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E N I S H I

IP Friends Connections

No.22 August 2019

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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FY 2019 Training Courses List

FY 2019 Short Training Courses

	Course Title	Term of Course	Duration
1	JPO/IPR Training Course for IP Trainers	June 13 - 27, 2019	15 days
2	JPO/IPR Training Course on Trademark Examination under the Madrid System	July 2 - 11, 2019	10 days
3	JPO/IPR Training Course on IP Asset Management for African Countries	July 18 - 24, 2019	7 days
4	JPO/IPR Training Course on Promoting Public Awareness of IP	August 5 - 9, 2019	5 days
5	JPO/IPR Training Course on Academia-Industry Collaboration and Technology Transfer	August 20 - 29, 2019	10 days
6	JPO/IPR Training Course on Substantive Examination of Designs	September 2 - 13, 2019	12 days
7	JPO/IPR Training Course on Patent Examination Management	September 19 - 26, 2019	8 days
8	JPO/IPR Training Course on Establishing Patent Examination Guidelines	October 3 - 9, 2019	7 days
9	JPO/IPR Training Course for Practitioners Specializing in Patents	October 16 - November 1, 2019	17 days
10	JPO/IPR Training Course on Information Technology	November 6 - 12, 2019	7 days
11	JPO/IPR Training Course for IP Protection Lawyers	November 18 - December 4, 2019	17 days
12	JPO/IPR Training Course on Substantive Examination of Trademarks	November 21 - December 3, 2019	13 days
13	JPO/IPR Training Course on General Management of IP Office	December 5 - 11, 2019	7 days
14	JPO/IPR Training Course on Patent Examination Practices for Viet Nam	December 11 - 17, 2019	7 days
15	JPO/IPR Training Course on Design Examination under the Hague System	January 10 - 17, 2020	8 days
16	JPO/IPR Training Course on Patent Examination in Specific Technical Fields for Latin American Countries	January 22 - 30, 2020	9 days
17	JPO/IPR Training Course on Trial and Appeal System for ASEAN	February 4 - 10, 2020	7 days
18	JPO/IPR Training Course on Anti-Counterfeiting Measures for Practitioners	February 6 - 14, 2020	9 days
19	JPO/IPR Training Course for Practitioners Specializing in Trademarks	February 13 - 27, 2020	15 days

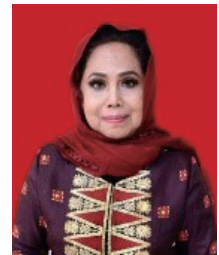
FY 2019 Middle Training Courses

	Course Title	Term of Course	Duration
1	JPO/IPR Operational Patent Examination Training Program (OPET)	September 18 - November 8, 2019	52 days

Contributions from the former trainees



Human Resources at the Supreme Court of the Republic of Indonesia



Dr. Marni Emmy Mustafa. SH., MH (Indonesia)
Retired Chief of High Court West Java

JICA IP Enforcement Workshop for Indonesian Officials (January 25 - February 8, 2005)



“Judicial Power is an independent state power for organizing the judiciary to enforce the law and justice based on Pancasila, towards the materialization of the Republic of Indonesia as a state based on law”,

Authority from the Supreme court¹:

- 1) Check and decide upon the cassation application, test the laws and regulations under the law;
- 2) Check and decide on disputes the adjudicate and judicial review;
- 3) Give consideration to requests for forgiveness;
- 4) Give information, consideration and legal advice to state institutions and government institutions;
- 5) The highest supervision of the administration of justice in all judicial environments in the implementation of judicial power;
- 6) Manage the organization, administration and finance of the Supreme Court and all the judicial body.

The structure of Supreme court covers four branches, namely General Court², Administration Court³, Religious Courts⁴, and Military Court⁵.

¹ The Supreme Court annual report 2018 “A New Era of Modern Justice Based on Information Technology”, page 9.

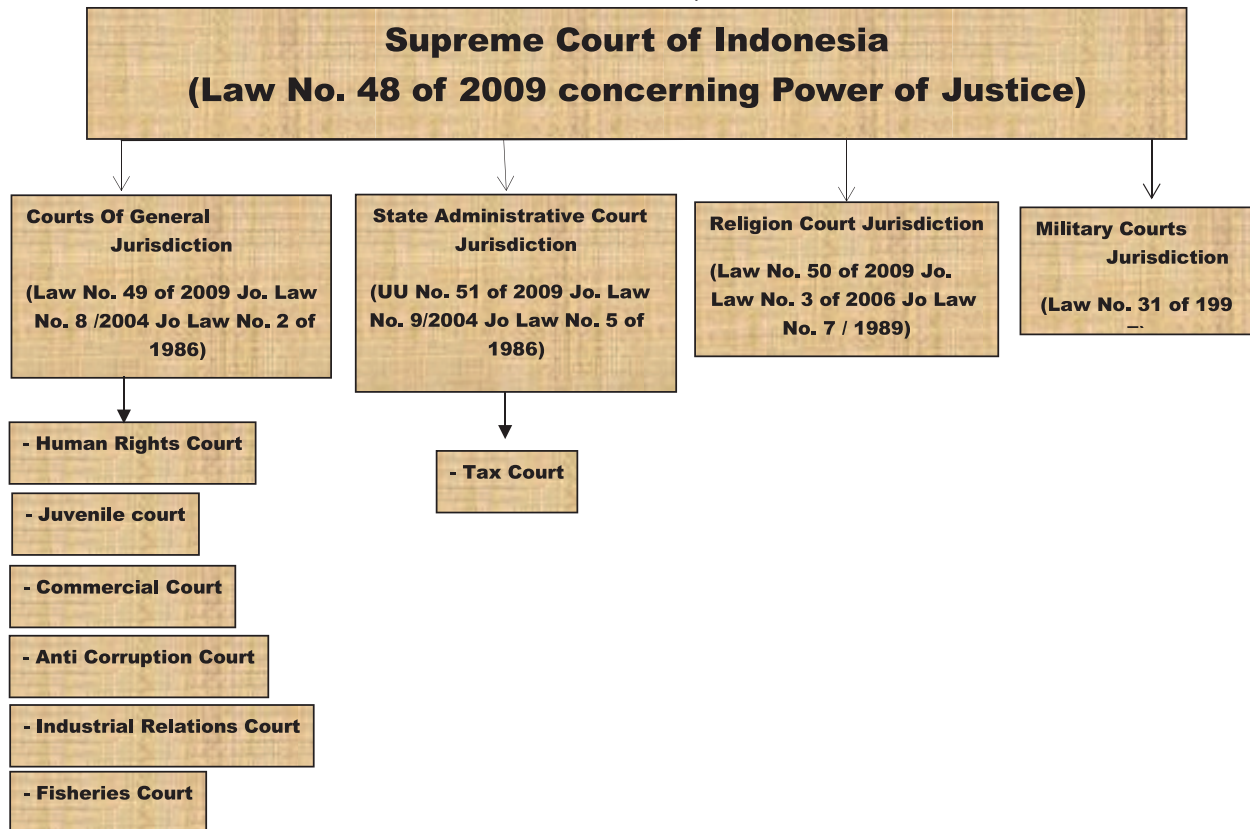
² General Court is named as the public courts comprises; the district courts at the first level and the high courts at the appellate level, after which any appeal goes to Supreme Court. They can try criminal and civil cases involving Indonesian citizens of foreign citizens.

³ Administrative Courts were established in 1986 a consequence of a law intended to ensure that people would not be treated arbitrarily by government official or organizations. They rule in dispute involving the state officials or state body, both at the center and in the regions. There is one specialized court created within the system of the administrative courts-The Tax Court.

At the top is the Supreme Court, which is the highest Court of the State and is in charge of passing judgement in cassation on decisions decided in final appeal by Courts other than the Supreme Court.

As the highest Court, the Supreme Court has the end supervision on other Courts as stipulated by the Law. In other words, the Supreme Court is the highest body in the administration of justice in Indonesia. In technical terms, all the Courts in Indonesia fall under the control of the Supreme Court.

This is the flow chart the Supreme Court of Indonesia:



Vision and Mission of the Supreme Court

Vision of the Supreme Court of the Republic of Indonesia:

“The Realization of a Great Indonesian Judiciary”

Mission of the Supreme Court of the Republic of Indonesia, namely:

- 1) Maintaining the independence of the judicial body;
- 2) Providing legal services that are fair to justice seekers;
- 3) Improve the quality of judicial leadership;
- 4) Increase the credibility and transparency of the judiciary.

- 4 Religious courts are for Muslim citizens to resolve matters such as marriage, inheritance and property donated for religious purposes. Religious Courts are located at the district/Municipality level and there are 343 of these courts of first instance at the regency or city level across Indonesia, including 19 Syariah Courts in Aceh. At the appeal level, Religious High Courts now (2010) number 29, including the recently renamed Mahkamah Syariah (Syariah Court) in Banda Aceh Since 2006, a number of districts have issued local ordinances based on Syariah, expanding the domain of religious courts.
- 5 These deal with cases involving members of the Armed Forces. First-instance military courts consider cases regarding military personnel whose ranks are not higher than a captain. High military courts consider appeals against decisions of the lower military courts and also act as first-instance courts in case, involving military personnel with ranks of a major and above. The Primary Military Court hears appeals against the decisions of The Primary Military Court and also decides upon issues of jurisdiction of the military courts. [Wikipedia.org/wiki/judiciary of Indonesia](http://Wikipedia.org/wiki/judiciary_of_Indonesia).

The National Long-Term Development Plan for overall development in various fields by emphasizing economic competitiveness based on the superiority of natural resources, quality human resources, and increased scientific and technological capabilities. At present, there are 30,955 employees in the Supreme Court and the Judiciary, consisting of 20,543 technical staff and 10,412 non-technical personnel. The Supreme Court, as an organization that has a large number of employees, has made renewal efforts to support the performance of the organization towards the great Indonesian judiciary⁶.

The Supreme Court Blueprint 2010-2035, as the direction of the long-term policy and strategy of the Supreme Court, has set policy directions in several change strategies in:

- 1) Justice Function
- 2) Case management;
- 3) Human Resource Management
- 4) Financial Resource Management;
- 5) Facilities and Infrastructure Management; Information Technology Management;
- 6) Justice and Transparency;
- 7) The Supervision Function in the context of efforts that are expected to become operational directions to achieve the vision and mission of the Supreme Court.

The Supreme Court has implemented three national priority programs in the field of increasing human resource competencies, namely, implementing Integrated Education and Training of the Child Criminal Justice System, Integrated Environmental Education and Training, and Commercial Court Certification Training Education.

The Supreme Court, to achieve its vision, continues to optimize information technology to improve performance until 2018, to hold technical guidance / face-to-face training and replace it with e-learning.

Improve services for justice seekers that require strengthening technical, judicial and non-technical aspects of the judiciary.

For judges, education and technical training are carried out with specialization.

Example: Training of Commercial Court Certification Judges, who adjudicate intellectual property rights disputes.

The Human Resource management system is based on a general competency based Human Resource management system called Competency Based Human Resource management.

- Soft competency is competence that is closely related to the ability to manage work processes, human relations and build interactions with others, such as leadership, communication and interpersonal relationships.
- Hard competencies are competencies related to functional or technical abilities of work. This competency is based on the technical work performed
- Examples of hard competency in the court are deciding cases, making copies of decisions, making financial reports.

This system facilitates the operationalization of performance-based organizational design, demands for bureaucratic reform. Competence is a key element in competency-based Human Resource management, so Competence is defined as a combination of skills, knowledge, and personal attributes, as measured by good work behaviour.

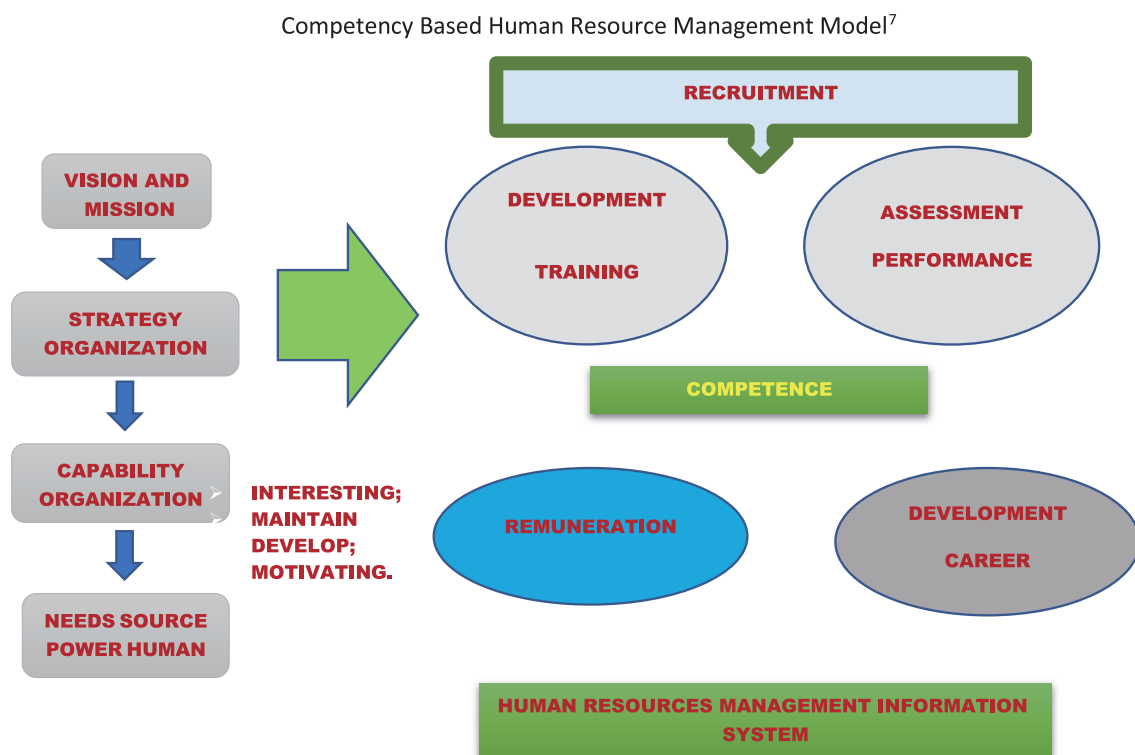
6 Consisting of 48 Supreme Judges, 47 Judicial High Judges, 138 Judicial Judges, 7,382 Judges, 9,259 Registrar, 3,669 Bailiffs and 10,412 Non-Technical Personnel

In addition, it is recommended that the format of organizing education and training in collaboration with external parties should be considered by the Supreme Court training institutions in the future as the main support for expanding training opportunities.

