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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.

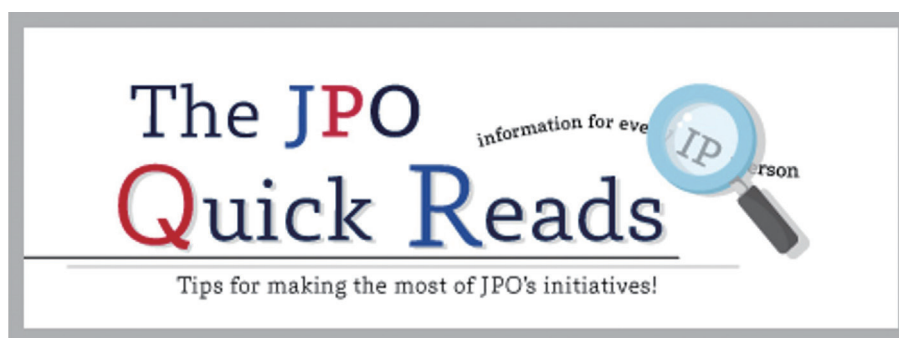
We very much hope that the information in this publication related to intellectual property, and the comments from either IP Friends or lectures, will prove beneficial to you in your work.



JAPAN PATENT OFFICE

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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 and LinkedIn, 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:

Updates posted on the JPO English website, including topics of “the JPO Quick Reads” will also be posted on the following social media.

[JPO Official Twitter]: https://twitter.com/JPO_JPN

[JPO Official LinkedIn]: <https://jp.linkedin.com/company/japan-patent-office>

[Popular topics]

- Case Examples pertinent to AI-related technologies updated with more examples (27 May 2024)
The JPO adds new cases to clarify the key points of its examination of AI-related inventions!

The JPO has been creating case examples pertinent to AI-related technologies and publishing them on the JPO website.

As of March 13, 2024, ten new cases were added. In light of the rapid development of generative AI, the JPO updated the case examples in such a way that even companies that have had little connection with AI-related technologies would be able to use them as a reference when applying for a patent involving AI technologies. Case examples pertaining to generative AI and materials informatics were also created for this edition. Both affirmative and denied cases are presented in order to better clarify the determining factors in the examination.

- Bilateral meetings in the African region and the 19th Session of the ARIPO Council of Ministers (25 March 2024)

Let us give you an example of JPO's work in Africa!

In November last year, Mr. Kenichi MOROOKA, Director General of the JPO Patent Examination Department travelled to South Africa and Botswana to hold bilateral meetings on cooperation in the field of intellectual property with the Companies and Intellectual Property Commission (CIPC) of South Africa, Companies and Intellectual Property Authority (CIPA) of Botswana, and the African Regional Intellectual Property Organization (ARIPO), respectively.

During the meetings, he exchanged opinions regarding human resource development trainings provided by the JPO, as well as support to African nations through the WIPO Funds-in-Trust Japan Industrial Property Global.

Also, Director General MOROOKA, in his address at the 19th Session of the ARIPO Council of Ministers held in Botswana, stated that the JPO would continue to promote active cooperation with Africa.

- How to obtain your examination results quickly (26 February 2024)

Do you know about Accelerated Examination and Super Accelerated Examination?

By requesting Accelerated Examination or Super Accelerated Examination, you can obtain examination results more quickly than under regular examination.

The average first action pendencies are as follows (FY2022):

Regular Examination	10.0 months
Accelerated Examination	2.2 months
Super Accelerated Examination	0.9 months


Request for fast-track schemes is free of charge.

- Sub-Regional Workshop on Enforcement in the countries of the Gulf Cooperation Council (GCC) (29 January 2024)

Here is an example of JPO's international efforts to combat counterfeiting!

In October 2023, the JPO participated in the Sub-Regional Workshop on Enforcement in the countries of the Gulf Cooperation Council (GCC) held in Riyadh, Saudi Arabia. The event was financially supported by the JPO.

With the aim of strengthening anti-counterfeiting measures in the GCC countries, the workshop was attended by officials from the enforcement agencies of the GCC countries and others, and experience and efforts to combat counterfeit products in each country were shared.



During the panel discussion, the JPO presented its cross-ministerial cooperation and public-private partnership on anti-counterfeiting measures and discussed the necessity and possible form of cross-border cross-ministerial cooperation as the future of anti-counterfeiting measures.

➤ Guidebook for Overseas Users on Design System in Japan (22 January 2024)

We will share with you the key to success for obtaining a design right in Japan!

In recent years, the number of applications for design registration filed by foreign users has been increasing. In response to this, the JPO published “Your Key to Success: for Obtaining a Design Right in Japan,” a guidebook which introduces the features of Japanese design system and points to consider when filing a design application in Japan, as well as recent amendments to laws and examination guidelines, in a simple and easy-to-understand manner. “Your Key to Success: for Obtaining a Design Right in Japan” was published in January 2024.

The guidebook focuses on points that are often mistaken by overseas users, such as eligible subject for protection, clarity of design, priority claim under the Paris Convention and exceptions to lack of novelty of design. It provides explanations with a variety of actual examples of registered designs.

FY2024 JPO/IPR Training Course List

	Course Title
1	Patent Examination (Basic Program)
2	Design Substantive Examination and Accession to the Hague Agreement
3	Patent Examination Management for Managers
4	Practitioners Specializing in Trademarks
5	Patent Examination Practices for South Africa
6	IP Trainers
7	Patent Examination for Middle Eastern and African Countries
8	Practitioners Specializing in Patents
9	Information Technology
10	Support for Small and Medium Enterprises
11	Operational Patent Examination Training Program (OPET)
12	Anti-Counterfeiting Measures for Practitioners
13	Academia-Industry Collaboration and Technology Transfer
14	Trial and Appeal Systems
15	Patent Examination in Specific Technical Fields
16	Substantive Examination of Trademarks

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

Training Course Experience in Japan

**An ocean in between, a common commitment:
Strengthening knowledge in the field of patents**

Ms. Toscano Pérez, Diana (Mexico)

Patent Examiner, Industrial Property Specialist
Patent Division, Pharmaceutical Department
Mexican Institute of Industrial Property (IMPI)



*JPO/IPR Operational Patent Examination Training Program (OPET)
(October 16–December 8, 2023)*



From October to December in 2023, I was enrolled in a very useful and interesting course called “The JPO/IPR Operational Patent Examination Training Program (OPET) IPPT”. The course used a hybrid style, with the online sessions taking place from October 16 to November 17, 2023, while the face-to-face sessions were held at the Asia-Pacific Industrial Property Center (APIC) in Tokyo, Japan from November 29 to December 8, 2023. Up to this point, everything is clear and understandable, and it sounds like just another course. So, what made this course so different and special? Travel with me and let me tell you about the great experience I had in this training course, where the host was Japan, the country of the rising sun.

My name is Diana Toscano Pérez and I’ve been a patent examiner in the pharmaceutical field at the Mexican Institute of Industrial Property (IMPI) since 2014. When I was accepted by the Japan Institute for Promoting Invention and Innovation (JIPII) and The Association for Overseas Technical Cooperation and Sustainable Partnerships (AOTS) to enroll in the course, I received all the information about the training course, and I learned that the program was aimed at the evaluation of novelty and inventive step in substantive examination in the pharmaceutical and electrical fields. In addition, the program included sessions aimed at exploring examination strategies; comparing patent examination guidelines in Japan, the US and Europe; and utilizing J-PlatPat and other IP databases.

The great experience began here, when I realized that it would be a very specialized course where topics of huge interest and importance in the daily work of substantive examination would be addressed as the main axis of the course.

Another very important aspect also highlighted was the participation of patent examiners from various patent offices around the world. This presented a magnificent opportunity to exchange experiences, knowledge and, of course, create intercultural ties to enhance cooperation, provide a sense of international collaboration and, why not, make new friends.

Up to this point when the course had not yet started, everything indicated that it would be a challenging and exciting experience, where effort and commitment would be the guiding threads to achieve the objectives. In my case, one of the first challenges that I faced was the time difference for the online sessions because in my country, the course schedule was from 11 p.m. to 2 a.m. Although there was an alternative of viewing the recorded sessions in case you were not able to attend the live sessions, I chose to be present at the live sessions. This gave me an opportunity to take part in the discussions and analyses generated therein as well as being able to have greater interaction with mentors and colleagues.

It is also important to mention that before the training course started, each participant had an account on a very useful platform called “KnowledgeC@fe”, in which all the presentations, assignments, videos, and any information related to the course were uploaded and available for reference.

On your mark, get set, go! Online training started

Once the course began under the online modality, the first assignment consisted of each participant preparing a presentation about our patent office including its structure; the IP legal system; statistics; general information about the process of substantive examination; the cooperation programs and mechanisms; challenges; and new changes and initiatives in the office. This first contact with other patent offices, including the Japanese office, met the objective of opening the panorama of the course and increasing interest in exchanging data, analysis, and experiences. In the subsequent live sessions, the mentors oversaw the explanation of topics indicated in the program and invited all participants to share reflections and analysis of the topics studied as well as directing discussions regarding case resolution.

Throughout the course, it was very interesting to learn about Japanese patent legislation as well as its guidelines since one of the main objectives of this course, in addition to enhance knowledge regarding the evaluation of novelty and inventive activity in the field patent, was to learn more about Japanese patent legislation. This allowed us to determine differences and similarities which directly impact the substantive examination methods used in each patent office and thus seek to reconcile and standardize evaluation parameters.

