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IP Friends Connections

No.19
August
2018

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.

【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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1. FY2018 Training Courses List

Outline of the FY2018 JPO/IPR Training Courses

No.	Term of Course		Title
1	June 19 - July 3, 2018	(11 days)	JPO/IPR Training Course for IP Trainers
2	July 5 - 13, 2018	(7 days)	JPO/IPR Training Course on Patent Examinations in Specific Technical Fields for Latin American Countries
3	July 10 - 20, 2018	(8 days)	JPO/IPR Training Course on Trademark Examination under the Madrid System
4	July 18 - 26, 2018	(7 days)	JPO/IPR Training Course on Patent Examinations (Basic Program)
5	August 6 - 10, 2018	(5 days)	JPO/IPR Training Course on Promoting Public Awareness of IP
6	August 22 - 28, 2018	(5 days)	JPO/IPR Training Course on Patent Examination Practices for Vietnam
7	August 30 - September 5, 2018	(5 days)	JPO/IPR Training Course on Trademark Examinations under the Madrid System for Indonesia
8	September 3 - 14, 2018	(10 days)	JPO/IPR Training Course on Substantive Examinations of Designs
9	September 19 - 26, 2018	(5 days)	JPO/IPR Training Course on Patent Examination Management
10	September 20 - November 9, 2018	(35 days)	JPO/IPR Operational Patent Examination Training Program (OPET)
11	October 3 - 10, 2018	(5 days)	JPO/IPR Training Course on Trademark Examinations under the Madrid System for Thailand
12	October 15 - 19, 2018	(5 days)	JPO/IPR Training Course on Establishing Patent Examination Guidelines for ASEAN
13	October 31 - November 16, 2018	(13 days)	JPO/IPR Training Course for Practitioners Specializing in Patents
14	November 14 - 20, 2018	(5 days)	JPO/IPR Training Course on Patent Examination Practices for Thailand
15	November 21 - December 4, 2018	(9 days)	JPO/IPR Training Course on Substantive Examinations of Trademarks
16	November 26 - December 12, 2018	(13 days)	JPO/IPR Training Course for IP Protection Lawyers
17	December 10 - 19, 2018	(8 days)	JPO/IPR Training Course on Academia-Industry Collaboration and Technology Transfer
18	December 17 - 20, 2018	(4 days)	JPO/IPR Training Course on Information Technology
19	January 10 - 17, 2019	(5 days)	JPO/IPR Training Course on Design Examinations under the Hague system
20	January 16 - 22, 2019	(5 days)	JPO/IPR Training Course on Trademark Examinations under the Madrid System for Malaysia
21	January 21 - February 1, 2019	(10 days)	JPO/IPR Training Course for Practitioners Specializing in Trademarks
22	February 14 - 20, 2019	(5 days)	JPO/IPR Training Course on Trial and Appeal System for ASEAN
23	February 19 - 26, 2019	(6 days)	JPO/IPR Training Course on Anti-Counterfeiting Measures for Practitioners

2. Messages from IPAA's Presidents

From the Philippines

Ms. Gloria T. Salvado

President

IP Alumni Association of the Philippines

Intellectual Property Rights Specialist V

Bureau of Patents

Intellectual Property Office of the Philippines



I was lucky enough to have attended three different trainings sponsored by the Japan Patent Office (JPO) and its partners in the field of Intellectual Property (IP). The said training which I attended in 2000 was sponsored by the JPO and the Japan International Cooperation Agency (JICA). I thought that would be my first and last time to see Japan. I was captivated by the beauty and serenity of this country despite the hassle and dazzle of the people. What captivated me most was the discipline of the Japanese people and their willingness to help other people despite the language barrier. I joined various activities and I got to experience the traditional Japanese way of living by joining a two-day homestay with a Japanese family. The cleanliness of the surroundings and the efficiency of public transportation were also among the unforgettable memories I had in Japan, which I would love to experience again in the near future.

During that time when I first attended the training, the Intellectual Property Office of the Philippines (IPOPHL) had adopted another system, the first-to-file system, which is entirely different from the previous system, which was the first-to-invent system. The training was very timely since IPOPHL was implementing the new system. The training was very relevant and timely for me since I was then the head of the division involved in the formality examination and publication procedures. I got the chance to interact with the people from the Management Information Services, the examiners and officers from the PCT units, and other people from the JPO. This helped me in my job when I returned back to the Office. During the training I was able to observe how they process applications from filing to grant. I was also given the chance to attend actual hearings of patent and trademark cases in the High Court of Japan handling IP related cases.

I did not envision myself becoming the next President of the Intellectual Property Alumni Association. I shied away from being the head of an association since I know that being a president entails a lot of work, especially in the field of IP. However, since I was chosen to be the next president, like my other predecessors, I have to continue what they have started. The IPAA is embarking on another journey and is finding ways of how to continuously spread the knowledge of IP protection and its importance towards national development. With this in mind, the IPAA has scheduled its first IP Kapihan (coffee dialogue) this July 2018 with the topic of Biotechnology and ICT Guidelines. These topics are very relevant since the IPOPHIL has just finalized and uploaded these guidelines. The Biotechnology and ICT Guidelines were crafted with the assistance from experts of the Japan Patent Office. It is imperative for IP practitioners to have knowledge of the guidelines for them to be guided in the prosecution of applications involving biotechnology and ICT. This will also enable both the examiners and the practitioners to have a uniform understanding and interpretation of the guidelines.

The IPAA envisioned to help children finish their studies as one of its social commitments. We believed that it is not only IP practitioners, professionals and academe that need to be updated with current trends

in IP, but also support children in their studies and make them aware of the different IP rights, as they will be the future advocates and avatars of IP. The IP Alumni for the second time donated a small amount to an organization taking care of children and supporting them in going to school under the Hungry Minds Foundation for Children. In order to support this advocate, the IPAA intends to hold a fund-raising activity through movie block screening to continuously support this social commitment.

Also, the IP Alumni is planning to conduct a free of charge one-week IP clinic in coordination with the IPOPHL sometime in October 2018 to assist would-be IP filers to guide them on how to file an IP application.

Further, the IP Alumni, in its effort to seek and encourage active participation from the members, is planning to hold a general assembly where we will ask our members' active participation and support to the different steering committees that were previously formed in order to come up with activities or projects that are of relevance to the propagation of IP awareness.

And the most awaited activity by the IP scholars is the follow-up seminar sponsored by the JIPII-APIC and the JPO in coordination with IPOPHL and IPAA which is being held every two years. This is the time where the scholars from the IP Alumni get together to know and meet the new scholars. This is also the time to renew acquaintances, learn the topics which they attended, and to share their experiences of their recent travels to Japan.

There are other activities which we plan to do, and hope to continue for the enrichment of the members as well as other people around us. The importance of IP awareness is very valuable in the national development!

It will also be worth mentioning that the IP Alumni Associations' Officers and Board of Directors/Trustees be given the chance to meet in Japan or in other countries and get the opportunities to share their associations' achievements and future plans to help spread the importance of IP in their respective countries!

3. Contributions from the former trainees

My advanced career after taking the JPO/IPR training course in Japan



Ms. Thouk Much Theary (Cambodia)

(FY2014 JPO/IPR Training Course for IP Trainers, 23 June - 04 July 2014)

Ladies & Gentlemen

Firstly, let me extend my appreciation to APIC/JIPII and take this opportunity to congratulate all of your effort for the summer editing "ENISHI IP Friends Connections. I also extend most appreciation to The Japanese Government that always extends official development assistance to developing countries to support self-efforts of the citizens of those countries.

On the one hand, I would like to introduce myself. I graduated from University of Economic in 1994 and started working in the Department of Intellectual Property of the Ministry of Commerce from September 1996 until March 2016. I received a postgraduate degree in Management and Sciences from Pannasastra University in 2002. In my professional progressive working experience of "nineteen years" directly engaging with the Department of Intellectual Property, I attended various professional training courses, workshops and meetings with an overall emphasis on business management as well as Industrial Property Management, Administration and Enforcement both local and abroad. I am also familiar with the function of Marks Registration Division, its internal control system and procedures throughout examination cycles.

On the other hand, this is to indicate in brief my key professional competences and the strength of the following working experiences after attending the training courses in Japan. I attended four Intellectual Property Right (IPRs) courses as following: First, as a Chief of Law in the Research and Dissemination Section, dealing mostly with researching, studying, translating and editing international IPRs laws and treaties from English to Khmer. I attended the Program on Industrial Property Management in January 10-25, 2001. During the course, I obtained knowledge of IPRs in general and experiences on how to conduct performance and monitoring of efficient/ effective management methods from the host country and Asian participants. In order to solve the problems that occur, the IP awareness and management at national level is still needed from the relevant administrative authorities, competent officers and all stakeholders by organizing a national seminar, study visit and cooperation with countries/ organizations at both regional and international level for exchange experiences and lessons on IP management and development. After the course, my first assignment was to be a Deputy Chief of the Trademark Registration Division, in charge of renewal, licensing, amendment, record of assignment, and change of name and address of mark registration.

Then, I attended the "International Seminar on Civil and Commercial law" which was organized by JICA from February 9 to March 27, 2004 in OSAKA, Japan. I gained knowledge of current legal systems for the protection of IPRs; formulated future policies for their development of legislation for IPR protection that contributed to the improvement of IPR harmonization in ASIA. The course is complied with my work re-

quirements and taught me the legal protection of IPRs of my country is insufficient, the fact of which itself has been one of the major obstacles for countries to facilitate international transactions and investment in the global market. However, protection and enforcement of IPRs in Cambodia have been strengthened in recent years and now it is trying to harmonize legislation among its member countries to facilitate transactions in the region.

After that, in 2008, I was appointed as a Chief of the Trademark Registration Division. Under my supervision, I had a responsibility to review the correctness of a mark as to forms to make sure that they complied with the administrative requirements or formalities. Furthermore, I reviewed an examination of mark to determine whether a mark falls into a prohibited category and verified the mark cannot be mistaken with another one that could confuse the public. From January 28 – February 10, 2009, I attended the Training Course on the Industrial Property Administration under the WIPO Funds-in-Trust/JAPAN. I gained an insight into knowledge on works management, coordination and administration in trademark examination practice at both regional and international level for exchange experience and lessons to improve and develop with Industrial Property Administration System (IPAS) in my workplace. Cambodia may wish to consider that requirement in relation to establish standards and with a view to possible future amendment of the law/regulations to update its system.

Finally, I attended the JPO/IPR Training Course for IP Trainers (23 June - 04 July, 2014) and was appointed to be a Deputy Director of Department of Intellectual Property, in charge of the Trademark Registration Division. This was the most important role that I was a registrar. I undertook the right to approve or dismiss application for marks or service marks. In addition, it was also the most significant course; I brought back knowledge of understanding of how to efficiently/ effectively disseminate IP (e.g. legal system, international treaties and method of using IP information) through opinion exchange with other trainees, including presentation of group members.

Later, from August 2016 up to the present, I have been promoted to be a Commercial Counselor representing commercial activities at the Royal Embassy of Cambodia in Kuala Lumpur, Malaysia. The major responsibilities are giving consultation on Cambodia's trade & investment, law and regulations, as well as providing other information to businesspersons/ companies/ entities/ organizations that want to do businesses in Cambodia. Furthermore, to benefit Cambodia's products overseas, I collaborate with Malaysia External Trade Development Corporation (MATRADE) to promote trade activities in export development program and facilitate potential products, goods & services to Cambodian markets. In addition, I follow up the current economic status and participate in various meetings, conferences, and others events that provide a wider platform for the public and private sectors to interact and exchange views on the policy framework to formulate and update a clear direction by the Government of Malaysia. I am also invited to give presentation to discuss any potential business collaboration, network with relevant agencies to update local companies on current policies, incentives and facilities provided by the government of Cambodia. Therefore, for Cambodia to achieve sustainable growth and prosperity, we need to enhance our national competitiveness.

In conclusion, through my relevant experiences after the training courses in Japan, I am very proud to say that both direct and indirect training programs for overseas participants are beneficial to contribute to the development of human resources and to the promotion of mutual understanding and friendship globally. Importantly, the courses create a good opportunity for all participants to upgrade new knowledge, share updated information as well as to seek a multinational network with a valuable support by JPO/JIPII and the Japanese Government.

New Developments of IP Protection System in Mongolia



Ms. Erdenebayar Myagmardorj (Mongolia)

(IPR Training Courses under the WIPO Funds-in-Trust/JAPAN, Industrial Property Administration
February 15 – March 3, 2006)

IP protection in Mongolia has developed real meaning since 1993, according to Article Seven of the Constitution which stipulates:

1. The historical, cultural, scientific and intellectual heritage of the Mongolian people shall be under State Protection.
2. Intellectual values produced by citizens are the property of their authors and the national wealth of Mongolia.

Article Sixteen states:

The citizens of Mongolia are guaranteed to enjoy the following rights and freedoms:

...8) the right to engage in creative work in cultural artistic and scientific fields and to benefit thereof.

Copyright and patents shall be protected by law.

These are the main basic regulations of Intellectual Property protection in Mongolia.

After that the Copyright law and Patent law adopted separately in 1993.

1. Main legislation on Patent and new development

The main legal statutes regulating IP rights in Mongolia are the Law on Patents, the Law on Copyright and Related rights, the Law on Trademark and Geographical indication, the Innovation law, the Technology transfer law and the Law of Infringement. The Patent Law regulates inventions, industrial designs and utility models. Under the Patent law "invention means a new solution related to a product or an industrial process which involves an inventive step, and the essence of which is disclosed on the basis of a law of nature",

"utility model" means a new technical solution related to an industrial tool, device or process which is industrial applicable".

