



# Japan: Intellectual Property Policy Headquarters

October 2005

LL File No. 2005-02373  
LRA-D-PUB-001128

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### JAPAN

## INTELLECTUAL PROPERTY POLICY HEADQUARTERS

### *Executive Summary*

*The Intellectual Property Policy Headquarters was established under the jurisdiction of the Cabinet, headed by the Prime Minister, on March 1, 2003. The Headquarters, in accordance with the Intellectual Property Basic Law, developed an Intellectual Property promotion program and revises it annually.*

### **I. Background**

In 1995, the Science and Technology Basic Law (STBL) was enacted, which promotes policies for the progress of science and technology.<sup>1</sup> Based on the STBL, the Cabinet, headed by the Prime Minister, adopted the Science and Technology Basic Plan in July 1996.<sup>2</sup> The STBL was administered under the jurisdiction of the Ministry of Education, Culture, Sports, Science and Technology (MEXT).

In December 1996, the Japan Patent Office (JPO), which is under the jurisdiction of the Ministry of Economy, Trade and Industry (METI), established the Round-Table Conference to Think About Intellectual Property Rights in the 21<sup>st</sup> Century. They recognized that intellectual property rights are important in order to promote science and technology. In April 1997, the Conference released its report, which called for a government-wide intellectual property promotion policy.<sup>3</sup> The JPO studied and modeled its policies upon the United States' policies relating to intellectual property rights. In 1999, the Institute of Intellectual Property, a research institution affiliated with METI and JPO, released a report entitled *puro patento seisaku no kenshō* [Examination of the U.S. Pro-Patent Policy].

### **II. Strategic Council on Intellectual Property**

The Strategic Council on Intellectual Property was established under the jurisdiction of the Cabinet in February 2002 with a rationale to “establish a national strategy for intellectual property and to powerfully advance the necessary policies.”<sup>4</sup> The Cabinet recognized that “in order to enhance the international competitiveness of Japanese industries and revitalize the economy, it is important to strategically protect and utilize the results of research and creative activity as intellectual property.”<sup>5</sup>

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<sup>1</sup> See Kagaku gijutsu kihon hō [Science and Technology Basic Law], Law No. 130 of 1995, art. 1. Unofficial translation is available at the Cabinet Office's website, <http://www8.cao.go.jp/cstp/english/law.html> (last visited Oct. 4, 2005).

<sup>2</sup> Kagaku gijutsu kihon keikaku ni tsuite (gaiyō) [Regarding the Science and Technology Basic Plan (outline)], MEXT, [http://www.mext.go.jp/b\\_menu/shingi/kagaku/kihonkei/gaiyo.htm](http://www.mext.go.jp/b_menu/shingi/kagaku/kihonkei/gaiyo.htm) (last visited Oct. 4, 2005).

<sup>3</sup> 21seiki no chiteki zaisanken o kangaeru kondankai hōkokusho [Korekara no Round-Table Conference to Think About Intellectual Property Rights in the 21<sup>st</sup> Century Report] (summary), JPO, <http://www.jpo.go.jp/shiryō/toushin/chousa/21cen.htm> (last visited Oct. 4, 2005).

<sup>4</sup> The Strategic Council on Intellectual Property, The Prime Minister of Japan and His Cabinet, [http://www.kantei.go.jp/foreign/policy/titeki/index\\_e.html](http://www.kantei.go.jp/foreign/policy/titeki/index_e.html) (last visited Oct. 4, 2005).

<sup>5</sup> *Id.*

Members of the Strategic Council are the Prime Minister, Ministers of States, experts, and others.<sup>6</sup> There are eleven expert members, including a former JPO Commissioner, two university presidents, two scholars, two patent attorneys, and two company presidents.<sup>7</sup> The Strategic Council, as of January 2003, had held eight meetings.<sup>8</sup> The Strategic Council released *chiteki zaisan senryaku taikō* [Intellectual Property Right Strategy Outlines] in July 3, 2002, an outline for the reform of various fields of intellectual property.<sup>9</sup>

### III. Intellectual Property Policy Headquarters

On December 4, 2002, the Intellectual Property Basic Law was enacted.<sup>10</sup> The law recognizes that “in light of a growing necessity for intensifying the international competitiveness of Japanese industry,” intellectual property is important.<sup>11</sup> The purpose of the law is “to promote measures for the creation, protection and exploitation of intellectual property in a focused and planned manner.” Based on this law, the Intellectual Property Policy Headquarters was established under the jurisdiction of the Cabinet<sup>12</sup> on March 1, 2003, the date the law became effective.<sup>13</sup> Members of the Strategic Council are the Prime Minister, Ministers of States, experts, and others.<sup>14</sup> There are ten expert members, including university presidents, scholars, patent attorneys, and company presidents. Four of them are former members of the Strategic Council.

