August 2015 No. 10 DENISHI Connections

This Magazine is published as part of the Intellectual Property Cooperation in Human Resource Development Program of the Japan Patent Office. The aim of this Magazine is to follow up on training programs through the dissemination of information to IP Friends, those who have completed training courses of the above program. We very much hope that the information in this publication related to intellectual property, and the comments from either IP Friends or lectures, will prove beneficial to you in your work.

p IP IP



JAPAN PATENT OFFICE

【The meaning of 縁 (Enishi)】

"Enishi" refers to the bond created between people when encountering someone they were destined to meet. We have chosen this term as the title for our publication because we are all members of the Intellectual Property community, and the bonds created between us extend beyond national borders. We hope that you will use this informative publication to deepen the "Enishi" you have created with your IP Friends.

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FY 2015 Training Courses List

Training Programs (short)

	Course Title	Length	Term
1	JPO/IPR Training Course for IP Practitioners	2 weeks	June 15-26, 2015
2	JPO/IPR Training Course for IP Trainers	2 weeks	June 17-July 1, 2015
3	JPO/IPR Training Course on Managing IP	2 weeks	June 29-July 10, 2015
4	JPO/IPR Training Course for Practitioners Specializing in Trademarks	2 weeks	July 2-15, 2015
5	JPO/IPR Training Course on Patent Examination in Spe- cific Technical Fields for Latin American Countries	2 weeks	July 13-24, 2015
6	JPR/IPR Training Course on Substantive Examination of Design (Basic Program)	2 weeks	July 23-August 5, 2015
7	JPO/IPR Training Course on Promoting Public Awareness of IP	1 week	July 28-31, 2015
8	JPO/IPR Training Course on Trademarks for Myanmar	2 weeks	August 24-September 3, 2015
9	JPO/IPR Training Course for Practitioners Specializing in Patents	3 weeks	August 24-September 11, 2015
10	JPO/IPR Summer Training Course	1 week	August 27-September 4, 2015
11	JPO/IPR Training Course on Patent Examination Practic- es for ASEAN Countries	2 weeks	September 7-18, 2015
12	JPO/IPR Training Course on IP Administration for LDCs	1 week	September 24-October 2, 2015
13	JPO/IPR Training Course for IP Protection Lawyers	3 weeks	October 5-23, 2015
14	WIPO Training Course on the Use of Information Technol- ogy in Industrial Property Administration under the Japan Funds-in-Trust	2 weeks	October 26-November 6, 2015
15	WIPO Training Course on the Industrial Property Examina- tion-Intermediate/ Advanced Program (Patent I, Trademark & Industrial Design) under the Japan Funds-in-Trust	2 weeks	November 9-20, 2015
16	WIPO Training Course on the Enforcement of Intellectual Property Rights under the Japan Funds-in-Trust	2 weeks	November 30-December 10, 2015
17	JPO/IPR Training Course on Patent Examination Stan- dards	1 week	January 8-15, 2016
18	JPO/IPR Training Course on Anti-Counterfeiting Measures for Practitioners	1 week	January 14-22, 2016

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		Course Title		Term
1	19	WIPO Training Course on the Industrial Property Examina- tion - Basic Program (Patent & Trademark) under the Japan Funds-in-Trust	2 weeks	January 18-29, 2016
	20	JPO/IPR Training Course on Trademarks for Indonesia	1 week	January 27-February 2, 2016
	21	JPO/IPR OJT Course on Practices for Madrid Protocol Trademark Filings for ASEAN Countries 1	1 week	February 1-8, 2016
	22	JPO/IPR Training Course on Patent Examination Practic- es for South Africa	2 weeks	February 3-17, 2016
	23	WIPO Training Course on the Industrial Property Office Management under the Japan Funds-in-Trust	2 weeks	February 16-23, 2016
	24	JPO/IPR OJT Course on Practices for Madrid Protocol Trademark Filings for ASEAN Countries 2	1 week	February 18-25, 2016
	25	WIPO Training Course on the Industrial Property Examina- tion-Intermediate/ Advanced Program (Patent II) under the Japan Funds-in-Trust	1 week	February 24-March 1, 2016

Training Programs (middle)

Course Title	Length	Term
JPO/IPR Operational Patent Examination Training Pro- gram	3 months	September 24-December 11, 2015

Introduction of FY 2015 Long Term Fellowship Researchers

Ms. Trinh Thu Hai (Viet Nam)

Xin chao! My name is Trinh Thu Hai. I am working as an official for almost 10 years at the National Office of Intellectual Property (NOIP) of Viet Nam - the State Agency directly under the Ministry of Science and Technology responsible for policy, State administration and management of intellectual property.

My Division - Center for Development of Intellectual Assets - is directly under the NOIP with functions of consulting for individuals, organizations and SMEs on creation, management and development of intellectual property rights; supporting for the commercialization of intellectual assets including technology transfer, promoting innovation and operating projects and/or programs for intellectual property development.

Experience of developed countries shows that the development of a national economy strongly depend on its innovation level as well as science and technology competitiveness. Meanwhile, universities and research institutions are expected to the main source for making innovative breakthroughs and to create new technology and industry. In this sense, it is necessary to establish the effective systems to obtain intellectual property rights for research results and return them to the society in the form of commercialization. The successful utilization and monetization of intellectual assets is the best way to encourage research activities and innovation. It also considered as the best way to demonstrate the important role of intellectual property in life. In this context, the National Intellectual Property Office should play the crucial roles to support the system operate effectively.

With this approach, I chose the research theme "Role of National Intellectual Property Office in establishment and capacity enhancement of IP Divisions in university and research institutes" for this FY2015 WIPO Japan Funds-in-trust six month Study-cum-Research Fellowship Program. My research will focus on the strategy, policy, legislation system and organizational structure of Japan for supporting the establishment and operation of IP division (or TLOs) in universities and research institutes since stared point in 2000s as well as the Japan experiences in launching the system during over 10 years (2004-2015) and current situation. Based on information from interviewing various concerned stakeholders, the research shall analysis on the lessons of Japan experience and develop some proper recommendations for Viet Nam in this issue.



I would like to express my sincere thanks to WIPO, JPO, APIC-JIPII and NOIP for giving me this honor opportunity to study and research in Japan - a country I admire with my heart. The knowledge and experiences reaped here will be very valuable for my work and meaningful for my life. I also express my deep gratitude to APIC staffs, my Adviser - Professor Koichiro Kato, K.I.T Graduated School and all Japanese friends I met here for your generous, enthusiastic and friendly assistance. Thankfulness to my beloved family, dear husband and 2 children for their understanding and tireless support for completion of my research.

Training course report

MY EXPERIENCE OF THE JPO-WIPO TRAINING PROGRAM AND THE RECOMMENDATIONS FOR MY COUNTRY BOTSWANA

Ms. Keletso Desiree Linchwe (Botswana) Systems Analyst-IPAS IT Facal Point, Registrar of Companies and Intellectual Property, Ministry of Tradee and Industry



Ms. Keletso Desiree Linchwe

(WIPO Training Course on the Use of Information Technology in Industrial Property Administration under the Japan Funds-in-Trust, Oct. 27-Nov. 7, FY2014)

1. INTRODUCTION

The Japan Patent Office (JPO), in cooperation with the World Intellectual Property Organization (WIPO) organised a training course on The Use of Information Technology in Industrial Property Administration under the Japan Funds-in-Trust, from October 27 To November 7, held in Tokyo, Japan. The training was attended by 23 participants from 22 different countries being Bangladesh, Botswana, Brazil, Brunei, Cambodia, Chile, Egypt, India, Indonesia, Kenya, Lao PDR, Malaysia, Mexico, Mongolia, Myanmar, Pakistan, Papua New Guinea, Philippines, Thailand, Viet Nam, African Regional Intellectual Property Organisation (ARIPO) and the Organisation Africaine de la Propriété Intellectuelle (OAPI).

The training programme was facilitated by 12 trainers from WIPO, JPO and Asia-Pacific Industrial Property Centre, Japan Institute for Promoting Invention and Innovation (APIC-JIPII). There were also some observers from JPO during the training course. The observers were interactive with both the trainers and the trainees throughout the course.

2. OBJECTIVE

The objectives of the training course were to familiarize the participants with the recent developments in Information Technology in relation to Industrial Property administration, dissemination of Industrial Property information, and provision of online services; to impart practical knowledge of the latest tools and technologies via interactive sessions, as well as through visits to relevant entities; and to provide an opportunity to exchange views and concerns among participants on topical related issues, and thereby enhance the participant's professional capacities in planning and managing the use of information technology in Industrial Property administration.

3. COUNTRY REPORTS, DISCUSSIONS & TOPICS COVERED

I present the topics that were covered and my analysis on them below;

3.1 Current Conditions and Future Direction of Industrial Property Rights Administration

This topic gave an insight into the role of JPO in Japan, the structure and how JPO relates to other offices within Japan, the JPO Budget, the application statistics, measures taken by the Government of Japan to ensure that its "nation is built on Intellectual Property", reinforcement of examination system and improvement of examination efficiency, how JPO supports Small Medium Enterprises (SME's) and how that contributes to the growth of the national Economy.

This topic gave me an opportunity to compare Botswana's IP conditions to that of Japan. I learnt that IP Protection is dealt with at a very high level in Japan. The Prime Minister and the Minister of Economy, Trade and Industry are actively involved in IP matters which has helped cut down on a lot of red tape and lack of understanding and thus has improved not only the operational efficiency but economic growth in Japan.

There are 2 837 employees of JPO as of Financial Year 2014 and the total JPO Budget is US\$ 1.26 Million just for IP business operations as the office is just an IP office, while Botswana has just over a 100 employees and only just 15 of these employees being that of IP. However the difference in the number of employees could be due to the fact that JPO is a very big office compared to Botswana, Japan has a much bigger population and also a strong indication that Botswana is incapacitated in IP human resources. However when assessing matters of the budget ratio, Botswana has a much smaller IP Budget, which could be an indication that Botswana has very little activity on IP compared to JPO. In the Financial Year 2014/15 the JPO IT Budget took 21% of the whole organization's budget while Botswana's IT budget is just 6%.

In the past 5 years Japan has had an average applications of 328,000 Patents, while Trademarks are at 118 000, Industrial Designs at 31 000 and Utility Models at 8000 per year. Botswana has only an average of 14.4 Patents (0.004% of JPO), 1067 Trademarks (0.9% of JPO), 8.6 Industrial Designs (0.02% of JPO) and 2.6 Utility Models (0.03% of JPO) applications. These statistics suggest that applications to Botswana office are way too little compared to that of Japan's and thus also very little collection in IP revenue.

Along with improved IT System, the Japanese have also shown to be very hard workers with very strong work ethic. The Government of Japan has established Headquarters to Promote Accelerated and Efficient Patent Examination, with the Minister being the Director of that office. A comparison of a Patent Examiner in Japan was made to that of Europe and America and it was found that in the year 2012, an examiner in Japan handled 239 cases in a year, while an examiner in America handled only just 77, while in Europe an examiner handled only just 51 cases. According to the African Regional Intellectual Property Organization, (ARIPO), which is an organization where Botswana patents are examined, there were 603 Patents applications from Botswana and 205 registrations in the same year.

In my own opinion, the above is an indication that Botswana needs to improve its general IP Awareness, understanding of the importance of IP to the economy, improve the number

and capacitate Human Resources as well as have enough financial budget in order to improve IP Protection in Botswana.

3.2 Presentations, Explanations and Discussions of Individual Country Reports (22 countries)

WIPO and JPO had required that prior to the training course each participant should submit a "country report" and make a presentation at the course regarding the current automation status of the intellectual property office as well as other relevant issues such as future automation plans and the use of IT.

This topic provided a perfect platform to learn from other participants, share experiences during presentations and also an appreciation of the flexibility of the Industrial Property Administration System (IPAS) its use across different countries with different IP Laws. Some countries were new to the IPAS system, while other countries had just rolled it out. There was a lot of interaction with the trainers and observers during country reports presentations. This was a very rare opportunity to get to learn from 22 different countries at the same time.

I was particularly interested in the Indonesian country report as I learnt during the presentation that the environment was similar to that of Botswana only that the ICT Solutions that were already implemented by WIPO in Indonesia were more advanced than that of Botswana. The feasibility of getting Botswana to be where Indonesia is, is realistic on a short term and on a long term basis.

The Botswana IP Act was reviewed in 2010 to align it to International treaties, agreements and conventions to which Botswana is a member. The new Act now includes Geographical Indications Trade Secrets and Traditional Knowledge however Botswana has not yet come up with operational workflow processes which are needed to guide the system configuration and thus incorporation of these new aspects of IP into the system.

Indonesia has already incorporated all these including the Integrated Circuits into the system. Indonesia is currently working on customizing the IPAS System to include copyright and the project is expected to finish by end of 2014.

Indonesia has been chosen by WIPO to be a pilot office for the ICT Solutions. Indonesian IP operational services are paperless, the ICT division is driving the organization to reach its vision and mission which is exactly alongside Botswana's own e-Government initiative where all government agencies are expected to digitize their operations and provide online services to provide excellent service to the public.

In view of the above I believe that the organization which I work for; Companies and Intellectual Property Authority (CIPA) should bench mark with Indonesia IP Office to be in a better position to make use of IT in the administration of Intellectual Property and take the office to the next level.

Another interesting country report was from ARIPO as they are in the processes of developing a new system which has functionalities of communicating with other IP systems within the ARIPO member states. ARIPO's new system id named POLITE+. Currently Botswana's Patent examination is done in ARIPO and we are currently sending paper documents via EMS to Zimbabwe. Thus Botswana IPAS System can be integrated with that of ARIPO and the two systems can be able to exchange and view each other data. This will help reduce the mailing costs that Botswana is currently incurring by sending documents to ARIPO and also significantly improve the operational efficiency.

