

Overview of the "Intellectual Property Strategic Program 2016"

**(Approved on May 9, 2016 by the Intellectual Property
Strategy Headquarters)**

May 2016

Cabinet Office

Intellectual Property Strategy Promotion
Bureau

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Introduction

- The 4th Industrial Revolution is being driven by such factors as the IoT, Big Data and artificial intelligence (AI), while a transformation of the socio-economic structure is expected as a result of the advent of Society5.0. The collection and processing of large amounts of data, coupled with the ability to exchange and manipulate this data via networks, opens up new avenues for innovation creation.
- Thanks to the Trans-Pacific Partnership (TPP) Agreement and other such arrangements, the economy is becoming increasingly globalized.



1 Expanding the Scope of Intellectual Property in Intellectual Property Strategy via the Integration of Information to Create Value

"Intellectual property" = (1) Inventions, ideas, new plant breeds, designs, literary works and anything else generated via creative human activity

(2) Trade secrets or other technology or commercial information useful in business activities

→ Even data that has no value individually, but which takes on new value when aggregated, is "intellectual property."

2 Emphasizing the "Connections" and "Cross-linkage" Between Players to Realize a Diversity of Intellectual Property Strategy Models

✓ By "connecting" via networks, a variety of "knowledge" becomes mutually available, and open innovation becomes important in a shared environment. Similarly, value creation can be expected to occur from the collaboration of content and non-content sectors.

✓ Meanwhile, however, more detailed intellectual property management, such as by redefining the Open & Close Strategy, is needed.

✓ It also is important that this intellectual property collaboration and detailed intellectual property management become pervasive amongst SMEs and within the agriculture, forestry and fisheries industry.

3 Emphasize the Development and Cultivation of Systems and Human Resources as the Foundations for an Intellectual Property Strategy Focused on Innovation Creation

✓ Constant review of the balance between protection and usage in the intellectual property rights system (i.e., maintain an awareness of the importance of "usage" for realizing the value of intellectual property; ensure a flexibility which accommodates technological change; investigate intellectual property protection reflective of the character, etc., of technology and property; improve the functionality of the dispute resolution system) is key to supporting those "challengers" (innovators) who are working to create innovation

✓ Working together with society and local communities in enhancing intellectual property education will help in the cultivation of human resources capable of creating, respecting and utilizing intellectual property, thereby fostering a "nation of creators" and a "nation of intellectual property users."

[No. 1] 1. Construction of Next Generation Intellectual Property System Adapted to Digitization and Networking

Current Situation and Challenges

- The development of new, digital and networked technologies, such as the IoT, Big Data and artificial intelligence (AI), is promoting the creation of new innovation which generates added value from large amounts of data. Meanwhile, it is anticipated that some of this data is protected by copyright; thus, in order to promote innovation, it is necessary to construct a new copyright system which is focused on maintaining a balance between protection and usage of intellectual property while also being able to produce flexible solutions.
- It is also essential that discussion take place about what an intellectual property system should look like in an era where new information goods, such as autonomously created works by artificial intelligences (AI-created works) and 3D data, are being produced.
- At the same time, a more robust response is needed with regard to on-line, malicious intellectual property infringement, which is increasingly taking place across national borders as a result of the more digital and networked nature of intellectual property.

Measures to be taken

Construction of Copyright System for the Digital/Network Era

- With regard to flexible rights limitations, undertake a detailed examination of said limitations, including their effects and influences, with a view to proposing legislation at the next regular session of the Diet, and discuss policies that would help ensure the appropriate operation of this legislation
- With regard to the compulsory licensing process relating to works having no clear copyright owner, make revisions which would allow for deferred payment of a compensation deposit in certain cases
- With regard to the introduction of an extended collective licensing system, examine the matter in light of such issues as the need for implementation, the legal rationale, the implementing groups and the type of charge involved
- Facilitate the development and construction of a licensing environment within the private sector for an aggregated database of rights information (for content, etc.) to be set up for joint public-private operation for each field

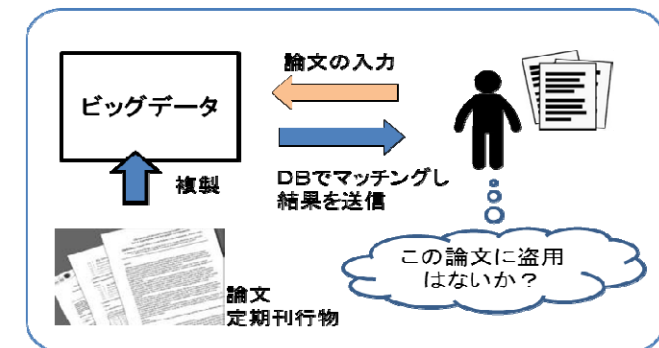
Construction of Intellectual Property System Adapted for Creation of New Information Goods

- Undertake a detailed examination of the need for, and nature of, intellectual property protection of new information goods, such as AI-created works, 3D data and databases for which creativity is hard to establish
- Discuss policies for facilitation of data distribution, including mechanisms for individual involvement (control of one's own data destination, etc.)

Implementation of Policies for the Digital/Network Era

- Discuss measures for dealing with intellectual property infringement across borders, such as how "reach sites" should be addressed under the law, what policies are needed for on-line advertising for malicious intellectual property infringing websites, and what effects and influences site blocking has

○ビッグデータを活用した新規ビジネス (例: 論文盗用判定サービス)



○人工知能による創作 (ビッグデータ+人工知能技術)



Usage via Rights Limitation

Exceptions to Copyright
[Copyright Act contains 34 sections stipulating rights limitations]



➤ Discussion of flexible rights limitations

- With regard to **flexible rights limitations**, and in light of the need for action regarding works usage in the digital/network era, undertake a detailed examination of said limitations, including their effects and influences, with a view to proposing legislation at the next regular session of the Diet

(For Ref.) Example of flexible rights limitations

(Organized based upon the report by the Next Generation Intellectual Property System Review Committee)

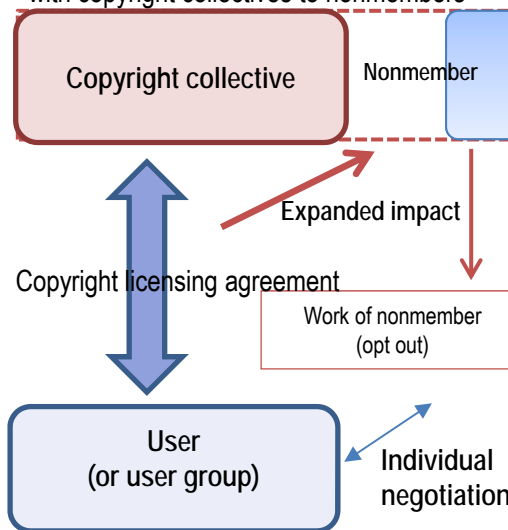
| Primary justification for copyright limitation | Overall consideration model | (Ex.) Rights limitations with fixed flexibility | | |
|---|-----------------------------|---|--|--|
| | USA: Fair use model | Purpose-limited (fair dealing model) (*1) | Receiver stipulations (*2) | Usage which does utilize expression of a work (Model C) (*3) |
| (1) Purpose of and societal demand for usage | | Research, criticism, news, education, etc. | Overall consideration | Overall consideration |
| (2) Nature and mode of usage | Overall consideration | | "In addition to those activities stipulated from Article O through Article O... cases recognized as unavoidable" | "Usage deemed not to be making use of a work via visual, auditory, tactile, etc., expression of said work" |
| (3) Possibility of reaching a private arrangement | | Overall consideration | Overall consideration | Overall consideration |

Usage via Licensing

Usage Permission via Copyright Collectives

➤ Discussion of extended collective licensing

- Examine the possibility of introducing an **extended collective licensing system** (such as already exists in the UK and elsewhere) which would extend the effects of licensing with copyright collectives to nonmembers



➤ Consolidation of rights information

- Public-private development of a consolidated database of rights information to make the rights clearance process smoother

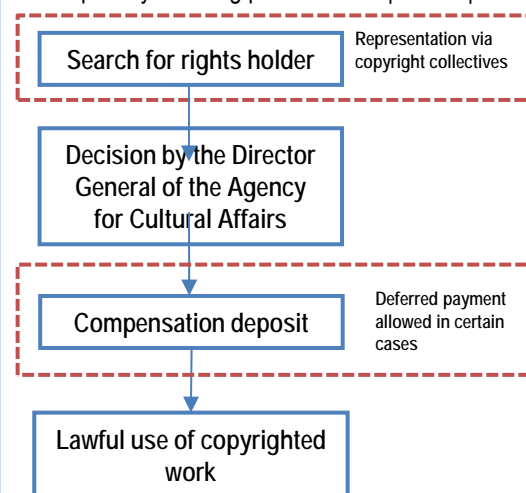
For Reference

Individual Permission

➤ Expansion of the compulsory licensing system

- With regard to the compulsory licensing system whereby the Director General of the Agency for Cultural Affairs renders decisions on the use of **works having no clear copyright owner**, examine ways to lower search costs for users, as well as to allow deferred payment of compensation in certain cases

<Compulsory licensing process> <Proposed expansion>

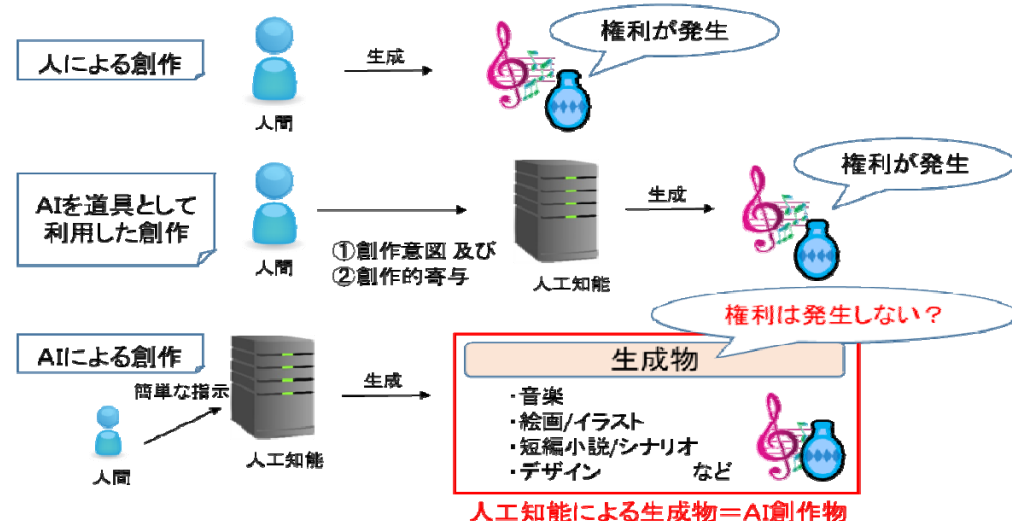


*1 Limited to NPOs, under the UK's Fair Dealing regulations.

