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# JPO's IP Policies amidst Globalization

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Hitoshi Maeda

Director

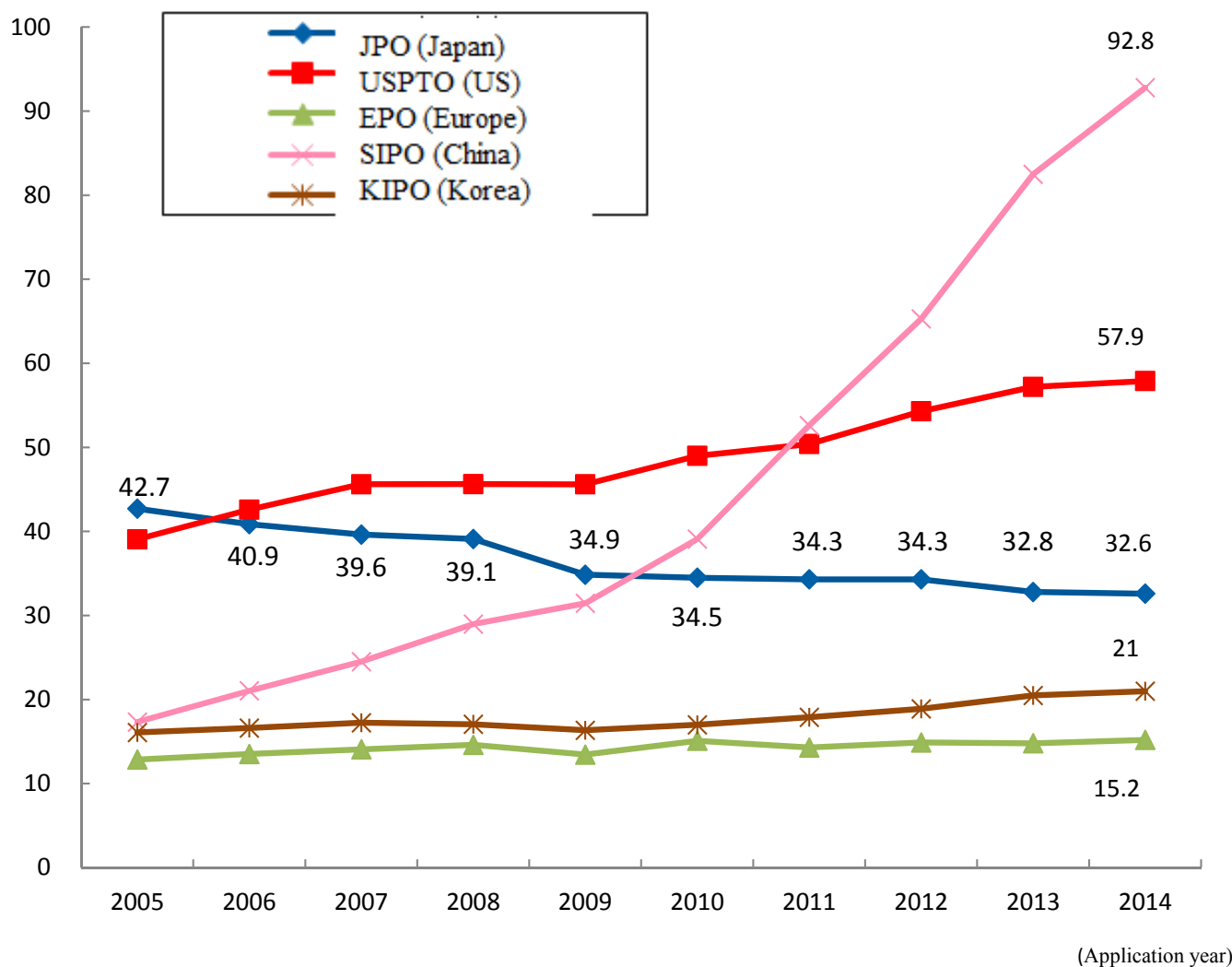
Policy Planning and Research Division

4<sup>th</sup> December 2015

# Trends of Patent Applications

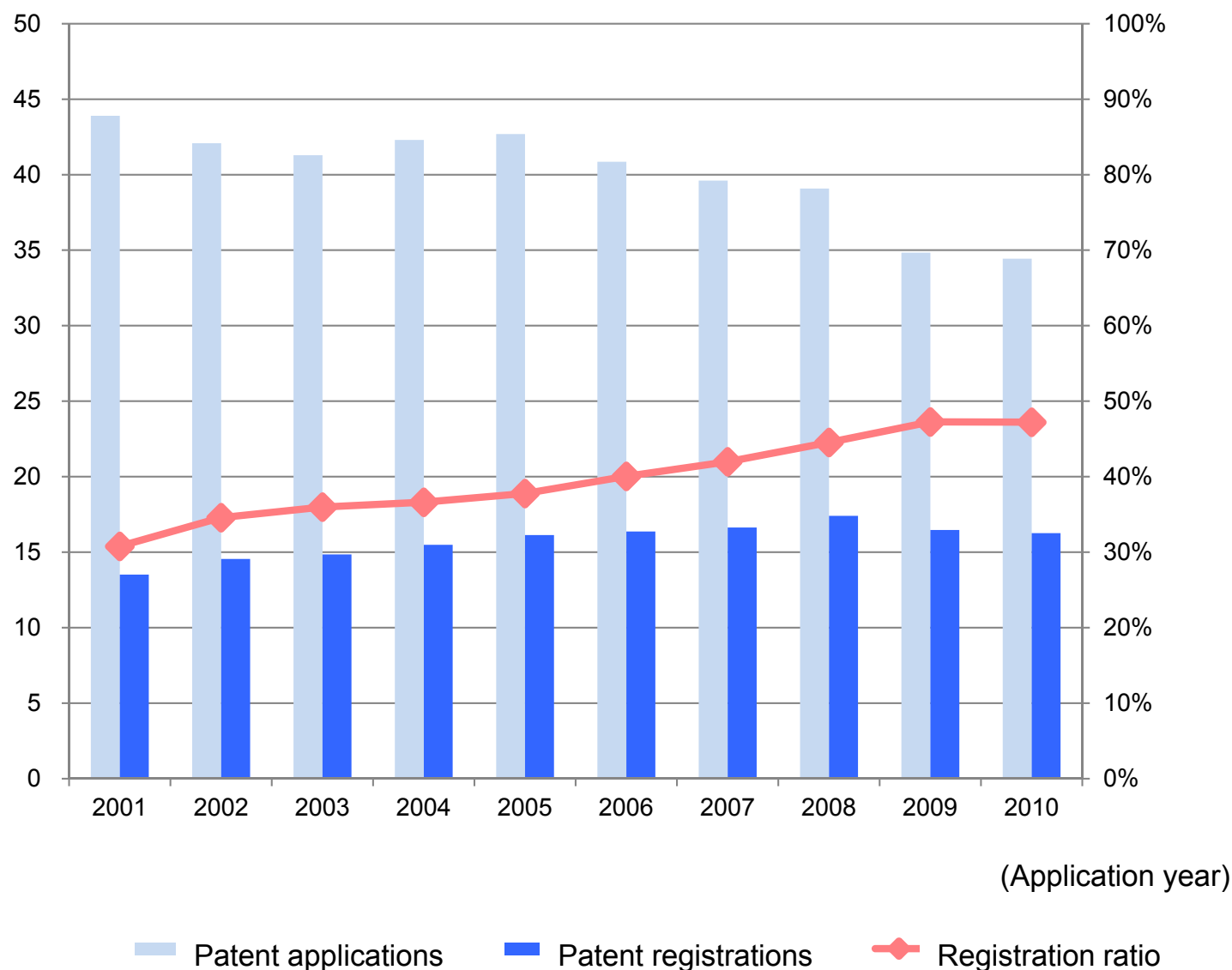
The number of patent applications filed in China has rapidly increased in recent years. It exceeded the number of those filed in the United States in 2011 and now occupies the No.1 position in the world.

