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## Japanese government issues the 2009 Plan for the Promotion of Intellectual Property 日本国政府「知的財産推進計画2009」を策定

The Intellectual Property Strategy Headquarters of the Japanese government issued on June 24, 2009 the 2009 Plan for the Promotion of Intellectual Property, which focuses mostly on the expansion of patent scope in the field of advanced medical technology. The Plan proposes, among others, to include inventions connected with Induced Pluripotent Stem cells (iPS cells) technology and with drug dosage and administration to the scope of patentable inventions.

iPS cells have been raising high expectations in a wide variety of domains, especially regarding medical applications in the field of regenerative medicine. However, much ambiguity remained in Japan over the technologies eligible for patent protection – for example regarding the patentability of methods for producing cells from iPS cells. The clarifications brought by the 2009 Plan over patentable technologies are therefore likely to give a boost to the efforts of companies and research institutes.



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In Japanese practice, the scope of patentable inventions in the medical field is limited to products such as medical supplies and instruments and to the related methods, while surgery, therapy and diagnostic methods are not considered as patentable. The Plan underlines the necessity to clarify that a drug having the same components as an existing drug can also be protected as a patent if requirements such as novelty and inventive step (for example through an alteration of the original dosage allowing for a reduction of the risk of side effects) are met. Other makers would then be able to enter the market after the expiration of the twenty-year term for the patent related to the composition of the original drug, resulting in a competition between cheaper generics and a new version (for example with improved dosage) of the original drug. Intensified drug research is also expected to result in less expensive drugs for patients. The government will undertake a review of the Examination Guidelines before the end of the year.

## Reference:

(i) <http://mainichi.jp/life/money/news/20090625k0000m020056000c.html>(ii) <http://www.asahi.com/health/news/TKY200906200077.html>

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日本国政府の知的財産戦略本部は2009年6月24日、先端医療分野での特許範囲の拡大などを盛り込んだ「知的財産推進計画2009」を決定した。再生医療などへの応用が期待される人工多能性幹細胞(iPS細胞)の関連技術や、医薬品の用法や用量に関する発明を特許審査の対象に含めることなどを提言した。

iPS細胞は医療を中心に幅広い応用が期待されている。しかし、iPS細胞から他の細胞を作り出す際の手法など、どのような技術が特許の対象となるかあいまいな点が多かった。そこで、特許対象となる関連技術を明確化することで、企業や研究機関の取り組みを後押しする。

また、日本国における医療分野の特許審査の対象は、医薬品や医療機器などの物や製造方法に限定されており、手術や治療、診断方法は対象外となっている。推進計画は、成分が同じでも、服用法を見直すことで副作用のリスクを減らすなどの新規性・進歩性等が認められれば特許として保護することを明確化すべきであるとした。これにより、物質の特許期間である20年を過ぎれば、他メーカーも参入可能で、安価な後発薬と、服用法に工夫を加えた先発薬が、市場で競合することになる。新薬の研究にさらに力を注ぐことで、患者にとって負担のより少ない薬を提供できるようになることも期待される。政府は年内にも審査基準の見直しに着手する。

(i) <http://mainichi.jp/life/money/news/20090625k0000m020056000c.html>(ii) <http://www.asahi.com/health/news/TKY200906200077.html>



## Patent Prosecution Highway continues its worldwide expansion with the inclusion of Hungary

### 特許審査ハイウェイ(PPH)、世界10か国に拡大

The Japan Patent Office (JPO) and the Hungarian Patent Office agreed to launch a trial version of the Patent Prosecution Highway (PPH) on August 3, 2009, following a meeting between the commissioners of both offices held in Hungary on June 30, 2009. With this agreement, Hungary becomes the second PPH partner of Japan in Eastern Europe, following the earlier inclusion of Russia. This brings the number of Japan's PPH partners to ten countries, with the total number of patent filings received by the patent offices of these ten countries and of Japan representing around 65% of worldwide patent filings. The PPH network, which allows the companies of each participating country to protect their inventions in a faster and more efficient way, continues to expand.

Japan launched the world's first PPH with the USA in 2006. So far, Japan signed agreements and successfully implemented the PPH with nine major patent offices (the USA, Korea, the United Kingdom, Germany, Denmark, Finland, Russia, Austria and Singapore). With the objective to support the fast and efficient acquirement by Japanese applicants of patent rights abroad, the Japanese government is planning to expand even further the PPH network, through negotiations with the European Patent Office (EPO) and the Canada Intellectual Property Office.

