

No. **28**
July 2021



E N I S H I

IP Friends Connections

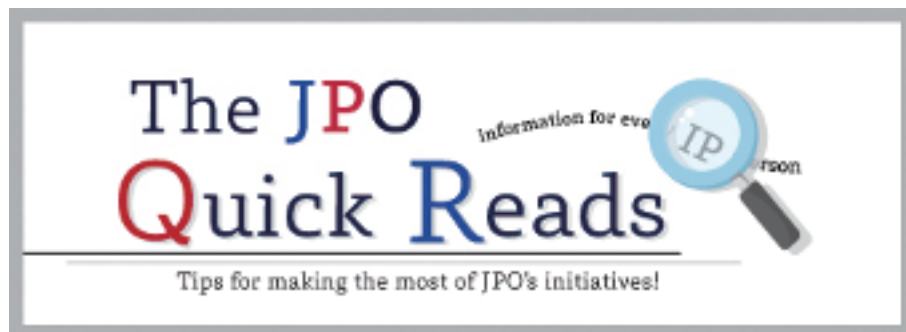
This Magazine is published as part of the Intellectual Property Cooperation
in Human Resource Development Program of the Japan Patent Office.

The aim of this Magazine is to follow up on training programs
through the dissemination of information to IP Friends,
those who have completed training courses of the above program.

We very much hope that the information in this publication related to intellectual property,
and the comments from either IP Friends or lectures, will prove beneficial to you in your work.

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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_JPN

[Popular topics]

➤Interviews with Examiners (02 Mar. 2021)

JPO examiners proactively conduct interviews to facilitate communication with applicants.

Interviews with examiners can be requested at any phase of the prosecution free of charge. In 2019, roughly a total of 4,000 interviews were performed.

To meet user needs, the video conferencing system is also available, allowing applicants and patent attorneys to participate using their own PCs from their homes/offices. Such online interviews are effectively utilized in response to the situation with the COVID-19 as well.

➤Collective Examinations for IP Portfolio Supporting Business Strategy (09 Mar. 2021)

Your new product/service relates to a number of inventions, designs and trademarks, doesn't it?

In normal examination process, respective applications are examined separately, making it difficult for you to be notified of examination results of multiple applications collectively. Under the “Collective Examinations for IP Portfolio Supporting Business Strategy (hereinafter referred to as Collective Examinations),” however, a team of JPO examiners handles a group of various applications pertaining to your inventions and also designs/trademarks as well, where indicated. Through close communication within the team, examinations will be conducted concurrently taking account of the input on your business strategy to be supported by the whole applications. The collective examination allows you to smoothly develop your business, ensuring timely acquisition of reliable rights.

➤ PPH Portal Site (16 Mar. 2021)

Have you had a chance to explore our PPH Portal site yet?

Under the PPH framework, an application determined to be patentable by the office of earlier examination is allowed to undergo accelerated examination at the office of later examination. The JPO operates the PPH Portal site providing statistical information such as average pendency and grant rate of PPH applications. The site also provides easy access to the PPH procedural guidelines of participating IP Offices. Through the portal, you can efficiently obtain information from more than 50 Offices worldwide.

➤ Japan Platform for Patent Information (J-PlatPat) (23 Mar. 2021)

Japan Platform for Patent Information (J-PlatPat) makes available a one-stop search service for intellectual property publications.

National Center for Industrial Property Information and Training (INPIT), an independent administrative agency associated with JPO, provides a platform named “J-PlatPat” as a free online retrieval service for intellectual property information. On its website, you have access to publications from all administrative jurisdictions under the JPO (patents, utility models, designs, and trademarks) by a simple keyword/number search or a more advanced search. You can also check the prosecution history of individual applications, including trial/appeal proceedings. Such information is available in English through machine translation for the convenience of overseas users.

➤ The One Portal Dossier (OPD) (30 Mar. 2021)

Need to check respective prosecution histories of a family of patent applications?

Dossier is a collection of documents containing information on a patent application and its prosecution. The One Portal Dossier (OPD) offers a one-stop service for electronically accessing dossier information of entire family applications among the IP5 offices (CNIPA, EPO, JPO, KIPO and USPTO) and also PCT international applications. The JPO played a leading role in the establishment of the system. It helps streamline the examination process by enabling IP5 examiners to cross-reference dossier information. In order to benefit users, such information has been accessible to the public worldwide as well.

➤ The JPO Key Features (8 June 2021)

“The JPO Key Features” on our web page simply sheds a spotlight on the benefits of filing applications in Japan for the sake of overseas users.

It is designed to present the principal advantages of prosecuting applications with the JPO and also to familiarize applicants residing overseas with our well-regarded measures or initiatives. Its content is arranged by subject, for example, but not limited to:

- Speedy & Quality Examinations
- Global IP Portfolio
(e.g. Patent Prosecution Highway (PPH))
- IP rights in line with Business Strategy
(e.g. Collective Examinations for IP Portfolio Supporting Business Strategy, Communication with Examiners)
- Quick response to Business Circumstances
(e.g. Examination Case Examples to AI and IoT related technologies)

FY2021 JPO/IPR Training Course List



	Course Title
1	Promoting Public Awareness of IP
2	Trademark Examination Under the Madrid System
3	Academia-Industry Collaboration and Technology Transfer
4	Patent Examination (Basic Program)
5	Patent Examination Management for Managers
6	Practitioners Specializing in Trademarks
7	Patent Examination for Middle Eastern and African Countries
8	General Management of IP Office
9	Anti-Counterfeiting Measures for Practitioners
10	IP Trainers
11	Trial and Appeal System
12	Practitioners Specializing in Patents
13	Operational Patent Examination Training Program (OPET)
14	Information Technology
15	Design Policy for India
16	Substantive Examination of Trademarks
17	Patent Examination in Specific Technical Fields for Latin American Countries
18	Design Substantive Examination and Accession to the Hague Agreement

* For more information, please contact the IP Office in your country.

Challenges of Online IP Trainings

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Technical Services Department

Kenya Industrial Property Institute



JPO/IPR Online Training Course on General Management of IP Office

(October 20 – 27, 2020)



My name is Sammy Ziro Lewa, and I am a Patent Examiner with the Kenya Industrial Property Institute (KIPI). Personally, I have had a chance to attend physical meetings at the Japan Patent Office. While comparing the two mode of trainings (in-person and online), both have their own limitations and advantages that are important to explore for future trainings. The COVID-19 pandemic has presented a unique perspective across various industries, leading them to adjust their existing approaches. Activities undertaken through physical meetings adopted online platforms to ensure compliance with safety standards. The IP industry in Kenya and other parts of the world suffered similar effects.

The Kenya Industrial Property Institute has been for a long time dependent on training, seminars and conferences to ensure that its employees remain updated with new skills and practices in IP examination and management in Kenya that remain in accordance with PCT standards. However, the COVID-19 pandemic meant that the industry needed to adjust to online platforms to ensure continuity. IP staff in various offices needed to adjust and embrace learning technology by using online platforms to interact



Group discussion on Patent Examination Training
(Basic Programs 2017)

with trainers, and to acquire relevant skills and knowledge needed for survival.

The FY2020 JPO/IPR Online Training Course on General Management of IP Office elucidated both positive and adverse outcomes regarding the use of online platforms in trainings. Whereas the results indicated success owing to the knowledge shared by online platforms, learners additionally faced challenges with respect to these trainings. For instance, I struggled with comprehending technical aspects and dealing with technical glitches arising from online studies.

The use of online platforms such as Zoom and WebEx, which were not familiar to some of the staff members, proved challenging. Most participants also faced a challenge in connectivity, especially those from least-developed and developing countries such as Kenya, where the bandwidth and connectivity is still low, especially in office setups where connections are shared. These challenges played a significant role in limiting the effectiveness of online learning.

I can summarize my experience of online intellectual property training as an informative structure that provided me with knowledge and information on the changes in the intellectual property industry. Comparing the online and physical workshops highlights variations, such as the lack of discussion platforms and the sharing of limited information by the participants in the case of the online trainings and workshops. This format has limited interactions, because the facilitators fail to engage students continuously. The concept of online trainings focuses on delivering content, and lacks ways of checking whether students have understood the concept presented.

While physical meetings involve students interacting one-on-one with the facilitator and tutor, online meetings have a limitation in that the facilitator assumes that the participants behind the computer/tablet/phone are following the teachings, which may not be the case. This is true especially when the tutor asks a question and some participants have a hard time comprehending what has been going on, or may fail to comment because their camera is off or they are completely away from their laptops. I learned crucial information presented by various facilitators because the online presentation provided a strategic and detailed process of delivering the learning process. However, the internet connectivity interruptions made it difficult to maintain the flow and ensure that cameras remained turned on, since this consumes a lot of data.

The study provided an effective means of following training procedures, and was informative on issues relating to the pandemic and COVID-19, even despite the challenges encountered in the process. The technical part of the online training is a significant challenge that future workshops and trainings should address. For instance, the lack of a computer meant that I had to use a mobile phone to access the meetings, which was frustrating when taking notes and participating in the meetings and workshops. Nonetheless, the trainings and workshops were informative and gave me essential knowledge and studies.

The advantages of online trainings involve the cheap costs involved in organizing such meetings. The physical intellectual property meetings require massive capital in planning and addressing logistical issues, as well as strategic procedures to ensure the comfort of participants. While most of the online trainings in which Kenya participates are sponsored by the relevant Japanese office and WIPO, some office costs are able to be reduced by conducting online trainings. The reduced budget and planning time therefore ensured the effective management of resources. The trainings provided an advantage to employers by ensuring that employees acquired adequate skills necessary for updating industry changes at the convenience of their working desks. The advantage of online meetings and workshops is that they offer an ideal means of collecting information and recording the required data for future reference. The online training process was advantageous because it focused on key points within the meeting.

Unlike physical meetings, which are prone to interruptions and disruptions, the online trainings

focused on the agenda of the meeting. The advantage of the online meetings is that facilitators had enough time to expound on the topic of discussion and offer detailed information on the issues at hand. The overall experience provided students with procedural knowledge on issues relating to intellectual property within the organization. The limited strategies and procedural approaches limited the effect of the process, and made it hard to embrace the existing weaknesses in the structure of the organization. The online trainings were advantageous in expounding the key issues of discussion on the topic. More importantly, physical meetings tend to have a limited number of participants. However, with the use of online meetings, it was possible to have a large number of participants drawn from different offices and levels of skills. This is vital, as it allowed me to learn different experiences and office management skills from a wider range of experts.

Despite the advantages arising from online trainings, the process registered cons that hindered its effectiveness among students. Firstly, participants struggled with technical issues, such as lack of computers and other technical tools required for facilitating the connection. The use of alternative gadgets, such as phones and sharing computers, affected the learning process for participants. In some cases, there were constant power interruptions during the meeting, which affected the learning process. This means that there is a need to ensure that there is a consistent power supply.

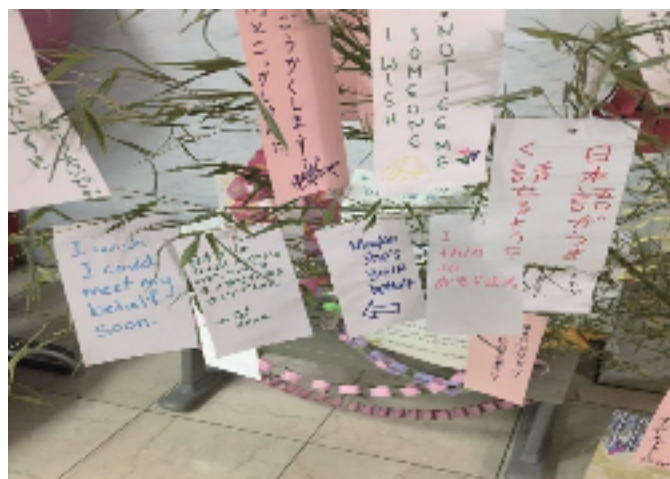
Secondly, the procedure relied on the internet to connect the facilitator and the participants. As I pointed out earlier, KIPi has a shared connectivity bandwidth, which affects the connectivity during online participation. The lack of reliable internet resulted in continuous interruptions, leading individuals to miss some parts of the discussion and training. The process affected the information collected, and the participants had a hard time following up on the concepts because of the resulting issues. The struggles involving in choosing the ideal internet provider presented a significant challenge, thereby hindering the effectiveness of the process.

Additionally, the online trainings and workshops limited engagements with other students and participants. This presented a challenge because of the difficulty in understanding the issues taught by the facilitator. Discussions play a fundamental role in ensuring that students can clarify areas where they failed to understand; while also offering expansive knowledge on the topic to ensure effective communication. A strategic investment must be made in meaningful issues within the organization, but the existing challenges limited the outcome of the online intellectual property trainings and workshops.

Lastly, online training workshops do not provide a chance for sightseeing in order to experience the Japanese culture and Japan's beautiful locations. I remember while in Tokyo for the Training Course on



Sightseeing at Tokyo Sky Tree



Tanabata Tradition in 2017 at AOTS/TKC Kitasenju

Patent Examination (Basic Program), I had a chance to visit Tokyo Tower, Tokyo Sky Tree, and Shibuya Crossing where so many people were crossing the road, to name but a few. This gives one a chance to learn different and new things while in Japan, unlike the online trainings.

The online intellectual property trainings and workshops played a significant role in encouraging participation, and ensuring that individuals updated their knowledge on existing issues. The intellectual property industry is agile in nature, and often incorporates changes within the business environment. For instance, COVID-19 pushed industries to embrace virtual meetings and working from home, which enabled people to start businesses and develop entrepreneurial ideas.

