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CABINET ORDINANCE REGARDING TRANSITIONAL MEASURES ACCOMPANYING ENFORCEMENT OF REVISED TRADEMARK LAW AND DESIGN LAW

The Japan Patent Office announced on October 27, 2006 a cabinet ordinance regarding revised Trademark Law and Design Law.

This ordinance results in that applications for trademark by plural wholesalers/retailers within three months from April 1, 2007, on which date the revised Trademark Law will be enforced, will be deemed to have the same filing date. As the current Japanese Patent Law adapts the first-to-file system, an application filed earlier is examined earlier. It is thus predicted that, immediately after the enforcement of the revised Laws, the number of applications would drastically increase. Therefore, a grace period will be provided to avoid such situation.

Further, in the revised Design Law, the term of protection of a registered design right, which is 15 years under the current Trademark Law, is extended to 20 years. This causes a difference of five years in the term of protection between a registered design right that is granted before the enforcement of the revised Design Law on April 1, 2007, and its registered related design right that is granted on or after the enforcement. In view of this circumstance, the owner of a registered principal design right will be entitled to its registered related design right even if the registered principal design right expires before expiration of the registered related design right.

MICROSOFT AND NOVELL ARE NOW IN ALLIANCE
~ STEP TO INTEROPERATION OF WINDOWS AND LINUX ~

Microsoft, U.S., and Novell, U.S., announced on November 2, 2006 their alliance. They announced that they would ensure interoperability between Linux and Windows in the fields of virtualization, operation management, office documents, etc. They agree with cross-licensing of their patents to their customers. Their alliance will continue until 2012 at the shortest.

Regarding the virtualization, Microsoft and Novell will work together to develop techniques for easier management of virtual machines. Regarding the operation management, they will cooperate to allow easier integration of Active Directory of Microsoft and eDirectory of Novell.

Regarding the office documents, they will cooperate to improve interoperability between Open XML, which is an XML format of Microsoft Office, and Open Document formats, which are adapted by OpenOffice.org and others. Novell will distribute an Open XML plug-in for OpenOffice.org and participate in the Open XML translator project.

With regard to the patents, Microsoft says they will not enforce their patent rights against users of SUSE Linux, an individual who develops the open sources on a non-profit basis, and an individual who contributes to Open SUSE.org.

According to the documents that Novell submitted to the SEC (U.S. Securities and Exchange Commission), Microsoft will prepay, under the business cooperation contract, 240 millions dollars to Novell as subscription fee for "SUSE Linux Enterprise Server". This will allow Microsoft to use, resale, and distribute the software so that its customers will be able to receive services from Novell, such as upgrading, updating, and one-year or plural-year subscription of technical supports.

Further, Microsoft will also prepay, under the patent cooperation contract, 108 millions dollars to Novell. Novell will be paying at least 40 millions dollars to Microsoft for five years, in accordance with sales of "Open Platform Solutions" and "Open Enterprise Server".

JAPANESE COMPANIES INCREASING THEIR PATENT APPLICATIONS IN CHINA

Japanese companies are increasing their patent applications in China. The number of patent applications filed in 2005 by Japanese companies is approximately 29,000, 12% increase compared to year 2004. This number is 2.2 times greater than that in 2001, in which year China joined the World Trade Organization (WTO). Matsushita Electric Industrial Co., Ltd. filed 2530 applications, a double of those in four years ago. Honda Motor Co., Ltd. filed 731 applications, 26% increase compared to year 2004. Japanese companies are intensifying their strategies in intellectual properties, as their business in China is expanding. However, patent applications in China will be published, in the same manner as patent applications in Japan. Thus, there is a concern about risks of outflows of techniques, in view of the current situations of unending copying and imitations.

According to the Japan Patent Office, the country where Japanese companies (including organizations and individuals) filed the largest number of overseas applications during year 2005 is U.S.; the number of the U.S. applications is 72,000. The country where Japanese companies filed the second largest number of overseas applications is China. Japanese companies filed more applications in China than in the Europe, where they filed 21,000 European applications. Since 2001, increase in the number of applications filed by Japanese companies is 18% in U.S., and only 5% in the Europe. The increase in China is significant.

Please Contact us if You have any Comments or Require any Information.

Please acknowledge that the purpose of our column is to provide general information on the field of intellectual property, and that the description here does not represent our legal opinion on a specific theme.

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