

Report by the Intellectual Property Committee

February 24, 2014
Intellectual Property Committee
Industrial Structure Council

Introduction

1. Background and Purpose

Ever since the Intellectual Property Basic Act came into effect in 2003, the Government of Japan has been taking a systematic approach to improving the intellectual property (IP) system from the perspective of creating, protecting and utilizing intellectual property rights, by initiating measures such as establishing the Intellectual Property Strategy Headquarters led by the prime minister.

Meanwhile, the landscape surrounding the IP system has undergone substantial changes, among which include advancements taking place in the globalization of business activities. Under these circumstances, the Cabinet created the Japan Revitalization Strategy and the Basic Policy Concerning Intellectual Property Policy in June 2013, taking a new look at issues involving IP policies in the future.

Accordingly, the Intellectual Property Committee under the Industrial Structure Council held five meetings to discuss the future direction of the IP policies and to prioritize and accelerate specific measures that should be taken.

2. Summary of the Results

At the 5th meeting, the committee compiled the results of the previous meetings into a summary report. The summary report outlines three major directions for future IP policies, which are (i) strengthening support to Japanese companies so as to enable them acquire and utilize global IP rights ; (ii) enhancing support to SMEs and regional communities; and (iii) developing an environment that facilitates innovation. At the same time, the report also indicated that the JPO should promptly formulate a concrete action plan to work on specific individual issues such as appropriate examination procedures, training of examiners, and streamlining of operations. Furthermore, the concrete action plan is also to be formulated based on a medium- to long-term perspective.

In addition, the report also identified 21 issues in regards to which immediate measures should be taken, 11 issues requiring solutions based on legislative and practical means, and seven issues that need to be achieved by making use of existing, international frameworks.

Chapter 1: International Landscape Surrounding Intellectual Property

1. Changes in Corporate Activities

- Japanese companies are rapidly expanding their business activities on a global basis.

- While emerging markets such as China, India and the ASEAN Region have grown rapidly, the competitiveness of Japanese companies is declining in fields including the fields for electric and electronic products.

(Reference) The combined GDPs of emerging countries that account for the total world economy have changed from approximately 20% in 2003 to approximately 38% in 2012.

- It is no longer sufficient to acquire rights in Japan for technology of many products, which Japanese applicants should consider protecting by preventing leakage of technology and taking countermeasures against counterfeits. Nowadays, it has become essential for companies to acquire rights abroad in addition to Japan.

In fact, the number of international applications filed from Japan has increased by about 2.5 times in the past ten years. However, the percentage of the applications filed abroad by Japanese companies is still smaller than that filed by American and European companies.

(Reference) The percentages of the domestic patent applications that are also filed abroad are as follows:

Japan: 27%, US: 53%, Europe: 47% (2011)

- In order for applicants to expand their market share of products and to make profits in overseas markets, it is important for them to develop not only standardization strategies but also IP strategies. These IP strategies are not limited to only patents but also include branding strategies using designs, trademarks, and the like for their products.
- The shortened product life cycle and the changes in the research and development (R&D) activities by companies (The necessity of considering the best combination of an open strategy, i.e., protection by patents etc. and a closed strategy, i.e., protection by trade secrets.)
- The product life cycle especially for electric/electronic products, has been shortened.

- As a result, there is an increased need for applicants to obtain strong IP rights including patent rights, at low cost and at an early stage.
- On the other hand, due to the decrease in amount of R&D investments by Japanese companies (The amount of R&D investments has decreased by approximately 2 trillion yen since the global financial crisis that was triggered by the Lehman Brothers in 2008.) and the shortened product life cycle, the necessity for "open innovation" such as industry-academia collaboration, joint technology development between companies, and technology transfer to or from others, is increasing. Under the circumstances, developing so-called "open/closed strategies" and prioritizing technology to make R&D investments have become important issues for Japanese companies.
- Measures for intellectual property in local companies and small and medium-sized enterprises (SMEs)
 - In Japan, the "fundamental base" in terms of acquiring IP rights for technology by local companies and SMEs is still limited. For example, the percentage of patent applications filed by SMEs and individuals out of the total number of patent applications filed in Japan is less than 50% of that in the US (Japan: 12%, US: 25%). Therefore, support on their filing and patenting is necessary.
 - It is necessary to further support local companies and SMEs to enable them to create, protect, and utilize intellectual property.

