

# 縁

IP Friends Connections

No.27 March 2021



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)】

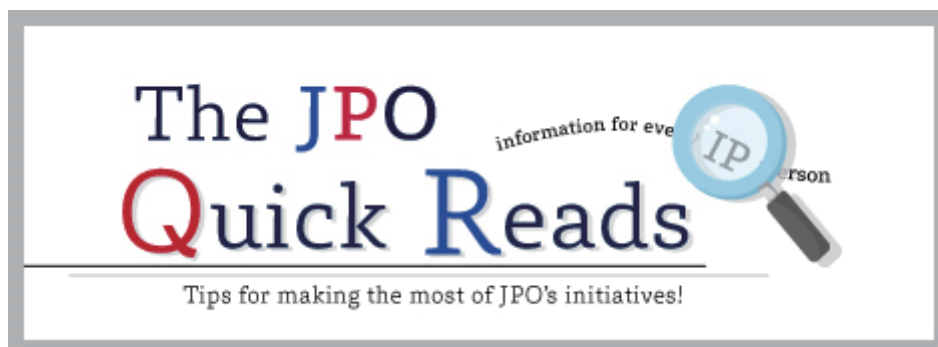
“Enishi” refers to the bond created between people when encountering someone they were destined to meet. We have chosen this term as the title for our publication because we are all members of the Intellectual Property community, and the bonds created between us extend beyond national borders. We hope 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.

In "the JPO Quick Reads", the JPO introduces its initiatives and relevant information mainly in relation to patent examinations. Its weekly updates would help users to understand various JPO measures and to take advantage of using them. We also hope users feel welcome to the JPO service. We have received some good feedback from our users, through Twitter, saying that the JPO Quick Reads are informative and enlightening with frequent updates. The URL and some popular topics are as follows:

### [The JPO Quick Reads]

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

### 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/](https://twitter.com/jpo_NIPPON/)

### [Popular topics]

➤ JPO's examination of IoT-related technologies (15 Dec. 2020)

*Let me introduce the JPO's initiative on examinations of Internet of Things (IoT)-related technologies.*

Just as artificial intelligence (AI) technologies are evolving rapidly amid the Fourth Industrial Revolution, so are IoT-related technologies. We demonstrated our users how we apply the current examination guidelines to IoT-related technologies. Furthermore, we made available to the public examination case examples for a better understanding. We encourage you to take advantage of those materials.

➤ JPO's Contribution to the new IPC Subclass G16Y for IoT-related technologies (22 Dec. 2020)

*Did you know a new international patent classification (IPC) G16Y has been adopted in January 2020 for Internet of Things (IoT)-related technologies?*

Although the applied fields of IoT-related technologies are ever-expanding, access to patent information in such fields had been limited due to the lack of relevant patent classification. Hence in 2016, the JPO established our own patent classification for IoT-related technologies. Based on this experience, we put forward a proposal in international fora on a new classification and contributed to the establishment of IPC subclass G16Y. This new subclass allows examiners and users alike to search prior art for IoT-related technologies in a comprehensive manner.

➤ TAD's reliable decisions (26 Jan. 2021)

*The JPO's Trial and Appeal Department (TAD) is committed to further improve reliability of its decisions!*

TAD makes final judgement of the JPO regarding the validity of intellectual property (IP) rights, with the aim of ensuring that rights worth granting/protecting are treated as such. In recent years, the decisions of the TAD have been maintained by the IP High Court at a good rate. Those maintained cases account for:

- over 80% in revocation actions against the decisions of the appeal against the examiner's refusals (patent)

- about 70% in revocation actions against the trial decisions made in “Trial for invalidation”

TAD makes various efforts towards enhanced credibility. For example, the study group consisting of practitioners inside and outside the JPO deliberates annually upon trial/appeal and court decisions considered to be important on a practical level. TAD utilizes the deliverables for its subsequent proceedings.

➤ English translations of decisions (02 Feb. 2021)

*Have you ever wondered how the JPO's Trial and Appeal Department (TAD) makes decisions?*

The JPO publishes a manually-translated English edition of trial/appeal decisions that would be helpful and informative in understanding the interpretation and operation of the relevant laws in Japan. On TAD's web pages, links to the English translations are provided in a concise list which also contains topics (e.g. novelty, inventive step, patent eligibility) and abstracts so that you can check TAD's decisions according to your interests. You can gain an overview in a very simple manner.

➤ Launch of the Team for Supporting AI Examinations (09 Feb. 2021)

*The JPO has formed the Team for Supporting AI Examinations ahead of other IP Offices!*

In recent years, AI-related patent applications have expanded beyond AI core inventions, encom-



passing inventions which apply AI to a diverse range of technical fields. AI technology is rapidly advancing and is characterized by its abundant technical terms and extensive knowledge to be aware of. To address these circumstances, the JPO established the Team for Supporting AI Examinations by bringing together examiners from various technical fields. The team will accumulate latest AI-related examination case examples containing various results and also develop examination environment to provide consultations for examiners with little experience in AI-related cases. Consequently, it would contribute to improved predictability of patent examinations for the sake of applicants by maintaining examination consistency and providing efficient, quality examination results.

➤ International Search Reports by the JPO under PCT (16 Feb. 2021)

*The JPO is contributing to the PCT System as the third-largest issuer of International Search Reports (ISRs).*

As a competent International Searching Authority and International Preliminary Examining Authority, we prepare and issue ISRs and IPERs either in Japanese or in English. We perform international search within the prescribed timeframe (deadline compliance rates 99.8%), at reasonable search fees (JPY 156,000 for English ISR as of January 2021), and also with very favorable quality evaluation.

## Implementation of FY2020 Training Courses



Following discussions, training courses were held online this fiscal year due to the impact of the novel coronavirus (COVID-19).

In addition to the smooth implementation of the training we aim to accumulate the knowledge necessary to provide training that meets the needs of trainees during subsequent years.

Specifically, we are studying and implementing effective training styles using various tools and methods.

### ◆Short- and medium-term training: JPO/IPR training

In light of the impact of the novel coronavirus (COVID-19), we reviewed the entire program this fiscal year and conducted all short- and mid-term training courses that were planned for this fiscal year online, so that trainees could attend lectures in their home countries.

Short-term training: 17 courses

Medium-term training: 1 course

### ◆Online training method

Two types of tools are used according to the characteristics of the lectures. Those that focus on the acquisition of knowledge are delivered via video streaming, while those that require interactivity, such as discussions and case studies, are delivered via LIVE streaming.

#### (1) Recorded delivery

Trainees can attend lectures on demand, and manage their own attendance status on the learning screen.

#### (2) Real-time delivery

Some lectures are delivered in real time to enable interactive communication between the lecturer and trainees, thereby enhancing the effectiveness of the training.

In consideration of the cases where trainees are unable to view the lectures in real time due to time differences or communication conditions, we have taken measures to provide a wide range of training opportunities, such as distributing recorded lectures the following day or later.





Picture 1. Recording of a lecture



Picture 2. A view of the LIVE streaming

## Training Courses Completed (Yearbook)

\* The photos shown here are posted only with the permission of the individuals shown.