(10,000 applications)



# The Number of Patent Applications and Registrations in JPO

(10,000 applications)



The trend shows...

The number of applications has been **decreasing**,  
While the number of registration has been **increasing**



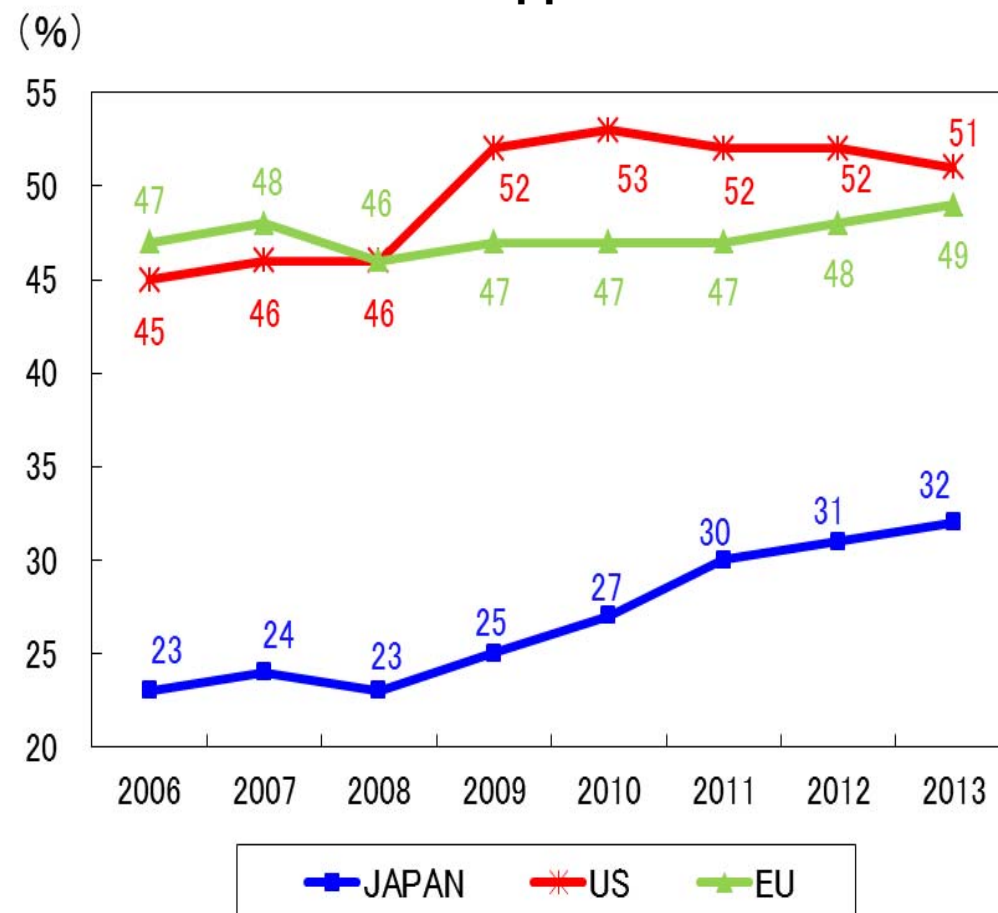
IP strategy has shifted  
**from quantity to quality**

## 【The number of Overseas Filing by Japanese Companies】

**140% increase over the past decade**



## 【Global filing ratio of Japanese, US and EP applicants】



Global filing ratio =  
 (Total number of applications filed in Japan and other countries / Total number of applications filed only in Japan)

## IP strategy of individual companies

▪ Innovation of ICT

- Economic globalization
- Speed-up of market changes

## IP strategy under open innovation

Identification of core areas

**“Close” strategy**  
(Protection of technical know-how)

**“Open” strategy**  
(Expansion of markets)

**Maximization of corporate value**

# Examples of Open-Close Strategy of Global Companies

	Apple Inc. (United States)	Intel Corporation (United States)	Bosch (Germany)
Open / Standardized areas	Disclosure of the manufacturing process of smart phones to EMS companies (Open strategy)	Disclosure of manufacturing technology of PC peripherals (mother boards) to Asian companies (Open strategy)	Leading the standardization of Autosar, basic ECU software for automobiles (Standardization)
Closed areas	Design (design right), touch-panel technology (patent / not licensed to other companies)	MPU (Black box)	Controlled parameters for development of apps (Black box)

Source: White Paper on Manufacturing Industries 2013 (METI)

