

# 11 Importation, Possession, and Sale of Counterfeit and Pirated Goods by Individuals

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*In this study, we examined the actual conditions of damage arising from importation, possession, and sale of counterfeit and pirated goods by Japanese citizens, the current measures implemented in order to cope with such damage, and legislative and other measures required in this context. First, we collected information on actual damage, thereby improving our understanding of the possibility that while it becomes easier to imitate or reproduce products with the advancement of technology and distribution methods becoming more global, acts committed by individuals may affect not only the private domain but also the industrial domain. Next, we discussed how to design a regulatory framework that will satisfy various requirements under the existing Japanese legislations, such as guaranteeing property rights and ensuring due process, while achieving a balance with other regulatory measures. We also investigated the latest legislative and policy measures in major European countries, including France and Italy, as well as in the United States, with the aim to explore appropriate methodology and ensure international harmonization. We hope that this issue will be understood and discussed more widely so that both goals will be achieved equally to develop the Japanese industry through appropriate protection and utilization of intellectual property and to improve the standards of wholesome, economic, and cultured living for Japanese citizens.*

## I Introduction

### 1 Purpose of the study

Counterfeit and pirated goods have negative impacts on us in two aspects, affecting the business activities of Japanese companies in overseas markets, and also affecting Japanese industries and consumers in Japanese markets. Damage caused by such goods has been becoming increasingly serious in recent years. Due to the advancement of globalization in the economy, cross-border transactions of counterfeit and pirated goods have become easier, and the inflow of such goods from China and other Asian countries to Japan is posing a problem. Customs controls on such goods coming into Japan have been tightened under the Customs Tariff Law, but there is an argument that the current control level is not strict enough. Damage is also pointed out with respect to importation, possession, and sale of intellectual property-infringing goods by individuals. In particular, such acts are often committed by parties disguised as individuals who actually are acting “in the course of trade.” The brand fashion industry strongly calls for actions against counterfeiting in such a manner.

Under the Japanese legal system, acts committed by individuals are not regarded as acts committed “in the course of trade,” and they are therefore excluded from the scope of the effects of industrial property rights. Also under the Copyright Law, acts of importing or possessing

copyrighted works are not regarded as illegal and therefore not prohibited unless such acts are conducted for the purpose of distributing the works in Japan, or in other words such acts fall within the category of acts deemed to be infringements under Article 113.

Given such circumstances, the Intellectual Property Strategic Program 2005 (adopted by the Intellectual Property Policy Headquarters on June 10, 2005) stated as follows: “At present, individuals are not prohibited by law from importing and possessing counterfeit and pirated goods, and the public awareness of counterfeit and pirated goods is very weak. Therefore, in order to make it clear to the public that importation and possession of counterfeit and pirated goods by individuals is harmful to society and to prevent a deluge of such goods, by the end of FY 2005, the GOJ will further reconsider prohibiting individuals from importing and possessing counterfeit and pirated goods, and will establish a new law or develop systems as appropriate.” The program entrusted these works to the National Police Agency, Ministry of Justice, Ministry of Finance, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry.

In this context, we studied the necessity and possibility to legally regulate the importation, possession, and sale of IP-infringing goods by individuals, and in particular, such acts involving products that infringe trademark rights and copyrights, which pose problems frequently.

## **2 Contents and methods to conduct the study, and the composition of the study report**

In this study, by collecting cases and statistical data available in Japan and interviewing parties concerned, we examined the actual situation of damage arising from the importation, possession, and sale of counterfeit and pirated goods by individuals and the countermeasures against such damage. In the course of considering desirable regulations on IP-infringing goods, we conducted a survey of national legislations through outsourcing, in order to investigate the existing regulations on *goods* other than IP-infringing goods or goods that are prohibited from being imported as well as the existing deterrent measures other than criminal penalties, thereby comparing the existing regulations with desirable regulations. We also conducted an overseas survey through outsourcing, in order to investigate the measures implemented in foreign countries to cope with the importation, possession, and sale of counterfeit and pirated goods by individuals, and collected other necessary information available in literature and on the Internet, with cooperation from the Secretariat. Finally, we formed a committee of 15 members (chaired by Professor Kazufumi Dohi of the Graduate School of International Corporate Strategy, Hitotsubashi University) and discussed the present issue based on the results of these surveys and the collected information on four occasions.

