

Activities and History of the JFBA Committee on Intellectual Property Rights

JFBA Committee on Intellectual Property Rights¹

1. Introduction

The “JFBA Committee on Intellectual Property Rights” (“CIP”) is a special expert committee within the Japan Federation of Bar Associations (“JFBA”)² for the purpose of promoting the establishment and wide recognition of intellectual property rights.^{3,4}

As described below with detailed organizational genealogies, the CIP was born on June 1, 2009 as a result of the integration of the “Committee on Intellectual Property Rights System,” which had as long a history as the JFBA itself, and the “Central Board on Promotion of Intellectual Property Rights Policies,” which had

¹ Izumi Hayashi (Attorney-at-law), the Chairperson, and Tomoki Ihara (Attorney-at-law), the Chief Secretary, of the JFBA Committee on Intellectual Property Rights are responsible for the content of this article. Translation was made under the supervision of Yasufumi Shiroyama (Attorney-at-law), the Vice Chief Secretary of the JFBA Committee on Intellectual Property Rights.

² The Japan Federation of Bar Associations (JFBA) is a legal entity comprised of 52 local bar associations in Japan (in principle, there is one local bar association per prefecture, while Tokyo has three associations, namely, the “Tokyo Bar Association,” “Daiichi Tokyo Bar Association” and “Daini Tokyo Bar Association,” and Hokkaido has four, namely, the “Asahikawa Bar Association,” “Kushiro Bar Association,” “Sapporo Bar Association,” and “Hakodate Bar Association”; each local bar association in each region is also referred to as a “unit association”), individual attorneys and legal professional corporations. Every attorney and legal professional corporation in Japan must be a member of the local bar association in their region and registered at the JFBA at the same time. The JFBA is a legal entity established according to the Attorney Act enacted as part of the postwar reforms of the judicial system in line with enactment of the Constitution of Japan, and was founded on September 1, 1949. There were 33,581 attorneys as of September 1, 2013.

³ The JFBA has many special committees etc., established for different purposes along with statutory committees such as the Qualifications Screening Board and Disciplinary Actions Committee, and permanent committees such as the Human Rights Protection Committee and Judicial System Research Board. The CIP is positioned as one of these permanent committees, etc. A special committee etc., is not necessarily named as “XX Committee,” but sometimes arbitrarily referred to using various names such as “Center,” “Central Board,” “Board,” “Joint Meeting,” “Working Group” etc.,.

⁴ It is based on the “Outline for Establishment of the JFBA Committee on Intellectual Property Rights” established by a resolution dated February 19, 2009 of the JFBA Board of Governors.

been established within the JFBA with the President of the JFBA as its Chairperson on June 22, 2002 based on a decision by the “Intellectual Property Strategy Council” organized by the Koizumi Cabinet to establish the Intellectual Property Strategy Headquarters⁵ with the Prime Minister as its Chairperson on February 25, 2002, and it is no exaggeration to consider that this is an organization in charge of determining the direction of the JFBA’s intellectual property policies. Its organizational outline and history are described below.

2. Organizational Outline of the CIP

(1) Purpose

The purpose of the CIP is “to promote the establishment and public understanding of intellectual property rights and encourage the development of a better intellectual property system through policy recommendations etc., on judicial matters such as the dispute resolution system, as well as to engage in activities such as planning ways for JFBA members to become involved in IP related matters” (Article 2, Outline for Establishment of the JFBA Committee on Intellectual Property Rights).

(2) Mission

The CIP shall perform the following activities to achieve the above purpose of the CIP (Article 3, Outline for Establishment of the JFBA Committee on Intellectual Property Rights):

- (i) Studies, research and recommendations on intellectual property rights;
- (ii) Drafting and providing recommendations on legislation and systems for intellectual property rights;
- (iii) Consultations and exchanges with the government, councils, related organizations etc., on legislation and systems for intellectual property rights;
- (iv) Activities relating to nurturing legal professionals and the continuing education of JFBA members on intellectual property rights;
- (v) Activities contributing to the expansion of the scope of IP-related matters handled by JFBA members; and

⁵ The history of the Intellectual Property Strategy Headquarters is as described at the following URL:
<http://www.kantei.go.jp/jp/singi/titeki2/enkaku.html>.

(vi) Any other activities necessary for the maintenance and development of the intellectual property system in Japan.