*2 Receiver stipulations for activities subject to existing rights limitations and other usage deemed equivalent to said activities

*3 Establishment of usage limitations focused on the usage of a work as data in a mode which "does not utilize expression of the work"

[AI-created Works and the Current Intellectual Property System]



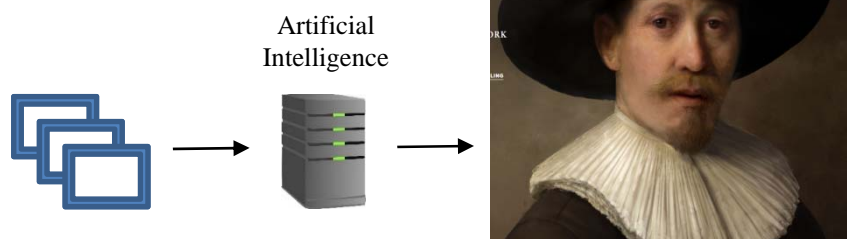
What is a "work?": A production in which thoughts or sentiments are expressed in a creative way (Article 2 of the Copyright Act)

While it is likely excessive to extend IP protection to all AI-created works, it is also likely necessary to extend such protection to AI-created works which are offered to the market and generate a given amount of value (brand value)

[Examples of AI-created Works]

(1) "The Next Rembrandt" Project

This project uses an AI to study and analyze the painting style of Rembrandt and then to use a 3D printer to create a new work



All of Rembrandt's works were scanned and the AI studied his painting style, compositional arrangement, etc.

A "new work" in the style of Rembrandt was produced

Source: <https://www.nextrembrandt.com/>

(2) The "AI-written Novel" Project

The smartphone rang.

It was around one in the morning. Kunio Suzuki was in the laboratory.

He had only joined the lab at

home until after midnight.

Kunio let out a big yawn.

"Is this Kunio Suzuki?"

"Yes. Who is this?"

"I am a demon."

"Is this some sort of prank? Look, I'm busy with a report."

"I'll grant you one wish, anything you want."

"This is stupid. I'm hanging up."

"Wait! What do you have to lose? Just give it a try."

"Okay then, help me to not feel so sleepy. I'm getting nowhere with my report."

"No problem."

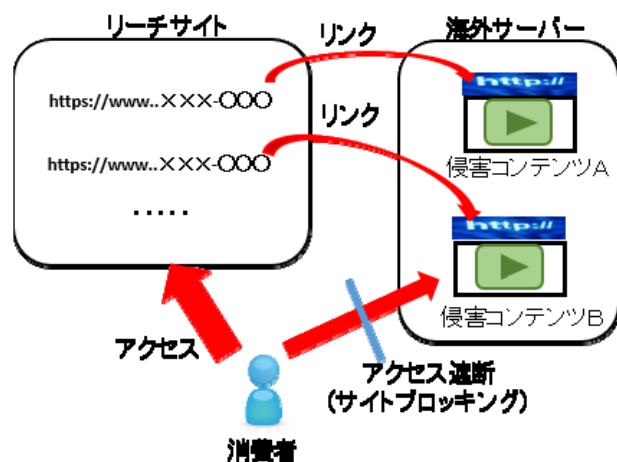
From the other end of the phone the demon murmured some sort of incantation, and Kunio's sleepiness disappeared completely. He finished his report handily.

But he also never slept a wink again after that.

Source: *Has an AI written a "new" Shinichi Hoshi story?* Asahi Shimbun Newspaper, January 5, 2016

This "flash fiction" story was created as part of a project carried out by Future University Hakodate. The AI did not write the entire story; some human input is said to have been involved.

■ Reach sites(*) and site blocking (illustration)



* Sites which index and display links leading consumers to harmful content.

■ Removal request notifications sent to overseas video sharing websites

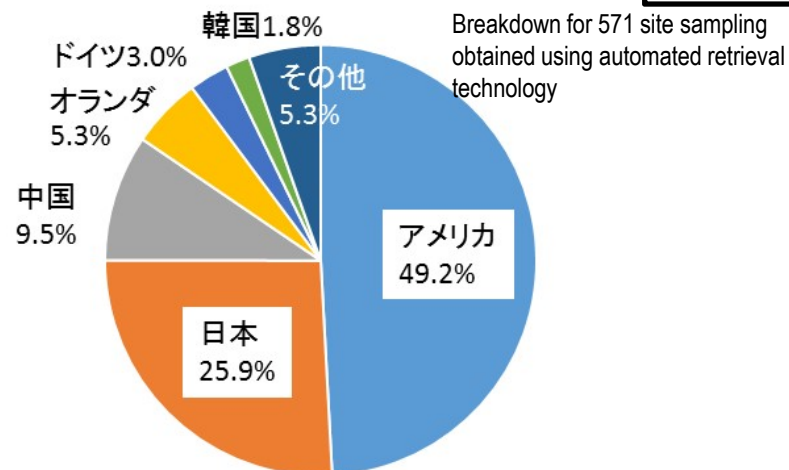
(August 2011 - March 31, 2015)

| Site name | No. of notifications | No. of removals | Removal rate |
|-----------------------|----------------------|-----------------|--------------|
| youku (China) | 74,071 | 72,262 | 97.55% |
| tudou (China) | 62,960 | 62,613 | 99.44% |
| 56.com (China) | 8,817 | 8,654 | 98.15% |
| ku6 (China) | 17,142 | 17,138 | 99.97% |
| pandora (Korea) | 14,438 | 13,658 | 94.59% |
| dailymotion (France)* | 5,712 | 5,369 | 93.99% |
| fc2 (USA)* | 3,241 | 3,241 | 100.00% |

*dailymotion and fc2 added in August 2013 as sites to be monitored

■ Relative distribution for reach site server countries

For Reference



(Source) The University of Electro-Communications
"Survey of Intellectual Property Infringement on
'Reach Sites'" (March 2012)

■ Removal requests sent to reach sites and removals performed

| | No. of removal requests | No. of confirmed removals | Removal rate |
|--------|-------------------------|---------------------------|--------------|
| Site A | 63 | 2 | 3.2% |
| Site B | 186 | 0 | 0% |
| Site C | 201 | 0 | 0% |
| Site D | 3,479 | 0 | 0% |

(Source) Next Generation Intellectual Property System Review
Committee (February 8, 2016)

Materials submitted by the Content Overseas Distribution Association 5

Current Situation and Challenges

- In this 4th Industrial Revolution era of interconnection amongst players, it is increasingly important that knowledge be openly accessible in order to foster open innovation.
- It is also important that intellectual property management be implemented, driven by an Open & Close Strategy and utilizing a variety of approaches.
- It is essential that a pro-innovation intellectual property system be constructed as the foundation for more broad-based intellectual property management which reflects the characteristics of the 4th Industrial Revolution while stimulating industry-academia/inter-industry collaboration tied to open innovation, as well as incorporates intellectual property rights acquisition, standardization and trade secret concealment/encryption

Measures to be taken

Strengthening of Industry-Academia/Inter-industry Capacity for Open Innovation

- In order to accelerate the pace of open innovation, engage in collaborative creation of industry-academia-driven technological and systems reform scenarios; draw up plans for activities and structures that will enable these scenarios to be realized; and implement joint industry-academia research and human resources development
- In order to promote more advanced/autonomous intellectual property management by universities, provide focused support for applications from universities which have drawn up intellectual property strategies and intellectual property utilization policies and are actively undertaking technology transfer activities

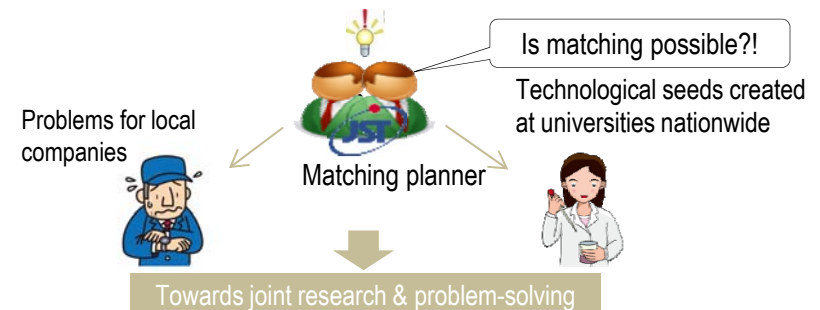
Promotion of Strategic Standardization Based on an Open & Close Strategy

- With regard to societal system and advanced technology fields, strengthen those systems promoting standardization via such bodies as the National Research and Development Agency
- Support technological standardization and the acquisition of overseas certification by SMEs
- Train human resources for standardization, promote the establishment of CSOs (Chief Standardization Officers), and consider a qualification system

Enhancement the Protection of Trade Secrets

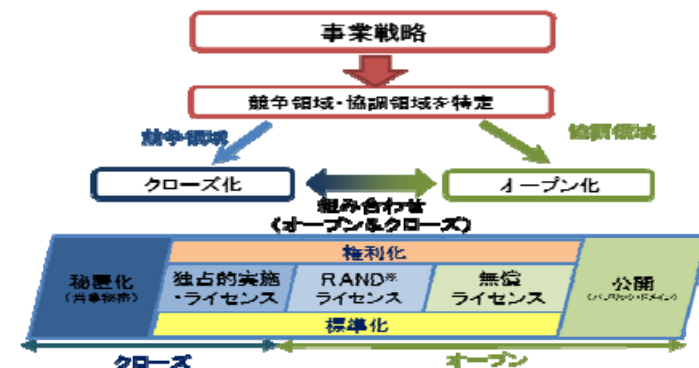
- Circulate the "Confidential Information Protection Handbook" within the industrial world and elsewhere to provide knowledge of comprehensive measures relating to confidential information protection
- In order to promote information exchange amongst practitioners with regard to trade secret leakage, as well as to strengthen public-private collaboration, open up the "Trade Secret Public-Private Forum"

[Matching Planner Program for Industry-Academia Collaboration]



(Source) Created by the Ministry of Education, Culture, Sports, Science and Technology

[Overview of the Open & Close Strategy]

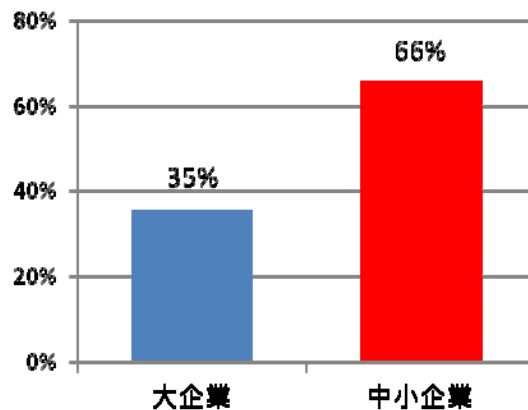


* Licensing conditions related to standard-essential patents. The holders of standard-essential patents are required to inform standardization bodies whenever they license said patents to other parties, and declare that this licensing was carried out according to reasonable and non-discriminatory conditions.

