

Japan's Efforts Concerning Intellectual Property

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Explanation Framework

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1. International Situation and Needs Surrounding Intellectual Property (1)

In recent years, against a background of economic globalization and the upgrading and increasing complexity of technology, the global situation surrounding intellectual property has changed greatly raising various issues.



There has been urgent expansion of activities to improve awareness of the importance of global intellectual property and acquisition of rights. At the same time, problems have arisen such as an increased burden of processing examinations in each country and application/examination costs associated with system discrepancies.

Further, with the North-South problem, etc. 2 problems coexist:

- 1 Development of a globalized intellectual property system
- 2 A movement seeking systems which comply with the development stage of each country

Japan's Industrial Needs

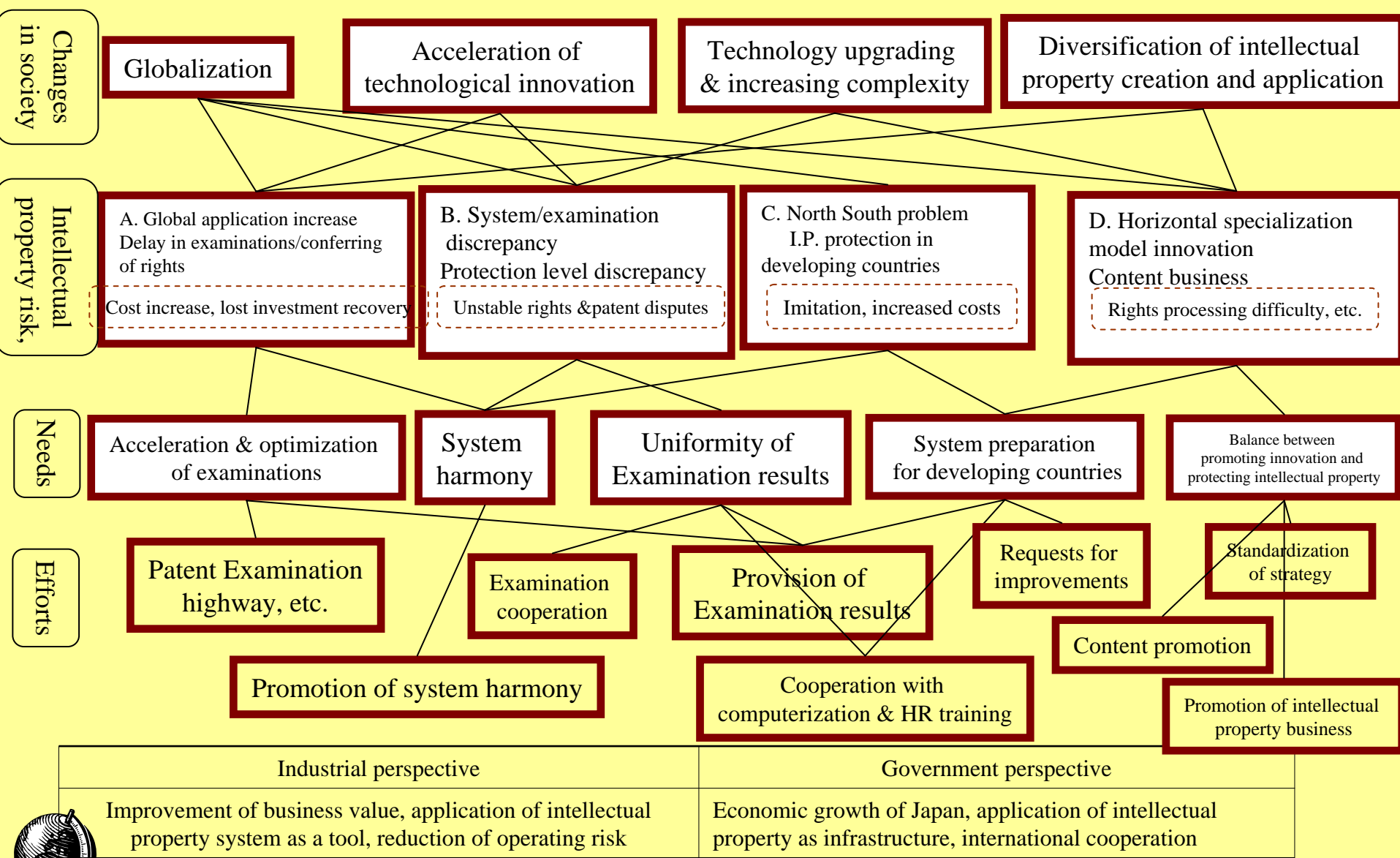
In response to this environment shift, Japan's industry with its global activities requires an environment with intellectual property protection which enables the swift global acquisition of stable rights at low cost

Whilst grasping the demands of Japanese industry, promotion of innovation and the appropriate intellectual property protection/application which support this is essential for extensive healthy development and growth of the global economy. From an awareness of this fact, Japan places emphasis on efforts to develop an environment where there is appropriate domestic and international protection for intellectual property.

In particular, in seeking a substantive solution to the North South problem, emphasis is placed on environmental development and capacity building including intellectual property systems to attract technology transfer and direct investment in order to stimulate autonomous economic development.



1. International Situation and Needs Surrounding Intellectual Property (2)



2-1 Global Increase in Applications and Delayed Conferring of Rights

○ In the 10 years since the WTO/TRIPS Agreement came into effect (formed in 1994 and came into effect in 1995), there has been a surge in global patent applications.

(1994: 938,000 cases ->1995: 1.665 million cases. Approximately 1.8 times increase)

○ With economic globalization, cases of duplicate applications have increased in each country.