3.2.1 Statistics

Each participant was required to include IP Rights applications, registrations, *substantive examination* approval and rejection statistics in their country report. During *Country Report* presentations participants were asked to explain the trends in their statistics, if for example, trademarks have had a significant downward fall you have to explain the reasons why the statistics are like that. Some statistics were suggesting that there is inefficient use of the system, while some statistics suggested growth in the applications which in turn also showed growth in the country economy. I have learned that analysis of such statistics by the management team is very important as it could highlight the areas of improvement, e.g refresher training of user's on the efficient use of the system by IT staff.

3.3 Overview of IP Services, Business Development and Project Management

This was an overview of WIPO's Intellectual Property Office Business Solutions Division (IPOBSD). This division's mission is, "To *provide tools and services that enable IP Offices around the world to participate in global IP Systems efficiently and to address the needs of offices to collaborate in an increasingly global environment*".

IPOBSD is responsible for Business Development, Project Deployment across WIPO member states and also Software Development within WIPO. As a member of WIPO, Botswana can benefit freely from the products and services that are currently available from IPOBSD which are as follows;

- Consulting/ Advisory Services
- IPAS
- \cdot WIPOScan
- WIPO CASE (Centralized Access to Search and Examination)
- DAS (Digital Access Service)
- \cdot WIPOFile
- Publication Server

WIPOScan, WIPO CASE, DAS, WIPOFile and Publication Server are new technologies from WIPO. Botswana has only just partially deployed WIPOScan in May 2014 as it is dealing with front files only, (These are files or any correspondence between the office and the clients as of the 1st of June 2014). Backlog files are to be dealt with in the second phase of WIPOScan solution which will depend of the office on when it will be ready to deploy it. The above technologies were further discussed in topics of their own and they are covered below.

3.4 WIPO Publication Server

WIPO Publication Server expands the limitations of search capabilities of other ordinary websites and supports the storage of publication data of all types of IP rights. The search capabilities include indexed bibliographic and full text information, legal status, citations and image information. The Publication server does not support payment for searches however since the *Electronic Communication and Transaction Act* has been approved in Botswana, the office can develop its own website that could be used for payments and then linked to the Publication Server.

The administration interface can also be customized to meet the needs of each office. WIPO Publication server uses search technology to search into the database, the server does not have the database itself.

3.5 WIPO File

WIPO File is one of the new IT solutions used for online submission of applications and supporting documents by applicants and agents. It is a modular and extensible system that can be developed into a full online filing system by integrating with local payment and authentication systems.

WIPO File solution can be deployed to Botswana. However our current IPAS System will have to be upgraded to a new version called IPAS+. IP Agents can do online filling from their own offices and do the capturing work themselves. The captured data will go into our IPAS database as they will be using the WIPO File application that would have to be downloaded and installed into their computers by themselves. Agents can then physically come to the office with their WIPO File number that would have been generated by the system for payments, and then the file/application can then follow the normal process and proceed to substantive examination. Once the *Electronic Communication and Transaction Act* is being implemented, the agents can always pay online for all their IP transactions without a need to come to the office.

WIPO File has a fee calculation module and this can improve the IPAS System to actually receive some payments. However anyone using WIPO File will have to first register with the office to allow creation of individual accounts. For now WIPO File is recommended for use with Agents only. Botswana's IP agents account for more than 80% of IP transaction while the rest are individual clients.

In Botswana, WIPO File solution can be used to reduce/eliminate paper filling, reduce ques and the capturing and thus help the office to concentrate more on the next step after capturing (Formalities Check) and other pressing matters within the office like backlog. If "Formalities" are ok, the system can also be configured to automatically send an email to request for payment or for missing formalities if there is something missing. However the system will also automatically produce an output office document (letter) to inform the Agent/Client of the current status of their application and what to do next. The Japanese IT System does automatic Formalities Examination and rejects or accepts the application and also accepts payments if *formalities* are ok, the JPO Formalities examiners also go through *Formalities Examination* to double check minor errors. This technology has significantly improved the JPO work efficiency. This solution is possible and ideal for Botswana environment too.

3.6 WIPO Scan, EDMS and IPAS+

The Electronic Document Management System (EDMS) enables the office to create electronic files to reduce or eliminate paper based workflows. EDMS works with WIPOScan software to digitize IP Input and Output Documents, including indexation, quality control, and formatting of electronic documents.

As already explained in this report, Botswana has already deployed WIPOScan-EDMS in May 2014. However Botswana is only dealing with Front Files only (1st of June 2014 onwards). Digitization of the backlog files will be implemented on the second phase of WIPOScan-EDMS project.

Currently the workflow process of digitization starts with Scanning, Document Indexing, Image Enhancement and Finally Exporting to EDMS Server. However, there is a version of IPAS being IPAS+ that will improve this process. IPAS+ can be configured to automatically print a Quick Response (QR) Code with every transaction that is processed on the system. The QR Code can then be scanned together with the Output and/or Input and WIPOScan+ system will automatically index the scanned documents into their respective files. This new technology will reduce the number of temporary employees there will no longer be need for human resources who could manually index IP documents and thus reduce costs temporary staff to the organization. This will also help reduce backlog on the EDMS Project as the staff that is currently indexing will only concentrate on scanning backlog and other areas where they are needed. There are currently over 3000 documents that require scanning and indexing into the system.

3.7 WIPO CASE

WIPO Centralised Access to Search and Examination (WIPO CASE system) provides a web portal platform to share information with regards to search and examination reports among participating local intellectual property (IP) offices.

The objective of this application is to improve the efficiency of the Search and Examination process done at local IP offices. Time taken for examination work can be reduced by sharing information. The local IP office can carry out further examination work if deemed necessary after analyzing existing information of any equivalent filing at another participating local IP office.

This system was initially developed by the International Bureau in response to a request from the Vancouver Group offices (the patent offices of Australia, Canada and the UK) Since March 2013, any patent office may join the system by notifying the International Bureau that it is willing to participate according to the framework provisions of the system.

WIPO CASE is not relevant in Botswana at the moment because Botswana does not do *Substantive Patent examination*. However WIPO CASE should be strongly considered in the future when Botswana does have the required capacity to Substantively Examine Patent.

There are two different levels of participation possible:

Accessing Office - Examiners at the accessing office have access to the WIPO CASE web portal and can use the system to search for patent applications at other participating offices and to retrieve the documents that are made available by those offices.

Depositing Office - The depositing office makes available the search and examination documentation for patent applications filed at that office. Technically, this may be done by uploading the documents into the WIPO CASE system hosted by WIPO, or by making the documents available to the WIPO CASE system via secure web services.

3.8 WIPO DAS

The WIPO Digital Access Service (DAS) is an electronic system allowing priority documents and similar documents to be securely exchanged between participating intellectual property (IP) offices.

The system enables applicants and offices to meet the requirements of the Paris Convention for certification in an electronic environment. Traditionally, applicants have been obliged to request certified paper copies of documents from one office and then submit those documents to other offices. DAS allows applicants to simply request the first office (known as the *Depositing Office* or *Office of First Filing*) to make priority documents available to the system and then to request other offices (known as the *Accessing Offices* or *Offices of Second Filing*) to retrieve those documents via the service. The exchange of documents then takes place electronically between the offices.

The service is intended for use with documents related to patents, utility models, industrial designs and trademarks. At present, it is used for priority documents relating to patent applications. It will be extended to other IP rights, such as industrial designs and trademarks, once the participating offices have made the necessary operational and technical changes.

3.9 WIPO Global Brand Database

WIPO Global Brand Database allows users to perform a trademark search by text or image in brand data from multiple national and international sources, including trademarks, appellations of origin and official emblems. The search results display the brand, source, country of origin, the owner, Vienna and Nice classes

3.10 Recent Developments on Regional and International Cooperation to share IP Information

It has been observed that there has been a worldwide surge in patent applications due to globalization of the technology market. Users are seeking IP protection in multiple International markets at once through systems like Patent Corporation Treaty (PCT) and Madrid system. In the past applicants had to file different applications in each country, which led to multiple searches, examinations and redundancy which in itself created work inefficiencies and additional cost and time to the applicants.

Botswana has incorporated the Madrid System into IPAS but still needs PCT and the Hague system in the future.

3.11 JPO IT System

JPO used to do paper filling back in the 70's, then in the year 1984 a paperless project was started and the IT Division was born. In 1990 the E-filling was started and in 2013 the Information Technology and Patent Information Management office was started to meet the growing demands of applications.

The JPO IP System is paperless from initial application to registration. Paper filling is still available, however applicants who opt for paper filling are charged more as a measure to discourage the inefficient paper filling system.

In the year 1990 when the e-filling system was started in JPO it was recorded that 43% of patent filling was done online. In 2013, the Patents Online applications were at 98%, Trademarks at 82% while appeals and PCT national Phase applications are 99%, Industrial designs at 92% and PCT International Phase at 95%.

It must be highlighted that the JPO IT System also does automatic *Formalities Examination* as already mentioned above. A journal is also published online for free. However, the JPO Journal is published before registrations so as to encourage improvement on the published inventions/Innovations thus the interested applicants would have more and more quality inventions/innovations as the keep on improving the published technologies. The journal is also stored in CD's and DVD's and shared with affiliated local and International organizations.

The JPO System is also linked with a couple of search systems like WIPO CASE and WIPO DAS mentioned above, Advanced Industrial property Network (AIPN) which has over 65 countries, One Portal Dossier (OPD) System which offers real time access amongst 5 countries. These systems enables retrieval of patent application and examination result information at one stop and contributes to enhanced work sharing amongst offices. JPO also exchanges information with other offices like the United States Patent and Trademark office (USPTO), Korean Intellectual Property Office (KIPO) and European Patent Office (EPO) amongst many other offices. The system also has a strong security management system but the office would not share in detail as by doing so will be breach of the IT security.

The backup is acquired and stored in an external store house and the server is duplicated for emergency situations.

The JPO IT system is very big and has so much system functionalities that cover a lot of Business Solutions. Some of the solutions are outside of the Botswana's scope but it gives a glimpse of the endless possibilities that ICT solutions could offer.

3.12 Program Management office

The JPO System and projects are so huge that the office found it necessary to open a Programme Management Office to deal with both the long term and short term IT projects. The organization was established to promote the projects through appropriate decision making by top management.

3.13 Digitisation of IP Information for efficient work

JPO has digitized and is digitizing incoming paper documents to make the entire data machine readable to improve efficiency and administrative procedures and retrieve IP Information. Approximately 98% of IP applications are filled via the e-filling software. As already mentioned above, the *Formalities Examination* is done automatically by the JPO system. The remaining 2% of applications will then have their paper filled applications digitized first and then made into machine readable data to allow the JPO System to automatically examine formalities.

In 2013, JPO had received more than 328,000 applications which is very huge number, thus digitizing has become an essential element of the work processes as the JPO System does the automatic examination instead of humans. This has improved operational costs and efficiency.

3.14 International IP Information-Sharing for Work Sharing.

Work sharing though systems like WIPO CASE and WIPODAS have improved the quality and efficiency of IP Offices. It was reported that;

- In 66% of the cases, examiners found new prior art by sharing search reports from other offices (WIPO CASE group of examiner exchange)
- In 88% of cases, feedback resulted in additional citations. In 53% of cases, feedback resulted in changes to Written Opinion (European Patent office (EPO) progress report on PCT collaborative search and examination).

Collaborative work may increase initial costs, but overall costs decrease.

4. PERSONAL GOALS

Prior to the training course participants were also required to submit their expectations of the course and fill in the target goal sheet with five personal goals that they would like to achieve. At the end of the course the participants were given a self evaluation form to assess the extent to which the initial targets were met. Below are;

 The first goal that I had on my Target Goal Sheet was to be able to apply a 100% of my learning capacity during lessons. I feel I have achieved about 95% of this and could have lost the other 5% due to a normal loss of concentration here and there. I have been able to participate adequately to the best of my ability.

I have also been able to ask the necessary questions where I did not understand and the lectures have been able to answer my questions satisfactorily.

- 2. My second goal was to go back home to implement what I have learnt in Japan and thus enhance my IPAS Administration professional capability. This goal has had areas that I have identified as discussed above. Thus I feel once the office implements those areas in my country I would have achieved a 100% of my target. It is worth noting that WIPO has already met with Botswana office to discuss some of the WIPO solutions I learnt about in Japan for possible implementation in the near future.
- 3. My third goal was to get to interact well with my fellow participants, share knowledge and experience. I feel I have achieved a 100% of this target goal as I got to learn a lot from other participants through their country reports presentations.

5. RECOMMENDATIONS

Through this training course, I came back to Botswana and made the following recommendations to the organization that I work for. As I already mentioned above, some of these recommendations have already been discussed with WIPO for possible implementation.

- Install new version of IPAS, which is the IPAS+. This new version has new enhanced functionalities of receiving. Some of the functionalities include the QR Code for use with our WIPOScan Project.
- WIPO-File: Since the e-legislations law has been passed, we can acquire this technology and use it. This will allow customers; preferably the agents to file and capture the initial information required which will then be stored in our database as already mentioned above. The agents will only physically come to the office for payments. This will reduce the paper work thus reduce the cost to the office, ques and the capturing work thus improve the office's operational efficiency.
- The CIPA trademark examiners to access the WIPO global brand database as it has improve image search features required for quality examination.
- Deployed the WIPO Publication Server. Currently our customers can view registered trademarks on our website, however there is limitation as our customers can only view trademarks names. The WIPO publication server can allow our clients to also search some figurative marks, patents, id's and UM's general information. However we need to integrate the WIPO Publication Server with a separate payment system as we do charge for searches in Botswana.
- Using the WIPO IPAS API link the companies' registration system with the relevant IPAS tables so as to allow the two systems to communicate and verify payment details. Currently there is duplication of work by IPAS systems user's as they have to re-enter the payment data including the amount on the IPAS system when the companies revenue users have already done that. This poses a risk on human error as wrong information/inconsistencies can be entered. Again by eliminating the manual system in this regard, this will also reduce capturing work and thus improve the operational efficiency.
- · The Registrar General of the Botswana Companies and Intellectual Property Authority

has a vision of a paper-less system. I would recommend bench marking in the Indonesian Intellectual Property office. The Indonesian IP is where our office envisages to be at in the near future. Bench Marking in Indonesian office will provide learning and practical experience of using IT to administer IP processes.

