The Japan Patent Office (JPO) website has published the thoughts of its Director for the start of the year. The content is interesting as it give the reader an overview of the policies that the JPO will be pursuing this year.

The start of the article looks at the organization and transmission of examination precedents in the field of AI, as well as the use of AI technology in examinations etc.

Next, the article covers support for small and medium-sized enterprises, specifically the across-the-board 50% reduction in patent fees and the simplifying of procedures for applying for fee reductions that will be introduced for small and medium-sized enterprises in April 2019.

The article also looks at the richness of the IP litigation system and the design system, along with the
strengthening of the trademark examination system etc. Regarding the richness of the IP litigation system, while it is suggested that it is possible to quickly and effectively take action against infringement, there are no details given. Regarding the richness of the design system, it is pointed out that under the present system, images projected on walls and images displayed on the internet etc. are not protected. Also, the article states the understanding that the need for protection of shop designs and designs based on consistent concepts etc. is increasing. Further, the article looks at the strengthening of the examination system to allow for faster trademark examinations. This is based on the increased numbers of trademark applications being filed and the understanding that fast trademark examinations are the key to inbound consumption.

The Kobe Beef Marketing & Distribution Promotion Association (below: the Association), which is formed of farmers and distributors based in Hyogo prefecture, has embarked on a project to understand how restaurants etc. are using the name "Kobe Beef", with the aim of correcting use of the name. The Association defines "Kobe Beef", "Kobe Niku" as meat with an A4 or B4 classification or higher, from cattle produced in Hyogo prefecture from Arima livestock. It provides a system of registration for producers and sellers of Kobe Beef which it has used to increase trustworthiness of the brand.
However, with the healthy increase in foreign visitors to Japan, there has been a sharp increase in restaurants in Kobe city, particularly around the Chinatown area, that are not registered with the Association. Since there is a possibility that there are restaurants using the name "Kobe Beef" without registering, there have been requests from within the Association for an examination of how the name is actually being used.

"Kobe Beef", "Kobe Niku" and "Kobe Gyu" were registered as regional collective trademarks in 2007, which means that if a restaurant uses the name "Kobe Beef" without permission, it may be subject to an injunction or required to pay compensation for damages. Also, under protection from the Geographical Indicator system which affirms the geographical origin of goods, if there are restaurants using the GI unlawfully, it will be possible inform the government, upon which the government may take measures to remove the name "Kobe Beef", etc.

On December 19, 2018, the Japanese government decided on a policy aimed at constructing international data distribution zones. As a result, while it will be possible to freely distribute information/data to countries or regions that have been confirmed as correctly handling personal and corporate information, there will be limits placed on the transfer of data to countries or regions that do not sufficiently protect personal information etc.
As a first step towards constructing international data distribution zones, there are plans to establish a stricter system for handling personal information, and to revise the personal data protection law to establish a system of fines for those who leak personal information, etc.

The EU's General Data Protection Regulation (GDPR) was introduced on May 25, 2018. Following on from this, Japan may now be finally taking concrete steps towards bringing its system for handling personal information in line with international standards.

Partial Revision to Design Law Examination Guidelines

A partial revision to the examination guidelines for designs was published on January 9, 2019. The new guidelines have been used in examinations of design applications from January 10, 2019. The revised sections are: (1) Section 5: One application per design; (2) Section 7 Chapter 2: Design for a set of articles; and (3) Section 13 appendix: Table of constituent articles of a set.

Revised content

Clarification and changes to handling of the concept of one article per design

(1) Writing the "articles of design" field

Even if a description includes a mention of shape or material, the matter of whether said description corresponds to a class of design article will be judged flexibly.
Examples of descriptions that will not constitute reasons for refusal after revision: "red vase"; "circular table".

(2) Regarding consideration of single articles
In the case of a design comprising multiple parts, judgement will be made not only with the supplementary consideration of whether all those parts are essential in order to carry out a specific use or function, but of whether those parts, even if they are not essential, have a singular form or are unified at the time of construction, use or distribution.

(i) Examples of multiple-part designs judged to be single articles
[Example 2]: "Deck of playing cards"

A deck of playing cards is widely understood to have four suits (hearts, diamonds, clubs and spades) each containing 13 cards, plus jokers. It is commonly known in society that the use and function of a deck of playing cards requires all the cards to be included, and therefore the deck of playing cards is judged to be a single article.

(ii) Examples of designs judged to be multiple articles
[Example 2]: "Gift set"

Many gift sets are sold to be given as presents and as such consist of a container containing multiple goods. There are many different combinations of goods in various gift sets, and furthermore there may be a variety of different goods in a single set. Since all these parts are not deemed to fulfil a single use or function, the design is not judged to be a single article.
(3) Constituent articles of a set

Before the revision to the guidelines, there were limits placed on the constituent articles of designs comprising sets of articles. However, if the constituent articles fall within the scope of articles that are commonly known in society to be used together, the inclusion of these articles is at the discretion of the applicant.

