

# Intellectual Property (IP) Protection

*It is generally advisable to ensure that patent, models, designs and trademarks are registered and protected under Japanese law when doing business in Japan.*

*Japan is a member of several international bodies relating to worldwide IP protection and a signatory to the international treaties facilitating multi-territory registration and protection.*

## Domestic IP Protection

IP generally covers all results of intellectual activities, for example inventions, utility models, designs or works. In Japan the four main laws offering IP protection and the property to which they relate are detailed below:

### (1) Invention – Patent Law

This category covers products or methods characterized by a high level of technological creativity. They tend to have a longer life cycle than utility models and will cover such items as hardware and computer programs.

Patent Law protects the invention for 20 years from the day the application is filed (a five-year extendable period is applied to pharmaceutical products and agricultural chemicals).

### (2) Utility models – Utility Model Law

Utility Models tend to have a shorter life cycle than patents and relate to such aspects as the shape, structure, and technological aspects of a product, although the technological aspect may be of a lower level than for patents.

The Law for New Utility Models protects the model for a period of six years from the date the application is filed.

### (3) Industrial designs used in manufacturing- Design Law

This covers the shape, pattern, color, and other design characteristics of a product.

Design Law protects the design for 15 years from the date of registration of its establishment.

### (4) Trademarks – Trademark Law

Trademarks include letters, diagrams, color, and other identification elements associated with the product or service.

Trademark Law protects trademarks for ten years from the date of registration and such term may be renewable for ten years from the very end of the term.

Some industrial designs and trademarks may be protected by the Unfair Competition Prevention Law even if such designs and trademarks are not registered under the above mentioned laws.

Other types of intellectual property (e.g. trade secrets, trade names and copyrights) are protected by commercial, copyright, and industry specific laws.

In order to claim legal protection under the four main IP protection laws, it is necessary to register the property with the Japanese Patent Office (“JPO”). When property is registered with the JPO, details are published in an official gazette which is available to the public.

## International Treaties

Protection of IP rights has been strengthened in recent years by, amongst other things, agreements reached between the World Intellectual Property Organization (“WIPO”) and the World Trade Organization, such as the agreement on Trade Related Aspects of Intellectual Property Rights (“TRIPS”). Japan is a member of these organizations, as well as a signatory to the 1883 Paris Convention on Protection of Industrial Property.

Both Japan and the US are also signatories to the Patent Cooperation Treaty (“PCT”). The U.S. signed the Treaty on January 24, 1978 and Japan signed on October 1, 1978. Under the terms of the Treaty, filing an application for registration in one member country has the effect of filing the registration with each of the member countries.

## Royalties

Under the U.S.-Japan double tax treaty, beginning July 1, 2004, all royalties paid by residents of one contracting state to residents of the other can be paid without being subject to withholding tax at source.