

Part 4

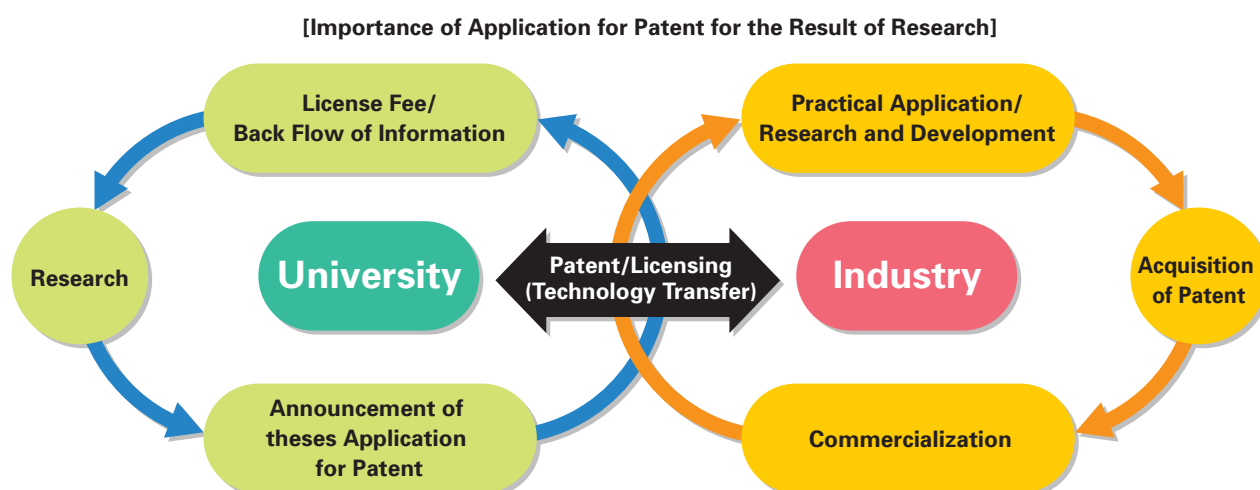
The JPO's Efforts to Become
an Intellectual Property Based Nation

Chapter 1

Support for Activities at PROs

1. Necessity for Intellectual Property Activities

As the interests are rising for intellectual properties creation that would contribute to industrial improvement at public research organizations (PROs: including universities), PROs are making many vigorous efforts for intellectual properties activities. These days, due to financial problems, it has become difficult to conduct basic research that the enterprises had conducted in the past, and industry expects much of the results of creative research and development by PROs under these circumstances, the PROs play significant roles in realization of the intellectual creation cycle in which PROs generate creative research results that lead to acquisition of fundamental patents and lead to creation of new industries.



It is an urgent matter to structure the system where PROs conduct creative research and development to which appropriate intellectual property rights are granted, transfer PROs' research achievements efficiently to industries, and give incentives to researchers at PROs to make vigorous efforts for creation of intellectual properties.

2. Measures to Support Intellectual Property Activities at PROs

(1) Dispatch of Intellectual Property Management Advisors

The report by the Intellectual Property Working Group established under the Industry-University Cooperation Promotion Committee, Technology and Research Foundation Subcommittee, Science, Technology and Academy Council in the Ministry of Education, Culture, Sports, Science and Technology showed the fundamental concept on the treatment of intellectual property at universities that "it is desirable that universities organize themselves with their own policies and conduct integrated management and exploitation of intellectual properties by the same created at each university to belong to the university for exploitation as a general rule assuming that each university has desire to endeavor for vigorous promotion of management, education and exploitation of intellectual properties in consideration to the changes in the conditions for management of intellectual properties and conditions overseas at the opportunity of incorporation of national universities"¹³.

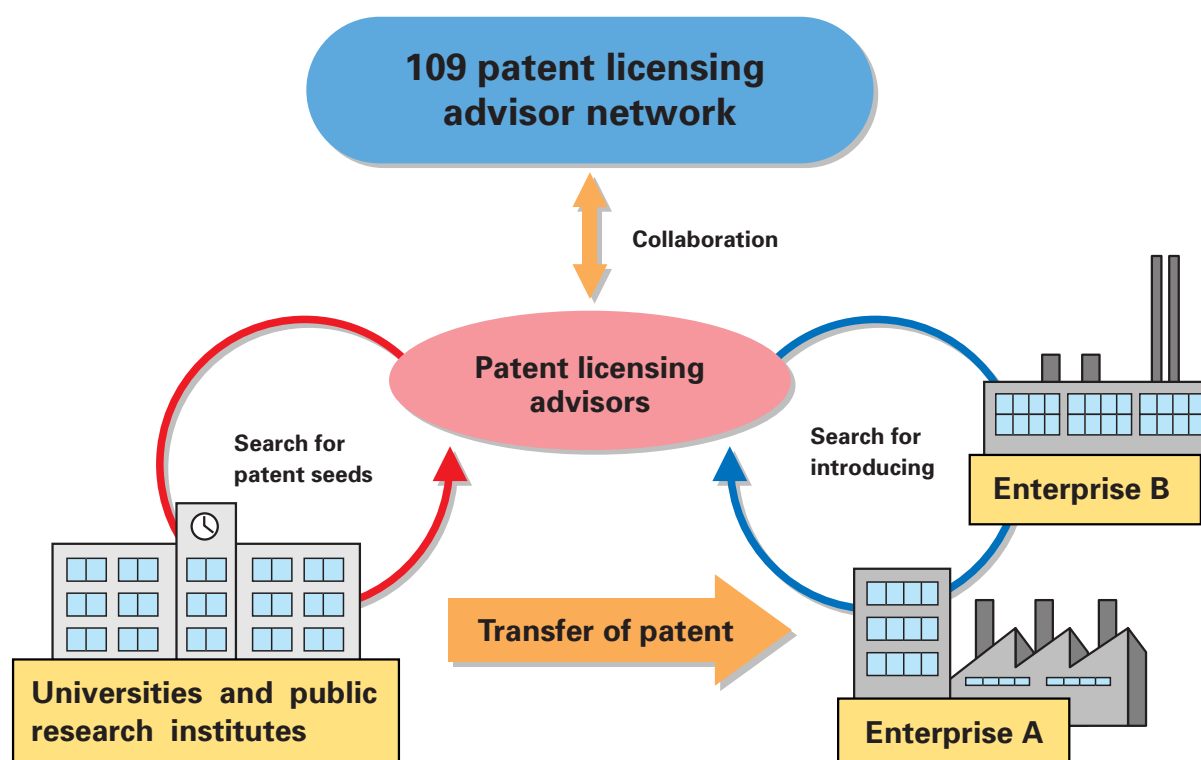
¹³The Intellectual Property Working Group studied the possible treatment of intellectual property at universities after incorporation and compiled a report in November 2002. The content of the report is reflected in the report by the University-Industry Cooperation Promotion Committee, "Toward Structuring University-Industry Cooperation in the New Age".

Therefore, the JPO has dispatched specialists (Intellectual Property Management Advisors) to universities to support the intellectual property management division since FY2002. The JPO has dispatched advisors to 10 universities in FY2003.

(2) Dispatch of Patent Licensing Advisor to TLOs

An independent administrative agency, the National Center for Industrial Property Information (NCIPI) has dispatched Patent Licensing Advisor who are specialists with abundant knowledge and experience of intellectual property and technology transfer with the objective to match the PROs' technologies with the industrial (such as small and medium enterprises) needs by requests from the authorized TLOs (Technology Licensing Organization).

[Image of the Concept of Exploiting Patent Licensing Advisors]



(3) Dispatch of Counselors to PROs

The JPO has dispatched specialists on industrial property (such as patent attorneys) for consultations such as patent applications to the universities related to the TLOs in the regions with few patent attorneys in order to give appropriate protection and exploit intellectual property created at PROs.

[Outline of Business]

Content of support	Support results, etc.
Individual consultations for application of patent for the results of the research with researchers in universities. Consultations cover evaluation of the invention, application procedure, examination procedure, licensing right setting and other rights exploitation items, patent disputes and other items concerning all intellectual property	FY2001: 111 consultations at 24 PROs (5 TLOs) FY2002: 110 consultations at 29 PROs (7 TLOs)

(4) Reduction/Exemption the Payment of Patent Fee and Examination Request Fee, and other Public Supports

The JPO has supported the efforts for industry-university cooperation and technology transfer at PROs by reduction/exemption of the payment of patent fee and examination request fee based on the rules of the Law for Promoting University-Industry Technology Transfer, the Law on Special Measures for Vitalizing Industrial Activities and the Law for Enhancing Industrial Technology.

[Support in Compliance with the Law on Promotion of Technology Transfer from PROs]

Content of support	Results of support
Exemption from patent fee and examination request fee to authorized TLO	2 agencies of the Ministry of Education, Culture, Sports, Science and Technology, 1 agency of the Ministry of Economy, Trade and Industry, and 1 agency of the Ministry of Agriculture and Fishery, and 1 agency of the Ministry of Health, Labor and Welfare (as of the end of June2003) ¹⁴

[Support in Compliance with the Industrial Revitalization Special Measure Law]

Content of support	Results of support
Reduction of patent fee and examination request fee for authorized TLO	Reduction of patent fee: 20 (as of the end of March 2003) Reduction of examination request fee: 140 (as of the end of March 2003)

[Industrial Technology Reinforcement Law]

Content of support	Results of support
Reduction of patent fee and examination request fee for universities and university instructors	Reduction of patent fee: 49 (as of the end of March 2003) Reduction of examination request fee: 108 (as of the end of March 2003)

(5) Accelerated Examination System

It is possible to receive examinations earlier than ordinary applications when the PROs and authorized/approved TLOs submit the "explanation of circumstances concerning accelerated examination" and demand accelerated examination for the patent applications for which the examination request has been made (the number of request for acceleration examination in 2002 was 4,097, but the usage by PROs or authorized/approved TLOs was less than 10%). The PROs and authorized/approved TLOs are expected to more actively exploit the accelerated examination system in order to promote commercialization of the research results through earlier acquisition of rights.

(6) Seminars at PROs

The Patent Offices in every Bureau of Economy, Trade and Industry, and the Cabinet Office, Okinawa General Bureau of Economy, Trade and Industry Department (hereinafter referred to as "the Bureau of Economy, Trade and Industry, etc.") are conducting "seminars for RPOs researchers" for researchers at RPOs to explain the method to write down the research results as the patent specifications and significance of

¹⁴Source: Ministry of Economy, Trade and Industry

social exploitation of the research results by acquiring patent with the objectives of acquisition of rights for research results and promotion of exploitation of the rights. The seminars were held 139 times countrywide in FY2002 with the attendance of 4,800 persons.

The JPO also dispatches examiners and appeal examiners as instructors to universities to support the establishment of courses related to intellectual property and raise awareness on intellectual property at the undergraduate levels. The JPO plans to dispatch examiners as instructors to the law schools (scheduled to start receiving students from April 2004) and other professional graduate schools.

(7) Designation of PROs as the Scientific Associations Stipulated in the Patent Law Section 30

The Patent Law Section 30 stipulates that "giving written presentation at a research assembly held by a scientific association designated by the Commissioner of the Patent Office" is treated as an exception in loss of novelty. When PROs are designated as scientific associations by the Commissioner of the Patent Office, exception for loss of novelty will be approved for the contents of research result presentation at research assemblies held by the said PROs in a similar manner as the presentation at academic society meeting even if they are applied for patent on a later date. However, it is important to file an application before presentations of the result in order to properly ensure the rights (The number of designated institutes as of July 1, 2003 was 95 universities, 6 technical colleges, 3 institutes joined with universities, 20 independent administrative institutions and 43 public testing laboratories).

(8) Distribution of a brochure "How to Apply for Patent for Research Result"

It is necessary that researchers and patent managers at PROs recognize the significance of having adequate knowledge on the patent system, acquiring appropriate rights for the research results and exploiting the results. Therefore the JPO prepared a brochure "How to Apply for Patent for Research Result" for the researchers and patent managers at PROs that introduces the key points at application for patent and various efforts by the JPO as a means to promote acquisition of rights for the research results.

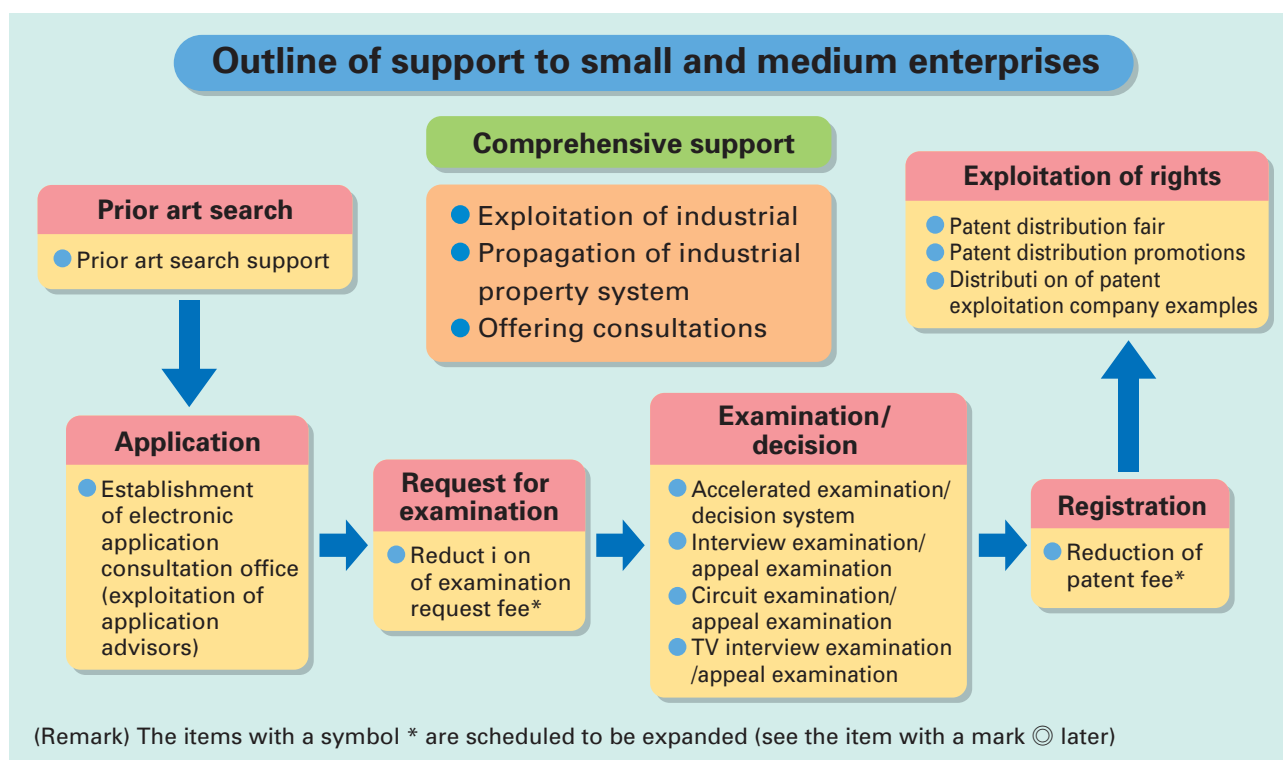
The brochure also introduces the method to acquire appropriate rights for the research results at PROs by using the software of application from PCs which the JPO is distributing free of charge upon request and fundamental information to acquire rights in foreign countries.