Sustainable Justice Education

To ensure the successful implementation of the concept of Sustainable Judicial Education in Judicial Professional Education and Training system, activities to be carried out include:

- 1) Increase institutional capacity and capacity of Human Resources, in implementing the functions of education and training.
- 2) Preparation of competency-based curriculum and teaching materials for education and training programs for judges and judicial apparatus that will be continuously updated, including adjustments to the application of the room system.
- 3) Implementation of continuing education and training programs for judges and court officials.
- 4) Recruitment of Human Resources in implementing functions based on education and training, including involving external personnel to support curriculum preparation and teaching materials, or become needed teaching staff.
- 5) Implementation of the process of integrating a training system with the overall Human Resources system.



Supreme Court Integrates Competency-Based Human Resource Management into Digital Applications, launches the application of the Personnel Information System version 3.1.0 that is integrated with Competency-Based Human Resource Management. Launch of Head of Justice of the Supreme Court of the Republic of Indonesia, His Excellency Prof. Dr. M. Hatta Ali., SH., MH.,

⁷ Supreme Court of the Republic of Indonesia, Blueprint for Reform of the Supreme Court of Indonesia, Jakarta - Supreme Court of the Republic of Indonesia, 2003;



Chief Justice of the Supreme Court launches the application of the Civil Service Information System 3.1.0 on December 20, 2018

Civil Service Information System Application 3.1.0 is the main database in managing human resource data. Through this application personnel administration can be adjusted automatically, perform multilevel data validation, career management, remuneration, promotions to employee transfers.

At a more ideal level, this integration aims to improve the effectiveness, transparency and accountability of Human Resource management in the Supreme Court and the courts below.

Especially for personnel services, version 3.1.0 also adds new features, such as promotional services and transfer processes to print decision letters that are integrated in one system.

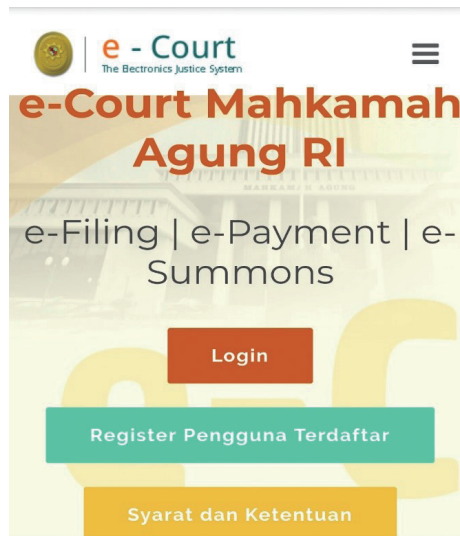
The spirit of modernization in the Supreme Court was driven by the vision to create a great Indonesian judicial body through the administration of a simple, fast and low-cost judiciary. In addition to modernization of the main functions of settlement of cases, modernization efforts have also been carried out on judicial support functions, among others, by establishing the Republic of Indonesia Supreme Court Information System which includes the Civil Service Information System, and the Supreme Court Information Control System.

A New Era of Modern Justice based on Information Technology⁸

An important moment in the Indonesian judiciary is the shifting of the manual justice administration system to the electronic court administration system. The issuance of PERMA Number 3 of 2018 concerning Electronic Court Case Administration, followed by the launch of the e-Court application, has opened up space for the e-filing process of e-payment, calling and notification to electronic parties (e-summons). The three features in the e-court application are integrated with the Case Search Information System, the Supreme Court Information System and the Verdict Directory⁹.

⁸ Annual Report of the Supreme Court in 2018 p.1

⁹ The e-Court system connects 910 courts throughout Indonesia. distance is no longer an obstacle to providing quality and modern judicial services.



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As a result of the new era of modern courts, it requires recruitment and upgrading of expertise to be placed in a new process. Human Resources (HR) is a very important factor for the organization of the Supreme Court and the judiciary under it. To keep up with the increasingly dynamic world development, the Supreme Court continues to strive to improve the capabilities and potential of its employees to be able to compete to create a management of professional apparatuses in order to realize world-class bureaucracy in 2024.

Changes towards a new era of modern information technology-based justice require new staff recruitment and increased human resource expertise to be placed in the new process. “Believe you can, and you’re halfway there”, said Theodore Roosevelt, that the belief in one’s ability is halfway to achieving the goal. Clean and authoritative judiciary must be supported by professional and integrity apparatus resources, effective and efficient management is management that is able to empower all available resources to achieve goals, and quality public services are reflected in the response of the community as users of judicial services¹¹.

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- <https://ecourt.mahkamahagung.go.id>

¹⁰ <https://ecourt.mahkamahagung.go.id>

¹¹ Annual Report of the Supreme Court in 2017 p.14

Contributions from the former long-term fellowship researcher



Memories of an African long-term researcher in Tokyo

Mr. Justin Fabrice Manga Zambo (OAPI)
Examiner, Service of Distinctive Signs,
Trademarks and Other Distinctive Signs Service



(July 18 - November 16, 2018)



My name is Justin Fabrice Manga Zambo, I am a trademark examiner in OAPI (African Intellectual Property Organization). My main activity is to examine the renewal and recordal of change of ownership of the trademarks that are registered in OAPI's database. However, having a master's degree in intellectual property law, I am interested in all the questions that concern this subject. Among others, questions relating to the contribution of intellectual property to the economic and socio-cultural development of countries. A months ago, I had the opportunity to carry out a research program in Tokyo for four months. I was invited by the Japan Patent Office and the Japan Institute for Promoting Invention and Innovation.

Just after arriving at the airport, was immediately fascinated by the Japanese culture, the courtesy, the professionalism, the humility and the helpfulness of Japanese people. A few hours later I met three from the APIC staff (Asia-Pacific Industrial Property Center) at the Andaz Tokyo, located on the ground floor of the Toranomon Hills building. They helped me carry my bags to the place where I had to reside during my stay in Japan.

After resting, I had the pleasure of meeting the staff of APIC, especially the people in charge of assisting me during my stay. The confrontation with the culture of my Japanese coaches allowed me to grow and to see life, my philosophy, and my culture, through different eyes. This culture shock has not completely faded, and although my knowledge of many aspects of Japanese culture has broadened, many areas of shadow remain, as this culture is both complex and exciting.

As a French-speaking Cameroonian, being forced to communicate only in English for four months was a memorable experience. The Japanese language, which at first seemed to me to be nothing more than a

galimatias, became over the days a music whose beauty is matched only by the omnipresent smile on the faces of the many friends I made in Japan.

The subject of my research was the design protection system. The aim was to make a comparative study between the protection system put in place at OAPI and that of Japan. To accompany me in my research project, I was advised by Ms. Minako MIZUNO from SEIWA PATENT & LAW, and Ms. Shoko TSUTSUI from TSUTSUI & ASSOCIATES. The experience, the availability, the helpfulness, the good humor and the incredible kindness of these ladies was a catalyst in the digestion of the numerous, complex and extremely edifying information which I drew from the books put at my disposal in the library of APIC.

My supervisor, Dr. Yorimasa SUWA, as a conductor, strove to organize carefully and accurately each appointment with people so the experience was likely to enrich my knowledge of design. He was also my master in the organization of my work, including the approach chosen for the presentation of my final report, the sequencing of the stages of my project, with deadlines and milestones. Beyond all his intellectual efforts, just as a father, he also made sure to organize the opportunities for relaxation necessary to remove the stress of living in a city considered the most developed in the world.

Among the people whose company was not only edifying, such as an angel watching over and ensuring our safety, Ms. Tomoko UNO was a model of foresight, courtesy, dedication, whose help could be solicited at any time. Following her advice, I learned the basics of living in Tokyo's social environment, which is a mix of local traditions and Western influences. The many group dinners, the excursions in the neighboring cities of Tokyo, were my favorite pastime. The tasting of various dishes of Japanese, Indian, Turkish cuisine is a memory that I will never stop renewing. For the first time, I tasted the most delicious dish in Japan, sushi, and I must admit that the delicacy of this dish does justice to the reputation it enjoys worldwide.

I cannot exhaustively quote the many dishes I tasted in four months, but I think that during my stay in Tokyo I tasted much more than in my entire life. This is not surprising when you know that the culinary wealth of Japan is one of the main tourist attractions of this country.

On the cultural level, I learned a lot from my supervisors, including Ms. Yoko OKAZAKI. This lady, whose culture is as vast as her kindness, was my most devoted tour guide. The first site in her company was the leisure visit to the museum EDO TOKYO, a museum that represents with extraordinarily evocative miniature, the different stages of construction of the city of Tokyo since the era EDO. We (my comrades and I) also visited with her other equally beautiful tourist sites, the most memorable of which is Lake Kawaguchiko, located at the foot of Mount Fuji. The mainly tourist town built near the lake attracts





thousands of visitors every year. I had the pleasure of contemplating in all its beauty, in its grandeur, and in its purity, the majestic Mount Fuji, emblem of the Japanese people.

As my stay was also an opportunity for sharing, I was invited at the weekend shortly before my departure, by Professor Mika YAMANA of KANSAI University, to make a presentation on OAPI and the protection of traditional knowledge by OAPI, to university students. I keep an ineffectual memory. Indeed, this invitation allowed me to take one of the fastest trains in the world, the SHINKANSEN, and discover the Kansai area of Japan. I will not forget the young students of Kōnan University, a private university located on the slopes of the Rokkō Mountains in the district of Higashinada-ku in Kobe, whose hospitality opened my mind, and their intelligence has marked me as much as their humility. Professor Manoj SHRESTHA, who invited me to give a presentation in front of his students on my country Cameroon, also served me as a tour guide in the surrounding areas.

I had the opportunity to attend two shamisen concerts, one at the Saitama Prefecture, invited by Ms. Hisako ITO, and Ms. Michiko HIYAMA. I also learned the basics of katana handling. In mid-November 2019, my supervisor made me discover in a cinema located in SHIBUYA, a documentary on the life of Chikuzan Takahashi, the most famous Tsugaru-shamisen player in Japan in the 20th century. A little later that day, I attended the concert of Chikuzan Takahashi, junior, at Koto Cultural Center in the east of Tokyo.

Regarding my research project, I have done quite well with the support of my supervisor, my advisors,



the many experts I met during these four months, and especially those of the JPO.

I cannot recount my experience in Japan without mentioning the hospitality, kindness, courtesy and professionalism of the staff members of the JPO Cooperation Department, as well as the JPO examiners, who, despite their busy schedules, found time to talk about the design protection system at the JPO. The staff at SEIWA PATENT & LAW and TSUTSUI & ASSOCIATES were extremely warm to me. How not to evoke this evening of Halloween on October 31, 2018 during which, exhausted in cat, dog, and all kinds of costumes, we shared with friends a dinner not far from Toranomon Hills.

During these four months in Tokyo, I had the pleasure to meet so many people, to learn so many things, but my stay would not have been so wonderful without the presence of my friends, Ms. Dhiya-san, Ms. Monica - san, and Vagner-San, whose laughter, good humor and excellent mastery of the English language contributed to my development.

I left Japan with the peaceful feeling of having accomplished my mission, but with a sad heart, to leave my friends there. I learned so much culturally, socially, intellectually and professionally, but I intend to return to complete my apprenticeship.



4

Training course experience in Japan



Japan: A source of happiness



Ms. Mariana Siniscalchi (Argentina)
Head, Legal Opinions Dept., Legal Affairs Office
National Institute of Industrial Property

FY2018 JPO/IPR Training Course on Anti-Counterfeiting Measures for Practitioners
(19 February - 26 February, 2019)



I have been working as a lawyer at the Legal Affairs Office of the National Institute of Industrial Property of Argentina (INPI) since 2004.

INPI is the government agency in charge of implementing Industrial Property laws. Its primary mission is the registration of Industrial Property rights, including patents, trademarks, utility models, industrial models and designs, and technology transfer contracts. It reports to the Ministry of Production and Work, and is the only Industrial Property Office existing in my country.

Continuing education has been one of my main professional goals since the beginning of my career with INPI. In 2010, I was awarded the Latin American Social Sciences Institute (FLACSO) full Scholarship for Academic Excellence to obtain a Master's Degree in Intellectual Property, which I did in 2014. The same year, I was promoted as the Head of the Opinions Department at the Legal Affairs Office of INPI.

In such capacity, I intervene in a large number of the administrative appeals which take place at INPI, defining the applicable criteria and coordinating the elaboration of legal opinions on different types of highly complex matters related to Industrial Property protection on a daily basis. This kind of work requires permanent updating in the field of intellectual property law. Therefore, the opportunities for learning about other countries' legislation and practices are always invaluable.

I had the pleasure of attending the “JPO/IPR Training Course for IP Protection Lawyers” in 2015 in Tokyo, Japan, and I was later delighted to be selected to participate in the FY2018 “JPO/IPR Training Course on Anti-Counterfeiting Measures for Practitioners”, which took place from February 19 to 26, 2019.

This was my second time visiting Japan, after an extraordinary first experience. In order to improve the quality of my work, I was very interested in raising my level of awareness concerning anti-counterfeiting measures and piracy due to their impact on registered industrial property rights—and I was not disappointed in this regard.

There were 26 participants working in the public sector from 13 different countries in this training course (in alphabetical order: Argentina, Brazil, Cambodia, Chile, China, Egypt, India, Indonesia, Malaysia, Myanmar, Philippines, Thailand and Viet Nam), from which 14 represented their respective IP Offices, and 12 represented their National Customs Authority.

The entire program was taught in English and in Japanese (in the latter case, with the outstanding translation of Ms. Haruko Nishikawa).

As described by its title, the content of the training program covered all advanced level aspects related to anti-counterfeiting practices, IP rights infringement and enforcement, IP right holders’ cooperation, alternative dispute resolution, and cooperation among IP-related organizations on IPR enforcement.

A very welcome introduction to these matters was provided by the lecture on the outline of the intellectual property system in Japan, given by Mr. Masayoshi Sumida.

I must stress that the lectures were focused on the practice of the host country, as an inspiring model for potential public measures to be implemented in the invited countries’ policy.

Accordingly, the lecturers—all of whom were speakers of exceptional quality and conceptual clarity—came from different areas related to the fight against counterfeiting and piracy, including the Ministry of Economy, Trade and Industry (METI), the Japan Patent Office (JPO), the Japan Tariff Association, the Union des Fabricants, customs authorities, universities, private companies, and law firms.

However, all participants had the opportunity to disseminate their national practices, with the presentation of country reports, which were followed by Q&A sessions.

Watching anti-counterfeiting measures in the Kawasaki Overseas Mail Sub-Branch, and the lecture about “Inspection Tour of Import/Export Operations for Ship/Air Cargo; Border Measures for IP Infringement Goods” given at the Yokohama Customs by Mr. Masashi Gohbara, were an eye-opening experiences that broadened my perspective on IP-related matters.

Counterfeiting and piracy cause direct damage to public health (through the sale of counterfeit pharmaceutical products), induce trademark dilution, and harm copyright work, which affects national economies very negatively.

Learning how these problems are currently being approached in Japan and in other countries, and interacting with practitioners representing different nationalities and cultures, improved my professional

ability to provide better public service, and to be able to cooperate with other IP-related organizations on IPR enforcement.