(Source) February 25, 2016 Verification, Evaluation, and Planning Committee

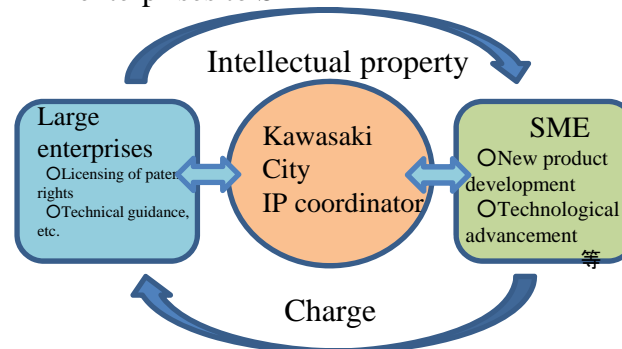
Created by the Intellectual Property Strategy Promotion Bureau based on materials submitted by the Ministry of Economy, Trade and Industry

- Patent enforcement rate of Japanese companies (comparison by size)
*Enforcement rate is low for large enterprises



(Source) Created by the Bureau based on the "Report of the Study Group for SMEs and Local Intellectual Property Support" (July 2014)

- Construction by Kawasaki City of mechanism for transfer of IP from large enterprises to SME

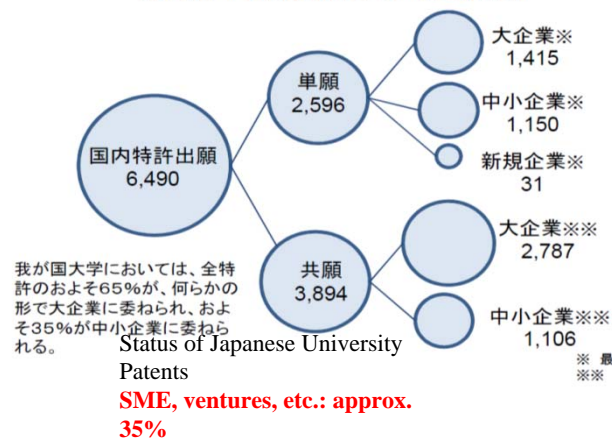


Results (as of March 31, 2016)
 ■ Participating large enterprises: 21 (including Fujitsu and Toshiba)
 ■ Licenses conferred: 21

(Source) From materials used at the February 27, 2016 meeting (1st meeting) of the Task Force on the Promotion of the Local Use of Intellectual Property

- Majority of Japanese university patents go to major companies; very few go to venture businesses

日本の大学の特許の行方 (2010年特許出願についての推定)

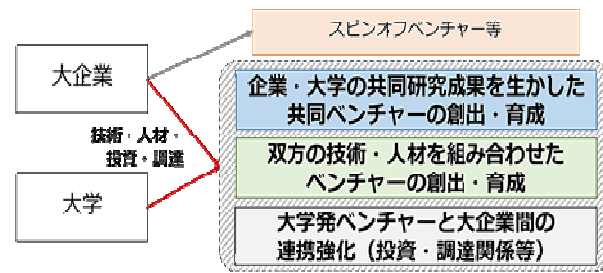


Large enterprises: approx. 65%

(Source) From Toshiya Watanabe's presentation, "What is joint research for? - Tracking where industry-academia joint application patents end up..." at the 10th annual congress of the

- Consideration of measures for cultivating joint industry-academia venture businesses

- Consider expansion of varied tie-ups with university-launched venture businesses (financing, procurement, human resources exchange, etc.) and look into schemes for creating/cultivating venture businesses which utilize the fruits of joint industry-academia research
- Start looking into "University of Tokyo and Japan Business Federation Venture Business Development Committee" established by the University of Tokyo and the Japan Business Federation



(Source) From "Towards Stronger Joint Research via Industry-Academia-Government Collaboration" on the homepage of the Japan Business Federation

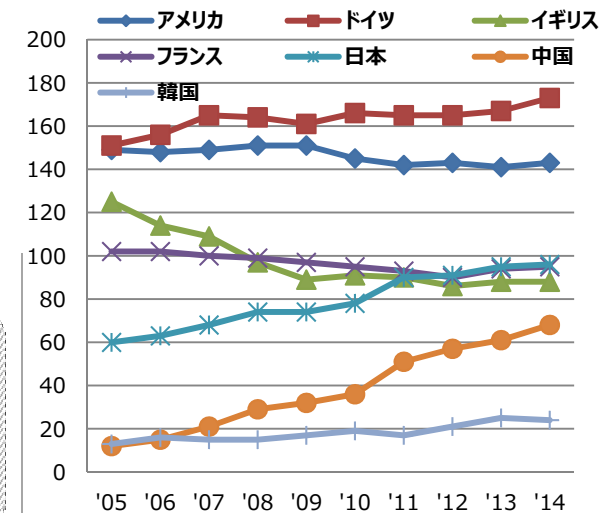
For
Reference

- Trend for standardization within societal system and cutting-edge technology fields

| Technical Field | Chair Country |
|----------------------------------|-------------------------------|
| Smart City | Japan (Chief examiner) |
| Big Data | USA (Chief examiner) |
| Industry 4.0-Smart Manufacturing | USA, Germany (Chief examiner) |
| IoT | Korea (Chief examiner) |

(Source) February 25, 2016 Verification, Evaluation, and Planning Committee From explanatory materials provided by the Ministry of Economy, Trade and Industry

- Shift in Number of Nationals Serving as ISO/IEC Secretaries



(Source) February 25, 2016 Verification, Evaluation, and Planning Committee From explanatory materials provided by the Ministry of Economy, Trade and Industry

Current Situation and Challenges

- At the primary and secondary education levels, greater inter-curricular collaboration, greater understanding which includes the importance of intellectual property "usage" and greater support for teachers is needed. For higher education, promotion of independent, broad-based intellectual property-related courses in university departments, etc., as well as collaboration with more business-oriented educational concentrations, such as MOT and MBA, are needed.
- Intellectual property education in Japan will focus on the following three elements moving forward.
 - (1) Implementation of systematic education focused on cultivating each person in Japan as human capital for developing and using intellectual property
 - (2) Fostering the development of creativity which emphasizes the use of communal connections and knowledge
 - (3) Achieving collaboration with local communities and society (construction of a support system via industry-academia-government collaboration)

Measures to be taken

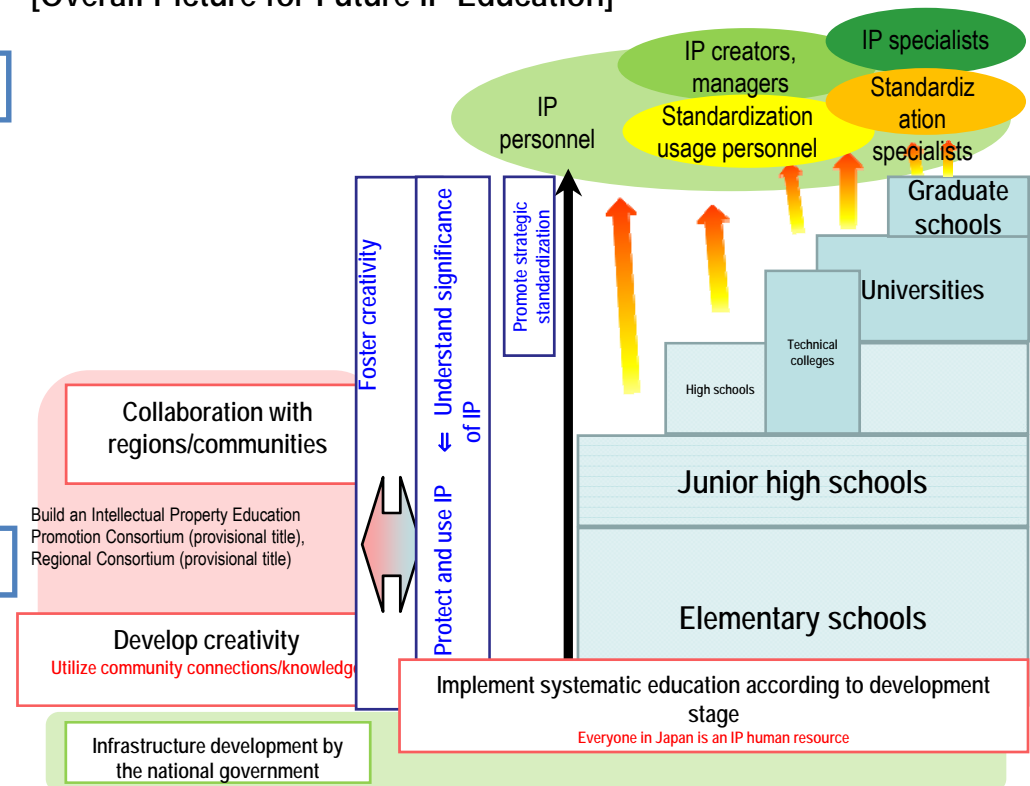
Promotion of Education about Intellectual Property in Schools and Universities

- Implement cross-section curriculum management in line with the direction of the next government-issued course of study to help schools clarify intellectual property-related core subjects and thereby foster creativity, encourage protection and utilization of intellectual property and promote an understanding of its significance
- Use Yamaguchi University's implementation of a compulsory course on intellectual property, as well as the progressive initiatives being developed at technical colleges, as a reference point for the promotion of independent initiatives aimed at establishing subjects and courses relating to intellectual property and standardization

Building of an Intellectual Property Education Promotion Consortium

- In order to provide support for the construction of an educational support system for working together with society and local communities, build a centralized "Intellectual Property Education Promotion Consortium (provisional title)" and broadly integrate all related content
- Promote the construction of a "Regional Consortium (provisional title)" that will work together with local communities and society to develop intellectual property education

[Overall Picture for Future IP Education]



[Overview of the Intellectual Property Education Promotion Consortium (provisional title)]

For Reference

Local Governments

(Ex) Progressive Initiatives of Kawasaki City

- Promotion of workshop content involving the mutual exchange of information and opinions in classrooms/companies (No. of companies adopting city's supplementary science teaching materials: 38)



Universities

(Ex) IP Education at Yamaguchi University

- Workshops for teaching staff
- Seminars for students

Images of



Companies

(Ex) Toyota's "Science Surprise Box - What and Why Lectures"

- Conveys the "importance of manufacturing" and "joys of science" to elementary school students.

