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IP Friends Connections

No.26 December 2020



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.

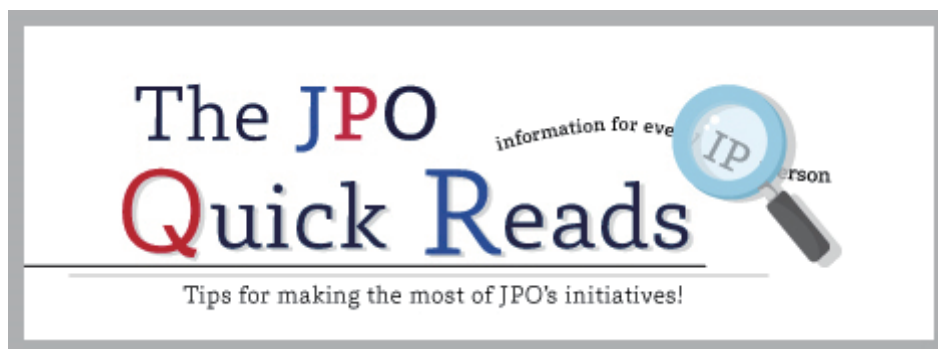
【The meaning of 縁 (Enishi)】

“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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The JPO Quick Reads



The JPO has been aiming to achieve the world's fastest and utmost quality patent examinations, so that once applicants obtain patents in Japan, the associated examination results will be upheld overseas to facilitate the smooth acquisition of rights abroad. To this end, the JPO has been implementing various measures focusing on maintaining speed, granting high quality rights, and cooperating and collaborating with foreign IP offices.

The JPO provides a variety of resources on its website, including reference materials on the IP system in Japan and updates of its initiatives. The JPO's aforementioned measures include many programs available to users overseas, which bring various advantages in their use, for example, allowing users to acquire patent rights more expeditiously and to build global patent portfolio more smoothly. However, the JPO website was not ready to present a list of such programs, which potentially made it difficult for users to access beneficial information.

Therefore, since September 2020, we have been offering weekly updates, "the JPO Quick Reads". In the web page, the JPO introduces its initiatives and relevant information mainly in relation to patent examinations. The URL and some popular topics are as follows:

[The JPO Quick Reads]

<https://www.jpo.go.jp/e/news/quickreads/index.html>

[Popular topics]

➤ Speedy Examinations at the JPO (15 Sep. 2020)

Did you know the pendency of patent examinations at the JPO is much shorter than before?

The first action pendency (FA pendency) is about 9.5 months.

In 2009, the total pendency required three years on average. The JPO achieved to speed up patent examinations, and now, it is 14 months on average including international applications.

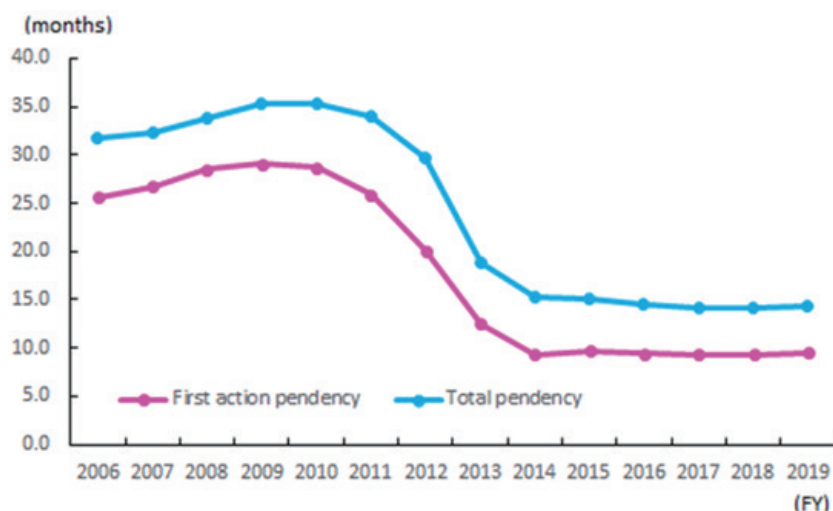


Figure 1 : Total Pendency and FA Pendency for Patent

➤ Patent Prosecution Highway: PPH (20 Oct. 2020)

Did you know the PPH network has expanded globally through the JPO initiative?

The world's first PPH, advocated by the JPO in cooperation with the USPTO, was launched in 2006, and the PPH scheme has spread to as many as 54 IP Offices as of January 2020. The JPO has been implementing the PPH with 44 IP offices, including those from major emerging economies; representing the largest network in the world.

Under the PPH framework, an application determined to be patentable by the office of earlier examination is allowed to undergo accelerated examination at the office of later examination. The PPH is expected to increase a grant rate and reduce filing costs.

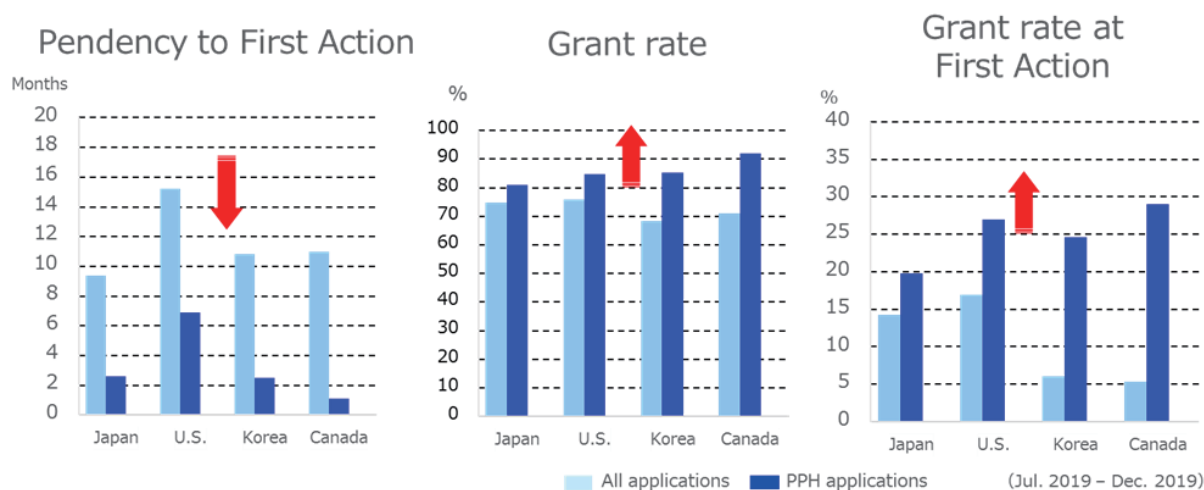


Figure 2 : Effect of the PPH

➤ English Search Reports at the JPO (27 Oct. 2020)

The JPO establishes search and examination results in English in respect of PCT international applications received by other IP offices.

In the capacity as a competent International Searching Authority for foreign IP offices including USPTO and ASEAN IP offices, we carry out international search in English for PCT international applications filed with those offices. We perform international search with high timeliness performance (deadline compliance rates 99.8%) at relatively reasonable search fees (JPY 156,000 for English ISR as of October 2020).

➤ Accelerated Examination under PCT-PPH (10 Nov. 2020)

The JPO assists you to build global patent portfolio smoothly using PCT work products.

You can make use of positive opinions in the PCT international search report (ISR) for PPH request (PCT-PPH). For instance, accelerated examinations can be requested at other IP offices when at least one claim is determined patentable in the ISR provided by the JPO. Currently, we implement the PCT-PPH with 37 IP offices based on our ISRs. For conducting international search, we accept PCT applications filed in English, which means you can do without Japanese translation.

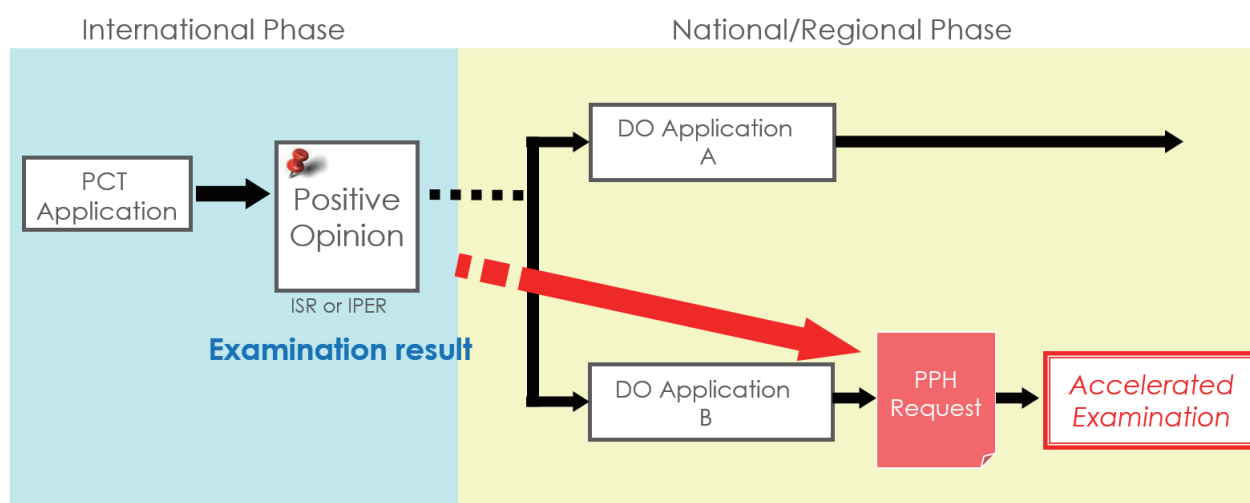


Figure 3 : Outline of the PCT-PPH

➤ JPO report on AI-related applications (24 Nov. 2020)

The JPO conducts research and delivers information on current trends of AI-related patent applications.

With the development of Artificial Intelligence (AI) -related technologies, patent applications in such fields are growing sharply. Our research on AI-related patent applications, including its analytical data on technical classifications, offices of filing and so forth, aims to provide a snapshot of the technological trends in AI-related inventions, among others, its application fields.

➤ Patent Examination Case Examples on AI-related Technologies (8 Dec. 2020)

The JPO has compiled examination case examples on Artificial Intelligence (AI)-related technologies ahead of other IP offices to deliver information on the points to improve predictability.

The number of patent applications for AI-related inventions is on the sharp rise worldwide, but users may feel they are not well informed about the key to the successful prosecution. This is why we have composed and published 15 AI-related patent examination case examples for users in various technical fields.

Reference: [JPO Official Twitter]

The JPO provides information posted on the JPO English website, including topics of “the JPO Quick Reads”.

https://twitter.com/jpo_NIPPON/

The JPO e-learning



JPO Cooperation in Human Resource Development Website

The information of “Japan Patent Office Cooperation in Human Resource Development” is posted on the JPO website. This page includes information and reports regarding our training courses, IPR textbooks in English, and activity reports from alumni of our training courses.

Please be sure to bookmark the link below.

<https://www.jpo.go.jp/e/news/kokusai/developing/training/index.html>

The screenshot shows the JPO website's page for 'JPO Cooperation in Human Resource Development'. The header includes the JPO logo and navigation links. The main content area has a title and a brief description of the program. Below this, there are several links for further information, including 'Training Programs (short)', 'Training Programs (middle)', 'Thesis Titles of Long-Term Researchers', 'Follow-up Seminars', 'IPR textbook', 'E-learning of IPR', 'ENISHI-IP Friends Connection', 'IPAA', and 'Introduction'. There is also a Facebook link and a contact section at the bottom.

IPR textbook

Under the heading “IPR Textbook” you will find a search resource for browsing through IP texts written in English. The convenient search function allows you to browse by system or category (by simply checking the boxes provided), or by the key word/s of your choice.

*Example: The Enforcement of the Intellectual Property Rights in Japan (2018)

The Enforcement of the Intellectual Property Rights in Japan

Japan Patent Office
Asia - Pacific Industrial Property Center, Japan Institute
for Promoting Invention and Innovation

©2018

Collaborator: Mr. Jinzo FUJINO
Representative officer of FUJINO IP Management
Mr. Hideaki Yoshida
Patent Attorney, Kawamachi Patent Office

1

I. INTRODUCTION

1. What is enforcement ?

This article is to articulate the scope and effects of enforcement of intellectual property rights in Japan. The term “enforcement” is a word which has been used mainly in criminal law as well as civil law in Japan. In the field of intellectual property law, however, it is relatively new and not necessarily familiar. A reason for the unfamiliarity is, simply stated, a difficulty of arrangements for IP protection.¹

The concept of the enforcement is therefore not clear when it is used in the context of intellectual property. Before going into the substance of this article, we should define it so as to enable readers of this article to better understand what is discussed in the following sections.

When the term “enforcement” is used in connection with an intellectual property right (IPR), it is generally recognized as the exercise of IPRs to exclude others from using them. Some people may consider the enforcement of IPRs in relation to the remedial aspects of infringement. Some may consider it more broadly to include even transactions of IPRs, including licensing and technology transfer.

According to the *Merriam-Webster* dictionary, enforcement is explained to mean the act of putting in force or causing effect.² This meaning is too general and insufficient to understand the concept of enforcement of IPRs. A legal dictionary defines it more technically as the “act or process of compelling compliance with a law, mandate, command, decree, or agreement.” It includes in its meaning the detection and punishment of violation of the law.³

Turning to the term “right,” the legal dictionary defines it as the interest, claim, or ownership that one has in tangible or intangible property. Therefore, when the term “enforcement” is used in the context of IPRs, it can be understood as the right to exclude others from using it without permission and to assure the remedy of infringements of IPRs.

However, the lexicological definition does not tell anything about the type of

¹ Robert P. Merges describes in this context: “In the case of tangible property, informal arrangements with those physically proximate to valuable assets can in some cases do an adequate job of protecting those assets from theft. But in IP, it is very difficult to make effective arrangements along these lines. The enforcement technology of a central government apparatus has always been essential to any functioning system of IP protection.” (“Justifying Intellectual Property” Harvard University Press, 2011, pp. 93-94)













² The Webster’s Third New International Dictionary, unabridged, G&C Merriam Co., 1976


³ The Black’s Law Dictionary, Deluxe, 8th Edition


E-learning of IPR


These E-learning materials have been created as part of the JPO's Cooperation in Human Resource Development Program. Through these, users can access videos via web-streaming, as well as complete multiple-choice quizzes to check their learning outcomes.

*Example of "Study & Materials"


| Inventive Step (2017) | | | | |
|--|---------|---|---|---|
| Table of contents | Length | Watch Online | Print Materials | Print Audio Narration |
| Play All | 26 min. |  |  |  |
| I Overview of Inventive Step | 2 min. |  |  |  |
| II Procedure of Evaluating Inventive Step | 6 min. |  |  |  |
| III Examination Guidelines in JPO | 18 min. |  |  |  |

Click the [] icon of the selected item in the 'Print Materials' column to view the document in PDF format.

Click the [] icon to start the video clip.

Click the [] icon in the 'Print Audio Narration' column to view the transcription of the narration in PDF format.

*Example of "Exercise"


Exercise

Inventive Step

Question 1:

There are three important keywords for determining inventive step: "prior art", "a person skilled in the art", and "obviousness".

Which is the correct explanation for the person skilled in the art?

☒ **a:** An inventor or applicant, or their patent attorney

☐ **b:** A person having an ordinary skill in the art related to the invention and common general knowledge in the technical field as of the standard date of the claimed invention

☐ **c:** A person who successfully works an invention within three years from the date when the right of the invention is assigned from the inventor

(1) Select answer.

Submit

(2) Click the "Submit" button.

Contributions from a former long-term fellowship researcher



For Inventors, Detective Work at Patentscope Pays off



Mr. Alejandro Javier Cafiero (Argentina)
JPO Long-term Fellowship Researcher

(August 7 - December 5, 2019)



The patent information database of the Patent Cooperation Treaty (PCT) offers unique insights in the form of search reports that every inventor should take into account during their patent searching.



If you are an inventor, patent databases are fundamental for your activities. Whether you want to know if your invention is really new and different from what has already been invented, or you need to outline your invention, you'll need to spend time in the databases by searching, analyzing and evaluating search results.

There are some great resources that explain how to conduct a patent search (see References), and some

great free and paid services to aid inventors in this task. However, my intention in this article is to explain the importance of Patentscope in particular, and how the search reports and written opinions by examiners offer little-known but remarkably useful information that can prove invaluable to inventors.

During my four-month research stay at the Asia Pacific Industrial Property Center (APIC), I had the privilege to conduct research about how the Patent Cooperation Treaty (PCT) works, and how universities and companies from Japan make use of the system. One of the aspects I was most interested in was the PCT as a source of patent information. In this regard, Patentscope is the official patent information database of the Patent Cooperation Treaty (PCT).

