Patent Attorneys and Their Education in Japan

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March 2018
In Kuala Lumpur
What I want to say today

• History and current situation in Japan

• It is important to have a sound patent attorney system
  • Patent attorney qualification supports the patent system
  • Patent office and attorney work in tandem
  • Helpful for the development of local industries and research

• For maintaining a sound patent attorney system
  • High level examination and continuing education are important
  • Ethics education is also important
Beginning, more than 130 years ago

- **First substantive** patent act in 1885
  - By Mr. Korekiyo Takahashi
  - 425 patent applications in 1885
  - First trademark act in 1884 also by Mr. Takahashi

- **Mr. Takahashi** traveled to the U.S. and Europe to study patent systems for one year
  - November 1885 through November 1886
  - He was impressed by a US patent attorney

- First “*patent attorneys*” in Japan appeared in 1890
  - *Tokkyo Daigen Sha* (literally “Patent Attorney Co.”) opened two offices in Tokyo
  - Former examiners at the suggestion of Mr. Takahashi
So Mr. Takahashi, around 1985-90, -

• Created patent system and trademark system in Japan
• Created copyright system
• Created the Patent Office for examination
• Built a building for the Patent Office
• and

• Created patent attorney profession
• Sowed seed for special patent account for JPO fees

• He moved on to become Finance Minister three times, Prime Minister, and then FM for fourth-sixth times
• He was assassinated by soldiers in 1936
First Patent Attorney System (1899)

- First regulations on the registration of patent attorneys appeared in 1899
  - Took effect on July 1, 1899
- Patent Act in 1909 stipulates that only patent attorneys have power of representation before the Patent Office
- “Japan Patent Attorneys Association” (JPAA) was established in 1915 – 103 years ago
- First Patent Attorney Act was promulgated in 1921
  - The number of registered patent attorneys reached 1,350 in 1921
  - 39,064 patent and utility model applications, and 36,809 trade mark applications filed in 1921.
JPAA

- JPAA was established in 1915 in Tokyo
  - 9 branch offices including one in Tokyo
- All patent attorneys have to belong to JPAA
  - Compulsory membership
  - Monthly fee is JPY15,000 or about US$140
- The budget is about US$ 20 million
- JPAA has staff of 90 including 27 part timers
What Patent Attorneys Can Do?

• Patent Attorney Act stipulates what we can do:
  ▫ Articles 4 through 6bis:
    • Representation before the Japan Patent Office for fees (exclusive)
    • Opinions, customs procedures, ADR
    • Representation before the IP High Court for appeals from decisions of Appeal Department of JPO
    • Assistant to lawyers in infringement litigation
    • Representation with a lawyer before infringement courts for specific types of litigation with additional qualification
Representation before infringement courts

• Representation before infringement courts for specific types of litigation
  • Representation together with an attorney at law
  • Patent, UM, design, trademark, circuit layout, and certain types of unfair competition violations

• Qualification process
  • 45 hours of lectures and four drafting exercises
    • Three courses in Tokyo and one in Osaka
    • Lecturers are attorneys at law, judges and court clerks
  • Examination conducted by JPO
    • Drafting a complaint and a brief
    • Pass rate is about 45%

• More than 3300 patent attorneys have this qualification (as of Feb 2018)
Trends surrounding JP patent attorneys

• Increasing number of patent attorneys
  • More than 11,000 patent attorneys in Japan
• Dwindling domestic filings
• Increasing foreign filings by Japanese companies
We have 11,000 patent attorneys in Japan
Filings in Japan – Pat, UM, Design, TM

Annual filings in Japan - Patent, UM, Design + TM

Peak in 2001
440,000 applications

UM Act amended
Service Marks became registrable

Patent
Trademark
Utility Model
Design
Education is JPAA’s top priority!!

• “Educational Institute” of JPAA
  • 110 attorney members (volunteers) + administrative staff of 10 or so
  • More than 400 classes per year
  • About 250 e-learning programs

• Branch offices (9) are active providers as well

• Education budget - Expenditure - 4 million US dollars in total
  • E-learning and many lectures are free of charge to members
  • A bit less than US$380 per attorney
  • Fees may be required for a number of courses
    • Fee income is about 1.0 million US dollars
Types of Educational Programs

• **Pre-registration courses** for those who passed bar exam.
  • 72 hours – e-learning + live lectures + assignments

• **CLE courses**
  • Mandatory **70 hours over 5 years** (including **10 hours for ethics**)
    • Live lectures + e-learning
  • Compulsory classes corresponding to important developments such as law amendments – every attorney is required to take them

• **Courses for infringement litigation qualification**
  • 45 hours live lectures in preparation for exam

• **Courses conducted by JPAA branch offices** (9 branches)
• **JPAA-certified CLE courses by outside organizations**
Thank you

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