

Intellectual Property Basic Act

(Act No. 122 of December 4, 2002)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to promote measures for the creation, protection, and utilization of intellectual property in a focused and planned manner, in light of the growing necessity to strengthen the international competitiveness of Japanese industry in response to changes in social and economic conditions in Japan and abroad, and in order to develop a dynamic economy and society based on the creation of added value through the creation of new intellectual property and its effective utilization, by prescribing the basic principles on the creation, protection, and utilization of intellectual property and the basic matters for achieving those principles, clarifying the responsibilities of the national government, local governments, universities, etc. and business operators, providing for the development of a strategic program on the creation, protection, and utilization of intellectual property, and establishing the Intellectual Property Strategy Headquarters.

(Definitions)

Article 2 (1) The term "intellectual property" as used in this Act means inventions, devices, new varieties of plants, designs, works and other products created through human creative activity (including laws of nature or natural phenomena that have been discovered or elucidated and are industrially applicable), trademarks, trade names and other marks used to indicate goods or services in business activities, and trade secrets and other technical or business information useful for business activities.

(2) The term "intellectual property right" as used in this Act means a patent right, a utility model right, a plant breeder's right, a design right, a copyright, a trademark right, a right prescribed by laws and regulations in relation to other

intellectual property, or a right relating to an interest protected by law.

- (3) The term "universities, etc." as used in this Act means universities and colleges of technology (meaning universities and colleges of technology as provided for in Article 1 of the School Education Act (Act No. 26 of 1947); the same applies in Article 7, paragraph (3)), inter-university research institutes (meaning inter-university research institutes as provided for in Article 2, paragraph (4) of the National University Corporation Act (Act No. 112 of 2003); the same applies in Article 7, paragraph (3)), incorporated administrative agencies (meaning incorporated administrative agencies as provided for in Article 2, paragraph (1) of the Act on General Rules for Incorporated Administrative Agencies (Act No. 103 of 1999); the same applies in Article 30, paragraph (1)), and local incorporated administrative agencies (meaning local incorporated administrative agencies as provided for in Article 2, paragraph (1) of the Local Incorporated Administrative Agency Act (Act No. 118 of 2003); the same applies in Article 30, paragraph (1)) that conduct testing and research operations, special corporations (meaning corporations directly incorporated by law or corporations incorporated by a special act of incorporation pursuant to a special law, to which the provisions of Article 4, paragraph (1), item (viii) of the Act for Establishment of the Ministry of Internal Affairs and Communications (Act No. 91 of 1999) apply; the same applies in Article 30, paragraph (1)) whose purpose is to conduct research and development, and testing and research institutes of the national government and local governments.

(Sound Development of the National Economy and the Creation of a Rich Culture)
Article 3 Measures concerning the creation, protection, and utilization of intellectual property must be promoted with the objective of building a society in which the public can enjoy the benefits of intellectual property and establishing a foundation for the future creation of new intellectual property, thus contributing to the sound development of the national economy and the creation of a rich culture, through creating the necessary environment to develop creative human resources, enable them to fully exercise their creativity, achieve prompt and appropriate protection of intellectual property in Japan and other countries in response to advances in technical innovation, actively utilize intellectual property in the economy and society, and maximize its value.

(Strengthening of the International Competitiveness and Sustainable Development of Japanese Industry)
Article 4 Measures for the creation, protection, and utilization of intellectual property must be promoted with the objective of achieving a strengthening of the technical capabilities of Japanese industry and the revitalization of Japanese industry, the activation of the local economy, and an increase in job opportunities,

thus contributing to the strengthening of the international competitiveness of Japanese industry and the sustainable development of Japanese industry that appropriately responds to changes in the domestic and international economic environment, through encouraging the smooth transfer of the results of creative research and development into commercial use and promoting the development of new business fields, management innovation and business startups, all of which are based on intellectual property.

(Responsibilities of the National Government)

Article 5 The national government has the responsibility for formulating and implementing measures for the creation, protection, and utilization of intellectual property in accordance with the basic principles on the creation, protection, and utilization of intellectual property as provided for in the preceding two Articles (referred to below as "basic principles").

(Responsibilities of Local Governments)

Article 6 Local governments have the responsibility for formulating and implementing autonomous measures that reflect the distinctive features of the areas of the relevant local governments with regard to the creation, protection, and utilization of intellectual property, taking into account the appropriate sharing of roles with the national government, in accordance with the basic principles.