One key aspect of the PCT as a source of patent information is the possibility to access International Search Reports (ISRs), Written Opinions (WOs) and International Preliminary Examination Reports (IPERs). The reports are elaborated in the PCT framework for PCT patent applications (patents with the prefix “WO-”).

These highly technical documents contain useful information for inventors including search strategies utilized by examiners to conduct searches for the invention’s prior art, the classifications of subject matter (IPC and CPC), the most relevant prior art documents found by the examiners, and the opinion of the examiners regarding novelty, inventive step and industrial applicability of the invention.

In a sense, the reports are actually detailed and timely “feedback” on the merits of the invention. They can and should guide the applicants about determining whether to continue the application, modify it, or abandon it.

It’s important to note that the European Patent Office (EPO) offers similar reports via their patent information database, Espacenet, and in the Global Dossier service.

Why are these reports so important?

The important aspect is that the reports are created foremost to help the PCT applicants. However, they also help other inventors working on the same or similar ideas. The public at large can access the reports and take note of the information and feedback given to the applicant, and determine whether such opinions and comments apply to their own inventions.

To clarify, let’s say Inventor A is working on a technology to produce biodegradable plastic from carbon dioxide. Inventor A considers that their invention is new and different from what’s already been invented. Inventor A decides to hire a patent agent, and they file an international patent application at one of the PCT receiving offices. For the sake of the example, let’s say Inventor A files a PCT application in the Japan Patent Office (JPO).

After a few months, the JPO sends the International Search Report (ISR) and the Written Opinion (WO) to Inventor A. By looking at the reports, Inventor A realizes there are many patents and documents that are very similar to their own technology. This prior art affects the requirements of novelty and inventive step of their invention.

The options for Inventor A are: to modify their patent in order to stay clear of the prior art documents (that is, to find which aspect of their invention is new and different), to modify their patent and ask for an additional international search (called “International Preliminary Examination, IPE), or to abandon the patent application altogether. Thinking about this problem, Inventor A decides to modify the patent application in the hopes of staying clear of the prior art present in the ISR and WO.

Months later, the JPO publishes the International Search Report (ISR) and the Written Opinion (WO) of Inventor A’s technology in Patentscope. Now the information can be accessed and analyzed by third parties.

Some months after the publication, Inventor B in Brazil is working on the idea to produce biodegradable plastic from carbon dioxide. Unbeknownst to Inventor B, however, Inventor A in Japan has also been working on a similar idea.

Inventor B then decides to conduct a patent search in Patentscope, in order to determine if their invention is really new and different from what's already been invented. During this search, Inventor B comes across Inventor's A patent. Inventor B is surprised about the similarity of the two ideas, but is also pleased to have found a prior art document before filing their own patent.

Knowing what we know now about the possibility to read the search reports of Inventor's A patent, Inventor B has the advantage of knowing which were the prior art documents found by the JPO examiner, and what the examiner had to say about Inventor's A patent. Did the examiner conclude that the invention had novelty and inventive steps? Which were the documents cited by the examiner? Do they relate to Inventor's B technology?

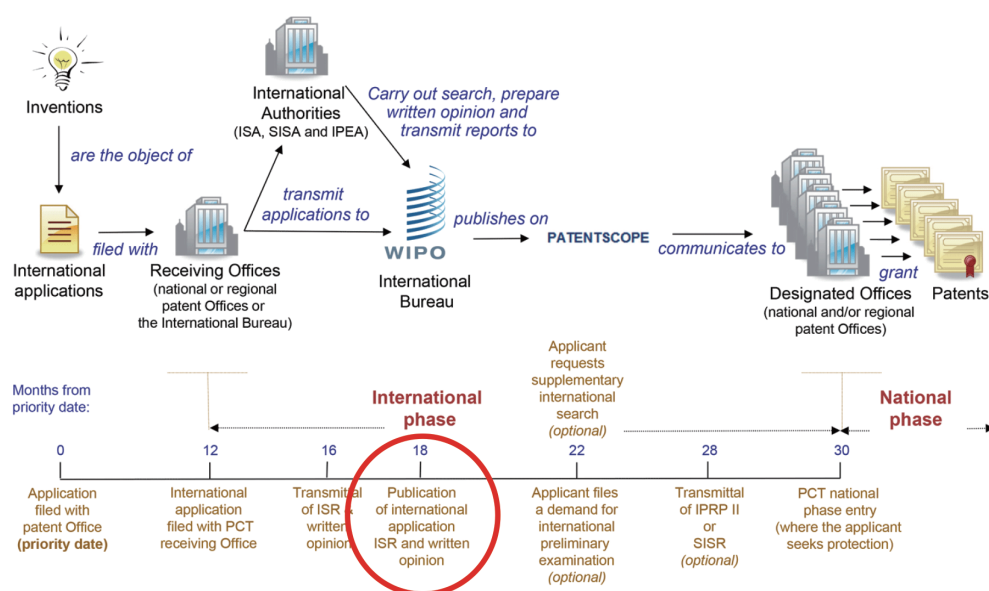
All this information is invaluable to Inventor B.

Taking the insights from the reports into account, inventor B could outline their own invention with better precision, cite the documents found by the JPO examiner in their own patent application (to describe why the invention is different), and draft a patent application that stays clear of the prior art documents found by the JPO examiner.

When and where are these reports published?

The reports elaborated by the examiners of the International Searching Authorities (ISAs) are published online via Patentscope. They are usually published a few months after the international application is filed in a PCT receiving office.

The following workflow shows the typical route of a PCT application, and the publication date of the reports:



Source: WIPO. PCT FAQs. <https://www.wipo.int/pct/en/faqs/faqs.html>. Highlighting by author.

How to locate the reports in Patentscope

For inventors, here's where the real detective work begins. Locating the search reports and written opinions can be a little complicated, but the new redesign of Patentscope made the process much easier for people without previous knowledge.

First, inventors have to locate the patent they are interested in. In this example, the inventor has conducted a patent search in Patentscope, and has located the following patent: "Method for producing plastic starting material and related substance from cyanobacteria" (WO2014142051).

40. WO2014142051 - METHOD FOR PRODUCING PLASTIC STARTING MATERIAL AND RELATED SUBSTANCE FROM CYANOBACTERIA

PCT Biblio. Data Full Text Drawings National Phase Notices Documents

40. WO2014142051 - METHOD FOR PRODUCING PLASTIC STARTING MATERIAL AND RELATED SUBSTANCE FROM CYANOBACTERIA

PCT Biblio. Data Full Text Drawings National Phase Notices Documents

PermaLink

International Application Status

C12N 1/12 2006.01 C12N 15/09 2006.01
C12P 3/00 2006.01 C12P 7/46 2006.01
C12P 7/62 2006.01

CPC
C07K 14/195 C12N 1/20 C12P 3/00
C12P 7/46 C12P 7/625 Y02P 20/134
View more classifications

AA PHB quantity (mg) per 100ml of cell cultivation fluid
BB NH₄Cl concentration (mM)
CC GT
DD ROX370

The inventor should notice that below the title of the patent, there's a navigation menu containing the following tabs: "PCT Biblio. Data", "Full text", "Drawings", "National phase", "Notices" and "Documents".

The search reports are located in the last tab, "Documents". After clicking the corresponding tab, it takes a little time for the page to load, but the inventor should see the documents related to that particular patent.

| Search and Examination-Related Documents | | | |
|--|---|---------------------------|--|
| Date | Title | View | Download |
| 15.09.2015 | [IB/373] International Preliminary Report on Patentability Chapter I | PDF (4p.) | PDF (4p.) , ZIP(XML + TIFFs) |
| 14.09.2015 | [ISA/237] Written Opinion of the International Searching Authority | PDF (3p.) | PDF (3p.) , ZIP(XML + TIFFs) |
| 14.09.2015 | English Translation of the Written Opinion of the International Searching Authority | PDF (4p.) | PDF (4p.) , ZIP(XML + TIFFs) |
| 18.09.2014 | [ISA/210] International Search Report | PDF (4p.) | PDF (4p.) , ZIP(XML + TIFFs) |
| 18.09.2014 | Translation of the ISR | PDF (2p.) | PDF (2p.) , ZIP(XML + TIFFs) |

In the section “Search and examination-related documents”, the inventor should be able to see and download the International Search Report (ISR), the Written Opinion (WO) and other related documents of the patent they are interested in.

As we have seen, locating the search reports requires some detective work, but the effort really pays off if you are an inventor. Now you have a wealth of information to improve your activities. Sherlock Holmes would be proud!

References

The Patentscope User Guide (2020). Available in English.

https://patentscope.wipo.int/search/help/en/users_guide.pdf

| INTERNATIONAL SEARCH REPORT | | International application No. PCT/JP2014/056115 |
|---|--|--|
| A. CLASSIFICATION OF SUBJECT MATTER C12N1/12(2006.01)i, C12N15/09(2006.01)i, C12P3/00(2006.01)i, C12P7/46(2006.01)i, C12P7/62(2006.01)i | | |
| According to International Patent Classification (IPC) or to both national classification and IPC | | |
| B. FIELDS SEARCHED Minimum documentation searched (classification system followed by classification symbols) C12N1/12, C12N15/09, C12P3/00, C12P7/46, C12P7/62 | | |
| Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched Jitsuyo Shinan Koho 1922-1996 Jitsuyo Shinan Toroku Koho 1996-2014 Kokai Jitsuyo Shinan Koho 1971-2014 Toroku Jitsuyo Shinan Koho 1994-2014 | | |
| Electronic data base consulted during the international search (name of data base and, where practicable, search terms used) CAplus/REGISTRY/MEDLINE/WPIDS/BIOSIS (STN), JSTPlus/JMEDPlus/JST7580 (JDreamIII), GenBank/EMBL/DDBJ/GeneSeq, UniProt/GeneSeq | | |
| C. DOCUMENTS CONSIDERED TO BE RELEVANT | | |
| Category* | Citation of document, with indication, where appropriate, of the relevant passages | Relevant to claim No. |
| A | AZUMA, M. et al., A response regulator Rre37 and an RNA polymerase sigma factor SigE represent two parallel pathways to activate sugar catabolism in a cyanobacterium <i>Synechocystis</i> sp. PCC 6803, <i>Plant Cell Physiol.</i> , 2011, 52 (2), p404-412, particularly, abstract, pages 406 to 407 | 1-19 |

WIPO Guide to using patent information (2012). Available in English and French.

<https://www.wipo.int/publications/en/details.jsp?id=180&plang=EN>

Use of Patent Information (including J-Platpat) (2016).

https://www.jpo.go.jp/e/news/kokusai/developing/training/textbook/document/index/use_of_patent_information_including_j-platpat_2016.pdf

Training course experience in Japan



Memories in Tokyo

Ms. Indra Rathakrisnan (Malaysia)
Intellectual Property Officer
Intellectual Property Corporation of Malaysia (MyIPO)



JPO/IPR Training Course on Anti-Counterfeiting Measures for Practitioners
(February 6 - 14, 2020)



My first visit to Japan was in the year 2015, when I had the privilege to do a short-term research fellowship program. The time that I spent in Tokyo was a cherished memory of mine. Simply put, I fell in love with Japan at first sight. I was exalted when I was informed that I was chosen to attend another training in Japan this year. When I was asked to share my experience in Tokyo, I was happy to be on board. I have too many things to share, but due to the word constraint, I will just limit myself to these three points.

Tokyo Subways & Trains

Oh my God! I have missed my train! No worries, this is Tokyo. You just need to take a few deep breaths and be calm for a while. Here we go, the next train will be arriving at your platform in a blink of an eye.¹ That is how efficient the Japanese trains and subways are. No wonder the Japanese train and subway systems are well-known for their efficiency and punctuality.

Having said that, the rush hour in Tokyo is on another level. It usually lasts from 7.30 to 8.30 AM on weekdays. I have heard from my friends² and also watched videos on how scary the rush-hour in Tokyo could be. Deep down, I wish to not personally go through that situation. Fortunately, the organizer of the training kindly adjusted the starting time of the first session of the training each day. Thanks to them, we were not exposed to this crazy rush hour experience on an everyday basis.

¹ Late to work because you missed the train? Nope, not a chance to use that excuse to your boss!

² Who have previously attended training at APIC-JIPII

However, there was a day when my colleague came down with some illness and faced some difficulties in walking. Thus, we decided to move early from the AOTS in order for us to reach APIC-JIPPI on time. At the subway station, my colleague and I were separated in different coaches as I had to ride in the ladies' coach. It was the famous rush-hour at that time. Once the door of the train opened, all of sudden I was pushed inside the coach by some unknown force. Where had the sweet and docile ladies with whom I waited for the train disappeared to?

I was still in a state of confusion when the train stopped at the next stop. At that time, another force pushed me deeper into that already over-packed coach in which I felt that my body was being churned³. My hand that was holding my bag was pulled a bit far from my body, and I was praying for my hands to be still intact by the time I was able to get out from that coach. On top of that, my height deprived me from reaching the hanging hand rail for support, which was not a helpful element in this situation⁴. While I was trying my best to get hold of the situation,⁵ we reached the next stop. This time, I felt as though another tidal wave hit me. I was literally pushed out from the coach onto the platform. I could feel myself start to panic, scared that I would fail to get back into the train. Fortunately, before I achieved the state of being in a complete panic, I was again 'pushed' back into the coach by the same unknown force. Being a fast learner,⁶ this time I managed to grasp the situation that I was in and come up with a solution. It is all about the art of letting go, and the key is to '*just follow the flow*'. Do not force, and don't be rigid. Instead, one has to be flexible and adaptable. Yes... I got it! I relaxed my body and just let the unknown force move me.⁷ I then managed to enjoy the rest of the journey. Finally, my stop came and I was able to push through the sea of the crowd and come out from the coach.

Surprisingly, I came to the realization that I actually liked the challenging morning-rush ride. It was an interesting experience for me. Having said that, I would rather not face this 'interesting' challenge on a daily basis. Thank you very much.

Traffic in Tokyo

I have been to several cities in Asia before, and was exposed to various traffic experiences. Confused, scared, clueless and worried are some of the adjectives that I can relate to myself in those situations. Simply put, I deeply appreciate and am grateful for living in Malaysia. It is not perfect, yet I can say that I am quite proud of the planned, structured and systematic routes and the traffic back in my country. Particularly, I am relieved about LESS HONKING in Malaysia. It is an undeniable fact that horns are installed for a reason, and it has the function of warning other drivers. However, incessant honking leads to irritation and challenging one's peace of mind.

To my amusement, I was once told by a local in one Asian country that honking is a way to communicate with other drivers 'heart to heart' on the road. Dumbfounded - yes, I was. Thanks to God, my sanity was intact till I returned to my home country.

However, after my visit to Tokyo, I admit that I have to take a moment to bow at their traffic. I never saw a country that was so disciplined and well-structured. Throughout my stay, there was almost no honking, no shouting, and definitely no cursing. Plus, the roads are super clean and well-maintained, without any sunken holes or potholes.

3 Exaggeration intended

4 My height was considered shorter than the average Asian woman's height.

5 By balancing my body and adjusting the neck angle to be able to breathe

6 Kindly ignore the self-boasting of mine.

7 Moved almost halfway down the coach

The drivers of the vehicles are so well-mannered and considerate. Once, I was walking along the pedestrian lane and reached the intersection. As I saw a car approaching, I waited for the car to move before I crossed the street (which is usually what we do in my country, or any other Asian country that I have travelled to before). To my surprise, this car stopped and waited for me to cross first! I, on the other hand, in an attempt to be polite by using hand gestures, asked the car to make a move first, but the driver of the car was ‘adamant’ to not proceed, and insisted that I cross the road first.

After a few passing shots between us, and upon feeling the desperateness in his eyes, I finally surrendered and crossed the road. I did not forget to bow to him⁸ while crossing, which he acknowledged. Well, this is not something I can expect in my country. It is always the other way around, where the pedestrians have to wait till the cars move before we can cross the road.

After some time in Tokyo, I kind of started to pamper myself with this privilege. I tended to cross the streets with utmost confidence, knowing that the cars would always give me way, until one day my friend made me face the cold hard truth. He reminded me, “Don’t forget to change your attitude (in crossing the streets) and get back to the reality once we return to our country. I don’t want to attend your funeral!” ‘Ouch’, I thought. Definitely, this privilege is something that I can only enjoy in Japan.