## **II Actual Situation of Importation, Possession, and Sale of Counterfeit and Pirated Goods by Individuals**

This section gave an overview of the actual conditions of damage arising from the importation, possession, and sale of counterfeit and pirated goods by individuals and the measures currently implemented to cope with this issue.

### **1 Actual conditions of damage arising from importation, possession, and sale of counterfeit and pirated goods by individuals**

As shown in the cases examined in (1) of the main text of the study report, in the process where counterfeit and pirated goods are imported

and distributed in the Japanese market, parties disguised as individuals who are actually acting “in the course of trade,” import, possess, and sell such goods, in an attempt to evade law. However, as pointed out in (2), it is difficult under the present situation to grasp the actual conditions of damage systematically and qualitatively. For instance, statistical data is unavailable with respect to IP-infringing goods that individuals who enter Japan attempt to bring into Japan in their personal baggage. Furthermore, the details of acts alleged as violating the Customs Law or IP laws in criminal or other proceedings, the legal provisions applicable to such acts, and the number of cases brought to prosecutors are not specified in available statistical data; additional measures should be implemented to specify such information.

In the future, with respect to the issue of how to regulate the importation, possession, and sale of counterfeit and pirated goods by individuals, it is necessary to further investigate actual cases, and consider possible measures based on the broad understanding of the actual impact of such acts on the Japanese industry. Such understanding can be obtained by exploring possible methods for grasping the actual conditions of damage based on various available statistical data with cooperation from the ministries and agencies concerned and conducting original surveys of markets and consumer awareness.

### **2 Current measures relating to importation, possession, and sale of counterfeit and pirated goods by individuals**

This section gave an overview of the existing provisions of relevant legislations and the past measures implemented to cope with damage arising from the importation, possession, and sale of counterfeit and pirated goods by individuals.

More specifically, this section reviewed the existing provisions under IP laws, including the Trademark Law and the Copyright Law, as well as the Customs Law and basic notifications issued thereon, and other customs-related legislations. It also pointed out the need to develop guidelines for transactions on the Internet in accordance with the Law for Special Commercial Transactions and the Law for Limited Liability for Internet Service Providers, and to require consumers to give due consideration to proper protection of intellectual property as their duty under the Basic Consumer Law.

Next, the study report stressed the fact that the present issue was addressed in the Intellectual Property Strategic Programs 2004 and 2005, and clearly described, in statistical data, enforcement measures implemented so far, including anti-counterfeiting/piracy campaigns, customs controls and proceedings by the police and prosecutors, and efforts by the industrial community to bring criminal charges and raise consumers' awareness. The report also discussed the current measures implemented by the parties concerned to cope with transactions of counterfeit and pirated goods on the Internet, such as the public and private sectors establishing a joint committee, the government disclosing information on actual infringement cases, the industrial community requiring Internet service providers to remove infringing goods from their websites, and the providers making voluntary efforts to eliminate such goods.

According to this discussion, it is recognized that the private and public sectors have been making joint efforts to cope with the importation, possession, and sale of counterfeit and pirated goods by individuals, and such efforts have brought about favorable effects to a considerable extent, such as a reduction in the counterfeit goods on major auction websites. It goes without saying that such enforcement measures within the existing legal frameworks should be further strengthened. The objective of this study is to determine whether or not the existing legal frameworks are adequate for enforcement.

### **III Current Regulations under Japanese Legislations**

This section reviewed the results of the survey of national legislations relating to the regulations on the importation, possession, assignment, and various other acts involving *goods* other than IP-infringing goods, regulations on IP-infringing goods and other import-prohibited goods, and deterrent measures other than criminal penalties. It also presented the personal view on this issue stated by Lawyer Ms. Naho Ebata who took charge of this survey.

#### **1 Survey of the regulations on importation, possession, and sale of goods by individuals**

In an effort to examine the need to legally regulate the importation, possession, and sale of counterfeit and pirated goods by individuals, we

conducted a survey to investigate how Japanese legislations regulate the importation, possession, and sale of *goods* other than counterfeit and pirated goods, which are deeply involved in the lives of Japanese citizens.

Regarding the requirement relating to the purpose, Japanese legislations generally regulate importation and possession only if such acts are committed for specific purposes, e.g. sale, distribution, provision, use. On the other hand, importation and possession of drugs such as stimulants, narcotics, and cannabis, and of firearms shall be subject to penal provisions irrespective of the purpose of committing the act, with limited exceptions.

