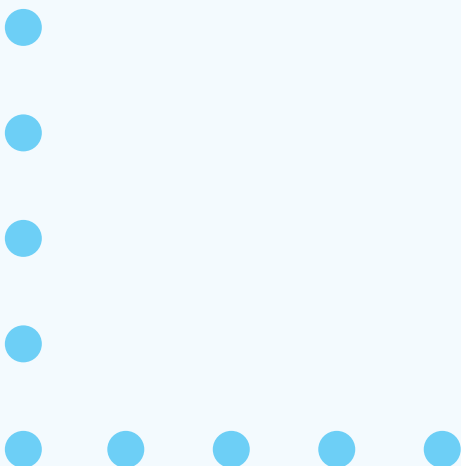


Part 4

International Trends and Efforts



Chapter 1

International Trends and Efforts Relating to Patents

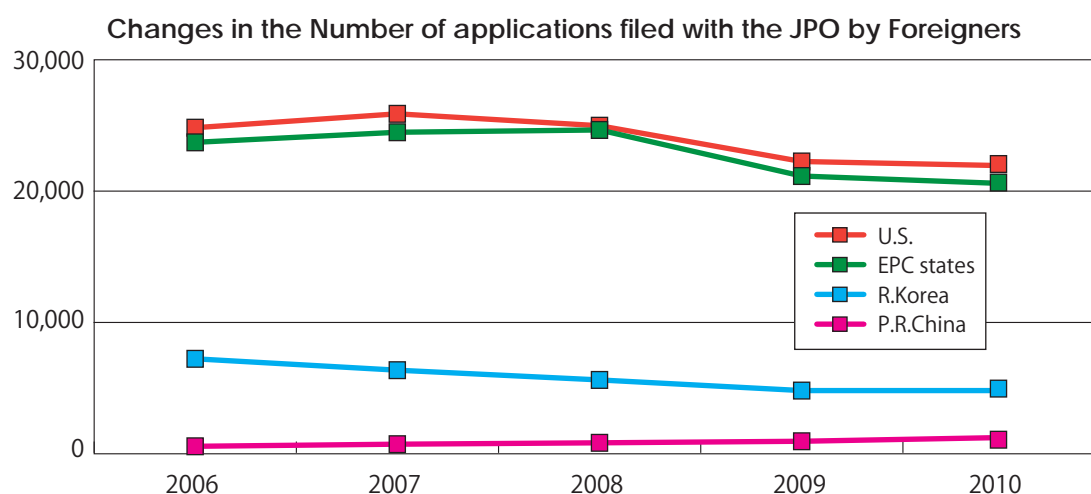


1. Patent Applications Filed with the JPO by Foreign Applicants

The number of patent applications filed with the JPO by foreign applicants came to 54,517 in 2010, an increase of 2.3% from 53,281 in 2009.

Applications filed by U.S. and European applicants accounted for 82% of all applications in 2010. The number of applications filed by applicants in the Republic of Korea recorded a slight increase in 2010 after a downward trend from 2006 to 2009, accounting for 8.9% of all applications.

On the other hand, the number of applications filed by Chinese applicants in 2010 still fell short of the figures for the United States, Europe and the Republic of Korea, although it increased about 200% from 2006 to 1,063.



	2006	2007	2008	2009	2010	Percentage to total (2010)
U.S.	24,961	26,026	25,112	22,367	23,183	42.5%
EPC states	23,836	24,611	24,787	21,251	21,122	38.7%
R.Korea	7,220	6,347	5,599	4,782	4,872	8.9%
P.R.China	505	666	772	891	1,063	1.9%
Others	5,092	5,143	4,622	3,990	4,142	7.8%
Total	61,614	62,793	60,892	53,281	54,517	100.0%

Notes:

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

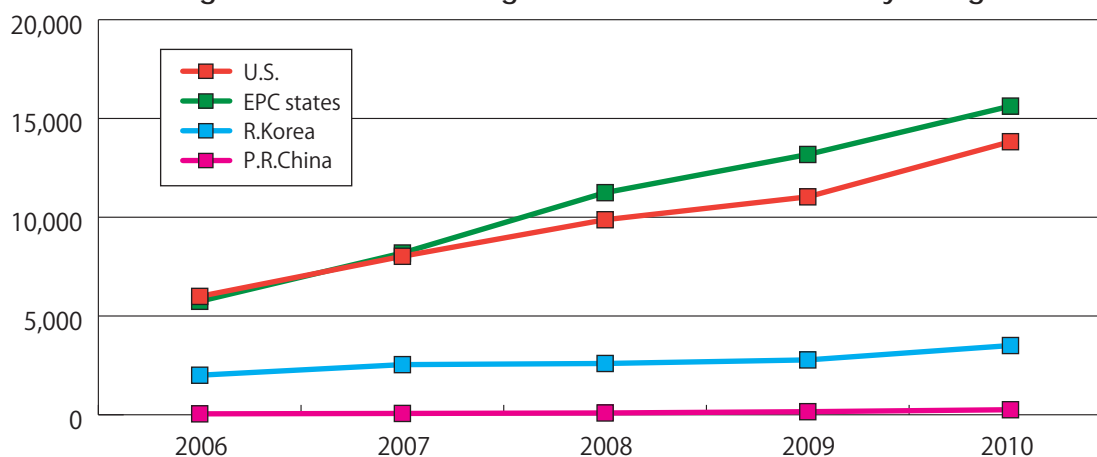
2. Patent Registration by Foreign Applicants in Japan

The number of patent registrations by foreign applicants in Japan was 35,456 in 2010, up 23% from 28,890 in 2009.

Registrations based on the applications filed by U.S. and European applicants account for 83% in 2010, and those by applicants in the Republic of Korea account for 9.9% of the total.

The number of registrations based on the applications filed by Chinese applicants only accounts for less than 1% of all registrations, although it increased by more than 500% from 47 in 2006 to 255 in 2010.

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



	2006	2007	2008	2009	2010	Percentage to total (2010)
U.S.	5,993	8,023	9,873	11,033	13,824	39.0%
EPC states	5,744	8,189	11,244	13,177	15,626	44.1%
R.Korea	2,002	2,538	2,596	2,777	3,505	9.9%
P.R.China	47	67	91	156	255	0.7%
Others	809	1,097	1,381	1,747	2,246	6.3%
Total	14,595	19,914	25,185	28,890	35,456	100.0%

Notes:

1. EPC states stands for applicants from EPC member countries at the end of each CY.
2. The figures in the table include the number of patent registration based on 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 EPO will host the 29th Trilateral Conference in November 2011.

2) Outline of Each Project

The contents and future plans for each project discussed at the 28th Trilateral Conference held by the USPTO in November 2010 are as follows.

a. Cooperation in Examination through Mutual Exploitation

PPH¹

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, if they are judged to have patentability by any international searching authority or international preliminary examination authority in Japan, the United States or Europe.

The USPTO and the JPO agreed to work together to promote the use of the PPH and expand the PPH program to other patent offices.

SHARE (Strategic Handling of Applications for Rapid Examination)

This framework allows mutual exploitation of the results of searches and first actions. The Office (Office of First Filing) with which the application was first filed 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 first filings as a standard operation. The USPTO launched a pilot program titled First Look Application Sharing (FLASH) to test the feasibility of balancing and prioritizing workloads.

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. The EPO and the USPTO commenced a limited PCT collaborative international search and preliminary examination pilot as one component of the roadmap.

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. The Trilateral Offices agreed to promote the use of

¹ See Part2, Chapter 2,4.(1) 1).

the CAF with its users.

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

At the Trilateral Conference in November 2010, the Trilateral Offices compiled the first draft of a Catalogue of Differing Examination Practices. During the meeting with the trilateral users (Japan Intellectual Property Association, IPO (U.S.), AIPLA (U.S.) and Business Europe) that was held around the same time, the Trilateral Offices unveiled the draft catalogue to the participants present at the meeting. The offices plan to make the catalogue publicly available after integrating the KIPO and SIPO's examination practices into the catalogue and compiling one that covers the IP5's different examination practices.

Efforts Concerning Quality

The Trilateral Offices agreed to enhance quality management and investigate measures for improving quality. The offices agreed to undertake a study of the quality of International Search Reports, and propose improvements, with an expected completion date of November 2011.