Safety in Tokyo

It is a well-known fact that Japan is a very safe country. According to the Global Peace Index 2019, Japan is the 9th peaceful country on the Earth.⁹ The crime rates are very low here in Japan, and one can walk at night without any fear. Back in my country, it is not advisable especially for ladies, to be out alone at night. However, when I was in Tokyo, I had never felt this safe to walk around, even at night. I have a poor sense of direction, and have a tendency to get lost.¹⁰ However, during my short stay in Tokyo, I found myself confident enough to move alone. Whenever I looked lost, there were always some good souls who would approach me and guide me to the correct direction. The language limitations never stopped them from being helpful. They would even go out of their way to assist people in need. Once, a Japanese *ojisan*¹¹ walked all the way to the convenience store that I wanted to go to, as he couldn’t explain the directions. The effort they put in just to make sure to help you till the end is really a wow factor.¹²

Apart from that, Japanese people are well-disciplined and honest. I have personally experienced this not once, but several times. Once, I left behind my smartphone at the Family Mart¹³ payment counter. The Japanese guy who was standing behind me left the queue and chased after me by saying, “Sumimasen, sumimasen!”¹⁴ till he was outside of the shop and able to return my phone. I was so grateful to get it back. I can’t imagine how I would have survived the rest of my stay in Japan without it. On another occasion, my purse slipped out from my winter jacket. I didn’t realize it until I heard a sweet Japanese lady calling out to me and handing over the purse to me. Overall, I felt nothing but safe when I was there. No wonder I have a soft spot for the Japanese people.

8 By the way, bowing is the norm in Japan, and believe me – it is infectious.

9 <http://visionofhumanity.org/app/uploads/2019/06/GPI-2019-web003.pdf>

10 Therefore, I always stick with my family/friends to save them a trip to go looking for me.

11 Japanese for “middle-aged man”

12 A quality or feature of something (Japanese) that makes people (me) feel great excitement or admiration

13 Convenience store in Japan, commonly referred as *konbini*

14 Excuse me in Japanese language – also referred to “Thank you”, “I’m sorry”, etc. varies according to the situations



I feel so glad to be given the opportunity to visit this beautiful land that consists of beautiful souls. It is never overrated to claim Japan as a country with a culture of courtesy. The culture, people, food, peacefulness and scenery are some of the things that I most loved about Japan. Will I go back again? Definitely!

Training Course Experience in Japan

Ms. Beatriz Camacho Calizaya (Peru)

Patent Examiner

The National Institute for the Defense of Free Competition and the Protection of Intellectual Property (Indecopi)



JPO/IPR Training Course on Design Examinations Under the Hague System

(January 10-17, 2020)



Hello every one!!!

I would like to thank everyone for this opportunity to share my experience as an APIC trainee. I was fortunate to participate two times in intellectual property (IP) in Japan.

The first time was in 2015, when I attended the two-week JPO/IPR Training Course on Patent Examination in Specific Technical Fields for Latin American Countries as a patent examiner. This course included participants from different countries in Latin America: three from Peru, two from Chile, three from Argentina, three from Colombia and three from Mexico. It should be noted that all participants had extensive experience in the field of patents, which was one of the requirements to attend the course. The course lasted two weeks, and included several speakers from the JPO staff as professionals working in the private sector. All participants had experience as patent examiners, and some also had experience in the field of teaching industrial property.

All in all, it was an intense program that was very well-received by all participant examiners, and whereby the working hours were very participative. It is also important to note the willingness of the organizers, hosts and coordinators to participate when discussing and confronting concepts of industrial property, as well as note their recognition of our long years of experience as examiners.

Now, the ten days that I was in Tokyo this time as a participant of the JPIO/IPR training course on Design Examination under the Hague System, in January 2020, the course was scheduled as follows:

- Jan. 10: Orientation (APIC Introduction/explanation of documents); outline of Hague Agreement; country report presentations
- Jan. 14: Courtesy Call to Executive JPO officials; design examination demonstration; sharing the Japanese experience on Hague Agreement affiliation
- Jan. 15: The role of the applicant's contracting party (indirect filing) and the designated contracting party; procedures for examination under the Hague Agreement
- Jan. 16: Advantages of the Hague Agreement system for attorneys, advantages of the Hague Agreement system for private companies
- Jan. 17: Overall discussion; evaluation meeting; closing ceremony

This seminar was highly organized with respect to accommodation, transportation, and study material.

The course also provided participants with information regarding one of the most important design offices in the world.



Finally, the course also provided us the opportunity to get in touch with an amazing country and culture.

Akihabara was the perfect place to discover state-of-the-art products. It is possible to spend all day there, discovering and testing all types of electronic devices at affordable prices. It was hard to decide what brands to buy, since to buy earphones, for example, I could choose from among dozens of world-known brands.

Ginza/Marunouchi is the place to get perfect outfits, as it is nice and elegant. The Sony Store and Apple Store are also located in Ginza, and my colleague bought an iPad.



Tokyo Sky Tree: The view here is breathtaking. It's better to book ahead of time, since it gets busy. There are two levels to see the city, and because of strong winds, we could only reach the lower level. The floor has small transparent windows, so it is possible to see the ground.

Tokyo Imperial Palace: This is a must-see spot! It is the main residence of the Emperor of Japan. It is built on the site of the old Edo Castle, and has huge gardens.

Odaiba: This is a popular shopping and sightseeing destination for Tokyoites and tourists alike. Major

attractions include:

- Palette Town, including Daikanransha (Ferris wheel), the Toyota exhibition hall called Megaweb, MORI Building Digital Art Museum, Tokyo Leisure Land, a Venice-themed shopping mall called VenusFort, and Zepp Tokyo
- Fuji Television studios, with a distinctive building designed by Kenzo Tange
- Miraikan, Japan's National Museum of Emerging Science and Innovation
- Rainbow Bridge, connecting Odaiba to the heart of Tokyo
- Aqua City, a shopping center featuring a chapel
- DiverCity Tokyo Plaza, a shopping center whose attractions include Unko Museum Tokyo, and the world's first Doraemon Future Department Store
- A replica of the Statue of Liberty, and
- Gundam Base Tokyo, featuring a 19.7-meter tall statue of Gundam



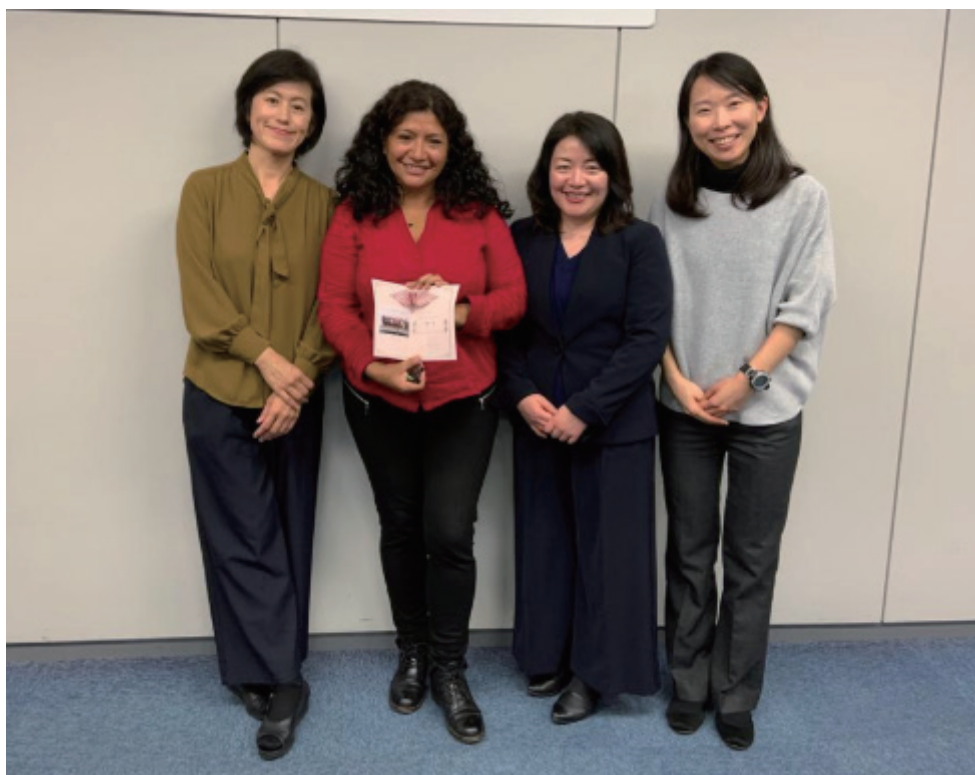
Vending Machines: The vending machine culture in Japan is unique. The proper thing to do is to buy your drink, enjoy it next to your vending machine, and deposit the empty bottle in the recycling bin next to the machine. You should never walk with your beverage or eat and drink on the streets or in public.

One weekend my colleagues from Brazil and Mexico, and my partner from Peru, were in Kamakura to visit the Great Buddha, which was originally housed inside a temple. The hall was destroyed by a storm in 1334, rebuilt, and then damaged by another storm in 1369, and rebuilt yet again. The last building housing the statue was washed away in the tsunami of 20 September 1498, during the Muromachi period. Since then, the Great Buddha has stood in the open air. The Great Buddha is a 5-minute walk from the Enoden Railway (a streetcar-like train) at Hase Station, the third station from Kamakura main station.



Then we went to Asakusa in the center of Tokyo. Asakusa's main attraction is Sensoji, a very popular Buddhist temple, built in the 7th century. The temple is approached via the Nakamise, a shopping street that has been providing temple visitors with a variety of traditional, local snacks and tourist souvenirs for centuries, which can easily be explored on foot.

Certainly, it wasn't my first time abroad for work, but for sure it was an experience that I will never forget! I learned new things, not only about IP, but also about Japanese culture and a little bit about the Japanese way of life. I hope to travel again to Japan for leisure and to have a good time. Most importantly, I found new friends—some of whom I still constantly communicate with now.



Experiences in Japan



Mr. Nelson Alexander Martin Cruz Tapia (Peru)
Specialist 2, Directorate of Inventions and New Technologies
National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI)

JPO/IPR Training Course on Patent Examination in Specific Technical Fields for Latin American Countries (January 22-30, 2020)



Hello everyone, I am Nelson Cruz and at the beginning of this year 2020 I had the great opportunity to be part of the patent examination training course in specific technical fields for Latin American countries. Without a doubt it was one of the longest trips I have made, and also the one with the greatest time differences (14 hours), so you can imagine it was quite an adventure even before arriving in Japan.

At first it took a bit of work to adapt to the weather and the time change, as well as to locate the addresses where we had to go and the train stations that we had to use. But then, with a little practice, help from google maps, and assisted by the maps they provided us before starting the training, we managed to locate everything well throughout the stay.

As you walk through the streets of the city of Tokyo, you can see a contrast between the old and the modern, with old structures from typical Japanese houses next to modern buildings, to very elegant restaurants. At this time of year (January) they were still in winter, so walking felt a little cold, however this did not reduce at all the desire to go for a walk and see the city. In many places you could see many people on the move, in the streets, on the trains and despite the large number of people traveling, the order they maintained caught my attention. Something that also aroused my curiosity was the precision with which trains moved, since the times are exact.



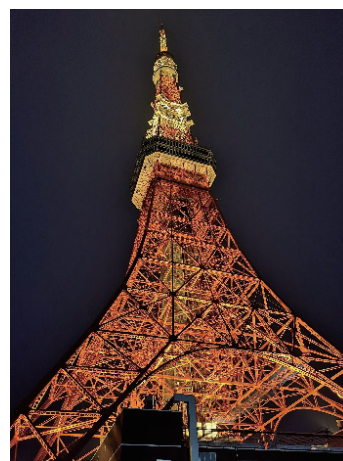
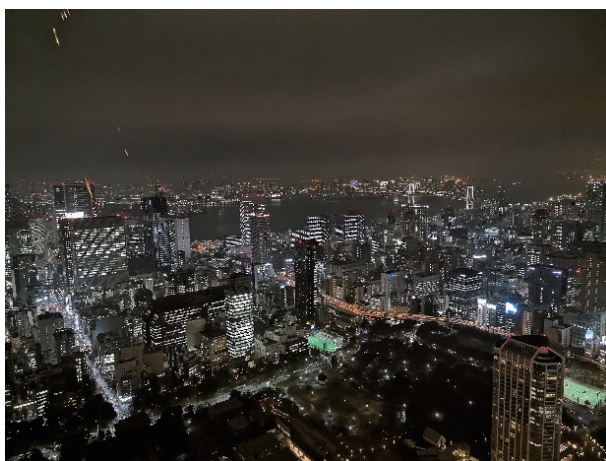
When Japan is mentioned, one of the things that comes to mind is cherry blossoms, which bloom in spring. As we traveled when it was winter, we found the famous cherry trees that were without flowers. In some parks, however, you could even see a few flowers blooming in the almost zero-degree temperatures. Seeing the number of trees they had in the parks made me think that in spring, those trees would look really beautiful with all their flowers.

In the streets where we walked, shops abounded where you could find almost everything. Since time was not on our side, we had to prioritize certain places. One of these was a place called the samurai museum, where they not only told the story of the samurai, but at the end of the tour we were able to dress up as samurai.

A very interesting place was also just outside Shibuya station where you can see the statue of the famous Hachiko, an unmissable place to take a photo. And in that same intersection of streets you can see some pedestrian crossings with many people crossing. This really caught my attention. In the same way I was surprised to learn of and see the Godzilla street where the top of the monster is on a very tall building.



I must emphasize that in order to appreciate the beauty of a city at night, you have to find a very high place. Of course, when seeing such a large city, I did not imagine how beautiful it would look from above. Luckily, Tokyo city has the famous Tokyo Tower, from which I could see how beautiful the city is with all the lights of the buildings. I even got to see Odaiba. It was without a doubt a spectacular view.



After visiting the famous Senso-ji temple and its many souvenir shops in Taito, and after crossing a sea of tourists, we luckily found a local fair where there was a lot of food, and within which a particular dish attracted my attention. Octopus base was the dish I decided to try, and it was delicious.



Taking advantage of the weekend that we had free, we were able to leave the heart of the city and go a little further and visit a city called Nikko, which is only 2 hours away by train. In this city we were able to enjoy its famous sanctuaries dating back over 400 years. Not only could you see the beautiful and well-crafted ancient structures, but you could also feel the spiritual atmosphere that these temples represent today.

As part of the visit to Nikko they recommended that we must stop and visit the waterfall and the lake. As always nature never ceases to amaze us, and this time it not only gave us snow, but also delighted us with the impressive Chuzenji lake and the Kegon waterfall, which gave us some postcard photos!

This trip not only allowed us to acquire new knowledge, expand the panorama, understand new places, but also allowed us to meet great people from other intellectual property offices, with whom day by day we were sharing, exchanging jokes, as well as making our criteria known. When analyzing specific topics, in my case, I had to interact with colleagues from Chile, Argentina and Brazil, from whom I could learn some things.

More and more examiners we are going through the experience of the Japanese intellectual property office, where we are not only learning more about the Japanese analysis methods and the database that they manage in the Japan office, but we are also expanding the network of examiners. And it is very satisfying to have a friend in some other intellectual property offices in the world, and surely that at some other time we will meet again.

Despite the short time of meeting, all the colleagues from the training believed that we took a little of each other to our places of origin since, thanks to the interaction of all the participants, we were able to learn a little more about the reality and criteria that they are dealing with in neighboring offices.

Academically, I must point out that with the great experience and broad mastery of the subject of the speakers, especially Mr. Matsuda, high-level training was achieved. Finally, it was not only possible to expand our knowledge but also to learn and share experiences with other colleagues from other intellectual property offices.

Celebrating Creativity in the Time of Corona



Ms. Patricia Davide (Philippines)

Junior Partner

Calderon Castillo Tampon Demano & Apolinario

JPO/IPR Training Course for Practitioners Specializing in Trademarks

(February 13-27, 2020)



A lot can happen in a day, let alone two weeks.

To say this of the *JPO/IPR Training Course for Practitioners Specializing in Trademarks* held last 13 to 27 February 2020 would be an understatement. Little did we know we were on the cusp of what the United Nations Development Programme would later describe as “the defining global health crisis of our time and the greatest challenge we have faced since World War II.”

Under the wire

As early as the first week of February, the program organizers had already shared some material with us on how to stay protected against the corona virus disease (COVID-19), and outlined the precautionary measures they were ready to take as soon as we landed in Tokyo. But it was not until the day of my flight from Cebu, Philippines that I realized the matter was not to be taken lightly. All of the cabin crew and most of the passengers onboard were wearing masks. And as I made my way to the Tokyo Kenshu Center (TKC) from Narita Airport, there were only a handful of people on the train without masks.

While mask-wearing, though not mandatory, was highly encouraged at that time, the term ‘social distancing’—at least in the context we know now—was virtually unheard of. Our first trip out of Kita-Senju the following day also became our initial foray into the idiosyncratic experience that is the Tokyo Metro at rush hour. From then on, our daily commute to busy Kasumigaseki district made us feel like true locals. In a sea of people standing shoulder to shoulder, scrambling in and out of the cars at every stop, there was a surprising sense of calm. By the time we reached our destination, I couldn’t care less about the sheer volume of commuters headed towards the exit, as I was more fascinated by the steady rhythm of shoes tapping against the floor, up and down the stairs. Amid chaos, there was order. Amid the morning frenzy, there was beauty.

