

## Joint Recommendation Concerning the Protection of Marks, and Other Industrial Property Rights in Signs, on the Internet Adopted by WIPO and Paris Union

— A measure for practical solution of the conflict between territorial protection for trademarks and the borderless nature of the Internet —

### Trademark Committee

When using a trademark on the Internet, there is a possibility that the user of the trademark, not knowingly, comes into collision with a trademark owned by another in another country since the Internet can be accessed and viewed from anywhere in the world.

Accordingly, the Standing Committee of the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) of WIPO has discussed measures for solving such a problem, which work was fruited with the adoption of “Joint Recommendation Concerning the Protection of Marks, and Other Industrial Property Rights in Signs, on the Internet” at the Paris Union Assembly and the WIPO General Assembly held in October, 2001. The recommendation is not the one which was intended to construct a new industrial property law for the Internet, but is the one intended to facilitate the application of existing industrial property right laws of various countries or regions. The major contents of the recommendation are as follows;

- 1) the use of a trademark in a particular country shall be deemed to have taken place when any commercial effect has occurred;
- 2) provision of the “notice and avoidance of conflict” procedure which allows a certain level of immunity when a person avoids conflict after receiving a notice from a right holder; and
- 3) the global injunction shall be prohibited unless use in question is in bad-faith.

Although the recommendation does not have the power of enforcement like a treaty, it being considered as a guideline can be reflected in the revisions of relevant regulations or their operations in each of the nations or regions. As further discussions are progressed, we can also expect the recommendation to evolve into a form of, for example, a treaty in the future.

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## Recent Amendment of the Unfair Competition Prevention Law on the Legal Protection of Domain Name

The second Subcommittee,  
Fair Trade Committee

The present material is to explain the “Law to Partially Amend the Unfair Competition Prevention Law” which has become effective as of December 25, 2001 in Japan for protecting domain names that have economic value, as well as to outline the system of Alternative Dispute Resolution System and current international trends.