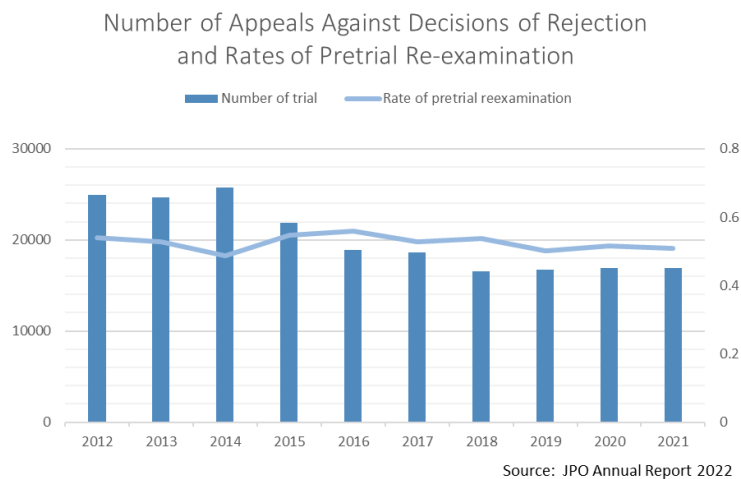


How to use an appeal against decision of refusal for patents

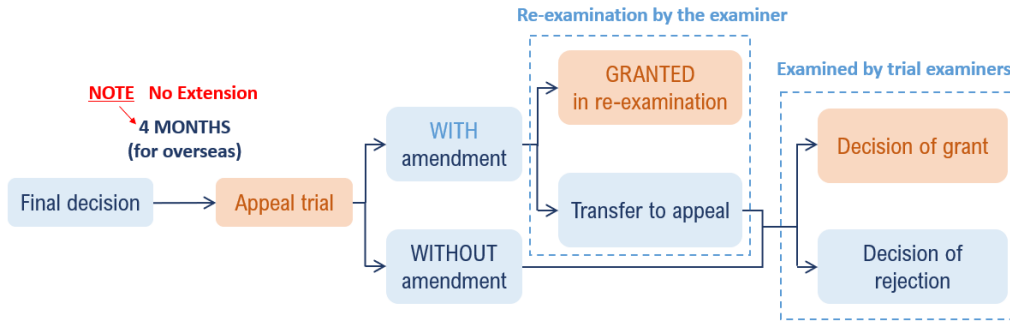
- The JPO has announced that the patent approval rate during examinations for 2021 remained high at 74.8%. On the other hand, the refusal rate was 25.2%, and the number of requests for appeals against decisions of rejection has continued to decrease since 2015.
- In cases in which a pretrial re-examination was conducted, the patent examination rate remained high at over 50%. In cases that proceeded to trial by a panel of trial examiners, more than 70% of the cases resulted in the decision to grant a patent, which shows a trend toward yearly increases.



The next page shows how to make effective use of appeals against decisions of rejection.

< How to lead a case to a patent >

- As mentioned above, re-examination by the Examiner has shown a patent allowance rate of over 50%. To proceed to re-examination by the examiner, an amendment is made at the same time as the request for appeal.



Procedures for Appeals Against Decisions of Rejection

< Amendments must be made at the same time as the request for appeal >

- It should be noted that the range of possible corrections is limited. For this reason, divisional applications should be considered in some cases.
- If an amendment is made at the same time as the request for appeal and the number of claims is reduced, the fee for filing an appeal will also be reduced, making it more economical.

< How to expedite the appeal of a case >

- As shown in the data below, the duration of appeals in the JPO has continued to shorten with each year. However, requests for accelerated trial examinations are also available for cases where speed is important. A separate request must be filed even if accelerated examination has been requested for the case.

	2019	2020	2021
Average duration of appeals	12.5 months	12.2 months	11.9 months

< Other Data >

- See below for trends by technical field.

Rates of Patent Appeals Against Decisions of Rejection in 2019 according to Technical Field

Technical Field	Rate of decision of grant
Physics, Others	65.2%
Machinery	72.7%
Chemistry	71.8%
Electricity	62.8%
Average	68.2%

Source: "Trends in Appeals," Trial Division, Japan Patent Office, FY 2020



Although the procedures for appeals against an examiner's decision of rejection may be the same across the board, Takaoka IP has experts in the electrical, mechanical, chemical and life science fields who are able to make various proposals according to the following cases and requests:

- When you are not satisfied with the examiner's decision, and you want to see a new decision.
- When you want to obtain as broad of a patent as possible for an important case.
- When you intend to exercise your rights, and therefore want to obtain a patent rapidly.

[\(Experts of Takaoka IP\)](#)

We can make proposals that align with your circumstances, such as the importance of obtaining specific patent rights, business reasons, cost, etc., while also taking into consideration the latest status of appeals by the Japanese Patent Office that has been described above. Please feel free to let us know about any requests you may have.