## 1. Improvement of IP system of Japan

- (1) Fast Examination
- (2) High Quality Examination
- (3) User Friendly System

## 2. Improvement of Global IP system

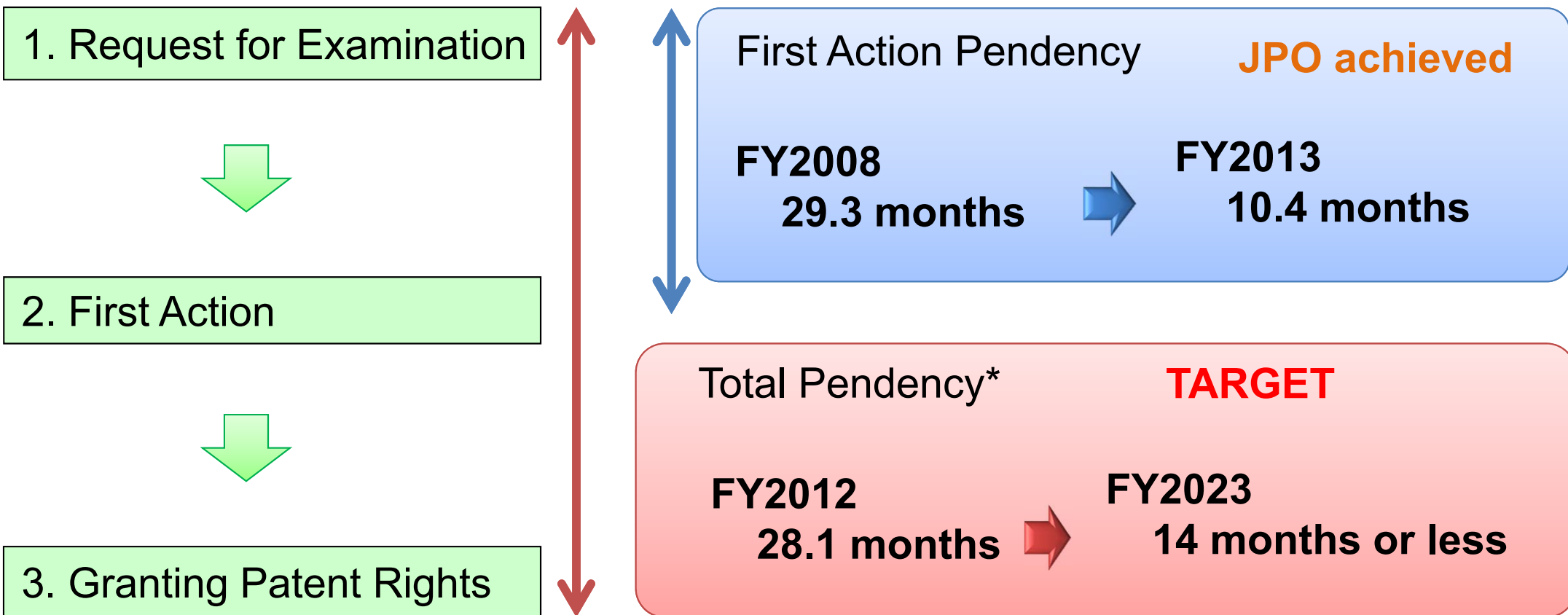
## 1. Improvement of IP system of Japan

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# (1) Fast Examination



\*“Total Pendency” does not include cases when the JPO requests applicants to respond to second notices of reasons for refusal and the like.

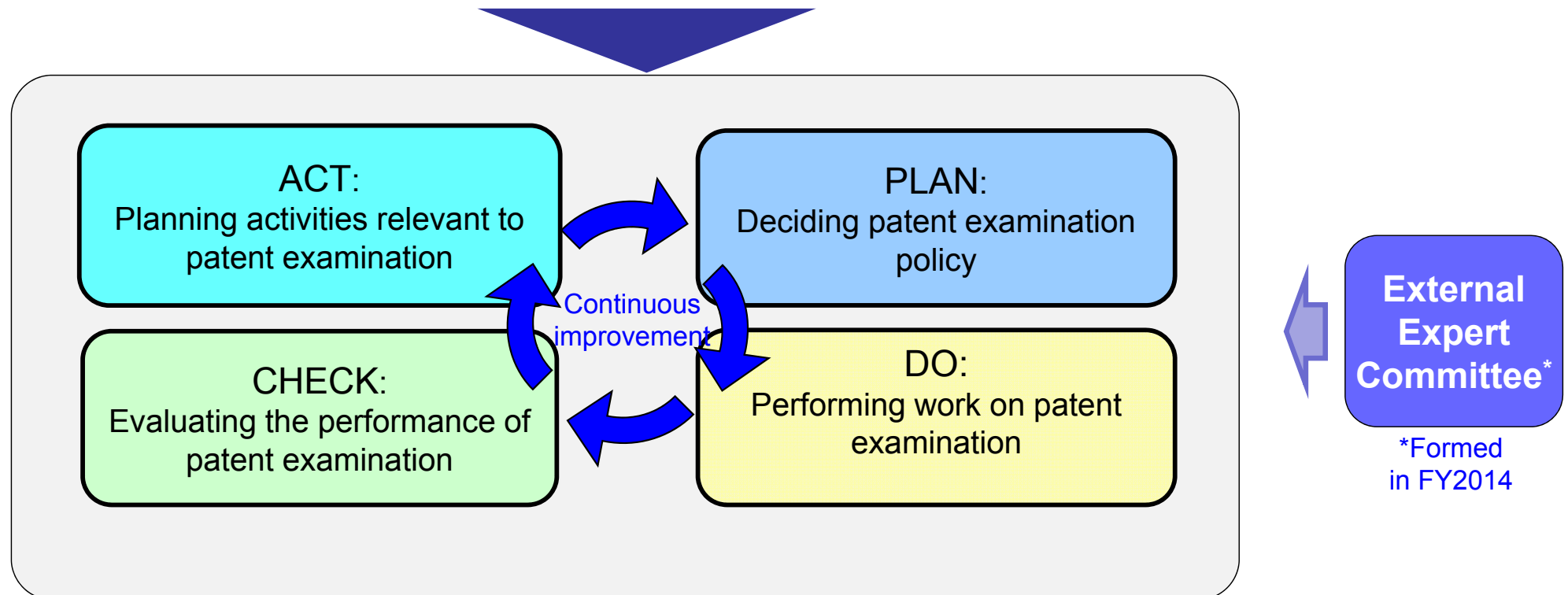
## (2) High Quality Examination

### 1) Quality Management System

“Quality Policy on Patent Examination”

➤ The 3 main tenets of patent quality are:

1. “robust” : so as not to be invalidated afterward,
2. “broad” : to such an extent that they have coverage matching the extent of the technical levels of inventions and their disclosures,
3. “valuable”: so as to be recognized around the world.

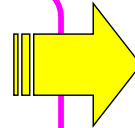


## (2) High Quality Examination

### 2) Quality Management Measures

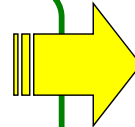
#### Quality assurance

Sustainment and enhancement of examination quality



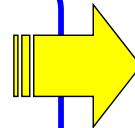
#### Quality verification

Understanding of examination quality



#### External evaluation

Objective evaluation on examination quality

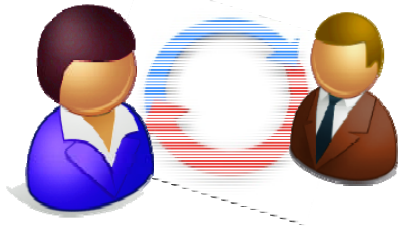


#### Examples of Main Measures

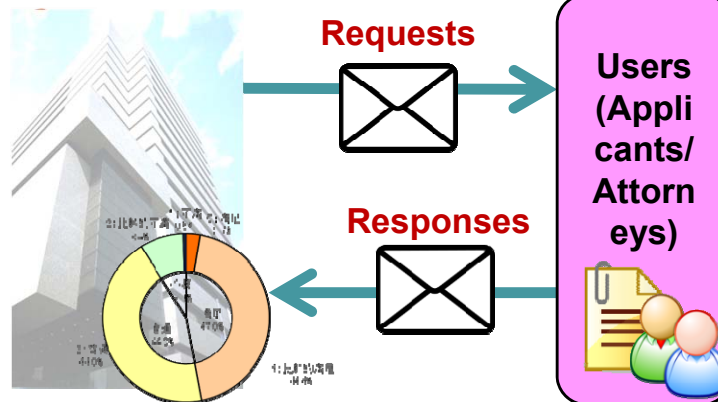
- Director's Check (Approval)
- Consultation between examiners
- Quality Audit
- User Satisfaction Survey
- Evaluations and Recommendations by Subcommittee on Examination Quality Management

Around 83,000 cases per year  
(in FY2014)