Invention should be new, have inventive step and be capable of industrial application.

The following are excluded from patent protection:

- A discovery, scientific theory or mathematical method;
- A computer program, algorithm;
- A scheme, rule or method for performing a mental act, playing or doing business;
- A solution contrary to public order or morality, or which is harmful to the environment or human health;
- Diagnostic and therapeutic methods for the treatment of humans or animals;
- Plants and animals other than micro-organisms and biological processes for the protection of plants

and animals.

Duration of the patent examination and search is nine months.

In Mongolia there is no need to make a special request for substantive examination.

The Ministry of Justice and Home Affairs established a working group for preparation of a draft on patents and utility models. The Mongolia has received WIPO's assistance concerning a draft of Patent law in 2017.

The experts drafted the Law on Patent, Utility Models and their Enforcement. The main purpose of this draft law is to develop patent and utility model regulation and promote innovation as undertaken by local innovators and SMEs.

The main important principles of the draft law are as follows;

a/ TRIPS requirements: According to the Article 7 of the TRIPS Agreement, the law should be balanced between rights and obligations. For this reason, Patent Law of Mongolia should regulate patent regulation with "flexibilities", which concern "compulsory licenses", "minimum standards", "exclusions from patentability"; the local content disclosure requirement; "exhaustion"; previous control of abusive and anti-competitive licensing clauses; and exceptions to rights conferred.

The Doha Declaration on the TRIPS Agreement and Public Health of 2001 highlighted that "We recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement.

Mongolia accepted the amendment to the TRIPS Agreement concerning compulsory license for pharmaceutical products. In this regard, it should be regulated clearly in new Patent law.

Article 39(1) of the TRIPS Agreement establishes that "in the course of ensuring effective protection against unfair competition as provided in Article 10 bis of the Paris Convention, Members shall protect undisclosed information". In order to comply with this, regulations were set through a new provision to the Patent Law.

b/ PCT requirements: The draft law introduces some elements related to the legal security of the procedure leading to the granting (or rejection) of the patent: international classification, publication of the application and an opposition procedure. The time limit of the examination should be eighteen or thirty-six months according to the PCT substantive examination requirement.

c/ The need for reducing the obstacles against industrial property rights.

2. Industrial design

The revised 2006 Patent law of Mongolia provides protection for Industrial design rights. "Industrial design" means a new and original solution related to the shape, pattern or color, or a combination of colors in an article." Industrial design should be "new, ornamental and original". If any design features were not publicly known prior to the filing date, they shall be regarded as "new" and any design features possessing creative characteristics shall be regarded as "original".

A design which is identical with or similar to national emblems, flags, banners, seals, decorations, orders of merit, medals or national flags and emblems of foreign countries, or emblems and symbols of international organizations; if it is contrary to public order or morality; or if it is detrimental to anyone's business, it shall not be protected by industrial design patent.

Filing the application, the formality examination, the substantive examination and the granting of a patent of industrial design are the same procedure as invention.

3. Trademark and Geographical indication

The Law on Trademark and Geographical Indication of Mongolia was adopted in 2010.

According to the Article 3.1.1. "trademark" means distinctive expression used by a natural or a legal person in order to distinguish the goods or services from those of others". Article 3.1.4. "Geographical indication" means the geographical definition of a country, region or locality where the goods or products originated therein with a given quality, reputation or other characteristics that are identified by factors of nature and climatic condition or people custom of given territory.

Trademark and geographical indication law provides provision concerning to the "collective mark and certification mark".

Duration of the examination of trademark application is nine months.

Multiple-class trademark applications are acceptable.

Trademark registration is valid for ten years from filing date and renewable for ten years.

Recently, established working group at the Ministry of Justice and Home affairs and they drafted amendments to the Trademark and Geographical indication law of Mongolia.

Main principles of the amendments are the following:

- a/ Trademark law treaty – TRIPS consistency
- b/ Develop regulation of the geographical indication
- c/ Develop the Appeal and Opposition procedures for refusing trademark registration.

4. Copyright Protection

The first Copyright Law was enacted in 1993, in agreement with the Constitution of Mongolia of 1992.

A revision was approved as the Law on Copyright and Related Rights in January 2006, which provides the purpose of this law regulation in matters related to the ownership, exploitation, administration and protection of works subject to protection by copyright and related rights.

Under Copyright and Related right law, works subject to copyright are, "any scientific, literary or artistic works involving creative activity of authors...irrespective of their content, purpose, value, importance and methods of expression.". Copyright law gives to authors the exclusive rights: economic and moral rights.

The term of copyright protection is lifetime and plus fifteen years after the death of the author.

For related rights, the works subject to related rights retain the rights of Performers, record producers and broadcasting organizations.

The term of related rights protection is 50 years after the first performance, first publication and broadcasting.

5. Enforcement

In terms of infringement, intellectual property rights are classified in the following manner:

- a/ Civil infringement

- b/ Custom infringement
- c/ Administrative infringement and
- d/ Criminal infringement

According to Article 18.4 of the Criminal Code, illegal production, keeping, sale, importing, or exporting of the invention without authorization of the patent owner or certificate owner of a utility model has caused damage to the rights owner in a small amount, and is criminal patent infringement.

Any patent infringer shall be fined or have their travel rights limited, or given compulsory duties and arrested.

Article 18.16 of the Criminal Code regulates trademark infringement

Article 18.7 of the Criminal Code provides criminal penalties for copyright infringement. The parliament of Mongolia adopted an infringement law in 2017 for administrative infringement of Intellectual Property which provides that a breach of the legislation on an intellectual property rights owner shall subject the infringer to an administrative liability by a judge or state inspector.

In case of a customs infringement at the border, the Mongolian Customs General Administration is authorized to exclude, detain and or seize imported and exported goods that are counterfeit or pirated.

The Intellectual Property Office of Mongolia merged with the State Registration Office in 2016, after the Parliamentary Election.

Under the decision of the Parliament on May 10 2018, the Intellectual Property Office was reconstituted separately.

The Database of Industrial property information of Mongolia contacts with WIPO's database through the Global Brand database and Global Design Database.

The IP office has successfully implemented project on IPAS system in April, 2018.



Ms. Erdenebayar Myagmardorj, joining the Intellectual Property Office of Mongolia (IPOM) as legal officer in 1995, is currently Director of Copyright Department of General Authority for Intellectual Property and State Registration.

4. Training course experience in Japan

What Japan is Offering to the World

– Creating wealth and prosperity through knowledge and innovation: Japanese culture



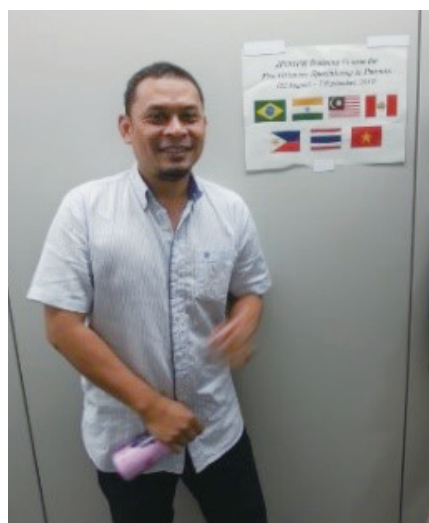
Mr. Wan Kusnaeny Kiflee (Malaysia)

(JPO/IPR Training Course for Practitioners Specializing in Patents,
22 August – 7 September, 2017)

It was a great opportunity when I was accepted to join a program offered on IP practitioners specializing in patents which was jointly organized and sponsored by the Japan Patent Office (JPO) and The Association for Overseas Technical Cooperation and Sustainable Partnerships (AOTS). It was a 3-week program and the content throughout the program was absolutely amazing. Even though I have participated in courses with similar topics, the one offered by JPO and AOTS was exceptional. The selection of lecturers was right and each one of them demonstrated understanding, competency and in-depth knowledge in their respective fields of study.

Program Overview

The title of the program is about IP practitioners who are specializing in patents and the lectures conducted were detailed enough that anybody who involved in patents would agree that the program was so beneficial for such profession. This time around, our classmates consisted of participants from Malaysia, the Philippines, Vietnam, Thailand, India, Brazil and Peru.



Myself beside the national flags of all participants

Every participant agrees that this program was so well prepared and conducted. The content and information shared was also invaluable to most of us. Even though the whole program was about specializing in patents, we were taught about other aspects of IP as well such as Trade Mark, Industrial Design and Copyright. Talking about specializing in patents, there were a few subjects that most of us found overwhelming and those topics were License Negotiation theory and role play, Dispute Settlement and Intellectual Property Trading. I myself had never been exposed to such topics before and I felt like these were the missing links that I have been looking for and will definitely enhance my skillsets.

Another great thing about this program was the selection of participants. All the participants come from a mixture of backgrounds with some from law and practicing as lawyers while most of us had technical backgrounds in fields like science and engineering. Some had double degrees and post graduate degrees while all had high interest in intellectual property and the creation of wealth that comes with it. With such diverse backgrounds, knowledge and experiences, it made the classroom filled with beneficial discussions one after another until the end of the program.

Besides the classroom, we had the chance to visit Honda Showroom at Plaza Aoyama. In the morning, we had lectures by Honda representatives and in the afternoon, we were taken to the showroom. There were not many new models of cars and motorbikes but the highlight was the company's robot technology. Yes, the Honda's human-scale robot Asimo. Through a video, we were enlightened on the history of robot making technology developed by Honda through all the years since its beginning. The message was inspiring and the founder of Honda has truly inspired Honda employees and embedded the culture of innovation at Honda. Also, we were shown a short video on the newly launching driverless car with Honda sensing technology. Truly inspiring!



Picture courtesy with ASIMO

Life in Japan

One good thing about this program was it was held during summer in Tokyo and it feels like home. And that is a good thing because I did not have to pack thick clothes and was able to carry more of nicer ones. I landed in Tokyo in the afternoon and was greeted by a couple of AOTS's staff. They gave me a piece of pa-

per with a map on it and instructions on how to go to the AOTS Tokyo Kenshu Centre with some money for the ticket to get there. The Centre is the accommodation that I spent the next 3 weeks.

In the train from the airport to the Centre or what we called TKC, passengers coming on and out and I was a bit surprised to see that there were many foreigners on board. From their looks and the language, they spoke to each other, I believed most of them were from the Philippines. And from their appearances, I believed they were non-professional workers. Is Japan finally opening up to foreigners to help the labour force shortage they are facing? In Malaysia, we have been facing labour force shortage in the non-professional positions for as long as I can remember and to put up with the shortage, we have been hiring people mostly from Indonesia and Bangladesh.

The first week of the program was great. Not so much heavy stuff. On Friday of the first week, we decided to join a cultural event called Bon Odori at Hibiya Park which is nearby the Japan Patent Office right after class. We arrived there early before it starts at 6pm. As much of the world knows, Japanese are known for their extreme time keeping and punctuality. As we did not want to miss anything, we started walking to Hibiya Park to arrive there as early as possible. When we got there, there was a huge crowd wearing Japanese traditional attire known as kimono. A bit of information, I was told that there are different types of kimonos worn for different occasions and during different seasons. For this particular event, both Japanese men and women wore Yukata.



With two gorgeous Japanese women in their Yukata

See the water fountain behind me? People were dancing the Bon Odori style circling that fountain. Those clad in Yukata led the way. The dance started when the drums start rolling and when those clad in Yukata started dancing, everybody followed and tried to catch up with their every single move and every single step. The stomping drums lightened the mood. There were many stalls around the Hibiya Park selling food and drink so you didn't have to worry whenever you need that extra energy to keep up with the dance or to quench your thirst. It was hard at the beginning to follow but I caught up and danced from the beginning till it was over that night. I had a lot of fun there. A lot of people joined this 'party' and I saw foreign tourists

together having fun and of course our dance steps were horrible but this cultural event encourages bonding between Japanese and ourselves. This is exactly what I am looking for whenever I travel abroad. The beauty cultures of others and the chance to get up close and personal with the locals and getting myself immersed into those cultures. I guess that is probably the best way to get to know and understand other's cultures and feel the bonding.

On the first Saturday, with a few friends and a preplanned agenda, we went on a trip around Tokyo city centre. We visited popular spots most people recommended. We went to visit the Imperial Palace, Ginza, Shinjuku, Meiji Shrine, Ueno, the famous Shibuya crossing and Asakusa. Tokyo is a big city and there are so many places to see. We ended our day in Asakusa where we spent most of our time because there was a huge Asakusa Samba Festival. It is an annual event and this time around it was its 36th and we were very lucky to see such an event. It was the closest samba event I had the chance to see beside the one in Brazil. There were so many people standing at the sides of the roads and I had to tip toe between them to catch a glimpse of the parades and performances. Music was loud, people were busy taking pictures and videos as much as they could get. It was really an amazing experience. When the parade was over, we went to see the Asakusa Sensoji Temple nearby.

At first, I was a bit reluctant to join a trip program to Kamakura arranged by AOTS. I was looking forward to the exciting part of the Tokyo city area. But I was glad I did. It was quite a long journey to Kamakura from Tokyo (I can't remember but probably around one-and-a-half-hours with multiple different train rides). Kamakura is south of Tokyo and famous with old shrines and Buddha temples. Taking a few trains to Kamakura, during the journey itself was a wonderful experience when I got to see the other side of Tokyo. Kamakura is more of a humble and quiet city compared to the busy metropolis of Tokyo. We traveled in a group of around 50 to 60 people as we joined with other groups from different programs who stayed at TKC as well. It was a mix of people from different countries and we had the chance to get to know each other during the trip. As I remembered it, it was a beautiful day and it was hot and humid in Kamakura throughout the day.