- Interface our IPAS System with ARIPO's Polite+ system to reduce costs and improve operational efficiency.
- The Japanese have a very strong work ethic and improved work processes through the use of IT. I strongly recommended that in the future the office should send both our Patent and Trademark Examiners for benchmarking in Japan to help motivate and instill a new culture of work in them, where work also becomes an employee's passion and intrinsic satisfaction of good performance.
- All IT Staff supporting IP Division to undergo an online WIPO Training on "General Course on Intellectual Property (DL 101)" and to learn the IP Business processes. IP is a very complex and specialized field, a clear understanding of IP is necessary to implement and provide appropriate solutions.
- WIPO should be consulted on the possibility of joining the WIPO DAS in the future.
- Patent sharing information with JPO should also be considered. JPO is keen with Data Exchange with IP offices. Exchange of data would expose Botswana to thousands of Japanese companies that access the highly advanced JPO system. This would allow Japanese companies to do prior art search before filling to Botswana, clearance search and survey technology trend in our country. Thus the Japanese companies would have an enhanced understanding of IP situation in Botswana. Botswana would also benefit as above but would also have the possibility of an increase in IP Applications and rights thus a contribution to Botswana's economic development.



I would like to describe my stay in Tokyo using the French adage "Joindre l'utile et l'agréable" which means literally in English "To join the useful and the pleasant".

Ms. Hanta Niriana Raharivelo (Madagascar) Patent and Industrial Design Examiner, Malagsy Office of Industrial Phopenty (OMAPI) (WIPO Training Cource on the Industrial Property Examination Basic Program (Patent & Trademark) unde the Japan Fundsintrust, Jan. 19-30, 2015)



Ms. Hanta Niriana Raharivelo

I know Japan especially through "manga", which I like very much. But I never expected that one day I would have the opportunity to visit Tokyo. Before leaving my country for Tokyo, which is about a 15 hour flight including one stop in Bangkok, I was a bit stressed and excited at the same time. This was because not only was it the first time for me to go there, but I was also traveling alone to a country where the city and culture are totally different from mine. Also, my office was expecting good results from the training course.

I arrived there at about 6 p.m, and it was already dark because it was the winter season. But I could manage to arrive to the TKC center. It is always amazing to visit and see such a developed country, with its high buildings, very large streets, railways and subways etc... especially for people who come from a poor country like mine. I sometimes got lost, because it seemed to me that all of the streets looked a bit the same. I was also not used to such big infrastructure. But in any difficult situation, I was able to rely on Japanese peoples' kindness. As a result, I felt at ease visiting the city alone, especially during the weekends spent going here and there.

Although I missed some interesting sites such as the great Buddha, I was able to visit Akihabara, my favourite place as a manga fan, and it was a real pleasure for me to be there. My main mission there was to find my favourite manga figurines. I can also say that I learned a lot walking alone around the city of Tokyo, and how I reacted when facing the unknown.

I additionally noticed that Japanese people are always in a hurry, but it was explained to me later that they do not appreciate it when people are late.

The second thing I enjoyed during my stay in Tokyo was meeting new friends of different nationalities. I was able to share with them their culture, experiences etc. I cannot say that we became close friends, but the two weeks passed with them was very enriching.

Apart from discovering the city, I would like to explain the aim of my visit in Japan. I was invited from my office to do a basic training course on IP examination. It was the first participation from my country in such training course organized by the World Intellectual Property Organization (WIPO) and the Japan Patent Office (JPO).

Our office is still small, and it seems like we were playing in the big leagues during the training, since it took place in a very big IP office. I felt very lucky to be there and have the opportunity to follow this course. At the beginning, my target goal was to improve my ex-



amination and take the benefit of this training, even if it was just to learn how to conduct a basic patent examination.

Step by step, during the training course, I was able not only to strengthen what I had already known about patents—but also update my knowledge regarding the Japanese industrial property system and its environment.

The case studies which illustrated the course made it easy to understand. And I can say that through this training, I took advantages for my own experience and for my every day task at my office, because I was able to improve my job.

I noticed that from examples given to us, the Intellectual Property culture is part of Japanese everyday life; this was proved from statistics given to us.

I told myself that it was normal for Japan to be among the high-ranked developed countries Not only do they include intellectual property efficiently in their lives, but I noticed too that they are hard workers.

From this experience, I can say that I gained much. First of all, I visited a town to which I never thought to go one day, and where I was also able to see snow for the very first time. I also made new friends in some parts of Asia and Africa, because I estimate that friendship is important in life. And last but not least, I can move forward in my task as a patent examiner and make improvements in our examination.

So many thanks to those who contributed to this marvelous adventure!



My experience of Training Course in Japan

Mr. Moises Paulo Romero Cabrera (Mexico) IP Lawyer, Industrial Property Specialist, Mexican Institute of Industrial Property (IMPI)



Mr. Moises Paulo Romero Cabrera

(WIPO Training Course on the Industrial Property Examination Intermediate/Advanced Program under the Japan Funds in Trust, Nov. 10-21, 2014)

Before telling you about my course experience, allow me to introduce myself. My name is Moises Romero, and I'm a lawyer working at the Mexican Institute of Industrial Property in the Trademarks Division. I used to be a trademark examiner in substantive exams and denial resolutions. I was also a supervisor in the denial resolution area. Since May 2015, I have been working as a trademark coordinator.

This story begins in mid-2014, when the Trademark Deputy Director asked if I had an English certificate and if I was interested in participating in a training course. Obviously, I said yes, but she never told me where it would be. Days later, she told me that the course would be held in Tokyo, Japan. I was surprised in many ways. First, because there were possibilities to travel to Japan representing the Mexican trademark office, and Japan was one of the countries I desired to visit.

I filled out my questionnaire, and weeks later, received an email informing me that I had been selected to attend the Training Course on the Examination of Industrial Property (Intermediate/Advanced Program), which would take place from November 10 to 21 that year. I did all the paperwork (such as selecting flights and changing money (Mexican peso to yen), then, on Friday, November 7 at 10 pm, I left Mexico City bound for Tokyo. We stopped in Monterrey, and from there, traveled to Narita Airport.

During the flight, I studied and prepared my presentations, because during the course I had to present on two topics: the Mexican Trademark System and Case Studies. It was of great help to be able to prepare for this during this long plane journey to Tokyo. After 17 hours, we arrived on Sunday morning at 6:40 a.m. We got off the plane, picked up our luggage (the course was also attended by two coworkers, a patent coordinator and a utility model examiner), and after clearing customs, bought train tickets to go to our hotel (Ayase Kokusai Hotel), where we would stay for the next few weeks.

We arrived very early, even before the check-in time, so we left our suitcases in the lobby and decided to walk around the Ayase area. We walked through a park, bought something to eat (we were starving), and then went to the hotel to rest for a while. That night, we went out to buy some dinner, walked a while longer, and then returned to our rooms to sleep.

On Monday, November 10, the meeting time was at 8: 30 am at the Ayase Kokusai Hotel. Representatives of each group (trademarks, patents and utility models) were in the hotel lobby to pick us up and explain our travel route and how the Tokyo subway works. We ar-



rived at Kasumigaseki station then walked to the premises of APIC. On the first day, the organizers welcomed us (JPO-APIC-JIII-WIPO) and we attendees formally introduced ourselves. We then began the course, and for lunch, we went to the JPO dining room. The representatives showed us how it worked and the protocols for going in and out of the property, for example: when we entered and left the JPO building, we had to place our JPO pass over the scanner. Most importantly, taking photos was prohibited within the JPO premises, unless we had permission, but we couldn't take photos of people other than the trainees. On that day, in the afternoon, we visited the JPO premises again, this time to learn about the Appeal Court and its operations (the trial, appeal and opposition system).

I learned a lot during this training course, on one hand, because I became familiar with how the Japanese work in the Intellectual Property field (specifically the case of trademarks). For example, I learned about things such as the Japanese opposition system; the trademark system and trademark law; the types, roles and functions of trademarks; trademark principles; reasons for refusal; examination operations on indication and classification of goods and services; protection of well-known and famous trademarks, and the unfair competition prevention law in Japan; and IP management in enterprises. On the other hand, because it was a multicultural course where several countries participated, we were able to exchange experiences regarding our own IP offices, so I had the pleasure of sharing the classroom with examiners from India, China, Malaysia, Indonesia, Philippines, Thailand, Turkey, and Vietnam, as well as our host country, Japan.

On November 14, we visited the JPO again, this time for OJT (On the Job Training). An examiner explained to us how the trademark system works in relation to the Madrid Protocol, and the work flow of the Madrid Protocol examination. After his explanation, the group was divided into teams. Trademark examiners worked with us, and taught us to review and consider an application via the Madrid Protocol system through the Japanese trademark system.

In the case of the trademark group, the organizers asked for each participant to prepare a country report presentation regarding the trademark system of our respective countries, and a presentation regarding case studies on trademark examination issues. For the first, we had to briefly introduce our respective IP offices and the trademark system of our country, including topics such as the trademark judicial system, IP-related organization, and trademark examination. For the second presentation (case study), participants from Mexico, Thailand and Vietnam had to talk about the topic of distinctiveness. We were asked to choose two or more topics from the following list: non-distinctive marks in general (generic terms written in foreign languages), generalized terms (generalization), acquired distinctiveness (factors and threshold to admit acquired distinctiveness), and inherent distinctiveness of product or packing shape. In my case, based on the functions I performed at the time, I decided to speak on all four topics, because I had a lot of material available to present about each one, and wanted to share this with the other trainees.

Participants delivered their presentations on November 17 and 18. As I mentioned above, this being my first time as a representative of the Mexican Institute of Industrial Property at an international event, I wanted to present as much information as I could. The presentations were to have a maximum duration of 20 minutes, including a Q & A session.

During this course, all participants discussed their respective trademark systems. In addition to the issues I mentioned that were presented on by trainees from Mexico, Thailand and Vietnam, additional topics were covered by participants from other countries. For example, the Indian presentation covered "additional protection for wine and spirits under the TRIPS agreement" and "appellations of origin in foreign country"; the Malaysian one "prior trademarks (prior registered and unregistered marks)", the Indonesian one "conflicts with unregistered, well-known trademarks, and bad faith applications of famous trademarks only in a foreign country", the Chinese one "conflicts with unregistered well-known trademarks", and the Philippine and Turkish one "the protection of personal names". In addition, the host country participated in each of the presentations.

During the second week, Ms. Asako Watanabe told us that we had to pick a participant to represent us all and give a short speech at the closing ceremony. My partner, Vu Thi Phuong Giang of Vietnam, said, "Mexico, Mexico", and then said my name. Everyone turned to me and supported her choice, deciding that I should give the speech. A day before, I wrote a few lines about what I felt, and was unsure it I managed to convey everyone's feelings in that little speech—but I must confess that it was a very great pleasure. This is what I said at the closing ceremony:

"Hello, and good afternoon. First, I must share that it's such a great honor to be here, speaking for and representing all the participants, so on their behalf, I want to thank you all, the organizers at APIC, JIII, JPO, and WIPO, for the opportunity to attend this course. It was an enriching experience. Industrial Property is a field that is always in constant evolution, in constant motion. It never stops, and maybe it never will, so, as examiners, we have the duty and responsibility to be at the level that this area demands, in our respective countries, in our respective fields, and with no regard for whether this is our first training course or we have taken courses in the past, either overseas or in our countries. We must keep going. We must keep studying, preparing, and never stop, as if we are going to live forever."

Without a doubt, this was a trip that I really enjoyed. I learned a lot in this course from the contributions made by the other trainees, who presented on the way things work at their respective IP offices, shared their experiences, and discussed various topics related to trademarks.

I want to thank the people who were my bosses at that time—Trademarks Deputy Director Mayra Ramos and Trademarks Director Eliseo Montiel—for their support on this journey. I also want to thank APIC, JIII, JPO and WIPO for selecting me to attend this Training Course on the Examination of Industrial Property (Intermediate/Advanced Program).

This trip was very significant for me in many aspects: it was the first time that I left the country, the first time that I traveled representing the IMPI, and last but not least, it was my birthday on the day we arrived at Narita Airport (November 9), so, it was a great present for me. Another great memory was the day we went to Odaiba, when we ate burgers at Kua'Aina while we admired the Rainbow Bridge.

We toured Tokyo at the end of every day of the course. We visited the gardens of the Imperial Palace, Tokyo Tower, Skytree, Asakusa, Akihabara, Odaiba, Shibuya, Roppongi, and

Omotesando. On Saturday, my friends and I visited the Nezu Museum, went shopping at Oriental Market and Kiddy Land, and on Sunday, I had breakfast at Bills in Omotesando (famous for its ricotta pancakes), and then visited Meiji Shrine and Yoyogi Park. In the afternoon, I attended a performance of Kabuki at the Kabukiza Theatre.

Besides the two weeks I was in Tokyo, I spent one more with my wife on holiday. It was a pretty exhausting week because we woke up very early and returned to our hotel sometimes as late as midnight, but despite being exhausted each day, it was a trip that we really enjoyed. I took her to visit the same places that I visited during the past two weeks. We also ate at Gonpachi, a restaurant famous for being a scene from the movie Kill Bill by Quentin Tarantino. We had breakfast at Bills and at Forbidden Fruit, which is also in Omotesando. We went shopping at Kiddy Land and Onitsuka Tiger, walked around the Shibuya crossing, and visited the statue of Hachiko. We went to Nara, Nikko, and Kamakura (where we drank green tea in one of the gardens), walked thought the Fushimi Inari, Temple of the Thousand Torii, and went to the top of the hill. We traveled by Shinkansen, walked in the Imperial Gardens and Tokyo Station, ate chocolate and desserts at the restaurant of Sadaharu Aoki (a famous Japanese pastry chef), walked at night in Roppongi, and ate various desserts. I must confess that I became addicted to Japanese pastries.