(3) Composition of Members

It is stipulated that the CIP shall consist of 85 or fewer members, of which a prescribed number shall be from larger cities such as Tokyo, Osaka and Nagoya (from unit associations with many attorney members), while at least two members shall be appointed from each region (from each regional Federation of Bar Associations organized at the location of each High Court, such as the Hokkaido Federation of Bar Associations) to reflect the opinions of other regions nationwide. The members of the CIP shall be appointed by the JFBA Board of Governors, referring to recommendations from the regional and unit associations, for a term of two years, and reappointment is not prohibited⁶. In 2013⁷, 76 members including the Chairperson were appointed from unit associations nationwide. It is a collection of excellent talent both in quality and quantity, including many members who have also been appointed as members of the Intellectual Property Strategy Headquarters of the Government, the Industrial Structure Council of the Ministry of Economy, Trade and Industry, various committees of the Japan Patent Office, or the Council for Cultural Affairs of the Ministry of Education, Culture, Sports, Science and Technology etc., as well as former judges with a wealth of legal experience in the specialized intellectual property departments of the Tokyo High Court, Intellectual Property High Court and other courts including high profile people such as Toshiaki Makino (Daiichi), and those with government experience working as officials with fixed terms at the Ministry of Foreign Affairs or the Ministry of Economy, Trade and Industry.

⁶ Matters concerning special committees established at the JFBA, including the IP Center, are addressed by Special Committees Regulations (Regulation No. 22 of July 20, 1968 [Latest Revision: November 20, 2001])

⁷ A fiscal year of the JFBA is from June 1 to May 31 of the following year.

(4) Managerial Posts

The managerial posts at the CIP include one Chairperson⁸ and a few Vice Chairpersons, and they are elected by a vote among the members. The term is one year and reappointment is not prohibited.

Below are those that have been appointed as Chairperson since the foundation of the CIP in June 2009 until the current year:

2009: Hidesato Iida (Tokyo ⁹)	2012: Tsukasa Matsumoto (Osaka)
2010: Eiji Katayama (Daiichi)	2013: Izumi Hayashi (Tokyo)
2011: Wataru Sueyoshi (Daini)	

(5) Secretariat

The CIP has a Secretariat consisting of a member attorney, and in 2013, one Chief Secretary, one Deputy Secretary, as well as 24 highly committed attorneys from the unit associations in Tokyo and Osaka who are appointed as Secretariat Staff¹⁰.

(6) Officers

Usually a few Officers are appointed within the CIP¹¹. Their duties are “to draft and organize bills of the Committee, to collect information materials and to conduct studies and research etc., upon request of the President or Chairperson” (Article 10-4, Special Committee Regulations).

Those commissioned as Officers for 2013 include Shozo Yoshihara (Tokyo), Minoru Takeda (Tokyo), Nobuhiro Nakayama (Daiichi), Toshio Kobayashi (Daini), Hideaki Kubori (Daini) and Harumi Kojo (Daini), all of whom are high profile persons in the field of intellectual property. Naturally, the Officers are expected to provide timely and appropriate advice on the CIP’s operations and opinion formation processes etc.,

⁸ Sometimes referred to as “Director of the Center,” but the official title is “Chairperson.”

⁹ The prefecture name indicated following the person’s name refers to the unit association to which the person belongs, and “Daiichi” and “Daini” respectively refer to “Daiichi Tokyo Bar Association” and “Daini Tokyo Bar Association.”

¹⁰ Secretariat Staff comprise mid-level attorneys (those who completed legal training in 1993 or later for 2013) located in Tokyo or Osaka with expertise and experience in IP-related practices.

¹¹ This is pursuant to Article 10 of the Special Committee Regulations. An Officer may be appointed from among the members (Paragraph 2 of the Article), or from non-members with the approval of the JFBA President (Paragraph 3 of the Article). The Officers of the IP Center are the latter.

based on their wealth of legal expertise and experience¹², and not to carry out administrative work such as drafting bills, collecting and organizing materials. Such work falls under the responsibilities of the Chairperson, Vice Chairpersons and Secretariat Staff.