JPO/IPR training programmes have been one of the most rewarding experiences of my professional life. The knowledge and experience gained from attending two JPO/IPR training programs impacted me in such a strong way that it has inspired me to obtain a scholarship to study the Japanese language at Buenos Aires University (UBA).

When I applied for the scholarship, I was aware that Japanese is a very difficult language to learn, and that I would have to work very hard. What I did not expect was how happy learning this wonderful language makes me feel. Everything is so different. Reading, writing, speaking, listening, and even beginning to think in Japanese is a lot of fun, in spite of the effort. My sensei gives me a ton of homework every class, and all I can think of is of making more time to practice and become a little bit fluent.

With the help of the learning book Minna no Nihongo, I have already completed the study of hiragana, and I am looking forward to learning katakana in the second part of the year, along with kanji. I know it is a very long way, but I am determined to go on. Hopefully, one day I will be able to write an IP-related article in Japanese.

Japan has become a new source of happiness in my life. I have always admired its traditions and culture, and I loved visiting Tokyo, where I felt very respected and incredibly at ease. Learning Japanese is opening my mind to a new vision of the world, and of myself. I have realized that It is never too late to learn something new and to pursue interior growth and happiness, even when they are found in an unexpected place.

Finally, I do wish to express my profound gratitude to the Association for Overseas Technical Cooperation and Sustainable Partnerships (AOTS), the Japan Institute for Promoting Invention and Innovation (JIPII), the Asia-Pacific Industrial Property Center (APIC), the Japanese Embassy in Buenos Aires, the Japan Patent Office (JPO) and the authorities of the National Institute of Industrial Property of Argentina (INPI) for having given me the opportunity to represent my country in this training programs, and to live this transformative experience. It is my great desire to apply everything I have learned in a positive way in my work at INPI.

Japan Patent Office and Brazil's National Institute of Industrial Property: A world apart, yet very similar

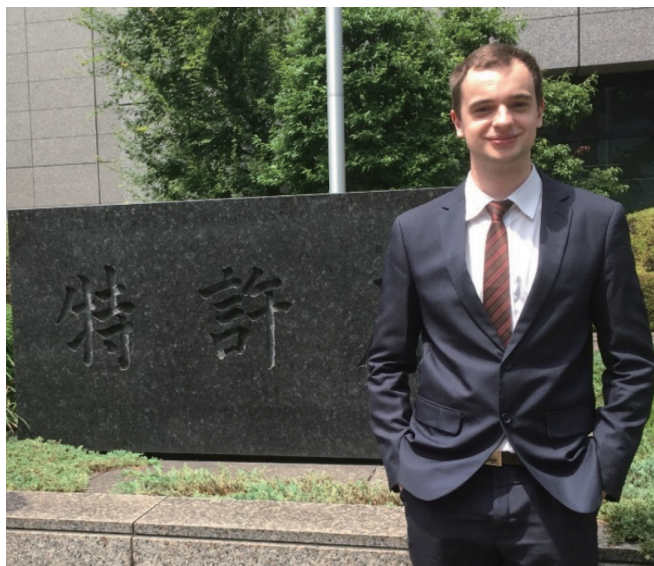
Mr. André Maske (Brazil)
Trademark Examiner,
International Focal Point in Trademarks,
National Institute of Industrial Property



FY2018 JPO/IPR Training Course on Trademark Examination Under the Madrid System
(10 - 20 July, 2018)



If one takes the terrestrial globe and observes the positions of Japan and Brazil, they would realize that these countries are located on exact opposites of the Earth. Judging by this information only, one would imagine that the culture of these countries would be as different as possible. However, historical events have brought these nations closer together.



During the 20th century, Brazil has sheltered immigrants from a myriad of countries, Japan included. Consequently, Brazilian customs are permeated with traditions of nations from all over the world. Therefore, Japanese culture also has had a great influence on the history of this South American country, ranging from culinary arts to values such as diligence and responsibility. As a matter of fact, Brazil hosts the greatest number of Japanese nationals and descendants outside Japan¹. Because of that, Brazil and Japan have engaged in a constant exchange of culture, knowledge, goods and services for over a century.

Thus, it comes as no surprise that during the Training Course on Trademark Examinations Under the Madrid System that took place in

Tokyo, Japan, from July 10th – 20th, 2018, it was possible to observe many similarities between the Japan Patent Office (JPO) and Brazil's National Institute of Industrial Property (INPI)—at least regarding trade-

¹ Ministry of Foreign Affairs of Japan. Japan-Brazil Relations (Basic Data).
<https://www.mofa.go.jp/region/latin/brazil/data.html>



Some of the participants of the Training Course on Trademark Examinations
Under the Madrid System after class

mark examination.

One resemblance to be noticed was the first-to-file system. According to both Brazilian and Japanese law, the first applicant to request a trademark registration would be the one with rights of ownership of said trademark. Such system opposes the first-to-use system practiced in other countries, in which the first person to use the trademark should have the exclusive rights to use it. This means that both Brazil and Japan have chosen to prioritize the legal certainty provided by the first-to-file system over the benefits that accompany the first-to-use system².

The next parity observed was that instead of requiring a degree in legal studies, both the JPO and INPI have trademark examiners with diversified backgrounds such as arts, social communication, history, economy and engineering. This variety provides the offices with a multitude of perspectives when examining applications and their classifications of goods and services, allowing for more grounded decisions. Another point to note is that external residents must assign a local representative to file applications in both countries, which in turn favors practitioners in the field of Intellectual Property (IP).

As is also the case in INPI, examiners with the JPO analyze potential absolute and relative grounds for refusal during trademark registration procedures. In other words, besides checking if the sign is inherently distinctive and doesn't offend the law or public order, the examiners search the office database for prior established rights. Furthermore, if a similar prior registration is found, instead of just pointing out its existence in a draft grant of protection, the examiner must refuse the registration of the newer application.

Another point in common is that the JPO and INPI do not make use of disclaimers with respect to specific parts of the sign that should not be considered registrable. The trademark is considered as a whole when examined and granted, so the presence of a word (amongst other elements) in a registration that simply describes the nature of the designated goods and services does not mean that the owner has the right of exclusive use of the descriptive word in the market segment.

² Both countries' legal systems are based on civil law in contrast to common law, which may have favored the decision to adopt the first-to-use system.

In Japan, it is possible to protest against the registration of a trademark requested by a third party after its filing has been published and before the substantive examination, presenting arguments and reasons why it should be refused. Even though this process is named differently in Brazil, the workflow is essentially the same. Another workflow resemblance between the offices is that in addition to an upfront application fee, there is a registration fee to be paid only if the trademark is deemed registrable by the examiner.

Regarding the operation of the Madrid Protocol, Brazil and Japan also share a similarity. Neither of them has English, French or Spanish (the three current official languages of the Madrid System) as a national language. This entails difficulties when receiving and sending international applications—both for the external users and office workers. At the time of writing this article, INPI intends to provide the translation of international registration, designating Brazil as a recipient. Therefore, JPO's expertise in the subject is of great assistance to Brazil's accession to the Madrid Protocol.



Sensō-ji in Asakusa



Tokyo Skytree and Asahi Beer Hall
in Asakusa

Besides trademark examination subjects, it is possible to observe that both INPI and JPO are situated in world-famous cities, each in their own way. While Rio is known for its atmosphere and beaches, Tokyo is unique in each of its districts, from the night lights of Shibuya to the temples of Ueno Park; from the cafés of Harajuku to the seafood of Tsukiji; and from the onsen waters in Odaiba to the contrast between the ancient Sensō-ji and the newest biggest tower in the world – Tokyo Skytree – in Asakusa.

People in Rio also like to believe that they are welcoming and warm. People in Japan, on the other hand, have without fail shown the true meaning of おもてなし (omotenashi: an untranslatable word, depicting the Japanese way of hospitality, of not having hidden interests). People in JPO and the



Scramble Crossing in Shibuya



Tasting yakisoba at Ōedo Onsen Monogatari in Odaiba

Association for Overseas Technical Cooperation and Sustainable Partnerships (AOTS) have done everything in their reach to make the course participants' stay as pleasant as possible, and they have achieved it. Even passersby and shopkeepers wouldn't hesitate to go out of their way to guide foreigners to the nearest subway station, or to have patience with a Brazilian trademark examiner still a way from being fluent in Japanese.

Of course, there are also many differences between Japan and Brazil, as there are between JPO and INPI. However, it is comforting to know that even though these countries are literally a world apart, there are many things that bring them together—be that within daily life, or the field of intellectual property.

MY FIRST EXPERIENCE IN TOKYO AND THE PLAN AFTER I COME BACK TO CAMBODIA



Mr. Chea Pheng (Cambodia)
Business Consultant (licensed trademark agent and licensed tax agent)
Wuang Asia Co., Ltd

FY2018JPO/IPR Training Course for IP Trainers (19 June - 3 July, 2018)



IPR Training Course for IP Trainers was the training program conducted by JPO from 19th June to 03rd July 2018. I am CHEA Pheng, Attorney-at Law from Cambodia and who was one of the lucky people around the world who was able to join this program.

What impressed me during the trip for this training program were the transportation, food, the arrangements for my stay and study, and others. First, the transportation infrastructure is so amazing. After the airplane landed at Narita International Airport, I was welcomed by a coordinator. She took me to the train station under the airport. It was the first time I had ever seen a train station built under an airport. In Japan, there are also many train stations and subways with many railways in different directions.

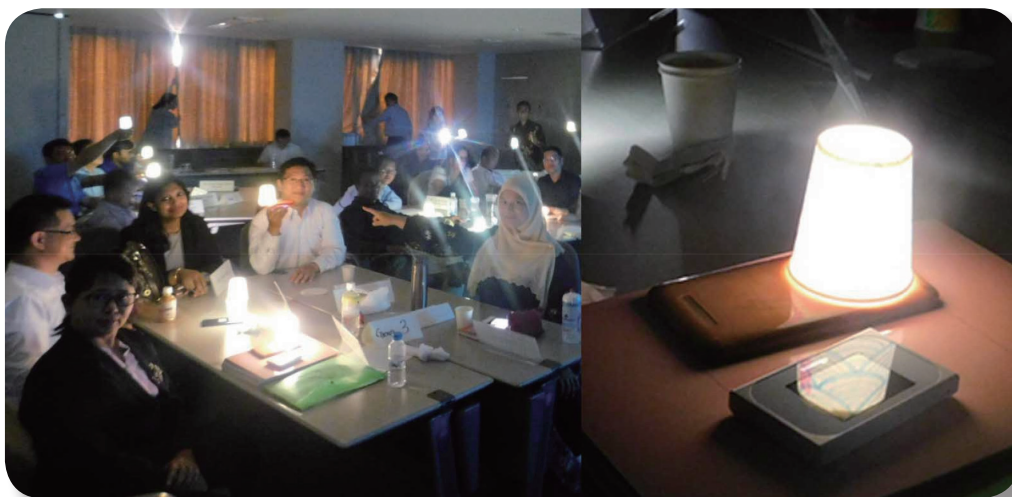
Second, Japanese food is healthy and delicious. The first Monday, my first breakfast in AOTS was rice, chicken steak with onion, and others. As what I recall, the menu also stated the amount of calories containing in each meal. The only problem I had with food was time of breakfast. The time zone in Japan is 2 hours ahead to Cambodia. In Japan, I usually had breakfast at TKC at 7:30 AM or 8:00 AM, which is at 5:30 AM or 6:00 AM in Cambodia. It was too early for me to have breakfast.



Picture No. 1: My first breakfast at AOTS

Third, the stay and study were carefully arranged. The budget for my expenses was carefully calculated from the first step I took at the train from the airport to AOTS until the last day on the train from AOTS to Narita airport to fly back to Cambodia. There were 4 (four) cards for daily life. They were the TKC card (for our meals at AOTS), Staying card (for foreigners to legally stay in Japan), Pasmo card (prepaid card for taking the train), and Emergency card (in case of emergency). The study facilities were also well-prepared, both the study materials and general arrangement. I was scheduled to visit the JPO Office and Tokyo Metropolitan Chihaya High School (Chihaya High School). I was excited to see how brave and creative the high school students in Japan are. During the course, there were two most attractive subjects which I remember. They were “How to Develop Creativity” by Mr. Kijuro KAWAKITA, and “Active Learning” by Mr. Seiji TERAURA. During class, KAWAKITA-san brought many invented things to show us. It made me want to become a creator. Also, TERAURA-san used his techniques for his Active Learning class, and this really made the students become very active in learning both in body and in mind. In Cambodia it is called student centered. It is a strategy to make the students more active in class rather than the teachers/trainers. During my university, I studied a subject called teaching methodologies. This subject is similar to the Active Learning by TERAURA-san. This reminded me of my university time and lessons.

Before the end of the course, I and my group were assigned to make presentation for “IPR teaching Materials for High School Students”. I used “(paper) cup game” as one of the teaching materials. I used few techniques in this game. One, I let the attendees paint good pictures on the paper cup (this represented the inventors’ works). Then I collected all the painted cups and mixed them together in order to make confusion. Two, I let the attendees collect their own cups back to write their names on them. With their names on the cups, each person would find it easier to recognize which cups belong to whom (this represented the trademarks for all inventors). Three, I asked the attendees to turn on the light of their phones and turn the paper cups upside down to cover phone lights. By doing this, the light from the phones will shine on the paper cups and make the paper cups bright with painted pictures (this represented the advanced technology of the inventors’ works). After that, I tried to compare the price of each cup (white cup, painted cup, painted cup with trademark, and painted cup with trademark and light). The price logically increases after we invent something to add value to it. This showed the how to use IPR in businesses.



Picture No. 2: IPR teaching materials for high school students (cup game)

Last, the weather and other interesting places were also the remarkable things during this trip. As I remember, at that time the sun rose at 4:00 AM and it set at around 7:00PM; while it rose at around 5:00 AM or 5:30 AM and set at around 5:30 PM or 6:00 PM in Cambodia. I also visited many places like the JPO, Mt. Fuji, Hachiko dog statue, Shibuya, Gandam Statue, and other places.



Picture No. 3: The places I visited during the course

During the course, I learnt a lot from this program. After coming back to Cambodia, I plan to conduct some workshops to promote IPR awareness in Cambodia. I plan to conduct those workshops for university students and the new owners of start-up businesses in Cambodia. IPR is not new in Cambodia, but there are not many people who know its benefits or are interested in it. Also, the subject related to IPR is not provided in primary schools, high schools, or even in some universities. Usually, only the university students who take a bachelor's degree of law can take this subject. Besides this, there is no other trainings or schools providing this to the students. Currently, only the Ministry of Commerce provide training courses for Trademark Agents. Personally, I don't think that is enough to promote IPR awareness. This is one of the main reasons I plan to conduct this workshop to assist Ministry of Commerce to promote IPR awareness in Cambodia.