When we reached there, we were greeted by wonderful guides who were kind enough to accompany us and explained about the history of Kamakura. These guides are Japanese who were born and raised in Kamakura and they speak good English. As they took us around Kamakura to see the temples and shrines, they



At one of the shrines in Kamakura

explained the history of Kamakura and the birth of shogun. There are many Buddha statues around the city and the one that went to see was called Kamakura Daibutsu or the Great Buddha of Kamakura. It is a huge bronze Buddha statue in the middle of the city.

As the day ended, we went to the beach nearby and enjoyed ourselves there. People were sunbathing and swimming but we did not as none of us had brought our swimsuits. Later we went to the major shopping street in central Kamakura. There was a lot of restaurants and shops selling souvenirs and treats. There was a lot of tourists mostly young Japanese spending time in Kamakura in the weekend in the summer. Kamakura is an old city preserved with traditions and history. Whenever you visit Tokyo, I would really recommend Kamakura as one of the not-to-be-missed places to visit. One important reminder, when you go around the shrines and temples, always keep the place tidy!

On the way back to Tokyo, all trains taking us back to Tokyo were packed with people. I, on the other hand, stopped over at a station and went straight to Akihabara Station to Yodobashi Akiba, one of the famous shopping malls in Tokyo selling electrical products. I went just to buy a G-Shock wristwatch for myself and I got it really cheap compared to the one sold in my country and I saved probably around RM400. Best weekend ever!

Upon acceptance to the program, I 'googled' looking for attractions in Tokyo and I found that Fuji-Q Highland is a must visit destination. Tokyo is famous for its Tokyo Disney Resort, but Fuji-Q is something I've never heard of. When I learned that it is famous for some extreme rides holding some Guinness World Record, Fuji-Q became a top priority. I went there on my last Sunday by bus from the Shinjuku station in early morning. Fuji-Q is located near to Fuji-san and I could see the enormous mountain while I was lining up for the rides. The extreme rides are where the longest queues were and I had to line up for more than an hour just to get on a few-seconds ride. I had to wait slightly more than two hours just to get on Eejanaika once. The only one thing I missed was the Dododonpa because I had to hurry to catch a bus back to Tokyo city. Hopefully one day I will return for Dododonpa. So folks, if you like the extreme rides, then head to Fuji-Q Highland. You can do the Disney Resort some other time.



Souvenir from Japan for myself

It has been almost a year since I left Tokyo and all of us still stay connected though social media. Japan is truly a country on the front line with regards to IP protections and its creation of wealth. A well-known culture filled with innovation values integrated with disciplines while honouring true understanding of traditional values. Living in Japan offers life in a fascinating country combined with modern, busy and exciting places to visit.

Among the countries and cities I visited, Japan has the best vending machines ever filled with a variety of bottle and can drinks. I sure hope to return to Japan one day.

Genki de! Sayoonara...

Walking among Modernity and Tradition



Mr. Pedro Sloboda Jorge (Brazil)

(FY 2017 JPO/IPR Training Course on Trademark Examination Practices (Basic Program),
6 February – 16 February, 2018)

On a February afternoon, as the plane took off from the Rio de Janeiro International Airport, I left the blazing hot Brazilian summer for a 30-hour journey that would land me literally on the other side of the planet, in the cold and giant Tokyo. I was there for the JPO/IPR Training Course on Trademark Examination Practices (Basic Program) along with other 15 trademark examiners from eight South American and Asian countries.

It seemed to be a great opportunity to learn more about the Japanese Trademark System and the practices of a huge and internationally respected Patent and Trademark Office like the JPO. My expectations were not only met but exceeded, as the course proved to be also an excellent way to be in touch with colleagues from other countries and learn more about their experiences, challenges and strategies.

However, what was to have been just a study trip showed an unexpected and positive side effect: it was the chance to visit a country—and especially a city—that I only knew through television shows, movies and history classes. More than that, it was an opportunity to get a glimpse of the Japanese people and its rich cultural heritage, and I was eager to make the most of it.



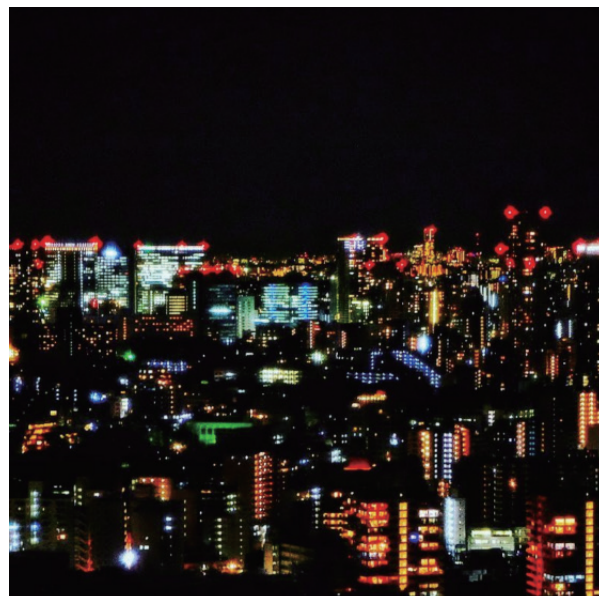
Tokyo Skytree

In spite of living in Rio de Janeiro, the second most populous Brazilian city, metropolitan Tokyo, with its 38,3 million inhabitants, seemed a bit daunting to me. Its huge subway and train systems looked like a maze and I was afraid I would not be able to find my way around. I could not be more wrong – a mix of new technology (the Tokyo Metro App) and the good old helpfulness of the Japanese people made my wanderings easy and effortless.

A short glimpse of the city caught from the airplane window before landing at Narita International Airport got me curious and I decided that my explorations should start with a panoramic view of the city. Fortunately, the Tokyo Skytree, the famous broadcasting and observation tower in Sumida, is just a short railway trip from AOTS' Tokyo Kenshu Center, where I was staying, so it was an obvious choice.



Tokyo Skytree



Tokyo Tower

There, at 350 meters above ground level, I saw myself surrounded by a sea of buildings of different shapes and sizes, extending as far as my eyes could see. Even the winter haze could not disturb the spectacular view, but tinted the city with a light blue tone, giving it a dream-like look.

After seeing the amazing daylight view of Tokyo, I wondered how it would look like by night, with the city

lights on. Fortunately, I was close to another famous sightseeing spot, as Tokyo Tower was within walking distance from where our classes were held.

Standing 333 meters tall, the white and red telecommunications and observation tower is an impressive structure, especially at night, when it is fully illuminated. Bearing a clear resemblance to the also iconic Eiffel Tower, it has two observation decks, at 150 and 250 meters high, but only the lowest one was open to the public at the time.

So, a short and cold walk and a cozy and warm elevator took me to the Tokyo Tower's main deck. There I had the chance to see the Tokyo's nightscape dotted with multicolored lights, like an abstract painting, its glowing streets and avenues looking like veins and arteries of a circulatory system made of street lamps and cars headlights.

Being a bit tired of watching the city from above, I decided to get back to the ground and explore Tokyo streets, plazas and buildings. One of my after classes explorations took me to Akihabara "Electric Town", a district worldwide known as the go-to destination to anime, manga, electronic gadgets and videogame fans.

Being a kind of "techie" myself, I was anxious to walk the streets of the "Electric Town" and was not disappointed. With bright and colorful electronics and anime shops, cosplayers in full costume and the occasional giant robot, it is easy to feel immersed in a video game/anime atmosphere.

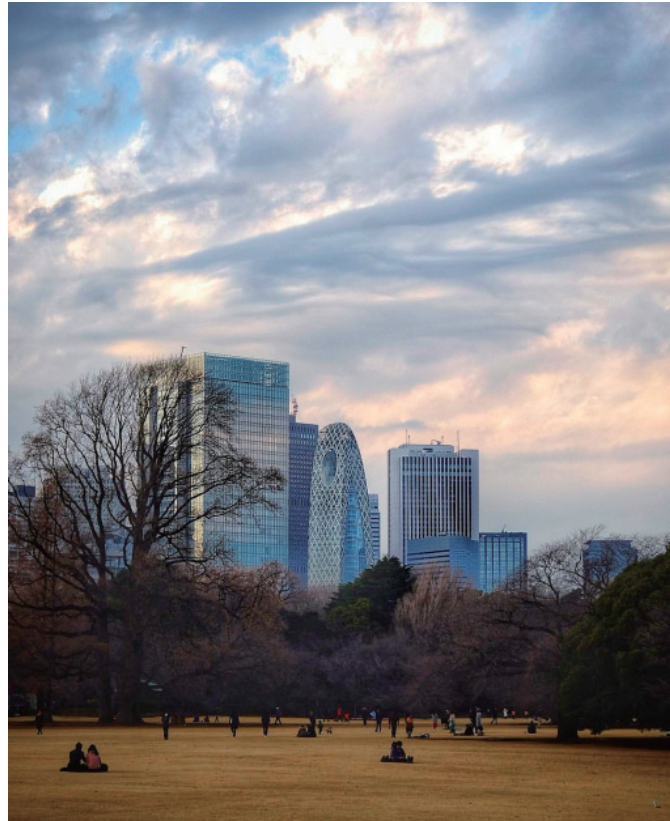
In the following days, my wanderings took me to different and wonderful locations, from the crowded streets of Shibuya to the museums of Ueno Park, from the top of the Tokyo Metropolitan Government Building to the tourist-packed and beautiful Sensoji Temple.

But, amidst the multitude of pedestrians waiting the green light at Shibuya crossing, the illuminated billboards of huge department stores and the crowds that waited in orderly lines to board the subway, I was surprised to find traditional and somewhat idyllic places that made me forget I was in one of the most populous metropolitan areas of the planet.

The Nezu Shrine, in Bunkyo ward, was one of these oases in the middle of the glass and concrete city. It was early Sunday morning when I arrived there, and the winter sun had just started to warm the beautiful azalea garden and the little creek surrounding the temple. A few people were passing by, walking their dogs, baby strolling, playing with their children, praying. Birds that were being fed by an elderly man started a curious dance, flying in wide circles before landing to catch the food. It seemed that every element, everything and everyone in that scene helped to enhance the feelings of peace and tranquility.



Nezu Shrine



Shinjuku Gyoen National Garden

But Tokyo would surprise me more. Right in the middle of one of its busiest areas, home of major commercial and administrative centers, there is a totally unexpected (for me, at least) pocket of green and tranquility, the Shinjuku Gyoen Park. With ponds, western and eastern style gardens, large lawn fields and rows and rows of trees, the park is a safe haven for those in search for quietness, beautiful landscapes or cherry blossoms.

The brownish winter colors of the vegetation and the peaceful mood of the park were a stark contrast to office buildings, the busy Shinjuku Railway Station and the crowded streets surrounding the park. Sitting in the grass, resting from a whole day of walking, you can see, beyond the lines of trees, the shiny skyscrapers in the distance, like a far away giant wall.

This contrast between the busy and fast-paced city with the traditional and idyllic places, seen everywhere in Tokyo, made a deep impression on me. It showed me that modernity and tradition can coexist and even complement each other and that Tokyo and its inhabitants are great example of this.

Good Memory in Tokyo



Mr. Paulo Cesar Cisternas Godoy (Chile)

FY2017 JPO/IPR Training Course on Patent Examination in Specific Technical Fields
for Latin American Countries (24 November - 7 December, 2017)

To speak of Japan is to speak of a world reference, both culturally, technologically and clearly, in industrial property issues.

And to speak of Japan, for any Latin American, and especially for a Chilean, is talking about the unknown. My cultural contact with this country was reduced to some study on methodologies of continuous improvement, having seen a couple of movies and Anime series; and some gastronomy (of which I am a fan).

For that reason, there were many feelings that I experienced when I knew that I would have that incredible possibility of being part of the FY2017 JPO / IPR Training Course on Patent Examination in Specific Technical Fields for Latin American Countries, which would allow me to learn not only about specific topics associated with the analysis of patents, but also to discover something of that incredible ancient culture.

And learning takes place long before you get to step on Japanese land. The formality requested from the first contacts via email, made me understand that I am close to know a culture that values much respect to others.

After a quiet (and very long) trip, Japan received us.

The incredible beauty of the place, confronted my desire to only observe with the almost vital need to understand the information that described all the necessary aspects to reach my destination. And not only that, for the development during those almost 2 weeks of study.

Everything was perfectly planned. I had not started the journey through Japanese lands and I already knew the steps I had to follow for my way back. Amazing! Chance is not a variable that has much weight for the Japanese culture.

The course started on a cold Friday in November. Together with an incredible group of professionals from different Latin American countries, we listened carefully to the lessons that Ms. Kay KONISHI showed us about the differences and similarities that Japanese legislation, in industrial protection, presents with the rest of the world and with the USA and Europe.

The weekend allowed us to visit millenarian temples and somewhat enter the Japanese culture. Emperors, gods, temples, cosmos, traditions, meals in order. Thousands of years of history in front of my eyes.



The beginning of the week started with a great welcome, learning about the facilities of the JPO and APIC-JIPPI. It was very revealing to understand the order that the JPO follows in its patent review processes and the resources allocated for it. Organization by technical subjects, with specialists for each sub-area of specialization, work with equipment accordingly. All designed to make the work as efficient as possible. And what they achieve! All the statistics associated with performance by examiner are abysmally different from our reality.