Chapter 2

Support for Activities at Enterprises

1. Support for Small and Medium Enterprises

The JPO provides comprehensive support through various policies to small and medium enterprises that sustain the industrial foundation in Japan and play a significant role as the driving force in regional economy as well as the venture companies that are expected to create new industries.



The JPO has structured a system to provide support to make it easier for the small and medium enterprises to acquire more industrial property through effective exploitation of the above policies dedicated to small and medium enterprises. The following is the explanation of the policies shown above.

(1) Major Support Policies for Small and Medium Enterprises

(i) Support for Prior Art Search

In compliance with the new utility model system introduced in January 1994, the special technical assessors search prior art that applies or is similar to the technique of the advisees free of charge from a huge volume of past technical documents to support the required prior art search, and mail the report of the search to the advisees.

(ii) Establishment of Electronic Application Consultation Office

The JPO has installed public terminals (free of charge) for online applications in the electronic application consultation offices established in the branches of the Japan Institute of Invention and Innovation in all 47 prefectures, assigned application advisors who instruct the application procedure (how to use the terminal) and offer consultations on the electronic application system, etc..

(iii) Reduction of Examination Request Fee

The JPO provides reduction of the examination request fee to small and medium enterprises and venture companies with less financial resources in compliance with the Patent Law.

The JPO also provides reduction of examination request fee for the small and medium enterprises and venture companies dedicated to research and development, researchers at national, public and private universities, technical colleges and university cooperative institutes and founders of public or private universities and technical colleges in compliance with the Industrial Technology Reinforcement Law.

(iv) Accelerated Examination

a. Patent and Utility model

The JPO conducts accelerated examinations upon submission of the document for explanation of the circumstances for small and medium enterprises, universities, technical colleges, public research institutes, TLO and individuals with the objectives of promotion of early exploitation of the results of fundamental researches, support for applicants with creative research and development and other measures to reinforce industrial competitiveness of Japan, in addition to applications that concern licensing or foreign nations.

b. Design

The JPO provides accelerated examinations and trials upon submission of the document for explanation of circumstances for the applications related to licensing and to foreign nations that urgently need granting of the rights.

c. Trademark

The JPO conducts accelerated examinations and trials upon submission of the document for explanation of circumstances for the applications with urgency for the rights, e.g. when applicants are using or preparing to use the subject trademark and a third party is using the same without approval. (For details, see Part 2, Chapter 2, Section 3 "Trademark Examinations" above).

(v) Interview Examination and Appeal Examination

The JPO conducts interview examinations and trials where the applicants or their agents and the Patent Office examiners or appeal examiners (hereinafter referred to as "examiners") directly meet as an important supplementary method for communications in granting of the rights, etc..

(vi) Circuit Examinations and Appeal Examinations

The examiners of the JPO visit all areas in Japan and conduct circuit examinations and circuit appeal examinations by interviews to support applicants from small and medium enterprises, etc. in remote regions.

(vii) TV Interview Examinations and Appeal Examinations

The JPO conducts interview examinations and appeal examinations by connecting the TV conference system installed in the JPO with others at the patent offices in the Economy and Industry Bureaus, etc. or others installed at the applicants' premise so that interviews with examiners may be conducted without the applicants having to visit the Patent Office.

(viii) Reduction of Patent Fee

The JPO provides a grace period for the patent fee for 1 to 3 year for small and medium enterprises and venture companies with less financial resources in compliance with the Patent Law.

The JPO also provides a grace period for the patent fee for 1 to 3 year for the researchers at small and

medium enterprises and venture companies dedicated to research and development, national, public and private universities, technical colleges, university cooperative institutes and the founders of public or private universities and technical colleges in compliance with the Industrial Technology Reinforcement Law.

(ix) Patent Licensing Fairs

The JPO conducts patent Licensing fairs as the effort to establish the environment to invigorate the patent market jointly with the Economy and Industry Bureaus, etc.. The fairs offer the "opportunities for encounters" where the enterprises, universities, research institutes, agencies, technical consultants, etc. who offer or wish to introduce patents meet with one another directly.

(x) Patent Licensing Promotions

The National Center for Industrial Property Information (NCIPI) is developing patent licensing promotion activities in order to invigorate creations of new businesses and development of new products at small and medium enterprises and venture companies through enabling smooth transfer of patents whose holders have intention to release (released patents) among enterprises and between universities/public research institute and enterprises (for details, see "Various Support Activities by NCIPI" in the later Column).

(xi) Distribution of Patent Exploitation Company Examples

The JPO published the "Patent Exploitation Company Examples" in November 2001 carrying 160 companies that are vigorously exploiting intellectual property as the mainstay for business selected from major small and medium enterprises in Japan for reference for small and medium enterprises who have the intention to improve the business by exploiting intellectual property, and broadly distributed the copies through the patent offices at Economy and Industry Bureaus, etc. (it is also available in the JPO website (in Japanese only)).

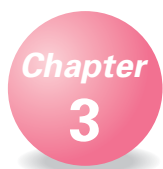
◎For the above item (iii) "Reduction of Examination Request Fee" and Item (viii) "Reduction of Patent Fee", the reduction, etc. are scheduled to be expanded as described below.

○Expansion of subjects for reduction

- The major requirement for the subject, "within 5 years after establishment" shall be expanded to "within 10 years after establishment" in the grant of reduction to corporations with less financial resources in compliance with the Patent Law.
- For the grant of reduction for small and medium enterprises dedicated to research and development prescribed in the Industrial Technology Reinforcement Law, the applications related the following support subject business operations shall be granted reduction.
 - Authorized business operations prescribed in the Law on Promotion of Small and Medium Enterprise Creative Activities
 - Businesses to which subsidy is granted by the Small and Medium Enterprise Innovation System (SBIR) as stipulated in the New Business Creation Promotion Law
 - Research and development businesses concerning the approval plan in the Small and Medium Enterprise Innovation System

○Reduction of and exemption from the fee granted to joint applications

Grant for reduction of or exemption from the fee is scheduled to be applied to joint applications by small and medium enterprises that are the subject for granting of reduction (universities or large enterprises).



Support for Activities through Information Technology

1. Further Promotion of Information Technology

(1) Further Improvement of Electronic Filing

The JPO has promoted the paperless project since 1984 and started receiving online applications for patents and utility models in December 1990. Around 24,000 applicants/agents have filed application through the PC electronic filing software by the end of FY2002, and the electronic filing application rate for patents and utility models for 2002 was as high as 96%. The JPO started receipts of online applications for designs and trademarks, appeal procedures and the procedure for PCT after shifting to the domestic stage in January 2000. The electronic filing rate in 2002 was 90% for design application, 84% for trademarks, 97% for appeals and 99% for PCT domestic procedure. The JPO plans to allow online procedure for PCT in the international application phase as well in 2004.

(2) Further Improvement of Information Technology by International Standardization of the Filing on Format

Electronic data accepted in online applications is useful to enhance the efficiency of general administrative operations at the JPO through comprehensive computerization of the administrative processing of applications, examinations and appeal/trial procedures. It is also effectively used for publishing CD-ROM gazettes, providing industrial property rights information, exchanging data with foreign countries and providing search services.

In regard to the international standardization of the online applications for patents, the WIPO has prepared electronic data on the international phase of the PCT international applications and is preparing the PCT International Technical Standard for higher efficiency in the document exchanges among international offices and receiving offices.

The JPO unified the application format for patents and utility models in Japan to the international application format, and executed international standardization of the electronic format (XML system) in preparation for compliance when the technical standard become effective. The JPO plans to comply with the international standardization of the electronic format for the gazettes for patents and utility models in 2004 and publish them in the DVD-ROM gazette form. The JPO also plans to execute international phase procedure of the PCT international applications through online scheduled to start in 2004.

As a result, the electronic format for international patent applications, etc. will be standardized and electronic data exchange with other countries will become easier. Adoption of the standardized electronic format for the industrial property data supply service, search system, etc. will enable more efficient and standardized electronic data exploitation and distribution.

History of the Paperless System



Electronic inspection services for the comprehensive document database



January Publication of CD-ROM gazettes



New registration system

Acceptance of online filing from PCs

January Exchange of electronic data of priority documents with the EPO

March Industrial Property Digital Library (IPDL)

January Integration of terminals for filing applications into PCs (abolition of dedicated terminals)

July Exchange of electronic data of priority documents with the Korean Industrial Property Office (KIPO)

July
1984

Paperless Project inauguration

March
1985

Patent document search system (F-term)



October
1986

December
1990

Acceptance of online filing for patents and utility models

1993

July Peripheral examination assistance system (electronic drafting), including online demand and online inspection



October
1996

Cash payment system

April
1997

April
1998



1999

January
2000

Paperless System for designs, trademarks, PCT (national phase) and appeals

2001

July
2003

Internationally Standardized Formats (XML formats) for patents and utility models application documents

2. Industrial Property Digital Library (IPDL)

(1) IPDL

Industrial Property Information includes the latest technological information as well as information that defines the scope of rights. For this reason, it is important to promote its active use in planning business strategies, research and development strategies, etc.. The JPO started the IPDL on its website (http://www.ipdl.jpo.go.jp/homepg_e.ipdl) in March 1999 in order for public to be able to access and obtain the industrial property information easily.

In the IPDL, users can access and search approximately 49 million of industrial property-related documents such as gazettes regarding patents, utility models, designs and trademarks that have been published since the 1885 with document numbers or various classifications. Additionally the IPDL also offers the legal status information of applications, registrations and appeals/trials as relevant information.

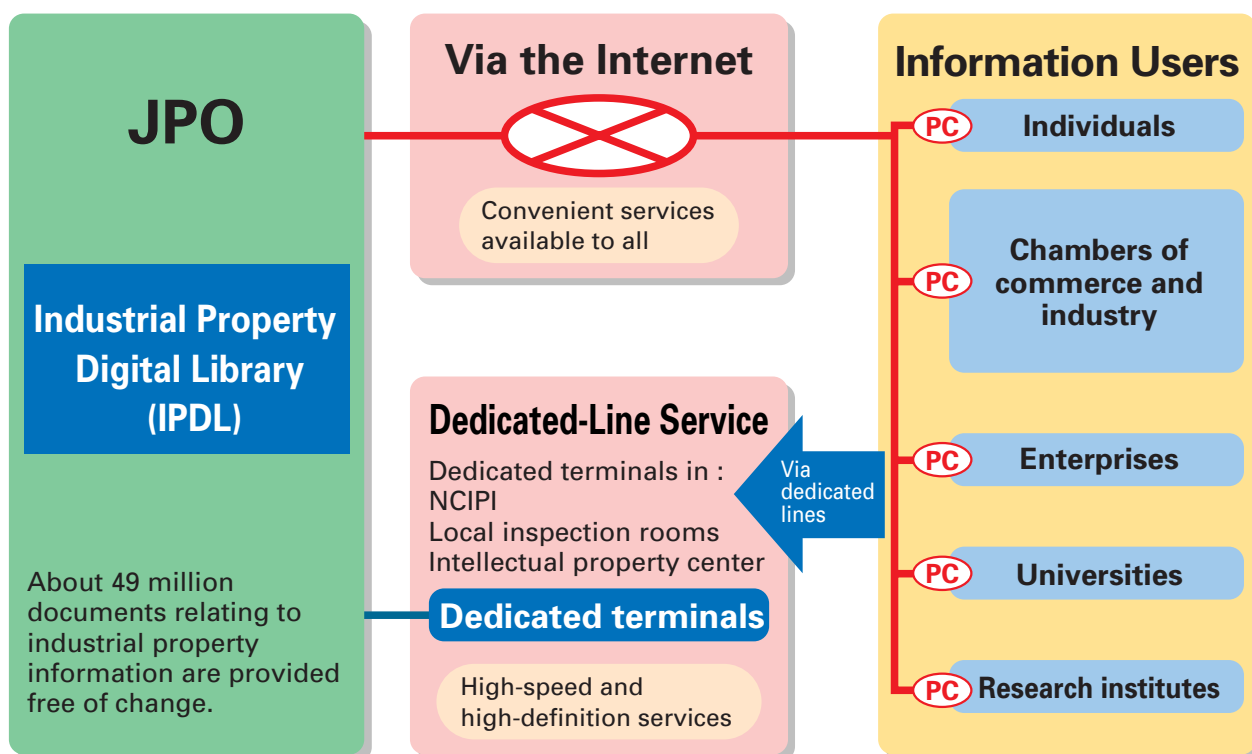
The IPDL provides "Search for beginners" service (for patents, utility models and trademarks) for industrial property information beginners. On the other hand, for foreign users, various services are available such as PAJ (Patent Abstracts of Japan), English version of FI/F-Term search service, machine translation service for gazettes, etc..

