

TOPIC

1. Copyright of Chaplin's masterpiece is still in force; Intellectual Property High Court issued an injunction of low-priced DVDs.

チャプリン名画の著作権存続、知財高裁も廉価版DVD販売差止め

2. 3.7 times more patent applications filed by universities during last 3 years. Universities utilize their achievements for survival.

特許出願3年で3・7倍 大学生き残りかけ成果活用

3. Trademark "Shinpei ETOH" filed by a man from Saga prefecture is registered.

佐賀市の男性「江藤新平」を商標登録



Copyright of Chaplin's masterpiece is still in force; Intellectual Property High Court issued an injunction of low-priced DVDs. チャプリン名画の著作権存続、知財高裁も廉価版DVD販売差止め

In an appeal trial, in which a copyright-managing corporation of films of comedy king, Charlie Chaplin, filed for an injunction and sought damages against two DVD production companies in Tokyo, saying that copyrights were violated through which the companies reproduced and sold the low-priced DVDs of nine films such as "The Gold Rush" without permission, the Intellectual Property High Court affirmed the decision of Tokyo district court on February 28, 2008, in which the court issued an injunction and awarded the companies damages, thereby the Intellectual Property High Court dismissing an appeal of the DVD production companies.

The DVD production companies argued that the copyrights of nine films belong to a film production company and thirty-three years has passed after releasing the films thereby the copyright on the films being expired (under the old Copyright Law), whereas Mr. Mitsuru Shishido, the Chief Justice of the Intellectual High Court adopted the argument of the copyright-managing corporation, in which, since an original piece, a dramatic piece, directing, and playing of the nine films were all made by Chaplin and Chaplin as an individual person is the copyright holder, the copyright of each film exists for thirty-eight years after Chaplin's death (under the old Copyright Law).

(Intellectual property information

agency:http://news.braina.com/2008/0228/judge_20080228_002____.html)

喜劇王チャーリー・チャプリンの作品の著作権管理法人が、「黄金狂時代」など9作品の廉価版DVDを無断で複製・販売して、著作権を侵害したとして、東京都内のDVD制作会社2社に販売差し止めや損害賠償などを求めた訴訟の控訴審で、知財高裁は平成20年2月28日、同DVDの販売差し止めと損害賠償を命じた東京地裁の判決を支持、DVD制作会社側の控訴を棄却した。

DVD制作会社側は、9作品の映画の著作権は映画制作会社にあり、公開後33年(旧著作権法)であるから、すべて、著作権は満了していると主張していたが、知財高裁の宍戸充裁判長は、9作品はチャップリンが原作、脚本、監督、出演などをしており、チャップリン個人が著作権者であり、いずれの作品もチャップリンの死後38年(旧著作権法)は著作権が存続するとの著作権管理法人側の主張を採用した。

(知財情報局:http://news.braina.com/2008/0228/judge_20080228_002____.html)

3.7 times more patent applications filed by universities during last 3 years. Universities utilize their achievements for survival. 特許出願3年で3.7倍 大学生き残りかけ成果活用

According to a summary of the Ministry of Education, Culture, Sports, Science and Technology of February 27, 2008, the number of patent applications filed in Japan and foreign countries by higher education institutions such as national, public and private universities, junior colleges and tertiary colleges in the fiscal year of Heisei 18th (April, 2006 - March, 2007) accounts for 9,090 which is 3.7 times more than in the fiscal year of Heisei 15th (April, 2003 - March, 2004) which can be compared with.

Further, the number of cases in which patents were actually used, such as cases in which filed applications were commercialized, expanded significantly, accounting for 2,872 which is 15.5 times more.

The Ministry of Education, Culture, Sports, Science and Technology were implementing five measures such as "improvement project of universities intellectual property center" for 6 years from the fiscal years of Heisei 13th to 18th (April, 2001 - March, 2007), aiming at returning study results to community, for example establishing venture companies by universities. The Ministry evidences by inspection the effect of these five measures with comprehensive evaluations.



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The sum of an estimated cost invested during the period was approximately 110 billion yen, whereas it is estimated that the economical impact corresponds to more than double, approximately 230 billion yen. The Ministry analyzed that "each of universities such as incorporated national universities actively utilizes the achievement of study for survival".