The Trilateral Offices also agreed to explore the development of composite metrics including statistical data and stakeholder perception information.

d. Efforts on the Development of Information Systems

Promotion of Computerization by International Standard (XML format)

At the Trilateral Conference in November 2010, aiming toward realization of the use of XML in all three offices to facilitate e-filing and processing, the Trilateral Offices agreed to continuously exchange information on the status of enhancing XML-based e-filing and processing in each of the offices.

The Trilateral Offices will continue to consider legal and technical issues to positively support the WIPO International Bureau's goals of digitization.

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 Trilateral Conference held in November 2009.

At the Trilateral Conference in November 2010, the Trilateral Offices adopted a revised Security Policy for TriNet in order to implement standards for TriNet security controls.

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

A framework for electronic exchange of priority documents through WIPO was established in April 2009. The Trilateral Offices will continue to cooperate in working with WIPO to improve the usability and security of the WIPO digital access service.

e. Other Efforts

Information Dissemination Activities

At the Information Dissemination Fair held in Tokyo, Japan in November 2010, the Trilateral Offices held an exhibition introducing their efforts for raising the awareness of users.

The Trilateral Offices held a meeting with the trilateral users (Japan Intellectual Property Association, IPO (U.S.), AIPLA (U.S.) and Business Europe) twice in 2010 (in June and November both in Alexandria, U.S.).

Classification

The Trilateral Offices will finalize the existing Harmony projects in 2011. The offices will work toward a smooth transition of the Harmony projects into the IP5 cooperation framework that includes the KIPO and SIPO.

Statistics

The Trilateral Offices agreed to change the name of the Trilateral Statistical Working Group to the Four Office Statistics Working Group to reflect the status of the KIPO as a full member of this Working Group. The Trilateral Offices will coordinate with each other to make the transition from the Four Office Statistics Working Group to the IP5 framework.

(2) Meeting of the IP5

1) Background

Since the first IP5 Heads Meeting in 2007, the Five Intellectual Property Offices (IP5), the JPO, USPTO, EPO, SIPO and KIPO, have continuously held meetings. This forum of the five offices is intended to form a bridge across the pre-existing small group meetings among major patent offices, such as the JPO-EPO-USPTO and the JPO-SIPO-KIPO frameworks. The five offices held the third IP5 Heads Meeting in Guilin, China in 2010. The IP5 has ten foundation projects as a platform to promote work sharing, each office in charge of two of the projects. In order to push forward these projects, the IP5 continues to hold vigorous working-level discussions at three

field-specific working groups (WG1: Classification, WG2: IT-supported Business Processes, WG3: Examination Practice-related Projects).

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 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 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 the WIPO digital access service.

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 for 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.

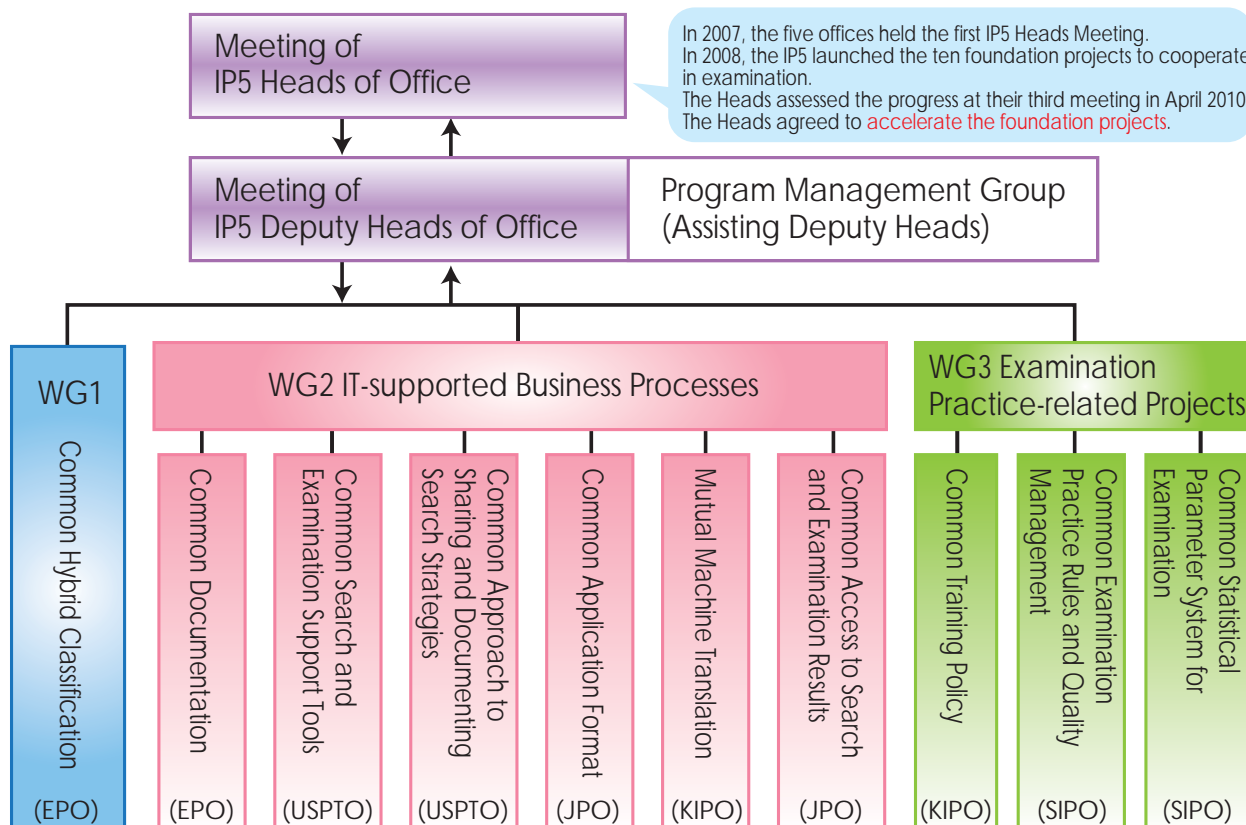
Common Statistical Parameter System for Examination (SIPO)

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.

The Structure of IP5 Offices



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, countries determine the registering eligibility of designs based on their own design protection systems, which differ from country to country, leading sometimes to a different determination outcome from each country. This poses a great burden for Japanese companies that sell products overseas, as it requires them to acquire a design right for each of these countries. In order to obtain a right, they also need to prepare an application in such a way that meets the procedural requirements set by the country.

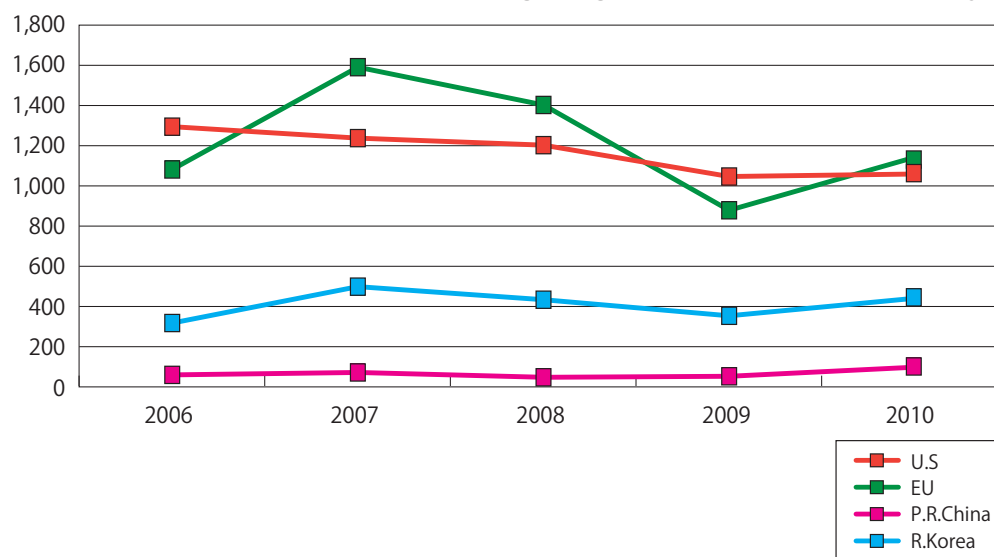
Under such circumstances, with the objective of harmonizing the design protection system with other countries to support the acquisition of design rights abroad, the JPO holds various meetings with the IP offices in Asian nations, such as China and the Republic of Korea, the United States and Europe. In those meetings, the offices exchange information and opinions on the design protection systems and the operations of design examination.

In addition, the SCT of WIPO, has started a discussion with the aim of harmonizing the design registration procedures. The JPO has been actively participating in the discussion.

