

## Research Study on the Protection of Trade Secret in the Appeal/Trial or the Like of the Japan Patent Office (Summary)

In the fiscal year 2017 (Heisei 29), the report on "the Review of the Intellectual Property System for Responding to the Fourth Industrial Revolution or the Like" by Patent System Subcommittee, Intellectual Property Committee, Industrial Structure Council, states "Concerning the advisory opinion (Hantei) system which allows to request the Japan Patent Office its advisory opinion on the technical scope of a patented invention (Article 71 of the Japan Patent Act), there is no restriction on the file inspection or the like even if the document contains a trade secret. It makes the difficult situations for companies to fully utilize the current advisory opinion system. The advisory opinion system enables small and medium enterprises who lack management resources or know-how enough to cope with intellectual property disputes to handle intellectual property disputes simply, quickly and inexpensively, and from the viewpoints to improve the convenience of the advisory opinion system, it is necessary to restrict the file inspection or the like of a document by the request from a party concerned, in cases where a trade secret is contained in such the documents relating to the advisory opinion." Accordingly, "Act for Partial Revision of the Unfair Competition Prevention Act, etc." promulgated as the Act No. 33 of May 30, 2018 (Heisei 30) includes matters measures that enables to restrict the file inspection of a document, if the document related to the advisory opinion system in the Japan Patent Office contains a trade secret.

In addition, while trade secrets become more important and social awareness thereof increases, it is expected that cases will increase where it is lodged that trade secrets is contained in a document submitted in the Appeal/Trial proceedings will increase, so it is necessary to establish more properly the operation for proceeding properly along with protecting the trade secrets in the submitted documents.

Accordingly, in the research study, based on the above background, it was aimed to prepare the basic materials necessary to consider the proper operations of the Japan Patent Office in case where it is lodged that a trade secret is contained in Appeal/Trial proceedings or the like.