The trainings and workshops provided a platform for learning ways to deal with the proposed changes. Intellectual property professionals required training on dealing with the new dynamics of home inventions and people running businesses remotely from home. The training focused on sharing information on such issues. For instance, many technology companies in Kenya embraced the work-from-home structure to ensure effective growth and success, which focused on ensuring progressive strategies to accommodate the changes. The training further discussed crucial issues relating to intellectual property officers working from home, as well as the resulting challenges. The trainings were beneficial because they developed a structure and platform that employees can rely on within the industry.

Online trainings held by JPO in 2020 presented unique challenges and issues related to the trainings and the process of sharing knowledge on intellectual property. Having attended both physical meetings and online trainings and workshops, I identified various similarities and differences involving the two forms of training. Firstly, both formats follow specific structures where facilitators focus on specific issues within the wider intellectual property industry. The trainings share similarities, such as dwelling on emerging issues within the intellectual property industry. For instance, the 2020 online trainings focused on the effect of the pandemic on intellectual property.

The mode of training presented similarities as it involved the facilitator addressing individuals and engaging the students at the end of the exercise. However, the online trainings expressed reduced levels of interaction involving facilitators and participants in the workshop. The reduced interaction, such as the lack of follow-up questions, could be an indication of lack of proper comprehension. The participants lacked an opportunity to clarify the information or issues presented. The physical meetings vary from online meetings because they encourage communication and present suggestions for further discussion. Physical meetings therefore widen the scope of the discussion, and provide an informed way of engaging participants. The online approach follows the directives and lesson plan. Therefore, this limits the facilitator from expounding on an issue or focusing on things that fall outside the scope of the discussion.

In conclusion, the paper provides a comprehensive discussion on the pros and cons of online intellectual property trainings and workshops held during the COVID-19 pandemic. The study highlights the unique circumstances that led to the adoption of online learning structures to help students, highlighting various pros of online training, such as ensuring that the industry remains updated with emerging trends, and teaching students and industry players ways to accommodate the changes brought about by the COVID-19 pandemic. The study also offers a discussion on the cons involving online studies, such as internet glitches, poor infrastructure to support online studies, and strategic investment to cater for emerging changes. As a student engaging in online intellectual property training and workshops, I struggled with the understanding of technical issues because of the unreliable internet I was using. The internet lies at the center of effective online trainings in the industry. Therefore, investing in adequate internet infrastructure offers an ideal incentive to ensure the success of online training. Online

trainings may prevail as the COVID-19 pandemic progresses, thus highlighting the need to construct a curriculum for online intellectual property trainings to ensure effective studies. Other minor issues, such as lack of etiquette and interruptions from colleagues highlight the need for training on online platforms use to elucidate the required outcome.



Training Course on Patent Examinations (Basic Program), 2017
Closing Ceremony



Online Training Course on General Management of IP Office, 2020
Group Photo

The Intellectual Property Case of Greatest Repercussion in Brazil



Ms. Thais Messias Mac-Cormick Piedade (Brazil)

Patent Consultant, Patent Department

Dannemann, Siemsen Bigler & Ipanema Moreira

JPO/IPR Online Training Course for Practitioners Specializing in Patents

(November 9 – December 11, 2020)



The year of 2021 starts in Brazil with uncertainties and doubts, as well as in many other countries. The main reason lies with the COVID-19 outbreak, which still affects the entire world, mainly developing countries such as Brazil. However, the Brazilian Intellectual Property area was also recently affected by a decision from the Brazilian Supreme Court that considered as unconstitutional a legal provision that was in force for the last 25 years.

Brazilian IP Law nº 9279 was issued in 1996, and provided a minimum term for patents in Brazil. Article 40 of the said law states that “an invention patent shall be in force for a twenty (20) year term, and utility model patent for a fifteen (15) year term, as from the date of filing”. The sole paragraph of this article determined that “the term shall not be less than ten (10) years for patents of invention and seven (7) years for utility model patents, as from the date of grant [...]”.

This legal provision stated by the sole paragraph of article 40 of Brazilian IP Law guaranteed a partial compensation in connection with the intellectual property rights of the patentees in the event whereby the Brazilian Patent and Trademark Office – BPTO has taken more than 10 years to issue a decision granting a patent. Although Article 44 of the Brazilian IP Law determines the retroactive effect of the patentee rights to the date of publication of the application, it is well established in court decisions that the patent rights only become enforceable when the patent is granted.

Constitutional Challenge ADI 5529 was filed in 2016 by the General Prosecution Office, aiming to remove the sole paragraph of Article 40 from the Brazilian IP Law. According to the lawsuit, the legal provision under discussion would transfer the administrative inefficiency of the BPTO to society, which

would be affected by longer-term monopolies, thereby impairing free competition and raising product prices.

The Brazilian Supreme Court initiated the judgment in the beginning of April 2021, and entities of different sectors of the industry, such as agribusiness, generic drugs and the pharmaceutical industry, were mobilized and admitted as *amicus curiae* to present oral arguments defending their points of view.

The first legal act of this judgment was the issuance of a preliminary injunction by the Reporting Justice, which monocratically decided that as of the publication of his preliminary injunction, all health-related patent applications (including medical devices) to be granted by the BPTO will no longer benefit from the provision of the sole paragraph of Article 40 if the prosecution takes more than 10 years, when there is a 20-year term from filing.

The judgment session on the Constitutional Challenge ADI 5529 started on April 28th, 2021 and was concluded on May 7th, 2021 before the Brazilian Supreme Court. The full panel of the Supreme Court, voted by majority for the unconstitutionality of the minimum patent term of 10 years from granting. Their opinion was based on the idea that this legal provision would lead to an extension harmful for society, in the sense that it would cause instability as competitors would not be able to ascertain the exact date when the patent would lapse because the date of granting cannot be predicted.

In face of this decision, the provision of the sole paragraph of Article 40 in the Brazilian IP Law was declared void and null. However, considering the high number of patents granted within this legal provision, as well as the fact that dozens of lawsuits have been filed challenging patents (mainly medicaments), the Brazilian Supreme Court decided in view of the issuance of the Reporting Justice's preliminary injunction on April 7th, 2021 that all patents already granted with the term of 10 years would be preserved and kept valid and in force, except in the following two cases: (i) patents whose term is already being challenged through lawsuits filed by April 7th, 2021 (the date of issuance of the Reporting Justice's preliminary injunction); and/or (ii) patents for pharmaceutical products and processes and health-related products and materials, such as medical devices. The term of those patents within these exceptions will be reduced to 20 years from filing. The Brazilian Supreme Court understood that this approach would provide greater legal certainty to those patentees whose patents were granted with the term of 10 years from granting, while it would decrease the term of monopoly of medicaments that would represent higher costs for Brazilian public coffers.

The delay in examining patent applications by the BPTO is harmful not only to the society, but also to patent holders, who had their term of rights reduced due to this recent decision.

Recognizing the need to speed up the examination process, the BPTO has taken several measures in an effort to reduce its backlog.

Since 2017, many Patent Prosecution Highway (PPH) pilot programs have been issued by the BPTO with partner offices, such as those in the United States of America, Japan, Europe, China, and United Kingdom. In December 2019, the previous PPH pilot programs were consolidated into a unique PPH pilot program encompassing all technological areas, including pharmaceutical products and processes. The current PPH pilot program was issued in December 2020 and should be in force until December

2024, with the limitation of 600 requirements per year.

As another measure to reduce the backlog, BPTO launched in 2018 the Pre-Examination Office Action Pilot Program, which was replaced by the Preliminary Office Action Pilot Programs in 2019. These programs use the search results issued by patent offices in other jurisdictions, and by international or regional organizations, to expedite the technical decision-making by the BPTO, and consequently the prosecution of patent applications. The Preliminary Office Action Programs are still in force and have proved to be an important weapon in combating backlog in Brazil, as the number of patent applications filed up to 2016 that lacked a decision was reduced by 60%.

Moreover, acknowledging the importance of the pharmaceutical and biopharmaceutical inventions, mainly during the current COVID-19 outbreak, a new Fast-Track Pilot Program for patent applications related to pharmaceutical products and processes, and health devices for the diagnosis, prophylaxis and treatment of COVID-19 was issued by BPTO in 2020.

Those and other actions taken by the BPTO to combat the patent backlog have confirmed its effort to align with international standards the amount of time that is taken in Brazil to analyze patent applications.

In this scenario, we can say that we are moving toward a reality wherein such a legal provision stated by the sole paragraph of Brazilian IP Law Article 40, even though it was previously in force, will hopefully no longer be necessary due to the speed in examining patent applications in Brazil.

The Hague System, an Option for Mexican Artisans



Mr. Juan Antonio Rivas Cruz (Mexico)

Substantive Examiner

Patents/Industrial Design Registration & Utility Model Registration

Mexican Institute of Industrial Property

JPO/IPR Online Training Course for Practitioners Specializing in Trademarks

(September 14 – 25, 2020)



At present, there are places all over the world where crafts are created that are the result of unique manual work. Such craftwork is very different from industrial products, and reflects the worldview, identity, customs, beliefs, and traditions of the place where they were created. Usually, such knowledge is transmitted from generation to generation, and carried out with tools that were manufactured by hand.

Art, design, and aesthetics are agreed upon from the point of view of the craftspersons when making handicrafts, so that each product created is physically and significantly different from others, whether in color arrangement, pieces, shape, etc.

In general, the crafts are made with materials typical of the region in which the master artisan lives. As a result, each of these crafts varies in terms of appearance, materials, and/or manufacturing.

The situation of some master artisans has been affected, however, both culturally and economically, because their products and designs were used indiscriminately by some internationally-recognized brands without giving due credit to the creators.

This situation has been stopped on some occasions, thanks to the protection tools offered by Industrial



Blued silver pearl earrings

**Santa Cruz Xoxocotlan, Oaxaca,
Mexico.**



Amber pendants-charms

Chiapas, Mexico.

Property. However, speaking specifically about the Registries of Industrial Designs and Models, the situation has been somewhat complicated in my country at least, since Mexico was not part of the Hague System.

The Hague System

This consists of an agreement that allows the protection of industrial designs in several countries or Contracting Parties by filing a single international application before the World Intellectual Property Organization (WIPO), complying with a minimum of formalities and in such a way that a series of applications have had been replaced by a single application. So far, a total of 91 countries are part of the Hague System. The validity of said protection depends on each of the laws of the contracting countries, and the protection of Industrial Designs and Models is facilitated and expedited with this system. Consequently, it represents an excellent option for designers—and in this case, craftspersons—to protect their creations.

Recognized brands use indigenous designs from Mexico

Mexican handicrafts are recognized and valued internationally for being representative products of the country's cultural diversity. According to data from ProMéxico, the main export destinations for Mexican handicrafts are Australia, Germany, Canada, Colombia, Spain, the United States and Italy.

Even internationally recognized designs and products, however, have not been exempted from use by recognized brands when marketing new products.

Glafira Candelaria, a 59-year-old indigenous Mexican from the municipality of Tenango de Doria in Hidalgo, Mexico, is an artisan who has been affected by the unregulated use and exploitation of indigenous Otomi designs, which she and other artisans reproduce in their wares. For these craftspersons, it is extremely sad to see their products, which they make by hand every day throughout their lives, appearing on a sign with a higher price and lower quality. Glafira, a master craftswoman, exclaimed on this occasion that if it were not for her hands, the crafts that were being advertised on these signs and being produced industrially would not exist, including the traditional Mexican Sarape.



This industrialization is also a factor that affects artisans, since such large-scale production results in lost value in the eyes of the public in comparison to the artisanship and the effort that is required to make such products by hand. Given this situation, the Mexican government has spoken out by requesting clarification on what it considers to be autochthonous (indigenous) appropriation.

In the international charter of Human Rights, intellectual property is recognized as a fundamental part of such rights. In Mexico's case, the Federal Copyright Law establishes respect for all cultural and artisanal works. Likewise, the said law also establishes the imperative to recognize, through a clear and direct mention, the indigenous community from which works are used to create new products. Unfortunately, however, the latter is only applicable within Mexico itself, since this is part of its legislation—thereby leaving the products and works of master artisans internationally unprotected.

At present, there is no international regulation wherein the creations of master artisans are permanently protected. I believe, however, that the artisans can employ the tools provided by Intellectual Property to eradicate the plagiarism of products and artisan designs. One such tool is the protection of Industrial Designs through the Hague System.

Through the Hague System, artisans can protect their designs and products simply, economically, and in a short time, since this only requires the submission of a single application, in a single language, and with a single payment (in Swiss francs). In this way, then, they may obtain advantageous protection and excellent international credibility.

This is now possible in Mexico, whose accession to the Hague System entered into force as of June 6, 2020. It is now possible, therefore, to submit an application in this country and request territorial extension to other contracting countries under the said Hague System.

This solution has a very important additional area of opportunity, however, insofar as the registration of Industrial Designs and Models is temporary; in other words, the validity is delimited by the legislation of each contracting country. Therefore, once the said term expires, the matter protected through registration becomes public domain; and in turn, any company, brand, or person can make use of the material without committing some kind of fault.

Although requesting the registration of an Industrial Design or Model under The Hague System is a temporary solution to the undue exploitation of the cultural, cosmogonic, ideological, and traditional representations of indigenous peoples, I consider that it is an excellent start for seeking and finding other international protection measures for this intellect. Like everything that surrounds us, we are in constant change and evolution; so the said evolution should not lead to the excessive appropriation of the artisan designs, but rather, to growth and appreciation that will serve as a source of inspiration for the rest of humanity.

