



TOKYO WTC HARAKENZO
50th Anniversary in 2026

特許業務法人
HARAKENZO
WORLD PATENT & TRADEMARK
INTELLECTUAL PROPERTY LAW FIRM

Newsletter
DESIGN & TRADEMARK

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JAPAN

TOPICS



Revisions to Trademark Act and Design Act – Imported Counterfeit Products Will Be Confiscated Even for Personal Use

模倣品の輸入 個人使用目的も没収 商標法・意匠法改正へ

Copyright System and Related Policies in Digital Age

デジタル時代における著作権制度・関連政策の在り方



Revisions to Trademark Act and Design Act – Imported Counterfeit Products Will Be Confiscated Even for Personal Use

模倣品の輸入 個人使用目的も没収 商標法・意匠法改正へ

On January 16, 2021, the Japan Patent Office (JPO) decided a strategy of revising the Trademark Act and the Design Act in order to strengthen the restrictions on the import of counterfeit products such as fake brand products. This strategy was prepared in consideration of the present circumstances where mail-order sales via the Internet have been widely spreading, and not only imports by business importers but also imports by individuals directly from overseas entrepreneurs have been increasing rapidly. After the revision, counterfeit products intended for personal use will also be confiscated by customs. The relevant ministries and agencies such as the JPO and the Ministry of Finance will compile a draft revision to the related laws and aim to submit it to the ordinary Diet session next year.

Under the current law, if a domestic importer imports a counterfeit product from an overseas entrepreneur, it will be a trademark infringement and can be stopped at the water's edge. On the other hand, if an individual imports a counterfeit product from an overseas

entrepreneur for his/her own use, it will not be considered as a trademark infringement and so cannot be stopped. It is considered that some business importers abuse this and import counterfeit products by pretending to be individuals.

According to the reported strategy, importing counterfeit products from overseas entrepreneurs will be considered as an infringement to trademarks etc. regardless of the purpose of imports, which will enable customs to confiscate the counterfeit products. On the other hand, individuals who purchase counterfeit products are expected to be exempt from penalties as with the current law.

特許庁は16日、偽ブランド品などの模倣品輸入に対する規制を強化するために、商標法および意匠法について、法改正を検討する方針を定めた。インターネット通販等が普及し、事業者による輸入だけでなく、海外の事業者が個人に直接商品を送付する取引が急増したことが背景にある。改正後は、個人使用が目的の模倣品も、税関で没収されることになる。特許庁、財務省等の関係省庁が関連する法律の改正案をまとめ、来年の通常国会提出を目指す。

現状の法律では、国内業者が海外事業者から模倣品を輸入した場合は、商標権侵害となり、水際で差し止めることができる。一方、個人が海外事業者から自分で使用するために輸入した場合は、侵害を問えず、阻止することができなかった。このため、個人に成りすまして模倣品を輸入する業者もいると思われる。

報告書案によると、輸入目的に関係なく海外事業者が模倣品を国内に流入させることを、商標権等の侵害行為と位置付け、税関で模倣品を没収することを可能とする。一方、模倣品を購入した個人は、現状のまま罰則の対象外となる見込みだ。

Copyright System and Related Policies in Digital Age デジタル時代における著作権制度・関連政策の在り方

On January 12, 2021, the fifth task force on examination of copyright system and related policies in the digital age was held at the Concept Committee of the Intellectual Property Strategy Headquarters. Discussions were made on facilitating the processing of rights for the distribution of audio and video contents and facilitating the use of copyrighted works.

(Refer to the URL below for the proceedings and various reference materials)

The following are listed as issues based on the past four meetings (parts of the issues are excerpted).

- It is becoming easier to copy, modify, edit, and spread contents. Under such circumstances, it is at issue how to balance the perspective that intellectual properties will have higher values by being used and the perspective that how the intentions of authors etc. are esteemed in terms of use of the intellectual properties.
- With the spread of new corona virus infection as a trigger, the need for facilitating the distribution of digital contents is increasing. How the copyright system is to be reviewed in term of digital transformation (DX)?
- When using copyrighted works, how to return compensation as

appropriate as possible to authors etc. (as a premise, it is necessary to provide the authors etc. as appropriate with information on the situation of use). Will the regulation by acts other than the Copyright Act, such as the Subcontract Act, be effective?