#### Reference:

(i) <http://www.meti.go.jp/press/20090630012/20090630012.html>

2009年6月30日、ハンガリーで開催された日ハンガリー特許庁長官会合において、両庁は特許審査ハイウェイ(PPH)の試行を2009年8月3日から開始することに合意した。日本とハンガリーとのPPH締約は、日本にとっては東欧地域ではロシアに次ぎ2か国目となる。これにより、我が国とのPPH締結国は10か国に拡大し、我が国と当該10か国の出願件数を合わせると世界の特許出願の約65%を占めることとなった。この結果、各国の企業がより迅速・的確に発明を権利化するためのPPHの取り組みが、更に拡大されることとなった。

2006年、日本は米国と世界で初めてPPHを開始した。それ以来、既に世界主要9か国の特許庁(米国、韓国、英国、ドイツ、デンマーク、フィンランド、ロシア、オーストリア、シンガポール)とPPHを締結し、順次取り組みを開始している。今後も日本国政府は、日本国出願人の外国における迅速・的確な権利取得を支援すべく、更なるPPHのネットワーク拡大のため、欧州特許庁(EPO)やカナダ特許庁等とPPH締結に向けた交渉を行っていく予定としている。

(i) <http://www.meti.go.jp/press/20090630012/20090630012.html>



## China tightens its trademark examination 中国、商標登録の審査厳格化

The unauthorized use by Chinese companies of Japanese place names as trademarks has been an issue recently. In what constitutes the latest development on this matter, the China Trademark Office (CTMO) reportedly decided not to register as trademarks the name of eight Japanese prefectures that had been applied for by Chinese companies or individuals. The prefectures in question are Nagano, Shizuoka, Kyoto, Nara, Hiroshima, Kagawa, Fukuoka and Kagoshima.

The JPO perceives the decision of the CTMO as proof that China, by making trademark examination stricter, had changed its attitude towards the issue.

According to the JPO, a growing number of Chinese or Taiwanese companies and individuals having no relation to the corresponding Japanese communities are filing applications for trademarks using the names of Japanese prefectures or cities, in an attempt to strengthen the brand image of products such as tea, medicine and clothing. As this practice poses a threat to Japanese exports, the Japanese government requested the CTMO and the Taiwan Intellectual Property Office to address the problem.

The JPO is currently trying to obtain a better understanding of the situation, and intends to request support at the governmental level.

### Reference:

- (i) [http://news.braina.com/2009/0630/move\\_20090630\\_001\\_\\_\\_\\_.html](http://news.braina.com/2009/0630/move_20090630_001____.html)
- (ii) <http://www.47news.jp/CN/200906/CN2009062901000469.html>

日本の地名が中国の現地企業などによって農産物などの商標に無断で使われている問題で、中国当局が2009年6月までに「長野」「静岡」「京都」など八つの府県名について、中国の企業や個人が申請した商標出願を認めない決定をしたことが分かった。

認められなかった県名はほかに、奈良、広島、香川、福岡、鹿児島がある。日本国特許庁は「中国側から厳格に審査するとの回答があるなど、この問題に対する姿勢に変化が見られる」と説明している。

日本国特許庁によると、日本の地方自治体とは関係がない中国や台湾の企業や個人が、茶などの飲料や薬品、衣料品といった商品で、ブランド力を高める狙いから県や政令市名を使った商標を出願するケースが相次いでいる。日本からの輸出に支障が出る恐れがあるため、日本政府は中国、台湾当局に問題改善に向けた対応を求めていた。

日本国特許庁では、実態の把握・分析に努めるとともに、政府レベルでの働きかけ等の支援策に取り組んでいくとしている。



(i) [http://news.brainia.com/2009/0630/move\\_20090630\\_001\\_\\_.html](http://news.brainia.com/2009/0630/move_20090630_001__.html)

(ii) <http://www.47news.jp/CN/200906/CN2009062901000469.html>

## Sony joins a defensive service against patent trolls ソニーがパテントロール対策のサービスに加入

Sony has become a member of the RPX Defensive Patent Aggregation, a US fund specialized in patent acquisition. Through this move, the Japanese electronics giant is seeking to avoid lawsuits from so-called “patent trolls” – companies which, even though they do not conduct any research & development and do not manufacture any products, acquire patents in the sole objective to bring infringement lawsuits against manufacturers. Following Seiko-Epson and Panasonic, Sony is the third Japanese member of RPX.

There is an estimated 200 patent trolls in the USA. Most of these companies use their investors’ money to constitute a capital through the acquisition of patents, before suing manufacturers for infringement in order to obtain from them a monetary settlement. The money from the settlement is then redistributed to the investors. Recent years have seen a sharp increase in the number of cases where the target is an Asian company.

It is in this context that RPX is offering its defensive patent service. The service allows member companies to reduce the risk of litigation by having RPX buy patents related to their line of business before patent trolls.

### Reference:

(i) <http://www.asahi.com/business/update/0623/TKY200906220349.html>

(ii) <http://www.jiji.com/jc/zc?k=200906/2009062500566>

自らは研究開発も製造もしないのに特許権を買い集め、メーカーを相手に知財侵害訴訟を起こす「パテントロール」と呼ばれる米国企業への対策として、ソニーは米国の特許専門ファンド「RPX」と提携した。日本企業ではセイコー・エプソン、パナソニックに次いで3社目の提携となる。

「パテントロール」は米国に200社以上あるとされる。その多くは投資家から集めた資金を元手に特許を買い集め、特許侵害でメーカーを訴えて和解金を得て出資者に分配している。近年はアジアメーカーが狙い撃ちされる事例が急増している。

このような中、RPXは、特許防衛サービスを提供している。企業は、自社の事業と関連しそうな特許を、パテントロール側にも買われる前にRPXに先回りして買ってもらい、訴訟リスクの軽減につなげる。

(i) <http://www.asahi.com/business/update/0623/TKY200906220349.html>

(ii) <http://www.jiji.com/jc/zc?k=200906/2009062500566>



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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.

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