In May 2003, the JPO started to provide a part of the database (bibliographic data only) for patent examination concerning the computer software (CSDB).

In addition to the Internet service, the JPO has installed special terminals at the National Center of Industrial Property Information (NCIPI), regional inspection rooms of the NCIPI, intellectual property centers at each prefecture, etc. to provide the high-speed and high-definition service through dedicated lines.

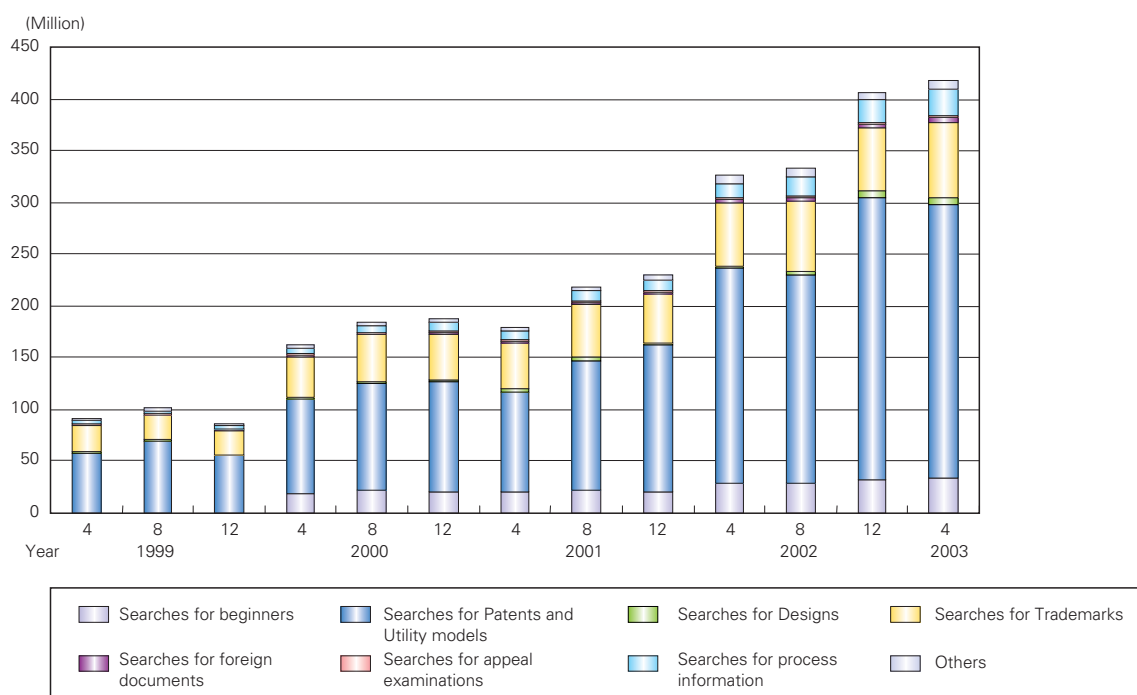
The IPDL services will encourage the use of industrial property information in identifying application, the research and development trend and application trend of competitors, preventing duplicate investment, avoiding unnecessary disputes when deciding the product designs or brand names.

[Outline of the IPDL]



The number of accesses to the IPDL per month rapidly increased, due to the enhancement of services, from approximately 1 million in April 1999 immediately after the service started to approximately 4 million now. The most frequently used service is the search for patent and utility model which occupy around 60% of the total, followed by search for trademarks at 20% and search for beginners at 10%, and these three services occupy 90% of the total usage of the IPDL.

[Monthly Searches at the IPDL]



(2) Industrial Property Information Promotion Policy Committee

The Intellectual Property Policy Outline provided that "With the aim of satisfying a variety of public needs concerning patent information searches and enabling the provision of high-value-added services to the public, the Patent Office will start in FY 2002 to provide relevant data for private patent information providers in more accessible forms. The Patent Office will improve accessibility to the Industrial Property Digital Library (IPDL) for the purpose of standard use by the public when renewing IPDL equipment".

The Industrial Property Information Promotion Policy Committee was established as a private consultative body for the commissioner of the JPO based on the opinion that it was necessary to study the best mixture of the national office (JPO) and the private sectors on the field of industrial property information in compliance with the fundamental concept provided in the Intellectual Property Policy Outline in order to further promote usage of industrial property information more efficiently.

Eventually four meetings were held between January and March 2003. This Committee compiled the report including the action plans below after studying the future direction on industrial property information dissemination in terms of "the best mixture of the national office (JPO) and the private sectors" and "realization of information dissemination through the IPDL in compliance with the Intellectual Property Policy Outline". The JPO will proceed with the industrial property information dissemination policy based on this report.

- Action plans (related to the IPDL) -

a) Clear announcement of the objectives of the IPDL

The objectives, roles, restrictions, etc. of the IPDL were set forth as "Notice on Usage of Industrial Property Digital Library (IPDL)" in May 2003 to promote proper usage of the IPDL.

b) Measures to prevent large scale and automatic access

Measures have been taken to regulate extreme increase of accesses by certain users or accesses to robot type search engines since May 2003 because they are likely to obstruct standard usage by the general public.

c) Replacement of the IPDL's servers

The JPO shall replace the servers for IPDL in FY2003 and at this opportunity improve the accessibility (securing connections, accelerating result displays, etc.) with reference to the IPDL of foreign patent offices.

3. Promotion of Industrial Property Information Provision

(1) Enhancement of Industrial Property Information Provision

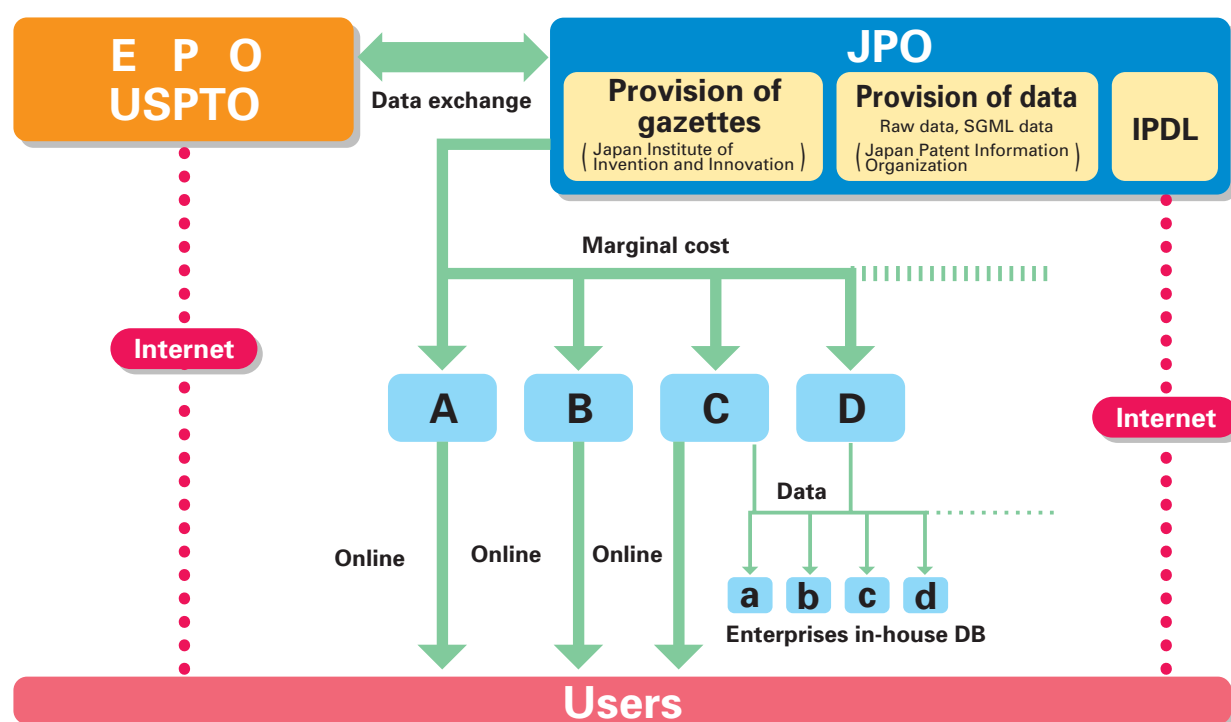
In enhancing industrial property information services, it is necessary not only to satisfy public needs for the standard use of industrial property information by providing inspection services free of charge through the IPDL, but also to aim at establishing an environment in which information service providers in the private sector satisfy the public's diverse needs for industrial property information searches and provide high-value added services. To achieve this, the JPO decided to review the conditions for providing its data and establish an environment in which industrial property information can be provided for active use.

The JPO decided to provide CD-ROM gazettes, published in and after April 1998, at marginal cost¹⁵. Additional costs such as expenses for data reproduction, expenses for data storage media, and delivery expenses are included, while expenses for data creation and maintenance are not included. This measure has decreased the price of one CD-ROM gazette and enabled the public to use gazette data actively and at a lower price. Additionally the JPO plans to adopt the XML format for the publication of application from January 2004 and patent and utility model gazette from July 2004, change the media from CD-ROM to DVD-ROM for easier usage.

In March 1999, the JPO also started to organize and standardize data on the legal status of examination into SGML format at its own expense and provide it at marginal cost. In order to increase accessibility to the JPO databases, the JPO changed the media for providing legal status information from MT to DVD-R in March 2002 and started to provide CD-ROM gazettes for past issues (gazettes issued in or before March 1998) at marginal cost. The JPO also started to provide the bibliographic data of CSDB in April 2003 and is endeavoring to offer comprehensive data in the its data base. These measures have encouraged companies to establish their own database and private information service providers to provide high-value added and diverse services.

The JPO will proceed with the adoption of the XML form for the standardized data successively and improve the utility of the industrial property information in compliance with the Intellectual Property Policy Outline.

[Flow of Data Dissemination]



¹⁵Additional expense for data reproduction, price for empty data storage media and sending cost, which does not include the data creation and maintenance costs.

(2) Introduction of Information Supply in the Website of the JPO

(<http://www.jpo.go.jp/index.htm>)

The website of the JPO has been transmitting various information on the patent administration, the IPDL and other industrial property information, and the JPO conducted a comprehensive renewal in February 2003 to respond to increased volume of data and the users' needs and to improve convenience even further.



<Five main categories>

- Overview of Rights
Information on the industrial property system and the history of the system
- Right Obtainment Procedures
Information on the procedures and operations of applications, formality checks, substantive examinations, trials and appeals and registrations
- Introduction to the JPO
Information on the organization and employment of officials at the JPO
- Activities JPO
Information on press release, patent distribution, prompt granting of a right, imitation measures and other industrial property policies, amendments of laws, international activities and cooperation, invitation to a seminar, examination for patent attorney, etc.
- Reference Room
Information on the IPDL, council meeting reports, laws and orders, examination standards, statistical reports, investigation reports, etc.

[Column]

Various support activities by the independent administrative institution, National Center for Industrial Property Information (<http://www.ncipi.go.jp/english/index.html>)

The National Center for Industrial Property Information (NCIPI), an Independent Administrative Institution, was established on April 2001. The center provides comprehensive information on industrial property through a wide range of measures for encouraging patent licensing. These include gathering and reading official gazettes on industrial property; providing consultations on industrial property; gathering and reading the JPO's industrial property reference materials; and utilizing licensable patents.

(1) Gazette Reference

About 150 reference terminals with exclusive lines are installed in the gazette reference room on the 2nd floor in the JPO building, where the IPDL and gazettes in CD-ROM are offered for reference free of charge.

The same terminals are installed in the regional reference rooms in 8 locations (Sapporo, Sendai, Nagoya, Osaka, Hiroshima, Takamatsu, Fukuoka and Naha) and reference and other services are offered. The number of users in FY2002 was about 67,000.

[Gazette reference room]



(2) Examination/Trial Material Supply

The NCIPI collects various technical documents (books, etc.) to be used at examinations and appeal examinations at the JPO and offer them as the materials for examinations and appeal examinations by the JPO.

The collected technical documents are also offered for reference by the general public.

[Technical documents]



(3) Industrial Property Consultation

A consultation corner is always available on the 2nd floor of the JPO building for general consultation on the application procedure for acquisition of industrial property and other issues concerning industrial property. In addition to the consultation booths, consultations are welcome through telephone, e-mail and correspondence. The number of consultation in FY2002 was about 43,000 including phone calls, e-mail and correspondence.

[Consultation booth]



(4) Patent Licensing Promotion

The NCIPI promotes establishment of patent licensing and technology transfer market in order to invigorate creation of new businesses and development of new product at small and medium enterprises and venture companies by enabling smooth transfer of patents with intention to licensable patents between enterprises and between universities/public research institutes and enterprises.

(i) Promotion of Patent Licensing by Exploiting Human Resources

a. Patent licensing advisors

The NCIP dispatches upon request from prefectures, etc. patent licensing advisors who are specialists with abundant knowledge and experience in intellectual property and technology transfer with the objectives to search and match the licensable patents owned by enterprises, universities, public research institutes, etc. and the needs for technology transfer at small and medium enterprises and venture companies (109 advisors as of July 2003).

Stage 1 Propagation (popularization)

The key point is how to win trust from as many enterprises as possible

- Visit companies (explain patent licensing promotion activities)
- Propagate and popularize knowledge on patents (various consultations)
- Renovate awareness on exploitation of patents (indication of successful examples, etc.)



