★ASSERTION and PROPOSAL of BEST LICENSE

In Pursuit of Establishing the Rights-Processing-System of Industrial Property

Please telecast 'Peoples' Open Trial of the Criminal of Robbery of Trademark PPAP: Ikuhiro Ueda'

President of BEST LICENSE Inc. : Ikuhiro Ueda

★HOMEPAGE http://bestlicense.qcweb.jp

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1. The Purpose and the Means(Business Contents) of BEST LICENSE Inc

BEST LICENSE Inc. has been established on November 2014 by its representative: Ikuhiro Ueda with the following purpose and the means (business contents)

(1)Public Purpose

BEST LICENSE Inc. will establish the rights-processing-system of

industrial property. “The rights-processing-system of industrial property” means the mechanism for concluding the license agreement about the assignment and the secureness of the enforcement and the use with respect to industrial property (patent, utility model, design, trademark).

(2)Private Purpose

BEST LICENSE Inc. will research and develop the necessary technique for establishing the rights-processing-system of industrial property, and pursue the benefit through the rights-processing-business of industrial property.

(3)The Means (Business Contents) for Attaining the Above-Written Purposes (1)(2)

① The business of the research and development of the necessary technique for establishing the rights-processing-system of industrial property

② The business of the filing applications and rights-acquisition on industrial property of above research and developed technique etc.

③ The business for concluding the license agreements at the filing stage and after the rights-acquisition (license, invalidation, changing of the performed technique and the using trademarks etc.)

④ The business for presenting the ideal image of what it should be of the system of industrial property through the above-written businesses ① to ③.

⑤ The business for presenting the ideal image of what it should be of the system of copyright through the above-written businesses ① to ④.

⑥ The business for contributing to the general society by correcting the national divide between major enterprises and minor enterprises/individuals in a country and the international divide between developed countries and developing countries in the international society.

2.The Present Situation and the Basic Raised Issues of the rights-processing-system of Each Intellectual Property

Intellectual property mainly consists of copyright and industrial property, but now the rights-processing-systems utterly different between these two fields as follows.

(1)The rights-processing-system of copyright (literature/science/art/music) is managed by the Act on Copyright, etc. Management Service. That is, it is the system in which the settlor(the copyright owner) entrusts the license of the utilization of work, performance, record, broadcast, or wire-broadcasting (works) to the trustee(the copyright management entrepreneur) and the trustee(the copyright management entrepreneur) collects the charge of the work instead of the settlor(the copyright owner). The copyright management entrepreneur is required to register on the Agency for cultural affairs.

(2)The rights-processing-system of industrial property(trademark/design/utility model/patent) is left to the principle of the private autonomy and the principle of the freedom of the contract. That is, there are the system of the arbitration decision on grant of non-exclusive license in case of non-working in order to secure the working of the invention and the system of the trial for cancellation of trademark registration in case of no-use in order to compel the trademark right owner to use the registered trademark, but the mechanism for concluding the license agreement in order to secure the assignment and working and using with respect to industrial property (trademark/design/utility model/patent) doesn't exist substantially.

(3)Basic Raised Issues

①As written in the above (2), the rights-processing-system of industrial property(trademark/design/utility model/patent) is left to the principle of the private autonomy and the principle of the freedom of the contract, as it is ? Considering just as the same way as the rights-processing-system of copyright written in above (1), for example, should we establish the Act on Industrial Property Management Service, and should we adopt the system in which the settlor(the industrial property owner) entrusts the license of the utilization of the industrial property to the trustee(the industrial property management entrepreneur) and the trustee(the industrial property management entrepreneur) collects the charge of the industrial property instead of the settlor(the industrial property owner)?

② Differently from copyright, all industrial properties are collectively managed by JPO. Can we utilize this condition when we establish the rights-processing-system of industrial property (trademark/design/utility model/patent) ? Please refer to the following '3. The Present Situation and the Problems of the rights-processing-system of Industrial Property.'

3. The Present Situation and the Problems of the rights-processing-system of Industrial Property

(1) Patent law and Utility model law---There is the system of the arbitration decision on grant of non-exclusive license in case of non-working in order to secure the working of the invention-But there is never actual records in the past. So this system seems to be a white elephant.

(2) Design law---There is never the system of the arbitration decision on grant of non-exclusive license in case of non-working in order to secure the working of the design.

(3) Trademark law---The system of the trial for cancellation of trademark registration in case of no-use in order to compel the trademark right owner to use the registered trademark--but the mechanism for concluding the license agreement in order to secure the assignment and using with respect to the trademark doesn't exist substantially.

(4) There are the civil measures of the remedy such as the injunction claims, the right to claim damages or losses, the claim of the restitution of the unjust enrichment and the confidence recovery claim and the penal measures of the remedy such as the offense of infringement and the dual liability as the measures of the remedy toward the infringement of the industrial property rights ,but these measures don't enough work as the mechanism for concluding the license agreement between the owner and infringer of industrial property. Normally, concluding the license agreement between the two parties is the final purpose of the owner and infringer of industrial property, but above-written civil measures of the remedy such as the injunction claims, the right to claim damages or losses, the claim of the restitution of the unjust enrichment and the confidence recovery claim and the penal measures of the remedy such as the offense of infringement and the dual liability are the means

for attaining this final purpose. But exercising these measures don't tend to lead to concluding of the license agreement between the two parties. So concluding the license agreement and these means for attaining this purpose don't work organically.

(5)Due to above (1) to (4), even if patent right, utility model right, design right or trademark right is granted, these rights tend to lead to no-working of the invention, no-working of the device, no-working of the design and no-use to the trademark. So empty patent rights, empty utility model rights, empty design rights and empty trademark rights increase very much.

(6)Although above (5), the owner of industrial property rights has to pay the fee every year, in addition to the registration fee.-But just only holding the industrial property rights never almost lead to the benefit of the owners. But holding many industrial property rights tend to give the opponents the deterrent in which the rights-exercise tends to trigger the opposite rights-exercise.

(7)Existence of the Unbalance between the Purpose and the Means in each Player in the Industrial Property Business World

① The purpose (Contributing to Industrial Development) VS The Means((i)Receiving of the Filing、(ii)Examination、(iii)Appeal、(iv)Registration、(v)Issue of IP Gazatte)

The purpose of the industrial property administration in JPO lies in contributing to the development of the industry, but five means((i) Receiving of the Filing、(ii)Examination、(iii)Appeal、(iv)Registration、(v)Issue of IP Gazatte) for attaining this purpose, work organically with the result that is this purpose "contributing to the development of the industry" attained? Don't the staffs in charge of receiving just only receive the filings? Don't the examiners just only examine the applications? Don't the trial examiners just only examine in the trial examination? Don't the staffs in charge of the registration just only make the registrations? Don't the staffs in charge of issuing the gazettes just only issue the gazettes?、Doesn't Making the means more important than the purpose occur? Because of the lack of the effective system for concluding the license agreements, aren't the working of the invention/the device/the design and the use of the trademark secured so doesn't each job (means) function organically and lead to the purpose

‘contributing to the development of the industry’?

② The Purpose of the Entrepreneurs such as Applicants and Rights Owner(Intellectual Property-backed Management) VS The Means of Attaining this Purpose((i)Filing and Rights-Acquisition of the developed technique,(ii)Invalidation of the Rights of the Opponent, (iii)License Agreement)

The purpose of the entrepreneurs such as applicants and rights owner is the intellectual property-backed management, but do these means for attaining this purpose such as ((i)Filing and Rights-Acquisition of the developed technique,(ii)Invalidation of the Rights of the Opponent, (iii)License Agreement) work organically and really serve to this purpose? Could it be that just only filing application as to intellectual property and getting rights? Could it be that just only holding intellectual property rights and paying the fee every year? Could it be that can we secure working of the invention/device/design or the use of the registered trademark by concluding the license agreements as to the industrial property which we hold? Could it be that the parties who conclude the license agreements are just only major enterprises? Because there isn’t the effective system for concluding the license agreements, the parties who conclude the license agreements are limited and aren’t enlarged to major enterprises in the world and the various small-medium sized enterproses so that don’t we attain the purpose ‘the intellectual property-backed management?’

4. The Policy for Designing the rights-processing-system of Industrial Property

(1)The methods for concluding the license agreements for assignment and securing working and use of intellectual property and the problems(The methods mainly consist of the following five processes under the principle of the private autonomy and the principle of freedom of agreements)

①Offer of contract toward the licenser(industrial property owners) from the licensee(the person who wishes the working and use of IP)

⇒But it takes many times and costs for the licensee to check the name and the address of the licensor and draft and mail the application form.

②Decision of the contents of the contracts by negotiating between the two parties.

⇒But it takes many times and costs to decide the detailed conditions of the license fee etc., depending on the business relation between the two parties such as the licensor and the licensee.

③Concluding the license agreements for assignment and securing working and use of intellectual property.

⇒But it takes many times and costs to make the direct connection between the two parties.

④Registration of the assignment, the license etc. at JPO

⇒But the two parties tend to forget to register the license at JPO.

⑤Securing of executing the contract

⇒But in case of the default of the contract, the process for cancelling the contract isn't apparent. (2) Characteristics of industrial property (in comparison with copyright)

① Basically, JPO(administration which has jurisdiction over industrial property) manages all industrial property rights(its contents and its owners) collectively.

② The necessity of keeping the requirements as to the condition of the license

(i) Paris Convention article 2・3 (National Treatment)

(ii) Paris Convention article 4 bis (Patent Independent Principle)

(iii) Paris Convention article 5 (The measures toward no-working and no-use, indication of patent and registration)

(iv) Paris Convention article 6(3) (Trademark Independent Principle)

(iv) Paris Convention article 6 quarter (Transfer of the trademark)

(v) TRIPs Agreement article 3 (National Treatment)

(vii) TRIPs Agreement article 4 (Most-Favored-Nation Treatment)

(viii) TRIPs Agreement article 21 (Licensing and Assignment)

(ix) TRIPs Agreement article 30 (Exceptions to Rights Conferred)

(x) TRIPs Agreement article 31・31 bis (Other Use Without Authorization of the Right Holder)

(xi) Trademark Law Treaty article 11 (Transfer of rights)

(xii) Madrid Protocol article 9 (Recordal of Change in the Ownership of an International Registration)

(xiii) Geneva Reformation Agreement article 16 (Recording of Changes and Other Matters Concerning International Registrations)

(xiv) Trademark Singapore Treaty article 11 (Change in Ownership)

(xv) Trademark Singapore Treaty article 17 (Request for Recordal of a License)

(xvi) Trademark Singapore Treaty article 18 (Request for Amendment or Cancellation of the Recordal of a License)

(xvii) Trademark Singapore Treaty article 19 (Effects of the Non-Recordal of a License)

(xviii) Trademark Singapore Treaty article 20 (Indication of the License)

(2)Policy for Designing the rights-processing-system

JPO(Administration which has jurisdiction over industrial property) should strongly intervene in each five processes in the methods for concluding the license agreements for assignment and securing working and use of intellectual property in order to promote concluding the license agreements between the two parties. More concretely, maintaining the present system as to the arbitration decisions(Japan patent law article 83,92,93etc.), new system as to the arbitration decision with respect to arbitrary or voluntary(no-compulsory) license(exclusive licenses, non-exclusive licenses, assignment etc.) should be established so that the system of the arbitration decision is enlarged by complementing the principle of the private autonomy and the principle of freedom of agreements.

A. Requirements for request

①Demandant--- 'Any person' should demand the trial and the special interest shouldn't be repuired.

②Object for demanding--- 'The right to obtain patent, the right to obtain utility model registration, the right to obtain design registration and the right deriving from a trademark application' should be included, in addition to industrial property rights(patent right, utility model right, design right, trademark right.)

③ Grounds on which the trial is demanded---No grounds is required,

so the trial can be demanded, irrespective of 'No-working'' Utilization and confliction '' Public interest'

④ Period of demanding---Basically, demand is possible from the filing of the applications to the extinguishment of the industrial property rights, but when the problem of the infringement of the industrial property rights occurs after the extinguishment of the industrial property rights, it is possible to demand.

⑤ Procedure of demanding---It isn't required for the two parties to hold consultaions on the grant of the license so that any person can demand the trial soon without the consultation.

B. Procedure of the Trial

① Subject---This trial should be conducted by a collegial body of three trial examiners whom the commissioner of JPO designate. ∵Because JPO has all information as to industrial property, the request of the demand should be presented to the commissioner of JPO. Because the problem as to whether or not the worked product falls within the soope of the industrial property rights tends to occur in this trial, 'a collegial body of three trail examiners' should conduct in this trial just like in the trial of the interpretation.

② Procedures---(i)Presentation of the written demand from the demandant of new arbitration decision(Basically, the licensee)

(ii) Presentation of the written reply from the defendant (applicant or rights holder) (Basically, the licensor)

(iii)The limitation of the arbitration decision(Japan patent law articls 85-2,92-5,6) shouldn't be established.

(iv)Hearing the views of the Industrial Property Council, shouldn't be performed.

(v)The rights in this arbitration decision---exclusive license, non-exclusive license, provisional exclusive license, provisional non-exclusive license,

industrial property rights

(vi)The transmittal of copy of arbitration decision--- ‘an agreement in the terms of the arbitration decision shall be deemed to have been reached by the parties.’ in Japan patent law article 87-2, should be amended to ‘an agreement in the terms of the arbitration decision shall be presumed to have been reached by the parties.’ in new arbitration decision system in order to chage from the legal fiction to the presumption to comply with Paris convention article 5 etc.

(vii)New system to cancel the arbitration decision should be established and should be conducted in the same way as that of above new arbitration decision system.

C. Other policies with respect to this new arbitration decision system

① The reformation of the establishment of verification trial system

The present interpretation system should be reformed to new verification trial system, just like in the old Japan industrial property law. It’s because the interpretation system was strengthened in the reformation of 1999, but the judgment about whether or not the specified object is within the scope of the industrial property rights, tends to the raised issues in the infringement case etc. and the importance of the conclusion of the judgment about whether or not the specified object is within the scope of the industrial property rights in increasing so it should be coordinated in the same level as other appeal trial systems such as the invalidation trial and the appeal trial against examiner’s refusal etc. with the result that we should grow out of the interpretation system which is mere administrative service.

② The establishment of the organic coordination system between the verification trial system and the rights-processing-system

The organic relation system between above-written verification trial system and above new rights-processing-system of industrial property, should be established, that is, if there is the verification trail decision in which the concrete worked product falls within the scope of the industrial property rights in new verification trial, it leads to the process of above new arbitration decision system so that the license

agreements are concluded between the same parties in this above new arbitration decision system. Oppositely, if there occurs the problem or the question about whether or not the concrete worked product falls within the scope of the industrial property rights in above new arbitration decision system, it leads to above new verification trial in which it is judged about whether or not the concrete worked product falls within the scope of the industrial property rights.

③ The establishment of the organic coordination system between the examination/trial system and the rights-processing-system

The organic relation system between the current examination/trial system and above new rights-processing-system of industrial property, should be established, that is, there occurs the petition of above new arbitration decision system during the examination by the examiner, the commissioner appoints the examiner as the special trial-examiner to proceed with the trial proceedings of above new arbitration decision system. Oppositely, if the examination of the application begins during the proceedings of above new arbitration decision system with respect to the filed application, the commissioner can appoint the main trial-examiner as the special examiner of the filed application. If the trial-proceedings of the invalidation trial begins during the proceedings of above new arbitration decision system with respect to the industrial property rights, the commissioner can appoint the three trial-examiners of the proceedings of above new arbitration decision system, as it is, as the trial-examiners of the invalidation trial.

④ The establishment of the organic coordination system among the examination/trial system, the verification trial system and the rights-processing-system

The organic relation system among the current examination/trial system and above new rights-processing-system of industrial property and above-written verification trial system, should be established. Various and flexible organic systems such as the organic systems of the above-written ②③ should be established, corresponding to the current needs.

⑤ The reformation of making the registration fee and the annual fees free of charge

The registration fee and the annual fees of the industrial property rights, should be made free of charge because just only holding IP rights

don’t give rise to the benefit to the owner of IP rights. Making the fees of IP rights free of charge leads to the increase of the numbers of IP applications, requests for examination, filing oppositions and demands for invalidation of IP rights with the result that IP activities increase so much.

⑥ The reformation of the establishing provisional exclusive license system and a provisional no-exclusive license system in four IP laws

The present patent law has a provisional exclusive license system and a provisional no-exclusive license system. The present utility model law has a provisional no-exclusive license system. The present design law has a provisional no-exclusive license system. But a provisional exclusive license system should be established, just like in patent law. A provisional exclusive license system and a provisional no-exclusive license system should be established in trademark law, just like in patent law.

⑦ The reformation of the revival and the establishment of the system of the registration of no-exclusive license

Maintaining the system of the natural antagonism, the system of the registration of no-exclusive license should be established or revived. ∵Even if the system of the natural antagonism is established, the necessity of the registration shouldn’t be underestimated in order to make the rights-relation of no-license clearer.