Trademarks and Gender Equity During the Health Emergency Due to the Covid 19 Pandemic: Peru



Ms. Fancy De Los Santos López (Peru)

Advisor to the Directorate of Distinctive Signs
National Institute for the Defense of Competition and
Protection of Intellectual Property (INDECOPI)

*JPO/IPR Online Training Course on Trademark Examinations Under the Madrid System
(September 23 - October 7, 2020)*



I. Measures in order to take action

In November 2019, the National Institute for the Defense of Competition and the Protection of Intellectual Property (hereinafter, “Indecopi”) published its first study showing female participation in the trademarks field. Titled “Women on Her Marks: Peru”¹, this publication identified the existing gaps and proposed concrete actions for women to make the most of industrial property. This is how it became the first step in the construction of trademarks statistics from a gender perspective, which is a practice that has been carried out ever since.

Although the data reviewed during the 2015-2020 period shows that women have recently been more aware regarding the importance of industrial property, and therefore file and register trademarks, there is still a significant gap with respect to the number of trademark registrations granted to men (67.76% on average, as opposed to 32.24% for women).

From a positive perspective, however, it can be seen that although the average number of trademark registrations granted to both men and women has grown over the last six years, the greatest increase is on the part of females. In fact, during this period, the figure for women in this regard rose from 29.82% to 35.52%, or from 2,044 trademark registrations in 2015 to 3,978 in 2020.

Without a doubt, Covid 19 has affected our economy. However, in the midst of this crisis, the word “resilience” is repeated more frequently: in other words, the ability to transform pain into the engine to move forward. Thus, we see how many women are in the initial stage of a business or becoming entrepreneurs. It is necessary, therefore, to provide them with tools that allow them to obtain competitive advantages: instruments such as trademarks, for example, that identify their products or services and differentiate them from their competitors.

¹ Women on Her Marks: Peru. See the document in Spanish at: <https://repositorio.indecopi.gob.pe/handle/11724/7410>

TRADEMARKS GRANTED TO NATURAL PERSONS



Source: Directorate of Distinctive Signs of Indecopi

II. Make the participation of women visible to promote gender equity

In addition to establishing indicators that measure women's participation in the trademark system, it is important to make visible their participation as entrepreneurs and trademark owners, as well as their contribution to society. It should be noted that the Directorate of Distinctive Signs of Indecopi (hereinafter, DSD) constantly takes advantage of the use of digital platforms and alternative communication to disseminate and promote content on the registration of trademarks and its benefits, thereby making known to women entrepreneurs the importance of trademark registration, and the available digital tools to facilitate it.

As an example, through Radio Indecopi's “Marca Lo Nuestro” (English translation: “Trademark What Is Ours”) program, the DSD makes visible successful cases of trademark registrations on the part of domestic and international women entrepreneurs in the context of COVID-19². These include the following cases: (i) Vanna Pedraglio, entrepreneur and physical trainer; (ii) Isabel Flores, designer and clothing entrepreneur; and (iii) Vania Masías, dancer, director, creative, choreographer, social entrepreneur and Country Brand ambassador, who showed how she reinvents herself in times of crisis.

Likewise, in August of 2020, Indecopi launched the campaign “Promoting Virtual Trademark Registration”, a purely digital campaign that was promoted and disseminated through the hashtag #YoProtejoMiMarca (English translation: #IProtectMyTrademark). The creative strategy of this campaign focused on showing successful cases of male and female entrepreneurs who registered their trademarks, and were therefore able to protect and obtain benefits from the most valuable asset that their companies or enterprises have.

The campaign began with the PEPUÑO trademark, registered on behalf of an entrepreneur named Chuquillanqui³. Two promotional videos were broadcast with the message, “Do not put your dream at

² Recovered from “Marca Lo Nuestro” Program <https://bit.ly/3cLIhcn>.

³ Recovered from #YoProtejoMiMarca The story of Mechú Chuquillanqui and her trademark Pepuño <https://www.youtube.com/watch?v=-E651RqQYIk>

risk: Protect your Trademark."

For the sake of economic reactivation with inclusion, therefore, and thanks to the National Council for the Integration of Persons with Disabilities (CONADI), the videos were translated into sign language for people with hearing disabilities.

So far in 2021, the virtual seminar "Zero Stereotypes: Creative Woman, Innovative Woman and Entrepreneurial Woman" was held within the framework of Women's Day in order to highlight and promote female participation in the fields of intellectual property.

The case of businesswoman Dalila Gamarra was made visible during the event, who shared her success story with the purpose of encouraging more women to get involved in the constant struggle to achieve their goals⁴.

Additionally, "Indecopi Conversa" (English translation: "Indecopi talks") was born as an initiative to disseminate talks with inspiring stories and experiences of success, thereby showing how ideas can be transformed into entrepreneurship. It is broadcast via Facebook Live and YouTube through "Indecopi Oficial" (Indecopi's social media account).

Another interesting case study is that of Esther Toro⁵, entrepreneur and owner of the "Te quiero, linda" (English translation: "I love you, beautiful") trademark, who shared the purpose of her brand: empowering women with powerful phrases such as, "your weight and height do not define you".

Finally, it is worth highlighting the great challenge promoted by Indecopi on behalf of Peru, together with the World Intellectual Property Organization (WIPO) and the Intellectual Property Offices of Chile, Costa Rica and Colombia, to create Latin American networks in the fields of intellectual property and gender equality.

This proposal will allow the sharing of initiatives, good practices, institutional policies, management strategies, and statistical information on intellectual property and gender.

III. Conclusions

- From the data reviewed during the period 2015-2020, it can be seen that although women are more aware regarding the importance of industrial property, and therefore of file and register trademarks, there is still a significant gap in the number of registered trademarks granted to men compared to women (32.24% average for women, in contrast to 67.76% for men).
- However, on the positive side, it can be noticed that although there has been a growth in the average participation of trademark registration by both men and women over the last six years, there has been a greater increase in trademark registrations among females. In fact, trademark registrations granted to women rose from 29.82% to 35.52% during the said period (or 2,044 in 2015 to 3,978 in 2020).

4 Recovered from Zero Stereotypes: Creative Woman, Innovative Woman and Entrepreneurial Woman <https://bit.ly/3cebJpH>

5 Recovered from IndecopiConversa https://youtu.be/hjNOK3w_oTY.

- In order to help close the gap, it is important to measure and make visible the participation of women within the trademark system.
- In the context of Covid 19, Indecopi continues to compile statistics from a gender perspective and carry out activities in order to make visible and promote the registration of trademarks by women entrepreneurs. In doing so, it constantly takes advantage of the use of digital platforms and alternative communication for the dissemination and promotion of content on trademark registration and its benefits, including the radio program “Marca Lo Nuestro”; the virtual trademark campaign #YoProtejoMiMarca; and virtual conferences such as "Conversa Indecopi" broadcast via Facebook Live and YouTube through Indecopi Oficial, among other activities. Likewise, it is promoting the Intellectual Property and Gender Network in Latin America.

Non-Traditional Trademark Protection: Time to Get Innovative with Trademarks

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JPO/IPR Online Training Course for Practitioners Specializing in Trademarks

(October 12 – 30, 2020)



Introduction

During the last few decades, various new types of marks have been introduced within business and trade worldwide. As technology grows and trade becomes more and more creative, with a greater variety of products, services and business models, new types of marks or unique business indications undoubtedly become valuable to companies of every size. Protection of traditional trademarks alone is insufficient for the current global market. This leads to the necessity to protect these new types of valuable intangible assets, which expand the scope of trademark protection systems in many countries around the world.

This article aims to discuss the concept of new trademarks or “non-traditional trademarks”, with examples of the ways that trademark systems in certain countries, such as Japan, USA and Thailand, have changed to give protection to non-traditional trademarks.

What Are Non-Traditional Trademarks?

Although there is no definitive international definition of “non-traditional trademarks”, it is widely understood that traditional or conventional trademarks are comprised of words, symbols, designs, figurative devices, or a combination thereof. Therefore, a broad perception of non-traditional trademarks would include any trademark that does not fall within the scope of the above definition.

According to the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications of World Intellectual Property Organization (“SCT”), the types of signs that are today considered to be capable of constituting trademarks have expanded beyond words or figurative devices. Moreover, visually perceptible signs are being used in trade together with signs, which may not in themselves be visually perceptible, but have the potential for distinguishing among goods and services. Therefore, it could be said that non-traditional trademarks can be grouped into two categories (i.e., visible and non-visible signs).¹

Non-traditional trademarks in the category of visible signs include three-dimensional marks, color per se marks, holograms, slogans, titles of films and books, motion or multi-media signs, position marks, and gesture marks. Meanwhile, non-visible signs encompass marks such as olfactory marks (smell marks), taste marks and texture or feel marks.

As various new types of source-indicating signs were introduced to the market, trademark systems have continued to encompass only traditional trademarks. It has been difficult, therefore, for companies to protect their value and commercialize their innovative business developments. Additionally, they have faced certain obstacles in enforcing their rights against infringers and offenders, especially because the requirements and conditions for the registrability and scope of protection among traditional trademarks do not fit the character of non-traditional trademarks.

Many countries have therefore revised their trademark laws to gradually expand the scope of protection to include these non-traditional trademarks. However, protection of these new types of signs is not simple, since it needs to reasonably balance the need for customers to recognize the sources of products and services on one end, and the need for others to effectively compete in the market on the other end. Furthermore, some types of non-traditional trademarks, particularly non-visible signs like smells and tastes, require sufficiently capable means to identify distinctiveness and accurately differentiate among one another. Thus, each country has adopted these non-traditional trademarks to their own respective trademark systems at their own pace, and as they see appropriate to the trademark system environment in their country.

Next, I will discuss some interesting examples of how individual countries give protection to non-traditional trademarks.

Japan

On April 1, 2015, non-traditional marks, i.e. sounds, holograms, colors per se, positions and moving images became registrable as trademarks in Japan following the revision of the Trademark Act in 2014.² The Japan Trademark Examination Guidelines were also amended to reflect the revisions of the Act, and the Guidelines took effect on the same day.

Before the amendment of the Trademark Act, Article 2 stated that the subject matter of trademark protection included any character, figure, sign, three-dimensional shape, combination thereof, or combination thereof with colors. As a result, considering the broad definition of non-traditional trademarks of SCT as explained above, only a three-dimensional mark was protected under the Act prior to its amendment in 2015.

Under the amended Trademark Act and Trademark Examination Guidelines, each type of non-traditional trademark requires a specific description and method of representation in an application. For

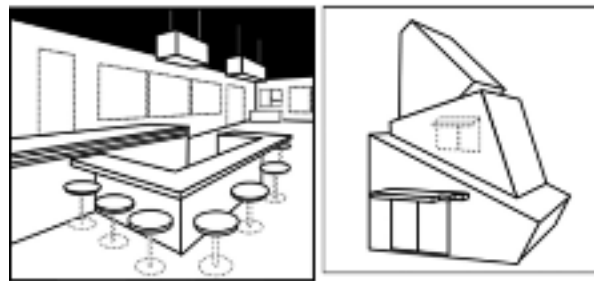
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- 1 WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, Sixteenth Session (2006), "New Types of Marks", retrieved on May 19, 2021 from https://www.wipo.int/edocs/mdocs/sct/en/sct_16/sct_16_2.pdf.
 - 2 Mitsuko Miyagawa, Current Situation of Non-Traditional Trademark Registration/Japan (2016), retrieved on May 18, 2021 from <http://www.expertguides.com/articles/current-situation-of-non-traditional-trademark-registrationjapan/arvcwct>.

instance, a motion mark requires that changes in time must be recognizable from a trademark specimen stated in the application, and there must also be a detailed description which renders it recognizable as a motion mark. A representation of a motion mark may be one drawing with a dotted line showing the direction of movement, or multiple drawings in a series that shows the motion of the object.



Example of Motion Mark Representations³

The Trademark Examination Guidelines were further revised in 2020 to make it clear that exterior and interior designs of buildings are also eligible to be protected as trademark within the category of three-dimensional marks under the Trademark Act.



Example of Recognized Three-Dimensional Marks ⁴

The expansion of recognizable trademark types under Japan's trademark law helps to strengthen brand protection and business value in Japan, and has provided brand owners with various choices of communication tools to customers and the general public.

The United States

The Lanham Act (a U.S. trademark statute) defines a trademark broadly enough that it can theoretically be anything which is able to be perceived by consumers, and that can be used to identify and distinguish the source of goods or services.⁵ Trademarks may be colors per se, sounds, scents, tastes, moving images or even product textures.

³ Japan Trademark Examination Guideline, retrieved from <https://www.jpo.go.jp/e/system/laws/rule/guideline/trademark/kijun/document/index/all.pdf>

⁴ Ibid.

⁵ Julia Belagorudsky, USPTO: Registration of non-traditional trademarks (2018), retrieved on 21 May 2021 from <https://www.lexology.com/library/detail.aspx?g=25dbbf32-f376-430e-a2bb-6175c34c3344>



Scents of strawberry, cherry, and grape lubricants
for combustion engines by Manhattan Oil
U.S. Registration Nos. 2568512, 2596156, 2463044 ⁶

Examples of U.S. registrations of non-traditional marks include the shape of the LEGO Minifigure product configuration for toy figures, the color pink for Owens-Corning's fibrous glass residential insulation, the scent of bubble gum for Grendene's shoes and sandals, scents of strawberry, cherry, and grape lubricants for combustion engines by Manhattan Oil, the sound of a lion roaring for MGM's entertainment services, and a leather-textured wrap around bottles of wine sold by the David Family Group.⁷

Considering the fact that freedom of speech and expression is strongly protected in the U.S. (especially by the First Amendment to the United States Constitution, many state constitutions, and state and federal laws), a broad interpretation of what can be recognized as a trademark under U.S. trademark law is expected. A trademark can be perceived as a means of conveying information, ideas, or other messages of trademark owners. However, in order for such conveyed information to be recognizable as a trademark, it should meet the requirements under the trademark law as a source-identifying message.