The workshops will be divided for two kinds of audiences. One is for university students and the other one is for new owners of start-up businesses. The details of the workshops are stated below:

The workshop for university students:

Workshop Name	Introduction of IPR (Trademark)
Course Duration	3 hours
Lesson objectives	By the end of the workshop the attendees will be able to: <ul style="list-style-type: none"> - know IRP development in Cambodia - know the definition of IPR (Trademark) - know what infringement is - know trademark registration and its procedure - know IPR disputes solving procedure - know IPR law enforcement
Speakers	- Attorney-at Law CHEA PHENG, Licensed Trademark Agent - Mrs. LONG NIMOL, Licensed Trademark Agent
Date	Start from July 2019 onward
Location	East Commercial Center, 18th floor, Preah Norodom Blvd., Sangkat Tonle Basak, Khan Chomkarmorn, Phnom Penh City, Cambodia
Number of attendees/time	15 people/class
Fee	Free of charge

The workshop for new owners of start-up businesses:

Workshop Name	The importance of IPR in business
Course Duration	3 hours
Lesson objectives	By the end of the workshop the attendees will be able to: <ul style="list-style-type: none"> - know IRP development in Cambodia - know the definition of IPR (Trademark) - avoid infringement - choose the right names/trademark for their business - know the benefit of IPR in business - know how to protect it - know how to solve IPR disputes - know IPR law enforcement
Speakers	- Attorney-at Law CHEA PHENG, Licensed Trademark Agent - Mrs. LONG NIMOL, Licensed Trademark Agent
Date	Start from July 2019 onward
Location	East Commercial Center, 18th floor, Preah Norodom Blvd., Sangkat Tonle Basak, Khan Chomkarmorn, Phnom Penh City, Cambodia
Number of attendees/time	15 people/class
Fee	USD 10/person*

NOTE:

(*) This fee is required from the new owners of start-up businesses to support the workshop for students.

We first planned to start it in April, 2019. However, because we are moving to a new office, we have to delay it to July 2019. We will start our phase 1 project from July to December 2019. If it is a success, we will think of other workshops to promote IPR awareness in Cambodia. We are not the sun to brighten the world, but we could be the candle to brighten our house.

Finally, I would like to say thank to the JPO/JIPII who allowed me as a Cambodian person to join this course, and I will take what I have learnt in Japan, combined with my knowledge, and share it with the Cambodian people.

My Unforgettable Experiences in Tokyo

Ms. Erika Maria Livia Ponce (Peru)
Examiner in Substantive examination (Inventions and new technologies office)
INDECOPI



FY2018 JPO/IPR Training Course on Patent Examination in Specific Technical Fields
(Electrical and Electronic Engineering, Chemistry) for Latin American Countries
(5 July - 13 July, 2018)



My name is Erika Livia, and I work in the National Institute for the Defense of Competition and the protection of Intellectual Property (INDECOPI) as a patent examiner with almost 6 years of experience. I had the opportunity to participate in the FY2018 JPO/IPR Training Course on Patent Examination in Specific Technical Fields for Latin American Countries held from 05 to July 13, 2018, together with Sofia Miñano and Sandro de La Cruz, both also examiners of the Peruvian Patent Office.

Although it was a trip for training in patent issues, I must be very honest and say that when someone asks me about this trip, I will first tell about my trip experience to Tokyo, Japan.

It all started on July 2, 2018, when we left from the Jorge Chavez International Airport to Japan, the land of the rising sun. After more than 25 hours of travel we finally arrived at Haneda airport, one day before the start of the course. At the airport we were received by an employee of the JIPII and he provided us with information regarding the exchange of money and the route we had to take to get to the accommodation that had been assigned to us. It was there that we were introduced to three Mexican examiners who would also participate in the course, and together we left the airport to take the train to Keisei station near the Tokyo Kenshu Center (TKC), where we would be staying during the course.

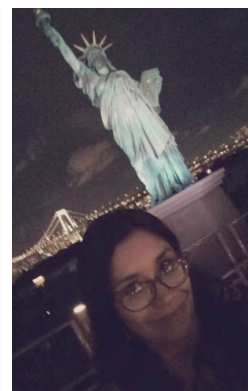
I remember that that first night we took the wrong train because we still did not understand the map of the stations, so we arrived at TKC shortly before 10 pm. The staff that works in that place received us cordially, and gave us the instructions that we had to follow while we were staying at TKC. TKC is a place where students from different countries are hosted, and the place is very welcoming. It has rooms with private bathrooms, a cafeteria and rooms for seminars.

With the passing of days, I was surprised by how well organized and clean the city of Tokyo is, despite the demographic density it has, as well as its geographical extension. Tokyo is undoubtedly a surprising city with giant luminous signs, huge shops and several skyscrapers.

Every day of the week, after class, we would walk around the city to enjoy the wonders that this country offered. The first day we visited Akihabara, where I could find a lot of electronics stores. The next day we went to Ginza, famous for its shop windows of the best-known shops in the world. We could see the Statue of Liberty located on the artificial island of Odaiba. We had been told that at night it looked much better, and actually it looked beautiful.

In the following days we saw the Tokyo Tower, Sky Tree, the Imperial Palace, and the temple in Asakusa where I could observe some of the rituals for luck and fortune.

On the weekend we went to Ueno Park, where we visited the National Museum of Tokyo. What impressed me most were the different samurai costumes that they exhibited, because until that day I had only seen them in the movies. It was also nice to see the beautiful fountain in the park. At the exit of the museum, on the way to the station, we saw an elderly person writing our names in Japanese Kanji. I remembered that in the museum I had seen extensive scrolls with traditional Japanese writing and I could not resist to see my name and my daughter's name written in that language. That was one of the most beautiful memories I brought from my trip.



It was very difficult to select what to bring back from my trip to my country. I chose to bring various things, such as key rings with the image of Mount Fuji, dolls and other Hello Kitty accessories, a beautiful handkerchief with the image of a sakura that represents one of the best-known symbols of Japanese culture, a small replica of Tokyo Tower and other souvenirs.

The last day of the training was a time for all the members of the course to enjoy Japanese draft beer at a beer garden. They told us that these gardens are very popular in summertime.

Now we have to talk about the program of the course, which included at the beginning different ceremonial activities where all the participants introduced themselves, and at the same time we were introduced to the coordinators and professors with whom we would share most of the time during the course. They also took us to see the Japan Patent Office located in Chiyoda. All the activities were very well organized.

It was interesting to hear the presentation of Mr. Zentaro Hasebe (Patent Attorney) on the scheme of patent law in the examination procedure in Japan, and to note that there are some similarities with the laws that govern our patent system.

In the practical part, we were lucky enough to have Mr. Ryusuke Okada (International Training Instructor) as professor, who has an ability to transmit his knowledge, and at the same time he gave us the

confidence to participate in class. The cases that were analyzed were very well selected, according to the field to which we belonged, and with which we could improve our experience as patent examiners.

The last presentation was made by Mr. Kazuhiro Matsuda (Patent Attorney), who, with examples of patent infringement, made us understand in a didactic way the importance of how the claims should be written in order to avoid an infringement.

I can conclude that traveling to Japan was very beneficial for me, not only because I got to meet other participants from different countries – Argentina, Brazil, Chile and Mexico – with whom I was able to share experiences, but also because I got to know a little about this beautiful country that combines tradition with innovation in day to day life. And I will always be grateful to the Patent Office of Japan, Industrial Property of Asia-Pacific Center of Japan Institute of Promotion of Invention and Innovation.



Perspective of the Training Course for Practitioners Specializing in Patents and the Impressiveness of Life in Japan

Mr. Pornchai Suriya-amrit (Thailand)
Registered Patent Agent, Patent Specialist
Satyapon & Partners Limited



(October 31-November 17, 2018)



The training course for practitioners specializing in patents, organized by the Japan Patent Office (JPO) for human resource development, enhanced participants' knowledge of IP in general, as well as their professional capabilities in patent practices. The course also focused on public awareness regarding the importance of IP protection, especially patents, within developing countries. The JPO has been trying to develop the course to cover all important matters since it was first created. As per my knowledge, the course has been implemented every year. I attended the course in 2018, from October 31 through November 16, which (as you can see) was only 17 days and therefore quite short. It is very difficult to cover all important subject matters regarding IP protection, particularly patents, within such a limited time—but the JPO has done it quite well.

Patent protection in Thailand

Table 1. The number of patents filed and granted from 2014 to 2016

	2014		2015		2016	
	Filed	Granted	Filed	Granted	Filed	Granted
Domestic	1,006	73	1,029	62	1,098	61
Foreign	6,924	1,213	7,138	1,302	6,722	1,777
Total	7,930	1,286	8,167	1,364	7,820	1,838

Reference (1) and (2)

Table 2. The number of utility models filed and granted from 2014 to 2016

	2014		2015		2016	
	Filed	Granted	Filed	Granted	Filed	Granted
Domestic	1,666	766	2,079	1,436	2,462	1,195
Foreign	80	62	85	124	109	93
Total	1,746	828	2,164	1,560	2,571	1,288

Reference (1) and (2)

The Patent Act in Thailand first came in to force in 1979, and was amended in 1992 (No. 2). The latest amendment came into force in 1999 (No. 3). In the past, Thai people were not aware regarding the importance of patent protection. Thai people are usually aware of copyrights, but they do not concern themselves about patents or utility models. Most of the patent and utility models filed in Thailand are foreign applications. However, according to the information from the Department of Intellectual Properties Thailand, the number of domestic patent and utility model applications filed during these past few years increased dramatically, as can be seen from the tables above that show the number of domestic patent and utility models filed and granted from 2014 to 2016. One of the reasons for the increase in domestic patent applications is that the government is trying to encourage public awareness regarding the importance of IP protection—especially patents. Accordingly, the number of domestic patents filed in the past few years has increased. One of the issues that the Thai government addressed was to increase the number of patent examiners, allowing the number of patent and utility models granted in the past few years to increase. Further, the government is now amending the Patent Act, with the new law expected to come into force during the next few years.

Patent Prosecution Highway (PPH) between the JPO and Thai Patent Office

The PPH program is available between the Thai Patent Office and JPO. The program allows applications to be granted based on the granted claims of the corresponding Japanese patent if the claims do not fall within non-patentable subject matter. This program is very useful for applicants who file applications both in Japan and in Thailand. Once the application filed in Japan is granted, the applicant may file a request for examination under the PPH program in Thailand based on the corresponding Japanese patent. If the granted claims of the corresponding Japanese patent are patentable in Thailand, the examiner will allow the application in Thailand to be granted with the same set of claims corresponding to that of Japanese patents.

My expectation from the course

Before attending the course, I was expected to (i) improve my skills in patent prosecution, especially in patent searching and drafting; (ii) be able to judge patentability, especially in terms of inventive step; (iii) gain experience regarding patent licensing; (iv) improve my skill in terms of handling office actions; and (v) improve my patent drafting skills. Further, my most important expectation from the course was to have an opportunity to learn about the Japanese Patent Act, and to share my knowledge and experience of the recent and coming changes with all other participants regarding their Patent Acts. As the Thai Patent Act is currently under amendment, I can share experiences and knowledge regarding the Patent Acts of other countries—especially the Japanese Patent Act—with the Department of Intellectual Property (DIP), and give comments and recommendations to the DIP for the Thai Patent Act amendment, as it is open for public input.

Participants

When I first saw the list of participants, I was very excited. There were 26 participants from 13 countries, meaning that I could learn about IP practices and situations not only for Japan, but also for others in 13 countries by sharing knowledge and experiences with them. I think this is the most important benefit that participants can get from attending this course.

The course

For the limited time of 17 days, the JPO has organized a very good course. During the course, all participants gained knowledge and experience of patent practices through lectures, along with some exercises and achievement tests. Regarding the lectures, for the first few days of the course I learned about Japan IP law including patents, utility models, trademarks, unfair competition prevention, design and copyrights. All of the lectures were well-prepared, and all of the lecturers are experienced in the field of IP. After finishing the lectures about Japan IP law, I learned about many other subjects such as patent drafting, license negotiations, IP risk management, IP surveys, etc., with exercises and roleplaying included for all of these subjects. The best way to learn and understand all of these subjects within the limited time is through exercises and roleplaying. Along with all of the lecturers, all participants including myself believed that this curriculum created by the JPO was very good. In addition to lectures and exercises, there were also achievement tests related to global IP matters. To complete such achievement tests, I had to do some research about the IP situation in the world and compare it to that of my country. Those achievement tests also helped me to gain some knowledge and experience in IP as well.

The lecturers

All of the lecturers were very well-experienced in the IP field, and also very friendly. Some of them are university professors, some are lawyers from law firms in Japan, and some are owners or employees of manufacturing companies. Therefore, each lecturer has different experiences in IP matters, and we learned many aspects of IP from them.

Life in Japan

In addition to the lectures, I also had a good time learning Japanese culture. This was the first time for me visiting Japan, and although I cannot explain all details about life in Japan, I will mention the ones that I was impressed by. The course was held in Tokyo; therefore, I only had a chance to travel around this city. Tokyo is very beautiful, with a lot of historical places such as the Asakusa temple and the Imperial Palace. I spent two whole days travelling around Tokyo's tourist attractions in places such as Shibuya, Shinjuku, Harajuku, Ginza, Tokyo Tower, Asakusa, etc. One thing that I realized is that Tokyo is very clean and tidy, and Japanese people are very nice and friendly. Moreover, as an animation fan (particularly One Piece and Dragon Ball), I spent a lot of time in Akihabara searching for animation figures that I want to buy—and I ended up buying so many of them that I needed to buy an extra piece of luggage!

I had always heard that Japan's subway are very crowded, and I always doubted how crowded it could be until I faced it myself. During rush hour, the subways were very crowded. I never believed that it could be this crowded. I realized that it would be better to avoid the rush hours because they were much more crowded than I ever thought.

Overall

The training course for practitioners specializing in patents is a very good course that helps participants gain more knowledge regarding IP matters (particularly patents) via lectures, exercises, achievement tests

and knowledge-sharing among participants. Further, I had a pleasant experience living in Japan for almost three weeks. The accommodation is great, the Japanese people are nice, and the food is fantastic. I hope that the JPO will continue to develop and launch the course every year.

References

- (1) World Intellectual Properties Office (WIPO) Website: https://www.wipo.int/ipstats/en/statistics/country_profile/profile.jsp?code=TH
- (2) Thailand Department of Intellectual Properties

Articles from the former trainees



Latest Developments in the Brazilian Intellectual Property System (as of June 26, 2019)

Ms. Tânia Aoki Carneiro (Brazil)
Founding Partner, IP Area
Marinangelo e Aoki Advogados



FY2018 JPO/IPR Training Course for IP Protection Lawyers
(26 November - 12 December, 2018)



Intellectual property is broadly protected by the Brazilian legislation, which is constantly evolving to better guarantee the rights of the creators of scientific, literary or artistic works, without prejudice to the public interest and to the technological, cultural and economic development of the nation.

As a civil law country, Brazil has a number of laws that regulate the intellectual property rights and related subjects, beginning with the Constitution, which expressly provides for the protection of industrial property and copyright as a fundamental right that cannot be excluded from the Constitution by the legislative body.

