

**Issue #0 March 1, 2016**

(News in the Second Half of January 2016)

Sonoda & Kobayashi IP Group is pleased to present this inaugural issue of the Japan IP News Bulletin. The Japan IP News Bulletin will be a bimonthly publication with brief summaries of the latest IP news from Japan. Please do email us at the address at the bottom for details about any topic.

IP PROSECUTION AND PROCEDURES

Revision of JPO Fee Schedule, Effective April 1, 2016

The JPO fee schedule for patents and trademarks will be revised. Click [here](#) for new fee schedule effective from April 1, 2016.

[[Original Announcement](#): JPO Website, Jan. 19, 2016]

Change in Examination for Food Product Use Inventions

The JPO will revise the Examination Standards for Patents and Utility Models effective mid-April 2016. Under the revisions, “recitations that specify a product by referring to the manner of use of the product (limitations of use)”, which were not previously recognized as technical features in food product inventions, will be allowable for food product inventions.

[[Original Announcement \(in Japanese\)](#): JPO Website, Jan. 20, 2016]

Earlier Publication of Patents

Beginning mid-March 2016, Japanese patent publications will be published about three weeks after registration. Previously, publication was 6 to 7 weeks after registration, but this has been shortened to respond to the need for earlier publication.

When a registrant plans to assign or license rights, the registrant may request indication of intent to assign or license rights in the publication. The deadline for requesting this service will be simultaneous with the deadline for payment of the issue fee.

[[Original Announcement \(in Japanese\)](#): JPO Website, Jan. 22, 2016]

Statistical Data on Japanese Applications and Registrations

Monthly statistical data are updated at the JPO website with a delay of a few months, including the numbers of patent, utility model, design and trademark applications filed, the numbers of registrations, the numbers of trials and appeals etc.

Data for September 2015 is [here](#).

[[Original Announcement](#): JPO Website, Jan. 22, 2016]

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The Japan Fair Trade Commission (JFTC) has published amended “Guidelines for Use of Intellectual Property under the Antimonopoly Act” (IP Guidelines) to clarify its position on patents that are essential for practicing a standard (Standard Essential Patents) in view of the Antimonopoly Act.

The new “IP Guidelines” explicitly state that a patentee of a Standard Essential Patent would violate the Antimonopoly Act if the patentee were to file suit for an injunction or the like against a party willing to receive a license under fair, reasonable and non-discriminatory conditions (FRAND).

[[Original Press Release](#): JFTC Website, Jan. 21, 2016]

Over 400 Patent Oppositions Filed

Under the patent opposition system that began on April 1, 2015, more than 400 oppositions were filed by mid-January 2016. Oppositions are being examined in the order of filing.

The patent opposition system allows third parties to request revocation of granted patents, allows for quick correction of patents, and helps ensure stronger granted patents. For details about the opposition system, please see our [website](#).

[[Original Announcement \(in Japanese\)](#): JPO Website, Jan. 27, 2016]

Examination and Appeal for Product-by-Process Claims

Under current procedure for appeals of decisions of rejection, the JPO will usually issue a notice of reasons for rejection when there are claims that specify a product by a method for producing the product (excluding cases in which the appeal examiners are able to judge that there are “circumstances of impossibility or impracticality” without the need to ask the appellant).

The JPO has additionally announced: “However, an appeal decision may be made without issuing a further notice of reasons for rejection if the reasons given in the decision of rejection or in a notice of reasons for rejection after the filing of the appeal can be maintained”.

[[Original Announcement \(in Japanese\)](#): JPO Website, Jan. 27, 2016]

Examples of Claims Not Product-by-Process Claims

The JPO has published further examples to be added to the Examination Handbook as examples of claims not considered to be Product-By-Process (PBP) claims, in light of terminology used relatively frequently in actual patent applications as well as expressions about which inquiries were received.

[[Original Announcement](#): JPO Website, Jan. 27, 2016]

LITIGATION

Omron and Tanita Agree to Settlement in Weighing Machine Design Dispute

A settlement was reached at the IP High Court in *Omron Healthcare v. Tanita*. Omron Healthcare sued Tanita, alleging design infringement and demanding a sales injunction and damages for the design of a weighing machine that is also capable of measuring body fat percentage. Details of the settlement have not been made public at the request of both parties.

[Jan. 27, 2016]

Game Over! SCOJ Dismisses Appeal in Magicon Case. Win for Software Companies, Including Nintendo

A coalition of 49 software companies, including Nintendo, sued for an injunction against the import and sales of a device called “Magicon” for deactivating copy protection functions of game cassettes under the Unfair Competition Prevention Act. The Supreme Court of Japan issued decisions (*Heisei 26 (o) 1314*, *Heisei 26 (ju) 1702*) dismissing appeals by sellers of Magicons. As a result, the case has been finalized with a win for the software companies.

[[Original Press Release \(in Japanese\)](#): Nintendo's Website, Jan. 19, 2016]

IP High Court Finds Copyright Infringement of Travel Company Database

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court of second instance, issued a decision acknowledging copyright infringement (*Heisei 20 (ne) 10038*). The victorious plaintiff said, “this is a revolutionary decision, being the first time that the IP High Court has found for copyright infringement of a database”.

[[Original Press Release \(in Japanese\)](#)]: *BroadLeaf's Website, Jan. 19, 2016*]

OTHER IP-RELATED NEWS

November Current Account Balance Recorded 17th Consecutive Surplus, IP Licensing Fees Second-Highest in History

According to the international balance of payments for November 2015 announced by the Ministry of Finance Japan (MOFJ) in a news brief, the current account balance, which shows the net balance of transactions between Japan and other countries, amounted to JPY 1.1 trillion (USD 10.1 billion), recording a surplus for the 17th consecutive month. The surplus increased JPY 0.7 trillion (USD 6.2 billion) over the same month a year earlier. In the international account balance, “Fees for use of IP rights etc.” were the highest since 1996, the highest ever for November, and the second highest for any single month.

[[Original Press Release \(in Japanese\)](#)]: *MOFJ Website, Jan. 12, 2016*]

NEWS ABOUT SONODA & KOBAYASHI

Please do contact us if you have any general questions about Japanese intellectual property. We can reply in English, French, German, Chinese or Korean by email, telephone, or videoconference.

Our Firm

SONODA & KOBAYASHI, an intellectual property law firm, offers dependable legal services for intellectual property in Japan. Our multinational team of 80 experts in technology, law, languages and international communication has served companies from around the world and has gained a reputation for thoroughness and reliability. Our high standards, expertise and team work have defined us since the founding of our firm in 1998.

Visit Us

Sonoda & Kobayashi is located in Shinjuku, one of the main business districts in Tokyo. We welcome visitors and look forward to seeing you at [our office](#).

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