Then we went into the challenges that Global Intellectual Property Strategy in the era of IoT, thanks to the presentation of Mr. Jinzo FUJINO, FUJINO IP Management / Adjunct Professor of MIP, Tokyo University of Science, mainly discussing the legal implications beyond the mere interpretation within the framework of industrial protection legislation and how this issue crosses cross-disciplinary aspects.

The week passed between search topics and tools for the development of this search, learning techniques, databases and tips to make this activity more efficient. Mr. Atsushi INOUE, Manager and Mr. Takuya NAGAYOSHI, Chief Analyst IP Research Institute NGB Corporation, were our teachers. Many of the practices learned here are already part of my daily work.

We also had the chance to visit one of the facilities of Ikegami Tsushinki Co. Ltd. (Utsunomiya Factory). One of the leading companies in the world in terms of video broadcasting. This allowed me to see how the relationship between innovation, industry and protection occurs, since they are a company that generates a significant number of patents.

And of course, it would not be a course as such if it did not have a practical part.

So, the rest of that week and part of the second one, was for the joint analysis of the legal regulations that Japan uses and the criteria to determine the novelty and the inventive level of an application (very similar to the national criteria).

Then, being a course of specific topics, we were divided into work groups related to our professions and we continued the work analyzing specific requests, generating debate and learning. Very enriching.

Despite being complex issues to understand, these were explained through extremely simple examples,

so it was easy to understand the logical reasoning that each JPO examiner has before a certain patent application.

Mr. Kentaro HITSUMOTO, Patent Examiner, (International Training Instructor), Material Analysis and Medical Diagnosis Division, Patent and Design Examination Department (Physics, Optics, Social Infrastructure and Design), JPO and Mr. Daigoro BANDO, Patent Examiner, (International Training Instructor), Video Systems Division, Patent Examination Department (Electronic Technology), JPO, were our teachers in this process of compression and learning through practice. We appreciate your patience and willingness (especially with our language difficulties)



At the end of the course, Professor Mr. Kazuhiro MATSUDA, Patent Attorney Hirota & Associates gave us, from a very pedagogical perspective, the different visions that the world courts of justice present when a patent is violated.

And for the end, we had the opportunity to share a round table with Mr. Takao OGIYA Director-General, Asia-Pacific Industrial Property Center, JPII, along with staff from the JPO, where we were able to give our impressions of the course and suggestions for improvement. This incredible experience of sharing with a person of very important rank, was very pleasant due to the cordiality always received, which allowed to lead an extremely productive debate.

The truth is that there are so many lessons learned from this experience, that I would need a book to leave them all captured, but I will try to summarize them in 4 points:

1.- Every problem, however complex, can be divided into simple parts to solve.

The job of analyzing a patent is not simple. It requires taking many correct steps, if you want to achieve an optimal result. The JPO examiners have very well identified each part of the patent analysis process and have defined the roles of each part of these processes. This makes it possible to optimize the work, delegate tasks and clarify the parts that need intervention in case of problems.

2.- Efficient and effective work.

The JPO has a group of external advisors that allow them to streamline the work and thereby free the

examiners of activities. For example, they have external consultants on search topics. This is a form that, in my opinion, improves the time of issuance of an expert report, since you have expert support focused on a task, which, surely, will make the search process more efficient, leaving the examiner of the JPO the task of giving an expert opinion on the underlying issues or, at most, a search for a much more limited state of the art.

Currently the expert work in Chile demands that the same person do the whole process (search and background examination), preventing this specialization in the activities. Surely it is a major challenge that we should consider, but that marks the path of how patent registration offices should direct their efforts, to increase their performance metrics. It is impossible to think of the logic of hiring more and more people.

3.- Appropriate tools for the appropriate job.

Aspects considered basic are not left aside by the JPO when it comes to providing facilities for the work of the examiners. Equipment that allows the pleasant and effective work, together with the use of proprietary search software, allow the achievement of optimal performance on the part of its examiners, in the analysis of the requests.

4.- Specialization for a better and faster opinion.

Along with all the above, the JPO is organized into specific technical areas, and those areas into sub-areas of work, with well-defined leaders and roles. This allows generating a level of specialization on the part of each working group, which makes, in short, a level of analysis that is necessarily focused, and with it, the criterion of the background opinion regarding a certain request.

In my case, the level of generality of requests that I must work, has a higher entry cost (time) that harms my work and that of the applicant.

In summary, the organization of the JPO and the way of working they practice is an example to follow. Order, efficiency, effectiveness, specialization and consistent tools are the ingredients of the recipe that allows the JPO to be a world reference in terms of protection.

The challenge for countries like mine, is to have the wisdom to understand this and adapt it in the best way to our particularities.

For the end I would like to give recognition to the group of professionals with whom I was able to share this experience. People from Argentina, Brazil, Peru, Mexico and Japan that allowed the learning process to be much more pleasant and welcoming. The truth is that without them, this learning experience would not have been the same.

And to the incredible hostesses and friends, Mitty and Hiroko, always attentive to what we need and that without them, I would surely still be lost in Tokyo.

I take a life learning. Thank you very much for that.

5. Articles from the former trainees (Patent)

Unintentional Abandonment of Patent Applications — Law in India



Mr. Vijay Kumar Makyam¹ (India)

(FY2017 JPO/IPR Training Course for Practitioners Specializing in Patents,
22 August - 7 September, 2017)

Intellectual Property Rights are granted to encourage and motivate intellectual creation at large and it is a kind of reward for disclosure of such intellectual creation to the world. The most powerful form of Intellectual Property rights is Patents among all other varieties of Intellectual Property rights. Patents are granted to technological inventions which are novel, non-obvious and have utility, popularly called as NUN test for grant of patents. The law relating to Patents has been harmonized around the world with TRIPs Agreement (One of the several WTO Agreements) that was entered into on 1st January 1995. The requirements for grant of patent, period of protection, subject matter and minimum standards etc., were discussed in the agreement and members are instructed to implement the same in their municipal laws with specific time frame.

Patent law around the world has been thus harmonized with the implementation of TRIPs Agreement by member nations of WTO. However, there are still some issues which are different in each jurisdiction. In this article, I have tried to expose one such issue i.e., unintentional abandonment of patent applications and law relating to the same in India comparing the same with law in other countries.

LAW IN INDIA

- Section 21 of the Patent Act, 1970 (the Act) provides for time for putting an application in order for grant. A patent application is deemed to be abandoned unless within the prescribed period the applicant has complied with all the requirements as mandated by the statute.
- Rule 24B(5) of Patent Rules (Incorporated by 2016 amendment) provides that the time for putting an application in order for grant under section 21 shall be six months from the date on which the first statement of objections is issued to the applicant to comply with the requirements (i.e., within SIX MONTHS from the date of issue of First Examination Report (FER/ First Office Action).
- Further, Rule 24B(6) (Incorporated by 2016 amendment) states that the time for putting an application

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in order for grant under section 21 as prescribed under subrule (5) may be further extended for a period of three months on a request in Form 4 for extension of time along with prescribed fee, made to the Controller before expiry of the period specified under subrule (5).

- Rule 138-Power to extend time prescribed

(1) Except for the time prescribed in rules 20 (4) (i), 20 (6), 21, 24B (1), 24B (5), 24B (6), 24C (10), 24C (11), 55 (4), 80 (1A), 130 (1) and 130 (2), the time prescribed by these rules for doing of any acts or taking any proceedings thereunder may be extended by the Controller for a period of one month, if he thinks it fit to do so and upon such terms as he may direct.

(2) Any request for extension of time prescribed by these rules for the doing of any act or the taking of any proceeding thereunder shall be made before the expiry of such time prescribed in these rules.

RECENT CASES OF PATENT ABANDONMENT AND ITS IMPLICATIONS

In a very recent judgement the question regarding the condonation of delay in the filing a request for examination of a patent application was decided by the Hon'ble Delhi High Court in the case of Sphaera Pharma, Pte. Ltd. And Anr:Vs Union Of India. W.P.(C) 1469/2018 The Hon'ble Mr. Justice Vibhu Bakhru decided upon the issue pertaining to the limitation period for the examination of a patent application prescribed under the Patents Act, 1970 ("Act"). Sphaera Pharma (the Petitioner), claimed that they had developed some new compounds which were useful in the treatment of cancer. The Petitioner, thereafter, filed a patent application (no.3114/DEI/2012) with the Indian patent office on 05.10.2012. Accordingly, the Petitioner was also required to file a request for the examination of the patent application within 48 months from the date of filing the initial patent application. However, the said request was not uploaded due to some technical reasons and as a result the patent application was shown as abandoned under Section 11B of the Act. Thereafter, the Petitioner filed a review petition for its patent application which was not considered by the Patent Office. The Petitioner, aggrieved by the Patent Office, filed a writ petition before the Hon'ble Delhi High Court for the restoration of the Patent application. The Petitioner contented that the Controller of Patents had the power under Rule 138 of the Patent Rules, 2003 ("Rules") to extend the prescribed time period, for filing a patent examination request, for a period of one month. The Court held that a plain reading of Rule 138 would clearly show that the power of the Patent Controller to extend the prescribed time period under the said Rule does not extend to the time prescribed under Rule 24B as it expressly excludes subrules (1), (5) and (6) of Rule 24B. The court also opined that even if Rule 138 is ignored, no recourse is available to the Petitioner under Rule 138 as, according to Rule 138(2), it only applies to the examination requests which are made before the expiry of the prescribed time period. In the present case, the Petitioner had not made any such examination request within 48 months from the date of filing of the Patent application. Thereafter, the Court took reference to a previous judgement in the case of Nippon Steel Corporation v. Union of India 2011 (46) PTC 122 (Del.), wherein the court ruled that a delay in filing a Request for Examination (RFE) could not be condoned under any circumstance. The relevant excerpt of the judgement is below: "The provisions of the Act and the Rules have to expressly reflect the legislative intent to permit relaxation of time limits, absent which such relaxation cannot be read into' the provisions by a High Court exercising powers under Article 226 of the Constitution. In other words, it is not possible for this Court to accept the submission of the learned Senior counsel for the Petitioner that the time limits under Section 11-B(1) of the Act read with Rule 24-B of the Rules, notwithstanding Section 11-B(4) of the Act, are merely directory and not mandatory. In fact, the wording of Section 11-B(4) of the Act underscores the mandatory nature of the time limit for filing an RFE in terms of Section 11-B(1) of the Act read with Rule 24-B of the Rules."

NOTABLE POINT : From the above judgement it is clear that in cases where the response to FER crosses the deadline as mentioned in Rule 24B(5) and (6), the applicant will not have recourse to Rule 138 for condoning the delay.

In yet another case of *Nokia Corporation vs Deputy Controller Of Patents and Designs* [W.P. No.2057 of 2010 and M.P.No.1 of 2010 - High Court of Madras dealt with the powers of the Controller to allow a national phase application to be filed beyond the 31 month deadline. The Indian Patent Office (IPO) argued that requests under rules 137/138 ought to be made within the prescribed time limit. Since the request was not made within the 31-month period, it could not be taken on record. Justice Vinod K Sharma of the Madras High Court disagreed, quashing the IPO's earlier order. The court returned the application to the IPO, observing "it was not correct on the part of the Deputy Controller to have rejected the application, by treating it to be not maintainable". It also held that: "application for extension is to be filed within one month after expiry of prescribed time under Rule 20. In case, an application is moved for extension of time ... it is required to be decided on merit by taking into consideration facts and circumstances of each case." Therefore the Court specifically noted that the 'prescribed period' under Rule 138(2) included the one month extension period and hence, so long as an appropriate application under Rule 138 is moved within one month from the 31 month deadline, the Controller had to exercise his discretion in deciding whether to extend the timeline or simply dismiss the application.

NOTABLE POINTS : The decision given by Madras High Court lies in the interest of the applicants who seek to get their inventions patented. It provides an opportunity to those who intend to revive their abandoned applications if the abandonment was unintentional. Rules must be followed and enforced. But then, there must also be exceptions, where necessary, as there simply is no purpose served by terminating an application on the basis of an unintentional, human or clerical error. The present patent system should be in such a manner as to decide patent rights on the merits of the application rather than on intentional errors.

Further in the recent judgement of *Beckman Coulter Biomedical vs Union Of India* on 2 February, 2017 W.P.No.9785 of 2013 reiterated the decision given by Madras HC and held that, it is a well settled law that the Courts and statutory authorities are to do substantial justice. The object of Rule 138 is that prescribed time under Rule 20 can be extended by period of one month on showing of sufficient cause and it is at the discretion of the Controller to extend the period on facts and circumstances of the case.

