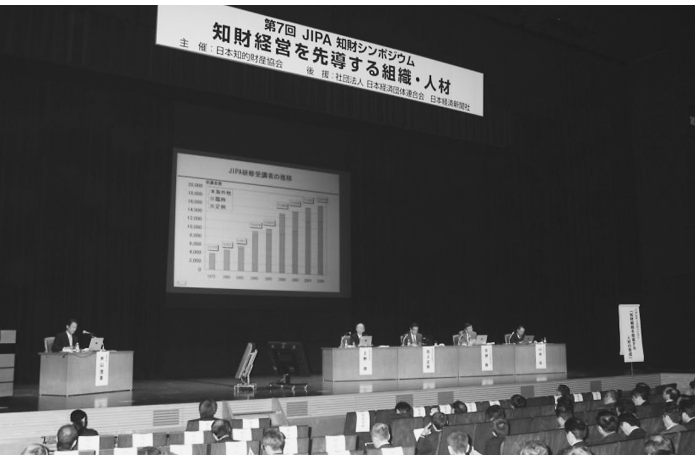


# Japan must rethink IP strategy, JIPA says

Global financial crisis bursts nation's intellectual property bubble, threatens international competitiveness



Annual meeting: Almost 1,000 people attended the JIPA Intellectual Property Symposium at the Tokyo International Forum on Jan. 18 last year. JIPA

## JIPA Kyoto symposium focuses on managing IP

The Japan Intellectual Property Association (JIPA) will hold a symposium on “management and intellectual property — a combination of the two at the forefront” in Kyoto on Jan. 30.

The eighth annual JIPA Intellectual Property Symposium on business practices involving IP will be held at the Kyoto International Conference Center, with support from Nippon Keidanren (the Japan Business Federation) and Nikkei Inc.

The IP environment is changing dramatically due to globalizing companies, cut-throat competition, highly sophisticated technologies and innovations, and the JIPA is advising business people to respond to the changes in a timely and appropriate manner.

The association says IP people working at the forefront need sound judgment. But what qualities are required of corporate executives responsible for IP?

At the symposium, a dozen panelists will discuss how companies can acquire and protect IP rights.

The symposium will start at 10:30 a.m. with an opening statement by JIPA Chairman Tamotsu Nomakuchi, chairman of Mitsubishi Electric Co.

In the morning session, a keynote discussion will be held with three panelists — Nomakuchi; Toichi Takenaka, president of Astellas Pharma Inc.; and Kenji Ota, managing director of Sharp Corp.

In the first afternoon session, from 1:30 p.m. to 3:15 p.m., five experts, including coordinator Makoto Matsuo, a professor at Otaru University of Commerce; Tetsuya Aoki from Brother Industries Ltd.; Munehisa Matsumoto from Daikin Industries Ltd.; Takashi Sawai from NTT Advanced Technology Corp.; and Kenji Baba from Horiba Ltd. will talk about what is required of IP managers.

In the second afternoon session, from 3:45 p.m. to 5:30 p.m., five other panelists, with patent attorney Junko Sugimura as coordinator, will discuss the acquisition of patents that develop into assets for the holders.

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*Six years have passed since Prime Minister Junichiro Koizumi declared that Japan would become an intellectual property-oriented nation.*

*According to his perspective, Japan went through the first stage of infrastructure consolidation from 2002 to 2005. During the second stage (2006-2008), numerous measures were identified to turn Japan into a powerful, competitive IP country. The legal system was consolidated, with its efficiency verified and modified according to the needs of the times.*

*As Japan enters the third stage (2009-2012) of dramatic change, Hideo Doi, secretary general of the Japan Intellectual Property Association (JIPA), says that it's time for Japan to reconsider its IP strategy. He revealed to The Japan Times the JIPA's take on the situation and its suggestions for the desired course of Japan's future IP strategy. An outline of the interview follows.*

Some of the recently notable changes in the IP environment include the transition from a pro-patent era to a pro-innovation/open innovation era. We also have seen the rapid emergence of China, South Korea and Taiwan in terms of IP policies. Last year, the exceedingly difficult business environment, brought about by the global financial crisis, that many companies faced burst Japan's IP bubble, which until then was thriving, particularly because of the cooperation between industry and academia. Consequently, Japan to-

day is forced to review its IP strategy while seeking to reinforce its international industrial competitiveness, the very basis of IP.

The JIPA thinks that such reconsideration should be made in five major areas.