Design Examinations Under the Hague System

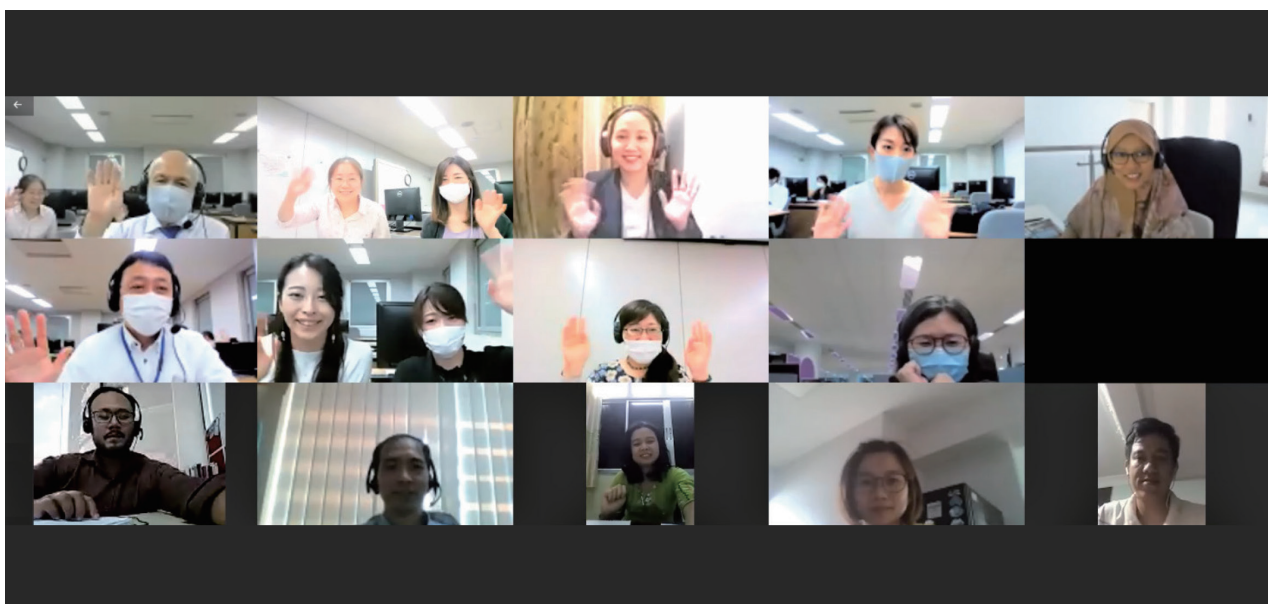


Trademark Examinations Under the Madrid System

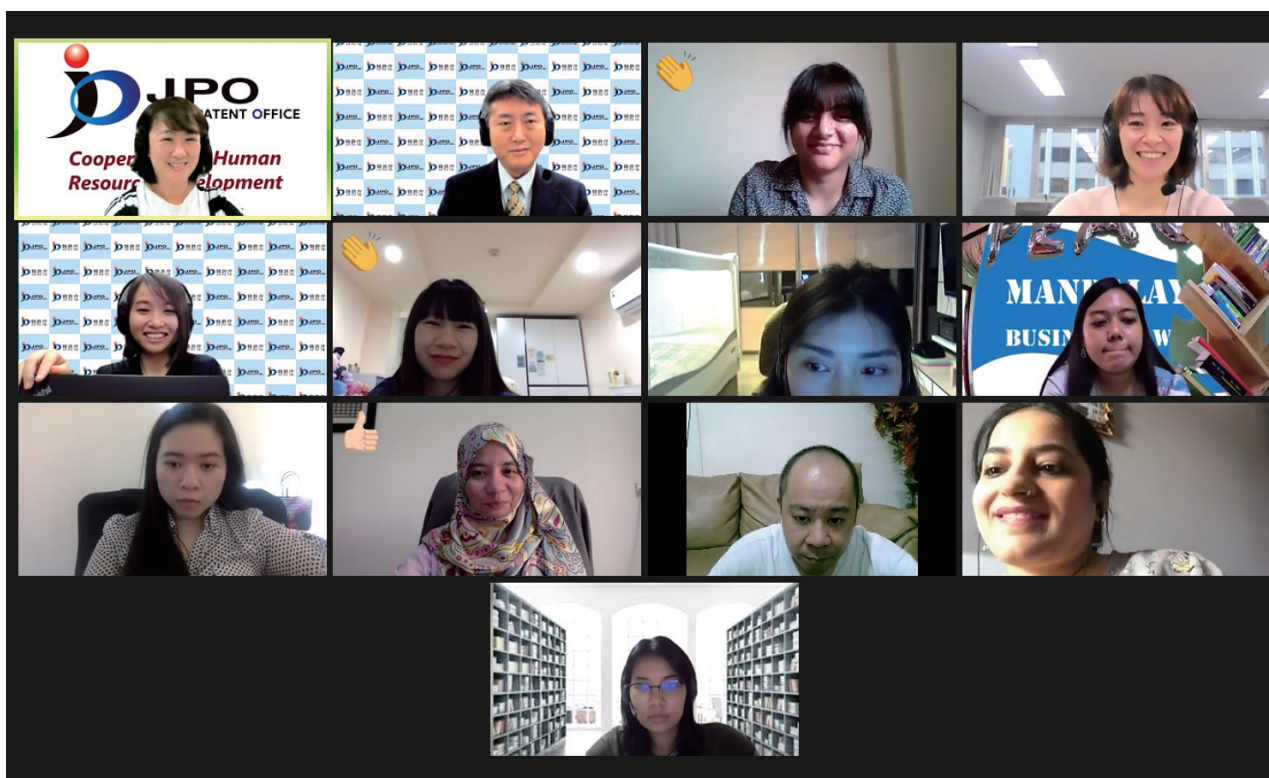




IP Trainers



Patent Examination Management for Managers



Practitioners Specializing in Trademarks

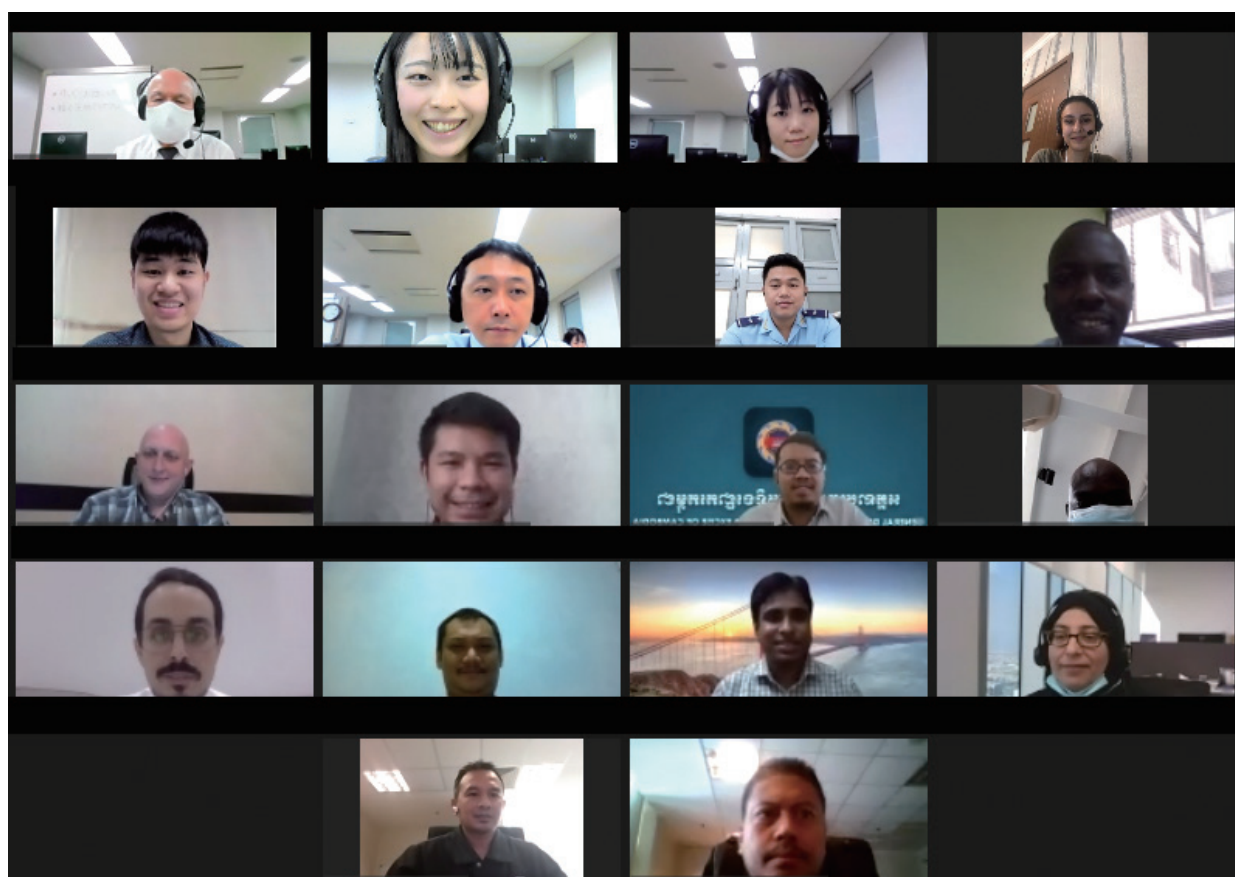


General Management of IP Office





Academia-Industry Collaboration and Technology Transfer



Anti-Counterfeiting Measures for Practitioners



Practitioners Specializing in Patents



Substantive Examination of Trademarks





### Patent Examinations (Basic Program)



### Information Technology



Trial and Appeal System



Promoting Public Awareness of IP





### Design Policy for India

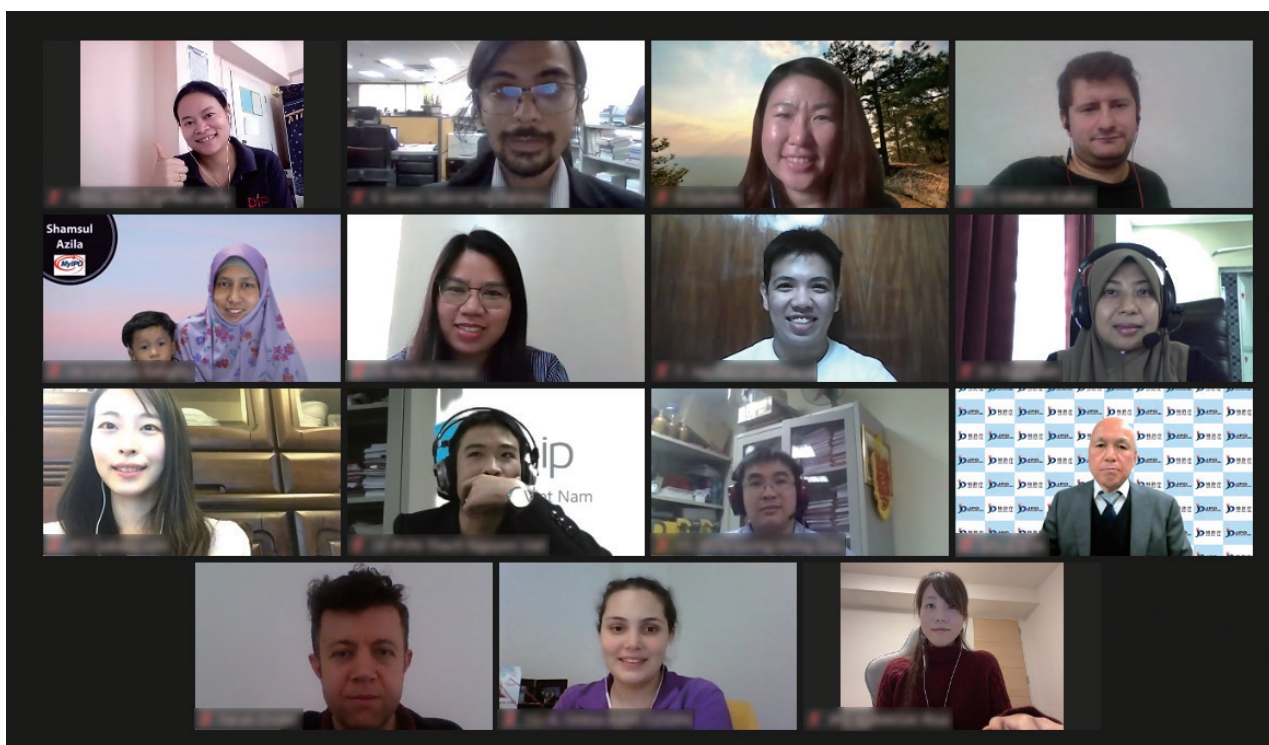
\* This course was held via Zoom webinar, so only the presenters are shown.



### Patent Examination in Specific Technical Fields for Latin American



IP Asset Management for African Countries in cooperation with WIPO



Operational Patent Examination Training Program (OPET)

## Follow-up Seminar for Myanmar Held on January 29, 2021



A follow-up seminar for Myanmar was held online on January 29, 2021, with the Japan Patent Office as the host, the Department of Intellectual Property, the Ministry of Commerce, Myanmar as co-host and the Japan Institute for Promoting Invention and Innovation (JIPII) as organizer. A large number of officials from the Department of Intellectual Property, the Ministry of Commerce, Myanmar have participated in training programs in Japan. About 280 people took part in the follow-up seminar, from the Department of Intellectual Property, and private companies, law firms, and universities, etc. based in Myanmar.

The seminar dealt with the role of the intellectual property system in economic development in response to a request from the Department of Intellectual Property, the Ministry of Commerce, Myanmar. Under the framework of the seminar, officials of IP Offices in Myanmar and Japan and IP experts from the private sector of both countries gave presentations on the theme.

At the opening of the seminar, Dr. Moe Moe Thwe, Deputy Director of the Department of Intellectual Property, stated that the Department of Intellectual Property, Myanmar announced the soft opening of the government entity in October 2020, with an emphasis on the importance of publicity and good use of the intellectual property system. Mr. Niki, Director of the Regional Cooperation Office, International Cooperation Division of JPO provided a brief introduction of Japan's support for the development of the intellectual property system in Myanmar and congratulated the Department of Intellectual Property on their founding.

In Myanmar, the development of the intellectual property system is under way. Such efforts have led to the legislation of four laws, including the Patent Law, Design Law, Trademark Law and Copyright Law in the course of 2019. Starting from last October, the trademark application system has been put into operation for marks registered under pre-existing law.

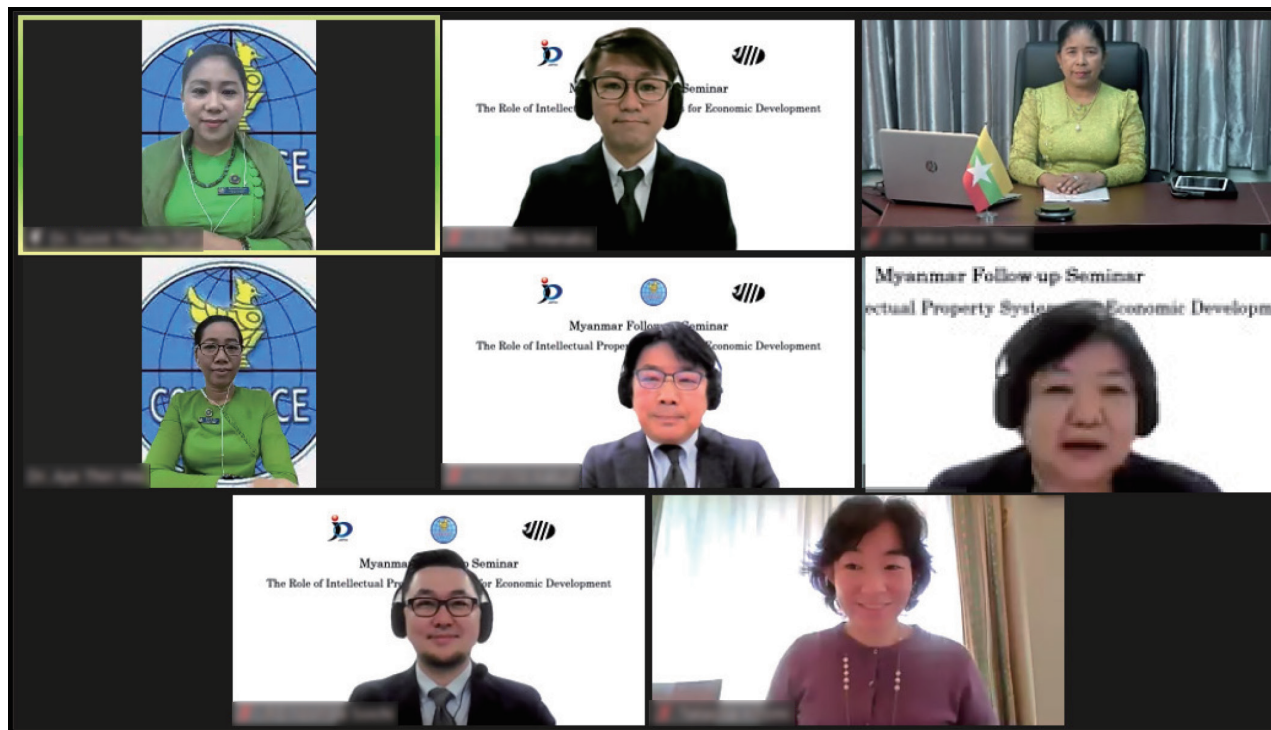
In presentations, participants from Myanmar introduced the role of the Department of Intellectual Property and the trademark application system, both of which were newly established. They also introduced concrete cases, including trademark registration procedures and differences between a trademark and a geographical indication.

Participants from Japan introduced their actual experiences with the trademark system and the patent attorney system. In anticipation of further development of the intellectual property system, they offered strong encouragement to their Myanmar counterparts' furthering their effort in a planned and phased manner, with an eye to the importance of quality control and an active use of IP in business.

In the Q&A session, questions were asked on a variety of topics, including the necessity of registration of a certification mark endorsed by the agriproduct certification authority, and the requirements of eligibility for patent attorneys.



The seminar is expected to provide useful information to IP professionals, including alumni from training programs in Myanmar, thereby contributing to their future performance.



From top left:

**Dr. Seint Thanda Tun**, Director, Department of Intellectual Property, MOC, **Mr. NIKI Manabu**, Director, Regional Cooperation Office, International Cooperation Division, JPO, **Dr. Moe Moe Thwe**, Deputy Director General, Department of Intellectual Property, MOC, **Dr. Aye Thiri Wai**, Director, Department of Intellectual Property, MOC, **Mr. HOSHINO Kazuo**, Administrative Counselor, Shobayashi International Patent and Trademark Office, **Ms. SUGIMURA Junko**, President, Patent Attorney, SUGIMURA, TAMURA & PARTNERS. International Patent & Trade Mark Office, **Mr. YOSHIDA Soichi**, Deputy Director, Trademark Policy Section, International Cooperation Division, JPO, **Ms. TAKAOKA Hiromi**, JICA Advisor of Intellectual Property, MOC, Myanmar (\* This is a composite image.)



## Contributions from a former long-term fellowship researcher



### A Glimpse in the Life of a Filipino Researcher in Japan

Ms. Anthea Kristine Yrigan Paculan (Philippines)  
Intellectual Property Rights Specialist III  
Chemical Technology Examining Division  
Bureau of Patents  
Intellectual Property Office of the Philippines (IPOPHL)



19 JPO Long-term Fellowship Researcher  
(June 27 - October 25, 2019)



If life is like a tapestry, I would say that the four-month period when I took part in the Japan Patent Office (JPO) Long Term Study-cum-Research Fellowship Program (FY2019) in Japan is one very prominent picture woven into it. It was indeed a colorful, beautiful, exhilarating, challenging, and huge learning experience.

That prominent picture in the tapestry started in the early part of May 2019, when I received the news that JPO had decided to grant me a fellowship for my research theme titled “Construing Patentability of Chemical Technology Inventions, with Focus on their Patent Eligibility and Industrial Applicability: *A Comparison on the patent examination approach in the Philippines and in Japan*”.

The research theme is in support of the Intellectual Property Office of the Philippines’ (IPOPHL) strategic goals of delivering quality and timely patents, and developing and maintaining a highly-motivated, competent, and cohesive workforce. In line with IPOPHL’s commitment to deliver high-quality and efficient services, the office has been working on standardizing and improving the patent examination procedures and practices across all divisions in different fields of technology, including in the chemical field where I belong. Moreover, IPOPHL was designated as an International Search Authority and International Preliminary Examination Authority (ISA/IPEA) in May 2019, and is continually innovating and upgrading its systems and procedures by adapting worldwide standards.

Japan Patent Office (JPO) is an established ISA/IPEA. Its long history of patent protection ensures that the quality of patents granted in Japan is high, wherein their patents have lower probability of being opposed or revoked compared with patents granted in other jurisdictions. In Japan, JPO has provided detailed guidelines specifically addressing patent-related issues, especially those of patent eligibility and industrial applicability of various subject matters, as provided in their Examination Guidelines for Patent and Utility Model. In addition, the Examination Handbook for Patent and Utility Model in Japan has also provided very informative case examples and court precedents on patentability matters, with detailed sections on eligibility for patent and industrial applicability. Therefore, the enhanced knowledge and understanding of patent examination practices and perspectives on the part of JPO, within the context of the existing Philippine laws on patents, would be very beneficial to any researcher on the subject. The opportune and timely occurrence of JPO's fellowship program was therefore complimentary towards IPOPHL's initiatives to enhance the quality of patent examination to be on par with established ISAs/IPEAs.