⑧ The reformation of making the opposition fee free of charge

The fees of the opposition to patent and the opposition to registration should be made free of charge ∵Because the purpose of the opposition lies in raising the public interest of the administrative dispositions such as patent and registration, JPO shouldn’t require payment of the fees of the opposition by the opponents in addition to payment of the fee of the examination by the applicant.

⑨ The reformation of the establishment of the appeal against the ruling of maintenance

“No appeal shall lie from a ruling under the preceding paragraph.” prescribed in Japan patent law article 114-5 and trademark law article 43ter-5, should be deleted because these prescriptions are invalidated due to the violence of Japan Constitution article 76-2 latter part which

prescribes “nor shall any organ or agency of the Executive be given final judicial power.”and Japan Constitution article 81 which prescribes “The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act.”

⑩ The reformation of the establishment of the opposition system against the utility model registration

The system of the opposition to utility model registration should be established because even if utility model right is granted with no examination, there exists the necessity that the public interest of the administrative dispositions such as utility model registration should be raised.

⑪ The reformation of the establishment of the opposition system against the design registration

The system of the opposition to design registration should be established because there exists the necessity that the public interest of the administrative dispositions such as design registration should be raised.

⑫ The reformation of making fee for requesting the reading inspection free of charge

The fee for requesting the reading inspection should be made free of charge because the rapid inspection of documents is necessary in order to decide the effectivity or the scope of IP rights with the result that the demand for requesting the reading inspection of documents free of charge.

5. The Big JPO Project and the Reform of the Business Circles in Japan in the World

The structure/the personnel/the operations of JPO should be reformed as follows.

(1) Reform of the Structure of JPO

① Reform regarding the establishment of Trademark and Design Department

Trademark Division is separated from Examination Operation Department and Design Division is separated from Examination First Department with the result that Trademark and Design Department should be established.

② Reform regarding the abolishment of Examination Operation Department

Examination Operation Department should be abolished by being absorbed by General Affairs Department.

③ Reform regarding the name of Trial Department

Trial Department should be change to Trail and Rights-Processing Department as to the title.

④ Reform regarding the name of JPO

Japan Patent Office(JPO) should be change to Japan Patent and Trademark Office(JPTO) as to the title.

(2) Reform of Personnel in JPO (Number of Examiners-from 1,500 to 10,000)

①Reform regarding the number of technical examiner(Patent/Utility model)

The number of technical examiner should be increased from about 1,300 to 10,000 with the result that IPCC(Industrial Property Cooperation Center) should be incorporated into JPO. Moreover, the searchers of IPCC should be changed to the examiners or assistant examiner.

② Reform regarding the number of design examiner

The number of design examiner should be increased from about 80 to 1,000.

③ Reform regarding the number of trademark examiner

The number of trademark examiner should be increased from about 120 to 1,500.

④ Reform regarding the number of the examiners in each Department

Due to above 1 to 3, the number of the examiners in each Department of Examination 1 to 4 and Trademark and Design Department becomes about 2,500.

⑤ Reform regarding the equalization of the pay level of each examiner

In the process of above reforms 1 to 4, the pay level of each examiner of technique, design and trademark should be made same because these examiners perform the examination in the same JPO under the campaign ’Same Wage to Same Work’ in ABENOMICS. This also applies to trail examiners.

⑥ Reform regarding the equalization among technique, design and trademark

In the process of above personnel reforms 1 to 5, JPO should rectify the attitude ‘ Technique/Design-Serious Consideration to Trademark-Contempt’ to ‘Technique/Desig/Trademark should be treated equally.’

⑦ Reform regarding the standardization between the examiners of design and trademark

In the process of above personnel reforms 7, JPO should standardize the design examiners and trademark examiners because the standardized phenomena exist between design and trademark in both the business strategy and the filing strategy due to the introduction of the system of the three-dimensional trademark in the 1996 reformation of Japan trademark law and the introduction of the system of the part-design in the 1998 reformation of Japan design law with the result that this phenomena should be reflected to the examination in JPO. This also applies to trail examiners.

⑧ Reform regarding the personnel of the Commissioner of JPO

The Commissioner of JPO should be appointed by the Prime Minister and be subject to Diet approval because the strong leadership of the personnel who can reflect the civil IP actual affairs to the administration under the democracy.

(3) Reforms of the Operation in JPO (Advancement of FA)

①Reform regarding FA(First Action)1:1:1 Plan

FA(First Action)1:1:1 Plan should be established-Patent⇒from 11 months to 1 month, Design⇒from 6 months to 1 day, Trademark⇒from 6 months to 1 week.

② Reform regarding making each day to be the same date

Examiner’s or trail-examiner’s decision to grant and the registration should be performed at the same day because it takes no time from the decision to grant if the proposal above-written in 4(4) ③ is performed and the registration fee is made free of charge.

③ Reform regarding making each day to be the same date etc.

The period between the submission date of the documents corresponding to FA(First Action) and the date of FA(Final Action) should be limited or shortened, that is, the examiner has to render the final decision(FA: Final Action) within a week after the receiving date of the documents

corresponding to FA(First Action) .

④ Reform regarding the shortening the period between first/final action

The period between the registration date and the gazette issue date should be limited or shortened, preferably should be made at the same date.

(4)Reforms of the National IP Information System of JPO

① Reform regarding incorporating PAPC into JPO

PAPC(Foundation Judicial Person: Paten Application Processing Center) should be incorporated into JPO with the result that the filing receiving Section of JPO should be enlarged.

② Reform regarding incorporating JAPIO into JPO

JAPIO(Japan Patent Information Organization) should be incorporated into JPO with the result that the examinatin Section and the gazette issuing Section of JPO should be enlarged.

③ Reform regarding incorporating INPIT into JPO

INPIT(Independent Administrative Judicial Person: National Center of INdustrial Property Information and Training) should be incorporated into JPO with the result that the gazette issuing Section of JPO should be enlarged.

④ Reform regarding the review of the Privatization of PATOLIS

Privatization in part of JAPIO (Privatization of PATOLIS: PATent OnLine Information System) should be reviewed, that is, JPO should repurchase this PATOLIS with the result that JPO should incorporate this PATOLIS into IPDL(Industrial Property Digital Library) and enlarge the function of IPDL (JPLATPAT: Japan PLATform for PATent information).

(5)Necessity of reviewing above-written Privatization in part of JAPIO (Privatization of PATOLIS: PATent OnLine Information System)

① Formal Announcement

JAPIO resolved that PATOLIS is transferred from JAPIO to the private corporation in the Board of Councilors and the Governing Board held in November 30, 2000, that is, JAPIO resolved that the ownership of PATOLIS is changed from JAPIO to the private corporation.

② Fact and Truth

The following facts came to light in the documents etc. disclosed by JPO, based on my request for information disclosure.

(i) The agreement on the transfer of PATOLIS such as that PATOLIS is transferred from JAPIO to the private corporation or PATOLIS is transferred from Japan(JPO) to JAPIO, was concluded between Mr. Arai: the then Commissioner of JPO and Mr. Wada: the then Councilor of JAPIO with the result that the privatization of PATOLIS has been performed based on this agreement. Mr. Wada: the then Councilor of JAPIO is the former General Manager of JPO so the relation between Mr. Wada: the then Councilor of JAPIO and Mr. Arai: the then Commissioner of JPO, lies in that of junior and senior of the administrative officials who entered MITI(Ministry of International Trade and Industry). That is, the junior: Mr. Wada: the then Councilor of JAPIO presented PATOLIS to the senior: Mr. Arai: the then Commissioner of JPO at this agreement. That is, PATOLIS was sold off in order to secure the place for parachuting of the administrative officials.

(ii) PATOLIS has been developed based on the national policy of Japan so the ownership of PATOLIS lies in Japan with the result that PATOLIS is national property or state-owned property.

(iii) Irrespective of above (ii), Mr. Wada: the then Councilor of JAPIO deceived the staffs of the plural major companies to pay the fund in order to perform this privatization with the result that the occupation of PATOLIS has been transferred from JAPIO to the private company: PATOLIS Inc. whose primary president is Mr. Wada.

③ Problems

(i) Mr. Wada: the then Councilor of JAPIO committed the crime of professional embezzlement by transferring the occupation of PATOLIS from Japan(JPO) or JAPIO to the private company: PATOLIS Inc. Mr. Wada: the then Councilor of JAPIO committed the crime of fraud because he deceived the staffs of the plural major companies to pay the fund in order to perform this privatization.

(ii) Mr. Arai: the then Commissioner of JPO committed the crime of the co-conspirator of above-written professional

embezzlement by conspiring with Mr. Yutaka Wada: the then Councilor of JAPIO. Mr. Arai: the then Commissioner of JPO committed the crime-constituting condition of breach of trust because he gave the country the damage due to the illegal transferring of the national property or state-owned property: PATOLIS. Mr. Arai: the then Commissioner of JPO committed the crime of oppression because he instructed the subordinate staffs such as the deputy commissioner, the general manager, the general affairs director, and the patent information manager etc. to perform the privatization of PATOLIS by utilizing the agreement concluded between him and Mr. Wada: the then Councilor of JAPIO, that is, by abusing the authority of the Commissioner of JPO. In the case that these subordinate staffs such as the deputy commissioner, the general manager, the general affairs director, and the patent information manager etc. had the perception that their deeds led to the illegal transferring of the national property: PATOLIS, it follows that these subordinate staffs committed the crime of the co-conspirator of above-written Mr. Arai's crimes.

(iii) In the case that the IP staff of the major company which paid the fund, knew something about the fact of the contract concluded between Mr. Arai: the then Commissioner of JPO and Mr. Wada: the then Councilor of JAPIO, their intents or the fact that the ownership of PATOLIS lay in Japan, it follows that the IP staff committed the complicity in above crimes of Mr. Arai or Mr. Wada. Crime. Moreover, it follows that the IP staff committed the crime of special breach of trust in the corporate law with respect to the major company because the IP staff gave the major company the damages.

④ The history of the development of the retrieval system: PATOLIS and PATOLIS Inc. and the transition of Japan Industrial Property Supply System such as IPDL and JPLATPAT(underlined parts are important points.)

・In 1970, Japan patent law and utility model law adopts the system to lay the patent applications open for public inspection with the result

that the Diet resolved the establishment of 'Novelty Searching Organization.'

・In 1971, Foundation Judicial Person: JAPATIC(JApan PATent Information Centor) has been established.

・In 1978, JAPATIC has developed the industrial property retrieving system: PATOLIS and started the operation of this PATOLIS. (HITACHI Inc. received this order.)

・In 1984, JPO started the PAPERLESS PROJECT.

・In 1985, JAPATIC has been reformed and JAPIO(Japan Patent Information Organization) has been established.

・In Dec. 1990, JPO started to receive ONLINE application of patent and utility model for the first time in the world. (Then, JPO used exclusive line.)(NTTDATA Inc. received this demand.)

・In Apr. 1997, JPO changed the name of its World Industrial Property Documents Center to Industrial Property Synthesis Center and this Industrial Property Synthesis Center started IP consulting operation and information distribution operation.

・About 1997, The agreement on the transfer of PATOLIS such as that PATOLIS is transferred from JAPIO to the private corporation or PATOLIS is transferred from Japan(JPO) to JAPIO, was concluded between Mr. Arai: the then Commissioner of JPO and Mr. Wada: the then Councilor of JAPIO.

・In Feb. 1998, JAPIO started the internet WEB retrieving system of PATOLIS.

・In Apr. 1998, JPO started to receive online application of patent and utility model by personal computers, moreover JPO started to receive online request of reading inspection of the various procedure documents.

・In Mar. 1999, JPO started the operation of IPDL(Industrial Property Digital Library).

(NTTDATA Inc. received this order as SI: System Integrator.)

(TOTHIBA Inc. received this order on half-way.)

・In March 1999, JAPIO started the full-text retrieving system of PATOLIS.

・In Jan. 2000, JPO started to receive ONLINE application of design and trademark. Moreover JPO started to receive online request of the procedure for transferring into the national stage of PCT applications and the trial as to the examiner's decisions.

・In Nov.30 2000, JAPIO resolved that PATOLIS is transferred from JAPIO

to the private corporation in the Board of Councilors and the Governing Board held in November 30, that is, JAPIO resolved that the ownership of PATOLIS is changed from JAPIO to the private corporation(referred to attached paper 14(10)).

・In Jan. 2001, JPO unified the filing terminals into personal computers with the result that the exclusive terminals were abolished.

・In Apr. 2001, JPO changed the name of 'Industrial Property Synthesis Information Center inside JPO' to be independent administrative judicial person with the result that Independent Administrative Judicial Person: Industrial Property Synthesis Information Center (the former of INPIT) has been established.

・In Apr. 2001, PATOLIS Inc. started the service of PATOLIS.
(TOTHIBA Inc. received this order in the tender.)

・In Oct. 5 2004, JPO made and announced 'Project for Optimizing the Operation and the System of JPO.'

・In Oct. 2004, the name of Independent Administrative Judicial Person: Industrial Property Synthesis Information Center has been changed into National Center for Industrial Property Information and Training(INPIT).

・In Oct. 2004, the management of IPDL has transferred from JPO to INPIT.

・In Dec. 1 2006, JPO concluded the contract agreement on 'Design and development of new operation processing system on the Project for Optimizing the Operation and the System of JPO' with TSOL(TOSHIBA SOLUTION Inc.). (According to the explanation of JPO, JPO decided to separate 'New System of JPO' on Project for Optimizing the Operation and the System of JPO' to the two systems such as 'the Management Basis System of JPO' which mainly consists of the operation processings and 'New Retrieving System of JPO' which mainly consists of search of prior technique documents etc. in the substantial examination, in view of the efficiency of development, just like the description of 'The Survey Report' drafted by the survey committee on JPO information system on Aug. 20, 2010. JPO decided to develop 'the Management Basis System of JPO' antecedent to 'New Retrieving System of JPO' because 'New Retrieving System of JPO' is operated based on 'the Management Basis System of JPO.' So the content of this contract agreement with TSOL includes only the design and development on 'the Management Basis System of JPO' and never includes the design and

development on ‘New Retrieving System of JPO.’)

・In July, 17 2009, PATOLIS Inc. requested for the rehabilitation procedure at Tokyo District Court, based on the civil rehabilitation law.

・In July 22 2009, Tokyo District Court decided the start of the rehabilitation of PATOLIS Inc. by the support of KYOWA TECHNOSERVICE Inc.

・In Oct. 29 2009, ‘Project for Optimizing the Operation and the System of JPO’ has been reformed to ‘The supply system of industrial property information should be performed after establishing ‘New Retrieving System of JPO’ (scheduled in 2015 Jan.) and the designing policy is ‘The service should be provided for people to receive the information from one portal in the internet.’’

・In Apr. 19 2010, METI(Ministry of Economy, Trade and Industry) announced ‘Reform of Independent Administrative Judicial Person which METI controls’ and it said “The operation of the industrial property supply system should be abolished in the operation of INPIT because it becomes possible for JPO to provide industrial property information at realtime when the new retrieving system of JPO is operated.”

・In Dec. 7, 2010, the Cabinet decided on ‘Basic Policy on Review of the Operation and Affairs of Independent Administrative Judicial Person’ and it said “The operation of the industrial property supply system should be abolished in the operation of INPIT when the new retrieving system of JPO is operated. The timing of implementation is within 2014.”, based on the estimated result of ‘Operation Sorting’ performed by the working group of Administrative Refurbishment Committee of Cabinet Office.

・In Jan. 2012, JPO interrupted the development of the new operation system on ‘Project for Optimizing the Operation and the System of JPO’ which includes ‘the Management Basis System of JPO’ and ‘New Retrieving System of JPO’ based on the description of ‘Technical Certification Report’ (Jan. 23, 2012) drafted by the technical certification committee on JPO Information System.

・ In Mar. 15 2013, JPO announced the new Optimization Project(‘Optimization Project : Reformed Edition’) in which JPO system should be refurbished and the system structure should be renovated, and it said “The present industrial property information supply system should be reformed based on the basic policy” in addition to

strengthening providing industrial property information outside.

・In March 2013, JPO and INPIT made the agreement that IPDL should be renovated with the result that new industrial property supply system which can seamlessly provide IP information through the internet should be established instead of IPDL.

・In Jan.31 2014, PATOLIS Inc. has stopped all its services.

・In Feb. 2014, the subcommittee of Industrial Property Council proposed the refurbishment of IPDL.

・In Mar.31 2014, SHINKAWAJOHO Inc. (former PATOLIS Inc.) broke up.

・In July 2014, NRI CYBERPATENT Inc. bought the copyrights and trademarks on the database: PATOLIS from the liquidating SHINKAWAJOHO Inc. (former PATOLIS Inc.). After that, NRI CYBERPATENT Inc. started to provide some information on PATOLIS through its IP supply system: NRICYBERPATENT.

・In Mar. 20 2015, INPIT abolished the operation of IPDL.

