



IP News Bulletin

for Japan and China

January 2025

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- News about Sonoda & Kobayashi -

1. Sonoda & Kobayashi Welcomes Ms. Hiroko Nakajima

We are happy to announce the expansion of our Electronics, Machinery & Software Department with the addition of another valuable member. In January, we welcomed [Ms. Hiroko Nakajima](#) to our team as a patent attorney. Ms. Nakajima graduated with both a master's and bachelor's degree from The University of Tokyo and specializes in machinery, optics, and physics. She worked as an engineer in hardware development at a major international corporation before making the transition to working with patent law in 2008. We are delighted to have Ms. Nakajima as a member of our team.

- JPO and CNIPA News -

1. The JPO updates information on recent trends in business-related inventions

On December 6th, 2024, the JPO updated its page on recent trends in business-related inventions.

A business-related invention is defined, for this JPO report, as follows: "a business-related invention is an invention in which a business method is realized using Information and Communication Technology (ICT)."

The page now includes the latest data available on trends in these types of applications. For example, the data on business-related applications filed in 2022 is available, showing an increase from 2021 when it comes to these types of applications. This is a trend ongoing since 2011.

The JPO also published the latest grant rate data, showing that the grant rate of business-related inventions filed in 2019 is now at 75%, which is the highest point since the JPO started to publish this information.

Further information can be found [here](#). (Japanese)

2. JPO to shorten examination time of design applications for start-ups

On January 9th, 2025, Nikkei reported that the Japan Patent Office (JPO) will shorten the examination time of design applications filed by start-ups.

Starting in April 2025 start-up entities will be eligible for the already existing accelerated examination system for design rights.

Under this system, the examination of design applications is shorted from about 6 months on average to approximately 2 months.

Previously, applications that were dealing with an urgent case, such as a counterfeiting issue or recovery after an earthquake were eligible under this system. Now, companies less than 10 years old with 20 or less employees and not owned by a larger entity, or those

in sole-proprietorship that are less than 10 years old, would be eligible for accelerated examination too.

This move comes in an attempt to help start-ups raise funds more easily. A JPO survey among venture capital firms in FY2021 revealed that 85.3% of respondents place importance on intellectual property ownership in their investment decisions. If start-ups are able to obtain design rights more quickly, the value of the firm would rise more quickly, creating an environment where funds can be raised more easily from investors.

Further information can be found [here](#). (Japanese)

3. CNIPA: Bulletin of the main statistics of intellectual property from January to November 2024

From January to November 2024, 972,000 invention patents, 1.816 million utility model patents, and 576,000 design patents were authorized in China.

As of the end of November 2024, the effective number of invention patents in China is 5.646 million. Among them, 4.641 million domestic invention patents (excluding Hong Kong, Macao and Taiwan) are valid. The effective number of utility model patents was 11.632 million. The effective number of design patents was 3.055 million.

From January to November, the CNIPA accepted 66,000 PCT international patent applications. Among them, 61,000 were submitted by domestic applicants.

From January to October, Chinese applicants filed a total of 1,751 international design applications, and from January to November, a total of 2,258 international applications for published designs designated China.

From January to November, the number of trademark applications in China was 6.400 million, and the number of trademark registrations was 4.329 million. As of November 2024, there are 49.424 million valid registered trademarks.

From January to November, the office received 6,419 applications for Madrid international trademark registration from Chinese applicants.

From January to November, the bureau recognized 36 geographical indication products, approved 123 geographical indications as collective trademarks and certification trademarks, and approved the use of 7,959 business entities with special geographical indications. As of November 2024, a total of 2,544 GI products have been identified, 7,400 GIs have been approved for registration as collective trademarks and certification trademarks, and 32,091 business entities have been approved to use GIs.

From January to November, there were 10,306 applications for registration of integrated circuit layout designs in China; 9,626 certificates were issued.

Compared with the January-November 2023 period, the number of invention patents granted increased by 14.45% year-on-year, utility models decreased by 5.65% year-on-year, and design decreased by 1.6% year-on-year.

According to this analysis, the reason for the increase in the grant rate of invention patents is that the CNIPA cracked down on irregular applications, which improved the quality of patents.