Just a couple of days into the program, we were given the option to return to our home countries by the end of the first week because of the growing number of COVID-19 cases reported not just in Japan, but around the world. Except for two of our co-participants (whose presence we immediately missed), the

rest of us decided to stay until the end.

We were lucky that our schedule allowed us to explore beautiful Tokyo at night and on weekends, but even luckier to visit the Suntory Hakushu Distillery before it was temporarily closed to the public due to COVID-19. I still remember the thrilling atmosphere in the bus as soon as we arrived at the distillery a little before noon. We had already been told that if any one of us did not pass the temperature check, none of us could get down and join the tour. So you could just imagine all of us holding our breaths in silence until the last person was finally cleared for entry. Cheers of relief followed soon after. That moment in itself was unforgettable!

Moving forward

Back in the session halls, Mr. Masayoshi Yasuhara, our lecturer on Trademark Infringement (Case Studies), made a remarkably interesting point which resonated with me. He emphasized the need for more consistency and objectivity in intellectual property (IP) practice, bearing in mind the subjectivity that comes with it from examination to enforcement. The Japanese IP system works because the procedures in place offer a certain degree of predictability in an otherwise volatile setting, with examiners and magistrates alike inevitably coming in with biases brought about by their own diverse backgrounds. I would even go on further to say that the Japanese IP system continues to be at the forefront of intellectual property rights because this predictability is balanced with an insatiable thirst for improvement and innovation. It is a system that constantly adapts whenever called for or necessary in our ever-evolving world.

The world has certainly changed because of COVID-19. All this time in isolation made me reflect on what Mr. Yasuhara said, and see it in a different, broader light.

COVID-19 was officially declared a pandemic by the World Health Organization on 11 March 2020, less than two weeks after we completed our training course in Tokyo. This unprecedented global crisis served to redirect us to the reality that we live in a world of uncertainty. But it has also presented a unique opportunity for connection and creativity—an opportunity to rethink the way we live and go about our lives. In these changing times, we are reminded of the value of pushing boundaries, of going beyond our limitations. As they say, crisis breeds creativity. And doesn't creativity lie at the heart of intellectual property? In transitioning to the “next normal,” we bounce back the best way we know how. As in IP law, we continue to innovate. We continue to create.

A lot can happen in a day, let alone two weeks.

Ours was an experience like no other. For all the lessons it taught, I am truly grateful.



Karaoke night at TKC



Touring the Suntory Hakushu Distillery grounds
in our masks



The ladies with APIC coordinators and our interpreter



The gentlemen with Mr. Soichi Yoshida of the JPO

(Photos by Agatha Sarines and Niphaphone Simoungkhot)

The Good & the Glorious: My Musings in the Land of the Rising Sun

Ms. Achala Nishadi Anuruddika Jayawardene (Sri Lanka)
Attorney-at-Law/ Associate, Patent Law Section, Intellectual Property Division
Varners



JPO/IPR Training Course for Practitioners Specializing in Patents
(October 16 - November 1, 2019)



I am Achala Jayawardene and I have been working as an Associate at the Intellectual Property Division of Varners, a leading law firm in Sri Lanka, for the last ten years. I started my work in the area of trademarks and industrial designs, and was entrusted with patents within a short time. Thus, my main area of experience is in patents.

When I was selected in October 2019 for the ‘JPO/IPR Training Course for Patent Practitioners’, I realized that it was an opportunity I should not take lightly. I was well aware of the extensive knowledge and experience that I would gain from a training course organized by the Japan Patent Office and the Asia Pacific Industrial Property Center. Moreover, I was aware and was also informed by many that the knowledge I would gain from such a course would be invaluable and incomparable to any other. I was grateful for this opportunity, and determined to face the challenge of entering Japan in the aftermath of Typhoon Hagibis in October 2019.

This was my very first visit to Japan. I treasured the opportunity more, because I did not see this as merely a sightseeing trip - ticking off important places to visit, as one would do if one was to visit as a tourist.

My visit was a part of a training program, and it gave me an opportunity to travel by train to the Japan Patent Office (JPO) and Asia-Pacific Industrial Property Center (APIC) daily during the entirety of the program. This would have been difficult to grapple with on my own, but I am happy to have had the company of a colleague from Sri Lanka, and of course the assistance of all colleagues that participated in the training course. It was refreshing to see such an amiable group of people from such diverse areas of expertise. From the very first day, we discussed the course material and exchanged knowledge and experience from our respective countries. We bonded so strongly that it felt like we had been friends forever.

This training program was important to me personally as well as professionally, and was an experience that was empowering in both aspects. Experiencing life in Japan, from being sheltered and well taken care of by the AOTS Tokyo Kenshu Center (TKC), to working with colleagues from Argentina, Brazil and Mexico in the western hemisphere—extending to South Africa and then India, Indonesia, Malaysia,

Thailand, Vietnam, Thailand and Philippines—we were happy to join different groups for different activities. This helped broaden our knowledge of the subject matter, as we discussed amongst ourselves how such issues are addressed within our countries, and the difficulties faced therein. Therefore, I inherited a wealth of knowledge at the APIC center, together with the shared personal experiences of the participants. Even though a majority would agree with me that we enjoyed working in groups such as mock trials, claim drafting, and Mock Licensee Negotiation (role play), I would like to say that the insight and expertise shared by the panel of lecturers, who were all experts in their respective fields, helped broaden my horizons immensely. I am restraining myself from naming the lecturers, as I would not be able to name them all, and it would be an injustice to such an eminent group of teachers to leave anyone out.

I would also like to write about a few memorable experiences I had away from APIC and JPO, but would not dare compare them with any other, as every experience was special and memorable.

First and foremost, I will always put up my hand and say proudly that I was in Japan during the enthronement ceremony of Emperor Naruhito, the new Emperor of Japan, which was held in October 2019 and marked the beginning of the Reiwa era. And I will also happily declare that I was there when the Rugby World Cup was hosted by Japan! I was delighted to share in the national pride when the Japanese team went further than predicted, and our collective group experience was made more interesting by the fact that we had an ardent South African supporter in our flanks.

Amidst assignments and a tour organized by AOTS and Kanagawa Systematized Goodwill Club (KSGG), we did our best to find our own unique experiences. I consider myself fortunate for being able to witness a performance of Romeo and Juliet at the new National Theatre in Tokyo, and especially proud that I was able to fit it into



a weekend where I believe I comfortably covered 10,000 steps a day. I am so glad to tick the box to say that I enjoyed the ballet, and with my colleague from Sri Lanka, we managed to navigate and arrive at TKC(AOTS) on time.

I regret missing the opportunity to see Mount Fuji. Instead, I decided to take on the experience of ikebana at the TKC (AOTS) center, which was a pleasant, worthwhile experience as I watched flowers and sprigs flow in tune to a graceful lady.

This brief recollection of my experiences would be incomplete if I did not include my visit to the Samurai Museum in Shinjuku. It was a lesson in history, and gave me a deep insight into the ways of life in Japan in the past. I was happy to be able to purchase a miniature statue of a samurai in full regalia as a souvenir for my nephew, taking utmost care to return with the same packing, as I knew he



would treasure it. To my great surprise, airport security in Japan found a miniature sword as part of the regalia, which I had failed to notice. While this caused only a brief but humorous commotion to my otherwise sedate trip home, I was grateful for this unique ‘surprise’ which was bestowed on me by a “samurai” in full regalia, and I did not hesitate to add it to my memories.

These vignettes of last year pull me to draw a comparison and contrast between two cities I visited: New York in May, and Tokyo in October. These two visits made me draw parallels about the experience of traveling by train for more than an hour each day, and gave me a unique perspective. Both cities are in the spotlight because they belong to economically-driven countries, but I drew a contrast between the two as I experienced both discipline and order in Japan. I am happy to have experienced the retaining of culture and social etiquette in Japan, and I will always remember the warmth in the eyes of a group of senior ladies as they thanked me for a small gesture of goodwill, and continued to thank me until I left the train.



Last but not least, my appreciation goes to a gentlemen at the Kanagawa Systematized Goodwill Guide Club (KSGG) when we visited Kamakura. He managed to seek us out and take us to see a monument of one of the past presidents of Sri Lanka, the late Honorable Mr. J. R. Jayewardene, who captured hearts when he said “Hatred ceases not by hatred, but by love”.

I would like to thank JPO and APIC, as well as TKC, for the knowledge imparted and the wonderful memories that we carried back with us to our respective countries. I find myself better educated and more culturally appreciative as a result. What I have gained from my time in Japan will continue to broaden my mind and open new pathways for both professional and personal fulfilment. But most importantly, the memories will last a lifetime.



Articles from former trainees



Encouraging Results Shown as Brazilian PTO Taskforce Tackles Patent Examination Backlog



Mr. Gustavo Simões (Brazil)
Technical Specialist, International Department
IPD Analytics

JPO/IPR Training Course for IP Protection Lawyers
(18 November - 4 December, 2019)



Brazilian patent attorneys are more than used to hearing the same questions when talking to colleagues from around the world: Is the patent backlog in Brazil getting worse? I hear it takes more than ten years to get a patent granted in Brazil, but is that true? Do you see clients in Brazil abandoning old patent applications that are still waiting for examination?

Although the answer to these questions has sadly been yes, things have been changing since August 2019. The Brazilian PTO (BPTO) implemented the so-called “*Project to Fight Patent Examination Backlog*”, a temporary program that addressed the issue through a new and encouraging perspective.

The project aims to reduce 80% of the queue of pending patent applications within two years.

Its main concept is based on the publication of two new preliminary official actions with simplified content: one involving the citation of prior art documents found in the searches performed by patent offices from other countries, when available; and the other involving the citation of prior art documents found in the searches performed by the Brazilian PTO itself.

In this simplified process, the official actions are issued without technical analysis or commentary by the BPTO’s examiner, which means that the Brazilian BPTO can issue several official actions every week in a semi-automatic process. An electronic system retrieves the prior art documents from some international databases, and compiles a standardized technical report that needs little input from the examiners.

This clever solution allows the BPTO to publish an elevated number of official actions without having to increase the number of examiners, which would be more costly and time-consuming.

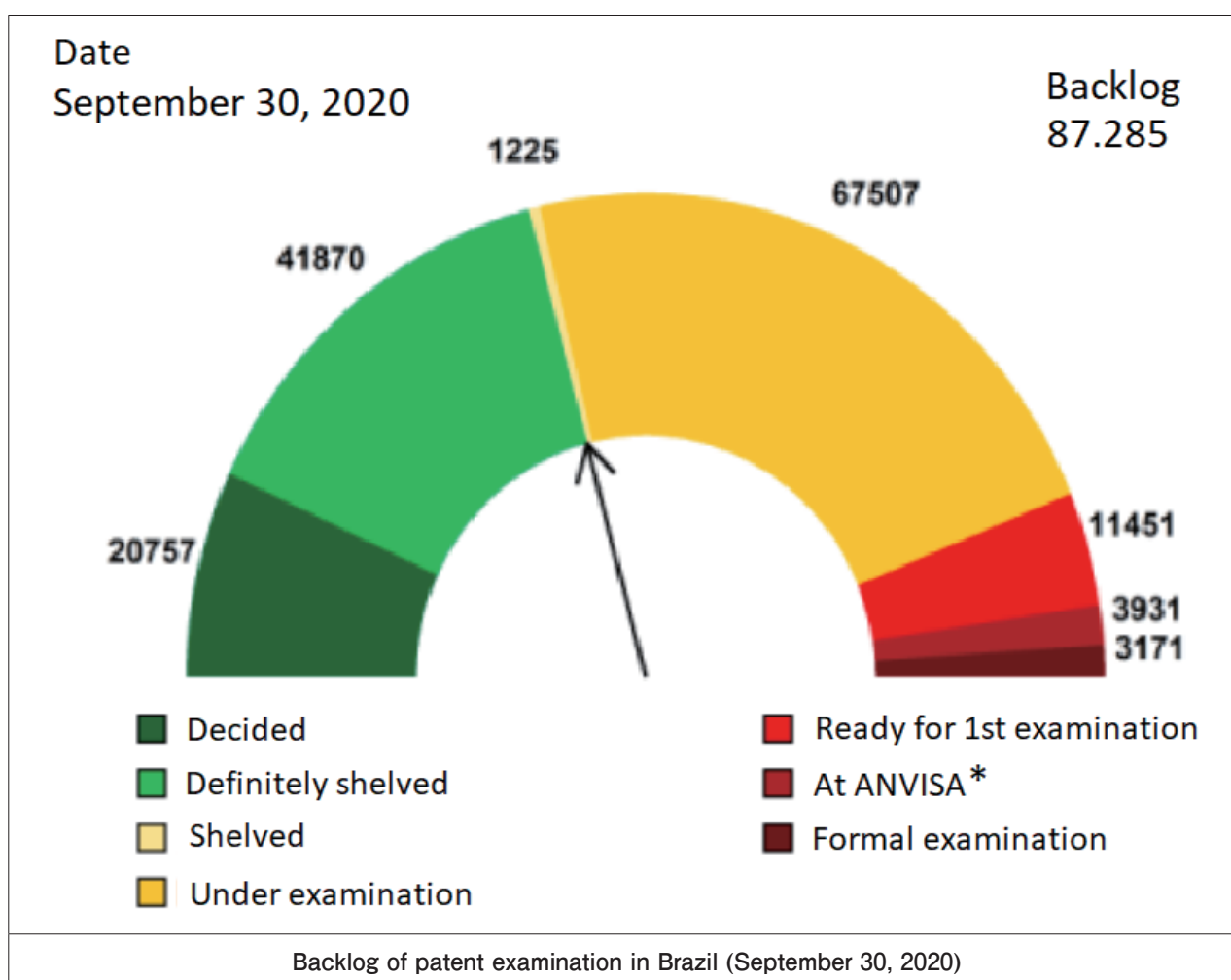
Another smart move was to make the lack of response to the preliminary official action lead to the definitive shelving of the application, and the presentation of an unsatisfactory response lead to the rejection of the application. In such cases, it is still possible to file an appeal.

Therefore, BPTO examiners have been able to deal with the number of responses to these preliminary official actions by the applicants because on the one hand, there are a lot of old patent applications being abandoned, particularly by lack of response to the preliminary official action – thereby greatly reducing the backlog on its own, and avoiding examiners “wasting time” analyzing applications that were going to be abandoned after the issuance of the first official action. On the other hand, most of the responses presented by applicants involve complying with the prior-art documents cited, usually adapting the set of claims to the ones granted in Europe and the US, which leads to quicker granting of the applications.

For all these reasons, the results so far have been very positive.

The number of patent applications waiting for examination dropped from 147.743 to 107.556 – a 27% reduction in just about ten months of the project. This number is expected to drop even more in the following weeks, considering that all deadlines, suspended by the BPTO at the beginning of the covid-19 pandemic, are now ongoing.

Please refer to the chart below, representing the situation on September 30, 2020, for more details.



Source: Adapted from the Brazilian PTO's website:

<https://www.gov.br/inpi/pt-br/servicos/patentes/plano-de-combate-ao-backlog>

* ANVISA is the Brazilian National Health Surveillance Agency.

Some applicants were struggling at the beginning of the project, not knowing how to deal with an official action that had virtually no opinion from an examiner; simply a list of the relevant prior art (which sometimes are not even relevant).

After a while, everybody now seems to be getting the hang of it. Firstly, it is clear that the best way to go is performing amendments to conform the pending set of claims to a granted application, especially from the EPO or the USPTO, but also presenting strong arguments sustaining the patentability requirements of the application in view of the prior art documents. Amendments alone may not be sufficient, as the differences regarding the prior art may not be evident from the claims.

In case no amendments are needed, strong argumentation in view of the cited prior art should still be presented.

Secondly, it is also clear that a good relationship with a Brazilian patent attorney helps a lot. There are several specific amendments that are not well-accepted by the BPTO, and some granted sets of claims in the U.S. and Europe would simply fail in Brazil. Therefore, additional input from Brazilian patent attorneys is common when receiving instructions for claim amendments (or at least should be, if you have a good contact in Brazil).

It is important to point out that all responses to the Preliminary Official Actions are being normally analyzed, and that additional official actions may be necessary – this time with technical input from the examiners. That is: following the simplified report, regular examination will take place.

This project is certainly changing the way that Brazil is positioned within the patent landscape worldwide. Companies willing to file their patent applications are being given a huge incentive, knowing that the ten-plus years of waiting for their granted patent are in the past, and also that the high quality of technical examination is being maintained.

