

Teruo Doi

The Intellectual Property Law of Japan

日本知的財産法



THE INTELLECTUAL PROPERTY LAW OF JAPAN

by

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LIST OF PRINCIPAL FOOTNOTE CITATIONS

Report of Court Decisions:

Hanketsu yōroku	(summary report of cases from 1900 to 1939)
Hōritsu shimbun	(a newspaper reporting cases from 1900 to 1944)
Hōritsu shimpō	(a journal reporting cases from 1924 to 1952)
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Minroku (Daishinin minji hanketsuroku)	(Report of cases decided by the Great Court of Cassation)
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Keishū (Saikō saibansho keiji hanreishū)	(Report of the Supreme Court decisions in criminal cases)
Gyōsei reishū (Gyōsei jiken saibanreishū)	(Report of court decisions in administrative cases)
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Kakyū minshū (Kakyū saibansho minji saibanreishū)	(Report of lower court decisions in civil cases)
Mutaizaisan reishū (Mutaizaisan kankei minji-gyōsei saiban reishū)	(Report of court decisions in civil and administrative cases involving intangible property)

Patent Office Report:

SHINKETSU KŌHŌ	(Patent Office gazette reporting its decisions)
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Fair Trade Commission Report:

Kōtori shinketsushū (Kōseitōri-hiki iinkai shinketsushū)	(Report of decisions of Fair Trade Commission)
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Collection of Cases:

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HANREISHŪ

(Doi, ed., collection of court decisions in cases involving international transactions)

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HANREISHŪ

(Koseki, ed., collection of court decisions in civil cases involving unfair competition)

CHOSAKUKEN HANREISHŪ
(SAISHIN CHOSAKUKEN
KANKEI HANREISHŪ)

(ed. by Chosakuken Hanrei Kenkyūkai (a group to study copyright cases))

English Translation of Statutes:

EHS LAW BULLETIN SERIES

(English translation of Japanese statutes in several volumes published by Eibun Hōrei Sha)

Journals and Magazines:

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(a journal published every ten days specialized in reporting cases)

HANREI TAIMUZU

(a monthly journal specialized in reporting cases)

TOKKYO NEWS

(a bulletin published five days a week specialized in industrial property matters)

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(a monthly journal specialized in reporting cases relating to industrial property and copyright)

PATENTS & LICENSING
PATENTS & ENGINEERING

(a bi-monthly journal in English)
(predecessor of PATENTS & LICENSING)

KŌGYŌSHOYŪKEN KENKYŪ

(a quarterly journal specialized in industrial property)

CHOSAKUKEN KENKYŪ

(an annual published by the Copyright Society of Japan)

LAWASIA

(a journal published by the Law Association for Asia and the Western Pacific, in English)

LAW IN JAPAN

(an annual of the U.S. Japanese Society for Legal Studies)

TOSHOKAN ZASSHI

(a monthly journal published by the Japan Libraries Association)

MERCHANDISING RIGHTS
REPORT

(a bulletin of Merchandising Rights Information Center)

SHŪKAN POSUTO

(a weekly magazine for general public)

SHŪKAN GENDAI

(a weekly magazine for general public)

Newspapers:

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Nikkan Kōgyō Shimbun

Yomiuri Shinbun

FOREWORD

This book is a comprehensive treatise on the intellectual property law of Japan written for foreign inventors, authors and businessmen who want to seek protection of their intellectual property in Japan or to exploit the Japanese market as well as for lawyers and patent agents representing such clients. The author believes that this book is also useful to students of intellectual property law or Japanese law.

It consists of eight chapters. Chapters 1, 2, 4, 5 and 6 deal respectively with five basic statutes in the area of industrial property such as the Patent, Utility Model, Design, Trademark and Unfair Competition Prevention Laws. Chapter 6 discusses not only the Unfair Competition Prevention Law but also various other statutes designed to prevent unfair competition. Chapter 3 deals with the protection of trade secrets including unpatented know-how. Chapter 7 deals with the Copyright Law, which is one of the most modern statutes in the world. Chapter 8 discusses the regulation of restrictive business practices that involve intellectual property under the Antimonopoly Law.

There are numerous books in the Japanese language in the area of intellectual property law but they deal with either industrial property law or some of its subdivisions or copyright law and do not cover the entire area. In addition, these books do not usually handle the aspects of restrictive business practices. In many instances, cases are not adequately cited.

Court decisions are regularly reported by official reporting services and by private publishers, but these valuable materials are not readily accessible to foreign readers for the lack of documentation or language barrier. English translations of pertinent statutes and regulations are available but occasional consultation with the corresponding original Japanese texts is necessary in order to avoid ambiguity or misunderstanding.

In an effort to alleviate these deficiencies, the author cites important court decisions and statutory provisions with carefully

prepared explanations. Japan adheres to the civil law tradition and its courts are not bound by precedents, but these cases not only show how statutes are interpreted by the courts but also the kinds of problems that arise in the highly industrialized Japanese society and the way they are handled or left unresolved. For law teachers, many of these cases present interesting topics for classroom discussion.

The author thinks that the growing body of cases and the rapidly developing law and international relationships will require the author to update this book within a few years.

The ground work for this book has been done during the past fifteen years through the publication of a number of articles both in Japanese and English. A great many opportunities given to the author to lecture on the intellectual property law before professional groups and students both in Japan and abroad helped him greatly in exploring and identifying problems for research and analysis. Therefore, the author acknowledges his indebtedness to persons, institutions and publishers who gave him valuable opportunities and assistance of one kind or another. In addition, the author must express sincere appreciation and thanks to the publisher of this book and its editorial staff who encouraged the author to complete the manuscript and undertook to publish it.

January, 1980

Teruo Doi

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