Stage 2 Collection of needs seeds

The key point is precise evaluation of the business content of the companies and the technology in their possession

- Visit companies (understand business content and technologies in possession)
- Collect technology introduction needs and suppliable technical seeds from the companies
- Investigate the technical seeds that match the needs from patent information
- Exchange information with other advisors or agencies



Stage 3 Specific proposals

The key point is finding optimal counterpart and match them

- Visit both places of the needs and the seeds
- Give advice to preparation of business plans
- Give advice for product development, etc.
- Introduce various support activities (commercialization support measure, etc.)

Stage 4 Support for success

The key points are negotiation capability, knowledge on contracts and after-care (management support)

- Give advice on contracts
- Support fund procurement and research and development in collaboration with other agencies



b. Patent licensing seminar

The NCIP holds seminars introducing successful examples of patent licensing with the objective to enhance awareness on patent licensing.

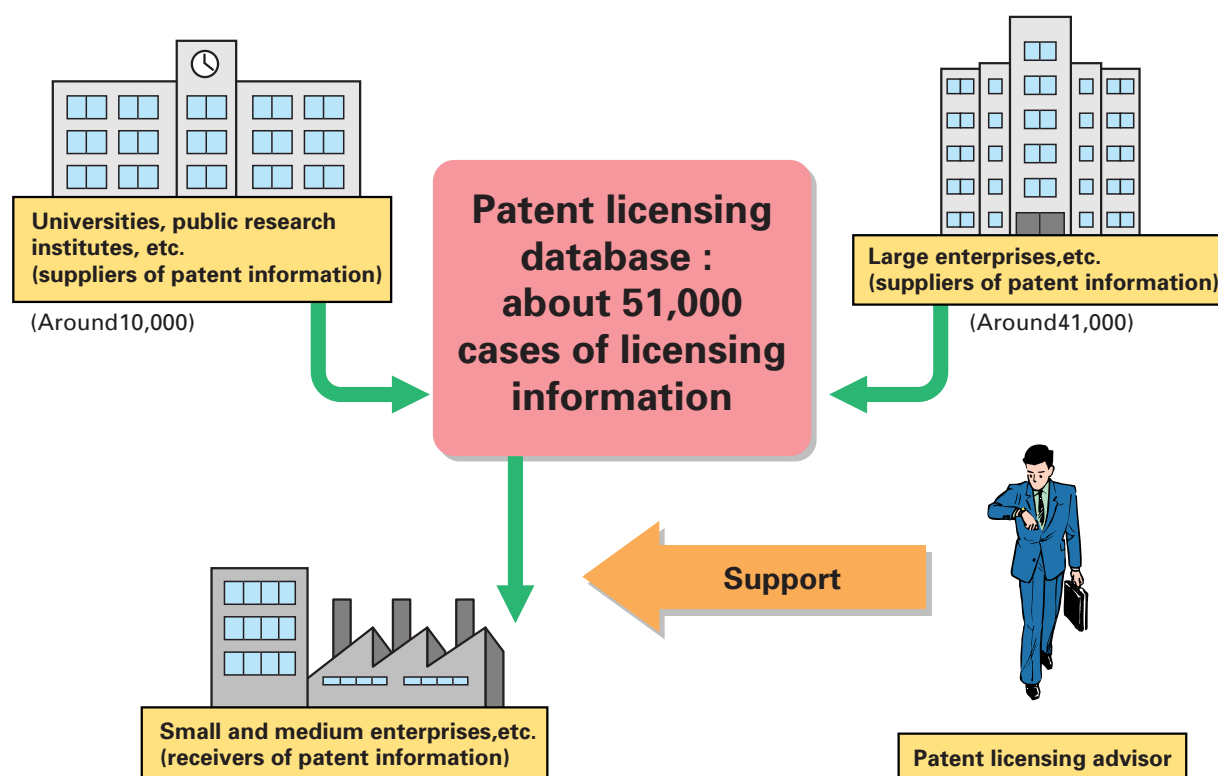
(ii) Licensable Patent Information Supply

a. Patent licensing database

The patents which enterprises, universities, public research institutes, etc. own and for which they have the intention to offer are collected in the database to promote smooth licensing and commercialization of the licensable patents to the industry and enterprises in the region, and are publicly released through the Internet. It is an open system where users can make data registration with the "licensing information (including transfer)" and "needs information (introduction intention information)", and users can see the company information by linking to the IPDL or companies' websites.

The number of registration for the "licensing information" to the patent licensing database has increased since its start in 1997 and it is around 51,000 as of July 2003.

[Roles of Patent Licensing Database]



b. Examples of licensable patent utilization

The NCIP selected the patents with high feasibility for commercialization among the license patents registered in the patent licensing database, and prepared the collection of licensable patent utilization examples as an aid for business ideas with the aim for effective utilization of those patents (213 cases were carried in FY2002 version). It is structured with 1) outline of licensable patent rights, 2) suggestions for new business or new product exploiting the licensable patent, 3) information for commercialization and 4) support for utilization of licensable patents for each case.

c. Chart for supporting patent licensing

The NCIP prepared the "Chart for supporting patent licensing" that is a technical explanation from the patent information (patent map) for reference at technology transfer from different business fields by the small and medium enterprises (21 themes were selected in the FY2002 version).

The Chart for supporting patent licensing analyzes the patent information in the past 10 years for each technical theme and explains the maturity of the technology, trend for solution of technical development problems, etc. in an easy to understand manner, and it is useful at decision of the direction of research and development and review on advance into a different field or development of new business as well as search for technical seeds and patent owner companies for the subject technical field.

d. IPDL search advisor

The NCIPI dispatches specialists on patent information and patent information search as the IPDL search advisors to all prefectures in Japan (54 advisors as of July 2003). They offer free advice on the fundamental knowledge required in search for patent information at IPDL and patent information exploitation methods, and answer questions and give advice concerning search of patent information. They also visit for consultation and give lectures when so requested.

(iii) Education of Human Resources for Patent Licensing

a. International patent licensing seminar

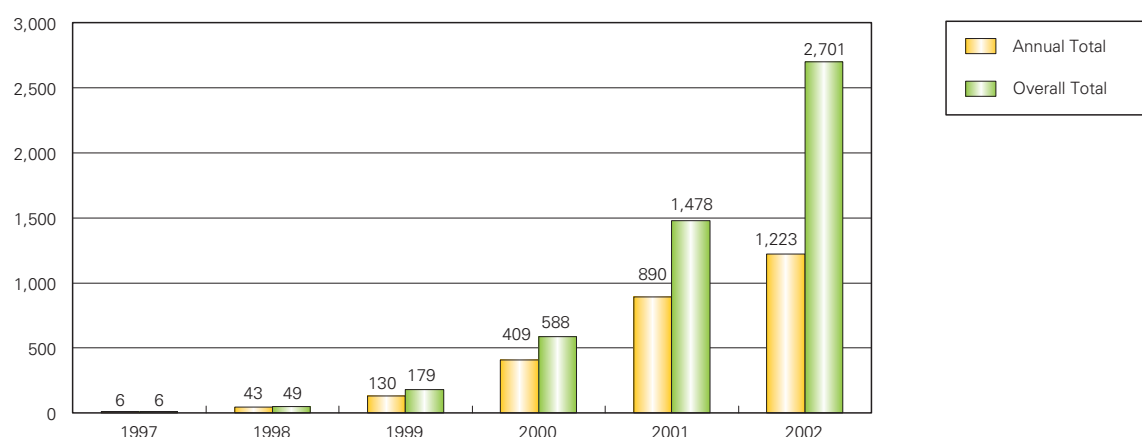
The NCIPI invites specialists engaged in patent licensing and technology transfer in foreign universities, enterprises, local governments, etc. to enhance the business skills of those engaged in intellectual property transaction and structure human network in Japan and hold joint discussions and workshops with those who are active in the front line in Japan.

b. Education for Intellectual property transaction specialists

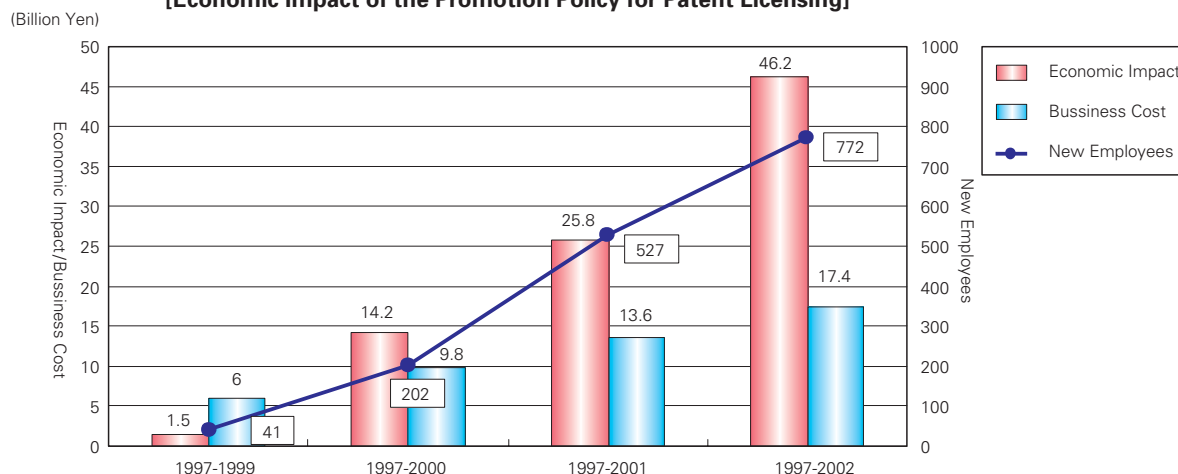
The NCIPI offers fundamental education, practical business education and specialist education with the objective of nurturing the human resources who will be engaged in intellectual property transactions to fill the inadequacy of specialists in Japan.

As a results of such comprehensive patent licensing promotion activities, the number of successful transactions aided by patent licensing advisors was 2,701 by FY2002, and the economic impact has reached a cumulative total of 46.2 billion yen

[Contracts Concluded under the Promotion Policy for Patent Licensing]



[Economic Impact of the Promotion Policy for Patent Licensing]



Chapter 4

Development of Awareness of Intellectual Property and Education of Experts

It is important to educate and secure necessary human resources in order to realize the intellectual property based nation, and it is essential for the entire nation to raise the awareness of protection and exploitation of intellectual property.

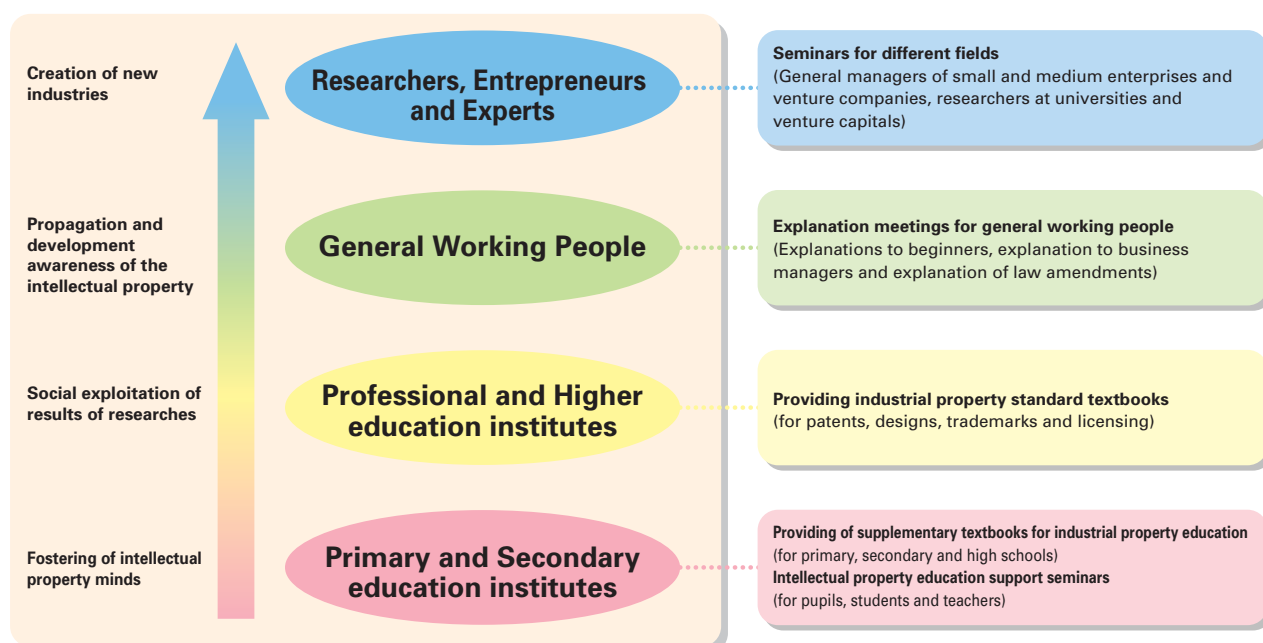
It is necessary to establish the environment for raising awareness and cultivate knowledge on the intellectual property system in the entire nation through fostering intellectual property minds since early childhood, cultivating human resources equipped with abundant knowledge on intellectual property at universities, etc. promoting understanding and interests in intellectual property in the researchers at universities, small and medium enterprises and venture companies.

1. Development of Awareness

(1) Past Efforts

The JPO has held "intellectual property system explanation meetings" for the general working people and "intellectual property system seminars" for different fields countrywide since FY1998 as part of the efforts to propagate and develop awareness of intellectual property system.

The JPO has also provided the industrial property standard textbooks for professional and higher education institutes with the objective to have the students master knowledge and fundamental business practice on intellectual property as a means to educate human resources with practical knowledge on intellectual property system since FY1998, and held seminars for teachers to explain how to utilize the standard textbooks and other teaching materials and other seminars for students using the industrial property standard textbooks countrywide. The JPO provides industrial property education supplementary textbooks suitable for each age group in the primary and secondary education stages through school education institutes in order to raise awareness on protection of and respect for intellectual property, and holds intellectual property education support seminars for school teachers countrywide as efforts to propagate the intellectual property system and raise awareness of intellectual property.