2. Changes in the Landscape Surrounding the IP system

- The IP system has become multi-polarized along with the growth of markets in emerging countries
 - From the perspective of the number of applications filed which are related to intellectual property, the importance of China and Korea is increasing as well as the Trilateral Offices of Japan, the US and Europe. It is likely that India and Brazil will also gain more economic influence in the future. (The number of applications filed to China accounts for 40% of the total applications filed in the world in 2011).
 - It should be noted that if the present situation continues, it is highly possible that the share of the number of applications filed with the Japan Patent Office (JPO) out of the world's total applications (The percentage of applications filed with the JPO out of the total applications filed with other IP Offices.) will decrease.

- It is important for the government to take into account the fact that it has become necessary for Japanese companies to acquire patent rights in multiple countries and discuss the matter from the perspective of how patent administration can support global activities of Japanese companies.
- "Competition between the IP systems in various countries"
- Due to the expansion of the Patent Prosecution Highway (PPH) network (30 countries as of December 2013) and the progress of patent harmonization that includes the use of the Patent Cooperation Treaty (PCT) and the Hague Agreement Concerning the International Registration of Industrial Designs (the Hague Agreement), the IP systems of the countries are becoming similar. In addition, an environment that facilitates the Office of Second Filing to grant a right based on the right acquired in the Office of First Filing is being developed. Therefore, more companies will strategically decide in which country (IP Office) they should first file applications.
 - Under the situation in which there are "growing competition among the countries' IP systems" and "growing competition between the IP offices in terms of services, "attempts are being made to enhance the advantage of the IP system in Europe from the users' perspective, by establishing the "European Patent with Unitary Effect System" and the "Unified Patent Court (UPC)." Furthermore, the movement to export the classification and information systems for patents/technology in Europe to countries outside Europe is also remarkable.
 - The JPO should also make concerted efforts to expand its services available to the users as much as possible.
- "Intersection (the mutual effect)" of IP policies, competition policies, and public policies
- In electric/electronic products, multiple patent technologies are included in one product. There is also an increase in cases in which patent technology is adopted as international standards ("Standard Essential Patents" (SEPs)).
 - Under the situation, various countries are holding intense discussions on the state of executing rights based on the SEPs (whether or not patentees should be entitled to seek injunctions against infringements of manufacturing processes for final products by other companies based on the SEPs). There are also arguments over Non-Practicing Entities (NPEs) including the recent proposal¹ by the White

¹ "White House Task Force on High-Tech Patent Issues": The White House issued five executive actions and seven legislative recommendations designed to protect innovators from frivolous

House.

On the other hand, it has been pointed out that the above issues have not yet been revealed in Japan because generally speaking, there are relatively fewer opportunities for right holders to bring their cases to the court.

- In emerging countries, there have been debates over the abuse of utility model rights that were acquired without undergoing substantive examinations in China and the state of compulsory licensing on patent rights and protection of pharmaceutical products in India. These issues may have serious impact on the rights Japanese companies acquired in various countries. Therefore, it is necessary to pay close attention to the discussions in order to find out how they will be affected.
- The future of the IP system should not be discussed in a narrow sense but should be viewed from perspectives that broadly contribute to the economy in general, taking into account the viewpoints of competition policies and other public policies.

Chapter 2: The Direction of IP Policies in the Future

The committee empirically studied users' needs for the IP system, based on the changes in landscape of both Japanese companies and the IP system, which has been described in the preceding chapter. As a result, the main direction of the future intellectual property policy can be outlined as follows.

(1) The JPO should support the global acquisition and utilization of rights by Japanese companies.

- The JPO should provide users with the world's fastest and highest the best quality patent examinations:

It is necessary to aim at creating a system in which the JPO's high quality examination results are trusted by IP Offices in the world, and by acquiring a patent in Japan, patent rights for the corresponding scope of rights acquired in Japan can be expeditiously acquired with minimum examination process in IP Offices abroad. It is required for the JPO to provide the users with the world's fastest and highest quality examinations as a presupposition.

litigation and ensure the highest-quality patents in their system.

<http://www.whitehouse.gov/the-press-office/2013/06/04/fact-sheet-white-house-task-force-high-tech-patent-issues> (June 04,2013)

- The JPO should advance discussions on harmonization and revise national legislation that conforms to the results of the harmonization talks:

In order to establish such a system, it is necessary to accelerate and advance discussions on patent harmonization frameworks such as the PCT, the Hague Agreement, etc. In order to promptly achieve international harmonization, the JPO should lobby other countries by proactively making proposals and coordinating with them as well as review the Japanese system itself to adapt to the harmonization.

