



Seminar Report

Recent Developments in EU and Japanese IP and Privacy Law

Tokyo November 30, 2018

The EU-Japan Centre for Industrial Cooperation co-organized a seminar on recent developments of intellectual property (IP) and privacy protection on November 30, 2018 in Tokyo, together with Sonderhoff & Einsel Law and Patent Office.

Experts from Europe and Japan provided most recent information on the following subjects:

- a) The EU Unitary Patent System
- b) Development of EU privacy protection regulations (GDPR)
- c) Recent important IP-related decisions in the EU and Japan

The seminar attracted approximately 90 participants.

In the opening remarks, Mr. Francesco Fini, Deputy Head of the EU Delegation to Japan stressed the importance of the Economic Partnership Agreement (EPA) and the Strategic Partnership Agreement, which would lead the cooperation between the EU and Japan to a new and heightened phase. In addition, the conclusion of the negotiations on the protection of personal data – the so-called mutual adequacy decision - will add an important element to the new cooperation. The EPA and the adequacy arrangement will create the biggest area of free and safe data flows in the world while sending an important message that openness to trade and strong data protection can and should go hand in hand.

Mr. Fabrizio Mura, Executive Adviser to EU-side General Manager, EU-Japan Center for Industrial Cooperation explained in his welcoming remarks how the Centre promotes bilateral cooperation in the field of technology and innovation. He touched upon various activities including information service activities for the promotion of EU's research and development program ("National Contact Point for Horizon 2020") and the EU-Japan Technology Transfer Helpdesk.

The first presenter, Mr. Jesper Kongstad, Former Director General of the Danish Patent Office and Vice Chairman of the Board of Zacco, a European IP consulting firm gave a speech on "Update on the Unitary Patent System". In referring to the prospect

for the start of the new system, he indicated two outstanding issues. One is a constitutional complaint filed in Germany and the other is the British withdrawal from the EU (“Brexit”). Mr. Kongstad gave two different projections with an optimistic and a pessimistic perspective. If the optimistic scenario comes true, the Unitary Patent System will become available as early as the end 2020. However, according to the pessimistic scenario, it will be either 2022 or later, he concluded.

Mr. Daniel Schwarz, CEO, IT-Deutschland Global Business Solutions K.K explained what happened in the first six months of implementation of EU’s General Data Protection Regulation (GDPR) since May 2018. According to him, many companies are still struggling with the implementation of the GDPR or data protection in general. And because of that, the advantages of the GDPR has been heavily underestimated, he commented. Mr. Schwarz suggested that it was most important to use the occasion to deepen the relationship with customers by showing them that you care about their data, their protection and privacy. As for the next step of data protection, Mr. Schwarz stressed the importance of the ePrivacy Regulation – a draft legislation, still not in force. The ePrivacy Regulation which will replace ePrivacy Directive of 2002 is supposed to complement the GDPR in the field of processing of personal data in electronic communications including online advertising, IoT, big data and everything related to data mining and cookies.

After the coffee break, Mr. Kengo Sakai, Attorney at Law of Sonderhoff & Einsel gave lecture under the title of “Roundup of Recent Important IP-related Decisions in Japan”. He specifically spoke about the ruling issued by the Grand Panel Case of the Intellectual High Court on the “Pyrimidin Derivative” case.

Mr. Hajo Peters, Senior Executive Partner of Zacco Europe offered a “Roundup of Recent Important IP-related Decisions in the EU”. He introduced decisions of the German Federal Patent Court, which revoked the European patent as an example of “infringement”. He also introduced decisions of the European Patent Office (EPO) on validity and patentability issues.

Mr. Luca Escoffier, Project Manager of the EU-Japan Technology Transfer Helpdesk, EU-Japan Centre for Industrial Cooperation moderated the panel discussion which all of the speakers participated. He addressed several questions to the panelists for obtaining a clearer vision about their prior presentations.

For example, Mr. Kongstad commented, in response to a question raised by Mr. Escoffier, that the most attractive benefit of the Unitary Patent System is the creation of Unitary Patent Court which guarantees everybody a fair access to the justice. Mr. Schwarz also highlighted the importance of data protection implemented by technology design (the so

called “Privacy by design” principle). In fact, in order to meet the necessary privacy requirements, we have to work on the development of a new technology with this concepts in mind from the very beginning.

Prepared by Toshiro Fukura, Manager, Policy Seminars and Analysis

Speakers and panelists



Mr. Jesper Kongstad, Vice Chairman of the Board of Zacco



Mr. Daniel Schwarz, CEO, IT-Deutschland Global Business Solutions K.K



Mr. Kengo Sakai, Attorney at Law, Sonderhoff & Einsel



Mr. Hajo Peters, Senior Executive Partner, Director, Zacco Europe



Panel Discussion Moderated by Mr. Luca Escoffier (far left), Project Manager, EU-Japan Technology Transfer Helpdesk/EU-Japan Centre for Industrial Cooperation