The last assignment consisted of presenting a substantive examination case chosen by each of us. First, we explained how inventive step analysis was carried out under the laws of our country, then the case was reanalyzed under Japanese laws. This exercise was of great importance because it summarized much of what was seen in the course and reinforced knowledge about the inventive activity as well as showing with more emphasis and clarity the legal framework of each invited country.

Once the online modality ended, all that was left was to wait to continue the course with the second part that would take place in person at the APIC center located in Tokyo, Japan. The excitement of meeting the mentors, my classmates and organizers was just as immense as the excitement of traveling to the other side of the world and seeing a part of Japan. At all times, the attention and support for the preparations for the course and the trip was provided by Ms. Hitomi, Ms. Mineko and Mr. Shibuya. I want to take advantage of this space to thank them and recognize the great logistical work they did on this and in each training course offered by your institution because from the beginning to the end, the instructions and all the information were very clear and precise, with consideration to every detail; I know that this entails intense days of impeccable planning. Congratulations on your excellent work!

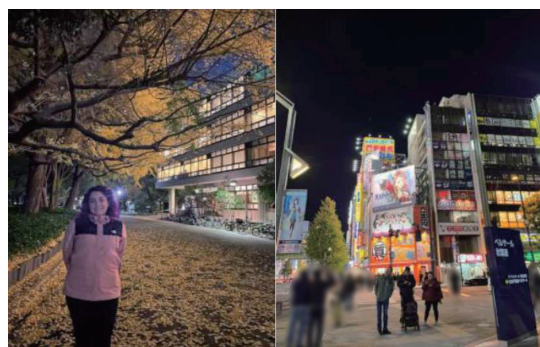
Arriving in Japan

On November 28, 2023, after a 15-hour non-stop flight from Mexico City to Tokyo, I landed at Narita International Airport. The first thing that caught my attention was the decoration and style of the airport, where it was impossible not to notice the signs and images of the Mario Brothers welcoming us to Japan. Especially for me, who grew up playing those video games, it was something that immediately made me feel connected and made the place feel familiar, fun, happy and safe. It was a great welcome!

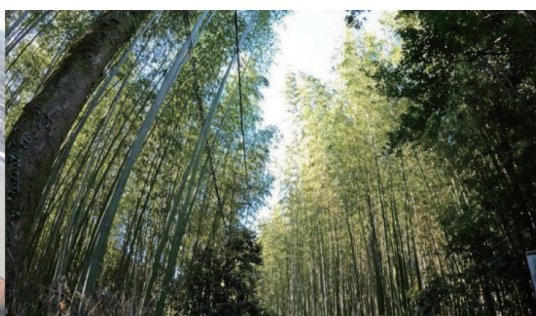
On November 29, the training course started at APIC, followed by an opening and welcome ceremony held at the JPO. This entire first day, we stayed at the JPO exploring various areas of the place and getting to know a little more closely the functions of this patent office, which is one of the largest in the world.

In the subsequent days, the course was held at the APIC facilities from 10 a.m. to 5 p.m. To get to the training meeting point, all participants had to walk to the station then use the train. Personally, I really enjoyed this aspect since it allowed me to learn about the city's great transportation system and appreciate its efficiency in terms of punctuality and the numerous lines that can take you to any point in the city for a fair price and in a reasonable time. It became clear to me that Tokyo is such a comfortable and safe city that allows for self-sufficiency and autonomy in terms of mobility, which in turn had a very positive impact on the routine established after finishing each day of training, when the remaining hours of the day were very well spent visiting different parts of the city.

Walking the streets of Tokyo after a day of work, recognizing colors, smells, and flavors, observing people, and discovering new places to dine, made me able to look at the big city with the eyes of a tourist, but at the same time feeling part of it, immersed in the Japanese coming and going of city life.



Night walk in Tokyo//Streets of Akihabara



Shinkansen Tokyo station and Arashiyama Bamboo Forest at Kyoto

The training program was very successful, with the exceptional level of debate, exchange of ideas, experiences, and individual and group resolution of practical cases. All the mentors who participated in the program had great experience in transmitting knowledge and guiding us to get the most out of each session. Furthermore, the level of camaraderie that was developed during the course also had a very positive impact since a very good environment of collaboration, listening, attention and concentration was created.



The training program included a visit to the Toshiba corporate office. This visit took place on the penultimate day of the course and it was a very good experience as my colleagues and I were fortunate enough to receive a talk from managers of this company about the practices used to protect their designs and inventions and the logistics of the specialized IP department that carries it out.

The second part of this visit was to visit Toshiba Science Museum, which consists of several rooms with numerous Japanese inventions dating from very ancient times to modern times. One of the objectives of this museum is to demonstrate that through play and fun, you can understand and learn about science and technology, which is why several of its exhibitions and rooms are designed using highly interactive and fun models.

Say see you soon to Japan

On the last day of the course, a question-and-answer session was held with Mr. Takao Ogiya, Director General of APIC. The objective of this session was to provide feedback to each other, that is, from the perspective of the organization and from the perspective of the students.

At the end of the session, Mr. Ogiya spoke about the important work we have as patent examiners and impeccably summarized what this work entails. Below I quote his words:

"A patent examiner must have three qualities:

Insect view: watching things very carefully and minutely.

Bird's-eye view: overview, determining priorities by looking at the whole picture from above.

Fish eye view: going with the flow. Accurately grasping social trends and changes and deciding what to do at which timing."

Without a doubt, the experience and wisdom transmitted in this session was the ideal closing that summarizes three months of work in this training program, which not only reinforced and improved technical knowledge, but also allowed me to make great friends, meet wonderful people from APIC and, of course, reaffirm my commitment and pleasure in the work that I have carried out as a patent examiner for the last 10 years of my life.

I would like to describe many more things that had a great impact on me on this journey, but I will only say in five words the things that immediately struck my entire being: Shinkansen, Kyoto, Ramen, Matcha and Bidet!

See you soon Japan! I want to return and learn more about you, the country of the rising sun where tradition, modernity and nature are harmoniously combined with an irresistible charm that invites you to experience it again and again.



Graduation day: Mission accomplished

The Memorable Training Experience with IP Friends

Ms. Pimpon Uttayarat (Thailand)
Nuclear Scientist, Expert Level
Nuclear Technology Research and Development Center
Thailand Institute of Nuclear Technology (Public Organization)



*JPO/IPR Training Course on Academia-Industry Collaboration and Technology Transfer
(November 7–November 16, 2023)*



Japan is a favorite travel destination for Thai people. The cherry blossom season has attracted most Thais to visit Japan, including myself twice. This time it was different: I was determined to come to Japan to learn about academia-industrial collaboration and technology transfer at the JPO in Tokyo.

Being a scientist in a research institute at a time when the technology transfer of research results becomes a top priority, at the same level as publishing scientific papers, we scientists must write patents/petty patents for the results that arise from our work. Of course, we hope to see that one day our IPs can be successfully commercialized, which is as rewarding as when our papers are accepted for publication in a top-tier journal. However, the technology licensing office (TLO) committee has just been formed at my institute, and we still lack training, experience, and expertise on IP management. Having served on the committee, I realized that the learning curve was very steep, but we had to go through it. Coming across an announcement by the Department of Intellectual Property of Thailand about the training course on academia-industry collaboration and technology transfer at JPO in Tokyo, I thought to myself that this was a great opportunity to have a proper in-person training on IP management. Despite the limited numbers of participants that could join the training program as stated on the announcement, I submitted my application anyway, and kept my fingers crossed!

When informed that my application was selected, I was very happy and excited. The before-arrival information, flight arrangement, APIC orientation, and pre-class materials were sent shortly afterwards. I could feel that the whole training course was extremely well-organized, and that I was going to learn a lot during the 10-day program. And glancing through the weather forecast, I would have a chance to glimpse the beautiful foliage - perfect timing!

On the first day of class, the APIC staff came to pick up all participants from AOTS so that we knew how to commute to APIC the following days. The classroom was well arranged, and we had a translator with us for lectures given in Japanese.



Classroom

The lecture topics covered all aspects of IPs, from their importance to IP management, industry-academia collaboration, IP valuation, and technology transfer. During the lecture titled ‘Creating the IP Management System’, the instructor touched upon how to write claims using a hexagon-shape pencil example as he compared side by side claims that were written by a scientist vs. a patent agent. I totally agree that if the claims were written by the scientists, they would be just facts; focusing on the results in the same way they write a scientific paper. And this is still what we lack at my institute: expertise on writing patent claims. In addition, the instructor also showed us the workflow between TLO and researchers at Tohoku University, which provided a good example that I could bring up to the TLO committee at my institute. In addition, one of the models from the lecture titled ‘Managing University Intellectual Property’ was to utilize external TLO in case the internal TLO was not available at the university. This was something that I could also introduce to the TLO committee at my institute.

In unison we all voted for ‘Evaluating Intellectual Property Asset Value’ as our best lecture during the training program. The different IP valuation approaches and methods used in each approach were nicely laid out. Despite a lot of mathematical components, and an in-class exercise using an excel worksheet to experiment with IP valuation, the instructor made the lecture very enjoyable and relaxing for us. Relating to IP valuation, we were also introduced to the concept of milestone royalty utilized in pharmaceutical products during the lecture ‘Best Practice of IP Business.’ These two lectures gave us a good basis and strategies to value IP assets.



Lecture Scene of “Evaluating Intellectual Property Asset Value”

Besides having classroom lectures, we also had an opportunity to tour the JPO office, and to have a facility visit to the Industry-Academia Liaison & Intellectual Property section at the Tokyo Institute of Technology. During the tour of JPO, I realized at the hall of fame that the founder of Toyota, Mr. Toyoda, gained his IP from the invention of the wooden hand loom. Later it occurred to me that during many lectures, he was regarded as the top Japanese inventor. For the facility visit, it was very informative to see how Tokyo Tech managed their IPs along with various types of research—whether they were collaborative or sponsored by companies—and the income generated by technology transfer. In addition, it was quite an experience to stand side-by-side with the supercomputer ‘TSUBAME’ during the facility visit.



