

Japan's intellectual property strategy

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Abstract

Initiated by a speech by the Japanese Prime Minister in 2002, an improved strategy for the creation, protection and use of intellectual property in the Japanese economy has rapidly evolved. The author outlines the major elements and achievements of the new strategy under five categories:

- Creativity and inventiveness (e.g. facilitating technology transfer from universities to the private sector).
- Protection (e.g. trilateral sharing of search and examination results, speedier examination, and the establishment of an IP high court).
- Exploitation (e.g. widening the range of organisations allowed to assist SMEs).
- Contents (mainly aspects of IP in the movie industry).
- Cultivating human resources (e.g. increased emphasis on IP education in universities).

Future work, in phase 2 through to 2009, in making Japan an 'IP Rich Country', will concentrate on building on these changes to integrate IP more fully into business growth.

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1. Japan's intellectual property (IP) strategy

The Japanese Government's decision to stress Japan's IP strategy was announced by Prime Minister Koizumi in a speech in February 2002 on Government Policy. He made clear that "We will make it a national objective to protect and leverage the results of R&D and creative activity as IP, etc.". This is the first time in Japanese history that the objective of making Japan an 'IP Rich Country' was defined as a national objective.

Based on this announcement the 'Basic Law on IP' was proposed in November 2002 defining the creation, protection and use of IP as a basic duty alongside other national

principles. In March 2003, the basic law of IP was passed and, with the Prime Minister as the leader, the intellectual property headquarters was set up as a Cabinet Secretariat combining the best and brightest from among the Cabinet and opinion leaders in the public forum (Financial leaders, Academic Heads, Research Institute Heads, Lawyers, Film Company Representatives, etc.). The job of the IP HQ is to play a central role in promulgating the new IP policy in liaison with other government departments and interested parties. Moreover, the IP HQ should decide the outline policies which the government should take to implement the 'IP Rich Country' policy including an important Annual IP Promotion Plan and thus be the overall coordinator and planner. This Annual IP Promotion Plan should not only yield concrete (measurable) results every year but in order to be able to respond shrewdly to actual conditions should adopt a rolling plan approach as used by companies and planners alike. Since its set-up the IP HQ has defined

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Chronology of Japan's IP Strategy

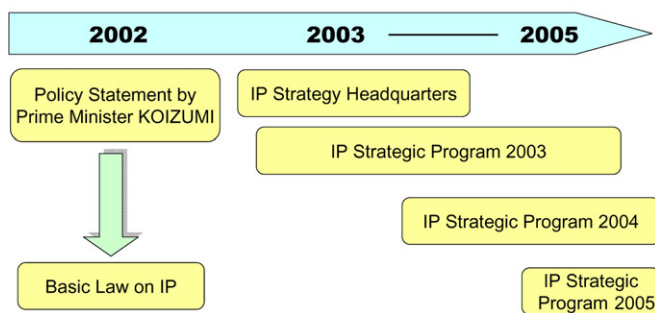


Fig. 1. Chronology of Japan's IP strategy.

policies in this way in each of 2003, 2004 and 2005 and, for example, has had great success in setting-up the IP High Court and the introducing the Patent Examination Acceleration Law. In the 'IP Promotion Plan 2005' launched in June 2005 some initiatives were 'Advocacy of a Treaty on Prevention of Diffusion of Counterfeits and Pirated Copies', 'Realising a World Patent', 'Protection of Trade Secrets', etc. resulting in the promulgation of 450 items of new or improved policy initiatives to promote IP (see Fig. 1). The basic features of these initiatives, up to 2004, are mentioned briefly in Section 5 of an article by Wada on 'Recent developments in Japan's intellectual property industry' [1].

2. Why is IP important now?

From an historical perspective we can say that placing importance in IP was a necessity in the economic development of Japan. At the start of the Meiji Era in Japan (1868–1912) 90% of the population were engaged in agriculture and so land was an important resource in feeding the people (resource based era). Later as industry and commerce developed in Japan we moved from a resource based economy to one based on machinery and facilities necessary for mass production of cheap goods. Later with the IT revolution the importance of software and invisible intelligence arose, in effect giving rise to the present age where IP itself is important (Era of IP dependence). All of these, as expressed in the phrase 'Knowledge Economics', mean that as advanced countries economic development progresses, the technological revolution and role of innovation is huge, with the result that the protection afforded by patents and know-how for advanced technology and the added value of knowledge become increasingly more important than before.

Also, with the advances in science and technology we must not lose sight of the fact that the scope of IP broadens. Patents were concerned with the way products were made but just as drugs themselves became patentable, software also became patentable and even DNA sequences became patentable. This all resulted from the need to respect the products of human intellectual input, economic

input and total human effort in a society where proper protection was essential to economic development.

Further, the value of IP other than patents and know-how has grown immeasurably. Companies have grown to value the role of Trademarks and Brands as IP which garner consumers' trust. Moreover copyright which protects movies, music and broadcast works has become extraordinarily important for the contents industry.

In an age when business is increasingly globalized, companies from every country compete aggressively in global markets. Against a background where the number of companies which place IP strategy at the core of their company activities is increasing, it is fair to say that if we build an attractive IP environment then companies will come to this country to carry out R&D. Indeed in an age where multinational companies select countries, they select based on the attractiveness of the market environment in that country. Against this backdrop it is imperative that Japan develop an attractive IP environment.

In order for a country such as Japan which lacks natural resources to maintain its position in the world economy we must not only cultivate human resources who are creative but also strategically create IP consisting of superior inventions and works, protect them and exploit them. It is essential that Japan exploits Japanese abilities in inventiveness and creativity in many fields, activate Japanese economic activity and contribute to the development of the world economy and culture with this 'IP Rich Country' policy.

3. Achievements of the new Japanese IP strategy

The annual IP Promotion Plan consists of activities in the five areas of (1) Creativity and inventiveness, (2) Protection, (3) Exploitation, (4) Contents and (5) Cultivating human resources and here we would like to elaborate on achievements in each of these activities.

(1) *Creativity and inventiveness*: In order to achieve an IP Rich Country we must first generate creative and revolutionary R&D results and we must have a mechanism to deliver the benefits of those R&D results to society. In particular the role of the large research resources at Universities and Research Institutes is very important. On the occasion of the establishment of national universities as legal entities from April 2004 we achieved the principle that for Industry-University collaboration or technology transfer projects in every University to happen we must apply the principle of reversion of the IP rights of the University Staff inventions to the University. To that end rules were formulated which stipulate that when a University has royalty like revenue then it must be distributed to researchers in accordance with rules to not only provide an incentive but also to reflect patent activity success in the evaluation of both the university and of the University staff. Moreover, for the strategic management and exploitation of IP resources to happen, 43 University IP Strategy Headquarters and 41 Technology Licensing Offices (TLO) were established nationwide and Industry-

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