SUBSTANTIVE RIGHTS VS PROCEDURE TECHNICALITIES

In the case of *Ferid Allani v. UOI* 2008 (37) PTC 446 (Del.) at the High Court of Delhi Justice Gita Mittal observed that the rule of deemed abandonment is one which has the effect of denying valuable substantive rights to an applicant not only for the reason that his patent application will effectively stand rejected, but also since an order under Section 21 is not an appealable order; unlike an order of rejection on merits under Section 15, which can be the subject matter of an appeal. It was also held that Parallels with various other statutes and procedural laws (like the CPC) on the issue of adherence to prescribed time periods show that the courts have uniformly been of the view that rules of procedure are directory in nature and cannot override substantive rights as 'procedure is the hand maiden of justice'. The Hon'ble Supreme Court of India, in its Judgement, reported as AIR 2005 SC 3304: *Smt. Rani Kusum Vs Smt. Kanchan Devi*, reiterated the afore mentioned stand as "Processual law is not to be a tyrant but a servant, not an obstruction

but an aid to justice." The Hon'ble Supreme Court of India, in its Judgment AIR 1987 SC 1353: Collector, Land Acquisition, Anantnag and Anr Vs Mst. Katiji and Ors, observed that substantial justice has to be preferred upon the procedural technicalities. The Hon'ble Supreme Court of India returned the finding as under "When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay." Conflict between the procedural law and the substantial law has been resolved by the Hon'ble Supreme Court of India in its Judgement reported as AIR 2008 SC 2099, Zolba Vs Keshao and Ors, as under "The use of the word 'shall' is ordinarily indicative of mandatory nature of the provision but having regard to the context in which it is used or having regard to the intention of the legislation, the same can be construed as directory. The rule in question has to advance the cause of justice and not to defeat it."

NOTABLE POINT : From the above judgements of SC it is clear that if the party is able to give sufficient reasons for condoning the delay for doing any act, prescribed by the law, in that case, the Court has inherent power to condone the delay and treat the procedural law liberally. This principle is not only applicable to the Court of Justice, but also the Quasi Judicial authorities and Tribunal also. Therefore Sec 21(1) including Rule 24B should be considered as directory and not mandatory in nature as rules of procedure are normally treated as directory unless legislative intent is opposite.

OPPORTUNITY OF BEING HEARD-AUDI ALTERAM PARTEM

- The reasonable opportunity of hearing which is also well known as 'fair hearing' is an important ingredient of the audi alteram partem rule (Basic Principle of Natural Justice). 'Opportunity of being heard' before giving any judgement is the hallmark of justice in any field whether it is criminal law or company law or intellectual property right laws. It is an important measure to deliver a just, fair and reasonable judgement. The whole idea of 'Opportunity to be heard' can be seen as a part of the principles of natural justice. The principles of natural justice have been developed and followed by the judiciary to protect the right of the public against the arbitrariness of the administrative authorities. Natural justice is a concept of common law and represents higher procedural principles developed by the courts, which every judicial, quasi-judicial and administrative agency must follow while taking any decision adversely affecting the rights of a private individual. The concept of natural Justice can be seen in Article 14, 19, 21 of the Indian Constitution. In K I Shephard v. Union of India (1987) 4 SCC 431, 448: the Supreme Court held that 'the rules of natural justice have been developed with the growth of civilization and the content thereof is often considered as a proper measure of the level of civilization and Rule of Law prevailing in the community.' Talking about opportunity or right of being heard, in Hindustan Petroleum Corporation v. HL Trehan (1989) 1 SCC 764, the Supreme Court held that 'when an authority has statutory power to take action without hearing, it would be arbitrary to take action without hearing and thus violation of Article 14 of the Constitution.'

NOTABLE POINT : The object of the patent system is to encourage inventions by promoting their protection and utilization so as to contribute to the development of industry, which in turn, contributes to the promotion of technological innovation and to the transfer and dissemination of technology. In light of this object, Patent Authorities should not dispose of the applications for granting of patents if there is a genuine and a reasonable cause for missing the deadline of procedural formality. Patent Act incorporates the concept of fair hearing in sec 65 which talks about 'Revocation of patent or amend-

ment of complete specification on directions from Government in cases relating to atomic energy' gives the opportunity of being heard to the patentee before revoking the patent as well as in section 80 which talks about 'Exercise of discretionary powers by Controller' gives the opportunity of being heard to the patentee before exercising the discretion. In the similar manner a provision must also be made in case of Sec 21 and rule 138 needs to be modified keeping in mind the better interest of the society and as such the nation as a whole.

RECENT CASES OF ABANDONMENT IN TRADEMARKS AND DECISION THEREOF IN INDIA

1. IN DELHI HIGH COURT

The office of the Controller General of Patents, Copyrights and Trademark on 31.03.2016 and on 04.04.2016 issued a public notice abandoning nearly 2,00,000 trademark applications which were due for processing at various stages. The reasons for the mass abandonment of the applications have been cited in the order of Registrar published on the official website as:

"It was clearly mentioned in the examination report that if no reply is received or a request for a hearing is applied for within the above mentioned stipulated time, the said application shall be treated to have been abandoned for lack of prosecution under Section 132 of The Trade Marks Act, 1999". The applications have been said to be abandoned in light of the Rule 38 (5) of the Trade Mark Rules which specifically speaks that "if no reply or correspondence to the examination report is received within one month from the date of issuance of the report, the application shall be deemed to have been abandoned". Hon'ble Justice Manmohan Singh stayed the order of abandonment passed by the Trade mark Office on or after March 20, 2016 and ordered not to treat any trademark application as abandoned without prior notice and fair hearing to the affected party.

2. IN HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATES OF TELANGANA AND ANDHRA PRADESH HIGH COURT

In January 30, 2017, the Trademark Registry issued a public notice ordering abandonment of nearly 20,000 trademark applications. The said notice aimed at clearing back log of cases. However, the Applicants were given one last opportunity of sending a scanned copy of reply to Examination Report on or before February 28, 2017, failing which the applications will be deemed to be abandoned.

Aggrieved by the order of the Trademark Registry, a writ petition was preferred with the High Court of Judicature at Hyderabad for the States of Telangana and Andhra Pradesh under Section 151 of the Code of Civil Procedure, 1908, against the January 30 public notice. The Petitioner placed reliance on the order of the Delhi High Court dated April 05, 2017. At this juncture, High Court of Judicature at Hyderabad followed the footsteps of Delhi HC and against the arbitrary order of the Trademark Registry, Hon'ble Justice Mr. Challa Kodanda Ram directed the Office of the Controller to not treat any trade mark application as abandoned without prior notice and fair hearing to the affected party, as provided under section 121, 128 and 132 of the Trademarks Act, 1999.

NOTABLE POINT : WHY DIFFERENCE BETWEEN PATENT AND TRADEMARK?

- Sec 132 of the Trademarks Act, 1999 requires the applicant to remedy the default after giving him an opportunity of being heard. Only then, if the default is not remedied within time specified, the application can be abandoned. Whatever the reason may have been, the judiciary's quick steps to reverse the problems caused by the Trade Marks Registry and the Trade Marks Registry's decision

to correct its own error is enriching and has restored the faith of applicants in the trademark registration process in India. In the same way, the Controller of patents must also give an opportunity of being heard before abandoning the application and must condone the delay if sufficient cause is shown.

- ▶ The above decisions have been able to redress the grievances of trademark applicants who were adversely affected.
- ▶ If similar steps are taken by the Controller of patents, it would save the parties from financial losses as well as mental agony. The object of patent law is to encourage scientific research, new technology and industrial progress. Therefore, merely setting up goals is not sufficient but the actual spirit of the legislations enacted should also be incorporated and visible in the actions of the offices as well. Only then we can reach the expectations of our legislations and strengthen the faith of the general public in the administration.

UNINTENTIONAL ABANDONMENT IN OTHER COUNTRIES

- In the United States also, the patent rules allow revival of an abandoned application. To revive an abandoned application, the rule requires that the applicant file a petition explaining her unintentional delay and pay the petition fee. As before, the petition must accompany the reply to the outstanding office action or notice, unless the reply was previously filed, and must provide a statement explaining why the delay, from the due date until the filing of the petition, was unintentional. Further, the regular rules for responding to office actions will be automatically extended up to six months on payment of prescribed fee. However, even after extended six months get crossed, it will be considered as abandonment. Such abandonment if unintentional will be revived on a petition filed by such applicant for such unintentional abandonment.
- Europe, like India, considers an application as withdrawn if, for example, a request for examination has not been made in a timely manner. However, unlike India, the EPO allows an applicant to request further processing of the European patent application even if it fails to observe a time limit. Further processing before the EPO can be requested by payment of the prescribed fee within two months of the communication from the EPO regarding the loss of patent rights. Therefore, it goes to show that a remedy is available to the applicant if he misses a due date as prescribed in the Act.

NEED FOR SPECIFIC PROVISIONS FOR UNINTENTIONAL ABANDONMENT IN INDIA

- Since the patent system of India is influenced by countries such as UK and USA, an effort should be made to incorporate provisions such as unintentional abandonment in the Patent Act as it would encourage individuals to foster innovation and bring out new ideas and inventions through their intellect. This in turn contributes to the economic growth of the country and aids in raising the status of the country in the international market.
- India's patent regime needs to reconsider whether to support an inventor in obtaining a valuable patent or, as it is today (with respect to the specific issue at hand), create procedural roadblocks or barriers for the inventor. Therefore, we need to modify the Rules to notify applicants of "abandoned" applications and create a procedure for a delayed filing. Also, it is both credible and practical to contemplate amendments to the Rules while ensuring that the sanctity of the Patents Act is maintained.

Brazilian Patent Office – Brief Presentation



Dr. Márcio Bessa, CEng (Brazil)

(FY2017 JPO/IPR Training Course on Patent Examination in Specific Technical Fields for Latin American Countries, 24 November - 7 December, 2017)

Introduction

At first, I would like to express my deep gratitude for the JPO and APIC-JIPII for the training course as well as all the facilities, coordination and good personal and professional environment provided. It was a very nice experience to take part in the JPO/IPR Training Course on Patent Examination in Specific Technical Fields for Latin American Countries, regarding Mechanical and Telecommunication areas. Despite all topics being really important and interesting, the Country Report Presentation session drew my attention in particular. It allowed me to learn about each Latin America Country Office presented, how they work, their particularities, etc. During this session, it was possible to notice the interest about the Brazilian Patent Office. This article is about that.

Brazilian Patent Office (INPI)

Brazil is the biggest country in Latin America. As a big country, there are many business opportunities in different areas. Based on this demand, the Brazilian Patent Office, named National Institute of Industrial Property – here called INPI – has received a huge number of patent applications over the years.

Since the Brazilian Empire ages, there have been regulations about intellectual properties and commerce trademarks. Emperor D. Pedro signed the first patent letter to a coffee peeling machine in 1822. But it was in 1923 that President Arthur Bernardes created the first institution exclusively dedicated to this subject, the Industrial Property General Directorate (DGPI). In 1933 the National Department of Industrial Property (DNPI) was created. From 1970 to 1990, technology market regulation was the Government target, aiming to accelerate and regulate technology transfer, establish better negotiation conditions and the use of patent and other analogous rights. Based on this objective and due to the increase of new technologies adopted by the industries, in 1970 the National Institute of Industrial Property (INPI) was created. It became a milestone in the industrial property regulation system. [1], [2]

INPI is a Federal Government Autarchy with the mission of creating an Intellectual Property System that stimulates innovation, promoting competition and supporting technological, economic and social developments.

INPI is the authority responsible for the improvement, dissemination and management of the authorization and security of intellectual property rights system in Brazil. INPI responsibilities are:

- Granting patents;
- Registering of industrial designs, trademarks, geographical indications, software and topography of integrated circuits;
- Official recording of technology transfer and franchising contracts;
- Activities of intellectual property dissemination;
- Search reports and International Preliminary Examination Report – ISR/IPER

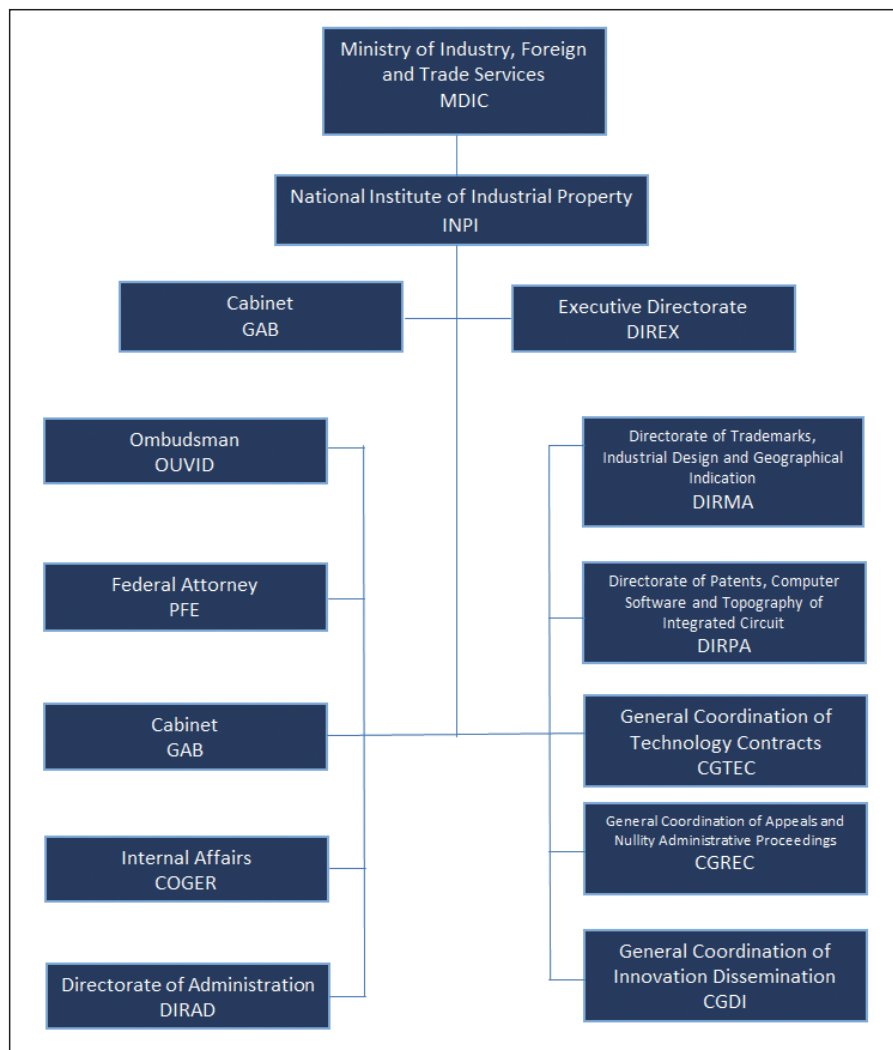


Fig. 1 INPI Organization Chart [3]

In 2017, INPI revenue was about USD 123 million divided into: Patents 35%; Trademarks 49%; Industrial Design and Other Services 16%. [4]

Brazilian Intellectual Property is based on some legal provisions, as presented below:

- Industrial Property Law N° 9279/96, in force since May 1997
- Computer Software Protection Law (N° 9609/1998)
- Copyright Law (N° 9610/1998)
- Law N° 10196/2001: changed the Industrial Property Law (N° 9279/96) establishing that the pharmaceutical patents depend on a prior approval from the Brazilian Health Surveillance Agency before being granted
- Topography and Integrated Circuit Intellectual Protection Law (N° 11.484/2007)

- Provisional Law (MP 2186-16/2001)
- Biosafety Law (Nº 11.105)
- Plant Variety Protection Law (Nº 9456/1997)
- Others: there are still other legal documents as Normative Instructions and Regulations that establish general rules for procedures, disciplining the Industrial Patent law concerning the specifications of the patent applications.