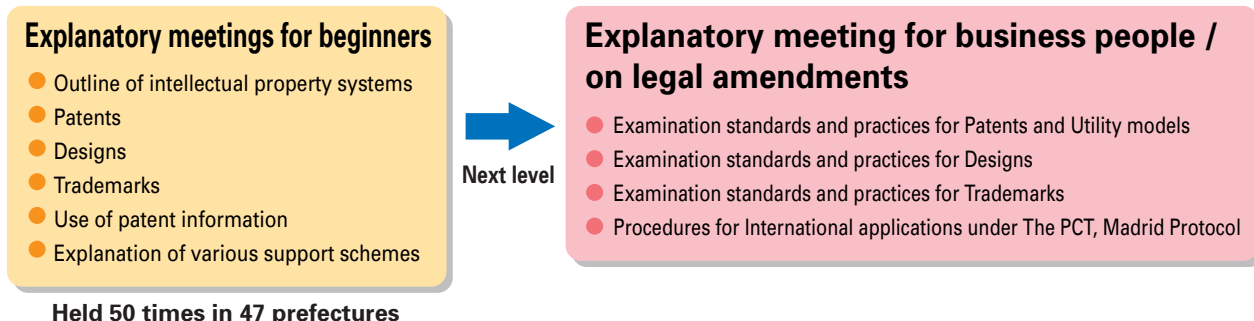
(2) Various Support Activities for the General Working People

The JPO holds explanation meetings on the system and the latest development of the law amendments, etc. to various levels of attendance (beginners and professionals) in order to deepen understanding and recognition of the significance of the intellectual property system in Japan. The JPO also holds "seminars for researchers at universities and public research institutes" to explain the method to acquire rights and their management and exploitation to researchers at universities, etc., the "seminars for small and medium enterprises and venture companies" to explain the strategic exploitation of intellectual property and licensing contracts of technology transfer, etc. for the general managers and managers in charge of research and development at small and medium enterprises and venture companies, and the "experts education seminars" for management and technical consultants and the general managers of companies that deal intellectual property acquisition business.

(i) Explanation Meetings for Intellectual Property System for the General Working People

The JPO holds explanation meetings for the system and the latest development of law amendments, etc. at various levels of attendees (beginners and professionals) countrywide to raise the awareness on intellectual property in Japan. Specifically, the JPO conducts the "explanation meetings for beginners" for those who wish to learn industrial property for the first time and those who have been appointed to the intellectual property department in the enterprises to master the fundamental knowledge of the intellectual property system (50 meetings in FY2002 in all 47 prefectures with the attendance of around 6,700), the "explanation meetings for professionals" for those who are engaged in the intellectual property business to master the patent examination standards, international application procedures and other necessary knowledge in their daily business (held in 12 cities in FY2002 with the attendance of about 11,400) and the "explanation meetings for law amendment" to explain the latest system and law amendments (held in 12 cities in FY2002 with the attendance of about 3,800).

[Explanatory Meeting on Intellectual Property Systems]

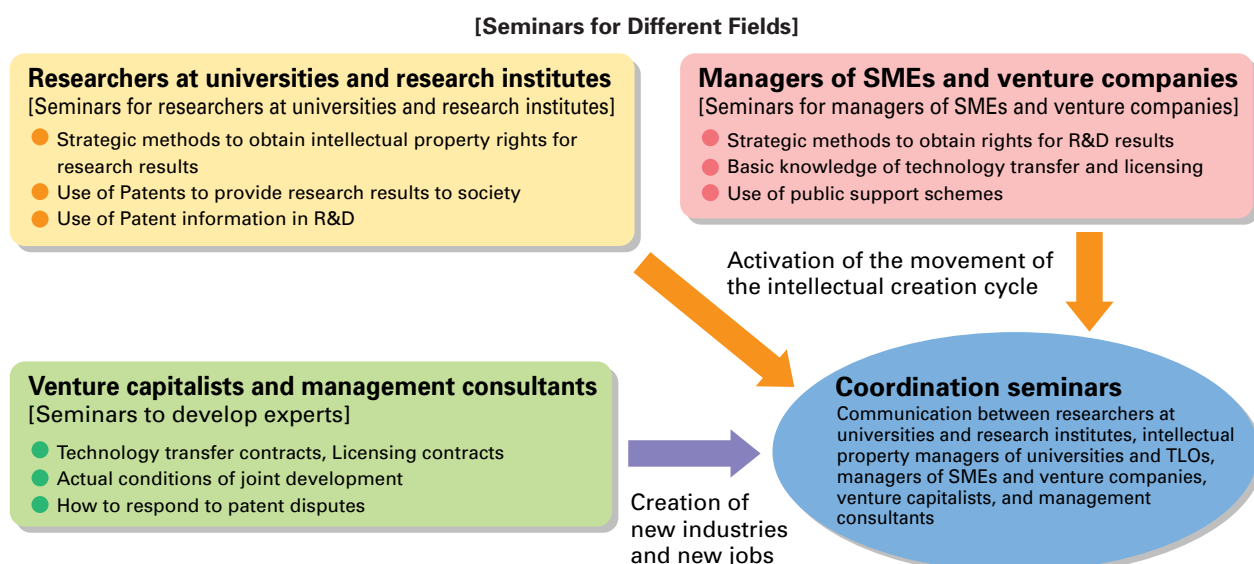


(ii) Seminars for Different Fields

The JPO holds seminars of different contents to suit each different fields for researchers at universities, etc., general managers of small and medium enterprises and venture companies, business and technical consultants, etc.

- The JPO holds the "seminars for researchers at universities and public institutes" to explain the method to describe the research results as specifications for patent applications, significance of making the research results available to the society through acquisition of rights and exploitation of the rights to researchers at universities and public institutes with the objective to promote patent acquisition of research results.
- The JPO holds the "seminars for small and medium enterprises and venture companies" to explain the examples of intellectual property exploitation with actual products, strategic exploitation methods of industrial property information, etc. to promote strategic acquisition and exploitation of intellectual property that will play an important role in creation of new businesses.

- The JPO holds the "seminars for professionals" with the objectives to educate and enhance capabilities of intellectual property specialists (venture capital, management and technical consultants, small and medium enterprise assessors, etc.) who advise the intellectual property evaluation methods, patent dispute settlement methods, licensing and technical transfer procedures and other strategic exploitation methods of intellectual property, etc. to small and medium enterprises and venture companies.
- The JPO holds the "liaison seminars" with the objective to offer opportunities for the attendance of the seminars to tie up and contribute to development of economy in the regions.



(3) Various Support Activities for Educational Institutes

It is necessary to raise awareness for protection and respect of intellectual property at an early stage of primary schools and provide intellectual property education at different age levels in order to establish the intellectual property based nation. The JPO has offered the industrial property standard textbooks with the objective to provide correct knowledge on intellectual property and mastery of fundamental business practice to the higher and technical education institutes since FY1998 and held seminars for teachers to explain how to use the standard textbooks and other teaching materials and seminars for students using the industrial property standard textbooks countrywide. The JPO also provides the supplementary textbooks for industrial property education at different age levels in the primary and secondary education stage and holds intellectual property education support seminars for teachers as part of the efforts to propagate and anchor down intellectual property education.

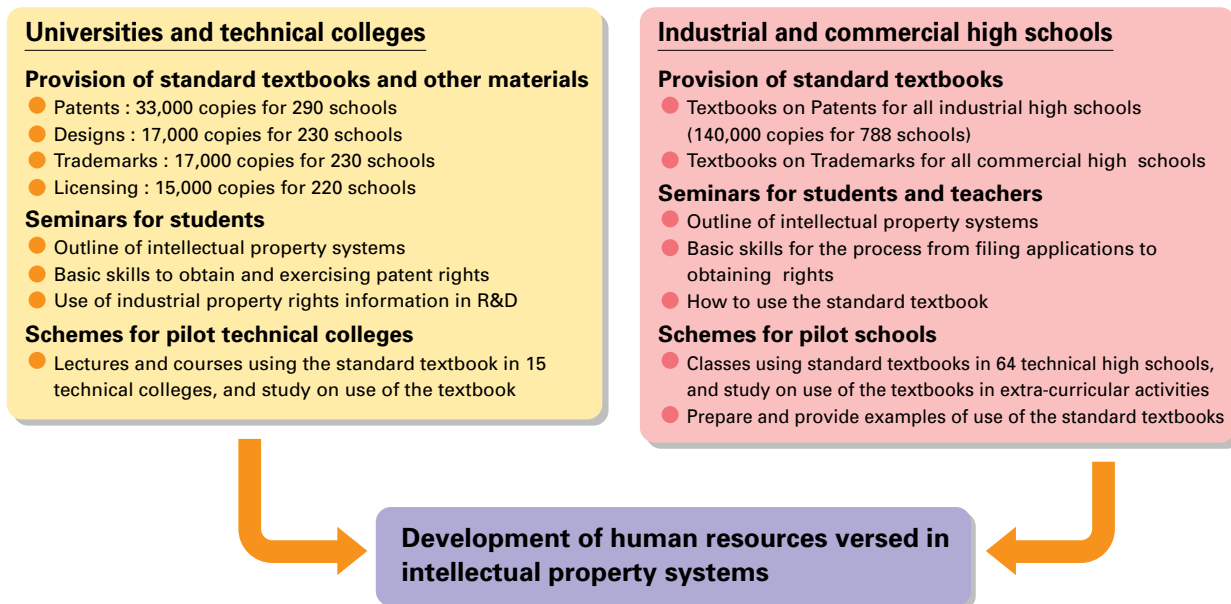
(i) Support Activities for Professional and Higher Education Institutes

The JPO has created and offered standard textbooks that introduce the "Patents and Utility models", "Designs", "Trademarks" and "technology transfer (patent distribution)" to the professional and higher education institutes with the objective to have the students learn the fundamental knowledge and master the business practice of industrial property.

The JPO has developed support activities to promote fundamental understanding and correct exploitations of rights of industrial property to teachers to help them give replete lessons promptly without confusion because the "basic industrial skills" newly established by the revised course of study in FY2003 will cover industrial property.

The JPO also offers standard textbooks and teaching materials for seminars for different fields and introduce/dispatch instructors when it is necessary as the number of courses on intellectual property is increasing at universities and technical colleges.

[Support for Professional and Higher Educational Institutions]



a. Free industrial property and textbooks of standard textbooks for seminars for different fields

The JPO has prepared and provides free of charge four types of standard industrial property textbooks that describe the fundamental knowledge on the intellectual property system concerning protections of the results of intellectual creations, fundamental procedures for application filing, etc. and other applicable knowledge necessary to exploit the acquired rights in the industry.

b. Schemes for pilot schools and technical colleges

The course of study from FY2003 adds the "basic industrial skills" at industrial high schools, and it stipulates to "cover the industrial property briefly".

The JPO has therefore conducted industrial property education at the school education premises with cooperation of technical high schools, etc. since FY2000 and collected the data on the results. The JPO compiled the collected results as the "case examples", distributed them to industrial high schools nationwide and provided support to desirable education for industrial property. The JPO commissioned research to 64 industrial high schools, 15 national technical colleges and 7 commercial high schools as experiment cooperation schools.

c. Intellectual property seminars for students and intellectual property education support seminars for teachers

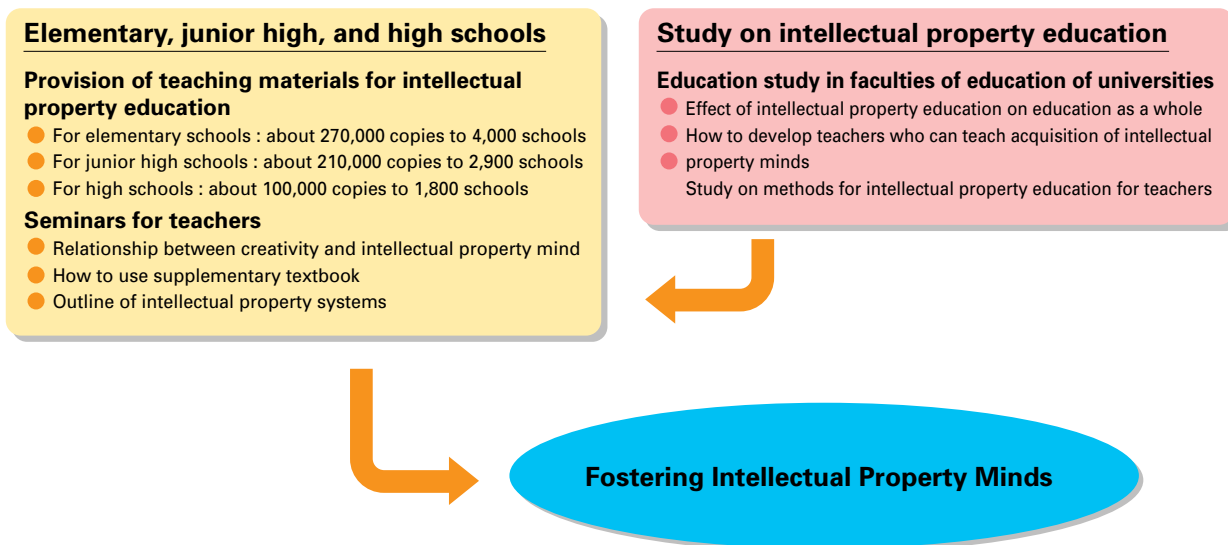
The JPO has conducted seminars using the standard textbooks to have the students master the fundamental business capabilities in the intellectual property system 127 times countrywide. The JPO has also held seminars for teachers who will be required to teach the overall information on intellectual property 35 times countrywide.