Examiner in charge   Examiner in consulting



Consultation



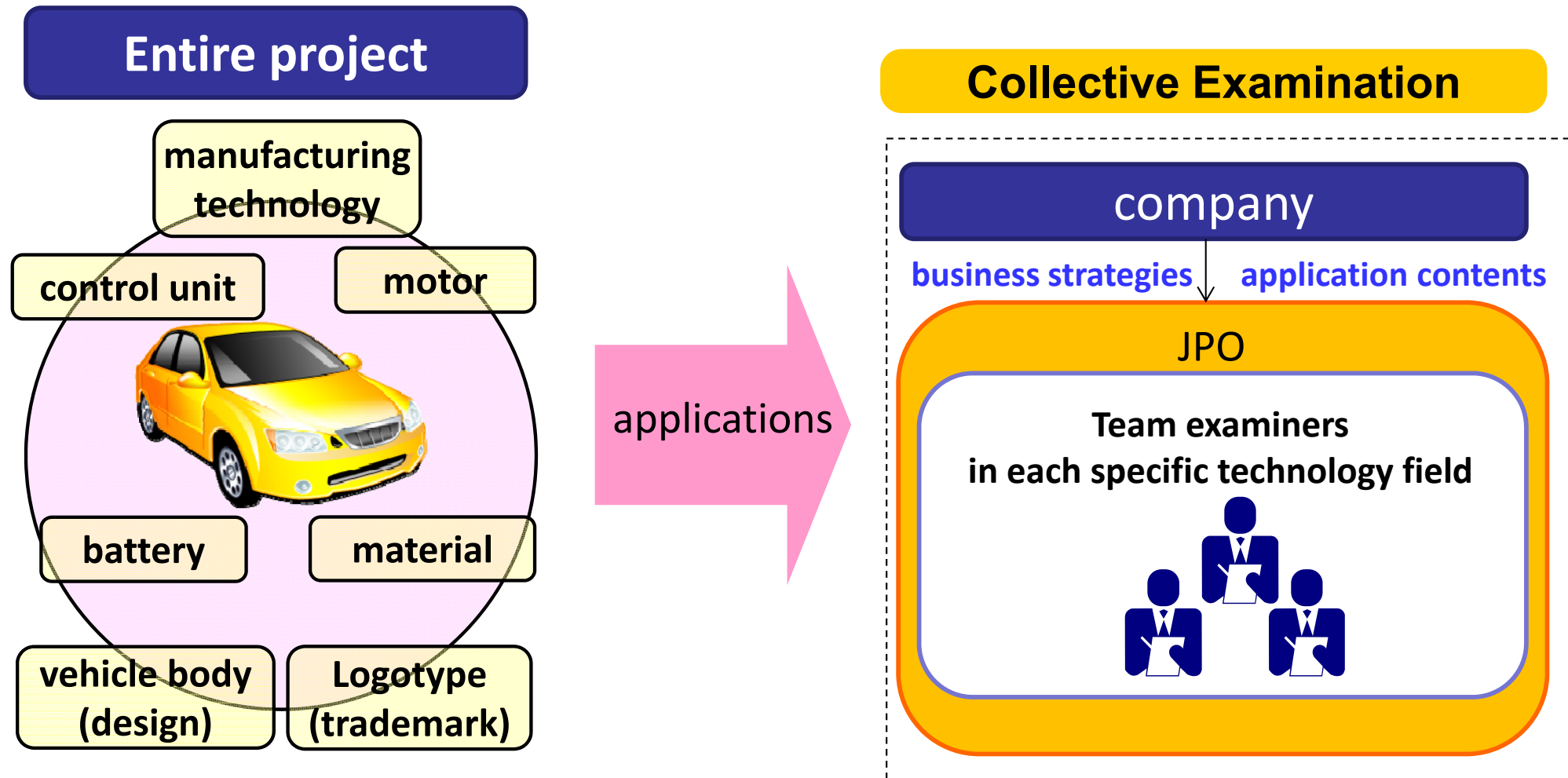
Evaluation on the examination quality  
for national patent applications  
(FY 2014 User Satisfaction Survey)



Subcommittee on Examination  
Quality Management

### (3) User Friendly System

#### 1) Collective Examination for IP portfolio supporting business strategy



**Examiners will collaboratively conduct examinations in line with corporate business activities.**

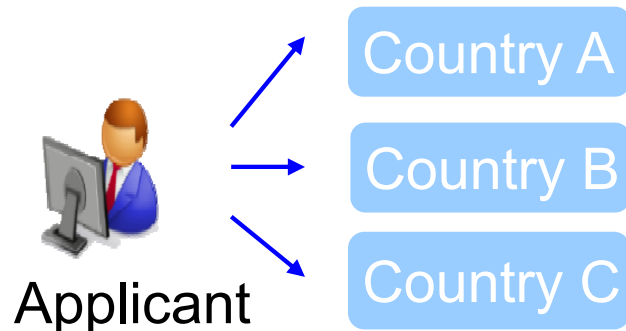
## 2) Design Act

- Revision to accede to the Geneva Act of the Hague Agreement (FY2014):  
As from May 13, 2015, Hague System users can designate Japan in an international design application.

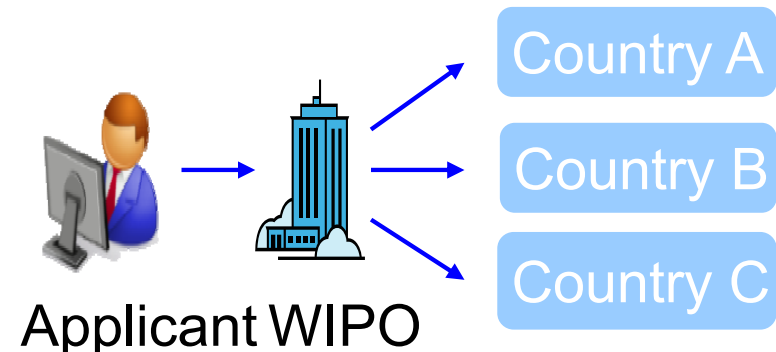


- 49 states/governmental agencies, including South Korea and the U.S.  
(\*It became effective on the same day both in Japan and in the U.S. )
- China and ASEAN countries have been considering accession to the Act.

#### 【Before legal revisions】



#### 【After legal revisions】



### 3) Trademark Act

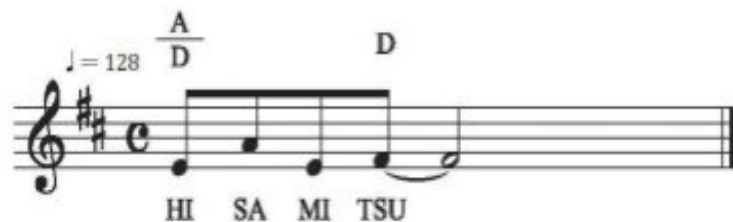
- Revision to add protection to non-traditional trademarks such as “colors” and “sounds”. (FY2014)

Number of Non-Traditional Trademarks						
Type	Sound	Color	Position	Motion	Hologram	Total
Number	321	423	214	70	11	1039

Total number of applications filed between April 1 and October 23, 2015

Examples of Granted Applications(Press release on Oct. 27)

#### <Sound Trademark>

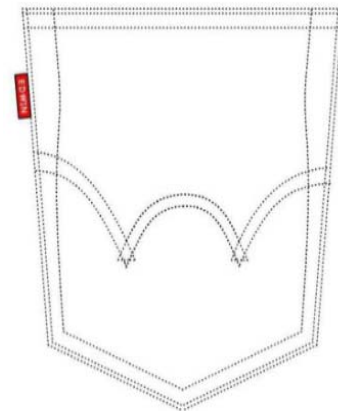


Trademark Application :  
2015-29806  
Applicant: Hisamitsu  
Pharmaceutical, Co., Inc.