- The JPO should provide support on acquiring IP rights overseas and implement countermeasures against counterfeits:

Even when SMEs in Japan need to acquire IP rights overseas, there are many cases in which they have to give up acquiring the rights due to high costs. In addition, it is difficult for SMEs to obtain sufficient information on foreign IP systems and practices. In the same way, even when SMEs realize that their products are being counterfeited in overseas markets, it is often difficult for them to take effective countermeasures themselves because they lack the expertise and the funds to cover the costs. It would be better for the government to proactively support SMEs to acquire rights overseas and implement countermeasures against counterfeits. This may lead to an overall increase in the national wealth of Japan.

(2) The JPO should enhance support for SMEs and local companies:

- The JPO should strengthen support for the creation, protection and utilization of intellectual property. (The function of "Comprehensive IP Support Counters" should be enhanced. It is also necessary to provide support on prior art searches and on how to effectively use patent attorneys and lawyers.)

It is necessary to enhance the support system by experts such as patent attorneys and lawyers to provide consultations on acquisition of rights, examination procedures, or utilization of rights, and to interview for a patent examination using the Internet. This is to be done in order to enhance support on inventions, filing procedures, and rights utilization to SMEs, individual business owners, local companies, and universities in Japan, whose IP policies and strategies have not been adequately established or run .

- The JPO should review the Fee Schedule related to intellectual property:

In light of the past reviews of the IP Fee Schedule, it is now necessary to further review the fee system to study the best fee system for filing patents, designs and trademarks, in order to broadly promote innovation in our country and encourage the use of patents, designs and trademarks by SMEs and local companies.

- The JPO should encourage the utilization of regional brands. (Addition of organizations entitled to become right holders of “Regional Collective Trademarks”)

The number of “Regional Collective Trademark” registrations reached 550 over the past 7 years, and further use of the system is expected in the future. In view of this situation, it has been pointed out that Associations of Commerce and Industry, Chambers of Commerce and Industry, and Specified Non-profit Corporations, cannot become rights holders of Regional Collective Trademarks under the current system. It is necessary to expand the eligibility of rights holders and not limit the eligibility to agricultural cooperative associations and business cooperative associations as is the practice under the current system, to further promote the effective use of the Regional Collective Trademark System.

- (3) The JPO should improve the environment that enables the promotion of innovation (including thorough implementation of open/closed strategies):

- The JPO should provide a world-class service in terms of offering information on intellectual property and support the technical developments and design strategies of users. (Renewal of the Industrial Property Digital Library (IPDL)):

The provision of IP information, including patents, through electronic means, has played an important role in terms of technical development, design strategies, etc. of Japanese companies. A number of users have pointed out that there is a need to further expand the content of the services. It is necessary for the JPO to aim at providing world-class services regarding information on intellectual property along with achieving the “world’s fastest and highest quality patent examinations.”

- The JPO should enable users to strengthen protection of trade secrets:

The need for open/closed strategies has increased and as a result, it is expected that there will be more cases in which it would be appropriate to protect technology as trade secrets rather than as patents. It is necessary to execute a policy that enables Japanese companies to further strengthen the protection of their trade secrets. This is based on the viewpoint of preventing technology leaks to other countries, since Japanese companies are expanding their businesses on a global basis using trade secrets.

- The JPO should consider measures against SEPs and NPEs.

It is necessary to promptly grasp the issues resulting from SEPs, etc. in Japan, while paying attention to the trends in exercising patent rights based on SEPs and in countermeasures against exercise of rights by NPEs in various foreign countries. Furthermore, it is necessary to promptly study the necessity of measures by cooperating with the related ministries and agencies.

Based on the above understanding and policies, this committee has sorted out the issues in order to prioritize and accelerate the specific individual issues as follows.

With regard to measures on these specific individual issues including the state of examinations, examiner training, and streamlining of operations, we expect a concrete action plan (tentatively called the “Business Operation Plan”) based on medium- to long-term viewpoints to be promptly formulated and effectively implemented by the JPO.

Furthermore, it is necessary to improve the information infrastructure and the examination system which will be the “foundation” in effectively implementing the policies. In particular, the improvement on the examination system including increasing the number of fixed-term examiners is essential and should be properly addressed, in spite of the severe administrative and financial situations.

Amid the situation in which the global landscape involving intellectual property is rapidly changing and the IP and information systems in each country are also being developed to conform to these changes, this committee expects the JPO to continue to promptly and precisely grasp and evaluate the global trends and at the same time review the IP system and practices from the users’ perspective.