・In Mar. 23 2015, INPIT started the operation of JPLATPAT..

(TOTHIBA Inc. received this demand.)

(The databases between IPDL and JPLATPAT are common and just the same, but JPO established this new retrieving system with the result that JPO abandoned the prior retrieving system of IPDL.)

(The databases are just the same between IPDL and JPLATPAT, but just only their retrieving system are different. Finally, the retrieving system of IPDL was abandoned after the retrieving system of JPLATPAT has been established.)

～～～to the present～～

⑤ Bad Effect of the Privatization of PATOLIS and the necessity of its Thorough Reviewing

The bad effect of the privatization of PATOLIS is enormous. That is, this privatization of PATOLIS leads to the policy that JPO placed the order with TSOL(TOSHIBA SOLUTION Inc.) in 2006 but fell into the failure in 2012, being accompanied by the performing of the Project for Optimization made in 2004. Moreover, this privatization of PATOLIS means the big failure of the Paperless Project which is being performing from 1984. In this meantime, Japan industrial property supply system has changed from IPDL to JPLATPAT and has been used up to now, but we can never retrieve the IP data (before 1993) in this Japan industrial property supply system such as IPDL and JPLATPAT with the result that

this privatization of PATOLIS gave us the fatal effect that ‘we can never retrieve the IP data (before 1993)’ that continues up to the present.

If I examine the history of the development of the retrieval system: PATOLIS and PATOLIS Inc. and the transition of Japan Industrial Property Supply System such as IPDL and JPLATPAT in the above-written④ in the bird’s eye view, I notice that TOSHIBA Inc. have become the order-receiving corporation of all the retrieval system: PATOLIS and IPDL/JPLATPAT after a short time from about 1997 when the agreement on the transfer of PATOLIS was concluded between Mr. Arai: the then Commissioner of JPO and Mr. Wada: the then Councilor of JAPIO. That is, HITACHI Inc. received the order of the retrieving system of PATOLIS at the starting point of the service of PATOLIS, but Toshiba Inc. has received the order of the retrieving system of PATOLIS at April 2001 when PATOLIS Inc. stared the service.

In Dec. 1990, JPO started to receive ONLINE application of patent and utility model for the first time in the world using the exclusive line and NTTDATA Inc. had received the order of this ONLINE filing system including the operation processing system of JPO. NTTDATA Inc. received this order as SI: System Integrator at the time of Mar. 1999 when JPO started the operation of IPDL(Industrial Property Digital Library), but after that TOTHIBA Inc. received this order on half-way, instead of NTTDATA Inc.

JPO made and announced ‘Project for Optimizing the Operation and the System of JPO.’ in Oct. 5 2004 after this announcement, JPO concluded the contract agreement on ‘Design and development of new operation processing system on this Project for Optimizing the Operation and the System of JPO’ with TSOL(TOSHIBA SOLUTION Inc.) in Dec. 1st 2006, but JPO interrupted the development of this new operation system on ‘Project for Optimizing the Operation and the System of JPO’ which includes ‘the Management Basis System of JPO’ and ‘New Retrieving System of JPO’ based on the description of ‘Technical Certification Report’ (Jan. 23, 2012) drafted by the technical certification committee on JPO Information System in Jan. 2012 with the result that JPO still uses the system of the operation manufactured by NTTDATA Inc now. From the viewpoint of these history of the development of the retrieval system: PATOLIS and

PATOLIS Inc. and the transition of Japan Industrial Property Supply System such as IPDL and JPLATPAT, I can guess that JPO had the plan or the intention that the receiving corporation of the order of its operation processing system will also change from NTTDATA Inc. to TOSHIBA Inc.

In this way, it follows that JPO has changed its order-receiving corporation of the big systems on the operation-processing and the retrieving or had the intention that JPO wanted to change its order-receiving corporation of all the big systems on the operation-processing and the retrieving, from prior NTTDATA Inc. and HITACHI Inc. to TOSHIBA Inc. from about the time when the agreement on the transfer of PATOLIS was concluded between Mr. Arai: the then Commissioner of JPO and Mr. Wada: the then Councilor of JAPIO about 1997 and the privatization of PATOLIS that followed this agreement was performed in 2001. I think it's apparent that this policy for changing this order-receiving corporations also shows that JPO had the systematic intention that JPO wanted to conceal the mistake on the illegal transfer of the national property: PATOLIS physically by completely changing the concrete contents of the systems on the operation-processing and the retrieving from the products manufactured by NTTDATA Inc. and HITACHI Inc. to the products manufactured by TOSHIBA Inc., assuming the privatization of PATOLIS that is above-witten illegal transfer of the national property: PATOLIS.

As a result, the privatization of PATOLIS has finally provoked the bankruptcy of PATOLIS Inc. that started the service of PATOLIS in 2001 and the retrieving system of PATOLIS has been incorporated into the retrieving system of NRI CYBERPATENT Inc. Moreover IPDL that started in 1999, has been abandoned with result that we can never retrieve the IP data (before 1993) in this Japan industrial property supply system of JPLATPAT that follows IPDL. So due to this privatization of PATOLIS, that is, the agreement c¥ the transfer of PATOLIS concluded between Mr. Arai: the then Commissioner of JPO and Mr. Wada: the then Councilor of JAPIO, the national property: PATOLIS that is the most important policy of industrial property supply system, has been sold off and it has led to the fatal effect that we can never retrieve the IP data (before 1993) in this Japan industrial property supply system of JPLATPAT.

Basically, all the policies on IPDL: Industrial Property Digital Library or Industrial Property Supply System in Japan lies in the exclusive operation of JPO which has the jurisdiction on industrial property and should be decided inside JPO. Although, as above-written, in Apr. 19 2010, METI(Ministry of Economy, Trade and Industry) announced ‘Reform of Independent Administrative Judicial Person which METI controls’ and it said “The operation of the industrial property supply system should be abolished in the operation of INPIT because it becomes possible for JPO to provide industrial property information at realtime when the new retrieving system of JPO is operated.” That is, the abolition of the industrial property supply system was decided by not JPO but METI that is outside JPO. (The then minister of METI is Mr. Masayuki Naoshima:member of House of Councilors under the Cabinet of Mr. Hatoyama.)

Moreover, as above-written, the abolition of this industrial property supply system was decided by the decision of the Cabinet. That is, in Dec. 7, 2010, the Cabinet decided on ‘Basic Policy on Review of the Operation and Affairs of Independent Administrative Judicial Person’ and it said “The operation of the industrial property supply system should be abolished in the operation of INPIT when the new retrieving system of JPO is operated. The timing of implementation is within 2014.”, based on the estimated result of ‘Operation Sorting’ performed by the working group of Administrative Refurbishment Committee of Cabinet Office. But however, due to the failure of the development of the new operation system on ‘Project for Optimizing the Operation and the System of JPO,” JPO couldn’t build ‘the Management Basis System of JPO’ on which ‘New Retrieving System of JPO’ should be built with the result that the full-scale operation of this ‘New Retrieving System of JPO’ is not utterly performed now.

In this way, JPO couldn’t decide the policy on IPDL: Industrial Property Digital Library or Industrial Property Supply System. Moreover METI couldn’t also decide the policy on IPDL: Industrial Property Digital Library or Industrial Property Supply System. Moreover the Cabinet couldn’t also decide the policy on IPDL: Industrial Property Digital Library or Industrial Property Supply System even by the decision of the cabinet in the effective way. This means that not only JPO but

also METI and the Cabinet have the intention of hiding the criminal act of the privatization of PATOLIS that is the illegal transfer of the national property: PATOLIS systematically. It also means that JPO perfectly loses the political ruling power for deciding the policy on IPDL: Industrial Property Digital Library or Industrial Property Supply System. That is, the bad effect of the criminal act that is the privatization of PATOLIS that is the illegal transfer of the national property: PATOLIS with respect to industrial property supply system that is the most important policy of JPO, is absolutely indelible and it leads to that this criminal act can never be solved easily by the superficial means. That is, due to the big failure that JPO committed the crime that is the illegal transfer of the national property: PATOLIS, all staffs of JPO such as officials in charge, assistant examiners, examiners, primary examiners, section heads, heads of office, section chief, trial-examiners, trial-examiner in chiefs, chief directors, deputy commissioner, commissioner, can never almost ensure their accountability by telling the most important policy on the supply system of industrial property over which JPO has the jurisdiction to the users including the general nation with their confidence and mission.

This criminal act that is the privatization of PATOLIS that is the illegal transfer of the national property: PATOLIS, is probably the largest misconduct of the public officials for these 150 years when Japan has striven toward the modern state since Meiji Restoration, in view of the amount of money, in systematic viewpoint and in view of the spreading effect. In comparison with this the privatization of PATOLIS, the issues with respect to Moritomo school and Kake school raising under Abe administration in the present, seem to be petty and trifling. About two billion yen moves as the amount of money of transferring of PATOLIS. The waste due to the privatization of PATOLIS seems to surpass about 10 billion yen moreover can surpass about 100 billion yen in the different method of calculation. By the way, according to WIKIPEDIA dated on Feb. 6, 2018, world big scale corruption case: Lockheed bribery scandals shows that the amount of money bribed from Lockheed Inc. to Mr. Yoshio Kodama is about 2.1 billions and the amount of money bribed to then prime minister: Mr. Kakuei Tanaka is about 500 million yen. So the waste due to the privatization of PATOLIS largely surpasses the amount of money

on bribery in Lockheed scandals. More importantly, the spreading effect of the illegal transfer of the national property: PATOLIS is very enormous. That is, as above-written, all the user's right to know industrial property is largely being infringed, due to the fatal effect that we can never get the IP data (before 1993) free of charge in this Japan industrial property supply system and the low level of the function of JPLATPAT that follows IPDL.

To make matters worse, this criminal act that is the privatization of PATOLIS that is the illegal transfer of the national property: PATOLIS, was proceed systematically by then top-executives of the administrative organ: JPO such as commissioner, deputy-commissioner, chief directors, and section chief of patent information etc. That is, the privatization of PATOLIS that is the illegal transfer of the national property: PATOLIS is clearly the systematic crime which had been proceeded by the plural top-executives of JPO. In addition to that, this systematic crime of JPO based on the agreement c¥ the transfer of PATOLIS concluded between Mr. Arai: the then Commissioner of JPO and Mr. Wada: the then Councilor of JAPIO, is expanded to the systematic crime of METI, moreover is expanded to the systematic crime of the cabinet with the result that this crime is being expanded to the largest unprecedented national crime of the government. The extinctive prescription of some of these systematic crimes may be completed by the expiration of the the period of the prescription, but the accountability should be performed, in addition to the criminal responsibility and the civil responsibility.The above-written facts thrust the big themes and subjects at not only the public officials but also the private citizens in our intellectual property business world. That is, why did the largest misconduct of the public officials occur in form of the illegal transfer of the national property: PATOLIS in JPO which has the jurisdiction over industrial property in our intellectual property business world? Why couldn't we private citizens stop this criminal act: the largest misconduct of the public officials, that is the illegal transfer of the national property: PATOLIS? Why did we private citizens permit this criminal act: the largest misconduct of the public officials, that is the illegal transfer of the national property: PATOLIS? Why did IP staffs of the prescribed about 20 big corporations of the members of JIPA(Japan Intellectual

Property Association) approve of the privatization of PATOLIS in the Board of Councilors and the Governing Board held by JAPIO in November 30? Why did IP staffs of the prescribed about 20 big corporations of the members of JIPA(Japan Intellectual Property Association) give fund to PATOLIS Inc.? May it be said even now that it was right for these the prescribed about 20 big corporations of the members of JIPA to give fund to PATOLIS Inc., seeing that PATOLIS Inc. went bankrupt after the establishment of 2001? May it be said even now that it was right to privatize PATOLIS in the privatization in part of JAPIO? What on earth was the real original industrial property information supply system? What on earth is the real original industrial property information supply system? What is the gap between this real original industrial property information supply system and the present industrial property information supply system? What is the essential cause of this gap? We have to face these largest themes and subjects in Japan intellectual property business world.

So the real solution to this the privatization of PATOLIS that is the illegal transfer of the national property: PATOLIS is very severe, very difficult and is not easy. The superficial reformations of the institution, structure and personnel are not utterlly enough. That is, the solution lies in the thorough destruction of the present JPO and JAPAN IP business world and the zero-based restructuring of the future JPO and JAPAN IP business world. So the real solution lies in the creative destruction and the following destructive creation of JPO and JAPAN IP business world

⑥ The reform on PATOLIS

JPO should review this privatization of PATOLIS and repurchase this PATOLIS with the result that JPO should incorporate this PATOLIS into the present Japan industrial property supply system: JPLATPAT and remove the fatal effect of this privatization of PATOLIS. In addition to that, JPO should change the name of Japan industrial property supply system from JPLATPAT to PATOLIS according to the original principle.

(6)Reforms of the International IP Information System

①To Change the INPADOC Management System

The International Patent Documentation Center (INPADOC) should be under the management of the WIPO instead of the EPO. The International

Patent Documentation Center (INPADOC) was established in 1972 by the WIPO through a treaty with Austria to promote internationalization of information activities. INPADOC, concluding cooperative treaties with other countries, receives magnetic tapes from these countries containing patent source bibliographies (patent or application numbers, application date, title of invention, applicant, inventor, patent and disclosure numbers, etc.), edits them, creates patent family lists, and makes the resultant information available for use by patent offices and private citizens around the world. The INPADOC was absorbed by the EPO in January 1991. The EPO (European Patent Office) is an organization that was established in October 1977 according to the European Patent Convention to make it possible to obtain patents in prescribed European countries by a single application. The WIPO(World Intellectual Property Organization) was established in Stockholm on July 14, 1967, according to the treaty to establish the World Intellectual Property Organization that was concluded along with the revision of the Paris Convention and Berne Convention, for the purpose of (ⅰ) to promote the protection of intellectual property rights throughout the world and (ⅱ) to promote administrative cooperation among the various alliances to effect modernization and efficiency of the administration of the intellectual property rights-related alliances.

②To Establish the New Database of Design Family in INPADOC

In addition to the patent family lists, new design family lists should be established in INPADOC, that is, WIPO should receive the design information containing design source bibliographies(design registration or application numbers, application date, title of design, applicant, creator of design, design disclosure numbers, etc.) from its member countries, edit them, create design family lists, and make the resultant information available for use by patent offices and private citizens around the world.

③To Establish the New Database of Trademark Family in INPADOC

In addition to the patent family lists, new trademark family lists should be established in INPADOC, that is, WIPO should receive the trademark information containing trademark source bibliographies(trademark registration or application numbers, application date, mark, designated goods and services, applicant,

trademark disclosure numbers, etc.) from its member countries, edit them, create trademark family lists, and make the resultant information available for use by patent offices and private citizens around the world.

④To Establish a World Industrial Property Digital Library in WIPO

In addition to the reforms (1) (2) and (3) above, a world industrial digital library that organically links the industrial property digital libraries of various countries around the world, should be established under the administration of the WIPO.

⑤ To Make Use of the Service of INPADOC Free of Charge in the World Industrial Property Digital Library

In addition to the reforms (4) above, the service of INPADOC should be provided free of charge in the world industrial property digital library under the administration of the WIPO.

⑥ To Draft the International Treaty for above-written World Industrial Property Digital Library in WIPO

WIPO should draft the International Treaty for establishing above-written World Industrial Property Digital Library in order to perform above-written④⑤.

⑦ To Draft the International Treaty for above-written Rights-Processing-System of Industrial Property in WIPO

WIPO should draft the International Treaty for establishing above-written Rights-Processing-System of Industrial Property in order to perform above-written Rights-Processing-System of Industrial Property internationally. More concretely, WIPO should draft the Omnibus International Treaty for collecting and coordinating the articles and provisions on transfer of rights and license of above-written4(2)② plural treaties such as Paris Convention, TRIPs, Trademark Law Treaty, Madrid Protocol, Geneva Reformation, and Trademark Singapore Treaty.

(7)Reforms of Japan IP Business Circles

①Reforms of the dissolution and the abolishment of JPAA

JPAA(Japan Patent Attorney Association) should be dissolved and abolished because JPAA members sometimes make bad use of the activity of JPAA as the means for collecting their clients as attorneys with the

result that even if all patent attorneys gather each other and perform the joint action, it is difficult to lead to good social contribution. Basically, because patent attorneys are experts of the very narrow field of intellectual property, their joint actions don't necessarily lead to attaining the public interest.

② Reforms of the dissolution and the abolishment of JIPA

JIPA(Japan Intellectual Property Association) should be dissolved and abolished because deciding the procedure etc. of the license interpretation beforehand in each business circle such as electric circle and automobile circle etc. may lead to the violation of monopoly prohibition law as unfair business. And because the conspiracy or the collusion among IP staffs of the major corporations tend to occur, it is helpless in order to perform the intellectual property-backed management in the global world-wide competition. Moreover, because JIPA mainly consists of about 1,000 major companies, its opinion tend to not including the voices of small-medium companies and individuals.