Trademark Application:  
2015-29889  
Applicant: Kao  
Corporation

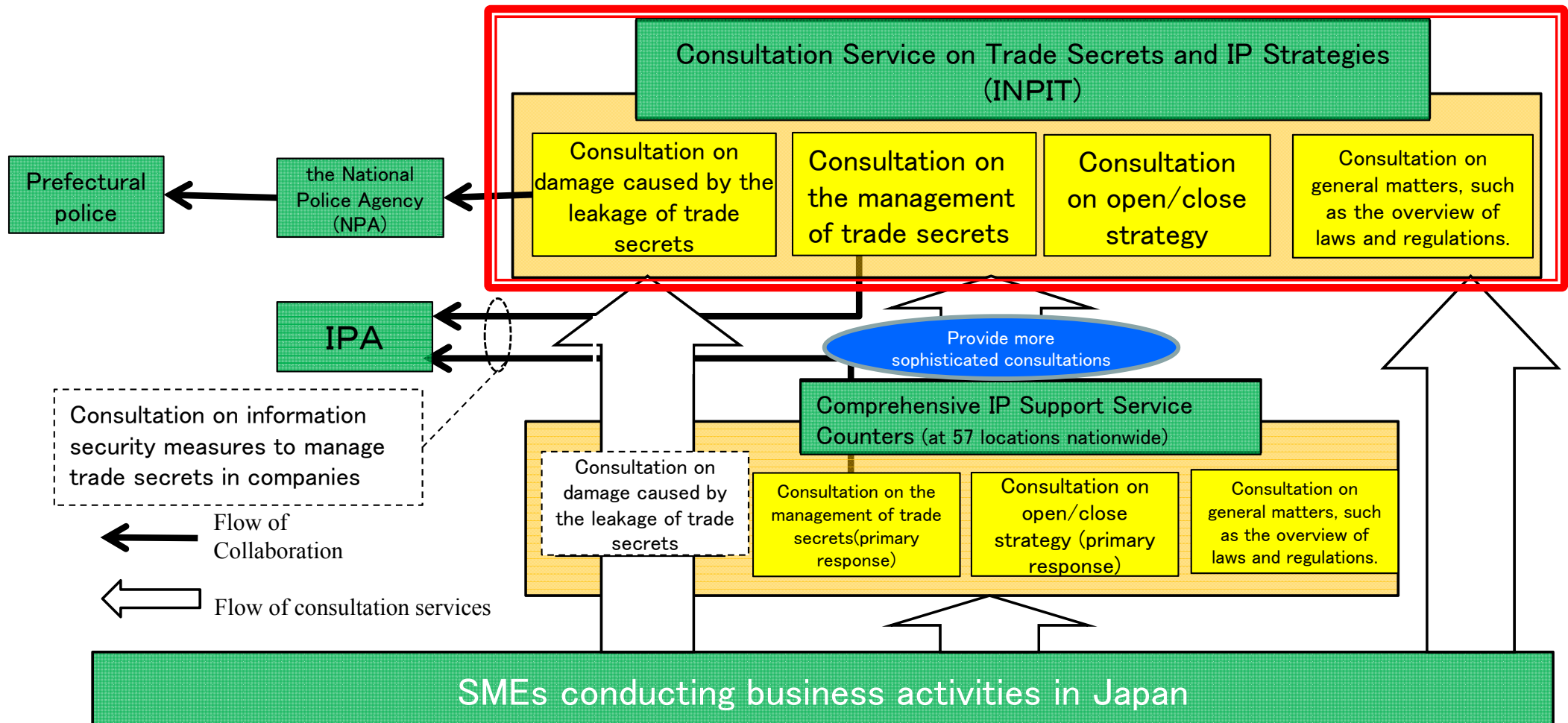
#### <Position Trademark>



Trademark Application: 2015-30361  
Applicant: Edwin Company

### (3) User Friendly System

## 4) Framework to Conduct Consultations for SMEs by IP Specialists



**Consultation on open/close strategy :** Consultations about whether patent rights should be acquired for their products or/and whether secrecy of unique technologies should be protected, including the issues of what kind of technologies should be open or remain closed.

**Consultation on the management of trade secrets :** Consultations about whether patent rights should be acquired for their products or/and whether secrecy of unique technologies should be protected, including the issues of what kind of technologies should be open or remain closed.