Such acts are subject to more severe penalties in cases where they are committed for the purpose of making profits or in the course of trade.

There is no special relevance between regulations on importation and regulations on possession; there are three types of *goods* in this context, namely, those only subject to importation regulations, those only subject to possession regulations, and those subject to both regulations. *Goods* only subject to importation regulations include explosives, forged or altered coins, bills, banknotes or securities, and goods infringing patent rights, utility model rights, and design rights. *Goods* only subject to possession regulations include Molotov cocktails, radioisotopes, and antipersonnel mines. *Goods* subject to both regulations include drugs such as stimulants, narcotics, and cannabis, bombs, sarin and other toxic substances, forged credit cards, child pornography, and goods infringing trademark rights and copyrights or neighboring rights.

Penalties imposed on importation are more severe than those imposed on sale, purchase, and possession.

#### **2 Relationships between import-prohibited goods under the Customs Tariff Law and those under relevant governing legislations**

We made a comparison between import-prohibited goods under the Customs Tariff Law, which include IP-infringing goods, and import-prohibited goods under relevant governing legislations such as the Trademark Law and the Copyright Law, in terms of the scope of regulations and the penal provisions.

Books, pictures, sculptures and other goods

that are harmful to public order or good morals, which are specified in Article 21(1)(vii) of the Customs Tariff Law as import-prohibited goods, are regarded as corresponding to obscenities stipulated in Article 175 of the Penal Code. Under this provision, a person who distributes, sells, possesses for sale, and publicly displays obscene materials shall be punished, but importation is excluded from punishment. Similarly, documents and pictures set out in Article 4(1)(i) of the Subversive Activities Prevention Law, which is also equivalent to Article 21(1)(vii) of the Customs Tariff Law, provides for punishment for printing, distribution, and public display of prohibited materials but also excludes importation from punishment. The scope of import-prohibited goods under the Customs Tariff Law is determined by giving consideration to the following facts: (1) other legislations prohibit importation or possession of the goods, applying penalties that are similar to those applicable to import-prohibited goods under the Customs Law; (2) national consensus has been reached that prohibition of importation of the goods is particularly necessary and important from the perspective of protecting public interests, such as ensuring the health and safety of the citizens and maintaining public order and economic order, and that Customs are expected to actively implement border controls and enforce prohibition of importation; (3) the goods actually coming into Japan cause or are likely to cause significant harm to public interests.

With respect to import-prohibited goods listed in Item 3 (bombs), Item 5 (forged coins, etc.), Item 7, Item 8 (child pornography), and Item 10 (goods constituting acts of unfair competition), the relevant governing legislations prohibit importation only if it is committed for specific purposes. However, whether or not particular goods fall under the scope of import-prohibited goods under the Customs Tariff Law is determined irrespective of such requirement relating to the purpose. Furthermore, the relevant governing legislations apply penalties only where importation is committed intentionally, whereas under the Customs Tariff Law, whether importation is committed intentionally or negligently does not matter. There is no substantive requirement for determining whether or not particular goods fall under the scope of import-prohibited goods under the Customs Tariff Law because, since there can be no official procedure for importing import-prohibited goods, a person who intends to import

such goods generally attempt to import them in concealment, and such intention of importing prohibited goods by making arrangements for concealment satisfies the substantive requirements under the relevant governing legislations. However, where importation of goods set out in Item 9, IP-infringing goods, is not committed “in the course of trade” or “for the purpose of distribution,” the importation does not constitute infringement of IP rights, and therefore such goods do not fall under the scope of import-prohibited goods.

Between the penalties under Article 109(1) and (2) of the Customs Law, which are applicable to the importation of import-prohibited goods prescribed in Article 21(1) of the Customs Tariff Law, and the penalties under the relevant governing legislations, there is no relevance but difference in terms of the severity of the penalty.

### **3 Current deterrent measures other than criminal penalties**

We reviewed a basic framework and provisions for deterrent measures other than criminal penalties, or administrative penalties, such as civil fine, other economic penalty, and confiscation. Although confiscation is prescribed in some of the existing legislations, it is not actually executed with the exception of execution by the Director-General of Customs under the Customs Tariff Law. For instance, under the Law for Preventing Minors from Drinking and the Law for Preventing Minors from Smoking, confiscation cannot be executed because the confiscation procedure and the person authorized to confiscate are not specified by law. Also due to the lack of procedural provisions, confiscation by the Minister of Foreign Affairs under the Passport Law has never been executed.