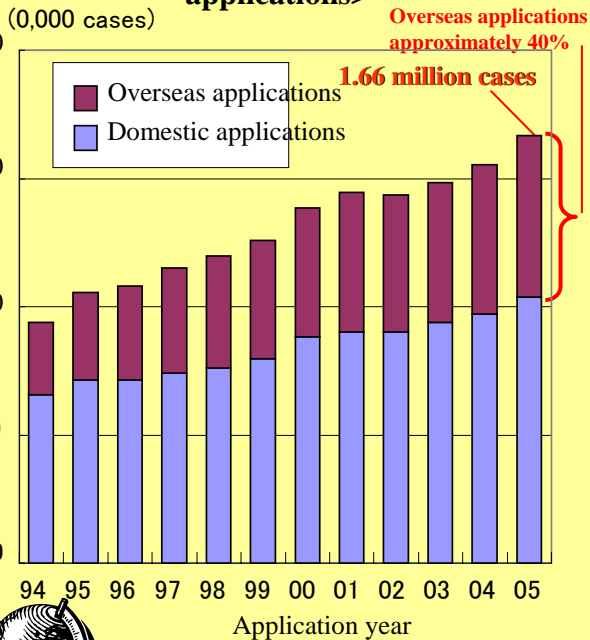
Out of total global patent applications of approximately 1.66 million cases, approximately 630,000 (38%) are made to foreign countries.

Further, applications to Japan, America, Europe, China and Korea make up approximately 77% (2005).

Of Japan, America, Europe, China and Korea's approximately 1.35 million applications, approximately 400,000 cases (roughly 30%) are mutual duplications (2006).

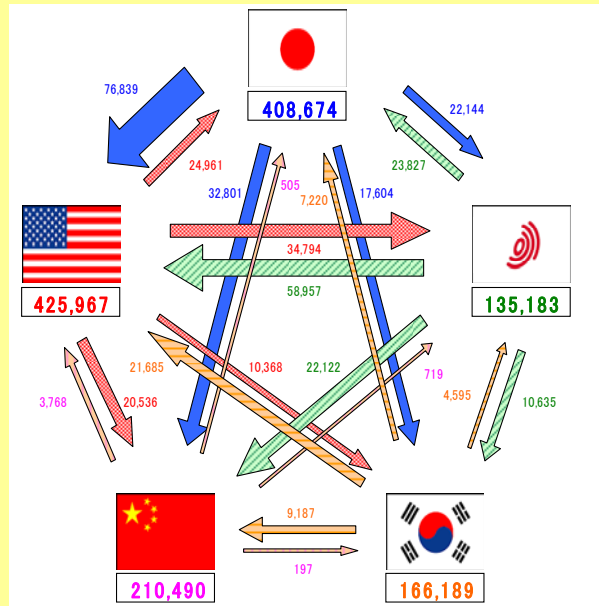
○ Increased global applications are directly linked to the increased burden of examinations in patent offices around the world which has resulted in delayed processing of examinations.

<Total number of global patent applications>



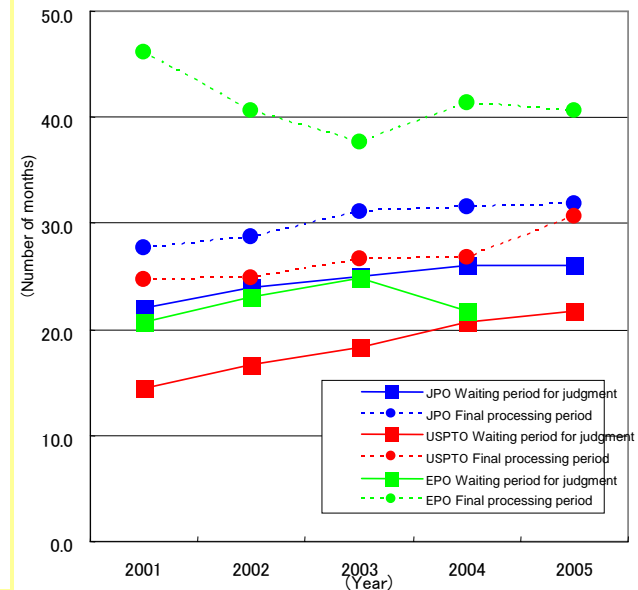
Source: WIPO PATENT REPORT 2007

<Status of Japanese, American, European, Chinese and Korean Applications (2006)>



(Source) Each government agency yearly report / website

<Trilateral waiting periods for judgment and final processing periods>



(Source) Trilateral statistical reports

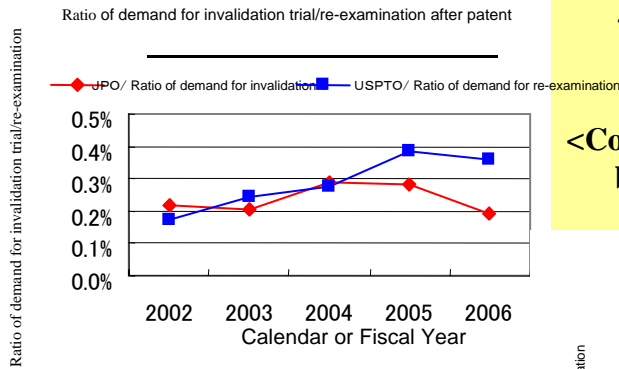


2-2 Discrepancies in Systems/Examinations and Protection Levels

- Against a background of discrepancies in I.P. systems and examination practice, discrepancies in I.P. protection levels (variations in protected objects & extent of rights) have increasingly become a business risk accompanying globalization.
- Business risk is reduced by curbing uncertainties as far as possible concerning the acquisition of I.P. and level of protection.
 - In other countries, inventions protected in Japan are not treated as inventions which should be protected. On the contrary, patents not recognised in Japan are accorded rights, etc. This is a negative factor for efficient and strategic global development.
 - The risk that after commencing business activities based on a one time acquisition of patent rights, an invalid judgment in respect to these rights will spend business activities.
 - The risk that business activities will be suspended due to litigation costs of a patent rights infringement lawsuit, or payment of large amounts for damage compensation or license fees.
- A system is sought which provides a high degree of foreseeability which curbs uncertainties as far as possible in advance.
- There are concerns that reciprocal use of examination results (work sharing) does not function effectively due to limited use of other agencies results and examination quality remains uneven.

