

Editorials

Intellectual property should be top priority

The corporate community has welcomed the establishment of a high court specializing in intellectual property litigation and the enactment of a series of legal revisions designed to facilitate the settlement of disputes over copyrights, patents and trademarks.

Companies engaged in creating innovative goods and services stand to gain a lot from the new system. Japanese companies hold large amounts of idle intellectual property rights that are potential sources of revenue.

The fate of such firms hinges on a good intellectual property strategy that ensures effective use of legislation to protect their rights and support their development of new products and ideas.

The new high court handles all appeals against lower court rulings on a wide range of intellectual property disputes concerning patents, business models, integrated circuit configurations and computer programs as well as appeals against decisions by the Patent Office.

The court also deals with lawsuits concerning copyrights, design rights and trademarks filed within the jurisdiction of the Tokyo High Court.

The new tribunal's rulings will create important precedents in many areas of intellectual property because cutting-edge cases naturally concentrate in the Tokyo metropolitan area.

While appealing the court's decisions to the Supreme Court is permitted, not many cases will actually be heard by the top court because interpreting the Constitution is seldom an issue in intellectual property litigation, meaning the patent high court will serve as the virtual last court of appeal in this area.

The revisions in related laws have improved the utility of the dispute settlement mechanism.

One important change has added a confidentiality requirement with a provision for criminal punishment to prevent trade secrets disclosed at the court from being exploited by the other party to a suit. Another has established legal procedures for closing court hearings in intellectual property litigation to the public.

The revisions have also made it possible for the parties to patent infringement suits to raise the issue of the validity of the patent. A system for seeking advice from experts in intellectual property for court decisions has also been created.

The improvements in the intellectual property litigation system have been installed as part of ongoing comprehensive judicial reform as well as the prime minister's initiative to create an intellectual property-oriented country.

It must be remembered, however, that the legal system is only a tool to improve the environment for economic growth and evolution driven by intellectual property development.

Companies need to make strategic use of the new system in creating wealth through the development of intellectual property.