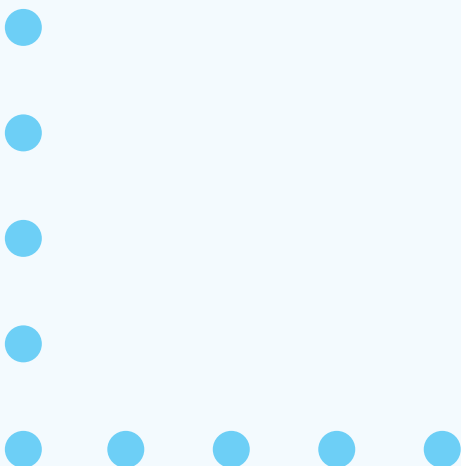


# Part 4

## International Trends and Efforts



# Chapter 1

## International Trends and Efforts Relating to Patents



### 1. Patent Applications Filed with the JPO by Foreign Applicants

The number of patent applications filed with the JPO by foreign applicants came to 53,281 in 2009, about 12% decrease from 60,892 in 2008.

Applications filed by U.S. and European applicants accounted for about 82% of all applications. The number of applications filed by applicants in the Republic of Korea has been decreasing since 2006, accounting for about 9% of all applications in 2009.

On the other hand, the number of applications filed by Chinese applicants fell far short of the figures for the United States, Europe and the Republic of Korea, although it increased over 200% to 891 in 2009, up from 397 in 2005.

Changes in the Number of applications filed with the JPO by Foreigners



	2005	2006	2007	2008	2009	Percentage to total (2009)
U.S.	23,811	24,961	26,026	25,112	22,367	42.0%
EPC states	23,616	23,836	24,611	24,787	21,251	39.9%
R.Korea	6,845	7,220	6,347	5,599	4,782	9.0%
P.R.China	397	505	666	772	891	1.7%
Others	4,449	5,092	5,143	4,622	3,990	7.5%
Total	59,118	61,614	62,793	60,892	53,281	100.0%

## Notes:

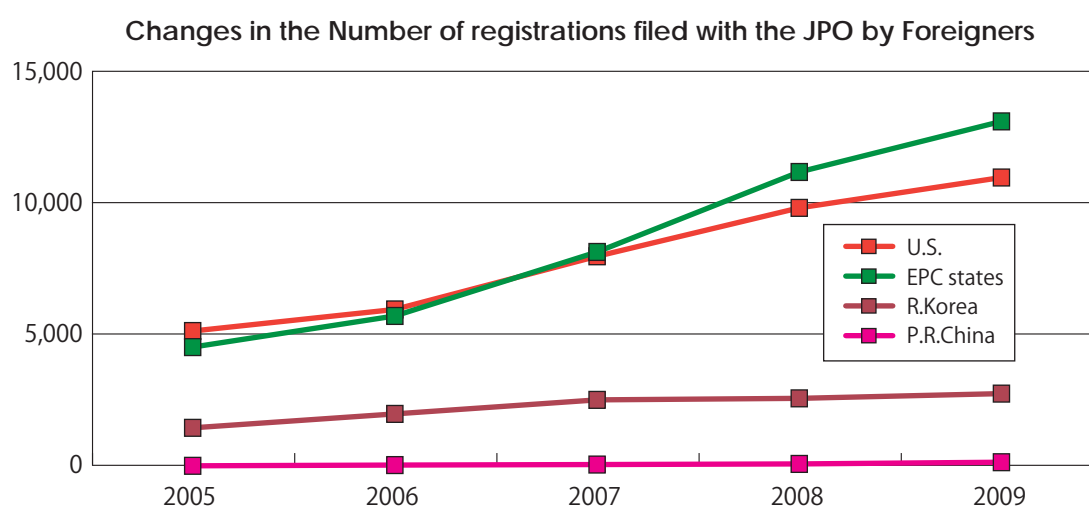
1. Europe stands for applicants from EPC member countries at the end of each CY
2. The numbers in the table include the number of direct applications and PCT national phase applications

## 2. Patent Registration by Foreign Applicants in Japan

The number of patent registrations by foreign applicants in Japan was 28,890 in 2009, up about 15% from 25,185 in 2008.

Registrations from U.S. and European applicants account for about 84% in 2009, and registrations from the Republic of Korea account for about 10% of the total.

The number of registrations filed by Chinese applicants only accounts for less than 1% of all registrations, although it increased by about 800% from 19 in 2005 to 156 in 2009.



	2005	2006	2007	2008	2009	Percentage to total (2009)
U.S.	5,168	5,993	8,023	9,873	11,033	38.2%
EPC states	4,554	5,744	8,189	11,244	13,177	45.6%
R.Korea	1,470	2,002	2,538	2,596	2,777	9.6%
P.R.China	19	47	67	91	156	0.5%
Others	645	809	1,097	1,381	1,747	6.0%
Total	11,856	14,595	19,914	25,185	28,890	100.0%

## Notes:

1. Europe stands for applicants from EPC member countries at the end of each CY
2. The numbers in the table include the number of direct applications and PCT national phase applications

### 3. Small Group Forum on Patent Field

#### (1) Trilateral Conference of the JPO, the EPO and the USPTO

##### 1) Background

Since the first Trilateral Conference in 1983, the Trilateral Offices (JPO-EPO-USPTO) have continuously held trilateral meetings. The Trilateral Offices take turns holding a Trilateral Conference in autumn. The JPO hosted the 27th Trilateral Conference in November 2009. The Trilateral Offices advance discussions at working groups held throughout the year, with a focus on the following issues: "cooperation in examination through mutual exploitation," "efforts to reduce the procedural burden on applicants," "efforts to harmonize systems and operations," and "efforts on the development of information systems." The Trilateral Offices have also been working on a broad range of projects on the dissemination of patent information and the development of PCT systems in recent years.

The USPTO will host the 28th Trilateral Conference in November 2010.

##### 2) Outline of Each Project

The contents and future plans for each project discussed at the Trilateral Conference in November 2009 are as follows.

##### **a. Cooperation in Examination through Mutual Exploitation**

###### Patent Prosecution Highway (PPH)

The JPO and the USPTO have conducted a pilot program since July 2006 and shifted to the full implementation since January 2008. In addition, the EPO and the USPTO started a pilot program in September 2008. The JPO and the EPO also started a pilot program on January 29, 2010.

Moreover, the Trilateral Offices have started a pilot program that allows PCT international applications to be subject to accelerated examination in the Trilateral Offices since January 29, 2010, even if they are judged to have patentability based on any international searching authority or international preliminary examination authority in Japan, the United States or Europe.

###### SHARE (Strategic Handling of Applications for Rapid Examination)

This framework allows mutual exploitation of the results of searches and first actions and the Office (Office of First Filing) of which the application was filed first releases the results of the search and examination first and the Office of Second Filing can utilize the results of the Office of First Filing when it starts examinations. The JPO implements this system in all technical fields as "JP-FIRST" (JP-Fast Information Release Strategy) from April 2008.

The EPO preferentially examines applications filed at the Office of First Filing as a standard operation. The USPTO decided to consider a possibility of realizing the SHARE framework.

## Progress of PCT

The Trilateral Offices confirmed the importance of continuous efforts toward the realization of PCT reforms.

The Trilateral Offices are planning to consider various suggestions in the future in order to advance the roadmap for improving PCT suggested by the WIPO.

### **b. Efforts to Reduce Procedural Burden on Applications**

#### Common Application Format (CAF)

The Trilateral Offices started to accept applications in accordance with the common application format (CAF) from January 2009.

### **c. Efforts for Harmonizing Systems and Operations**

#### Comparative Study on the Examination Practices

The Trilateral Offices have conducted comparative studies on description requirements and inventive step and publicized on their website until 2008.

In 2009, they conducted a comparative study on novelty and its results were publicized on the trilateral website and the JPO website in November 2009.

#### Efforts Concerning Quality

The Trilateral Offices agreed to create a manual which clarifies the differences of examination practices in each Office.

Moreover, they deepened mutual understanding on the quality and discussed on efforts for managing and improving the quality.

### **d. Efforts on the Development of Information Systems**

#### Promotion of Computerization by International Standard (XML format)

Although the USPTO has been cautious about the adoption of the international standard (XML format), it expressed its desire to start efforts for promoting electronic applications based on the international standard and administrative processing. The JPO and the EPO welcome this movement.

In addition, the JPO suggested "a paperless project" in which paper documents exchanged among the Patent Offices will, in principle, be eliminated. The Trilateral Offices agreed to lead this project.

#### Trilateral Network

The trilateral network (TriNet) that connects the Trilateral Offices online is a highly secure network on which information exchanged is encrypted for transmission. The network is utilized for exchanging various information such as priority documents and file wrapper information reference, and accessing to the retrieval system. Currently, the WIPO International Bureau, the Republic of Korea, Canada and Australia in addition to the Trilateral Offices participate in the

TriNet.

The TriNet encryption device was updated in all participating countries/organizations from 2009 to 2010. In response to this, the Service Level Agreement on the TriNet was renewed and agreed at the Commissioner Meeting held in November 2009.

### Enhancement of the Mutual Reference System for Foreign Examination Information

The Trilateral Offices agreed to cooperate in order to realize "one portal Dossier" that collectively displays the examination results of related applications and information on the search results of major Patent Offices in accordance with the roadmap agreed at the Five Office Deputy Commissioner level Meeting in June 2009.

### Electronic Exchange of Priority Documents (PDX: Priority Document Exchange)

A framework for electronic exchange of priority documents through the WIPO was established in April 2009. In order to reduce procedural burden of the applicant and the JPO relating to priority documents, the Trilateral Offices will cooperate with the WIPO International Bureau in the future aiming at the expansion of member countries.

## e. Other Efforts

### Information Dissemination Activities

In 2009, the EPO, the USPTO and the JPO held an exhibition that introduces the efforts by the Trilateral Offices for the purpose of raising awareness of users in the Information Dissemination Fair held in Japan (Tokyo, November) and in Europe (London, December).

In addition, the trilateral user meeting (Japan Intellectual Property Association, IPO (United States), AIPLA (United States) and Business Europe) which had been held only in November was held twice in 2009 (June and November, both in Tokyo), and a symposium was held in cooperation with universities in November.

### Classification

The KIPO has become an official member of the Trilateral Classification Working Group since 2009 to progress the project on classifications of the five Offices. The SIPO is planning to participate in the WG as an observer.

### Statistics

In November 2009, the four office statistical report (formerly the trilateral statistical report) was publicized by the Trilateral Offices and the KIPO. In addition, the KIPO has become an official member of the trilateral statistics WG since 2009.