Chapter 3 Concrete Issues and Measures

<Specific actions to be taken immediately>

O "The world’s fastest and the highest quality" IP system

- Achieving "the world’s fastest and highest quality" examinations

The JPO has aimed at shortening the time between the request for examination and the First Action to 11 months, which is under a year. In the future, the JPO should improve the necessary system for examiners and promptly set up a quantitative target, focusing on reducing not only “the pendency” for starting an examination but also on accelerating the granting of rights. The JPO should also consider providing finely-tuned services responding to user needs regarding the time of starting examination.

In addition, the JPO should make efforts to provide the world’s highest quality patent examination results. In particular, the JPO should grant patents that (i) demonstrate legal stability, and which thereby, are not invalidated afterward both inside and outside Japan; (ii) have a wide scope matching the disclosure of inventions; and (iii) provide value that is trusted and industrially useful globally. These rights are based on examination processes in which examiners (i) fully understand the technology in the applications, (ii) conduct prior art searches for domestic and foreign documents as needed, and (iii) make appropriate decisions on requirements for patentability. In order to clarify the fact that the

JPO grants aforementioned patent rights which are robust, broad and valuable in Japan and abroad, the JPO by the end of FY2013 should establish a "quality policy" that outlines the fundamental principles to maintain and improve the quality of patent examinations. Based on these principles, the JPO should review the patent examination guidelines, enhance interviews in the examination process, and expand the scope of prior art search for foreign documents. Moreover, based on the idea of improving the efficiency of prior art searches, the JPO should consider introducing an advanced search system and redevelop the patent classification in light of international harmonization.

During FY2014, the JPO will also establish comprehensive metrics for measuring the quality of patent examinations. Based on utilizing the metrics, the JPO will strengthen its quality management for achieving "the world's fastest and highest quality patent examinations." In addition, the JPO will establish a committee which evaluates the status and framework for implementing quality management system in the JPO, with the participation of practitioners, academic experts, etc. early in FY2014.

- Promoting collective examinations of patents, designs and trademarks in accordance with the business strategies of companies:

The system of "collective examinations" which collectively examines patents, designs and trademarks of the same product so as to comply with companies' business strategies, launched in April 2013, will be reviewed as follows in order to promote its use. The system was established to enable companies to comprehensively acquire IP rights utilized in their businesses. The review will take the results of the past collective examinations into account and review the cases eligible for the system as well as the requirements for eligible applicants.

- Increasing the number of countries for which the JPO issues ISRs for PCT international applications in English:

Japanese companies conducting business globally are expanding the number of overseas technical development bases such as in emerging countries. It is necessary to appropriately protect the results of the technical developments created in these bases, as patents.

Therefore, the JPO should aim at expanding its jurisdiction in issuing International Search Reports (ISRs) as an International Searching Authority for PCT international applications filed in English with foreign IP offices, in particular those in Asia, upon applicants' requests.

O The JPO should create a further user-friendly environment for data searches (Expand the available data for searches as well as enhance the search environment

of designs)

- Creation of an environment for searching Chinese and Korean documents in Japanese:

From the perspective of supporting Japanese companies to prioritize their R&D activities and efficiently acquire rights for the technical results, the JPO will accelerate the development of an information system that enables Chinese and Korean documents to be viewed in highly accurate Japanese translations as well as enable full-text search of these documents. At present, Chinese and Korean documents account for about the half of the patent applications in the world and there are documents that include cutting-edge technologies. The system will be made available by January 2015.

The provision of this system will enable applicants to view and search translations of technical documents within one month after the documents are published in China.

- Achievement of the world's best services in providing IP rights information:

The Industrial Property Digital Library (IPDL), which is an online service currently provided by the National Center for Industrial Property Information and Training (INPIT), will be renewed into a new information resource aiming at providing the world's best services that exceed similar services offered abroad, such as those provided by the World Intellectual Property Organization (WIPO) and the European Patent Office (EPO), while taking heed of the division of roles between the public and private sectors. Specifically, prioritizing technical developments and promoting searches on documents originating from both Japan and abroad for the purpose of clearance searches on prior art as well as providing, in an open manner, such as through the Internet, standard functions, and basic IP information in Japan and abroad that mainly consist of information published in gazettes, which are broadly targeted at the general public including SMEs, research institutions, researchers and individuals, in order to contribute to achieving an IP-based nation.

Examples:

- A batch downloading service for information on documents including patent gazettes (The JPO will also fully examine the possibility of increasing the targeted information.)
- Referencing of patent family information and indication of ranking of search results
- Provision of a tool, enabling quick and simple searches on whether the related registered designs still exist or not, for example, using image matching technology, for Graphical User Interface (GUI) which will be used by businesses
- Provision of information on national and international trademarks and designs with valid rights, in order to promote innovation through fully utilizing designs and brands in Japan

In achieving these services, provision of information will be accelerated and the user interface will be improved through linking the functions between services.

