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## *INTRODUCTION OF ARTICLES*

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### Provisions for Exceptions to Lack of Novelty of Invention in the Field of Life Sciences

The Second Subcommittee,  
Biotechnology Committee

In this article, first the provisions currently in use in various countries and the international trends regarding the statutory period and applicable conditions for exceptions to lack of novelty are introduced. Second, the circumstances of how such provisions are applied in Japan in the field of life sciences are examined using the latest statistics and the results of a questionnaire completed by participating companies.

Exceptions to lack of novelty are implemented for a wide range of inventions in the field of life sciences, including biotechnology-related substance and use inventions and inventions of chemical compounds, and it has been reported that such exceptions are implemented more frequently in this field than in other fields of technology. Various points for consideration by applicants wishing to take advantage of these provisions are also presented, together with a discussion of the review of the statutory period that is now being considered in Japan, the opinions of the corporate sector regarding relaxation of the statutory requirements, and the merits and demerits of such provisions.

Finally, the opinion of the JIPA that the provisions currently in force be continued is presented, with a focus on the need for careful deliberation of the statutory requirements in consideration of international harmonization and the present state of Japan's industrial competitiveness in the field of life sciences.

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### Strategic IP Management Utilizing Trusts

Project Team on Intellectual Property Trusts

With the change of an international competitive environment, strategic development of organization and effective utilization of management resources are necessary to Japanese companies more than before. Under these circumstances, efficient and effective management and utilization of intellectual properties in corporate groups have become important, for which comprehensive management of intellectual properties in a corporate group by utilizing trusts is expected to be an important measure.

Trusts have characteristic functions such as an ability-conversion function in which the property management may be entrusted to specialists, or bankruptcy-isolation function that isolates properties

from trustor's or trustee's risk of bankruptcy. In the light of management of industrial properties, transfer of trusted properties does not fall under assignment or acquisition of assets (vessel theory), therefore tax and accounting procedures are simple and easy. In addition, unlike the case of entrustment, a trustee's involvement in license negotiation or infringement lawsuit might not conflict with the Lawyer Law. Trusts are provided with inherent functions or characteristics that cannot be seen in other economic transactions such as assignment or delegation.

The draft amendment of the Trust Business Law has just passed in Japanese congress, and the amended Trust Business Law will become effective in the near future. It is expected that this amendment will lead to enhancement of efficient and effective management and utilization of intellectual properties in corporate groups. In addition, it is necessary not only to amend the Trust Business Law but also to carefully prepare a system from the standpoint of a person who is actually involved therein, and this Association intends to continue activities of suggestion and participation.

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## Legal Matters To Be Kept in Mind When Using or Exploiting Digital Contents

Digital Contents Committee

There are many examples of exploiting information transmission through website in corporate activities. In the course of taking such measures, companies may sometimes use works of others. This article will discuss the matters to be noted and the problems in the present situation in view of and under the context of the Copyright Law and other relevant laws.

Main matters to be noted would be that the user should be aware of the content of the rights regulated or protected from various aspects under the Copyright Law, that the conditions for applying the provisions of limitations on copyright are quite strict, and that the establishment of links utilizing the frame function could be deemed as an infringement of someone's copyright.

It should be further noted that there are key matters for the right-handling procedure characteristic to each specific type of contents, that you must be prepared, upon operation of Internet Service Provider business, BBS or the like, to deal with any matter in view of the Law Concerning Limitation of Damages to Specific Telecommunications Service Provider and Disclosure of Sender Information that relates to the legal responsibility and liability when you intermediate third party's information transmitted through your Internet Service Provider business, and that you must comply with the Specific Commercial Transaction Law and other relevant laws and regulations when you use the website as the opportunity to conduct electronic commercial transactions.

Although the conclusion has not yet been drawn, this article will introduce, for the reference of the practitioners, the legal problems under discussion by various institutions and organizations, such as the problem in dealing with the global infringement of copyright through the Internet, the problem of protecting database under laws and regulations other than the Copyright Law, and the problem of what kind of competition policy should be adopted for the creation and transaction of digital contents.

The legal circumstances for the creation and transaction of digital contents, including the exploitation of websites, are in the process of development, and therefore, companies should be prepared for avoiding troubles by having clear understanding of the present circumstance, as well as become