I arrived in Tokyo, Japan on June 27, 2019, equipped with background knowledge about my research study, coupled with a strong determination to achieve it. In the back of my mind, I was anxious. It was not the first time I had set foot in Japan; I had already visited the country twice with family and friends on short trips for personal tours. This time, however, I had no family or friends with me as my emotional anchors, and I would be staying far from my country, the Philippines, for a relatively long time. This time, I was visiting Japan on official business, and I was faced with a gargantuan task to be accomplished within a short time-frame. I know basic Japanese language and I am a little familiar with the Japanese culture through my previous short visits and through the media. However, I cannot say that I truly know Japan's culture and customs. Numerous thoughts and questions filled my mind:

*How do I go about my research?*

*Which specific aspects of my research should I focus on?*

*Who should I consult with on my research?*

*Will I be able to finish my research within the time frame?*

*I have only four months to finish my research, will I have time to explore around Tokyo or nearby places?*

*How do I handle the Japanese culture?*

*I am shy; how do I make new friends?*

Once I had met and discussed my research with my supervisor and colleagues from the Asia-Pacific Industrial Property Center of Japan Institute for Promoting Invention and Innovation (APIC-JIPII), I knew I was in for an incredibly challenging road ahead.

Looking back, I thought I would be completely alone in doing my research tasks. It did not take me long to know I was wrong, for during that time, I was thoroughly supported and guided by my supervisor: Mr. Yorimasa Suwa, my advisers: Dr. Kazukiyo Nagai and Ms. Tokiko Mizuochi, and several colleagues throughout the research period - their names too many to mention.

For my research, I had to analyze and study the overall patenting system and examination approach in the field of Chemical Technology in the Philippines and Japan, with a specific focus on their Patent Eligibility and Industrial Applicability. In order to verify the gathered information and determine the appropriate system for developing and implementing examination principles, I was given the opportunity

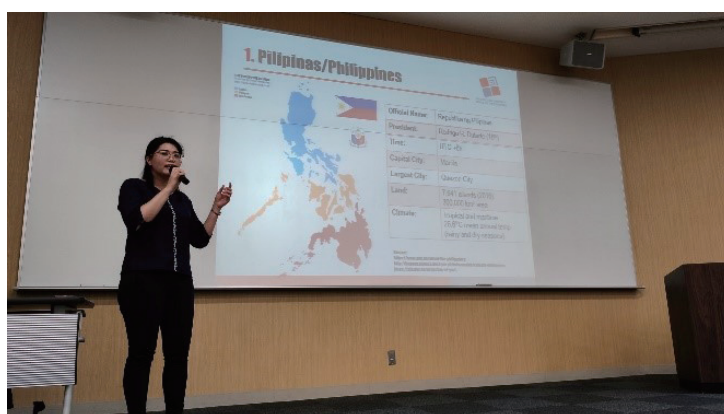
to meet Japan's patent examination standards authorities, stakeholders, and patent law experts. They had helped me understand and enhance my knowledge of JPO's patent examination practices and perspective, in the context of existing Philippine laws on patents. Ultimately, Japan's practices, policies, and experience in the examination of chemical technology and invention applications had provided a new perspective on how we can handle the same matters in the Philippines, taking into consideration the existing national laws.

Indeed, IPOPHL must be in step with the emerging challenges in the patent examination of various fields of technology. Based on the best practices of Japan's examination standards and system, I had a series of recommendations on how we can handle the same matters in the Philippines which may help in developing clear patent examination guidelines and implementation system regarding such matters. Future amendments of IPOPHL patent examination references should feature the best practices of examination standards from leading Intellectual Property offices, so that examiners will have high confidence in drafting examination reports with findings that could withstand even the meanest scrutiny, and eventually produce patents that can withstand any patent prosecution.

In between my serious research work, I had the chance to imbibe some elements of the Japanese culture and attractions. I never did get to visit Disneyland nor DisneySea, but I did take part in events and visited places which I could not have experienced without the wonderful new friends I made in Japan:

Firstly, I successfully climbed Mount Takao (Takao-san), a popular hiking spot located within an hour of downtown Tokyo, which stands at 599 meters. The climb up was a true workout, but there was a sense of satisfaction on reaching the summit with my friends. Also, our stopover at an establishment atop Mt. Takao provided us with an all-you-can-eat and all-you-can-drink treat and stunning views of Tokyo and Yokohama in the evening, which more than made up for the exhaustion we felt at that time.

We researchers were also invited to Chuo University Senior High School – an affiliated high school of Chuo University and a member of the “Super Science High-School” program of the Japanese Ministry of Education, Culture, Sports, Science, and technology (MEXT) – wherein I was given an opportunity to share with the students a birds-eye view of my country, the Philippines. The exchange with the students afterwards was memorable to me: it was lively, interactive, informative, and fun on both





sides. I also took part in their school festival, which made me reminisce upon my youth like when I participated in fish catching and whack-a-mole games, listened to the school's orchestra and rock band mini-concerts, and ate many festival foods such as *yakisoba*, *takoyaki*, *yakitori*, and fries.

I also visited various food hubs and *izakaya* restaurants with friends, and enjoyed the most surprising and amazing delicacies I had never tasted before such as *natto* (fermented soybeans), *edamame* (steamed or boiled immature soybeans), *daifukumochi* (glutinous rice cake stuffed with sweet filling), *ochazuke* (rice in green tea), grilled *ayu* (sweetfish), *unagi-no-kabayaki* (eel), *kaisendon* (sashimi on rice), and *monjayaki* (a pan-fried batter dish). My introduction to *monjayaki* was especially memorable, since all of us were able to participate in cooking it on the grill. We waited while small portions of the batter became crispy and caramelized, and then we ate directly from the grill using only an exceedingly small spatula! Those food experiences somehow influenced my taste in foods, as I now seek treats like *edamame*, *monjayaki*, and *daifukumochi* in shops and restaurants here in the Philippines.

Summer in Japan was an eye opener. I remember telling one of my colleagues, “*It is difficult to imagine how Japan can be hotter than the Philippines. That can't be true!*”. I stand corrected. Indeed, I had experienced that Japan can be hotter than the Philippines during summer. The temperature in Tokyo on August 2019 went as high as 36°C, with a “*feels like*” temperature of about 47°C! Air conditioning indoors had been a comfort and a blessing. Despite the hot temperature, I genuinely loved the summer season - it is when the best Japanese festivals occur such as the Tanabata (star) festival and *hanabi* (fireworks) festivals. The Tanabata festival, which commemorates the meeting of the deities Orihime and Hikoboshi, was a fun experience of various colorful parades, food trips, and shows. It was a pleasure



joining in with other people in carrying an *omikoshi* (portable miniature shrine) on the shoulder while parading around the grounds. In one of the festival's shows, I was even invited to act like a samurai and taught to fight several ninjas simultaneously – ON STAGE! The fireworks festivals, originating from the Japanese tradition of competition among rival pyrotechnic groups, showcased a free jaw-dropping show in the night sky, which reflected beautifully against rivers and lakes. I was lucky to have joined in the Sumidagawa Fireworks Festival (one of the oldest and most famous fireworks displays in Japan) and the Tamagawa Fireworks festival (one of the last fireworks festivals of the season) with exceptionally good company over simple foods and drinks.

Certainly, my four-month stay in Japan was an educational and a cultural learning experience – an enlightening adventure which will surely stay with me throughout the years.

I am profoundly grateful to IPOPHIL, JPO, and APIC-JIPPII for allowing me to be part of this well-structured program. I am thankful to my new-found friends I met in Japan, who embraced me as their “**Kri-chan**” (“Kri” from my name, “Kristine”) or “**Kuri-chan**” (“Kuri” means chestnut in Japanese), which is very heart-warming indeed, especially for a foreign visitor like me. They were my family away from home, and I could not have finished this research without them. It was fruitful, and I knew that I would definitely bring back to my country the diverse information I learned throughout my research. Likewise, this program allowed me to appreciate the Japanese culture by experiencing it with its amazing people.

On October 25, 2019, I departed from Japan laden with new knowledge and unforgettable memories, which I would carry with me to the rest of my journey ahead in IPOPHL and in my everyday life. My research study in Japan may have concluded, but the pursuit of IPOPHL's vision of strengthening the protection of intellectual property rights in the Philippines has never ended.

Maraming, maraming salamat po! I am keeping my fingers crossed for a similar program to come my way. More so, I look forward to meeting again my friends and colleagues in Japan—may that be on an official or a personal trip.



## Training course experience in Japan



### Visit to Japan: A Peek into the Future

**Mr. Ravisankar Medicherla (India)**

Assistant Controller of Patents and Designs, Examination Dept./Patent Office Chennai  
Office of the Controller General of Patents,  
Designs and Trademarks,  
Department for Promotion of Industry and Internal Trade



JPO/IPR Training Course on Establishing Patent Examination Guidelines  
(October 3 - 9, 2019)



Synthesis of controlled greenery and pavement of a modern city, near the APIC office in Tokyo, Japan

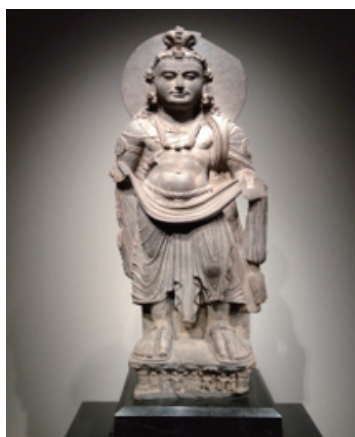
Hello all, my Name is Ravisankar Medicherla from India. My experience in Japan is presented below. Hope the experience interests you.

Both India and Japan are very old civilizations, and my initial thoughts before entering Japan as a first-time visitor were to explore/ know the ancient aspects of life in Japan. Accordingly, I planned to visit Tokyo museums during my stay, besides watching a Japanese period film en route to Tokyo!

At a Tokyo museum, the images and the various names given to Buddha, along with the paraphernalia of worship on display and even the earrings worn by Japanese women in earlier days, all evoked similarities found back home in India.

But it was modern-day Japan and the life in Tokyo, along with the adaptive lifestyle of Japanese people to the modern industrialised society, which gave a peek into the future that I probably will be able to visualise back at home, waiting to unfold in the years to come.





Bodhisattva at a museum in Tokyo, Japan



Earrings at a museum in Tokyo, Japan



8th century incense burner at a museum in Tokyo, Japan

With its high population density, the movement of people for work seems to be very high in Japan. And yet surprisingly, there seems to be silent acceptance of this among the Japanese. The efficient metro trains, even though overcrowded, prove to be reliable and seemed to be working flawlessly only because of the patience and discipline followed by Japanese citizens. In fact, I could realise to my utter surprise only at the end of my seven-day stay in Japan that many of the metro stations in Tokyo were multi-storied. The cost of living seems to be pretty high for both food as well as non-food articles, and yet citizens in Tokyo seem to have reasonable options available to them. From costly restaurants to supermarkets selling packed meals costing 100 yen, everyone has options to make a living without going hungry.

Shopping for essentials, memorabilia, fancy electronics and toys was a learning experience about Japan. Hundred yen stores like DAISO and Seria present an excellent choice to the customer at the same time by not costing much, which probably helps those Japanese customers living within tight budgets to help manage their lives without compromising on their values. I was looking to buy a medical device, and I realised that only when the customer is serious about buying it, will the store bring it from the distribution centre. This is how sellers probably manage the costly real estate shelf space in the Tokyo metropolitan city.

I was wondering about the reasons for the cost of food being so high in Japan as compared with India. The ratio of the price of two batteries made in India to those made in Japan is around double, but the ratio of the price between 1 kg of rice in Japan compared to India is much higher. This made me wonder whether it is a consequence of the complete shifting of a society from agriculture to industry, and if so, whether the citizens of a country undergoing transformation into an industry-based society needs to see the future beforehand. Perhaps as countries become more industrialised and agricultural production reduces, food will become more costly. I also observed that people have been travelling in the metro during the early morning and going back quite late, which made me think that if the Indian cities of the future will grow bigger and bigger like in Tokyo, Indians will probably then be required to spend more time travelling — thereby reducing the quality time they can spend with family and friends. In fact, I saw a Japanese citizen wearing a tie in a jam-packed Tokyo metro, indicating that he will be on time for work by compensating for the lack of time at home to put on a tie — thereby not compromising on the office dress code!

Another thing I learned was that as people in a country are becoming more educated in a particular generation as compared to previous ones, the citizens of the previous generations appear to struggle more with modern aspects of life. I came across some Japanese elders who had to travel on their own in the crowded metro without anyone's help. Perhaps they cannot afford to take help from their grown up family members, who themselves are preoccupied in trying to make a living.

So what are the lessons for India, as a country of agricultural production that is experiencing increasing education and income levels among more and more of the population? People are certainly going to migrate more to the cities, and the elderly will be left out of their native places. In addition, the big cities are also going to witness many highly educated Indians going abroad and leaving their parents alone in their big cities with no one to take care of them.

As a society becomes more disciplined collectively and individually, one important takeaway for all Indians is probably that older people will be able to survive on their own financially if not emotionally. Creating job opportunities for more people from every aspect of planned modern city infrastructure is another takeaway (the picture in the beginning of this article being an example). Enabling affordable public transportation like metro rail networks on a large scale is the only viable alternative for the rapidly growing urban traffic situation, which is a work in progress in India that is showing early signs of success in big cities like Delhi. While there are opportunities even in the chaotic situations as in present-day India, the predictability of opportunities being available for all will come with discipline. This will help the society to be more harmonious and liveable for all, which Indians must continue striving for.

In hindsight, it is amusing to realise that my interest in ancient Japan and the observations about modern Japan (the common thread being adherence to values like discipline, which seems to have helped the Japanese society adapt), enabled me to see a better future road map for India.