(Responsibilities of Universities)

- Article 7 (1) Universities, etc. are to, in light of the fact that their activities contribute to the creation of intellectual property throughout society, endeavor actively and on their own initiative to develop human resources and disseminate research and its results.
- (2) Universities, etc. are to endeavor to ensure appropriate treatment of researchers and engineers and to develop and enhance research facilities so that the duties and working environments of researchers and engineers will be appealing in a manner commensurate with their importance.
- (3) In formulating and implementing measures for the creation, protection, and utilization of intellectual property relating to universities, colleges of technology and inter-university research institutions, the national government and local governments must consider the need to respect researchers' autonomy and the other characteristics of research conducted at universities, colleges of technology and inter-university research institutions.

(Responsibilities of Business Operators)

Article 8 (1) In light of the importance of the role that intellectual property plays in

the development of Japanese industry, business operators are to, in accordance with the basic principles, endeavor to actively utilize intellectual property created by themselves, other business operators, or universities, etc., as well as to appropriately manage their own intellectual property, in order to increase their productivity and strengthen their business foundation through vigorous business activities.

- (2) Business operators are to endeavor to ensure appropriate treatment of inventors and other persons engaged in creative activities so that the duties of inventors and other persons engaged in creative activities will be appealing in a manner commensurate with their importance.

(Strengthening of Coordination)

Article 9 The national government is to, in light of the fact that effective implementation of the creation, protection, and utilization of intellectual property can be achieved through cooperation and coordination among the national government, local governments, universities, etc. and business operators, take necessary measures to strengthen coordination among these parties.

(Consideration for Promoting Competition)

Article 10 In promoting measures for the protection and utilization of intellectual property, consideration is to be given to securing the fair utilization of intellectual property and the public interest, as well as to promoting fair and free competition.

(Legislative Measures)

Article 11 The government must take the legislative, financial, and other measures necessary to implement measures concerning the creation, protection, and utilization of intellectual property.

Chapter II Basic Measures

(Promotion of Research and Development)

Article 12 In light of the fact that the creation of high value-added intellectual property at universities, etc. is the source of the sustainable development of Japan's economy and society, the national government is to take necessary measures to secure and train creative researchers, develop research facilities, etc., ensure the effective use of funds for research and development, and take other measures necessary to promote research and development, while giving consideration to the policies for promoting science, technology and the creation of innovation prescribed in Article 3 of the Basic Act on Science, Technology and Innovation (Act No. 130 of 1995).

(Promotion of the Transfer of Research Results)

Article 13 In light of the fact that research results produced by universities, etc. are useful for the development of new business fields and the improvement of industrial technology, the national government is to take necessary measures to encourage universities, etc. to appropriately manage their research results and smoothly transfer them to business operators, such as improving systems in universities, etc. to utilize human resources with specialized knowledge of intellectual property, improving procedures relating to the registration of the establishment of intellectual property rights, carrying out research and study on markets, etc., and providing market information.

(Expediting the Granting of Rights)

Article 14 (1) The national government is to take necessary measures, such as developing the examination system to enable the necessary procedures to be carried out promptly and accurately, so that business operators will be able to smoothly carry out their business activities through the early establishment of rights with respect to intellectual property for which rights arise upon national registration, such as inventions, new varieties of plants, designs, and trademarks.
(2) In implementing the measures referred to in the preceding paragraph, the national government is to endeavor to obtain the understanding and cooperation of business operators for the purpose of ensuring effective implementation of those measures.

(Enhancement and Expediting of Litigation Proceedings)

Article 15 In light of the fact that the judiciary will play an increasingly important role in protecting intellectual property rights as the utilization of intellectual property in the economy and society advances, the national government is to take necessary measures, with regard to legal cases concerning intellectual property rights, to enhance and expedite litigation proceedings, improve the court's specialized case-handling systems, and reinforce alternative dispute resolution systems.

(Measures against the Infringement of Rights)

Article 16 (1) The national government is to take necessary measures against infringements of intellectual property rights in the domestic market and against the importation of products that infringe intellectual property rights, such as cracking down on acts of infringement of intellectual property rights, confiscating products that infringe intellectual property rights, and taking other necessary measures, in close cooperation and coordination with business operators, trade associations, and other associations concerned.

(2) If intellectual property owned by juridical persons and other associations established under Japanese laws and regulations or by persons who have Japanese nationality (referred to below as "Japanese juridical persons, etc."; the same applies in the following Article) is not appropriately protected in a foreign state, the national government is to take necessary measures, such as ensuring the proper exercise of rights under intellectual property-related treaties, while coordinating, as appropriate, with the foreign government, international organizations, and associations concerned, according to the situation.

