This article mainly explains how the idea of the 3G patent platform was developed and how this system works, including the preliminary procedures taken to deal with antitrust agencies of the trilateral countries and problems to be addressed in the future.

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Status-Quo of the Opposition System and its Effective Use

The First Subcommittee,
The First Patent Committee

It has been five years since the opposition system was revised to Post-Grant opposition system. There are some doubts as to the value of the system itself in comparison to the old system where oppositions were sought before the grant of patents. A study performed in response to such opinions on the year-by-year shifts in the number of oppositions, cancellations and approvals of corrections. As results, it was found that approximately 3000 patents were indeed corrected through this system each year. As clear from this study, the value of this system should not be denied, and indeed the system should be evaluated as useful for improving the reliability of the patent practice.

The article next discusses what is an effective way to utilize this system from the perspective of both patentees and opponents, and if there are any problems in this system which impair further beneficial use of the system. Especially, involvement of opponents in trial examinations (whether or not to adopt the so-called adversarial system) and the relationship between opposition hearings and trials for invalidation are particular problems. As for the former, the article suggests that, although there is demand for quick trial examination, a chance should be secured in the system for an opponent to present his argument against the rebuttal of the patentee to a limited extent.

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Study on Anti-Counterfeiting Alliance

The First Subcommittee,
Fair Trade Committee

While many of Japanese companies are expending strenuous efforts to police counterfeiting products, they find themselves facing difficult problems. For example, counterfeiting acts occur repeatedly and the extent of damages they incur vary from small to large depending on the case. On the other hand, a few advanced companies who reached the limit of such everlasting efforts in vain are now engaged in alliance activities, and they have obtained fine results.

This article takes up the topic of "anti-counterfeiting alliance" as one approach for implementing effective anti-counterfeiting activities, and summarizes the result of feasibility study on such

activities. The term "anti-counterfeiting alliance" means "joint efforts against acts of counterfeits by two or more enterprises or groups."

The article further shows some examples of oversea anti-counterfeiting alliances as well as countermeasures against counterfeiting products in other Asian countries. At the same time, it discusses results of hearings conducted with Japanese industries and enterprises to summarize the past development of domestic anti-counterfeiting alliance efforts and various activities underway.

Based on these examples, the article discusses advantages and disadvantages as effects of anti-counterfeiting alliance. The article suggests feasible activities.

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Study on Novelty and Inventive Step of Gene-related Inventions

The First Subcommittee,
The First Patent Committee

This article discusses the status-quo of, and differences among the trilateral patent offices in US, Europe and Japan in their examination practices regarding the novelty and inventive step/non-obviousness of gene-related inventions. According to the "Trilateral Project B3b/ Comparative study on biotechnology patent practices: Nucleic acid molecule-related inventions whose functions are inferred based on homology search" published by the trilateral offices in November, 2000, it is recognized that there are considerable differences among the trilateral offices in their examination practices on the inventive step/non-obviousness. This article analyzes the background of such differences and predicts in some potential cases, the respective judgments on novelty and inventive step by the trilateral offices and then suggests how an applicant can deal with rejection on novelty and/or inventive step.

The article next speculates on the impact of the disclosure of human genome sequences on novelty and inventive step/non-obviousness of gene-related inventions at present and in the future.

The article finally discusses what should standard for judgment on inventive step of generated inventions be, seeking suggestions for achieving harmonization in substantive examination.

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