Moreover, in order to efficiently achieve the new services at an early date, the possibility of collaboration with services provided by foreign IP Offices and cooperation with research institutions will also be considered.

- Enhancing collection and provision of information on IP systems in other countries by the JPO

Based on users' needs, the JPO will increase the number of countries listed on the "IP Information Data Bank for Emerging Countries" mainly for countries in East Asia, the ASEAN Regions, and BRICs and enhance the available information. The Data Bank is a database that enables search of information on IP systems and practices, including filing procedures, legal practices, trial decisions, court decisions, statistical information, etc. in emerging countries.

- Further improvement of "patent application technical trends surveys" and enhancement of provision of their information:

In order to contribute to prioritizing of R&D activities and the patent strategies in Japanese companies, patent documents from emerging countries such as China will be surveyed and the trends in various companies in foreign countries will be analyzed and included in the "patent application technical trends surveys". In addition, the analyses will be enhanced as well as the dissemination of the survey results will be strengthened mainly to corporate management including SMEs and the industry groups by utilizing knowledge in and outside of the JPO for evaluation.

- Enhancing the provision of IP information:

In order for Japanese companies to be active in the global market based on technologies and products for which they acquired IP rights in Japan, it is important to increase the sense of trust and international presence of the both Japanese IP system and the JPO's examination practices. Therefore, the JPO should enhance the provision of IP information by improving the JPO English website that provides information about the Japanese IP system, JPO's examination practices, international initiatives, and achievements in real time.

O Support for creation, protection and utilization of intellectual property by SMEs

- Strengthening the help desk function with expert consultations:

The JPO will strengthen the "Comprehensive IP Support Counters", which is a system that enables applicants to consult with patent attorneys and lawyers at the 56 counters located in all 47 prefectures across the country. Individual consultations with experts, which range from issues with filing applications to how SME's and individual

business owners can effectively use their IP rights, is to be promptly provided. Meanwhile, consideration will be given as to establishing a system to provide consultation on management of trade secrets.

In addition to assisting applicants face-to-face at the Counters, we will start sending intellectual property advisers (former business people with technical capabilities, etc.) to SMEs, etc.

- Support for SMEs conducting business globally to acquire IP rights and take countermeasures against counterfeits:

Measures that support SMEs to file applications abroad will be expanded so that SMEs in all prefectures can receive subsidies.

At the same time, the JPO will give additional support to SMEs whose rights were damaged due to rights' infringements caused by counterfeit products overseas. Specifically, subsidies will be provided to SMEs to enable them to continue to research IP infringements by utilizing local research companies in foreign countries. From FY2014, support enabling SMEs to exercise their rights such as creating and sending warning letters, and filing requests to have foreign administrative entities exercise strict control over counterfeits (injunctions of infringement acts, etc.) will be eligible for subsidies as a means to strengthen the support to fight against counterfeits overseas.

O Consideration of the fee schedule at the time of acquiring intellectual property

In order to facilitate SMEs, etc. to acquire rights, and also to promote innovation by Japanese companies, the new reduction/exemption systems in the “Industrial Competitiveness Enhancement Act” will be disseminated at an early date. Moreover, the fee schedule at the time of acquiring patent, design and trademark rights will be examined based on the prospect of medium- and long-term patent revenues and expenditures, etc. In considering the new fee schedule, the JPO will pay attention to the potential affect that the changes to the new fee schedule will have on filing activities.

O Promotion of the effective use of intellectual property

- Promotion of measures that include intellectual property in corporate management:

By grasping and “visualizing” intangible assets including patent rights, intellectual asset management, which makes effective use of the intangible assets in business activities inside and outside of the company, will be promoted. In particular, measures that strengthen cooperation between the government and experts such as local governments, financial institutions, SME management consultants, patent attorneys and lawyers will be created; which will promote a positive growth cycle that leads to proper evaluation of intellectual property and financing.

- Promoting the effective use of intellectual property to accelerate innovation:

In order to make patent and other rights available so that SMEs, large companies and colleges/universities can license technologies that they created and enable these technologies to be commercialized, the JPO, in cooperation with local governments, will support activities that match intellectual property to businesses, promoting the effective use of IP rights by third parties. In particular, activities for strengthening cooperation with local financial institutions, enhancing IP rights, and follow up activity for commercialization will be enhanced.

- Provision of support to R&D projects, etc.

The JPO will provide support by sending IP producers, who are experts on IP management, to help with R&D projects, etc., to which public funds were committed, in order to promote appropriate protection and commercialization of research results.