(Development of International Systems)

Article 17 The national government is to endeavor, through cooperation with intellectual property-related international organizations and other international frameworks and jointly with foreign governments, to establish internationally harmonized systems relating to intellectual property, and is to take necessary measures to develop an environment in states or regions where systems for the protection of intellectual property have yet to be sufficiently developed so that Japanese juridical persons, etc. can promptly and reliably obtain or exercise intellectual property rights.

(Protection of Intellectual Property in New Fields)

Article 18 (1) In light of the fact that the creation of new businesses can be expected through active business creation, etc. when useful research and development results are promptly and appropriately protected through intellectual property rights in fields, such as the life sciences, where technological innovation is advancing rapidly, the national government is to take necessary legislative and other measures, while taking into account the results of an examination of the scope of rights that should be appropriately protected.

(2) The national government is to take necessary measures, such as reviewing the contents of rights and supporting business operators in developing and utilizing their technical means for protection, to ensure the appropriate protection of intellectual property rights in a manner that appropriately responds to the increasingly diverse ways in which intellectual property is used as a result of the spread of the internet and other changes in social and economic circumstances.

(Development of an Environment in Which Business Operators Can Effectively and Appropriately Utilize Intellectual Property)

Article 19 (1) The national government is to take necessary measures to develop an environment in which business operators can effectively and appropriately utilize intellectual property, including establishing methods for the appropriate assessment of intellectual property and formulating management guidelines to serve as a reference for business operators, in order to create new businesses and

smoothly carry out those businesses by utilizing intellectual property.

- (2) In implementing the measures referred to in the preceding paragraph, special consideration must be given to business startups by individuals and the development of new businesses by small and medium-sized enterprises with a strong entrepreneurial drive, in light of the fact that small and medium-sized enterprises have an important role in maintaining and strengthening the vitality of the Japanese economy.

(Provision of Information)

Article 20 The national government is to conduct research and analysis on domestic and international trends concerning intellectual property, prepare necessary statistics and other materials, develop databases on intellectual property, and take necessary measures to provide information promptly to business operators, universities, etc. and other parties concerned via the internet and other advanced information and communications networks.

(Promotion of Education)

Article 21 The national government is to take necessary measures to develop a society in which intellectual property rights are respected by deepening citizens' understanding of and interest in intellectual property, including promoting education and learning on intellectual property and disseminating knowledge of intellectual property through public relations activities, etc.

(Securing Human Resources)

Article 22 The national government is to take necessary measures, in close cooperation and coordination with universities, etc. and business operators, to promote the creation, protection, and utilization of intellectual property by securing and developing human resources with specialized knowledge of intellectual property and enhancing their capabilities.

Chapter III Strategic Program on the Creation, Protection, and Utilization of Intellectual Property

Article 23 (1) The Intellectual Property Strategy Headquarters is to develop a strategic program on the creation, protection, and utilization of intellectual property (referred to below as the "strategic program") pursuant to the provisions of this Chapter.

(2) The strategic program is to provide for the following matters:

- (i) basic policy concerning measures that the government should implement in a focused and planned manner for the creation, protection, and utilization of intellectual property;

- (ii) measures that the government should take in a focused and planned manner for the creation, protection, and utilization of intellectual property;
 - (iii) measures that the government should take in a focused and planned manner to promote education on intellectual property and secure human resources, etc.;
 - (iv) matters, other than those specified in the preceding items, that are necessary for the government to promote measures in a focused and planned manner for the creation, protection, and utilization of intellectual property.
- (3) In principle, specific objectives and target dates for achieving them are to be specified for the measures specified in the strategic program.
- (4) When the Intellectual Property Strategy Headquarters develops the strategic program pursuant to the provisions of paragraph (1), it must publish the program via the internet and other appropriate means without delay.
- (5) The Intellectual Property Strategy Headquarters must, in a timely manner, investigate the extent to which the objectives specified pursuant to the provisions of paragraph (3) have been achieved and publish the results via the internet and other appropriate means.
- (6) The Intellectual Property Strategy Headquarters must, taking into consideration the changes in the situation surrounding intellectual property and based on the assessment of the effectiveness of the measures for the creation, protection, and utilization of intellectual property, review the strategic program at least annually, and must amend the program when it is found necessary.
- (7) The provisions of paragraph (4) apply mutatis mutandis to amendments to the strategic program.

Chapter IV Intellectual Property Strategy Headquarters

(Establishment)

Article 24 In order to promote measures for the creation, protection, and utilization of intellectual property in a focused and planned manner, the Intellectual Property Strategy Headquarters (referred to below as the "Headquarters") is established within the Cabinet.

