

“The Industrial Property Rights System in Japan”

Chapter 1. The Role of the Industrial Property Rights System

Tanikei Manufacturing, Ltd. is a small company in Tokyo with just six employees. However, a technology it developed is now being used all over the world. What is it?

It's the “double safety can end”. In order to avoid injuries, Tanikei Manufacturing developed a technology that prevents the fingers from touching the sharp edge of the opening of a pull-top can.

Around 25% of the world's cans today have this type of pull top.

This brilliant invention for such familiar everyday items as canned goods has brought big profits to the company.

What is the important key that can turn an invention into company growth? It's the patent.

Tanikei Manufacturing has acquired patents in 17 countries, including the United States and European countries, as well as in Japan.

The company's technology drew the eye of an American canned foods and beverages manufacturer. At the end of the negotiations, Tanikei Manufacturing transferred the rights to its invention, and the American company commercialized products using it.

This is one example from Japan's small and medium-sized enterprises. The development of unique new technologies and high-value-added products can stimulate industrial growth and activate the national economy.

This graph shows the relationship between economic activities and the creation of intellectual works.

You can see that the increase and decrease in the number of patent and trademark applications is closely linked to economic growth.

Establishing an intellectual property rights system is, in fact, essential for economic growth.

If the national government highly encourages the development of new products and technologies, but does not carry out proper examinations, the rights granted are unstable and lack a clear scope of use. Even if you acquire those rights, you may have difficulty using them.

However, if a proper examination has been carried out and a stable right is granted, the company can then actively use it. The profits gained by the use of the right can then finance more research and development projects, and the company's operations are likely to expand. This in turn activates the market and the whole industry. It also promotes trade and investment from overseas countries, leading to the nation's economic growth.

This is why it's so important to carry out proper examinations on technologies for which applications are filed and stabilize the rights system.

We hope you now understand the role of an intellectual property rights system.

Now, we'll introduce the Intellectual Property Rights System in Japan.

As shown here, there are many types of intellectual property rights.

The four rights strongly connected with industrial activities are called "industrial property rights". They are patent rights, utility model rights, trademark rights, and design rights.

Let's take this mobile phone as an example.

High-technology inventions such as its compact, long-life, and lightweight lithium-ion battery are protected under "Patent Rights".

And the device consisting of an antenna structure that won't suffer from reduced reception sensitivity when stored inside the body is protected under "Utility Model Rights".

Here, we can see the manufacturer's trademark. This kind of trademark that differentiates the product from those of other companies is protected under "Trademark Rights".

Moreover, the shape of the body, which is slimmer than current products, the pattern, the color, and other details are protected under "Design Rights".

So far, we've looked at industrial property rights in Japan. This "Intellectual Creation Cycle" clearly indicates the workings of the Industrial Property Rights System.

If we consider the workings of the Industrial Property Rights System in Japan together with it, we can gain an understanding of the Intellectual Creation Cycle's concrete flow.

At the stage of "Creation", companies carry out creative R&D activities related to inventions, devices, designs, and trademarks.

If the created product for which an application is filed satisfies the registration terms of the examination, it obtains industrial property rights. This is the stage of “Protection”, at which the rights are now protected.

When a right is granted based on a proper examination under the established Industrial Property Rights System, the applicant acquires stable patent rights which clearly explain the scope of use and the owner of the rights.

Using the patent rights or design rights to commercialize company products, or to enter into a licensee agreement, makes it possible to recoup the money spent on R&D. In addition, by utilizing the trademark rights for a company emblem to add extra value to company products or the corporate image, it's possible to differentiate the product from those of other companies. This is the stage of “Utilization”.

The profits gained by using this intellectual creation can be reinvested in further R&D, so this links back to the “Creation” stage.

This cycle generates company vitality, which leads to the development of the national economy and society in general.

Next, we'd like to explain aspects of the Intellectual Property Rights System other than industrial property rights.

First, the Unfair Competition Prevention Law.

The purpose of this Law is to ensure fair competition among entrepreneurs and the full implementation of international agreements.

Promoting fair competition between entrepreneurs is designed to protect private interests in the form of entrepreneurial business interests, and public interest, through the maintenance of fair competition.

Laws such as the Patent Law and the Trademark Law protect intellectual properties by giving certain rights to objects. By contrast, the Unfair Competition Prevention Law functions in a restrictive manner to protect intellectual properties by prohibiting certain acts as “unfair competition”.

Next, let's take a look at the Copyright Law.

The Industrial Property Rights System, including the Patent Law, the Trademark Law, and the

Design Law, mainly aims at “industrial development”. However, the purpose of the Copyright Law is to contribute to “the development of culture”.

The main feature of the Copyright Law is that, unlike in the case of Industrial Property Rights, it does not require the procedures of “application” and “registration”. A work automatically has copyright protection the moment it is created.

Let’s look at works that are protected by the Copyright Law.

The term “work” means “a production in which thoughts or sentiments are expressed in a creative way” and “which falls within the literary, scientific, artistic, or musical domain”.

As the work must fall "within the literary, scientific, artistic, or musical domain", industrial products are basically *not* protected under Copyright Law.

Works that *are* protected under Copyright Law include novels, comics, paintings, cinematographic works, animation, musical works, and computer programs.

This has been a general explanation of the role of the Intellectual Property Rights System. From Chapter 2, we’ll introduce each of the industrial property rights.

End of Chapter 1