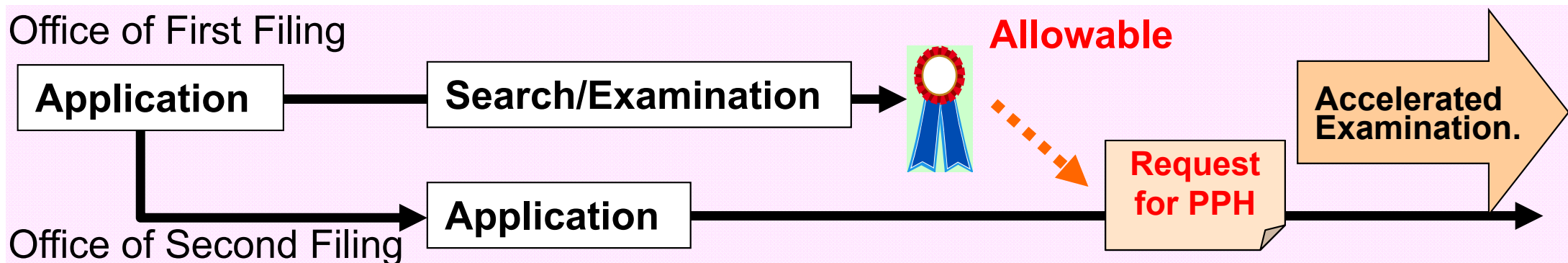


## 1. Improvement of IP system of Japan

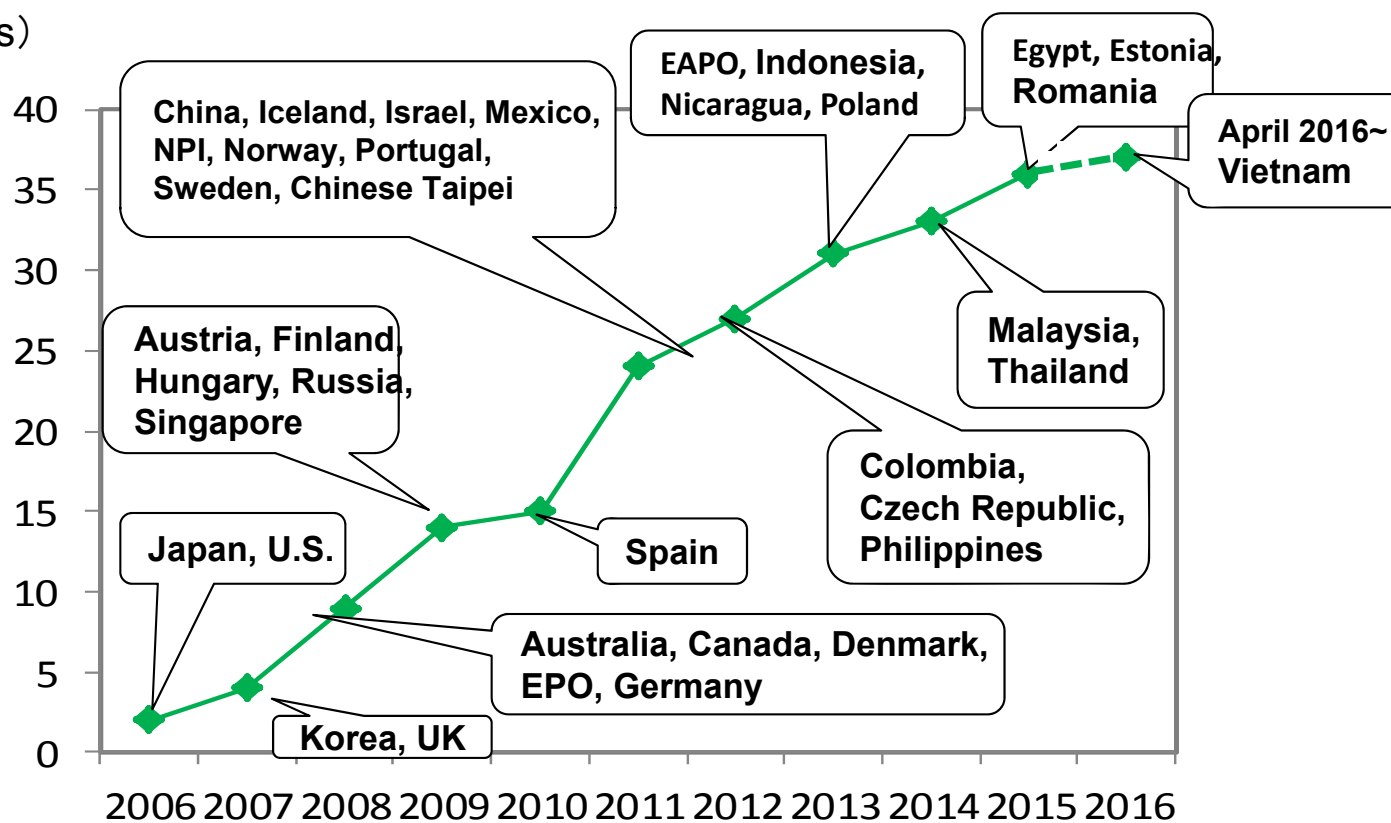
- (1) Fast Examination
- (2) High Quality Examination
- (3) User Friendly System

## 2. Improvement of Global IP system





(Number of the offices)



## 1. High Grant Rate

- More PPH applications tend to be granted in each country and region.

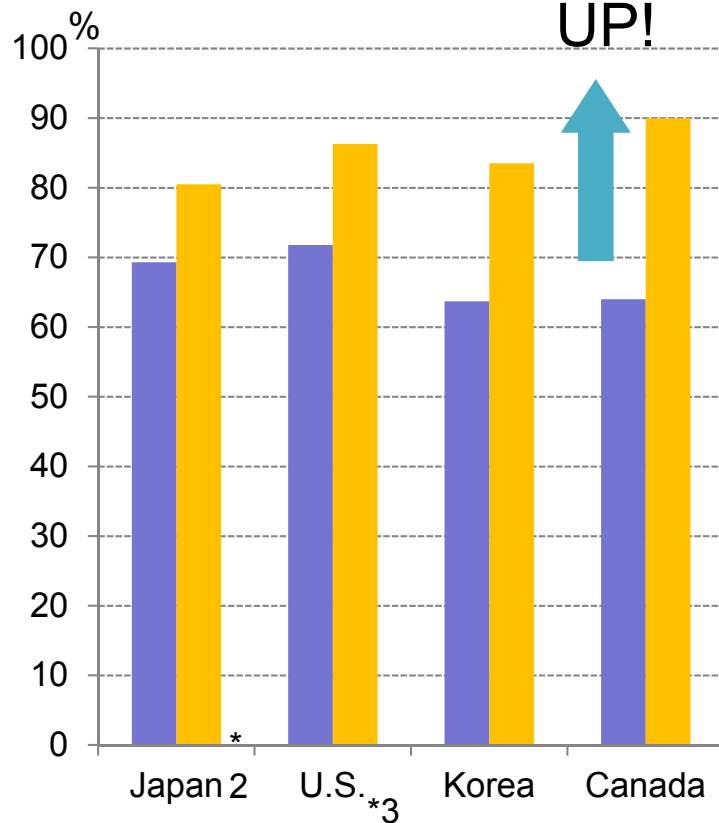
## 2. Reduced Examination Period

- Average pendency from PPH request to First office action and Final decision is decreasing.

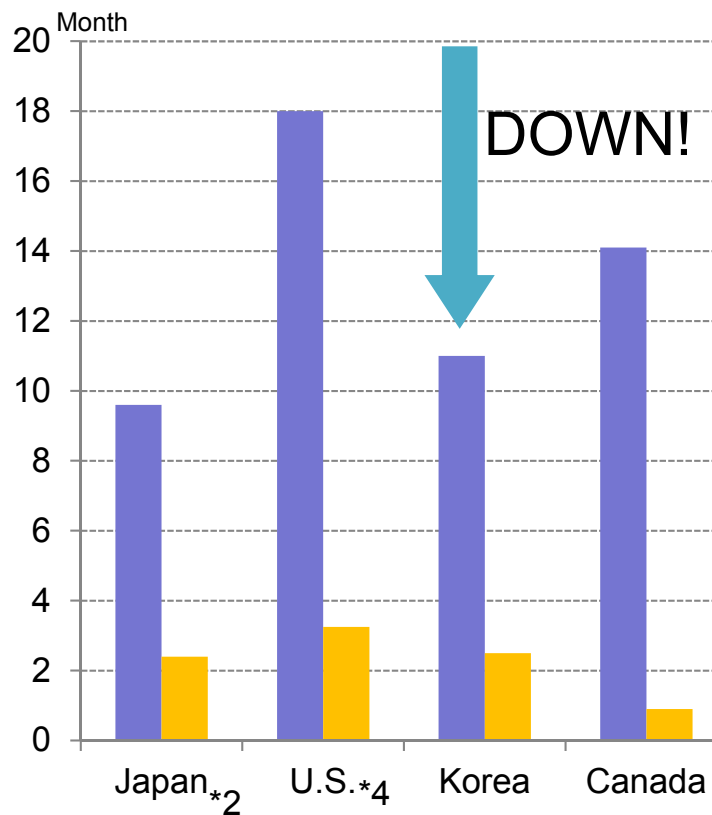
## 3. Cost saving

- High First Action Allowance Rate reduces costs to applicants (e.g. attorney and translation fees)