## (2) Meeting of the IP5

### 1) Background

The Five Intellectual Property Offices (IP5), the JPO, the USPTO, the EPO, the SIPO and the KIPO, held the first IP5 Heads meeting in the United States (Hawaii) in May 2007.

Although small group meetings among major patent offices, such as “the Trilateral Conference (JPO-EPO-USPTO)” and “the Trilateral Policy dialogue Meeting among the JPO, KIPO and SIPO” have been held, this was the first attempt for the five patent offices to hold a joint meeting.

In October 2008, the Second IP5 Heads Meeting was held in the Jeju Island, the Republic of Korea, at which the IP5 agreed to progress the following ten basic projects as a platform to promote work sharing. In addition, the Deputy Heads meeting was held in Switzerland (Geneva) in September 2009, and the IP5 agreed to establish three working groups (WG1: Classification, WG2: IT-supported Business Processes, WG3: Examination Practice-related Projects). Fruitful discussions have been held at a working level.

## 2) Outline of each Project (the parenthesis stand for the Office in charge of each project)

### a. WG1: Classification

Common Hybrid Classification (EPO)

A project for segmentalizing the International Patent Classification (IPC) using the detailed internal classification of each office.

### b. WG2: IT-supported Business Processes

Common Application Format (JPO)

A project that allows applicants to submit descriptions to patent offices in a common format to the five offices.

Common Access to Search and Examination Results (JPO)

A project for realizing “one portal dossier” which collectively displays the examination information on related applications at each office and expanding and promoting the use of electronic exchange of priority documents including the use of digital access service by the WIPO.

Common Approach to Sharing and Documenting Search Strategies (USPTO)

A project for recording and documenting each office’s search strategies and search histories and sharing them with other offices.

Common Search and Examination Support Tools (USPTO)

A project for developing a common examination/search tool environment where examiners in each office can achieve the same search results on the same applications.

Common Documentation (EPO)

A project or providing smooth access to the database owned by each Office so that examiners of each office are able to search the same document scope.

Mutual Machine Translation (KIPO)

A project for promoting work sharing by lowering the language barrier using machine translation for other projects.

### **c. WG3: Examination Practice-related Projects**

Common Examination Practice Rules and Quality Management (SIPO)

A project for standardizing the rules for examination practices and the quality control system.

Common Statistical Parameter for Examination (SIPO)

A project for constructing a common examination statistic parameter system to each office and allowing the exchange of statistic information related to examination using the standardized statistic parameter (index).

Common Training Policy (KIPO)

A project for holding examiners' workshops and mutually participating in seminars



# Chapter 2

## International Trends and Efforts Relating to Designs



Amid an increasing number of serious counterfeiting cases, mainly in Asian countries, along with the economic background for recent globalization of business activities and rapid industrial development in Asian countries such as China, the importance of international protection of designs has been growing in consideration of the characteristic of designs that they are easily counterfeited.

However, each country determines the registering eligibility of designs based on a design protection system that differs from country to country, which poses a great burden for Japanese companies. Under such circumstances, with the objective of harmonizing the design protection system with other countries to support the acquisition of design rights abroad, the JPO holds Design Examiners' Meetings with the intellectual property offices in China, Korea and the European Union. In those meetings, the offices exchange information and opinions on the trend of design protection systems and operations of design examination.

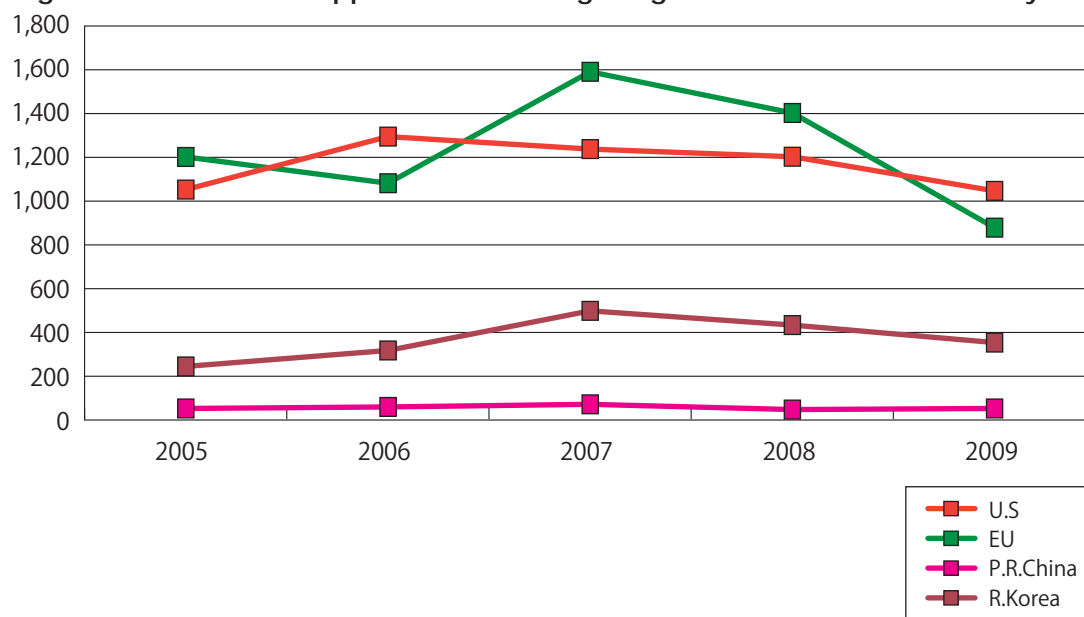
In addition, the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) of WIPO, has started a discussion with the aim of harmonizing the design protection systems such as simplification of design registration procedures. The JPO has been actively participating in the discussion.

### 1. Trends of Design Applications Filed with the JPO by Foreign Applicants

The number of applications for design registration filed with the JPO by U.S. applicants decreased by 12.9% to 1,056 in 2009 from 1,212 in 2008.

The number of applications for design registration filed by applicants from the EU member states decreased to 888 in 2009 from 1,412 in 2008. Meanwhile, although the number of applications for design registration filed with the JPO by applicants of the Republic of Korea and China has been on a rise until 2007, it turned to decrease in 2008.

Changes in the Number of Applications for Design Registration Filed with the JPO by Foreigners



	2005	2006	2007	2008	2009
U.S	1,062	1,304	1,247	1,212	1,056
EU	1,211	1,091	1,600	1,412	888
P.R.China	62	69	81	57	62
R.Korea	254	327	508	443	363
Others	919	839	906	824	832
Total	3,508	3,630	4,342	3,948	3,201

Note: The figures for EU are the total number of applications filed with the JPO by applicants from EU member states. The figures include the number of applications filed by applicants from 10 Central and East European Countries that became EU member states in May 2004.

## 2. Bilateral Efforts

### (1) JPO-SIPO Meeting on Appeals and Trials (Design)

At the 11th Commissioners' Meeting between the JPO and the SIPO in November 2004, the commissioners agreed to start holding a meeting between the Examination Department and the Appeals/Trials Department of the JPO and the Patent Reexamination Board of SIPO from the design field in order to strengthen interaction between the two Offices and enhance the effectiveness thereof. In response to this, the first JPO-SIPO Meeting on Appeals and Trials (Design) was held in Japan in August 2005.

In December 2009, the fifth JPO-SIPO Meeting on Appeals and Trials (Design) was held in Tokyo, in which the two offices exchanged information on the operation of each country's design examination and appeals/trial practices and collected information on the operation of design examination concerning the third revision of Chinese Patent Law (enacted on October 1, 2009).

The sixth JPO-SIPO Meeting on Appeals and Trials (Design) will be held in Beijing, China, in

FY2010.

## (2) JPO-KIPO Industrial Design Experts' Meeting

With the aim of achieving a mutual understanding of the design registration systems in Japan and the Republic of Korea and exchanging information regarding examination methods, the JPO-KIPO Industrial Design Experts' Meeting has been held once every year since its first meeting in 2001.

In February 2010, the ninth JPO-KIPO Industrial Design Experts' Meeting was held in Tokyo, in which the participants exchanged information on the current status of the design registration systems in Japan and the Republic of Korea and international efforts.

In FY2010, the tenth JPO-KIPO Industrial Design Experts' Meeting will be held in Daejeon, the Republic of Korea.

## (3) JPO-OHIM Design Examiners' Meeting

On April 1, 2003, the Office for Harmonization in the Internal Market (OHIM) started design registration operations based on the Council Regulation on Community designs. The JPO and the OHIM have been holding JPO-OHIM Design Examiners' Meetings since 2003. The fifth JPO-OHIM Design Examiners' Meeting was held in Tokyo in November 2009 to exchange information on the current status of the design registration systems of the two offices and design examination operations. The sixth JPO-OHIM Design Examiners' Meeting will be held in Alicante, Spain, in FY2010.

# Chapter 3

## International Trends and Efforts Relating to Trademarks



Amid an intensifying international competition among businesses in line with the economic globalization, it has become increasingly important to establish high-value international brands and protect them in an active and expeditious manner using the trademark system. However, as trademark systems are different in one country to another, applicants need to perform filing procedures for each country, in principle, which poses a great burden for them.

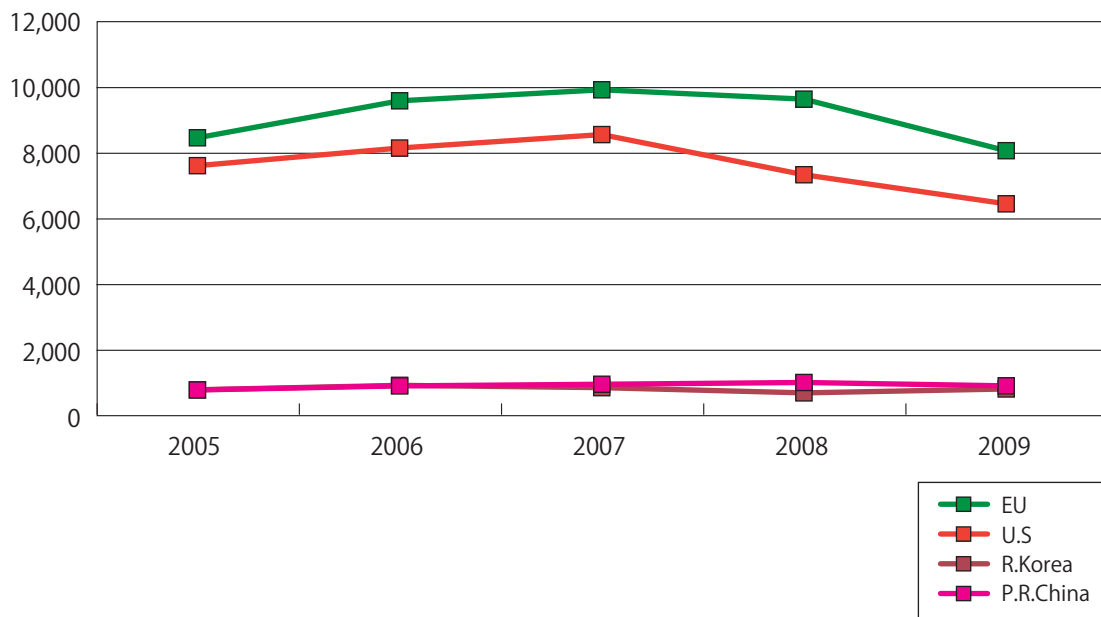
In order to support companies' international expansion under such circumstances, it is necessary to create an environment that allows the expeditious acquisition of stable trademark rights worldwide and the appropriate protection of those rights. Therefore, the JPO promotes harmonization of the trademark systems of other countries and simplification of procedures through the bilateral efforts with countries such as China and the multilateral efforts with the WIPO and the Trilateral Offices (JPO, OHIM and USPTO).