3. Activities of CIP

(1) General Meeting

A meeting to convene the members in one place (which is referred to as a “General Meeting”) is held once a month from 1:00 PM to 3:00 PM, with many members from all over Japan gathering at the JFBA building, called "Bengoshi-kaikan," located in Kasumigaseki, Tokyo. For the convenience of members in remote regions, it is also possible to participate in the General Meeting via a videoconferencing system. Sometimes, members from as many as five or six locations nationwide participate in the Meeting using the system. At a General Meeting, various agenda items are discussed under the chairmanship of the Chief Secretary including matters concerning legal system reforms such as responding to requests for public comments (drafting of opinion papers etc., submitted representing the JFBA), matters concerning IP education and training and other events (planning, preparation and implementation), matters concerning attorney business operations, matters concerning the exchange of opinions and/or coordinating with IP-related state organizations including the courts, the Japan Patent Office, IP-related industry organizations and any other IP-related organizations inside and outside of Japan, and any matters to be reported.

(2) Establishment of Project Team (PT), Etc.

Since the CIP is a large organization with around 80 members, it is not easy to have deeper discussions if matters are always submitted to a General Meeting. Therefore, considering the area of expertise of each member, project teams (PTs) are organized in a subcommittee format. 6 PTs have been established in 2013, including the Patent PT (Chairperson: Koichi Tsujii), Design/Trademark/Unfair Competition PT (Chairperson: Kazuko Matsuo), Copyright PT (Chairperson: Yumiko Waseda), International PT (Chairperson: Shinichi Murata), Legal Education and Continuing

¹² In the context of interpreting Article 10-4 of the Special Committee Regulations which provides for the duties of Officers, this shall be included in “etc.” under “to conduct ... research, etc.”

Professional Development/Business Expansion PT (Chairperson: Wataru Sueyoshi), and Public Relations PT (Chairperson: Takayoshi Sagae).

Each member of the CIP shall choose to belong to and engage in the activities of at least one PT. In each PT, any current matters to be discussed (investigations, preparations etc., for individual issues relegated from the Chairperson of the Center or the General Meeting) are often discussed at the PT meeting generally held between 3:00 PM and 5:00 PM on the day of a General Meeting, but active discussions are also held from time to time at additional meetings organized as the situation requires or through a mailing list set up for each PT¹³. Then, such matters preliminarily discussed at each PT will be submitted to the General Meeting for further discussion in order for the entire CIP to determine the future direction.

Separately from these PTs, a review team comprising members across the CIP may be established for specific subject matters. In 2013, the IP Trial System Review Team was set up with 16 members, including the Chairperson, to carry out studies and research etc., on separate themes concerning the IP trial system.

(3) Meeting of Chairperson, Vice Chairperson and Secretariat

Usually from 11:30 AM to 1:00 PM of the day on which the General Meeting is to be held, a meeting of the Chairperson, Vice Chairperson and Secretariat is held as a preliminary meeting in the form of a luncheon to discuss the matters to be discussed etc., at the General Meeting of that day. This meeting is only to discuss matters such as the agenda order, time allocation, and confirmation of reporters of the General Meeting, while substantive discussions are intended to be held at the General Meeting.

¹³ Each member is permitted to voluntarily join the mailing list of any PT in addition to the PT that they officially belong to, through which they may participate in more than one PT.

4. Details of CIP Activities

(1) Recent Major Opinion Papers of JFBA¹⁴

(i) Opinion papers, etc., on the introduction of criminal penalties for illegal downloading

The JFBA published an “Opinion Paper on the Introduction of Criminal Penalties for Illegal Downloading” on December 15, 2011, expressing its opinion against the introduction of criminal penalties for so-called illegal downloading, at least at that point in time, with respect to the issue of whether or not such criminal penalties should be introduced for any act subject to regulation according to Article 30-(1)-(iii) of the Copyright Act (so-called illegal downloading). The JFBA also issued a President’s statement on June 21, 2012 (then President Kenji Yamagishi), which declared that the proposed amendment to “criminalize illegal downloading” is irrelevant to the draft revision of the Copyright Act proposed by the government, pointing out that a procedural issue in the legislative process whereby such proposal being made as a motion for amendment itself is hasty and seriously questionable as a way to revise laws, and as for future challenges it strongly requested (i) state and local municipal authorities and music/video content providers to promote public education, and in particular the education of minors, in a more effective manner so as to deepen understanding of the importance of preventing illegal downloading; (ii) the music/video content providers to take measures appropriately to enable the easy determination of legality by use and dissemination of “L Mark” etc., to prevent Internet users from recording music videos via illegal Internet delivery etc., without knowing that it is illegal; and (iii) law enforcement bodies and to in order to prevent any abuse of their investigation rights and to give the greatest consideration not to cause any unreasonable restraints on the use of the Internet.