In order to register a non-traditional mark on the Principal Register (the primary register of trademarks maintained by the United States Patent and Trademark Office, or USPTO), the registration requirements for a standard application apply. In other words, a mark must be distinctive and serve as an indicator of source, and a specimen of use must be provided. Although standard registration requirements apply, non-traditional marks face unique challenges when they come to consideration on distinctiveness and non-functionality. To determine these two issues, successful precedents are to be relied upon in order to provide guidance on examination.

For example, scent can be recognized and registered as a trademark only when it is used in a non-functional manner as a source identifier (e.g., a scent of the product which is used to conceal unpleasant odors is a scent for utilitarian purpose, not as a source identifier). Substantial proof of use is usually required to prove secondary meaning, because scents are generally presumed not to be inherently distinctive.

⁶ Nick Greene, The 10 Current Scent Trademarks Currently Recognized by the U.S. Patent Office (2015), Retrieved on 24 May 2021 from <https://www.mentalfloss.com/article/69760/10-scent-trademarks-currently-recognized-us-patent-office>

⁷ U.S. Registration No. 4,903,968 (Minifigure); U.S. Registration No. 1,439,132 (pink); U.S. Registration No. 4,754,435 (bubble gum); U.S. Registration Nos. 2568512, 2596156, 2463044 (lubricant scents); U.S. Registration No. 1,395,550 (lion roaring); U.S. Registration No. 3,896,100 (leather). While flavors can be registered as trademarks, in re N.V. Organon, 79 U.S.P.Q. 2d (BNA) 1639 (T.T.A.B. 2006), the author was unable to find an example of a registered flavor mark.

Thailand

Under the Trademark Act of Thailand as amended in 2016, a “mark” means ‘*a photograph, drawing, invented device, logo, name, word, phrase, letter, numeral, signature, combination of colors, figurative element, sound or combination thereof*’⁸. From this definition, three-dimensional marks and sound marks are eligible for trademark protection. A single color per se is not recognized as a trademark under the current law, while a unique combination of colors may be recognized as a trademark.

The most significant hurdle for registrations of these non-traditional marks under the Thai trademark law is the requirement on ‘distinctiveness’ of the mark, which includes consideration of non-descriptiveness. Where the shape applied for as a three-dimensional mark merely results from the nature of the goods themselves, it cannot be registrable due to the lack of distinctiveness (e.g. a light bulb shape is not registrable as a trademark to be used with light bulbs).

By the same token, a sound mark must have no direct reference to the character or quality of the goods, and must not be a natural sound of the goods or a sound which results from the functioning of the goods itself (e.g., the sound of cows mooing is not registrable as a trademark for milk products). However, a non inherently distinctive mark can be registrable if it has acquired distinctiveness by use.⁹

For a sound mark application, the Trademark Act requires the applicant to include a clear description of the sound in the application for the sound mark, and to provide a soft file of the sound, e.g. hand in flash drive or MP3 file. The applicant may also include the sound’s description as a musical notation, sonograph, spectrogram, or other forms of transcription to illustrate the proposed sound.

Looking Forward to the Future

During the last decade, more and more jurisdictions have expanded their trademark protection systems to include registration of non-traditional trademarks. Some countries have a clear legislation and regulation on how non-traditional trademarks can be registered, and what is the scope of protection for each type of non-traditional trademarks. Meanwhile, other countries rely upon broad interpretations of existing laws to make non-traditional trademarks eligible for protection. Some countries have just begun to accept applications for non-traditional trademarks (i.e., they are still in the beginning stage for protection of these new types of marks).

As we see such trends and possibilities, it can be said that there will definitely be more and more varieties of trademarks in the future. As technology and innovation grows, the methods of communication among customers and the general public is also becoming more flexible. Trademark owners are now more creative with their trademarks, and a trademark can be considered an innovation in itself. Non-traditional trademarks will become a rule rather than an exception, which will unavoidably have an effect upon trademark legal systems and the value of global business.

8 Section 4 of Trademark Act of Thailand B.E. 2534 Amended By Trademark Act (No. 2) B.E. 2543 and Trademark Act (No. 3) B.E. 2559.

9 Section 7, Ibid.

The Role of Patents in R&D

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(December 1 – February 4, 2020)



Introduction

A patent is a legal title that gives its owner the right to prevent third parties from using an invention for commercial purposes without authorisation. This title can only be given to technical inventions. The most important activity group in the emergence of inventions is R&D activities. Many enterprises open the door to prominence in the competitive environment with their R&D departments, and they secure their investments with patents.

Patentability

An invention must be new, involve an inventive step, and susceptible of industrial applications in order to be protected by a patent. Inventions are considered to be new if they are not disclosed anywhere in the world through written or oral description, or in any other way accessible to the public, before the priority date. An invention involves an inventive step if it is not obvious to a person skilled in the art in light of the state of the art. In cases where a technical prejudice has been overcome, a solution to a long-felt need has been achieved, a surprising technical effect such as a synergy has been observed etc., the technical invention may involve an inventive step. This is an indication that inventions with patent protection comprise studies that make a significant difference in the technical field. Inventions that can be produced or used in any branch of industry, including agriculture, are considered to be industrially applicable. Only technical developments that meet these three criteria (novelty, inventive step and industrial applicability) can be patented.

Rights Provided by Patents

A patent owner has the right to demand the prevention of certain unauthorized actions. These basically include the sale, use, production, import or possession for any reason other than personal need. However, the rights provided by patents are not unlimited. For example, acts that do not have an industrial or commercial purpose and that are limited to private use and various trial actions are exceptions to the

rights provided by patents. For this reason, patent protection is considered to be a contract between the public and the patent owner. The patentee must disclose her/his invention clearly and completely enough to enable the invention to be practiced by a person skilled in the art. Disclosure of an invention in sufficient detail to render it apparent to the skilled person is the benefit obtained by the public in return for the rights provided to patent owners.

Patents in R&D Studies

One of the main functions of the patent system is the dissemination of technical knowledge. Patent literature has so much knowledge that most of the information included in patents is not found in any other source¹. While patents have the main information necessary for the realization of the invention, articles and other resources focus on scientific contributions. Patents also provide free information about new products developed by competitors. Many scientists and engineers do not include patent literature in their research before starting a new project, however. For example, inventors seeking a solution to the problem of excessive wear (or even bursting) of aircraft wheels due to high acceleration while touching the ground re-invented the small pockets placed next to the tires that allow the wheel to spin in the wind (Figure 1) some 71 years later. It is important to remember, therefore, that the solutions to problems may have already been found; and even using those solutions may be free of charge (in cases where applications could not obtain a patent right, the patent right has been waived, the patent lapsed, the patent has been registered only in another country, etc.).

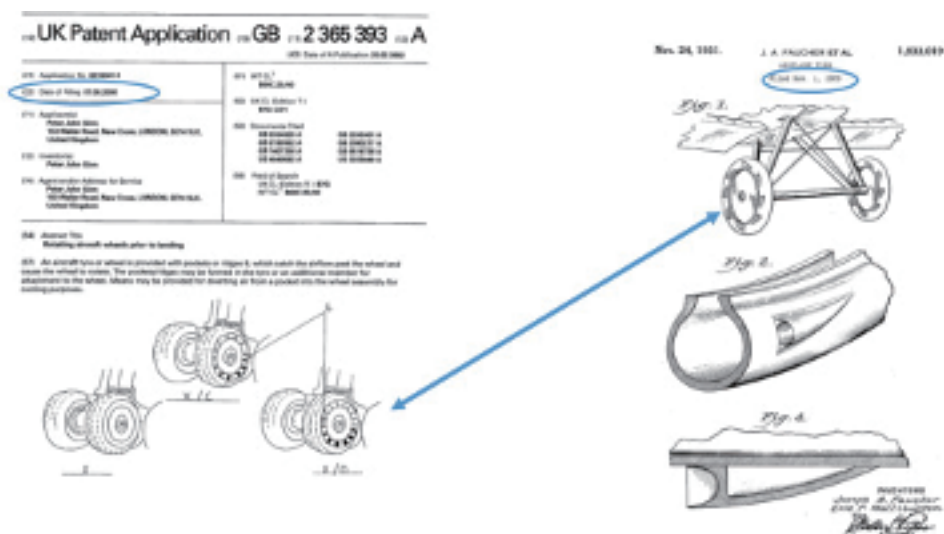


Figure 1 - Comparison of patent application publications GB2365393A and US1833019A.

Effect of Patents on the Development of R&D

Technological innovation is the main determinant for developments in fields such as engineering, health and science. In order for companies to continue to transfer money to innovative development, they must have the expectation that they will be able to cope with the expenses that will occur during

1 Bregonje, M. (2005). Patents: A unique source for scientific technical information in chemistry related industry?. World Patent Information, 27(4), 309-315.

this process, and that they will gain profits in the future. Moreover, companies want the assurance that they will be protected from unfair competition for a certain period when they supply their products to the market. Companies make their investments in R&D with the expectation of eventually achieving an invention. When this investment is turned into a product and used by people, they obtain financial resources for new investments. For the safe operation of this transfer, intellectual property rights and patents for technical inventions are extremely important (Figure 2). Patents guarantee investors that there will be a return for their investment via R&D. Thus, innovation encourages better products and production methods. Additionally, new innovative companies can easily compete with large established companies. The best example for this can be the first emergency use validated COVID-19 vaccine² developer, BioNTech, a small research-based company that delivers millions of vaccine doses today. Maintaining a competitive economy enables engineers and scientists to be aware regarding the details of new inventions, and to contribute to the improvement of inventions. As a result, the public can access better products at the most reasonable prices.

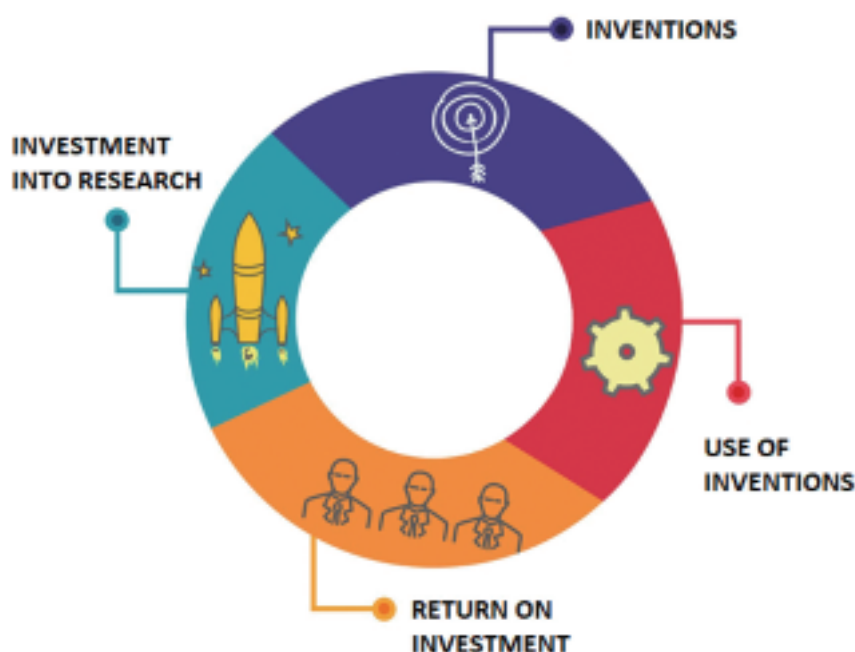


Figure 2- Effect of Patents on the Development of R&D

Globalism of Patents and R&D

While patents provide protection only in the countries or regions in which they are registered, the impact of the inventions will be global. The number of non-resident applicants in patent applications worldwide has nearly doubled in the last 20 years³ (Figure 3). From this data, it is understood that companies benefit more and more from patent protection in regions where they are not established, and where the inventions are the subject of a universal protection system. With each invention made, the reward for the R&D work can be received globally, and engineers and scientists can access the latest patent information. As a result, the latest technological developments and innovation progresses as a

² WHO News release, 31 December 2020

³ WIPO IP Statistics Data Centre (2020)

collective work of the whole world. The complex intellectual property landscape behind mRNA-based COVID-19 vaccines⁴ shows the tremendous collective effort behind inventions and innovation (Figure 4). In addition, patents enable the whole world to be informed about the state of the art in new technologies, including information and communication technologies and biotechnology, within 18 months at the latest⁵; enabling fast and strategic moves.