Japan is a great country and is worth a visit, whether staying for business, study or vacation. It is a country worthy of admiration, with clean and safe streets, effective and timely transportation, and respectful and caring people (several times I received help without asking). The Japanese are always ready to help tourists, although the language is a barrier.

Definitely and without hesitation, I would return to Japan as a participant in a course or on vacation. It has incredible places to visit.

As a funny story, I had to buy a shirt, but as the vendor did not speak any English and I did not speak any Japanese, we had to communicate by gestures. Sometimes the language is a barrier, but with wit, you can resolve this impediment.



At the Appeal Court at the JPO with my friends and coworkers

My presentation on "Non-distinctive marks"



At Nikko, a World Heritage Site



At the top of Fushimi Inari Taisha



Articles from the former trainees

Information Technology System of Intellectual Property in Cambodia

Mr. TITH Seychanly (Cambodia) Official and Assistant IPAS Administrator Administration and Information Technology Division Department of Intellectual Property Ministry of Commerce



Mr. TITH Seychanly

(WIPO Training Course on the Use of Information Technology in Industrial Property Administration under the Japan Funds in Trust, Oct. 27-Nov. 7, 2014)

Cambodia became a member of WTO in 1995, and since then Cambodia has had to adopt a number of WTO requirements—one of which is to implement a system of intellectual property rights. Cambodia became a member of the World Intellectual Property Organization (WIPO) during that same year. A trademark bureau was established under the Ministry of Commerce in 1991, and upgraded to a Department of Intellectual Property in 1997.

The intellectual property system in Cambodia is overseen by three separate ministries. The Ministry of Commerce is responsible for trademark registration; the Ministry of Industry and Handicraft is responsible for the registration of patents, industrial designs, utility models, integrated circuits and plant varieties; and the Ministry of Culture and Fine Arts is responsible for the registration of copyrights and related rights, as well as collective management.

To facilitate the management of this IP system in Cambodia, as well as ideal cooperation with other regional and global IP offices, the National Committee for Intellectual Property Rights (NCIPR) has been created as a central management body covering all IP fields in Cambodia. This is chaired by the Ministry of Commerce (which includes the Department of Intellectual Property), and other related ministries and organizations are members.

At the same time, information technology in each ministry is different. This results in differences of improvement in each IP area, so the IT system is playing a very important role in the development of the Cambodian IP system. I would like to focus exclusively on the Ministry of Commerce's Department of Intellectual Property in this context. We have upgraded and strengthened our IT system from time to time, which has resulted in significant improvements so far to Cambodia's IP system—specifically in the area of trademarks—as well as noticeably improved IP awareness among the public. At the same time, we are facing additional challenges that we are trying to solve as best we can.

In the early stage, when we were in the Trademark Bureau, all trademark records were compiled into books. This meant that from the time that applicants filed their trademark applications, all trademark responses sent by applicants—as well as other office processes that occurred until the trademark was registered (the whole process of the trademark's lifecycle) —were exclusively done on paper. Older people have found this method to be more comfortable, since their IT and English language skills are very limited. It was very difficult to keep track of the trademark lifecycle via this method, however. Our examiners in particular have spent a very long time doing examinations, since all processes were done manually, and they had to look them up one by one in the appropriate book. These books were also sometimes lost for some reason, so there was no data. Various sorts of information— trademark applications, objection responses, registration and litigation data, for example—were all found in these books, leading to ineffective or wrong decisions. This was harmful to the trademark owners, while also having a negative effect on the department itself.

After some time, we began to use Microsoft Excel instead of recording data into books, which was a little bit better than using paper. We could find the relevant data faster, and most of all, we could manage and control the data, which enabled us to generate reports for management purposes more effectively and accurately. At first, some of our examiners found it a bit hard because their IT skills were limited, and they were mostly unable to adapt to the new ways. But after some convincing, they started to use Microsoft Excel as we recommended, and soon found it easier. Microsoft Excel especially helped examiners a lot since they did not need to do recording on paper anymore. Secondly, they did the examination faster, since they were able to search for data faster and more reliably than they could using books or papers, when they sometimes missed information. Thirdly, we were able to manage data more effectively with the reduced risk of losing data, which could happen using books or papers.

Because of the broadening of public awareness regarding Intellectual Property rights, there was an increase in trademark data from day to day. Microsoft Excel was not able to store and handle such records effectively, so we more or less had to find another solution. Microsoft Access was then introduced, which made examiners' and IT administrators' tasks easier than before. Examiners could work even faster than they did using Microsoft Excel, while IT administrators could manage and control data better and more reliably—generating reports quickly with just a click.

After a few years, the World Intellectual Property Organization (WIPO) provided the Department of Intellectual Property of the Ministry of Commerce with IPAS Centura (an earlier version of IPAS). WIPO helped with the implementation, and also provided training to both IT staff and examiners. As with the previous changes, most people were not happy at first with the changes, since they had already gotten used to the old system. But after some persuasion, they agreed to use the system. After a while, they even preferred this system to the previous one. Software for IPAS Centura had to be installed on every PC before it could be used, and examiners were very happy because this was much easier to use than the previous system. They could perform searches, examinations and data verification faster, and produce better and more accurate results.

IPAS Java, the new version of IPAS, was available until 2012. Following the recommendation of our WIPO experts, we decided to upgrade the system again to the new version, IPAS Java 2.7. With this version, there were a number of improvements. Most noticeably, we did not need to install it on every PC, as with IPAS Centura, since users could just connect to our network and then access the system directly from their web browser.

We also noticed that using IPAS Java 2.7 helped a great deal with many tasks, from receiving trademark applications to printing certificates. Since then, examination work has become

more productive and the backlog has been quickly cut down. The trademark examination turnaround time, from the filing of the application to the trademark registration, is now only six months. Everyone now feels more comfortable with this version, even though there are some small problems to be fixed and requirements to be fulfilled.

In addition to the automation system for managing the trademark life cycle, as aforementioned, we have built a website for NCIPR (www.cambodiaip.gov.kh) to increase public awareness on intellectual property rights. The website includes comprehensive information about intellectual property, which is very beneficial to all stakeholders such as students, economic police, lawyers and the general public. Students who have an interest in intellectual propertyrelated topics can do research on our website, and can contact our department via email or phone if they need further assistance. In addition, professionals including lawyers or economic police can go to our website to find information such as trademark data, which is updated daily for their perusal.

Finally, the general public—particularly trademark owners—can go to our website before they file their trademark applications to first determine whether there are similar or identical trademarks that have been applied for or registered in our department. If they find that this is the case, they can amend their trademark first before filing with our department—thereby being able to save a lot of time and money.

There are three ways that the public can search for trademark information. Firstly, they can search for trademark data that is only in Cambodia—meaning the trademark data that has been applied for or already registered with the Department of Intellectual Property at the Ministry of Commerce. Secondly, they can search for trademark data throughout the entire community of ASEAN countries, meaning all trademark data that has been applied for or registered in any ASEAN member state. Owners of trademarks who want to extend their business to other countries in the ASEAN region are likely to get their trademark protected in those countries first. By researching our website to get information in advance, they will not waste their time or money to hire agents or attorneys in those countries, since they are able to search by themselves. Thirdly, they can search for trademark data in the WIPO Global Brand database, which is now broadened. For example, if they want to file their trademark applications in other countries, especially outside the ASEAN region or through the Madrid system, for example, they can do advance searching regarding their intended trademarks. Those databases contain information such as filing dates and numbers, class, owner, status, registration numbers, etc. They are now updated at least once a week, and will shortly be updated on a daily basis.

We are presently in the process of implementing the Digitization and EDBMS Project, which is for the purpose of implementing a paperless system. With support from WIPO, our back-files—which number around one and a half million pages—are being scanned by an out-source company, which is due to be finished by the end of June 2015. Our officials are scanning the front-files—all new documents coming in and out of the department. There are many benefits to this project. Firstly, we can manage and control all documents effectively, since they are in electronic (.pdf file) form, and they can also be stored in our database with another backup. Secondly, this helps to reduce data capture work, since data from trademark applications no longer needs to be typed, and can just be copied and pasted—making their

work faster and more accurate. Thirdly, we can keep track of all documents concerning the entire lifecycle of a trademark (for example, trademark applications, acknowledgements, responses from trademark owners or agents, changes, certificates, and so on). Fourthly, examiners can easily look up supporting documents for doing examinations because they do not need to look up hard copies anymore. This has saved a lot time for them, resulting in an overall turnaround time of six months.

Even though we have received a lot of positive results so far, there are still some challenges that we continue to face at the moment. First of all, in the area of human resources, our examiners have limited knowledge of IT and the English language, so it is quite difficult and will take some time for them to adapt to the changes. Hence, we cannot update or change our system immediately, as this must be done step by step. In addition, we must also balance and make comparisons with the development of other countries and regions to at least have the same level of development as the rest of the world. Because the world continues to change every day, we must move on and adapt to that. Secondly, we are facing a very critical situation whereby we lack equipment such as servers, UPS, computers and so on for the current situation and our daily operations. Most of our PCs and other IT equipment are currently very old, so it is a problem for our IT administrator to undergo maintenance and secure the system. In addition, our examiners are facing some difficulties with conducting examinations because their PCs are so old and sometimes stop working—which means that examiners' work also becomes stuck.

To solve such problems, our partners play a very important role. With the support from our partners, for example—especially WIPO and JPO—our IT officials have been invited to attend IT trainings every year, especially in Japan, as well as related IT seminars in other countries. Our officials' abilities, especially in IT skills, have therefore improved a lot, and the IT system in our department has also improved overall—making quick progress in Cambodia's IP system within a short period of time. We still need a lot of training, however—particularly more funds and technical support to address those issues.

At the same time, our future plan to transform our department into a paperless, Information Technology-oriented workplace is on target. Our first step is on the way with the digitization project, as aforementioned. Online filing of trademark applications has been taken into account, and shall be finished by the end of this year, or by early 2016 at the latest. Applicants will then be able to file their trademark applications, as well as pay fees from anywhere in the world, as long as they have an internet connection. Then we will be able to cut our paper work 100%.

In conclusion, although we are facing some challenges at the moment, we are on the right track since we have very good cooperation and support from our partners—especially WIPO and JPO. With the strong focus on Information Technology, we are strongly confident that in the near future, Cambodia's IP office will have a very good IT system, resulting in broadened IP awareness in our country, as well as improvement of the Cambodian economy. We totally believe that we will be able to be a model IP office in the region, and that Cambodia will soon be able to compete with other developed countries in the world.

IP Situation in India

Ms. Meghana T. Parikh (India) Head, IPR Nanavati Associates, Advocates, Patents and Trade Marks Attorney



Ms. Meghana T. Parikh

(JPO/IPR Training Cource for IP Protection Lawyers, Oct. 6-24, 2014)

Introduction:

India has taken up many challenges in order to fulfil the obligations of TRIPS (Trade Related Aspects of Intellectual Property Rights) and bring its IP (Intellectual Property) laws up topar with laws of developed countries. In order to protect public interests, India has developed and enacted laws that balance the basic rights of people without prejudicing compliance with international treaties. It is worth appreciating how in a period of 20 years India has abided with the standards of TRIPS and reformed its IP legislations.

India offers IP protection in the form of Trade Marks (TM), Patents, Designs, Copyrights, Geographical Indications, Plant Varieties, Semiconductor Integrated Circuits Layout, etc.

Trade Marks:

In order to make the Trade Marks law compliant with international standards the Trade and Merchandise Marks Act 1958 was upgraded by the Trade Marks Act 1999. The salient features of the new act comprises inclusion of protection to 'service marks'. Further, the definition of 'trade mark' included graphic representations, shapes, packaging of goods and combinations of colours.

The Registration of TM was simplified and expedited by removing the earlier system of Part A and B registration. A mark that is distinctive in fact by use qualified for registration, unlike the old law that required that the mark must be 'adapted to distinguish'. The Act included protection of the 'well-known trade marks' and prevents registration of TM that are imitation of well-known marks. The period of renewal of TM registration was increased from 7 years to 10 years.

In accordance with the new Act a single application may be filed for the same mark in respect of goods and services falling in more than one class. However, the fees would be payable with respect to each of such classes of goods. Further, the classification of goods and services will be in accordance with International Classification of Goods and Services. Registration of a 'collective mark' which belongs to a group or association of persons was permitted under the new Act.

The old Act required that the suit for infringement of TM or passing-off can be filed in District Court (DC) where the defendant carries out his business, whereas the new law provides that the proceedings for infringement can be filed in DC where the plaintiff resides or

carries on business.

To further smoothen the process of TM filing, the application for registration of TM can be filed by e-filing procedures. Since 2013 the Indian TM Registry facilitates filing of TM application under the Madrid Protocol wherein protection may be sought in more than one country that are member countries of the Madrid Protocol. It is now possible to check the status of TM application online and also search for a TM in the database available on the website of the TM Registry. A draft of the Manual of TM Practice and Procedure is published online to provide guidance to the applicants and officers of the TM Registry.

Patents:

The Indian Patents Act 1970 was amended in 2005 in order to comply with TRIPS obligations. The new Act permitted grant of product patents to pharmaceutical products or drugs. The new Act introduced the procedure of pre-grant and post-grant opposition that may be filed at the Indian Patent Office in order to prevent the grant of frivolous patents.