Hall of fame

The dynamic of our class was amazing, as we had talented participants from various countries to share their experience, discussion, and lots of fun during the training program. The in-class assignment in which we were given challenges to solve by implementing ideas and knowledge on IPs to add value to the existing businesses that were facing challenges was very useful. These were, in fact, real-life businesses that went through those challenges. My group was the ‘Fantastic 3’, as we received challenge number 3. We proposed to use licensed patented technology for a fish farm, and to appropriate hydroponic seaweed farming technologies for feeding the fish, spin-off products from fish, a collective trademark for the fish farm association, and blue economy initiatives to solve the problem. It was good that after each group’s presentation, the instructor gave us comments and showed us how the real-life businesses used IPs to solve their problems. In addition, we learned a lot from the pre-assignment that involved a hypothetical smartphone business dealing with various aspects of IPs that were later discussed in the lecture titled ‘Joint Research/Development and Licensing’.



Group presentation in the lecture titled “Joint Research/Development and Licensing”

The evenings after the lectures, and also the weekend, was our spare time to explore Tokyo and the surroundings. I was very thankful to have Alejandra, who was a participant from Mexico, as my buddy for these adventures. We made a day trip to Nikko, and it was such good timing to see the beautiful leaves changing color, especially at the Rinnoji Temple Garden. Besides the foliage and the temples, I

had to say that I was impressed by *yuba*, the delicious tofu skin that was Nikko's delicacy. While in Tokyo, we went to see the Christmas light display in Roppongi and the Christmas market at the Tokyo Tower, where we could enjoy glühwein for the upcoming festive season.

Returning to my office after the training, I initiated with my supervisor at the R&D unit to hire a professional consultant to help us draft our patents, as we previously wrote claims in the same style as we wrote scientific papers. Starting with my own research, other TLO committee members that also work under the R&D unit joined me during the consulting sessions. By doing so, we learned useful techniques from the consultant, especially for writing the claims. Based on this, other research works have been selected to go through the same process. In addition, we have planned with the technology transfer section under the R&D unit to reach out to tentative business/companies to collaborate with our researchers based on the IPs in our collection. I hope that from these initiatives, our TLO can gather experience and further build our own capacity as well as the capability to eventually launch a successful technology transfer.

Finally, I would like to express my sincere gratitude to all JPO staff involved in this training program, the translator, and all lecturers that put together such a wonderful and extremely well-organized training program, as well as for your warm hospitality. And a big bunch of thanks to Haruka and Hina for taking us out for a sushi night. Last but not least, I am glad to be part of this amazing group of IP friends who made the training program so enjoyable and memorable.



Rinnoji Temple Garden

Articles from Former Trainees

AI Innovations, Challenges, and Status in IP Protection in Kenya

Mr. Sammy Ziro Lewa (Kenya)

Senior Patent Examiner-Pharmaceuticals, Technical Service/ Patent Division
Kenya Industrial Property Institute (KIPI)



*JPO/IPR Training Course on Patent Examination for Middle Eastern and African Countries
(September 7–September 14, 2023)*



Overview of Intellectual Property Protection in Kenya

Kenya has a well-established legal framework for the protection of intellectual property rights, including patents, trademarks, copyrights, and trade secrets. The primary laws governing intellectual property in Kenya are the Industrial Property Act (2001) and the Copyright Act (2001). These laws aim to strike a balance between promoting innovation and creativity while also ensuring fair competition and consumer protection. The Kenya Industrial Property Institute (KIPI) is the government agency responsible for the administration of industrial property rights, including patents and trademarks (Adams, 2023). KIPI's primary functions include receiving and processing applications for patents and trademarks, maintaining registers for granted rights, and facilitating the enforcement of these rights.

On the other hand, the Kenya Copyright Board (KECOBO) oversees the administration of copyrights. KECOBO is responsible for registering and issuing copyright certificates, enforcing copyright laws, and promoting awareness of copyright protection in Kenya. Kenya is a member of several international agreements and treaties related to intellectual property, including the World Intellectual Property Organization (WIPO) and the African Regional Intellectual Property Organization (ARIPO). These memberships facilitate the harmonization of IP laws and practices across different jurisdictions, promoting international cooperation and recognition of intellectual property rights.

Requirements for Intellectual Property Protection

A. Patent Protection

In Kenya, patent protection is governed by the Industrial Property Act (2001) and its accompanying regulations. To obtain a patent, an invention must satisfy the following criteria:

Novelty: The invention must be new, and not form part of the prior art. This means that the invention must not have been disclosed or made available to the public before the filing date of the patent application.

Inventive step: The invention must involve an inventive step, meaning it is not obvious to a person skilled in the art. In other words, the invention must represent a non-trivial advancement over the existing knowledge and practices in the relevant field.

Industrial applicability: The invention must be capable of being used in an industry or having a practical application. It must have a utility or usefulness that can be commercially exploited.

The patent application process in Kenya involves filing the necessary documents with KIPI, including a specification describing the invention in detail. The specification must disclose the invention in a manner that is clear and complete, enabling a person skilled in the art to understand and implement the invention. Once the application is filed, it undergoes a formal examination to ensure compliance with legal requirements, and a substantive examination to assess the patentability criteria mentioned above. The patent examination process can take several years, depending on the complexity of the invention and the workload at KIPI. If the patent is granted, it is valid for 20 years from the filing date, subject to the payment of annual maintenance fees (Koros, 2023). During this period, the patent holder has the exclusive right to prevent others from making, using, selling, or importing the patented invention without their permission.

B. Copyright Protection

In Kenya, copyright protection is automatic and does not require registration. Copyright law protects original literary works, artistic works, musical works, audio-visual works, sound recordings, broadcasts, and computer programs. Copyright protection arises automatically upon the creation of an eligible work, without the need for any formal registration or notice. However, while registration with KECOBO is not mandatory, it provides several advantages. Registration serves as prima facie evidence of ownership, and facilitates the enforcement of rights (Kang'Ethe, 2023). It also enables the copyright owner to obtain a certificate of registration, which can be useful in legal proceedings or commercial transactions involving the copyrighted work.

The Copyright Act (2001) grants copyright owners a bundle of exclusive rights, including the right to reproduce, distribute, perform, display, or create derivative works based on the original work. These rights are subject to certain limitations and exceptions, such as fair dealing for purposes of research, criticism or news reporting. The term of copyright protection in Kenya varies depending on the type of work. For literary, artistic, and musical works, copyright generally subsists for the life of the author, plus 50 years after their death. For audio-visual works, sound recordings, and broadcasts, the term is 50 years from the year of publication or creation.

Challenges in the area of AI Protection in Kenya

While the existing legal framework in Kenya provides a basis for the protection of intellectual property rights related to AI, there are several challenges that need to be addressed:

Lack of specific regulations: Kenya does not have specific regulations or guidelines for the protection of AI-related inventions or creations. The existing laws were drafted before the widespread adoption and development of AI technologies, leading to potential gaps or ambiguities in their application to AI-related inventions or creations. This lack of specific regulations can lead to uncertainty and inconsistencies in the interpretation and enforcement of IP rights related to AI (Kang'Ethe, 2023). It may also hinder the ability of businesses and inventors to effectively protect their AI-related innovations and creations, potentially hampering investment and innovation in this field.

Inventorship and authorship issues: AI systems can generate inventions or creative works, raising complex questions about who should be considered the inventor or author for the purposes of intellectual property protection. Traditional IP laws were designed with human inventors and authors in mind, and the involvement of AI systems challenges some of the underlying assumptions. For example, there has been arguments by Nzuki (2022) on whether an AI system generates a patentable invention or a copyrightable work, should the AI system itself be named as the inventor or author? Or should the credit go to the individuals who developed or trained the AI system? These questions have significant legal and practical implications, and may require legislative or judicial guidance to clarify the applicable rules.

Data ownership and privacy concerns: AI systems often rely on large datasets for training and development, which can raise concerns about data ownership, privacy, and the ethical use of personal or proprietary data. While data itself may not be directly patentable or copyrightable, the use of proprietary or sensitive data in the development of AI systems could create potential legal issues or challenges. For instance, if an AI system is trained on datasets containing personal information or proprietary data without proper authorization, there could be potential violations of data protection laws or contractual obligations. Addressing these concerns may require additional regulatory frameworks or guidelines to ensure the responsible and ethical use of data in AI development.

Rapid technological advancements: The field of AI is rapidly evolving, with new techniques, algorithms, and applications emerging at a rapid pace. The existing legal framework for intellectual property protection may struggle to keep pace with these advancements, leading to potential gaps or inadequacies in protecting AI-related innovations. As AI technologies become more sophisticated and capable of generating increasingly complex inventions or creative works, existing IP laws may need to be updated or revised to address the unique challenges posed by AI such as the issues of authorship (Mwita, 2023). Failure to adapt the legal framework could stifle innovation and undermine the incentives for investing in AI research and development.

Enforcement and capacity building: Effective enforcement of intellectual property rights related to AI may require specialized knowledge and expertise, which could pose a challenge for the relevant authorities and the judiciary in Kenya. AI technologies can be highly complex and technical, making

it difficult for non-experts to assess issues such as infringement, validity, or the scope of protection. To address this challenge, there is a need for capacity-building and training programs to equip the relevant stakeholders, including KIPI, KECOBO, law enforcement agencies, and the judiciary, with the necessary knowledge and skills to handle AI-related IP matters effectively (Obiero, 2024). This may involve collaboration with international organizations, academic institutions, and industry experts to develop specialized training and resources.