The Headquarters must develop an intellectual property promotion program based upon the Basic Law.<sup>15</sup> According to the law, the promotion program must include the following:

- Basic policy;
- Measures for the creation, protection and exploitation of intellectual property; and
- Measures to promote education and learning on intellectual property and to secure human resources.<sup>16</sup>

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<sup>6</sup> Chiteki zaisan senryaku kaigi no kaisai ni tsuite [Regarding the Strategic Council on Intellectual Property], Cabinet Decision on February 25, 2002, as partially amended on May 22, 2002, The Prime Minister of Japan and His Cabinet, <http://www.kantei.go.jp/jp/singi/titeki/konkyo.html>.

<sup>7</sup> See *id.*

<sup>8</sup> Kaisai jyōkyō [Meeting dates], The Prime Minister of Japan and His Cabinet, <http://www.kantei.go.jp/jp/singi/titeki/kaisai-dex.html> (last visited Oct. 4, 2005).

<sup>9</sup> Chiteki zaisan senryaku taikō [Intellectual Property Right Strategy Outlines], (July 3, 2002), <http://www.kantei.go.jp/jp/singi/titeki/kettei/020703taikou.html>.

<sup>10</sup> Chiteki zaisan kihon hō [Intellectual Property Basic Law], Law No. 122 of 2002. A provisional translation is available at Prime Minister of Japan and His Cabinet’s website, [http://www.kantei.go.jp/foreign/policy/titeki/hourei/021204kihon\\_e.pdf](http://www.kantei.go.jp/foreign/policy/titeki/hourei/021204kihon_e.pdf) (last visited Oct. 4, 2005).

<sup>11</sup> *Id.* arts. 1 and 4.

<sup>12</sup> *Id.* art. 24.

<sup>13</sup> Chitekizaisan senryaku honbu rei [Order on the Intellectual Property Policy Headquarters], Order No. 45 of 2003.

<sup>14</sup> Chiteki zaisan senryaku honbu kōsei’in [Intellectual Property Policy Headquarters members] (May 2005), The Prime Minister of Japan and His Cabinet, <http://www.kantei.go.jp/jp/singi/titeki2/kousei.html>.

<sup>15</sup> Intellectual Property Basic Law, Law No. 122 of 2002, art. 23, para. 1. See art. 25, item 1.

<sup>16</sup> *Id.* art. 23, para. 2.

The Headquarters released the Strategic Program for the Creation, Protection and Exploitation of Intellectual Property on July 8, 2003.<sup>17</sup> In this program, the Headquarters recommended that an Intellectual Property High Court be created. The Office for Promotion of Justice System Reform, another advisory panel, also recommended the creation of the court. In April 2005, the Intellectual Property High Court was established.<sup>18</sup> The Headquarters must review the promotion program, at a minimum, annually.<sup>19</sup> The Headquarters reviewed the program in 2004 and 2005. Also it released the Intellectual Property Strategic Program 2004 on May 27, 2004<sup>20</sup> and the Intellectual Property Strategic Program 2005 on June 10, 2005.<sup>21</sup>

The Headquarters also has the authority to plan specific measures concerning intellectual property.<sup>22</sup> Measures against counterfeiting and piracy were recommended in the Strategic Program 2004. To accelerate implementation of measures, the Headquarters further released the Package Against Counterfeits and Pirated Copies on December 16, 2004.<sup>23</sup> The Headquarters established three special committees on medical practice patents, information distribution businesses, and intellectual property protection enhancement.<sup>24</sup> The Medical Practice Patent Special Committee released its first report on November 22, 2004.<sup>25</sup> The Information Distribution Business Special Committee released its first report to promote the information distribution business on April 9, 2004.<sup>26</sup> It also published a report entitled and “Japan-Brand Strategy” on February 25, 2005.<sup>27</sup> The Intellectual Property Rights Protection

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<sup>17</sup> The preliminary translation of the Strategic Program for the Creation, Protection and Exploitation of Intellectual Property is available at The Prime Minister of Japan and His Cabinet’s website, [http://www.kantei.go.jp/foreign/policy/titeki/kettei/030708f\\_e.html](http://www.kantei.go.jp/foreign/policy/titeki/kettei/030708f_e.html) (last visited Oct. 4, 2005).