### **4 Comparison between IP-infringing goods and other goods**

IP-infringing goods, when compared with other *goods*, have the following characteristics: it is difficult to determine whether or not particular goods fall under the scope of IP-infringing goods due to the difficulty in determining the existence of infringement; such goods once regarded as IP-infringing goods may be excluded from the scope of infringing goods upon invalidation of the IP rights concerned; IP-infringing goods themselves are not dangerous or harmful to a person's body or property or to public safety;

IP-infringement is committed by using information against the right holder's will, without depriving him of any tangible property.

By comparing the penalty on IP infringement (imprisonment with labor for not more than five years or a fine of not more than five million yen) with penalties on importation or possession of other *goods* under the relevant governing legislations, focusing on the level of imprisonment with labor, we found that the penalty on IP infringement is equal to the penalty on the importation, exportation, and manufacture of psychotropics for non-profit purpose, and also equal to the penalty on possession of forged credit cards "for the purpose of causing another to make mistakes in the administration of affairs relating to property."

Based on the survey results shown above, Ms. Ebata proposed the idea of introducing a new system in order to cope with the importation, possession, and sale of counterfeit and pirated goods by individuals. Importation and possession by individuals should be regulated not by legally prohibiting such acts but by introducing a confiscation system that is similar to the system for confiscating a third party's property, whereby counterfeit and pirated goods that are strongly suspected of having infringed trademark rights or copyrights in foreign countries and are likely to cause infringements in Japan if imported "in the course of trade" or "for the purpose of distribution," should be confiscated upon importation in cases where the importer has had a malicious intention when acquiring the goods. Procedure under the new system should be designed to be as simple as possible, by referring to the recognition procedure under Article 21(4) of the Customs Tariff Law. The importer should be notified of why his import goods are subject to confiscation, and given the opportunity to excuse or defend himself prior to confiscation. The discussion at the committee, which also addressed this proposal, is reviewed in Chapter V below.

#### **IV Current Regulations on Importation, Possession, Sale of Counterfeit and Pirated Goods in Europe and the United States**

This section provided the results of an overseas survey conducted with cooperation from overseas law firms, as well as surveys of available literature and references, regarding actual damage

arising from importation and other acts involving counterfeit and pirated goods committed by individuals and the countermeasures against such damage in European countries and the United States. The overseas survey targeted the EU itself and its member countries, i.e. France, Italy, Germany, and the United Kingdom, as well as the United States. Through the survey, we investigated the actual conditions of damage arising from counterfeit and pirated goods, and examined legislations, court decisions and academic theories, and the enforcement status and policy measures in terms of prohibition of specific acts involving counterfeit and pirated goods and exceptions thereto. The targeted acts are: (a) assigning (selling), purchasing, giving as a gift; (b) possessing, carrying, delivering or receiving, conveying; (c) exporting, importing; (d) lending, borrowing.

The definition of counterfeit and pirated goods differs between the treaties or legislations in the targeted countries and the Japanese legislations. For this reason, we first compared the definitions, and then discussed the actual damage and the countermeasures in the EU and its member countries as well as in the United States. In particular, we conducted detailed examinations of France and Italy, because it has been pointed out that these countries impose criminal or administrative penalties on importation and other acts involving counterfeit and pirated goods if they satisfy certain requirements, irrespective of whether such acts are committed by individuals.

In European countries and the United States, it is recognized that the nature of counterfeit and pirated goods is changing, causing considerable damage to industry and economy, and based on such recognition, the private and public sectors are making efforts to develop action plans and to strengthen measures to cope with such damage.

Under such circumstances, some countries currently discuss how to treat the importation, possession, and sale of counterfeit and pirated goods by individuals, which have been excluded from the scope of IP-infringing acts if conducted by non-profit parties, and consider implementing legislative measures based on such discussion.