Demonstration of bipedal robot



(Source) Materials submitted by Member Kondo for the 2nd meeting of the IP Education Task Force

IP Specialists

(Ex) School Education Support Activities of the Japan Patent Attorneys' Association

- Uses a variety of content to teach about the mechanisms used in the world to protect ideas



Skit-based classes



Electronic picture story cards

(Source) Materials submitted by Member Sugimura for the 2nd meeting of the IP Education Task Force

[No. 2] 2. Promotion of Regional, SME, Agriculture, Forestry and Fishery, etc., Intellectual Property Strategy Creation

Current Situation and Challenges

- In order to fundamentally lift Japan's international competitiveness and facilitate regional revitalization via regional economic stimulation, it is essential that intellectual property usage become widespread amongst SMEs and the agriculture, forestry, and fishery industries.
- SMEs need to be classified as either intellectual property use developing or challenger types, develop stronger intellectual property strategies and have better access to support measures.
- In line with the "Ministry of Agriculture, Forestry and Fisheries' Intellectual Property Strategy 2020," intellectual property management needs to be promoted within the agriculture, forestry, and fishery industries, and stronger countermeasures for intellectual property infringement overseas are needed.

Measures to be taken

Strategic Dissemination Aimed at Intellectual Property Use Developing SMEs

- Promote active awareness-raising efforts by Comprehensive Intellectual Property Support Counters and awareness-raising efforts aimed at SME supporters to encourage the widespread usage of intellectual property systems

Strengthening of Support for Intellectual Property Use Challenger Type SMEs

- Strengthen comprehensive support, from intellectual property rights acquisitions to utilization, for SMEs seeking to use the TPP as an opportunity for overseas expansion
- In order to stimulate industry-industry and industry-academia collaboration, strengthen collaborations with Yoroze Support Centers and various bridge-building/commercialization-support human resources
- Further strengthen support for commercialization involving greater use of designs and brands in developing high value-added products
- Broaden efforts to promote the use of intellectual property in feasibility assessments, such as by supporting the creation of an Intellectual Property Business Valuation Report and hosting intellectual property finance symposiums

Promotion of Agriculture, Forestry and Fishery, etc., Intellectual Property Strategy

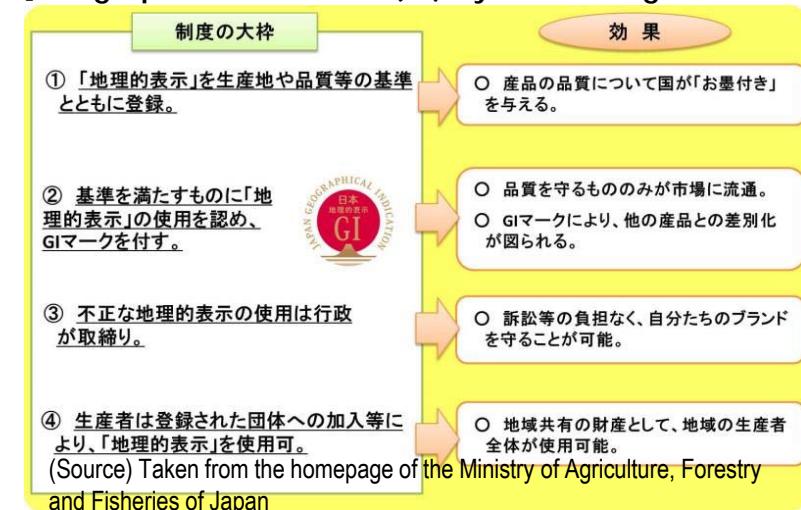
- Promote greater awareness of agricultural, forest and fishery product, food product, etc., geographical indication (GI), support efforts to commercialize regional brand products, and facilitate measures to deal with infringement of intellectual property overseas
- Promote the use of the GI system for alcoholic beverages, and help develop an environment conducive to the export of Japanese alcoholic beverages

[Types of SME from an IP Perspective]

| Type | Characteristics | Issues |
|-------------------|--|---|
| IP Use Challenger | <ul style="list-style-type: none"> • Motivated to develop own products • Secures IP rights • Motivated to expand overseas | <ul style="list-style-type: none"> • Collaborates on commercialization with large enterprises, universities • Secures financing for IP-driven business • Obtains/disputes IP rights overseas |
| IP Use Developing | <ul style="list-style-type: none"> • In subcontractor position • Doesn't have IP | <ul style="list-style-type: none"> • Allocates "awareness" for IP • General awareness of support bodies/policies for SMEs |

(Source) Verification, Evaluation, and Planning Committee Created from the "Report of the Task Force on the Promotion of the Local Use of Intellectual Property" (May 28, 2015)

[Geographical Indication (GI) System for Agricultural,



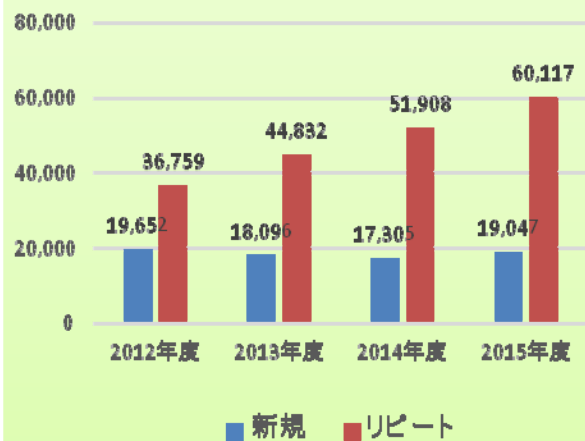
■ Comprehensive Intellectual Property Support Counters

- These consultation offices (57 nationwide) are established in each prefecture in order to offer comprehensive assistance from the idea phase through to the business development phase, helping SMEs smoothly integrate intellectual property-related activities as part of their operational know-how

- Consultations are about **application-related matters in just under 70% of cases**

- New users have increased approx. 10% from the previous fiscal year

[New/Repeat Usage Numbers (FY2012 - FY2015)]



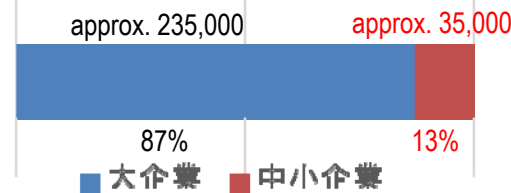
(Source) Patent Office From materials used at the 6th meeting of the Study Group for SMEs and Local Intellectual Property Support (July 8, 2015) and 7th meeting of the Study Group for SMEs and Local Intellectual Property Support (March 29, 2016) (partially revised)

■ Yorozu Support Centers

- One-stop business consultation centers offering SMEs and small business owners help in increasing sales, expanding sales channels and dealing with any other general business challenges

■ Patent Utilization by SMEs

- SME patent applications as a percentage of all patent applications (2014)



(Source) Created by the Bureau from JPO Reference materials for the 6th meeting of the Study Group for SMEs and Local Intellectual Property Support (July 8, 2015)

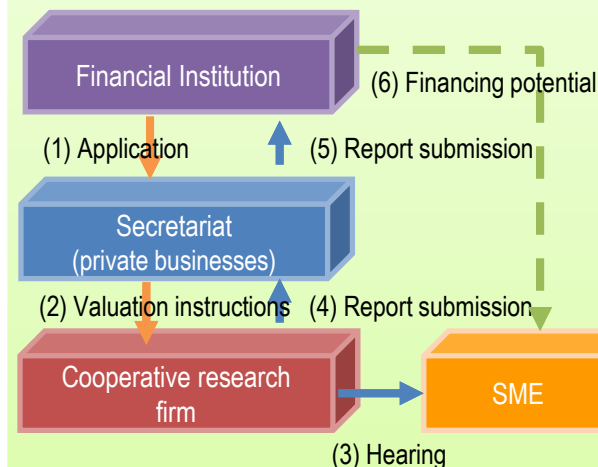
- Less than 1% of all 3,850,000 SMEs (33,000 SMEs) have acquired intellectual property rights for technology, etc.

(Source) Compiled from JPO materials for the 4th meeting of the Study Group for SMEs and Local Intellectual Property Support (July 7, 2014)

■ Collaboration with financial institutions (usage of the Intellectual Property Business Valuation Report)

- Financial institutions which utilize the Intellectual Property Business Valuation Report went from 22 in 2014 (51 instances) to **63 (150 instances) in 2015 - a roughly three-fold increase**

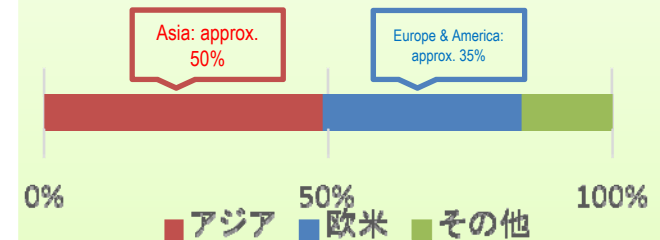
[Intellectual Property Business Valuation Report Process]



(Source) Wednesday, November 26, 2014 Verification, Evaluation, and Planning Committee Created by the Bureau based on materials submitted by the Patent Office

■ SME Overseas Applications

- Application countries for companies assisted with overseas applications



- IP dispute situation overseas

Percent subject to rights infringement: 16%

(No. of respondent companies: 101/621)

Percentage accused by overseas companies of rights infringement: 8%

(No. of respondent companies: 47/621)

(Results from questionnaire sent to SMEs receiving support in making overseas applications between 2010 and 2014)

■ Status of agricultural, forest and fishery product, food product, etc., geographical indication (GI) applications/registrations

• Approx. 60 applications, 12 registrations

| Classification | No. of Cases | Name |
|--|--------------|---|
| Vegetables, fruits | 4 | Aomori Cassis, Yubari Melon, Edosaki Winter Squash, Tottori Sand Dune Scallion, Fukube Sand Dune Scallion |
| Livestock food product | 2 | Tajima Cattle, Kobe Beef |
| Processed goods | 2 | Yame Dentohon Gyokuro, Kagoshima Jar-made Black Vinegar |
| Processed cereal goods | 1 | Miwa Somen |
| Inedible agricultural, forest and fishery products | 3 | Kumamoto Rush, Kumamoto Rush Tatami Facing, Iyo Silk |

(Source) Taken from the homepage of the Ministry of Agriculture, Forestry and Fisheries of Japan

For Reference

[No. 3] 1. Overseas Expansion of Content and Strengthening of Industrial Infrastructure

Current Situation and Challenges

- It is important not only that growth in Japan's content industries lead to sales growth via expansion into overseas markets, but that it also produce a ripple effect which contributes to the overseas expansion of other industries, as well as to an increase in foreign visitors to Japan.
- Towards this end, in addition to promoting continued overseas expansion, stronger collaboration between content and non-content industries needs to be promoted; systemic issues in financial procurement methods need to be investigated; stronger infrastructure, such as human resources development, for content creation needs to be put in place; and countermeasures against counterfeiting and piracy need to be promoted.