International harmonization challenges: AI technologies and innovations often have a global reach, making international harmonization of IP laws and practices crucial. However, different countries and regions may have varying approaches and interpretations when it comes to the protection of AI-related intellectual property rights. This lack of harmonization can create challenges for businesses and inventors operating across multiple jurisdictions, as they may need to navigate different legal frameworks and requirements for protecting their AI-related innovations (Obiero, 2024). Addressing these challenges may require increased international cooperation, treaty negotiations, and the development of harmonized standards or guidelines for AI-related IP protection.

Conclusion

While Kenya has a well-established legal framework for intellectual property protection, there are significant challenges in ensuring adequate protection for AI-related innovations and creations. Addressing these challenges will require a multi-faceted approach involving legislative reforms, capacity-building, international cooperation, and ongoing collaboration between policymakers, legal experts, and stakeholders in the AI industry. The development of specific regulations or guidelines tailored to the unique challenges posed by AI technologies is crucial to provide clarity and certainty for businesses and inventors operating in this field. These regulations should address issues such as inventorship and authorship in AI-generated works, data ownership and privacy concerns, and the scope of protection for AI-related innovations.

Furthermore, effective enforcement of intellectual property rights in AI will require dedicated efforts to build specialized expertise within the relevant authorities and the judiciary. This can be achieved through targeted training programs, resource allocation, and collaboration with international organizations and industry experts. The ongoing international cooperation and harmonization efforts are also essential to ensure consistent and coherent IP protection for AI-related innovations across different jurisdictions. Participation in relevant international forums and treaty negotiations can help Kenya align its IP framework with emerging global standards and best practices in AI protection.

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A photo of me receiving my Certificate for Patent Examination Training for Middle Eastern and African Countries

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Trends in Filing of Industrial Design Applications in Mexico from 1993 to the first quarter of 2024

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Patent Specialist
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*JPO/IPR Training Course for Practitioners Specializing in Patents
(August 23–October 5, 2023)*



Among the types of industrial property rights, industrial designs (whether industrial drawings or models) are deemed the easiest and fastest way to obtain protection for a product, considering the technical or functional characteristics of a product are not taken into account, and only the appearance of the product that is intended to be protected is considered. In addition, simpler administrative and substantive examinations are involved.

In this sense, and as seen in Figure 1, according to information obtained from the official databases provided by the Mexican Institute of Industrial Property (IMPI)⁽¹⁾, Mexico represents an important market to seek protection for industrial design for applicants from different countries, whether due to the culture

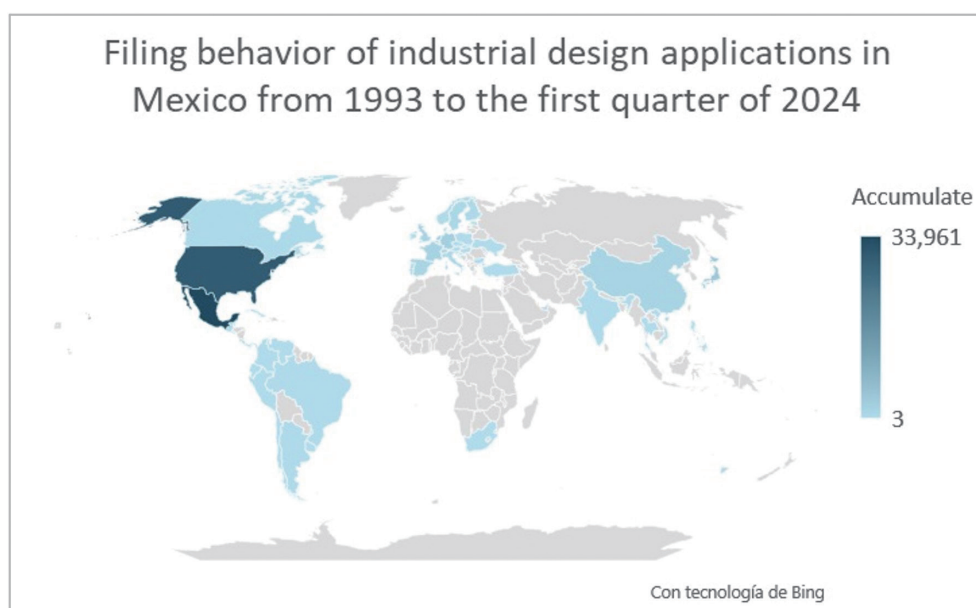


Figure 1, based on the information taken from the “Accumulate” column of the “Inv 13” Excel tab ⁽²⁾.

of consumerism or piracy practices, which both stem from globalization and the use of social networks. The following are the main countries that file industrial design applications in Mexico:

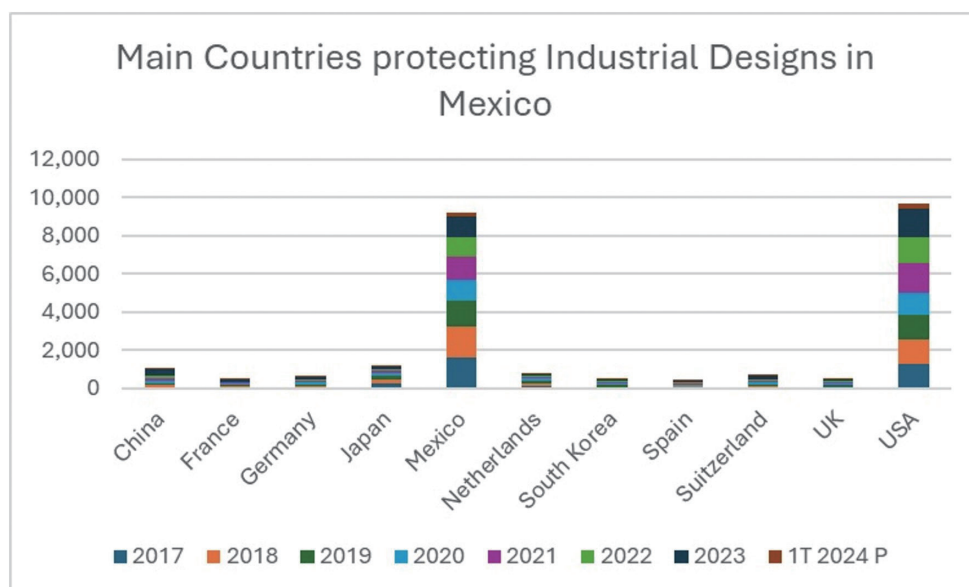


Figure 2, based on the information taken from the “Inv 13” Excel tab⁽²⁾ related to the most relevant countries protecting Industrial Designs in Mexico from years 2017 up to the first quarter of 2024.

As seen in Figure 2, both the US and Mexico are the countries filing the most industrial design applications in Mexico, with other countries far behind. Likewise, it can be appreciated that the number of filings from both countries has risen steadily.

Now, in terms of the legislation of industrial designs in Mexico, on June 27, 1991, the first Industrial Property Law (IPL) came into force, with which IP was protected by promoting innovation and giving recognition to inventors and designers as well as to creators and brand owners.

During the 29 years that the IPL was in force, a common practice developed between the applicants and the IMPI, in which the shape and ornament that give an object its unique appearance were protected through industrial designs. The criteria of the IMPI’s Examiners in charge of industrial design applications held great weight, since there were no guides developed by the IMPI that indicated beyond the basic requirements that an industrial design application must contain. This practice was understandable for international applicants, since it shared similar characteristics to those of their own Patent Offices, such as submitting a claim that clearly and objectively indicated what was intended to be protected; the use for dotted and solid lines; and the type of designs that could be submitted in a single application. Most importantly, there was no restriction on submitting divisional applications as long as they were submitted before the grant fees were paid and the design was supported by the claimed priority. Consequently, the objections raised by the IMPI to this type of application focused on changes in titles, when they were not considered connotative with the product to be protected, lack of clarity due to presenting poor quality images, and lack of unity of invention, resulting in a request to separate the application into one or more divisional applications, leaving the number to be submitted at the discretion of the applicant.

Eventually, on April 27, 2018, an amendment to the IPL⁽³⁾ came into force where, among other things, the term of protection of industrial designs was extended in renewable periods of 5 years for up to 25 years. The concepts of independent creation and significant degree were also introduced, where significant degree means that the general impression of the industrial design differs from the general impression

produced by any other industrial design made public before its filing date or recognized priority.

Likewise, it was put into effect that, once the formal examination of an industrial design application has been completed, said application must be published in the Official Gazette, regardless of whether it is a divisional application or a first-filing application⁽⁴⁾.

Next, on June 6, 2020, Mexico officially joined the Hague System⁽⁵⁾, which aims to protect industrial designs while offering several international benefits, such as requiring submission of only a single application that serves up to 79 territories covering 96 countries and government organizations, using the same language chosen from Spanish, English and French, and making a joint payment of fees. With this accession, once again Mexico changed its practice so that it aligns with that of the Hague System. However, Mexico continued to present differences from that System, such as: it is required to physically file a certified copy of the priority document, in addition to its translation into Spanish, for its recognition by the IMPI; to pay for each embodiment of industrial design related to each other in such a way that they form a single design concept; the industrial design to be protected must be identical to that contained in the priority document; a greater number of reproductions will be requested to fully show the product that is intended to be protected if the IMPI considers that those originally filed are insufficient; and an additional period of two months is provided to respond after the issuance of a provisional denial.