And Patent Related Treaties and Conventions such as:

- Paris Convention of 1882 - founding member
- PCT State - member since 1978
- TRIPS agreement - member since 1994
- Brazilian Patent Law recognizes the Deposit of a Microorganism for the Purposes of Patent Procedures established by the Budapest Treaty, but it is not a Budapest Treaty Member
- Ratified Convention of Biological Diversity in 1992 and legally approved Cartagena Protocol of Biosafety in 2004, and signed Nagoya Protocol in 2010

Based on the INPI responsibilities mentioned earlier, this paper is focused in the Patent Directorate – DIRPA. DIRPA is grouped in 4 Coordination (CGPATs) and 20 Technical Divisions – see Fig. 2. DIRPA has 341 examiners [5], approximately 12 examiners per Technical Division. DIRPA examiners are Federal civil servants admitted by public contest process and must have a Master's or Doctorate Degree in a specific area (approx. 60% have a Doctorate degree). Their duties are:

- Technical examination: formal requirements, search, substantive examination;
- Classification;
- ISA/IPEA Examination;
- External Training Programs;
- Appeals and Oppositions;
- Technical advice concerning legal matters
- Preliminary opinion about patentability: search, draft, issue of a preliminary opinion on patentability

	Technical Division	Technological Area	Technical Division	Technological Area	
CGPAT I	DIFAR-I	Pharmacy - AIDS and Cancer	DICEL	Computer Systems and Electronics	CGPAT III
	DIFAR-II	Pharmacy - other medical disorders	DICIV	Civil Engineering	
	DINOR	Inorganic Chemistry	DIFEL	Physics and Electricity	
	DIPOI	Chemicals and Polymers	DIPEQ	Chemical and Petroleum Engineering	
	DITEX	Textiles	DITEL	Telecommunications	
CGPAT II	DIALP	Foodstuffs, Plants and Related	DIMAT	Metallurgy and Materials	CGPAT IV
	DIBIO	Biochemistry and Related	DIMEC	Mechanics	
	DIMOL	Molecular Biology and Related	DINEC	Human Needs	
	DIPAQ	Agro-Chemical and Related	DITEM	Packaging and Devices	
	DIPAE	Agriculture and Engineering Elements	DIMUT	Utility Model	

Fig. 2 DIRPA – Coordination and Technical Divisions

INPI has been an International Search Authority and International Preliminary Examination Authority (ISA/IPEA) since 2009, filing PCT applications in Portuguese, Spanish and English languages. Although PCT has 10 employees, PCT applications examination is performed by DIRPA/CGPAT's examiners.

Regarding substantive examination, examiners are encouraged to consult, when available, the international search report (ISR) and the international preliminary report (IPER) from PCT applications. If the examiner understands that it is still necessary to perform a complementary search, he may do it, aiming to elaborate a more accurate report.

Figure 3 below shows the number of patent applications filed in 2017:

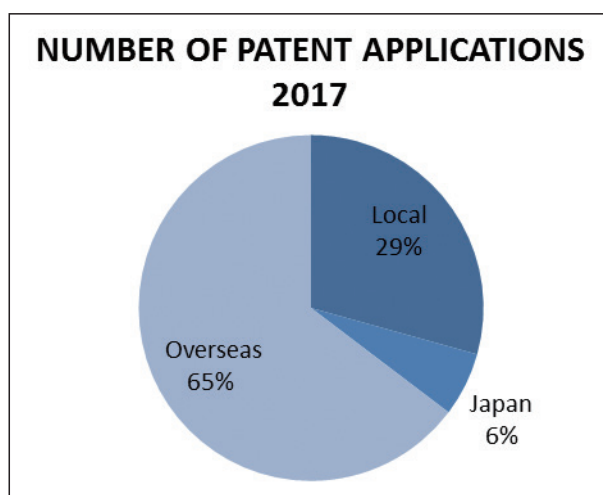


Fig. 3 Patent Application 2017 [6]

Unfortunately, patent backlog has been the biggest problem of INPI. As mentioned before, since Brazil is a big country, there are many business opportunities in different areas, which results in a huge number of patent applications per year. According with INPI's recordings, backlog was around to 225.000 in 2017 [7]. Figure 4 gives a good idea about the number of decisions and patent application over the last few years. It's possible to notice the increase in the number of decisions in the last two years, due to the hiring of new examiners.

	2013	2014	2015	2016	2017
Applications Filled	33.912	33.075	32.936	30.946	28.667
Administrative Decisions	10.456	16.627	9.083	17.543	34.207
Technical Decisions	5.493	5.708	6.759	7.938	10.574
Total of Decisions	15.949	22.335	15.842	25.481	44.781
Backlog	217.222	224.760	242.151	243.820	225.115

Fig. 4 Patent – Backlog [6], [7]

On the other hand, the backlog based on the patent applications available for the first examination is around 132.000 (reference: INPI – internal recordings – Máquina de Estados, Dec2017). This refers to patent applications which have been published and have the examination requested by the applicant, and hence are available for the first examination. It's important to mention that not all the patent applications filed will be examined, since some of them are abandoned by the applicant. Therefore, the correct number to be considered when talking about INPI's patent backlog is 132.000.

INPI has adopted some strategies to reduce backlog number. Aiming of harmonization and simplification of patent exams, INPI has issued some guidelines and procedures to be adopted during examination. These guidelines and procedures are public. INPI has also provided continuous patent training for new and experienced examiners. In addition to that, INPI has adopted some online services such as:





	Electronic filing of patent applications and requirements
	Procedural and legal status related to patent applications available on the Internet.
	Promote collaboration between patent examiners of countries that use the system.
	Electronic biological sequence data application

Fig. 5 INPI online services

At the beginning of this year, INPI started a new pilot program where the applicant can present new claims before the first substantive examination, without any cost, based on the examination requests made by other patent offices around the world. The idea is to receive more accurate information, allowing applicants make adjustments in the claims based on the state of the art pointed out by the offices abroad. With this action, INPI seeks to identify applications that are still of interest of the applicant and also accelerate the substantive analysis of the patent application.

INPI has also adopted some priority criteria, aiming to accelerate patent examination and granting for specific situations and public interest, for example, environment protection, health area specific disorders, etc. The following is an overview of these priorities:

Green Patents:

Identify the green technologies based on WIPO inventory and prioritize the examination of national applications that have been filed since January 2011

Priority examination in health area:

Fillings related to treatment, diagnosis and prophylaxis of AIDS, cancer and tropical diseases. Recently, INPI started to prioritize patents deposits regarding dengue, Zika and Chikungunya fevers diagnosis and treatment, diseases that have had a big impact on the Brazilian health system.

PROSUR

Collaborative patent examination between Argentina, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Suriname and Uruguay

PPH – Patent Prosecution Highway

It's an agreement between Brazil and other countries (e.g. Japan), aiming at priority patent application examination. Priority can be requested when an application from the same patent family has been granted in one of the two countries involved. In that case, claims presented should be equal or more restrictive than the claims of the application approved.

Inventors older than 60

Prioritize patent applications from inventors who are older than 60 years old.

INPI has adopted another pilot program, trying to stimulate examiners' efficiency by improving their quality of life through Home-Office work, in which an increase of more than 30% in patent examination has been noticed. INPI is also trying to get the Brazilian Government to hire new patent examiners and improve career conditions for the INPI examiners, which would give them better salaries.

Conclusion

There are many particularities and needs when we think about a country as big as Brazil. INPI has worked continuously with the Government and patent stakeholders to find the best way to serve Brazilian society by improving technological, economic and social developments through innovation.

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6. Message from Committee of Human Resource Development

Development of Human Resources Related to Intellectual Property

Hideto Kuyama

General Manager

Human Development & Training Course Managing Division
Japan Intellectual Property Association (JIPA)



This is my third year to participate in the Committee on Cooperation in Human Resource Development. I have been acting as a member and hoping that I can make a contribution, however small, to the committee.

In 2013, when I was working at a company, I served as a training lecturer for the invitation-basis JPO/IPR Training Course (for IP Protection Practitioners). The subject that I took charge of was "Intellectual Property Management (3) Corporate Example 1 (IT and Electricity)." At that time, I served as Chairman of the Training Planning Committee at the Japan Intellectual Property Association (JIPA), and cooperated in the JPO/IPR Training as a lecturer. I never thought that I would later have an opportunity to cooperate on the training project as a member of the Committee on Cooperation in Human Resource Development.

When I served as a lecturer, I was surprised at how engaged the trainees were in participating in the training. They were very active and asked so many questions that the Q&A session almost ran short of time. I remember their enthusiasm to master all the content of the lectures they attended.

I took charge of only one lecture in the JPO/IPR training program, which has been conducted for 23 years since FY1996. I heard that the number of trainees who participated from relevant countries has exceeded 6,000, and sincerely appreciate the relevant parties' valuable efforts.

One of the priority issues of the Intellectual Property Strategic Program 2018 is "to develop human resources and businesses that adapt to the age to come." This includes the specific goal of "development and accumulation of human resources that support Cool Japan." In this way, making efforts to increase "fans of Japan" is indicated as the direction of the policy. The acceptance of trainees from relevant countries in the JPO/IPR training program surely increases fans of Japan, and also promotes the country's global IP-related human resource development.

The global business environment has changed rapidly, and technological innovation in particular has been progressing recently, including IoT, AI, and big data. Therefore, this is no time to move slowly in developing IP-related human resources. In the future, in addition to obtaining intellectual property rights to protect businesses, it will be important to use intellectual property rights and obtain them in consideration of their use. Thus, companies will need to consider IP policies and strategies including business and management, and develop IP-related human resources who can survive the competition between companies. To this end, it will be necessary to review the traditional training style centered on classroom lectures (based on listening) and provide many participatory (based on discussion) programs in the JPO/IPR training course. The content of training will need to cover not only IP, but also the combination of IP with business, such as accounting

analysis, marketing, organization theory, and theory on strategies.

In addition, it is necessary to have not only a Japanese perspective, but also a global perspective. We must conduct human resource development training from a global-conscious viewpoint.

I hope that I will be able to promote global IP-related human resource development in cooperation with IP-related parties in Asian countries. I humbly ask for your kind cooperation.

7. Interview with Lecturer

Hiromasa Oyadomari, senior teacher at Tokyo Metropolitan Chihaya High School
— On the Front Lines of IP Education —

ENISHI: I am most pleased to have the opportunity to interview you today. First, would you introduce your school and yourself?

Oyadomari: Tokyo Metropolitan Chihaya High School opened in 2002. The first principal was Yoshitaka Sato, a former Sony executive. I first encountered him while I was attending a course at the Rikkyo University Graduate School of Social Design Studies as an official at the predecessor of the Ministry of Education, Culture, Sports, Science and Technology (MEXT). Mr. Sato had been selected to become the principal of a new commercial high school to be established by the Tokyo Metropolitan Government (TMG), and he talked about his ideas for the project. I was intrigued by his ideas and offered to him a number of suggestions on new teaching methods and ideas based on my experience at MEXT. I became keen on the project of establishing new high schools, and I took an exam for TMG-controlled school teachers upon completing the graduate school course. I passed the exam, resigned from my national government post, and became a teacher at Tokyo Metropolitan Shiba Commercial High School, the first school I was assigned to. I taught there for four years, according to requirements for new teachers, before being transferred to this school.



Mr. Hiromasa Oyadomari

ENISHI: Will you outline the founding objectives of your school?

Oyadomari: Chihaya High School was promoted and founded by TMG. The core idea behind the founding was to launch a Business Communication Department, a completely new concept for high school education in Japan. The principal believed that it was essential to offer students the opportunity to have a unique experience that was available only at his school, in addition to special curricula including IP and English subjects; and to create an environment that would encourage them to learn and find out about things for themselves.

ENISHI: New students coming from junior high schools must be daunted by being exposed to something so unfamiliar to them, at least initially. But your teachers lead the way in developing effective programs.

