

Exploring “Literal Translation” and “Addition of New Matter” in the context of the JPO Patent Examination Handbook revision

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Overview of the Handbook Revision

In Japanese patent examination, two key documents guide the process: the *Examination Guidelines*, which outline legal principles and interpretations, and the *Examination Handbook*, which provides practical procedures, examples, and case studies. On May 29, 2025, the *Examination Handbook for Patent and Utility Model* was revised to include a new section titled “Handling of Non-Word-for-Word (Non-Literal) Translations.” This revision clarifies that translations of foreign-language applications need not be literal (i.e., word-for-word based on the original specification).

This update supplements both the current and former (now deleted) provisions of the *Examination Guidelines*. In this article, we examine the evolution from the “old Guidelines” (effective until September 30, 2015) to the “current Guidelines,” and discuss how the latest Handbook revision reflects contemporary Japanese IP translation practices.

Origins of “Literal Translation” in the Old Guidelines

The old Guidelines explicitly required literal translation:

“The translation as stipulated in Article 36, Paragraph 2, Number 2 must be a proper Japanese translation based on literal translation (translated word-for-word according to the context from the foreign language specification).”

“Specifications may not be literal translations only when the correspondence between the foreign-language documents and the specifications remains clear; and a non-literal translation better conveys the technical content.”

This wording established the expectation of word-for-word translation, particularly in PCT applications. However, the requirement for “proper Japanese” emphasized that literal translation alone was insufficient. In practice, a one-to-one correspondence between languages was considered helpful for examiners and practitioners to verify content, making the requirement for “proper Japanese translation based on literal translation” seem reasonable.

“Assumed Translation” and “Addition of New Matter” in the Current Guidelines

The current Guidelines removed the literal translation requirement and introduced the concept of an “assumed translation”:

“The examiner assumes a translation (‘assumed translation’) from the foreign-language document into proper Japanese and determines whether an amendment introduces new matter based on this assumed translation.”

While “proper Japanese” remains a requirement, the notion of one-to-one correspondence has been discarded. This shift broadens the acceptable range of translations beyond literal word-for-word renderings.

The revision likely reflects the challenges posed by overly literal translations that fail to meet clarity requirements or result in incomprehensible text. The JPO’s intent appears to prioritize clarity and proper Japanese over strict literalness.

Clarifying “Addition of New Matter”

The Examination Guidelines define the determination of new matter as follows:

“The examiner shall determine whether an amendment introduces any new technical matter in

connection with the originally attached description.”

Three categories are outlined:

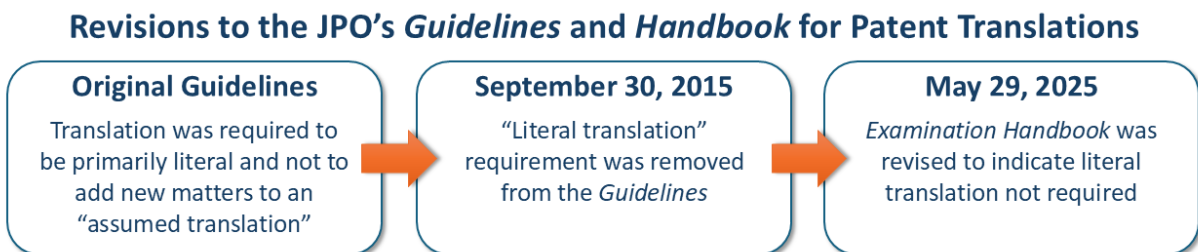
“1. Explicitly Stated Matters – Amendments to content clearly stated in the original description are permitted.

2. Self-Evident Matters – Amendments to content that is self-evident from the original description are also permitted.

3. Other Amendments – Even if not falling under the above, amendments are allowed if they do not introduce new technical matter.”

Connecting Literal Translation and New Matter

The Handbook revision clarifies the relationship between literal translation and the addition of new matter. The progression can be summarized as:



This evolution suggests that the Handbook now supplements what was removed from the Guidelines. A key driver may be the rise of machine and AI translation, which often produces fluent but non-literal output. The revision advises examiners not to reject translations solely for being non-literal, while remaining cautious of misleading fluency.

Conclusion

Translating patent specifications inevitably involves some deviation due to linguistic

differences. The Handbook revision reaffirms that the addition of new matter is independent of whether a translation is literal. This is particularly relevant in the context of machine and AI-assisted translation and post-editing.

The JPO has consistently emphasized that translations must be in proper Japanese and must not introduce new matter—regardless of literalness. While literal translation may facilitate prosecution, including communication with foreign counsels and applicants, excessive focus on it can hinder applicants. As automated translation becomes more prevalent, a shift toward smoother, more natural Japanese is expected. However, translators must avoid altering the original nuance or overelaborating. A precise understanding of JPO principles enables us, and applicants, to benefit from efficient and accurate translation practices.

Note: English translations of handbooks, guidelines, and other documents in this article may differ from official versions to ensure clarity without altering meaning.