Finally, on November 5, 2020, the Federal Law for the Protection of Industrial Property (FLPIP) was issued and, therefore, the IPL was repealed. With the FLPIP, the common practice that Mexico had with other countries was lost, mainly in the following areas:

- A claim is not submitted along with the industrial design application, so the part of the product that is intended to be protected is identified solely based on the use of solid and dotted lines in the filed figures.
- Dotted lines cannot be changed to solid lines or vice versa, as the new figures would be considered new matter. This would result in a lack of support for the original application and an increase in the original scope and, as a result, the IMPI will disregard the filing date and the claimed priority and will object lack of novelty in view of the design represented in said corresponding priority. Obviously, the applicant would not have opportunity to overcome such novelty objection.
- All the embodiments of a product intended to be protected must be filed in the Mexican national phase application. For example, unlike the practice of the United States, where it is customary to present an appendix with additional embodiments in a priority application, said embodiments of the appendix will not be considered as supported in accordance with Mexican practice, and therefore, no protection may be sought in a divisional application. Similar to the previous point, the IMPI will disregard the filing date and claimed priority and will object lack of novelty in view of the design of said corresponding priority, without giving the applicant a real opportunity to overcome said novelty objection.
- Characteristics such as the width and height of the object to be protected are not considered to provide differences of significant degree to an industrial design and therefore are not considered to overcome novelty objections raised in the substantive examination.
- Finally, the most drastic change in Mexican practice is the criteria related to the filing of divisional applications. For these cases, the IMPI has developed a strict criterion with which, during the substantive examination of the initial Mexican application, the Examiner defines the exact number of different designs that are claimed in the application, which do not present the same novel characteristics and therefore, there is no unity of design between them, and the division of the initial application into the same specific number of divisional applications is suggested. In some cases, it is also

suggested to change the title to one that the Examiner considers connotative with the nature of the object that is intended to be protected.

This criterion noticeably differs from the previous practice, in which the applicant had the right to file all designs that were not protected in the initial application in a single divisional application, and it could be divided again once the Examiner required it during the substantive examination of said divisional application. In this way, the applicant had more time to analyze which products were really of interest to protect according to the market or to raise the funds and protect all the designs that suited their interests.

As a result of this change in criteria, the applicant loses the opportunity to file new divisional applications as the substantive examination of the first divisional application takes place.

Likewise, the IMPI carries out the substantive examination only of the first design shown in the application being examined. Therefore, in line with the practice of the Hague System, the applicant is forced to choose the first design so that said substantive examination is not wasted.

However, it should be noted that, unlike the Hague System, when the application is filed before the IMPI, two office actions may be issued during the substantive examination of a Mexican industrial design application, and if the applicant is not interested in protecting the first design that has already been substantially studied by the authority, it can choose any other design from those indicated in the document, since there is a further opportunity to demonstrate the novelty that said different design may have.

Now, because of this change in criteria related to the filing of divisional applications of industrial designs, we can observe from Figure 3, obtained from the official IMPI databases, that the filing of industrial design applications has increased over the years, on the contrary to their granting, which has decreased.

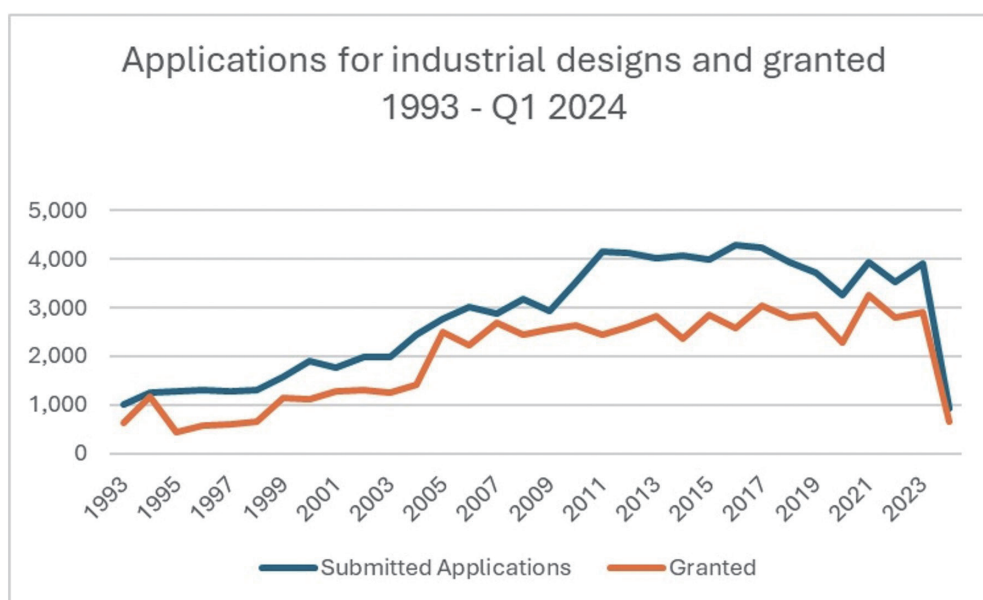


Figure 3, based on the information taken from the "Inv 1" Excel tab ⁽²⁾ related to the applications submitted vs granted from years 1993 up to the first quarter of 2024.

In conclusion, in order to prevent industrial design applications being objected due to lack of novelty in view of its same family, as the IMPI is disregarding the filing date and claimed priority, which we consider has no legal justification and is solely based on the criteria of the IMPI and its examiners, it will be necessary to carry out procedures such as the nullity action where the decision of said Institute can be revoked.

Likewise, we hope that the FLPIP Regulations will be issued soon, with which the legal deficiencies presented by the Law must be regulated so as to give certainty to the way in which the FLPIP is applied.

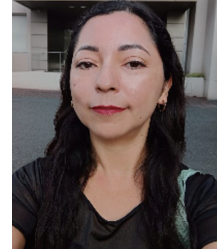
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Trademark infringements and measures to combat counterfeiting in Perú

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*JPO/IPR Training Course on Anti-Counterfeiting Measures for Practitioners
(October 25–November 1, 2023)*



The fight against trademark counterfeiting is a global problem, affecting consumers, entrepreneurs, states, and society as a whole. Thus, combating counterfeiting involves collaboration among various stakeholders.

Almost everyone has been involved in the misuse of intellectual property— whether knowingly or not—through actions such as listening to a song, witnessing the sale of counterfeit products, or observing the health consequences that such use can cause. This issue is not only prevalent in developing countries like my own, Peru, but also in major economies such as the United States, Japan, and European countries.

In this article, we will discuss the legal framework in Peru for trademark infringements and the enforcement thereof, along with some practical cases. Next, we will present the actions taken to combat counterfeiting, and finally, we will look at the strategic alliances between the public and private sectors.

Legal framework

Different countries worldwide have established various approaches to combat counterfeiting, involving competent authorities such as the judiciary, customs authority, or a synergy thereof.

In Peru, two competent authorities work to address cases of trademark misuse: judicial and administrative. It is important to note that there is no prerequisite process, as it is not necessary to first file an administrative complaint before proceeding to the judicial process. Complaints can be filed either administratively or criminally, with both avenues being independent of the other.



Trademark misuse is considered a crime within the judicial process, and can be punished with a prison sentence of up to five years¹. Such misuse is considered an infringement within the administrative process, and can be punished with a fine of up to 150 Tax Units (UIT)².

In this article, we will focus on trademark infringements. It is additionally important to note that infringements in terms of distinctive signs do not only apply to trademarks, but also to any distinctive sign such as commercial slogans, trade names or geographical indications, among others.

Trademark infringements are regulated by the Andean Decision 486³ as well as by national legislation (Legislative Decree 1075). Under this legislation, the trademark holder (or the administrative authority ex officio) can file an infringement complaint and request precautionary measures, among which the most common are seizures and cessation of use requested by rights holders.

Conflicting parties will have the opportunity to present their defense during infringement procedures, for which the Commission on Distinctive Signs of INDECOPI (National Institute for the Defense of Competition and the Protection of Intellectual Property) is the authority tasked with resolving such cases at the first administrative instance. Should one of the parties appeal, the Specialized Intellectual Property Chamber of INDECOPI will resolve it at the final administrative instance.

In addition to fines, the administrative authority can impose definitive measures such as the cessation of use for infringing signs, and the payment of costs and expenses for related procedures. However, it is not possible to request compensation for damages and losses through the administrative process, for which the judicial process is the competent avenue for such claims.

Case Studies

In general, the brands with the highest incidence of infringement complaints are those in the technology and fashion sectors. The following are some representative cases:

RESOLUTION No. 6440-2022/CSD-INDECOPI⁴ (File No. 964392-2022)

In this procedure, HUAWEI TECHNOLOGIES CO. LTD filed a complaint against the commercialization of cell phone chargers bearing the HUAWEI sign without proper authorization. The complaint was upheld, and a fine of 0.5 UIT (approximately 698 US dollars) was imposed.



Source: RESOLUTION No. 6440-2022/CSD-INDECOPI, p.10

1 CRIMINAL CODE

Article 222: Shall be punished with imprisonment for a term of not less than two nor more than five years (...) taking into consideration the seriousness of the offense and the value of the damages caused, whoever, in violation of industrial property norms and rights, stores, manufactures, uses for commercial purposes, offers, distributes, sells, imports, or exports, in whole or in part:

f) A product or service that uses an unregistered mark identical or similar to a registered mark in the country.

2 150 UIT is equivalent to 207,493.96 US dollars (as of 2024).