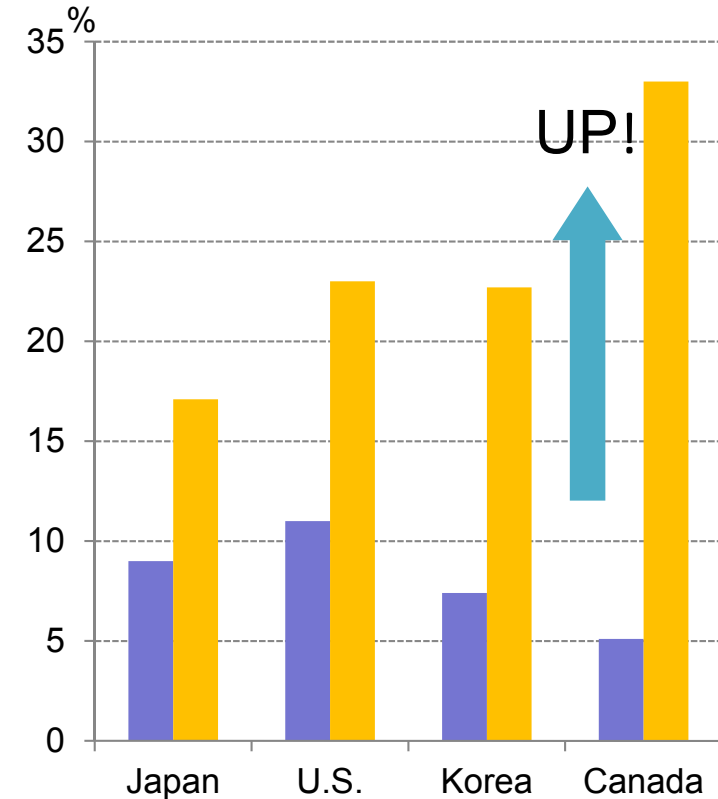
### Grant Rate



### Average Pendency from PPH request to FA



### First Action Allowance Rate



■ All applications
 ■ PPH applications<sup>\*1</sup>

Data period : Jan.- Jun. 2015

<sup>\*1</sup> US PPH-Figures include PCT-PPH

<sup>\*2</sup> Data period (All applications): Jan. - Dec. 2014

<sup>\*3</sup> Data period (All applications): Jul.- Dec. 2014

<sup>\*4</sup> Data period (All applications): Jul.- Dec. 2013

## For Global Work-Sharing Networks among IP Offices

### Sharing JPO's Examination Results

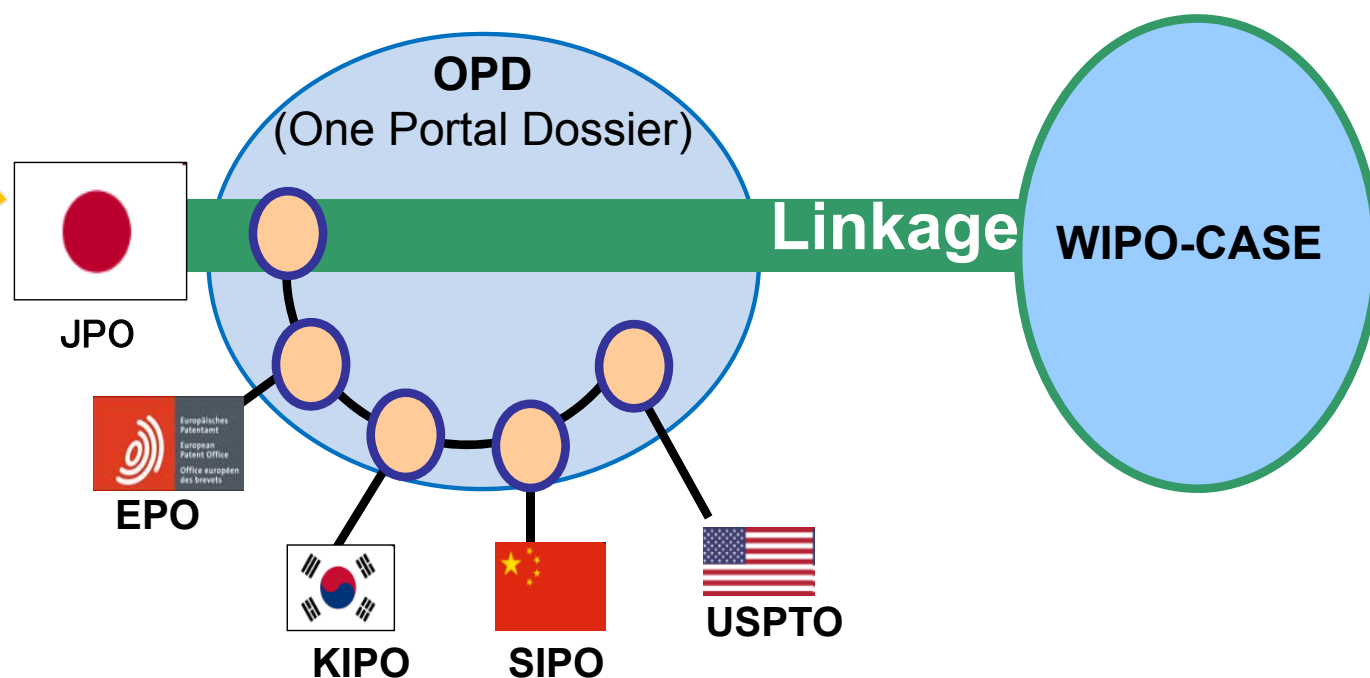
**JPO Examination Results**  
Content-rich Data Coverage:  
25-year<sup>1</sup> Examination Results