Several institutions declared official support for the project, including Brazilian IP associations and industrial/pharmaceutical organizations, most notably the Japan Pharmaceutical Manufacturers Association in Brazil (JPMA). These parties recognize the effort from the BPTO in resolving the patent examination backlog issue, and understand that this project is the best way to go: in other words, expediting examination without damaging the rights of the applicants.

But these are not the only positive changes happening within the BPTO. Examiners have received intensive training and are perfectly adapted to their new “work from home” duties, amplified by the covid-19 pandemic. As a result, during these past weeks of turmoil, the BPTO has continuously issued new official actions, even with the deadlines suspended.

Also, during the last few years, several examination guidelines have been revised, modernizing the BPTO understandings in different areas. It is now easier to protect inventions related to computer programs, artificial intelligence, and the like. It is also simpler to adapt industrial design applications to BPTO requirements, overcoming years of discussion regarding troubled priority claims. New examination guidelines are also expected to be published soon regarding chemical and biotech patent applications.

All of this points toward the fact that 2020 is still a very good year to file patent applications in Brazil, and should be the case for years to come. Brazil is back on the map – and for an excellent reason indeed.

Industrial Designs in Chile



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JPO/IPR Training Course on Design Examination under the Hague System
(January 1-17, 2020)



This article refers to the legal provisions on Industrial Designs in Chile under the current Industrial Property Law No. 19.039, and the proposed amendments thereto, which introduce a new procedure without substantive examination and are currently under consideration by the National Congress.

IP Law No. 19.039

Under the Chilean Industrial Property Law No. 19.039 (IPL) of 1991, an Industrial Design (ID) is any three-dimensional form, whether associated or not with color, and any industrial or handicraft item that serves as a pattern for the manufacture of others; and is distinguishable from similar ones because of its form, geometrical shape, ornamentation or a combination thereof, provided that those features give the ID a special appearance perceptible by sight, in such a way that a new set of features results (art. 62 IPL).

The IPL establishes that an ID shall be deemed new when it differs significantly from known industrial designs, or combinations of features of known industrial designs.

Packages and containers for the transport or handling of goods may be protected as ID, provided that they fulfil the aforementioned novelty requirement. The Chilean Institute of Industrial Property, INAPI (www.inapi.cl), allows applicants to file a partial design by clearly showing the claimed part in solid lines. The other area, which shall not be included in the protection, must be displayed using broken lines. Chilean IPL allows only one design per application.

Protection of industrial designs under IPL does not prevent them from having protection as intellectual property (copyright), according to the provisions of the Copyright Law No. 17.336 (art. 62 bis IPL).

However, protection as ID is not allowed when the appearance is entirely dictated by technical or functional considerations, without any arbitrary contribution added by the designer. Likewise, ID protection is not permitted for apparel products of any kind, and those consisting of a form whose exact reproduction is necessary to allow the product incorporating the design to be mechanically assembled or connected to another product of which it is part. This restriction shall not apply to products where the design is based

on a form intended to allow for the assembly or multiple connections of the products, or the connection of those products within a modular system (art. 63 IPL).

If protection for an ID has been previously filed abroad, the applicant may claim priority for a period of six months as from the filing date in the country of origin (art. 20 bis IPL).

IPL protection for industrial designs is granted for a non-renewable period of ten years, as from the application date (art. 65 IPL).

The granting procedure of ID is currently subject to the same procedural rules provided for patents. First, an examination of the formal requirements is completed by INAPI, which is mainly aimed at verifying that the corresponding documents (description, drawings) have been attached to the application. At this point, the Title and Classification is assigned to the application according to the Locarno Classification.

Once the formal examination is approved, an excerpt of the application must be published by the applicant in the Official Gazette. The excerpt is issued by INAPI, and includes the most representative drawing of the application. The applicant may request deferment of publication for a term of six months, counting from the application filing date.

Any third party with a legitimate interest may file an opposition to the application within 45 days as from the date of publication (art. 5 IPL). INAPI shall notify the applicant of the opposition, if there is any, providing a term of 45 days following the notification to submit a response. Upon expiration of said period, the opponent has a 45-day term to provide further evidence aiming to prove that the application does not fulfill the legal requirements.

The substantive examination is performed by an ID examiner who issues only two reports, including a search in the technical field of the application, and including the documents submitted with the opposition, if applicable, to ascertain whether or not the subject matter of the application complies with the legal requirements.

The applicant and opponent, if applicable, have the opportunity to respond to each of the examiner's two reports within the term of 60 days, after which a final decision is issued granting or rejecting the application (art. 7 IPL).

The decision of rejection of the application or opposition may be appealed before the Industrial Property Court (TdPI), an external entity to INAPI that specializes in industrial property and with exclusive venue on this matter. The decisions of the TdPI, may be revised by the Supreme Court of Justice through an extraordinary action (art. 17 bis IPL).

The average processing time in 2019 for ID applications in Chile was 14 months. Most ID applications filed with INAPI correspond to packages and containers for the transport or handling of goods (class 09 of Locarno); means of transport or hoisting (class 12); and recording, communication or information retrieval equipment (class 14).

| Official Fees for ID Applications under Law N°19.038 in June 2020 | | |
|---|------------------------|--------|
| | Forex: 1 USD = 800 CLP | |
| | CLP | USD |
| Filing Application Fee | \$ 50.372 | \$ 63 |
| Publication in the Official Gazette | \$ 40.000 | \$ 50 |
| Examination Fee | \$ 328.000 | \$ 410 |
| Fee for first period of 5 years | \$ 50.372 | \$ 63 |
| Fee for second period of 5 years | \$ 100.744 | \$ 126 |
| Total | \$ 569.488 | \$ 712 |

ID Certificate of Deposit according to the Industrial Property Draft Law

The complex procedure for patents applicable to ID applications, along with the filing fees, have both resulted in underutilization of the system by local designers, given the fact that the dynamic nature of their creations requires more agile and expedited proceedings. In order to simplify, in the draft law, which is currently under consideration before the National Congress, a new procedure without substantive examination has been introduced, which may be required at a later stage should any controversies arise.

The proposed new procedure begins with a formalities examination, in order to verify compliance with the formal filing requirements established in the IPL.

If any errors or omissions are noted in the formalities examination, the applicant is required to make the corrections or clarifications, and to submit the pertinent documentation within a term of 30 days, without thereby losing priority date. If errors or omissions are not corrected within the said period, the ID application is considered as not having been filed.

After having verified that the formal requirements have been fulfilled, or that the errors or omissions have been duly corrected, INAPI will issue a Certificate of Deposit for the ID application, noting that the certificate has been issued in accordance with the abbreviated procedure for obtaining an ID certificate of deposit, and has therefore not been subject to a substantive examination.

The ID Certificate of Deposit is granted for a period of fifteen years from the application filing date. The certificate provides its holder with a certain date for the purposes of verifying, in an eventual substantive examination, the fulfilment of the substantive requirements of the ID according to article 62 IPL.

Once the ID Certificate of Deposit is issued, an excerpt of the application is published in the Official Gazette.

| Official Fees for ID Certificate of Deposit if the IP Draft Law was in force in June 2020 | | |
|---|------------------------|--------|
| | Forex: 1 USD = 800 CLP | |
| | CLP | USD |
| Filing Application Fee | \$ 50.372 | \$ 63 |
| Publication Certificate of Deposit with Formal Examination in the Official Gazette | \$ 40.000 | \$ 50 |
| Total | \$ 90.372 | \$ 113 |

After the publication date, both the certificate holder and any third party may request, at their own cost, the ID substantive examination in order to verify if the ID actually fulfils the substantive require-

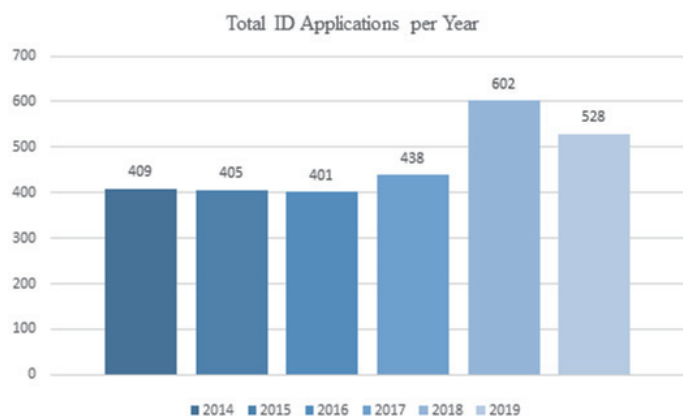
ments established in article 62 IPL. The said examination will be carried out following the general ID procedure set out in the IPL.

If the aforementioned substantive examination does not fulfill the legal requirements, INAPI will proceed *ex officio* to cancel the Certificate of Deposit.

However, if the substantive examination is approved, an excerpt thereof shall be published in the Official Gazette. The application proceeding for the ID claimed by the corresponding Certificate of Deposit will also move forward in accordance with the general rules of the IPL, and opposition may be submitted against it.

Upon expiration of the opposition term without it having been submitted, or once the opposition procedure is concluded, INAPI will issue the resolution of granting or rejecting the ID application. If the ID application following the Certificate of Deposit is granted, it will be considered for all purposes as an ID application filed in accordance with the general procedure.

| Official Fees for ID Certificate of Deposit with substantive examination if the IP Draft Law was in force in June 2020 | | | |
|--|------------------------|------------|--------|
| | Forex: 1 USD = 800 CLP | CLP | USD |
| Filing Application Fee | | \$ 50.372 | \$ 63 |
| Publication Certificate of Deposit with Formal Examination in the Official Gazette | | \$ 40.000 | \$ 50 |
| Examination Fee | | \$ 328.000 | \$ 410 |
| Publication Certificate of Deposit with Substantive Examination in the Official Gazette | | \$ 40.000 | \$ 50 |
| Fee for first period of 5 years | | \$ 50.372 | \$ 63 |
| Fee for second period of 10 years | | \$ 201.488 | \$ 252 |
| Total | | \$ 710.232 | \$ 888 |



India: A Brief Guide to the Trademark Registration Process



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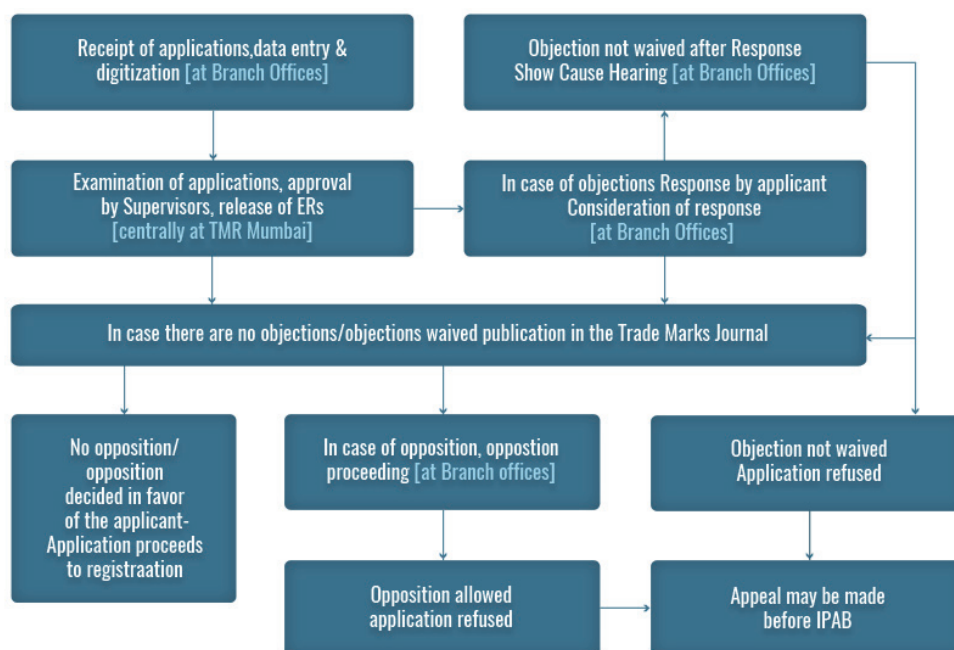
JPO/IPR Training Course for Practitioners Specializing in Trademarks
(February 13 - 27, 2020)



As noted, India follows a “first-to-use” principle when it comes to trademark rights. At the same time, the registration of a trademark clearly provides stronger protection in terms of the rights to its exclusive use, and statutory protection from its unauthorized use, by any third party.

When a business comes up with a new trademark, it is advisable as a first step to carry out clearance searches into the Trade Marks Registry’s database, along with common law or internet searches. This is done in order to have a better assessment of the risks to registration and use posed by prior close or similar trademarks, if any, that exist on the Register, as well as their actual use in the marketplace.

Steps involved in the registration of a trademark



(Source: <http://www.ipindia.nic.in/workflow-chart.htm>)

The following legal provisions of the Trade Marks Act, 1999 and the Trade Marks Rules, 2017 deal with different stages of a trademark application, from filing through its prosecution until registration and renewal:

Application for registration (Section 18)

- Any person or organization claiming to be the proprietor of a trademark, which is already in use or purposed to be used, may apply for registration of that trademark.
- It is possible to file a multi-class application with the payment of fees for each such additional class of goods or services.
- Upon examination, the Registrar may refuse the application, or accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as s/he may think fit.
- In case of a refusal or conditional acceptance of an application, the Registrar has to record in writing the grounds for such refusal or conditional acceptance, and the materials used in arriving at this decision.

Withdrawal of acceptance (Section 19)

The Registrar may, after hearing the applicant, withdraw the acceptance of an application before its registration, if the application has come out as being accepted in error or without any necessary conditions or limitations, etc.

Advertisement of application (Section 20)

- After acceptance, the application proceeds to advertisement in the Trade Marks Journal in the prescribed manner together with the conditions or limitations, if any, subject to which it has been accepted.
- When any error in the application is corrected after advertisement, the Registrar may, as per his or her discretion, cause the application to be re-advertised, or notify the correction or amendment made in the application in the form of a corrigendum in the Trade Marks Journal.

Opposition to registration (Section 21 read with Rules 42 to 50)

- Notice of Opposition:** The opposition to registration of an application can be filed within a non-extendable period of four months from the date of advertisement or re-advertisement of an application.
- Counter Statement:**
 - The Registrar serves a copy of the Notice of Opposition upon the Applicant and/or their counsel on record, and the applicant has to file its Counter Statement within a non-extendable period of two months from the date of receipt of the Notice of Opposition. If the Applicant fails to do so, the application becomes liable to be ordered as abandoned.
 - If the applicant files its Counter Statement, the Registrar serves a copy of the same upon the person filing the Notice of Opposition.

c) Evidence in support of opposition:

- Within two months from the date of receipt of the Counter Statement, the Opponent has to file its affidavit of evidence in support of opposition along with all relevant exhibits, and a copy of the same is simultaneously served upon the Applicant. Alternatively, the Opponent has the option of informing the Registrar and the Applicant in writing that it does not wish to file evidence in support of opposition, but intends to rely on the facts stated in the Notice of Opposition.
- If the opponent takes no action within the specified time, the opposition becomes liable to be ordered as abandoned.

d) Evidence in support of application:

- Within two months from the date of receipt of the copy of affidavit in support of opposition, or the intimation that the Opponent does not desire to file any evidence in support of opposition, the applicant files its affidavit of evidence in support of application with a copy to the Opponent, or informs the Registrar and the Opponent that it does not want to adduce any evidence, but intends to rely on the facts stated in the Counter Statement, and/or on the evidence already left by it in connection with the application in question.
- If an applicant takes no action within the prescribed time, the application becomes liable to be ordered as abandoned.

e) Evidence in reply by opponent: Within one month from receipt by the Opponent of the copies of the Applicant's affidavit and exhibits, the Opponent may file its affidavit of rebuttals/ evidence in reply, and simultaneously serves a copy of the same to the Applicant.

f) Hearing and decision:

- After the closure of the evidence, the Registrar gives notice to the parties re. the date of hearing.
- A party to the proceeding may request for adjournment of the hearing with reasonable cause at least three days before the date of hearing. No party is to be given more than two adjournments, and each adjournment will not be for more than thirty days.
- If the Applicant is not present at the adjourned date of hearing and at the time mentioned in the notice, the application may be treated as abandoned.
- Similarly, if the Opponent is not present at the adjourned date of hearing and at time mentioned in the notice, the opposition may be dismissed for want of prosecution and the application may proceed to registration.
- The Registrar, after considering the oral submissions and written arguments of the parties, proceeds to pass the final order in the case.

Correction and amendment (Section 22)

It is possible to file a request to rectify or amend any typographical error in the application. When it comes to alter the goods or services, one can file an amendment to delete the existing goods/services or limit their scope, but cannot add any new goods or services. Generally, it is advisable to file such amendments prior to advertisement so that the application is advertised in the Trade Marks Journal bearing the updated or correct particulars.