Since Brazil is a member of the Paris Union for the Protection of Industrial Property, as well as of the Berne Union for the Protection of Literary and Artistic Works, the Brazilian intellectual property system is based on most of the international principles on the matter. The federal laws in force are quite comprehensive, but there is always room for improvements.

Several bills that are being discussed in the National Congress may have significant impact on the area, as they introduce important changes to the protection of the intellectual property rights in Brazil. Also, new laws or administrative regulations have been recently passed. Considering the long-term partnership

between Japan and Brazil, it is interesting to give a brief overview of such new laws or bills to the Japanese community.

1. Accession to the Madrid Protocol

One of the main topics that has been discussed in Brazil is the accession to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (“Madrid Protocol”), adopted at Madrid on June 27, 1989. It’s been a while since the matter has been first included in the Brazilian government agenda. After more than a decade of intense debate, Brazil is about to become a party to the Madrid Protocol.

Pursuant to the Brazilian Constitution, treaties, agreements and other international acts must be approved by Congress, consisting of the House of Representatives and the Senate, before being ratified by the President. The matter has become a priority in the legislative agenda, so the Madrid Protocol was approved by the House of Representatives on April 4, 2019 and, after less than two months, it was also approved by the Senate (on May 22, 2019).

The following declarations shall be included in the instrument of accession to the Madrid Protocol:

- For international registrations made under the Protocol, the notification of refusal shall be given by the Brazilian National Institute of Industrial Property (INPI) to the International Bureau within 18 months from the date it has been notified of the territorial extension request;
- When a refusal of protection may result from an opposition to the granting of protection, such refusal may be notified by the INPI to the International Bureau after the expiry of the 18-month time limit aforementioned under the conditions set forth in Article 5(2)(c) of the Madrid Protocol;
- Brazil wants to receive a fee for each international registration and each renewal of such international registration (“individual fee”) in an amount not higher than the equivalent fee that it would receive from the applicant or from the holder of a national registration, which can be higher than the fees collected by the World Intellectual Property Organization (WIPO);
- The individual fee to be paid by the applicant or the holder comprises two parts, the first part to be paid at the time of filing the international application and the second part to be paid at a later date that will be determined in accordance to the Brazilian law;
- The protection resulting from any international registration effected under the Madrid Protocol before the date of entry into force of such Protocol in Brazil cannot be extended to it;
- The international application shall be in Spanish or English;
- Any provisional refusal notified to the International Bureau is subject to review by the INPI, whether or not such review has been requested by the holder, and the decision taken on the said review may be subject to a further review or appeal before the INPI;

- Considering that the Brazilian industrial property law provides for the recording of trademark licenses, the recording of licenses in the International Register has no effect in Brazil.

On June 25, 2019, the President signed the instrument of accession and it shall be deposited with the Director General of the World Intellectual Property Organization in the next days or so. Under article 14 of the Madrid Protocol, it will take effect in three months from the date of such deposit. The President is expected to promulgate the Madrid Protocol within the same period, and then it will be legally binding in Brazil.

Having in mind that the accession to the Madrid Protocol would be imminent, the INPI launched a public consultation to discuss the provisions of the resolution that will implement the international registration system in Brazil. All the interested parties may send their suggestions to proposed resolution until June 27, 2019, then the final text is expected to be ready by the time the Madrid Protocol is promulgated by the Brazilian President.

Also, there were public consultations on the adoption of the multiclass system and the possibility of division of such kind of registrations/applications, and on the implementation of the co-ownership registration (two or more applicants may not jointly file an application under the current procedure), which will align the Brazilian system with the international practices.

2. Industrial Design Handbook

Like in most countries, industrial design is not patented in Brazil, but rather registered without a substantive exam. The industrial design application is published in the Official Gazette and automatically granted by the National Institute of Industrial Property if no formal office actions are issued. Once registered, the industrial design may be subject to an examination on the merits if requested by its owner.

The Brazilian Industrial Property Law (Law n° 9.279/96) establishes the requirements that must be fulfilled to obtain an industrial design protection (novelty, originality and industrial application), but they haven't been uniformly construed by the examiners. In view of that, the National Institute of Industrial Property decided to create a handbook to lay the foundations of the procedure and of the examination of the industrial design applications.

A public consultation was launched by the National Institute of Industrial Property last year, so the associations on intellectual property and the professionals specialized in the area could contribute to the text of the guidelines that were to be adopted. The Industrial Design Handbook was then instituted by Resolution INPI/PR n° 232/2019, and came into effect as of March 09, 2019.

Although some provisions of the Industrial Design Handbook are already being criticized by some Brazilian intellectual property experts, it is a great initiative that intends to avoid the undesirable uneven application of the legal requirements to obtain the registration of the industrial design in our country. Note that Resolution INPI/PR n° 232/2019 expressly admits periodical revisions of the handbook, then any misconceptions may be corrected by the National Institute of Industrial Property.

3. The Brazilian General Data Protection Law

As soon as the European General Data Protection Regulation (GDPR) (Regulation EU 2016/679) entered into force, a new legislation on the matter was passed in Brazil. The Brazilian General Data Protection Law (LGPD) (Law n° 13.709/2018) also provides for the protection of natural persons with regard to the processing of personal data and is based mostly on the same fundamental rights and freedoms recognized by the European Union.

The LGDP is applicable only to the processing of personal data of natural persons, then the personal data concerning legal entities is not covered. Any operation that is performed on personal data, whether by a natural person or by a legal entity, is subject to the new law, such as collection, production, classification, use, reproduction, transmission, storage, destruction, alteration, among others.

Note, however, that the LGDP does not apply to the processing of personal data by a natural person in the course of a private activity and for non-commercial purposes, and also to a few other processing activities described in the law, such as the processing activities for journalistic, artistic, or academic purposes, or the ones done exclusively for purposes of public safety, national security and law enforcement.

It is also important to observe that the international transfer of personal data is also regulated by the LGDP, being allowed in specific situations. For international companies, it may be useful to be aware that the international transfer of data is permitted when the person has given a specific and outstanding consent for the transfer, having been informed of the international nature of the processing operation.

In the case of non-compliance with the rules, the Brazilian data protection authority may impose administrative and monetary penalties, which may vary from a simple warning to a fine of up to 2% of the company, group or conglomerate revenues in Brazil, earned in the prior financial year, excluding taxes, limited to a total maximum of R\$ 50,000,000 (around US\$ 12,500,000) per infraction.

The Brazilian General Data Protection Law will come into effect on August 16, 2020, so all the organizations affected by this new law are running short of time to adjust their internal proceedings and be ready to comply with all of the rules.

PROTECTION OF PHARMACEUTICAL TRADEMARKS IN INDIA: MEDICINE IS NOT BOOKS BUT THE MIND; NOT BUSINESS BUT LIFE

Ms. Sheetal Vohra (India)
Managing Partner
Vohara & Vohara



FY2018 JPO/IPR Training Course for IP Protection Lawyers
(26 November - 12 December, 2018)



INTRODUCTION

A trademark¹ refers to the visual symbol in the form of word, device, or label that is applied to articles of commerce with the sole motive to indicate to consumers that the goods are those manufactured by a particular person, and can be very well distinguished from the goods manufactured or produced by others. This applies to services that are also made available to consumers, so it is important not only to build a brand, but also to protect it. It is said, not without reason, that a trademark is the best salesman a business owner can have. Being of such vital importance, trademarks are vulnerable to infringement and/or misuse. One such example is when a rival trader/junior user sells their own goods and provides services under “deceptively similar” trademarks. In the case of the pharmaceutical industry, deceptively similar trademarks not only adversely affect brand owners, but can be fatal even for patients/end consumers.

MEANING AND SCOPE OF DECEPTIVE SIMILARITY

There are a number of ways through which a trademark can be infringed and/or misused/passed off. The most common way to infringe and/or misuse a trademark is to adopt and sell products or provide services under deceptively similar trademarks. Traders and service providers tend to create deceptively similar trademarks with the intention to deceive or confuse the general public, and make easy gains out of the goodwill and reputation created by brand owners through years of hard work. The phrase “decep-

¹ The Trade Marks Act, 1999, No. 47, Acts of Parliament, 1999, § 2(1)(zb): “Trademark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include the shape of goods, their packaging and combination of colours.”

tively similar” has been defined under Section 2(1)(h) of the Indian Trade Marks Act, 1999 as follows:

A mark shall be deemed to be deceptively similar to another mark if it so nearly resembles that other mark as to be likely to deceive or cause confusion.

Deceptive similarity has been defined as follows: “Two marks, when placed side by side, may exhibit many and various differences, yet the main idea left on the mind by both may be the same. A person acquainted with one mark, and not having the two side by side for comparison, might well be deceived, if the goods were allowed to be impressed with the second mark, into a belief that he was dealing with goods which bore the same marks as that with which he was acquainted.”²

In the Indian legal regime, the concept of deceptive similarity has been constantly used as grounds on which the registration of a trademark can be refused. However, the act does not explain any set standard or criteria to ascertain whether the mark in question is deceptively similar or not. Therefore, in order to understand this principle, it’s essential to look into various tests laid down by courts in India for determining what is likely to deceive or confusion.

In order to come to a conclusion regarding whether one mark is deceptively similar to another, the broad and essential features of the two are to be considered. They are not required to be placed side by side to determine whether there are any differences in their design.³ The side-by-side marks comparison test is not a sound one,⁴ because the question is not whether or not a person is confused while seeing both marks side by side; but whether a person who sees the proposed trademark in the absence of other trademark is liable to be deceived via a general recollection.⁵ Deception can arise with regard to goods, the trade origin, or the trade connection.⁶

DECEPTIVE SIMILARITY IN CASE OF PHARMACEUTICALS

Trademarks used for pharmaceutical and medicinal preparations are generally adopted on the basis of their ingredients, the diseases they cure or the organ to which they relate to. A brand name / trademark of a medicine is a proprietary right of brand owner over which the trademark owner has the exclusive right to use.⁷

CADILA HEALTHCARE LTD. V. CADILA PHARMACEUTICALS LTD⁸

In this landmark judgment, the Supreme Court laid down certain guidelines which need to be followed while adjudicating cases pertaining to deceptively similar trademarks in the field of pharmaceutical products.

2 ‘Kerly’s Law of Trade Marks and Trade Names’, 14th ed, Sweet and Maxwell, London,p.456.

3 Man Mohan Sharma v. Manjit Singh, FAO No.4739 of 2016(O&M

4 The Singer Manufacturing Co. v. The Registrar Of Trade Marks, AIR 1965 Cal 417.

5 Damodara Pai v. Manilal, (1972) Ker LJ 19.

6 Anamika Bhandari, *Trademark: Infringement and Passing Off* 1(1) RSLR 133.

7 Zakir Thomas, Legal Issues in Branding Medicinal Products, 13 JIPR 523 (2008).

8 (2001) 5 SCC 73.

Facts of the Case

The cause of action between the two parties, who were successors of the parent company Cadila Group, arose when the plaintiff filed a suit of injunction against the defendant, restraining them from selling their product name Falcitab. The plaintiff contented that the defendants' product was deceptively similar to their own, which they manufacture and sell under the name Falcigo. Both products cure the same disease, and there were high chances that it might create confusion among the consumers. The defendant argued that the name falcitab is derived from the root word falci, which originated from the name of the disease Falciparum Malaria. They also argued that there was no chance the product in question would be likely to deceive consumers, as it falls under the category of schedule L Drugs, as these can only be sold to hospitals and clinics, where experts and practitioners would easily be able to distinguish between the two products.

Decision of the Supreme Court

The Honorable Court analysed the whole situation, and without going into the merits of the case, laid down certain principles to be taken into consideration while deciding "deceptive similarity". The Apex Court referred the matter to the district court to be decided on the given principle.

Principles laid down by the court: -

1. Nature of the Mark (i.e., whether they are word marks, label marks, or composite marks that combine both).
2. Degree of resemblance between marks that are similar phonetically, and hence also in idea
3. Nature of goods in respect to which they are used as trademarks
4. Similarity in the nature, character and performance of rival traders' goods
5. Class of purchasers likely to buy the goods bearing the marks they require, their education intelligence, and the degree of care they are likely to exercise in purchasing and/or using the goods
6. Mood of purchasing the goods, or placing orders for them
7. Any other circumstances that may be relevant re. the extent of the dissimilarity between competing marks

While deciding this case, the Supreme Court relied on judgments from American courts dealing with medicinal products. In referring to the case of *Glenwood Laborties, Inc v. American Home Products Corpn*, the court observed that a higher degree of care should be taken while distinguishing medical products, as a slight mistake can have serious implications. The court also highlighted the point that both drugs have different compositions, although they treat the same disease—meaning that they cannot be substituted in place of each other, since a slight change of composition could have detrimental effects on the health of the consumer. With regard to the argument raised by the defendant, the court cited the judgment of *Schering Corp v. Alza Corp.*, wherein it was held that "*Physicians and pharmacists knowledgeable in their fields does not mean that they are equally knowledgeable as to marks and immune from mistaking one mark from another.*"

Henceforth, the court held that proper care and caution should be taken while dealing with pharmaceutical products, and even though these products are sold on prescription, there are chances that they could be mistaken for one another. Therefore, the court held that as both the products are phonetically the same, it would amount to deceptive similarity.

SITUATION AFTER CADILA HEALTHCARE CASE

In recent cases of habitual offenders, the Bombay High Court imposed huge exemplary costs on defendants—particularly in the pharmaceutical sector. In less than one month, there were two cases where the Bombay High Court considered the Defendant's *malafide* and dishonest actions and punished them monetarily.

The first decision was dated August 28, 2018 in Glenmark Pharmaceuticals Ltd. *Vs Curetech Skincare and Galpha Laboratories Limited*⁹. In this case, the dispute concerned the Plaintiff's product Candid-B, an anti-fungal cream, and a similar drug being sold by Defendant No. 2 named Clodid-B. In addition to adoption of a similar word mark, Defendant No. 2 had also copied the trade dress, color scheme, art work, font style and even manner of writing of the Plaintiff's product. Defendant No. 2 stated that the impugned mark was adopted by mistake, and chose not to contest the suit. While decreeing the suit in favour of the Plaintiff, the Court considered the fact that Defendant No. 2 is a habitual offender. It was also noted by the Court that various pharmaceutical companies have instituted infringement cases against Defendant No. 2, and most of them obtained injunction orders. Over and above the infringing activities, Defendant No. 2 was also found to be a violator of FDA regulations. In many instances, the medicinal products of Defendant No. 2 were found by the Central Drugs Standard Control Organization to be "*not of standard quality/spurious*". In view of the repeated violations, the Court, as a matter of deterrence, slapped an exemplary cost of Rupees One Crore Fifty Lakhs on Defendant No. 2. It was observed by the court that "*drugs are not sweets. Pharmaceutical companies which provide medicines for health of the consumers have a special duty of care towards them. These companies, in fact, have a greater responsibility towards the general public. However, nowadays, the corporate and financial goals of such companies cloud the decision of its executives whose decisions are incentivized by profits, more often than not, at the cost of public health. This case is a perfect example of just that*".