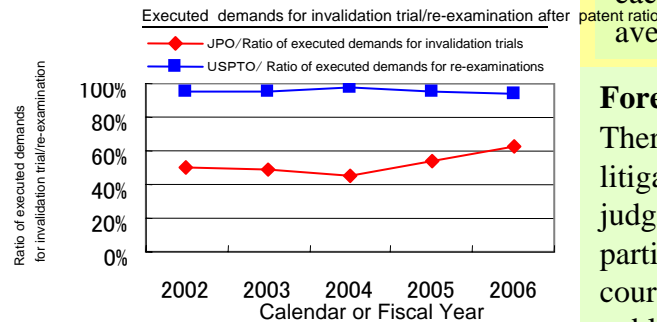
<Council of Economic Advisors 2006 Report>

<Comparison of examination quality between Japan and America>



Decline in American patent quality
 Amongst all patent infringement litigation conducted between 1989 – 1996, in 46% of cases, the patent was found to be invalid.

In patent related litigation where over \$25 million in damages was sought, plaintiffs and defendants each had average legal costs of \$4million and an average litigation period of 3.5 years.



Foreseeability of litigation is low

There is tremendous uncertainty involved in patent litigation. According to recent research, 50% of judgments for all prosecuted patents are at least partially reversed. (Lower courts/internet/intellectual property subcommittee: public hearings, testimony of David Simon, Chief Patent Counsel for Intel Corp.)

1. This is the number of invalidation trials demanded each calendar year divided by the number of patent registrations. Accordingly, note that this is different to the ratio of registrations for which invalidation trials are actually demanded.
 2. The number of American re-examinations includes both inter parties and ex parties). This is the number of re-examinations demanded each fiscal year divided by the number of patent registrations (utility patents only). Accordingly, note that this is different to the number of registrations each fiscal year for which re-examination is actually demanded.

Sources - **Japan:** Document prepared by the Patent Office based on distributed document 4 "Current Status of the Judgment System and Issues" at the 11th Intellectual Property Sub-Committee Meeting of the Industrial Structure Council, Patent Administration 2007 Report (Statistics & Samples Edition)
America: Performance and Accountability Report Fiscal Year 2006, Fiscal year basis.



2-3 Efforts for Increased Applications and System Discrepancies

Efforts for 2-1 2-2

Delays in granting approval have occurred due to the increase in applications and investigators' greater workload. Inter-agency work-sharing to reduce examinations of repeat applications can deal with protection-level problems arising out of system and examination disparities. Also, increasing the effectiveness of work-sharing and the uniformity of examinations is crucial to achieve system harmonization. Japan leads the world in investigative cooperation and system harmonization.

Fundamental efforts towards work-sharing and patent system harmonization

1. Increasing investigative cooperation

Expanding the patent examination highway network (tie-ups with the US, Korea, the UK, and Germany completed), quickly announcing the results of examinations, and sharing of examination results.

2. Efforts to reduce the time and effort required for application procedures

1. **Standardizing the application process**. A final agreement was reached in Nov. 2007 enabling a single patent application to be made to patent offices in either Japan, the US, or Europe. Japan will implement the Agreement in 2009.

2. **Digital exchange of priority documents** (cost savings of ¥5.5 billion in Japan, the US, and the EU). In addition to tie-ups with Europe and Korea, Japan implemented this system with the US in July 2007. It will form tie-ups with other countries in the future.

3. Harmonizing the patent systems of developed nations

Sept. 2006, director-level discussions: an agreement reached to create a treaty document based on the comprehensive compromise agreement proposed by the meeting chairperson.

Nov. 2006; practical-level discussions; the US expressed willingness to compromise on a shift to a principle of first-to-file, contingent on the introduction of a US style grace-period. However, some of the European contingent expressed reservations on expanding the grace period.

Sept. 2007, director-level discussions; a level of agreement was reached between all countries on the item list for the working party chairman's proposal's, including shifting to the principle of first-to-file and expanding the grace period. The working group will debate matters further at future meetings.

- A new joint US/Japan initiative (Agreement on 8th Jan 2007)
- Meetings of the five major Patent Offices of Japan, the U.S, the EU, China, and South Korea (first met on 11th & 12th May 2007)
- APEC Cooperative Incentive on patent acquisition procedures (agreement reached in Sept 2007)

Targeting international work-sharing—Japan is leading the world in investigative cooperation and system harmonization.



2-4 The North South Problem; Protecting Intellectual Property in Developing Nations

● The North South Problem

- Most patent applications made in developing nations are by non-residents from developed nations. Many developing countries suspect the introduction of the patent system is not for their benefit, but ultimately for that of developed nations.
- To address these fears, developing countries are stressing in international discussion forums that public health and access to medicine (restrictions on certain intellectual property), and the developing nations own genetic resources, traditional knowledge, and folklore are its rights and strengths and should be protected. Their differences with developed nations seem irreconcilable and the conflict is impeding the development of the international debate on system harmonization. But the lack of progress made towards system harmonization is not in the interests of either developed or developing nations.