Trivia: The feeling of astonishment I had when I entered the seventh floor of a toy store in Tokyo was so much that I could not remember what I came to buy. Similarly, the language barrier became so funny that even with a detailed Tokyo city map in hand, one cannot be certain of reaching their destination unless they choose the correct exit gate of a metro station. In one instance, I spent almost an hour finding the exact gate since I wanted to decide for myself without seeking help. Namaste.



With my fellow attendees during the seminar



# Japan from the Lens Across the Pond



Mr. Nicholas Chow Kok Chun (Malaysia)

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Marksmith IP c/o Azmi Consulting Sdn. Bhd.

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



## A big big arigatou gozaimasu!

First and foremost, I would like to thank the amazing staff at AOTS, APIIC and JPO, especially Atsue san, Michiko san, and Hasegawa san, for the hospitality, and for constantly making sure we were all safe and healthy in Tokyo during the Covid-19 pandemic. The counter-measure efforts and discipline shown by the Japanese people in overcoming this pandemic is nothing short of exemplary and inspiring. That being said, I hope as I write this that everyone is safe and healthy back in Japan. Let's all overcome this together!

## Impressions of Tokyo

I have always been interested to visit Japan, as I grew up with Japanese media from the 90's such as Kamen Rider, Mobile Suit Gundam, Initial-D, Dragon Ball, Slam Dunk,, Shizuka Kudo, and so on. Hence, visiting Tokyo was always in my books.

Upon my arrival in Tokyo, I noticed how everything was well-organized. Everything was placed where it should be, and had a purpose. I've read how the Japanese are famous for their meticulous attention to detail, but actually experiencing the spirit of the Japanese people in person was a refreshing experience altogether. From the punctual-to-the-dot train arrivals to the well-designed signages, I can see how these little things add up into a well-organised and efficient system which the Japanese are renowned for.

A trip around Tokyo would only leave you marveling at how efficient the Japanese are. Despite Tokyo being badly damaged by the Great Kanto earthquake and World War II, it bounced back from the ashes into this great modern city that is not only clean and well-planned...all of it in just less than a century! Present day Tokyo is truly a remarkable feat indeed!

Apart from that, I love how Tokyo has many shrines and interesting places tucked within the city. From huge walkways to small maze-like alleys,



there is always a hidden gem in these places. Unlike most places where famous landmarks can be spotted from a distance, it was interesting to know that the gate to Sensoji Temple and Nakamise market were actually hidden between tall buildings. The same goes for Meiji Jingu, which is tucked between a forest in Tokyo, yet when you step into the grounds, it is easy to feel that you are in a different world and not in the city. This is a perfect illustration of how the past and present could blend together in harmony.

One place which left a deep impression for me was Golden Gai in Shinjuku. It's amazing to see how so many bars can fit into a small alley. Despite the small size, it was in one of the bars here that left the largest impression on me. While I was having a conversation over drinks with a local at the bar, he told me that when the Japanese can't solve something, they will say "Shouganai" (仕方がない) and move on with life. I find this saying very helpful, teaching us to move on and work around things instead of staying stuck in one spot when faced with an obstacle.



I like how Tokyo not only has representations of the past and present, but also the future. Enter the city of Odaiba, a small city celebrating science and technological innovations of Tokyo, thus also painting an impression of a futuristic Tokyo. Here, you would find science museums, visual art galleries that incorporate interactive technologies, a dedicated museum to showcase Toyota automobiles (if you are a fan of cars, this place is a must-visit!), and most notably, a life-sized 18 meter-tall replica of a Gundam robot!

## FIRST WEEKEND: NIKKO 日光

One of the recommended places to visit by the good people at AOTS was Nikko, a UNESCO heritage town consisting of many old temples, hot springs, and snowy alps. Hence, my course mates and I decided that it was a must-visit, and we decided to spend the weekend there. Getting to Nikko would be a two-and-a-half hour train ride from Tokyo.

Nikko's scenery is very beautiful, with lush green forests and temple walkways lined with tall cedar trees, and the alps in the backdrop. The scenery is nothing short of breathtaking. Moreover, the tour guide at the tourist center was excited when he found out our group consisted of people from five different countries: Cambodia, Vietnam,



Malaysia, Brazil, and Argentina! Nikko was also where I got to experience a few firsts in my life. One would be trying snowboarding for the first time (we don't have snow in Malaysia), and also sleeping in a capsule hotel, which Japan is famous for. Being in Nikko sure feels like being in the past. Everything feels laid back and relaxed over there, a very different feeling from the city life of Tokyo.

## HANAMI 花見

The month of April is when people in Japan would see the sakura trees blooming. But we were very lucky, since the sakura trees bloomed in Tokyo this year at the end of February. Hence, we were able to enjoy two seasons: first, the snowy winter; and then, taking part in a favourite Japanese springtime activity called hanami, which means “watching flowers”. It was indeed a memorable experience to be able to have a picnic with my course mates from different countries, and adore the beautiful sakura. Moreover, we were lucky enough to see a Japanese couple taking their wedding pictures under the sakura tree. The happy couple sure looked beautiful and elegant in their traditional Japanese attire.

## COMING FULL CIRCLE WITH TRADEMARKS

My interest in trademarks began when I was a young man who was exposed to the Japanese streetwear fashion scene during the Ura-Harajuku movement in the 90's, which gave birth to famous brands like BAPE (A Bathing Ape), Neighborhood, Goro's, WTAPS etc., which put Harajuku on the world map of fashion. Back then, I didn't think much of trademarks. To me, a trademark was just a logo, something that companies used as a marketing tool and a reason to overcharge consumers. But as I learned more about these Japanese brands, I was constantly inspired by how the founders incorporated a certain concept or philosophy into their clothing, while still being able to stand out amongst the other brands. I was even more amazed by how they still remained popular worldwide during the internet age, despite having started in the 90's. That's when I learned that a logo was more than just an artwork. A trademark represents quality, what it stands for, and the people behind the brands. The trademark is what kept their brands alive, and elevated the business to the next level. Thus began my journey into the rabbit hole of intellectual property law and trademarks. Hence, things came full circle for me when I got an opportunity to study more about trademarks in Japan.

As I strolled along the streets of Harajuku and Shibuya, I noticed that Japanese people are very innovative when it comes to creating something. They always try their best to create something that is unique, and has never been done before. Perhaps this is why intellectual property is much respected in Japan, because the sense of individuality and creativity are valued in Japanese culture. Perhaps this is also a testament to why it is more difficult to find counterfeit products in Japan compared to elsewhere. It is no wonder that Tokyo has become a shopping haven for many people, including famous celebrities from all over the world, due to the quality of the products and services offered.

## EATING IN TOKYO

Of course, what is a travel diary without food! Tokyo is indeed an amazing place for those who are on a gastronomic journey. During my stay in Tokyo, I managed to meet up with my Japanese college mate whom I met while studying in the UK. What better way to ask for food recommendations than to ask a





local! He was kind enough to bring me and my course mates to Sushi Zanmai, a famous sushi restaurant located in Shinjuku, where the ingredients were said to be sourced daily fresh from the famous Tsukiji fish market. As a fan of Japanese food, I must say that we were never disappointed since we finally got to taste authentic Japanese sushi in Japan. Also, it was interesting that through our conversations over dinner, my Japanese college mate revealed that he is getting married at the end of the month (Congratulations to you!). It was truly a memorable reunion for us.



If you are a fan of ramen, one of the must-visit ramen restaurants would be Ichiran Ramen. There are a few outlets around Tokyo, but I would recommend the one in Shibuya, as the location is convenient to have a meal if you're exploring the Harajuku/Shibuya area.

Aside from Japanese food, it is not impossible to find different types of cuisines from all around the world in Tokyo.

One of my favourite dishes in Tokyo was actually an Indian cuisine called naan, which is served with Indian curry. Although we have naan back home in Malaysia, what makes the Tokyo version so special is that it is very huge and fluffy (the size of my hand). With such a soft textured bread being dipped into the curry, the goodness of the combination just melts in your mouth, a taste which I can still remember to this day.

## SECOND WEEKEND: MT. FUJI

There is a saying that a trip to Japan is not complete without visiting Mt. Fuji. Most of us would have only seen Mt. Fuji from pictures or postcards, but actually seeing it in person and watching the snow frosts at the top was a majestic sight to behold. Apart from Kawaguchi Lake, my favourite part of the trip was Oshino Hakkai, a small village consisting of eight beautiful ponds with crystal clear waters and beautiful Japanese koi fish swimming gracefully in its waters. With the ponds and Mt. Fuji against the backdrop, the scenery was something that can only be fully appreciated in person.



## MY JPO/IPR TRAINING EXPERIENCE

Last but not least, my training for trademark specialists was a very memorable and pleasant. It was a good learning experience to listen to many industry experts from Japan share their experiences relating to trademarks. What is astounding is that despite the fact that some of our lecturers can only speak Japanese, our translator managed to translate every single word without missing a beat! For me, the highlight of the training course was definitely our visit to the Suntory Hakushu Distillery. This visit not only gave us a first-hand experience on how the famous Japanese whisky is brewed, but also showed us the incredible hospitality offered by the touring staff. We were humbled by their world class professionalism.



I made many friends from different countries throughout the

course, and while our time together may only have been one month, all of us felt like family at the end of the trip. Apart from training together, we also travelled, had many adventures, and even celebrated birthdays together. I even made friends with a JPO staff person because we had a similar haircut! It was indeed never easy saying goodbye, and I will definitely miss them.

## CLOSING WORDS

I wish JPO would continue to have such courses, as it is not only an eye-opening experience where everyone can learn from each other, but most importantly, foster lasting friendships amongst one another.

Would I recommend such courses to those who haven't participated? 100% YES! You will definitely fall in love with Japan, trust me. And more importantly, Japan will always leave you feeling inspired!



# Japanese Empowerment

Ms. Diana Malú Torres Chicchón (Peru)

Specialist 1, Customs Intelligence Division  
National Superintendency of Customs and Tax Administration – SUNAT



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



My name is Diana Malú Torres Chicchón, and I am a customs officer in a Latin American country called Peru. My country is known for having one of the seven wonders of the world, a legacy of the Incas called Machu Picchu. We also enjoy one of the best gastronomies in the world, with more than 3,000 varieties of potatoes. Peru is, additionally, a country with one of the greatest levels of biological diversity and greatest mineral resources in the world.

Every time I have had the opportunity to travel to other countries, I have been very excited about the new adventures I would undertake. Knowing that I would participate in a Training Course for Practitioners to be held in Japan, however, meant a challenge accompanied by learning from the first moment my boss communicated my nomination. Truthfully, I did not think I would come to love so much a country that was so different from mine.



I studied English at university, and my work in customs made me read information in English frequently. However, in my work area it was not necessary to speak in a language other than Spanish, and as you know, everything that is not practiced is forgotten. My first challenge was the oral exam of English through a phone call directed by APIC staff, which I solved thanks to several days of practice without major complications from the time difference (14 hours).

At some point, I thought that the IPR training course would be postponed or cancelled due to the novel coronavirus that was already making news in China. However, I received an email in January from the APIC-JIPII organizers informing me about the continuity of the program as they had planned from the beginning, along with the preventive measures they were taking in the JPO. This is why in the pictures of this article you will see me all the time with a mask, and very white hands from the antiseptic solution that was present every day during my stay in Japan.





I prepared my presentation in advance, because getting statistical data on the actions carried out by Peruvian customs in the framework of Intellectual Property Rights was not an easy task. The system we have in place does not allow us to collect exact information on the subject, and as I looked for more information on this matter, I found more difficulties. It should be noted that the institution in charge of functional competition in Peru is the National Institute for the Defense of Competition and Protection of Intellectual Property - INDECOPI, and therefore we are not as synchronized as we should be in attacking the problem.

After taking two planes and traveling for around 24 hours, I arrived in the utopian country of Japan. From that moment on, I was easily impressed by everything I saw and perceived. Learning was present throughout my trip, both professionally and culturally, and as I write these lines, an immense happiness springs up in me, the same feeling as I enjoyed every minute in Japan. To this day I continue to learn, because I will confess that during my nomination. I was informed that I would go to train in a course that was part of fiscal year 2019, and I said "but if it will be held in 2020, then the coronavirus postponed its plans". Once again, however, I was surprised when reading column No. 9 by Mr. Takao OGIYA, APIC Director General, in the Enishi magazine (No. 24 March 2020), wherein he indicates that the fiscal year

in Japan begins on April 1 and ends on March 31.

Professionally, being a witness to how Japanese customs works in the fight against counterfeit goods, as well as finding out that customs offices in my region, in places such as Argentina, have an area dedicated exclusively for issues of Intellectual Property Rights, made me reflect even more on how my country faces a problem as immense as it is complex, and can cause such damage to countries' economies.

The presentation of each course participant allowed me to know the reality of about 13 countries in terms of the successes and failures in the fight against counterfeit products, and the protection of intellectual property rights in general. This led me to work creatively in order to implement the good practices of other countries to improve the treatment of IPR in Peruvian Customs, which would be reflected in a report with proposals for implementation and improvement. Currently, I resolve a greater number of complaints related to IPR, which allows me to attend to them while taking into consideration all that I have learned.

Culturally, I learned that cordiality must be present in each of our actions, that discipline is a fundamental rule that must be put into practice on a daily basis, and that keeping quiet when sharing public spaces is the greatest show of respect that can be demonstrated. I also learned that the best friendships are forged during study and teamwork, and that limits do not exist. This last observation was reflected in the networks of train stations, the perfection of their decorative art, the artificial island of Odaiba, Ueno Park (Japan's first public park), and incredible shops like Daiso, Uniqlo and Tokyu Hands. While I knew all these places, the Japanese warmth was a complement in each destination, and one of the best memories that I carry with me.



Meeting people from different countries and other cultures, in addition to sharing the same interests and creating a network of friends and professionals at the same time, with whom to date I continue to improve my English and who are located to absolve and debate the topics immersed in IPR and all kinds of themes, has resulted in improvement for the institutions of the countries they represent. All of the experiences that I acquired during my stay in Japan gave me greater security and incredible empowerment. I felt that I could handle everything, and so I have been doing it step by step. I'm sure I'll be back very soon, as soon as we find the vaccine to fight covid-19 ...