(ii) Opinion paper concerning “Desired Form of Trademark System (Draft)”

The JFBA published the “Opinion Paper Concerning the ‘Desired Form of Trademark System (Draft)’ Reported by the Trademark System Subcommittee,

¹⁴ For more details on the opinion papers etc., of the JFBA (available only in Japanese), please refer to the JFBA website at:

<http://www.nichibenren.or.jp/activity/document/opinion/category/intellectual.html>.

Intellectual Property Policy Committee of the Industrial Structure Council” on January 16, 2013.

It expressed an opinion to support, in principle, the introduction of a system to protect nonconventional trademarks (new types of trademarks) such as “motion,” “colors without delineated contours” and “sound” etc., in view of international trends, when introducing protection for new types of trademarks, as well as stating its opinion that distinctiveness, which is an essential element of a trademark whereby the goods or services of oneself are distinguishable from those of others, shall be promptly added to the definition of “trademark.”

(iii) Opinion on restoration of the post-grant opposition system for patents

The JFBA published the “Opinion Paper Concerning the Report: ‘For Early Establishment of Strong and Stable Rights and Improvement of Users’ Convenience (Draft)’ by the Patent System Subcommittee, Intellectual Property Policy Committee of the Industrial Structure Council” on January 16, 2013.

It expressed an opinion that as the “post-grant review system” for patents currently being considered for introduction is substantially the same as the post-grant opposition system abolished in the revision of the Patent Act in 2003 and runs contrary to the spirit of the revised Act, measures to solve such problems with respect to the abolished opposition system shall be concurrently put in place in order to allow the introduction of the system.

(iv) Opinion on Trans-Pacific Partnership (intellectual property related matters)

The JFBA published an opinion paper titled “Opinions Concerning the Trans-Pacific Partnership (TPP) Negotiations (No.2)” on July 19, 2013, the outline of which is as shown below (items reviewed are only tentative since accurate information based on inspection of the actual texts was not available, as Japan had not yet officially participated in the negotiations at the time this Opinion Paper was drafted).

a) With respect to “trademarks not recognizable by sight,” we are of the opinion that greater discussion is necessary for the introduction of a “scent mark” as only a few examples of registration are maintained in the U.S. and Europe where scent marks have already been introduced.

b) As for “geographical indications,” Japan has systems relating to geographical indications, including (i) Article 2-(1)-(xiii) of the Unfair Competition Prevention Act (prohibition of indications that may give rise to misunderstanding of quality;

corresponding to Article 22 of Agreement on Trade-Related Aspects of Intellectual Ownership Rights – “TRIPS”); (ii) indications of geographical origin (National Tax Agency Notification) and manufacturing method (Legal Interpretation Notice) based on Article 86-6 of the Act Concerning Liquor Business Associations and Measures for Securing Revenue from Liquor Tax (corresponding to Article 23 of TRIPS); and (iii) regional collective trademarks (Article 7-2 of the Trademark Act). Of these, the requirements for regional collective trademarks, which are trademarks consisting of regional names/goods or service names that have been introduced to facilitate the acquisition of trademark rights for regional brands by relaxing the requirements for being “well-known nationwide”, are planned to be further relaxed in the Trademark Act revision bill to be submitted in the future. In addition, utilization of the certification trademark system is also being considered, and therefore, with respect to geographical indications, we are of the opinion that sufficient discussion will be necessary for reorganizing the relationship with the examination standards and existing names of trademarks.

c) As for the “period of copyright protection”, the JFBA already expressed its opinion in December 2006 with regard to the issue of extending copyright protection, that careful consideration shall be given through a process of hearing of opinions from interested parties. If the protection period is extended, we are of the opinion that effective measures must be taken concurrently to solve the problem of so-called “orphan works.”

d) With respect to “changing of legislation so that no criminal complaint will be required to indict and prosecute copyright infringements,” the JFBA expressed its opinion against such move in February 2007, and is of the opinion that it must be carefully considered because it will have significant impact on ordinary citizens as copyrighted works are used on a daily basis.

(v) Opinions to the Cabinet Legislation Bureau etc.