● The perception in Japan

- Japan acknowledges the problems facing developing countries, but stresses the need for international collaboration. Self-sustaining development must be promoted towards the real solution to the North South problem.
- Innovation is crucial to achieve self-sustaining development. However, if no steps are taken to establish the necessary infrastructure, such as a system to protect intellectual property, developing countries cannot expect positive progress in technology transfer and on obtaining foreign direct investment, nor can they realize an innovation-based dynamic economy. Moreover, the correct growth of developing nations' industries is impeded by the rampant levels of counterfeit and pirated goods.
- To realize self-sustaining development, an infrastructure, such as intellectual property system, encouraging technology transfer and foreign direct investment should urgently be developed. International cooperation is essential in this regard.

Request installation of infrastructure and capacity building by technological advances towards a base framework
Raise requirements for management and capacity building through personnel training towards appropriate implementation



Efforts to establish and strengthen the intellectual property protection system in developing nations

Cooperation

Information sharing, personnel training

Japan has received more than 2500 researchers in the past 11 years, primarily from the Asia Pacific region.

A ministerial level preparatory agreement was signed in May 2007 between Japan and India on cooperation for intellectual property field

Increasing support to African nations via the WIPO scheme

APEC Cooperative Initiative on patent acquisition procedures

Promoting the use of results of patent examinations within the APEC region; advocating sharing of information and the use of technology; targeting improvements in the investigative function

Requests

Requests utilizing Economic Partnership Agreement (EPA) negotiations

Results to the present

Speedy and accurate efforts to protect intellectual property

Countries that accept the results of Japan's examinations - Singapore, Malaysia; countries that use the results of Japan's examinations to speed-up their own examinations - Thai, Indonesia; countries that have introduced a similar or partially similar system to Japan - Indonesia; countries protecting established overseas trademarks - Malaysia, Indonesia; countries that have established a copyright law infrastructure geared to Internet violations - Philippines, Thailand, Malaysia, Indonesia; countries moving towards early signatory of copyright related agreements - Indonesia

Simplifying and increasing transparency in the application procedures

Introduction of a system to announce applications 18 months after the initial date of application - Malaysia. Prohibition of the principle of obligation to notarize - Philippines, Indonesia. Introduction of a comprehensive power of attorney system - Indonesia. Introduction of protection regulations in addition to the TRIPS agreement - Malaysia, Philippines, Chile, Indonesia, Thailand. Thorough implementation of copyright protection efforts - Malaysia, Philippines, Thailand, Indonesia.

Strengthening enforcement

Requests to China

Development of laws protecting intellectual property

Symposium and opinion-exchange meeting with the Chinese Law Revision Survey Group (Sept 2006).

Requests to the Government and business to protect intellectual property

Sending personnel to China for discussions with the Government and business (5th visit, Sept 2007).



2-5b. Efforts Towards Protecting Intellectual Property in Developing Nations (1)

Efforts for 2-4

Exploiting the popularity of Japanese contents, developing nations are rife with pirated Japanese goods.

An incidence occurred where Japanese magazines featuring the real Crayon Shin-chan character were removed from sale by the Chinese authorities as counterfeits.

The legal Crayon Shin-chan comics, sold by the Japanese publisher Futabasha in Shanghai etc., were removed from sale by the Chinese authorities for infringing trademark regulations, as the company that produced a counterfeit Chinese version had already registered as a trademark the Crayon Shin-chan name in Chinese.



Efforts to solve the counterfeit and pirated goods problem

Internationally

➤ **Promoting the Treaty for the Prevention of the Proliferation of Counterfeits and Pirated Versions (provisional name)**

Advocated by then Prime Minister Koizumi at the G8 Gleneagles Summit. Subsequently, Japan, other developed nations, and developing nations who have demonstrated a strong intention to protect intellectual property have made progress towards realizing this treaty through positive discussions. It was jointly announced on 23rd October 2007 in Japan, the US, and the EU that intensive discussions would be held towards establishing the Treaty.

➤ **Requests to strengthen countermeasures through bi-lateral country-level meetings**

Via the regular consultations between METI and the Chinese Ministry of Commerce, requests have been made to hold director-level meetings between the Japanese and Chinese Patent Offices to discuss improving the Chinese patent legal system

➤ **Sending joint mission to China for discussions by the Government and private sector**

Requests have been made to reform the legal system protecting intellectual property, to improve its implementation, and to bolster countermeasures against counterfeit and pirated goods. In addition, Japan has proposed cooperation on implementing a system protecting intellectual property, such as the meetings held with the Chinese Patent Office to explain the technology used in Japan. Mission will also be sent to India in 2008.

➤ **JETRO to implement countermeasures against counterfeit and pirated goods. It will;**

- Provide consultation on damage caused by counterfeit and pirated goods overseas
- Introduce companies to local legal and research companies
- Provide information on the local legal system, examples of violations, legal rulings etc.

➤ **Cooperate on personnel training at regulatory institutions in countries where violations are frequent**

Japan is assisting with personnel training at local customs, police, and other relevant organizations to improve the protection of property rights in countries and regions where counterfeit and pirated good violations occur. 231 members of overseas regulatory agencies in 16 countries, primarily from Asia, have been invited to Japan for training.

Domestically

➤ **Enlightening and disseminating towards consumers**

Efforts implemented to spread awareness among consumers of the importance of protecting intellectual property rights and to convey concerns that purchasing counterfeits supports crime. Implementing the 'Abolition of Counterfeit and Pirated Goods' campaign.