意匠審査基準の一部改訂について、2019年1月9日に公表された。2019年1月10日以降に審査される意匠登録出願に適用される。「第5部 一意匠一出願」、「第7部第2章 組物の意匠」及び「第13部 別添 組物の構成物品表」が改訂された。

改訂の内容
一物品・一意匠の考え方等の明確化・運用の見直し

(1) 「意匠に係る物品」の欄の記載
形態や材料について言及があっても、意匠に係る物品の区分と実質的に同程度の記載と判断できるものについては、柔軟な取り扱いをする。
○改正後、拒絶理由の対象とならないものの例：「赤色の花瓶」、「円形テーブル」

(2) 一物品の考え方について
複数の物体からなるものの場合、それら全てが一の特定の用途及び機能を果たすために必須である場合に加え、必須とは言えなくても、一の形態としてのまとまりや、製造・使用・流通時的一体性があれば、それらも補完的に考慮して判断する。審査基準に、多くの事例が記載されている。

①一の物品と判断されるものの例

【事例２】「トランプ」

トラップは、ハート、ダイヤ、クラブ、スペードの13枚4組にジョーカーを加えたカードゲームとして広く知られており、社会通念上トランプの用途及び機能を果たすためにはこれらのカードが揃っていることが必須であることから、一の物品と判断される。

【事例３】 「容器付きゼリー」
②二以上の物品と判断されるものの例

【事例2】「ギフトセット」

ギフトセットは、贈答用に販売するために複数の物品を一の容器に入れて販売されるもので、その組み合わせが様々な存在する。内容物として多数の物品が含まれており、これら全てが一の固有の用途及び機能を果たすためのものとは認められないことから、一の物品と判断することはできない。

(3)組物の意匠の構成物品

改正前、組物の意匠の構成物品は限定されていたが、社会通念上同時に使用される物品の範囲内で、出願人の任意とされた。

Adjustment of systems related to IP in China

As can be seen from the steep drop in share prices in many countries at the end of 2018, there is a fear that the ongoing confrontation between the US and China will continue for a long time, causing strong uncertainty in the global economy. The Trump administration is not only demanding that Xi Jinping's administration reduces the US trade deficit with China, but threatened by China's ambition of dominance in the field of cutting-edge technologies, is also demanding a strengthening of protections for intellectual property.

During this ongoing situation, China announced on December 29, 2018 that from January 2019, the Supreme People's Court (equivalent to the Supreme Court in Japan) will begin holding 'IP tribunals' that are exclusively for the purpose of resolving disputes regarding IP. Also, on January 7 and 8, 2019, trade talks between the US and China were held in Beijing at which the issue of IP infringement by China was discussed.
The US and China have until March 1, 2019 to find a way of breaking the deadlock in negotiations. It will be necessary to watch closely to see how China adjusts its IP systems in response to the increased strength in demands from the US.
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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Below are links to further IP information.
### TOKYO HEAD OFFICE

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

**TELEPHONE:**
+81-3-3433-5810 (Main Number)

**FACSIMILE:**
+81-3-3433-5281 (Main Number)

**WEBSITE:**
http://www.harakenzo.com
http://trademark.ip-kenzo.com
http://design.ip-kenzo.com
http://www.intellelution.com

**E-MAIL:**
iplaw-ty@harakenzo.com

### OSAKA HEAD OFFICE

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

**TELEPHONE:**
+81-6-6351-4384 (Main Number)

**FACSIMILE:**
+81-6-6351-5664 (Main Number)

**WEBSITE:**
http://www.harakenzo.com
http://trademark.ip-kenzo.com
http://design.ip-kenzo.com
http://www.intellelution.com

**E-MAIL:**
iplaw-osk@harakenzo.com

### OSAKA 2nd OFFICE

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

**TELEPHONE:**
+81-6-6351-4384 (Main Number)

**FACSIMILE:**
+81-6-6351-5664 (Main Number)

**WEBSITE:**
http://www.harakenzo.com
http://trademark.ip-kenzo.com
http://design.ip-kenzo.com
http://www.intellelution.com

**E-MAIL:**
iplaw-osk@harakenzo.com

### HIROSHIMA OFFICE

**ADDRESS:**
NOMURA REAL ESTATE HIROSHIMA BLDG. 4F 2-23, TATEMACHI, NAKA-KU, HIROSHIMA 730-0032, JAPAN

**TELEPHONE:**
+81-82-545-3680 (Main Number)

**FACSIMILE:**
+81-82-243-4130 (Main Number)

**WEBSITE:**
http://www.harakenzo.com
http://trademark.ip-kenzo.com
http://design.ip-kenzo.com
http://www.intellelution.com

**E-MAIL:**
iplaw-hsm@harakenzo.com

### NAGOYA OFFICE

**ADDRESS:**
GLOBAL GATE 9F, 4-60-12 HIRAIKE-CHO, NAKAMURA-KU, NAGOYA-SHI, AICHI 453-6109, JAPAN

**TELEPHONE:**
+81-52-589-2581 (Main Number)

**FACSIMILE:**
+81-52-589-2582 (Main Number)

**WEBSITE:**
http://www.harakenzo.com
http://trademark.ip-kenzo.com
http://design.ip-kenzo.com
http://www.intellelution.com

**E-MAIL:**
iplaw-ngy@harakenzo.com