# Mabuhay Tomodachi !!!

## (友達 / ともだち / トモダチ)



**Mr. Benjamin Sambo Eder (Philippines)**

Division Chief, Intellectual Property Rights Specialist V, Bureau of Patents/ Civil and General Engineering  
Examining Division, Department of Trade and Industry  
Intellectual Property Office of the Philippines (IPOPHL)

JPO/IPR Training Course on Patent Examination Management  
(September 19 - 26, 2019)



My name is Benjamin S. Eder. I am from the Intellectual Property Office of the Philippines (IPOPHL) and have been with the IPOPHL since June 1985. Back then, IPOPHL was known as the Philippine Patent Office (PPO). PPO, in the 90s it was changed to the Bureau of Patents, Trademarks and Technology Transfer (BPTTT). When the Intellectual Property Code of the Philippines took effect in 1998, the Office became officially known as the Intellectual Property Office of the Philippines.

In relation to the changes in the name of the Office, my position and line of work changed, too. I started as a researcher, became a Patent Examiner I, II, III, and IV. Currently, I am an Intellectual Property Rights Specialist V, or Division Chief (DC), and am assigned to the Civil and General Engineering Examining Division (CGEED). As the DC, I have the following tasks, among others: (i) coordinate and supervise the operation of the Division; (ii) review the findings and communications of Intellectual Property Rights Specialists of CGEED to ensure uniformity of treatment and issues; (iii) recommend the grant or abandonment of CGEED applications to the Director of Patents; and (iv) conduct meetings with the technical staff of the division to ensure that the new instruction regarding CGEED rules, practices and procedures are complied with. Aside from being a DC, I am also the team leader of the Committee on Minimum Documentation of the International Search Authority Project Team responsible for determining and acquiring the different proprietary databases and documents the IPOPHL examiners need to access in doing their search and examination as an International Searching and Preliminary Examining Authority (ISA/IPEA) IP Office prior to and after the designation of IPOPHL as an ISA/IPEA.

My visit to Japan last September 19 to 26, 2019, was to attend the JPO/IPR Training Course on Patent Examination Management held at the Japan Patent Office (JPO) and the Association for Promotion of International Cooperation (APIC). I have been to Japan many times already but when I was chosen to attend this seminar, I got excited not only to learn more about the seminar, especially if it has something to do with my job, but also for the reason that I have always been curious about Japan. It is an insatiable appetite to know Japan and it really makes me keep wanting to go more, learn more, and explore more.





With my fellow attendees during the seminar

The training was very timely and helpful because during that time the IPOPHL was in transition and was adjusting to the experience as an International Searching and Preliminary Examination Authority. It was also a training to learn and emulate the efficient, cost effective and quality ways of being an ISA/IPEA IP Office. The seminar was a follow-up on a JPO/IPR Training Course on Business Management for the Philippines held on February 6 to March 2, 2018 for the two (2) different bureaus of the IPOPHL, the Bureau of Patents (BOP) and the Financial Administrative Services (FMAS). The aim of these two (2) trainings was to help the IPOPHL walk through the experience that focused on the research and substantive examination matters, together with the financial aspect and other related matters that JPO encountered before and after becoming an International Searching and Preliminary Examining Authority IP Office.

I honestly feel that there is a special relationship between IPOPHL and the JPO. The Japan Patent Office as the father/advisor/mentor, and the IPOPHL as the son/trainee/protégé. The IPOPHL needs a good mentor, a role model to provide guidance in this new endeavour and JPO provided us the training/seminars that significantly imparts and shares with us the necessary skills, knowledge and experience. As the JPO advises, together with the support of the IPOPHL Management, the IPOPHL has been able to put up the following systems in place: (a) Quality Management Division (QMD), (b) the Quality Management Committee, (c) subscriptions to the necessary proprietary databases needed for extensive search, and (d) extensive trainings for examiners. The things we learned from these training helped the IPOPHL to become a successfully ISA/IPEA IP Office. It also gave me a lot of input, different perspectives, practical means and ways, and the best practices for doing extensive search and examination work.



The JPO was indeed a very good mentor and IPOPHL was a good student. All our questions were answered, expectations were met, apprehensions and doubts about being designated as ISA and IPEA IP Office were cast aside. It was truly a fruitful and blessed relationship. With the unwavering support of the JPO, the IPOPHL has been designated as the second (2nd) International Searching and Preliminary Examining Authority IP Office in South East Asia. The IPOPHL, including myself, are very grateful to JPO for that.

Outside of the JPO, its people are dear to me. I gained many friends during my visits and they became close and dear to me. My Japanese friends are kind, respectful, modest, friendly, fun-loving, karaoke lovers (like us), and most specially all of them are very punctual and modern. One common thing about us is we share the same passion for work. Some of them even introduced me to their families and that was very endearing. I am not really good with recalling all the names of my friends, and a few of them I mistook for somebody else, but I learned a good way of remembering their names, it is by associating their surnames with commercially successful Japanese products, like Kawasaki-san (Motorcycle), Matsushita-san (Appliances), Suzuki-san (Cars & Motorcycle), Honda-san (Cars & Motorcycles). Luckily, there is no friend named TOTO-san (bath tubs, urinals, etc.).

Even strangers are nice, too. I once experienced being lost and confused in one of the streets going home to AOTS, my accommodation. It was around nine in the evening. I was not scared, not of robbers or of gangsters because Japan and its streets are known to be one of the safest cities in the world, but I was scared of not finding my way to AOTS on a very cold night. I approached the only guy who was walking on the opposite side of the street and asked for directions. He gave me the right directions using his mobile phone, and he even escorted me to the lobby of AOTS! I will not forget that night even though the only Japanese words I said that night were "*sumimasen*", "*tomodachi*" and "*arigato*".

Regarding different places and the food associated with Japan, I can tell you a lot of stories that make me want to go more, learn more, and explore more of Japan. First, I vividly remember when I first visited the busy and dashing Shinjuku together with its huge intricate train station and a visit to one of the many Kaiten-zushi restaurants in Shinjuku. I really had fun when we went to a restaurant that served its sushi placed on a rotating conveyor belt, which made it difficult for me to choose which sushi and sashimi to eat. Second, our visit to Ueno, where we saw the vast collection of the Tokyo Metropolitan Museum, the biological diversity of the Ueno Zoo and Park while treating ourselves to the mouth-watering foods, i.e., yakitori chicken and takoyaki octopus dumplings at nearby Ameyoko Market. Third, the Yokohama Hakkeijima Sea Paradise where you can experience an amazing one in a lifetime close



encounter with the rare Beluga (white whales), the gentle big whale shark, large stingrays and other sea creatures where only a glass separating you with different sea creatures. And then satisfying your hunger by making your own savory okonomiyaki pancake in a traditional Japanese restaurant. Fourth, Kita-Kyushu and opting to take the Shinkansen ride on the way through just to experience the smooth bullet train ride and tasting their famous and delicious Kita-Kyushu ramen and others. Different places, different experiences, different tastes. All of these places I mentioned gave me wonderful and different experiences which made me want to go more, learn more, and explore more destinations in Japan. Every time I visit Japan, there is always a new story to tell about the place, the experience, the food and the culture.

With that, aside from the IPOPHL, I will always be grateful to the JPO and the Japanese government, to APIII, AOTS, and to the companies and manufacturing plants that I have visited for giving me different experiences and knowledge. Again, I am thankful to the JPO for imparting their best examination practices. To my good Japanese friends, for helping me experience and appreciate their culture. A toast of **mabuhay** or **kampai** to celebrate the continuing mutual cooperation and understanding.





# A Fusion of Patent Training, Innovation, Culture and International Friendship



Ms. Jewel Joanna S. Cabardo (Philippines)  
Assistant Professor/Patent Agent, Dept. of Agribusiness Management and Entrepreneurship  
University of the Philippines Los Banos

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



## My Patent Agent Career Becomes my Ticket to Japan

I am Jewel Joanna S. Cabardo, a Patent Agent from the Philippines. I am also an Assistant Professor at the University of the Philippines Los Baños (UPLB), teaching management, agribusiness and entrepreneurship courses while also doing research and extension pursuits at the university. Let me tell you about my patent agent journey, which gave me my free ticket to Japan.

Flashback to 2012, when I was assigned to attend an Intellectual Property (IP) Training Course at the University of the Philippines Los Baños. What started as a week on IP training became regular months of rigorous classes and workshops. I did not even know what I was getting myself into! Next thing I knew, I was already taking the Patent Agent Qualifying Exam in our country. After a year, the results of the exam finally came and I learned that I had passed the exam, thereby making me an official Patent Agent. I never thought my decision to be there on the first day of training would take my professional career toward totally different heights.

My prior knowledge of the JPO/IPR Training Course for Patent Practitioners was nonexistent until a lawyer friend encouraged me to apply. Before that, I would occasionally hear of fellow patent agents in the Philippines attending IP trainings in Japan, and muse how lucky they were. Ever since I received my certificate as a Patent Agent, I was quite at a loss of how I could move forward with my teaching-research-extension career while also putting into practice my patent agent expertise. Nevertheless, my desire to learn and be immersed in the world of IP led me to set foot in the Land of the Rising Sun.

Knowing I am one of the three Filipino delegates who made it made my heart flutter. I made it! I still see myself as a novice patent agent, and I find myself fortunate to see myself learning side-by-side with these 24 distinguished IP experts from 11 nations. On the other hand, I paused for a moment in realizing that it was my first time to go on my own on a business trip to a foreign land – no family, no colleagues, no familiar names or faces.

What seemed to be a daunting 23 days of thorough training became a productive and fun opportunity to learn. Given my background, I currently look at things under the lens of either a professor, researcher, extension agent<sup>1</sup>, patent agent, or a combination thereof. But for my expertise, I will share with you my favorite topics together with the highlights of my learning as follows:

- Global IP Trends and Issues: Discussions on this topic have broadened my understanding and awareness of what's going on in the world of IP, which gives me an idea of where we stand as a country (Philippines) and as an entity (university) where such trends and issues prevail. Such knowledge gave me a plethora of opportunities that our country could still take advantage of. The number of patent applications and engagements in technology commercialization has recently increased in our country. This gives IP people in our country, including myself, something to aspire toward in order to reach the height of our expertise. We are also responsible for pushing forth IP culture not just to the experts themselves, but to youth as we incorporate IP concepts in their curriculum to further boost our country's IP competitiveness—especially in Asia and beyond.
- An introduction to Japanese Intellectual Property Law: Learning about Japanese IP has revealed to us the timeline of how Japan was able to achieve where it is right now in terms of technology and innovation. This somehow gives us an account of how interconnectivity has evolved, and gives us an idea of the pathway Japan has traversed over the years when it comes to technology commercialization and intellectual property.
- Corporate IP and Patent Management and introduction of successful cases: In teaching business and management courses, it is important to have an understanding of IP and patent management in companies. It is not just about earning from tangible assets, but also from intangible ones. For a company to grow, it must also look into taking care of its IP before someone else does. Watching and hearing such success stories brings us awareness of their birth pains, eureka moments, and sustained successes.
- IP Management at SMEs: With SMEs as the backbone of the Philippine economy, I could not help but be excited about how Japan SMEs did it. It was such a great experience seeing SMEs get their IP protected, including everything from trademarks, product labels and colors, websites, packaging, and the like. I understood that it does not just take the political will to do it. Infrastructure, networks and information are but some of the elements that build the foundation of an IP's ecosystem. Yes, there is the government, but it takes more than just enough funds, discipline, and boldness to be able to stand up for what one supports or believes in.
- Mock License Negotiation and Mock Trial. I haven't been to an actual license negotiation nor trial in IP court, and neither have I been part of any of these. I was so excited to actually witness what goes on during these occasions that when we were able to visit the IPO court in Tokyo and wear the judge's robe, it was such a thrilling experience to actually be there to try it out for ourselves. In the case of the mock license negotiation and mock trial, it was interesting to note that despite the 'actors' having rehearsed and memorized their scripts, everything changes when the 'cameraman' says CUT! The

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<sup>1</sup> An extension agent tries to arouse people to recognize and take an interest in their problems, to overcome these problems, to teach them how to do so, to persuade them to act on his teaching, so that they ultimately achieve a sense of satisfaction and pride in their achievements i.e. helping bring about change among farmers (Source: <http://www.fao.org/3/t0060e/t0060E08.htm>).

rehearsed lines are suddenly brought to life.



With co-trainees Apapan Seeherunwong Milde (Thailand) and Nidya Balbina Solis Hernandez (Mexico) at the Japan IPO Trial Court in Tokyo

- Industry-Academia Collaboration for Patent Commercialization: I was so keen on listening to this topic, as I am part of a university myself. I was so inspired by this session that while the speaker was discussing their milestones and strategies, I could not help but daydream once in a while, hoping that someday we could also do the same.



Group presentation during the lecture on Industry-Academia Collaboration for Patent Commercialization, with Professor Makiko Takahashi as a Resource Speaker.

- Evaluation and Commercialization of Intellectual Property: This session made me listen to the prioritization of technologies for commercialization. When do we see that an IP is ready for commercialization? With UPLB as a science and research-based industry, a lot of the university's research becomes known and published, but which ones get protected? Which ones get to stay and reap financial and intangible benefits for the inventors and the institution from which they were generated? Unless there are policies that reinforce inventors, scientists and researchers to cooperate and comply with technology commercialization, it could possibly be a head start in ushering them to protect their ideas and creative works that they co-own with the university.

I understand that such learning over a training duration of 23 days gave us trainees a lot of knowledge to chew on, digest, ruminate, and absorb. What I am sharing with you are bits and pieces of lessons learned, and insights on my handpicked topics. Nevertheless, such an opportunity of being an IP Friend is something I will be always be grateful for in my Patent Agent career. Not only because this training



opened the Japanese doors for me, but also because of the friendships and networks that were developed among people from 11 countries over the course of 23 days. In terms of the exchange of ideas and points to clarify, I think everyone felt it was a safe place to express themselves, and to admit that when there was something they did not know or understand, it was okay to make mistakes and learn from them. After all the serious schoolwork was done at the end of the day, it was nice to go home to a hot meal waiting for us back in our nice dorm in AOTS at Kita Senju, or just explore Tokyo with our IP Friends.