➤ **Establishing an office for enquiries regarding government-level countermeasures against counterfeit and pirated goods**

In August 2004, a one-stop, comprehensive government level consultation service was set-up in METI for enquiries regarding counterfeit and pirated goods.



Strengthening countermeasures against pirated goods

Efforts to thoroughly implement countermeasures against the countless pirated versions of Japanese goods throughout the world include; 1. Expanding and strengthening the enforcement support system, 2. Acquiring and increasing awareness, 3. Successively implementing practical support for developing the distribution infrastructure for legitimate goods. In the future, Japan will successively maintain practical support efforts based on industry's real needs.

I. Strengthening the enforcement support system

To provide support for fundamental information collection, dissemination, and enforcement in regions that act as distribution bases for pirated versions (China etc), supporting Japanese companies' efforts to protect intellectual property overseas, such as collecting information, offering consultations, and conducting surveys on violations.

II Acquiring and increasing awareness

Implementing contents seminars, forums etc and other awareness raising activities to achieve closer ties with local administrative agencies, promote mutual understanding, and to raise consumer awareness.

III. Developing a distribution infrastructure for legitimate goods

Promote distribution networks for legitimate goods that will help to eradicate pirated versions. Understand factors which can act as barriers-to-entry to the distribution network for legitimate goods, such as each country's investment and foreign currency regulations, import inspections, and trading situation. Reform existing distribution networks and develop new ones.

**Government and business joint enforcement efforts
3.97 million pirated versions have been confiscated in Asia.**

The CJ Mark Committee (the Contents Overseas Distribution mark) within the Content Overseas Distribution Association (CODA) implements anti-pirate countermeasures in Asia.

The mark identifies legal Japanese content, and registering this trademark overseas enables enforcement against pirated versions to be implemented quickly and easily.

Enforcement activities to protect Japanese content are jointly implemented with enforcement agencies in Hong Kong, China, and Taiwan. Between Jan 2005 and Sep 2007, a total of 4,491 violations were uncovered, 3.97 million pirated DVDs etc. confiscated, and 1,517 people arrested.



(Reference) Protection Efforts in China

➤ Patent and trademark applications rapidly increasing in China

- Japan is working to achieve the implementation and maintenance of an intellectual property system and strengthened enforcement efforts in China on the occasion of the 3rd major revision scheduled for the Chinese patent law (equivalents of the Japanese patent, utility model, and design laws) and also revisions to China's trademark law. It is making requests based on the opinions of Japanese industry, it is cooperating with personnel training, and sending joint mission to China by the Government and private sector. These efforts are made primarily through the cooperative structure that was established via the series of Japan/China Patent Office director level discussions (the 14th such meeting was held last year),

◎ Japan / China director level discussions on trademarks; tri-lateral discussions between Japan, the US, the EU (Oct 2007)

- The first Japan / China director level discussions on trademarks held in 4 years, since Nov 2003
- Opinion-exchange on speeding-up examinations and revisions to the Chinese Trademark Law
- Agreement on continuing cooperation to increasing operational efficiency, on adopting IT, and cooperating to provide applicants with information
- Pertaining to revisions to the Trademark Law, agreed on continuous opinion-exchange by conveying Japanese industry's concerns such as efforts to protect those internationally established trademarks not registered in China and criminal punishment for offences of trademark infringements
- Trilateral discussions between Japan, the US, and the EU
- Discussions on adoption of IT, effective execution of duties, direction of trilateral cooperation for the protection of established trademarks, and on jointly holding seminars, workshops etc. in China
- Japan, the US, and the EU to collaborate with China to exchange information on applications, examinations, computerization, and efforts to speed-up examinations

◎ Japan / China Patent Offices director-level discussions (Nov 2007)

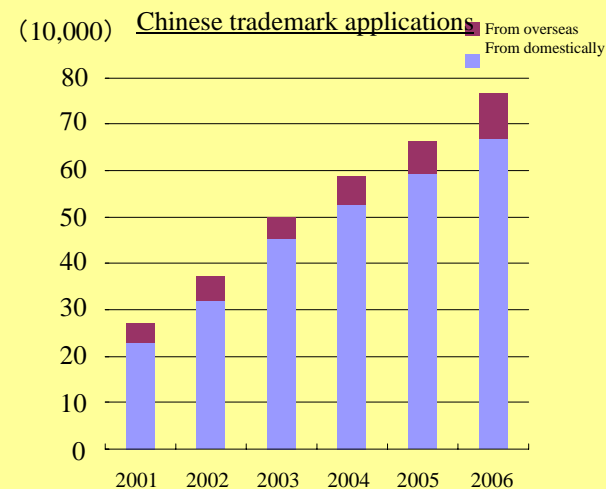
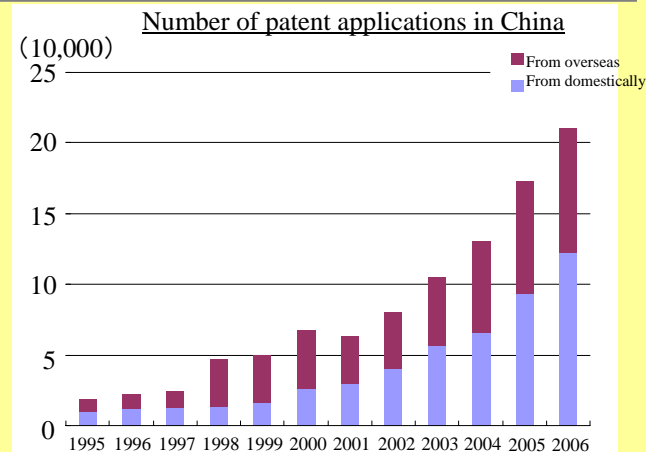
- Japan and China to continue to exchange opinions on revisions to the Chinese patent law, and on bylaws
- Agreement reached on exchange of investigating personnel between both Offices, on arbitration discussions between Japan and China for design-related matters, and on holding discussions between Japanese and Chinese IT experts
- Continue cooperation on personnel training; an agreement reached on employee exchange between both Offices training institutions