1. Design Applications Filed with the JPO by Foreign Applicants

The number of applications for design registration filed with the JPO by applicants from the United States, Europe and the Republic of Korea showed signs of rebound in 2010 after recording a temporary fall in 2009. The number of applications filed by Chinese applicants came to 111 in 2010, accounting for only 3% of the total, though it has been on a gradual rise.

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



	2006	2007	2008	2009	2010	Percentage to total (2010)
U.S.	1,304	1,247	1,212	1,056	1,084	29.5%
EU	1,091	1,600	1,412	888	1,135	30.9%
P.R.China	69	81	57	62	111	3.0%
R.Korea	327	508	443	363	449	12.2%
Others	839	906	824	832	894	24.3%
Total	3,630	4,342	3,948	3,201	3,673	100.0%

Notes:

1. The figures for EU are the total number of applications filed with the JPO by applicants from EU member states.
2. In and after 2004, 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 the 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. At the sixth JPO-SIPO Meeting on Appeals and Trials (Design) held in Beijing in November 2010, the two offices exchanged information on the operation of each country's design examination and appeals/trial practices. The JPO collected information on the operation of design examination concerning the third revision of the Chinese Patent Law (enacted on October 1, 2009). The JPO also exchanged views on issues, such as examination

guidelines, with the Preliminary Examination Department that examines applications for compliance with formality requirements.

At the 17th Commissioners' Meeting between the JPO and the SIPO in December 2010, the commissioners agreed to boost cooperation by setting up a JPO-SIPO expert meeting in the field of design where both the Patent Reexamination Board and the Preliminary Examination Department will attend.

(2) JPO-KIPO 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 Design Experts' Meeting has been held annually since its first meeting in 2001.

In May 2011, the tenth JPO-KIPO Design Experts' Meeting was held in Daejeon, 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.

(3) JPO-OHIM Design Examiners' Meeting

On April 1, 2003, OHIM started design registration operations based on the Council Regulation on Community designs. The JPO and the OHIM have been holding the JPO-OHIM Design Examiners' Meetings since 2003.

The sixth JPO-OHIM Design Examiners' Meeting was held in Alicante, Spain in September 2010. The two offices exchanged views on the current status of their design registration systems, design examining operations, progress concerning the Hague Agreement, and the management and operations of EuroLocarno.

The seventh meeting will be held in Tokyo in 2011.

(4) New Efforts

In February 2011, the JPO and the Controller General of Patents, Designs and Trade Marks of India held a meeting in Kolkata. The JPO obtained information on India's design system and its operations. The two offices exchanged views on the JPO's possible assistance to India.

In March 2011, the JPO and the National Office of Intellectual Property of Vietnam held a meeting in Hanoi. The two offices considered the future development of their ongoing ten-year cooperation in examination. The two offices also exchanged views on legal systems, including those on the introduction of a partial design system.

In March 2011, the JPO and the USPTO held a meeting in Alexandria. The two offices exchanged views on issues such as design examination and design classification. The discussion on design examination focused on examining operations that handle identification of designs and the requirement of unity. In a discussion on design classification, the two offices exchanged

views on the USPTO's efforts to review its design classification as well as their future cooperation in the area of design classification.

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 and protect high-value international brands actively and quickly by utilizing 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.

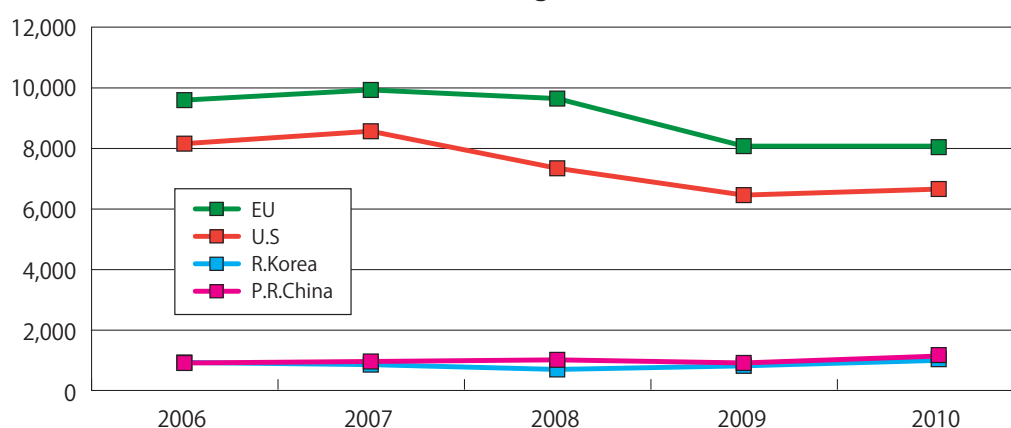
In order to support companies' international expansion under such circumstances, it is necessary to create an environment that allows the quick acquisition of stable trademark rights worldwide and the appropriate protection of those rights. Therefore, the JPO promotes harmonization of the trademark systems with other countries and simplification of procedures through the bilateral efforts with countries such as China and the multilateral efforts with 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 Europe, the United States, the Republic of Korea and China in 2010 came to 17,108, an increase of 5.1% from 16,280 in 2009.

The country-by-country figures show that the number of applications from the United States, the Republic of Korea, and China in 2010 each saw a rise from the previous year, while the number of applications from Europe recorded a fall.

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



	2006	2007	2008	2009	2010	Percentage to total (2010)
EU	9,598 (6,366)	9,934 (6,324)	9,649 (7,662)	8,079 (6,337)	7,960 (6,005)	37.3%
U.S.	8,160 (1,891)	8,570 (2,093)	7,347 (1,991)	6,461 (1,767)	6,748 (1,992)	31.6%
R.Korea	933 (126)	862 (162)	703 (135)	822 (135)	1,141 (187)	5.3%
P.R.China	916 (631)	966 (688)	1,020 (712)	918 (589)	1,259 (764)	5.9%
Others	4,416 (2,765)	4,734 (3,003)	4,792 (2,070)	4,087 (1,802)	4,248 (1,866)	19.9%
Total	24,023 (11,779)	25,066 (12,270)	23,511 (12,570)	20,367 (10,630)	21,356 (10,814)	100.0%

Notes:

1. The figures for EU are the total number of applications filed with the JPO by applicants from EU member states (the member states are as of March 2011).
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 Protocol²

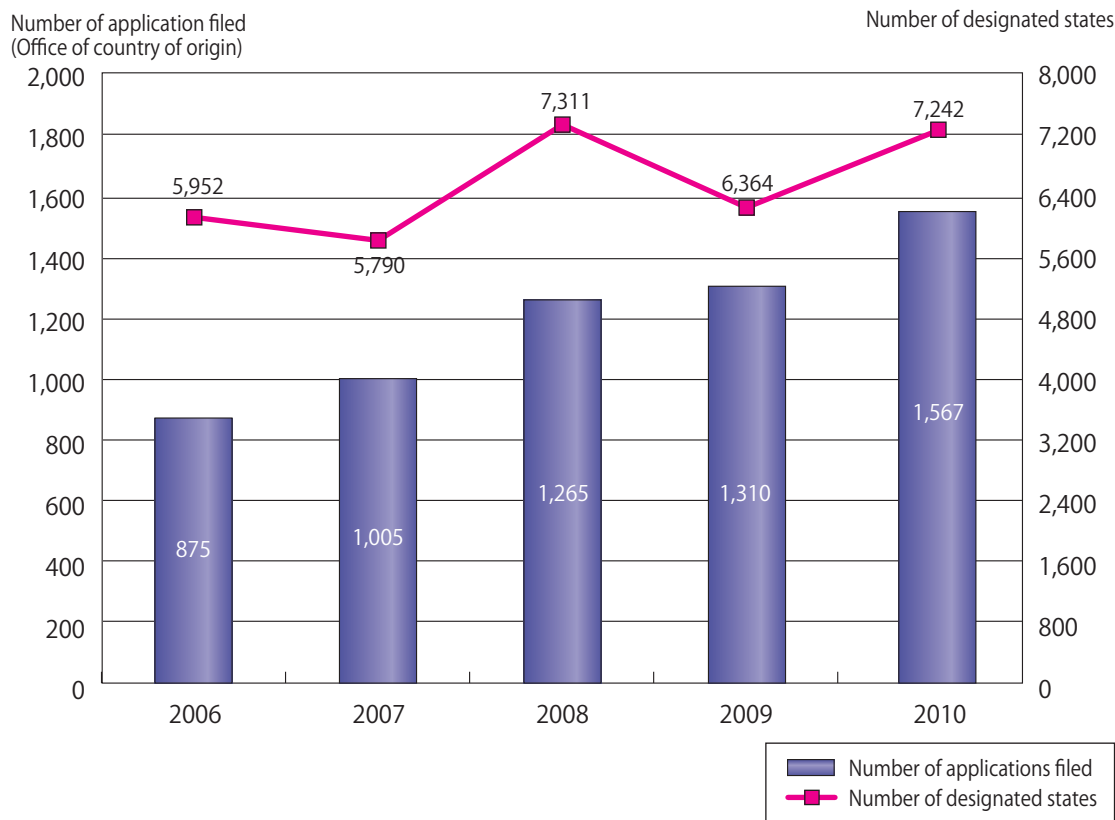
(1) Applications filed by Japanese Applicants to Overseas Offices (Application for International Registration)³

² 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.