The JFBA published and submitted to the Cabinet Legislation Bureau etc., an opinion paper titled the “Opinion Paper Concerning Legislation Review Process under the 2012 Copyright Act Revision (Act No. 43 of 2012)” on June 20, 2013.

This concerns the 2012 Revised Copyright Act (Act No. 43 of 2012) which had been discussed for the purpose of introducing a Japanese version of the “fair use” doctrine, and while an original draft of the proposed revision submitted by the Agency of Cultural Affairs to the Cabinet Legislation Bureau on November 15, 2011 contained one clause as a general provision with a broad scope concerning the

restriction of rights in line with the purport of the report of the Copyright Subcommittee, Council for Cultural Affairs in January, 2011, the draft of the revision actually submitted to the Diet had been modified to include four clauses as individual provisions with limited scopes instead; therefore we filed a request for disclosure of administrative documents in order to investigate the background to this change, received such documentation from the Agency of Cultural Affairs and the Cabinet Legislation Bureau, and examined the same; but the background and reasons for such modification were unclear. However, in view of the public right to be informed and the purpose of the administrative documents disclosure system, the entire legislative process including the process of discussion and consideration in administrative agencies must be recorded and stored, and promptly disclosed upon request by citizens. Therefore, in the opinion paper, we requested that the Agency of Cultural Affairs and the Cabinet Legislation Bureau disclose the background and reasons for such modification as aforesaid, and also pointed out that they must have prepared and stored such documentation containing the background and reasons for any modification so that it would be readily available for prompt disclosure upon request by citizens.

(2) Opinion exchange meetings with the IP High Court and Tokyo District Court/Intellectual Property Departments

The CIP has held an opinion exchange meeting on matters concerning intellectual property litigation with the IP High Court and the Intellectual Property Departments¹⁵ of the Tokyo District Court once a year since 1999, and the details of the opinion exchange meetings from 2000 to 2012 are published in the Hanrei Times (Hanrei Times Nos. 1051, 1095, 1124, 1160, 1177, 1179, 1207, 1240, 1271, 1301, 1324, 1348, 1374, 1390).

The 2012 meeting held on January 22, 2013 was attended by 11 judges of the Intellectual Property High Court and 2 judges from the Tokyo District Court from the court side, and opinions were exchanged on issues of practical operations under the 2011 Revised Patent Act and international litigation, etc.

(3) International Development

(i) Support for organizing international conferences, expression of opinions, etc.

¹⁵ Civil Division Nos. 29, 40, 46 and 47 of the Tokyo District Court are the specialized IP Divisions dealing only with intellectual property cases.

As the International Bar Association (IBA)¹⁶ Annual Conference 2014 is scheduled to be held in Japan, and its pre-event is scheduled in November 2013, the CIP has worked on preparations for a presentation to introduce the intellectual property litigation system of Japan.

(ii) Support for overseas development of small and medium enterprises (SMEs)

When a Japanese small or medium enterprise sets up a plant or an office overseas, or is engaged in international business, it is necessary to develop its business operations based on the legal system and legal practices etc., of that country. However, it is often difficult for SMEs due to various circumstances to gain access to legal professionals in such a situation. The CIP has made efforts to improve access to international IP legal services in order to contribute to the overseas development of SMEs.

(4) Discussions with various organizations

The CIP holds opinion exchange meetings with IP-related organizations as necessary, through which we attempt to share information and deepen discussions. For 2012, we had an opinion exchange meeting with the First to Third Patent Committees and the License Committee of the Japan Intellectual Property Association on November 1, 2012. Such a conference with the Japan Intellectual Property Association is usually held once a year, providing fulfilling opportunities for us, as IP legal professionals, to take up requests and questions from the business community and respond.

(5) Implementation of intellectual property law education and training

As for legal education and continuing professional development by the JFBA, the CIP has played a central role in implementing intellectual property law education and training, being engaged in the implementation processes from curriculum development (selection of lecturers and themes) to the operation of programs, every year since 2003 for the purpose of developing specialized IP attorneys¹⁷.

¹⁶ It is the world's largest organization of lawyers with about 30,000 legal professionals and over 195 legal organizations worldwide.

¹⁷ JFBA has the Center for Legal Education and Continuing Professional Development, which is a special organization in charge of legal education and continuing professional development under the direct control of the JFBA President, and IP education is implemented in cooperation with the Center.

