

Time Windows for Amendments and Divisionals for Japanese Patent Applications

During patent prosecution, filing amendments and/or divisional applications is one of the most important strategies to obtain a strong patent. Recently, there have been revisions to the patent law affecting the timing of amendments and divisional applications. For your reference, the Figure below shows the time windows for amendments and divisionals under the current law. For more details, we recommend consulting with your Japanese Patent Attorney.

1) Time windows for filing amendments

Applicants may amend the specification, claims, or drawings at any time prior to the receipt of a Notice of Allowance or a Notice of Reasons for Rejection (See “Period A” in the Figure).

However, after the receipt of a Notice of Reasons for Rejection, amendments must be submitted within the time limit designated in the Notice (See “Period B” in the Figure). For applicants residing outside Japan, the period for the amendment after the Notice of Reasons for Rejection is generally three months, and three one-month extensions are available with payment of the fee, for a total of up to six months from the receipt of the Notice.

If Examiner rejects the application and the applicant files an Appeal against the Examiner’s Decision of Refusal, any amendments must be submitted at the same time as the appeal brief (See “Time C” in the Figure). For applicants residing outside Japan, the period for filing the Appeal brief is within four months from receipt of the Decision of Refusal by Examiner.

2) Time windows for filing divisional

Whenever applicants can file amendments, they may also file divisionals. That is, applicants may file divisional application(s) prior to the receipt of a Notice of Allowance or a Notice of Reasons for Rejection (Period A), within the designated period after the receipt of a Notice of Reasons for Rejection (Period B) and at the same time as the appeal brief (Time C.)

In addition, applicants may file divisional application(s):*

- (a) Within four months from receipt of the Decision of Refusal by Examiner (See “Period D” in the Figure.)
- (b) Within 30 days following a Decision of Allowance by Examiner, but before registration of patent, excluding Decision of Allowance in an Appeal process (See “Period E” in the Figure.)

* Note) For applications filed before April 1, 2007, divisional application may only be filed during the Period A and B, and Time C under the old law.