③ Reforms of the changing of the morphology of JIII

The morphology of JIII(Japan Institution of Invention and Innovation) should be changed from Public Interest Incorporated Association to Independent Administrative Judicial Person because it is better not to receive the private fund for its fair management.

④ Reforms of the above Independent Administrative Judicial Person: JIII

Above Independent Administrative Judicial Person: JIII should establish the five sections such as major companies, small-medium companies, individuals (including students), experts (lawyers and patent attorneys etc.) and educators(professors and school teachers etc.) and constitute the deliberation councils, workshops and committees as to the raised issues in industrial property by fairly combining the personnels from above five sections. It's because the voices of the major companies and the experts such as patent attorneys tend to be largely reflected in the deliberation on the present IP reformations, in addition to the intent of JPO, and the voices of small-medium companies, individuals and educators don't almost reflect on the present IP reformations, so there exists the necessity of reflecting the voices of small-medium companies, individuals and educators in it.

⑤ Reforms of the deliberation council of IP

When JPO needs to hear the voices of the people in the reformations of IP laws etc. widely, JPO should consult with the deliberation councils, workshops and committees of the above Independent Administrative Judicial Person: JIII because it is necessary to reflect not only the voices of the major companies and the experts but also the voices of small-medium companies, individuals and educators in the reformations of IP laws etc.

(8) Reforms of International IP Business Circles

We Japanese should establish various fields for exchanging free and active opinions among various people in every country, respecting the sovereignty of each country and encouraging each country to establish the fair IP business circles by introducing the above-written(7)④ establishment of new IP business circles in Japan

6. The Evidence that Proves the Existence and the Content of the Agreement as to the Privatization of PATOLIS between JPO and JAPIO

(Below-written each paper (1)(2) is material presented from the Commissioner of JPO based on the petitions in Japan administrative information disclosure law.)

(1) The papers titled "Report on the establishment of "Patent InformatiOn Online-Service Council"" under the date of May 28, 2002(refer to Attached Reference14(1))

As described in forth to second lines from the bottom of the first page of this papers, the common understandings which confirmed between Mr. Ishimaru: General Manager of JPO and Mr. Wada: Chief Director of JAPIO at June 1998 and moreover reconfirm at Feb. 2000, provide the starting point for establishing PATOLIS Inc. as shown in another sheet. More concretely, according to this another sheet, it turns out that Mr. Ishimaru: General Manager of JPO and Mr. Wada: Chief Director of JAPIO made an agreement titled 'Agreement regarding IPDL and PATOLIS' at June 18 1998 and Mr. KITAZUME : General Manager of JPO and Mr. Wada: Chief Director of JAPIO reconfirmed this agreement. According to the content of the agreement(Common Understanding), it follows that they made an agreement with respect to the following three points.

①JPO highly estimates the function that PATOLIS has performed, and

hopes that PATOLIS will be made cheaper and get higher performance also in the future.

②IPDL and PATOLIS are different and IPDL never replaces PATOLIS.

③IPDL is based on the wide and shallow service to satisfy the normal needs of the general utilizers.

Because JPO started the service of IPDL(Industrial Property Digital Library) at March 1999, it follows that the common understandings confirmed between the General Manager of JPO and Mr. Wada: Chief Director of JAPIO at June 1998 was performed about 9 months before the start of the service of IPDL and was moreover reconfirmed about 11 months after the start of the service of IPDL. When JPO started the service of IPDL at March 1999, the function to IPDL was low and inconvenient, based on the policy "JPO will provide the required minimum function as the administrative body." I think that it follows that it's because the low level of IPDL was based on "IPDL is based on the wide and shallow service to satisfy the normal needs of the general utilizers." in the above-written common understandings③ which confirmed between General Manager of JPO and Mr. Wada: Chief Director of JAPIO.

What is more, because there exists the word 'gist' by the words 'common understandings' in the attached paper, the more detailed papers than the description in this attached paper ought to exist. So I petitioned the commissioner of JPO for 'the more detailed papers than the description in this attached paper' but the commissioner of JPO denied the existence of 'the more detailed papers than the description in this attached paper' and decided no-disclosure and since then it has been handed down to the present.

(2) The papers addressed from Mr.Yutaka Wada, the president of Patent Information Online-Service Council to Mr. Ohta, the commissioner of JPO under the date of Dec. 2nd, 2002(refer to Attached Reference14(2))

There exists the description "I have the pledge and the signed promise in the consultation with JPO until then."in the middle part of the second paper in the papers which were addressed to Mr. Furusawa: the budget officer of the Ministry of Finance, attached in this papars, but I think that the description "I have the pledge and the signed promise in the consultation with JPO until then." in this paper, refers to the

agreement as to the transfer of PATOLIS contracted between Mr. Arai: the commissioner of JPO and Mr. Wada: the chief director of JAPIO about 1997.

What is more, I petitioned the commissioner of JPO for 'the agreement as to the transfer of PATOLIS contracted between Mr. Arai: the commissioner of JPO and Mr. Wada: the chief director of JAPIO about 1997' but the commissioner of JPO denied the existence of 'the agreement as to the transfer of PATOLIS contracted between Mr. Arai: the commissioner of JPO and Mr. Wada: the chief director of JAPIO about 1997' and decided no-disclosure and since then it has been handed down to the present.

(3) The testimony of the member of patent information on-line service council

The consultation with respect to the function of IPDL was performed between the commissioner of JPO and the members of patent information on-line service council at the room of the commissioner of JPO inside JPO building, that is, the intelligent building about May 2002, then, there exists the testimony of the member of patent information on-line service council that "the agreement as to the transfer of PATOLIS contracted between Mr. Arai: the commissioner of JPO and Mr. Wada: the chief director of JAPIO about 1997" was presented in this consultation.

What is more, I filed the information-disclosure suit as to the no-disclosure decision of the commissioner of JPO with respect to "the agreement as to the transfer of PATOLIS contracted between Mr. Arai: the commissioner of JPO and Mr. Wada: the chief director of JAPIO about 1997" described in the above-written (2) at Tokyo district court about 2003, and there I filed a request for the examination of a witness with respect to the member of patent information on-line service council, but the court dismissed this request for the examination of a witness, and the final and binding judgment to dismiss the petition was decided. Moreover, in the same way, I filed the information-disclosure suit as to the second no-disclosure decision of the commissioner of JPO with respect to "the agreement as to the transfer of PATOLIS contracted between Mr. Arai: the commissioner of JPO and Mr. Wada: the chief director of JAPIO about 1997" at Osaka district court about 2015, and there I filed a request for the examination of a witness with respect to the member of patent information on-line service council, but the

court dismissed this request for the examination of a witness, and the final and binding judgment to dismiss the petition was decided. Moreover, substantially again I petitioned the commissioner of JPO for 'the agreement as to the transfer of PATOLIS contracted between Mr. Arai: the commissioner of JPO and Mr. Wada: the chief director of JAPIO about 1996 to 1998(containing the papers)' at Jan.24, 2017, but the commissioner of JPO denied the existence of 'the agreement as to the transfer of PATOLIS contracted between Mr. Arai: the commissioner of JPO and Mr. Wada: the chief director of JAPIO about 1996 to 1998' and decided no-disclosure and thereafter I filed an application for examination with the commissioner of JPO pursuant to the administrative appeal act, but the commissioner of JPO doesn't proceed any procedures such as the consultation to the information disclosure and personal information protection review board etc. until the present(Feb.6,2018).

7. The Evidence that Proves that PATOLIS is National Property

(Below-written each paper (1)(2) is material presented from the Commissioner of JPO based on the petitions in Japan administrative information disclosure law.)

(1)The paper titled "About the reformation of the fees of the PATOLIS" under the date of April 5, 2000 (12 JPO Official Document No.804) (refer to Attached Reference14(3))

In the paper under the date of April 5, 2000 (12 JPO Official Document No.804), Mr. Kitazume: the general manager of JPO of those days addressed the papers titled "About the reformation of the fees of the PATOLIS" to Mr. Wada: the chief director of JAPIO. This paper arised from that because the content of the revision of the fees of PATOLIS-retrieving system can lead to the significant increase conditionally on the way of retrieving, many user of PATOLIS including me made the protest against this revision of the fees of PATOLIS, at JPO.

In this paper, it is clear that PATOLIS is a retrieving system utilizing JPO-possession-databases, that is, the national property from the sentences and words such as "JPO provides JPO-possession-databases to JAPIO on condition that JAPIO provides the patent information fairly to the users until now and JPO provides the service of PATOLIS utilizing this databases." and "The service of PATOLIS uses JPO-possession-

databases.” in this paper.

(2)The Use-License-Rules on JPO-possession-databases-copyrights(refer to Attached Reference14(4))

The Use-License-Rules on JPO-possession-databases-copyrights were established at the date of March 20, 1987 (62 JPO Official Document No.318)(hereinafter referred to as ‘Use-License-Rules’) This Use-License-Rules article 2 prescribes as follows.

“Use-License-Rules article 2 The commissioner of JPO may grant the license to use JPO-possession-databases-copyrights to the petitioner of the use-license in the case that the petition of the license of the preceding article applies to the following each item and granting the license is specially required in order to smoothly disseminate patent information, on condition that the intended use or the purpose of the copyrights and the databases etc. pertaining to them according to Japan national property law article 18-3, is not hindered.

1 It is certain that the petitioner of the use-license can comprehensively collect and manage and stably, continuously and fairly provide the patent information, unerringly corresponding to the general needs, and the petitioner of the use-license comply with the direction of the commissioner of JPO when the commissioner of JPO recognizes the necessity.

2 The petitioner of the use-license has the accounting base and the technical ability to unerringly perform the operation pertaining to providing of patent information based on the copyrights which the petitioner of the use-license will get.

3 Providing of patent information based on the copyrights which the petitioner of the use-license will get, is proper with respect to the needs of the information.”

There exists the words ‘according to Japan national property law article 18-3’ in the main paragraph of this Use-License-Rules section 2 but Japan national property law article 18 is prescribed as follows.

“Japan national property law article 18(Limitation of dispositions etc.) It is prohibited to lend, exchange, sell, transfer, or trust the administrative property, or make the administrative property the subject of contribution, or establish private rights on the administrative property.

2 Irrespective of the preceding clause, it is possible to lend the administrative property or establish private rights on the administrative property on condition that the intended use or the purpose of it is not hindered, in the following cases.

(1) In the case(excluding the case in which a person segmentally holds a block of building with the nation) that a person other than the nation holds structures fixed on land such as the strong buildings etc. specified by the cabinet order on the land which is administrative property and can help to effectively attain the purpose for utilizing the land which is said administrative property or will hold them, when the nation lends said land to the person(limited to the person who the head of each authority recognizes proper to manage said administrative property in proper way)

(2) In the case that the nation lends the land to the person for the nation to segmentally hold a block of building with the local public body or the legal entity specified by the cabinet order on the land which is administrative property

(3) In the case that the nation lends the land to the person(limited to the person whom the head of each authority recognizes proper to manage the part of said administrative property in said building in proper way)

(4) In the case that prescribed in the cabinet order as the case there are the allowances of the floor acreage or the area about the government offices prescribed in the special measures law regarding as adjusting etc. of the use of the government offices(1957 law No.15) article 2-2, when the nation lends said part of allowances to the person(limited to the person whom the head of each authority which manages said government offices recognizes proper to manage said government offices in proper way) who is other than the nation.(excluding the cases which apply to the preceding three items)

(5) In the case that provides the land which is administrative property for the railways, roads and other facilities prescribed in the cabinet order which the local public body or the legal entity prescribed in the cabinet order manages, when the nation grants surface rights to said land.

(6) In the case that provides the land which is administrative property for the electric lines and other facilities prescribed in the cabinet order which the local public body or the legal entity prescribed in the cabinet order uses, when the nation grants servitude rights to said land.

3 In the case of the second item in the preceding clause, when the beneficiary of the land which is administrative property transfers a part(hereinafter referred to as 'specified facility') of a block of buildings to the person other than the nation, the nation can lend said land to the person(limited to the person whom the head of each authority which manages said administrative property recognizes proper to manage said administrative property in proper way) who will inherit said specified facility.

4 The preceding clause applies to the case that the beneficiary of the land which is administrative property in said clause will transfer said facility.

5 The act which violates the each preceding clause is proclaimed."

(7)Therefore, according to the above-written Japan national property law article 18-3, this Use-License-Rules adopts the legal form that JPO regards JPO-possession-data as 'land' which is national property and JPO lends this JPO-possession-data which is national property to JAPIO. There exists the words 'In the case of the second item in the preceding clause' in Japan national property law article 18-3 and because Japan national property law article 18-2-2 prescribes "In the case that the nation lends the land to the person for the nation to segmentally hold a block of building with the local public body or the legal entity specified by the cabinet order on the land which is administrative property," it is guessed that JPO regards JPO-possession-data as land and lends this JPO-possession-data to JAPIO, moreover JPO regards PATOLIS retrieving system which is the development deliverables of JAPIO as 'a block of building' and JPO will share PATOLIS retrieving system which is 'a block of building' with JAPIO according to the words "segmentally hold." According to Japan national property law, national property consists of administrative property and non-administrative property, but concretely Japan national property law

article 3 is prescribed as follows,

“Japan national property law article 3(Classification and kind of national property) National property is classified into administrative property and non- administrative property.

2 Administrative property is the following kind of property.

(1) Property for official use One which the nation decided is being used or will be used for affairs, operation or residence of the staffs of the nation

(2) Property for public use One which the nation decided is being used or will be used for direct public use or for public use

(3) Property for imperial family One which the nation decided is being used or will be used for imperial family”

Therefore, according to this Use-License-Rules, it follows that JPO regards JPO-possession-data not non-administrative property but administrative property, and according to Japan national property law article 2-2, especially property for official use or property for public use.

Therefore, according to this Use-License-Rules and Japan national property law, it follows that JPO delivers (more correctly, lend free of charge) JPO-possession-data which is national property(administrative property) to JAPIO and JAPIO provides the service of PATOLIS using this JPO-possession-data which is national property.

And as the formal name of this Use-License-Rules “The Use-License-Rules on JPO-possession-databases-copyrights” shows, because it is one for collecting royalty of copyright, as a matter of course the ownership of the database lies in JPO. More concretely, according to the attached table of this Use-License-Rules, JPO-possession-databases are classified into four categories such as ‘Bibliography databases(Patent/Utility model mastertape etc.)’ ‘Documents databases(Synthesized material electronic file databases, Publicized patent English abstract data etc.)’ ‘Retrieving databases(Fterm retrieving master etc.)’ and ‘Publications(Publicized patent English abstracts, US patent invention specification translation abstracts etc.).’ and JPO collects the royalty of copyright corresponding to these four categories.

From above-written, it follows that JPO lends JPO-possession-databases which is national property(administrative property) to JAPIO

free of charge and JAPIO provides the service of PATOLIS using this JPO-possession-data which is lent free of charge. Because JAPIO uses this JPO-possession-data which is lent free of charge, it is rational to think that the ownership of PATOLIS retrieving system also lies in JPO, that is, the nation. For example, I think that the agreement as to the development of PATOLIS retrieving system between JPO and JAPIO has the element of the contract agreement in the Civil law. That is, the ownership of the PATOLIS retrieving system lies in JPO who made the order, unless there are special circumstances, in the contract agreement in which JPO is the person who makes the order and JAPIO is the contractor. This point also follows from that especially because JPO who makes the order, provides the data such as application data perfectly, the ownership of the PATOLIS retrieving system lies in JPO who made the order.

Meanwhile, the argument that the data provided by JPO is one owned by JPO, that is, national property, but the ownership of the PATOLIS retrieving system lies in JAPIO, can be predicted. That is, dividing PATOLIS into the retrieving system and the database, there is the argument that the database is national property, but ownership of the retrieving system lies in JAPIO.

However, it is only JAPIO that was actually granted according to this Use-License-Rules with the result that JAPIO received JPO-possession-databases exclusively and moreover tax and varieties of subsidies so it is rational to think that the ownership of PATOLIS retrieving system lies in the nation and both the retrieving system and the databases are national property.

But anyway, that is, even if this argument is adopted, that is, the ownership of the PATOLIS lies in JAPIO and the ownership of the databases lies in the nation, PATOLIS data was transferred in ‘a part of the privatization of JAPIO’,that is, ‘the privatization of PATOLIS.’ That is, because PATOLIS data that is JPO-possession-databases was transferred, it is not wrong that it follows that this leads to the illegal transfer of the national property(administrative property). That is,’ a part of the privatization of JAPIO’,that is, ‘the privatization of PATOLIS’ leads to the illegal transfer of the national property(administrative property) with the result that this violates the

national property law 18-1 which means “Administrative property can never be sold.” so it is invalidated according to the national property law 18-5.

8. The History of the Reformation of the Use-License Rules as to Use, Sale and Copyright with respect to JPO-Possession-Data

(1) The History of the Reformation of the Use-License Rules in the Paperless Project

・Sept. 18, 1971 JPO established ‘JPO materials delivery rules’(46 JPO Official Document No.867)

・1984 JPO started the Paperless Project.