(Affairs Under the Jurisdiction)

Article 25 The Headquarters is responsible for the following affairs:

- (i) developing the strategic program and promoting its implementation.
- (ii) in addition to the affairs stated in the preceding item, studying and deliberating on the planning of significant measures concerning the creation, protection, and utilization of intellectual property, promoting the implementation of those measures, and comprehensively coordinating them.

(Organization)

Article 26 The Headquarters consists of the Director-General of the Intellectual Property Strategy Headquarters, the Vice Director-Generals of the Intellectual Property Strategy Headquarters, and Members of the Intellectual Property Strategy Headquarters.

(Director-General of the Intellectual Property Strategy Headquarters)

Article 27 (1) The Headquarters is headed by the Director-General of the Intellectual Property Strategy Headquarters (referred to below as the "Director-General"), and the Prime Minister serves as the Director-General.

(2) The Director-General has overall responsibility for the affairs of the Headquarters and directs and supervises the officials of the Headquarters.

(Vice Director-Generals of the Intellectual Property Strategy Headquarters)

Article 28 (1) The Headquarters is to have Vice Director-Generals of the Intellectual Property Strategy Headquarters (referred to below as the "Vice Director-Generals"), who are appointed from among the Ministers of State.

(2) The Vice Director-Generals assist the Director-General in carrying out the Director-General's duties.

(Members of the Intellectual Property Strategy Headquarters)

Article 29 (1) The Headquarters is to have members of the Intellectual Property Strategy Headquarters (referred to below as the "members").

(2) The following persons are to serve as members:

- (i) all Ministers of State other than the Director-General and the Vice Director-Generals; and
- (ii) persons appointed by the Prime Minister from among persons with distinguished insight into the creation, protection, and utilization of intellectual property.

(Submission of Materials and Other Forms of Cooperation)

Article 30 (1) When the Headquarters finds it necessary to carry out the affairs under its jurisdiction, it may request the heads of the relevant administrative bodies, local governments, incorporated administrative agencies, local incorporated administrative agencies, and representatives of special corporations to submit materials, express opinions, give explanations, and provide other necessary cooperation.

(2) If the Headquarters finds it especially necessary to carry out the affairs under its jurisdiction, it may also request necessary cooperation from persons other than those prescribed in the preceding paragraph.

(Affairs)

Article 31 Affairs relating to the Headquarters are to be handled by the Cabinet Office.

(Competent Minister)

Article 32 For matters relating to the Headquarters, the competent Minister referred to in the Cabinet Act (Act No.5 of 1947) is the Prime Minister.

(Matters to Be Determined by Cabinet Order)

Article 33 In addition to what is provided for in this Act, necessary matters concerning the Headquarters are prescribed by Cabinet Order.

Supplementary Provisions

(Effective Date)

Article 1 This Act comes into effect on the date specified by Cabinet Order within a period not exceeding three months from the date of promulgation.

(Review)

Article 2 The government is to review the state of enforcement of this Act within three years from the effective date of this Act and is to take necessary measures based on the results.

Supplementary Provisions [Act No. 117 of July 16, 2003] [Extract]

(Effective Date)

Article 1 This Act comes into effect on April 1, 2004.

Supplementary Provisions [Act No. 119 of July 16, 2003] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date on which the Local Incorporated Administrative Agency Act (Act No. 118 of 2003) comes into effect.

(Other Transitional Measures to Be Determined by Cabinet Order)

Article 6 In addition to what is provided for in these Supplementary Provisions, transitional measures necessary for the enforcement of this Act are prescribed by Cabinet Order.

Supplementary Provisions [Act No. 66 of September 11, 2015] [Extract]

(Effective Date)

Article 1 (1) This Act comes into effect on April 1, 2016; provided, however, that the provisions listed in the following items come into effect on the dates specified respectively in those items:

- (i) the provisions of Article 7 of the Supplementary Provisions: the date of promulgation.

(Matters to Be Determined by Cabinet Order)

Article 7 In addition to what is provided for in Article 2 through the preceding Article of the Supplementary Provisions, transitional measures necessary for the enforcement of this Act are prescribed by Cabinet Order.

Supplementary Provisions [Act No. 63 of June 24, 2020] [Extract]

(Effective Date)

Article 1 This Act comes into effect on April 1, 2021.

Supplementary Provisions [Act No. 36 of May 19, 2021] [Extract]

(Effective Date)

Article 1 This Act comes into effect on September 1, 2021.