### 1. Applications for Trademark Registration Filed with the JPO by Foreign Applicants

The number of applications for trademark registration filed with the JPO by applicants from the EU member states, the United States, the Republic of Korea and China in 2009 came to 16,280, a decrease of 13.0% from 18,719 in 2008.

The number of applications for trademark registration filed with the JPO from U.S., European and Chinese applicants decreased in 2009 over the previous year, while the number of applications from Korean applicants increased.

Changes in the Number of Applications for Trademark Registration Filed with the JPO by Foreigners



	2005	2006	2007	2008	2009
EU	8,472(5,679)	9,598(6,366)	9,934(6,324)	9,649(7,662)	8,079(6,337)
U.S.	7,623(1,538)	8,160(1,891)	8,570(2,093)	7,347(1,991)	6,461(1,767)
R.Korea	798(54)	933(126)	862(162)	703(135)	822(135)
P.R.China	792(544)	916(631)	966(688)	1,020(712)	918(589)

Notes:

1. The figures for EU are the total number of applications filed with the JPO by applicants from EU member states in Chapter 4, 2(1) (the member states are as of March 2010).
2. Figures in parentheses are the numbers of international applications for trademark registration out of the total

## 2. Trends of Applications for International Registration under the Madrid Protocol<sup>1</sup>

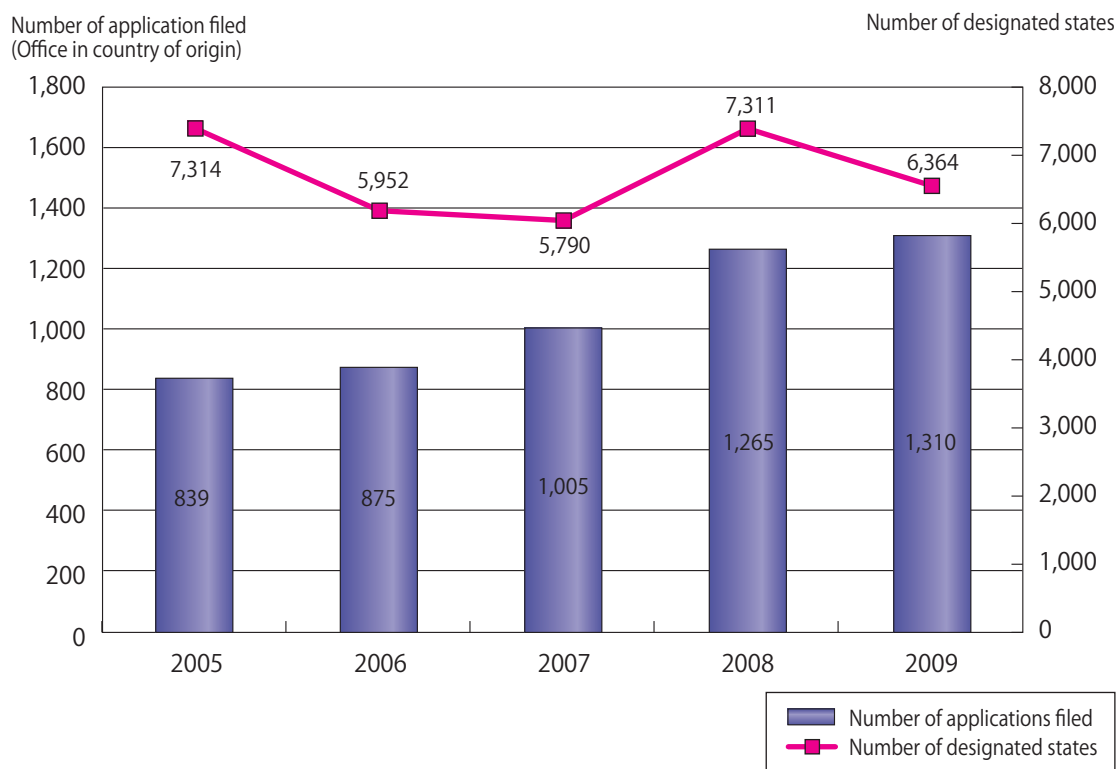
### (1) Application by Japanese Applicants to Overseas Offices (International registration application)<sup>2</sup>

The number of designated countries in 2009 decreased by 13.0% from 2008. The number of applications has been increasing, although the increase in 2009 was marginal at 3.6%.

<sup>1</sup> Outline of the system: On the basis of a trademark filed or registered in the office of the Contracting Party (Office of Origin), an applicant files an international application which designates the office of the Contracting Party (Office of the Designated Country) seeking for protection, at the Office of Origin who passes the application to the International Bureau of the World Intellectual Property Office (WIPO). This international application is internationally registered in the International Register which is administered by the WIPO. Based on the designation notification delivered from the International Bureau of the WIPO, if the Office of the Designated Country does not inform the reason for rejection within 12 months, or possibly 18 months, according to each country's declaration (18 months in Japan), the applicant may receive protection in the designated country.

<sup>2</sup> International applications abroad filed with the JPO as the Office of origin. See Article 68-2 of the Trademark Act.

### Changes in the Number of International Applications for Trademark Registration (filed with Overseas Offices by Japanese)

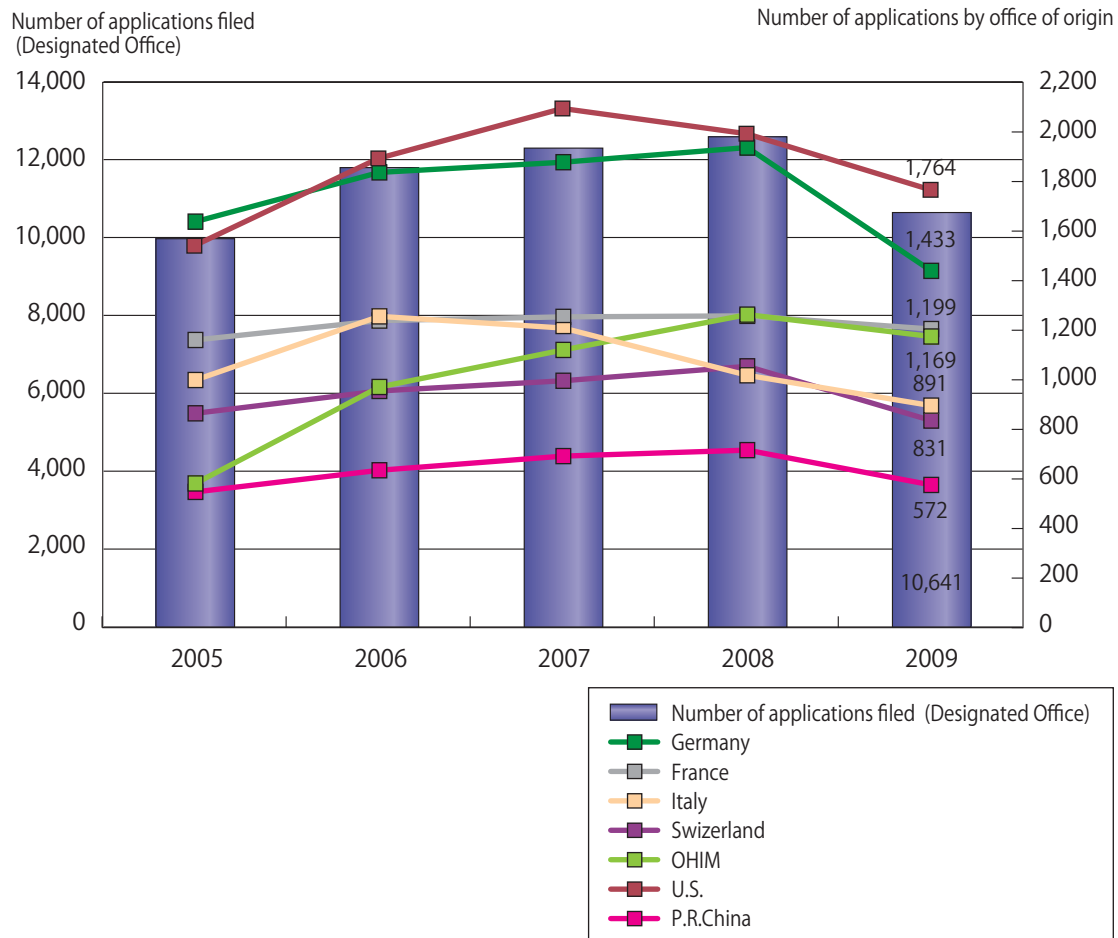


#### (2) Applications filed by Overseas Applicants to the JPO (International Application for Trademark Registration)<sup>3</sup>

Although the number of applications has been on the increase, it decreased by 15.5% to 10,641 in 2009 (12,586 in 2008). Looking at the applications designating the JPO by country of origin, major countries are the United States, Germany, France, the OHIM, Italy, Switzerland and China in the descending order, accounting for over 70% of the total. The United States leads the ranking after 2006.

<sup>3</sup> International applications filed by foreign applicants designating the JPO. See Article 68-9 of the Trademark Act.

### Changes in the Number of International Applications for Trademark Registration (Filed with the JPO by Foreigners)



## 3. Bilateral Efforts

### (1) JPO-CTMO Trademark Commissioners' Meeting

The seventh JPO-CTMO Trademark Commissioners' Meeting was held in Beijing, China, in January 2009.

The first JPO-CTMO Trademark Commissioners' Meeting was held in Beijing in December 1996 in order to deepen understanding the each other's trademark systems and promote the exchange between the two countries. The Meeting has been held in Japan and China alternately.