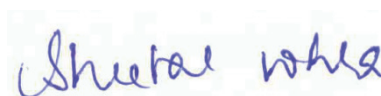
The above judgment clearly gives a strong message to the infamous fraternity of fraudsters and counterfeit drug manufacturers that such acts will be strictly dealt with by the Court.

CONCLUSION

Deceptive similarity as a ground for refusal of trademark registration is the most important feature of the Indian Trade Marks Act, 1999. Deceptive similarity has also been grounds in India for restraining defendants/infringers/junior users in court proceedings. The Indian judiciary has played a very important role in determining whether a particular mark will deceive the public or not. Thus, it can be concluded that a proprietor cannot do the following: use the trademark of another proprietor; adopt/use a mark that causes or is likely to cause confusion or deception in the minds of the public; use a trademark of a company that is a well-known trademark; or indicate through the use of a mark that particular goods originated from him/her when they actually originated from another person with a well-established reputation and goodwill. The courts in India have taken a stricter test of determining deceptive similarity when it comes to the pharmaceutical industry, as any confusion and deception can be serious and also life threatening.

DR SHEETAL VOHRA

SHEETAL@VOHRAANDVOHRA.COM



9 Glenmark Pharmaceuticals Ltd. Vs Curetech Skincare and Galpha Laboratories Limited., MANU/MH/2566/2018.

Siti Khadijah Apparel Sdn Bhd v Ariani Textiles & Manufacturing [2019] 7 MLJ 478

A case review by Ahmad Hafiz Zubir



Mr. Ahmad Hafiz Bin Zubir (Malaysia)
Managing Proprietor
Hafiz Zubir & Co

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I would like to write about a case between two big players in the Malaysian apparel industry that I was personally involved in, as I represented the plaintiff. The full trial was conducted in 2017, and the subject matter involved the clothing worn by most Muslim females during their daily prayer to cover their whole body except their face, which is known in the Malay language as “*Telekung*”.

‘*Telekung Siti Khadijah Klasik*’ (‘the plaintiff’s *telekung*’) has been in the market since 2011. There has been extensive advertisement, promotion and marketing of the plaintiff’s *telekung* in mass media such as newspapers, magazines, television, radio and billboards. As of today, the plaintiff has produced various types of products such as scarves, shoes, handbags and traditional clothes. On the other hand, the defendant is more recognized with its scarves rather than as a *telekung* manufacturer.

The encounter began when the plaintiff discovered sometime in 2016 that the Defendant offered *telekung* for sale, namely ‘*Ariani x WOW Telekung Nur Aleesya*’, which is similar to the plaintiff’s *telekung*. There are several issues involved in this case.

The defendant argued that a *telekung* should fall under ‘work of artistic craftsmanship’ under section 3 of the Copyright Act 1987 (‘the CA’). To the contrary, the plaintiff contended that a *telekung* shall be constituted as an ‘artistic work’ since at the time of production of the plaintiff’s *telekung*, there were two-dimensional technical drawings made by the author of the plaintiff’s *telekung* that showed the elements and technical arrangement thereof. Hence, the copyright of the drawings will be extended to the three-dimensional end product, which is in this case a *telekung*. This is in line with the court’s stance in *Peko Wallsend Operations Ltd & Ors v Linatex Process Rubber Bhd* [1993] 1 MLJ 225, which stated:

“2-dimensional engineering drawings which lack artistic or aesthetic value are still covered by the ambit of the definition of ‘artistic work’ found in s 3 of the CA. Further, the 3-dimensional products of such engineering drawings are also within the meaning of the CA. Thus, copyright not only vests

in the engineering drawings (2-dimensional) as artistic work but it has been extended and enlarged to cover the finished products (3-dimensional) as well and which have been manufactured from the drawings.”

In justifying that a *telekung* is not eligible for copyright due to its functions, the defendant has cited the case of *The New Straits Times Press (M) Bhd & Anor v Admal Sdn Bhd [2013] 6 MLJ 405* (‘NST’s case’) regarding a compilation of rules and regulations to regulate the holding of a spelling competition.

However, the court distinguished the NST case with the present case such that:

- i. In NST’s case, the information regarding a spelling competition is easily obtainable in the public domain, and the respondent company had admitted copying the ‘idea’ and compiling information from several sources regarding spelling competitions. Meanwhile, the plaintiff’s *telekung* was created (not copied) by the author because the author expended sufficient effort, time and expense to make the plaintiff’s *telekung* original in character within the meaning of s 7(3)(a) of the CA; and
- ii. The ‘idea’ regarding a spelling competition cannot be protected by copyright under s 7(2A) of the CA. However, a *telekung* is not solely an ‘idea’. Nor is the plaintiff’s *telekung* purely functional (for prayers), as it not only enables its user to pray, but also provides comfort and elegance.

The court decided that based on the following facts, the plaintiff owns the copyright for the Plaintiff’s *telekung*:-

- i. Sufficient effort as required by section 7(3)(a) of the CA has been expended by the author to make the plaintiff’s *telekung* original in character, as she had designed the Plaintiff’s *telekung* through a process of trial and error, using her skill and time to design, measure, sew, and choose the pattern and cloth material for the Plaintiff’s *telekung* over a period of six months in 2010 .
- ii. The plaintiff’s *telekung* has been reduced to ‘material form’ within the meaning of section 3 read together with s 7(3)(b) of the CA.
- iii. The author of the plaintiff’s *telekung* is a Malaysian citizen, who is a ‘qualified person’ under s 3(a) of the CA.
- iv. The Plaintiff’s *telekung* is the first ‘published’ in Malaysia within the meaning of s 4(1)(a) of the CA, because it was first sold in Malaysia on 7 January 2011.
- v. The Plaintiff’s *telekung* is made in Malaysia.
- vi. The Statutory Declaration sworn by one of the plaintiff’s directors, which declares that the plaintiff is the owner of the copyright for the plaintiff’s *telekung*, has been admissible as evidence and became the prima facie evidence that failed to be rebutted by any credible evidence adduced by the Defendant.
- vii. The defendant did not call either one of the two defendant’s designers to testify in this case regarding the creation of the defendant’s *telekung*.
- viii. The drawings and designs of the defendant’s *telekung* by the defendant’s designers had not been adduced as evidence in this case.

The defendant contended that even if the plaintiff owned the copyright in the plaintiff’s *telekung*, the plaintiff’s copyright had ceased by virtue of section 7(6) of the CA when more than 50 plaintiffs’ *telekung* were reproduced in 2010.

Subsection 7(6) of the CA came into force on 1 September 1999 by way of copyright (Amendment)

Act 1996, and stated as follows:

Copyright in any design which is capable of being registered under any written law relating to industrial design, but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his license, by any other person.

It is noteworthy that despite the fact that section (6) of the CA was deleted from the Act on 1 March 2012, the defendant argued that the law should be applied as it is enforceable from 1 September 1999 to 29 February 2012. However, the court rejected the defendant's contention based on the then applicable s 7(6) of the CA based on the following grounds:

- i. The plaintiff's *telekung* does not fall within the definition of an industrial design in section 3 of the Industrial Design Act ('the IDA'), which is:
"industrial design" means the features of shape, configuration, pattern or ornament applied to an article by any industrial process or means, being features which in the finished article appeal to and are judged by the eye.
- ii. The plaintiff's *telekung* is not applied to an article by any industrial process or means.
- iii. The defendant has failed to discharge the burden to prove the allegation that the plaintiff's copyright has ceased under s 7(6) of the CA, as no evidence has been led by the defendant to prove the three elements.
- iv. The court also adopted purposive interpretation on the s 7(6) of the CA, wherein it held that if a *telekung* were to be accepted as an 'industrial design' under section 3 of the IDA, it would not promote the purpose or object underlying IDA and CA, and an injustice and absurdity would result since the owners of copyrights in all *telekung* (which have been produced more than 50 times) would lose their copyright.

According to section 36(1) of the CA, copyright infringement means that when a person performs an act that is controlled by copyright under CA in pursuant to s 13 (1)(a) of the CA, being a copyright owner, the plaintiff has the exclusive rights to control the reproduction and the distribution of the plaintiff's *telekung*.

The court also referred to the case of *Megnaway Enterprise Sdn Bhd v Soon Lian Hock (the sole proprietor of the firm Performance Audio & Car Accessories Enterprise)* [2009] 3 MLJ 525, whereby the plaintiff had to prove all of the following three elements:

- i. There is a sufficient objective similarity between the plaintiff's *telekung* and the defendant's *telekung*;
- ii. There is a causal connection between the plaintiff's and the defendant's *telekung*; and
- iii. What has been copied in the defendant's *telekung* must constitute a substantial part of the plaintiff's *telekung*.

In deciding the first element, the court has to make a visual comparison between the plaintiff's *telekung* and the defendant's *telekung*, and the court found that there were sufficient objective similarities between plaintiff's and the defendant's *telekun* in the following areas:

- a) The design and pattern on the top section
- b) The measurements of the face opening and the forehead section
- c) The position of the tie string
- d) The material on the forehead section
- e) The rubber lace liner (pelapik)

Once the plaintiff has proven the sufficient objective similarity (the first element), there is a rebuttable

presumption that the defendant has copied the plaintiff's *telekung*---and the evidential burden then shifts to the defendant to disprove the second element by proving that the defendant's *telekung* was created independently of the plaintiff's *telekung*.

While the defendant failed to adduce any credible evidence to prove that the defendant's *telekung* was created without copying the plaintiff's *telekung*, the defendant also failed to rebut the presumption that the defendant's *telekung* was copied from the plaintiff, as the defendant's witness admitted that the defendant's *telekung* was available in the market subsequent to the plaintiff's *telekung*. An adverse inference under *s 114(g) of the Evidence Act* ('the EA') was also invoked against the defendant for suppressing material evidence regarding the defendant's designers and drawings.

The features regarding the sufficient objective similarity constitute a substantial part of the plaintiff's *telekung*, and show that the defendant's *telekung* directly copied an identifiable part of the plaintiff's *telekung*. The quality of the identifiable part constitutes a substantial part of the plaintiff's *telekung*. In the House of Lords case of *Designers Guild Ltd v Russell Williams (Textiles) Ltd [2001] All ER 700*, Lord Millett applied the qualitative test where the quality of the features of the copyright work is more important than the quantity.

The defendant claimed that its lack of knowledge of the plaintiff's copyright is not a defence to copyright infringement. In fact, it is very unlikely for the defendant to claim that it is unaware of the plaintiff's copyright, since the plaintiff's *telekung* was introduced in the market long before the defendant's *telekung*, and there has been extensive advertisement of the plaintiff's *telekung* in the mass media. In the Court of Appeal case of *Elster Metering Limited & Anor v Damini Corporation Sdn Bhd & Anor [2012] MLJU 1753*, the Court held that the defendant's knowledge and/or intention with regard to copyright infringement is/are immaterial.

In conclusion, the plaintiff's *telekung* is a 'graphic work' and does not constitute a 'work of artistic craftsmanship' as defined in *section 3 of the CA*. The plaintiff's *telekung* is not purely functional so as to be disentitled to copyright under *s 7(2A) of the CA*. The plaintiff owns the copyright in the plaintiff's *telekung*, as the plaintiff has fulfilled all the conditions and the defendant has failed to rebut the prima facie evidence of the plaintiff's statutory declaration. The plaintiff's copyright has not ceased under the previously applicable *s 7(6) of the CA*, because the plaintiff's *telekung* does not constitute an 'industrial design' under *section 3 of the IDA*. The defendant has infringed the plaintiff's copyright under the first limb; therefore, the defendant cannot claim that the defendant is not aware of the plaintiff's copyright and its infringement. Hence the plaintiff's claim against the defendant is allowed with costs.



“DISNEYFICATION” vis-à-vis COPYRIGHT: ORIGINAL STORIES LOST

Ms. Rocille S. Aquino Tambasacan (the Philippines)
Senior Assistant City Prosecutor¹



FY2018 JPO/IPR Training Course for IP Protection Lawyers (26 November - 12 December, 2018)



*“Every fairy tale has a bloody lining. Every one had teeth and claws.” –
Alice Hoffman, The Ice Queen*

When studying about copyrights during my Commercial Law Review class, I usually ask my students: What was the ending of “The Little Mermaid” by Hans Christian Andersen? And I usually get the blockbuster answer: *“They got married and lived happily ever after”*. So, whenever I tell them the true story – that (a) the mermaid sisters sold their hair to the sea witch in exchange for a dagger, which they gave to the Little Mermaid for her to kill the Prince who unfortunately fell in love with another girl; (b) the Little Mermaid would go back to her mermaid form once the blood of the prince flows to her feet; and (c) the Little Mermaid chose to commit suicide instead of killing the prince, and became a daughter of the air who could eventually earn her way to a soul if she did enough good things – they are shocked. “Disneyfication” is the culprit.

Disneyfication

I first saw this term two years ago on the internet.² It said that “Disneyfication” is a form of editing that renders a story safe for juvenile audiences (or the parents thereof) by removing undesirable plot elements or unpleasant historical facts, adding Broadway-style production numbers, and reworking whatever else is necessary for a lighter and softer happily-ever-after ending. Consequently, most people remain unaware that the original fairy tales contained grimmer aspects. But then, are not the authors of these tales protected from the alterations of their work?

Concept of Copyrights

A copyright is confined to literary and artistic works that are original intellectual creations in the literary and artistic domain protected from the moment of their creation.³ Protection is automatic, and

¹ This material was first published by Central Books in 795 SCRA 691 in 2017, with the permission of this author.

² tvtropes.org.

³ Section 172 of Republic Act No. 8293, as amended.

there is no need for registration. It includes:

- a. Books, pamphlets, articles and other writings;
- b. Periodicals and newspapers;
- c. Lectures, sermons, addresses, dissertations prepared for oral delivery, whether reduced in writing or other material form;
- d. Letters;
- e. Dramatic or dramatic-musical compositions; choreographic works or entertainment in dumb shows;
- f. Musical compositions, with or without words;
- g. Works of drawing, painting, architecture, sculpture, engraving, lithography or other works of art; models or designs for works of art;
- h. Original ornamental designs or models for articles of manufacture, whether registrable as an industrial design, and other works of applied art;
- i. Illustrations, maps, plans, sketches, charts and three-dimensional works relative to geography, topography, architecture or science;
- j. Drawings or plastic works of a scientific or technical character;
- k. Photographic works including those produced by lantern slides, a process analogous to photography;
- l. Audiovisual and cinematographic works, and works produced by a process analogous to cinematography or any process for making audio-visual recordings;
- m. Pictorial illustrations and advertisements;
- n. Computer programs; and
- o. Other literary, scholarly, scientific and artistic works.