◎ Cooperation for personnel training

- Japan received 472 Chinese personnel (out of a total 2576) between 1996 and 2006 for training
- Japan has also sent its experts overseas

◎ Request for government and business to strengthen the protection of intellectual property

- Personnel sent to China to visit government and business groups (5th mission, Sept 2007)



○ Trends towards horizontal specialization innovations

- The nature of innovation is changing against a backdrop of globalization and increasingly complex technology and levels of sophistication
- No longer is the complete process from R&D to manufacture conducted autonomously. There is a trend to utilize external technological capabilities, R&D (personnel and facilities), and R&D capital, both domestically and internationally. A company's R&D and manufacturing can be optimized through outsourcing and joint R&D projects. There has been a shift to global horizontal specialization innovation and open innovation.

○ Technological standardization and intellectual property strategies

- Open innovation has increased the need for technological standardization, and also heightened the importance of problems relating to the treatment of intellectual property, an essential aspect of the standardization process.
- To maintain global pre-eminence, it is crucial to implement strategies that achieve competitive superiority through active efforts to make one's own company's technology the standard
 - Steady progress has been made on methods to deal with intellectual property rights, such as the patent pool.
 - Requires the strategic and coordinated implementation of an international standardization strategy and an intellectual property rights strategy.

○ The appearance of new players

- In an environment of open innovation and technological standardization, new business players are emerging whose actions are supporting the full utilization of intellectual property and its distribution market, such as by efforts to developing investment for intellectual property itself, by financing collateralized by intellectual property, by the entrustment of intellectual property, and by patent pool management businesses.

To further accelerate innovation in the future, intellectual property management must lead to competitive superiority through strategies that combine corporate internal and external intellectual property in an optimum way, and by fully utilizing these combinations. Also, it is necessary to expand the scope of participants in the field of intellectual property to effectively utilize these assets and to accelerate growth in the distribution market.



Japanese contents are highly regarded internationally

- Japanese contents such as manga comics, games, and animation are popular in every region of the world
 - 60% of the world's TV animation is produced in Japan
 - The Director Hayao Miyazaki won the lifetime achievement award at the Venice International Film Festival in 2005
 - The Director Naomi Kawase was awarded the Grand Prix at the Cannes International Film Festival in 2007
- Asia-centered demand for Japanese contents is growing, as the enormous number of pirated versions of movies, music, and TV dramas indicates.
- Japanese movies, particularly horror movies, are frequently remade by Hollywood

Japanese contents are popular throughout the world

- The 'Pocket Monster' TV animation is broadcast in 68 countries, its movies have been shown in 46 countries, and it has achieved global revenues of approximately \$300 million
- The Japanese movie with the highest earnings in the US, 'Pocket Monster Mewtwo Strikes Back!', grossed \$86 million
- Hollywood movie companies are actively buying the rights to make movie versions of Japanese animation. The number of Japanese animations made exclusively for overseas markets is increasing.
- In October 2004, 'The Grudge', directed by Takashi Shimizu and a remake of the Japanese movie 'Juon', ranked highest in box-office takings, the first time in Hollywood history a Japanese directed movie had achieved this (with revenues of approx. \$100 million dollars). The third ranked movie at that time, 'Shall we Dance?' (revenues of \$56.8 million dollars), was also a remake of a Japanese movie, giving Japan remakes an impressive 2 of the top 3 grossing movie positions.



2-6b. Japan's Efforts to Develop Its Contents Businesses (2)

I. Developing new market frontiers, such as international markets and the broadband market, and promoting the digitization of the video market and international joint-productions.

→Progressing structural reforms in the contents industry

1. The positive international development of the Japanese contents industry

— Opening of the International Contents Festival of Japan, promoting international joint-productions, and countermeasures against pirated goods

2. Establishing the broadband market

— Supporting the construction of contents portal sites; constructing a net-based business market etc.

II. Utilizing contents production divisions, aiming to employ and train excellent personnel

3. Training for contents personnel

— Increasing the use of curriculum and texts for producer training, establishing internships etc.

4. Establishing an infrastructure enabling contents producers to raise funds

— Enabling the establishment of content based investment funds and the entrustment of intellectual property, providing subsidies via government financing etc.

5. Establishing a fair trading environment between distributors and producers

— Enhancing competition policies to accompany the implementation of the Subcontractor Law, defining model contracts etc.

Japan is currently investigating what form a copyright law and protection system should take within an increasingly digitized and networked society



2-6b. Japan's Efforts to Develop its Contents Business (3)

Summary of laws on the illicit recording of movies

1) Objective

In response to the large amount of pirated softcopies created through the illicit recording of movies and the grievous damages incurred by the film industry, required statutes have been stipulated that prevent the illicit recording of movies, and contribute to the healthy development of the film industry and the prosperity of movie culture.

2) Summary

Definition of the illicit recording of movies

Illicit recording of movies refers to the recording of the picture or sound of a movie playing at a pay movie theatre or other establishment (this also includes movies playing at free showings).

Prevention of the illicit recording of movies by film industry affiliates

Film industry affiliates, such as promoters, are required to take efforts to prevent the illicit recording of films.