(MSN Sankei News:

<http://sankei.jp.msn.com/life/education/080227/edc0802270839001-n1.htm>)

国公立の大学や短大、高専などの高等教育機関が平成18年度に国内外で出願した特許は9090件に上り、比較可能な15年度の3.7倍に増えたことが平成20年2月27日、文部科学省のまとめで分かった。

出願した特許が商品化につながるなど実際に活用された特許実施件数は2872件で、15.5倍とさらに大幅な伸びを示した。

文部科学省は、大学によるベンチャー企業の創設など研究成果の社会還元を目的に13～18年度の6年間に実施した「大学知的財産本部整備事業」など5つの施策の効果を「総合評価」で検証。

この間に投入した予算の総額が約1100億円だったのに対し、経済的な効果は倍以上の約2300億円に相当すると見積もっており、文部科学省は「法人化した国立大をはじめ、各大学が生き残るため研究成果を積極的に活用しているのではないか」と分析している。

(MSN産経ニュース:

<http://sankei.jp.msn.com/life/education/080227/edc0802270839001-n1.htm>)

Trademark "Shinpei ETOH" filed by a man from Saga
prefecture is registered.
佐賀市の男性「江藤新平」を商標登録

It is reported that trademark "Shinpei ETOH" filed by a man running a confiserie in Saga prefecture is registered. Shinpei ETOH (1834 - 1874) was a samurai warrior from Saga province and was instrumental in developing Japanese modern judicial system.

In Japanese Trademark law, the name of another living person cannot be registered, but there is no clear provision with regard to that of historical persons and examiner of the JPO is judging respective cases. Therefore, there may be a case in which the registration of such a trademark is accepted, if the examiner judges that there is no possibility to take advantage of the reputation or to dishonor the historical person.

With respect to the problem over historical persons, it is known that a trademark "Shouin YOSHIDA" was registered in Hagi City, Yamaguchi prefecture and a trademark "Shinsaku TAKASUGI" and "Kogoro KATSURA" filed by a company from Tokyo were also registered in fall 2007.

In addition, the Saga City has filed an opposition with the JPO on February 15, 2008, saying that "the trademark could be used in such a way to harm his image".

(Saga Newspapers HP:

<http://www.saga-s.co.jp/view.php?pageId=1036&blockId=803032&newsMode=article>)

佐賀藩出身の志士で、近代司法制度の整備に尽力した江藤新平(1834—74年)の名前を、佐賀市で菓子店を営む男性が商標登録していることが分かった。

商標法では、生きている他人の名前は登録できないが、歴史上の人物は明確な規定がなく、個別に特許庁の審査官が判断することになる。このため、名声に便乗したり、名誉を傷つけたりする可能性がないと判断すれば、商標登録が認められるケースもある。

歴史上の人物をめぐる問題では、平成19年秋、山口県萩市で同市出身の吉田松陰、高杉晋作、桂小五郎が、東京都の業者から商標登録されていることが判明している。なお、佐賀市は「イメージを損なう使われ方をする恐れがある」として平成20年2月15日、特許庁に異議申立書を提出している。

(佐賀新聞HP:

<http://www.saga-s.co.jp/view.php?pageId=1036&blockId=803032&newsMode=article>)



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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.

OSAKA HEAD OFFICE

ADDRESS: DAIWA MINAMIMORIMACHI BLDG.,
2-6, 2-CHOME-KITA, TENJINBASHI,
KITA-KU, OSAKA 530-0041, JAPAN

CABLE: KENZOPAT OSAKA

E-MAIL: kenzopat@mars.dti.ne.jp

WEBSITE: <http://www.harakenzo.com>

TELEPHONE: +81-6-6351-4384 (Key Number)
+81-6-6351-4397 / +81-6-6351-4374
+81-6-6351-4630 / +81-6-6351-4670

FACSIMILE: (GII, GIII)
+81-6-6351-5664 (Key Number)
+81-6-6351-2682 / +81-6-6351-5611
+81-6-6355-0986



OSAKA 2ND OFFICE

ADDRESS: MITSUI SUMITOMO BANK
MINAMIMORIMACHI BLDG., 1-29,
2-CHOME, MINAMIMORIMACHI,
KITA-KU, OSAKA 530-0054, JAPAN

E-MAIL: kenzopat@mars.dti.ne.jp

WEBSITE: <http://www.harakenzo.com>

TELEPHONE: +81-6-6351-4384 (Key Number)
+81-6-6351-4397 / +81-6-6351-4374
+81-6-6351-4630 / +81-6-6351-4670

FACSIMILE: (GII, GIII)
+81-6-6351-5664 (Key Number)
+81-6-6351-2682 / +81-6-6351-5611
+81-6-6355-0986



TOKYO HEAD OFFICE

ADDRESS: WORLD TRADE CENTER BLDG. 21F
2-4-1, HAMAMATSU-CHO, MINATO-KU,
TOKYO 105-6121, JAPAN

E-MAIL: hara-tyk@muse.dti.ne.jp

WEBSITE: <http://www.harakenzo.com>

TELEPHONE: +81-3-3433-5810 (Key Number)
+81-3-3433-5811 / +81-3-3433-5812

FACSIMILE: +81-3-3433-5281 (Key Number)
+81-3-3433-5286