O Review of legal system designed to facilitate the use of intellectual property

- Introduction of a "post-grant review system" on patent rights for quality improvement utilizing the expertise of third parties:

Based on the report titled the "Immediate Grant of a Strong Patent with Legal Certainty and Efforts toward Enhancing User Convenience" compiled by the Patent System Subcommittee under the Industrial Structure Council, the METI will promptly make preparations for submitting a bill to revise the related laws to the 2014 Ordinary Diet session, aimed at introducing the post-grant review system. This is for the purpose of establishing a system for reviewing patent rights with defects earlier than before.

- Expansion of procedural relief for obtaining patent rights:

Based on the above-mentioned report compiled by the Patent System Subcommittee under the Industrial Structure Council, the METI will promptly make preparations for submitting a bill to revise the Patent Act and the Utility Model Act to the 2014 Ordinary Diet session, in order to introduce or expand relief measures concerning (1) the reinstatement of rights after the deadline of requesting patent examination has passed, (2) the correction or addition of priority claims, and (3) any delays in procedures due to reasons not attributable to the applicants' faults such as disasters.

- Activities for acceding to the Hague Agreement to enable users to file applications in multiple countries at one time:

In order to have industrial designs of Japanese companies easily protected in foreign countries, discussions have been made at the Design System Subcommittee under the Industrial Structure Council, which are aimed at Japan's acceding to the Geneva Act of

the Hague Agreement concerning the International Registration of Industrial Designs. At the 3rd meeting of the Design System Subcommittee (held on January 31, 2014), the Subcommittee compiled a report. The METI will promptly make preparations for submitting a bill to revise the related law to the 2014 Ordinary Diet session.

Moreover, in order to grant stable design rights after starting to accept international applications for design registrations, the JPO will develop procedures for clerical processes, so that the period of time from when the international registration is published up to the time the first examination result at the JPO is notified to the International Bureau, can be consistently maintained at less than 12 months.

- Expansion of local brand owners to activate local regions:

Based on the report compiled by the Trademark System Subcommittee under the Industrial Structure Council, “Trademark Policy to Protect Non-traditional Trademarks and for Other Measures,” in order to add Associations of Commerce and Industry, Chambers of Commerce and Industry, and Specified Non-profit Corporations, which are responsible for the dissemination of local brands, to the types of entities eligible to register “Regional Collective Trademarks” of the Trademark Act, the METI will promptly make preparations for submitting a bill to revise the related law to the 2014 Ordinary Diet session. This measure will promote the effective use of “the Regional Collective Trademarks.”

- Introduction of the protection of new types of trademarks such as “color” and “sound”:

Based on the above-mentioned report compiled by the Trademark System Subcommittee, in order to add new types of trademarks consisting of “motion”, “hologram”, “color”, “position”, and “sound” to the scope of protection under the Trademark Act, the METI will promptly make preparations for submitting a bill to revise the related law to the 2014 Ordinary Diet session.

- Review of the Patent Attorney System for improving quality of experts:

The Patent Attorney System Subcommittee deliberated on measures for improving training programs that enhance patent attorneys’ capacities to assist globalized business activities, enhancing the patent attorneys’ scope of services to broadly support the acquisition of IP rights by SMEs and venture companies, and clarifying the social mission of patent attorneys to encourage their voluntary efforts for conducting services, etc. At the 6th meeting of the Patent Attorney System Subcommittee (held on February 17, 2014), a report was compiled. The METI will make preparations for submitting a bill to revise the related law to the 2014 Ordinary Diet session.

O Fostering human resources working on intellectual property

In order to promote management strategies of Japanese companies based on patent strategies, fostering human resources working on intellectual property will be accelerated by holding practical training programs through discussions and case studies in which intellectual property played an important role in the management strategies of domestic and foreign companies. These courses are designed for corporate executives including top management and managers of corporate planning departments, etc. Lectures will be held in various places, and for SMEs at their companies, in cooperation with economic organizations, etc.

The "discontinuance" of the "elective courses" including the "Basic Law on Intellectual Property" is currently under discussion by the government, as part of the review on the National Bar Examination system., Accordingly, training of judicial officers (judges, lawyers), who bear the effective use and the dispute resolution function on intellectual property, will be properly handled based on suggestions that necessary measures should be taken paying attention to the state of the discussion, in order to prevent the decline of business capability of judicial officers and the functional decline of the judicial system of Japan.