Section 3 pertaining to inventions which are considered not patentable was introduced through the amendment. Sub-section (d) of section 3 i.e. section 3(d), unique and one of its kind and the most debated section worldwide put forth that a new form of a known substance which does not demonstrate enhanced efficacy over the known substance, new property/new use for a known substance and the mere use of a known process are not patentable. This section intended to prevent evergreening of patents and thus safeguards public interests. In a landmark case the Supreme Court (SC) of India upheld the decision of lower courts stating that beta crystalline form of Imatinib mesylate i.e. Gleevac (Novartis) is not considered to be patentable over its known form and that 30% increase in bioavailability of the salt form does not demonstrate enhanced 'therapeutic' efficacy in comparison to the known substance Imatinib base.

To expedite the procedure of appeals against order or decision of the Controller and cases related to revocation of patents, the Intellectual Property Appellate Board (IPAB) was made functional in 2007. Further, section 92A permitted grant of Compulsory License (CL) for export of patented pharmaceutical products to a country having insufficient or no manufacturing capacity in the pharmaceutical sector for the concerned product to address public health problems. In India, the first ever CL was granted to Natco for the drug Nexavar on the grounds that the patented invention is not available to the public at reasonably affordable price. The sections pertaining to 'Bolar Provision' and 'parallel importation' were also introduced in the amended Act.

Since 2013, the India Patent Office (IPO) has been functioning as an International Search Authority (ISA) and International Preliminary Examining Authority (IPEA) under the PCT. In 2015, the IPO updated its patent database from iPAIRS to inPASS wherein all documents related to patent filing and its prosecution are available online. IPO facilitates filing of patent application by e-filing method and provides incentive to applicants availing this facility i.e. fees are lower compared to manual filing method. Incentive is also given depending on the type of applicant, natural person having to pay the lowest fees followed by small entity (Micro, small and medium enterprises), and lastly other than small entity.

IPO has published several guidelines to streamline the examination procedure as follows:

- 1. Guidelines for examination of patent applications in the field of Pharmaceuticals
- 2. Guidelines for Examination of Biotechnology Applications for Patent
- 3. Guidelines for Processing of Patent Applications relating to Traditional Knowledge and Biological Material
- 4. Draft guideline for Computer Related Inventions (CRIs) under preparation
- 5. Draft Guidelines for Search and Examination of Patent application under preparation

Designs:

In order to protect new and 'original' design which is applicable to an article manufactured by industrial process, the Design Act, 1911 was replaced by the Designs Act 2000. The Act was introduced to include protection of the aesthetic look of the article which sometimes is the most important factor that determines the utility of the product. In order to have design protection the design must be original, not previously published or used in any country before the date of application for registration. The rights conferred by Design registration is equivalent to 'Copyright' in design which means that the proprietor has the exclusive right to apply for that design to the article belonging to the class in which it is registered. The definition of the terms 'article' and 'design' were broadened in order to give wider protection and bring it in line with the international standards.

Since India is member of the Paris convention, claiming the priority of the convention country, an application for registration of design may be filed within 6 months. The duration of design registration is ten years from the date of registration or priority whichever is earlier and may be extended further for a period of 5 years. The Design Act further codifies designs that cannot be registered.

Now it is possible to file an application for registration of Design by the e-filing portal of IPO. The IPO also maintains a database where it is possible to conduct a prior art search for design and to know the status of application for Design registration.

Copyrights:

The Copyright Act 1957 was amended five times and finally in 2012 the Act was brought to conformity with WCT (WIPO Copyright Treaty) and WPPT (WIPO Performances and Phonograms Treaty). The amendment was targeted to address the concerns of the music and film industries, physically disabled and to protect the interests of the author of any work. The amendments provided special fair use provisions to ensure that fair use survives in the digital era. The amendments were also made to streamline the copyright administration. An exception was provided for physically disabled access to any works. Penalties for circumvention of technological protection measures and rights management information extended the copyright protection in the digital environment. Liability for Internet service provider and statutory licenses for cover versions and broadcasting organizations in order to deal with piracy issues was incorporated in the Act. The act ensured the right to receive royalties for authors and music composers, exclusive economic and moral rights to performers, equal membership rights in copyright societies for authors and other right owners. Although copyright registration is not compulsory, the registration of copyright can be done online and its status can also be viewed online on the portal of the Copyright Office.

Geographical Indication (GI):

India being a member to WTO enacted the Geographical Indications of Goods (Registration & Protection) Act 1999 (GI Act) that was brought into effect in 2003. GI are covered as IP tools under the TRIPS Agreement. GI indicates or refers to place or country of origin of the goods or product, for example Darjeeling tea, Alphonso mangoes, Nagpur oranges, etc. Any association of persons, producers, organisation or authority established by or under the law can apply for registration of GI. Since 2015 the applications may be filed by e-filing method and the status of the application can be monitored online.

Although the registration of GI is not compulsory, registration affords better legal protection to facilitate an action for infringement. The registration of GI is valid for 10 years and has to be renewed from time to time for a further period of 10 years. The registered proprietor or authorised users of a registered GI can initiate an infringement action for impugned GI. The GI Act prevents GI of goods from becoming generic which may otherwise lead to a loss of distinctiveness and consequently loss of protection.

Plant Varieties:

The Plant Varieties and Farmers Rights Act 2001 is a sui generis system adopted by India to provide an effective system for the protection of plant varieties and the rights of farmers and plant breeders. The Act further encourages the development of new plant varieties by recognizing and protecting rights of farmer in respect of their contribution made at any time in conserving, improving and making plant genetic resources available for the development of new plant varieties. The Act is in conformity with the International Union for Protection of New Varieties of Plants (UPOV) and provisions of the TRIPS Agreement. Registration is possible for new plant varieties, essentially derived varieties (EDV) and extant varieties. The duration of protection is 18 years for trees and vines and 15 years for other plants. The new plant species has to satisfy the criteria of DUS (Distinctiveness, Uniformity and Stability) to be found registrable under the law.

Semiconductor Integrated Circuits Layout:

The Semiconductor Integrated Circuits Layout-Design Act was passed in the year 2000 as a supplement Act to Designs. It is in conformity with TRIPS requirements for the protection of semiconductor integrated circuits layout-designs. The definition of 'semiconductor integrated circuit' is a product having transistors or other circuitry elements, which are inseparably formed on a semiconductor material or an insulating material or inside the semiconductor material and designed to perform an electronic circuitry function. 'Layout-design' means a layout of transistors and other circuitry elements, and includes lead wires connecting such elements and expressed in any manner in a semiconductor integrated circuit.

A layout- design expressed in any manner, which is original, which has not been commercially exploited for more than 2 years from the date of application for the registration, which

is inherently distinctive and capable of being distinguishable from any other registered layout design, may be protected or registered under the Act. The protection is limited to 10 years from date of registration or date of first commercial exploitation, whichever is earlier.

Conclusion:

Thus it can be observed that India has taken great efforts to bring its IP legislations in conformity with the international laws and treaties. Recently an IPR think tank group has been constituted under the aegis of The Department of Industrial Policy and Promotions (DIPP) to draft the national IPR policy. On the basis of their observations and suggestions the IP laws of India may be reformed further. The IPO has made the filing and searching facilities user friendly by facilitating online filing and monitoring systems. Similar efforts have been made for strong IP enforcement and protection. There are some grey areas like non availability of data protection to the innovators that will be taken care in due course of time. The twenty years of evolution of IP laws in India ensures stronger IP rights for the proprietor without prejudicing the public interests.



IP Situation in India

Ms. Rajni Bala (India) Examiner of Patents and Designs, Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry (JPO/IPR Patent Practical and Tailored Training Program for Fiscal 2014 for Brazil, India (PPTT), Sep. 16-Nov. 28)



Ms. Rajni Bala

Preface

INTELLECTUAL PROPERTY INDIA

I have been working in the Indian patent office for almost 12

years as an Examiner of Patents and Designs. By the grace of God I was selected by the government of India to attend the Patent Practical and Tailored Training (PPTT, 2014) program in Japan from September 16-November 28, 2014. This opportunity to go abroad was a golden chance to understand the IP practices of various countries like Japan and Brazil. I was very excited to reach Tokyo and interact with the culture and beauty of this land of technology.

At last, on September 15, 2014, I stepped on the earth of shrines and punctuality along with my other colleagues from the Delhi and Chennai patent offices. I wish to thank the governments of India and Japan for this endeavor aimed at people working in the field of IPR.

I am impressed with the highly co-operative nature of Japanese people and their punctuality. The roads are totally clean, and the environment is very hygienic. We were all enriched by the JPO and Brazil IPR practices and their patent search strategies. During our training course, we visited many companies and also attended a patent fair. It was good to find that various firms such as APIC and JPAA were working together under the JPO umbrella to promote IPR in Japan. Similarly, the Federation of Indian Chambers of Commerce and Industry (FICCI) and Confederation of Indian Industry (CII) also help promote IPR in India. FICCI was established in 1927, and it is the largest and oldest apex business organization in India. It is the voice of India's business and industry. FICCI provides a platform for networking and consensus building within and across sectors, and is the first port of call for Indian industry, policy makers and the international business community. The Confederation of Indian Industry (CII) works to create and sustain an environment conducive to the growth of Indian industries. These organizations are partnering with industries and government through advisory and consultative processes.

Introduction

India is known by various names like Bharat, Aryavarta, and Hindustan. It is the largest democratic country in the world, and is considered to be the abode of the Gods. There are a vast number of epic stories related to the existence of God in different incarnations, including Lord Rama, Lord Krishna, Lord Buddha and many more. This country is rich in culture and ethical values. Indian civilization has a long history, and it is considered to be the oldest. This nation has a vast reservoir of intellectualism and creativity. The brilliant culture created by the Indian people has exerted a heart-touching influence on the progress of human civilization. For the past several thousand years, many outstanding Indian scientists, inventors, writers and artists have made enormous contributions toward the development of humanity's

common civilization. Among the vast number thereof Indian inventor/scientists, here are a few:



Aryabhatta: a great mathematician from India who gifted the world with his invention of the number ZERO (0). Without the invention of '0', it would be impossible to imagine the existence of the universe.

ARYABHATA (476AD-550D)

Great Mathematician



Sir C.V.Raman: an eminent physicist who is credited with the innovative 'Raman Effect'. He won the Nobel Prize in 1930 for the phenomenon of Raman Scattering, the result of the Raman Effect, whereby when light traverses a transparent material, some of the deflected light changes its wavelength.

Sir C.V.Raman, Nobel Prize winner, Physicist



DR. A.P.J. Abdul Kalam: *The honorable ex-president of India, who is known for his crucial role in the development of the country's missile and nuclear weapons programs.*

DR. A.P.J.Abdul Kalam, Ex-president of India



Mr. Vinod Dham, Inventor of Pentium chip

Mr. Vinod Dham: *Known as the 'Father of Pentium chip' for his invention of this world famous chip, which is most widely used in computers.* The above achievements reveal that India is blessed with highly technical people and also has vast natural resources. IPR is protection of the creations of the human mind. The Indian government's view is that the IP protection system plays a vital role in promoting science and technology, helping to enrich culture, economy and growth. India is a developing country, and to compete with the rest of the world, it is very important to protect your IP and commercialise it for the benefit of society. This paper will describe the system of IP protection in India.

The government of India has declared '2010-2020' as the 'Decade of Innovation'. IP protection in India started much later than one would expect considering the wealth of inventions and knowledge the country amassed during the early ages of its civilization. The main emphasis is now on how you can protect your intellectual property in India. There are different types of IPR: for example, patents, designs, trademarks, geographical indications, copyrights and traditional knowledge.

History of the Indian patent system

The first legislation in India relating to patents was Act VI In 1856. The objective of this legislation was to encourage inventions of new and useful manufacturing, and to promote the disclosure of inventions. When India initially began patent rights, protection was granted to the inventor/applicant for 14 years—but this act went on to be modified many times. The Indian Patents and Designs Act was introduced in 1911, replacing all previous acts, and bringing patent administration under the management of the Controller of Patents for the first time. This act was further amended in 1920 to enter into reciprocal arrangements with UK and other countries for securing priority.

After independence from British rule, it was felt that the Indian Patents & Designs Act, 1911 was not fulfilling its objective—and that it was necessary to have a comprehensive patent law owing to substantial changes in political and economic conditions in the country. Accordingly, the government of India constituted a committee in 1949 under the Chairmanship of Justice (Dr.) Bakshi Tek Chand, a retired judge with the Lahore High Court, to review patent law in India in order to ensure that the patent system was conducive to the national interest. The committee was to do the following:

- a. survey and report on the working of the patent system in India;
- b. consider whether any special restrictions should be imposed on patents regarding food and medicine;
- c. examine the workings of the Patent Office and its public services, and make suitable recommendations for improvement;
- d. enable the Indian Patent System to be more conducive to the national interest by encouraging invention and the commercial development and use of inventions.

Based on the above committee recommendations, the 1911 Act was amended in 1950 (Act XXXII of 1950) in relation to the working of inventions and compulsory licences/revocation. Later, however, the government did not press for the consideration of the amended bill on some issues, and it was allowed to lapse.

In 1957, the Government of India revised the Patent Law and formed a Joint Parliamentary Committee. On its final recommendation, the Patents Act, 1970 was passed and came into

force on 20 April, 1972. This Act repealed and replaced the 1911 Act with respect to patent law. However, the 1911 Act continued to be applicable to designs. In this series of amendments, the third amendment to the Patents Act 1970 was introduced through the Patents (Amendment) Ordinance, 2004 w.e.f. 1st January, 2005. This ordinance was later replaced by the Patents (Amendment) Act 2005 (Act 15 Of 2005) on 4 April, 2005 which was brought into force from 1-1-2005. As a result of this amendment, product patents could be allowed in the field of drugs and pharma. Presently, the Patents (amendment) Act, 2005 and Patents (amendment) Rules, 2014 are in force to grant patents. The term of a patent is 20 years from the date of filing an application.