In this meeting, the two Offices agreed to strengthen the cooperation relationship at various levels such as symposia concerning trademark application procedures and seminars for counterfeit products. In addition, regarding a problem that regional names and regional brands in Japan are applied for trademarks and registered by third parties in China, the JPO requested the fair and appropriate examinations. The CTMO answered that the applications for regional names and regional brands in Japan would be judged strictly based on the law and they will respond strictly to malicious applications taking into account the fact that Japan and China are neighboring countries sharing similar cultures.

### (2) Comprehensive Support for Trademark Application Problems of Regional Names in Japan by Third Parties in China and Taiwan

There are many cases that regional names and regional brands in Japan are applied for registration by third parties in China and Taiwan. This has caused risks for Japanese companies exploring businesses in China and Taiwan.

In order to respond to such situation, the JPO created a manual related to the trademark search/legal actions based on “the comprehensive countermeasures against the trademark application problems of regional names in Japan by third parties in China and Taiwan” publicized in June 2008. The JPO provides information widely by distributing the manual to prefectures, government-designated cities, agricultural-related organizations, etc., and holding explanatory meetings and seminars for concerned parties such as local governments. In addition, the JPO has established the “Special consultation counters for offending trademark problems” in Beijing and Taiwan to respond to consultations from concerned parties such as local governments.

Furthermore, the JPO is discussing with the Chinese government so that regional names and regionally based collective trademarks in Japan would be protected appropriately in China.

In June 2009, a report on the progress of comprehensive support measures was publicized. As a result of continuous discussions with China and Taiwan, the attitude toward this problem has changed, and the JPO received the answer that they will examine regional names in foreign countries strictly. In fact, eight prefecture names applied for trademark registration by third parties in China were rejected by the trademark authority. This shows that our efforts are gradually producing the fruit.

### (3) JPO-KIPO Trademark Experts' Meeting

At the 12th JPO-KIPO Meeting in November 2000, the JPO-KIPO Trademark Examiners' Meeting was established in order to help trademark examination practices by exchanging information and opinions on the trademark examination systems/operations between the JPO and the KIPO and to deepen understanding each other's systems and operations. The first JPO-KIPO Trademark Examiners' Meeting was held in Japan in June 2001. So far, five meetings were held in Japan and the Republic of Korea alternately.

The name was changed from the JPO-KIPO Trademark Examiners' Meeting to the JPO-KIPO Trademark Experts' Meeting at the sixth meeting in March 2008 to discuss not only operational problems related to the trademark examination but also a wide variety of fields in which the two offices are interested such as a treaty and policy matters.

At the first JPO-KIPO Trademark Experts' Meeting, the two offices exchanged of information and opinions on the various agendas such as issues on the trademark system, examination operation of the Madrid Protocol and the amendment of the Chinese Trademark Act.



#### 4. Trilateral Trademark Cooperation

The First Trademark Trilateral Cooperation Meeting was held in Arlington in the United States, in May 2001, with the aim of improving trademark registration systems and the operations thereof through exchange of information and opinions on related matters between the Trilateral Offices (JPO, USPTO and OHIM). The meeting has been held once every year since then. The CTMO has participated as an observer since the meeting in Tokyo in October 2007.

At the eighth meeting held in Alicante, Spain, in December 2009, discussions were made on "reviews on the progress in the Trilateral Offices," "relations with other IP Offices and users," "common statistical indicators," "electronic exchange of priority documents," "trademark classification," etc. In addition, each office including the CTMO reported about the progress in the past 1 year and exchanged opinions.

In the discussion on "reviews on the progress in the Trilateral Offices," the three offices agreed to create a mission statement (statement that describes the framework and objectives as the Trilateral Offices in pushing forward the participation of a third country and expansion of the framework of the Trilateral Offices in the future) as suggested by the USPTO.

In the discussion on "relations with other IP Offices and users," the Trilateral Offices agreed on the participation of the CTMO and the WIPO in the next meeting as an observer. In addition, the Trilateral offices approved the participation of the KIPO in the next meeting as an observer.

It was also agreed to pilot a new separate session with users as from the next annual meeting.

In the discussion on "common statistical indicators," the Trilateral Offices agreed to continue sharing common statistical indicators.

In the discussion on "electronic exchange of priority documents," the Trilateral Offices agreed that the OHIM and the USPTO provide the JPO with a preliminary opinion on the analysis concerning electronic exchange of priority information presented by the JPO.

In the discussion on "trademark classification," the Trilateral Offices agreed to continue to discuss on a future course of "the Trilateral ID database"<sup>4</sup> including the participation of third countries and its scale, etc.

<sup>4</sup> A list of goods/services indications which can be mutually approved by the Trilateral Offices as an indication of goods/services designated in the trademark application.

# Chapter 4

## International Efforts to Protect Intellectual Property



### 1. Cooperation with Asian Countries

With the economic growth of Asian countries such as China and India and the globalization of corporate activities, economic independence between Japan and the Asian countries has become increasingly strong. In these circumstances in which Japanese companies have become more dependent on overseas market on the whole, the Asian region has become especially important. Asian countries make up an important region, which brings significant business opportunities to Japanese companies in the form of production bases and sales markets.

The level of protection of intellectual property rights in Asian countries, however, is not considered to be high enough compared to developed countries such as European countries and the United States, even though developing countries have been bound by the obligation to execute of the TRIPS Agreement since January 2000, and floods of counterfeit products are seen on a daily basis. When there is a country where intellectual properties protection is not executed sufficiently, technology is stolen by using that country as a loophole, which may result in global circulation of counterfeit products and pirated products. On the other hand, in some regional patent infringement cases involving Japanese companies have been increasing as a result of the significant development of industrial technologies in countries such as China and the Republic of Korea.

The intellectual property system is an effective tool and necessary infrastructure for economic development in Asian countries as well, and efforts to establish an intellectual creation cycle in the countries lead to sustainable development in the Asian region. It is essential to reduce the costs incurred in the acquisition and enforcement of rights by improving the level of protection of intellectual property rights in Asian countries in order to enable Japanese companies to take full advantage of business opportunities in Asia.

Based on this standpoint, the JPO has played a central role in constructing “the global intellectual property infrastructures for promoting innovation” as a future course and advocated this idea at the Asia-Pacific Economic Cooperation (APEC), etc. to raise awareness on it. As a result, construction of the infrastructures is mentioned in the joint announcement at the APEC Conference in November 2009. In addition, the JPO has been promoting vigorous discussions and cooperative activities with intellectual property offices in Asian countries, and endeavors to

effectively exploit bilateral (such as Economic Partnership Agreement (EPA)) legal frameworks to introduce a new system and reinforce and improve operations of the existing systems with the aim of improving the level of the protection of intellectual property rights in Asian countries. In addition, the JPO also provides support for human resources development and computerization in order to assist in the establishment of the systems required to achieve these goals.

The JPO has made various efforts mainly with emerging countries other than those in the Asian region.

Concerning the relationship between Japan and Brazil that is a part of the BRICs countries, the JPO and the Brazilian Patent Office held the Commissioner Meeting in September 2009 and practically agreed to cooperate in the field of human resources development such as the dispatch of officials and IP seminars and to exchange information on the both offices' intellectual property systems, statistical data, policies and management systems. The cooperation relationship between the two offices will be strengthened in the intellectual property field and an environment for protecting intellectual property in Brazil will be further developed through such cooperation. It is expected that the cooperation leads to a beneficial relationship.

Concerning the relationship between Japan and Russia, the JPO and the Rospatent started the patent prosecution highway on a pilot basis in May 2009 based on the agreement at the JPO-Rospatent Commissioners' Meeting in April 2009. The delegates from the JPO gave lectures on the patent prosecution highway at the conference hosted by the Rospatent in Moscow in October 2009 and the International Seminar in Khabarovsk in February 2010. In addition, the first examiners' conference between the two offices was held in March 2010 to promote active exchange.

The JPO has also started the support for Africa. In FY2008, the WIPO Funds-in-Trust/Japan was expanded to establish a new fund for African and developing countries in order to develop intellectual property human resources in Africa. It holds various work shops for the African region, supports the modernization of intellectual property offices in Africa and founds a scholarship system.

It is necessary to actively promote strengthening of the cooperation with intellectual property offices in other countries including Asian countries, because it contributes to the improvement of presence of Japan in the multilateral frameworks and frameworks among other countries.

### **(1) Promotion of Conclusion of Economic Partnership Agreement (EPA) and Free Trade Agreement (FTA)**

In recent years, Japan has been actively promoting the conclusion of Economic Partnership Agreements (EPAs) and Free Trade Agreements (FTAs), mainly with Asian countries, in anticipation of realizing economic integration in Asia. As part of such a movement, Japan has been conducting negotiations while including the field of intellectual property in the scope of EPAs. In the field of intellectual property, Japan aims for securing 1) adequate, effective and

non-discriminatory protection of intellectual property, 2) efficient and transparent administration of the intellectual property protection system, and 3) adequate and effective enforcement of intellectual property rights, taking into consideration trade relations and the scale of intellectual property related problems.

(EPAs already came into force before FY2008)

- 1) Japan-Singapore EPA (signed in January 2002, came into force in November 2002)
- 2) Japan-Mexico EPA (signed in September 2004, came into force in April 2005)
- 3) Japan-Malaysia EPA (signed in December 2005, came into force in July 2006)
- 4) Japan-the Philippines EPA (signed in September 2006, came into force in December 2008)
- 5) Japan-Chile EPA (signed in March 2007, came into force in September 2007)
- 6) Japan-Thailand EPA (signed in April 2007, came into force in November 2007)
- 7) Japan-Brunei EPA (signed in June 2007, came into force in July 2008)
- 8) Japan-Indonesia EPA (signed in August 2007, came into force in July 2008)
- 9) Japan-ASEAN Comprehensive EPA (signed in April 2008, came into force in December 2008)

(EPAs came into force after FY2009)

### 10) Japan-Switzerland EPA

Based on an agreement reached at the Japan-Switzerland Summit Meeting in April 2005, the two governments agreed to conduct a study on a method of strengthening economic partnership appropriate including demerits of EPA for developed countries. The joint study group was held five times from October 2005 to November 2006. The two countries agreed to start a negotiation of the Japan-Switzerland EPA ("Agreement between Japan and Swiss Federation for Free Trade and Economic Partnership") at the telephone conference between the countries' leaders in January 2007. The agreement was signed in February 2009 after several negotiations and came into force on September 1, 2009. The Japan-Switzerland EPA is a first EPA with developed countries in Europe or North America. The agreement covers more contents than the conventional EPAs and stipulates the provisions for protecting and strengthening intellectual property, and for exercising the right including counterfeiting and pirated products in the intellectual property field.