³ International applications abroad filed with the JPO as the Office of origin. See Article 68-2 of the Trademark Act.

The number of designated countries in 2010 increased by 14% from 2009. The number of applications has been on a rise, up 20% in 2010 from the previous year.

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

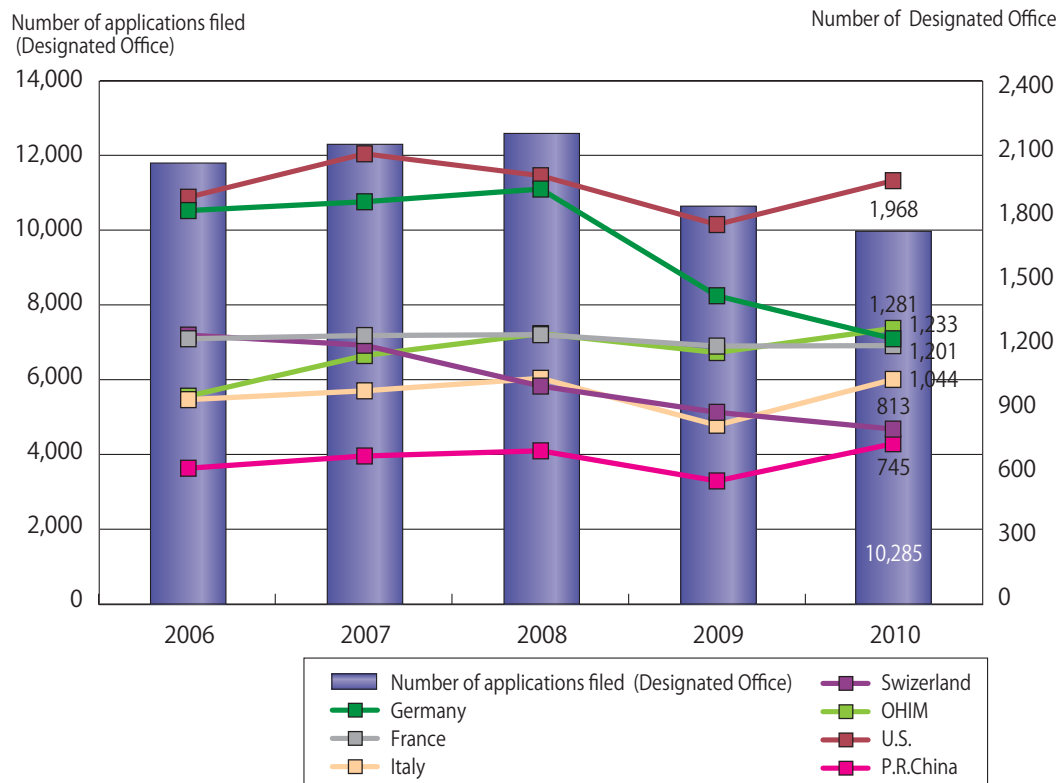


(2) Applications filed by Overseas Applicants to the JPO (International Application for Trademark Registration)⁴

The number of applications came to 10,825 in 2010, up 1.7% from 10,641 in 2009. Looking at the applications designating the JPO by country of origin, major countries are the United States, the OHIM, Germany, France, and Switzerland in descending order, accounting for 62% of the total.

⁴ 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) Meeting with the Vice Minister of the State Administration for Industry & Commerce (SAIC) of China

The JPO Commissioner and the SAIC Vice Minister held a meeting in Beijing, China in May 2011.

At the meeting, after acknowledging to some degree the recent efforts made by SAIC to combat the problem of bad faith trademark filings, the JPO requested that SAIC take further steps. The two countries agreed to strengthen mutual cooperation in the field of trademarks.

(2) JPO-CTMO Trademark Commissioners' Meeting

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

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

In this meeting, the two offices agreed to strengthen the cooperation relationship at

various levels, such as holding of the seminars for counterfeit products. In addition, regarding a problem that place names and regional brands in Japan are applied for trademarks and registered by third parties in China, the JPO requested the fair and appropriate examination. The CTMO answered that the applications for place names and regional brands in Japan would be examined strictly based on the law and they will strictly deal with bad faith applications taking into account the fact that Japan and China are neighboring countries sharing similar cultures.

(3) General Support Measures against Trademark Applications for Japanese Place Names by Third Parties in China and Taiwan

In China and Taiwan, some trademarks using Japanese place names have been recently applied for and relevant rights were acquired, by third parties having no relation with such places. It is of concern that such a situation could pose a great risk for Japanese enterprises developing business.

On this issue, the JPO announced "General Support Measures against Trademark Applications for Japanese Place Names by Third Parties in China and Taiwan" on June 4, 2008. The main contents of this announcement were (1) Preparation and provision of a manual regarding searching of registered trademarks in China and Taiwan and measures to be taken under applicable laws; (2) Establishing "Special Consultation Office on Usurped Trademark Problems" in Beijing and Taipei; and (3) Working with the government of China etc. to improve the system for appropriate rights protection. The JPO is now taking these support measures, aiming to resolve the problem.

In June 2009, a report on the progress of general 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 place names of foreign countries strictly. In fact, eight prefectural names applied for trademark registration by third parties in China were rejected by the CTMO. This shows that our efforts are gradually producing the fruit.

In March 2010, the JPO investigated trademark applications and registration of Japanese place names filed by third parties having no relation with such places in China. In the investigation, it was found that the CTMO refused applications for place names using seven prefectural names (such as Hokkaido and Kyoto) filed by third parties in China in the past year. Further, it was also found that the CTMO cancelled the trademarks using prefectural names of Akita and Saga, which had been already registered by third parties.

(4) 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 and operations between the JPO and the KIPO and to deepen their understanding of each other's systems and operations. The first JPO-KIPO Trademark Examiners' Meeting was held in Japan in June 2001.

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 treaties and policy matters.

At the seventh meeting hosted by the Republic of Korea in April 2010, the two offices exchanged information and views on various agendas including challenges in the trademark system, examination operation of the Madrid Protocol, examination quality management, and exchange of Japan's lists of regional collective trademarks and the Republic of Korea's lists of geographical indications.

4. International Trends and Multilateral Efforts

(1) Trilateral Trademark Cooperation

The First Trademark Trilateral 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 State Administration for Industry & Commerce (SAIC) of China has participated as an observer since the meeting in Tokyo in October 2007.

At the ninth meeting held in Tokyo in December 2010, the Trilateral Offices discussed topics that include collaboration projects, trademark classification, common statistical indicators, IT issues, and relations with other IP offices. The three offices invited user groups from Japan, the United States, and Europe and held a meeting with users for the first time. The three offices invited WIPO and KIPO as an observer. SAIC was also invited as an observer but it was unable to attend.

In a discussion on collaboration projects, the Trilateral Offices agreed to set up a Working Group to analyze the technical requirements to determine whether the JPO and the USPTO are able to participate in TM View: a search tool led by the OHIM that allows users to access each office's trademark database and obtain information by using a common search engine. The three offices also agreed to continue the seminar held in China by the offices and SAIC.

In a discussion on trademark classification, the Trilateral Offices agreed to promote the use of the Trilateral Identification List, which contains goods and services acceptable to all three offices, and consider further expansion of participation to other countries in the Trilateral ID project. The three offices also agreed to coordinate with each other to ensure compatibility between the Trilateral ID project and the European harmonization efforts currently underway.

In a discussion on common statistical indicators, the Trilateral Offices agreed to share the latest statistics at the time of a trilateral meeting and the statistics of the calendar year. The

three offices agreed to refine the common statistical indicators form.

