

## Introduction of Protection against Unfair Competition in the US

The Second Subcommittee,  
Fair Trade Committee

In the U.S., so-called unfair competition is deemed to constitute a tort, and as the legal protection against unfair competition relates both the federal law and the state law, determining the applicable statutes is complex due to the federalism-based division of sovereignty (jurisdiction) between the federal and the state laws.

This paper introduces an comprehensive outline of unfair competition law in the U.S. which has rarely been attempted so far, focusing on regulations against unauthorized use of useful information, so-called trade secret, and passing-off or palming-off of the marks or other indication of origins, and presenting an outline of the historical background and past law and cases, especially the protection requirements, the scope of protection, and the statute of limitation etc. within the range of the author's survey. In the first half of the paper the protection of trade secrets by civil remedies and by criminal penalties is outlined and then the doctrine of misappropriation which has been developed in state laws to cover holes in the current intellectual property law is introduced, to reveal the doctrine underlying the regulations to restrain unauthorized use of results. In the latter half of the paper, common law and federal or state laws that are relevant to the protection of indications on products and unregistered trademarks are outlined to show the doctrine underlying the trademark and other indications, and regulations regarding trade dress related to the protection of the configuration of products is also outlined. After this, regulations against false description and deceptive advertisement are introduced.

The paper attempts to outline the various US law and cases against acts of unfair competition over as wide a range as could be investigated, therefore, it is neither exhaustive nor systematically organized. It is, however, hoped that the paper will be useful or helpful to the practitioners in companies or firms who need survey this legal area.

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## Report by the Project Team for Establishing a World Intellectual Property Users' Union

Project Team on World IP Users' Union

As the business globalization progresses, the differences among the intellectual property (IP) systems in respective nations of the world impose serious problems to business strategies. For each of private companies, there also is an important issue how they should reduce the IP-related expenses.

Under such circumstances, the Japan Intellectual Property Association (JIPA) has been presenting various opinions to the Japan Patent Office, international organizations such as the WIPO, and pat-

ent offices and governmental institutions in various nations/region on various subjects including the harmonization of IP systems. We also felt that it is important for the JIPA to discuss with IP user organizations in other nations/region having similar issues and problems, and to present joint opinions.

Accordingly, the JIPA visited those IP-related organizations, first in Europe and the U.S. to exchange opinions and information as a part of provisional efforts for the future collaboration in establishing the like of a world IP users' union, and discuss the plans therefor.

The JIPA also took a part of the International Symposium at the 20<sup>th</sup> Anniversary of Trilateral Patent Offices' Cooperation held on November last year in Vienna along with the other users' organizations in Europe and the U.S. to make several requests as a user organization to the trilateral patent offices.

As a result of these approaches, the epoch-making 1<sup>st</sup> Trilateral IP Users Conference has been held on April 7<sup>th</sup> this year in Nice, France (Unfortunately, our delegates could not be present due to the Iraqi War, so that we presented our opinions by a paper). And, the 2<sup>nd</sup> Trilateral IP Users' Conference will be held in Tokyo on next February.

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