In addition, due to the revision of the detailed rules for the implementation of the Patent Law and the examination guidelines in January this year, the grant rate of utility model and design patents has continued to decline.

Further information can be found [here](#). (Chinese)

- Latest IP News in Japan -

1. Why Nintendo and The Pokémon Company sued Palworld over patent rights, not copyright

PC Watch, January 20, 2025

As reported in our September newsletter, Nintendo and The Pokémon Company filed a lawsuit against Pocket Pair, the developer of the game Palworld, for patent infringement, in the Tokyo District Court that same month last year. However, this lawsuit has received significant attention, not only for highlighting the ongoing tensions in the gaming industry regarding intellectual property rights, but also due to the fact that Nintendo and The Pokémon Company are asserting these rights based on patents, not copyright. As the latter is the traditional realm of dispute in the gaming sphere, asserting patent claims marks a strategic shift in the methods in which gaming companies are protecting their intellectual property.

Mr. Tomio Naka, Chairman of the Copyright Committee of the Japan Patent Attorneys Association, states that, while we cannot be completely sure of why Nintendo and The Pokémon Company sued over patent rights instead of copyright, claiming infringement of a patent is easier when compared to copyright. He notes that copyright law protects creative expression, such as character designs, but proving infringement can be difficult given that copyrights are inherently less precise in defining the scope of what is protected. Patents, however, provide a much more defined legal framework. Given their rigorous application and examination process, patents give a much more explicit definition of what is to be protected. Given this, Nintendo and The Pokémon Company may be leveraging a legal tool that offers stronger protection for the multiple aspects of their innovations, such as unique game mechanics, algorithms, or system designs.

This case also reflects a trend of increased competition for unique gameplay in the gaming industry. As innovative mechanics and technologies are invented and implemented, the need to protect these assets becomes vital. In contrast to copyright protection, patents are increasingly being used by these companies to exercise their rights over specific systems and methods involved in a given game.

Nintendo and The Pokémon Company's lawsuit against Pocket Pair demonstrates the power that patents can have in protecting IP in the gaming industry. In addition, it sets a precedent for other developers to adapt a strategy utilizing patents as a proactive measure to secure their rights. This lawsuit represents a notable shift in IP management as companies seek to balance creative expression with technological advancements while ensuring robust legal protection using patents.

Further information can be found [here](#). (Japanese)

2. Japanese Automakers Lead the World in Autonomous Driving Patents

CNET Japan, January 22, 2024

On January 22nd, Patent Result released a ranking of companies based on the "global score" of patents related to autonomous driving technology. The study evaluated patents

from Japan, the U.S., Europe, and China, considering both quality and quantity.

In recent years, autonomous driving technology has become an integral focus of automakers around the world, with great strides in the quality and accuracy of the technology. As a result, automotive companies have increased their patent portfolios significantly with a focus on implementing this technology fully in the coming years. As demonstration experiments and real-world implementation is advancing worldwide, Japanese automakers have taken the lead in protecting their intellectual property rights in the field of autonomous driving.

The ranking placed Toyota Motors in first place, followed by Ford and Honda Motor. Toyota's strong portfolio is attributed to a significant number of filings in Japan, the U.S., and China. Patents of note include a vehicle dispatch system optimizing charging plans for electric vehicles and an automated driving assistance system that efficiently manages lane changes and obstacle avoidance.

Ford ranked second in the list and holds a significant number of Chinese patents. Key innovations include a neural network using camera images to detect lane positions and a risk assessment system that uses onboard sensors and vehicle-to-vehicle communication to execute automated safety measures.

Honda rounded out the top three in its patent portfolio. Like Toyota, they have a significant patent presence in Japan, China, and the U.S. Key innovations include a ride-sharing management system for efficient vehicle dispatch and a vehicle control device that adjusts driving behavior based on detected abnormalities.

Google's Waymo and Nissan Motor Co. also ranked high in the list, coming in at fourth and fifth place respectively. This ranking exhibits the dominance of Japanese automakers in their automated driving patent portfolios, marking the possibility of substantial future advancement in the field coming from Japan. In addition, the particular focus of filings in Japan and China demonstrates the importance of these markets in automotive technology.