<Legislative and practical measures to be taken immediately>

O Strengthening protection of trade secrets and improving the consultation system

In order to raise awareness and collect the broad needs of the industrial sector, the JPO will build a system to enable the public and private sectors to collaborate and advance the embodiment of the contents of measures that should be carried out by both the public and private sectors, at an early date. The JPO will also advance research regarding trade secret protection systems and to court rulings in major countries. Based on the results of the surveys and industry needs, the JPO will focus on the main issues and deepen discussions on trade secret protection.

In addition, the JPO will review existing frameworks such as the Lawyers IP Network that formulates the structure to conduct consultations for SMEs on not only the acquisition of IP rights but also management of trade secrets at the “Comprehensive IP Support Counters.”

O Improvement of the system for expanding the protection of graphic image designs

The Design System Subcommittee discussed the design and operations of the design system and procedural measures including specific issues for expanding the scope of protection given to graphic image designs, compiling a report. The JPO will continue to take the following measures in this regard:

- Immediately start preparing a system for searching registered designs, which utilizes image matching techniques, aiming to provide the services during FY2015. Improvements to the system will be made as needed, based on user evaluations.
- Based on the premise of providing the above services, by revising the Examination Guidelines regarding “function” stated in Article 2 paragraph 2 of the Design Act, (i) not only graphic images prerecorded on articles but also images for operations that are subsequently added will be included as objects of protection and (ii) consider adding images for operations on PCs as objects of protection. Furthermore, the Working Group for the Design Examination Standard will specifically discuss the registration requirements for graphic image designs, based on extensive participation by related industries.
- The results of the above discussion on the Design Examination Standard will be reported by the Working Group to the Design System Subcommittee and the most ideal design system will be considered further by the Subcommittee. At the same time, consideration will be given to clarify the interpretation of provisions on the use of designs, acts of infringements, and presumptions of negligence, as well as consideration will be made to clarify ways to deal with acts conducted by end users and those by providers.

In view of the above-mentioned measures, user needs, and international consistency,

the Subcommittee will continue discussions in the medium- to long-term on the most ideal design system, focusing on the items for discussion stated in the above-mentioned report, under the basic premise of improving the accuracy of clearance tools.

O Review of the employees' invention system for strengthening the industrial competitiveness of Japanese companies

With regard to the review of the employees' invention system, the current schedule to summarize issues by mid-2014 and reach a conclusion during fiscal year 2014, i.e., the Intellectual Property Promotion Plan 2013 work schedule, will be moved forward in order to start deliberations at the Patent System Subcommittee in early 2014 and accelerate discussions.

O Deliberations on acceding to the Patent Law Treaty (PLT) that reduces procedural workload on users

The Patent System Subcommittee will start discussions on the specific items of the domestic law that will need to be revised in order for Japan to accede to the Patent Law Treaty (PLT) at an early date. The PLT is a framework designed to achieve international harmonization and simplification of filing procedures for patent applications.

O Deliberations on measures to prevent the technology leakage due to information on patents being disclosed, such as the system for publishing patent applications

From the viewpoint of preventing the technology leakage for Japanese companies, the JPO will deliberate concrete measures to deal with the system for publishing patent applications and how patent information is provided by investigating the actual status.

O Support for searching already disclosed technical documents, etc.

The expenses involved with conducting prior art searches become a greater burden on SMEs than on large companies. The JPO will consider broader support that includes technical searches that utilize specified registered searching authorities, in addition to services that pursue user-friendliness in providing information on IP rights, in order to reach a conclusion on this issue.

O Investigation into the actual status of dispute resolutions of patents, etc. in Japan

In order to deliberate the appropriate state of patent rights and design rights, from the perspective of determining whether the system of patent rights, etc. is capable of demonstrating sufficient stability and achieving appropriate effectiveness in Japan, the JPO in cooperation with related ministries, agencies, and institutions will investigate and analyze at an early date the overall situation on the occurrences of patent disputes, etc., in order to resolve them. In addition, the JPO will accelerate deliberations on the

appropriate state of exercise of rights by NPEs and exercise of rights of SEPs by taking into account the impact on innovation, discussions held in foreign countries such as the discussion on the White House Task Force on High-Tech Patent Issues in the US, international negotiations, and court decisions in Japan. The necessity of improving the system will also be discussed in the deliberations.

O Strengthening the function designed to analyze the correlation between patent information and economy

In order to broadly integrate IP policy and economic policies, the correlation between IP information including patents, designs, and trademarks and the economy will be analyzed in cooperation with external economists. At the same time, the JPO will foster internal experts who will analyze the economic effects of patent information.