### 11) Japan-Vietnam EPA

Based on an agreement reached at the Japan-Vietnam Summit Meeting in October 2006, Japan started negotiations with Vietnam for the conclusion of the Japan-Vietnam EPA (Agreement between Japan and the Socialist Republic of Vietnam for an Economic Partnership) in January 2007. The leaders of the two countries signed the Japan-Vietnam EPA in December 2008, and this EPA came into effect in October 2009. In this Agreement, protection of the intellectual property is strengthened by the stipulations such as the introduction of the patent priority examination system. In addition, with regard to the infringement lawsuits, the Agreement specifies that the court has an authority for accrediting

the significant amount of damage in a case where it is highly difficult to prove the actual economical damage due to properties of a case.

## 12) Others

Furthermore, Japan is now conducting negotiations for an EPA with the Republic of Korea, India, Australia and Peru.

## (2) Efforts by the Intellectual Property Rights Experts Group (IPEG Meeting) in the Asia-Pacific Economic Cooperation (APEC)

APEC, consisting of 21 countries and regions in the Asia-Pacific region, is a regional forum aiming for the liberation and facilitation of trade and investment as well as economic and technical cooperation. At the APEC Economic Leaders' Meeting in Osaka held in 1995, intellectual property rights were adopted as one of the 15 priority areas concerning the liberation and facilitation of trade and investment, and the IPEG was established as a forum of experts specializing in the area. The IPEG carries out activities in accordance with the new Collective Action Plan (CAP) formulated in 2001 in response to the full implementation of the TRIPS Agreement, in order to promote the liberation and facilitation of trade and investment.

For specific activities, the IPEG holds seminars and symposia on intellectual property sponsored jointly by the public and private sectors, in addition to periodic meetings that are usually held twice every year. In January 2007, Japan proposed the APEC Cooperation Initiative on Patent Acquisition Procedure, which includes efforts to be made: for simplified patent procedures, examination cooperation, and improvement of patent examination capability in the APEC region, so as to allow applicants to acquire high quality patent rights in more simplified and expeditious manner. This initiative was approved at the APEC ministerial meeting held in September 2007. At the 26th IPEG Meeting held in February 2008, with the aim of promoting efforts by this initiative, Japan proposed studies on practices of examination cooperation (Patent Prosecution Highway, Modified Substantive Examination, etc.) which is currently executed among APEC economies to deepen understandings among economies concerning usage of examination results of other patent offices within the APEC region, and this proposal was approved. Then, at the 27th IPEG Meeting held in October 2008, the confirmation of study slips and the commencement of studies were confirmed, and at the 28th IPEG Meeting held in February 2009, the study results were presented. At the 30th IPEG Meeting held in March 2010, concerning this initiative, Japan made a suggestion to open a website which allows users to comprehensively refer to the application formats for using the examination results of other offices aiming at the promotion of examination results by other offices upon the selection of applicants.

At the Meeting of Ministers Responsible for Trade held in July 2009, Japan proposed construction of global IP infrastructures for promoting innovation as a concept to cover the diversifying efforts related to intellectual property at the APEC and demonstrate the future course, and the chairman's announcement that expresses the said construction of

infrastructures as a desirable direction was publicized. Then, a similar announcement was adopted at the joint announcement at the 21st APEC Ministerial Meeting in November 2009. The concept of constructing global IP infrastructures has been prevailing in the APEC.

In line with such movement, Japan preliminary proposed an initiative (IPAC initiative) to encourage the cooperation among IP human resources developing organizations at the 29th IPEG Meeting held in July 2009. Then, a formal proposal was submitted at the 30th IPEG Meeting. The said proposal is 1) to promote the cooperation among organizations in the APEC region that develop human resources of the intellectual property field, 2) to develop infrastructures for the IP systems in the APEC region through information sharing, 3) to share seminar programs owned by each organization through their websites, and 4) to exchange various information and know-hows on human resources development. This proposal was confirmed by a number of attendants and unanimously approved.

The JPO is planning to establish a website that allows users to comprehensively refer to the application format for using the examination results of other offices and a website concerning the cooperation among IP human resources developing organizations based on the approved proposal.

### **(3) Cooperation in Building Intellectual Property System in China.**

#### **1) Bilateral Efforts with China and Multilateral Efforts for Intellectual Property System**

The number of patent applications, trademark applications and applications filed in China by foreign applicants are rapidly increasing in these years. With the aim of improving an examination environment in China, mutual exploitation of search, utilization of examination results, system harmonization and computerization have been discussed, mainly within the bilateral or multilateral framework; such as the Commissioners' Meeting between the JPO and the SIPO, the Trilateral Policy Dialogue Meeting among JPO, KIPO and SIPO held in December 2009, and the Meeting of IP5 Heads of Office held in April 2010.

Further, the following memorandums were concluded between Japan and China in 2009.

#### **(a) Memorandum of Establishing a IPR working group (June 2009)**

The memorandum was concluded between the Ministry of Economic, Trade and Industry (METI) and the Ministry of Commerce (MOFCOM) to establish a Japan-China Intellectual Property Right working group for discussing the theme relating to cross-sectoral intellectual property related issues among ministries.

#### **(b) Memorandum of understanding for trademarks etc. (August 2009)**

The memorandum was concluded between the METI and the State Administration for Industry & Commerce of the People's Republic of China (SAIC) to strengthen the cooperation for controlling trademarks/counterfeit products and preventing unfair competitions.



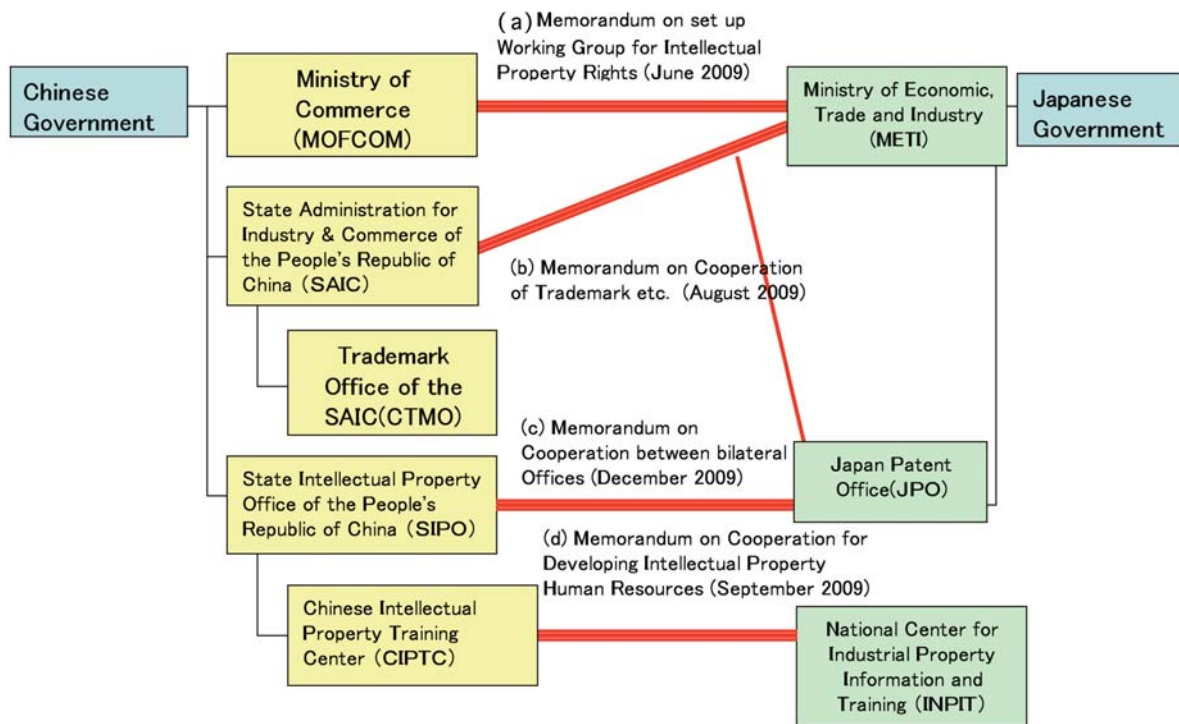
**(c) Memorandum of cooperation between the JPO and the SIPO (December 2009)**

The memorandum was concluded between the JPO and the SIPO for strengthening the cooperation for patent, utility model and design rights.

**(d) Memorandum of cooperation for developing IP human resources (September 2009)**

The memorandum was concluded between the National Center for Industrial Property Information and Training (INPIT) and Chinese Intellectual Property Training Center (CIPTC) to cooperate in developing Intellectual Property human resources.

Relationship diagram of memorandum between Japan and China

**2) Efforts against Counterfeits Products Issue**

Given the reality of serious damages caused by counterfeit products in China, Japan has been requesting legal amendment and operational improvement by dispatching joint missions of the public and private sectors, and supporting the Chinese government by holding seminars for Chinese custom officials, and inviting them to Japan for training.

In addition, the first Japan-China Intellectual Property Rights Working Group was held in November 2009. It is expected that this new framework will strengthen the relationship of exchange/cooperation concerning the protection of intellectual property in the two countries by continuously holding working groups.

**3) Cooperation for Legal Amendment**

The third amended Patent Law (equivalent to the Patent Act, the Utility Model Act and the Design Act of Japan) was enacted in December 2008, and became effective on October 1, 2009. In addition, the Implementing Regulations of the Patent Law (equivalent to a ministerial

ordinance) and the Guidelines for Patent Examination (equivalent to examination standards) became effective on February 1, 2010. This Law includes some of the matters that Japan had requested, such as adoption of the rule that public knowledge/use anywhere in the world denies the novelty; and introduction of the new requirement for registration of non-ease of creativity in the design system.

The JPO has actively cooperated the legal amendment by holding an opinion exchange and symposium, exchanging opinions at the occasion of the joint mission consisting of the public and private sectors, various meetings between JPO and SIPO, and submitting a written opinion to the draft revision requested by the SIPO, the State Council of the People's Republic of China and the National People's Congress.

In addition, regarding the Trademark Law of China, which is also currently under amendment, the JPO submitted its comments in July 2006, November 2007 and June 2009 on the draft amendments under consideration at the CTMO in response to the three-time requests for the Japanese government's comments. In March 2010, it also submitted its comments in response to the request on the draft amendments from the Legislative Affairs Office of the State Council. At the Heads Meeting between the JPO and the CTMO held in October 2007 and January 2009, the JPO expressed its concerns on the abolition of examination of relative reason for refusal,<sup>5</sup> and called on the necessity of protection enhancement concerning trademarks well-known in other countries.