Special cases of copyright law related to the illicit recording of movies

- The illicit recording of movies at a movie theater is not covered by the provision of Article 30-1 of the Copyright Law which permits the copying of copyrighted material for private use
 - According to Article 119-1 of the Copyright Law, the penalties for such an offence are no more than 10 years imprisonment or no more than 10 million Yen in fines, or the equivalent
- The above stipulation does not apply for movies that have been shown within Japan for eight months or more.

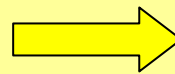
3) Date of enforcement

Effect three months after the day of promulgation (promulgation: May 30, 2007; effective: August 30, 2007)

<Pirated movies>

- Works which have been found to have been created and distributed through the illicit recording of movies at Japanese movie theaters (2006 movies)

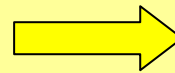
- Hakase no aishita sushiki
- Udon
- LIMIT OF LOVE~Umizaru
- Nippon Chinbotsu
- **Da Vinci Code***
- Bushi no Ichibun
- The Wow-Choten Hotel
- **Letters from Iwo Jima***
- Earthsea



- Reduction in number of guests to movies
- Reduction in sales/rentals of videos

**Estimated damages to film industry
20 billion Yen annually**

*Da Vinci Code and Letters from Iwo Jima are American movies; however, there are confirmed pirated copies with Japanese subtitles one month after their release in Japan.

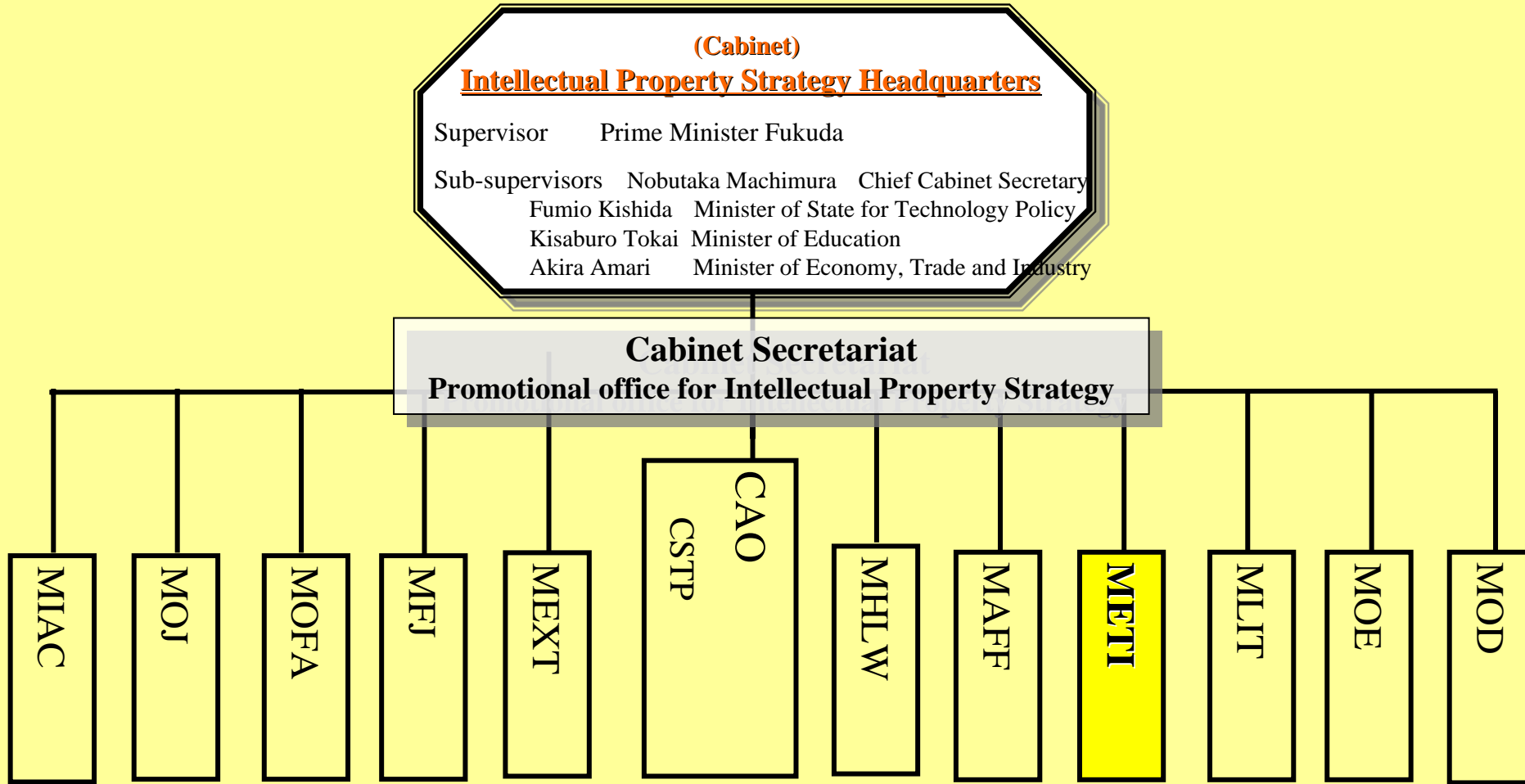


This puts into question Japan's status as a country that honors intellectual property



II. Domestic Efforts for Intellectual Property Protection (1)

General policies have been implemented by the ministries subordinate to the Intellectual Property Strategy Headquarters established by the Cabinet



II. Japan's Efforts for Intellectual Property Protection (2)

Intellectual Property Strategic Program 2007

<Intellectual Property Strategy HQ (Supervisor: Prime Minister) established>

May 31, 2007

Intellectual Property Creation Cycle

Creation of Intellectual Property

- Formulate Intellectual Property strategy by field
- Promote ties among industry, academia, government