Copyright protection is also extended to derivative works⁴, or to:

- a. Dramatizations, translations, adaptations, abridgments, arrangements, and other alterations of literary or artistic works; and
- b. Collections of literary, scholarly or artistic works, and compilations of data and other materials that are original by reason of the selection, coordination or arrangement of their contents.

Economic and Moral Rights

An author of a work has two kinds of rights: economic and moral. Economic rights⁵ consist of the exclusive right to carry out, authorize or prevent the following acts:

- a. Reproduction of the work or a substantial portion of the work;
- b. Dramatization, translation, adaptation, abridgment, arrangement or other transformation of the work;
- c. The first public distribution of the original, and each copy of the work by sale or other forms of ownership transfer;
- d. Rental of the original or a copy of an audiovisual or cinematographic work, a work embodied in a

⁴ Section 173, *ibid.*

⁵ Section 177, *ibid.*

sound recording, a computer program, a compilation of data and other materials or a musical work in graphic form, irrespective of the ownership of the original or the copy which is the subject of the rental;

- e. Public display of the original or a copy of the work;
- f. Public performance of the work; and
- g. Other communication to the public of the work.

Moral rights, on the other hand, belong to a different plane. The term moral rights has its origins in the civil law, and is a translation of the French *le droit moral*, which is meant to capture those rights of a spiritual, non-economic and personal nature. The rights spring from a belief that artists in the process of creation inject their spirit into the work, and that the artist's personality, as well as the integrity of the work, should therefore be protected and preserved. Because they are personal to the artist, moral rights exist independently of an artist's copyright in his or her work. While the rubric of moral rights encompasses many varieties of rights, two are protected in nearly every jurisdiction recognizing their existence: attribution and integrity.⁶

Rights of Attribution and Integrity of Ownership

The right of attribution generally consists of the right of an artist to be recognized by name as the author of her or his work, or to publish anonymously or pseudonymously; the right to prevent the author's work from being attributed to someone else; and the right to prevent the use of the author's name on works created by others, including distorted editions of the author's original work. The right of integrity allows authors to prevent any deforming or mutilating changes to their work, even after title of the work has been transferred. In some jurisdictions, the integrity right also protects artwork from destruction. Whether or not a work of art is protected from destruction represents a fundamentally different perception of the purpose of moral rights. If integrity is meant to stress the public interest in preserving a nation's culture, destruction is prohibited; if the right is meant to emphasize the author's personality, destruction is seen as less harmful than the continued display of deformed or mutilated work that misrepresents the artist, and destruction may proceed.⁷

Specifically, the rights of attribution and integrity of ownership⁸ refer to the author's rights to:

- a. Require that the authorship of the works be attributed to him or her the right that his or her name, as far as practicable, be indicated in a prominent way on the copies, and in connection with the public use of his work;
- b. Make any alterations of her or his work prior to, or to withhold it from publication;
- c. *Object to any distortion, mutilation or other modification of*, or other derogatory action in relation to, her or his work that would be prejudicial to her or his honor or reputation; and
- d. Restrain the use of his or her name with respect to any work not of his own creation or in a distorted version of his or her work.

6 Vicente B. Amador, Copyright under the Intellectual Property Code (1998), citing John Carter, John Swing and John Veronis v. Helmsley-Spear, Inc. and Associates, U.S. Court of Appeals for 2nd Circuit, 1 December 1995.

7 Vicente B. Amador, Copyright under the Intellectual Property Code (1998), citing John Carter, John Swing and John Veronis v. Helmsley-Spear, Inc. and Associates, U.S. Court of Appeals for 2nd Circuit, 1 December 1995.

8 Section 193, RA No. 8293, as amended.

The provision on moral rights sprung from the Berne Convention for the Protection of Literary and Artistic Works (1886). Article 6bis of the said Convention recognizes an author's right of attribution and integrity. It states – “Independent of the author's economic rights, and even after the transfer of the said rights, *the author shall have the right to claim authorship of the work and to object to any distortion, modification of*, or other derogatory action in relation to the said work, which would be prejudicial to the author's honor or reputation.”

Going back to our story: Hans Christian Andersen, the Brothers Jacob and Wilhelm Grimm, Giambattista Basile and Victor Hugo are just some of the authors whose works became the basis of Disney's tales. But there is also one common denominator for all these mentioned individuals – they have been dead for more than a century! ⁹

The duration of copyright is dependent on the length of the author's life. The Berne Convention provides for a period of 50 years after the author's death¹⁰, but recognizes that the signatory countries are free to provide longer terms.¹¹

Now, what happens after the lapse of the period given? All of the works become part of the public domain, and therefore free for exploitation by all. But works derived from the public domain can be copyrighted, being an adaptation or a derivative work. Some say that these fairy tales are not even original, having their source in folklore.

The Original Stories, Retold

Aside from “The Little Mermaid”, the following are some of the classic stories that were “disneyfied”. Let's see if you can remember the real story!

1. Cinderella

The Disney Version: Cinderella and her Prince were married, and lived happily ever after.

“Aschenputtel”, by the Brothers Grimm: Aschenputtel/Cinderella and her prince also lived happily ever after. But that was before Cinderella's stepsisters became disfigured as one had to cut her toes to fit the slipper, while the other sliced off her heel. Not to mention that during Cinderella's wedding, doves flew down from the sky and pecked the stepsisters' eyes out. Way to go!

2. Snow White

The Disney Version: The prince kisses Snow White, wakes her up and carries her off to his castle. The Evil Queen dies by falling off a cliff.

9 Andersen died in 1875; the Brothers Jacob and Wilhelm Grimm 1863 and 1859, respectively; Basile in 1632 and Hugo in 1885. Source: Wikipedia.

10 Under Section 198 of RA No. 8293, as amended, the right of an author to attribution shall last during the lifetime of the author and in perpetuity after his or her death, while the rights to integrity of ownership shall be coterminous with the economic rights (lifetime + 50 years), and the moral rights shall not be assignable or subject to license.

11 Andersen published his work in Denmark, Grimm in Germany, Basile in Italy, and Hugo in France. All provide for the period “lifetime + 70 years”. Source: en.m.wikipedia.org.

Brothers Grimm Version: Same happily ever after story, save for the fact that the Queen was invited to Snow White and her prince's wedding, but when she arrived, she was given a pair of hot iron shoes and forced to dance to death during the wedding party.

3. Sleeping Beauty

The Disney Version: The prince defeats the dragon and kisses the sleeping maiden, awaking her and the inhabitants of the castle from a death-like slumber.

Giambattista Basile's "Sun, Moon and Talia" (1634): The king found Talia sleeping, and when he was unable to wake her up, raped her. She woke up months later with her twin babies Sun and Moon, and later was reunited with the much-married king. However, the current queen tried to make the king eat his own babies, so he threw her in a fire and married Talia.

4. The Hunchback of Notre Dame

The Disney Version: Though Quasimodo still did not get the girl (Esmeralda), he defeated Frollo and was able to enter society despite his appearance.

Victor Hugo's "Hunchback": Frollo hangs Esmeralda, Quasimodo, kills Frollo, and then Quasimodo mourns by Esmeralda's corpse and starves to death. Well, the gruesome end is anticipated, being written by Hugo (remember *Les Misérables*?).

5. Rapunzel

The Disney Version of "Tangled": Rapunzel was kidnapped as a child for her mythical hair by a witch who becomes her foster mother. Rapunzel meets a thief who becomes her husband, discovers her true parents (the king and queen), and loses her healing powers when her hair is cut-off. Anyway, the foster mother falls to her death.

Brothers Grimm Version: Rapunzel was impregnated by the prince. The evil sorceress finds out, so she cuts off Rapunzel's hair and throws her into the wilderness. The sorceress dangles Rapunzel's hair to lure him up the tower, and tells him that he will never see Rapunzel again. The prince jumps out of the window and is blinded by the thorns. Rapunzel gives birth to twins, and is reunited with the prince as he is guided back to her when he hears her voice. Her tears restore his sight, and they live happily ever after.

About the Author:

Rocille S. Aquino-Tambasacan

The author is a Senior Assistant City Prosecutor of the City of Manila, Philippines, and the trial prosecutor of RTC Branch 5. She has been a Commercial Law professor in different schools and universities since 2003, and a national bar reviewer at San Sebastian College-Recoletos, Polytechnic University of the Philippines, Universidad de Manila, New Era University, Academicus Review Center, Inc. and Albano Review Center.

A proud graduate of San Sebastian College, she was designated its Outstanding Alumnus in 2013, and as Outstanding Prosecutor by the City of Manila in 2016. She belongs to the JPO/IPR Training Program for IP Protection Lawyers Batch of 2018.

Message from Lecturers



Mr. Kiyomune NAKAGAWA

Head of office • Patent Attorney
Nakagawa Patent Office



I became a patent attorney 12 years ago. It has been 14 years since I first began serving as a lecturer of intellectual property law at university, 11 years since I began taking care of seminars for adult students provided by the Japan Institute for Promoting Invention and Innovation, and five years since I began providing courses at the Asia-Pacific Industrial Property Center (APIC).

Since many university students are learning intellectual property law for the first time, I often receive simple questions about IP law from them. Therefore, lectures at university provide me with an opportunity to know what kind of questions people who are not familiar with the law have. This gives me a lot of fresh new energy, as if I was going back to the time before I became an IP law specialist.

In the meantime, many adult students to whom I give lectures work in the IP sections of private companies or local governments, and often ask practical questions about IP law. Therefore, lectures for adult students give me an amazing opportunity to learn about practical issues that I have not yet experienced or come across.

In contrast, the courses that I take charge of at APIC are provided for IP law specialists from foreign countries, such as lawyers and patent office examiners. Originally, I was supposed to teach them about the intellectual property system in Japan. However, because they are specialists on the IP law in their own country, I am often taught the IP laws of their countries. Thus, courses at APIC provide me with a precious opportunity to compare the Japanese intellectual property system with other countries' systems, and find out their respective good points.

I deliver lectures at APIC in English. Some trainees are good at English; others not as much. However, irrespective of the ability to use English, they listen to my lectures enthusiastically and ask questions. Each time, I am overwhelmed and touched by the trainees' enthusiasm and eagerness to learn as much as possible about the intellectual property system in Japan before going back to their countries.



I get help from interpreters particularly during question and answer sessions with trainees. Different interpreters take charge of my lectures every time, with a total of three to four interpreters having taken charge of my lectures thus far. Sometimes the question and answer sessions get very heated between the trainees and me, but thanks to the interpreters, our discussions go smoothly.

During the break time of my lectures, I give Japanese sweets to the trainees. I prepare *monaka*, *manju* and *yokan*, and ask them to pick out what they want. Many of them are eating Japanese sweets for the first time, so they regard them as a curiosity and are pleased to try them. I am very happy if they take an interest in Japanese culture through the Japanese sweets that I give them.

I would like to express my deepest thanks to the trainees, interpreters, and staff in APIC who give me such precious and wonderful opportunities. Thank you very much! I am looking forward to having an opportunity again to learn about the intellectual property system together with trainees.



Column: Gengo (Era Name)



Mr. Takao OGIYA
Director General of APIC



On May 1, 2019, Japan's era name changed to Reiwa.

In parallel with the Western calendar, which is commonly used around the world, Japan uses its own unique system called *gengo* to designate the year.

The Western calendar is a method for counting years that have elapsed since the year when Jesus Christ was considered to have been born, which are expressed as AD (Anno Domini). The Western calendar was first proposed by a theological scholar in Rome in AD 525. Several countries began subsequently using it around the 10th century, and it became popular in Western Europe during the 15th century. Along with the later global expansion of European countries, the Western calendar became widely used all over the world. Incidentally, in light of the results of detailed research and study of descriptions in the Bible and historical facts, it is now generally believed that Jesus Christ was born in 4 BC (Before Christ), rather than AD 1.

Gengo was originally adopted in China in the second century BC as a system to represent the emperor's sovereignty and the number of years since enthronement.

In Japan, there was a major reform of national politics in AD 645, where rule by powerful families called *gozoku* was replaced by political power centered on the emperor. Using this as an opportunity, the *gengo* system was newly adopted in Japan from China, and has continued to be used until today.

Gengo was also used in the Korean Peninsula and Vietnam in addition to China and Japan for some period, but only Japan uses it at present.

I think that Japanese people's feelings toward *gengo* are hard to understand for non-Japanese people. *Gengo* is something like a classification of historical periods, and many Japanese attempt to analyze and evaluate it as a whole, viewing the change of *gengo* as the arrival of a new era. The new Reiwa era followed the Heisei era, which continued for some 30 years from 1989 to 2019.

I would like to briefly summarize the Heisei era. During this period, for about three decades from 1989 to 2019, the Berlin Wall fell in 1989, the globalization of the economy progressed rapidly, and the world

became one single market. Various global events occurred against the backdrop of these circumstances: frequent terrorist attacks, the rise of the BRICs countries, the global recession triggered by the subprime mortgage crisis in the U.S., aggravated budget deficits in European countries, and more. In 2015, Sustainable Development Goals (SDGs) including the eradication of poverty and hunger, the correction of inequality, and measures for climate change were unanimously adopted at the UN summit.



The Fall of the Berlin Wall, 1989
(Source: Wikimedia Commons)

The Heisei era in Japan started with the collapse of the bubble economy, after which time the country experienced a long-term economic slump—the so-called Lost 20 Years. Moreover, major earthquakes with a seismic intensity of six or more occurred several times, and the entire Japanese archipelago suffered from many natural disasters including storms and torrential rains caused by typhoons, volcanoes and floods. In particular, the Great East Japan Earthquake of March 2011 has been called the largest modern-day national crisis. Many houses and workplaces were lost due to powerful tsunami waves triggered by the earthquake, and radiation contamination was caused by the nuclear power plant accident.

As mentioned above, the Heisei era was a turbulent period for Japan. It was also an era of hardship, difficulty and anxiety.



One pine tree that survived the tsunami caused by the Great East Japan Earthquake
(Source: Wikimedia Commons)

A lot of the media translated Heisei as “achieving peace.” Looking back at the Heisei era of 30 years, however, I think that it was far from this. Many Japanese people think that this has been a period of endurance. This author, meanwhile, firmly believes that hardship generates perseverance, perseverance generates a polished character, and a polished character generates hope.

The era before Heisei was Showa. The change from Showa to Heisei occurred due to the demise of the emperor, and Japanese people therefore welcomed the new era in deep sorrow. However, the transfer from Heisei to Reiwa has been implemented while the previous emperor is still in good health—so the current transfer represents the arrival of a new era full of hope.

I’ve heard that the official English-language translation of Reiwa is “beautiful harmony.” I sincerely hope that the Reiwa era will be a period when “beautiful harmony” is in fact realized. And I hope that when looking back at the Heisei era, Japan and the world will regard it as a period of hardship and difficulty that was necessary in order to achieve true peace. I will continue to believe and hope that such a time will surely arrive.