The revised Copyright Act stipulates measures for smooth use of copyrighted works (e.g. stipulation on objects that are captured incidentally).

* Reference URL

https://www.kantei.go.jp/jp/singi/titeki2/tyousakai/kousou/digital_kentou_tf/dai5/gijisidai.html

令和3年1月12日に知的財産戦略本部構想委員会にて「デジタル時代における著作権制度・関連政策の在り方に関する検討タスクフォース(第5回)」が開催された。音声・映像コンテンツ配信の権利処理の円滑化や著作物の利用円滑化等について議論が交わされている。

(議事次第及び各種参考資料は下記URLを参照)

過去4回の検討会を踏まえた論点として、以下の内容が挙げられている。(一部抜粋)

- コンテンツの複製、改変、編集、拡散が容易となる中で、知的財産は使われることによって価値が上がるという視点と、利用のされ方に関する著作者等の意思を尊重する視点の両立をどのように図るべきか。
- コロナをきっかけに、特にデジタル・コンテンツの流通円滑化の必要性が高まっているが、デジタル・トランスフォーメーション(DX)の側面から著作権制度

の在り方をどう見直すべきか。

- 著作物等の利用にあたり可能な限り適切な対価が著作者等に還元されることをどのように促すことができるか(大前提、利用状況に関する情報が権者に適切に提供されることが必要)。著作権法による規律の他に、例えば下請法等による規律は有効か否か。

著作物の円滑な利用を図るための措置(写り込み等)は改正著作権法にて規定されている。

今後の進捗に注目したい。

※参考URL

https://www.kantei.go.jp/jp/singi/titeki2/tyousakai/kousou/digital_kentou_tf/dai5/gijisidai.html



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.

Below are links to further IP information.

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| BIO IP Information バイオ知財情報 | DX, IT IP Information DX, IT知財情報 | IoT × AI Support Station IoT×AI支援室 |
| Food & Medical Business Support Station 食品×医療支援室 | Major & Emerging Economic Powers 諸外国知財情報 | TPP IP Chapter TPP知財情報 |

Please visit our facebook pages below.

Our Legal Strategy Department on Facebook 法務戦略部Facebook

Our Legal Strategy Departments based in Osaka and Tokyo provide information on trademark applications, design applications, combating counterfeit goods etc. via Facebook. Please view our Facebook page for more details.

大阪・東京に拠点を置く法務戦略部のFacebookにて、商標出願・模倣品対策・意匠出願などの知財に関する情報を発信しております。ぜひご覧下さい。

[More information](#) [詳細はこちらへ](#)

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Our Hiroshima Office on Facebook 広島事務所Facebook

Our Hiroshima Office's Facebook page provides useful services for Hiroshima prefecture and the rest of the Chugoku and Shikoku regions, with constant IP information updates. Please find us on Facebook.

広島事務所のFacebookにて、広島県を含む、中四国地域の皆様に有用と思われる知財情報を随時発信しております。ぜひご覧下さい。

[More information](#) [詳細はこちらへ](#)

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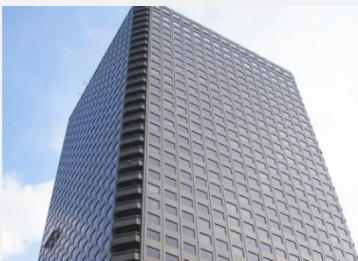
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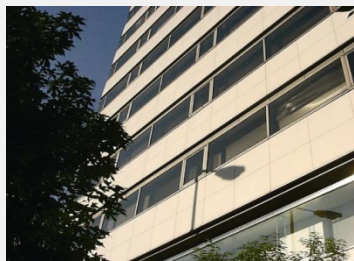
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