In a discussion on IT issues, the Trilateral Offices agreed to continue discussions on the common status descriptors of trademark applications and registrations.

In a discussion on relations with other IP offices, the Trilateral Offices agreed to invite SAIC, WIPO and KIPO to the next meeting as observers. The three offices also agreed to continue discussions about the composition and governance of the Trilateral.

At the user session, the Trilateral Offices exchanged views with the Japan Intellectual Property Association, the Japan Trademark Association, the Japan Patent Attorneys Association, International Federation of Intellectual Property Attorneys (FICPI), BUSINESSEUROPE and International Trademark Association (INTA). The three offices agreed to hold another user session at the next trilateral meeting and secure sufficient time for the session.

Chapter 4

International Efforts to Protect Intellectual Property



1. Cooperation with Other Countries

With the economic growth of Asian countries such as China and India and the globalization of corporate activities, economic interdependence 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 (IPRs) 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, 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 IP 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 IPRs 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 IP infrastructure for the promotion of innovation"⁵ as a future course and advocated this idea at APEC, etc. to raise awareness on it. As a result, construction of the infrastructures is mentioned in the joint statement at the APEC Ministerial Meeting in November 2009. In addition, the JPO has

⁵ The global IP infrastructure for the promotion of innovation which consist of reformed law, government, human resources and information and communication technology

been promoting vigorous discussions and cooperative activities with IP offices in Asian countries, and endeavors to effectively exploit bilateral legal frameworks (such as EPA) 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 IPRs 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 also made various efforts with countries outside Asia, mainly with emerging economies.

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 trainings and to exchange information on the both offices' IP systems, statistical data, policies and management systems. The two countries signed the memorandum of cooperation in April 2010. The cooperation relationship between the two offices will be strengthened in the IP field, and the environment for protecting IP in Brazil will be further developed through such cooperation. It is expected that the cooperation will lead to a beneficial relationship.

Concerning the relationship between Japan and Russia, another BRICs nation, 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 October 2010 and the International Seminar in Khabarovsk in February 2010. Since the launch of the first examiners' conference in March 2010, the two offices held the conference continuously in June 2010 and March 2011. The two offices have been engaged in active exchanges.

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 least developed countries in order to develop IP human resources in Africa. It holds various workshops for the African region, supports the modernization of IP offices in Africa and founds a scholarship system.

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

(1) Promotion of Conclusion of EPA and FTA

In recent years, Japan has been actively promoting the conclusion of EPAs and 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 IP in the scope of EPAs. In the field of IP, Japan aims for securing 1) adequate, effective and non-discriminatory protection of IP, 2) efficient and transparent administration of the IP protection

system, and 3) adequate and effective enforcement of IPRs, taking into consideration trade relations and the scale of IP related problems.

(EPAs already came into force before FY2009)

- 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)
- 10) Japan-Vietnam EPA (signed in December 2008, came into force in October 2009)
- 11) Japan-Switzerland EPA (signed in February 2009, came into force in September 2009)

(EPA signed in FY2010)

12) Japan-India EPA

Following the agreement made at a Japan-India summit meeting on December 15, 2006, the two countries started negotiations during the period from January 31 to February 2, 2007 for a Comprehensive Economic Partnership Agreement between Japan and the Republic of India. The two nations signed the agreement on February 16, 2011. The agreement seeks to simplify proceedings by prohibiting the two nations in principle from requiring the certification of translation of an earlier application whose priority is claimed and easing conditions for according a filing date of application. The EPA sets forth strengthened protection of IPRs, seeking a higher level of protection than that required under the TRIPS Agreement, in the areas such as the securing of patentability of inventions that incorporate a computer program, protection of well-known trademarks, and accelerated examination of trademark applications. This is India's first bilateral agreement that specifies tougher requirements than those under the TRIPS Agreement. Japan will push for the entry into force of the EPA upon parliamentary approval.

(EPA for which a broad agreement has been reached in FY2010)

13) Japan-Peru EPA

Following the agreement made at a telephone conference held between the leaders of Japan and the Republic of Peru on April 14, 2009, the two countries started negotiations for a Japan-Peru Economic Partnership Agreement on May 25, 2009. After several rounds of negotiations, Japan and Peru broadly agreed to conclude the negotiations for the EPA on November 6, 2010. The chapter on IPRs of the EPA sets forth strengthened protection of IPRs, seeking a higher level of protection than that required under the TRIPS Agreement, such as

patentability of inventions that incorporate a computer program, possibility of protection of design for a part of an article, and suspension of imports of trademark and copyright infringing goods. Working towards early entry into force of the EPA, the two nations will complete the remaining procedures, including the signing.

14) Others

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

(2) Efforts by the IPEG Meeting in 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, IPRs 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 IP 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 request forms 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 the construction of global IP infrastructures for the promotion of innovation as a concept to cover the diversifying efforts related to IP 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 wording was included in the joint statement of the 21st APEC Ministerial Meeting in November 2009. The wording was also included in the APEC Leaders' Growth Strategy as well as in the joint statement of the APEC Ministerial Meeting in November 2010. The concept of constructing global IP infrastructures has been prevailing steadily in the APEC.

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

The JPO established a website that allows users to comprehensively refer to the request form for using the examination results of other offices⁶ and a website to promote information sharing among IP academies⁷ based on the approved proposal. The JPO made them publicly available in March 2011.

(3) Cooperation with Asian Countries

1) Cooperation in Building an IP System in China

(a) Bilateral Efforts with China and Multilateral Efforts for an IP System

China has seen a surge in the number of patent (equivalent to patent, utility model, and design in Japan) and trademark applications in recent years, which include an increasing number of applications filed by Japanese applicants. Driven by the increase in the number of applications, the number of IP-related lawsuits has also shown a sharp rise.

In consideration of these conditions, the JPO has used the bilateral and multilateral frameworks with China to boost its cooperation with the country to assist in improvements in examination infrastructures, mutual exploitation of search and examination results, harmonization, and computerization in China. Such opportunities in the bilateral and multilateral frameworks include the Commissioners' Meeting between the JPO and SIPO and the Commissioners' Meeting among the JPO, SIPO, and KIPO in December 2010, the Commissioners' Meeting between the JPO and SIPO in May 2011, and the IP5 Heads Meeting in June 2011.

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

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

This memorandum was concluded between the Ministry of Economic, Trade and Industry (METI) and the Ministry of Commerce (MOFCOM) to establish a Japan-China Intellectual

⁶ <http://patent.apec.org/>

⁷ <http://ipac.apec.org/>

Property Right working group for discussing the theme relating to cross-sectoral IP(intellectual property) related issues among ministries.

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

This 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.

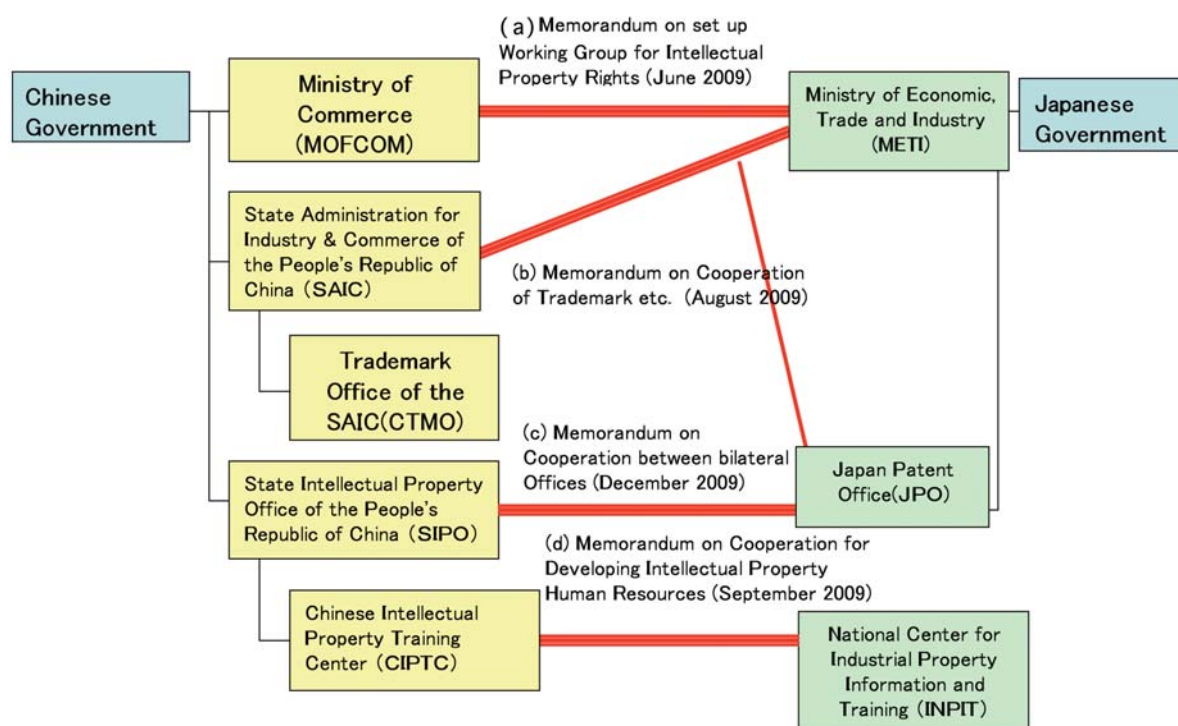
- **Memorandum of cooperation between the JPO and the SIPO (December 2009)**

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

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

This memorandum was concluded between INPIT and Chinese Intellectual Property Training Center (CIPTC) to cooperate in developing IP human resources.

