

TOPICS



A Trademark System Suitable for During-coronavirus and Post-coronavirus Eras

ウィズコロナ/ポストコロナ時代における商標制度の在り方について

Sorting out Copyright Issues in Relation to Cosplay

コスプレの著作権 法的課題を整理へ



A Trademark System Suitable for During-coronavirus and Post-coronavirus Eras

ウィズコロナ/ポストコロナ時代における商標制度の在り方について

Due to the COVID-19 pandemic, our lifestyle and business style have been significantly changed. The Intellectual Property Committee of the Industrial Structure Council held a meeting to discuss problems with the trademark system that have become evident along with the change. The report of the meeting appears in the website of the Japan Patent Office (for the details, please visit the URL below).

According to the report, cross-border trade in counterfeit goods has long been a problem, and transactions in which overseas merchants sell and ship a small number of counterfeit goods directly to domestic individuals by mail, etc. have been dramatically increasing. Since such counterfeit goods are "imported" by domestic individuals, the goods do not constitute an infringement of a trademark right, and thus are not subject to seizure. This results in the need for restriction on "import of counterfeit goods for personal use". Other industrial property rights are encountering the same problem; therefore, the problem needs to be discussed carefully for the time being.

In the light of the recent change in the form of licenses, the Patent System Subcommittee of the Intellectual Property Committee discussed whether the consent of a non-exclusive licensee should be required in a case of abandonment of a patent right. In addition, how to deal with the issue under the Japanese Trademark Law was reportedly discussed.

According to the report, the committee continues discussions to reform the trademark system in accordance with the new business environment, taking social situations and users' opinions into consideration and referencing the directions taken by foreign countries.

新型コロナウイルス感染拡大の影響で、これまでのライフスタイルやビジネススタイルが一変した。それに伴い、商標制度にて顕在化した課題に関して、産業構造審議会知的財産分科会で議論が交わされ、その報告書が特許庁ホームページに掲載されている(詳細は下記URL参照)。

従来からの課題である模倣品の越境取引に関しては、海外の事業者が国内の個人に対して少量の模倣品を郵便等で直接販売・送付する取引が急増しているとのことである。これにより「輸入」の主体が国内の個人であることから商標権の侵害とならず、税関で模倣品を没収することができない。そのため「模倣品の個人使用目的の輸入」に関しての規制の必要性があるとのこと。他の産業財産権でも同様の問題があることから、当面は慎重に検討していくとのことである。

特許制度小委員会では、近年のライセンス態様の変化を踏まえ、特許権の放棄における通常実施権者の承諾の要否について検討が行われた。それに伴い、商標法における対応についても検討を行ったとのことである。

取り巻く環境やユーザーの意見を踏まえ、各国における動向なども参考にしながら、新たなビジネス環境に即した商標制度の見直しを図り、検討を続けていくとのことである。

※参照URL

https://www.jpo.go.jp/resources/shingikai/sangyo-kouzou/shousai/tokkyo_shoi/210208_with-covid19.html

Sorting out Copyright Issues in Relation to Cosplay

コスプレの著作権 法的課題を整理へ

In a press conference, Minister of State for Expo Mr. Inoue, who is in charge of the "Cool Japan" strategy, said that there were voices of concern for copyright-related legal issues that may be raised in relation to "cosplay", which is an act of dressing up as a character from anime etc., and expressed his views to sort out the issues by the end of the current fiscal year. This is aimed to set up rules to prevent copyright troubles that may be caused by cosplaying.

Regarding "cosplay", Minister Inoue said, "The number of fans is increasing both in Japan and abroad, and thus cosplay is an important pop culture from the viewpoint of Cool Japan strategy. To further boost the cosplay culture, it is important to create an environment where persons concerned can enjoy cosplay with security."

The Japanese government announced that it has been trying to gain an understanding of the current circumstances by, for example, conducting hearings with parties concerned, such as creators, and that it would sort out issues by the end of the fiscal year. It seems that the government is not planning to revise the copyright law for now, but is planning to promote enlightenment by, for example, clarifying cases where copyright royalties may be required.

クールジャパン戦略を担当する井上万博担当大臣は、記者会見において、アニメ等のキャラクターに扮する「コスプレ」について、著作権との関係で法的

な問題を懸念する声があるとして、年度内に課題を整理する考えを示した。コスプレをめぐる著作権トラブルを未然に防ぐため、ルール整備に乗り出す狙いだ。

井上担当大臣は「コスプレ」について「国内外でファンが増加しておりクールジャパンの観点からも重要なポップカルチャーであるが、コスプレ文化をさらに盛り上げていくため、関係者が安心して楽しむための環境づくりが重要だ」と述べた。

政府は、原作者側等の関係者へのヒアリングを行うなど、現状の把握に努めており、年度内に課題を整理する考えを示した。今のところ法改正は想定しておらず、著作権使用料が求められる事例を明確にする等、啓発を進めていく意向のようだ。



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.

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](#)

HARAKENZO WORLD PATENT & TRADEMARK
特許業務法人HARAKENZO WORLD PATENT & TRADEMARK

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](#)

HARAKENZO WORLD PATENT & TRADEMARK HIROSHIMA OFFICE
特許業務法人HARAKENZO WORLD PATENT & TRADEMARK 広島事務所



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-tyk@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

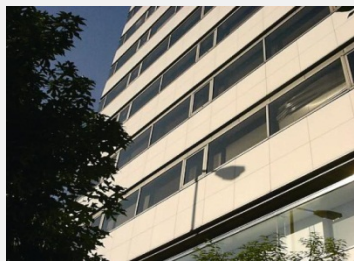
ADDRESS:
MITSUI SUMITOMO BANK
MINAMIMORIMACHI BLDG.,
1-29,
2-CHOME, MINAMIMORIMACHI,
KITA-KU, OSAKA 530-0054,
JAPAN

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