Registration of a trademark (Section 23)

- When an application is accepted and advertised, and it sails through the opposition period successfully—or the application has been opposed, but the opposition has been decided in favour of the Applicant—the Registrar will register the trade mark within eighteen months of the application being filed. The date of the application's filing is considered as the date of registration.
- On registration of a trade mark, a certificate of registration bearing the seal of the Trade Marks Registry is issued.

Registration duration and renewal (Section 25)

- The registration of a trademark is valid for a period of ten years.
- The registration of a trademark can be renewed for a further period of ten years at any time, but not more than one year before the expiration of the last registration of the trademark.
- If the renewal fee is not paid by the due date, the registered proprietor has the option to renew the registration with the payment of surcharge fee within six months from the expiration of the last registration of the trademark.
- If a trademark has been removed from the Register for non-payment of renewal fee, the registered proprietor may, after six months and within one year from the expiration of the last registration, file an application for restoration and renewal of the registration of the trademark.

Conclusion

To sum up, if the Examiner does not raise any objections that are likely to be considered relevant enough to pose significant risk to registration, it usually takes approximately 12-18 months for a trademark application to mature to registration.

Protection of Industrial Property in Mexico: Approaching the New Scenario of Litigation Proceedings, Including Damages in Mexico's New Regulations



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(November 18 - December 4, 2019)

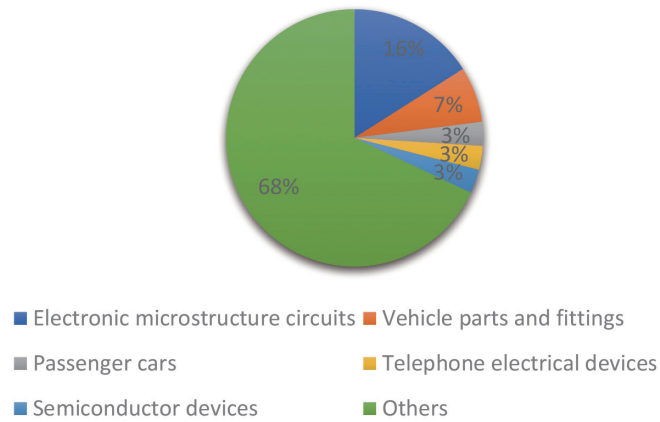


In order to establish agreements and enhance relations with other countries, Mexico has maintained prolific policies regarding international treaties. There are currently 1,461 agreements in effect, among which 810 are bilateral, 651 are multilateral, and 32 specifically refer to Intellectual Property. This is without omitting the provisions of such scope in which other commercial instruments are included.

The Comprehensive and Progressive Transpacific Partnership (CPTPP) became effective in Mexico on January 15, 2019. The partnership established conditions to increase innovation, trade and investment in the Asia Pacific region, with the most dynamic growth rates around the world, and with leading commercial economies such as Japan—the country with which Mexico has executed a free-trade agreement that has been strengthened and restated.

With the CPTPP, the technological and invention sectors will be benefited in such countries, especially the automotive, aerospace, electronic device, medical device and pharmaceutical development sectors. This reaffirms the business importance of the region, and specifically the possibilities between Mexico and Japan, which in recent years has had continuous growth with the exclusive enjoyment of patent protection. According to the data of the Mexican Institute of Industrial Property (IMPI), the body in charge of managing the inventive activity system of industrial application, 751 among the 8,702 total patents granted during the first quarter of 2019 were from Japan. This is the greatest number after the USA (4,074), without taking into account the set of patents granted by applicants whose countries have not been individualized due to the volume that they represent in total (1,969).

MAIN PRODUCTS IMPORTED VIA THE CPTPP IN 2018



In this connection, Mexico has amended its domestic laws to improve its standards, allowing an upgrade of its competitive position and giving more certainty to its commercial partners. This is the case of the new Federal Law on Protection of Industrial Property (known by its initials in Spanish, LFPPI), which was published on the Official Gazette of the Federation on July 1, 2020, and which will be effective as of November 5, 2020. This law, which will replace the current one, adds new elements allowing the harmonization of our laws with the content of international agreements, emphasizing the T-MEC, and extending the regulations on sundry concepts through the means of protection for inappropriate use.

Among the most important aspects of the amendments to such laws, we find those related to the administrative resolution process. According to Mexican regulations, these are classified in the administrative resolution of nullity, expiration, cancellation and infringement.

The nullity of an invention or registry is the corrective action granted by the administrative and judicial system to eliminate an illicit right when it is not possible to solve or correct it. The cancellation is considered to be the loss of the right obtained by the protection of the invention or the distinctive sign, considering the corresponding hypothesis for each assumption.

Likewise, the infringement establishes assumptions that are considered by the applicable laws against the current provisions, and against the exclusive rights derived from the protection granted to the industrial property. Therefore, the purpose thereof is to impose penalties.

In connection with the foregoing, and specifically with respect to the infringement administrative resolution process, the LFPPI includes the addition of the regulations to be complied with for conciliation, to be used by the Mexican Institute of Industrial Property (known by its initials in Spanish, IMPI) to reach an agreement for the interest of the involved parties. This may be requested at any procedural stage as long as the resolution on the controversy is not issued, by submitting a proposal stating that if an agreement accepted by the parties is applied, it shall be considered as *res judicata*. Even though the conciliation procedure was already contemplated in the domestic regulation, its treatment was ambiguous and is now currently defined with the inclusion of a specific chapter.

The new law includes an interesting approach in connection with the procedure to claim the indemnity for damages and losses generated by administrative infringements that, once the new law is effective,

they may be claimed in two different ways by the affected holder: before the IMPI, once the corresponding administrative proceeding is final ; and before a judicial authority without need of the prior administrative resolution, which means saving time for the affected holders.

If the claim is filed at the IMPI, the request is processed by ancillary proceedings, as it is necessary to complete the administrative infringement action. Once signed, damages and losses may be claimed. The request is barred by the statute of limitations in two years as from the date the Institute declares the infringement, and once it is demanded.

The above-referred additions to the new LFPPI represent an important change since, on the one hand, the IMPI is empowered as the administrative authority to condemn the payment for damages and losses; and on the other, it includes a new option in favor of the affected holder's option. This means to appear before a judicial authority without using the prior declaration in lost stage of such infringement proceedings. The above is relevant since before this new law, the criteria that supported the payment of damages and losses due to damages to industrial property rights includes precedents issued by the Supreme Court of Justice of the Nation, which establishes this only due to the prior existence of a resolution of infringement administrative decision.

The foregoing would be interesting in the near future, since these new provisions face constitutional actions before Federal Courts on several grounds, including the argument that it is not possible for the administrative authority to impose penalties regarding administrative infringement actions, as such actions are exclusive for the civil and commercial courts, mentioning that the IMPI is a decentralized body of the federal public administration related to the Ministry of Economy. In other words, some colleagues might argue that despite its jurisdiction to declare the existence of infringements and determine the corresponding penalties through the corresponding action, the Institute is not a jurisdictional court; so its activity is related to the interests of the public order overriding any private interest. This situation differs from the judicial courts, which are autonomous in comparison with the Federal Executive with respect to the criteria, and that their only interest is the fair and equal treatment of the parties without maintaining any administrative purpose of public order as the IMPI.

Notwithstanding the above, the powers of the IMPI were extended to condemn the payment for damages and losses caused to the affected holder in the administrative infringement actions, as well as to quantify the amount of the corresponding indemnity. Even if it means a facilitation in the collection of damages and losses as we mentioned before, we can expect a deep debate in connection with the constitutionality thereof, specifically in connection with the judicial security rights and the legal competition included in articles 14 y 16 of the Mexican Constitution, which states: *"No person can be deprived of its freedom, properties or rights without a trial before previously established courts, complying with the essential formalities of the proceedings and according to those laws issued "* and *"No person shall be disturbed in its private affairs, family, papers, properties or be invaded at home without a written order from a competent authority, duly explaining the legal cause of the proceeding"*, respectively.

It should be noted that according to the transitory articles of the LFPPI, these powers shall be effective once the corresponding amendments to the Institute's organic structure are performed and that the Institute has the necessary budget, financial, human and material resources, which must be made in one year as from November 5, 2020.

Thus, due to the possibility that the industrial property rights holder, whose rights have been violated, may decide to file the claim of indemnity for damages and losses through the judicial proceedings without need of prior administrative resolution, it is against the issued court precedent, derived from a contradiction between judicial court criteria. It was determined that as the IMPI is the specialized administrative authority in charge of the industrial property and is competent to issue the corresponding resolu-

tion in the infringement resolution action, the existence of a prior resolution is necessary for the applicability of the indemnity actions exercised before the judicial authorities, as the civil action for damages and losses shall be related to the resolution issued by the administrative authority as established in the court precedent: “*INDUSTRIAL PROPERTY. IT IS NECESSARY A PRIOR RESOLUTION BY THE MEXICAN INSTITUTE OF INDUSTRIAL PROPERTY ON THE EXISTENCE OF PENALTIES FOR THE APPLICABILITY OF THE INDEMNITY FOR DAMAGES AND LOSSES.*”¹

The laws in Mexico determine the bases for the effective protection of the industrial property of the companies in order to allow the continuity of their competitiveness, elements that must be always together to the measures according to the context of each business, as it will depend on the strategy to be used, the generation of income, creation of alliances, positioning or reduction of operative and tax costs and also the decrease of risks of a potential action. Therefore, it is time to take advantage of the new LFPPI with respect to the possibilities of the amendments to the contents on the administrative proceeding and the exercise of the indemnity action, without prejudice to the agile debate that it will generate on the actions of interested parties and their attorneys with the administrative and judicial authorities.

The relation between Mexico and the Asia-Pacific region does not only represent an essential opportunity as trade partners, but also the motivation of the economy of the countries involved, considering the advantage granted by the geographical location, and with respect to Mexico due to its proximity with two of the greatest economic powers of the world, as it is a source of growth as the entry point to the American continent. In addition, the update to its internal regulations is already directed to guarantee the homologated process, and to give legal security and certainty to innovation. The way forward has been marked out.

1 Court Precedent “*INDUSTRIAL PROPERTY. IT IS NECESSARY A PRIOR RESOLUTION BY THE MEXICAN INSTITUTE OF INDUSTRIAL PROPERTY ON THE EXISTENCE OF PENALTIES FOR THE APPLICABILITY OF THE INDEMNITY FOR DAMAGES AND LOSSES*”. Registry 181491.

Thailand and The Bayh-Dole Act Type

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JPO/IPR Training Course on Academia-Industry Collaboration and Technology Transfer
(August 20 - 29, 2019)



This article is planned into two parts. The first is my brief review of the training course that I attended, and my overall experiences during my stay in 2019. The second part is Thailand's version of Bayh-Dole type legislation, which in my opinion can be related to the experiences that I gained from the course.

Extensive experience through the training course in Japan 2019

I received a great opportunity to be one of the participants attending the course “JPO/IPR Training Course on Academia-Industry Collaboration and Technology Transfer (IPAT)” from August 20-29, 2019 in Tokyo. This course comprised lectures, exercises, and workshops at the Asia-Pacific Industrial Property Center (APIC) which is the main venue for this training course, and site visits to the Tokyo Medical and Dental University and the National Center for Industrial Property Information Training (INPIT).

It has been such an invaluable experience to learn from the lecturers with various backgrounds and



experience, i.e., from the private sector to high-ranking professors from academia. Although some of the lectures were carried out in Japanese, it was not too difficult to follow, as the competent interpreter would be in the class during that time. Apart from that, this training course gave me a chance to meet other participants from different professions such as universities, R&D institutions and the public sector, from Asia and South America — 11 countries in total. Thus, we shared not only course-related experiences, but also cultures and other things (such as snacks!) from our countries.

During the training, participants were required to stay at an AOTS training center that also provided meals under a self-service system, except on Sunday. Although many comments had been mentioned regarding the distance between the provided accommodation and the actual training venue, it is undeniable that staff from APIC and JPO had made every effort to ensure that we traveled efficiently (both time-wise and price-wise), stayed safe, and had a pleasant time with culture-rich experiences and happy stomachs.

Thailand's Adoption of Bayh-Dole Type Legislation in 2020

The status quo in Thailand is that the ownership of research results funded by the government will be owned by the government's funding agencies. It is sometimes possible for shared ownership to be agreed upon between the government's funding agencies and the grantee, which is usually a university. Nonetheless, the practice wherein the grantee or researcher cannot retain its own research results has impeded further development of research, as well as the transfer of technology or the commercialization of such research results.

Issues occur when ownership of the research results belongs to government funding agencies that have no Technical Transfer Office (TTO). Such funding agencies tend to involuntarily keep the research results to themselves. Such results will unintentionally be abandoned without further development or commercialization, which we usually refer to as “left hanging on the shelf”. In addition, there is no incentive for researchers to further develop or commercialize the research results.

Thailand is trying to enact Bayh-Dole Type legislation in order to rectify these shortfalls and promote commercialization of the research results. Among other things, the Bayh-Dole Act (BDA) has aimed to encourage universities to participate in technology transfer activities. It has shown how to create a uniform patent policy among many federal agencies that fund research, and enable small businesses and non-profit organizations including universities to retain the title to inventions made under federally-funded research programs¹. The acceleration of technology transfer, and the commercialization of publicly-funded research, have become mantras of innovation policy across the globe.

The Bayh-Dole Act deals largely with patents, and since it took effect on December 12, 1980, the Act has provided a national policy framework to encourage universities and other non-profit organizations to collaborate with commercial enterprises in the commercialization of inventions and new technologies². The new regime stimulated patenting activity and the establishment of spin-offs—especially in the biotech sector — that were considered key factors in spurring U.S. economic growth during the 1990s³.

1 AUTM (Association of University Technology Managers), 2013: http://www.autm.net/Bayh_Dole_Act1.htm

2 WIPO (World Intellectual Property Organization), 2002: “Research and Innovation Issues in University-Industry Relations.” Background Information document prepared by the SME Division of the World Intellectual Property Organization, Geneva. <http://www.wipo.int/sme/en/documents/pdf/fp6.pdf>

3 (Mowery, D.C., R.R. Nelson, B.N. Sampat, and A.A. Ziedonis, 2004: “Ivory Tower and Industrial Innovation: University-Industry Technology Transfer before and after Bayh-Dole” Stanford University Press.; Mowery, D.C., and B.N. Sampat, 2005: “The Bayh-Dole Act of 1980 and University-Industry Technology Transfer: A Model for other OECD Governments?” *Journal of Technology Transfer* 30: 115-27.

Further, it is claimed that “technology transfer in federal year 1999 — specifically the licensing of innovations by U.S. universities, teaching hospitals, research institutes and patent management firms — added about \$40 billion to the U.S. economy, and supported 260,000 jobs”⁴

During the three decades that the Bayh-Dole Act has been enacted and implemented, several assessments have been carried out on its consequences, especially in medium-and-low income countries. The result of the studies supports that it simplified the administration of technology transfer, clarified ownership roles that have so far remained opaque, and transferred ownership to parties with stronger incentives to license inventions.⁵

Until this day, there have been increasing numbers of middle-and-low-income countries incorporating Bayh-Dole Act-type within their national policy or legislation to regulate the ownership and commercialization terms of publicly-funded research.

Thailand carefully studied the benefits and drawbacks of the Bayh-Dole Act, along with the similar acts or policies of other countries such as Japan, Malaysia, and the Philippines. Specifically, what was studied included the objective of the law or policy, its coverage, and conditions for research institutes to retain the title, ownership, invention disclosure, transfer of technology, etc.

During 2009-2013, a group of experts was established by the National Science Technology and Innovation Policy Office (STI Office)⁶ to draft Bayh-Dole-type legislation. The group was chaired by the Director General of Intellectual Property and International Trade Court (IPIT), and comprises experts from the Intellectual Property (IP) sector, along with university representatives and other related authorities.

For some unknown reason, however, the draft legislation was put on hold for a certain period of time. It was not until 2018 that the draft legislation was approved by the cabinet, and sent to the Council of State for detailed consideration.

Meanwhile, the Office of National Higher Education Science Research and Innovation Policy Council (NXPO) put the draft legislation through the hearing process, and adapted it accordingly. The draft was adopted at the third reading of the Council of State, and is now in the pipeline for the cabinet to acknowledge and propose it to parliament.

In Thailand’s context, this draft Bayh-Dole type Act legislation may differ from the Bayh-Dole Act in the U.S., or any other country. It covers not only patents and software, but also innovations that are not patented, given that such innovation is the result of research or innovation funded by the government. However, as its first step, the legislation covers only seven granting agencies. This coverage can be extended later if the National Higher Education, Science, Research and Innovation Policy Council (Policy Council) so decides.

Notwithstanding, some research activities have been exempted from the draft Bayh-Dole type Act, such as research on weapons for soldiers or security of state, research funded by universities’ own income (i.e., not from the government budget), research and development results that fall within the purview of exceptional circumstances, etc.