Relationship diagram of memorandum between Japan and China



(b) 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 customs officials, and inviting them to Japan for training.

In order to strengthen ties of exchange/cooperation concerning the protection of IP with China, the second Japan-China Intellectual Property Rights Working Group was held in Beijing on 27th and 28th of October, 2010, based on the memorandum of understanding between the

Ministry of Economy, Trade and Industry of Japan and the Ministry of Commerce of the People's Republic of China on exchanges and cooperation for the protection of IPRs.

(c) 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 novelty; and introduction of the new requirement for registration of non-ease of creativity in the design system.

The JPO has actively cooperated with 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, the JPO also submitted its comments to the Legislative Affairs Office of the State Council.

2. Efforts for Developing IP Systems in Developing Countries

The IP 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 an intellectual creation cycle and navigating to build the IP system in developing countries contribute to an autonomous economic development of them, which results in sustainable global economic growth. In addition, the establishment of the IP 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 IPRs 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 systems and preparation of legal systems are insufficient and still need assistance. Because the levels of protection of IPRs 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 toward Assistance to 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 IP systems and sharing successful cases utilizing IP 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 to developing countries, it is important to raise their awareness toward IP in developing countries and to provide assistance for their enthusiastic efforts by themselves to build IP systems in order to promote their autonomous economic development.

With the aim of promoting the self-organized economic development in developing countries, it is known that Japan provides assistance on activities for discovering specialty products with unique character that are deeply entrenched in their local 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 IP.

Japan has an experience that it had heightened its international competitiveness by building IP systems and promoting the intellectual creation cycle consisting of creation, protection and exploitation of IP. Therefore, with regard to assistance to developing countries, it is considered effective to promote the building of an IP system and to share cases studies of successful exploitation of IP with developing countries in order to promote the 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 IP field in the region through the WIPO Funds-in-Trust/Japan Project.⁸ 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 in 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 IP 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 improvement of examination capability of patent examiners in developing countries in order to develop human resources for strengthening of the protection of IPRs. The JPO has accepted a total of 3,451 public and private sector trainees from 57 countries and one region mainly in the Asia-Pacific region during the period from April 1996 to March 2011. The JPO strives to build and maintain human networks between Japan and developing countries, in cooperation with the alumni associations of the trainees.

Following the FY2009 program targeting Indian patent examiners, the JPO in FY2010 provided them with a three-month practical training program focusing on search and examination practices.

3) Acceptance of Long-term fellows

The JPO invites those who are taking or who will be taking leadership in the field of IP in 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 IP.

In FY2010, the JPO accepted one long-term fellow from China, India and Vietnam, respectively.

⁸ 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.

The JPO also accepted long-term fellows for six months independently and accepted one fellow from Brazil and Malaysia, respectively, in FY2010.

4) Technical Cooperation Project⁹

The JPO dispatched long-term experts to developing countries to support the development of IP 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 June 2007 to May 2010)

5) Holding of Forums, Workshops, etc.

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

a. Regional Workshop on Technology Transfer Based on the Strategic Use of Intellectual Property (IP)

Held in Morocco in April 2010, the workshop was aimed at sharing information on the operation of technological management by holding discussions on how universities and research institutes make strategic use of IP in transferring their technologies. The workshop brought together many participants, including countries from Africa (25 countries and organizations) and Asia, concerned bodies, WIPO, and the JPO.

b. ASEAN Sub-Regional Forum on Promotion of Innovation through Effective Cooperation on Patent Examination

The forum was held in Thailand in October 2010 to exchange views on the link between effective patent examination and the promotion of innovation. The forum was designed to provide an opportunity to discuss workload reduction and streamlined patent filing procedures, and the value of international cooperation in patent examination and acquisition. About 50 people participated in the forum, including officials of IP offices of 10 ASEAN nations, IP staff of universities and public agencies, mainly from Thailand, and officials from WIPO and the JPO.

c. Study Program on the Global Intellectual Property (IP) Protection Systems with Particular Reference to the Patent Cooperation Treaty (PCT) System and the Madrid System for the International Registration of Marks

⁹ 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.

The study program was conducted in Japan in November 2010 and was offered to mid-level officials from Asia responsible for global IP protection systems. The program was aimed at promoting effective use of PCT in Asian nations and encouraging nations that have yet to join the Madrid protocol to do so. About 30 people participated in the program, including officials from 9 Asian countries, concerned bodies, WIPO, and the JPO.

d. Sub-Regional Workshop on the Effective Use of the IP System for Economic Growth and Business Competitiveness

Held in Fiji in December 2010, the workshop targeted government officials in charge of IP from 7 Asia-Pacific countries. The workshop was aimed at raising their awareness of the importance of the IP system in the promotion of economic development and competitiveness, broadening their view on how to make effective use of IP in business, and giving them an opportunity to share their success cases of IP use and experiences. About 20 people participated in the workshop, including officials in charge of IP from 7 Asia-Pacific countries and officials from concerned bodies, WIPO, and the JPO.

e. Regional Workshop on Digitization and Dissemination of Intellectual Property (IP) Information and Utilization of Effective Search Tools

Held in the Philippines in December 2010, the workshop was designed to enable participants to deepen their understanding of the importance of IT-based access to IP information and how to make effective use of IP information. About 50 people participated in the workshop, including senior IT managers and chief examiners of IP offices from 11 Asia-Pacific countries, and officials from WIPO and the JPO.

f. Study Program on Human Resource Development in the Field of Industrial Property