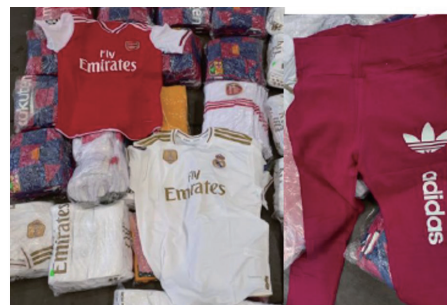
3 DECISION 486

Article 238. The owner of rights protected under this Decision may bring an action before the competent national authority against any person who infringes his rights. He may also proceed against any person who engages in acts that indicate the imminence of an infringement.

4 <https://servicio.indecopi.gob.pe/buscadorResoluciones/getDoc?docID=workspace://SpacesStore/6b8b3587-86b7-45ee-85a9-cf375e802745>

RESOLUTION No. 6021-2022/CSD-INDECOPI⁵ **(File No. 952637-2021)**

In this procedure, Adidas AG filed a complaint against the attempted export of shirts, pants and long-sleeved shirts bearing their trademarks without proper authorization. The complaint was upheld, and a fine of 23.18 UIT (approximately 32,346.81 US dollars) was imposed.



Source: RESOLUTION No. 6021-2022/
CSD-INDECOPI, p. 09

RESOLUTION No. 585-2022/CSD-INDECOPI⁶ **(File No. 895628-2021)**

In this procedure, CATERPILLAR INC. filed a complaint against the importation of injectors (vehicle parts) bearing their trademarks without authorization. The complaint was upheld, and a fine of 4.5 UIT (approximately 6,279.58 US dollars) was imposed.



Source: RESOLUTION
No. 585-2022/
CSD-INDECOPI, p.14

RESOLUTION No. 0916-2023/CSD-INDECOPI⁷ (File No. 963564-2022)

In this procedure, GOOGLE LLC. filed a complaint against the import of TV streaming devices bearing the CHROMECAST and GOOGLE CHROMECAST signs without proper authorization. The complaint was upheld, and a fine of 1.29 UIT (approximately 1,800 US dollars) was imposed.



Source: RESOLUTION
No. 0916-2023/
CSD-INDECOPI, p.13

Actions taken by the administrative authority to combat counterfeiting:

INDECOPI, through the Directorate of Distinctive Signs, takes action to combat counterfeiting on three fronts: sanctioning, preventive, and persuasive.

In the sanctioning approach, the administrative authority imposes fines for the improper use of a distinctive sign or for any non-compliance ordered by the authority, which occurs through administrative procedures (as mentioned earlier).

5 <https://servicio.indecopi.gob.pe/buscadorResoluciones/getDoc?docID=workspace://SpacesStore/ac6e7c9e-58f4-4ad1-bbd6-b6ce642302f2>

6 <https://servicio.indecopi.gob.pe/buscadorResoluciones/getDoc?docID=workspace://SpacesStore/823f7221-b846-4878-9d5c-a8491263e3bf>

7 <https://servicio.indecopi.gob.pe/buscadorResoluciones/getDoc?docID=workspace://SpacesStore/14b364fa-e358-4a4f-afaf-458e5c28ae85>

In the preventive approach, the aim is to develop and consolidate a culture of respect for intellectual property by raising awareness among citizens and both the public and private sectors regarding its importance for development and the economy. This approach is carried out through educational campaigns targeting children, adolescents, young people, and the general public.

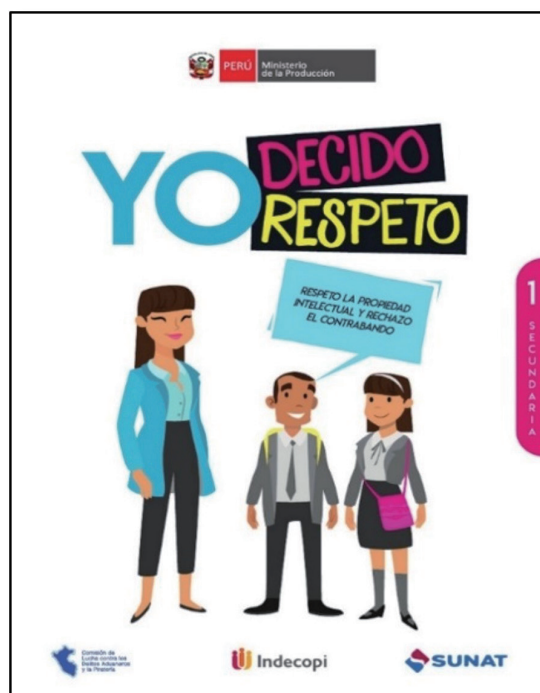
Finally, in the persuasive approach, incentives are sought for compliance with intellectual property rules through mechanisms that encourage changes in the behavior of economic agents to protect and use their own intellectual property rights. This approach includes promoting trademark registration for small and medium-sized enterprises, wherein these businesses are encouraged to create their own brands—thereby discouraging the use of others.

Strategic alliances between the public and private sectors


Both the public and private sectors participate in the fight against counterfeiting from various perspectives, taking into account the aforementioned approaches.

The sanctioning approach primarily involves joint participation by three public sector entities: INDECOPI, SUNAT (the National Superintendence of Customs and Tax Administration), the Public Prosecutor's Office, and the judiciary. Regarding border measures, the customs authority (SUNAT) is responsible for carrying out control actions. After inspecting goods entering or leaving the national territory, SUNAT notifies rights holders and INDECOPI⁸ of possible incidents involving counterfeit goods, wherein infringement procedures are initiated as necessary.

Cooperation additionally takes place among the National Police, the judiciary, and INDECOPI. The first two entities are competent in investigating and reporting crimes against Intellectual Property, with procedures typically involving requests for technical reports from INDECOPI's Directorate of Distinctive Signs to verify the ownership of registered trademarks.



⁸ INTERINSTITUTIONAL COOPERATION AGREEMENT BETWEEN INDECOPI - SUNAT No. 015-2004/CC dated 08/18/2004. This agreement aims to establish basic guidelines to regulate the cooperative activities and joint action between INDECOPI and SUNAT in order to contribute toward better and more efficient fulfillment of their institutional purposes and objectives. SUNAT committed to facilitating the investigative work of INDECOPI officials in warehouses used by importers, including the participation of previously accredited observers; while INDECOPI committed to providing access to available information through the INDECOPI website.



In the preventive approach, joint participation takes place between public and private entities, which conduct training sessions for schools, universities, and small businesses. An example is the “I Decide, I Respect” program, which was carried out jointly by the SUNAT customs authority, INDECOPI, Ministry of Production, and Commission to Combat Customs Offenses and Piracy. Within this approach, educational materials were also developed for the general public.

In the persuasive approach, the registration of trademarks for small and medium-sized enterprises has been encouraged through reduced fee payments and business advisory services.

Conclusion

In this article, we have delved into trademark infringement procedures based on Peruvian regulations, and we subsequently examined some cases handled at the level of the administrative first instance.

Furthermore, we have explored the measures to combat counterfeiting through three approaches: sanctioning, persuasive, and preventive. It is noteworthy that various actors from the public and private sectors are involved in this fight to achieve better results in less time, which is based upon the idea that “Unity is strength.”

Lastly, we consider education to be the primary tool in the fight against counterfeiting. If individuals become aware of the importance of respecting intellectual property, they will refrain from purchasing counterfeit products, and from offering such products in the market.



Get to Know your IP Friends



We asked those writers who contributed essays last year to introduce a tourist attraction in their countries. As we could not publish all of their responses in March's issue due to space limitations, we will include the rest in July's issue. We hope you enjoy reading about their recommended tourist spots!

Q: Please introduce a tourist attraction in your country

- Lekki Conservation Centre in Lagos, Yankari Game Reserve, Olumo Rock in Abeokuta, Agbokim Waterfall in Cross River State, Kajuru Castle in Kaduna State, Obudu Mountain Resort in Cross River State (*Nigeria*)
- Leh, the capital of Ladakh, has an altitude of approximately 3,524m, and is situated on the banks of Indus River. The peaks of Leh are well above 5,500m. It has a cold desert climate and is widely known for its natural scenic beauty. It is a major tourist destination in India offering a wide range of activities, including adventure sports, trekking, stargazing and rafting. (*India*)



Monkey at Lekki Conservation Centre¹



The Indus River in Leh²

1 Photo by James Moore200, *Monkey at Lekki Conservation Centre*, 2021. CC BY-SA 4.0 https://commons.wikimedia.org/wiki/File:Monkey_at_Lekki_Consevation_Centre_01.jpg

2 Photo by KennyOMG, *Indus Viewpoint, on Srinagar-Leh Highway (NH1), near Leh - The Indus River near Leh, Ladakh, India*, 2009. CC BY-SA 3.0 https://en.wikipedia.org/wiki/File:Indus_Valley_near_Leh.jpg

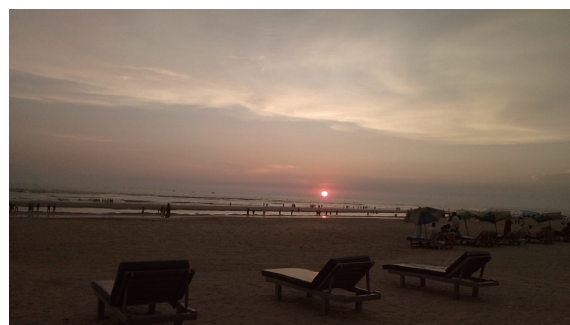
- One tourist attraction that I want to introduce to the world is Coron, Palawan. With its turquoise waters, towering limestone cliffs, and pristine white-sand beaches, it is a tropical gem that will take your breath away. Here, you can find the spectacular Kayangan Lake, embraced by lush greenery and dramatic rock formations. It is a picture-perfect oasis that invites you to take a dip in its crystal-clear waters. There is also the Twin Lagoon that offers a hidden sanctuary, where you can swim through narrow passages. Coron is also known for its world-class diving spots, allowing you to explore the vibrant underwater world teeming with colorful coral reefs and fascinating shipwrecks from World War II. In addition to its natural wonders, Coron also offers a warm and welcoming atmosphere, with friendly locals ready to share their culture and traditions. The island also offers delicious seafood, island-hopping adventures to pristine islets, and powdery sands you can lounge on while soaking in the breathtaking views. If you are in for a nature trip, Coron, Palawan is the place to go. (*Philippines*)
- Pre-Columbian pyramids of different Native American cultures, Beautiful beaches and reefs, Traditional colonial towns (*Mexico*)
- Cox's Bazar – the longest seabeach in the world / Mountain towns / The countryside of my country (*Bangladesh*)