The legislation also covers the issue of disposition of rights, duty and rights of the granting agencies, duty of the grantee and procedure that the grantees have to follow if they want to retain the title of

4 WIPO, 2002.

5 Larrimore Ouellette, L., 2010: “Addressing the Green Patent Global Deadlock through Bayh-Dole Reform” Yale Law Journal 119: 1727. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1517237

6 As a result of the establishment of the new Ministry of Higher Education, Science, Research and Innovation (MHESI) in May 2019, the role of the STI Office has been expanded to encompass a policy of higher education, science, research and innovation, and the organization was renamed the Office of National Higher Education Science Research and Innovation Policy Council (NXPO).

research and development (R&D) results, transfer of technology, etc.

Even though there are some negative points of view regarding the draft Bayh-Dole type Act legislation, the responsible authority believes that once the legislation is enacted and implemented, it will lead to an increase in research expenditure and science-based transfer of technology, commercialization, and spur startup. Thus, it will contribute to the economic growth of the country.



Zimbabwe Launches an Intellectual Property Policy Framework



Mr. Christopher Munguma (Zimbabwe)
Lecturer of IP & Law, College of Business, Peace, Leadership & Governance
Africa University Zimbabwe

JPO/IPR Training Course on IP Asset Management for African Countries
in cooperation with WIPO (July 18-24, 2019)



1. Introduction

The 28th of June, 2018 was a watershed day for the field of intellectual property (IP) in Zimbabwe. On this day, the government of the Republic of Zimbabwe launched the Zimbabwe Intellectual Property Policy and Implementation Strategy. This was a long-awaited process that had been missing for a long time in Zimbabwe. The launch was a culmination of a process that had started as far back as 2012, with a needs evaluation on the process of introducing an Intellectual Property Policy. This was followed in April 2014 by the Draft National Intellectual Property for Zimbabwe. The introduction of the policy marks the beginning of the implementation programme for this important instrument. In adopting this policy, Zimbabwe followed in the footsteps of other SADC regional countries who have functional IP Policies, such as Malawi, Zambia, Mozambique and Seychelles. In the continent, the country joins the league of nations of such places as Sierra Leone and Ghana. An IP Policy charts the route that a country intends to follow in the IP sector, and such policy is therefore essential for national socio-economic development. The National IP Policy also takes cognisance of the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (ZIMASSET), which is the country's national economic blueprint. It highlights one of the growth focus areas in ZIMASSET: value addition and beneficiation (Musiza, 2016).

2. The Intellectual Property Policy

The IP policy sets out its objectives and follows this with priority areas for the country. It then addresses each specific area of priority. Generally, the document addresses key issues in the IP sector for Zimbabwe. One major area that the policy does not specifically address, however, is the information and technology sector. This is a major oversight which must soon be addressed—although the question of whether this will be achieved remains to be seen as the policy is implemented with time. An additional point to note is that the draft policy was prepared with the hope that it would be introduced in 2014, only to be launched in 2018—the year that the draft policy was initially scheduled to come to an end. This delay in implementing sends the wrong message at the outset. The launch was delayed for close to three

years, which is a bad indictment showing that our policy makers do not do things on time. This raises an uneasy feeling regarding whether or not the policy will be implemented as expected at all.

2.1 The Objectives of the IP Policy

The overall objective of the *Zimbabwe National Intellectual Property Policy and Implementation Strategy 2018-2022* is to ensure that the entire intellectual property governance framework leverages the country's IP potential for inclusive and sustainable economic growth and development. The specific objectives of the policy are given as follows:

- (a) Raising and consolidating IP awareness among the general public
- (b) Sensitizing stakeholders about the economic benefits of IP
- (c) Enhancing IP knowledge and professional skills capacities in the country
- (d) Encouraging IP mobilization through acquisitions and own creations
- (e) Protecting IP
- (f) Inspiring IP commercialization
- (g) Enhancing IP trading mediation capacities

The implementation strategy explains how these specific objectives will be achieved. For example, consolidation of IP literacy and professional skills will be achieved through design and integration into the curricula of domestic educational and training institutions, individual courses and integrated programmes on IP matters, as well as design and integration of IP research themes within the agenda of domestic research institutions (such as universities and R&D institutions). This could also be done by mainstreaming the IP profession in Zimbabwe.

The enhancement of domestic capacities within the Zimbabwean economy to generate IP shall be achieved through such measures as promotion of innovation and technological advancements to key sectors of the economy; the support of transfer of technology (ToT) among domestic entities; and supporting technology development initiatives of University and non-University research institutions, large scale industrial enterprises, small and medium scale industrial enterprises (SMSIEs), and individuals. The enhancement of local technological literacy and professional skills is another factor that is considered key for meeting this objective.

In order to establish a system for IP management at universities, the government has encouraged universities and research institutions to come up with IP Policies that will act as guides in the creation, management and use of IP. In addition, the establishment of innovation and incubation hubs is also encouraged. It appears that a few months after adopting the policy, there has been notable traction in this regard. According to the government, four public universities and one private university had set up innovation and incubation hubs by the end of July 2018. Africa University took the lead in setting up an Innovation Hub in November 2017, as well as establishing an IP institutional Policy. (Africa University, 2017). The public universities that set up hubs included the University of Zimbabwe, National University of Science and Technology, and Harare Institute of Technology. This is a step in the right direction for these universities. What is also essential is for these institutions to come up with Technology Transfer Offices on their campuses so that there is a direct link between industry and the universities. It is also essential that technical and knowledgeable people are employed in these hubs.

3. Priority Areas in the IP Policy

The policy wisely targets certain areas of the economy as focus areas, and does not take an omnibus approach. Prioritisation is good in the context of Zimbabwe, where the government often lacks resources

to execute a number of projects. This is a good development, which targets areas where Zimbabwe has a competitive advantage as opposed to taking everything on board. The focus areas are agriculture, industry, the health sector, education and training, environment, culture, trade, tourism, and small/medium-scale enterprises.

3.1 Agriculture

With respect to agriculture, the focus of the policy is on geographical indications (GIs), plant breeders rights, indigenous knowledge systems (IKS), and biodiversity. Geographical indications, according to the TRIPS agreement of the World Trade Organisation, are names or brands of products that identify a good as originating in the territory of a member, or a region or locality in that territory, wherein a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin. An example is tea from Katiyo in Honde Valley being called Katiyo Tea. As Zimbabwe is an economy sustained largely by agriculture, it stands to reason that agriculture is first on the list of the focus areas. The identified areas within the agriculture cluster—namely, GIs, plant breeder's rights, IKS and biodiversity—speak to the areas that have good economic potential. Unfortunately, the country has been lagging behind in utilising these for the national benefit.

3.2 Industrial Sector

In industry, the policy seeks to strengthen overall IP management, development of IP portfolios, and enhancement of the generation, protection and commercialisation of various intellectual property rights (IPRs) in order to ensure that Zimbabwean economic entities gain a competitive market position. In this regard, the policy realises that collaborations and interactions between industry, academia and government are key and beneficial. Thus, section 2.4.2 (e) of the policy provides for the promotion of “interactions between innovators and researchers on the one hand, and industry on the other hand, through a functional innovation system”. This is good and necessary, since both industry and research institutions have much to gain through horizontal integrations between them.

3.3 Health Sector

In the health sector, the policy promotes access to medicines at affordable cost by exploiting the TRIPs agreement's flexibilities. It also promotes research and development (R&D) in the area of pharmaceuticals, prevention of leakages of patentable research results, and leveraging the knowledge and intellectual traditions of the indigenous peoples of Zimbabwe. This last point is important, as it is often overlooked within the discussion of generating intellectual property. Many indigenous groups in Zimbabwe have useful knowledge that can be exploited for the benefit of the nation. In order to counter the deficits in the number of IP professionals and professions, the policy seeks to spearhead the development of local capacities through the provision of specialized foundation IP knowledge and practical professional IP skills. The aim is to build a critical mass of IP practitioners in the form of IP Judges, IP Attorneys, technology transfer agents, enforcement agents, and IP managers.

3.4 Environmental and Cultural Sectors

In the environmental sector, the policy seeks to pursue effective implementation of the Convention on Biodiversity (CBD) and the Nagoya Protocol. These standards will ensure that the environment is harnessed in a sustainable manner. The thrust is on using natural resources in a sustainable and non-harmful way.

With regard to the cultural sector, the policy focuses on cultural heritage, including indigenous knowl-

edge systems (IKS) and GIs as a central element of the country's portfolio of IP assets. The cultural sector supports a number of industries such as music, film, crafts, choreography and drama. There are a number of downstream industries connected to the arts, such music recording companies and radio and television broadcasting companies.

3.5 Trade Relations

In the trade sub sector, the policy seeks to use sustainable and fair border measures for the protection of businesses operating in Zimbabwe and its peoples. Under the tourism umbrella, the thrust of the policy is to use certification marks, GIs, IKS, service marks and destination branding of various Zimbabwean locations. In order to promote the SME sector, the policy highlights the use of Utility Models and other potential areas, such as Collective Marks and GIs by sector. A utility model or innovation patent is a right granted to a person who improves or adds to existing art developed by someone else (for example, converting a washing machine into a juice maker). Small to medium sector entities in Zimbabwe are innovative, and create products that are in demand on the market. The thrust of the policy toward this sector realises the potential to create goods and products that are marketable and in demand within the economy.

4. Conclusion

The Zimbabwe Intellectual Property Policy is a good document that has the potential to improve the socio-economic fortunes of the country if it is followed and implemented in full. The priority areas identified in the policy are necessary for an improvement of Zimbabwe's fortunes. One glaring omission in the policy is the non-inclusion of the information communication technology sector as a priority area of the policy. The information communication technology area is a fast growing sector, wherein Zimbabwe's young people are actively engaged. This sector is key for the future, and therefore ought to have been included in the policy. The policy must therefore be reviewed as soon as possible in order to include this important sector.

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Contribution from an author of the past teaching material



Support the Tomorrow of the World



Mr. SAWAI Tomoki
Japan Office Director
World Intellectual Property Organization

With global challenges spreading across much of the economy, society and the natural environment, in 2015 the United Nations established the Sustainable Development Goals, commonly known as the SDGs, under the basic principle, “No One Will Be Left Behind.” This SDGs concept of “leaving no one behind” reminds me of the 7.7 billion people living on this planet (in 2019). Furthermore, it reminds me that numerous inventions, creations, and technological advances have brought about a tenfold increase in population in a mere 250 years since the Industrial Revolution, and how they have made our lives safer and more prosperous. There is no doubt that many of these inventions and creations have greatly improved infant mortality rates and freed many people from dangerous and hard work. I am convinced that the intellectual property system that has inspired so many of these inventions and creations will surely continue to make a significant contribution to many global challenges in the future.

SUSTAINABLE DEVELOPMENT GOALS



One of my favorite words is “Let’s go invent tomorrow instead of worrying about what happened yesterday” by Steve Jobs from Apple Inc.

I love this quote because it is a positive life lesson to live positively without being dwelling on the past, and also because it is a cheery, future-oriented phrase, “Let’s go invent tomorrow.”

It is well known that the industrial revolution described above was led by James Watt’s steam engine. It is said that Watt’s great invention would not have been possible without the patent system in United Kingdom (UK) at the time, improved by his companion, Matthew Boulton. Readers who are engaged in the IP system are probably Watt and his running mate, Boulton. To praise this great companion, a portrait of Boulton appears on a British £50 note, along with Watt.

This great success of the UK spread to the United States (US) and many other countries. When you had an opportunity to visit Washington D.C., you may have seen the words of Former US President Abraham Lincoln, “The patent system added the fuel of interest to the fire of genius.” These words are displayed at the entrance of the US Department of Commerce, located southeast of the White House. You know very well that today’s General Electric Company, the world’s largest electronics manufacturer, as well as the aerospace and telecommunications industries, have developed because the US patent system ensured that the achievements of “great inventors” such as Edison, Wright Brothers, Bell and others were protected.

Japan also left the Samurai Era only 150 years ago and opened its doors to the world. Following the US and UK, Japan immediately established a patent system 130 years ago. This brought forth many great inventors such as Sakichi Toyoda, who is the founder of Toyota Group, Jokichi Takamine, who discovered adrenalin, and, Kokichi Mikimoto, who created the cultured pearls, and led to the great development of Japan.

In this way, I suppose the new invention and the innovation are necessary for the development of humankind, and I would like to convey the words, “Let’s go invent tomorrow,” to all of you, who are bringing up tomorrow’s generation.



Column: Winter Solstice



Mr. OGIYA Takao
Director General of APIC

The Earth revolves around the sun with its rotational axis tilted at an angle of 23.4 degrees (figure 1). Therefore, in the northern hemisphere where Japan is located, the days are longer and the nights are shorter in summer, while conversely, the days are shorter in winter. The day when the period of daylight is the shortest is called “winter solstice,” and in 2020 it falls on December 21.

In Tokyo, the length of the day on the winter solstice in 2019 was nine hours and 45 minutes. Night was 14 hours and 15 minutes. The night was longer than the day by four hours and 30 minutes. On the summer solstice of that year, the day lasted 14 hours and 34 minutes. The night lasted nine hours and 26 minutes, shorter than the day by five hours and eight minutes.

Since ancient times, people have believed that the sun’s power becomes weakest on the winter solstice, when its culmination altitude is the lowest. As the sun increases its power again following that day, ancient people thought that the winter solstice was the day when the sun was reborn.

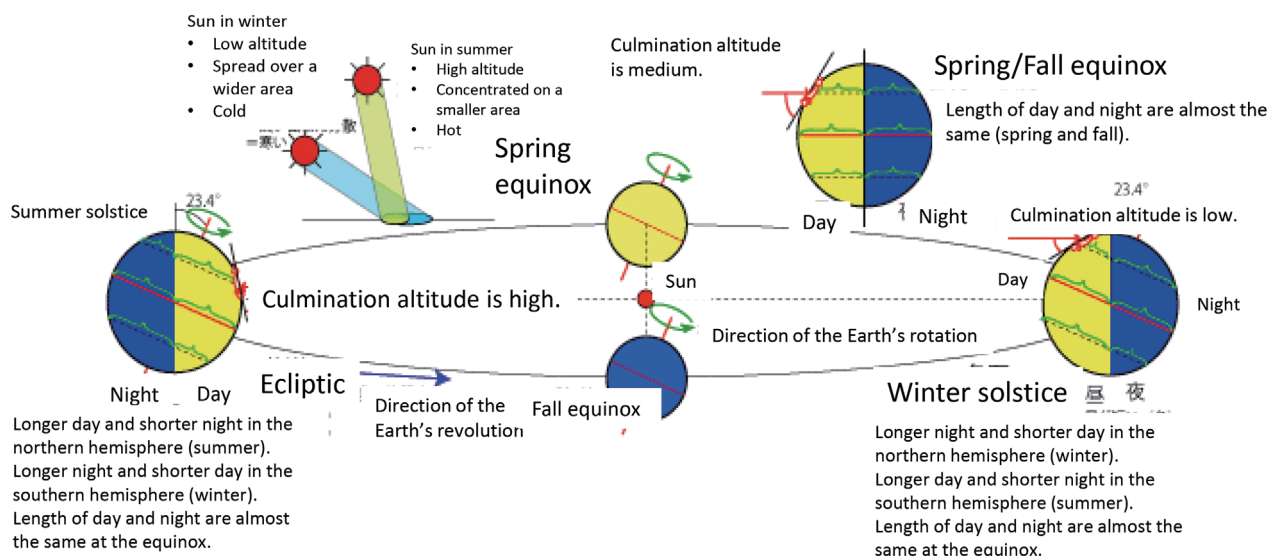
During the time of the Mesopotamian civilization that flourished around 3,500 BC, the Sumerians who lived in the area of present-day Iraq invented the world’s first calendar. They chose the winter solstice as the start of the year, and held a new year’s festival for 12 days around the winter solstice.

In China and Japan, people believe that the winter solstice is the extreme of yin, and that yang begins its return from the following day. That is called “*Ichiyo raifuku*” in Japan, meaning a favorable turn of fortune from that day onwards. In China, people have the custom of eating dumplings during the winter solstice season. Northern Chinese eat dumplings generally stuffed with meat and vegetables, called *Jiaozi*, and southern Chinese eat sweet dumplings, *Tangyuan*.

In ancient Europe, people carried out the winter solstice festival, called Yule, for 12 days. As the night is the shortest on the winter solstice and the day becomes longer from the following day onwards, they saw the winter solstice as a symbol of the death and resurrection of the sun, and celebrated its rebirth.

In fact, Christmas is also closely related to the winter solstice.