Further information can be found [here](#). (Japanese)

- Latest IP News in China -

1. USTR Initiates Section 301 Investigation on China's Acts, Policies, and Practices Related to Targeting of the Semiconductor Industry for Dominance

SINA, December 23, 2024

United States Trade Representative Katherine Tai announced December 24th the initiation of an investigation regarding China's acts, policies, and practices related to targeting of the semiconductor industry for dominance. The investigation will be conducted under Section 301 of the Trade Act of 1974, as amended.

Evidence indicates that China seeks to dominate domestic and global markets in the semiconductor industry and undertakes extensive anticompetitive and non-market practices, including setting and pursuing market share targets, to achieve indigenization and self-sufficiency. China's acts, policies, and practices appear to have detrimental impacts on the United States and other economies, undermining the competitiveness of American industry and workers, critical U.S. supply chains, and U.S. economic security.

“This investigation underscores the Biden-Harris Administration’s commitment to standing up for American workers and businesses, increasing the resilience of critical supply chains, and supporting the unparalleled investment being made in this industry,” said Ambassador Katherine Tai.

The investigation will initially focus on China’s manufacturing of foundational semiconductors (also known as legacy or mature node semiconductors), including to the extent that they are incorporated as components into downstream products for critical industries like defense, automotive, medical devices, aerospace, telecommunications, and power generation and the electrical grid. The investigation will also initially assess whether the impact of China’s acts, policies, and practices with regard to the production of silicon carbide substrates (or other wafers used as inputs into semiconductor fabrication) contributes to any unreasonableness or discrimination or burden or restriction on U.S. commerce.

As explained in a formal notice, USTR will be seeking public comments and will hold a public hearing in connection with this investigation. A docket for comments regarding the investigation opened January 6, 2025.

Section 301 of the Trade Act of 1974, as amended, (Trade Act) is designed to address unfair foreign practices affecting U.S. commerce. Section 301(b) may be used to respond to unreasonable or discriminatory foreign government practices that burden or restrict U.S. commerce. Under Section 302(b) of the Trade Act, the U.S. Trade Representative may self-initiate an investigation under Section 301.

The U.S. Trade Representative must seek consultations with the foreign government whose acts, policies, or practices are under investigation. USTR has requested consultations with China in connection with the investigation.

Further information can be found [here](#). (Chinese)

2. Due to a "patent dispute", CATL sues CALB and Xpeng Motors

SINA, January 11, 2025

On January 24, the Intermediate People's Court of Quanzhou City, Fujian Province heard the case of CATL suing CALB and Xiaopeng Motors for infringement of utility model patent rights. Previously, CATL had repeatedly filed lawsuits against CALB, with a claim amount of more than 100 million yuan. CALB stated that there was no infringement and had submitted a request for invalidation of the patent in question. The dispute between the two parties has been going on for a long time, which also reflects the intensification of competition in the lithium battery industry under the "price war" of new energy vehicles.

It is worth noting that CATL has filed several lawsuits against CALB before, the most recent of which occurred at the beginning of this year.

On the evening of January 3 this year, CALB announced that the company recently received a claim for intellectual property infringement filed by the plaintiff CATL against CALB and Hangzhou Pengxing Automobile Sales and Service Co., Ltd. for the invention patent No. 9 (hereinafter referred to as the "patent involved in the lawsuit") for the top cover component of the secondary battery and the secondary battery ZL202210514746.9 (hereinafter referred to as the "patent involved in the lawsuit"), claiming economic losses of 90 million yuan and rights protection costs of 1 million yuan.

According to the announcement issued by CALB, the plaintiff CATL asserted that CALB should immediately stop infringing CATL's patent rights, including ceasing to manufacture, sell, and offer to sell, products that infringe the patent rights in question, and compensate CATL for its economic losses and various expenses from the date of publication of the patent application to the date of grant of the patent right, totaling RMB 91 million.