Protection of Intellectual Property

- Achieve highest level of patent exam.
- Strengthen efforts against counterfeit/pirated copies

Make use of Intellectual Property

- Support mid, small businesses
- Protect regional brands

HQ for expediting/making efficient patent examination
(Supervisor: Minister of Economy)

Action Plan

Jan. 17, 2006

PM Abe's Policy Speech

"We will revitalize the Japanese economy through the power of innovation and an open posture"

Sep., 2006

Revision of Outline of Economic Growth Strategy

May 28, 2007

2007 Plan to Accelerate Patent Examination Reform to Spur Innovation

January 25, 2007

1. Strengthen Intellectual Property protection and spur global acquisition of rights
2. Further efforts to accelerate/make efficient patent examination by Patent Office
3. Spur on strategic Intellectual Property management in companies
4. Strengthen support for use of Intellectual Property by regional/small and mid size businesses



(Ref.) 2007 Plan to Accelerate Patent Examination Reform to Spur Innovation

1. Strengthen Intellectual Property protection and spur global acquisition of rights

<Cooperate with foreign patent offices>

- Further development of the patent exam. highway
- Cooperate to establish Intellectual Property system for developing countries in Asia
- Promote APEC cooperative initiative for patent acquisition procedures

<Promote systematic international harmony>

- Standardize application form for Japan, US, EU
- Examine early entry into the Patent Law Treaty (procedural)
- Aim for draft agreement on Actual Patent Law Treaty including standardizing first-to-file system

<Strengthen efforts against counterfeit/pirated goods>

- Early achievement of Treaty to Prevent Spread Counterfeit/Pirated Goods (provisional name)
- Pursue high level of countermeasure stipulations for counterfeit/pirated goods for EPA and industrialized countries
- Expand number of private/public sector missions against counterfeit/pirated goods
- Upgrade support for corporate efforts against counterfeit/pirated goods and correct distribution practices for consumers

2. Further efforts to accelerate/make efficient patent examination by Patent Office

- Secure necessary patent clerks with the increase of temp clerks
- Expand civil outsourcing of precedence technology examination
- Establish quality control room and strengthen examination quality control system
- Build academic reference data base in crucial technical fields such as optical disks

3. Spur on strategic Intellectual Property management in companies

- Implement steady top-level talks
- Formulate/announce report on Intellectual Property strategy
- Patent Strategy Talks to allow for an exchange of opinions among ministers and knowledgeable people.
- Give awards to outstanding patent strategy companies that engage in superior Intellectual Property activities
- Implement information provision conducive to corporate Intellectual Property strategy proposal through 「Patent Strategy Portal Site and 2007 Patent Administration Report
- Reform request for application/examination structure
- Begin application of patent bulletin referencing system to make possible an integrated search of patent and thesis information and to strengthen the electronic library (IPDL) functions
- Expand number of students in training that uses a similar search terminal as the patent clerk terminal

4. Strengthen support for use of Intellectual Property by regional/small and mid size businesses

- Reinforce the activities of regional Intellectual Property strategy HQs (9 overall)
- Further expansion of support for patent precedence technology examination
- Strengthen functions of rushed Intellectual Property
- Strengthen significantly diffusion of support policies among small and mid-size businesses



II. Japan's Efforts for Intellectual Property Protection (3)

Secure Appropriate Management of Technical Info and Industrial Competitive Edge

- In addition to the protection of Intellectual Property, and amidst the advances of economic globalization, the increasing fluidity of human resources, and the digitalization of design and production, the appropriate management of secret information among technical information, which is the source of a company's competitive edge, is becoming increasingly important.
- Encouraging appropriate management of technical information, and making efforts to protect it produces continuous innovation, and it is key to obtain the infrastructure which the efforts towards improved productivity in Japan can be continuous and constructive.



Efforts towards the appropriate management of technical information in Japan

We are implementing the following efforts to spur on innovation, encourage the appropriate management of technical information in Japan to achieve greater competitive edge through innovation, and implementing and prioritizing efforts to prevent the outflow of technology.

Strengthened protection of trade secrets under the revision to the Act Against Unfair Competition

The following applies to particularly grievous infractions of trade secret infringement law

- less than 10 years imprisonment, or a fine of less than 10 million Yen (or equivalent)
- punishable under circumstances where trade secrets are used/disclosed abroad
- Fine of less than 300 million Yen for legal entities

Promote efforts to manage technology in companies

Formulate/disseminate trade secret management policy, technology outflow prevention policy



II. Japan's Efforts for Intellectual Property Protection (4)

Efforts towards the appropriate management of technical information in Japan (cont.)

Begin comprehensive evaluation of appropriate management of technical information

Outlined the general picture of information outflow and established a working group to comprehensively examine the policies required for appropriate management of industrial information—everything from concrete policies such as an evaluation of the status of legal systems, to more interpretive policies such as promoting corporate voluntary efforts. Held the first session in October, 2007, with plans to organize items for deliberation within the fiscal year.

Main issues for evaluation

- Comprehensive analysis/organization of information for preventing outflow, routes of outflow, and advantages of lost protection law
- The way patent information should be disclosed
- The way research results should be undertaken with government funding
- The way ideal information management should be in corporations, universities and government
- Evaluation of the reason why there are no legal precedents of trade secret infringement under the Act Against Unfair Competition
- Examine the establishment of criminal charges for general acts of nefarious acquisition of secret information
- The way criminal court should be
- The way the government system to prevent the outflow of technology should be