Measures to be taken

Strengthening of Collaboration between Content and Non-content

- Promote cross-sectoral collaboration (between content and non-content industries, such as manufacturing and food) via the Cool Japan Public-Private Partnership Platform
- Facilitate creation and networking of private sector-led Cool Japan promotional hubs
- Help promote regional appeal and attract on-location filming

Efforts for Ongoing Expansion of Content Overseas

- Secure local broadcast slots, support localization and international joint production of content, and facilitate rights clearance

Implementation of Initiatives to Strengthen Content Industry Infrastructure

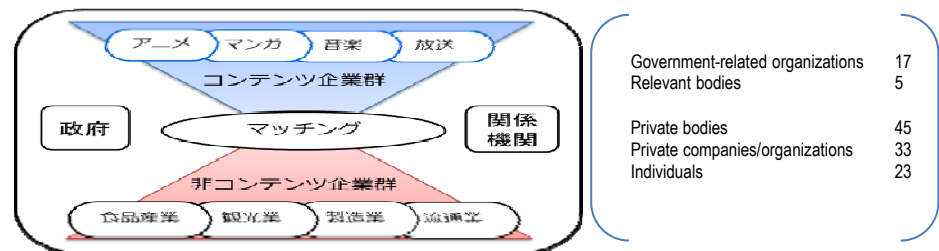
- Cultivate producers, creators and other human resources
- Address systemic issues, such as financing
- Popularize and raise awareness of guidelines related to content production transactions

Countermeasures against counterfeiting and piracy

- Use inter-governmental cooperation and public-private collaboration to influence other countries' governments

[Cool Japan Public-Private Platform]

- Established December 2015
- Co-chair: Aiko Shimajiri, Cool Japan Strategy Minister
Nobuo Kawakami, President, Kadokawa Dwango Corporation
Shusaku Nagae, Chairman of the Board, Panasonic Corporation



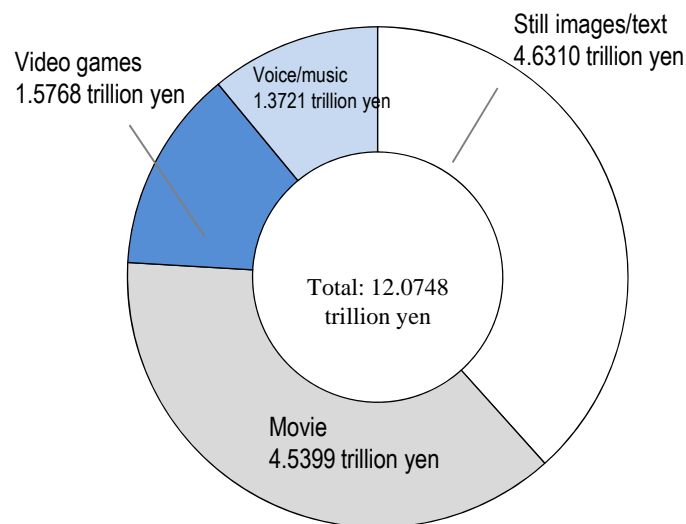
[Visualization of Content-Non-content Collaboration]



(Ex.) A well-known animation (Gundam) is used to communicate the appeal of a traditional handicraft (Kutani porcelain)

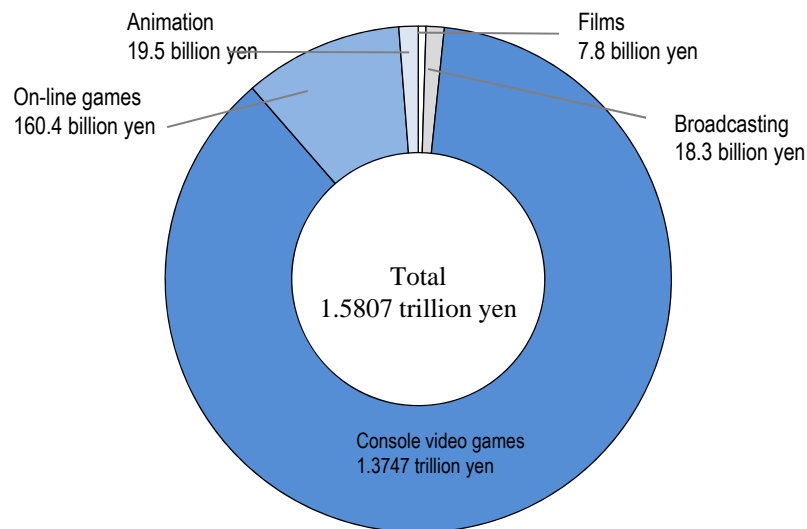
(Ex.) Doraemon is used on a leaflet in Indonesia to raise awareness about the importance of hand washing. By using this character in an awareness-raising campaign which well-serves the common good, it not only widely communicates an important social message, it also increases the character's recognizability

Domestic market size of content industry (2014)



(Source) 2015 Digital Content White Paper

Overseas sales situation (2014)



(Source)

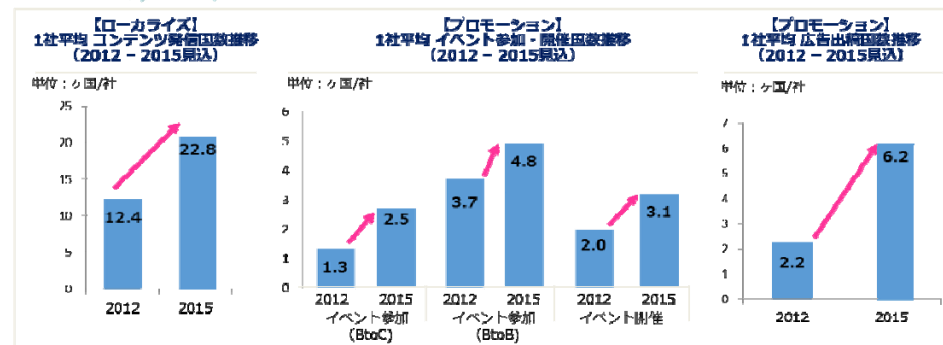
Films, computer games, animation: "2015 Digital Content White Paper"

Broadcasts: Ministry of Internal Affairs and Communications, Institute for Information and Communications Policy, "Current Analysis Relating to Overseas Expansion of Broadcast Content (FY2014)"

JLOP results



- For Reference
- JLOP利用事業者の海外展開国数は **大幅に増加**
 - JLOPを活用して **初めて海外展開** した事業者は **260社**であり、**全JLOP利用事業者の40%**
 - JLOP利用事業者全体での2015年度海外売上は **総額1,247億円増加** (2012年度比較)
 - JLOP事業と連携した非コンテンツ企業の2015年度の海外売上は **総額648億円増加** (2012年度比較)

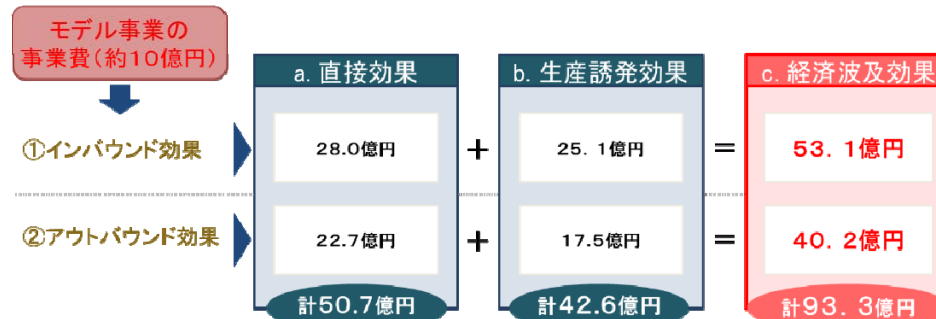


(Source) From materials used at the 2nd meeting (November 17, 2015) and 3rd meeting (February 5, 2016) of the Ministry of Economy, Trade and Industry's "Verification, Evaluation, and Planning Committee Content Field Conference"

Economic ripple effect of broadcast content overseas expansion model business

ASEAN6各国※を対象としたモデル事業(H25補正事業)を通じてもたらされる経済波及効果は総額で **93.3億円** (直接効果: 50.7億円 / 生産誘発効果: 42.6億円)

※: フィリピン、マレーシア、タイ、インドネシア、ベトナム、ミャンマー



<注記>

- ①: モデル事業で制作した番組の放送によって訪日等インバウンドに寄与して関連産業にもたらした経済効果
 ②: モデル事業で制作した番組の放送によって日本製品の輸出等アウトバウンドに寄与して関連産業にもたらした経済効果
 a: モデル事業で制作した番組の視聴者へのアンケート調査結果及び関連統計に基づき推計 (単位: 億円)
 b: 直接効果を最終需要と捉え、それぞれ内訳の性質に応じて、総務省「H25年度情報通信産業連関表」の対応する産業へ投入し、誘発される生産額(一次波及効果)及び雇用者所得増加に伴う誘発効果(二次波及効果)を推計
 c: a及びbの合計

(Source) Ministry of Internal Affairs and Communications "Fourth Verification, Evaluation, and Planning Committee" 13

Current Situation and Challenges

- In order to promote the construction and utilization of a digital archive which will serve as a platform for cultural development and the dissemination of content domestically and overseas, in line with the "Intellectual Property Strategic Program 2015," a "Practitioners' Council" comprised of relevant government and business representatives was established in FY2015 as a more robust system for discussing measures to address practical challenges.
- Going forward, it is essential that models and promotion measures for inter-archival collaboration tailored to fields/regions which include small-to-medium-sized institutions be examined and that the operational and institutional aspects of usage conditions for digital data (meta-data, thumbnails/previews) which introduce and explain content be coordinated.