The Office of the Controller General of Patents, Designs and Trademarks (CGPDTM)

In India, IPR comes under the scope of the Department of Industrial policy and Promotion (DIPP), which works under the umbrella of the Ministry of Commerce and Industry. The office of the Controller General of Patents, Designs and Trademarks (CGPDTM) is the highest authority who takes initiative for 'enlightening of youth creativity and innovation'. It has four branches of the Patent Office, India—one each in the metro cities of Delhi, Mumbai, Kolkata, and Chennai.

Formal checks of all patent applications are processed at RECS, RMID and GPM. For technical examinations, applications are referred to a certain technical group as per the field of inventions disclosed in the patent application. The examination unit of controllers and examiners constitutes 4 technical groups viz.

- i. Group 1 covers chemistry and allied fields
- ii. Group 2 covers biotechnology and microbiology
- iii. Group 3 covers mechanical and allied subjects
- iv. Group 4 covers electrical electronics and allied subjects





Applications are allotted to examiners as per field of specialization, and applications are examined as per order of request for examination made in form-18.

Patent applications can be filed in physical as well as electronic form. Electronic filing began in India on 20 July, 2007. The patent application filing trend

is increasing at a very fast rate. To make a user-friendly environment with easy access, the Indian patent office has begun e-filing of patent applications. Applicants can directly file their applications on its portal, <u>www.ipindia.nic.in</u>. Through amendments to the Patent Rules, 2014, which incorporate a surcharge on offline filing in order to promote filing online, there has been an increase in online filing from 30% to 78%. A new category of 'small entity' has also been introduced for SME's, and fee concessions have been provided to them.

The patent filing trend is continuously increasing. This can be shown in following table 1.

Year	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Filed	28940	35218	36812	34287	39400	43197	43674
Examined	14119	11751	10296	6069	11208	11031	12268
Granted	7539	15316	16061	6168	7509	4381	4126

Table 1: Patent filing trend in Indian Patent Office*

Presently the Indian patent office is working on e-module of patent examination and letter patent is also generated electronically. The Indian Patent Office (IPO) system is becoming paperless. Comparative trends of other IPR's can be found in table 2.

Year	2007-08	2009-10	2010-11	2011-12	2012-13
Patents	16061	6168	7509	4381	4126
Designs	4772	6025	9206	6590	7252
Trade Marks	102257	67490	115472	51735	44361
G.I.R.	45	14	29	23	21

Table 2: trends of IPR's registered/granted*

PUBLIC INFORMATION DISSEMINATION

IP awareness programs are run from time to time in schools, colleges and universities. The general public, and national/international applicants working in IPR, may get the full and latest information on our website, <u>www.ipindia.nic.in</u>. The other IPR players can also check the latest status of any application filed in the IPO. The main categories of information are cited here:

- a. Comprehensive e-filing of patent and trademark applications
- b. Status of patent, trademark and GI applications
- c. Guidance for filing applications

- d. Public searches related to patents, trademarks and designs (IPAIRS)
- e. Working of patents (information u/s 146)
- f. List of scientific advisors
- g. Controller's decisions
- h. IP manuals
- i. E-register
- j. Applications related to traditional knowledge, food and pharmaceuticals

Examination Units

Newly recruited examiners of Patents and Designs are given training at the Rajiv Gandhi National Institute of Intellectual Property Management (RGNIPM), Nagpur. RGNIIPM was earlier known as NIIPM. Incumbents are trained in the legal aspects of patent applications, as well as the formal and technical examination thereof. During their hands-on training, they are taught how to do prior art searches for novelty, as well as how to establish inventive step. Formal examinations include verifying the following:

- i. Timeline of an application
- ii. Assignments and authorizations
- iii. Comparison with priority documents
- iv. Foreign filing particulars
- v. Accuracy of data such as the title, abstract, number of pages, claims and fees

The patentability criteria of novelty, inventive step and industrial application are first checked under section 2 (1) (j) of the Indian Patent (amendment) Act, 2005 and Patent Rules, 2003. The subject matter of the claimed invention is also verified if it is a patentable invention under section 3 and section 4 of the Indian Patent Act. These sections have many sub-sections from 3 (i) to 3 (p). Among these sub-sections, those of the most concern are 3 (d), 3 (f), 3 (j), 3 (k) and 3 (p). 3 (d) is mostly concerned with drugs and pharmaceutical applications. Section 4 states that inventions relating to atomic energy are not patentable. Examiners do exhaustive patent prior art search on various databases, e.g. Orbit, USPTO, EPO, PAJ, STN, Patseer and inspec. IPO has also generated many ISRs.

International Cooperation- Recent Developments

The Indian Patent Office is also working as an International Searching and Preliminary Examining Authority (ISA/IPEA). It was operational beginning on 15 October, 2013. India, via the IPO, is one of around 15 countries that are working as ISA/IPEA under PCT. Nationals/ residents of India can utilize search and examination facilities for international patent applications under the Patent Cooperation Treaty. As of 07 November 2014, about 200 international applications had been received and about 130 reports issued. All applications are being processed electronically through software modules. The international registration of trademarks was brought into force on 8 July, 2013. Applications can be made in over 90 countries through a single application in one language with one set of fees filed at the Trademarks Registry, where time-bound processing and registration of trademarks is carried out. A total of 4704 international applications were filed online, and processed electronically through e- module.

Conclusion

I can say that intellectual property protection today is an issue of universal concern in the fields of international politics, economics, science, technology and cultural exchange. The companies that uses IPR protection generally succeed better. IPR protection enhances the economy and innovation of a country by benefitting consumers and society. Like Japan, I think that India may also use PPH to overcome the pendency and speed up the patent granting rate. IPO may also work on utility models in India so that small and medium enterprises can protect their IP and compete with other players.

The memories of Tokyo, Mt. Fuji, Mt. Hakone, beautiful gardens and the temples which we visited will be in my heart forever. I wish I can come again to Japan with my family.



Information Technology System of Intellectual Property in India

Mr. Subhajit Saha (India) Head, CII-Tamil Nadu Technology Development and Promotion Centre-CII



Mr. Subhajit Saha

(JPO/IPR Training Cource on Managing IP, Jul. 7-18, 2014)

It is a well-known fact that information technology has revolutionised the world over the last three decades. It has cut across all sectors and borders thereby being accorded with the status of international recognition as the fourth legal space, ie. "The Cyberspace".

The history of the IP system in India can be traced back to the times when George Alfred DePenning made the first application for a patent on "An Efficient Punkah Pulling Machine" in India in the year 1856. It was then on February 28, 1856, the Government of India promulgated legislation to grant what was then termed as "exclusive privileges for the encouragement of inventions." His invention was granted the first ever intellectual property protection in India.

Much of the legislations on all forms of IPRs were passed during the period from 1911-2000, and with that the country began its IPR Journey. India has come a long way forward meeting its international obligations and safeguarding its national interest. Now the nation is ready to adopt its National IPR Policy with the slogan of "Creative and Innovative India". The journey saw several milestones to transform the face of the India Patent Office and IP Administration in meeting its objectives by using information technology to achieve a "Paper full to Paper Less office".

The IPO (India Patent Office) comes under the Department of Industrial Policy and Promotion which is further under the Ministry of Commerce and Industry, Government of India. The Copyright Office comes under the Department of Higher Education, which is in turn under the Ministry of Human Resources and Development. The Head Office of the Patent Office is at Kolkata and its branch offices are located at Chennai, New Delhi and Mumbai. The Trade Marks Registry is at Mumbai and its Branches are located in Kolkata, Chennai, Ahmedabad and New Delhi. The Design Office is located at Kolkata in the Patent Office. The Offices of The Patent Information System (PIS) and National Institute of Intellectual Property Management (NIIPM) are at Nagpur.

The Controller General supervises the working of the Patents Act (1970, as amended), the Designs Act (2000), and the Trade Marks Act (1999), and also renders advice to the government on matters relating to these subjects. In order to protect the geographical indications of goods a Geographical Indications Registry has been established in Chennai to administer the Geographical Indications of Goods (Registration and Protection) Act (1999) under the CGP-DTM.

The IP system in India has undergone a paradigm shift to emerge as a transparent, proac-

tive, service-oriented and efficient system to cater to the needs and aspirations of the stakeholders. The IP Administration has been utilising all available technological tools and reached a certain level in the past few years. The Indian government had launched a modernisation program for modernizing all the IP Offices with state of the art infrastructure and computer networks for making a high level user-friendly system for the benefit of the nation and society at large.

The IP Office Administration saw a welcome change for the first time by breaking away from the tradition of replacing an in-house department official with an IAS (Indian Administrative Services) official to head the office thereby making it clear that the IP Administration is a very important office of national interest.

Since then the IP Administration has been taking calibrated steps targeting a system that is more expedient, quality-oriented, credible and efficient. The entire fillip to the system was only possible with the use of information technology and phenomenal efforts by the Government of India.

Under the modernisation initiative the computerisation, including provision of internet facilities, has been completed. Comprehensive computerisation of operations so as to facilitate on-line processing of applications has been implemented. Digitisation of records of patents, designs and trademarks has been completed for the establishment of an IP Database.

A website of the India Patent Office, namely, www.ipindia.nic.in was launched. It is a very dynamic website which contains details in respect to filing and processing of patents, designs, trademarks and geographical indications which are updated on real time basis and made available 24X7 for public in a login free search portal.

The website has several gateways, resources, publications and links to other websites for easy navigation. The latest development in terms of IT advancement is the e-module facilty being made compatible for all forms of IP including patents, design, trademarks and geographical indication. Currently we can file all these applications online thru digital signature and online payment gateways. Again this is an advancement credited to IT and enabled service. Since then the India Patent Office and IP Administration have been encouraging online filing and have provided a discounted fee of 10% over hard copy filing. With the advent of IT enabled services in IPO there have been 80% filings online and thus the system has been well received and appreciated by all stakeholders.

Even the Copyright Office has gone paperless with e-filing being made mandatory for all authors, authors and owners of the work. The website copyright.gov.in is a user-friendly and easy to navigate portal with all facilities of e-filing, checking online status of application, and availability of all forms and documents for registration.

One of the major highlights of the IT in the IP system of India is the *"stock and flow based dynamic"* utility system of patents and trademarks made available to applicants/stakeholders with the facilty to view the patent and trademarks under different stocks and the flow of their applications on a real-time basis. This is a unique feature being offered for the first time in by the IPO and no other patent office in the world.

Another latest feather in the cap has been the recent recognition of the India Patent Office as an International Search Authority and International Preliminary Examination Authority under the Patent Cooperation Treaty administered by World Intellectual Property Organisation. This was possible due certain steps taken to strengthen infrastructure including acquiring of necessary databases of patent and non-patent literature. The ISA/IPEA recognition is viewed as an international quality standard.

The launch of InPASS (Indian Patent Advanced Search System) in February 2015 was a step forward in advancement of IPO by providing full text compatibility of patent documents. INPASS supports wild-cards, truncation as well as Boolean operators in all the fields of the ST.36 compliant data available with the Patent Office, thereby enabling the stakeholders to conduct an advanced search in the Indian Patent Database.

One of the landmark initiatives of IP system to safeguard its rich traditional heritage and national interest was the use of information technology in IP for creation of the Traditional Knowledge Digital Library (TKDL). This has been a major achievement for India which has a vast pool of traditional knowledge. India has been able to foil attempts to misappropriate its traditional knowledge. This advancement has helped India to revoke several of its Indigenous patents being granted worldwide based on traditional knowledge. The repository is now acting as a regulatory gateway to check the granting of patents judiciously by all patent offices.

Another shot in the arm was the revamping of the National Institute of Intellectual Property Management under which the Patent Information System operates. The IT system has been the core strength of PIS as it needs to obtain and maintain a comprehensive collection of patent specifications and a computerized system for retrieval and dissemination of patent information and patent related literature on a worldwide basis to meet the needs for technological information of various users in R&D establishments, government organizations, industries, business, inventors and other users.

One of latest development has been in the area of Trademarks, wherein after acceding to the Madrid Protocol, the application software named the Trademark International Application System was developed for the functions of trademark registry under the Madrid protocol. All filings and documents under the Madrid protocol are received thru the e-filing gateway along with correspondences being done with WIPO thru an electronic system.

Further, an electronic system is now in place for issuance of trademark registration certificates centrally from the Trade Marks Registry, Mumbai, including printing and dispatch of certificate in appropriate cases.

Recently e-filing facilties have been launched for both industrial designs and geographical indications for the benefit of stakeholders; with this the India Patent Office was accorded with the status of a full e-filing office for patents, designs, trademarks and geographical indications.

The newly created window of "Explore IP India" is an explorer's paradise. It gives comprehensive information and a snapshot of the IT advancement which the India Patent Office has undergone in the past few years. It is a one stop shop for all information and a guide for anyone getting acquainted with the India Patent Office and IP Administration. Information technology has also helped in the functioning and administration of the Intellectual Property Appellate Board (IPAB). The IPAB currently exercises jurisdiction over trademarks, patents and geographical indications. It is the only tribunal in India which has a global impact. The website of the IPAB (www.ipabindia.in) is now updated with the day to day and advanced hearing dates, cause list, and orders for IP researchers and stakeholders to go thru and keep pace with their cases and matters.

The Launch of "KIDS NOOK" saw IP awareness being taken to the next generation to kids with the release of comics on Patents, designs, Trademarks and general importance of IPR.

Another key department, the Department of Electronics and Information Technology (DeitY) under the Ministry of Information Technology, is working on the electronic system and IT advancements in the country. DeitY has an IPR Cell which is making considerable efforts to improve the infrastructure of IP and safeguarding IPR so as to allow innovators to benefit from their inventions. The main objective of the IPR Cell of Diety is creating the infrastructure for a strong IPR ecosystem by way of development, support tools and technologies.