(ii) Support Activities for Primary and Secondary Educational Institutes

The JPO is providing supplementary textbooks prepared for each level of age groups from early childhood through various educational institutes to foster intellectual property minds. The study on the intellectual property education from all aspects was conducted in faculties of education of universities, and the effect of intellectual property education, handling of intellectual property and method to raise awareness of the teachers at school education premises, was reviewed on. The JPO plans to reflect the reports toward propagation of intellectual property education.

The JPO also holds events on inventions, etc. in which schoolchildren can participate, distributes teaching materials to public libraries and science museums and takes other thoroughgoing measures.

[Support for Elementary and Secondary Educational Institutes]



a. Free provision of teaching materials for intellectual property education for primary and secondary schools

The JPO has prepared various teaching materials for intellectual property for different age levels free of charge, provides them to primary schools, junior high schools and high schools and provides other necessary support for intellectual property education.

b. Seminars for intellectual property awareness for schoolchildren and seminars for intellectual property education support for teachers

The JPO has held 56 seminars (classroom visits) for schoolchildren using the teaching materials for intellectual property education in order to raise the interest of schoolchildren in inventions and contrivance and foster respect for creative ideas. The JPO has also held 12 seminars for teachers to provide the overall knowledge on intellectual property and instruct how to use the teaching materials necessary in intellectual property education.

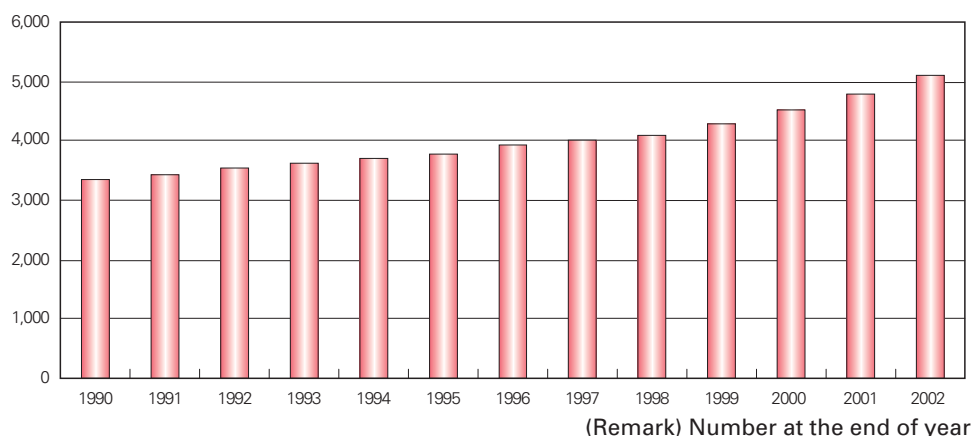
2. Education of Intellectual Property Specialists

(1) The Foundation for Human Resources

It is important to improve the quality and quantity of intellectual property dedicated services that support commercialization and transactions of intellectual property as well as settlement of disputes in order to establish the intellectual property based nation. For this end, the JPO made complete amendment of the Patent Attorney Law ("Benrishi-ho") in 2002 and partial amendment of the Patent Attorney Law in 2002 with the objective to further educate and exploit patent attorneys ("Benrishi") who have professional knowledge on intellectual property as the mainstay in establishment of the intellectual property based nation. The amended law stipulates to significantly extend the range of activities of patent attorneys ("Benrishi") to 1) conduct dispute arbitrations outside the court (ADR), 2) clearly define the agency and representation duties for intellectual property transaction contracts, and 3) be granted procedural representations at specified infringement suits¹⁶ (limited to cases the attorney is appointed by the same client), and the attorney examination system was amended as part of the efforts to enlarge the number of attorneys and enhance their quality.

¹⁶Infringement suits concerning the Patents, Utility models, Designs, Trademarks or rights on semiconductor circuit configurations or the business profit by specified unfair competition

[Changes in Number of Patent Attorneys]



[Number of Patent Attorneys ("Benrishi") and Other Intellectual Property Specialists in Japan and the United States]

Japan		United States	
Patent Attorneys ("Benrishi")	5,240	Patent Agents	6,903
Attorneys at law specialized in intellectual property (Attorneys at law who have registered as patent attorneys ("Benrishi"))	315	Patent Attorneys	21,855

(Remark) Japan : As of November 11, 2003, US : As of November 12, 2003

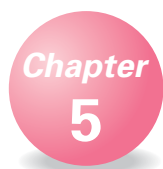
Patent agents : Qualified personnel who passed the examination conducted by the USPTO (granted to act as an agent for patent filing procedures to the USPTO).

Patent attorneys : Patent agents who have also acquired the qualification of attorney at law at each state (granted to represent the procedure for both patents and trademarks by the USPTO and conduct procedural representations. The qualification of the attorney at law alone allows only the procedural representation for trademarks at the USPTO).

(2) Execution of the Patent Attorney Law ("Benrishi-ho") amended in 2002

The law that partially amends the Patent Attorney Law ("Benrishi-ho") was enacted on January 1, 2003 to grant the patent attorneys ("Benrishi") to conduct procedural representation at specified infringement suits. The training course consisting of seminars and practice was given for a total of 45 hours mostly on the practical aspects of civil suits from May to September 2003 by the Japan Patent Attorney Association, and 850 patent attorneys ("Benrishi") participated in the course.

The patent attorneys ("Benrishi") who have completed the above training can act as the procedural representatives for the limited cases the attorney is appointed by the same client after they have passed the examination for procedural representation for specified infringement suits (that covers the laws, orders and actual practice concerning the Civil Law, Civil Prosecution Law and other laws and orders concerning specified infringement suits) and the successful result is certified in the registration for the patent attorney ("Benrishi").



International Trend and Issues on Intellectual Property System

1. International Trend and Issues on Industrial Property System

(1) International Trend and Issues on the Patent System

As globalization of economy proceeds, the needs for acquisition of patents overseas are increasing, and there is a rapid increase in applications for the same patent in many countries. Under these circumstances, several issues have emerged, including 1) complicated procedures due to differences in the procedures and the patent requirements in different countries, 2) increase of the work load for the patent offices due to duplicate prior art searches and examinations, and 3) increase of the cost by paying the fees for all countries.

It is necessary to proceed with international harmonization in the patent systems of different countries to achieve timely and high quality granting of rights at all countries concerned in order to solve those problems. As part of such efforts at the WIPO discussions are being made on the draft provisions of the Substantive Patent Law Treaty (SPLT) to aim for the harmonization of the substantive aspect of the patent system. Since it is likely to take time before establishment of the Treaty, it is necessary to simultaneously proceed with the mutual exploitation of the results of prior art searches and examinations under the current patent systems. To enable more effective exploitation of the existing framework, the PCT system, it is also necessary to continue to reform the PCT system to meet the needs of the applicants.

(i) Substantive harmonization of patent systems

The discussion on international harmonization of the substantive aspect of patent laws at the World Intellectual Property Organization (WIPO) had been suspended since January 1994 due to the insistence of first-to-invent system of the United States. But at the opportunity of adoption of the Patent Law Treaty (PLT) to conform the formality requirements of the patent laws in July 2000, it was agreed to resume the discussions on the substantive harmonization of the patent laws at the 4th Session of the Standing Committee for Patent (SCP) of the WIPO in November 2000.

It has been agreed to set the targets and subjects to be as described below for the new substantive harmonization.

- To aim for reduction of application cost and enhancement of predictability of patent acquisition in the viewpoint of the applicant who requests patent protection in the international scale.
- To aim to enable work sharing through mutual exploitation of the prior art searches and examination results in view of reduction of workload of patent offices who have difficulty with the increase of international applications.
- To review with focus on several requirements necessary for decision to grant a patent (narrow harmonization) and to pursue provisions of details of the operational level items (deep harmonization).
- To stipulate provisions with no exceptions for particular countries considering the failed WIPO Patent Law Harmonization Treaty that had many exceptional provisions.

Japan has been vigorously taking part in the discussion on substantive harmonization in order to proceed with the above-mentioned aims in a global scale.

The SCP had held five meetings before the 9th convention in May 2003, and discussed the details of each provision in the Substantive Patent Law Treaty (SPLT) draft. The major review items included the unity of invention standard, limitation on the number of claims, clear and simple claim requirements and special procedure to handle complicated applications.

The some developing countries have insisted on stipulating provisions concerning public health, genetic resources, etc., and the specific provision proposals were contained in the treaty draft in response.

(ii) Promotion of Mutual Exploitation of Prior Search Results and Examination Results

The JPO has long been taking initiative in promotion of mutual exploitation of the results of prior art searches and the results of examinations of each country and of international harmonization of the systems and examination standards at meetings of the WIPO, the Trilateral Corporation, etc. since it is effective to reduce duplication of prior art search work and examinations existing among the patent offices of different countries in order to respond to the needs for patent acquisition at more than one country.

The JPO has offered the opportunities for exchange among the examiners of European Patent Office (EPO) and patent offices of the UK, Germany, Sweden, Korea, etc. because it is necessary to create mutual trust among the examiners of each country and deepen mutual understanding of the practice at each country in order to bring harmonization in the law systems and operations of each country, and to promote exploitation of the results of prior art searches and examinations, and the Trilateral Patent Offices have conducted joint prior art searches and other confirmation works for the differences and similarity of practice for prior art searches and examinations.

Based on those activities, the JPO and the USPTO reached agreement on June 2002 on launching a joint pilot project based on the common recognition that the mutual exploitation of the results of prior art searches and examinations was an effective measure to handle ever-increasing work load and reduce duplicate work.

In this joint scheme, both offices agreed to launch a short-term project for exploitation of the results of prior art searches the other has conducted and a review project for mutual exploitation of the examination results the other has conducted, and decided to review the effective method for mutual exploitation of the examination results. In accordance with this review project that started up in 2003, both offices plan to determine the future plan after 2004 by the end of 2003 at the latest.

(iii) Modified Substantive Examination

It is another effective method to utilize the modified substantive examination (MSE)¹⁷ to reduce the load of the applicants while maintaining the legal system of each country. For developing countries, since most of the patent applications come from developed countries, and in the Asian countries, in particular, most of applications for patents are based in Japan, it is important that the examination results for patent applications in Japan are appropriately provided to the patent offices in the Asian countries and accelerate the granting of rights at those patent offices through effective utilization of such examination results as an effective means to reduce the work load of the examiners that is causing the problem of delays in examinations.

The JPO has been designated as the specified patent office in the countries with the modified substantive examination system (Singapore and Malaysia) and submitted the results of examinations for patent applications in Japan to the patent office of the above countries with the modified substantive examination system in order to enable acquisition of patents in the subject countries without examinations as a general rule. As a result, for Singapore, establishment of the JPO as the specified patent office was included in the Japan Singapore Economic Partnership Agreement (JSEPA). The Singaporean Patent Law Execution Rules were amended accordingly, and the JPO was designated as the specified patent office as of August 15, 2002. For Malaysia, the JPO was designated as the specified patent office in July 2002 (for Croatia, the JPO had already been designated as the specified patent office in June 2001).

(2) International Trend and Issues on the Trademark System

Protocol Relating to the Madrid Agreement concerning the International Registration of Marks

(i) General

Protocol Relating to the Madrid Agreement concerning the International Registration of Marks (hereinafter referred to as the "Protocol") is an international agreement to request protection of marks by making

¹⁷A modified substantive examination is the system in which when an application for a corresponding patent is filed at the patent office of the subject nation and a patent office in the nation designated by the subject nation in advance, and when the applicant submits the information concerning the result of the examination for the subject corresponding patent in the specified patent office in accordance with a prescribed procedure, the patent office of the subject nation accepts the examination result of the designated patent office as a basic rule and grants a patent in the subject nation.

the international registration of the marks in the designated Contracting Parties among the Contracting Parties under the Protocol (hereinafter referred to as the "Contracting Parties").

The Protocol was adopted in June 1989 with the objective to establish a system to which more Contracting Parties including those conducting examinations may participate than those in the Madrid Agreement concerning the International Registration of Marks, an international treaty on international registration of marks enacted in April 1891. The Protocol became effective in December 1995 and the system operations started in April 1996. Japan deposited the instrument of accession to the Director General of the WIPO in December 1999, and it became effective on March 14, 2000. The Trademark Law was amended to enable an applicant to pay the individual fee in two installments with the revision of the Common Regulations under the Madrid Agreement and the Madrid Protocol in 2002, which was put into force in January 2003.

(ii) International Trademark Application Trends

a. Applications for international registration (filed from Japan to overseas)

The number of applications slightly decreased in 2002 compared to the preceding year, but it is on the increase in 2003 since Korea has joined in the Protocol. The number of designated Contracting Parties is also on the increase.

[Number of Applications for International Registration per Month]

Number of applications per month	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Total
Number of applications in 2003	16	33	28	38	38	48							201
Number of designated Contracting Parties	147	362	316	347	469	283							1,924
Number of applications in 2002	14	17	17	15	18	32	18	20	24	14	19	29	237
Number of designated Contracting Parties	122	268	198	90	172	207	174	194	195	87	304	366	2,377
Number of applications in 2001	15	24	23	16	27	25	35	30	14	21	22	28	280
Number of designated Contracting Parties	175	348	359	200	253	239	295	382	207	360	279	162	3,259
Number of applications in 2000	-	-	12	14	14	27	19	16	19	21	23	22	187
Number of designated Contracting Parties	-	-	122	95	73	277	118	177	217	206	176	373	1,834

b. Applications for international trademark registration (filed from overseas to Japan)

The number of applications has been leveled out up to 2002, and the monthly average for 2003 is around 415. The major Contracting Parties that designate Japan are Germany, France, Switzerland and Italy, which remains the same from the preceding year.

