

Review Survey on Consistency with TRIPS Agreement of Intellectual Property Related Laws and Regulations in Respective Countries

This report summarizes the matters examined by the "International Intellectual Property System Study Group" in FY2019.

In this year's Study Group, we discussed the situation surrounding intellectual property in international frameworks and bilateral and regional economic partnership agreements, as well as the situation surrounding intellectual property systems in various countries.

First, concerning the situation surrounding intellectual property in the international framework, in Chapter I, Section I, "Expansion of the Scope of U.S. Export Controls under the Export Administration Reform Act," the current status of strengthening technology controls in the U.S., including export controls for technology based on the Export Administration Regulations (EAR), etc., were examined, including the relationship with intellectual property.

In the same Chapter, Section II, "Recent Cases Concerning Medicinal Products", the status of Chinese genetic resources, developments in Indonesian patent law, and recent discussions at WHO was discussed.

In the same Chapter, Section III, "Trends of Discussions in the WTO/TRIPS Council and WIPO" of the same section, we discussed the current situation, issues, and measures that Japan should take, such as the possibility of applying non-violation to the TRIPS Agreement and incentives for technology transfer to least developed countries (LDCs).

In the same Chapter, Section IV, "Trends of Discussions at the Hague Conference on Private International Law Concerning Recognition of Enforcement of Foreign Judgments, etc.," we summarized and analyzed the current status of the legal system concerning the recognition of enforcement of foreign judgments, the systems in each country including the opinions of government study groups and related organizations, and the remaining issues about intellectual property.

Second, about the situation of intellectual property in bilateral and regional economic partnership agreements, in the "Comparative Survey of Intellectual Property Chapters in Recent RTAs" in Chapter 2, Section I, we compared and analyzed the major 10 RTA's (TPP 11 Agreement, Japan-EU EPA, AANZFTA, U.S.-Korea FTA, China-Switzerland FTA, China-Korea FTA, Indonesia EFTA, USMCA, EU-Singapore FTA, and EU-Vietnam FTA) concluded in recent years, focusing on the provisions on intellectual property enforcement and unfair competition in each RTA.

In the same Chapter, Section II, "Study on Consistency with Provisions on the Effectiveness of the Exercise of Rights in Response to Acts of Infringement in

International Agreements", we will examine the status of implementation of obligations and consistency with provisions related to the effectiveness of the exercise of rights in international agreements such as the TRIPS Agreement and the EPA with Japan. Besides, by confirming the provisions under relevant international agreements in five Asian emerging and developing countries (India, the Philippines, Thailand, Vietnam, and Indonesia) and collecting information on the damage situation regarding counterfeit goods and pirated copies and the actual situation of exercising rights, we examined the actual situation regarding the consistency with the provisions related to the exercise of IP rights in international agreements in the countries concerned.

Third, concerning the state of intellectual property systems in each country, Chapter 3, Section I, "Protection of Trade Secrets — Focusing on the international dimension—", examined recent trends in trade secret protection in Japan, the United States, and Europe, as well as each country's trade secret protection rules against trade secret infringement in foreign countries.

In the same Chapter, Section II, "Legal Issues Concerning Cross-border Transfers of Information and Data," the trends in countries regarding regulations on cross-border transfers to protect personal information and the consistency of regulations on cross-border transfers of information with the WTO Agreement were examined.

In the same Chapter, Section III, "Overview of Data Protection Legislation in Major Countries and Regions," we compared and reviewed the overview of data protection legislation in Japan, the EU, the US, China, Indonesia, Vietnam, and India.

In the same Chapter, Section IV, "Repair Clause on Design Right for Spare Parts", the outline, background, and history of the repair clause in the EU, recent trends such as the revision of the German Design Law, discussions on the consistency with Article 26, Paragraph 2 of the TRIPS Agreement, and the possibility of protection of spare parts in the U.S. and Asia were discussed concerning the protection of spare parts of composite products by design right.

In the same Chapter, Section V, "Trends in IP Systems in the U.S. and China," we surveyed recent trends in IP-related system revisions in the U.S. and China.

In the same Chapter, Section VI, "Analysis of Assessments and Benchmarks of IP Enforcement in Emerging and Developing Countries," Based on the evaluation of reports issued by the World Economic Forum, the Software Alliance (BSA), the Center for Global Innovation Policy of the U.S. Chamber of Commerce, the Property Rights Alliance, the Office of the U.S. Trade Representative, and the European Commission were included in the study, and the evaluations and benchmarks in each report were analyzed of nine countries (Brazil, Russia, India, China, Indonesia, the Philippines, Thailand, Vietnam, and Ukraine) as our survey target.