・1985 The prescription with respect to the protection of computer program has been introduced in the reformation of Japan copyright law (enforced in 1986).

・1986 The prescription with respect to the protection of database has been introduced in the reformation of Japan copyright law (enforced in 1987).

・March 20, 1987 JPO established the Use-License-Rules on JPO-possession-databases-copyrights (62 JPO Official Document No.318)(refer to the attached paper14(4))

・1990 The law as to the special case of the procedures with respect to industrial property(hereinafter referred to as ‘special case law’) is promulgated and enforced.

・Dec.1 1990 Electronic application(patent/utility model) starts.

・June 1 1992 Publication gazettes pertaining to above-written electronic application are issued.

・Dec. 25, 1992 The Use-License-Rules on JPO-possession-copyrights accompanying the sale of CD-ROM public gazettes(4 JPO Official Document No.1992) (refer to the attached paper14(5)).

・Jan. 1993 CD-ROM public gazettes of patent and utility model are issued.

・July 3, 1995 The Use-License-Rules on JPO-possession-copyrights accompanying the omnibus sale of trademark information databases (7 JPO Official Document No.260) (refer to the attached paper14(6)) are established.

・March 26, 1998 The License-Rules on JPO-data-sale project(10 JPO

Official Document No.313) (refer to the attached paper14(7)) are established.

・Dec.10,1999 The Use-License-Rules on JPO-possession-gazette-data required for issuance of the paper medium(11 JPO Official Document No.1849) (refer to the attached paper14(8)) are established.

・Feb. 2000 “About the changing of the condition of the use of the CD-ROM gazette data issued until March 1998” (refer to the attached paper14(9))is announced.

・March 1st, 2015 The Use-License-Rules on JPO-possession-gazette-data required for issuance of the medium of the gazette(JPO Official Document 20150220 PATENT 7) (refer to the attached paper14(12)) are established.

・March 31, 2015 JPO abolishes the Use-License-Rules on JPO-possession-databases-copyrights (62 JPO Official Document No.318).

・April 1st, 2015 JPO issues all kinds of the gazettes issued by JPO in internet.

★ At present, JPO grants the license ① sales of gazette information(paper medium) using JPO-possession-gazette-data in the use-license-rules, ②sales of arrangement standardization data utilizing gazette(electronic medium) or JPO-possession-data, to the candidates of the private companies with the condition ,on the sales-license of the gazettes

★About the new license-rules “The Use-License-Rules on JPO-possession-gazette-data required for issuance of the medium of the gazette” (refer to the attached paper14(12))

This new license-rules are made it possible to lend JPO-possession-gazette-data to the sales-companies in order to smoothly disseminate patent information to the persons who are hard to make access of the gazettes provided in internet.

JPO is scheduled to publish during Feb.2015 and receive the petitions of this license-rules seriatim from March 2015.

JPO is scheduled to start the sales of the medium to the granted sales-companies.

(2)The History of the Reformation of the Use-License Rules

・‘JPO materials delivery rules’(46 JPO Official Document No.867) under the date of Sept. 18, 1971

・The Use-License-Rules on JPO-possession-databases-copyrights under the

date of March 20, 1987 (62 JPO Official Document No.318) (refer to the attached paper14(4))

・The Use-License-Rules on JPO-possession-copyrights accompanying the sale of CD-ROM public gazettes under the date of Dec. 25, 1992 (4 JPO Official Document No.1992) (refer to the attached paper14(5))

・The Use-License-Rules on JPO-possession-copyrights accompanying the omnibus sale of trademark information databases under the date of July 3, 1995 (7 JPO Official Document No.1260) (refer to the attached paper14(6))

・The License-Rules on JPO-data-sale project under the date of March 26, 1998 (10 JPO Official Document No.313) (refer to the attached paper14(7))

・The Use-License-Rules on JPO-possession-gazette-data required for issuance of the paper medium under the date of Dec. 10, 1999 (11 JPO Official Document No.1849) (refer to the attached paper14(8))

・“About the changing of the condition of the use of the CD-ROM gazette data issued until March 1998” under the date of Feb. 2000 (refer to the attached paper14(9))

・The abolishment of The License-Rules on JPO-data-sale project(10 JPO Official Document No.313) under the date of Feb. 27, 2015(JPO Official Document 20150220 PATENT 2) (refer to the attached paper14(11))

・The Use-License-Rules on JPO-possession-gazette-data required for issuance of the medium of the gazette under the date of March 1st, 2015 (JPO Official Document 20150220 PATENT 7) (refer to the attached paper14(12))

Each Use-License-Rule	Subject	Comparison
‘JPO materials delivery rules’(46 JPO Official Document No.867) under the date of Sept. 18, 1971	Unknown	Unknown
The Use-License-Rules on JPO-possession-databases-copyrights	Copyrights with respect to JPO-Possession-Databases(the databases which is defined in	What does ‘etc.’ in Copyrights with respect to ‘Databases etc.’ refer to,

under the date of March 20, 1987 (62 JPO Official Document No.318)	“the copyright law 2-1-13(3),and on which JPO holds copyrights” hereinafter referred to as merely ‘databases’)etc.	concretely? In the attached table,databases are divided into four classifications and there exists ‘Publications’in the fourth classification.
The Use-License-Rules on JPO-possession-copyrights accompanying the sale of CD-ROM public gazettes under the date of Dec. 25, 1992 (4 JPO Official Document No.1992)	Copyrights(accompanying the sale of CD-ROM public gazettes) with respect to CD-ROM public gazettes databases(databases of public gazettes data which are being stored in CD-ROM public gazettes)	“excluding databases of public gazettes data which are being stored in CD-ROM public gazettes” is added after “JPO holds copyrights” in the Use-License-Rules on JPO-possession-databases-copyrights under the date of March 20, 1987 (62 JPO Official Document No.318) article 1. So it follows that (62 JPO Official Document No.318) is general law and (4 JPO Official Document No.1992) is special law.
The Use-License-Rules on JPO-possession-copyrights accompanying the omnibus sale of trademark information	Copyrights of databases, accompanying the omnibus sale of trademark information databases(databases of trademark application data written in the attached table 1)	“excluding databases, accompanying the omnibus sale of trademark information databases(databases of trademark application data written in the attached table 1)” is

databases under the date of July 3, 1995 (7 JPO Official Document No.1260)		added after "JPO holds copyrights" in the Use-License-Rules on JPO-possession-databases-copyrights under the date of March 20, 1987 (62 JPO Official Document No.318) article 1. So it follows that (62 JPO Official Document No.318) is general law and (7 JPO Official Document No.1260) is special law.
The License-Rules on JPO-data-sale project under the date of March 26, 1998 (10 JPO Official Document No.313)	"JPO-possession-databases" means the databases written in the attached table 1 or the databases written in the attached table 2, and "JPO-data" means the data which JPO extracted from JPO-possession-databases or public gazette of paper-medium or public gazette of readable exclusive light-disk(containing readable exclusive light-disk which records the matters described in public gazette issued in internet)	In this way, "JPO-data" means ①the data which JPO extracted from JPO-possession-databases or ② public gazette of paper-medium or ③ public gazette of readable exclusive light-disk(containing readable exclusive light-disk which records the matters described in public gazette issued in internet) .So 'JPO data' consists of above-written three items①②③ and never contain all 'JPO-possession-

		databases.’ Concretely, electronic data before 1993, is never contained.That is, electronic data before 1993, remains national propert(administrative property) and the electronic data before 1993,means PATOLIS data.
The Use-License-Rules on JPO-possession-gazette-data required for issuance of the paper medium under the date of Dec. 10, 1999 (11 JPO Official Document No.1849)	JPO-possession-gazette-data(hereinafter referred to as’gazette-data’) means public gazette which JPO issues in readable exclusive light-disk or the edited data of public gazette which JPO issues in internet.	
“About the changing of the condition of the use of the CD-ROM gazette data issued until March 1998”under the date of Feb. 2000	JPO changes the condition of the use of the CD-ROM gazette data issued until March 1998 as follows.	
The abolishment of The License-Rules on JPO-data-sale project(10 JPO Official Document No.313) under the	JPO abolishes the License-Rules on JPO-data-sale project(10 JPO Official Document No.313), accompanying start of omnibus	“the License-Rules on JPO-data-sale project(10 JPO Official Document No.313)”are applied to the sale of public

date of Feb. 27, 2015(JPO Official Document 20150220 PATENT 2)	download in JPLATPAT.	gazette(containing readable exclusive light-disk which records matters described in public gazette) of paper-medium and readable exclusive light-disk issued until May 31,2015 in the additional rules of ”the Use-License-Rules on JPO-possession-gazette-data required for issuance of the medium of the gazette under the date of March 1st, 2015 (JPO Official Document 20150220 PATENT 7)”So (10 JPO Official Document No.313) remains now.
The Use-License-Rules on JPO-possession-gazette-data required for issuance of the medium of the gazette under the date of March 1st, 2015 (JPO Official Document 20150220 PATENT 7)		

(3)Personal view on the history of each use-license-rules

According to the License-Rules on JPO-data-sale project under the

date of March 26, 1998 (10 JPO Official Document No.313), “JPO-data” consists of the three items such as ①the data which JPO extracted from JPO-possession-databases, ②public gazette of paper-medium and ③public gazette of readable exclusive light-disk(containing readable exclusive light-disk which records the matters described in public gazette issued in internet) . So ‘JPO data’ consists of above-written three items① ②③ and never contains all ‘JPO-possession-databases.’ Concretely, electronic data before 1993, is never contained. That is, electronic data before 1993, remains national property(administrative property) and the electronic data before 1993,means PATOLIS data. Therefore, it is clear that the privatization of PATOLIS applies to the illegal transfer of the national property(administrative property). As a result, according to this License-Rules on JPO-data-sale project under the date of March 26, 1998 (10 JPO Official Document No.313), it follows that PATOLIS data which is a part of ‘JPO-possession-databases,’ remains to be the prior administrative property. This point is the trick, that is, false method which JPO used in the privatization of PATOLIS. That is, the content of this the trick, that is, false method is that JPO treated the data which exclude PATOLIS data from ‘JPO-possession-databases’ as ’ ①the data which JPO extracted from JPO-possession-databases’ which is a part of “JPO-data” with the result that JPO didn’t include PATOLIS data into “JPO-data.” This trick, that is, false method is the essential point of the privatization of PATOLIS. The privatization of PATOLIS is clear illegal violating act which is against national property law 18-5. That is, JPO created the new concept’JPO-data’in order to exclude PATOLIS data from ‘JPO-possession-databases.’ That is, Mr. Arai: the then commissioner of JPO gave the direction as to the transfer of PATOLIS to JPO staffs such as the subordinates: then deputy commissioner/general manager/general section manager/patent information section manager etc. in order to put into practice the agreement as to the transfer of PATOLIS contracted between Mr. Arai: the commissioner of JPO and Mr. Wada: the chief director of JAPIO about 1997 with the result that JPO established this License-Rules on JPO-data-sale project under the date of March 26, 1998 (10 JPO Official Document No.313) and as above-written, JPO artfully excluded PATOLIS data from ’ JPO-data’ and put the privatization of PATOLIS into practice.

The direction of the commissioner: the top of JPO though Why did JPO staffs such as the subordinates: then deputy commissioner/general manager/general section manager/patent information section manager etc. assist 'the illegal transfer of PATOLIS that is national property,'? Why couldn't the subordinates: then deputy commissioner/general manager/general section manager/patent information section manager etc. persuade the Mr. Arai: the commissioner of JPO to stop 'the illegal transfer of PATOLIS that is national property,'? This is very regrettable and mystery.

By the way, the above-written each use-license-rules was drafted in order to collect copyrights license fee based on the fact that there exists copyrights on JPO-possession-data such as public gazette data, but originally I wonder that there exists the copyrights on JPO-possession-data such as public gazette data? Originally I wonder that JPO should collect copyrights license fee based on the fact that there exists the copyrights on JPO-possession-data such as public gazette data? To begin with, we user file application documents such as requests with JPO because the Japan industrial property laws such as patent law, utility model law, design law and trademark law, prescribe that applications have to be filed with JPO in order to get industrial property rights. That is, JPO doesn't collect applications by the effort of its own, but JPO can fully collect all applications because there exists the prescription with respect to the obligation of filing with JPO with the result that the legal obligation of receiving the applications arises to JPO as the duty of faithful executing of the laws(Japan Constitution 73-item 1 preceding paragraph) and JPO can perform the examination, the trial examination and the issuance of the public gazettes etc. after filing. In such actual state, I wonder there exists the copyrights on the application documents which gather at JPO legally as the natural result and JPO-possession-data such as public gazette data which arise from these application documents?

First, Japan copyright law article 2-1-1 prescribes "a production in Which thoughts or sentiments are expressed in a creative way and which falls within the literary, scientific, artistic or musical domain" as the definition of 'work.' For example, in the case of public gazette data with respect to patent application, because the description in the

specification or the claim or the drawing is a production which technical ‘thoughts’’ are expressed in a creative way’ and which ‘falls within the scientific domain,’ public gazette data with respect to almost all patent applications fall under work. Therefore, according to this Japan copyright law article 2-1-1, it seems that there exists the copyrights on JPO-possession-data such as many public gazette data.

On the other hand, Japan copyright law article 13 prescribes ‘Works not protected’ as follows.

Copyright law article 13 A work falling under any of the following items shall not constitute the subject of the rights granted by the provisions of this chapter.

(ⅰ) the Constitution and other laws and regulations

(ⅱ) public notices, instructions, circular notices and the like by organs of the State or local public entities, incorporated administrative agencies(“incorporated administrative agencies”means those provided for in Article2, paragraph(1) of the Act on General Rules for Incorporated Administrative Agency(Act No.103 of 1999); the same shall apply hereinafter) or local incorporated administrative agencies(“local incorporated administrative agencies” means those provided for in Article 2,paragraph(1) of the Act on Local Incorporated Administrative Agencies(Act No.118 of 2003); the same shall apply hereinafter);

(ⅲ) judgments, decisions, orders and decrees of courts, as well as rulings and judgments made by the government agencies in proceedings of a quasi-judicial nature;

(ⅳ) translations and compilations prepared by organs of the State or local public entities, incorporated administrative agencies or local incorporated administrative agencies of the materials listed in the preceding three items.”

According to ‘Copyright article by article lecture 6 new edition’ written by Mr. Moriyuki Kato(issued at Aug.27,2013)pages138-141(hereinafter referred to as ‘Copyright section13 Kato lecture’), “This article is prescribed in order to exclude the work which should be utilized by widely opening to people from the protection by this copyright law. Work is basically protected as long as it is work, but it is denied to protect work that should be let the people know and be utilized in the nature especially from the public viewpoint, in order

to defend impeding the smooth utilization as the result of granting of copyrights. “shall not constitute the subject of the rights granted by the provisions of this chapter” means denying not only copyrights but also author’s personal rights. ” Moreover, according to Copyright section13 Kato lecture, regards as the interpretation of this copyright law article 13, it describes the policy of the interpretation of the item 1 as follows. “And this item 1 is also applied to laws and regulations which has already been abolished, in the same way, even if the legal effect has been lost.” The reason why it is widely interpreted lies in that there are two cases such as the case that is widely interpreted and the case that is narrowly interpreted, but the wide interpretation is limited to the case which doesn’t limit people’s rights with the result that the wide interpretation isn’t possible in the case which limits people’s rights so because the case of this item limits the rights of the nation and permits the rights of the people, the wide interpretation is possible.” According to each item of Japan copyright article 13, all items are concerned with the sovereign subjects such as the nation(state) etc. and aren’t concerned with the private persons or the private body. Therefore, though the above-written description is concerned with the item 1, it follows that it is logically preferable to interpret the each item of copyright article 13 widely, because it applies to the case which “limits the rights of the nation and permits the rights of the people.”

According to Copyright section13 Kato lecture, regarding as co opyright section 13 item 2, it describes as follows. “This item means public documents such as public notices, instructions and circular notices etc., that is, public documents which deliver the will of the administrative agencies. This item includes the administrative examples such as information, inquiry and answer etc. and the papers which the state organs such as the state or local public entities, incorporated administrative agencies or local incorporated administrative agencies exchange in the name of the organs, or all the papers which the state organs issue in order to notify the people as the execution of the authority with the result that their papers aren’t the subject of copyrights.” Therefore, it follows that the public gazettes that are public documents, apply to this item 2 and aren’t the subject of

copyrights. As a result, it follows that the application documents after presenting to JPO in the process of making and issuing public gazettes aren't also the subject of copyrights. That is, the application data and public gazettes data apply to this item 2 and aren't the subject of copyrights.