Introduction to Japan: Kamakura



Escape the big city commotion to enjoy history, gourmet foods, and nature

Hello, alumni and alumnae! This is the Editorial Department of the “Enishi—IP Friends Connections” magazine. Starting this fiscal year, we will provide information on Japan’s tourist spots so that trainees coming to Japan from overseas can fully enjoy the country during their stay.



For this first article, we will present the ancient capital of Kamakura. Located an hour south of Tokyo by train in Kanagawa Prefecture, the nature-rich city of Kamakura faces Sagami Bay to the south and is surrounded on three sides by mountains. The Kamakura Shogunate lived here from the end of the 12th century to the middle of the 14th century, and scattered nearby are several Zen temples and shrines, which are cultural assets built on precious historic sites. Visitors can enjoy nature during all four seasons, including hydrangea flowers, bamboo forests, and autumn leaves. In addition to sightseeing, the city also offers shopping and gourmet foods. Here are some tourist attractions, good places for walking, and gourmet spots that earn our highest recommendations for your trip to Kamakura!



● Sightseeing spots

1. **Engakuji Temple**—Founded in 1282, this Zen temple boasts a long history, high status and beautiful views from season to season
[Admission fee: 300 yen for adults]

Get off at Kita-Kamakura Station on the JR Yokosuka Line. Engakuji will be right in front of you. Entering the Sanmon main gate, you will encounter Butsuden, a building featuring a roof thatched with copper plates. *Hakuryu no Zu* (a picture of a white dragon) was painted by artist Tadashi Moriya on the ceiling. It is very powerful image, whose dragon looks like it is alive.



Don't miss: Climbing the stone steps near the Sanmon gate, you will see a bell tower that is one of the national treasures of Japan. You can take a break at the teahouse located just behind it—the mountain range full of nature below makes for



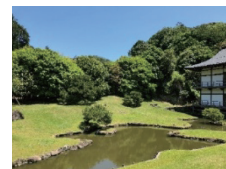
a refreshing sight.

2. Kenchoji Temple—Japan's first Zen temple [Admission fee: 500 yen for adults]



Founded in 1253, Kenchoji is a quiet Zen temple situated on large grounds. Entering through the Somon gate, the Sanmon gate will be standing in front of you. Marvel at the impressive two-storied gate (*romon*), which was built with no materials other than wood. Relax and

gaze quietly into the pond in the Shoin Garden of Hojo, and find serene peace of mind.



Don't miss: If you have time, you should try *zazen* (Zen meditation) and *syakyo* (transcribing a sutra).

3. Kotoku-in Temple—A temple that is famous for a giant Buddha that sits outside [Admission fee: 200 yen for adults]



The statue, commonly known as Kamakura Daibutsu (Great Buddha of Kamakura), was built in the middle of the 700s and is designated a national treasure. It reaches 11.3 meters in height, and weighs about 121 tons. The hair consists of 656 coils called rahotsu. It is said that the walking speed of the Buddha is 79.2 km per hour! The Buddhist statue's calm face will bring relaxation. When you enter the *tainai* (interior of the statue), you can experience the building techniques used when it was constructed.



Don't miss: Take a photo that looks like the Daibutsu is sitting on your palm. It's sure to be a hit on Instagram!

4. Hasedera Temple—A “flower temple” that is known for its beautiful flowers in all four seasons [Admission fee: 400 yen for adults]

Hasedera, founded in 736, has one of Japan's largest statues of Kannon, the eleven-headed goddess of mercy (9.18 meters). Colorful flowers bloom throughout the year in the temple, with the hydrangea in June and the autumn leaves being especially famous. From the observation platform located halfway up the hill on the temple grounds, you can enjoy viewing the ocean and the Kamakura townscape.



Don't miss: Take a picture with the symbolic red lantern of the main gate behind you. We also recommend pictures with the little *jizo* statues.



5. **Goryo-Jinja Shrine**—A small but picturesque shrine [Admission fee: free]
You can enjoy a quaint, lovely view of Kamakura featuring beautiful hydrangea, the Enoshima Electric Railway and the shrine gate.



Don't miss: It's a great photo opportunity when an Enoshima Electric Railway train passes by the shrine.



6. **Zeniarai Benzaiten Ugafuku-Jinja Shrine**—Wash your money for better economic fortune! [Admission fee: free]

Zeniarai Benzaiten is a small shrine built in the 11th century. Legend has it that if you wash your money with the sacred water that springs from the cave, you can gain luck such as family prosperity, a thriving business, and better economic fortune.



Don't miss: Put your coins and bills in the strainer and ladle the water over it for good luck.



7. **Kuzuharaoka-Jinja Shrine**—The god of good luck and fulfillment in love [Admission fee: free]

Kuzuharaoka-Jinja, established in 1887, is a shrine of matchmaking.



Don't miss: It is said that your love-related wish will come true if you do the following: write your wish on a heart-shaped ema (small wooden plaque), hang it on the specially designated frame in the shrine, and bind a red string with a five-yen coin on the rope tied to the matchmaking stone. If your wish comes true, you should present an *orizuru* (folded paper crane) to the shrine in gratitude.



Attention: Many temples and shrines close at 4–5 p.m., so we recommend that you get there early.



● Gourmet spots:

- ① Komachi-dori Street—A retro commercial street that runs from the East Exit of Kamakura Station to Tsurugaoka Hachimangu Shrine. There are more than 100 shops and restaurants along the street, which is a very popular place for shopping and eating.*
- ② Wakamiya-oji Street—Many cafés and sweets shops stand side by side along the approach from

Yuigahama to Tsurugaoka Hachimangu Shrine.

- ③ Hase-dori Street—A commercial street that is located on the way to Kotoku-in Temple from Hase Station on the Enoshima Electric Railway line. Small restaurants and variety stores stand side by side. This street became well-known because former U.S. President Obama ate matcha (powdered green tea) ice cream here.
- ④ Onari-dori Street—A commercial street that runs from the West Exit of Kamakura Station to Yuigahama-dori Street. There are new restaurants and variety shops, and it is less crowded than Komachi-dori Street.

**Eating while walking can be considered rude in Japan. As manners on Komachi-dori Street have become worse, a “bill for the improvement of manners in public places” was passed in Kamakura City in March 2019.*

● Souvenirs:

- ① Hato Sabure cookies (Toshimaya)
<https://tabelog.com/en/kanagawa/A1404/A140402/14001569/>
- ② Kurumikko (Kamakura Beniya):
https://www.beniyajisai.co.jp/en_index/english_products/kurumicco/
- ③ Gongoro Chikaramochi (Chikaramochiya):
<https://tabelog.com/kanagawa/A1404/A140402/14007758/>
(Japanese only)



● Top recommendation of the Editorial Department at APIC: *Gosyuin-meguri* (visiting temples and shrines and collecting *gosyuin*, or letters with scarlet seals)

As you explore the many famous temples and shrines around Kamakura, we suggest that you collect *gosyuin*, which are seals you receive as proof of worship when you pay a visit to a temple or shrine. The names of the shrine or temple and the main object of worship (*gohonzon*) are written with a brush and ink along with the date of the visit, etc., on a note called *gosyuin-cho*. The designs of the *gosyuin* differ depending upon the temple and shrine, so some people enjoying visiting different ones in order to collect and compare the *gosyuin*.



Gosyuin



Gosyuin cho (notebook)

● Access:

57 minutes by JR Yokosuka Line from Tokyo Station to Kamakura Station (810 yen one way), or 58 minutes by JR Shonan Shinjuku Line from Shinjuku Station to Kamakura Station (920 yen one way).



Enoden
(Enoshima Electric Railway Line)



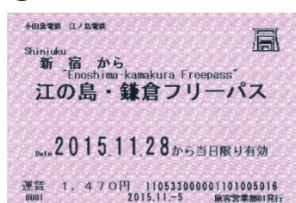
JR Shonan Shinjuku Line



JR Yokosuka Line

There are convenient value tickets for traveling around Kamakura:

① Enoshima-Kamakura Freepass (Odakyu Line)



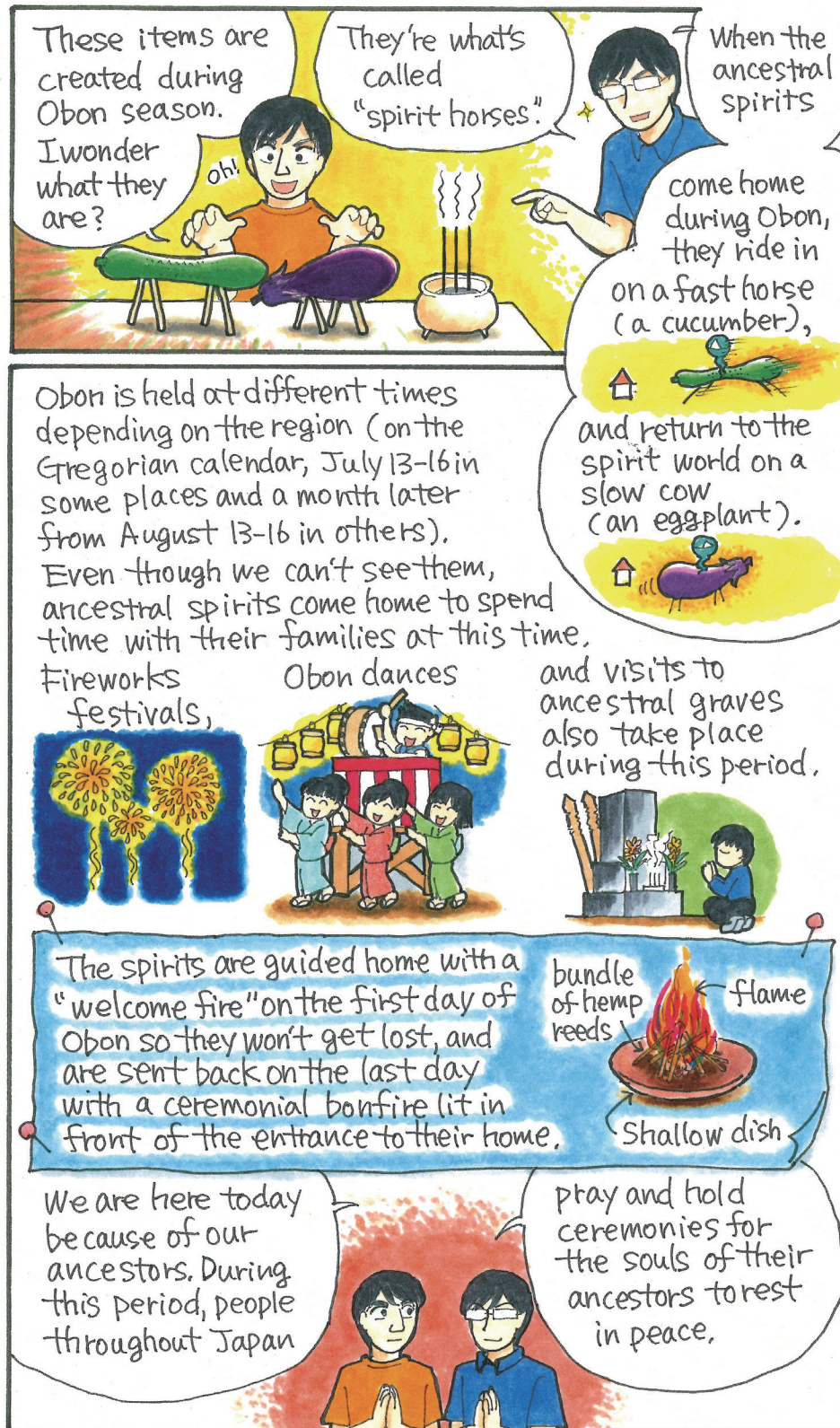
If you have this pass, you can get on and off freely at the stations of the Odakyu Line (between Fujisawa and Katase-Enoshima) and all stations of the Enoshima Electric Railway Line free of charge! In addition, this pass includes a round-trip ticket for the Odakyu Line (between the departure station and Fujisawa Station). Fare (from Shinjuku): 1,470 yen for adults.

② Noriorikun (One-day ticket for Enoshima Electric Railway Line)



If you have this ticket, you can freely get on and off at all stations of the Enoshima Electric Railway Line free of charge for one day. From the train, you can enjoy coastal scenes from Enoshima to Kamakura. Fare: 600 yen for adults.

Introduction of Japanese Annual Events (Four-Frame Cartoon)



Editor's Note



Hi! I'm Mitty, and I'll be in charge of editing the magazine again this year. It has been more than 20 years since we have been engaged in our professional trainings, in which a total of more than 6,000 people have participated to date.

This past May, Japan entered a new era whose official name (*Gengo*) is known as "Reiwa". Interestingly, we studied history in school using the Western calendar. The *Gengo* system began assigning one era name per emperor in the Meiji era, which began in 1868.

There are many different explanations for the Meiji restoration, which occurred when Japan's feudal government, known as the *bakufu*, underwent a significant transformation to a new imperial system.

Today, information is available around the globe via the internet. The image of Japanese people as wearing topknots and committing *hara-kiri*, and as *ninja* or *geisha*, was accurate until the end of the Edo era. Japan entered the Meiji era in 1868, which was 150 years ago. The Meiji era emperor died in 1912, the Taisho era emperor died in 1926, and the Showa era emperor died in 1989—each time ushering in the crown prince as the new reigning emperor.

This time, however, the emperor decided to abdicate out of concern for the people, as he felt that his age could preclude his being able to fulfill his duties.

The new era name, "Reiwa", means "beautiful harmony"—a perfect symbol for the continuing globalization of intellectual property rights. As we continue respecting one another's ideas and engaging in the protection of rights, I believe that each of our countries, in its own way, is also continuing to preserve harmony.



Hello! Hiroko here again. Our big recent news is that the Crown Prince assumed the throne on May 1 this year, beginning a new era in Japan known as "Reiwa". Since the announcement of the new era was made on April 1, Japan has been filled with a feeling of hope for a brighter future.

An important imperial event will also be held on October 22, when the new Emperor Naruhito will publicly announce his enthronement. After the ceremony, a parade will be held in Tokyo to present the enthronement and receive blessings, both within Japan and globally.

Those who will take the JPO/IPR training courses in Japan this year may enjoy the atmosphere of traditional Japanese events and celebrations honoring this new era.

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Japan Patent Office(JPO)

Address: 4-3, Kasumigaseki 3-chome, Chiyoda-ku, Tokyo 100-8915, Japan
Telephone/Facsimile: 81-3-3503-4698 / 81-3-3581-0762 (International Cooperation Division)
Web site: <https://www.jpo.go.jp/e/news/kokusai/developing/training/index.html>

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Asia-Pacific Industrial Property Center(APIC),

Japan Institute for Promoting Invention and Innovation (JIPI)
Address : 4-2, Kasumigaseki 3-chome, Chiyoda-ku, Tokyo 100-0013, Japan
Telephone/Facsimile: 81-3-3503-3026 / 81-3-3503-3239
Email: apic-jiii@apic.jiii.or.jp



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