[Applications for International Trademark Registration per Month]

Number of applications per month	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Total
2003	367	424	454	428	477	342							2,492
2002	421	439	431	393	487	402	410	442	419	540	442	443	5,269
2001	287	458	597	465	469	352	547	696	388	375	568	506	5,708
2000	-	-	0	62	127	280	210	364	357	363	384	428	2,575

(3) Trilateral Cooperation

(i) Patents

The Trilateral Patent Offices among Japan, European Union and the United States that occupy over 80% of the PCT application receipts conduct cooperative activities to solve the common issues. These activities started in 1983, and the year 2003 celebrated the 21st anniversary.

The Trilateral Meeting was held in Tokyo, Japan from November 3 to 7, 2003 and following issues were discussed.

a. Promotion of the project for mutual exploitation of the search results

The Trilateral Patent Offices have conducted a pilot project for mutual exploitation of the prior art searches that had been conducted individually in the preliminary stage of examinations at each Patent Office, and as The Trilateral Patent Offices have recently confirmed the effect of alleviation of the load of examinations, The

Trilateral Patent Offices have reached an agreement to start more detailed deliberation on full-fledged operation of mutual exploitation. It was agreed to organize a management committee to enable effective exchange of the search results through a network and to cooperate in the development of an information system.

b. Cooperation in the development of automatic translation system

It was agreed that the JPO will develop in cooperation with the EPO and the USPTO and offer a Japanese-English automatic translation system available for the examiners in The Trilateral Patent Offices exploiting the JPO/IPDL translation server in two stages: 1st stage until March 2004 (including Japanese-English automatic translation service for arbitrary texts and website) and the 2nd stage (including automatic translation system to serve for the above mentioned exchange for search results, etc.).

c. Cooperation for international propagation of electronic applications

It was agreed that The Trilateral Patent Offices will join efforts on development and propagation of the information system that will enable applicants throughout the world to file electronic applications to all Patent Offices in the world with the same software.

d. Harmonization of examination systems

It was agreed to further discuss the international harmonization of the systems for examinations on novelty and inventive steps in the framework of The Trilateral Patent Offices and take leadership in the multilateral treaty negotiations at the WIPO.

e. Patent information propagation policy

It was agreed that upon comparison of the patent information propagation policies of the three Offices that there are many common concepts and few differences in the policies. It was agreed to continue close information exchange on the information propagation policies of the three Offices, and the JPO and the EPO, in particular, will continue cooperation in patent information propagation efforts at each Office.

f. Harmonization of classification

The Trilateral Patent Offices recognized the importance of the IPC reform again and confirmed the contributions of each Office. The Trilateral Patent Offices also confirmed the status of the category harmonization project that has already been executed in 29 fields, and recognized the importance of the said project again. The Trilateral Patent Offices also confirmed that friendly exchange among the examiners is effective and important in promotion of the harmonization of classification.

g. Trilateral statistical report

The publication of the Trilateral Statistical Report for 2002 was reported.

(ii) Trademarks

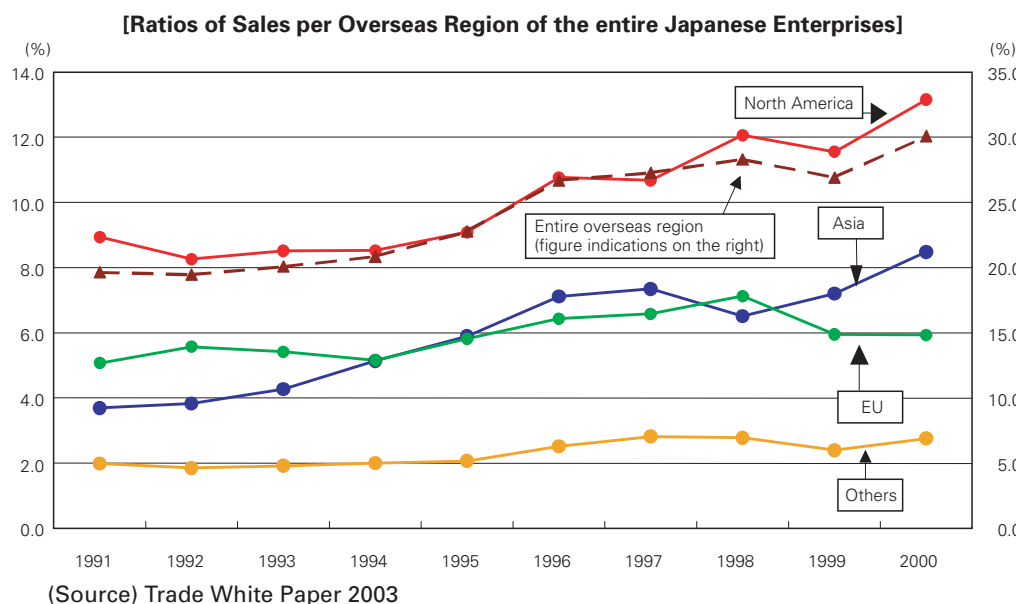
Aiming for mutual cooperation among Trilateral Offices (JPO, USPTO and OHIM) toward harmonization of systems for the registration and protection of trademarks, the first Trademark Trilateral Cooperation Meeting was held in May 2001 in Arlington, USA, and the third meeting was held in May 2003 in Tokyo, Japan.

The major topics at the third meeting concerned the three projects that had been agreed as issues to be discussed at the second meeting. The Offices agreed: 1) regarding standardization of indications (English) of goods and services, standardization of indications (English) of services in Class 35, Nice Classification and to continue the standardization in other Classes: 2) regarding standardization of application of Vienna Classifications, to monitor technological progress in computer systems in the meantime because standardization of the points of separation the Offices analyzed was a large burden: 3) regarding IT issues, the establishment of a Trademark Trilateral Website, etc.. The Offices exchanged opinions and information on the protection of well-known marks and implementation of the Madrid Protocol in the United States. The fourth meeting will be held in the United States in May 2004.

2. Cooperation with Developing Countries and Measures Against Counterfeits

(1) Cooperation with Asian Countries

As the economy of China and other Asian countries grow and the business activities are increasingly internationalized, the mutual dependency between Japan and the Asian countries is ever more deepening. Comparison of the ratios of sales volume of the Japanese enterprises in the foreign markets shows the increase in the dependency on overseas markets, especially in the Asian region. It is apparent that the Asia is an important region that will bring significant business opportunities for the Japanese enterprises as the production bases and sales markets.



The level of protection of intellectual property in Asian countries, however, is not sufficient compared to the practice in the developed countries. While the obligation for execution of the TRIPS Agreement arose in January 2000 in developing countries and the minimum legal system has been established in the Asian countries, its operation system remains fragile and delay in examinations and flood of counterfeit products are everyday scene in reality. It is anticipated that as the industrial technology develops in China, Korea, etc., the patent infringement cases against the Japanese enterprises will increase. It is essential to improve the level of protection of intellectual property in the Asian countries and reduce the cost incurred in the acquisition and licensing of the rights in order to maintain the economic growth in the Asian region and to thoroughly utilize the commercial opportunities of the Japanese enterprises in Asia.

Therefore, the JPO is promoting vigorous cooperative activities with the intellectual property agencies in the Asian countries. The JPO endeavors to effectively exploit multilateral, bilateral and other various frameworks to request introduction and reinforcement of execution of the system that will improve the level of the protection of intellectual property in the Asian countries, and provides support for education of human resources and development of information technology to assist the establishment of the system required to realize the goal. It is necessary to continue vigorous promotion for reinforcement of cooperation with the intellectual property agencies in the Asian countries since it will contribute to strengthening of the Japanese presence in the multilateral, bilateral and other frameworks.

Japan has been vigorously promoting the economic partnership agreement (EPA) and free trade agreement (FTA) with many Asian countries with the aim to realize economic union in Asia. When these movements progress, it will become necessary not only to improve the level of protection at Asian countries in the field of intellectual property but to conduct cooperative activities to harmonize the system in each country, and the JPO should be the driving force for such activities based on the experience in the Trilateral Cooperation among Japan, Europe and the United States.

(i) Bilateral Framework

a. China

[The Commissioners' Meeting between the JPO and the State Intellectual Property Office of the People's Republic of China (SIPO)]

The 10th Bilateral Meeting was held in November 2003 in Beijing, China, attended by the Commissioner of the JPO Imai and the Commissioner of the SIPO Wang to exchange information and views on national developments in the intellectual property field, bilateral cooperation between the two Offices, patent examinations and measures against counterfeits.

[The Heads' Meeting between the JPO and the Trademark Office State Administration for Industry and Commerce People's Republic of China (CTMO)]

The 5th Meeting was held in Beijing in November 2003 to exchange information and opinions on the latest situation of both countries, protection of well-known marks and human resource development, etc. The Commissioner of the JPO Imai and the Director General of CTMO An attended the meeting.

b. Korea

[The Commissioners' Meeting between the JPO and the Korean Intellectual Property Office (KIPO)]

The 15th Meeting was held in December 2003 in Tokyo, Japan, attended by the Commissioner of the JPO Imai and the Commissioner of the KIPO HA to exchange information and views on national developments in the intellectual property field, personal exchange, measures against counterfeits experts' meeting, cooperation in the field of examination.

c. EPA and FTA

The Agreement between Japan and the Republic of Singapore for a New-Age Economic Partnership (JSEPA), the first FTA for Japan, came into force on November 30, 2002. This Agreement contains a chapter on intellectual property, which provides: 1) applicants who have applied for a patent on the same invention to Japan and Singapore may acquire a patent in Singapore through a simple procedure, and at a reasonable fee, if they submit the information on the patent examination results in Japan, and their English translation to the Intellectual Property Office of Singapore (effective as from August 2002), and 2) the SurfIP, an intellectual property information search portal of the Intellectual Property Office of Singapore and the database of the Intellectual Property Digital Library (IPDL) of the JPO, will be linked.

Japan is currently negotiating to sign an agreement with Mexico, and holding bilateral discussions for an agreement with Korea, Thailand, the Philippines and Malaysia. Japan is also vigorously studying the feasibility of introducing rules that are above the level of the TRIPS Agreement.

(ii) Multilateral Framework

a. Japan-China-Korea

[Trilateral Policy Dialogue Meeting among the Commissioners of the JPO, the KIPO and the SIPO]

The 3rd Meeting was held in November 2003, in Beijing, China, attended by the Commissioner of JPO Imai, the Commissioner of the KIPO Ha and the Commissioner of SIPO Wang to exchange information and views on trilateral cooperation, national developments in the intellectual property field, cooperation with ASEAN and global intellectual property issues.

b. Asia-Pacific Economic Cooperation (APEC) and Intellectual Property Rights Experts Group (IPEG) [APEC and IPEG]

APEC, which consists of 21 member economies (countries and areas) in the Asia-Pacific region, is a regional forum aiming for liberalization and facilitation of trade and investment as well as economic and technical cooperation. At the APEC Economic Leaders' Meeting in Osaka in 1995, intellectual property was adopted as one of the 15 priority areas concerning liberalization and facilitation of trade and investment, and IPEG was established as an expert forum specializing in this area.

[Contribution by Japan]

Since the establishment of IPEG, Japan had served as the chair for 3 terms, or 6 consecutive years and lead the activities of IPEG. The post of IPEG chair was taken over by Chinese Taipei in March 2002, but Japan will continue to support the new chair. At the same time, we will continue to take an active part in and provide the driving force for some Collective Action Plans (CAPs).

In 2001, Japan proposed the Illustrative Practices of Enforcement of Industrial Property Rights, which can be used as a reference for APEC member economies in their practices on IPR enforcement. The IPEG member economies agreed on the document on the above Illustrative Practices which was prepared in 2003 reflecting the opinions of member economies.

In 2002, Japan also proposed the establishment of IPR Service Center for the purpose of providing right holders/users with information on IPR enforcement in consideration to the demands of industrial circles for tougher enforcement measures. In 2003, at the Meeting of APEC Ministers Responsible for Trade, the ministers endorsed the establishment of IPR Service Center in each of the APEC member economies.

(2) Cooperation with Developing Countries

Improvement of trade and investment environment in developing countries through reinforcement of protection of intellectual property will not only reduce the business cost for the Japanese enterprises engaged in business in those countries but contribute to continuous growth of the world economy through development of developing countries themselves by increase of direct investment as well. Therefore, the JPO has provided vigorous support for education of human resources and information technology to reinforce protection of intellectual property in developing countries mostly in Asia.

Since the obligation for execution of the TRIPS Agreement became effective for developing countries in January 2000 and the legal system in the developing countries seems to have been nearly established, it is important to provide support mainly on the enforcement of the operation system in the future. As the level of protection of intellectual property and the conditions of trade and investment by Japan are significantly different for each developing country, it is essential to thoroughly review the priority level for the target countries, fields, etc. with due consideration to the needs of the Japanese industry and draw detailed plans that meet the conditions of each country.

(i) Cooperation in Education of Human Resources

a. Holding forums, symposiums, etc.

The achievements in holding major meetings managed by the WIPO Funds-in-Trust/Japan¹⁸ are as follows.

[WIPO Asia-Pacific Regional Policy Forum]

The JPO is conducting dialogs on policies between the chiefs of intellectual property offices in the Asia-Pacific Region. The forum in 2002 was held in Manila (Philippines) to discuss the theme of "The Role of Intellectual Property Offices for Economic and Technological Development" attended by 21 countries.

[WIPO Asia Regional Workshop]

The Workshop meeting was held in Thailand in February 2003 to discuss the theme of "Enforcement of Intellectual Property Rights (IPRs)". Another meeting was held in Indonesia in October 2003 with the theme for "Madrid and Hague System of the Benefits for Developing Countries".

[WIPO Asian Regional Symposium]

The Symposium was held in Sri Lanka in January 2003 to discuss the theme of "The Promotion of Intellectual Property Awareness through Public Outreach". Another symposium was held in India in November 2003 with the theme of "protection of geographical indications".