But, according to Copyright section13 Kato lecture, regarding as copyright section 13 item 3, it describes as follows. "This item is judgments etc. of the courts, or the decisions etc. of the administrative agencies which perform quasi-judicial procedures. 'made by administrative agencies in proceedings of a quasi-judicial nature' means patent trial, marine accidents inquiry, or administrative appeal, for example. This naturally includes not only term such as rulings or decisions but also term such as trial decisions and rulings. That is, it is permitted to freely utilize one which the nation is expected to widely read and one which the state etc. is proper to monopolize. " Therefore, it follows that the data of the trial decisions in the public gazette data apply to the item 3 and aren't the subject of copyrights. What is more, it can be thought that applications data and public gazette data can analogically apply to this item 3 and aren't the subject of copyrights. But anyway, it follows that public gazette data apply to this copyright law article 13 item 2 or 3 and aren't the subject of copyrights.

Moreover, according to Copyright section13 Kato lecture, regarding as copyright section 13 item 4, it describes as follows. " This item refers to translations and compilations prepared by organs of the state or local public entities, incorporated administrative agencies or local incorporated administrative agencies of the materials listed in the preceding three items. The purpose of this item lies in that statute books and law reports which administrative agencies issue are in the public domain. Of course, if the statute books and the law reports are drafted on the private base, their copyrights occur. In the same way, as regards foreign laws and regulations, if the government drafts them, their copyrights are denied and if the private person drafts them, their copyrights occur. What is more, because databases are excluded from 'compilations' in Japan copyright law article 12, please be careful not to include the databases of laws and regulations etc. which the

state or local public entities, incorporated administrative agencies or local incorporated administrative agencies draft. This is because the databases of laws and regulations etc. are being drafted in order to utilize in the administrative agencies or make reference to in the working with the result that the purpose doesn't lie in opening widely and the added value of the databases is too enormous so it is considered that the free utilization goes too far." Therefore, basically, it follows that the edited public gazettes apply to this item 4 so they aren't subject to the copyrights, but because the copyright law article 12 excludes databases from 'compilations,' it can be considered that the copyrights exceptionally arise on the compilations of the public gazettes data.

But as above-written, as the reasons why databases are excluded from compilations, the two following reasons are described. ①The databases of laws and regulations etc. are being drafted in order to utilize in the administrative agencies or make reference to in the working with the result that the purpose doesn't lie in opening widely.②the added value of the databases is too enormous so it is considered that the free utilization goes too far. If I apply these two reasons to the public gazettes, ①Originally the public gazettes data is being manufactured in order not to make reference to in the working, but in order to make them open. Moreover, the applicants themselves substantially make the application data since Dec.1990 when the electronic applications started. ② I think that because the added value of the databases is too enormous so the state shouldn't assert the copyrights in order to make free utilization by the people possible, not that "the added value of the databases is too enormous so it is considered that the free utilization goes too far." As a result, it should be considered that there doesn't exist the copyrights on industrial property public gazettes data. That is, because industrial property public gazettes data apply to compilations prescribed in Japan copyright law article 12 and databases are excluded from the compilations, it seems that the copyrights on the industrial property public gazettes databases arise, but because industrial property public gazettes databases never apply to the reason why databases was excluded from compilations in copyright law article 12, the copyright law article 12-1 parenthesis isn't applied to

industrial property public gazettes databases with the result that finally the copyrights of industrial property public gazettes databases never arise exceptionally.

Although, since the copyrights with respect to the databases was prescribed in the reformation of Japan copyright law, JPO has consistently been continuing to draft each use-license-rules based on that there exists the copyright on the industrial property public gazettes databases. That is, the Use-License-Rules on JPO-possession-databases-copyrights under the date of March 20, 1987 (62 JPO Official Document No.318) (refer to the attached paper14(4)), the Use-License-Rules on JPO-possession-copyrights accompanying the sale of CD-ROM public gazettes under the date of Dec. 25, 1992 (4 JPO Official Document No.1992) (refer to the attached paper14(5)) , the Use-License-Rules on JPO-possession-copyrights accompanying the omnibus sale of trademark information databases under the date of July 3, 1995 (7 JPO Official Document No.1260) (refer to the attached paper14(6)), the License-Rules on JPO-data-sale project under the date of March 26, 1998 (10 JPO Official Document No.313) (refer to the attached paper14(7)), the Use-License-Rules on JPO-possession-gazette-data required for issuance of the paper medium under the date of Dec. 10, 1999 (11 JPO Official Document No.1849) (refer to the attached paper14(8)), the “About the changing of the condition of the use of the CD-ROM gazette data issued until March 1998” under the date of Feb. 2000 (refer to the attached paper14(9)), the abolishment of The License-Rules on JPO-data-sale project(10 JPO Official Document No.313) under the date of Feb. 27, 2015(JPO Official Document 20150220 PATENT 2) (refer to the attached paper14(11)), the Use-License-Rules on JPO-possession-gazette-data required for issuance of the medium of the gazette under the date of March 1st, 2015 (JPO Official Document 20150220 PATENT 7) (refer to the attached paper14(12)) -these each use-license-rules will collect the copyright license fees based on that there exists the copyright on the industrial property public gazettes databases. In this way, although there exist the copyrights on the industrial property public gazettes databases, it is the erroneous origin that JPO drafted each use-license-rule based on that there exists the copyright on the industrial property public gazettes databases. Why couldn’t JPO that has jurisdiction over

industrial property which is one wing of intellectual property interpret "JPO shouldn't assert the copyrights on industrial property public gazettes and its databases" which was natural interpretation? Moreover, why can JPO perform this natural interpretation of Japan copyright? I think that it's mystery.

9. About the data of the Register of PATOLIS Inc.

(1) The transition with respect to the establishment and dissolution of PATOLIS Inc. on the Register etc.

・In March 1st 1983, Mr. Masazumi Sato establishes DHL Courier Express limited company.

・In Nov.13 2000, it changes the trade name into Patent information Service limited company.

・In Nov.29 2000, it changes the structure from Patent information Service limited company to Patent information Service Inc.

・In Nov.30 2000, JAPIO resolved that PATOLIS is transferred from JAPIO to the private corporation in the Board of Councilors and the Governing Board held in November 30, that is, JAPIO resolved that the ownership of PATOLIS is changed from JAPIO to the private corporation.

・In Dec.20 2000, it changes and registers the trade name into Patent information Service Inc. to PATOLIS Inc.(But "the date when PATOLIS Inc. was established, is Nov.29 2000" is described in the register)

・In Feb.21 2001, it changes the date of the establishment from 'Nov.29 2000' to 'March 1st 1983'.

・In April 1st 2001, Mr. Yutaka Wada becomes the representative director of PATOLIS Inc.

・In April 18 2001, PATOLIS Inc. announces that the date when it was established is 'Nov.29 2000.'

・In July 13 2005, Mr. Sumio Kanero becomes the representative director of PATOLIS Inc.

・In Oct. 21 2005, Mr. Wada retires the representative director of PATOLIS Inc.

・In July 22 2009, PATOLIS Inc. starts the rehabilitation prodeedings at Tokyo district court.

・In Dec. 29 2009, the decision of the certification of the rehabilitation plan regarding as PATOLIS Inc.is certified at Tokyo district court.

・In Jan. 7 2013, PATOLIS Inc. finishes the rehabilitation prodeedings at Tokyo district court.
・In March 31 2014, PATOLIS Inc. is dissolved by the the decision of the general meeting of stockholders.
・In April 14 2014, Mr. Kanero changes(registers) the position from the representative director to the representative liquidator.
・In Oct.2 2015, Shinkawa Information Inc.(former PATOLIS Inc.) certifies the decision of the end of the special liquidation at Tokyo district court.

(2) The transition regarding as the issued shares in the register of PATOLIS Inc.
・Feb.2 2001, the total of the issued shares is changed and registered to 800 shares.
・Feb.9 2001, the total of the issued shares is changed and registered to 2600 shares.
・Feb.19 2001, the total of the issued shares is changed and registered to 10400 shares.
・March 6 2001, the total of the issued shares is changed and registered to 36400 shares.
・Aug.10 2006, the total of the issued shares is changed and registered to 3640 shares.
・Apr.1 2010, the total of the issued shares is changed and registered to 43640 shares.

(3) The transition regarding as the issued capital in the register of PATOLIS Inc.
・Feb.2 2001, the total of the issued capital is changed and registered to 40 million yen.
・Feb.9 2001, the total of the issued capital is changed and registered to 130 million yen.
・Feb.19 2001, the total of the issued capital is changed and registered to 520 million yen.
・March 6 2001, the total of the issued capital is changed and registered to 1820 million yen.
・Aug.10 2006, the total of the issued capital is changed and registered

to 3640 million yen.
・Apr.1 2010, the total of the issued capital is changed and registered to 0 million yen.
・Apr.1 2010, the total of the issued capital is changed and registered to 100 million yen.

(4)The brief history of the representative director and the inspector of PATOLIS Inc.

In the above-written transition of PATOLIS Inc., Mr. Masazumi Sato who established the preceding DHL Courier Express limited company in March 1st 1983, is the administrative official carrier who entered in MITI(Ministry of International Trade and industry) and whose year(1953) when he entered MITI is the same as that of Mr. Yutaka Wada. Moreover,

When it changed the structure from Patent information Service limited company to Patent information Service Inc. in Nov.29 2000, its inspector was Mr. Hiroshi Iyori and the year(1953) when he entered the secretariat of the fair trade committee, is the same year when Mr. Wade entered MITI.

The brief history of the above-written three persons such as Mr.Wada, Mr.Sato and Mr.Iyori is as follows.

・The brief history of Mr.Wada
Born in 1932
He entered MITI in 1953, Geneva representative department councilor, JPO first manager, JPO general manager, Defense Agency director general of bureau of equipment, Overseas economic cooperation fund regent, after that, Sharp Inc.overseas business manager, the managing director, representative director vice-president, after that,
He became the chief director of JAPIO in Oct.1 1997.
He retired the chief director of JAPIO in March 31 2001.
He became the president of PATOLIS Inc. in April 1st 2001.

・The brief history of Mr. Sato
Born in 1932
He entered MITI in 1953.
He retired the sectional manager of atomic power safety section of atomic

power safety bureau in Science and Technology Agency in 1977, after that, director, executive director, managing director in Kobe Steel Ltd., after that, he retired president-director in Kobe Steel Ltd. in June 1999, advisor(entrust general technical support operation), he became the president of Kimekku inc.

・The brief history of Mr. Iyori
Born in Nov.28 1927
Graduated at Tokyo University law department
Entered secretariat of fair trade committee
Became sectional manager of Keihin display of Operation department, after that, international sectional manager of Economic department, operation sectional manager of Operation department, harmonization sectional manager of Economic department, general sectional manager, secretariat deputy director-general, Economic department manager, Examination manager, Secretary-general, after that, resigned in Sept. 1985.
Became foundational judicial person: fair trade association in Nov.1985.
Resigned foundational judicial person: fair trade association in Nov.1986.
Became the committeeman of fair trade committee in Nov.1986.
Expired his term of office in Nov.1991. After that, Mitsubishi general institute etc.
Became the inspector of Patent Information Service Inc. in Dec.29 2000.

(5)Personal Views

In view of the brief history of the president etc. of PATOLIS Inc., apparently, it follows that the administrative official carriers who entered MITI or Fair Trade Committee at the same year(1953) produced PATOLIS Inc. among themselves. That is, it follows that they produced PATOLIS Inc. in order to secure the plum jobs secured after the retirements of these administrative official carriers.

Why couldn't we, the private persons in the business field of Japan intellectual property, penetrate this plain lie, although we can find this lie by inspecting the register? According to this register, the capital increases to the total amount: about 1800 million yen in the period between Feb. to March 2001 and the total of the issued capital also increases to 36000 shares, but why did the intellectual property

staffs of the main big companies in Japan Intellectual Property Association invest the money of about 1800 million yen to PATOLIS Inc. within this short period of the two to three months? According to the information of the above-written register, the total of the issued capital becomes zero by reducing the 100% of capital in Apr.1 2010 with the result that the total of the issued capital: 1800 million yen all disappears in this way. Although PATOLIS Inc. collected the total capital: 1800 million yen at the beginning of 2001, the total disappeared at 2010. In confrontation with such fraudulent actual state as the establishment and the insolvency of PATOLIS Inc., how did the intellectual property staffs of the main big companies in Japan Intellectual Property Association explain this actual state to the stockholders? I think that the stockholders may suit the stockholders representative action against this investment toward PATOLIS Inc. near in the future.

Moreover, I can notice that the transition of the establishment and the insolvency of PATOLIS Inc. agrees with the History of the reformation of the Use-License Rules of JPO. That is, because JPO started the publication of the CDROM public(official) gazettes in Jan.1993, I think that it follows that it was possible to issue the JPO-possession-data in the internet and provide it in the state of bulk within the period between 1995 which is called internet-new-year to 1999 when IPDL began ,from the technical viewpoint. That is, JPO started to issue the JPO-possession-data in the internet and provide it in the state of bulk in 2015, but I think that it was possible to start the issuance of the JPO-possession-data in the internet and its provision in the state of bulk. More concretely, I think that if then JAPIO make the (for a fee)PATOLIS-WEB which is the internet-version of PATOLIS retrieving system free of charge, this PATOLIS-WEB(free-of-charge) can become IPDL at that time, as it is.

Though, by the agreement as to the transfer of PATOLIS contracted between Mr. Arai: the commissioner of JPO and Mr. Wada: the chief director of JAPIO about 1997, JPO established IPDL(Industrial Property Digital Library) which had the same function as this PATOLIS retrieving system in addition to the prior PATOLIS retrieving system. As a result, almost the same systems such as (free-of-charge)IPDL and (for-a-fee)

PATOLIS retrieving system stood side by side in parallel as the industrial property information supply system in Japan. And (for-a-fee)PATOLIS Inc. took the fatal damages because of the strengthening of the function of (free-of-charge)IPDL of JPO every year with the result that PATOLIS Inc. had to be dissolved.

According to the above-written transition, although basically it was possible to issue the JPO-possession-data in the internet and provide it in the state of bulk within the period between 1995 and 1999 from the technical viewpoint, it follows that the development of the industrial property supply system remained stagnant for about 20 years in Japan. It seems that JPO started to issue the JPO-possession-data in the internet and provide it in the state of bulk in 2015 just after confirmation of the dissolution of PATOLIS Inc. in 2014. That is, JPO delayed the start of the issuance of the JPO-possession-data in the internet and its provision in the state of bulk on purpose, in order to prolong the life of PATOLIS Inc. This policy of the industrial property supply system of JPO should be introspected and why couldn't we, the private persons in the field of Japan intellectual property, advocate the right policy of industrial property supply system showing its real appearance? We sincerely have to consider about this real reasons.

10. Personal View

After all, it is the false origin that JPO decided the ideal state of the industrial property supply system that is the most important policy in JPO, not by the consultation such as the supreme conference etc. in JPO, that is, not by perform the process to collect the various opinions based on the experience and the operation of each staff, moreover not by consulting with each private business world, but by the agreement between the commissioner of JPO and the chief director of JAPIO. Notwithstanding the accumulation of the electronic data which started at 1971 when JAPATIC(JApan PATent Informtion Center) was established, the start of Paperless Project in 1984 and the start of the electronic application for the first time in the world based on this Paperless Project with considerable efforts, this privatization of PATOLIS in 2001 has greatly spoiled the paperless Project.

The year of 1995 was made the internet-new-year in Japan, after that,

the project of electronic government and electronic local public body atarted, but although intrinsically JPO which initiated the electronization more than about 10 to 20 years earlier than this project of electronic government and electronic local public body, took the lead in the project of electronic government and electronic local public body and should utilize the own experience in this the project of electronic government and electronic local public body, JPO performed utterly the opposite policy that JPO privatized the PATOLIS retrieving system with the result that JPO has spoiled the paperless project. Why did JPO perform the opposite policy that was utterly opposite to the intrinsic policy, that is, the privatization of PATOLIS ?, more concretely, why did JPO commit the crime of the illegal transfer of the national property ? This summarization is indispensable in the future.

I think that I can indicate the following five points.

(1)About the structure of JAPATIC/JAPIO

When JAPATIC was established in 1971, JAPATIC adopted the foundational judicial person as the systematic structure of JAPATIC. That is, intrinsically, because the starting point of JAPATIC lies in the supplementary resolution of the Diet with respect to the establishment of the novelty searching authority, I think that this novelty searching authority should be established inside JPO or even if JPO made the extra-government, I think that it was preferable to establish the special corporation which didn't require the private investment in order to attain the fairness.