## 2. Efforts for Developing Intellectual Property Systems in Developing Countries

The intellectual property system is an effective tool and necessary infrastructure for business development not only in industrialized countries but also in developing countries. Supporting efforts to establish intellectual creation cycle and navigating to build the intellectual property system in developing countries contribute to an autonomous economic development of them, which results in a sustainable global economic growth. In addition, the establishment of the intellectual property system leads to improvement of the trade and investment environment, which will not only reduce business costs for Japanese enterprises engaged in businesses in those countries but also lead to the development of those developing countries in light of the increase of direct investment in them. From this standpoint, the JPO has thus provided vigorous support for the human resources development and informatization to reinforce protection of intellectual property rights in developing countries mostly in the Asian region.

With the obligation to execute the TRIPS Agreement having taken effect for developing countries as of January 2000, a minimum of improvements seems to have been made to the legal system in developing countries. However, it is important to extend assistance to developing countries focusing on further improvements to their legal systems as well as operation systems which remain fragile. As suggested by the fact that the expiration for the TRIPS Agreement execution for least developed countries was extended to the end of June 2013, their executive

<sup>5</sup> Relative reason for refusal is to see whether a trademark is identical or similar to the already registered trademarks and whether there is a risk of causing confusion with goods or services connected with any other person's business.



systems and preparation of legal systems are insufficient and still need assistance. Because the levels of protection of intellectual property rights and the conditions of trade and investment are significantly different for each developing country compared to Japan, it is essential to sufficiently examine the priorities of countries and fields to be targeted based on the needs of Japan's industries and to draw detailed plans that meet the conditions of each country before implementing cooperation.

### (1) Fundamental Attitude to Assistance in Developing Countries

It is necessary for Japan to actively promote the support for developing countries taking into account the following points based on the proposal (government proposal 4) that "the intellectual creation cycle should be promoted to encourage self-organized economic development of developing countries by encouraging development of the intellectual property systems and sharing successful cases utilizing intellectual property with developing countries in providing support for them" in the report of "the Study Group on Innovation and IP Policies" entitled "New IP Policies for Innovation Promotion (August 2008)."

With regard to assistance in developing countries, it is important to raise their awareness toward intellectual property in developing countries and to provide assistance for their enthusiastic efforts by themselves to build intellectual property systems in order to promote their autonomous economic development.

With the aim of promoting their self-organized economic development in developing countries, it is known that Japan provides assistance on activities for discovering specialty products having unique character in their local communities which are deeply-entrenched in their communities and for developing those products so as to be competitive on the assumption that each country hauls itself up by its own bootstrap (one village one product campaign). In order to continuously develop industries arisen in those local communities, it is important to provide assistance so as to promote innovations originated in the local communities and their own unique brands by developing and exploiting intellectual property.

Japan has an experience that it had heightened its international competitiveness by building intellectual property systems and promoting intellectual creation cycle, which consists of creation, protection and exploitation of intellectual property. Therefore, with regard to assistance in developing countries, it is considered effective to promote building intellectual property system and to share successful cases studies which exploited intellectual property with developing countries in order to promote intellectual creation cycle and self-organized economic development in those countries.

From this standpoint, Japan considers it important to further deepen relationships with developing countries, mainly in the Asian region as well as to address assistance in Africa.

### (2) Expansion of Support for African Countries

The JPO has been actively promoting the development of IP experts and the support for computerization in developing countries mainly in the Asia-Pacific region, and provided

technical support in the intellectual property field in the region through the WIPO Funds-in-Trust/Japan<sup>6</sup> Project. In order to develop IP human resources in Africa using the know-how on human resources development and technical cooperation obtained through those activities, the JPO has extended the WIPO Funds-in-Trust/Japan which funds countries in the Asia-Pacific region and founded a fund to support Africa since FY2008.

This fund project aims at supporting human resources development targeting administrative officials, business owners and legal specialists in Africa to promote autonomous economic development utilizing intellectual property in Africa.

### (3) Cooperation in the Development of Human Resources

#### 1) Dispatch of experts

The JPO dispatches mainly the JPO officials to developing countries through the scheme of WIPO Funds-in-Trust/Japan and a Japanese Official Development Assistance's (ODA's) scheme. The dispatched experts mainly provide on-site instructions regarding examination practices, computerization, and so forth.

#### 2) Acceptance of Short-term Trainees

The JPO provides trainings focusing on the training programs which aim at the improvement of examination capability of patent examiners in developing countries in order to develop human resources for strengthening of the protection of intellectual property rights. The JPO has accepted a total of 3,253 government and civilian trainees from 57 countries and one region mainly in the Asia-Pacific region during the period from April 1996 to March 2010. The JPO is also supporting activities of the alumni associations of the trainees, which significantly contribute to the building of human networks between Japan and developing countries.

In FY2009, the JPO newly provided patent examiners from India with the trainers training focusing on search and examination practices for three months.

#### 3) Acceptance of Long-term fellows

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

In FY2009, the JPO accepted one long-term fellow from India, Indonesia and the Philippines, respectively.

The JPO also accepted long-term fellow for six months independently and accepted one fellow from China and Brazil, respectively, in FY2009.

<sup>6</sup> Since 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 for WIPO member countries in the Economic and Social Commission for Asia and the Pacific (ESCAP), such as the holding of conferences or symposia, acceptance of trainees and Intellectual Property Rights (IPRs) research students, dispatch of experts and computerization of IP officials.

#### 4) Technical Cooperation Project<sup>7</sup>

The JPO dispatches long-term experts to Indonesia and Malaysia to support the development of intellectual property systems, to cooperate in the development of human resources and to conduct activities to raise IP-awareness by means of the technical cooperation project system utilizing the Japanese ODA's scheme.

a)Indonesia: Project for the Intellectual Property Rights Administration (phase 1 and phase 2) (from February 2005 to June 2010)

b)Malaysia: Project for the Human Resource Development in the Intellectual Property Rights' Administration of Intellectual Property Corporation of Malaysia (MyIPO) (from April 2007 to May 2010)

#### 5) Holding of Forums, Symposia, etc.

The achievements of the major meetings managed by the WIPO Funds-in-Trust/Japan are as follows:

##### **a. Seminar on Successful Experiences Linking Intellectual Property (IP) and Business**

This seminar was held in South Africa in May 2009 for the purpose of sharing the recognition of participants on the importance of developing intellectual property systems for economical development through information sharing and opinion exchanges on successful cases which effectively utilized intellectual property systems. This is the first seminar held utilizing the WIPO Funds-in-Trust/Japan for African and least developed countries, and about 60 persons concerned about intellectual property policies from African countries (35 countries and intergovernmental organizations participated in this seminar.

##### **b. Observation Program on Madrid System in the Japan Patent Office**

This observation program was held in Japan in August 2009 targeting the 10 ASEAN countries for the purpose of promoting the goal of accessing of the ASEAN countries to the Madrid Protocol until 2015 by introducing the background of the accession of Japan to the Madrid Protocol, and current administrative processing and substantive examinations and by presenting experiences of Japanese users of the Madrid Protocol. About 20 persons from the 10 ASEAN countries (2 countries are member of the Protocol and 8 countries are not), other concerned groups, the WIPO and the JPO participated in this program.

##### **c. Regional Forum on the Role of National Design Councils for the Effective Promotion and Protection of Industrial Design**

This forum was held in Laos in August 2009 for the purpose of sharing information of each country on the protection/promotion of industrial designs and of providing a place to discuss effective methods of protecting and utilizing industrial designs. About 50 persons from intellectual property protection organizations, corporations and governmental officials

<sup>7</sup> Technical cooperation project is implemented for a certain period of time as one project consisting of the three cooperation methods (cooperation tools), dispatch of experts, acceptance of trainees and provision of equipment.

mainly in the Asia-Pacific region participated in this forum to discuss the importance of intellectual property rights protection from a standpoint of economic growth, strengthening of competitiveness and countermeasures against counterfeit products.

### **d. National Workshop on the Enforcement of Intellectual Property Rights (IPRs) for Law Enforcement Agencies**

This workshop was held in Cambodia in October 2009 for the purpose of discussing the importance of enforcement in Cambodia, and the necessity of legal framework to realize it, and cooperation between the patent office and the enforcement organization. About 50 governmental officials and civilians from Cambodia participated in this workshop to share the recognition on necessity of raising awareness of the entire nation on intellectual property rights.

### **e. Study Program in Japan on Effective Development and Utilization of IP Assets**

This study program was held in Japan in November 2009 for the purpose of seeing IP strategies and examples of IP exploitation of companies through visits to the patent solution fair (fair related to exploitation of patents) and to SMEs, and supporting the promotion of using the intellectual property systems by SMEs in developing countries. In this study program, 1) the role of intellectual property in the economical development, 2) successful cases that link intellectual property to businesses, and 3) efforts of the government and local governments in providing support for SMEs were presented. This was the first program jointly hosted by the Asia-Pacific region and the African region using the WIPO Funds-in-Trust Japan. About 25 persons from 8 countries in the Asia-Pacific region, 4 countries in the African region, related organizations, the WIPO and lecturers from the JPO participated in this program.

### **f. Regional Seminar on Technology Transfer by Universities and Public Research Institutions through the Strategic Use of the Patent System**

This seminar was held in Sri Lanka in December 2009 targeting those who engage in intellectual property at universities and public research organizations in the Asia-Pacific region for the purpose of improving expertise and techniques concerning appropriate IP management and effective technical transfer. About 50 persons from intellectual property offices, universities and public research institutions in 11 Asia-Pacific countries participated in this seminar.