Twin Lagoon, Coron³



Teotihuacan, the 6th largest city in the world at its peak (1 AD to 500 AD)⁴



Cox's Bazar Sea Beach⁵

3 Photo by Nicko Melendres, *Location: Twin Lagoon, Coron, Palawan*, 2019. CC BY-SA 4.0
https://commons.wikimedia.org/wiki/File:Straight_out_of_a_dream.jpg

4 Photo by Daniel Case, *Looking back toward the Pyramid of the Sun from the Pyramid of the Moon*, 2015. CC BY-SA 3.0
https://commons.wikimedia.org/wiki/File:Off-center_view_of_Pyramid_of_the_Sun_from_Pyramid_of_the_Moon,_Teotihuacan.jpg

5 Photo by Mehediabedin, *This is a photo of Cox's Bazaar Sea Beach*, 2019. CC BY-SA 4.0
https://commons.wikimedia.org/wiki/File:Cox%27s_Bazaar_Sunset_Sep2019.jpg

Message from Lecturer

The JPO/IPR Training Course on IP Strategies of Enterprises – from the perspective of Trademarks and Brands –

Ms. YAGI Chisako

Patent Attorney

Nishimura & Asahi (Gaikokuho Kyodo Jigyo)



Beginning from 2018, I have been in charge of the lecture for the JPO/IPR Training Course for Practitioners Specializing in Patents on “IP Strategies of Enterprises”. In my lecture, I mainly focus on Trademarks and Brands, and introduce the Japanese trademark system and practice including prosecution, enforcement as well as anti-counterfeiting issues. The aim of my lecture is to raise awareness of the trainees, who are usually involved in patent practice, to be mindful of IP strategies not only from the patent point of view, but also from the trademark point of view. Paying attention to all areas of IP shall contribute to strengthening the protection of valuable patents owned by enterprises.

Japan is a first-to-file country, so as soon as the name of a product (or service) is decided, it is important to seek protection of the name by filing a trademark application at the Japan Patent Office (JPO). Using a trademark without obtaining registration could be risky, as third parties may later obtain registration for a similar/identical mark, and if that happens, you may end up not being able to continue use of your trademark. When filing trademark applications in Japan, it is possible to either file national applications directly to the JPO, or designate Japan via International Registrations. Protection of unregistered marks is possible, but only in limited circumstances.


Much the same as the IP Offices in many countries, the JPO conducts examination on both absolute grounds (distinctiveness/descriptiveness of marks, etc.) and relative grounds (conflict with prior trademark registrations, etc.). However, the methods and criteria applied to examinations in each IP Office can be different, so we did case studies of the JPO’s Trial and Appeal Board’s decisions and the Intellectual Property High Court’s decisions to understand how examinations are done in Japan. Through the discussions, it was interesting to learn each trainee’s opinions on issues such as evaluation of similarity of

composite marks, for example determining which part of the composite mark should be considered as the dominant part which would most likely attract the consumer's eye. Active discussions among the trainees helped all of us in the course to better understand the differences and features of each country's practice.

The screenshot shows a Zoom meeting interface. On the left, a PowerPoint slide is displayed with the title "Substantive Examination" in a green box. The slide content reads: "Once formal registration requirements are satisfied, the examiner will consider whether the application meets the substantive requirements for registration." Below this, there are two bullet points: "■ Absolute Grounds (Distinctiveness, Descriptiveness)" and "■ Relative Grounds (Conflict with prior registrations, etc.)". The slide footer shows the number "46". On the right side of the screen, there is a vertical grid of video feeds for participants. The top feed shows a woman labeled "Lecturer 1 (ゲスト)". Below her are several other participants, some with their names partially visible. The Zoom window title bar at the top reads "PowerPoint スライドショー - [([配布&投影用]) JPO_IPR研修 (企業の知財戦略(商標))_2023] - PowerPoint".

Online lecture on "IP Strategy in Companies" on August 31, 2023
(FY2023 JPO/IPR Training Course for Practitioners Specializing in Patents)

The screenshot shows a Zoom meeting interface. On the left, a PowerPoint slide is displayed with the title "JPO/IPR Online Training Course IP Strategies of Enterprises ~ from the perspective of Trademarks and Brands ~". Below the title, it says "August 31, 2023" and "Nishimura & Asahi Patent & Trademark Attorney Chisako Yagi". The slide footer shows the number "46". On the right side of the screen, there is a vertical grid of video feeds for participants. The top feed shows a woman labeled "Lecturer 1 (ゲスト)". Below her are several other participants, some with their names partially visible. The Zoom window title bar at the top reads "PowerPoint スライドショー - [([配布&投影用]) JPO_IPR研修 (企業の知財戦略(商標))_2023] - PowerPoint".



The trainees also exchanged opinions and information through case studies of opposition, cancellation and invalidation cases. In particular, additional protection of well-known marks and battling against bad-faith applications were the key topics.

From an enforcement perspective, border control measures by Japan Customs play an important role in protecting the IP right holder's valuable IP rights and assets. Customs recordal is an effective tool to prevent counterfeits and other IP infringing goods entering Japan, and following the revision of the Customs Act in March 2022, regulations have been tightened to strengthen control over counterfeit goods to be imported for private use. Infringers are continuously developing more sophisticated techniques to slip through the net, and Japan Customs is actively battling against such infringers.

Protection of unregistered marks was also discussed, and the trainees reaffirmed the difficulty of obtaining protection for unregistered marks. Unregistered marks can be protected only under limited circumstances by meeting certain requirements (for example, the unregistered mark being well-known among consumers as that indicating goods or services in connection with the person's business), so filing first and obtaining registration is very important in Japan. Also, in many cases, enforcement of registered marks is more straightforward and simpler compared to enforcement of unregistered marks.

The trainees were very motivated and proactive, and seemed keen to get the most from the opportunity of participating in the JPO/IPR Training Course. The course provides a great chance not only to the trainees but also to the lecturer to get to know the different opinions and ideas of members from different jurisdictions, and becoming aware of the different points of view gives us all an opportunity to deepen our understandings not only of other jurisdictions, but also reaffirm the perception of your own jurisdiction.



Thoughts on Ramen

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Director General of APIC



During the one-hour time slot which we are allotted for lunch, I almost always opt to eat noodles. There are numerous types—udon, soba, ramen and pasta, for example—each of which has a different flavor profile. And because I order different kinds of noodles every day, I never grow tired of eating them.

I do sometimes order Western or Japanese rice-based dishes for lunch. And when I am truly pressed for time, I will just go to a convenience store for bread and vegetable juice. But on those days when I eat out for lunch and simply order something without really thinking about it, you can be sure that I will be ordering a noodle dish. And while eating a Western or Japanese-style lunch usually also involves relaxed conversation, noodles can be eaten even when you are in a rush—meaning that you don't have to sit down for a fancy meal. Also, since you can slurp them down without having to chew a lot, you can fill your stomach even on days when you don't really have an appetite. But above all: noodles simply taste delicious.

For this column, I will be writing about a specific type of noodle dish: ramen.

Wheat, which forms the base of ramen noodles, is said to have originated in the region of Mesopotamia, where it was already being cultivated some 10,000 years ago. This spread to places including the European continent and Africa around 5,000 years ago, and then to China around 4,000 years ago.

Because the husk surrounding each grain of wheat has an unpleasant taste, it was customary to break it and then separate the outer shell from the nutritive matter inside before consuming it. Eventually, humans added hot water to the crushed wheat and began cooking with it, leading to the creation of gluten, and in turn to the discovery of stickiness and elasticity.

In the region of Egypt, it was observed that baking these elastic clumps made them pliable and taste delicious, which led to the tradition of eating bread. This was then transmitted to Greece, Rome and

Western Europe, where using wheat to bake bread became a fixture of the local food culture.

In China, wheat began to be widely cultivated around 3,000 years ago in order to consume it in powdered form. Water was added, and the resulting substance was kneaded in order to create various shapes before cooking and eating it. This included flattening or twisting it into long, thin strands—the latter of which is thought to form the origin of ramen noodles.

It is believed that the origin of noodles in Japan lies in a delegation of envoys sent to visit the Tang Dynasty during the 7th century, who brought them back to Japan upon their return. Chinese monks subsequently introduced noodle dishes to Japan during the Kamakura and Muromachi periods (the end of the 12th century through the 14th century), which began to be eaten as foods such as udon, soba, somen and chilled noodles. During the Edo period (the 17th to 19th centuries), these noodle dishes began to be enjoyed among the general populace.

Ramen began to be widely eaten in Japan during the late Edo period (the latter half of the 19th century). Japan's more than 200-year-long period of *sakoku* (national isolation) was ending around this time, and numerous foreign individuals began to reside in areas including Yokohama, Kobe, Nagasaki and Hakodate after the ports there had opened. And at the beginning of the Meiji period, Chinese food dishes including noodles began spreading throughout Japan.

