
Contents & Abstracts

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■ Toward the Revitalization of the Japanese Economy Driven by Intellectual Property and Intangible Assets 2

KIKUCHI Osamu

We are now standing at a major turning point in history. As Japan emerges from a long era of deflation, waves of global inflation, rapid digital transformation, and the dramatic evolution of generative AI (artificial intelligence) are beginning to fundamentally shake up the very foundations of the global economy and society as we know them. Amid these turbulent times, our association (IPIAGA) embarked on a new journey as a general incorporated association in February 2025, guided by a vision in which Japanese companies and universities create value by placing “intellectual property and intangible assets” at the core of their management, thereby achieving sustainable growth and revitalizing Japan. I am deeply honored to have been given this opportunity to write the opening remarks, and I would like to take this chance to once again share with you our vision for the future and the role that intellectual property and intangible asset governance should play.

■ The Changing Role of Well-Known Trademark Protection in Selected ASEAN Countries 6

TOYOSAKI Reiko

ASEAN countries established systems for the protection of well-known trademarks following the entry into force of the TRIPS Agreement in 1995, in compliance with Article 6*bis* of the Paris Convention and Article 16 of the TRIPS Agreement. Over the approximately 20 years since the establishment of these systems, however, they have developed along distinct trajectories and do not necessarily have uniform roles. This paper analyzes laws and regulations, judicial precedents, and administrative practices in six countries—Singapore, Malaysia, the Philippines, Thailand, Indonesia, and Vietnam—and compares the roles performed by their well-known trademark protection systems.

The paper first examines the well-known trademark protection anticipated by the TRIPS Agreement and Article 6*bis* of the Paris Convention. It confirms that, when these systems were initially introduced, the countries were required to protect unregistered well-known trademarks, prevent bad-faith trademark registrations, and, in certain cases, protect dissimilar goods and services. The systems did not directly require the protection of brand value itself. The paper then compares the systems and judicial precedents between the countries. It reveals that, in Indonesia and Vietnam, well-known trademark protection has developed as a mechanism for preventing bad-faith applications. In Thailand, it continues to serve as a mechanism primarily for preventing likelihood of confusion. In Malaysia, emphasis is placed on the protection of foreign well-known trademarks and commercial goodwill, while in Singapore, the system has extended to the protection of brand value, including protection against blurring and tarnishment. In the Philippines, the system has evolved toward the

protection of commercial goodwill and brand value, as reflected in recent judicial precedents and the establishment of a system for the declaration of well-known marks.

The above shows that, while the well-known trademark systems of ASEAN countries all trace their origin to the TRIPS Agreement, the systems have subsequently developed in diverse ways to reflect the legal system and trademark policy of each country. Today, the systems serve different functions, including preventing bad-faith applications, preventing likelihood of confusion, protecting commercial goodwill, and protecting brand value.

■ The Functions of the Geographical Indications (GI) System in Rural Development: Comparative Study of Italy and Japan20

KIMURA Junko

This paper examines the functions of Geographical Indications (GIs) in ensuring the sustainability of regional communities, using Italy's Protected Designation of Origin (PDO) system and Japan's Geographical Indication (GI) system as case studies. Specifically, the three-layer structure of *territorio* is analyzed. *Territorio* refers to not merely an administrative unit but a dynamic space where the layers of geographical foundation (lower layer), economic activities (middle layer), and social capital (upper layer) overlap and interact with one another.

Japanese agriculture faces a food security crisis due to an aging and declining population. In Italy, by contrast, agriculture performs multiple functions within a region, supporting landscape conservation and cultural preservation. In the Italian case, the PDO system legally and institutionally defines common goods (lower layer), such as traditional knowledge and landscapes, and functions as a safeguard against the homogenizing pressures of the global market.

In the case of Kawamata Shamo, chicken raised in Kawamata Town, Fukushima Prefecture that was registered as a GI in 2022, emphasis is placed on the process of overcoming the stigma caused by the Fukushima nuclear accident through the scientific reassessment accompanying GI registration. The geographical foundation (lower layer) of Kawamata Shamo, rooted in the region's former silk industry and cockfighting culture, was redefined as a result of rigorous safety verification, and the official GI certification restored confidence in the regional brand. This study found that stakeholders complying with production regulations more stringent than the Japanese Agricultural Standards (JAS) return profits generated in the market economy back to the community economy (middle layer), which in turn strengthens bonds among producers (upper layer).

A comparison of the Italian and Japanese cases reveals that the GI system serves as both an institutional infrastructure that vertically integrates the three layers of *territorio* and an engine that drives their interaction. Whereas Italy emphasizes the preservation and renewal of tradition, Kawamata Town utilizes GI to overcome and recover from a crisis. The value of the GI system lies not in promoting registered products themselves but in stimulating a cyclical process of *territorio* through the revaluation of regional resources and the institutionalization of trust. Strengthening all three layers is key to building sustainable regional communities capable of withstanding natural disasters, market fluctuations, and other crises.

■ A Fundamental Study of Trademark Functions: A Critical Examination of the View that the Source-Identifying Function Is the Sole Essential Function36

SUZUKI Takafumi

Japanese courts have developed a trademark function theory, meaning that a conduct that may formally constitute trademark infringement is nevertheless regarded as not unlawful in substance when the essential

function of the trademark is not impaired. There are two competing views of the essential function considered by this theory. One is the view that the source-identifying function is the sole essential function of trademarks. It posits that the quality-guarantee function is not independently protected on its own and that quality-related issues are subsumed within the assessment of the source-identifying function. The contrary view holds that the quality-guarantee function is an independent function. It maintains that consumers' expectations regarding the quality of goods bearing the trademark should be protected independently of the source-identifying function. As the debates surrounding these two views have focused on whether the quality-guarantee function should be protected on its own, the analytical framework for impairment of the source-identifying function has not necessarily been clarified.