### **g. Regional Workshop on Effective Management of Intellectual Property Academies**

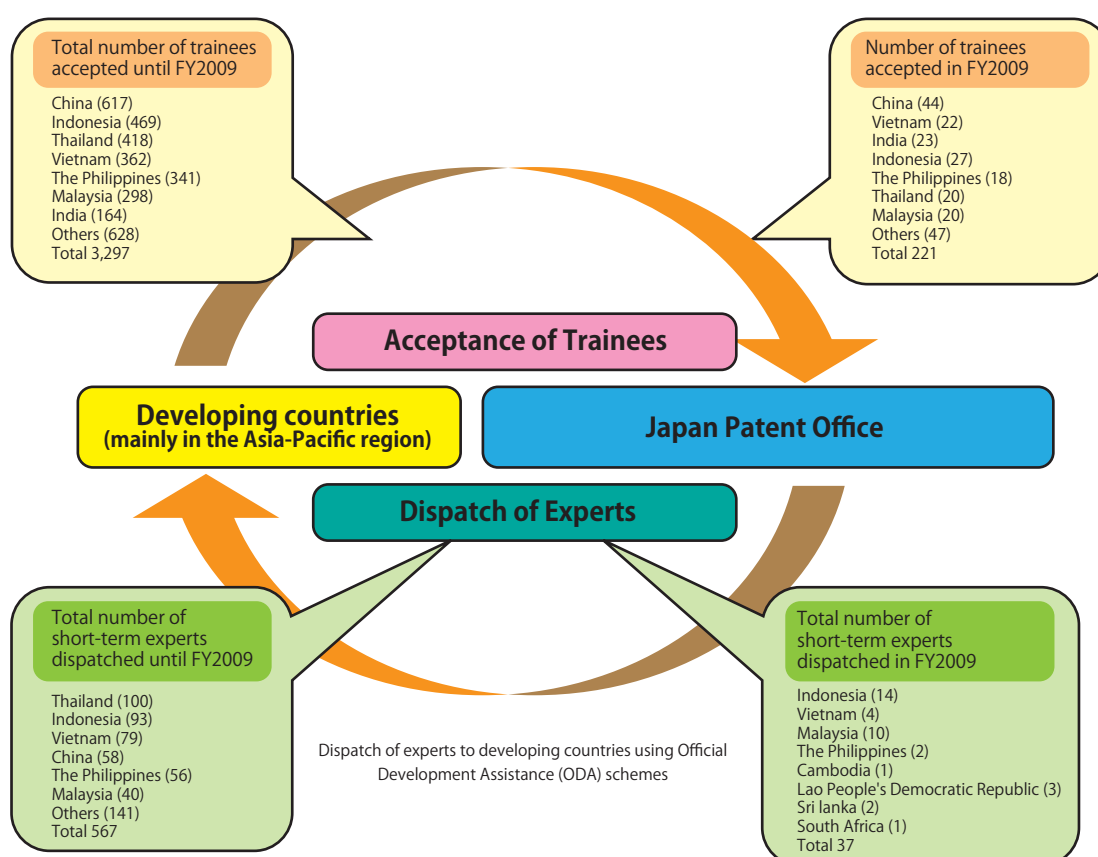
This workshop was held in Indonesia in February 2010 for the purpose of sharing experiences such as the construction of organization and management strategies of each IP academy (organization to develop IP human resources) as well as planning and implementation of training programs, and of discussing on a method of developing IP human resources and effective management of human resources developing organizations. About 60 persons from 13 countries, mainly officials of intellectual property offices and IP academy leaders who engage in human resources development in the IP field in the Asia-Pacific region, participated in this

workshop.

#### h. High-level Forum on the Global Intellectual Property Infrastructure for Promotion of Innovation

This forum was organized by the WIPO in cooperation with the JPO in Japan in March 2010 as a place for discussing on the global intellectual property infrastructure that contributes to the promotion of innovation for economical development by inviting about 100 policy makers at an intellectual property office's commissioner level from about 50 countries worldwide, mainly developing countries in the Asia-Pacific region, the African region and the Latin American region. In this forum, the Commissioner-level officials from the participating countries made presentations and had discussions, according to each of the themes, (1) legal systems, (2) human resources, (3) organizational systems and (4) information technologies; which compose the concept of "the global IP infrastructure for promotion of innovations" that Japan had proposed at APEC meetings. These presentations and discussions were followed by opinion exchanges among all the participants and attendants. Through these activity processes, it was recognized and shared among all the participating countries that the enhancement of innovations through the global IP infrastructure is important in terms of continuing to develop their own country's economy as well as the world economy.

#### Steadily Growing Cooperation in the Development of Human Resources



### (4) Cooperation in Information Technology

In Indonesia, the JPO supported the establishment of Industrial Property Digital Library (IPDL) system concerning intellectual property carried out from June 2005 at the Directorate General of Intellectual Property Rights (DGIPR) through dispatching five short-term experts. The IPDL service was launched in February 2007.<sup>8</sup>

In the Philippines, the JPO established the Patent Administration Computerized System (PACSYS) at the Intellectual Property Office of the Philippines (IPOPHL) under the Japanese ODA's scheme from May 1999 to May 2003 (four years). Furthermore, the JPO carried out the follow-up cooperation project from November 2004 to the end of March 2007, for which the JPO dispatched four short-term experts during this period.

In Vietnam, the JPO was engaged in the assistance of structuring of the Intellectual Property Administration System (IPAS) from April 2000 to June 2004 (4 years and 3 months) for the National Office of Intellectual Property of Vietnam (NOIP) under the ODA's scheme. Based on the results, the JPO cooperated in building search systems including human resources development, electronic filing systems and the IPDL<sup>9</sup> from January 2005 for which the JPO dispatched 1 long-term expert for the development of human resources. In March 2009, a seminar was held in Vietnam to promote the utilization of each system which was a result of the project.

In Thailand, the JPO supported the Department of Intellectual Property of Thailand (DIP) to establish a search system (IPDL) from 1995 to 2000 under the ODA's scheme. The JPO established an administrative processing system for patents, utility models and industrial designs under the cooperation of the JPO and the WIPO from August 2002 to December 2005. Starting from 2006, the DIP expanded the stored data and started operating the administrative processing system and the search system<sup>10</sup> to which new functions were added.

### (5) Cooperation in the Examination Process

#### 1) Provision of Advanced Industrial Property Network (AIPN)

AIPN (Advanced Industrial Property Network) refers to a system for providing examination-related information in Japan to the intellectual property offices overseas. It aims to reduce the duplication of workload at intellectual property offices overseas through effective utilization of the results of examinations of corresponding patent applications in Japan and to expedite the acquisition of rights at these offices. The JPO has been making efforts to disseminate the AIPN in order to cooperate in patent examination with developing countries.

Specifically, the JPO established a system that enables examiners at intellectual property offices overseas to obtain information on documents for examination procedures, legal status of patent applications and cited documents, information relating to the examination of post-grant claims, and patent family information in English through the Internet. As of March 2010, the AIPN

<sup>8</sup> <http://ipdl.dgip.go.id>

<sup>9</sup> <http://iplib.noip.gov.vn/>

<sup>10</sup> <http://patentsearch.moc.go.th/>

was available to 37 countries/organizations.

## 2) Cooperation for Formulating the Examination Standards and Improving Examination Capabilities

In order to enhance the quality and transparency of examinations in developing countries, the JPO dispatched short-term experts utilizing ODA's schemes and they gave instruction on formulation of the examination standards and training for examiners (DGIPR: short-term experts for patents, industrial designs and trademarks in November 2009; NOIP: short-term experts for industrial designs in October 2009 and short-term experts for Patents in November 2009).

## 3) Provision of Industrial Design Examination Results

In order to support the acceleration of the substantive examination process for applications for industrial design registration in developing countries, the JPO has been providing the results of examinations of applications for industrial design registration (only for registered applications) filed both in Japan and the corresponding country (DIP: started in January 2002, NOIP: started in September 2002).

# 3. Countermeasures against Counterfeiting Products

## (1) Countermeasures against Counterfeiting Products

In the midst of economic globalization and industrial technologies development in developing countries, products imitating those produced by Japanese companies have been manufactured in developing countries due to insufficient protection of intellectual property rights and, the damage caused by the counterfeiting in foreign markets has become increasingly severe. The counterfeiting problem has had a negative impact on companies, not only causing a loss of foreign markets, deterioration of brand image to consumers, and increase in the number of problems concerning product liability, but also endangering consumers' lives and health by inferior counterfeiting parts and bogus pharmaceuticals, where immediate countermeasures are expected to be taken. The JPO has, with the aim of supporting business activities of Japanese companies overseas, provided information concerning countermeasures against counterfeiting products to the countries subject to those damages, and approached and assisted in improving system and operations to the governments of countries where the damages occur through bilateral meetings.

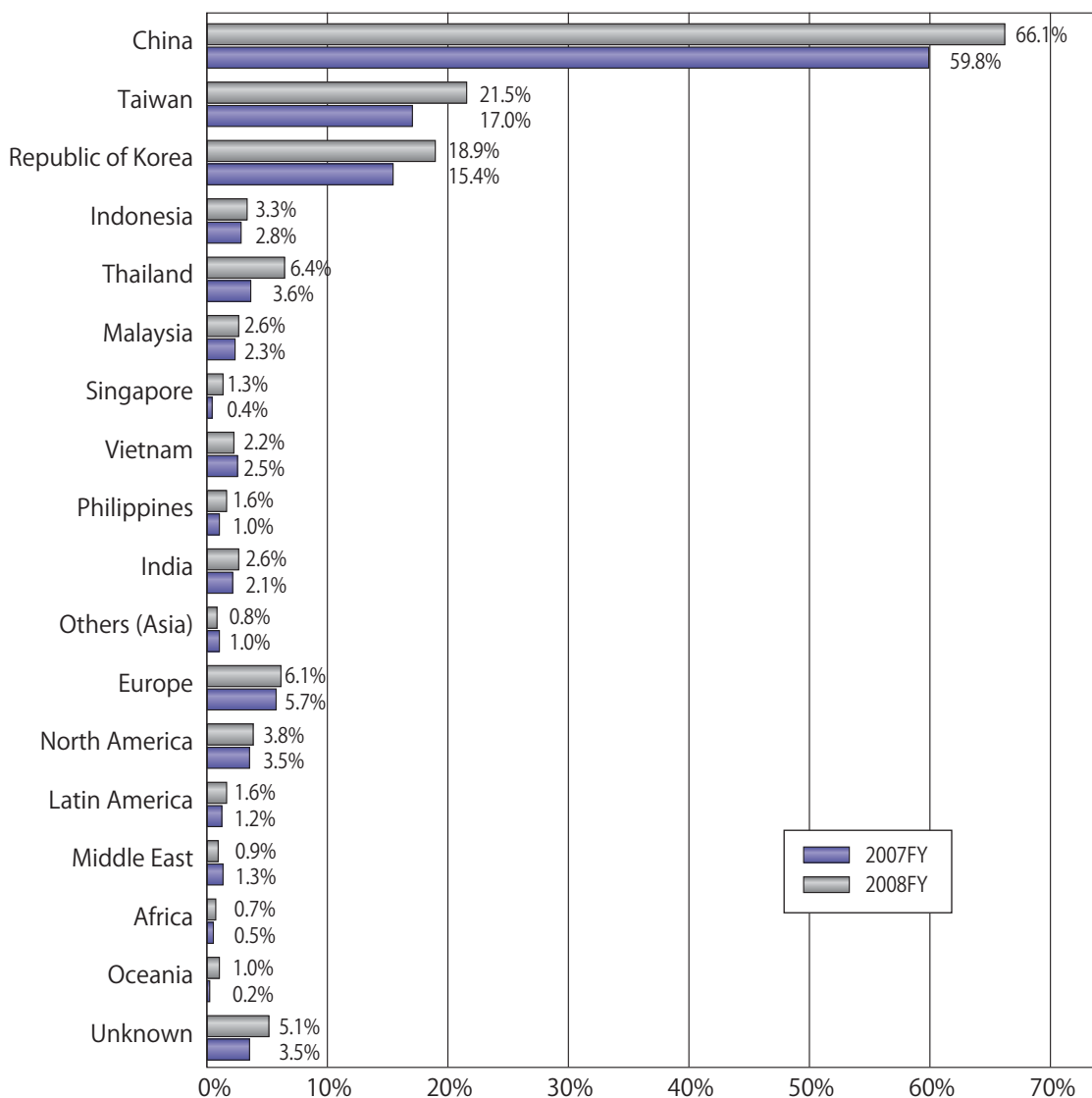
In the midst of globalization of business activities and rapidly increasing number of applications in developing countries including China, in order to build an environment where intellectual property is properly protected, it is important to promote developing countries' voluntary efforts for intellectual property protection in addition to current efforts for enhancing enforcement, and to enhance assistance toward building of intellectual property system and improvement of examination capability in developing countries so that appropriate rights are given at the examination phase in developing countries. In order to achieve this, it becomes



