



Revision to Japan's IP Laws in 2006

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The *Law to Revise a Part of the Design Law*, was passed by the Diet of Japan on June 1 2006, and announced publicly on June 7 2006. Although the title of this law primarily refers to the Design Law, it also makes important revisions to four major industrial property rights laws of Japan (*i.e.*, the *Design Law*, *Patent Law*, *Utility Model Law*, and the *Trademark Law*) and the *Unfair Competition Prevention Law*, for the purposes of strengthening the protection of intellectual property rights and augmenting measures that can be taken against unauthorized copies of products.

The revisions made by this law can be grouped into the four categories listed below. These categories are centered on the areas pointed out by the document entitled "Intellectual Property Strategic Programs 2005" produced by the Intellectual Property Policy Headquarters of the Cabinet of Japan. Each category encompasses a wide range of revisions. The primary revisions are:

Strengthening brand protection

The following revisions were made to increase the protection given to brands under Japanese law.

- (i) Service marks used by retailers can be protected as registered service marks in the United States and Europe. However prior to the revised *Trademark Law* in Japan, service marks used by retailers could not be registered as service marks. Instead, they were protected by registration as trademarks for products. It has therefore been decided that service marks used for services provided by retailers will be able to be protected as registered service marks, in order to harmonize Japan's system of protection with the international system, improve corporate utility, and protect service marks used by retailers in forms in which it is difficult to discern any specific relationship with individual products, such as trademarks used as the names of general retail stores.
Therefore, retailers in Japan must take measures with regard to the service marks they are presently using or planning to use so that they can be registered and receive proper protection. Interim measures have also been introduced to protect service marks that are currently being used.
- (ii) Corporations such as chambers of commerce and industry or NPOs established under special laws have been added as group trademark entities (enforcement date: September 1, 2006).

Strengthening design protection

The following revisions were made to strengthen design protection.

- (i) In order to protect design rights properly, the duration of design rights, which had been set at 15 years from the registration date, has been extended to 20 years.
- (ii) With advances in information technology, the growing use of equipment that is operated by using graphics, etc. displayed on screens ("screen designs") has increased the need for the protection of screen designs. Therefore, the scope of protection of screen designs has been expanded. As a result, it has been determined that screen designs displayed on other display equipment or on operational screens that follow the initial screens, which were not previously protected under the Design Law, will now also be protected.
- (iii) Standards for judging the similarity of designs have been included in the *Design Law* clearly.

Strengthening copy product measures

The following revisions have been made in order to reinforce measures against unauthorized copies of products inside Japan and to increase the effectiveness of regulations on such products. The revisions will be enforced on January 1 2007.

- (i) The scope of the definitions of "exploitation" and "use" of industrial property rights has been widened to include acts of exporting through revisions to the four main industrial property rights laws in Japan. As a result, it is possible to directly control acts of exportation of infringing products.
- (ii) Criminal penalties have been increased through revisions to the same main industrial property rights laws and the *Unfair Competition Prevention Law*.
- (iii) The term "transfer purpose possession" has been added to acts deemed to be an infringement of the *Design Law*, *Patent Law* and *Utility Model Law*.

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