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## International trademark applications in 2010 marked a 12% increase 2010年の国際登録出願、12%増加

On April 4 2011, the World Intellectual Property Organization (WIPO) announced that the number of international trademark applications WIPO received in 2010 was 39,687, or 12.8% more from the previous year. Registrations from Korea (+42.2%), China (+42%), Italy (+38.7%), U.S.A. (+29.6%), Europe (26.9%) and Japan (+20.2%) have largely increased.

As far as applications by country are concerned, last year's leader Germany was at the top again with 5,006 applications, constituting 12.6% of the overall number. The European Union and the U.S.A. followed in second and third places respectively, and Japan ranked ninth.

In addition, China continued to rank as the most designated country, while Japan came in sixth place.

世界知的所有権機関(WIPO)は2011年4月4日、2010年に受領した国際商標登録出願の件数が前年比12.8%増の3万9687件だったと発表した。大きく増大したのは、韓国(+42.2%)、中国(+42%)、イタリア(+38.7%)、アメリカ(+29.6%)、欧州(26.9%)、日本(+20.2%)からの登録である。

国別では、首位が前年同様ドイツで、出願数5,006件と全体の出願数の12.6%を占めた。その後は、2位欧州連合、3位アメリカと続き、日本は第9位にランク付けされた。

また、指定国別では中国が前年に引続き首位となり、日本は6位となった。

## Osaka High Court orders injunction against Hikonyan-similar goods 大阪高裁、ひこにゃん類似商品差止命令

Concerning goods related to "Hikone no Yoi Nyanko", a cat character designed by the original creators of Hikonyan, the feline mascot character of Shiga Prefecture's Hikone city, at an immediate appeal hearing where the city requested injunction against said goods on March 31, 2011, the Osaka High Court reversed a District Court decision and ordered a provisional injunction, prescribing suspension on the sale of some of said goods.

The decision for provisional injunction comes after the city of Hikone concluded a copyright agreement concerning Hikonyan in 2006 and although it was assigned adaptation rights with regard to creating three-dimensional objects based on the original illustration, a dispute arose.

The city has asserted that Hikone no Yoi Nyanko has very similar shape and features to Hikonyan and that the production and sale of said related goods infringe copyright. On March 28, 2011, it filed a lawsuit with the Osaka District Court against the original creators on grounds of violation of the Copyright Law and the Unfair Competition Prevention Law.

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滋賀県彦根市の人気キャラクター「ひこにゃん」の原作者が考案した別キャラクター「ひこねのよいにゃんこ」の関連グッズをめぐる、市が販売の差止めを求めた仮処分申請の即時抗告審で、大阪高裁は2011年3月31日、地裁の決定を取り消し、一部関連グッズについて、販売の差止めを命じる仮処分決定を下した。

仮処分の決定では、市が2006年に「ひこにゃん」に関する著作権の契約を締結した際、原作のイラストを基にした立体物を作る権利(翻案権)についても譲渡されたかが争点となった。

市は、「ひこねのよいにゃんこ」は、「ひこにゃん」と姿や形がよく似ており、当該関連グッズの製造販売は市の著作権を侵害すると主張。2011年3月28日に、原作者らを著作権法および不正競争防止法に違反するとして、大阪地裁に提訴している。

Taiwanese Patent Act amendment bill passes examination by the  
Economics Committee of the Legislative Yuan  
台湾専利法改正案、立法院審査会の審査を通過

On April 6, 2011, the Economic Committee of the Legislative Yuan in Taiwan completed its examination of an amendment to the Taiwanese Patent Act. The contents of the examined amendment are generally as follows:

1. Excluding animal- and plant-related inventions from non-patentable items and making it possible for them to obtain protection.
2. Introducing regulations for restoration of rights. Regulations to restore rights in the event of involuntarily failing to claim a priority right at the time of filing an application or not being able to pay annuities in the prescribed period will be established.
3. Relaxing the time limit for filing a divisional patent application. That will make it possible to file a divisional application within thirty days from the date of dispatch of the notification for decision of patent grant after the original examination.
4. Relaxing the time limit for filing voluntary amendments.
5. Revising the regulations on extension of the term of patent right duration with regard to medication and agrichemicals.
6. Revising the regulations concerning patent infringement lawsuits. For instance, clarifying subjective requirements of infringement, calculation methods of compensations for damage, handling of patent marking, etc.
7. Revising regulations concerning invalidation trials.
8. Adding partial designs, computer-generated icons and graphic user interfaces to the items eligible for design protection.
9. Introducing systems for designs for a set of articles and related designs.

Further, the examined Patent Act amendment draft is to be passed by the Legislative Yuan and enforced as a law.

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2011年4月6日、立法院審査会において台湾専利法改正案の審査が終了した。

審査を通過した改正内容は概ね次のとおりである。

①動植物に係る発明を不特許事由から除き特許保護を認める。②権利回復規定の導入。故意でなく、出願時に優先権を主張しなかった場合若しくは期限までに年金を納付せず、権利を失効させた場合に、その権利を回復させる規定を新設する。③特許出願の分割出願可能な時期の緩和。初審査の特許付与査定書の送達日から30日以内であれば分割出願を行うことを可能とする。④自発補正の時期的制限の緩和。⑤医薬品又は農薬に関する特許権の期間延長の規定の改正。⑥特許侵害訴訟に関する規定の改正。例えば、権利侵害の主観要件の明確化・損害賠償の計算方法・特許表示の取扱いなど。⑦無効審判に関する規定の改正。⑧部分意匠、アイコン及びGUI(グラフィックユーザーインターフェース)を意匠保護の対象に追加する。⑨組物の意匠、関連意匠制度の導入。

なお、審査を通過した特許法改正案は今後、立法院院会での可決を経て、法律として施行される。

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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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