



## JAPAN LEGAL UPDATE

### Intellectual Property

#### JPO Launches its Advisory Opinion System to Determine Standard-Essential Patents

On April 1, 2018, the Japan Patent Office ("JPO") began operation of an advisory opinion (*hantei*) system to judge whether a patent is a standard-essential patent ("Operation").

The advisory opinion system is an existing system under which, pursuant to Article 71 of the Patent Act, the JPO will issue an official opinion on whether certain products or methods infringe particular patents in response to a petition made by an interested party. This opinion, however, is not legally binding.

Recently, the spread of new services via the internet and the development of new technologies such as the internet of things and autonomous driving have increased the need for various types of businesses, including product manufacturers and service providers, to utilize standards (especially telecommunications standards).

When a business owner negotiates a patent license, whether the patent is a standard-essential patent greatly influences the license negotiations and the royalty rate. However, it is not always easy for the parties to agree on whether a patent is a standard-essential patent or how to resolve disputes.

With these circumstances in mind, the Operation aims to facilitate license negotiations by providing a fair and neutral opinion from the JPO regarding whether the patent is a standard-essential patent using the existing advisory opinion system. Through active use of the Operation, companies developing new technologies and services should be able to execute projects promptly by quickly and inexpensively obtaining a determination as to whether a patent is a standard-essential patent.

### Tax

#### Japan to Implement Cabinet Order and Ministerial Ordinance on Invoice System

On October 1, 2023, an invoice system will be implemented to provide tax credits for consumption tax on purchases.

The backdrop for the introduction of the invoice system is an increase in the consumption tax rate and a reduction in the tax rate on food and beverages scheduled to go into effect on October 1, 2019. In order for businesses to claim tax credits for consumption tax on purchases under the new system, they must keep a qualified invoice issued by a supplier registered as a taxable enterprise with the tax office director. There is, however, a transition period from October 1, 2019, to September 30, 2023, during which time a business is required to keep an invoice that appends an itemization by tax rate and to enter that information in an account book in order to claim a tax credit for consumption tax on purchases.

The matters that had been delegated to the Cabinet and Ministry for enforcement of the invoice system, including the calculation of consumption tax on taxable purchases and the scope of transactions for which there is no obligation to issue a qualified invoice, were promulgated, along with the cabinet order and ministerial ordinance regarding the 2018 tax reform, on March 31, 2018. Businesses are advised to begin preparations, including development of new systems for the issuance of qualified invoices and the management of documentary evidence, in accordance with the above.

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## Labor & Employment

### Cabinet Approves and Submits to the Diet a Bill for Legislation for the Promotion of Work Style Reform

On April 6, 2018, the Japanese Cabinet approved and submitted to the Diet the Bill for Legislation for the Promotion of Work Style Reform ("Bill"). The Bill was drafted based on the legislative outline described in our [October 2017 issue](#). The limits on overtime, establishment of a sophisticated professional system, and securing of fair working conditions regardless of employment type described in the legislative outline were incorporated into the Bill without any significant changes. In contrast, the expansion of the scope of the discretionary working system for management-related work was removed from the Bill before it was submitted to the Diet because of doubts regarding the reliability of the data that formed the basis for the proposed expansion. Because the opposition parties strongly object to the Bill, it is unclear whether the Bill will be enacted and, if it is enacted, whether any amendments will be made. Accordingly, businesses should pay close attention to Diet deliberations.

## International Trade

### Cabinet Approves and Submits to the Diet a Proposal to Approve the TPP 11 and a Bill for Amendment of the TPP Relevant Arrangement Act

On March 27, 2018, a proposal ("Proposal") to approve the execution of the Comprehensive and Progressive Agreement for the Trans-Pacific Partnership ("TPP 11") and a bill ("Bill") to partially amend the Act on Arrangement of Relevant Acts Incidental to Conclusion of the Trans-Pacific Partnership ("TPP Relevant Arrangement Act") were submitted to the Diet. After the United States withdrew from the Trans-Pacific Partnership among 12 countries ("TPP 12") in January 2017, the remaining 11 countries have continued negotiations and signed on to the TPP 11 (an agreement to amend the TPP 12) on March 8, 2018. The Proposal is to complete the Japanese domestic legal procedures necessary to ratify the TPP 11, and the Bill is to change the enforcement date of the TPP Relevant Amendment Act to the enforcement date of the TPP 11 (60 days after the date on which at least six signatories complete the necessary legal procedures). Mexico has already completed its domestic legal procedure necessary to ratify the TPP 11. Thus, enforcement of the TPP 11 and relevant domestic acts to implement the TPP 11 is becoming likely. Businesses should review the contents of the TPP 11 and the TPP Relevant Arrangement Act and analyze their impact on the businesses' operations.

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