From filing to protection until the grant, or for any information, or for any search on IPRs, the Indian Patent Office is now well equipped to guide the user and provide the right set of information to meet this requirement under one roof.

With the Government's latest campaign of Digital India, the IPO and IP system have taken the right step forward and have already made a major stride in this direction. Information technology has made the IP system very accessible, transparent and efficient thereby boosting the confidence of innovators and investors.

To conclude, information technology has changed the entire landscape of the IP system in India. With the rapid progress of information technology the workings of IP offices have improved in terms of transparency and efficiency over the years. Information technology has played a key role in upgrading the internal network system of patent offices, thereby augmenting databases and providing round the clock faster and better services to all stakeholders. Information Technology System of Intellectual Property in Kenya

> Mr. Erick Maloba Andati (Kenya) ICT Officer, Kenya Industrial Property Institute (KIPI)



Mr. Erick Maloba Andati

(WIPO Training Course on the Use of Information Technology in Industrial Property Administration under the Japan Funds in Trust, Oct. 27- Nov. 7, 2014)

Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce. IP is protected in law by, for example, patents, copyright and trademarks, which enable people to earn recognition or financial benefit from what they invent or create. By striking the right balance between the interests of innovators and the wider public interest, the IP system aims to foster an environment in which creativity and innovation can flourish (WIPO).

Over the course of history, different legal instruments for protecting intellectual property have emerged. These instruments differ in their subject matter, extent of protection, and field of application, reflecting society's objective to balance the interests of creators and consumers for different types of intellectual works.

All over the world, millions of patents have been granted mainly to encourage an inventor to disclose his invention to the public and thereby promote the progress of science and the useful arts. This is normally looked at as a bargain or contract between a government and an inventor where the inventor discloses the invention and the government in return provides the monopoly for a period of time. Typically, the purpose of the patent system is threefold:

- To promote creativity and inventiveness by offering exclusive ownership rights and a reasonable period for covering R&D costs for the invention;
- To promote investment and commercialisation of new inventions through limited exclusive rights in exploiting the invention; and
- To diffuse knowledge and information through publication of patent applications and grants for the benefit of other R&D institutions and society as a whole.

The advent of technological advancement in the recent past has witnessed unprecedented increases in the amount of innovations and creations that have been churned out, notably around the Internet. Information Technology has now been designated as a fully-fledged industry with its own set of rules and regulations. Mobile applications, websites, and corporate outsourcing are being adopted into the Kenyan market as a way of commercializing the ideas. However, one conspicuous thing missing from the industry is the relevant regulations to protect the rising technological innovations and their creations from infringement.

The ever increasing role of the application of Information Technology (IT) in different spheres of life has been expanded and extended to every society in the world. This has a strong connection and association with many areas such as business, engineering, science, healthcare, arts and public administration. Many people rely on social networking and cloud computing services as part of daily life, for connecting with friends and taking advantage of online services for learning. With mobile technology becoming more common and accessible, the population of and activity in the 'cyberworld' will continue to grow tremendously.

With the growth of information technology, the level of cybercrime will continue to increase and pose a serious threat to online users now and in the future. The limitations of the current laws, which vary between countries, create a real challenge in formulating any solution to combat cybercrime. In addition, the protection of intellectual property rights such as increased privacy and copyright and freedom of expression issues are critical issues in the cyberworld. The future challenge of how to protect intellectual property from violation both in the real world and cyberworld requires further efforts in research.

Cognizant of the prominent role of IT in peoples' everyday life, Kenya has enacted laws to address IT as an IP asset. As such, IP Laws in Kenya provides for rights and protections for owners of IP based on 3 kinds of patents viz National patents, PCT (Patent Cooperation Treaty) patents designating Kenya and ARIPO (African Regional Intellectual Property Organization) patents designating Kenya, trademarks and copyright laws; and state trade secret laws. These exclusive rights allow owners (creators) to benefit from the property they have created, thereby providing a financial incentive.

Kenya's IP legal system is handled by two different offices, each established by a particular Act of parliament. These are the Kenya Industrial Property Institute (KIPI) which handles Industrial Property (i.e. patents, industrial designs, utility models and trademarks); and the Kenya Copyright Board (KECOBO) which handles copyright matters. The Trademarks Act was enacted in 1957 as an Act of Parliament to handle matters relating to the registration of trademarks and has undergone various amendments over time. The Act that relates to patents in Kenya is the Industrial Property Act, (2001), while the law that relates to Copyrights is the Copyright Act, 2001.

Over the past couple of years, Kenya has witnessed a rapid explosion in technological innovations within a short period, leading to a knowledge-driven and competitive business environment. Many young Kenyans have developed software applications and mobile applications to meet the ever-growing need in mobile telephones. As a result, the relevance of KIPI in the protection of intellectual property in the country is indisputable as the country is experiencing an "innovation sprout" in the tech, creative and performing arts industries. Therefore, the role of IP in protection of software and the larger IT is considered to be absolutely necessary to encourage creative intellectual endeavors and reduce the risks for the players involved, who may then be able to reap acceptable returns for their participation in the process.

The Kenyan law provides different methods for protecting rights of ownership based on their different criteria as below:

Types of Intellectual Property in IT

There are four types of intellectual property rights relevant to Information Technology:

patents, copyrights, trade secrets and trademarks. Each offers a different type of legal protection. Patents, copyrights and trade secrets can be used to protect the technology itself. Trademarks do not protect technology, but the names or symbols used to distinguish a product in the marketplace.

1) Patents

Patents are legal titles granting the owner the exclusive right to make commercial use of an invention. To qualify for patent protection, inventions must be new, non-obvious, and commercially applicable. The term of protection is usually limited to 20 years, after which the invention moves into the public domain. The patent system is one of the oldest and most traditional forms of IPRs protection. Almost all manufacturing industries make use of the patent system to protect inventions from being copied by competing firms. As an adjunct to the patent system, some countries have introduced *utility models* (or petty patents). The novelty criteria for utility models are less stringent and are typically granted for small, incremental innovations. Their term of protection is far shorter than for "regular" invention patents (typically four to seven years). Similarly, *industrial designs* protect the ornamental features of consumer goods such as shoes or cars. To be eligible for protection, designs must be original or new. They are generally conferred for a period of five to fifteen years.

According to the Kenyan IP Law, Software-related innovations are not patentable but can be granted for an invention, which may be described as a solution to a technical problem. In Kenya, software applications are not patentable but it is the algorithms, functions and methods embodied in the software product. Acquiring a patent for software can protect features of a program that cannot be protected under copyright or trade secret law.

2) Copyright

Copyright protection extends to the particular form in which an idea is expressed. In the case of software, copyright law would protect the source and object code, as well as certain unique original elements of the user interface.

The Kenya Copyright Act (2001) gives provisions in law that contain the content of and specific limitations to a new form of literary copyright, namely, software copyright, mainly courtesy of World Intellectual Property Organization (WIPO) and the Business Software Alliance's (BSA's) proposals. The law allows adaptation and creation of backup copies of computer programs under certain conditions. These conditions include cases:

- Where copying a computer program is necessary to make copies of the program to the extent necessary to correct errors;
- To make a backup copy;
- For the purpose of testing a program to determine its suitability for the person's use; or
- For any purpose that is not prohibited under any license or agreement whereby the person is permitted to use the program.

In addition, the law prohibits and regulates anti-circumvention measures so that digital rights management systems (DRMs) or technological means employed to protect works are protected under copyright law.

In order for a copyright to be accepted for registration, the following requirements must be met:

- The work must be of original authorship. Originality in the Copyright sense means that the work must not have been copied from somebody else.
- The application shall be a prescribed form obtained from the Copyright Office or downloaded from the Kenya Copyright Board Website. The applicant will attach two copies of the works, where applicable with the application;
- The work must be in a tangible form, including digital form, for example VCDs, CDs, DVDs, books, and music cassettes; and
- A duly completed application form must be witnessed by a commissioner for oaths and accompanied by the required fees.

Once registered, the owner of a copyrighted software program has certain exclusive rights such as the right to copy the software, create derivative or modified versions of it, and distribute copies to the public by license, sale or otherwise. Anyone exercising any of these exclusive rights without permission of the copyright owner is an infringer and subject to liability for damages or statutory fines.

3) Trademarks

Trademarks do not protect technology, but the names or symbols used to distinguish a product in the marketplace. Trademarks may consist of one or more distinctive works, letters, numbers, drawings or pictures, logos, monograms, signatures, colors or combination of colors, etc. The sign may consist also of combinations of any of the said elements.

A trademark can be a word, a symbol, a design, or a combination of these, used to distinguish the goods or services of one person or organization from those of others in the market place (International Trademark Association, 2012). The Trademarks Act (Cap 506) describes a mark as a distinguishing guise, slogan, device, brand, heading, label, ticket, name, signature, word, letter or numeral or any combination thereof, whether rendered in two-dimensional or three-dimensional form. A trademark provides protection to the owner of the mark by ensuring the exclusive right to use it to identify goods or services, or to authorize another to use it in return. As such, this Act allows for the protection of names of software and other IT-related component names in Kenya. Given that Kenya is a signatory to the Madrid System and Protocol, several multinational companies dealing in IT related services have been able to register their renowned trademarks in Kenya.

4) Trade Secrets

A trade secret is any formula, pattern, compound, device, process, tool, or mechanism that is not generally known or discoverable by others, is maintained in secrecy by its owner, and gives its owner a competitive advantage because it is kept secret. Many features of software, such as source code and the ideas and concepts reflected in it, can be protected as trade secrets. This protection lasts as long as the protected element retains its trade secret status. Trade secrets are not subject to infringement as with patents and copyrights, but are subject to theft. Their legal status as a protectable intellectual property right will be upheld if the owner(s) can prove the trade secret was not generally known and reasonable steps were taken to preserve its secrecy.

Domain Name Registration

A domain name serves as an address which is used to access a website. Getting a domain name registered is like owning a company business card. A person makes a number of evaluations about a company on reading its business card. Similarly, registering a good domain name reveals so much about a company's image.

Conclusion

From the foregoing, it can be deduced that protection of Information Technology in IP rights by the law allows the owner of the IP to continue being innovative and provides one with peace of mind to continue working without the fear of infringement. However, in the event that infringement occurs, there are provisions in the law that would protect one's IP, provided one has successfully applied for and received the relevant registration.

Even though legal measures have been put in place to protect IP rights concerning Information Technology in Kenya, it is noteworthy that critics and IT practitioners have observed that the relevant pieces of legislation that are meant to address software piracy and protect Information Technology IP in Kenya appears to be lax. This provides a fertile ground for the downloading of illegal software and applications without fear of judicial prosecution. A piracy study conducted in 2011 showed that 79% of Kenyans use pirated software. Kenya was ranked much higher than the countries in the Middle East, which averaged a usage of 58% respectively (CodeArmor Intelligence, May 2012). It has been observed the high piracy rates could have been reduced if the available laws were sufficient.

Consequently, Kenyan stakeholders including IP and IT practitioners, government, as well as academics, have commenced discussions with a view to addressing potential gaps and bottlenecks in the existing laws. Discussions have centered on areas such as software patents and protecting IP in the ICT industry.

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Column: "Trademarks"

Trademarks



Mr. Takao Ogiya

Mr. Takao Ogiya

Director General of APIC

In Japan, in addition to letters, graphic forms, symbols and three-dimensional shapes, as of April 2015, marks of colors, sounds, positions, motions and holograms can also be registered as trademarks.

The essential function of trademarks is to distinguish products and services from each other and identify their origin. This function guarantees the quality of a product and service, allowing trademark users to maintain their business credibility and thereby protecting consumer interests.

The history of marking for identification is quite long. There is a mark on the belly of a bison drawn on a cave wall earlier than 6000 BC. According to historians' analyses, this is the mark of the owner of the bison. Owner's marks are also found on bricks, pottery, and roof tiles made during an Egyptian dynasty around 3000 BC. Seals are impressed upon bricks used during the Roman Empire from about 500 BC to 500 AD, and it is known that trademarks were already used for economic purposes during this era.

In around the 12th century, craft guilds were started in Europe, when the purpose of the marks changed significantly. Until then, they had been used simply to display the origin of the product, but under the control of the guilds, marks were used to guarantee the product quality and protect consumer interests by only allowing guild members to use the marks for high-quality products. Marks thus began serving as licenses for guilds to monopolize profits. Despite such unfairness, the use of trademarks spread during this period as a means to guarantee product quality and maintain product credibility.

In the 13th century, the first trademark law was established in England. In 1452, a trademark-related lawsuit was filed wherein the primary issue was whether a widow had the right to inherit her late husband's trademark rights. The first trademark infringement occurred in 1618 concerning an imitation of a high-quality clothing fabric.

As industry developed rapidly in Europe and the United States in the mid-19th century, France, England and the United States implemented trademark laws. In response to the internationalization of business transactions accelerated by the development of trade, a global agreement on trademarks was signed at the Paris Convention in 1883.

Reflecting on the aforementioned history, I think it is natural that the advancement of in-



formation technology, including the Internet, and the globalization of the economy, have a considerable impact on trademark systems. The recent revision to the system in Japan can be considered an appropriate response to align with the global trend.

If we closely review the recent revision to the Trademark Law, based on the above-mentioned historical recognition, we can see that the newly added items allowed to be registered as trademarks are limited to those that can be digitized, such as colors, sounds, positions, motions and holograms. Smells and tastes can also be used for identification purposes but were excluded this time due to the difficulty in determining the degree of their discrimination capability. In the future, however, if further improvement in information technology enables us to discriminate between smells and tastes more accurately, it would become possible to use and protect them as trademarks globally.

As I mentioned in the previous column, the age of sensitivity has arrived. If there is a system that can appropriately protect new products and services created by people with excellent sensitivity, it would serve as an incentive to create innovations.