(2)About the relation between the establishment and the paperless project

When JPO started the Paperless Project in 1984, JPO should make clear the relation between this Paperless Project and the establishment of JAPATIC of 1971. That is, the electronization is common in both the establishment of JAPATIC in 1971 and the start of the Paperless Project in 1984. That is, the electronization of the laying-open gazettes was performed in the establishment of JAPATIC of 1971 and the electronization of the information of the application was performed in the Paperless Project in 1984. That is, although they are common in the electronization, these electronized information was never unified or integrated, that is, PATOLIS data made by the process of the electronization of the laying-

open gazettes remained separated from the application data made by the process of the electronization of the information of the application. I think that his handling of these two electronized information led to the privatization of PATOLIS. JAPIO(JApam Patent Information Organization) has been established in the form of the integration between JAPATIC and JIII(Corporated judicial person: Japan Institute of Invention and Innovation) in 1985, but PATOLIS data made by the process of the electronization of the laying-open gazettes remained separated from the application data made by the process of the electronization of the information of the application in the Paperless Project, also in this occasion. What is more, IPCC(the foundational judicial person: Industrial Property Cooperation Center) has been established in 1985, but IPCC is the subjective element of the electronic system in contrast with the electronization of the information of the application is the objective element of the electronic system, and it should be considered about whether or not it was right to make the idea of 'searcher' in addition to the examiner by the policy of this IPCC which is the subjective element of the electronic system. As regards this, I have presented my idea of the transition from searcher to examiner or assistant examiner in the above-written reformation of the personnel 5(2).

(3)About the ideal state of the copyrights of JPO-possession-data such as public gazettes etc.

JPO couldn't correctly define the ideal state of the copyrights of the JPO-possession-data such as the public gazettes data. That is, although JPO shouldn't assert the copyrights of the JPO-possession-data, JPO asserted the copyrights of the JPO-possession-data with the result that JPO made the new idea such as 'JPO-data' which was separated the PATOLIS data from the JPO-possession-data in the License-Rules on JPO-data-sale project under the date of March 26, 1998 (10 JPO Official Document No.313) established by Mr.Arai: then commissioner of JPO. This act of making the new idea such as 'JPO-data' in this License-Rules on JPO-data-sale project, is 'the act which deceives the people' that leads the people to error or mistake and permits of no excuse. Why did JPO take the act that betrayed the people in the License-Rules on JPO-data-sale project under the date of March 26, 1998 (10 JPO Official

Document No.313)? Why did JPO have to perform the privatization of PATOLIS by force in this way? This is the act that is difficult to understand.

(4)About the structure/personnel/operations in JPO

The labor of the staff of JPO is divided by the each operation such as five operations((i) Receiving of the Filing、(ii)Examination、(iii)Appeal、(iv)Registration、(v)Issue of IP Gazatte) with the result that JPO is lacking in the leadership for attaining the purpose "contributing to the development of the industry" by linking these five operations synthetically. That is, each staff of JPO is divided by the each operation such as five operations((i) Receiving of the Filing、(ii)Examination、(iii)Appeal、(iv)Registration、(v)Issue of IP Gazatte) with the result that JPO performed the operation in compliance with the agreement contracted between the commissioner and the former general manager of JPO who both are administrative official carriers, not providing the conference body to collect various opinions in order to review the ideal state of industrial property information supply system.

(5)About the ability of uttering public opinions in Japan intellectual property business world

The labor of the IP staff of the entrepreneurs is divided by the each operation such as three operations ((i)Filing and Rights-Acquisition of the developed technique,(ii)Invalidation of the Rights of the Opponent, (iii)License Agreement) with the result that they are lacking in the leadership for attaining the purpose of the intellectual property-backed management by linking these three operations synthetically. That is, each staff of the entrepreneurs is very busily occupied with the daily treatment of the notification of invention etc. ,the administrative operation and the licensing operation with the result that they are lacking in the ability of uttering public opinions in Japan intellectual property business world.

11. The present situations of the acquisition of rights on the trademark applications' PPAP'

(1) Japan Trademark Applications of Applicant: BEST LICENSE Inc.

① Filing date: Oct.5 2016 Trademark application(class 9,16,28,35,39,41,42,45: Total 8 classes)

②Filing date: Nov.15 2016 Trademark application(class 15,38: Total 2 classes)

③ Filing date: Nov.28 2016 Trademark application(class 1 to 45: Total 45 classes)

The above three trademark applications have already been dismissed, but they have been divided before their dismissal and their divided trademark applications are alive and effective now.

(2) Overseas Trademark Applications of Applicant: BEST LICENSE Inc.

・In March to May, overseas trademark applications have already been filed in 145 countries and regions in the world. (145 countries and regions: the member countries to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (142 countries, including Japan) and three regions such as Taiwan, HongKong and Macao)

・In Jan. 2018, Notification of granting trademark right in Macao

(3) Japan Trademark Applications of Applicant: AVEX Inc.

① Filing date: Oct.14 2016 Trademark application(class3,9,14,16,18,20,21,24,25,26,28,30,32,43: Total 14 classes)

・In June 9 2017, Granted the trademark right

・In July 11 2017, BEST LICENSE Inc. filed the opposition.

・In Dec. 2017, This opposition has been dismissed by the trial-examiners of JPO due to no-payment.

・Since March 2017, BEST LICENSE Inc. will demand invalidation trial.

②Filing date: Dec.28, 2016 Trademark application(class41)

・Under the examination

(4) Overseas Trademark Applications of Applicant: AVEX Inc.

・ About April 2017, Filed in United States, United Kingdom, France, Russia, Korea, Taiwan.

12. The Requirements of First-to-File System etc. in Japan Trademark Law

In the case that the trademark’PPAP’ and designated goods and services overlap in the plural trademark applications, basically the first-to-file system is adapted in Japan trademark law as follows.

(1)Principle--- Trademark right is granted to the applicant who filed first.

(2)Exception---But in the case of no intention of use, in the case of the same as or similar to the other's unregistered well-known trademark, in the case of unfair purpose, in the case of causing confusion with goods or services connected with another person's business, in the case of contravening public order or morality, the trademark application is refused.

(3)Raised Issues

① In Japan, is the trademark 'PPAP' well-known? In the case that trademark 'PPAP' became well-known in Japan, when did it become well-known concretely? Who is the owner of the well-known trademark concretely? On which goods or services did the trademark' PPAP' become well-known concretely?

② In Japan, was the trademark 'PPAP' well-known at the date of Oct. 5,2016 when BEST LICENSE Inc. filed the application?

③ In Japan, was the trademark 'PPAP' well-known at the date of Oct. 14 2016 when Avex Inc. filed the application? Was the trademark 'PPAP' well-known at the date of Dec. 28 2016 when Avex Inc. filed the second application? In the case that the trademark 'PPAP' became well-known in Japan, who is the owner of the well-known trademark concretely? If the owner of the well-known trademark is Mr. PIKOTARO, how should the relation as to the identity and the difference between the applicant: Avex Inc. and the owner of the well-known trademark: Mr. PIKOTARO, be judged?

④ In Japan, does the intent of the use of the trademark "PPAP" exist? Is this conclusion different in every goods or services?

⑤ In Japan, in the case that the trademark 'PPAP' became well-known in Japan, does the unfair intention exist in the trademark 'PPAP' as to the trademark application which BEST LICENSE Inc. has filed? Is this conclusion different in every goods or services?

⑥ In Japan, does the trademark 'PPAP' as to the trademark application which BEST LICENSE Inc. has filed, cause confusion with goods or serviced connected with another person's business?

⑦ In Japan, in the case that the trademark ‘PPAP’ became well-known in Japan, does the trademark ‘PPAP’ as to the trademark application which BEST LICENSE Inc. has filed, contravene public order or morality? Is this conclusion different in every goods or services?

⑧ In Japan, which should the trademark right be granted to, BEST LICENSE Inc. or AVEX Inc. with respect to the overlapped goods or services finally? Is this conclusion different in every goods or services?

⑨ In overseas, is the trademark ‘PPAP’ well-known? In the case that trademark ‘PPAP’ became well-known in overseas, when did it become well-known concretely? Who is the owner of the well-known trademark concretely? On which goods or services did the trademark’PPAP’become well-known concretely?

⑩ In overseas, is the trademark ‘PPAP’ registrable? How do above ① to ⑧ situations concretely affect the judgment of the trademark registries and the courts in overseas?

(4)Personal Views

① About above-written raised issue (3)①

Well known trademark is trademark which is well known among consumers as indicating the goods or services as being connected with another person’s business(Japan trademark law section 4-1-10). It seems that the trademark ‘PPAP’ has been publicized by Mr. Pikotaro in the you-tube video site on Aug.25, 2016 and was recommended as ‘My favorite video’ by Mr.Justin Bieber with the result that PPAP has become big hit in the world. I feel like that this trademark ‘PPAP’ is well known mainly in the telecommunication-related field such as internet etc. I can’t specify the date when this mark became well known, I guess that the date when this mark became well known will fall between the beginning and the middle of Jan. 2017. I think that the owner of this trademark is Mr.Pikotaro. The main reasons are the following three, that is, reason as to logical sequence, reason as to the occurrence of this bashing, and reason as to the process of the examination of AVEX’s trademark applications. What is more, well-known is necessary both at the time of filing and at the time of decision in order to constitute reason for

refusal or reason for invalidation in Japan trademark law.

(Reason as to logical sequence)

Whether the trademark is well-known or not, is matter of fact, but is not law problem. This trademark 'PPAP' was publicized on Aug.25, 2016, that is, this trademark became known, with the result that it is difficult to imagine to become well-known within two to three months. For one famous artist to tweet never means that this trademark soon becomes well-known. That is, for one famous artist to tweet, just only gave the beginning of gathering attention, but it is difficult to imagine to become well-known within one to two months after gathering attention.

(Reason as to the occurrence of this bashing)

It is from the end of Jan. 2017 to the beginning of Feb. 2017 that BEST LICENSE Inc. filed 'PPAP' trademark application and so-called trademark 'PPAP' bashing occurred. The filing date of 'PPAP' trademark application by BEST LICENSE Inc. is Oct.5, 2016 and the date of the laying open is Oct.25, 2016. That is, Although 'PPAP' trademark application by BEST LICENSE Inc. is being laid open from Oct.25, 2016: the date of the laying open to the middle of Jan. 2017, circumstance such as the bashing never occurred within the time from Oct.25, 2016: the date of the laying open to the middle of Jan. 2017. But suddenly, the topic of so-called trademark 'PPAP' bashing occurred about the end of Jan. 2017. So based on the timing sequence in which first this trademark becomes famous with the result that this trademark is focused on a lot of people and next this bashing to me, I guess that the date when this mark became well known will fall between the beginning and the middle of Jan. 2017.

(Reason as to the process of the examination of AVEX's trademark applications)

In the process of the examination of AVEX's trademark application(filing date: Oct.14,2016,grated date: May 25, 2017) as to PPAP, the trademark examiner of JPO never notified the applicant:AVEX of the reason for refusal with respect to the well-known trademark(Japan trademark law section 4-1-10). If the owner of well-known trademark:PPAP is Mr.Pikotaro, the applicang:AVEX inc. and the owner of well-known trademark:PPAP:Mr.Pikotaro are different and therefore the trademark examiner should notify the applicant:AVEX of the reason for refusal with

respect to the well-known trademark(Japan trademark law section 4-1-10).If the judgment of this trademark examiner is right and PPAP was well-known at the grated date: May 25, 2017, it follows that this examiner judged that PPAP was never well-known at the filing date: Oct.14,2016. So therefore, it follows that the trademark:PPAP is never well-known at the filing date: Oct.5,2016 of the trademark application 'PPAP' by BEST LICENSE Inc., 9 days before the filing date: Oct.14,2016 of AVEX's trademark application. Moreover, likewise, in the process of the examination of AVEX's second trademark application(filing date: Dec.28,2016,grated date: Feb.28, 2018) as to PPAP, the trademark examiner of JPO never notified the applicant:AVEX of the reason for refusal with respect to the well-known trademark(Japan trademark law section 4-1-10). If the judgment of this trademark examiner is right and PPAP was well-known at the grated date: Feb. 28, 2018, it follows that this examiner judged that PPAP was never well-known at the filing date: Dec.28,2016.

According to the above-written three reasons, I can't specify the date when this mark became well known, I guess that the date when this mark became well-known will fall between the beginning and the middle of Jan. 2017. I feel like that this trademark 'PPAP' is well-known mainly in the telecommunication-related field such as internet etc.

② About above-written raised issue (3)②

As written in the above①, I can't specify the date when this mark became well known, but I guess that the date when this mark became well-known will fall between the beginning and the middle of Jan. 2017. So the trademark PPAP is not well-known at the filing date: Oct.5,2016 of the trademark application 'PPAP' by BEST LICENSE Inc. Likewise, the trademark PPAP is not well-known at the filing date: Nov.15,2016 of the second trademark application 'PPAP' by BEST LICENSE Inc. Moreover, likewise, the trademark PPAP is not well-known at the filing date: Nov.28,2016 of the third trademark application 'PPAP' by BEST LICENSE Inc.

③ About above-written raised issue (3)③

As written in the above①, I can't specify the date when this mark became well known, but I guess that the date when this mark became well-known will fall between the beginning and the middle of Jan. 2017. So the trademark PPAP is not well-known at the filing date: Oct.14,2016 of

the trademark application ‘PPAP’ by AVEX Inc. Likewise, the trademark PPAP is not well-known at the filing date: Dec.28,2016 of the second trademark application ‘PPAP’ by AVEX Inc. Provisionally, if the trademark ‘PPAP’ is well-known and the owner of this well-known trademark ‘PPAP’ is Mr. Pikotaro, the relationship between the applicant and the owner of this well-known trademark, that is, whether the applicant and the owner of this well-known trademark are the same or not, should be judged in the process that first the examiner notifies the applicant of the reason for refusal as to this well-known trademark and thereafter the examiner checks the existence of the agreement between the applicant and the owner of this well-known trademark etc. after getting the remarks or the written statements.

④ About above-written raised issue (3)④

Japan trademark law adopts the principle of registration that the trademark right is granted only if it satisfies the prescribed requirements of registration, irrespective of the existence of the fact of the use of the trademark in order to attain the legal stability of rights. But the trademark performs its function and can accompany the business reputation by using the trademark. Therefore, the trademark that is never used in the future, can’t accompany the business reputation and isn’t worth protection. So Japan trademark law prescribes that the trademark has to be used, that is, Japan trademark law prescribes the existence of the intent of use as one of the requirements.

As written in the first beginning 1 The Purpose and the Means(Business Contents) of BEST LICENSE Inc of this paper, BEST LICENSE Inc. pursues that BEST LICENSE Inc. will establish the rights-processing-system of industrial property as the public purpose and BEST LICENSE Inc. will research and develop the necessary technique for establishing the rights-processing-system of industrial property, and pursue the benefit through the rights-processing-business of industrial property as the private purpose. So BEST LICENSE Inc. performs the filing business of the trademark applications as one of the means and the business for attaining these purposes. And BEST LICENSE Inc. bears the three intents such as ①using in the present or possibility of using near in the future ② Possibility of the license to the other companies and ③Ensurance of the stock of the trademark with respect to filing these trademark

applications. So BEST LICENSE Inc. also bears these three intents with respect to above-written trademark applications' PPAP'. Therefore the requirement of intent of use is satisfied without problems. In BEST LICENSE Inc., this conclusion never varies from goods(services) to goods(services).

⑤ About above-written raised issue (3)⑤

Japan trademark law section 4-1-19 prescribes that the trademark which is the identical with the specified well-known trademark and on which the applicant has unfair intention, as one of the requirements.

According to the 20th edition of the IP annotation pages1416 to 1417," unfair intention such as intent to get unfair benefit, intent to give damages to others" that defines "unfair intention," means the intention which contravene the fair and equitable principles of transactions i.e. the profit-making and damage-causing purposes. The meaning is the identical with "unfair intention" prescribed in the law for the repression of unfair competition section 19-1-2. Prescribing not 'intention of unfair competition' but 'unfair intention' means that even if it is trademark application by the applicant who doesn't have the relation of competition on business, the trademark shouldn't be registered for the application which has unfair intention to contravene the fair and equitable principles of transaction.

The examples to which this trademark law section 4-1-19 applies are as follows.

(1)In the case that the trademark is identical or similar to other's well-known trademark in foreign country and the intent of the filing lies in purchasing the trademark to the other, interrupting for the foreign trademark right owners to break into the national market, and forcing national agent agreement etc.

(2)In the case that that the trademark is identical or similar to other's so-called famous trademark irrespective of the fields of goods or services nationally in Japan and even if there isn't the liability of causing confusion, the intent of the filing lies in diluting the function of the indication of source or damaging the reputation.

(3)In the case that that the trademark is other's well-known trademark and the intent of the filing lies in unfair purpose which contravene the fair and equitable principles of transaction.

If I apply the above-written rule to the trademark 'PPAT' which BEST LICENSE Inc. filed, as above-written, BEST LICENSE Inc. pursues that BEST LICENSE Inc. will establish the rights-processing-system of industrial property as the public purpose and BEST LICENSE Inc. will research and develop the necessary technique for establishing the rights-processing-system of

industrial property, and pursue the benefit through the rights-processing-business of industrial property as the private purpose. So BEST LICENSE Inc. performs the filing business of the trademark applications as one of the means and the business for attaining these purposes. And BEST LICENSE Inc. bears the three intents such as ①using in the present or possibility of using near in the future ②Possibility of the license to the other companies and ③Ensurance of the stock of the trademark with respect to filing these trademark applications. So BEST LICENSE Inc. also bears these three intents with respect to above-written trademark applications ' PPAP'. Therefore it follows that BEST LICENSE Inc. never has the above-written fair intent.