Ultimately, we could just be ourselves in this ‘school called life’, where this experience would not have been so much better and richer without you, my 2019 IP Friends. Sayonara, for now.



Just hanging out with IP Friends after a day's work

## Culture, innovation and technology overload on my first trip to Japan

Voltes V! Astro Boy (or popularly known as Mighty Atom)! I loved watching these robot cartoons as a little girl in the Philippines decades ago. I also remember I was in elementary school when Hello Kitty and her incomparable cuteness were all the craze. And who could forget how fun it was to play Super Mario Brothers, with their endless quest to save the princess? I am not much of an anime fan now, but these characters from my childhood still warm my heart whenever I see them on TV replays, toys, and merchandise. Though these shows were dubbed in English then, they introduced me to Japanese culture through their portrayal of values on family, friendship, teamwork, excellence, and honor. They also embody Japanese technology, as they are brought to life by icons of innovation and high tech such as robots and computer games.



Photo taken at Narita Airport upon arrival on October 16, 2019.

Arriving at the Narita airport on Day 1, I knew my first time in Japan would be memorable as I was immediately greeted by Super Mario Brothers! They were on the center display at the airport lobby

promoting the new Nintendo Switch, where they bid everyone welcome to Japan!

On Day three, one of our resource speakers presented a slide showing an anime character, which I later learned was Sailor Mercury. I was surprised at how a single anime character was able to infuse a light atmosphere to perk up the attention of the trainees, even in formal lectures.

As my IP Friends and I were famished for sushi, we all went to Shinjuku station to satisfy our cravings. My husband used to tell me that when he went to Japan in 2006, he ate in a restaurant with plates of sushi going around where you just pick the sushi you want and then pay later. Your bill depends on the kind of plate, and the number of plates that you got. I was already looking forward to this rotating sushi place, but I was surprised with Uobei, which had a more modern knack for this traditional Japanese food. Uobei has individual booths where each dining customer has a touch screen menu to choose which sushi they like. Then lo and behold, in a few minutes, it just slides in front of you for delivery. So efficient and innovative, you don't need servers waiting on you for orders.

During the weekend, we visited Harajuku Shrine and enjoyed the beautiful scenery. We even witnessed two couples getting married in their Japanese kimono. Just a few steps from these traditional places, a compact electric car was parked nearby, showing a contrast of culture and tradition in one space. After that, we went straight to Tokyo Tower. It is a majestic structure by itself, but nothing beats the marvelous view of the Tokyo night lights when you get to the top.

The following day was an immersion into Japanese culture: – belief, religion, and most of all: landscapes. From koi, bonsai, kawaii bookmarks to Buddha and temples, the richness of Japanese culture is deeply embedded in their people, places and actions, no matter how innovative and tech-savvy they are. Similarly, the Imperial Palace emanates splendor and serenity coupled with the calmness of the trees surrounding it, and the strong fortress it represents.



Kamakura Tour with IP Friends on October 20, 2019.

Meanwhile at the mall, I was greeted by a Japanese robot holding a tablet, which allows shoppers to navigate through the tablet's interface to get the information they need. Very useful. Later on, we joined our IP Friends for a night of karaoke, which was unlike the one we have back home. Of course, being in Japan, it should always be tech-based as one punches the numbers on a digital console to search and enter the songs to be sung. Despite the karaoke being an electronic appliance, it is known all over the world as a symbol of Japanese ingenuity in combining technology and entertainment. The culture of bonding with friends through this singing machine has sparked delight not only in Japan, but also to other parts of Asia and the world who have already embraced this way of having fun and letting loose after a hard day's work.



Celebrating Halloween with IP Friends in the AOTS Party Room, October 31, 2019.

The list goes on and on, and even while walking down the street, I came across a big animated ramen bowl beckoning all pedestrians and bystanders to eat at the restaurant. I am amazed that no matter how simple these enhancements may be, it cannot be underscored how the Japanese have become obsessed with such advancements of comfort without compromising the values, traditions and scapes that make each element an epitome of Japan.

I can't believe my 25 days in Japan are finally over. Yet as I was on my way back home through Haneda Airport, the Super Mario Brothers still had a chance to bid me goodbye. I promised Mario and myself that I would come back, hopefully together with my family.

Till next time, Japan. I am looking forward to another culture and technology overload on my next journey...



## Articles from former trainees



# Partial Design and Stakeholders: Impressions from My Experience in Japan

Ms. Beatriz Lima De Almeida Lopes (Brazil)  
Trademark and Design Examiner  
3D Marks and Designs, Trademarks  
Designs and Geographical Indications Department  
National Institute of Industrial Property (INPI)



JPO/IPR Training Course on Substantive Examination of Designs  
(September 2 - 13, 2019)



One of the most discussed issues during the JPO/IPR Training Course on Substantive Examination of Designs was that of partial design. Although already a very well-established subject in major IP offices around the world, it has not been adopted yet in many places – including important economies such as Brazil.

Therefore, the objective of this article is to share some thoughts about this issue after my experience in Japan. I also would like to say thank you again for the opportunity, and emphasize how important this relationship between JPO and INPI-BR is – it really makes a very positive difference in our everyday work, helping us to reinforce the protection of Industrial Property in our country.

There is no doubt that protection of partial design is important for industrial development and innovation, especially in accelerated and globalized markets. In addition, the protection of partial design has proved to be very effective in combating piracy and counterfeiting. In Japan, we were exposed to many jurisprudential analysis, studies and recent legal developments showing the success of such an IP asset.

But first, the fact that in Brazil today we do not offer the possibility of registering partial design leads to one practical and immediate problem: how to deal with international applications containing partial design and priority claims.

The Paris Convention for the Protection of Industrial Property establishes in its article 4 that the first industrial design application filled in one of the member countries of the Union will serve as the basis for subsequent fillings **related to the same matter**, made by the same applicant or the applicant's legal successors, in other member countries. This is the Right of Priority.

What happens today is that the Brazilian IP office faces several difficulties to process applications

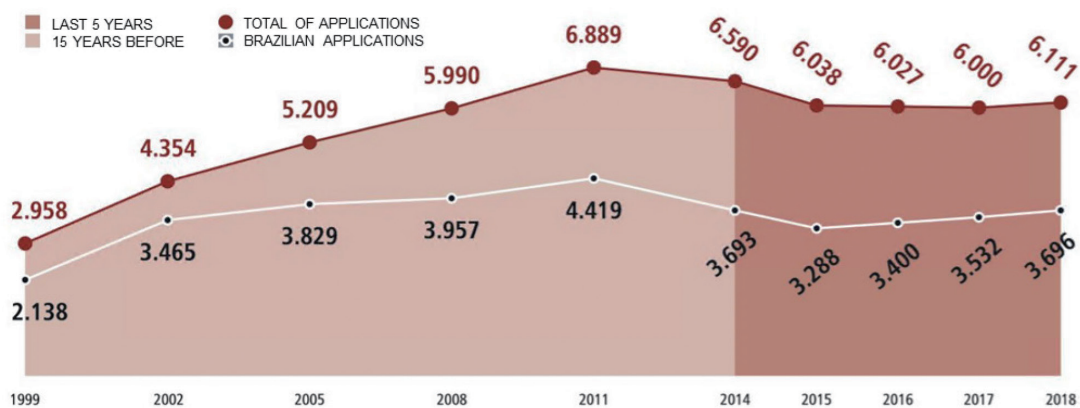
containing partial design and priority claims. They commonly get several amendments or even refusals; we have been working a lot trying to find intermediate solutions (as already explained in the article “The Issue of Partial Design in Brazil” published in Enishi – No.24 March 2020), since we haven’t had the opportunity to properly include Partial Design in our IP system yet.

Nevertheless, in order to better contextualize the entire situation, it is interesting to discuss some information related to design protection in Brazil in general.

First, Brazil is not a member of the Hague System. That means that international applicants must have representatives in Brazil.

Additionally, the numbers of design applications has been very stable during the last five years - around 6.000 per year. Among these, approximately 40% belong to international applicants. And among applications worldwide, around 15% have priority claims. Some of these involve partial design applications.

### Number of Design applications in Brazil\*



\* taken from <http://www.inpi.gov.br/sobre/estatisticas/RelatoriodeAtividades2018.pdf>

In any case, what is very clear nowadays is that the main stakeholders who are truly interested in the adoption of Partial Design in Brazil are the representatives of these international applicants, in order to avoid amendments and refusals. After all, they are directly affected by this on a daily basis.

The experience in Japan showed, however, that refusing priority claims containing partial design is just a part of the issue. Partial Design protection could benefit all stakeholders in the IP system. These include not only international applicants, but also domestic ones, besides the Brazilian industry and economy as a whole.

In one of the great lectures kindly given by Professor Tomohiro Nakamura, it was shown that 42% of design applications received by JPO claim partial design protection. This is a very significant number, demonstrating once again the success of this sort of protection.

Based on this, we could deduce that if Brazil adopted partial design protection, there could be a significant increase in the number of design applications in general, because they could benefit also national applicants, who are the majority.

This calls attention toward another one of the highlights of my visit to Japan: cooperation between JPO, IP lawyers and companies – the owners of IP rights – in order to improve legislation and procedures. And of course, their real objective is not just to reach a balance between each interests; but mainly to promote the economy and development.

On the other hand, discussions about partial design protection in Brazil today are concentrated between international representatives and IP officials. Besides these, very few people are really conscious about using partial design registration as an intellectual property asset. Why is this so important? What are the benefits of this protection? How should it be explored? Most stakeholders of the IP system in Brazil are not aware of the answers to these questions.

One of the main reasons for this is the lack of communication among all stakeholders in the Brazilian IP system. In our everyday work, it is clear that the national applicants – who represent more than half of total applicants – are unaware of what partial design protection is (and, of course, all of the benefits it could bring them). To understand more about them and all other applicants, we offer some information available at INPI's website regarding design applications in 2019.

### **Design applications in Brazil and the legal nature of applicants January – December 2019\***

<b>NON RESIDENTS</b>	<b>2.206</b>
PHYSICAL PERSONS	40
LEGAL PERSONS	2.166
<b>RESIDENTS</b>	<b>4.227</b>
PHYSICAL PERSONS	1.522
LEGAL PERSONS	2.705
<b>Total</b>	<b>6.433</b>

\*Taken and adapted from <https://www.gov.br/inpi/pt-br/composicao/estatisticas/estatisticas-preliminares-2013-a-partir-de-2013>

An interesting option would be to include all stakeholders – and especially the Brazilian owners of IP rights – into these discussions. They should have been included into the discussions a long time ago, since they play a very important role in Brazilian economy.

It is also important to remember that in this moment, the Brazilian population, industry and economy (like so many other nations) have unfortunately been suffering the drastic consequences of the spread of Covid-19. We are all facing an unprecedented crisis, which brings an additional obstacle to the evolution of discussions in this direction. On the other hand, a common effort from all IP stakeholders is needed now, more than ever, in order to provide measures that contribute positively to growth and development so that we can overcome this phase.



# Newsletter on Japanese Patent Registration in Cambodia



Mr. Tok Thavsothaly (Cambodia)  
Senior Legal Associate, Intellectual Property Department  
BNG Legal

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



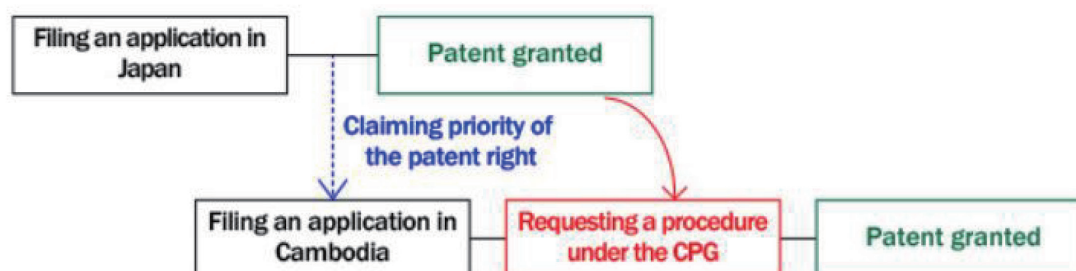
## Introduction

On May 4, 2016, the Cambodian Ministry of Industry and Handicraft (“**MIH**”) and the Japan Patent Office (“**JPO**”) signed a Joint Statement of Intent on cooperation for facilitating patent granting of Cambodia-related patent applications, within the framework of a specific program—namely, the Cooperation for Facilitating Patent Granting of Cambodia-related Patent Applications (“**CPG**”).

This program allows applicants to request accelerated decisions regarding patent applications filed in Cambodia in cases where the latter has been examined and granted by the JPO. Furthermore, the CPG contributes to “*reduce workloads in terms of the procedures involved with granting patent rights by offices in developing and emerging countries, whose examination systems are not yet fully developed*”.

Accordingly, on July 25, 2016, the MIH issued the *Prakas* on the Acceleration of Patent Grants in Cambodia based on cooperation for facilitating patent granting of Cambodia-related patent applications with the JPO. This *Prakas* aims to determine the procedures for this accelerated procedure, and became effective upon promulgation.

The accelerated patent granting procedure is outlined as shown below:



## Substantial and formal conditions regarding registration

In order to register a patent that has been granted in Japan with the MIH, formal and substantial conditions will have to be met.

**Substantial Conditions.** Pursuant to article 4 of this *Prakas*, the request for acceleration shall be accepted only for the applications filed with the MIH that meet the following conditions:

1. A patent application validly claiming priority under the Paris Convention based on the corresponding JPO patent application; or
2. A patent application that serves as the basis for validly claiming priority under the Paris Convention for the corresponding JPO patent application including a PCT patent application that entered the national phase; or
3. A patent application that is based on the same patent application for claiming priority under the Paris Convention, as the corresponding JPO patent application, including PCT patent applications that entered the national phase.

Regarding this request, the applicant must respect the following conditions:

1. There must be a JPO patent application which has an earlier filing date than the patent application filed with the MIH;
2. There must be a corresponding JPO patent application that has been granted by the JPO;
3. There must be claims in the patent application filed with the MIH, which are the same as one or more claims in the corresponding JPO patent application granted by the JPO.

As noted above, the patent application must have been examined and granted by the JPO.