Oyadomari: This year, as a first-year homeroom teacher, I have already organized a number of visits for newly enrolled students to different companies, including JAL. The aim is to arouse their interest and curiosity through experience.

ENISHI: You're putting an emphasis on real-world experience, not only classroom learning.

Oyadomari: Right. Real experience is a key driver of learning motivation, especially at the beginning. Surprisingly, very few people are aware that these kinds of schools exist. Those who do know are at an advantage. Our strength is that many of our teachers are younger, or have had jobs in other sectors. As a result, our students can relax and learn in the way they find most natural, but when they need more discipline the staff is still there to provide them with instruction. The fact that much of the program takes place outside the school extends this variety.

ENISHI: Was IP part of your job when you were at MEXT?

Oyadomari: No, I was not very familiar with that topic when working for the minister. I was studying university education, became interested in teaching in schools, and I decided to take the leap when I heard of this intriguing project to create a new style of school.

ENISHI: That was a fateful encounter.

Oyadomari: My original enthusiasm is still paying off in so many different ways. Every year, Chihaya welcomes visits from a lot of international trainees, and we have them interact with our students. It's a precious opportunity, available only through our unique program. We even receive requests from many graduates to come back and participate in the program. These activities are connecting many people, inspiring new and different plans and actions to make the school more exciting and dynamic. Chihaya is aware of the need to take up new challenges in order to survive.

ENISHI: What and how many classes do you teach?

Oyadomari: My teaching assignment this year consists of first-year level Business Basics for four units, second-year level Community Design for three units and practical programs for third-year students, such as Research Projects, Advanced Business/Economics Studies and Community Design Workshops. In these programs, students learn about real business in cooperation with real companies and apply basic knowledge acquired over the previous two years. Patents and other IP topics are regular subjects of these programs.

ENISHI: Do you go into creating utility models and how to improve something that's been made?

Oyadomari: We ask a number of companies to send someone to our classrooms to give necessary instructions for students to discuss product development plans in groups. Take a specific example from Advanced Business/Economics Studies, which involved Parfun, an innerwear planning and production company. Students proposed product plans for innerwear and other items, and the company made trial models based on the plans. Then, the students improved the models through cut-and-try efforts to develop commercial models, which were actually placed on the market. This activity is mutually beneficial. Students can enjoy a sense of achievement from the successful results of their planning and production efforts, and the company can collect ideas and survey data of young people on the significant scale of the entire school. Other projects resulting in market launch were carried out in cooperation with Shimamura, First Retailing and RIZAP.

ENISHI: Do you receive royalties?

Oyadomari: No, we don't. Instead, we receive sample products to be used by the students. These proj-

ects draw attention from many companies regardless of organizational size, so it's not difficult to find partner companies. To build a workable plan for individual projects, it is vital for teachers to work together in negotiating with the selected companies.

In another major project, we proposed improvement plans for AEON's fair trade packaging. Students created more eye-catching designs, which were marketed across the country. In this project, students learned about the fair-trade movement. Other successful proposals include those for golden-color spoons for Haagen-Dazs and a megaphone equipped with a translation function.

ENISHI: From the companies' perspective, your school serves as an abundant source of inventive ideas—it's like Doraemon's pocket (the cartoon character Doraemon has a bottomless pocket).

Oyadomari: This is not a one-way service, though. We also benefit from these undertakings. Students discuss plans, which are adopted by the company to be commercialized. In the course of this process, they learn about business systems, and also can feel fulfilled from their work, depending on the results. They are also given opportunities to make presentations on their proposals in the partner's booth at industrial exhibitions.

I believe that it is important to conduct these activities in high schools rather than in universities. These activities can inspire high school students to think about their future careers and work to determine fields of study and select universities to pursue their goals. Career awareness is a strong driver of learning motivation. Highly motivated students make serious efforts to select schools with the faculty and areas of specialization that meet their aspirations, rather than focusing only on college ranking. Some students even visit target universities to meet relevant professors and researchers. Many of them kindly receive those students in a serious manner, giving encouragement to young aspirations.

ENISHI: Your school places heavy weight on teaching the importance of having respect for diversity and individual differences.

Oyadomari: Yes. At Chihaya, first and foremost, students are taught the importance of showing respect for other people. It's important to do this at the start of school life, before various unique activities, such as out-of-school projects, start, because a feeling of privilege from being allowed to engage in these activities not available at other schools can give rise to arrogant attitudes.

ENISHI: How did you begin to incorporate IP education into your class curriculum?

Oyadomari: The commercial high school I worked at allowed teachers to develop original plans on themes selected for marketing and research project classes. I created a mock business lesson plan based on a scenario in which the classroom runs an imaginary company named Shibasho, an importer and distributor of foreign products and regional sales agent. Starting the mock business as described, I later added a story to the effect that the mock business had decided to produce original products. We actually developed and marketed the original Minato Nijiro Candy with the help of a local sweet shop.

ENISHI: Did you plan and sell actual products in the mock business? How did you fund the project?

Oyadomari: Students made presentations of their plan to their parents and teachers at the school and issued shares to raise funds. Earnings were allocated for repayment. From this process, students learned

about share issuance systems, an important aspect of business.

ENISHI: The mock project included the entire business process; from procurement, planning and marketing, to account settlement. Where did you sell the products?

Oyadomari: We avoided school festivals, an internal sales channel popularly used for similar mock business projects, and instead accessed real-world channels, specifically, local shopping district events. Students visited a host of shopping districts in Minato Ward to persuade representatives from the local shop owners associations to let them sell products at their events. Teachers communicated with the ward government to ask for support. Thank to those efforts, the school has maintained friendly relationships with partner districts up to today. Several years ago, students began to sell products from the Tohoku region in their booth at the annual Kakashi Matsuri (scarecrow festival) event, aiming to help reconstruction efforts for the areas affected by the 2011 earthquake disaster.

ENISHI: Students learn about business through these activities outside school by selling products and building booths.

Oyadomari: I believe that these links to the real world are important. Engagement with the world outside the school is the key.

I have focused on product planning and marketing, which inevitably involves major IP issues, including idea creation, company logos and brand mascots, which made me recognize the significance of understanding these issues. While teaching research project classes during my four years at Shiba Commercial High School, I felt the need to learn more about IP education and began to attend a relevant seminar, which was very useful. I found the textbooks and other materials provided in the seminar could be applied to my lesson plans. I also attended workshops included in the seminar to develop IP instructors. I began to think about preparing class plans utilizing the knowledge and books I got from the seminar. That's how I began to incorporate IP education into my class curriculum. This initiative was also inspired by our unique class, the founding of a mock business.

ENISHI: Among the four major IP-related topics, namely, patents, design, trademarks and copyright, which do you think should come first in terms of being introduced in class?

Oyadomari: I think trademarks are the best starter. Students are relatively familiar with company and product logos. From this topic, I progressed to a range of related topics from idea creation to patents and utility models. This was followed by discussion on IP registration systems.

ENISHI: Didn't the students shrink away from learning about systems?

Oyadomari: If you tell them they can't learn about business without it, they accept it and study it. Since they know that most high schoolers aren't studying IP, they recognize that they are ahead of the game. So rather than shrinking away, they throw themselves into it.

ENISHI: A popular misconception that scares people away is that since intellectual property is a legal concept, it must be difficult to understand. You are challenging this preconception by presenting it from a business point of view.

Oyadomari: It's easier to sell it when you show it from that angle.

ENISHI: Maybe they want to understand it because they sense it will play some role in their lives.

Oyadomari: Which makes them want to know about the law. It's indispensable in business, but it's difficult to start with. As I described, to draw their interest, the added element of hands-on experience makes them feel for themselves the necessity of learning about something like law. We still offer commerce and business classes as I believe these subjects are essential in learning about IP. My ongoing IP-related projects include one themed on the Olympics/Paralympics, which is carried out in partnership with Panasonic. I am developing teaching materials for the project. Panasonic will instruct students to work to develop products that will satisfy needs and expectations of many people, using the company's technologies, services and businesses developed for the Olympics/Paralympics. Students will come up with ideas, shape them into concrete plans and complete procedures to register the developed products. Students will understand the importance of this process for the company and themselves alike. Hopefully everyone also enjoys thinking about IP from the standpoint of working with these companies. But it is not easy to build a teaching staff that knows about these things, nor is it easy for a school to collaborate with real companies. Perhaps it is made possible because I built my career and experience in different sectors before becoming a teacher.

ENISHI: Based on your grappling with creating an IP curriculum, what are some of the things you feel you've achieved and some of the issues you see schools as facing?

Oyadomari: The largest issue is about increasing teachers' involvement with IP education, which is a new area for many of them. It is necessary to establish a system that enables those teachers to effectively engage in this new educational area. And the system should include measures to connect teachers from different areas of specialization. Teachers need systems and measures to help them take up the challenge of teaching this less familiar subject. I think the lack of effective systems poses a hurdle that discourages many teachers from entering the area, preventing the expansion of IP education activities.

ENISHI: Do those teachers show interest in networking activities through workshops and opinion-exchange sessions or using ready-made supplementary books?

Oyadomari: Such measures can attract teachers with a certain level of IP knowledge, but not those with less knowledge. To draw their interest, experience is the key. First, they should be given an opportunity to visit a company to learn firsthand about business systems, including IP systems. Workshops, in order to be effective, should come after the opportunity to have such real-world experiences. You can't just give teachers textbooks and materials and have them try a session. It's not as simple as that. I think that corporate social responsibility (CSR) activities can be used to open up an appropriate opportunity. This topic, which relates to today's activities, can connect teachers and increase their motivation. While teaching that topic, teachers may have an opportunity to think about product development, then begin to be aware of the significance of establishing IP systems and promoting IP education. Often supplementary books include comics, which they should find useful for teaching their classes. I don't exactly know how to express it, but I'd really like to ask teachers to try to increase their exposure to IP topics. As I said earlier, experience should come before workshops. For instance, visit a JAL office and you will hear people explaining aviation principles and mechanisms, which will arouse a feeling of wonder. Only after such emotional experiences will workshops benefit participants.

ENISHI: So it's not as simple as just giving books to teachers. You're saying that they need to have experience first, right?

Oyadomari: Not only is it easier that way, it's rewarding for the teachers when they palpably recognize their own interest in the subject. That's special, something you don't regularly experience. Teaching not from a textbook but from an experience that affected you emotionally means that you are teaching what you lived. Teachers can visit companies and learn firsthand about IP in real business systems and incorporate that experience into lesson plans. Then, they will continue working to enhance the quality of their lessons. Regrettably, however, many of them are hesitant about building collaborations with companies, thinking that it's "easier said than done." But try contacting the CSR sections of companies, and you find that they are surprisingly receptive to requests for collaboration with schools.

ENISHI: ICT education is being promoted across the country, but schools where it's doing best are the ones in regions that have close links with companies.

Oyadomari: I think schools should be able to ask for cooperation from companies, in order to enhance various activities, particularly for experience-based activities. Real-life experience is essential to teaching. What I mean by this is effective only in this context. In order to teach effectively in class, teachers should be able to access opportunities to have appropriate experiences, for which cooperation of companies is essential. If no such opportunity is available, appropriate systems should be established to help schools access cooperation from companies.

ENISHI: What are your hopes for IP going forward?

Oyadomari: I expect that cross-sectional networks will be established to facilitate the cooperative involvement of the four key groups—local communities, companies, government and students (schools)—and promote IP education all together. For the purpose of the networks, at least three groups should be included. IP is an important area of education, and platforms enabling participants to share IP-themed experiences will help increase demand for IP education.

ENISHI: Do you think demand for IP education will increase?

Oyadomari: IP education will virtually become a requirement. Computer programming will be included in the core curriculum of elementary school in a few years. In line with this, high schools will offer advanced programming courses, where students will work to produce real programs. This activity inevitably involves IP issues. Relevant instructions should be provided organizationally, which requires IP classes and teachers, preferably those oriented toward practice and based on experience.

I am making a number of suggestions to improve teacher training efforts. One is to authorize IP teachers, through certification by the JPO or other agencies. Authorization helps structure group training, encouraging members to request and provide advice. Teachers should study in groups, teaching each other. It is necessary to build such group teaching systems, where they should have experience first, and then study together. At the same time, systems need to be established to be able to enhance activities. One is for increasing accessibility to advice. IP-knowledgeable teachers are easier to access than external experts. This can help raise IP awareness.

ENISHI: It's all in personnel development.

Oyadomari: That's also the case in many other fields, including that of World Heritage studies. I have included this subject in my class curriculum, and I regularly participate in discussions to promote the initiative. One major agenda item is about personnel development. We discuss measures to help more young teachers introduce this topic in their class curricula, and to effectively utilize the related body of knowledge and proficiency exams. I suggest there is a need to build a platform for sharing ideas and issues, in order to expand the initiative. The World Heritage Proficiency Exam was launched as a supportive activity for the education sector and attracts many interested people every year from society at large. Necessary administrative services are provided by Mynavi Cultural Business Corporation. Similar proficiency exams are held for other education subjects, such as the Japanese language (Kanji Kentei), but no similar program is provided for Japanese History and World History. Teachers of these subjects are seeking different approaches, including external resources, to expand students' interest in these school subjects. So, World Heritage studies is capturing the interest of teachers of history and other non-commercial subjects.

To arouse teachers' interest in World Heritage studies, I talk about favorable episodes from my actual class programs, including trial lessons carried out in collaboration with JTB and other travel agencies. I also tell them that even just touching on this topic during the class made a difference. I believe leading teachers should continue with these small efforts to inspire less-interested, less-knowledgeable teachers to join the initiative. In order to introduce new subjects, like IP and World Heritage studies, at school organizationally, the motivation of instructors is the key.