What is more, well-known is necessary both at the time of filing and at the time of decision in order to constitute reason for refusal or reason for invalidation in Japan trademark law. As above-written, because the trademark:PPAP is never well-known at the filing date, it is clear that the trademark is never applied to this requirement(Japan trademaruk law section 4-1-19).

⑥ About above-written raised issue (3)⑥

Japan trademaruk law section 4-1-15 prescribes that the trademark which is liable to cause confusion with goods or services connected with another person's business as one of the requirements. The purpose of this section lies in preventing the concrete confusion of source which is liable to occur beyond the scope of the similarity, in addition to the general confusion. Therefore, I think that others' preceding trademark has to be well-known or famous.

What is more, well-known is necessary both at the time of filing and at the time of decision in order to constitute reason for refusal or reason for invalidation in Japan trademark law. As above-written, because the trademark:PPAP is never well-known at the filing date, it is clear that the trademark is never applied to this requirement(Japan trademark law section 4-1-15).

⑦ About above-written raised issue (3)⑦

As above-written, BEST LICENSE Inc. pursues that BEST LICENSE Inc. will establish the rights-processing-system of industrial property as the public purpose and BEST LICENSE Inc. will research and develop the

necessary technique for establishing the rights-processing-system of industrial property, and pursue the benefit through the rights-processing-business of industrial property as the private purpose. So BEST LICENSE Inc. performs the filing business of the trademark applications as one of the means and the business for attaining these purposes. And BEST LICENSE Inc. bears the three intents such as ①using in the present or possibility of using near in the future ②Possibility of the license to the other companies and ③Ensurance of the stock of the trademark with respect to filing these trademark applications. So BEST LICENSE Inc. performs the filing business of the trademark on which I feel attractive, bearing these three points. So BEST LICENSE Inc. also bears these three intents with respect to above-written trademark applications ' PPAP'.

More concretely, BEST LICENSE Inc. performs the business activity and the research developing activity, bearing above-written "２. The Present Situation and the Basic Raised Issues of the rights-processing-system of Each Intellectual Property" and "３. The Present Situation and the Problems of the rights-processing-system of Industrial Property" with the result that I got the idea such as above-written "４. The Policy for Designing the rights-processing-system of Industrial Property" and "５. The Big JPO Project and the Reform of the Business Circles in Japan in the World" etc. and I am releasing these ideas in this paper now and in this way. These business activity and trademark application filing activity are in the healthy business activity so these never contravene the public order and morality. Often I have heard that some well-informed people call me or BEST LICENSE Inc., using the terms such as trademark-hoodlum, troller, or broker, but BEST LICENSE Inc. and I perform the healthy business activity, bearing above-written purposes into mind and I hope that BEST LICENSE Inc. and I aren't mere troller but want to become the best troller who contributes to society. I want many people to perceive that BEST LICENSE Inc. and I have very affirmative component that our troller-like filing activity of trademark applications urges many applicants to work their incentive to file their trademark applications rapidly, that is, "We have to file our trademark applications before releasing in newspaper or internet." Oppositely, if the practice that the trademark applications by BEST LICENSE Inc. and

me, contravene public order or morality because of trollers' activity, is established, it makes many applicants work the incentive to allow later filing that "even if we release the trademark before filing, later filing is possible after the releasing." And it is not necessarily preferable.

Moreover, JPO pointed out the contents titled "To everyone who has the own trademark filed by others(Caution)" at the homepage under the date of May 17, 2016, hinting many applications by BEST LICENSE Inc. and me. The contents are roughly as follows.

"Recently, a part of the trademark applicants file massive trademark applications which take others' trademark in advance. Besides, these almost all applications are lacking in the payment of filing fees, that is, they are applications with procedural fault. JPO performs the disposition for missing these applications at the specified interval from the filing date. "(hereinafter referred to as 'the first indication')

"Even if the filing fee is paid, in the case that the filed trademark falls into not being used in respect of goods or services in connection with his business(Japan trademark law section 3-1-main paragragh) or application which takes others' trademark in advance, or application which corresponds to the third public mark etc.(Japan trademark law section 4-1-each item), the trademark is never registered. Therefore, even if other files the trademark application with respect to the own trademark, please be careful not to give up the own trademark registration. "(hereinafter referred to as 'the second indication')

Moreover, JPO pointed out the contents titled "About the examination of the later application of earlier application with procedural fault (Notice)" at the homepage under the date of May 17, 2016, hinting many applications by BEST LICENSE Inc. and me. The contents are roughly as follows.

After the same indication as the above-written first indication, "JPO performed the operation to begin the actual examination of the later application of the earlier application with procedural fault, without waiting to dismiss the earlier application with procedural fault if the later application doesn't contain the procedural fault, in the past. In the actual examination, there are times when the examiner notifies

the later applicant of the reason for refusal, but the examiner shall render a decision that the trademark registration is to be granted soon after the examiner confirm the dismissing of the earlier application(limited in the case with no other reason for refusal). “ (hereinafter referred to as ‘the third indication’)

“And in future, in the case that the examiner notifies the later applicant of the above-written reason for refusal, if the earlier application which is reason for refusal, has the procedural fault, the examiner describes “Soon after the examiner confirms the dismissal of the earlier application, the examiner shall render that the trademark registration is to be granted(limited in the case with no other reason for refusal)” in the notification of the reason for refusal. ” (hereinafter referred to as ‘the fourth indication’)

First, it is not preferable to point out no-payment of the filing fee with respect to a part of trademark applications in the first indication. It’s because the existence of the payment of the filing fee falls under the trade secret or the privacy of the applicant, basically JPO shouldn’t let out the fact of no-payment of the filing fee of the applicant. And JPO calls applications without the payment of the filing fee ‘applications with fault’ but because the payment of the filing fee doesn’t fall under the requirement needed for certifying the filing date, it is utterly no problem to specify the filing date and the contents of the application with the result that it is clear that it is never ‘application with fault’ as to specifying the contents. In regards to this, in the above-written second indication, “Therefore, even if other files the trademark application with respect to the own trademark, please be careful not to give up the own trademark registration.” is lacking in the correctness in Japan trademark law. That is, BEST LICENSE Inc. and I perform the filing activity of the trademark application etc., bearing above-written purposes in mind, but basically BEST LICENSE Inc. and I file new trademark applications pertaining to the division of the applications just before the dismissal of the earlier application without the payment of the filing fee in order to maintain the benefit of the filing date. So even if the earlier application is dismissed, in the case that there exists the new application pertaining to the division of the application derived from the earlier application, the third party

has to give up the registration of the trademark, according to the retroactive effect pertaining to the division of the applications. Therefore, the above-written second indication never says about the existence of the divisional applications by BEST LICENSE Inc. and me, and gives the third party the erroneous message, with the result that it is lacking in fairness and rightness in the attitude that JPO criticizes the specified applicants such as BEST LICENSE Inc. and me and urges the third party. This is also because Japan trademark law adopts the principle of registration and first-to-file system. That is, it is unfair that JPO never stands in the basic position that Japan trademark law adopts first-to-file system that in the case that plural applications compete with respect to the identical or the similar trademark, the trademark right should be granted to the earlier application as to the filing date, so if the applicant uses the trademark, the applicant should file the trademark application as soon as possible with the result that JPO considers BEST LICENSE Inc. and me a sin one-sidedly.

And the handling that “” in the third indication, is not necessary preferable in view of the practice of the examination in Japan trademark law. That is, the trademark registration should be rendered without waiting for the dismissal of the earlier application in order to accelerate shortening of the period of the examination. In addition to that, in the case that the earlier application is to be registered after the decision for the registration of the later application, the registration of the later application should be operated in the opposition to registration system or the invalidation of registration. Moreover, based on the third indication, the fourth indication says

“the examiner shall render a decision that the trademark registration is to be granted soon after the examiner confirm the dismissing of the earlier application(limited in the case with no other reason for refusal).

“ But this changing of the operation is not good. It’s because as above-written, the trademark registration should be rendered without waiting for the dismissal of the earlier application in order to accelerate shortening of the period of the examination so it is time-consuming to describe the above-written contents, therefore the examiner shouldn’t describe this kind of contents. So as a result, I think that in the case that there typically exists the massive applications without

the payment of the filing fee by a part of applicants in the present trademark law, the examiner should render a decision that the trademark registration is to be granted(limited in the case with no other reason for refusal) in the examination of the later applications, not considering the said applications earlier applications, that is, not applying the present trademark law section 15-ter, basically on the grounds that the later applications don't fall under Japan trademark law section 4-1-11 which gives the trademark pertaining to earlier application and earlier registration the effect for excluding the later applications. Therefore, the above-written changing of the operation should be re-changed to this operation.

What is more, the solution to the problem with respect to the massive applications by a part of applicants should be performed not only by considering a part of applicants a sin and reviewing the practice of the examination etc., but also it is preferable that the reviewing in the comprehensive viewpoints such as the review of the personnel and the structure of JPO like that the significant increasing of the number of trademark examiners and trademark trial examiners and up of the pay level of the persons concerned in trademark and above-written establishment of the rights-processing-system of industrial property. As regards this point, I am explaining about the necessity of the establishment of the rights-processing-system of industrial property and the review of the personnel and the structure of JPO also in the above-written "４. The Policy for Designing the rights-processing-system of Industrial Property" and "５. The Big JPO Project and the Reform of the Business Circles in Japan in the World."

Therefore, the above-written trademark 'PPAP' with respect to the trademark applications which BEST LICENSE Inc. has filed, never contravene public order and morality. In BEST LICENSE Inc., this conclusion never varies from goods(services) to goods(services).

⑧ About above-written raised issue (3)⑧

Finally, BEST LICENSE Inc. can get the trademark right 'PPAP' with respect to the goods and services contained in the trademark application (class 9,16,28,35,39,41,42,45: Total 8 classes) (hereinafter referred to as 'BEST1ICENSE' s first application') which BEST LICENSE Inc. filed at Oct.5, 2016 in Japan.

Finally, AVEX Inc. can never get the trademark right ‘PPAP’ with respect to the identical and the similar goods and services with the goods and services contained in BESTlICENSE’s first application, in trademark application(class 3,9,14,16,18,20,21,24,25,26,28,30,32,43: Total 14 classes) (hereinafter referred to as ‘AVEX’s application’) which was filed at Oct.14, 2016 in Japan. Now AVEX Inc. got the trademark right as to AVEX’s application, but the registration as to the trademark right ‘PPAP’ with respect to the identical and the similar goods and services with the goods and services contained in BESTlICENSE’s first application in AVEX’s application, can be invalidated in future. Oppositely, AVEX Inc. can get the trademark right(hereinafter referred to as ‘AVEX’s trademark right’) with respect to the non-similar goods and services with the goods and services contained in BESTlICENSE’s first application in AVEX’s application.

Finally, BEST LICENSE Inc. can get the trademark right with respect to the non-similar goods and services with the goods and services contained in AVEX’s trademark right in the trademark application(class 15,38: Total 2 classes) (hereinafter referred to as ‘BESTlICENSE’s second application’) which BEST LICENSE Inc. filed at Nov.15 2016 and the trademark application(class 1 to 45: Total 45 classes) which BEST LICENSE Inc. filed at Nov.28 2016.

⑨ About above-written raised issue (3)⑨

Whether or not the trademark ‘PPAP’ is well-known in overseas, depends on the judgment of the trademark competent authority and the courts in each country or each region according to the principle of trademark independence and the principle of territoriality, but the above-written condition of well-known in Japan can be considered.

⑩ About above-written raised issue (3)⑩

Whether or not the trademark ‘PPAP’ is registrable in overseas, depends on the judgment of the trademark competent authority and the courts in each country or each region according to the principle of trademark independence and the principle of territoriality, but the above-written condition of well-known in Japan can be considered.

13. About the so-called trademark’PPAP’bashing about the end of Jan. 2017

(1) Receiving the so-called trademark’PPAP’bashing

Many broadcast media bashed me by saying ”I bragged the trademark:PPAP” and ”I profited at the other’s expense” about the end of Jan. 2017 because my company: BEST LICENSE Inc. filed the trademark application ’PPAP’at JPO as though my company didn’t have the relation with Mr. PIKOTARO or Avex Inc.. I had the first experience in my life that I suddenly took the interview of the plural broadcast media without any notice when I was walking on the street toward the library as always early in the morning and the contents of this interview were broadcasted through the country after several hours later. I was surprised with the immediacy of the broadcast media and I felt a kind of thrills with respect to the fact that my opinion was delivered throughout the televisions or the internet in Japan.

But the contents which then broadcast media telecasted was just only scoop-aimed and out of curiosity by telecasting only the close-up of the fact ”I bragged the trademark:PPAP. ” with the result that I felt that the first-written public purpose that “BEST LICENSE Inc. will establish the rights-processing-system of industrial property.” and my thought on the establishment of this rights-processing-system of industrial property, wasn’t utterly telecasted then. Basically, the broadcast media should telecast the various views from many various viewpoints so I think that the contents of telecasting of the then broadcast media aren’t very much enough.

(2) To the staffs of the broadcast media, please telecast the contents titled ‘Peoples’Open Trial of the Criminal of Robbery of Trademark PPAP: Ikuhiro Ueda’

So I want you to give me the opportunity of the press conference in order to explain about my thought on the first-written public purpose that “BEST LICENSE Inc. will establish the rights-processing-system of industrial property.”and the related contents above-written 1 to 7, using the examples of the trademark applications ‘PPAP’etc. I wonder the time allocation is that the total:3 hours including my announcement: 90 minutes and the question and answer: 90 minutes or the total:2 hours including my announcement: 60 minutes and the question and answer: 60 minutes. For example, I wonder that the title is ‘The real purpose for filing Trademark Application’PPAP’’ or even the extreme title

‘Peoples’ Open Trial of the Criminal of Robbery of Trademark PPAP: Ikuhiro Ueda’ is OK. If possible, then I want you to give me the note-personal computer which can utilize POWERPOINT, the projector connected with this note-personal computer and the handless mike etc. Please make the condition that the expenses from me and my company is zero. Please make consideration.

With best regards

Ikuhiro Ueda: President of BEST LICENSE Inc.

14. Attached References(Evidence and Related References)

(1) The papers titled “Report on the establishment of “Patent InformatiOn Online-Service Council”” under the date of May 28, 2002

(2) The papers addressed from Mr.Yutaka Wada, the president of Patent Information Online-Service Council to Mr. Ohta, the commissioner of JPO under the date of Dec. 2nd, 2002

(3) The paper titled “About the reformation of the fees of the PATOLIS” under the date of April 5, 2000 (12 JPO Official Document No.804)

(4) The Use-License-Rules on JPO-possession-databases-copyrights under the date of March 20, 1987 (62 JPO Official Document No.318)

(5) The Use-License-Rules on JPO-possession-copyrights accompanying the sale of CD-ROM public gazettes under the date of Dec. 25, 1992 (4 JPO Official Document No.1992)

(6) The Use-License-Rules on JPO-possession-copyrights accompanying the omnibus sale of trademark information databases under the date of July 3, 1995 (7 JPO Official Document No.1260)

(7) The License-Rules on JPO-data-sale project under the date of March 26, 1998 (10 JPO Official Document No.313)

(8) The Use-License-Rules on JPO-possession-gazette-data required for issuance of the paper medium under the date of Dec. 10, 1999 (11 JPO Official Document No.1849)

(9) “About the changing of the condition of the use of the CD-ROM gazette data issued until March 1998” under the date of Feb. 2000

(10) The MINUTES of the Board of Councilors and the Governing Board of JAPIO held in November 30 2000 that JAPIO resolved that PATOLIS is transferred from JAPIO to the private corporation that is, JAPIO resolved that the ownership of PATOLIS is changed from JAPIO to the private

corporation.

(11) The abolishment of The License-Rules on JPO-data-sale project(10 JPO Official Document No.313) under the date of Feb. 27, 2015(JPO Official Document 20150220 PATENT 2)

(12) The Use-License-Rules on JPO-possession-gazette-data required for issuance of the medium of the gazette under the date of March 1st, 2015 (JPO Official Document 20150220 PATENT 7)

(13) "Consideration of Industrial Property Information Supply System near in the Future-We should build establish the system in which 'anyone' can get industrial property information 'free of charge' 'anytime' ' anywhere' written by Mr.Ikuhiro Ueda,Patent No.54-2, pages43-56 issued by JPAA

(14)"Consideration on the function of Industrial Property Digital Library(IPDL)" written by Mr.Ikuhiro Ueda,CD for the announcement in Japan Intellectual Property Association under the date of June, 2010

Issued at Feb. 6 2018 by Ikuhiro Ueda
Revised at March 26 2018