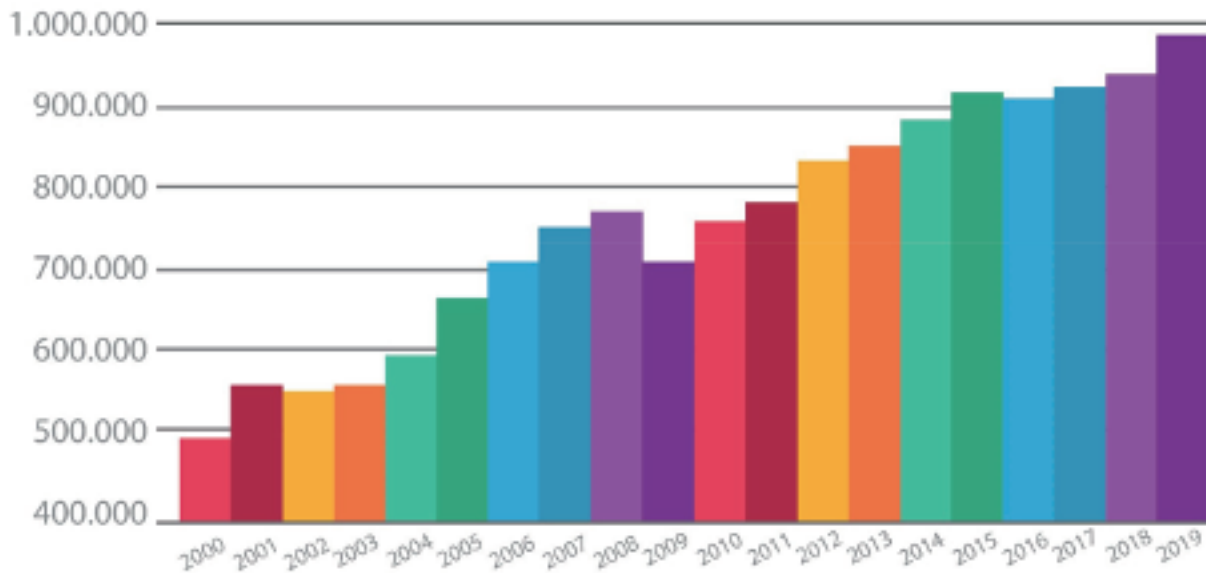


Figure 3- Number of non-resident applicants in patent applications filed around the world

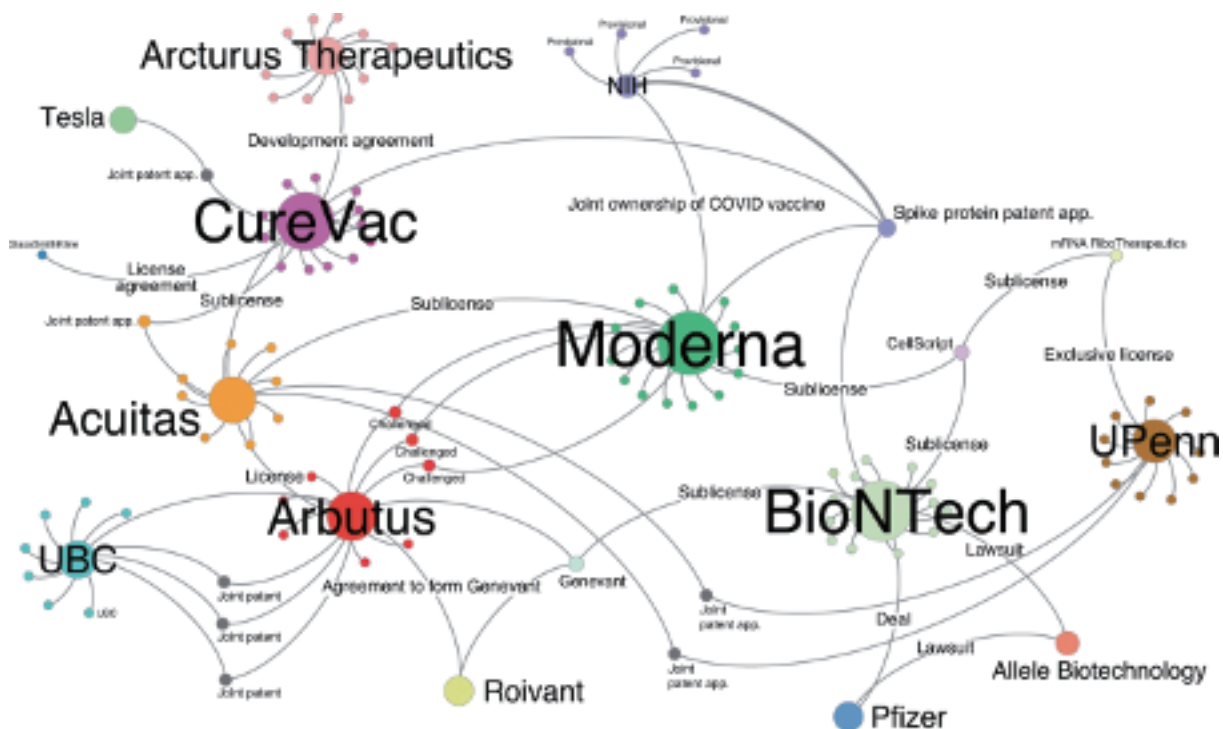


Figure 4- Patent network analysis of mRNA-based vaccine candidates for COVID-19⁶

4 Nature Biotechnology 39, p. 546–548 (2021)

Conclusion

One of the most important factors that enable companies to survive is new product design and development. Companies that do not carry out R&D studies may choose to obtain new products from other companies in order to maintain their place in the market. Although there are solutions such as obtaining licenses, purchasing intellectual property rights, and strategic partnerships; these solutions might prevent companies from engaging in independent activities. In addition, companies can only allocate their resources for R&D investments with the expectation that their investment will have a return. Intellectual property rights, and especially patents, are rights that both provide an environment of trust to the inventors, and also benefit the public by supporting technical development. Patent publications, which are a great wealth of information, are open sources wherein technical developments and the application methods of these developments are found. Anyone who loves R&D can access solutions to the technical problems free of charge from international patent databases such as Patentscope (World Intellectual Property Organization, WIPO) and Espacenet (European Patent Office, EPO), and they are then able to benefit the public by using their valuable efforts in solving still unresolved technical problems.

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- 5 The patent or utility model application is published as soon as possible after the expiry of 18 months from the date of filing, or the earliest priority date. Additionally, upon an early publication request, the application will be published earlier. This period is the same in most of the Patent Offices.
 - 6 Nature Biotechnology 39, p. 546–548 (2021)

Citizen and Government Cooperation in IP Rights Protection and Enforcement in the Philippines: Implementing an Efficient Online IP Violation Reporting System in the IPOPHL



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(November 2 – 20, 2020)*



*This article is from the point of view of the author, and not an official statement or viewpoint of his organization. *

Introduction

The Intellectual Property Office of the Philippines is the government agency mandated to administer and implement state policies on Intellectual Property to strengthen the protection of IP Rights in the Philippines. While it is the main agency in charge of IP, it has long believed in the “whole-of-society” approach. This means that for the IP System to be effectively implemented and enjoyed by the country, it has to be a collaborative effort from both the public and private sectors—specifically, the active participation of the citizens.

Under the leadership of Director General Rowel S. Barba during 2020-2025, the organization is instituting specific goals in relation to the “whole-of-society” approach. DG Barba, instituted the BRIGHT Goals for 2020-2025, which are as follows:

- B - Build collaborations and partnerships
- R - Raise the ante for customer service
- I - Integrate/raise IP awareness
- G - Go back to basics. Focus on the mandate of IPOPHL
- H - Human Capital and infrastructure investment of IPOPHL
- T - Transform IPOPHL into a fully digitized agency.

A close read of the three goals reveals that they are related to partnering or empowering citizens, or involve the whole of society approach. Specifically, goals B, R and I are all in relation to serving, partnering or empowering citizens.

This belief and goals propelled the IP Rights Enforcement Office (the enforcement arm of the IPOPHL) to embark on a citizen campaign focused specifically on Counterfeiting and Piracy activities.

A rise in reports via online platforms

The IP Rights Enforcement Office (IEO) of the IPOPHL is the office under IPOPHL which has been mandated to exercise the enforcement and visitorial powers of the Director General and the Deputies Director General as stated in Section 7 (c),(d),and (e) of the Intellectual Property Code as amended by Republic Act 10372. Specifically, the mandate of IEO is on enforcement against counterfeit and pirated goods. IEO was instituted via an office order in 2013, and ever since its institution, it has been active in receiving Piracy and Counterfeiting reports and in taking action in verified complaints filed by IP Owners.

Image 1 shows the activity of the IEO in terms of received IP Violation Reports and IP Verified Complaints filed from 2013-2019:

Source: <https://www.ipophil.gov.ph/intellectual-property-rights-enforcement-office-ieo/>

IEO REPORTS (2013 - 2019)

	2013	2014	2015	2016	2017	2018	2019
Filing	22	25	12	12	14	14	47
Disposed	22	25	12	12	14	14	47
Pending	0	0	0	0	0	0	0

IEO COMPLAINTS

	2013	2014	2015	2016	2017	2018	2019
Filing	10	7	17	8	0	4	1
Disposed	10	7	17	8	0	4	1
Pending	0	0	0	0	0	0	0

IEO Reports (or IP Violation Reports) can come from any person, meaning that IEO takes reports from anyone as long as they involve IP violations and are complete and legitimate. IEO complaints, on the other hand, are IP Violation complaints filed by the IP Owners with regards to piracy and counterfeiting of their rights.

Image 2 shows the activity of the IEO in terms of received IP Violation Reports and IP Verified Complaints filed in 2020.

Source: <https://www.ipophil.gov.ph/intellectual-property-rights-enforcement-office-ieo/>

IEO REPORTS (2020)

	Jan	Feb	March	April	May	June	July	August	September	October	November	December	Total
Filing	4	9	20	9	12	26	19	18	33	10	9	21	190
Disposed	4	9	20	9	12	26	19	18	33	10	9	21	190
Pending	0	0	0	0	0	0	0	0	0	0	0	0	0

IEO COMPLAINTS

	2013	2014	2015	2016	2017	2018	2019	2020
Filing	10	7	17	8	0	4	1	4
Disposed	10	7	17	8	0	4	1	0
Pending	0	0	0	0	0	0	0	4

As you can see from Image 2 above, IEO reports increased dramatically, while complaints are still low compared to the filing during 2013-2016.

If one can infer just from looking at the stats as is that there has been a rise in IP violations in 2020 compared to previous years, this in fact means other things from the IPOPHL perspective. Concretely speaking, it means that more citizens are now active in reporting IP violations, and have a full grasp of what IP Rights are. 2020 saw huge citizen participation not just in reporting, but in engagement and attendance in terms of IP Protection and Enforcement.

One key thing that IEO also implemented that contributed to the rise of IP Violation reports was a much more efficient online reporting system via Email and Facebook Messenger.

Image 3: Online IP Violation Reporting System
Source: <https://www.ipophil.gov.ph/intellectual-property-rights-enforcement-office-ieo/>



The system is the simple online way, wherein citizens can instantly message the IEO with any report of what they have seen in brick and mortar or online shops. IEO can then evaluate the report instantly, and refer to the IP Rights Owners for the proper enforcement. One option is to file before IEO an IP Violation Complaint, or to file before other law enforcement agencies.

IEO believes that this online reporting system has encouraged citizens to be proactive, which increased the engagement of citizens in IP Protection and Enforcement.

Reports that lead to Enforcement Actions

While IEO does receive reports, it is important to take note that a verified complaint must be filed first before IEO takes any enforcement action. In such reports, IEO refers the author to the respective IP/Brand Owner for appropriate action. IP/Brand owners may file before IEO, or choose other means such as filing a complaint before other Law Enforcement Agencies.

Some IP owners do take action, but not all. One such example is the report received by IEO last March 2021 of a big-time counterfeit seller of luxury bags on Facebook. The counterfeit seller is doing much of his sales via live selling, and this information was reported to IEO by some concerned citizens where IEO immediately evaluated and referred the matter to the different brands/IP owners of the luxury bags concerned. One IP owner immediately filed a case before the Philippines' National Bureau of Investigation (NBI), which resulted in NBI and IEO coordinating to raid the shop while live sales were taking place.

The events were captured live and went viral throughout the Philippines' social media community, which boosted IEO's enforcement efforts.

You can access the full happening via this link: <https://www.ipophil.gov.ph/news/reports-at-ipophil-lead-to-seizure-of-nearly-2-million-allegedly-counterfeit-louis-vuittons-at-live-selling-event/>

With the government, private sector and citizens working together, immediate and efficient action can be achieved.

Public Awareness Campaigns

Aside from the engagement of IEO and the implementation of efficient reporting systems, one key element that contributed to the historic rise in IP Violation reports received by IEO is their active campaign against counterfeiting and piracy through social media.

Last June 2020, IEO launched its own Facebook page to complement the IPOPHL main Facebook page. Apart from this being a reporting tool by citizens, the Facebook page serves as an advocacy platform to remind citizens to be vigilant and report IP violations.

IEO also embarked on engaging key industries that are highly affected by counterfeiting and piracy, such as the creative sector, e-commerce, retail, mall operation sectors, in order to boost its whole-of society campaign.

IEO believes that an enforcement campaign not only involves going after IP criminals, but also supporting the sectors and empowering citizens.

Image 4: IEO Facebook page



Next steps

Many steps are in place for IEO's plan. First is further strengthening its functions and increasing its resources, particularly manpower. Second is continuous dialogue with different sectors, and the forging of formal collaborations and agreements. Third is the integration of innovative technologies in specific operations—particularly in collaborating and sharing information with the National Committee on IP Rights (NCIPR). Fourth and last is to continue the best practices and continue to empower the citizens with respect to IP protection and enforcement.

There is still a long way to go, but at least the IPOPHL and its IP Rights Enforcement Office are moving in a positive direction.