The intellectual property law education and training covers a broad range of content from current issues in line with the trends for law amendments etc., to sessions providing an overview of the broader IP-related industry, whereby non-attorney lecturers from related industries are invited.

5. History of the CIP

(1) Genealogy of the Committee on the Revision of Industrial Property Rights System

① “Committee on the Revision of Industrial Property Rights System”

Its establishment was decided by the General Meeting of the JFBA’s Board of Governors held on February 19, 1963, which discussed the agenda item of “proposal to establish the Committee on the Revision of Industrial Property Rights System” (the first Chairperson was Alexander Nagai (Daini))¹⁸.

Although a provisional committee for researching revisions had been organized previously during a major revision of the industrial property rights legislation¹⁹,

¹⁸ In addition to the Chairperson, the original members included the Vice Chairpersons Shigetoshi Matsumoto (Tokyo) and Susumu Uzawa (Daiichi), and other members including Shozo Kawaguchi (Tokyo), Susumu Shinji (Tokyo), Munetsugu Wakui (Tokyo), Daijiro Nagata (Daiichi), Masahiro Matsukata (Daiichi), Moribumi Uchida (Daini), Junpei Ishiguro (Osaka), Masaaki Noma (Kyoto), Ryoza Saji (Nagoya), and Michiya Mihara (Fukuoka). The Chairperson, Alexander Nagai (whose registered name at the Bar Association was “Arekizan”; his mother was a German and it is said that they spoke German at home), was a prominent international attorney also having a career as a diplomat. He was the first son of pharmacologist Nagayoshi Nagai, who discovered and extracted ephedrine (ingredient for asthma and cold medicine) and is called “the founder of modern pharmacology in Japan.”

¹⁹ In response to the discussions on the revision of industrial property rights legislation held at the Japan Patent Office (more specifically, to respond to the request letter titled “Submission of Opinions Concerning the Revision of the Industrial Property Rights Legislation” dated December 20, 1950, which had been sent from the Commissioner of the Japan Patent Office, requesting the JFBA to submit its opinions by around the end of March, 1951 to the “Council for Research on the Revision of Industrial Property Rights Legislation,” which had been established on July 31, 1950 within the Ministry of International Trade and Industry as a consultative body to the Minister), the “Research Committee on the Revision of Industrial Property Rights System” was organized according to a resolution by the Board of Governors dated December 23, 1950, and established on March 5, 1951. It consisted of 10 members and its first Chairperson was Junnosuke Nakamatsu (Daini). It created an

this was the first time that such a committee had been established on a permanent basis. JFBA's decision to establish such a permanent committee was triggered by the fact that the "Council for the Revision of Industrial Property Rights System" was established within the Ministry of International Trade and Industry (current Ministry of Economy, Trade and Industry) on December 12, 1962²⁰ and a request for advice on the revision of basic matters of the industrial property rights system²¹ was issued by the Minister of International Trade and Industry, Hajime Fukuda, on December 19, 1962 to the Chairman of the Council for the Revision of Industrial Property Rights System. To respond to such planned revision of the industrial property rights system, the JFBA also decided to organize a special committee consisting of a small number of members (around 10-15 members) with extensive knowledge in that field to research such matters so that JFBA's opinions would be reflected by the Council.

opinion paper on patent appeals and litigation issues, which was reported to the President of the JFBA. In 1957, it gave its last opinions in response to an inquiry from the President of the Tokyo High Court concerning the "revision of the handling of documents stipulated under Article 128-4-(2) of the Patent Act (records of trials against examiner's decision of refusal at the Japan Patent Office)," and was abolished on the grounds that its mission had been completed.

²⁰ The purpose of holding the Council was that "as liberalization develops, the long term development of Japanese industries has become increasingly dependent on the success or failure of developing revolutionary technologies. In particular, technological progress has further accelerated in recent years based on vast amounts of research investment, and the necessity for rights to be granted appropriately on inventions and other results of such research based on the industrial property rights system and promptly published is essential not only from the viewpoint of companies but also from the viewpoint of the national economy. Under such circumstances, it is believed that we have reached the stage where we should conduct a fundamental study to envision the industrial property rights system of the future, to adapt it to a new era, and achieve the purposes of the system from a realistic viewpoint, while also taking the experiences of other countries into consideration. To this end, we take this occasion to cause the Council for the Revision of Industrial Property Rights System to ask for opinions of experts to consider how the industrial property rights system should be organized." It is interesting that this is still applicable today, not to mention in 1962.