Common Service Language:  
English (MT)<sup>2</sup> and Japanese

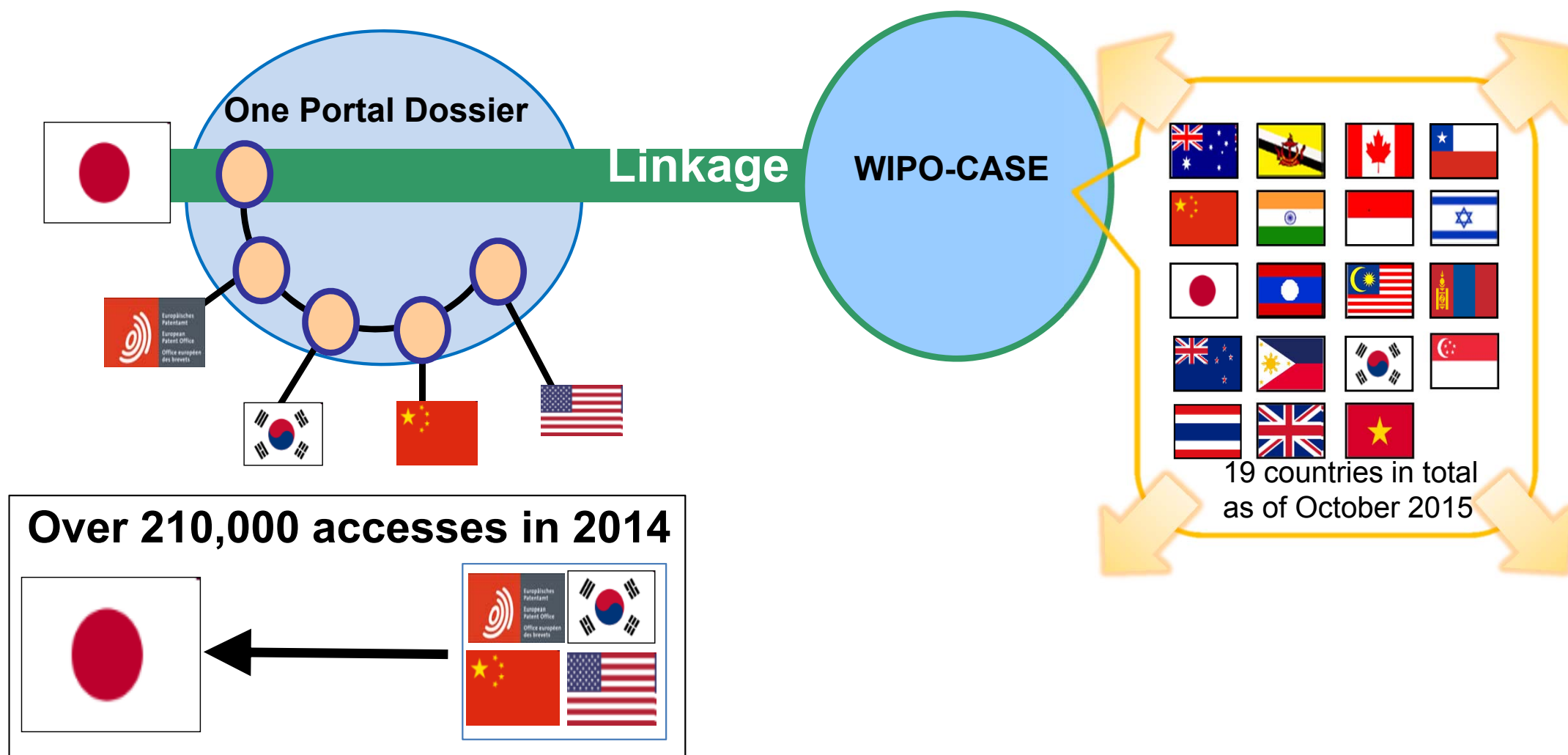
<sup>1</sup> Patent applications and utility model applications filed after 1990

<sup>2</sup> Machine Translation (MT) is continuously updated by the JPO due to improvement of bilingual corpuses

### Global Work-Sharing Networks



## Further Enhance Global Work Sharing



# Cooperation between USPTO and JPO

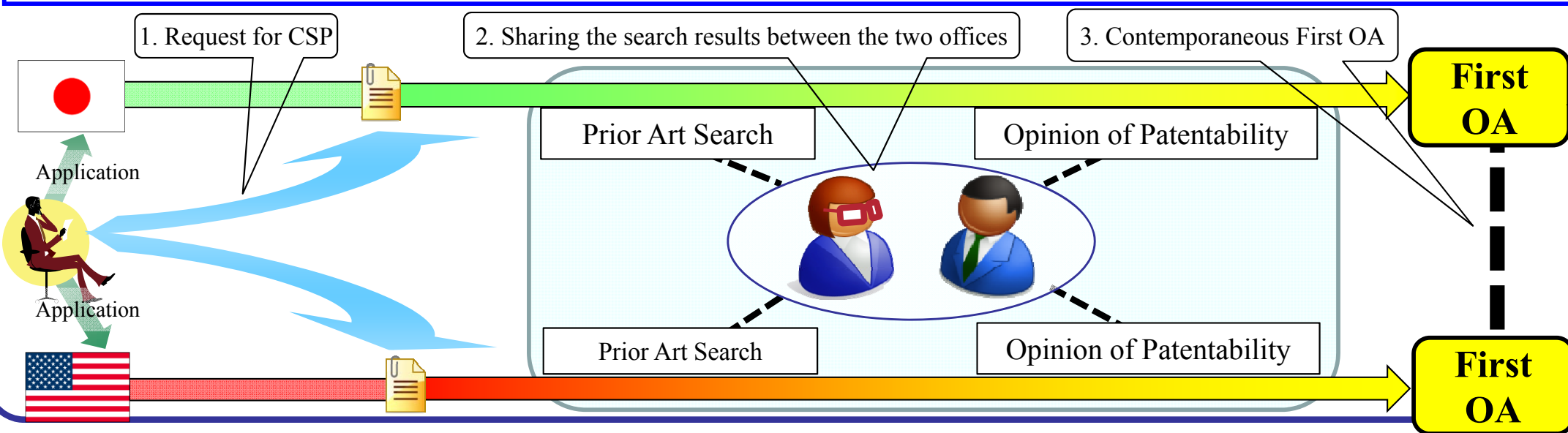
The JPO and the USPTO have reached a basic agreement to launch the following two pilot based on the JPO-USPTO cooperation initiative on patent examinations.

## Competent ISA/IPEA

From July 2015, Japan conducts international searches/international preliminary examinations for international patent applications received by the US under the PCT system (i.e. Japan extends its competency as the ISA/IPEA to the US).

## US-JP Collaborative Search Pilot Program (US-JP CSP)

- The JPO and the USPTO launch the US-JP CSP on August 1<sup>st</sup>, 2015.
- Examiners in the JPO and the USPTO conduct their own search about patents applied for in both the JPO and the USPTO, and the search results along with their opinions are shared.
- Examiners in the JPO and the USPTO contemporaneously notify applicants of First Office Action.
- Applicants can acquire earlier, contemporaneous, stronger and more stable patent rights.



# *Recent Revision of Patent Acts*

- (1) An invention by an employee belongs to the inventor's employer when the right becomes effective and when any provision in any agreement, employment regulation, or any other contract stipulates in advance that the right to obtain a patent for any invention made by the employee will be vested in the employer.
- (2) An employee has the right to receive reasonable remuneration or other economic benefits, if the employee causes the employer to acquire the right to obtain a patent.
- (3) The Minister of Economy, Trade and Industry will define guidelines for procedures to the details of reasonable remuneration or other economic benefits, through the examination procedures of the Industrial Structure Council, aiming to encourage inventions.

**Large Enterprises (99%)**  
**Some SMEs (20%)**  
**Some Universities (40%)**  
**etc.**

With any internal rule  
for Employee  
Inventions  
(Declaration of belongingness)

(1) The right to obtain a patent belongs to the employer when it becomes effective.

(2) An employee has a right to receive reasonable remuneration or other economic benefits.

(3) According to the guidelines, the details of reasonable remuneration or other economic benefits is determined.

**Most SMEs (80%)**  
**Most Universities (60%)**  
**etc.**

Without any internal  
rule for Employee  
Inventions  
(No declaration of belongingness)

The right to obtain a patent belongs to the employee when it becomes effective.