**Formality Conditions:** Furthermore, the applicant shall provide the following information:

- A. Title of invention
- B. Filing date issued by the JPO
- C. Application number issued by the JPO
- D. Applicant name
- E. Corresponding JPO patent application, and
- F. The following documents:
  - A copy of the patent gazette in the corresponding JPO patent application, and its certification by the JPO
  - Claims correspondence table
  - Translation of claims and specifications described in the patent gazette in English
  - Translation of claims and specifications described in the patent gazette in Khmer. The applicant shall provide the translation of the specification within one month from the date on which the request was filed.

Eventually, the MIH will take two to three months to issue a decision after having examined both formal and substantial conditions.

The numbers of patent applications are filed based on this CPG. This system has contributed a lot to the increasing number of patents filed in Cambodia, as well as the number of foreign investors. This also facilitates the patent examinations filed in Cambodia, while Cambodian human resources are still limited.

To some extent, if patent granting is based on CPG, the validity of patents in Japan will also affect the validity in Cambodia. If a patent in Japan is invalidated by substantive grounds, for example, and the JPO finds that the patent does not meet the patentable criteria (ex: not new), the patent granted in Cambodia

will be also invalidated. However, invalidation of the patent on the ground that the patent owner does not pay the annual filing fee does not impact the validity of this patent in Cambodia if the patent owner completes its compliance as required by Cambodian laws.

This CPG is valid for three years, and will automatically be extended for a further period of three years, unless one or both parties notifies the other of its intention to terminate this CPG by giving a notice in writing at least 90 days before the intended date of termination, and upon the consent of the other side of the termination (provision 7 of the Joint Statement of Intent Between MIH and JPO).

In addition, the Cambodian government has also reached patent cooperation agreements with other countries' Intellectual Property offices such as the Intellectual Property Office of Singapore (“**IPOS**”), assessment to the PCT, European Patent Office, and State Intellectual Property Office of the People's Republic of China (“**SIPO**”<sup>1</sup>).

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1 Currently China National Intellectual Property Administration (“**CNIPA**”).



# Global Trends in IP Protection of Computer-related Inventions

Mr. Swapnil Jayant Gawande (India)  
Director, Legal  
BLI Consultancy Private Limited



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



Traveling to Japan to attend a JPO/ IPR training course for IP protection lawyers was nothing less than a dream come true for me. Especially for Indians, the people and culture of Japan have always provided a benchmark example for honesty, punctuality, and discipline by teachers as well as elders, and the manner in which the whole team of APIC, JIPII, and JPO provided proactive support even before entering Japan from the first welcome mail itself proved every word correct. I was very fortunate and especially mesmerized to visit and stay in Tokyo at the end of November and the first week of December, when the whole city was preparing itself for Christmas and New Year celebrations.

After working for more than 12 years as an IP attorney at an Indian patent and trademark office, where we bind ourselves in the prescribed laws and regulations, which we follow and practice in our country to such an extent that we seldom lose the open-mindedness to accept and recognize the difference in perspectives followed globally, I was able to look at the different rules and regulations followed globally in the countries of my fellow participants, as well as Japan itself. The course gave me an opportunity to feel the magic of change in the perspective of every individual expert from different countries, while looking toward the same invention.

Especially when we try to interpret the statutes of legislators who derived patent laws in India and Japan, we can observe a huge difference in perspective from the basic stage of defining the word “invention” itself. While section 2, paragraph 1 of the Japanese patent law defines an invention as “a highly advanced creation of technical ideas by which a law of nature is utilized”, the Indian patent act under section 2(j) defines an invention as a new product or process involving an inventive step, and being capable of industrial applicability.

Apart from that, the Indian Patent Act restricts the patentability of various inventions under sections 3 and 4 of the Patent Act. In particular, section 3(d) of the Indian Patent Act bars the mere discovery of a new form of known substances that does not result in the enhancement of known efficacy of the substance. Additionally, section 3(k), which declares “a mathematical or business method or a computer program *per say* or algorithms” to be non-patentable, has created a huge global controversy for decades, particularly in the pharmacy and IT sector. Moreover, this has created an image whereby the Indian patent office is very reluctant to grant patents relating to pharmaceuticals, business methods or the software domain.

Section 3(k) of the Indian Patent Act creates especially significant hurdles for software-related inventions apart from novelty, inventive step, and industrial applicability. Although section 3(k) prohibits the patentability of software patents, multiple patents can be seen in the Indian patent office in actual practice, which were granted based on the arguments provided by practitioners interpreting the term “*per se*” as per their convenience. This not only paved the way toward ambiguity in the Indian patenting system, but also created exaggerated complexities in granting or rejecting software-related patents based upon different contradictory judgments provided by different courts, and the Indian Intellectual property appellate board. With India being a common law country, multiple judgments paved the way toward uncertainty in granting and rejecting these inventions. The Indian Patent Office made three attempts to overcome this persisting problem by issuing guidelines on computer-related inventions, thereby trying to bring uniformity in examinations and granting inventions related to computer programs. The present set of guidelines, which was released by the Indian Patent Office on June 30, 2017, interpreted section 3(k) as follows:

*“The sub-section 3(k) excludes mathematical methods or business methods or a computer programme per se or algorithms from patentability. Computer programmes are often claimed in the form of algorithms as method claims or system claims with some ‘means’ indicating the functions of flow charts or process steps. It is well-established that, while establishing patentability, the focus should be on the underlying substance of the invention and not on the particular form in which it is claimed. What is important is to judge the substance of claims taking the whole of the claim together. If any claim in any form such as method/process, apparatus/system/device, computer program product/computer readable medium falls under the said excluded categories, such a claim would not be patentable. However, if in substance, the claim, taken as whole, does not fall in any of the excluded categories, the patent should not be denied.”*

When we study the landmark judgment provided by the Japanese Intellectual Property High Court on October 17, 2018, in an invention case titled “steak providing method”, the learned judges interpreted the invention as patentable, and observed that “the patented invention prevents the confusion of certain products or equipment (weighing machines, etc.), name tags, weighing machines and seals with the meat of other customers to solve the problem of the patented invention. It is a technical means to solve it, and as a whole, it falls under the “creation of technical idea utilizing the laws of nature”.

Analyzing an approach based on various judgments provided by the Japanese intellectual property high court and guidelines issued by the Indian patent office for computer-related inventions, it can be interpreted that both countries stand at two extreme ends while analyzing an invention related to the software stream.

It cannot be concluded, however, that software innovations remain unprotected in India. The Delhi High Court, during its judgment in the Ferid Allani Vs. Union of India 2019 SCC online Del 11867 case, recently observed:

**“Section 3(k) has a long legislative history and various judicial decisions have also interpreted this provision. The bar on patenting is in respect of ‘computer programs per se....’ and not all inventions based on computer programs. In today’s digital world, when most inventions are based on computer programs, it would be retrograde to argue that all such inventions would not be patentable. Innovation in the field of artificial intelligence, blockchain technologies and other digital products would be based on computer programs, however, the same would not become non-patentable inventions – simply for that reason. It is rare to see a product that is not based on a computer program. Whether they are cars and other automobiles, microwave ovens, washing machines, refrigerators, they all have some sort of computer programs in-built in them. Thus, the**

effect that such programs produce including in digital and electronic products is crucial in determining the test of patentability.

Patent applications in these fields would have to be examined to see if they result in a `technical contribution?

Further, it was noted that the words per se were incorporated in Section 3(k):

**“...to ensure that genuine inventions which are developed, based on computer programs are not refused patents.”**

Accordingly, the High Court directed the Patent Office to re-examine the petitioner’s patent application in light of the aforementioned observations.

Also, in another Delhi High Court judgment, the Intex Delhi-based consumer electronics vendor *Intex Technologies (India) Ltd.* was asked to pay royalties to Swedish telecommunications company *Telefonaktiebolaget LM Ericsson* for infringement of eight patents relating to 2G, 3G and Edge technologies used in mobile phones and tablets.<sup>1</sup> The Delhi High court ordered in favour of Ericsson to pay 50% of the royalties within four weeks from the date of filing the suit.

While interpreting section 3(k) of the Indian Patent Act in the judgment, the Hon. High court observed:

In India there is no patent on the computer software program, but only copyright is there on the computer software program. Section 3(k) of the patent act describes that there is no patent on invention of any mathematical or business method or the computer program or algorithms. The Indian Patent Law does not contain any specific provisions regarding the protection of computer software. There are no guidelines or office procedures followed by the Indian Patent Office regarding computer software. Although computer programs are not patentable per se, a claim to a manner of manufacture that results in a tangible product that requires the application of an algorithm or particular computer program may be patentable.

After analyzing the contradictory approaches taken by the different patent offices globally, it can be observed that the Japan Patent Office is the most proactive toward dealing with and allowing innovations involving inventions relating to IT, whereas the Indian legal system has a very conservative approach toward granting patents relating to computer technology. A comprehensive study of the guidelines and approaches of different patent offices around the world can reveal an interesting database of information which may one day be utilized to create a minimum requirement limit or a midway in order to draw guidelines introducing uniformity within the global patenting system.



# Common Pitfalls in the Technical Journal Peer Review Process



**Mr. Azmi Osman (Malaysia)**  
Head, Advanced Engineering, Group Engineering  
Perusahaan Otomobil Nasional (PROTON)

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



The peer review process for technical publications is crucial in ensuring that the manuscripts sent by authors from all over the world can be thoroughly checked and corrected prior to publication. The process works based on back-to-back trust placed by authors in the editors, and by editors in the peer reviewers. To ensure an efficient and effective peer review process, the reviewers of the manuscript are carefully selected from a pool of experts in the same technical area, or areas close to it. Although it is desirable for the reviewers to be highly competent and familiar with the content, it is unavoidable for the editors handling the manuscripts to select reviewers who are competing or having interests in the same area as the authors of the manuscripts. Balancing between the former and the latter can be tricky and delicate.

In submitting their manuscripts, authors have entrusted the editors of journals to protect their intellectual property generated from years of costly research and development activities. As a result, journals in general have introduced various measures ranging from just a friendly reminder up to non-disclosure agreements (NDAs) to be agreed upon before participating in the review process. As per many other confidentiality agreements, there are always obstacles and loopholes that hinder the effectiveness of such measures. For example, in case a journal operates from Germany, which jurisdiction should be applied to a reviewer residing in Malaysia? In case of any breach of the agreement, can the agreement be effectively enforced in Malaysia? Will the journal be obligated to spend a large amount of money to diligently pursue legal action outside of Germany? From the reviewers' perspective, will they be willing to sign a comprehensive NDA knowing that they review the manuscripts voluntarily and expect it to be risk-free? What if the employer of the reviewer requires the NDA to be vetted by the legal department, which can take months to be agreed upon by both the journal and the employer? For practicality's sake, the measures to safeguard the confidentiality of the manuscript's contents are normally simplified to get volunteers to agree to conduct the peer review in a timely manner. The delicate balancing act may explain why there are minimum rather than stringent measures to safeguard the confidentiality. From this point onward, it is worth it to explore the pitfalls that can negatively affect authors.

## 1. UNDERSTANDING WHERE THE PITFALLS ARE

In fiercely competitive consumer markets, companies like Samsung and Huawei are closely moni-

toring their competitors' new products, publications and patent applications for potential infringement of their patents and trade secrets. And it is not only their patent agents and lawyers who are busy doing the monitoring. The engineers and technicians are also trained to do the monitoring, and will be rewarded if they can find any infringement of their intellectual property rights. By contrast, many established journals use a single-blinded review process, meaning that the identity of the reviewers are unknown to the authors indefinitely. Even though it is not impossible to monitor for possible infringement, it is almost solely up to the authors' time availability and resources to monitor their competitors through publications and patent applications. By the time detection is made, it may be too late to react to minimize damages.

In assessing the risks, reviewers with a passion for inventing may be interested in novelties in the form of design details, chemical processes and compositions, materials, electrical circuits, etc. Reviewers who are looking for research breakthroughs may be interested in novelties within methodologies, test subjects and findings; while reviewers who are looking for shortcuts may be interested in refined test data and analysis.

From the reviewers' perspective, access to the valuable information disclosed in the manuscript provides a time advantage over the same information disclosed in the patent applications. In this context, the public disclosure of the patent application will only be available 18 months after the priority date. Firstly, the earlier access provides the competitors-cum-peer reviewers the option to suppress the authors' competitive edge by circumventing the ideas, and to restrict the applications by patent-fencing the ideas. Secondly, the reviewers have the option to fill up any missing link by objectively requesting such information under the guise of "sufficient information to enable others to replicate and verify the experiment". In addition, high-impact journals encourage authors to disclose the raw test data, and also allow the reviewers to request in-depth background information of the data disclosed in the manuscript. Thirdly, peer reviewers who are also experienced inventors have the option to effectively use the original idea to branch out into other derivatives. Similarly, experienced researchers have the option to use the original methodologies and test results to generate rivaling outcomes. Even though the chances of the contents being unethically exploited are really low, understanding where the vulnerabilities are can be useful considering that detecting such exploitations is difficult and not straightforward.

In case of a patent infringement involving a consumer product by a known competitor, the patent owner can communicate directly to its competitor about the infringement. By contrast, without indisputable evidence, an author who is suspicious of his or her valuable ideas or test data being unethically exploited may find it difficult to get the editors of the journal to reveal the identity of the peer reviewers. This takes into account the lack of any written obligation for the editors to reveal the identity or cooperate in the investigation. Furthermore, initiating an inquiry can affect the reputations of the journal and the reviewer, especially when no such exploitation actually happens. There have been no major lawsuits against peer reviewers to date, and it is unknown whether the lack of such lawsuits can be linked to the difficulty in establishing the case in the first place. Nevertheless, the possibilities and temptations to exploit the valuable information in the manuscript are enough to assume that the exploitation has been happening but is difficult to prove.

## 2. MITIGATING THE RISKS

The authors can apply several conventional measures in mitigating the risks, but the measures come with inconvenient drawbacks. For example, the Technology Commercialization Office (or its equivalent) may advise the authors to apply for a patent application prior to the manuscript submission. However, the time duration for the manuscript submission until the official publication can range from few months up

to more than a year. This puts the authors in a dilemma, because any public disclosure or announcement to speed up the technology commercialization may compromise the novelty of the contents in the eyes of the editors and peer reviewers. This constraint indirectly limits the commercialization efforts, and will eventually limit the market penetration. Other than that, the long peer review process also reduces the 20 years of patent protection by up to more than a year. For authors from third world countries where the funding availability is very limited, there may not be any allocation for patent applications. Even if such funds are available, it is just enough for local patent applications whose protection is limited, and has no significant impact in countries with a large market and buying power.