O Deliberations on ways for honoring, and giving rewards for activities that promote grass-roots innovation

In cooperation with the related institutions, the JPO will study various existing award programs designed to publicly honor engineers and researchers who developed outstanding technologies and designs, in order to consider the state of honoring experts and giving rewards in the future.

O Deliberations on issues involving patent rights shared by multiple rights holders

In the 2009 joint study called the “Research and Study Report on Handling Patents,” it was reported that “it is difficult to conclude that Article 73 of the Patent Law is an inhibiting factor on joint studies conducted on the consent of non-exclusive licenses to third parties in terms of sharing.” However, taking into consideration of the subsequent indications that user needs, changes to social conditions, and effective use of the results of joint studies are indeed inhibited, further discussions will be conducted for promoting the effective use of the results of joint studies.

O Fostering IP human resources

In order to further advance the distribution of intellectual property, efforts will be made to develop human resources with skills capable of discerning the connection between technical demand and supply in local financial institutions, SME support agencies, local governments, and institutions for industry-academia collaboration.

<Measures to be achieved based on international frameworks>

O Japan’s system, practices, and dissemination of examination results

- Improving the practices of the Patent Prosecution Highway (PPH):

In order to improve user-friendliness for Japanese companies that are expanding their business globally acquire rights at an early stage in various countries, the JPO, through bilateral and multilateral negotiations, will advance efforts to standardize PPH procedures. The efforts include standardizing required documents and requirements for PPH applications such as the allowance of machine translations of required documents.

- Sharing information on examinations among the IP Offices and provision of the information to the public:

Information will be shared on applications and the status of examination, namely, dossier information, among the IP5 Offices (in Japan, US, Europe, China and Korea), and other IP Offices in both advanced nations and emerging nations such as the ASEAN Region nations. At the same time, efforts will be made to provide at an early date a service that enables the public to view such information in one location. To begin with, an IT system enabling provision of the JPO's dossier information will be developed in FY2014.

- Further spreading Japan's examination methods to emerging countries:

Japan will promote developing an IP infrastructure including a common system infrastructure for sharing examination information with the ASEAN Region nations based on frameworks such as the ASEAN-Japan Heads of Intellectual Property Offices Meetings and various bilateral meetings, in cooperation with the WIPO.

Furthermore, the JPO will gradually conduct short-term and long-term examiner exchange programs with the emerging countries in Asia which in the past have been conducted mainly with the developed countries and enhance training programs designed to develop IP human resources which have produced many leaders of IP offices in emerging countries in Asia, to further spread its examination methods to the emerging countries.

O Global harmonization of the IP systems which serve as the basis

- Improvement of the Patent Cooperation Treaty (PCT) system (Improving the quality of search results etc. at the international phase):

By involving other IP Offices in developed countries through the Meeting of the IP5 Heads of Offices and various bilateral meetings, the JPO will aim at improving the International Search Reports (ISRs) issued by International Searching Authorities (ISAs) and the practices that make maximum use of search and examination results in each country at an early date at the forum of the WIPO.

- Measures to enable Japanese companies to file applications under the same procedures

in each country:

With the aim of standardizing filing procedures for designs, the JPO will proactively participate in discussions on the Design Law Treaty (DLT) at the WIPO. The industries in Japan are greatly concerned with these discussions. Furthermore, the JPO will pay attention to the users' feedback and lead discussions at various forums such as the Meeting of the IP5 Heads of Offices. By listening to users' feedback, the JPO will advance discussions on patent system harmonization, which include the issue of the grace period*, a significant issue for users at universities and research institutions.

*Grace period: A grace period means the period of time granted for an invention that has already been disclosed before filing a patent application, without the invention losing its novelty.

- Promoting trade-secret protection among Japan, China and Korea:

In view of the agreement reached in the Meeting of the Heads of the IP Offices of Japan, China, and Korea, the Offices will start exchanging opinions and research by experts on each country's practices as well as advance cooperation on effective state of trade-secret protection by taking user needs into consideration.

- Addressing the issues of current IP systems existing in foreign countries:

There are various issues noted in some emerging countries including China and India. This includes issues with examinations being so strict that they made it difficult for applicants to acquire patent rights on the appropriate technical scope. There are abuses in that IP rights are being registered without having undergone substantive examinations, and compulsory licenses being granted. There are also issues with data protection. These issues are actually causing or are likely to cause serious impact on the interests of Japanese companies. Japan will strengthen its approaches on emerging countries including cooperation with related domestic organizations and various developed countries, and other high-level approaches, so that IP systems that are appropriate for Japanese users will be established and implemented in these countries.

List of Members of the Intellectual Property Committee

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