Measures to be taken

Promotion of Inter-archival Collaboration

- Examination, via the Practitioners' Council, of collaboration promotion measures, from both an industrial and regional perspective, and of collaboration promotion measures for regional institutions
- Construction of a national, integrated and cross-sector portal (enabling on-line searching of the National Diet Library and cultural heritage information)

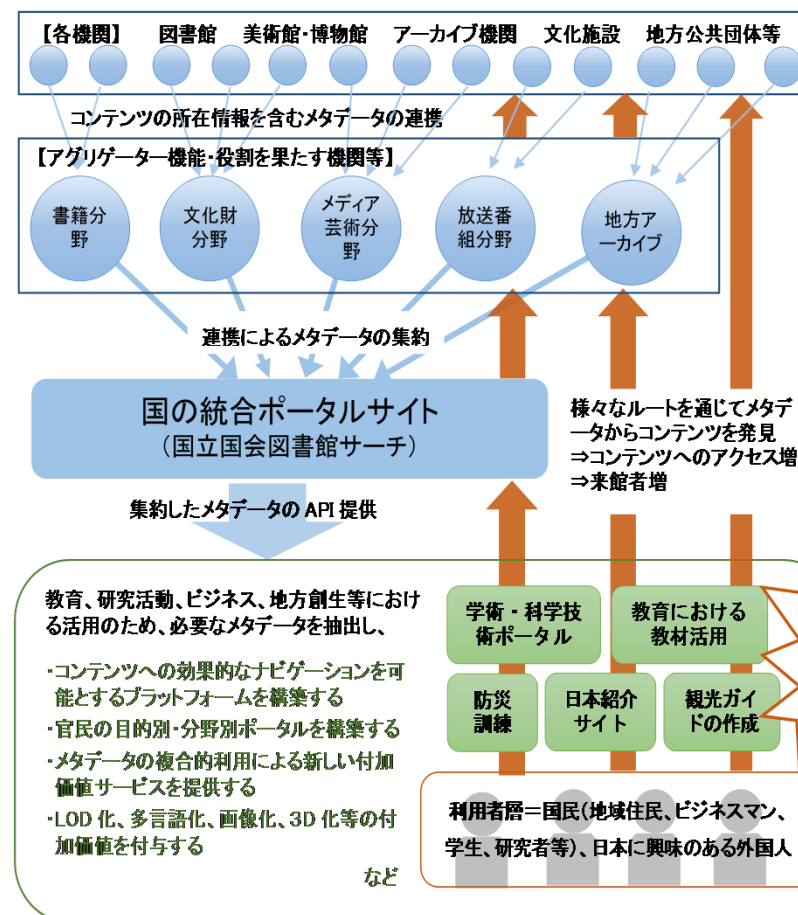
Promotion of efforts in each field

- Consolidate meta-data via aggregators in each field
- Books: Support the digitization of materials of public/university libraries and continuous digitization of materials of the National Diet Library, and promote the use of data
- Cultural property: Promote the aggregation and multilingualization of data for the cultural resources which make up Japan Heritage, and promote collaboration amongst art, history, etc., museums nationwide
- Media art/films: Promote utilization of a media art/film database
- Broadcast content: Promote the use of broadcast content for educational purposes and in remote areas

Development of Infrastructure Aimed at Archive Utilization

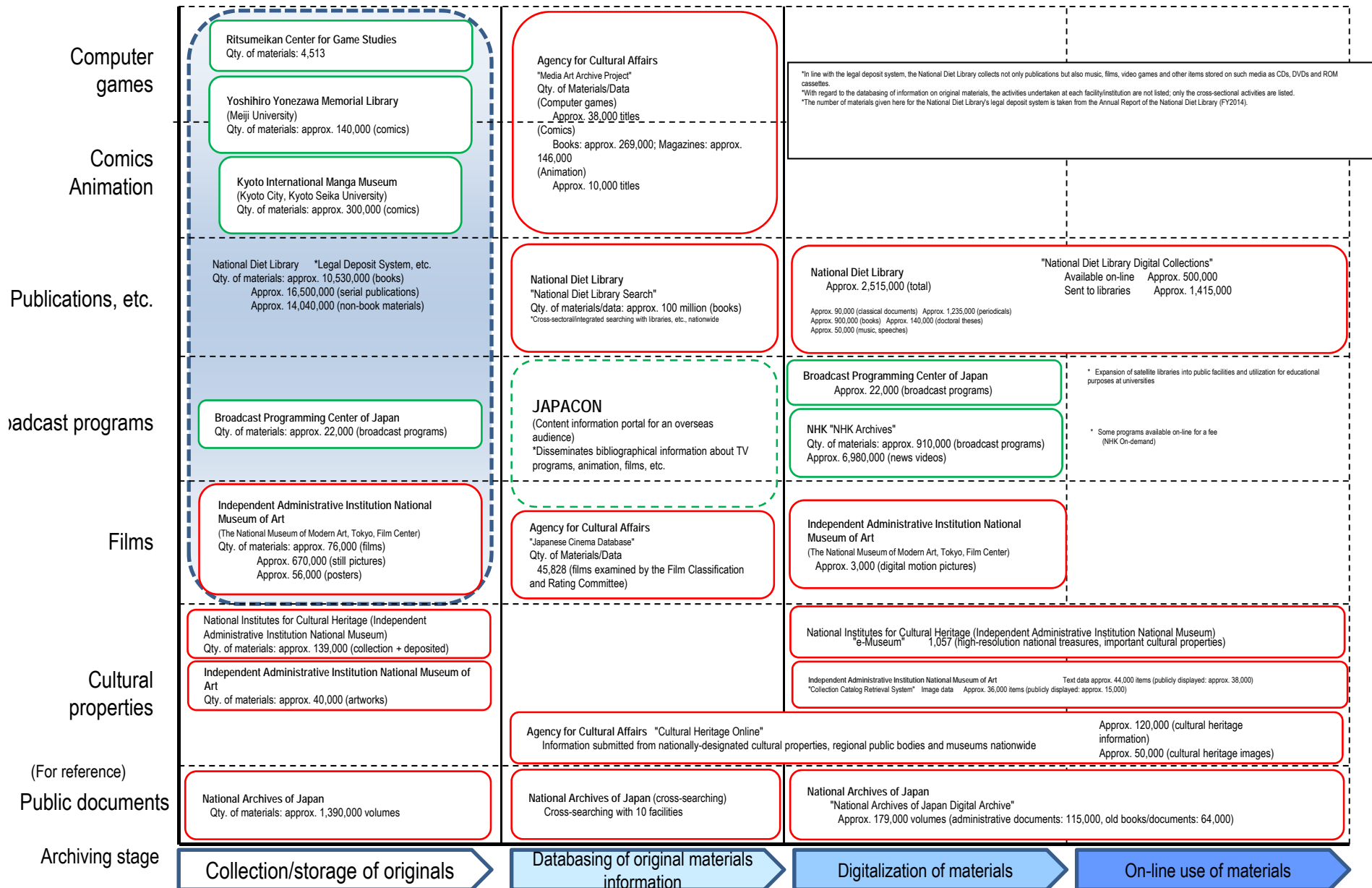
- Examination, via the Practitioners' Council, of the challenges involved in opening up meta-data and establishing terms of use for thumbnails and previews, and discussion of measures needed to address these challenges
- Discussion of a copyright system which allows the use of digital data for providing introductions and descriptions of works by archival institutions, and discussion of necessary actions to be taken

[Visualization of flow and ideal utilization of meta-data]



[Status of Major Archives of Japanese Content]

For
Reference



[No. 4] 1. Functional Strengthening of Systems for Handling Intellectual Property Disputes

Current Situation and Challenges

- The current system is biased in favor of the alleged infringer with regard to proving patent infringement; in particular, it is quite difficult to gather evidence with regard to a manufacturing process (carried out in a factory, for example) that is alleged to be infringing on a patent. Also, because the patent rights pertain to an intangible entity (information goods), identifying an proving damages is difficult.
- SMEs face the difficulty of financing legal action over intellectual property rights as well as gaining access to local intellectual property courts.
- Information disclosure is also needed in the Intellectual Property Dispute Resolution System, from the perspective of fostering widespread trust in the system as well as improving its predictability.

Measures to be taken

Functional Strengthening of Systems for Handling Intellectual Property Disputes

- Discuss in detail the establishment of a system for examination of alleged infringers by neutral third parties (examination after the filing of a lawsuit) and of simplified document submission order issuance in order to facilitate the implementation of appropriate and fair evidence collection procedures
- In order to achieve appropriate compensation for damages, discuss in detail the factors to be clarified in order to simplify the calculation of compensation amounts exceeding the level of standard royalties
- In order to enhance rights stability, discuss in detail the establishment of a Patent Office system for soliciting opinions in infringement lawsuits, procedures within the Patent Office for confirming validity, and the process for surrebuttal for correction which does not require a request for a trial for correction

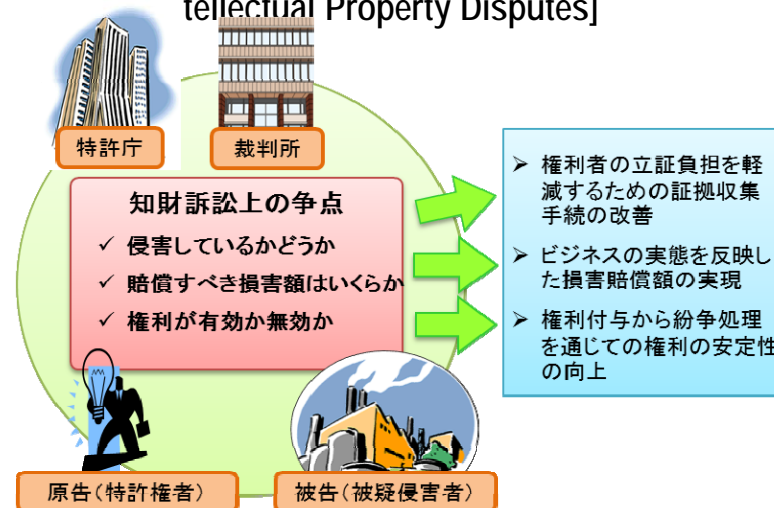
Facilitation of Utilization of Systems for Handling Intellectual Property Disputes