For instance, all EU legislations relating to this issue, from rules for harmonization of substantive laws on intellectual property, such as the EU Trademark Law Directive (89/104/EEC) and Information Society Directive (2001/29/EC), to rules for enforcement of intellectual property rights, such as EU Customs Regulation

(1383/2003) and Enforcement Directive (2004/48/EC) and the Proposal of the European Commission for a Directive on criminal measures aimed at ensuring the enforcement of intellectual property rights, have maintained the principle that an act subject to prohibition must be committed for commercial purpose or in the course of trade. National legislations of the member countries adopt the concepts under the EU Trademark Law Directive and Information Society Directive, such as “use of a trademark,” “act committed in the course of trade,” and “reproduction of a medium for private use of non-commercial nature that is committed on the condition that the right holder should be justly compensated.” Progress has been made in the interpretation of these national laws through the accumulation of academic theories and court decisions both by the EU as a whole and by individual member countries. The EU is also working on harmonization of civil and criminal procedures relating to IP infringement cases, so as to impose uniform sanctions on IP infringement while securing due process. Furthermore, with respect to the rules directly applicable to the EU member countries such as the EU Customs Regulations, the European Commission will clarify the requirements regarding IP-infringing goods in travelers’ personal baggage and introducing a simplified procedure for abandoning infringing goods at customs, thereby also harmonizing the procedures to be applicable to acts involving counterfeit and pirated goods committed by individuals.

In the EU member countries affected by such trends across Europe and also in the United States, progress has been made in the interpretation of the scope of protection under intellectual property rights. There is a tendency to aim to clarify the “in the course of trade” requirement under the Trademark Law and other IP laws (ECJ decisions, the trademark law and court decisions in Germany, etc.), which is also applicable to transactions on the Internet, and the categorization or requirement for acts to be exempted from liability because of private use exception under the copyright law (court decisions in France, the copyright law and court decisions in Italy, the copyright law and court decisions in Germany, and court decisions in the UK). The definition of “trafficking” of counterfeit goods under Section 2320 of the US Criminal Law (18 U.S.C.) also goes along with this tendency.

Attempt is also being made to clarify the

requirements for counterfeit and pirated goods subject to regulations in accordance with Customs directives (EU Customs Regulations and revised directives of the member countries, and US Customs directives 19 CFR 148-55).

Penalties and sanctions on acts involving counterfeit and pirated goods have been tightened. Criminal penalties are imposed on acts involving counterfeit and pirated goods under IP laws, irrespective of whether such acts are committed for the purpose of making profits (France, and the US if the perpetrator intentionally commits such an act); administrative penalties are imposed on the purchase and possession of counterfeit and pirated goods under laws other than IP laws (Italy); penal provisions for stolen goods are applicable to acts involving counterfeit and pirated goods (Italy); heavier penalties may be imposed under the criminal law (Italy, US, etc.)

It should be noted that unlike Japan, counterfeit goods and pirated goods are distinguished from IP-infringing goods in general in European countries and the United States. This may be the underlying cause of the changes in the legal systems in these countries.

The above-mentioned legislative measures in the major countries are based on the legal study aimed at reviewing the limit of rights under IP laws and other related laws in response to the current situation where while it becomes easier to imitate or reproduce products with the advancement of technology and distribution methods becoming more global, acts committed by individuals may affect not only the private domain but also the industrial domain. Japan should not ignore such overseas trends, and should examine the current status of enforcement, the positive and negative effects of the measures to clarify various concepts under IP laws and the scope of goods subject to customs controls, and to tighten penalties and sanctions on acts involving counterfeit and pirated goods. Examination should also be made in regard to preventive measures implemented in these countries, such as measures to raise consumer awareness of problems arising from counterfeit and pirated goods, although these measures were not addressed in this study report.

The legislative measures implemented in foreign countries and the effects thereof will, if examined together with other measures, provide us with useful references for considering appropriate legislative measures to cope with acts involving counterfeit and pirated goods in Japan.

## **V Necessity and Possibility of Measures against Importation, Possession, and Sale of Counterfeit and Pirated Goods by Individuals**

The study committee, based on the understanding of the actual conditions of damage arising from the importation, possession, and sale of counterfeit and pirated goods by individuals and the countermeasures against such damage, the current regulations on *goods* under national legislations in general, and overseas legal systems relating to the importation, possession, and sale of counterfeit and pirated goods by individuals, discussed the main issue of “whether it is possible to regulate such acts by strengthening enforcement under the existing legal systems or if it is necessary to implement legislative measures.”