The first is related to the job invention system. Though employee inventions are protected under the revised Patent Law, internal disputes continue. This affects corporate management and R&D activities, especially when such activities are conducted on a global scale. Hence, there should be thorough discussions on defining a future system for Japan while referring to the conditions in other countries such as the contract-based U.S. system, which provides a large bonus to the inventor once the invention generates sales; France and the U.K., which consider the company the sole possessor of the rights to a job invention; and Germany, which has a similar award system to Japan but with an arbitration institution that mediates in IP disputes.

Second, is the problem of trade secrets. Though someone who leaks a trade secret may be subject to a civil and criminal suit, Japanese companies are reluctant to file criminal complaints because the Japanese Constitution declares that all criminal court decisions must be made public, thereby revealing all trade secrets in the process. With no punitive consequences, the leaks have become a flood that is severely affecting the business environment. Hence, the JIPA believes it is necessary to partially close criminal cases as is the case with civil

suits.

Third, is the problem of license contract protection. Today, when a license contracting party goes bankrupt and the rights are transferred to a third party, the acquired rights of the said contracting party will only be protected when they are registered with the Patent Office. The JIPA thinks such a condition is unreasonable and hopes the situation will be amended to properly protect the contracting party's rights like in the U.S.

The fourth area of concern

is the international harmonization of the IP system. Progress was made when Japan, the U.S. and Europe adopted a unified IP registration format this month. The new format greatly facilitates the procedures for submitting IP registration papers since it is now unrestricted by language or national borders. The next step is to harmonize and find common ground on judgment procedures, which remain different from one country to another.

Finally, we should look at

our response to the changing IP environment, especially globally.

Though IP is important and the rights of the inventor should be protected even in an era of open innovation, the harmful execution of rights that obstruct healthy innovation is becoming a serious problem. Some major headaches include patent trolls, standardization outsiders and third-party patents of open sources. On the other hand, some countries are thinking of introducing systems that

may diminish a company's desire for R&D, such as China's request for disclosure of the source code for information communications equipment and the forced acquisition of environment-related patents among developing countries.

To avoid such a rights protection movement from becoming extreme, the JIPA thinks it is necessary to hold urgent discussions on the correct use of such rights, including their suppression if necessary.

## Message from the Japan Intellectual Property Association (JIPA)

JIPA is a non-profit, non-governmental organization, which has 1,185 members. It represents industries and users of the intellectual property (IP) system, and provides related institutions all around the world with well-timed, suitable opinions on improvement of their IP systems and their utilization.

JIPA's stance with regard to the major IP issues at the present time is as follows:

### Employee's Invention System under Patent Law

Revised Japanese Patent Law, which includes article 35 on the Employees' Invention, came into force as of April 1, 2005. JIPA has published "JIPA Guideline under the new employees' invention system" to members in order for them to make the proper procedures in accordance with the revised law. Now, JIPA is watching the development of this issue.

### Anti-Counterfeiting Measures

JIPA is actively conducting the following activities:

1. Strengthening ties around the world between organizations/institutions that deal with counterfeits; in particular, creating an alliance between non-governmental organizations in Japan, Europe and the U.S.
2. Encouraging an active participation in activities conducted by the International Intellectual Property Protection Forum in Japan.

### Substantial Harmonization in the IP Rights System

The standardization of patent application forms, usage of the

same prior arts, and standardization of the examination criteria and the undertaking of simultaneous examinations achieve substantial harmonization. As a first step, it seems important to use and approve the results of examinations carried out by patent offices in Japan, Europe and the U.S.

JIPA is aiming to form a world IP user federation in order to encourage cost reductions for patent applications and create substantial harmonization. In this regard, since February, 2004, JIPA has held the several meetings with the non-governmental organizations in Europe and the U.S. As the result of those meetings, we handed in the resolution of the standardization of application forms to the Trilateral Patent Offices two years ago. As the next step, we are now consulting on "One Search" with them.

### Assist to develop Member's Human Resources concerned in IP

JIPA performs training to about 18,300 member employees, including engineers and researchers, every year. The aim of JIPA training is that the trainees master the knowledge, information and business practice required for performing his/her tasks to improve his/her legal knowledge on IP and business practice capability.

Further, recently, JIPA prepared "Course for developing New-IP-Leaders" which creates the human resources who may lead IP management to a success, and "Course for developing IP-Strategic-Staffs" which creates the human resources who can find out the concrete subject on the vision of IP section and propose the creative policy for achieving such subject.

URL: <http://www.jipa.or.jp/english/index.html>

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