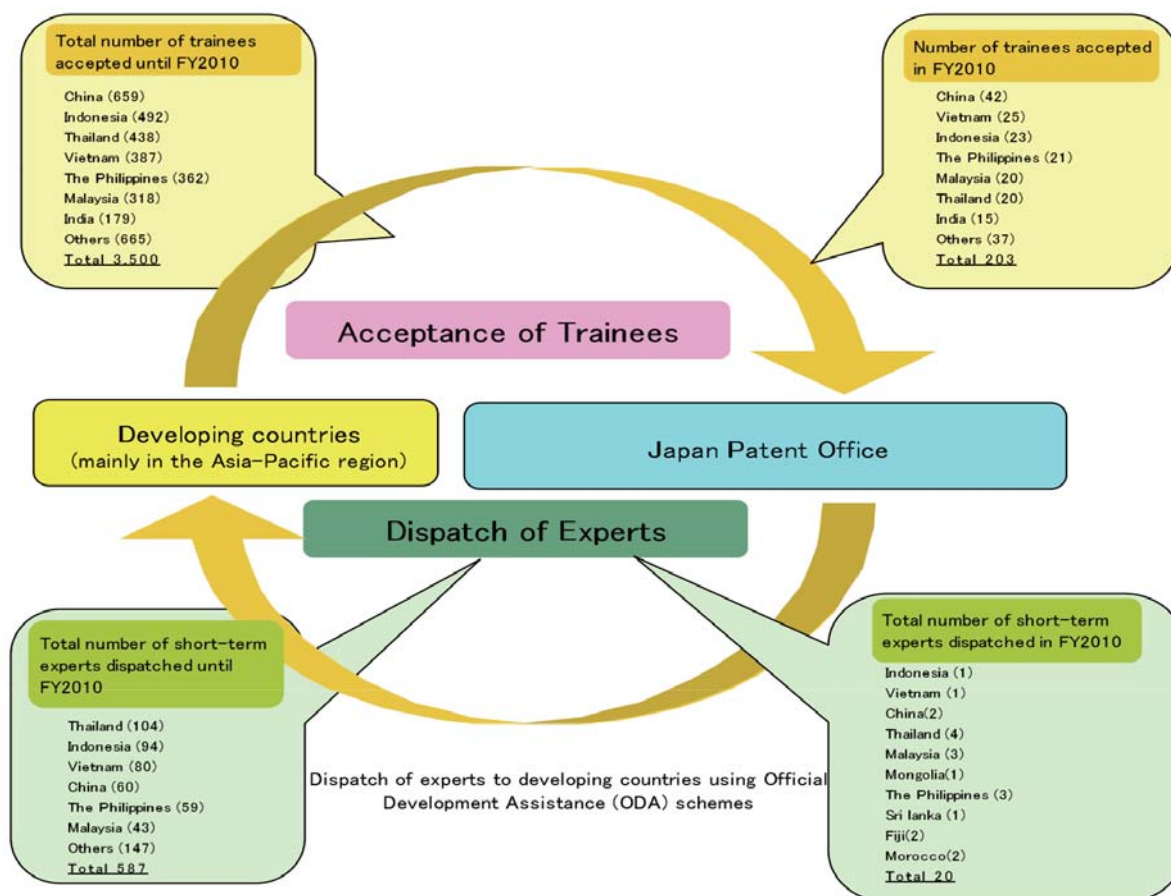
The study program was conducted in Japan in February 2011. It was designed to enable participants to share information on the current status and future challenges of human resource development in the industrial property field and discuss their policies and methods in development of human resources. The program was also aimed at providing a wide audience with Japan's expertise and experiences in human resource development. About 30 people participated in the program, including officials of IP offices or IP academies from 9 APEC member states and 4 countries in the African region, concerned bodies, WIPO and the JPO.

g. Regional Training of Trainers Program for Small and Medium-Sized Enterprises (SMEs) Support Institutions

The program was conducted in Sri Lanka in March 2011. It was aimed at fostering leaders for SME support institutions in order to enable them to offer services that make effective use of IP to increase business competitiveness. The program was also designed to enable participants to share the activities carried out by SME support institutions in their respective countries. About 30 people participated in the program, including trainers of SME support institutions from the Asia-

Pacific region, and officials from WIPO and the JPO.

Steadily Growing Cooperation in the Development of Human Resources



(4) Cooperation in Information Technology

In Indonesia, the JPO supported the establishment of IPDL system concerning IP 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 2007.¹⁰

In the Philippines, the JPO established the Patent Administration Computerized System (PACSYS) at the Intellectual Property Office of the Philippines (IPOPP) 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 has cooperated in building search systems, including human resources development, electronic filing systems and the IPDL, since January 2005, and dispatched one long-term expert for the development of human resources. In March 2009, a seminar was held

¹⁰ <http://ipdl.dgip.go.id>

¹¹ <http://iplib.noip.gov.vn/>

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 system¹² to which new functions were added.

(5) Cooperation in the Examination Process

1) Provision of AIPN

AIPN refers to a system for providing examination-related information in Japan to the IP offices overseas. It aims to reduce the duplication of workload at IP offices overseas through effective utilization of the results of examination 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 IP offices overseas to obtain the corresponding application documents for examination procedures, information on legal status, cited documents, information relating to the examination of post-grant claims, and patent family information in English through the Internet. As of July 2011, the AIPN was available to 48 countries/organizations.

2) 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 exchanging 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

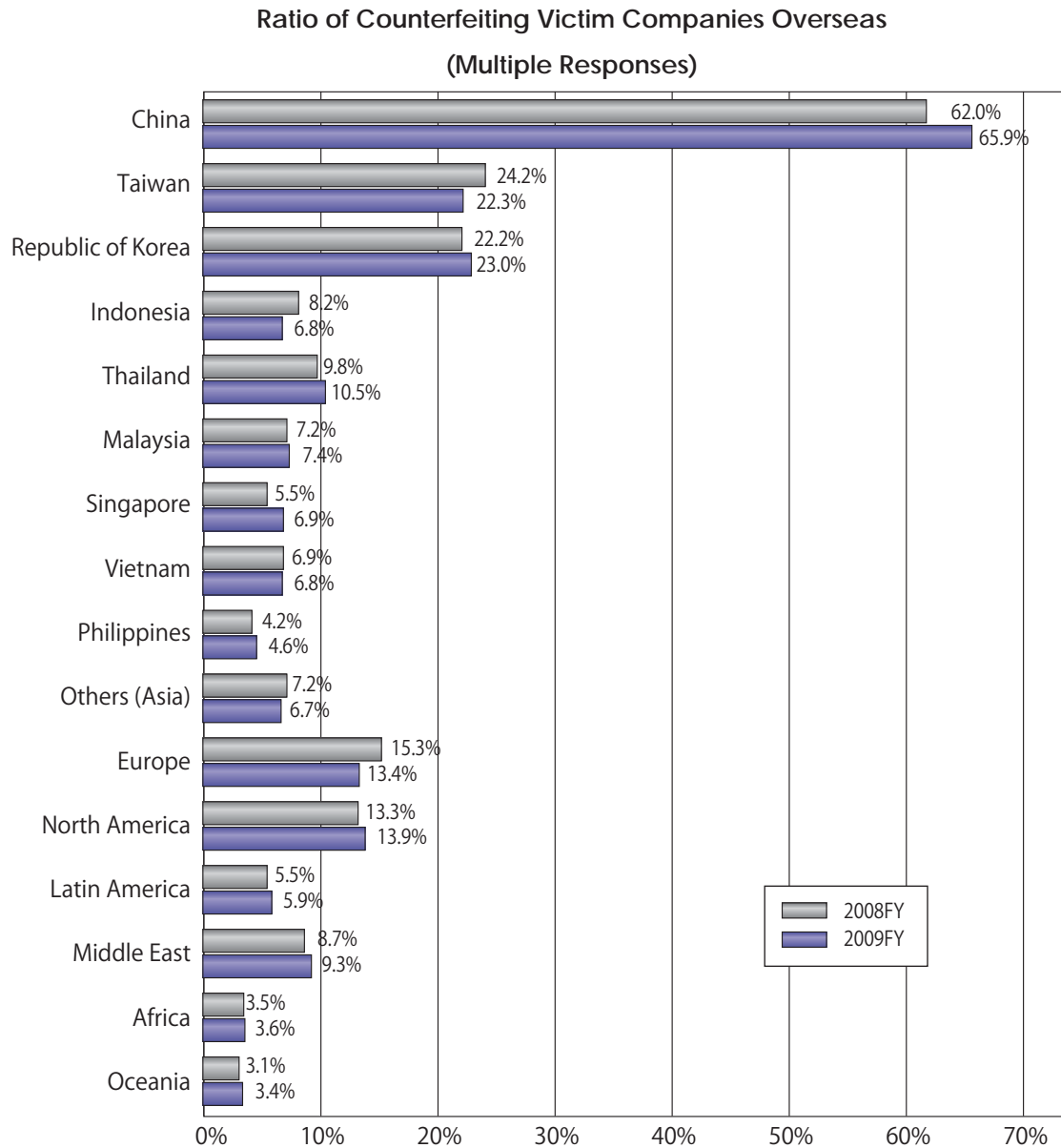
In the midst of economic globalization and industrial technologies development in developing countries, products imitating those produced by Japanese companies have been manufactured in developing countries due to insufficient protection of IPRs, and the damage caused by the counterfeiting in foreign 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