Development of Intellectual Property System in Cambodia: Another Step of International Integration

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*FY 2018 JPO/IPR Training Course for IP Trainers
(June 19 – July 3, 2018)*



Since 2002, before acceding to the World Trade Organization (WTO), Cambodia had adopted the principle laws relating to the protection of intellectual property rights in accordance with its commitments to the WTO, including the following:

- The law on trademarks, trade names and acts of unfair competition in 2002 (“Trademark Law”)
- The law on patents, utility models and industrial designs in 2003 (“Patent Law”)
- The law on copyright and related rights in 2003 (“Copyright Law”)

The World Intellectual Property Organization (WIPO), an international organization of which Cambodia has been a member since 1998, imposes certain requirements in terms of intellectual property protection—particularly the protection of trade secrets, undisclosed information, integrated circuits, etc., which remain in draft laws today. Even though Cambodia has adopted these various principle laws for the protection of intellectual property rights, the legal regime still needs to be strengthened in practical areas in order to provide better legal protection to rights holders. To this end, the Cambodian government has been working to establish regulations to implement intellectual property-related laws, and continues to enter into international and bilateral conventions aimed at strengthening the protection of intellectual property rights.

As a result, Cambodia adopted a law on geographical indications in 2014 recognizing the geographical indications of local and foreign products. In 2015, Cambodia submitted the legal instrument of access to the Protocol Relating to the Madrid Agreement (Madrid Protocol) for the international registration of marks with WIPO. Cambodia acceded to the PCT (Patent Cooperation Treaty) in 2016, and acceded to the Hague Agreement Concerning the International Registration of Industrial Designs in 2017. Meanwhile, Cambodia concluded a bilateral agreement with Japan and Singapore in 2016, and with China in 2018, regarding the recognition and validation of their patents within Cambodian jurisdiction. In 2017, an agreement with the European Patent Office was signed for the validation of European patents in Cambodia, thus creating the legal basis for the functioning of the validation system, entering into force on March 1, 2018. Last but not least, a Memorandum of Understanding on patent cooperation with

the Republic of Korea was signed in 2019, and with USPTO in late 2020 for cooperation in accelerated granting of patent applications in Cambodia.

Even though Cambodia has enacted numerous intellectual property regulations, counterfeit product protection measures for trademarks, copyrights, etc. are still limited. According to the regime in force, an action for violation of an intellectual property right can be brought to the economic police office, the general department of customs and exile, the anti-economic crime office of the Ministry of the Interior, or the competent court. In practice, action for counterfeit or intellectual property infringement could be brought to any one of the aforementioned competent authorities as the distribution of powers between each government agency is defined in broad terms. In addition, for the purpose of strengthening the enforcement of intellectual property rights and protecting intellectual property owners, a Cambodian Counterfeiting Committee (CCCC) was established as a coordinating organization of ministries and agencies working on anti-counterfeiting measures.

To deal with this subject, we will deal on the one hand with the development of the acquisition of intellectual property rights, and on the other hand, with the effectiveness of the enforcement of intellectual property legislation.

I. The evolution of the acquisition of intellectual property rights

Since the 2000s, Cambodia has adopted IP-related principle laws to determine the conditions necessary to acquire intellectual property rights within its jurisdiction. Unfortunately, the implementation of the laws is limited in practice—particularly regarding the patent subject matter due to the lack of human and financial resources.

In this case, the Cambodian government has made greater effort to improve the system for obtaining intellectual property rights and their protection more effectively. In this respect, Cambodia has strived since 2015 to adhere to various international treaties in the field of patents, trademarks, industrial designs and copyrights.

1 – Recent improvements to the patent granting system

Since the adoption of the patent law in 2003, over 300 applications have been filed with the Ministry of Industry and Handicraft (MIH)¹, although none of them has been granted.

Recently, Cambodia acceded to various international treaties to improve and facilitate the acquisition of patent rights within the Cambodian jurisdiction. For instance, Cambodia has acceded to international treaties and bilateral agreements to facilitate the process of obtaining patents within the country.

a) Accession to the Patent Cooperation Treaty (PCT)

In 2016, Cambodia became the 151st member of the PCT. On December 8, 2016, the PCT entered into force in Cambodia; the designation of Cambodia is included in the International Application (AI). Cambodia may receive patents filed through PCT in any country that is member to its national filing process. National filing opened to international applications on December 8, 2016, with PCT patent

1 1 Currently named the “Ministry of Industry, Sciences, Technology and Innovation” (MISTI)

documents subject to filing within 30 months from the priority date.

For national filing, there are certain requirements including the translation of IA patent documents into the Khmer language. Applicants shall retain the right to submit the Khmer translation to the Cambodian patent office within six months from the filing date.

b) Bilateral Agreements for the Granting and Recognition of a Patent with Singapore (IPOS)
- Re-registration procedure

The re-registration of Singaporean patents is an expedited patent grant procedure by which the owner of the patent granted in Singapore is entitled to request re-registration as such within Cambodian jurisdiction. To assess the patentability of an invention, the Cambodia Patent Office (MISTI) relies on the final search and examination reports drawn up by IPOS. Re-registration applications must have the same filing date as that of the Singapore patent at IPOS, and are acceptable for any patent granted in Singapore after February 11th, 2003. Likewise, the re-registration application of such patents shall comply and meet all legal requirement under Cambodian Patent law, without which the applicant could be rejected by the Cambodia patent examiner.

The protection term of such granted patents shall be exclusively governed by Cambodian Patent Law, which is 20 years from the filing date of the Singapore patent in Singapore.

c) Bilateral Agreement on Cooperation to Facilitate the Granting of Patents (CGP) with Japan (JPO) in 2016

The CGP is a fast-track patent granting procedure which allows the Japanese patent owner to file his/her patent application within the Cambodian jurisdiction and obtain the patent in a much shorter time. The MISTI will grant such patents if the application in Japan is granted by the JPO.

d) The Agreement with the European Patent Office (EPO) in 2017

The Validation Agreement was entered into force in Cambodia on 23 Jan 2017. Cambodia is the first Asian country to recognize the validity of patents granted by the EPO in its territory.

The validation process is as follows:

- A European patent application is filed after the entry into force of the Agreement
- A request for validation of European patents in Cambodia is filed with the EPO
- EPO will communicate to MISTI the request and all necessary information concerning the procedure relating to European patent applications and the concerned patents
- The amount of validation fees is determined according to the Agreement between the EPO and MISTI
- Pharmaceutical patents will be excluded from the application of the Agreement until Jan 1, 2033²

e) Agreement with China on the Validation of Chinese Patents (SIPO) in 2018

Cambodia signed an agreement with China on Chinese Patent Validation (SIPO) in 2018. Indeed, Ministerial Order No. 080 on the Chinese patent validation procedure was also issued in 2018. To file the application for validation of patents granted in China in Cambodia, certain conditions must be met:

² Cambodia stops using the WTO transition period for pharmaceutical patent protection for LDCs

- The Chinese patent shall be still valid at the time of filing for validation in Cambodia
- It must be filed after January 22, 2003 in China
- The conditions of patentability provided for by Cambodian patent law must be respected

2–Recent Update on the Trademark System

a) Applicable regulations

At the national level, the Law on Trademarks, Trade Names and Acts of Unfair Competition (“Trademark Law”) was adopted in 2002, followed by the Sub-Decree No. 64 on the Enforcement of the Trademark Law in 2006.

In 2015, Cambodia became the 95th member of the Madrid system on the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks. To apply and implement the scope of the Madrid Protocol, the Ministry of Commerce of Cambodia issued a Ministerial Decree (Prakas) No. 368 on the procedure for the registration of international trademarks in 2016, which determines the procedure for the registration of the international mark wherein Cambodia is the Original Office (OO).

What is the Madrid System?

This is a one-stop-shop for trademark holders to obtain and maintain protection abroad. In other words, we can also say that it is an alternative to the national road for the registration of a mark.

This system confers advantages as well as disadvantages, as follows:

- For depositors (one-stop solution):
 - File an international application
 - Choose a language
 - Pay a set of fees in a single currency
 - Obtain registration covering several territories
 - Renew every 10 years with a procedure
 - Trademark management via a centralized system

Risk : “Central Attack”, whereby refusal from a designated office may destroy all applications in other designated countries

- For the government:
 - A designated office can focus on substantive examination
 - International trade is promoted by contributing to the opening of new markets and the development of exports
 - The above creates a more favorable climate for foreign investment in the domestic market
- For national trademark agents:
 - The “Madrid System” is optional, and does not replace the “National Direct Filing system”
 - Applicants would need the services of local agents at the stage of filing or registration
 - An increased number of designations will create more business opportunities
 - Post-registration activities can offset any reduction in local filing activity

Risk : Less trademark filing work, but much more provisional refusal work derived from the Madrid

system”

3–Recent Copyright Update

The Copyright law adopted in 2003 provides a legal requirement for protecting both Cambodian and foreign works. Of course, the principle legal requirement for protection is the “originality” of the work. The following shall be accepted for protection under Cambodian jurisdiction:

- Work with Cambodian nationality is protected based on voluntary registration (i.e., once it is released to the public by any means, it would be protected with or without registration).

The work of authors who are national or who have their habitual residence in Cambodia shall be deemed as Cambodian national work, including legal entities established under the law of Cambodia, and having headquarters in Cambodia³.

- Any foreign work of first publishing in Cambodia, including work of first public abroad which were brought to be published in Cambodia within 30 days from first publication abroad. In other words, any foreign work first published abroad which fails to be brought for publication in Cambodia within 30 days from first publication abroad is not subject to protection granted under the Copyright Law of Cambodia.

Such conditions could have been changed when Cambodia adopted its legal instrument to ratify the Bern Convention for the Protection of Literary and Artistic Works in 2020. Ratification of the Bern Convention brought a prominent change to the Copyright system of Cambodia which has been governed by the current Copyright Law adopted in 2002. The most important point is the change of requirement for protecting national and foreign authors’ works. The system of automatic protection of authors’ work will apply not only to national work, but also to foreign work.

II. Institutions for the protection of intellectual property in Cambodia

Combatting the infringement of intellectual property rights in Cambodia could take place on two different levels: i.e., the administrative level and/or at the level of competent enforcement authorities, notwithstanding private action through delivering a cease & desist letter to the infringers by the rightful owner.

1–The protection of intellectual property rights at the level of administrative institutions

At the administrative level, the field of intellectual property law is governed by different competent authorities, as follows:

- The area of the mark, trade name, geographical indication, and franchising are under the administrative control of the Ministry of Commerce
- The field of patent, utility model and industrial design are under the control of the Ministry of Industry, Science, Technology and Innovation (MISTI)
- The area of copyright and neighboring rights is under the control of the Ministry of Culture and Fine Arts

3 Article 3-1-a of the Copyright Law of Cambodia

To centralize the administration of the intellectual property sector, a National Committee for Intellectual Property (NCIP) was created via a government Sub-Decree in 2008, which consists of 14 ministries chaired by the Ministry of Commerce.

Until the present time, there has not yet been an appropriate administrative authority to resolve the author's dispute over copyrights, while the CMO has just been established by the Ministry of Culture and Fine Arts in late 2020. The Ministry of Culture and Fine Arts is making a great effort to provide better protection to authors and others who participate in the creation of works.

For the trademark right conflict, the concerned parties can seek solutions within the Intellectual Property Department (IPD) of the Ministry of Commerce. The IPD's decision is appealed to the court of first instance⁴, and the same rule applies to the patent and industrial design sectors under the Patent Law.

2. Protection of intellectual property rights at the level of law enforcement institutions

In Cambodia, there are different enforcement authorities for the fight against counterfeiting:

- The Intellectual Property Department of the Ministry of Commerce
- The Intellectual Property Office of the Interior Ministry's Economic Police Department
- The General Department of Customs and Administration
- The Anti-Economic Crime Bureau of the Interior Ministry
- The CCCC (Counter Counterfeit Committee of Cambodia) within the Ministry of the Interior
- Competent courts

Until the present time, Cambodia has not had a specialized court regarding this matter. In this regard, the general court is competent to resolve conflicts concerning the violation of intellectual property rights. It should be noted that the commercial court of Cambodia is on its way to be established under the supervision of the Ministry of Justice of Cambodia. From a general perspective, this upcoming commercial court is also competent in presiding over the conflict of intellectual property cases within its territory.

4 Article 62 of Trademark Law of Cambodia



We conducted a questionnaire survey of the trainees who have contributed to Enishi Magazine this time. Here are the results. We are very happy to know how IP Friends are doing around the world!



Q1 : If you were to take the training course again, what kind of lectures would you like to have included?

- IP office business processes (*Kenya*)
- Emerging IP-related issues, e.g. IP and artificial intelligence, IP and blockchain, machine-created IP work (*Thailand*)
- IP contract negotiations and drafting (licensing, assignments and franchises) (*Botswana*)
- Practical lectures related to examination (*Turkey*)
- Lectures on patents in biotechnology (*Brazil*)
- Actual operations of the JPO (*Philippines*)
- Piracy topics and consumer campaigns on IP violations (*Philippines*)
- Protection of well-known trademarks and bad faith trademark filings (*Peru*)
- Possible solutions to difficult cases (*Mexico*)
- Initiatives, plans or programs to bring SMEs closer to the trademark system (*Peru*)
- Practical examples on how Japanese universities and industries collaborate on IP management to utilize research results and output from universities (*Kenya*)
- Practical sessions (*Ghana*)
- Technology transfer and artificial intelligence (*Tunisia*)
- Trademark examination and enforcement strategies / industrial design (*Cambodia*)
- Training course relating to copyright or patents (*Indonesia*)
- IP for practitioners (*Cambodia*)
- Trademarks (*Senegal*)



Q2 : Are there any new pursuits that you have undertaken since the Covid-19 pandemic began?