Since various opinions were argued at the committee, both the pros and cons are outlined in this study report. Ideas proposed at the committee include the following: develop customs guidelines with the objective of clarifying the “in the course of trade” requirement; maintain the “in the course of trade” requirement under the industrial property laws, and regulate importation, possession, sale of counterfeit and pirated goods by individuals by applying administrative confiscation instead of applying criminal penalties, which are too severe to be imposed on individuals; change the existing industrial property laws, e.g. changing the place of the provision on the “in the course of trade” requirement under Article 2(1) of the Trademark Law, and redefining an appropriate scope of protection under the Copyright Law.

In order to draw a conclusion on what measures should be implemented in the future, we should further discuss this issue with the aim to reach a consensus based on the various opinions and ideas argued at the committee.

## **VI Closing**

This section points out problems found in this study.

Although it is difficult at present to identify the amount of damage arising from importation of counterfeit and pirated goods by individuals, we can at least confirm, from the available data provided by the industrial community, that acts committed by parties disguised as individuals cause damage to some industries. In order to

cope with such damage, various measures are being implemented by the parties concerned, including joint anti-counterfeiting/piracy campaigns by the ministries and agencies concerned, customs controls, domestic control by the police, and efforts by the industrial community to eliminate counterfeit and pirated goods from transactions on the Internet and other phases of distribution. However, there is an argument that the current measures are insufficient.

For the future, it is necessary to continue efforts to grasp, in quantity and quality, the situation in individual stages of the process where counterfeit and pirated goods are manufactured in foreign countries, and then they are imported and marketed in Japan, in which importation and possession of such goods by individuals take place. It is then necessary to identify the causes of damage and implement legislative and policy measures to eliminate such causes, with the aim to ensure the effectiveness of such measures while gaining public understanding. To this end, we should, first of all, improve the awareness of citizens who might pick up counterfeit and pirated goods and increase their knowledge of IP rights, as without this, it is impossible to achieve the fundamental goal of eradicating consumer demand for counterfeit and pirated goods in Japan.

It is desirable to, while developing proper understanding of counterfeit and pirated goods among the whole public, consider the appropriateness and consistency of legislative and policy measures to be implemented in individual stages, including the ideas proposed at the committee, i.e. clarifying the requirement for customs controls on the importation of counterfeit and pirated goods committed by parties disguised as individuals, and introducing an administrative confiscation system for possession of such goods by individuals in Japan.

When considering legislative measures, we should properly understand that while it becomes easier to imitate or reproduce products with the advancement of technology and distribution methods becoming more global, importation of counterfeit and pirated goods committed by individuals may affect not only the private domain but also the industrial domain. We should also give consideration to satisfying various requirements under the existing Japanese legislations, such as guaranteeing property right and ensuring due process, while achieving a balance with other regulatory measures. Through

these efforts, it is important to limit the influence of such measures on individuals within an appropriate and reasonable extent.

In this context, with damage arising from the importation of counterfeit and pirated goods by parties disguised as individuals, IP laws should be reviewed in terms of the following: the “in the course of trade” requirement under the Trademark Law and other industrial property laws, or the requirement relating to the purpose of distribution under the Copyright Law, private use exception under the Copyright Law, and an ideal framework of copyright protection for works that are currently marketed in both tangible and intangible forms. The committee members discussed all these issues but had difficulty in reaching a consensus. Further study is required regarding the relationship between legal interest that might be infringed due to the importation of counterfeit and pirated goods by individuals and legal interest to be protected under IP laws.

The information on the actual damage arising from the importation of counterfeit and pirated goods by individuals in foreign countries as well as the legislative and other measures against such damage and the effects thereof will be helpful for our study in the future. In this study, we examined the trends in Europe and the United States. In order to correctly understand the legislative measures implemented in France and Italy and the effects thereof, it is necessary to continue collecting and analyzing information, because it has not been long since these measures were put into force. Considering that counterfeiting and piracy is an international issue, and its resolution is desired on a global scale, it is obvious that Japan should design measures that are in harmony with overseas measures, and to this end, we should continue paying attention to international trends.

There are many problems to be considered when seeking appropriate measures to cope with the importation, possession, and sale of counterfeit and pirated goods by individuals. In this study, we investigated the actual cases of damage and the latest legislative and policy measures implemented in major countries from all assumable perspectives and based on all information available at present, and discussed the present issue while aiming to maintain balance within the Japanese legal systems as a whole. We hope that based on the discussion results, this issue will be understood and discussed more widely so that both goals will be achieved equally to develop the Japanese industry

through appropriate protection and utilization of intellectual property and to improve the standards of wholesome, economic, and cultured living for Japanese citizens.

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