Christmas refers to the birthday of Jesus Christ. The Bible offers detailed accounts of the birth of Jesus, but not the accurate date. So, there had been various theories about the actual date of birth. When Christianity started to spread across the Roman Empire in the Christian era, the custom of Yule was established there, and people celebrated a by having a festival of the sun on the winter solstice. In 325



Sun-Earth Relationship

AD, the Church officially selected December 25, which is the closest to the winter solstice among various theories, as the birthday of Jesus. The Bible refers to Jesus Christ as the Sun of Righteousness. It's natural to think of the day when the Sun of Righteousness, or Jesus Christ, was born in Israel in dark social conditions, as the winter solstice, or the date of the sun's resurrection. Later, December 25 was established as Christmas around the world.

Like the spring equinox and the fall equinox, the winter solstice and the summer solstice mark significant changes of the seasons. In Japan, however, equinoxes are national holidays and the solstices are not.

That is deeply linked to events at the Imperial court. The Imperial family of Japan has traditionally held rituals to venerate the spirits of past family members. The court had the custom praying for the productiveness of grain around the spring equinox and giving thanks for the harvest around the fall equinox. In light of these backgrounds, the spring and fall equinoxes were designated as national holidays in 1948.

However, neither solstice is closely related to agriculture, and the Imperial court does not hold special events on these dates in Japan, so they have not become national holidays.

Today, in reality, most people become aware of Christmas, but not of the winter solstice that is in proximity to Christmas.

Be that as it may, Japanese people have a strong awareness of celebrating the season, and have developed unique customs, including the following:

1. Eating squash (photo 1)

Squash is harvested in summer, from July to August, and is said to be brought to Japan from Cambodia. Even before freezing technology had been developed, people could eat squash in winter, because squash can be stored for a rela-



Squash

tively long period of time at room temperature. Squash contains a good nutritional balance and is a source of minerals, such as Vitamins A, C, and E, folic acid, and potassium, as well as dietary fiber. Therefore, squash strengthens immunity, helps recovery from physical exhaustion, and improves excessive sensitivity to cold. Since ancient times, people have eaten squash on the winter solstice to prevent colds.

2. Taking a yuzu bath (photo 2)

Yuzu is an Asian citrus fruit similar to a lemon or lime. The custom of taking a hot bath filled with yuzu on the winter solstice started at public bathhouses during the Edo period (1603 to 1868). Initially, people associated the term “winter solstice” with “hot spring cure,” because both are pronounced “*toji*” in Japanese, and yuzu fruit with its homonym “accommodating.” “*Yuzu with toji*” meant accommodating with a hot spring cure, or taking a proper measure by taking a bath. So, people started to take a yuzu bath on the winter solstice. Surprisingly, it is scientifically proven that a yuzu bath is good for the health because yuzu contains Vitamin C, which prevents colds and moisturizes the skin, as well as hesperidin, which improves blood circulation.



Yuzu bath

3. Other

On the winter solstice, people eat food items that contain the kana character of “n” in its name, such as *ninjin* (carrot), *daikon* (Japanese radish), *renkon* (lotus root), and *udon* (wheat-flour noodles). Squash, which is generally called “*kabocha*,” is also known as “*nankin*.” All of these items are mainly consumed in winter. As the kana character of “n” comes at the end of the Japanese syllabary, there is a theory that this custom refers to *Ichiyō raifuku*, a favorable turn of fortune from that day onwards.

With the COVID-19 pandemic, people are having to restrict their lives in various ways. Japan is no exception. This fiscal year, it is very difficult to invite trainees to Japan.

However, the development of vaccines and treatment drugs is ongoing around the globe. When safe, effective vaccines and drugs are developed in the near future, we will no longer need to be weary of COVID-19, and we will be able to return to a normal life.

That time will be a favorable turn of fortune. Let’s hope that the time will come as soon as possible, eat good food, and live our lives day by day.

Introduction of JAPAN : Museums (2)

Suzuhiro Kamaboko Museum & Odaiba Takoyaki Museum

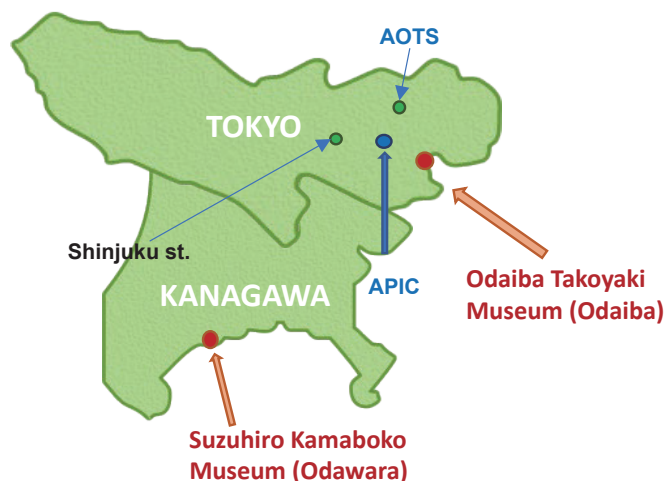


Hello, alumni! This is the Editorial Department of the “Enishi—IP Friends Connections” magazine. We provide information on Japan’s tourist spots so that trainees coming to Japan from overseas can fully enjoy the country during their stay.

This time, we would like to introduce museums especially focusing on foods. Both of **Suzuhiro Kamaboko Museum** and **Odaiba Takoyaki Museum** are museums of foods commonly eaten in Japanese homes or at stands at festivals.

Suzuhiro Kamaboko Museum is located in Odawara, Kanagawa Prefecture. It usually takes about an hour and a half from the center of Tokyo by train.

Odaiba Takoyaki Museum is in the building called DECKS Tokyo Beach, in the Odaiba area where many tourists visit.



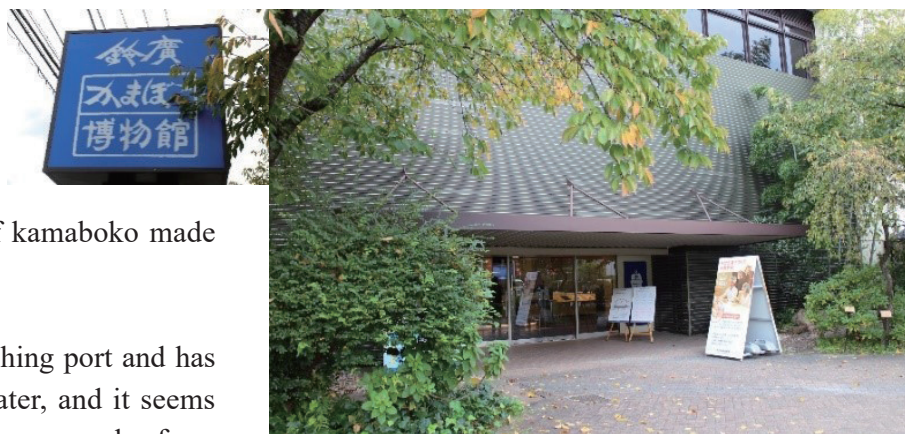
Suzuhiro Kamaboko Museum

What is Kamaboko?

Kamaboko, a food that originated in Japan, is a seafood product made from white fish.

There are various types of kamaboko made from local ingredients.

Odawara is close to the fishing port and has abundant delicious groundwater, and it seems that kamaboko making has been popular for a long time. At present, there are 13 kamaboko companies. Among them, Suzuhiro is a long-established



store that has been around for over 150 years.

Until I visited the “Suzuhiro Kamaboko Museum”, I realized that I didn’t know much about the craftsmanship of kamaboko, how to make kamaboko, and how to eat kamaboko.

Skills of Kamaboko Craftsmen

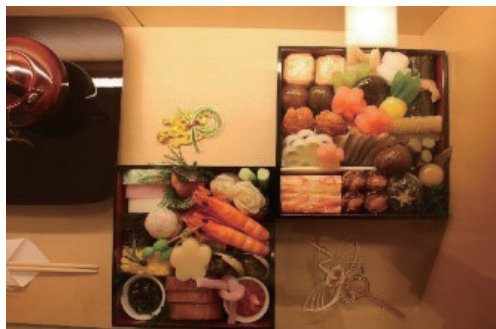
In order to make kamaboko, it is required to receive national qualification as a “Fish-paste Product Manufacturing Technician”—I never knew this. In addition, Suzuhiro has a company-specific qualification called “Kamaboko Sommelier”, and all employees are recommended to get it, to deepen their knowledge of kamaboko. The woman in the public relations section of Suzuhiro told me that it takes more than 15 years to become a full-fledged kamaboko craftsman, and it is important that the experienced craftsmen pass on their skills to young people in Suzuhiro. There are 16 kamaboko craftsmen, and only about 500 handmade kamaboko can be made each day. The hand-made kamaboko was more elastic and deeper in taste than that made by machine, and it was very delicious.

Kamaboko Cooking Class:

At this museum, you can try your hand at making kamaboko. A craftsman who makes kamaboko teaches you how to attach it to a kamaboko board. After that, they will be steamed for about 70 minutes. You can take your own cooked kamaboko home with you. (Reservations required.)



Kamaboko Dish



Kamaboko is often used as a topping for Udon noodles. Also, kamaboko are used as ingredients for Oden which is often eaten in the winter season. Also, red & white kamaboko are always included in New Year’s Special dishes called “Osechi” in Japan.

Around the Suzuhiro Kamaboko Museum, there are a restaurant and cafe. At the café, you can enjoy the taste of “pinchos” with seasonal vegetables and fruits on kamaboko. I always thought of kamaboko as a purely Japanese food, but in fact, it can be a fashionable Western-style appetizer when sprinkled with olive oil, salt or cheese. I also learned that it can be used in a wide variety of ways, such as deep-fried kamaboko or as a topping for green salads.



Mini Information about ODAWARA



There is a castle called Odawara Castle 10 minutes on foot from Odawara Station.

The original castle collapsed due to the Great Kanto Earthquake, but the current Odawara Castle was reconstructed in 1960. You can also climb the castle tower where swords and armor are displayed, and you can overlook Sagami Bay from the top of the tower.

Official HP: <https://odawaracastle.com/>

Odaiba Takoyaki Museum



“Takoyaki” is a vital part of Japanese food culture. It has become as famous around the world as “sushi” and “sukiyaki”. “Takoyaki” originated in Osaka, and at first, it was called “radio-yaki”, in which small pieces of okonomiyaki were casually scooped up, beef and konjac were wrapped in a mixture of flour, eggs, and water. Borrowing a page from a food called Akashiyaki, octopus was added and it came to be called “Takoyaki” (literally means “grilled octopus”).

Five popular shops begun in Osaka have been brought together into an “Odaiba Takoyaki Museum”, in Tokyo. You can enjoy authentic “Takoyaki” of Osaka, one famous Japanese food, while you are in Tokyo.

Even within the food “Takoyaki”, there is a variety of taste, shape, and cooking method. Each shop has its own original unique taste, and that taste is what makes it “Takoyaki from Osaka”.

We would like to introduce you to three of those shops.

Osaka Tamade Aidu-ya



Aidu-yu, where Takoyaki originated, prides itself on Takoyaki made without sauce and easy to eat, filled with only octopus and tenkasu (deep-fried flour batter). On the small side, you just pop them in

your mouth. With their familiar Kansai area taste, there are eight Aida-yu shops in Kansai and one in Tokyo.

Takoyaki Juhachiban



Though Takoyaki, in addition to flour and eggs, usually have water as an ingredient, this shop uses milk, to give them a mellow flavor. Moreover, they are packed with a huge amount of tenkasu (deep-fried flour batter), which defines their innovative texture, which is crusty on the outside and mellow on the inside. The large number of dried shrimp included give them a deep flavor. They have three shops in Osaka and one in Tokyo.

Imo Tako



Takoyaki often has grated yamaimo (Japanese yam) as an ingredient, but at Imo Tako, the yamaimo is diced, and a rich chicken broth is used. Devised by a chef from a more traditional Japanese cuisine background, the concept of Takoyaki itself is revolutionized as such, with a soy sauce-based sauce reminiscent of Kaiseki ryori (tea-ceremony dishes), and yet these are still enjoyable as the Takoyaki everyone knows and loves. Originally from Osaka, only one shop now remains, the one in Odaiba, in Tokyo.



Diced yams

As the shops are arranged in a food court, with a “Takoyaki Shrine” in the center, customers are able to compare different types of Takoyaki. The shops do all their preparation and cooking of the Takoyaki with their craftsmanship on full display, as inheritors of this type of Japanese food culture.



Odaiba DECKS Tokyo Beach

Please enjoy these Takoyaki (Octopus Balls) which these cooks have also brought to great acclaim abroad. Enjoy this excellent Japanese food in a place where you may also sightsee and shop, in the Odaiba Takoyaki Museum on the fourth floor of Odaiba DECKS Tokyo Beach!

Mini Information about ODAIBA

The Odaiba area will be the venue for the Tokyo Olympics and Paralympics (Triathlon, Beach volleyball, etc.). It is a popular area for young people with many commercial buildings.

If you go to Odaiba, be sure to visit the following three recommended places below.

Ferris Wheel

This Ferris Wheel is one of the world's largest and offers nice views of Tokyo Bay.



Gundam Statue

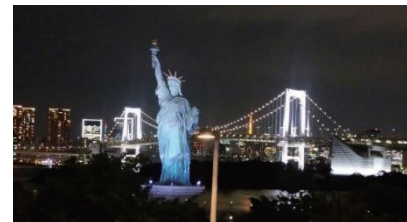
If you know the anime called “Gundam”, you must visit this place. You will be surprised to see the “full-size” Gundam statue in the front of DiverCity Tokyo Plaza building.



Night View

Odaiba at night is very romantic.

You can see the illuminated Rainbow Bridge, Tokyo Tower, and many buildings.



Reference: <https://www.japan-guide.com/e/e3008.html>

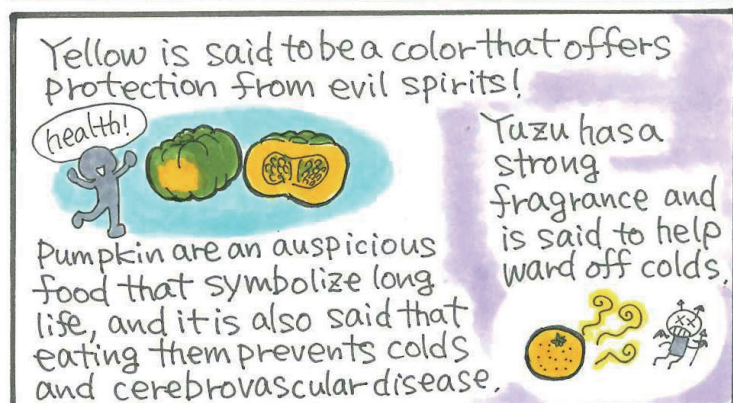
■ Suzuhiro Kamaboko Museum (Free Entrance)

<https://www.kamaboko.com/en/>

■ ODAIBA TAKOYAKI MUSEUM

<https://www.odaiba-decks.com/en/takoyaki/>

Happenings in Japan (Four-Frame Cartoon)



Editor's Note



Hello. This is Mitty. The year will soon be ending and we will be heading into 2021. It's amazing how time flies. How about your daily life this year? I hope you are coping well with all that has been happening. Before the pandemic I had a great time meeting so many new friends from many different countries and cultures. However, recently we have not been able to invite people to Japan for training courses, and I really miss meeting both new and old friends. Fortunately, there is Enishi.

I have recently realized how important Enishi is in staying in touch with all of my IP Friends. It not only keeps me connected, but I enjoy reading all of the interesting, and sometimes humorous, articles submitted by my IP Friends describing not only issues in their individual countries, but also their own experiences in Japan. Hopefully things will get back to normal soon and we will again be able to meet each other in person and I'll be able to see your smiling faces. Until then, let's use Enishi to stay connected. One thing I've learned from this difficult year is that friends and family are very important, so please keep in touch.



Hello! I'm Minori. In Japan, many households do a big clean in December. The tradition has its roots in a court event in December called "Susuharai" (sweeping soot), which led to the present custom of sweeping away the soot (dust) accumulated over the course of the year and welcoming the New Year's god. Following the tradition strictly, you would begin on December 13th and finish on December 28th. December 13th was designated as the day of soot sweeping in the Edo period, a

custom still observed today. This is why in December there is an increase in commercials for house cleaning utensils and detergents, and the appearance of special displays at supermarkets and home centers featuring cleaning products. It may be evidence that the Japanese people still have a strong desire to make the New Year special and spend the New Year in a clean house. Until this year, the pressure to do a big clean of the whole house during the busy year-end season had always depressed me. But this year, because of Covid-19, I cannot gather with relatives and friends to eat, go back to my parents' house, nor go shopping, so I think I'll have plenty of time for cleaning. I plan to research cleaning goods and efficient cleaning methods, and hopefully I will have fun doing this year's cleaning.

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