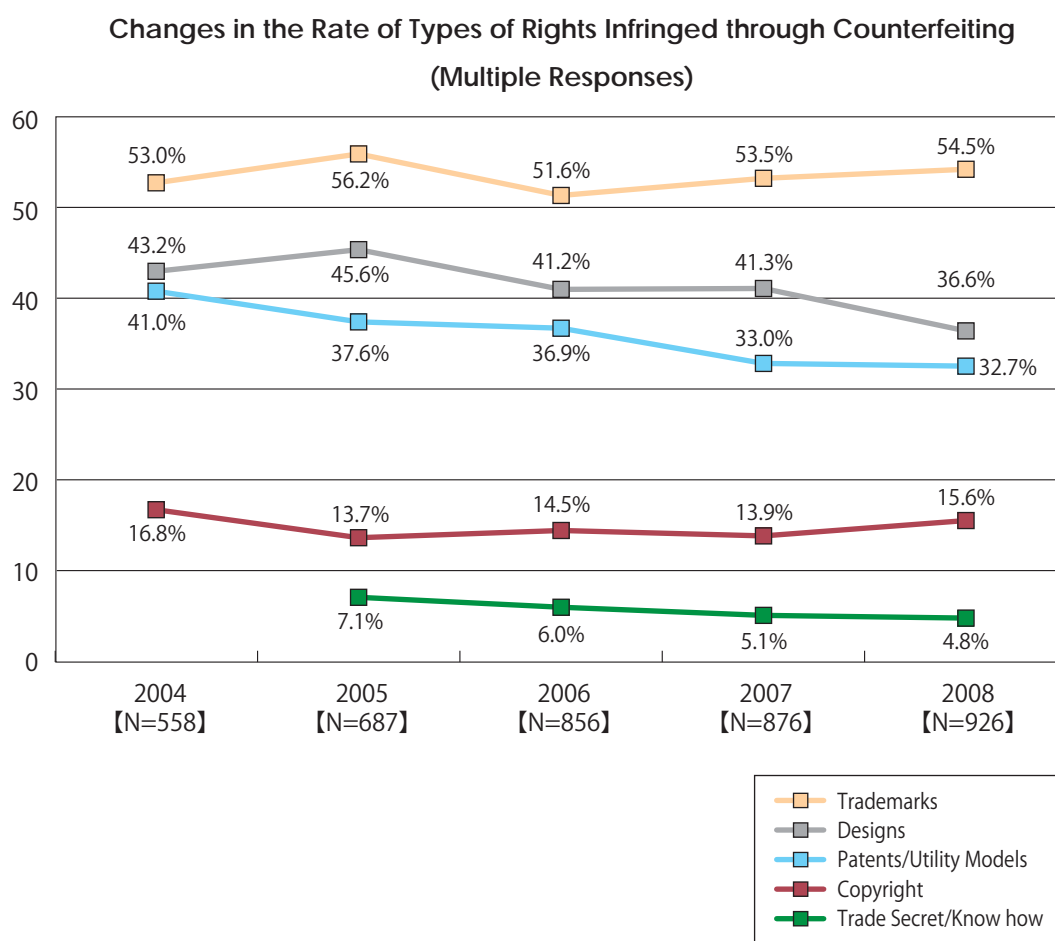
important to extend the traditional trilateral cooperation of Japan, the United States and Europe for examination and cooperation for harmonized systems.

In the midst of drastically changing environment concerning global intellectual property based on the recent economic globalization and highly-developed and complicated technologies, efforts for both grant of high-quality intellectual property in expeditious manner and enhancement of enforcement need to be addressed in order to establish intellectual property system supporting international business activities.

**Countries/Regions where Counterfeit Products are Manufactured (multiple responses)**







Notes: Figures in [N] are the total number of companies that replied "suffered from counterfeiting damages" in the survey conducted in each year

Source: JPO, FY2009 Survey Report on Losses Caused by Counterfeiting

## (2) JPO's Efforts to Stop Counterfeiting

### 1) Approaches and Support for Governments in Developing Countries

In the midst of globalized business activities, the number of applications filed is rapidly increasing in developing countries including China. With the protection of intellectual property being addressed as critical infrastructure for its economic development in China, they formulated "Action plan concerning protection of intellectual property rights" and legal amendments of its Patent Law and Trademarks were underway in 2009. China vigorously addresses enhancement of protection of intellectual property rights such as enhancement examination systems and human resource development by rapidly increasing the number of examiners in China's Patent office (SIPO) in order to address the increasing number of applications filed in recent years.

The JPO, with the aim of assisting and cooperating with these efforts, holds meetings between Japan and China or between Japan, China and Korea, and meetings between the heads of five patent offices including Japan, the United States, Europe, China and Korea. In the countries and regions in Asia where damage caused by counterfeiting is serious, the JPO

has been requesting to reinforce measures to counterparties against counterfeits through bilateral meetings. In addition, the JPO emphasizes the importance of reinforcing protection of intellectual property rights through multilateral meetings such as the WTO, APEC, OECD, G8 and WIPO, as well as through cooperative efforts with the United States and advanced countries in Europe. Furthermore, as a part of efforts assisting enhancement of regulation in developing countries, the JPO invites the officials in local authorities concerned, including customs, police and the courts in Asian countries as trainees and conducts training concerning intellectual property systems on an annual basis in Japan and holds seminars in the countries of these officials as well.

### 2) Collaboration with the Industrial World

Some Japanese companies and industry groups have been taking active anti-counterfeiting measures. For example, some organizations, after independently conducting vigorous investigative activities to identify the manufacturers and distribution channels of counterfeiting products, have been requesting local regulatory authorities to crack down on counterfeiters. However, such measures require persistent efforts, and in many cases, sufficient measures cannot be taken due to personnel and financial constraints. It is also undeniable that there is a limit to the ability of individual companies and industrial groups to negotiate with local governments and regulatory authorities.

Under these circumstances, the “International Intellectual Property Protection Forum (IIPPF)”<sup>11</sup> was established in April 2002 to promote cross-industry cooperation to reinforce anti-counterfeiting measures in collaboration with the Japanese government. The following projects have been undertaken by the Forum; submission of requests to governments of countries where IPR infringement has been serious to reinforce anti-counterfeiting measures; information exchange and survey research; and cooperation for human resource development in countries where IPR infringement has been serious.

The JPO supports the efforts of International Intellectual Property Protection Forum. Concerning China, in particular, the joint missions of the public and private sectors were dispatched seven times so far in collaboration between the Forum and the government. The JPO has requested the development of legal systems and improvement of operations to the Chinese governmental organizations and cooperated with more effective and efficient crack down on counterfeiting products by conducting the seminars for judging genuine and counterfeited products and technical seminars for regulatory authority officials.

### 3) Collection and Provision of Information for Anti-counterfeiting Measures

In order to understand the situation surrounding the damages overseas suffered by Japanese companies, the JPO conducts an annual survey and publishes the results in the “Survey Report on Losses Caused by Counterfeiting.” In addition, with the aim of assisting Japanese

<sup>11</sup> The IIPPF was inaugurated in April 2002 (Chairman: Kunio Nakamura, president and CEO of Matsushita Electronic Industrial Co.) 183 companies and organizations (85 organizations and 98 companies) are involved in this forum as of March 2010.

companies' business activities overseas, the JPO dispatches resident officers to overseas offices (Beijing, Bangkok, Seoul and Taipei in Asia) for providing consultation services in local communities, and also compiles and provides "Manuals on Measures against Counterfeits," which contain useful information regarding anti-counterfeiting measures in the countries and regions where counterfeiting frequently occurs, and "Collection of Case Examples/Court Precedents of Intellectual Property Right Infringements," which contains actual cases, court precedents relating to IPR infringement, and informative comments. Furthermore, the JPO holds seminars inside and outside of Japan for Japanese companies in order to provide them with the information necessary to take measures against counterfeits.

#### 4) Response to Consultations Concerning Countermeasures against Counterfeiting Products

The JPO responds to individual consultations concerning counterfeiting products (industrial property rights infringement) and provides information necessary for countermeasures against counterfeiting products (infringement of industrial property) by closely cooperating with the "APEC IPR Service Center" (Counterfeit Product Measure/Commercial Office, Manufacturing Industries Bureau, Ministry of Economy, Trade and Industry) and other related ministries and agencies. In addition, the JPO supports activities of consulting services concerning foreign industrial property right system and countermeasures of industrial property infringement intended for Japanese companies.

#### 5) Cooperation with National Regulatory Authorities/ Countermeasures at the Boarder

With the aim of efficiently cracking down on counterfeiting and piracy within Japan, the JPO aims to strengthen cooperation with Japanese law enforcement authorities by (1) addressing respective inquiries about infringement cases of industrial property rights from policy and customs and (2) dispatching instructors for training on intellectual property to Japanese customs officials, etc.

#### 6) Raising Consumer Awareness

The JPO organizes "Anti-Counterfeiting Campaigns," every fiscal year with the objective of further raising public awareness on the importance of intellectual property rights and informing the public that counterfeiting and piracy have adverse effects by utilizing TV commercials, posters, newspapers and banner advertising.