According to the latest statistics on global power batteries released by market research institute SNE Research, in January to November 2024, the total global power battery loading volume will be about 785.6GWh, a year-on-year increase of 26.4%. Among the top 10 companies in the world in terms of installed capacity of power batteries, six Chinese battery companies have exceeded the annual capacity of 2023. Among them, CATL's installed capacity was 289.3GWh, a year-on-year increase of 28.6%, and its market share was 36.8%, ranking first on the list. BYD's installed capacity was 134.4GWh, a year-on-year increase of 35.9%, and its market share was 17.1%, ranking second. The installed capacity of CALB was 36.3GWh, a year-on-year increase of 22.2%, and the market share was 4.6%, ranking third. In fact, the escalating patent disputes between the two power battery industry giants also reflect the intensification of competition in the lithium battery industry in the context of the "price war" of new energy vehicles

Further information can be found [here](#). (Chinese)

- IP Law Updates in Japan: Insights from Sonoda & Kobayashi -

1. Relaxation of Recent Japanese Patent Law Amendments for Remedy of Rights

The JPO standard for a successful remedy had been very high compared to other major patent offices, and the high JPO standard arguably surpassed the criteria of "Due Care", which is supposed to be applied to the remedy system in accordance with the adopted treaties. The cases were required to have a "legitimate reason" for not having been able to follow a required procedure by the deadline.

After the acceptance of the Patent Law Treaty (PLT) and Singapore Treaty on the Law of Trademarks (STLT) in 2016, the Japanese patent law was amended. This relaxation the remedy of rights has led to a new criterion of "not being the cases where the procedure was not followed intentionally."

The JPO procedures for patent applications of which the remedy of rights discussed here is applied are as follows:

- filing a translation for a foreign-language Japanese patent application (Japanese Patent Law Article 36-2)
- filing a new application claiming priority based on a patent application (Japanese Patent Law Articles 41 and 43-2)
- requesting examination (Japanese Patent Law Article 48-3)
- payment or late payment of a patent fee (Japanese Patent Law Article 112-2)
- entering the Japanese national phase of PCT applications by filing national documents and translations (Japanese Patent Law Article 184-4)
- notifying an appointment of a patent administrator for a foreign applicant when entering the Japanese national phase of PCT application ([Japanese Patent Law Article 184-11](#))

As we reported in a previously published article titled “The high standard for remedy of rights at the JPO likely relaxed by recent patent law amendments” (The Patent Lawyer, September/October 2021, p. 75-77), the success rate for remedy of rights was only 29% based on the analysis of cases from 2017 to 2020 (although the JPO generally does not publicly disclose the alleged reasons for cases where the remedies were not accepted). As such, we reviewed the prosecution history for the new cases for which a request for remedy of rights was filed.

Methodology

The new criterion based on the amended patent law is applicable to cases for which the deadline was missed on or after April 1, 2023. The request for remedy should be filed within two months from the date on which the party becomes able to follow the procedure, and within one year after the period for following the procedure expired. Also, from the previous cases, where the request for remedy of rights was filed under the old law, it can be understood that, if the JPO judges that the request is not acceptable, the JPO issues a notice of non-acceptance of the request within approximately three to six months. As a result, 24 cases for which a request was filed from April 1, 2024 to August 1, 2024 (https://www.jpo.go.jp/system/patent/shutugan/kaifuku_shinsei.html) were reviewed to see whether the remedy of rights has actually been relaxed at the JPO.

Results

For all 24 cases, a request was filed for remedy of rights based on a failure to file a request for examination (Japanese Patent Law Article 48-3 (5)). A notice of non-acceptance has not been issued in any of the 24 cases as of December 27, 2024, indicating that the requests have most likely been accepted.

We were able to confirm that the process of remedy of rights has actually been relaxed at the JPO. The current remedy system seems to be much more applicant-friendly compared to the previous system under the prior law. As this becomes a much more viable option for companies wishing to remedy their rights in Japan, we expect the number of remedy applications at the JPO to increase. We will continue to update our processes and methods for obtaining a successful restoration in line with these changes in JPO policy.

About

SONODA & KOBAYASHI is a law firm offering dependable legal services for intellectual property. Our multinational team of about 120 experts in technology, law, languages and international communication has served companies worldwide and gained a reputation for thoroughness and reliability.

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