In response to the increasing necessity and importance of discrimination capabilities, I believe that it is important for us to each establish our own discrimination capabilities, that is, our own identities. During the age of mass production of a small variety, mass production workers were in demand, and products and services with homogeneous quality were highly appreciated. Workers equipped with certain abilities and skills were valued at that time. In this age when consumer needs have to some extent been satisfied, however, people are demanding unique products tailored to their individual sensitivities and services intended exclusively for them, and are ready to pay high prices for these. In such an age, uniqueness and skill specialization can create added value, and people with unique personalities and a one of a kind factor may be highly appreciated.

Trademarks that retain high value are called brands. Therefore, what is possessed by people with unique personalities and who are one of a kind can be regarded as their "personal brand." Brands are valuable intangible and intellectual assets. Companies are expending considerable amounts of money, energy and ingenuity to brand their products and services and, furthermore, their company image.

Now, how about branding yourself?





Selection from TOP 100 Japanese Innovations "KAIT-EN-SUSHI (Conveyor belt sushi)"

Summary

Sushi had been undergoing development in Japan since the eighth century as a fermented food until the latter part of the Edo period, when the nigiri-zushi method was invented and sushi was made into a new food culture. After that, and until kaiten-zushi, or conveyor belt sushi, became popular, sushi was regarded as an upper-class delicacy because the preparation of sushi largely depended on the skill of the sushi chef, and prices varied according to the quality and market prices of raw fish and seafood, major ingredients for sushi. People therefore ate sushi mostly on special occasions, such as weddings, funerals, and when their children entered and graduated from school.

The emergence of kaiten-zushi is regarded as an innovation that accelerated the popularization of sushi by introducing factory line production methods into sushi culture and applying chain store management to sushi restaurants, which had mostly been run by private owners.

It is said that the basic business model of the kaiten-zushi restaurant was introduced in post-WWII Osaka and was popularized at the Expo '70 in Osaka. As of 2014, it is estimated that there are more than 4,000 kaiten-zushi restaurants in Japan. With this large number alone, it is clear that they play an important role in people's diet in Japan.

The following are the four major characteristics of kaiten-zushi restaurants that help to differentiate these restaurants from conventional sushi restaurants: 1) Prices are clearly listed, allowing customers to stay within their budgets and thereby allowing a variety of income classes and age groups, such as families and young people, to enjoy sushi; 2) A system that can offer sushi at extremely inexpensive prices has been developed by using conveyor belts as well as a system to manage the number of plates; 3) A system to deliver sushi automatically to customers is used, which minimizes the time required for chefs to wait for orders and the time for customers to wait for the ordered food, generating economic efficiencies that cannot be expected from conventional sushi restaurants; and 4) While conventional sushi restaurants are mostly run by private owners, many kaiten-zushi restaurants are operated by listed chain-store companies.

The business model of kaiten-zushi has spread not only thoughout Japan but also around the world. The model is modified according to local needs, and a significantly large number of kaiten-zushi restaurants are operated by local companies. In recent years, major Japanese kaiten-zushi chains have been rapidly expanding their business globally.

Background of Innovation

Nigiri-zushi is also called "Edo-mae-zushi," as nigiri-zushi was originally one of the sushi cultures enjoyed by people in Edo. Its popularity had been limited for many years prior to the Great Kanto earthquake in 1923. However, sushi chefs who had lost their jobs or had seen a decline in business after the earthquake moved to various places throughout the nation seeking new opportunities. As a result, nigiri-zushi spread throughout Japan.

In post-war Osaka, standing sushi restaurants (a cheap style of sushi restaurant without

seats) that served nigiri-zushi thrived. Yoshiaki Shiraishi, a standing sushi restaurant owner in Osaka, started serving four pieces of nigiri-zushi at the extremely low price of 20 yen, attracting many people. His restaurant was filled with customers and soon became so crowded that the number of orders exceeded the ability of the sushi chefs to fill them. Shiraishi wanted to make this totally handmade process more efficient. One day he visited a beer bottling plant where he saw bottles of beer moving on a conveyor belt and being filled with beer one after another. He then thought about applying this system to his sushi restaurant and, in cooperation with an iron foundry in his neighborhood, became absorbed in developing a conveyor designed exclusively for sushi restaurants. Ten years passed. One of the biggest obstacles was the difficulty in achieving smooth movement at the corners of the conveyor. When he spread out a bunch of name cards in his hands in the shape of a half-moon, like opening a folding fan, an idea came to mind that this movement could be applied to the corners of a sushi conveyor. He then developed a conveyor with a belt that moves in the same way as a folding fan when it reaches a corner.

In 1958 Shiraishi opened the first sushi restaurant installed with this device, named "Mawaru Genroku Zushi," in Fuse, Higashi-Osaka City. The restaurant, which was as small as 65 square meters, had only one counter with seats around it. A plate with four pieces of nigirizushi was generally 50 yen at that time. Sushi on plates was served on a conveyor belt. This conveyor belt system was registered as a utility model under the name Shiraishi in 1962 (cooking table with conveyer belt).

Shiraishi's kaiten-zushi became increasingly popular and he continued opening new sushi restaurants one after another. He also opened franchises in the Higashi Nihon area. Partly because of the protection under the utility model registration, Genroku Zushi enjoyed being the only kaiten-zushi restaurant for many years.

Kaiten-zushi became widely known throughout Japan when the Japan World Exposition was held in 1970 in Osaka. Genroku Zushi set up a store at the Expo and was awarded for its excellent cuisine. Thanks to this opportunity, kaiten-zushi, which was already well known in Osaka, also became popular throughout the nation as a fast food unique to Japan. As a result, the number of stores of Genroku Zushi increased to as many as 240.

When the utility model right expired in 1978, many new companies entered the kaiten-zushi market, which had been monopolized by Genroku Zushi. This made the market intensely competitive, changing the image of sushi from high class to casual, casual enough for salaried workers to be able to afford sushi for lunch. The distribution channel for ingredients was also affected significantly. The ingredients for sushi had previously been purchased via fish market wholesalers, but an increasing number of companies started purchasing these ingredients directly from fishermen and fishermen unions. Price competition became more intense and the prices for kaiten-zushi decreased until they eventually settled at 100 yen per piece regardless of the ingredients.

The conveyor belt system was also improved. In 1971 Ishino Seisakusho in Ishikawa Prefecture developed an automatic tea brewing machine and provided it to Genroku Zushi. In the same year, Ishino Seisakusho established a subsidiary called "Kitanihon-Kakoh," which in 1974developed a machine combining a conveyor belt and a tea brewing machine. Companies newly entering the kaiten-zushi business developed sushi robots and linear lanes. They established a system that allowed chefs to make and serve sushi to customers face-to-face, and also a system using a linear lane on which sushi made by chefs or part-timers in the kitchen could be delivered to customers one after another. While most kaiten-zushi restaurants were small scale and mainly located in front of stations or in busy areas, in the mid-80s large-scale kaitenzushi restaurants were built in suburban areas. In addition, instead of the conventional fixed pricing system, multi-level prices were set. Different plate colors and decorations were used to show the difference in prices. The current business model for kaiten-zushi, which aims to increase profits by mass-producing ingredients for sushi and increasing customer turnover, was thus established.

As a result of the intensified price competition and for other reasons, kaiten-zushi tended to be regarded as being cheap and low quality. In the bubble economy period in Japan, which began in the late 80s, the kaiten-zushi industry entered its winter. During this difficult time, the kaiten-zushi industry was largely divided into two categories: kaiten-zushi restaurants for gourmands and the major 100-yen sushi chain stores, which were further divided as follows:

1) "Deka-neta kaiten-zushi" offering large-size toppings; 2) "Gourmet kaiten-zushi" featuring daily fresh fish and seafood from the market instead of frozen fish and processed food products; 3) "Major 100-yen flat price kaiten-zushi," offering 100-yen per plate sushi by improving cost efficiency by taking advantage of large-scale stores; and 4) "Locally flavored kaiten-zushi," using distinctive local ingredients.

As times have changed, kaiten-zushi has been recognized as one of Japan's representative fast foods. In the late 80s large-scale kaiten-zushi stores were built in suburban areas and became popular as places for families to dine. These stores offer a wide variety of menu items, including not only sushi but also noodles and desserts, and have been transformed into general restaurants. Thanks to its tolerance of accepting anything, the concept of kaiten-zushi has been widely accepted by the public and loved by many people around the world.

Since the '90s, the system and business model of kaiten-zushi have spread not only in Japan and the entire Asian region but also throughout the world. There are many sushi restaurants using the kaiten-zushi system in major cities in the United States and Europe. The fitness boom may have partially contributed to the globalization of kaiten-zushi but it should also be noted that the creative incorporation of distinctively local ingredients, such as ingredients in the "California Roll," has also greatly contributed. Japanese kaiten-zushi companies have also become diversified and are advancing into the global market.

Summary of Invention and Technical Development

Technologies that have been developed to support the kaiten-zushi business include an automatic tea brewing machine, two-tiered conveyor, rice ball robot, automatic plate counting system, touch screen ordering system and special express lane. These technologies have played an important role in improving the economic efficiency of kaiten-zushi.

Ishino Seisakusho developed and launched "NACS," a sushi conveyor with an automatic sushi serving device, in August 1988; a sushi conveyor with a clear roof in April 1996; and "Poka Maru," a heating and heat retention device, in December 1997. In 1999 the company launched OAISO, an automatic billing system. This system reads an IC chip embedded in each plate, making it unnecessary for staff to count the actual number of plates. As described here and including the aforementioned automatic tea brewing machine, Ishino Seisakusho has developed many kaiten-zushi-related technologies.

The development of an automatic sushi rice ball making machine began in 1977 and in September 1981 the first prototype of the "Edomae-zushi automatic sushi rice ball making machine" was completed and launched in December of the same year. At around the same time, Kitanihon-Kakoh also launched its automatic sushi rice ball making machine.

The development and improvement of processing technology for sushi toppings have also

contributed to reducing costs for kaiten-zushi. The processing technology developed by Toyo Reizo in 1980 covers the whole process from cutting fish into rectangular pieces, adjusting the size of these pieces to the standard size, placing them on styrene foam trays, vacuum sealing them, packing them into boxes, to delivery.

Innovative technologies for kaiten-zushi systems include automatic plate counting and water collecting systems introduced in 1996, and a time-limit management system in 1997. The automatic disposal system introduced in 1999 reads the QR code attached to the back of each plate with a sensor and disposes plates of sushi that have been on the conveyor for a certain time. In 2001 a touch screen ordering system was introduced, which allows customers to place an order by touching the screen. This system automated the ordering of sushi toppings, which had previously been made face-to-face or via intercom, thus reducing ordering errors.

Kaiten-zushi-related technologies can be grouped into the following three categories: 1) Technologies indispensable for serving sushi, such as the conveyor belt system and automatic tea brewing system; 2) Technologies to reduce costs, such as the automatic sushi rice ball making system and processing technologies; and 3) Automatic disposal and POS systems, touch screen technology, etc. These are all technologies to optimize the process of serving kaiten-zushi. These technologies have been gradually introduced as the kaiten-zushi industry has developed and expanded. As described above, various kinds of innovative technologies have played an extremely important role in simultaneously enabling improvements in cost efficiency and the maximization of added value to establish a business model for kaiten-zushi.

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Photo Courtesy of Genroku era industry The first restaurant opened in Higashi Osaka city in 1958, April

Mr. Yoshiaki SHIRAISHI's booth at Osaka World EXPO



Photo Courtesy of Genroku era industry

Happenings in Japan (Four-Flame Cartoon)



Introduction about our website page

E-learning

These e-learning materials have been created as part of the JPO's Cooperation in Human Resource Development Program. Through these, users can access videos via web-streaming as well as complete multiple-choice quizzes to check their learning outcomes. http://www.training-jpo.go.jp/en/images_x/uploads/e-learning/intro.html

The teaching materials prepared this time are related to anti-counterfeiting measures. Anti-counterfeiting measures as well as case studies of initiatives undertaken in Japan are introduced. You may select by chapter, allowing you to select only those areas that are of most inter-

est to you. Teaching materials consist of 4 chapters, with the total of

the materials lasting approximately 1 hour.



The "Anti-counterfeiting Measures" teaching materials are scheduled to be included on the website in March 2015. After which additions and updates to the contents will also be planned. Please be sure to utilize these materials.



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Editors' Note

Hello! This is Mitty. I will be the editor of the magazine for the coming year, too. I'll work hard to keep bringing you interesting information, so I hope you will enjoy reading it.

It's summer in Japan now, which means that firework events are being held all over the country. The literal translation of the Japanese word for fireworks would be "fire of flowers" (*hanabi*). Like the name, fireworks in the past used to mainly be the kind that bloomed in the sky like flowers. However, these days we have fireworks that explode into letters, stars, and hearts, so we can watch them not just to enjoy their beauty, but also to experience the anticipation of wondering what kind of firework might be next. The resonating sound after the initial flash of light is also one of the thrills of fireworks.

In Japan we have a long tradition of "enjoying the cool of summer" with all five senses. As the temperature cools in the evening we use our sight to admire the fireworks, our hearing to listen to the sound of *fūrin* (wind chimes), our sense of smell to enjoy the scent of cooking *kabayaki unagi* (eel baked in soy sauce), our taste to savor delicious *sōmen* (cold noodles), and our sense of touch to feel the sensation of *goza* (rush mats) beneath us. What kind of events are held during summer in your country?

In this issue the Director General's column will talk about trademarks. We are all responsible for creating our own personal brand. It hardly needs to be said that meeting all of you has brought many important connections, or "*Enishi*", into my life, not just in terms of building my brand. It is thanks to the individual support of each and every one of you that I am able to put this magazine together. In the coming year I would like to continue to work togeth-

er with you to establish intellectual property as a common global property that, while remaining.

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