ENISHI: I have participated in the school visit day for trainees every year since 2008. Will you share some episodes that have particularly impressed you during past events?

Oyadomari: I am very glad to have many visiting trainees every year. It's really great fun every time. I am particularly grateful to many trainees for having conversations with students. I like seeing them talking with trainees about various topics, ranging from small talk to cultural differences. That's stimulating. I can tell that their attitudes are different from usual. High school students are old enough to form their own opinions on many issues and express themselves effectively, if casually. These experiences are very important, and this event provides a good opportunity in terms of the purpose, so I hope we can continue welcoming many visitors in the future. I processed part of relevant episodes for incorporation into class plans for projects involving companies. Chihaya is a unique, non-standard high school in Japan, but I am proud of this school, and thankful to be given this opportunity to introduce our unique projects to visitors from abroad.

ENISHI: What are students' responses like?

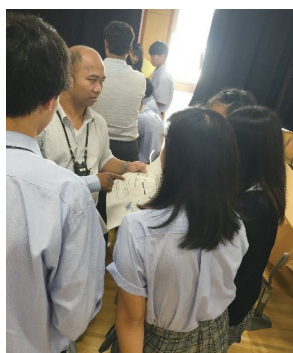
Oyadomari: Their responses are very positive. Many show strong interest in the event. I even receive requests from students in other classes as well as from many alumni to participate. They understand this is a precious opportunity to learn about IP in English.

ENISHI: IP education will have to expand its target from Japanese systems to include international systems.

Oyadomari: That expansion will be a natural development. Students will be able to learn about the diversity of views and values around the world.



International trainees listening to Mr. Oyadomari's lecture



Students demonstrating business ideas to international trainees and asking their frank opinions

ENISHI: In closing, would you say a few words to our trainees?

Oyadomari: This event is organized as part of the training program. As such, our plans center on topics that serve training purposes. Still, we can talk about many things, such as society and the cultures of individual countries. Students also talk about various topics including non-IP topics. I hope you use such opportunities to enjoy frank conversations. I hope to see you again at future events and to enjoy good times together.

ENISHI: Thank you very much for your time today.

8. Column: IP Education



Mr. Takao OGIYA
Director General of APIC

In Japan, the year 2017 was referred to as the "first year of the IP education era" in the IP sector. In the IP Strategic Program, which is published by the government every year, IP education is discussed as a priority theme to be addressed by the government. The Program points out the importance of promoting education for young people from elementary to high school age to raise their IP awareness.

What should school education aim for? Which should it prioritize, creativity and self-directed thinking or basic learning and discipline? In September 2017, the Pew Research Center, a US research firm, conducted a survey to collect views from different countries on the above question. Survey respondents from 19 countries were asked to share views on a relative basis, given the absolute importance of both for the purpose of youth education. The result was as follows: Spain, Germany and Sweden preferred "creativity and self-directed thinking"; Kenya and Nigeria, "basic learning and discipline"; and the US, Australia and Japan were evenly divided between the two.

In the past, Japan's school education tended to focus only on acquiring knowledge, encouraging students to dedicate themselves to getting high scores on exams, which became the only important purpose of school. This tendency has caused many issues that hindered sound youth development across the nation, ranging from decreased physical strength, weakened normative consciousness, low reading habits and ability, low interest in the sciences and manual work, and unhealthy dietary habits, to bullying, truancy and increased youth unemployment.

Our future society will be propelled by new technology initiatives such as Industry 4.0 and IoT. To be able to shape a new future in this context, children need to acquire the innovative ability to create value.

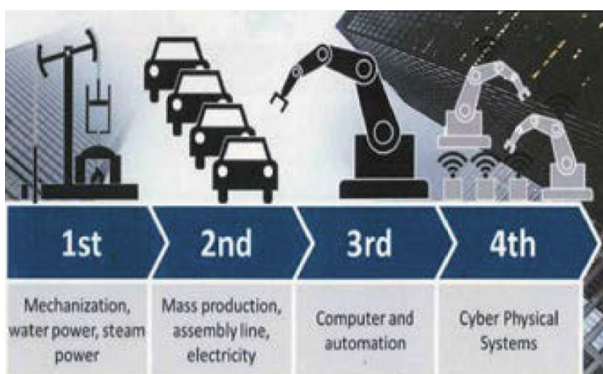


Figure 1. Industry 4.0



Figure 2. IoT

Adobe Systems Co., Ltd., a Japanese subsidiary of the US software developer, conducted an online survey in May and June 2017, targeting teenagers in the US, the UK, Germany, Australia and Japan. The survey included questions on creativity.

Asked for views on themselves and others of the same generation, a mere 8% of Japanese respondents selected "creative," compared with 37-47% from the other four countries. And for views on careers and jobs requiring creativity, only 31% of Japanese respondents thought that there were "many," versus 70-77% from other countries.

The above results appear to indicate that Japanese young people lack essential attitudes to face a new society.

While a negative outlook as indicated above is emerging, we should acknowledge many creative and ingenious Japanese children who produce distinctive, inspiring inventions.

JIII hosts a nationwide young inventor competition every year. At the fiscal 2017 event, the grand prize went to a sixth grader, who expressed his delight in receiving the award as follows:

"This year's project was planned to help people in wheelchairs. I decided on this theme when I noticed a problem when using a tool in an integrated study class, where we had the opportunity to use a wheelchair for the purpose of learning about the difficulties of operating one. Many students had difficulty climbing up the practice ramp, and I myself thought that wheelchairs should be safer and more functional. I thought of switching the conventional round wheels to star-shaped wheels. This would enable the wheelchair to climb up stairs more easily due to increased floor contact area. Based on this idea, I worked hard to create a desired system. I went through many failures and improvements. I was afraid I would not be able to complete the system by the due date, but I felt delight in each successful step. Also, I felt encouraged by the famous quote of Thomas Edison that, "The most creative way to succeed is always to try just one more time." So, I continued with my challenge until finally I completed my invention. I can't express how excited I was the moment the wheel mode switching system worked properly and the control program was completed. I felt a great sense of fulfillment. And I owe this success to the many people who supported me so I could devote myself to the project. Thank you very much.

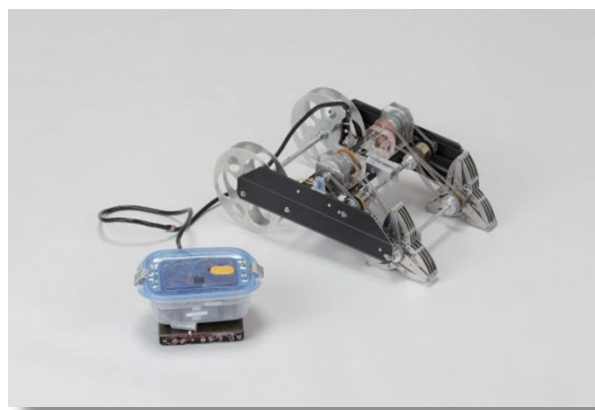
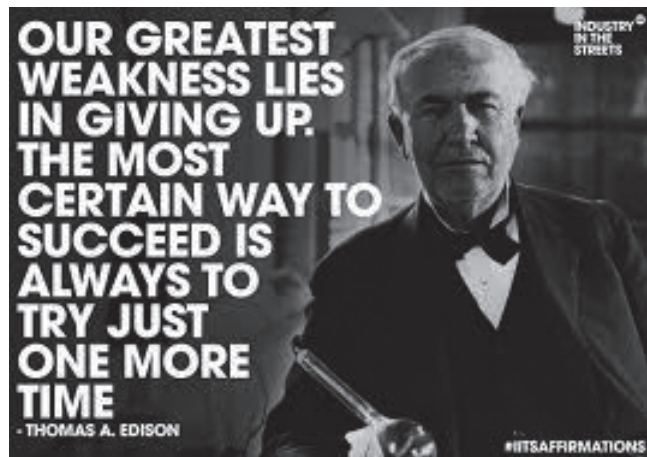


Figure 3. Variable Wheel Shape System



"I decided to aim to become a great inventor who can make a difference in the world, inspired by great people I read about when I was nine. It's important to come up with good ideas, and it's just as important, and even more difficult, to give shape to them. I will continue to take on challenges that aim to achieve inventions that match those of Edison and other great inventors."

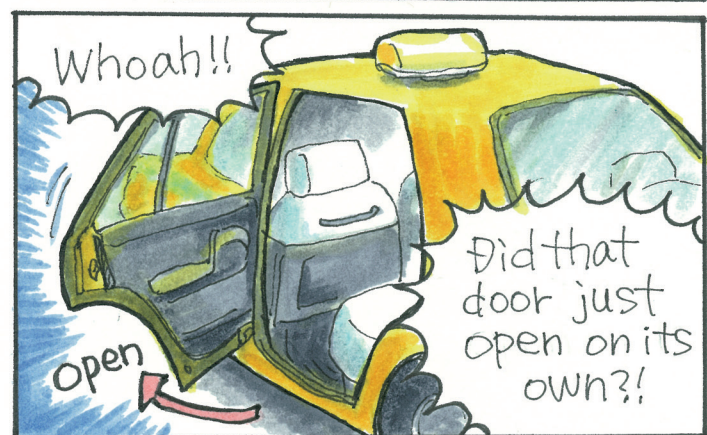
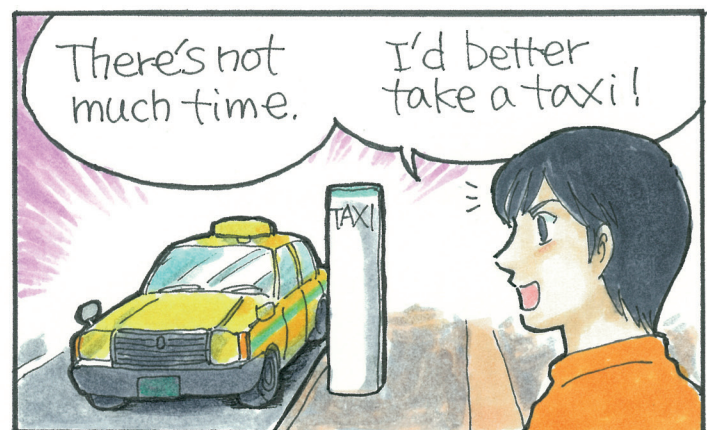
The term "educate" is derived from the Latin word for "lead out" or "bring forth." Based on this etymology, education is about bringing out potential: abilities and ideas yet to be demonstrated.

Humans are creative beings. We exercise our creativity to come up with an idea, put it into practice, observe the process, analyze the results and come up with a better idea. Continuing with these creative, trial-and-error activities, human beings have survived numerous hardships and developed civilizations.

School education should play an important role in developing creative children. Schools must not suppress creativity. To ensure this, teachers first need to raise their IP awareness and improve skills to bring out children's creativity. It is also important to prepare appropriate teaching materials.

I believe that IP education aimed at developing creativity will play a key role in helping children to achieve sustainable growth in a new society. For this purpose, IP education must be designed appropriately, not only focusing on acquiring knowledge and getting high scores.

9. Happenings in Japan (Four-Frame Cartoon)



10. Editor's note



Hello, it's Mitty. I'll be editing Enishi again this year so please have a look when you get the chance. In light of our human resource development work reaching its twentieth year, this time we've chosen to focus on what some of our former trainees are up to right now, as well as on intellectual property education.

What comes to mind when you hear the term "human resource development"? There are a number of conceivable answers, such as "education," "knowledge acquisition," "skill improvement," "goal achievement," "results," and so on, but for me more important than knowledge is broadening one's personal connections. This is especially true with us because of what this office does. The JPO invites a large number of trainees from a variety of different countries to come to Japan for training and long-term research. Every year I relish how lucky I am to be able to take part in the wonderful work we do—in which people from so many different environments come together in the same place not only to share their knowledge of intellectual property rights, but also to understand and respect one another's cultures, literally transcending borders to warmly share with each other. In fact, this year will be my tenth year in this office. If I had never come here, I would have spent my entire life never knowing about the culture of all these different countries, the warmth of their people's characters, how people see Japan, and how wonderful Japan is. Watching how everyone has grown through the human resource development carried out by this office, I have learned that there is no limit to human growth. I too want to grow through our work in human resource development and I plan to do so, in as many ways and as best I can!



Hi, I'm Hiroko Oriyama. In Tokyo, when the rainy season ends in the mid July, summer season starts in full swing.

Our first edition of ENISHI for this fiscal year features special contributions from former trainees who have been promoted to senior positions and from former trainees specializing in patents in their own countries. Another feature is an exclusive interview with Mr. Oyadamari, a teacher at Tokyo Chihaya High School who is one of the lecturers for IP Trainer course. He passionately told us about how he started a task-oriented research class at a commercial high school which later developed into a unique IP class at Chihaya High School. He has been devoting himself to making his students learn practical knowledge through a variety of real experiences and having fun while they do it. I think this can be applied to any field.

An article in ENISHI No. 18 incorrectly stated that Ms. Shruti Shah (India) attended the JPO/IPR Training Course for IP Trainers in the period June 15 – 29, 2016. In fact, she attended the JPO/IPR training course for IP Practicing Lawyers in the period September 24 – October 12, 2012.

We apologize to our readers for this error.

Publication of this Magazine is consigned to the Japan Institute for Promoting Invention and Innovation by the Japan Patent Office.

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