In moving forward, there is no silver bullet for the authors to fully mitigate the highlighted risks. Nevertheless, the authors need to communicate any concern to the editor handling the manuscript. For example, the authors may want to request the editor to exempt close competitors from being selected as peer reviewers. The authors must also be prudent in disclosing the technical details in the manuscript. In principle, the disclosure is best limited to just the crucial information to get the manuscript published. Alternatively, the crucial technical details can be broken into series of publications spread within one to two years. Make no mistake, the disclosure of the complete details must only be done through the patent application.

The journals can also play their role by evolving the existing policies to include better protections for the contents. The selection of the peer reviewers is also important in which the reviewers shall have the necessary expertise to review the contents but not directly competing in the same area of interest. In addition to that, the affiliations of the potential peer reviewers must also be thoroughly checked to ensure that the affiliated companies are not competing in the same product segments. Similarly, the reviewers must not come from research institutions that are competing for the same regional research funds. Perhaps, the checklist where the potential peer reviewers need to verify should be interactively expanded to include additional questions covering the rivalry, pursuant of external funding and any other conflicting interest.

### 3. CONCLUSION

It is important to take note that this article does not generalize all the peer reviewers to have the tendency to unethically exploit the contents of the manuscripts during the peer review process. This takes into account that many peer reviewers are also established researchers who take pride in the originality of their researches, ideas and findings. This article on the other hand provides insight on the pitfalls in which the editors, reviewers and authors need to be aware of. The examples discussed should be sufficient to alert the authors and editors about the vulnerabilities of the valuable information disclosed in the manuscript. Understanding of what can go wrong should enable all the stakeholders to take the necessary steps to explore more creative ways to minimize or possibly prevent the exploitations from happening. To date, the author believes that there is no effective measure that can be introduced by the journals to fully protect the valuable information. Nevertheless, the authors can also play their roles by controlling the information to be disclosed in the manuscript.



## Message from Lecturer



# Reflections upon the Recent Invitation-based Training Programs

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### Introduction

I served at the Japan Patent Office (JPO) for about 20 years, during which time I served as a Trademark Examiner, Appeal Examiner, Trademark Division Director, and Chief Trial Examiner. I also participated in various committee meetings, including those tasked with preparing amendments to Japan's Trademark Act, and to WIPO's trademark-related conventions and bilateral/multilateral consultations. Finally, I was sent to the Philippines as a long-term committed expert of JICA. I found all of these experiences to be very meaningful and informative.

I retired from the JPO in April 2008. I have since been working as a patent attorney, during which time I have served as a lecturer at intellectual-property-related training programs held by APIC. The classes I taught were mainly related to the Trademark Act of Japan, trademark examination standards, trademark-related information, and the system of appeals and trials.

### Method of conducting training programs

Until 2019, APIC training program participants stayed in Japan for the duration of the training program, and coursework was based on face-to-face classes. There were around 30 trainees at most, and about 10 trainees on average, in the classes that I taught. All of the trainees had knowledge and hands-on experience regarding intellectual property law, particularly trademark law. Therefore, these classes set the stage for interactive discussions about the laws of their respective countries in order to share differences with others, rather than being a one-way lecture on Japanese systems and their operations in Japan.

In addition, the classes provided a way to compare the systems used in trainees' respective countries, which encouraged discussions among them that I found to be very useful and informative.



In contrast, all classes that I taught in 2020 were done by remote teaching over the Internet. This method of conducting training programs included two styles of teaching: (1) viewing pre-recorded videos, and (2) conducting real-time lectures from the training site in Japan.

In the first style of teaching, trainees might find it difficult to understand the course contents precisely. This is not only because the lecturer was unable to test trainees' level of understanding, but also because it was not possible to receive questions from trainees during the class and then resume the lecture.

In the second style of teaching, some trainees occasionally lost their Internet connection depending on their online environment, which prevented the ability to teach as scheduled. Also, some trainees in certain places could not take part in the training program in real-time because of the time difference. Unfortunately, this deprived such trainees of opportunities to receive effective training.



### **Significance of learning different systems across the world**

WIPO treaties include the Trademark Law Treaty and the Singapore Treaty on the Law of Trademarks, whose objectives are to harmonize the trademark registration systems in signatory countries. This in turn has allowed users across the world to gain advantages for their business.

As it turned out, the classes which I taught introduced Japan's trademark registration system in comparison with those of respective trainees' countries, focusing on their respective differences.

I sincerely hope that international harmonization of the trademark registration system across the world will be achieved, in order to provide a user-friendly system in the near future.

### **Method of conducting future training programs**

I felt there was no choice other than to hold lectures online due to the current Coronavirus situation. Nevertheless, I look forward to the end of the pandemic, and to teaching face-to-face again for a training program in the future.



## Column: Lifestyles Transformed by the Coronavirus Pandemic



Mr. OGIYA Takao  
Director General of APIC

Our lifestyles – our jobs, education, consumption and other facets – have been undergoing great changes due to the worldwide spread of novel coronavirus (COVID-19) infections. At the time this article is being written (January 2021), a second state of emergency has been declared in Japan. The number of infections has been steadily increasing, and feelings of stagnation and frustration pervade the country.

In regard to jobs, teleworking went mainstream for a time following the call to refrain from unnecessary outings when the first state of emergency was declared in March 2020. Online conferencing systems and other communication tools have become popular means of facilitating teleworking, while rapidly advancing digitalization has also been driving change in work styles and organizational forms in Japan.

Business trips fell off dramatically as face-to-face meetings were avoided as much as possible. Training also switched from group training in physical venues to online training. APIC itself halted its invitation-based training and switched entirely to training via live streaming or recorded videos. Follow-up seminars, too, have been held online, and we will not be inviting long-term trainees this fiscal year. The annual IP Collegium that we have been conducting as a voluntary initiative turned into an online gathering (Photo 1: IP Collegium online meeting participants). Accordingly, I did not go on a single overseas business trip this year, although I usually make four or five such trips.

As digitalization progresses, growing consideration is being given to abolishing payment and certification procedures requiring personal stamps, a distinctly Japanese business practice. The administrative procedures connected with these continue to be put online.

To avoid the 3Cs (closed spaces, crowded places, and close-contact settings), the restaurant, entertainment and tourism industries among others have been compelled to suspend operations, reduce their business hours, or shrink the scale of their operations, so their revenues are down substantially.



Picture 1. Participants of IP Collegium Online Meeting

As for education, the normal April start of the new school year was postponed by more than two months, and all schools undertook across-the-board reviews of their educational curricula and schedules. Elementary, junior high and high schools have substantially shortened their summer vacations to ensure the necessary number of class days, in many instances cancelling sports and cultural festivals, field trips and school excursions that would undoubtedly have created fond memories for students. Numerous sports tournaments and cultural activities have been cancelled, leaving students without venues for demonstrating the results of their routine training, and mass media reports on students disheartened at having lost sight of their goals seem a daily occurrence.

Universities turned to online classes for almost all of their courses, meaning that students without PCs, smartphones or tablets could not even participate, and students unaccustomed to one-way on-screen lectures found themselves unable to effectively learn the material.

In addition, temporary closures of restaurants, entertainment venues and other businesses and the consequent sharp declines in revenues cost students opportunities for part-time work and left them unable to earn income to help cover their tuition or living expenses, compelling some of them to drop out of university.

With respect to consumption, there has been a shift away from going to supermarkets and retail stores to make purchases of food products and other everyday necessities and toward ordering such items online. There has also been a change in behavior among in-person shoppers, who have been quickly purchasing only necessary items to reduce the time they spend in shops and thereby lessen the risks of contact with other people.

Even dining out has been affected, with people using takeout or home delivery to avoid contact with other people as much as possible. Those who do choose to dine in restaurants try to finish their meals as

quickly as they can, and many of them are apparently refraining from evening meals in particular that they would ordinarily enjoy with alcoholic beverages.

Instead of going to cinemas and theaters to view movies, plays and other entertainment, people have come to enjoy watching these on video at home. There has also been a rapid rise in the use of Line, Facebook, Zoom and such platforms for information exchange between individuals.

Training gyms and super sentos were once among Japan's most vibrant leisure facilities, but their use has been on the decline because of the inherent 3Cs. I myself enjoyed nothing more than working out at the gym once a week or so and going to a super sento on weekends, but I have not done either since this year began.

Several of these lifestyle changes will likely return to normal once the coronavirus pandemic has calmed down, but it seems unlikely that everything will go completely back to the way it was before. Digitalization-related changes are especially unlikely to be reversed. In other words, new lifestyles can be said to be at a formative stage at the moment (Fig. 1. The New Normal).



Figure. 1. The New Normal (Source: Ministry of Health, Labor and Welfare)

The Japanese people are held in high regard for their responses to natural disasters. The behavior of victims in the wake of the Great East Japan Earthquake won praise from around the world. Rioting and looting often occur when disasters strike other countries, leaving their societies dysfunctional, but rioting and looting are quite rare in Japan, where people form up into orderly lines to await handouts of water and food and some may even help in distributing the supplies. They ordinarily react calmly without panicking (Photo 2: The Japanese Spirit).



Even as Japanese have enjoyed the blessings of nature as an agricultural people, they have also been exposed since ancient times to natural disasters such as earthquakes, typhoons, torrential rains and snowstorms, engendering in them a mindset of seeing themselves as part of nature, recognizing and quietly accepting that natural disasters are inevitable, and patiently waiting for disasters to pass.

This can likely be attributed to the priority on “the collective” or “the community” over “the individual” engrained within village communities jointly engaged in farm work in an agricultural society. While this emphasis on the collective does have the defect of not fostering individual identities, it manifests itself in self-restraint and a commitment to working for the greater good when disasters strike.

Additionally, there are the guiding principles of *bushido*, “the way of the warrior”. Japan was ruled for more than 600 years, from the creation of the Kamakura shogunate in the late 12<sup>th</sup> century until the Meiji Restoration of the mid-19<sup>th</sup> century, by a warrior-dominated government. During this time, warriors sought to cultivate themselves and exercise self-discipline to develop character as a model for society, and they behaved with self-denial to better serve others and society as a whole. School education from the Meiji period onward taught this spirit of *bushido* to the entire nation.

This distinctly Japanese spirit seems to manifest itself as calm and orderly behavior during disasters.

The ongoing coronavirus pandemic differs somewhat in circumstance from a natural disaster. It is difficult to term the coronavirus a natural phenomenon and, because the virus is invisible to the eye, no one knows how long to wait for the disaster to pass. If we apply the lessons learned from the Spanish flu (the H1N1 novel influenza virus) that ran rampant from 1918 to 1920, it would seem most important for individuals to avoid the 3Cs and carefully wash and disinfect their hands and thereby flatten the curve of infections as much as possible, but due consideration must also be given to the pandemic’s economic impacts. Difficult choices will need to be made.

People are impacted in no small way by changes to their living environments. Most people over the course of their lives encounter several occasions on which their living environments change, such as when they relocate, find a job or get married, but the outcomes of these changes can be predicted to a certain degree, allowing them to apply the wisdom of their predecessors to some extent in addressing these changes.

There is no telling the future course of the current coronavirus pandemic, however, and there are no clear-cut methods for combatting it. We must all build new lifestyles from here on out.

The Japanese spirit does seem to be changing bit by bit recently, with the mentality of an agricultural people as well as the behavioral norms of *bushido* having less hold on the minds of Japanese pursuing modernization since the Meiji era. Surely I am not the only one who believes an increasing number of Japanese behave selfishly without thinking of others’ feelings. That said, it is a fact that large numbers of young people have taken part in disaster recovery and other efforts as volunteers.



Picture 2. Japanese spirituality

To suitably cope with transformed lifestyles in today's circumstances, we may need to rethink and reclaim the pride-inspiring Japanese mindset of patience, consideration for others, and self-control, while also leveraging our capacity for originality, ingenuity and imagination.

This is by no means impossible. Indeed, I am convinced it is entirely feasible if each and every one of us remains keenly aware of this vision.

With the pandemic causing disruptions around the world, I believe that Japan, given its unique spirit and outstanding capacity for imagination, has a mission to adeptly constrain any further spread of infections and overcome this challenge without bankrupting the economy, as well as to provide the rest of the world a model for effectively adapting to transformed lifestyles.

## Happenings in Japan (Four-Frame Cartoon)





## Editor's Note



Hello! This is Mitty. Although the COVID-19 situation has not changed yet, I hope you are all doing well. When you joined the training course in Japan, do you remember how you used to go from AOTS to APIC every morning on the rush hour train? I live in Saitama Prefecture, next to Tokyo, so I commute by train for an hour each way every day. However, due to the impact of the coronavirus situation, more and more people in Japan are working from home. Now, I can just manage to get on the trains, although I still cannot get a seat. It used to be a struggle just to get on the train, and even when I did, the pressure was on you from all directions. I was exhausted just from commuting. For a while, I also worked from home, but during that time, something felt strange. My body was getting heavier, and commuting had become a form of exercise for me. When I asked this year's trainees where they were taking their training, many of them said they were doing it at home. Nowadays, there are many videos about exercise on YouTube. I hope that the coronavirus scare will be over soon so we can exercise under the blue sky without hesitation. I am looking forward to seeing you all again in Japan!



Hello! I'm Minori. I have been an editor of Enishi magazine since last April. Due to the effects of the Coronavirus situation, we were not sure if we would be able to publish the magazine as planned. With the cooperation of all the contributors, however, we managed to publish three issues: No. 25, No. 26, and No. 27. Thank you very much! We had planned to introduce museums in the Japan Introduction section three times in a row. Unfortunately, however, due to the emergency declaration in the Tokyo metropolitan area, we could not visit museums that were planned to be introduced. I was very disappointed because I was personally looking forward to visiting those museums. To everyone reading this magazine, if there is anything you would like us to cover about Japanese culture, lifestyles, or anything you would like to know about Japan, please send me a request! Thank you very much.

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