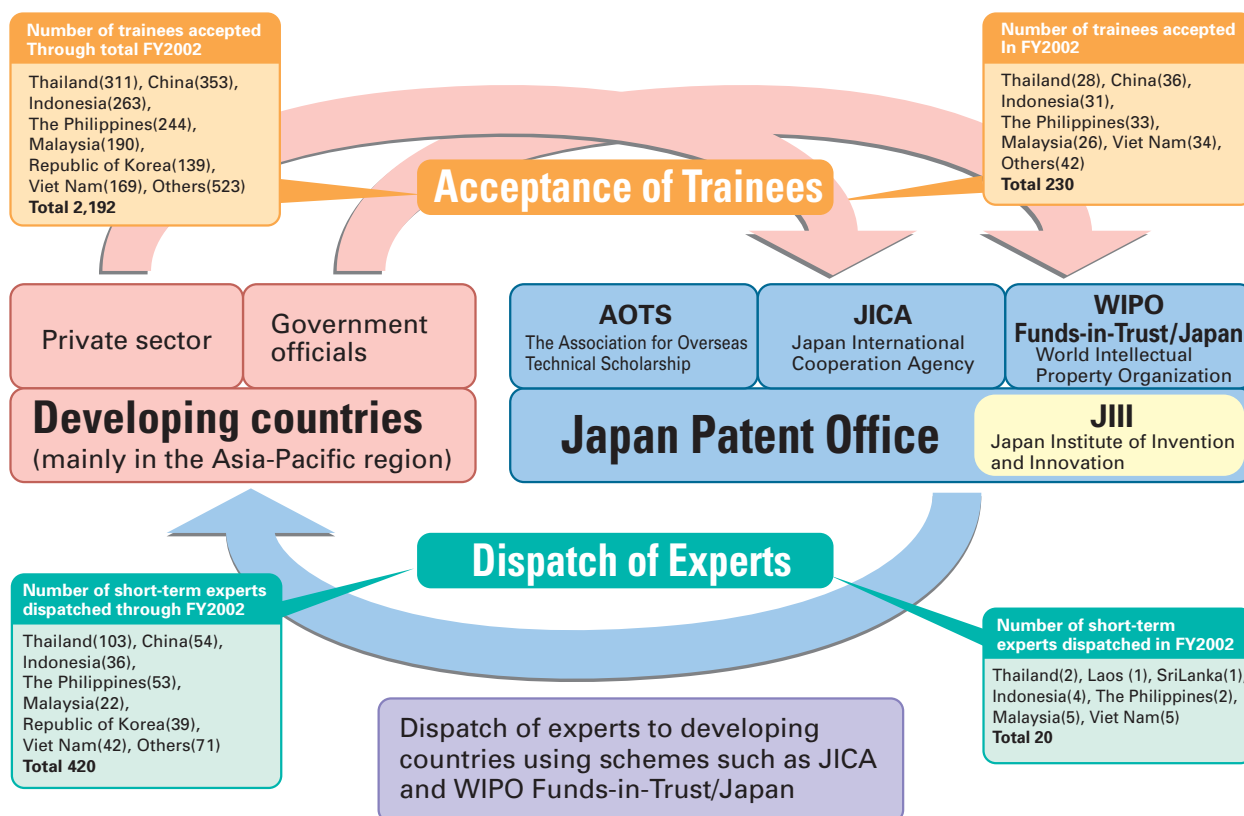
¹⁸Since 1987, the Japanese Government has been providing voluntary contributions to the WIPO "WIPO Funds-in-Trust/Japan" was established with these voluntary funds and it is used to finance various projects every year for WIPO member countries in the Economic and Social Commission for Asia and Pacific (ESCAP), such as the holding of Intellectual Property (IP) office conferences or symposia, acceptance of trainees and Intellectual Property Rights (IPR) research students, dispatch of JPO officers and support for automation and modernization of IP Offices.

b. Dispatch of experts

The JPO is dispatching the JPO officials and other experts to developing countries in the dispatch schemes of the WIPO Funds-in-Trust/Japan and Japan International Cooperation Agency (JICA) who provide instructions mostly on the examination practices, computerization and PCT practices in the regional sites.

c. Acceptance of trainees

The JPO received a total of 1,653 government and civilian trainees from 42 countries and 1 area in the Asia-Pacific Region during the period from April 1996 to March 2003. The JPO is also focusing on management of the alumni associations of the trainees, which significantly contribute to structuring of human network between Japan and developing countries.



d. Acceptance of long-term trainees (intellectual property fellowship)

The JPO invites those who are taking or who will be taking leadership in intellectual property in the developing countries to Japan for six months as part of the WIPO Japan Trust Fund operations to offer opportunity for self-initiated studies on intellectual property.

The JPO received one long-term trainee from Iran and another from the Philippines in FY2002.

The JPO also receives long-term trainees for six months independently and received one trainee from China (Trademark Office) and another from Viet Nam in FY2002.

(ii) Cooperation in Information Technology

The JPO dispatched an expert in a long term basis through the technical cooperation in the JICA project scheme from June 1995 to June 2000 (5 years) to the Department of Intellectual Property Ministry of Commerce the Thailand and structured the patent document search system through education of their officials.

The JPO dispatched an expert in a long term basis through the same scheme to the Intellectual Property Office of the Philippine from May 1999 to May 2003 (4 years), and structured the administrative procedure processing system through education of their officials.

The JPO is conducting cooperation for structuring the administrative processing system in the same scheme from April 2000 to the National Office of Intellectual Property Office of the Viet Nam.

(iii) Cooperation in Examinations

a. Offering results of design examinations

The JPO is cooperating by offering the results of examinations of design registration applications (registered applications only) in Japan filed both to the JPO and the Offices of the cooperation partner countries to support the promotion of substantive design examination processing in developing countries to the patent office of the subject country (to the Department of Intellectual Property Ministry of Commerce the Thailand: from January 2002, and to the National Office of Intellectual Property Office of the Viet Nam: from September 2002).

b. Structuring Asia Industrial Property Network (AIPN)

The AIPN is a system to offer the information related to examinations in Japan to the intellectual property offices in the developing countries in the Asian Region. It offers the results of examinations in Japan concerning the relevant patent applications to the intellectual property offices in the developing countries in the Asian Region that do not have the modified substantive examination system (mentioned earlier) as well, and aims to accelerate granting of rights at those intellectual property offices through effective exploitation of such examination results.

Specifically, the JPO has structured the information offering system from which the examiners in the intellectual property offices in the developing countries in the Asia-Pacific Region can access to the application process information, cited document information, information related to examinations of claims after granting a patent, patent family information, etc. of Japan in English through the network.

(3) Measures Against Counterfeits

(i) Present Situation of Counterfeit Damage and Countermeasures in Industry

In recent years, damage due to counterfeits of products manufactured by Japanese companies has been increasing. Along with the development of industrial technology in the Asian region including China, Taiwan and the Republic of Korea, infringement of patent, trademark, and design rights is also increasing. Furthermore, in the midst of economic globalization, counterfeits manufactured mainly in those East Asia countries enter markets in the entire Asian region including Japan, resulting in further increase in counterfeit damage.

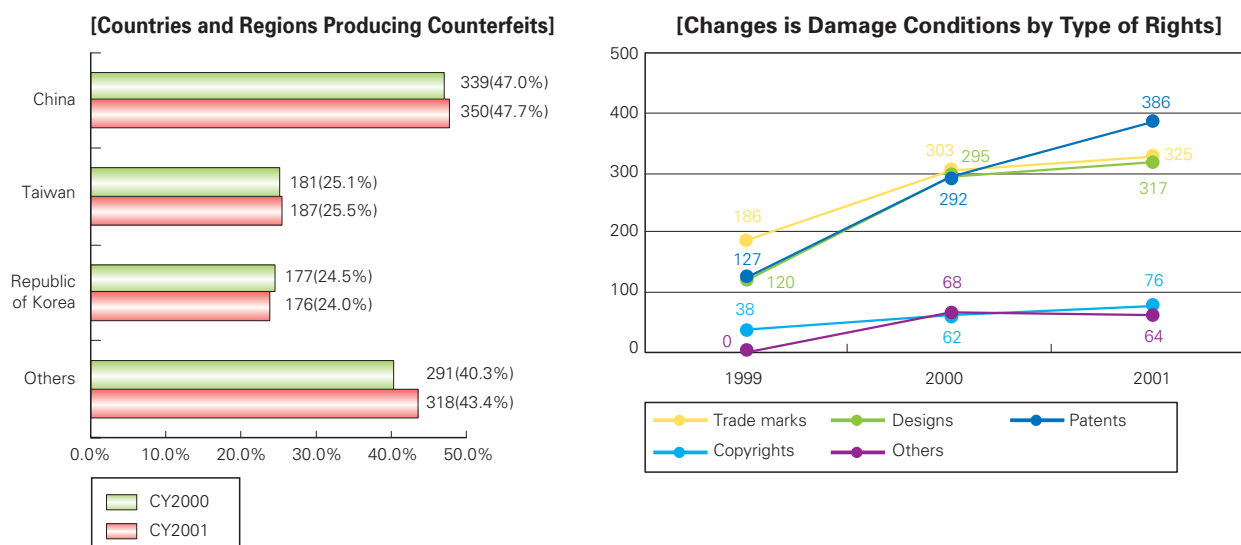
The flood of counterfeits has a negative impact on the activities of Japanese companies, such as loss of potential profits in foreign markets, deterioration of brand image among consumers who have purchased poor-quality counterfeits, and an increase in problems concerning product liability. To deal with this, it is necessary for Japanese companies to actively take countermeasures against counterfeits when undertaking business abroad.

Recently, more companies and industries have been earnestly taking counterfeit measures, e.g. requesting local regulatory authorities to crack down on counterfeits by identifying the manufacturers and distribution channels of counterfeits through vigorous investigation activities. However, such measures require persistent effort, and limitations on human and financial resources sometimes hamper full implementation. It also cannot be denied that there is a limit to the negotiation ability of individual companies and associations with local governments and enforcement authorities.

Under these circumstances, the International Intellectual Property Protection Forum (IIPPF)¹⁹ was established in April 2002 with the aim of promoting cross-industry cooperation for Japanese companies to reinforce counterfeit measures in concert with the Japanese government. For the time being, the IIPPF has

¹⁹The IIPPF was established on April 16, 2002, with the participation of about 150 associations and companies. The Chairman is Mr. Yoichi Morishita, Chairman of the Board of Matsushita Electric Industrial Co. Ltd. and the Secretariat is the Japan Institute of Invention and Innovation.

been carrying out projects to formulate recommendations from industrial circles regarding counterfeit problems, request governments of infringing countries to reinforce counterfeit measures, carry out information exchange, research and study, and cooperate in human resource development for governments of infringing countries.



(Remark) Ratios against the total number of victim enterprises (multiple selections)

- 350 Japanese companies suffered damage due to counterfeits produced in China, accounting for the largest share (China 47.7%, Taiwan 25.5%, and Republic of Korea 24.0%).
- There are more cases for counterfeit of "Patents" than those for the "Trademarks" and "Design rights". The quality of counterfeit products is improving.

(ii) JPO Anti-Counterfeiting Efforts

Considering the increasing seriousness of overseas counterfeits, the JPO has been taking various countermeasures.

a. Collection of Information on Counterfeit Damage

In order to clarify damage suffered by Japanese companies abroad, the JPO carries out an annual Survey of Counterfeit Damages using questionnaires. Through offices of related associations located in Beijing, Shanghai, Hong Kong, Seoul, Bangkok and other cities, the JPO also investigates enforcement and operation aspects of local legal systems. The results of these surveys and investigations are available on the JPO website.

b. Provision of Information and Consultation to Japanese Companies

In 1998, the Counterfeiting Hotline was established within the JPO to give advice to Japanese corporations. The JPO also develops manuals addressing individual countries in which counterfeit damages are caused and holds seminars for Japanese companies in these countries in order to provide necessary anti-counterfeiting know-how. Furthermore, the JPO strengthens support for measures taken by Japanese industry, in cooperation with the IIPPF.

c. Approaches toward Infringing Countries

As approaches toward countries and regions including China, the Republic of Korea and Taiwan, where counterfeit damage is serious, the JPO requests the governments of these infringing countries and regions to reinforce their crack down of counterfeits through bilateral negotiations such as meetings of the heads of patent Offices and high-level economic conferences. Also, within multi-regional meeting such as the WTO Council for TRIPS, the WIPO Advisory Committee on Enforcement of IPR, the IPR Expert Meetings of APEC, the JPO requests that the governments of infringing countries reinforce anti-counterfeit measures, emphasizing the importance of such measures.

In particular, in December 2002, the IIPPF and the Japanese Government jointly dispatched a mission to the central and local governments in China to request reinforce their crack down of counterfeits. The mission to China was led by International Intellectual Property Protection Forum Chairman Mr. Yoichi Morishita (President, Matsushita Electric Industrial Co. Ltd.), with Mr. Taiichiro Nishikawa (Senior Vice Minister of Economy, Trade and Industry) as Japanese government representative, and a total 90 persons representatives of 25 private enterprises and organization as well as the government concerned.

d. Support for Infringing Countries

In order to improve the enforcement ability of countries and regions where counterfeit damage is serious, the JPO provides support for developing human resources in the local authorities concerned, such as customs and police officers and court officials. The JPO also accepts trainees from other Asian countries every year. In 2002, the JPO held seminars in China and Singapore.

e. Cooperation with National Regulatory Authorities

With the aim of preventing the production and distribution of counterfeits in Japan, the JPO makes efforts to cooperate with Japanese enforcement authorities such as customs and police by responding to inquiries on infringements from such authorities. With more counterfeits coming into Japan from the Asian region, it will be necessary to continue to reinforce such cooperation in the future.

f. Awareness Raising among Consumers

In order to prevent innocent consumers from suffering harm due to counterfeits, the JPO provides information on counterfeit distribution with booklets and internet contents. The JPO also stresses the importance of the protection of intellectual property with the aim of preventing consumers from intentionally buying counterfeits.