- We have started receiving online applications via email, but are still developing an online filling system. *(Kenya)*
- Studying the Chinese language *(Thailand)*
- Enrolled in the University of Botswana for a Master of Business Administration qualification *(Botswana)*
- No *(Turkey)*
- Growing plants in my apartment *(Brazil)*
- Declutter our home and actually practice the “5S System” *(Philippines)*
- Innovation for start-ups *(Philippines)*
- Consume more Japanese media, like music and movies *(Peru)*
- Online courses such as photography and drawing, and developing activities such as yoga and meditation *(Mexico)*
- Started my doctorate in chemical engineering *(Brazil)*
- Distance courses on gender and intercultural issues *(Peru)*
- Several virtual courses in leadership and management, Innovation and Science Diplomacy, Research Ethics, and development of science, technology and innovation (STI) indicators. I participated in the finalization of the Science, Technology and Innovation (STI) Policy. *(Kenya)*
- Conducting research on the level of IP awareness among faculty members at KNUST. Reviewing the KNUST IP policy, and developing standard operating procedures for the university’s IP unit *(Ghana)*



- Spiritual and health-related practices (meditation, yoga, and healthy food) *(Tunisia)*
- Developing my skill for work through joining many virtual trainings and looking for opportunities to further pursue my degree *(Cambodia)*
- Cooking and starting small businesses *(Indonesia)*
- Finding the best way to work in each sector during the pandemic *(Cambodia)*
- Participated in human investment by volunteering to raise awareness of barrier measures in addition to the multiple actions of health structures. *(Senegal)*



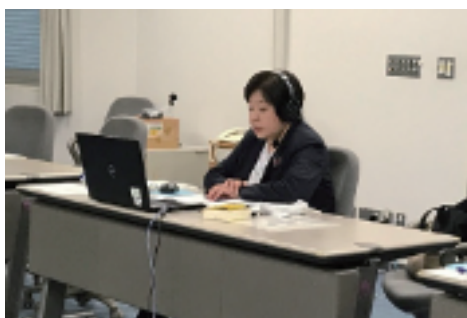
Remote Seminars with Myanmar and Indonesia: Fruitful Meeting Beyond Space!

Ms. SUGIMURA Junko

President, Patent Attorney
SUGIMURA, TAMURA & PARTNERS
International Patent & Trade Mark Office



As a result of Covid-19, we decided to hold seminars remotely for the first time, as they had previously taken place across Asia on in-person basis. I participated in two remote seminars this time as an instructor. One was held on January 29 with the theme “Role of Intellectual Property on Economic Development” (Myanmar), and the other on February 4 as a follow-up seminar, with the theme “Improvement of Intellectual Property Services in the Digital Era” (Indonesia). I heard that it was the first follow-up seminar to be held remotely, and I think it was a fruitful one. Let me share my comments on the experience.



I felt that these online seminars showed the full potential of remote meetings, with no venue-related limitation on the place or the number of people attending. Accordingly, a large number of intellectual property personnel from Myanmar and Indonesia attended the two above-mentioned remote seminars online, and they amazed me in terms of how great and deep their concerns were on intellectual property in Myanmar and Indonesia. If the seminars were to have been held in-person, it would have been difficult for such a large number of intellectual property

personnel who are spread across the entire countries of Myanmar and Indonesia to attend the seminars, due to issues such as venue capacity or transportation. I think that a large number of intellectual property personnel were able to attend concurrently, since it was a remote meeting and such obstacles were not present.

During the Q&A session at the end of the lecture, questions and answers were actively exchanged as if it were in an in-person seminar. Questions via text chat were also displayed on a real-time basis during

the lecture, which showed how great the participants' concerns were.

On the other hand, it was in fact quite difficult for me to grasp attendees' reactions to the content of the lecture, and to make fine-tuned adjustments such as changing the manner of my explanations accordingly, since I was not able to see the faces of the participants from Myanmar and Indonesia directly. This is the point that I struggled with. In addition, although I received many comments and questions via text chat during the lecture, there was unfortunately not have enough time to answer all of the questions within the time allotted for the Q&A session at the end.

Also, I regret that we were not able to have a face-to-face social meeting to establish a deep trusting relationship and bond between the personnel from the three countries of Japan, Indonesia and Myanmar. However, I feel that intellectual property personnel across Asia may become much closer to each other if more intellectual property personnel are able to attend seminars more easily. This could be done by offering remote seminars like this more frequently or eventually inviting intellectual property personnel from various Asian countries to attend the same in-person seminar.

A patent attorney system has not yet been established in either Myanmar or Indonesia, so I lectured on the "Introduction of the Japanese Patent Attorney System." In order for these countries to improve their national economic power, the existence of patent attorneys who support intellectual property is also important. I hope that a patent attorney system and association will be established in both countries in the future, and that they will develop their intellectual property systems in coordination with their domestic patent offices.

Finally, the operation of these seminars was excellent, and I did not feel any distance between Japan and the other two participating countries due to the coordinated operation that was established. I would like to express my sincere appreciation to everyone involved in running these seminars in Japan, Myanmar and Indonesia.

I look forward to opportunities to see the intellectual property personnel in both of these countries in person after the Covid-19 pandemic has ended.





Uncovering the Origins of Humans' Love for Alcohol

Mr. OGIYA Takao
Director General of APIC



One of the biggest changes in my daily life due to the impact of COVID-19 has been the drastic decrease in social drinking opportunities. I am not a quiet solo drinker; I enjoy the company of others while drinking. Under social distancing recommendations, however, group gatherings have been restricted—and so is my drinking.

In Japan, there are many proverbs and idioms around the theme of drink: "Good drink makes good blood," "What is the joy of viewing cherry blossoms without drink?" "First the man takes a drink, then the drink takes a drink, then the drink takes the man," etc. While some proverbs hold that a moderate amount of drinking is good for our health, many others say that drinking is the root of all evil, causing illness and brain paralysis, and eventually ruining one's life. While there are various theories about drinking, the latest research has released shocking news. Apparently, the data has proved that the risk of illness increases as the amount of drinking goes up, and that there is no such thing as a "moderate amount" of drinking.

Humankind has fancied, loved and pursued alcohol—even despite the existence of such risks.

At the edge of Turkey, a large-scale archaeological site was discovered called Göbekli Tepe (Fig. 1), which is said to be the oldest archaeological site in human history. It is a sanctuary-like ruin that was built about 12,000 years ago, around the time when humankind began farming. Multiple stone vessels, each with a capacity of over 100 liters, were detected along with substances inside that had been formed from the fermentation of grain (Fig. 2). This indicated the possibility of alcohol production, and if this is the case, humankind has been drinking ever since the beginning of communal living.

It takes a group of people to work together to farm and build a sanctuary. Perhaps, alcohol has the power to help people communicate and unite with one another.



(Fig. 1) The Göbekli Tepe Ruins



(Fig. 2) Stone vessels found in the ruins

On the other hand, this power of alcohol to connect people is one aspect of the "magical power" that manipulates the human brain. As civilization developed, this magical power began to show its true side. When you consume alcohol, it triggers the brain to release dopamine, which is known as a pleasure chemical. The more you drink, the more that dopamine is released from the brain, and your desire to drink becomes uncontrollable. Consequently, the brain will become dominated by the pleasure of being drunk, causing you to seek stronger levels of alcohol.

About 5,000 years ago in ancient Egypt, beer was the main alcohol of choice. People went on to grow grapes, however, and to make wine, which has a stronger alcohol percentage. In Europe, around the 11th century A.D., distilled liquors were invented such as whiskey, shochu, brandy and vodka.

Acetaldehyde is a harmful substance generated when consuming alcohol that is metabolized by ALDH2 (aldehyde dehydrogenase) inside the body. If ALDH2 is less active in your body, acetaldehyde accumulates, and one gets drunk easily. ALDH2 deficiency is common among Asians. Around 44% of Japanese are ALDH2-deficient, or have weakened function in this regard. By contrast, the level of ALDH2 deficiency is almost 0% among Africans and Europeans, who can, in other words, tolerate alcohol much better than us. It seems natural, therefore, that distilled liquor was invented in such a part of the world.

Even within Japan, there are differences in the ALDH2 deficiency rate depending on the region. People in the Tohoku and Kyushu regions have a low ALDH2 deficiency rate, and can tolerate alcohol better compared to people in the Kinki, Chubu and Hokuriku regions, who have a high ALDH2 deficiency rate and cannot do so well.

Incidentally, I am from Osaka (in the Kinki region), and have a low tolerance to alcohol. My ALDH2



(Fig. 3) Prohibition Era in the U.S. (1920 - 1933)

level must be deficient.

Beginning in 1920, non-alcoholic beverages were produced during the 13 years of prohibition in the United States (Fig. 3). However, the production of beverages containing a low level of alcohol (below 0.5%) was still legal despite this prohibition, so a brewer invented a substitute for beer called "near beer." Near beer continued to be produced and sold as a soft drink even after prohibition was abolished.

The demand for non-alcoholic versions of alcoholic beverages has increased since the Road Traffic Law was revised in Japan in 2002, when penalties for drinking and driving were strengthened. In addition, various manufacturers have succeeded in imitating the aroma and taste of beer, and even the feeling of beer going down your throat. Eventually the taste improved, and the market for non-alcoholic versions of alcoholic beverages has expanded significantly.

Since the arrival of these beverages, more women who cannot tolerate alcohol have been actively participating in drinking gatherings. Those who are alcohol intolerant used to order soft drinks and tea at these gatherings, but they now order non-alcoholic versions of alcoholic beverages instead. One of the reasons they order non-alcoholic beer is that it is visually indistinguishable from other beers. Some drinkers feel hesitant to talk openly with non-drinkers, but just the look of non-alcoholic beer helps to remove their hesitation, and they can converse freely.

As I mentioned at the beginning, alcohol has the effect of enhancing conversation among people. This effect is believed to be due to the alcohol component; however, at least in Japan, non-alcoholic beverages also have this effect on people in terms of communication.

One of the reasons drinkers often give is that they drink so that they can communicate. But this is highly doubtful. Perhaps these drinkers are already dominated by the "magical power" of alcohol, which manipulates the human brain.

The other day, I had about 50 cc of plum wine at home. Within a minute, I was all red from head to toe, and felt sleepy shortly afterward. I hadn't been able to consume much alcohol to begin with, but since I have not been able to go out and drink with friends, my alcohol tolerance has weakened. Nevertheless, my communication skills remain strong.

When the pandemic is over and social distancing is no longer necessary, I would like to have a drinking gathering with my good friends.

Is this the "magical power" of alcohol?



Discovery of the World's Cultures -the Philippines-



Kay
New APIC Staff Member



Hello! My name is Kay. I joined the APIC staff this year, and I have been assigned to be in charge of this issue section for this year.

I was given the job of writing a small but eye-catching article, and just as I was wondering what I should write about, our director suggested that I write about a country I had visited when I was a student.

I have spent my life so far away from "writing" that I have never even written a diary, let alone a column! So please bear with me warmly here as I introduce a culture that I personally found interesting in the Philippines, where I went for a six-month agricultural training when I was in high school.

Jollibee

Since I was in the Philippines for "agricultural training," I spent most of my time in the countryside.

(Fig. 1) Jollibee originated in the Philippines and is now expanding all over the world, especially in Southeast Asia and the Middle East. Many trainees may also know about it.

The screenshot shows a search interface with a 'SEARCH BY' section on the left and a 'FILTER BY' section on the right. The 'SEARCH BY' section includes fields for Text, Image class, and Goods/Services, with a 'SEARCH' button. The 'FILTER BY' section includes a table of search results with columns for Source, Image, Type, Status, Origin, App, Year, and Expiration. The table lists various search results for 'Jollibee' across different categories and regions.

Source	Image	Type	Status	Origin	App	Year	Expiration
PH TM	30	SH TM	24	MY TM	21	PR TM	15
TH TM	13	AE TM	18	CA TM	10	DO TM	9
US TM	8	SH TM	7	JO TM	7	TH TM	5
KZ TM	3	CH TM	3	EG TM	4	VS TM	4
KH TM	3	ES TM	2	IL TM	2	JP TM	2
PT TM	2	CH TM	1	BR TM	1	PR TM	1
NO TM	1	AL TM	0	BT TM	0	EW TM	0
CL TM	0	CH TM	0	CU TM	0	DK TM	0
EE TM	0	CH TM	0	CA TM	0	GH TM	0
KE TM	0	KG TM	0	KZ TM	0	LA TM	0
MD TM	0	AE TM	0	MN TM	0	BR TM	0
NA TM	0	NO TM	0	NO TM	0	CA TM	0
TH TM	0	TO TM	0	LR TM	0	UY TM	0
VS TM	0	ZM TM	0	ZW TM	0	NO AG LUS	0
WHO-IPN	0						

Every month or two I had the opportunity to go to the city for paperwork, however, and every time I went there, the attendant took me to "Jollibee". This was a name that I was not familiar with when I was in Japan, but according to the locals, it is a fast food chain that has gained a "religious following" in the Philippines. I heard that Jollibee Foods Corporation, the company that runs Jollibee, is known to most people living in the Philippines.

The company also operates several other restaurants:

"Greenwich" ...a pizza chain

"Chowking" ...a Chinese food chain

"Red Ribbon" ...a cake specialty store chain

"Mang Inasal" ...a yakitori (grilled chicken) chain

They have a wide range, don't they!