- In order to facilitate utilization by SMEs, discuss promoting/supporting intellectual property-inclusive litigation expense insurance and coordinate a consultation system which incorporates the Yorozu Support Centers
- With a view towards improving local intellectual property court access, foster widespread awareness to support greater utilization of the video conferencing system

Information Disclosure/Overseas Public Relations Relating to IP Dispute Resolution

- Foster greater information dissemination in English and information disclosure with regard to IP dispute resolution

[Functional Strengthening of Systems for Handling Intellectual Property Disputes]

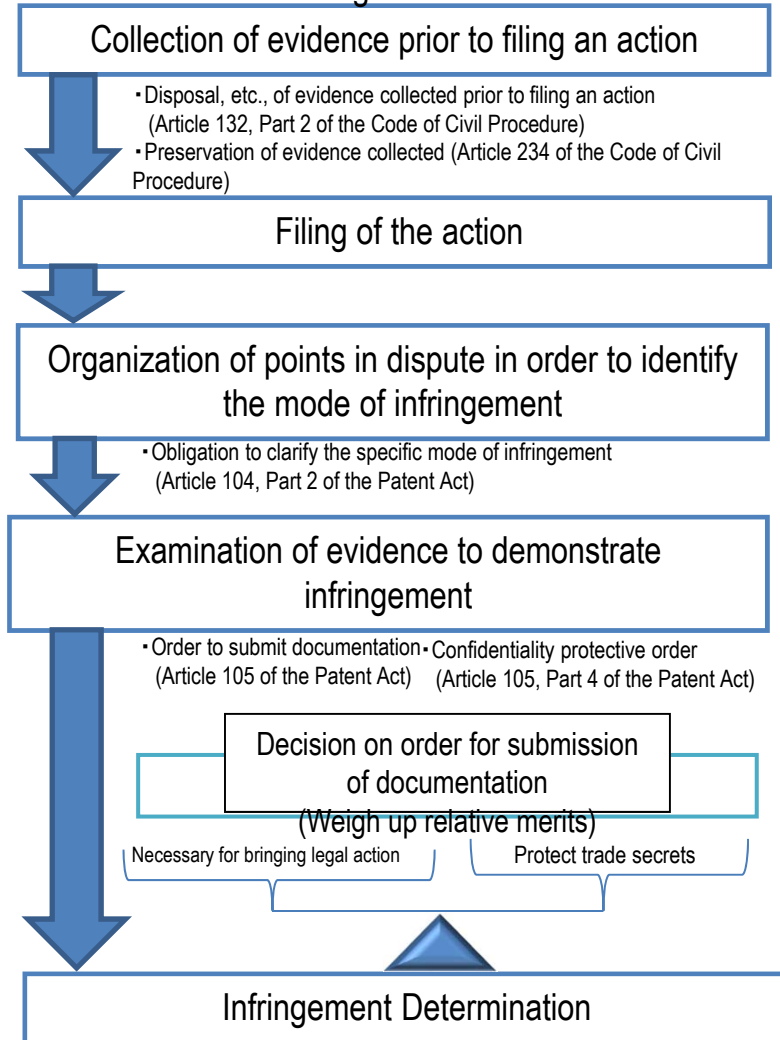


[Visualization of Video Conferencing System]



Oral argument preparatory proceedings conducted via video conferencing
Source: Intellectual Property High Court pamphlet

Visualization of the Legal Process



Visualization of the Inspection System



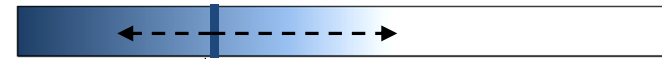
Stipulations for calculating compensation for damage

For Reference

Civil Law Act <General Provisions for Compensation for Unlawful Acts>

The infringing party shall make compensation for damages incurred as a result of the infringement, regardless of whether or not said infringement was intentional or the result of negligence.

Article 709



Demonstrated compensation amount (varies as a result of the effort put into demonstrating damages)

Special provision of the Patent Act <Provision for Lessening the Evidential Burden>

Article 102, Paragraph 1



Rights holder's inability to sell

Profit from rights holder's product (per unit amount) × No. of sales by the infringing party

Article 102, Paragraph 2



Infringing party's sales efforts, etc.

Profit obtained by the infringing party

Article 102, Paragraph 3



Normal licensing fee

Infringement stage, etc.

Effectiveness Determination Process

Process used by the Patent Office to judge efficacy

- Patent Post-grant Opposition System (Article 113 of the Patent Act)
Can be utilized by anyone within six months of publication of the Patent Office Journal (documentary examination)
- Patent Invalidation Trial System (Article 123 of the Patent Act)
Can be utilized by interested parties following establishment of patent rights (oral examination)
- Revision System (Article 126 of the Patent Act)
System for rights holders to remove patent errors/mistakes.

Process used by the courts to judge efficacy

- Nullification Defense (Article 104-3 of the Patent Act)
The alleged infringer can use an infringement lawsuit to demand patent invalidation.

[No. 4] 2. Strengthening of Support for Global Business Development by Taking Global Lead in Examination

Current Situation and Challenges

- From the standpoint of promptly and appropriately protecting outstanding inventions and promoting innovation, the government undertook the goal of shortening the time period between receipt of patent application examination requests and notification of initial screening to eleven months, and this goal was achieved at the end of FY2013. It is now essential to continue to work towards achieving the fastest and highest quality examinations.
- In order to better enable Japanese businesses to capitalize on the TPP Agreement and other opportunities for global business expansion, it is essential that Japan take the lead globally with regard to patent examination and use this as the core for strategic collaboration with other countries' intellectual property offices, etc., overseas.

Measures to be taken

Realization of World-class Speed and Quality of Examination

- Achieve the world's fastest and highest quality examinations by shortening the period between the request for examination and the acquisition of rights to no more than 14 months on average, and to no more than 10 months on average until the initial screening notification, and achieve these by the end of FY2023.

Promotion of International Collaboration

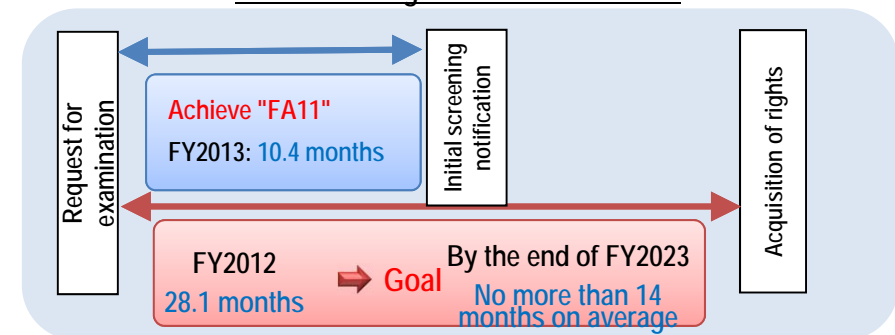
- In order to support the global activities of Japanese businesses, undertake various efforts to raise awareness of and to popularize Japan's intellectual property system, with such efforts including dispatching/receiving patent examiners to/from emerging economies, engaging in collaborative patent examination and providing training to judiciary officers and others
- Together with steadily implementing the Japan-U.S. Collaborative Examination Trial Program begun last year, coordinate measures aimed at further improving the existing framework
- In order to support the global brand strategies of Japanese companies, share Japan's experience with regard to the introduction of a new type of trademark system

Improvement of Patent Administration Service Quality

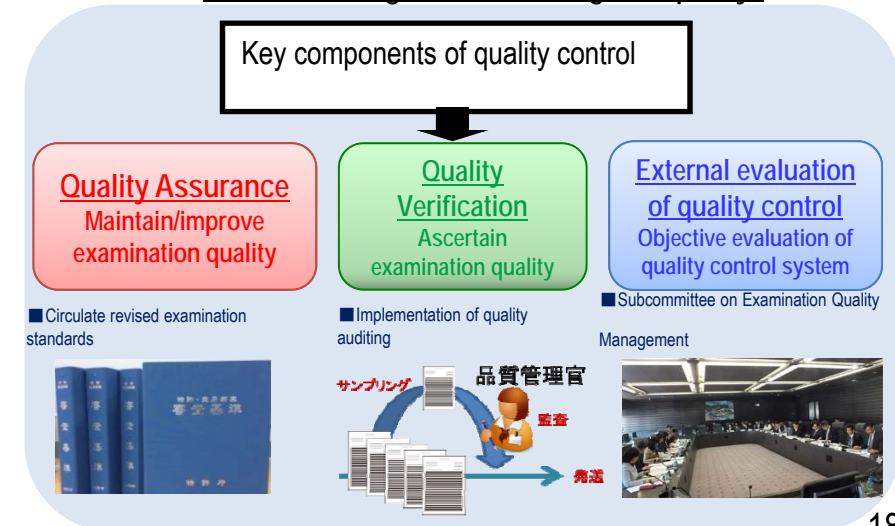
- Achieve integrated provision of domestic and overseas patent application/examination-related information from the patent information platform
- Engage in medium-to-long-term discussion about possibility of utilizing artificial intelligence to further improve and streamline services

[Realization of World-class Speed and Quality of Examination]

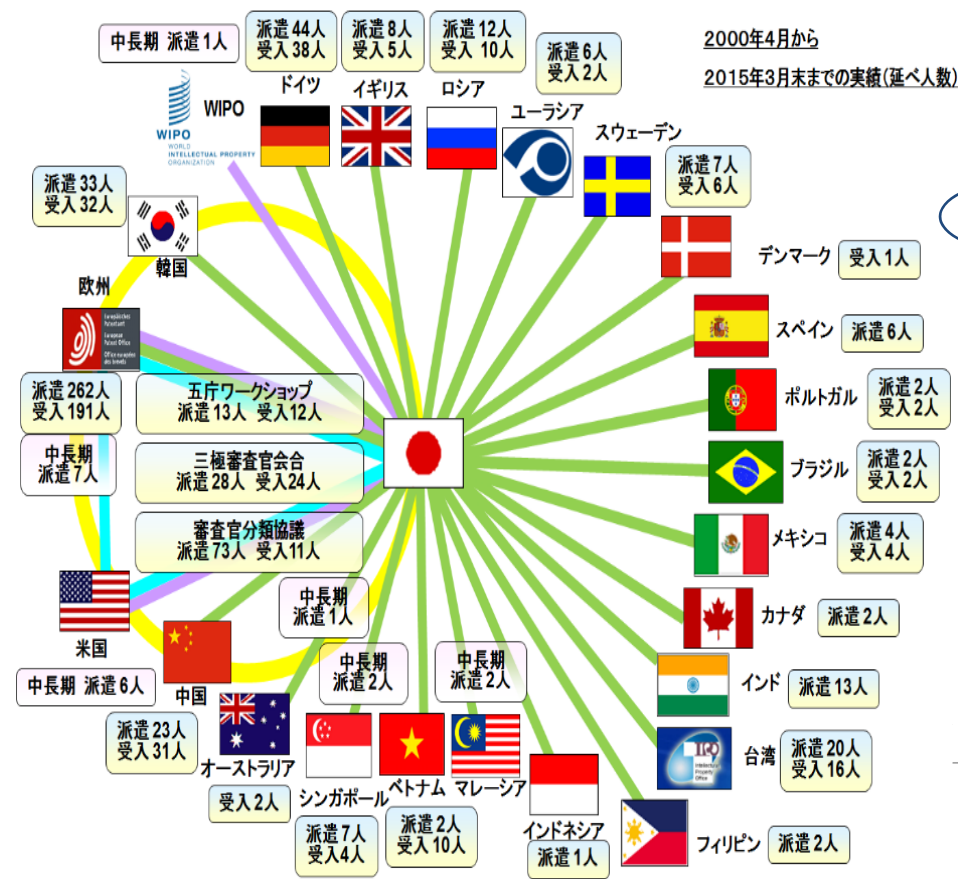
Towards being the "world's fastest"