²¹ The content of the request was that "I request the Council's opinions on the revision of basic matters of the industrial property rights system in order to achieve the purposes of the system sufficiently, in response to changes in the situations both in Japan and abroad and to the demands of the Japanese economy."

(ii) “Committee on Intangible Property Rights System”

The “Committee on the Revision of Industrial Property Rights System” was renamed the “Committee on Intangible Property Rights System” at the meeting of the Board of Governors of the JFBA on February 19, 1972 (the Chairman at the time was Shiro Mitsuishi (Daini)). This was with the intention of reinforcing the capability to deal with copyrights, which had been rather underrepresented, by adding five or less copyright experts to the members. Since the Copyright Act is not a part of industrial property rights law academically, the name of the Committee was replaced with the broader term “intangible property rights,” which was deemed more appropriate.

(iii) “Committee on Intellectual Property Rights”

The “Committee on Intangible Property Rights System” was renamed the “Committee on Intellectual Property Rights” at the meeting of the Board of Governors of the JFBA on February 17, 1989 (the Chairman at the time was Takashi Honma (Tokyo)). This was to reflect the fact that at that time the term “intellectual property rights” was more commonly used than the term “intangible property rights” in media reports, etc.,. At that time, the Outline for Establishment of the Committee on Intellectual Property Rights was prepared as grounds for the establishment of the Committee, which had been in place based only on the resolution of the Board of Governors of the JFBA.

(iv) “Committee on Intellectual Property Rights System” (Japanese name was changed)

The Japanese term representing the “Intellectual Property Rights” used in the name of the Committee was renamed from “*Chiteki Shoyu-ken*” to “*Chiteki Zaisan-ken*” at the meeting of the Board of Governors of the JFBA on September 20, 2003 (the Chairman at the time was Yoichiro Komatsu (Osaka)). This change was to reflect the instructions in the “Strategic Program on the Creation, Protection and Exploitation of Intellectual Property” published by the government’s Intellectual Property Strategy Headquarters on July 8, 2003 to replace the term “*chiteki shoyu-ken*” (meaning “intellectual property rights”) used in some laws, treaties etc., with the unified term “*chiteki zaisan-ken*,” as much as possible. The purposes and tasks of the Committee on Intellectual Property Rights were set as “1) studies and research on intellectual property rights; 2) drafting of intellectual property rights legislation and systems; and 3) conveying the JFBA’s opinions on intellectual

property rights to various councils and other government-related bodies” (Article 2 of Outline for Establishment of the Committee on Intellectual Property Rights System). It was also decided that it shall consist of 35 or fewer members.

(2) Genealogy of “Central Board on Promotion of Intellectual Property Rights Policies”

As stated earlier, on February 25, 2002 the Koizumi Cabinet established the “Intellectual Property Strategy Council” within the Prime Minister’s office as a council held by the Prime Minister in order to promptly set and promote intellectual property strategies for Japan. The Council published the “Intellectual Property Strategy Outline” on July 3 of the same year.

To respond quickly to such movements, the JFBA also established the “Central Board on Promotion of Intellectual Property Rights Policies” with the JFBA’s President as its Chairperson at the meeting of the Board of Governors on June 22, 2002 with the aim of making policy recommendations on judicial-related matters in national strategies concerning intellectual property (dispute resolution procedures relating to intellectual property rights, the issue of nurturing IP-related legal professionals, continuing education for attorneys, etc.) by having consultations and exchanges with the government and related organizations, as well as working diligently on issues that it should solve on its own such as nurturing IP-related legal professionals, etc. (Article 2, Outline for Establishment of the Central Board on Promotion of Intellectual Property Rights Policies. The then Chairperson was Tohru Motobayashi, President of JFBA).

The Central Board consisted of 50 or fewer members, appointed by the President of the JFBA from among those attorneys familiar with intellectual property litigation practices while taking regional distribution into consideration.

