August 16, 1994

Dear Secretary Brown:

I have the honor to refer to the recent discussions between the representatives of the Government of Japan and the Government of the United States of America concerning the patent systems of the two countries. I am pleased to inform you that the Government of Japan confirms that, on the basis of these discussions, the Japanese Patent Office and the United States Patent and Trademark Office are to take the actions described in the Attachment hereto. In some instances, the implementation of these measures will require approval of the Japanese Diet or the U.S. Congress.

We look forward to working with you on a regular basis on these and other matters of mutual interest in the field of intellectual property. These ongoing talks will allow the Working Group on Intellectual Property or its successor to meet annually, or upon the request of either government, to discuss the implementation of the above actions.

I believe that the above-referenced actions and continued efforts will further promote the good relationship in the field of intellectual property between Japan and the United States of America.

Sincerely,
/s/
Takakazu Kuriyama

The Honorable Ronald H. Brown
Secretary of Commerce

Attachment

Actions to be taken by the JPO:

1. (a) By April 1, 1995, in order to institute a revised opposition system by January 1, 1996, the JPO is to introduce legislation to revise the opposition system.

   (b) Under the revised system, oppositions are to take place only after the grant of a patent.

   (c) Multiple oppositions in the revised system are to be consolidated and addressed in a single proceeding to minimize the time spent during opposition.

2. (a) By January 1, 1996, the JPO is to institute a revised system of accelerated examination.

   (b) In the revised accelerated examination system:

   (i) the JPO is to allow an applicant who has filed a patent application before a foreign national or regional industrial property office to request accelerated examination for a corresponding patent application filed in the JPO;

   (ii) applications are to be processed to grant or abandonment within 36 months from the date of the request for accelerated examination;

   (iii) the JPO may require the applicant to submit a copy of a search report, issued by the above mentioned national or regional industrial property office separately from or associated with its first substantive action on the merits; and

   (iv) a fee, not to exceed the fee for filing an application, may be charged in addition to the normal fee for requesting examination but no working requirement is to be imposed.

3. Other than to remedy a practice determined after judicial or administrative process to be anti-competitive or to permit public non-commercial use, after July 1, 1995, the JPO is not to render an arbitration decision ordering a dependent patent compulsory license to be granted.

Actions to be taken by the USPTO:

1. (a) By September 30, 199', in order to institute an "early publication" system by January 1, 1996, the USPTO is to introduce legislation to make applications publicly available 18 months after the filing date of the earliest filed application, a reference to which is made under 35 USC 119, 120, 121 or 365.

   (b) The USPTO is to make publicly available all applications, filed after January 1, 1996, as soon as possible after the expiration of 18 months from the filing date or, where priority is claimed under 35 USC 1 19, 120, 121 or 365, from the earliest priority date. The drawing, specification, including claims, and bibliographic information of the application are to be made available to the public. Applications that are no longer pending and applications subject to secrecy orders are not to be made publicly available.

2. (a) By August 1 , 1994, in order to institute revised reexamination procedures by January 1, 1996, the USPTO is to introduce legislation to revise current reexamination procedures.

   (b) The new reexamination procedures are to expand the grounds for requesting reexamination to include compliance with all aspects of 35 USC 1 12 except for the best mode requirement.

   (c) The new reexamination procedures are also to expand the opportunity for third parties to participate in any examiner interviews and to submit written comments on the patent owner's response to any action in the patent under reexamination.

3. Other than to remedy a practice determined after judicial or administrative process to be anti-competitive or to permit public non-commercial use, after July 1, 1995, the USPTO is not to grant a dependent patent compulsory license.

August 16, 1994

Dear Mr. Ambassador:

I am pleased to receive your letter of today's date concerning the measures that our two governments have decided to take with respect to the patent systems of our two countries. I am pleased to inform you that the Government of the United States of America also confirms that the actions described in the Attachment to your letter are to be taken by the respective Offices.

We look forward to working with you on a regular basis and to the ongoing talks which will allow the Working Group or its successor to meet annually, or upon the request of either government, to discuss the implementation of the above actions. I, too, believe that the actions of our two governments and continued efforts will further promote the good relationship in the field of intellectual property between Japan and the United States of America.

/s/
Ronald H. Brown

His Excellency
Takakazu Kuriyama
Ambassador of Japan