Looking at the menu, there are a variety of set meals such as fried chicken (you can choose the part of the chicken when you order), hamburgers, spaghetti, etc., with rice as the staple food, as well as a menu for "meryenda" (a late-afternoon snack), making it difficult every time to decide which set to choose. The spaghetti, which was personally recommended by the locals, had a sweetness that I had never tasted before. The shocking sweetness seems to come from ketchup made from bananas, and while I'm not sure if I'm ready for this yet, I felt that there was something to be learned from their attitude of casually fusing their own cultures with that of other countries.

(Fig. 2) Little Jollibee
(<https://www.jollibee.com.ph/>)



Unfortunately, as of 2021, there are no plans for Jollibee to enter Japan. I hope that one day we will be able to see that cheerful mascot (Little Jollibee) here too!

*Addendum (2021/06/23) ...Yoshinoya Holdings, which owns the famous beef bowl franchise store in Japan, has signed a joint venture agreement with Jollibee Foods Corporation. Could this be a sign of Jollibee's expansion into Japan...?

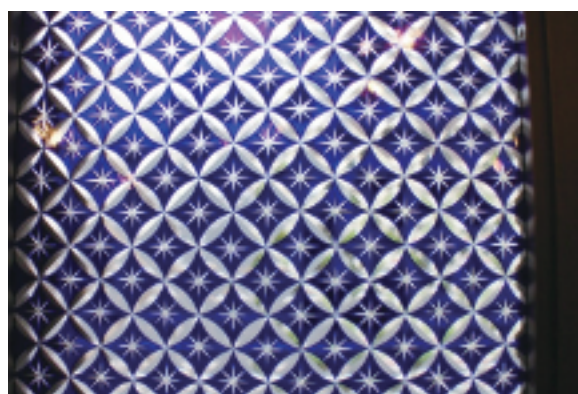
Let's Explore Traditional Japanese Culture! Edo Kiriko & Origami

Hello Alumni! This is the editorial group Enishi-IP Friends Connections. In this fiscal year, we will introduce the highlights of Japanese traditional culture from our unique perspective. In the first issue, we will introduce two distinct art forms: Edo kiriko and origami.

Edo Kiriko

• What is Edo kiriko?

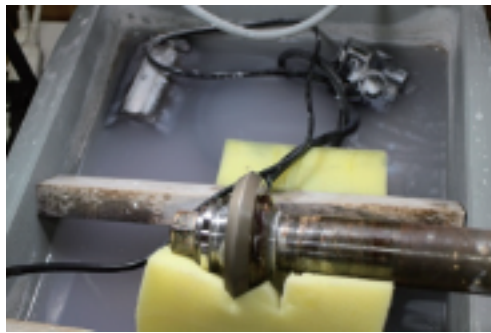
Edo kiriko has a long history, beginning when Kagaya Kyubey, a wholesaler in Nihonbashi specializing in biidoro (glass, from the original Portuguese term), engraved kiriko (carvings) on a glass surface using emery sand in the fifth year of the Tenpo period (1834). This art, with its beautiful carving, was widely and quickly accepted among common people during the late Edo period. In the 14th year of the Meiji period (1881), an English man named Emanuel Houghtman was invited to the Shinagawa Glass Factory, and brought us the glass crafting techniques of today's Edo kiriko. In the beginning, the materials were transparent clear glass; but cased glass that emphasizes carvings more effectively is more often used at present, and its art and techniques have been passed down through the present day. Edo kiriko is registered as a local group trademark, and the products must fulfill the following requirements: be made of glass; be crafted manually; be created by using mainly rotating tools; and be produced in the specified regions. These days, not only traditional designs are incorporated; but also modern designs that convey the *iki* (aesthetics) of the Edo period. It is also designated as a traditional craft by the Ministry of Economy, Trade and Industry and the Tokyo Metropolitan Government, and is now loved as a Japanese traditional craft all over the world.



• How to make Edo Kiriko

The working process is as follows:

1. Waridashi (drawing guidelines): make marks for the kiriko design with a pen.
2. Arazuri (rough grinding): Using a diamond wheel (a disk with diamond particles glued on it that can grind glass by being rotated), grind the glass based on the marks made in the Waridashi process. (The powder generated by grinding won't scatter, since water adheres to it.)



3. Sanbankake (detailed patterning): Grind the glass that was ground roughly in Step 2 into more fine-level detail with a diamond wheel.
4. Ishikake (whetstone grinding): Grind the cut surface further with a disk-shaped whetstone, soaking it in water to make the surface smooth.
5. Migaki (polishing) Grind the cut surface using polishing powder to create a luster finish. Finish the surface also by scrubbing it with a brush, cloth, etc.

The editorial group enjoyed experiencing the craft of Edo kiriko, where we carried out working processes 1 and 2. Making marks in process 1 was easy, but grinding the glass along the marks in process 2 was difficult. It is difficult to adjust the force or draw straight lines when you are not used to doing a task. This is artisanship!





Kiriko originally started with engraving pictorial patterns on glass dishes and cups. We felt that the craftspeople created works filled with *omotenashi* (hospitality) to give people excitement and peace of mind in their daily lives by using designs, instead of just meeting the intended uses of drinking water or serving dishes.

It is said that there are currently fewer than 100 Edo kiriko artisans. We hope that such works, which embody humanity filled with this spirit of *omotenashi*, will continue being passed down into the future as a proud Japanese traditional craft.



Origami

• What is origami?

What, exactly, does origami (“folding paper”) mean? In the beginning of the 7th century, the process of manufacturing paper came to Japan from China. Japanese paper was developed from this, and people then started wrapping offerings to the gods and added various decorums to the rules for folding paper. Some of these, such as noshi (gift-wrapping paper) still remain today. Meanwhile, people started enjoying the way of folding itself without decorum rules, after which origami became popular among ordinary people as a form of entertainment. It also became positioned as an educational tool for young children in the Meiji period and later. It is a friendly and traditional craft that everybody has experienced, and enables you to make anything—from items closely related to daily life to things for pleasure—just as long as you have some paper.

Although origami is popular among ordinary people today, it was once only for wealthy people. A long time ago, people in Japan did not have the time or goods to have such experience, as they lived in poverty. The introduction of this art form into the school education system was the key for it to spread from the wealthy to ordinary people. It is said that origami improves creativity by allowing you to make a wide variety of things from square pieces of paper, and also heightens concentration since you make artworks using your fingers.

• Find out more about origami!

We visited the Ochanomizu Origami Kaikan in Yushima, Bunkyo-ku, where we listened to director Kazuo Kobayashi talk about the history of origami, took a tour inside the building, and experienced folding origami.



First, we saw the somegami (paper-dyeing) factory. All processes, from dyeing to drying, are done manually. Additionally, when colors are made, the composition of dyes are determined depending upon the feeling of the artisan. It is much more troublesome than coloring by machine, although they say this produces far more vibrant colors.

Director Kobayashi is the fourth head of Yushima no Kobayashi, a long-established Japanese paper store. Yushima no Kobayashi manufactured educational origami for the first time, and the Ochanomizu Origami Kaikan was established to spread kami-nication as a Japanese traditional craft: in other words, communication that can be achieved anywhere across the world without a common language, just as long as paper can be used.

When we asked Director Kobayashi his recommendations for teaching origami to people from abroad, he explained: “I teach how to make things closely related to daily life, such as chopstick bags or small envelopes.” Origami works created with a dash of creativity and humanity add colors to our everyday life.



Japanese culture is called the culture of harmony, wabi sabi, goodness, caring for others, and putting emphasis on harmony. (* “Origami wa Naiteiru (Origami is Crying)” by Kazuo Kobayashi)

Embodying your humanity for others by folding paper: this is the aesthetic of origami. Why don't you try it?



• Where can you learn and experience origami?

The place we visited this time is Ochanomizu Origami Kaikan. There, in addition to seeing exhibitions and experiencing origami, you can also buy various styles of origami paper and other types of works.

Staff members can also communicate in English when you try making origami. We recommend you drop by!



Re-examining Japanese traditional culture, we found that what is common is a culture born from humanity to others. What should be done to make others feel better or to please others? We saw that such humanity toward others, or *omotenashi*, has been inherited from a long time ago—and we felt that it is a culture we can be proud of. It is our wish that this valuable culture will be enjoyed by everyone as something that feels very natural and familiar.

■ Sumida Edo Kiriko-kan

<https://www.edokiriko.net/> (Japanese)

■ Origami Kaikan

https://www.origamikaikan.co.jp/lp/english_guide.html

Training Rooms Tour (APIC at JIPII)



Hello, everyone! I will now introduce our training rooms. We moved our office to the OA training room, and the training rooms themselves have changed due to the online courses. I'm sure you will be surprised by these changes, and I hope they will remind you of the time when you came to Japan!

Our new staff member, Mr. Kakuma (Kay), will show you around along with the famous Japanese poses of Sushi Zanmai!.



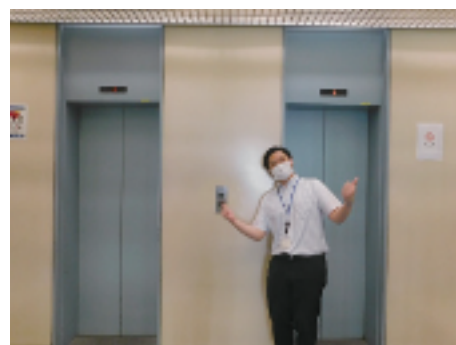
1

The entrance of the building, where you may remember that people often took photos.



2

The elevator on the first floor. Depending on how many people get on, you may hear a buzzer advising you that the elevator has reached its maximum capacity.



3

The elevator on the fourth floor, in front of which is one of the numerous stations where you'll find alcohol disinfectant.



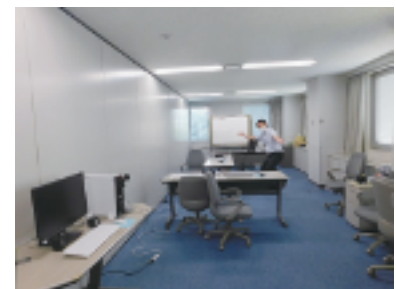
4

Training room No.1, which has been set up for recording.



5

Training room No.2, which is divided into three parts



6

Participant lockers, which have been moved to the hallway between training rooms No. 1 and 2. The microwave is right next to it.



7

The office is also disinfected before people enter it



8

Our office has moved into the OA training room with the APIC sign.



9

Director OGIYA's office has also moved. He is still in good health!



We hope you have enjoyed this tour. We are looking forward to meeting you again in person in the new training rooms, hopefully in the near future!

Editor's Note



Hi! I'm Mitty, and I'll be in charge of editing the magazine again this year. Do you wear a mask now? In Japan, we still can't seem to let go of them. A mask is anything that covers part or the entire face. For COVID-19, the mainstream approach is to cover the nose and mouth to prevent infection. But I feel that people are becoming very expressionless because others cannot see their nose and mouth. There is a saying which goes: "You can tell a lot with your eyes", and I also used to think that I was able to convey my feelings to others with my eyes. I have come to realize, however, that this is only possible when the nose and mouth are visible. I realized that whenever I say "You have a nice happy expression," I mean not only the eyes, but also the nose and mouth. I also realize that when conversing with others, I was not only listening to the words, but also observing their facial expressions. I can only hope that the day will come again when I can talk normally while looking at other peoples' faces.



Hello! My name is Kay, and I am pleased to announce that I have newly joined the Enishi editorial team at APIC.

The theme of the director's column was alcoholic beverages. I would like to share an interesting anecdote with you on this topic.

When I was a student, I had a part-time job at a bar. Around the time I started working there, the owner said something to me that has stayed with me ever since:

"Hey, Kay. Do you know the most important thing that someone serving alcohol needs to learn?"

"Is it bartending skills?" I replied.

"Nope. Well, that's important too, though that's not the answer I want from you. The most important thing is hospitality in order to bring out the potential of the alcohol that you serve to our customers."

Time has passed since then, and I am now in a position to work with others. Will I be able to show this kind of hospitality? I would like to find out with all of you this year.



Hi. I'm Minori Miyazaki. Have you ever heard of hydrangea? These are plants that bloom during the rainy season in Japan, from the end of May to July, when small ball-shaped flowers bloom in various places such as in private gardens and along roadsides. Their colors vary from blue to pink to white, and there are now many varieties. I think these flowers are well-suited for our moist, rainy season.

In fact, this flower is native to Japan, and there is a romantic episode associated with its scientific name. During the Edo period (1603-1868), when Japan was still closed to the outside world, Dejima in Nagasaki was the only place in the country where trade with the Netherlands was possible. Philipp Franz Balthasar von Siebold, a German doctor and naturalist who resided there, loved hydrangea above all other plants, and named it *Hydrangea otaksa* after his beloved Japanese wife, Taki Kusumoto, whose nickname was "Otaki-san."

Now that we are not able to travel freely between countries due to Covid-19, I feel that I have more time to think about the changing seasons and the scenery around me.

【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.

Publication of this Magazine is consigned to the Japan Institute for Promoting Invention and Innovation by the Japan Patent Office.	
	[Consigner] Japan Patent Office(JPO) Address: 4-3, Kasumigasaki 3-chome, Chiyoda-ku, Tokyo 100-8915, Japan Telephone/Facsimile: 81-3-3503-4698 / 81-3-3581-0762 (International Cooperation Division) Web site: https://www.jpo.go.jp/e/news/kokusai/developing/training/index.html
	[Publisher] Asia-Pacific Industrial Property Center(APIC), Japan Institute for Promoting Invention and Innovation (JIPI) Address : 4-2, Kasumigasaki 3-chome, Chiyoda-ku, Tokyo 100-0013, Japan Telephone/Facsimile: 81-3-3503-3026 / 81-3-3503-3239 Email: apic-jii@apic.jii.or.jp