<sup>18</sup> Enkaku [Development], Intellectual Property High Court, <http://www.ip.courts.go.jp/aboutus/history.html> (last visited Oct. 5, 2005).

<sup>19</sup> Intellectual Property Basic Law, Law No. 122 of 2002, art. 23, para. 6.

<sup>20</sup> Chiteki zaisan suishin keikaku 2004 [Intellectual Property Strategic Program 2004], Intellectual Property Policy Headquarters (May 27, 2004). A preliminary translation is available at The Prime Minister of Japan and His Cabinet’s website, [http://www.kantei.go.jp/foreign/policy/titeki/kettei/040527\\_e.html](http://www.kantei.go.jp/foreign/policy/titeki/kettei/040527_e.html) (last visited Oct. 4, 2005).

<sup>21</sup> Chiteki zaisan suishin keikaku 2005 [Intellectual Property Strategic Program 2005], Intellectual Property Policy Headquarters (June 10, 2005). An English translation is available at Prime Minister of Japan and His Cabinet’s website, [http://www.kantei.go.jp/foreign/policy/titeki/kettei/050610\\_e.pdf](http://www.kantei.go.jp/foreign/policy/titeki/kettei/050610_e.pdf) (last visited Oct. 4, 2005).

<sup>22</sup> Intellectual Property Basic Law, Law No. 122 of 2002, art. 25, para. 2.

<sup>23</sup> Intellectual Property Policy Headquarters, Mohōhin kaizokuban taisaku kasokuka pakkēji [Package to Accelerate Measures Against Counterfeits and Pirated Copies], December 14, 2004, available at <http://www.kantei.go.jp/jp/singi/titeki2/kettei/051216mohou.pdf>.

<sup>24</sup> “Chiteki zaisan no sōzō, hogo oyobi katsuyō ni kansuru suishin keikaku ” no jūyō kadai ni kansuru senmon chōsakai ni tsuite [Regarding Experts’ Committees on Strategic Program for “the Creation, Protection and Exploitation of Intellectual Property”], Intellectual Property Policy Headquarters decision (July 8, 2003), available at <http://www.kantei.go.jp/jp/singi/titeki2/kettei/030708setti.html>.

<sup>25</sup> Patent Protection of Medical Practice Special Committee, Iryō kanren kōi no tokkyo hogo no arikata ni tsuite [Regarding Medical Practice Patents], November 22, 2005, available at <http://www.kantei.go.jp/jp/singi/titeki2/tyousakai/iryō/torimatome.pdf>.

<sup>26</sup> Contentsu [Information Distribution Business] Special Committee, Contentsu bijinesu shinkō seisaku [Information Distribution Business Promotion Policies], April 9, 2005, available at <http://www.kantei.go.jp/jp/singi/titeki2/tyousakai/contents/houkoku/040409houkoku.pdf>.

<sup>27</sup> Contentsu [Information Distribution Business] Special Committee, Nihon burando senryaku no suishin [Promotion of Japan-Brand], February 25, 2005, available at <http://www.kantei.go.jp/jp/singi/titeki2/tyousakai/contents/houkoku/050225hontai.pdf>.

Enhancement Special Committee released its first report on intellectual property strategy for medium and small businesses and business ventures on April 25, 2005.<sup>28</sup>

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October 2005

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<sup>28</sup> Intellectual Property Right Protection Enhancement Special Committee, Chūshō benchā bijinesu kigyō no chiteki zaisan senryaku no suishin hōsaku [Promotion Policy on Intellectual Property Strategies for Medium and Small Businesses and Business Ventures], April 25, 2005, *available at* <http://www.kantei.go.jp/jp/singi/titeki2/tyousakai/kenrihogo/matome/matome.pdf>.