From this perspective, this paper examines and analyzes the sole essential function argument and reveals two distinct analytical frameworks. In parallel import cases, emphasis is placed on whether the trademark owner had an opportunity to determine whether the product should be placed on the market. Under this view, once the product has been placed on the market in accordance with the trademark owner's intention, consumers' expectations and perceptions regarding quality are, in principle, excluded from the analysis, even if the product subsequently circulates in a region not originally contemplated by the trademark owner. By contrast, in cases of modification, repackaging into smaller quantities, or deterioration in quality, the analysis considers whether intervention outside the bounds of ordinary commercial practices created or heightened an abstract risk of harm to the goodwill associated with the trademark and whether post-sale confusion may arise.

This divergence causes contradictory outcomes in the same hypothetical case in which a product is distributed to a region whose conditions of use are unsuitable for the product: the analytical framework derived from parallel import cases concludes non-infringement, whereas the analytical framework derived from modification and repackaging cases concludes infringement. In short, in the view that the source-identifying function is the sole essential function, there is an inherent inconsistency between the two categories of cases. To resolve this inconsistency, it is reasonable to treat consumers' quality expectations and perceptions expressly as an independent factor in both categories. Reconstructed in this manner, the view that the source-identifying function is the sole essential function can be regarded as equivalent in substance to the view that the quality-guarantee function should be independently protected.

■ How to Determine the Copyrightability of Mass-Produced Useful Articles65

YOKOYAMA Hisayoshi

The Supreme Court Judgment of April 24, 2026 (the "Judgment") marks the first time the Supreme Court of Japan ruled on the copyrightability of mass-produced utilitarian products.

Regarding utilitarian products, the Copyright Act provides that works of artistic craftsmanship are included in artistic works (see Article 2, paragraph (2) of the Act). However, it contains no specific provision on mass-produced utilitarian products, leaving to interpretation the extent to which copyrightability applies to such products. In prior court rulings, the courts often viewed that, in order to distinguish between the Copyright Act and the Design Act, a mass-produced utilitarian product is copyrightable only if it is a creative expression embodying aesthetic characteristics that serves as an object of aesthetic appreciation, independently and apart from its configuration necessary for the product's utilitarian purpose (doctrine of conceptual separability). By contrast, the Judgment, while taking account of the differentiation between the Copyright Act and the Design Act, held that copyrightability may be recognized "where the shape or other features of all or part of a mass-produced utilitarian product can be conceptually perceived as a creative expression of thoughts or sentiments that is distinct from a configuration derived from its function."

The Judgment shares the same basic concept as the conceptual separability doctrine. Therefore, it is likely that, even under the criteria adopted in the Judgment, articles whose design is predominantly utilitarian will be

denied copyrightability. However, compared with the doctrine, the Judgment appears to place more emphasis on what type of expression an ordinary person encountering a mass-produced utilitarian product perceives the shape or other features of the product as having, rather than on whether the shape or other features are subject to functional constraints. Accordingly, even in cases in which prior court rulings denied copyrightability on the grounds of functional constraints, the criteria adopted in the Judgment may recognize copyrightability where the shape or other features of the product can conceptually be discerned as creative expression comparable to paintings, sculptures, or other artistic works.

Although the Judgment ruled on the copyrightability of mass-produced utilitarian products, its proposition—that protection be denied to expressions that are perceived solely as a shape or other features constituting a configuration derived from the function of a utilitarian product—may provide a useful reference for determining the copyrightability of other aesthetic creations whose applicability as artistic works is disputed, including works of craftsmanship, architectural works, and virtual objects.

■ Intellectual Property as a Growth Engine: Establishing INPIT-KYUSHU to Support Regional Industry.....85

YOKOTA Kunitoshi

On Thursday, October 1, 2026, the National Center for Industrial Property Information and Training (INPIT) will establish INPIT-KYUSHU in Fukuoka City. As INPIT's second regional hub in Japan after Osaka, the office will strengthen support mainly for leading medium enterprises, small and medium-sized enterprises, startups, universities, and research institutions in Kyushu and Okinawa aimed at linking intellectual property (IP) to business growth and enhancing growth power. This paper examines the importance of IP to the growth of regional industries and discusses the contributions that INPIT-KYUSHU can make.

Kyushu and Okinawa possess a diverse range of growth drivers, such as semiconductors; automobiles; energy; biotechnology; agriculture, forestry and fisheries; food; tourism; and traditional crafts. However, the region lacks sufficient mechanisms for treating technologies, expertise, brands, designs, data, and related assets as management resources and converting them into pricing power, bargaining power, fundraising power, and overseas marketability. The greater the opportunities for investment and industry-academia collaboration, the higher the IP risks from joint research, contract manufacturing, exhibiting in trade fairs, overseas transactions, and workforce mobility. For regional enterprises to protect their strengths, communicate them appropriately to business partners and investors, and translate them into added value, it is essential that enterprises incorporate an IP strategy from the early stages of their business.

Through hands-on support provided by resident IP strategy experts, comprehensive enterprise services built on networks with regional organizations, as well as IP awareness-raising and practical support for enterprises, universities, and research and other institutions, INPIT-KYUSHU aims to serve as a nexus for recognizing IP as a management resource that generates growth power and for using IP in practice. In addition, by working with such partners as business support organizations and financial institutions, the office will provide necessary advice before entities discern their IP-related challenges, thereby helping build a foundation for converting value created in the region into competitiveness, turning that competitiveness

into success, and reinvesting those gains into further pursuits. The establishment of INPIT-KYUSHU will mark the beginning of steady efforts to promote IP's function as a growth engine for regional industries.