Towards having the "world's highest quality"

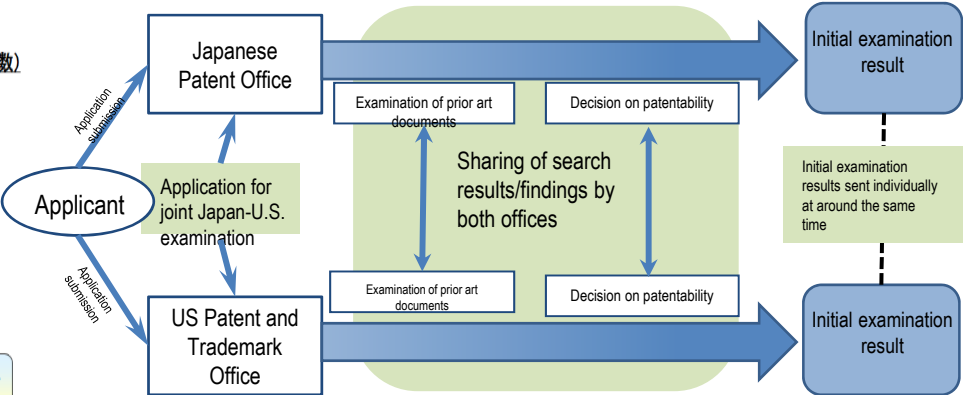


■ Collaboration and Cooperation with Overseas Patent Offices
(Dispatch/Receipt of Patent Examiners, etc.)

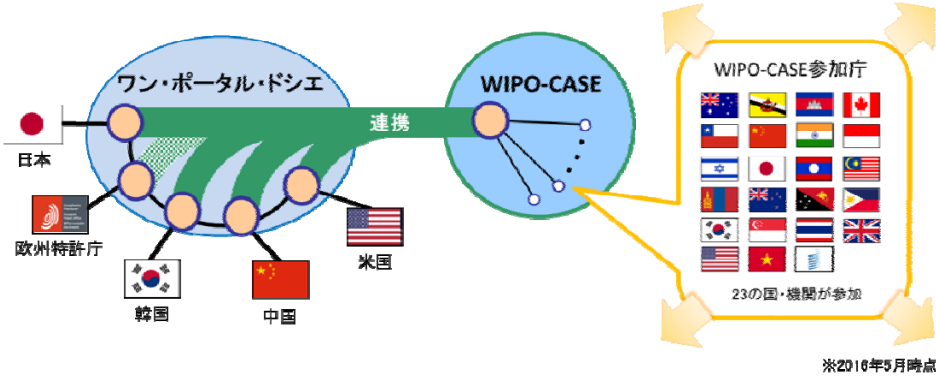


(Source) JPO Annual Report 2015

■ Overview of the Japan-U.S. Collaborative Examination Trial Program



■ Patent Application/Examination-related Information (Dossier Information) Provision System



Intellectual Property Strategy Promotion System

In line with the Intellectual Property Basic Act (enacted in 2003), the Intellectual Property Strategy Headquarters shall create an Intellectual Property Strategic Program for the entire government each year in order to facilitate the comprehensive coordination of important intellectual property-related policies and measures.

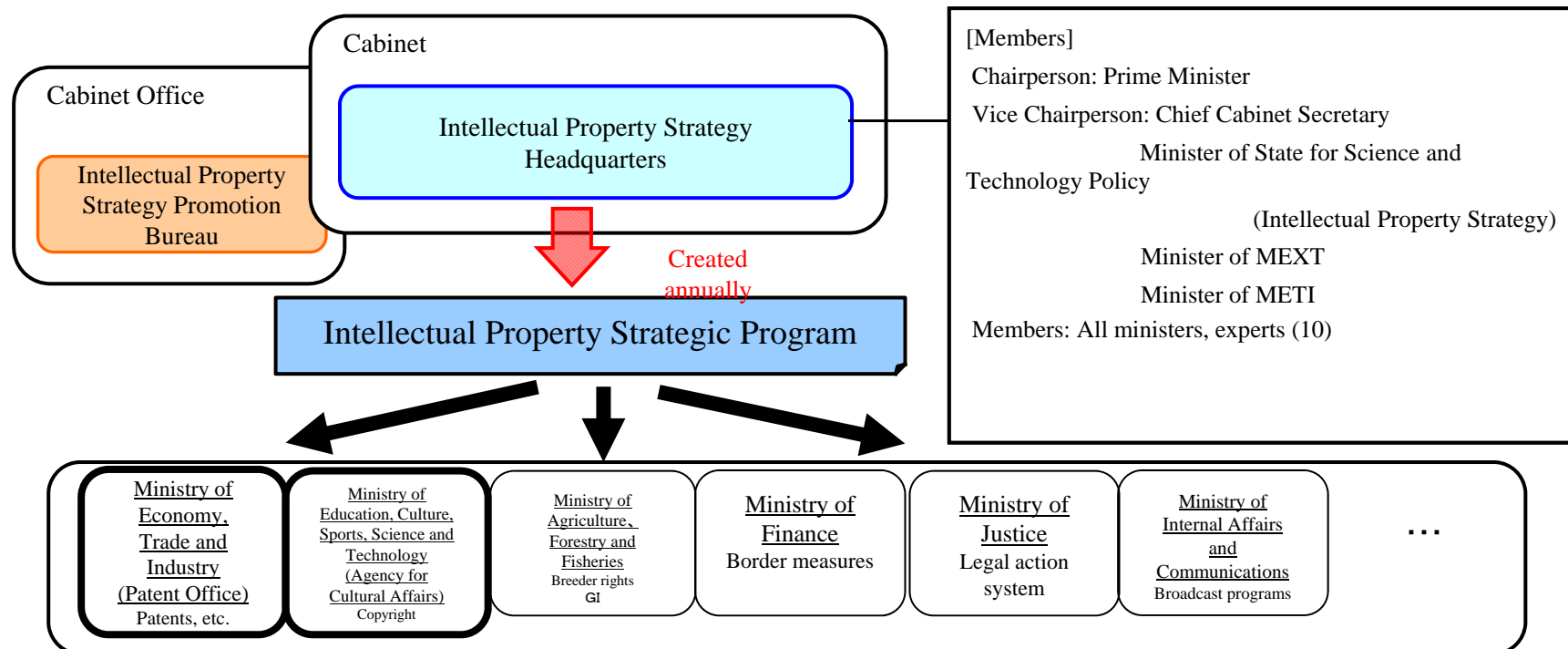
(1) Reformation of the Intellectual Property System

A reformation of the intellectual property system, including such aspects as patents, trademarks, designs, trade secrets and copyrights, shall be carried out in order to better adapt it to the digital/network era, globalization and other environmental changes.

(2) Promotion of Content

Overseas expansion and industrial development of content, such as comics, animation and films, shall be promoted.

*"Content Creation, Protection and Utilization Promotion Act" (enacted in 2004)



Intellectual Property Strategy Headquarters members

Chairperson: Prime Minister

Vice Chairperson: Chief Cabinet Secretary, Minister of State for Science and Technology Policy
(Intellectual Property Strategy)

Minister of MEXT, Minister of METI

Members: All ministers

Experts (10) (listed in order by the Japanese syllabary)

Shoichi Okuyama: Patent attorney and Representative, OKUYAMA & SASAJIMA law firm

Nobuo Kawakami: President, Kadokawa Dwango Corporation

Makoto Gonokami: President, University of Tokyo

Yoshimitsu Kobayashi: Chairman of the Board, Mitsubishi Chemical Holdings Corporation

Junichi Sakamoto: CEO, Shochiku Co., Ltd.

Keiko Takemiya: Manga artist, President, Kyoto Seika University

Akihiro Nikkaku: CEO, Toray Industries, Inc.

Yuko Harayama: Member, Council for Science, Technology and Innovation

Mitsuko Miyagawa: Lawyer, Partner at TMI Associates

Rie Yamada: CEO, Tohoku Electronic Industrial Co., Ltd.

Reference 3

Examination System Utilized Until the Formulation of the "Intellectual Property Strategic Program 2016"

Intellectual Property Strategy Headquarters

- November 24, 2015 (approval of the "Policy Response for the TPP in Intellectual Property Fields")
- May 9, 2016 (approval of the "Intellectual Property Strategic Program 2016")

Verification, Evaluation, and Planning

Conference to Address Industrial Property Right Fields

(Chair) Toshiya Watanabe
University of Tokyo Policy
Alternatives
Research Institute
Professor

- October 2015
- April 2016 (five times in total)

Committee Conference to Address Content Fields

(Chair) Ichiya Nakamura
Keio University
Graduate School of Media Design
Professor

- October 2015
- April 2016 (five times in total)

Intellectual Property Dispute Resolution System Review Committee

(Chair) Makoto Ito
University of Tokyo, Professor Emeritus
Law Firm of Nagashima Ohno &
Tsunematsu, Advisor and Lawyer

- October 2015
- March 2016 (nine times in total)

Next Generation Intellectual Property System Review Committee

(Chair) Ichiya Nakamura
Keio University
Graduate School of Media Design
Professor

- November 2015
- April 2016 (eight times in total)

*Of these, twice jointly

IP Education Task Force

(Chair) Toshiya Watanabe
University of Tokyo Policy Alternatives Research Institute
Professor

- Feb-Mar, 2016 (twice in total)