¹² <http://patentsearch.moc.go.th>

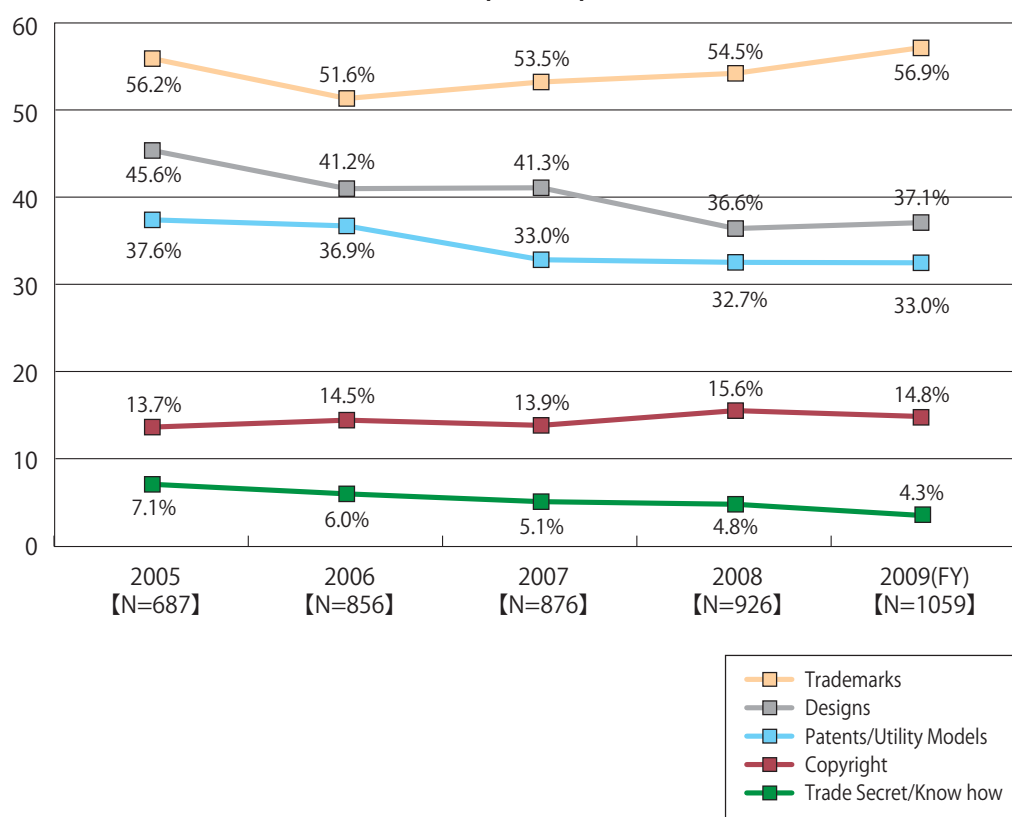
problems concerning product liability, but also endangering consumers' lives and health by inferior counterfeiting parts and counterfeit medicines, where immediate countermeasures are expected to be taken. The JPO has, with the aim of supporting business activities of Japanese companies overseas, provided information concerning countermeasures against counterfeiting products to the countries subject to those damages, and approached and assisted in improving systems 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 IP is properly protected, it is important to promote developing countries' voluntary efforts for IP protection in addition to current efforts for enhancing enforcement, and to enhance assistance toward the building of an IP 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 the drastically changing environment surrounding global IP based on the recent economic globalization and highly-developed and complicated technologies, efforts for both the granting of high-quality IP in an expeditious manner and enhancement of enforcement need to be addressed in order to establish an IP system supporting international business activities.



**Changes in the Rate of Types of Rights Infringed through Counterfeiting
(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, FY2010 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 and emerging economies including China. With the protection of IP being addressed as critical infrastructure for economic development in China, the country formulated "Action plan concerning protection of intellectual property rights" and its Patent Law was revised in 2009 and legal amendments of the Trademark Law are underway. China vigorously addresses enhancement of protection of IPRs, such as enhancement of the examination systems and human resource development, by rapidly increasing the number of examiners in the 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 the Republic of Korea, and meetings between the heads of five patent offices including Japan, the United States, Europe, China and the Republic of Korea. In the countries and regions in Asia where damage caused by counterfeiting is serious, the JPO has been requesting counterparties to reinforce measures

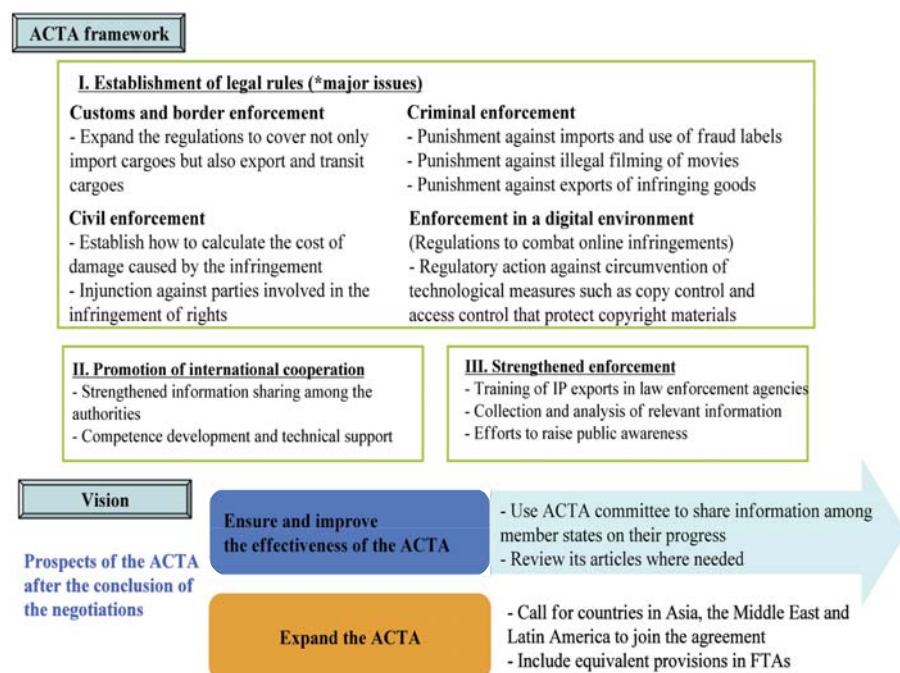
against counterfeits through bilateral meetings. In addition, the JPO emphasizes the importance of reinforcing protection of IPRs through multilateral meetings such as the WTO, APEC, OECD, G8 and WIPO, as well as through cooperative efforts with the United States and advanced countries in Europe. Furthermore, 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 IP systems on an annual basis in Japan, and holds seminars in the countries of these officials as well.

2) Cooperation with Developed Countries

At the G8 Gleneagles summit in 2005, the Japanese prime minister proposed to set up a legal framework to combat proliferation of counterfeiting and piracy. In a bid to turn this vision into action, Japan has been engaged in active discussions with developed countries as well as developing nations highly motivated to protect their IPRs. As a result, in the 11th round of the negotiations, held in Tokyo from September 23 to October 2, 2010, the participants¹³ in the negotiations reached a broad agreement to conclude the Anti-Counterfeiting Trade Agreement (ACTA), a new international legal framework to strengthen the enforcement of IPRs. In December 2010, the participants completed legal reviews on the text of the proposed agreement. The agreement will take effect upon being signed by six or more participants.

In September 2010, Japan, the United States, Europe and China coordinated their efforts and held a seminar in Beijing that addressed the issue of ill-intentioned, usurped applications.

Outline of ACTA



¹³ 1 Including Japan, the United States, the EU and its member states, Switzerland, Canada, the Republic of Korea, Mexico, Singapore, Australia, New Zealand and Morocco.

3) 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)¹⁴" 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 IP Protection Forum. Concerning China, in particular, the joint high-level missions of the public and private sectors have been 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 a more effective and efficient crack down on counterfeiting products by conducting seminars on judging genuine and counterfeited products and technical seminars for regulatory authority officials.

4) 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 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 court precedents and actual cases 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.

¹⁴ The IIPPF was inaugurated in April 2002 (Chairman: Toshiyuki Shiga, COO of NISSAN MOTOR.CO.,LTD.) 216 companies and organizations (130 companies and 86 organizations) are involved in this forum as of March 9, 2011.

5) Response to Consultations Concerning Countermeasures against Counterfeiting Products

The JPO responds to individual consultations with right holders concerning counterfeiting products (industrial property right infringements) and provides necessary information 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 the foreign industrial property right system and countermeasures of industrial property infringement intended for Japanese companies.

6) Cooperation with National Regulatory Authorities/Countermeasures at the Border

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 addressing respective inquiries about infringement cases of industrial property rights from the police and customs and dispatching instructors for training on IP to Japanese customs officials, etc.

7) Raising Consumer Awareness

The JPO organizes "Anti-Counterfeiting Campaigns," every fiscal year with the objective of further raising public awareness on the importance of IPRs and informing the public that counterfeiting and piracy have adverse effects. The TV commercial released under the FY2009 campaign won the bronze medal for the TV advertisement (public service announcement) category at the Japan Advertisers Association's 50th Advertising Competition honoring advertisements that contributed to raising consumer awareness.