A Chinese restaurant aimed toward the general public opened in Tokyo in 1910, and began serving ramen. Until that time, Chinese restaurants had been viewed as luxurious establishments; but the founder of this restaurant had brought over chefs from Yokohama Chinatown, and began to sell ramen dishes suited toward the Japanese palate. These included Japanese-style *dashi* (broth) and *shoyu* (soy sauce), and were available for a comparatively cheap price—resulting in their great popularity.

Seeing this success story, numerous Chinese restaurants geared toward common people began opening throughout Japan, and offering ramen noodles among their fixed menu items.

Following Japan's defeat in World War II, people experienced extreme difficulties including housing shortages and food scarcity caused by factors such as the air raid bombings; and had to deal with the problems of joblessness and meager earnings. Around this time, long lines began forming at food stalls in order to buy bowls of ramen (Figure 1). Made from inexpensive ingredients, as well as being delicious and nutritious, ramen was an ideal food to eat during the materially-poor postwar period; and was consequently one of the most sought-after meals among Japanese people facing poverty.



Figure 1: Customers forming a line at a ramen stall

Such scenes formed a deep impression in the mind of Momofuku Ando, who decided to create ramen that could easily be eaten at home at any time. The result was chicken ramen, which he developed in 1958 as the world's first instant ramen. Ando's next goal was to spread this instant ramen around the world, which resulting in his next invention of cup noodles. More than 120 billion packages of instant ramen are now consumed globally each year, and have come to comprise a specific food culture (Figure 2).

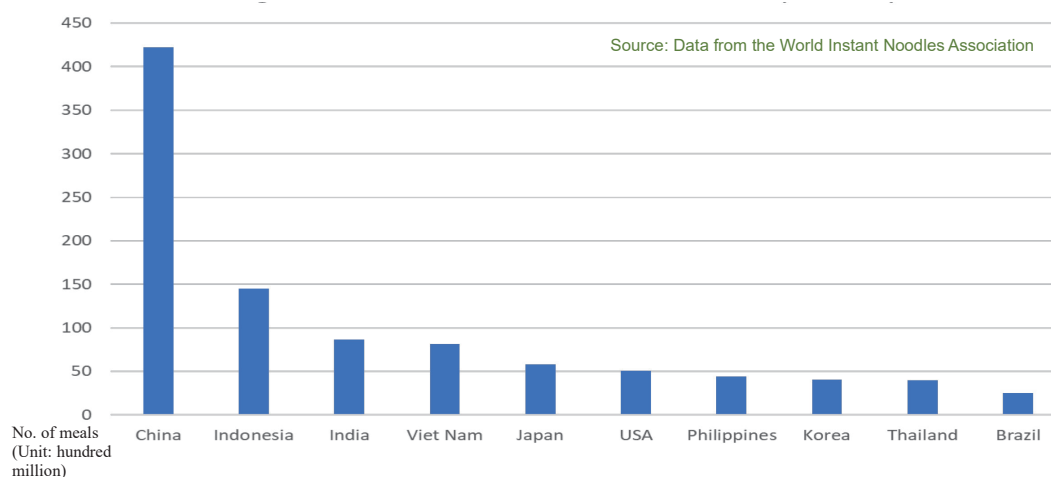


Figure 2: Total demand for instant ramen by country

As rapid economic development subsequently continued, ramen was served at Chinese restaurants as a popular menu item. In addition, it began to be served at the specialized ramen restaurants which were a natural extension of the postwar food stalls. In this way, ramen continues to be much-loved among the general public today.

Numerous chefs and restaurants subsequently began experimenting with ramen's individual distinct components of soup broth, sauce, flavored oil, noodles and toppings. Such dishes were featured regularly on various television programs. This led to an explosion in diverse styles of ramen, which is a trend that is still continuing.

Ramen essentially involves creating a soup by mixing sauce and broth, and then adding noodles and different ingredients as toppings. Different dishes can therefore be created through various combinations of the broth, sauce, noodles and toppings.

Broth is made by simmering ingredients such as beef, pork or chicken bones together with bonito shavings, dried sardines, kelp, and vegetables such as dried shiitake, onions or ginger in various amounts and combinations in order to create deep, unique flavors.

Sauce is then made by mixing flavored bases of miso, salt, *shoyu* (soy sauce), curry, etc. together with additional flavorings such as spices, sugar, salt, umami, *mirin* (sweet sake), refined sake or vinegar; along with pastes created from vegetables, laver (edible seaweed), fruits, meats, etc., and finally mixing in powders and extracts.

The soup for ramen is created by mixing this sauce together with the broth. Additional elements are also sometimes added in to emphasize the complexity and umami of its flavoring, such as pork backfat or flavored oils. The superb resulting flavor combinations of sauce, soup, and fat can range anywhere from light and subtle to deep and rich.

Noodles are made from flour, with the unique additional element of *kansui* (an alkaline salt solution). This creates a special color, flavor and texture that differs from Japanese udon, other kinds of Chinese noodles, or Italian pasta; even when these are created using the same type of flour. Different categorizations also result from the thickness of the noodles (thin, medium, medium-thick or thick). Wavy or crinkly noodles can additionally be created by hand-kneading and stretching them, or pressurizing them using an automated device; thereby creating plumper, more filling noodles than their straight counterparts.

As for toppings, these normally include char siu (barbecued pork slices), preserved bamboo shoots, boiled eggs, *nori* (toasted seaweed), and onions. Other ingredients can be added in as well, such as crab, shrimp or other crustaceans; shellfish such as scallops or clams; vegetables like cabbage, bean sprouts, onions, carrots, asparagus or corn; members of the mushroom family including *shiitake*, *kikurage* or *shimeji*; seaweed-style ingredients such as *wakame*; or paste-style foods like *naruto* or *kamaboko* fish cakes. Other add-on toppings can include sesame seeds, ginger, *takana* (mustard greens), doubanjiang (chili bean sauce), garlic, butter, cheese, etc. In other words: anything goes.

Such ingredient combinations of broth, sauce, oil/fat, noodles and toppings present an endless number of possibilities—which in fact shows us that no two ramens are the same (Figure 3). When people discover a ramen they enjoy, they are often anxious to eat it regularly; and some people in fact do eat at their favorite ramen shops several times weekly for this reason.



Salt¹



Miso²



Shoyu (soy sauce)³



Tonkotsu (pork broth)⁴

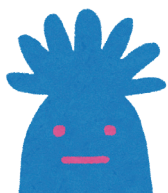
The taste of ramen is now enthralling people across the world, and some people are even journeying to Japan on vacation just for this purpose. Whenever I return to Japan following an overseas business trip, I too find myself facing intense cravings for ramen. It is now not an exaggeration to say that ramen is a typical food of Japan.

By the way: my lunch today? Miso ramen.

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- 1 Photo by Lombroso, 塩ラーメン。2014年5月18日撮影, 2014. CC BY-SA 4.0
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 - 3 Photo by Lombroso, 醤油ラーメン。春日部駅ホームのラーメン店「東武ラーメン」にて, 2014. CC BY-SA 3.0
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 - 4 Photo by Hykw-a4, 博多ラーメン (2005年6月投稿者が撮影), 2005. CC BY-SA 3.0
<https://commons.wikimedia.org/wiki/File:Hakataramen.jpg>



Editor's Note



Hi, this is KEN. The Asian second round qualifiers for the FIFA World Cup 2026 are currently underway, and Japan has already qualified for the third round. Starting from World Cup 2026, the number of countries participating in the main tournament will increase from 32 to 48, and accordingly, the number of participants from Asia will increase from 4.5 to 8.5 (0.5 is the intercontinental playoff quota). Japan has participated in all the World Cup tournaments since the 1998 tournament in France, and its participation in this year's tournament, even with its increased quota, is considered by many in Japan to be an essential and natural part of the tournament.

However, Japanese soccer has a bitter memory of missing out on the World Cup final qualifying round in 1993, when a goal was scored with only seconds left in additional time after Japan had almost qualified for the tournament. Therefore, I sincerely hope that the team will be determined to make it to the World Cup again this time and achieve brilliant results in the 2026 tournament.



Hi, I'm Ayako. Various activities of the JPO Cooperation in Human Resource Development for FY2024 began in April. In particular, the JPO/IPR training courses for FY2024 will be held from June. There are a total of 16 courses including 2 newly established courses: 12 held in person and 4 held in a hybrid format. We are looking forward to welcoming new IP friends to Japan, which would mean an increase in the number of readers of Enishi. We hope that more people will be able to enjoy the contents of Enishi.



Hello! I'm Kayoko. Last weekend, my best friend, who is from Hakone in Kanagawa Prefecture, sent me a special gift to celebrate my birthday. We first met when I was twenty years old, and when I visited her at her house, I saw an interesting-looking ornament I had never seen before. She told me about the unique piece known as the *teri-furi* dolls.

This item is actually a weather-forecasting box in the shape of a hut with a thatched roof, housing a male doll and a female doll. They say it was first made in Hakone 50 years ago!

When it is sunny, the kimono-wearing female doll comes out of the hut. When it rains, the male doll, wearing a kimono and bamboo hat, comes out. This rotating motion is brought about by the twisting of a strip of fiber, connected to an axis on the roof of the hut, in reaction to the amount of humidity in the air. The movement of this fiber, in turn, moves the dolls. Its old-fashioned appearance makes it a popular souvenir among foreigners and Japanese tourists alike. Because of this, every time I visit Hakone, the *teri-furi* dolls are sold out. Her gift of these dolls brought back good memories of my twenties!

【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 by the Japan Patent Office to the Japan Institute for Promoting Invention and Innovation.

[Consigner]



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