(3) Integration and development of “Committee on Intellectual Property Rights System” and “Central Board on Promotion of Intellectual Property Rights Policies”

As described above, the “Committee on Intellectual Property Rights,” which had been engaged mainly in studies and research on the theoretical legal aspects of industrial property rights and the Copyright Act since 1963 (or since 1951 if the provisional committee is included), and the “Central Board on Promotion of Intellectual Property Rights Policies” which had the aim of providing policy recommendations etc., in the IP-related field have separate genealogies and had been acting separately. However, such studies and research on the theoretical

aspects of legislation and policy recommendations are not unrelated but rather are two sides of the same coin, and some of their activities were overlapping. Consequently, based on the determination that it would be reasonable to integrate the two organizations, the two organizations were integrated in 2009 to create a special committee dedicated to IP with 85 or fewer members, which is fairly large in comparison to other committees within the JFBA, under the new name of “JFBA Committee on Intellectual Property Rights System.”

6. Creation of “Intellectual Property Attorneys Network”

An organization created out of the activities of the aforesaid JFBA’s “Central Board on Intellectual Property Rights” is the “Intellectual Property Attorneys Network”²². The Intellectual Property Attorneys Network is a nationwide network established on April 8, 2005 in line with the foundation of the IP High Court, and is aimed at improving and expanding community-based legal services from attorneys in IP-related affairs, as well as nurturing experts and establishing a foundation for legal services (the first Board Chairperson was Kunio Aitani (Daini), a former Deputy Secretary General of the JFBA). Since the JFBA is a federation, it is rather difficult for it to accept IP-related consultancy work and other direct assignments from external parties, and thus the Network was created mainly by attorneys with extensive knowledge of intellectual property law as a kind of detached IP expert organization. The Intellectual Property Attorneys Network deploys its activities in eight separate blocks nationwide (Hokkaido Regional Group, Tohoku Regional Group, Kanto-Koshinetsu Regional Group, Chubu Regional Group, Kinki Regional Group, Shikoku Regional Group, Chugoku Regional Group and Kyushu-Okinawa Regional Group) in order to respond more swiftly to assignments covering larger areas, as well as to provide community-based IP legal services according to the needs and characteristics of each region. Many CIP members have simultaneously served as the Governor of the Intellectual Property Attorneys Network, and the two organizations maintain their activities in a mutually consistent manner.

The Kyushu-Okinawa Regional Group also serves as a window to Asia geographically, and it was quick to develop legal service plans for the overseas

²² For details of the Intellectual Property Attorneys Network, please refer to the website (available only in Japanese): <http://www.iplaw-net.com/index.html>. Although its administrative operations, including website management etc., are undertaken by Minjiho Kenkyukai, who endorsed the purpose of its establishment, the Intellectual Property Attorneys Network is a non-profit organization operating and acting only on the annual membership fees of its members.

deployment of local companies, providing reasonable flat fee package plans such as the package plan for establishing and doing business in China.

7. Activities of Intellectual Property Arbitration Center

The Japan Patent Attorneys Association and the JFBA established an ADR (alternative dispute resolution) body named the “Industrial Property Rights Arbitration Center” in March 1998 for dispute settlement in the field of industrial property rights (it commenced operations in April 1, 1998). It subsequently expanded its scope to handle intellectual property rights in general, and was renamed the “Japan Intellectual Property Arbitration Center” in April 2001.

The JFBA has a “Committee on the Japan Intellectual Property Arbitration Center” as a special committee in charge of the operations and support of this “Japan Intellectual Property Arbitration Center” (the number of members is 40 or less). Many of its members also serve as members of the CIP. Further, the “Japan Intellectual Property Arbitration Center” has a Tokyo Headquarters, Kansai Branch and Nagoya Branch, as well as five sub-branches located in Hokkaido, Sendai, Hiroshima, Takamatsu and Fukuoka. The members of each Regional Group of the Intellectual Property Attorneys Network are involved in the establishment and operations of such sub-branches as core staff.

8. Conclusion

When discussing intellectual property legislation, the focus tends to be placed on a one-sided value of reinforcing the exclusivity and protection of intellectual property from the viewpoint of maintaining and improving the competitiveness of Japanese industries facing fierce global competition, but there are also legal areas which directly influence the private sphere and the lives of ordinary people as seen in the case of the Copyright Act. At the CIP, we are determined to continue our commitment to formulating well-balanced intellectual property legislation and its actual implementation from the standpoint of legal practitioners, always with the mission of keeping in mind the need “to respect basic human rights and achieve social justice (Article 1 of Attorney Act).”