

# **Basic Law on Intellectual Property (Law No.122 of 2002)**

(Provisional Translation)

## **Table of Contents**

Chapter I	General Provisions (Articles 1 to 11)
Chapter II	Basic Measures (Articles 12 to 22)
Chapter III	Promotion Program on Creation, Protection and Exploitation of Intellectual Property (Article 23)
Chapter IV	Intellectual Property Policy Headquarters (Articles 24 to 33)
Supplementary Provisions	

## **Chapter I General Provisions**

### (Purpose)

Article 1. The purpose of this Law shall be, for the objective of realizing a dynamic economy and society that is based on the creation of added values through the creation of new intellectual property and effective exploitation of such intellectual property in light of a growing necessity for intensifying the international competitiveness of Japanese industry in response to the changes in the social and economic situations at home and abroad, to promote measures for the creation, protection and exploitation of intellectual property in a focused and planned manner by stipulating the basic ideas on the creation, protection and exploitation of intellectual property and the basic measures to achieve the ideas, clarifying the responsibilities of the State, local governments, universities, etc. and business enterprises, establishing the Intellectual Property Policy Headquarters, and providing stipulations on the development of a promotion program on the creation, protection and exploitation of intellectual property.

### (Definition)

Article 2. As used in this Law, “intellectual property” refers to inventions, devices, new varieties of plants, designs, works and other property that is produced through creative activities by human beings (including discovered or solved laws of nature or natural phenomena that are industrially applicable), trademarks, trade names and other marks that are used to indicate goods or services in business activities, and trade secrets and other technical or business information that is useful for business activities.

2. As used in this Law, an “intellectual property right” refers to a patent right, a utility model right, a plant breeder’s right, a design right, a copyright, a right that is stipulated by law on other intellectual property or right concerning an interest that is protected by law.

3. As used in this Law, “universities, etc.” refers to universities and colleges of technology (universities and colleges of technology set forth in Article 1 of the School Education Law [Law No. 26 of 1947]; also applicable in Article 7(3) of this Law), inter-university research institutions (inter-university research institutions set forth in Article 9bis(1) of National School Establishment Law [Law No. 150 of 1949]), independent administrative institutions (independent administrative institutions set forth in Article 2(1) of the Law on General Principles Concerning Independent Administrative Institutions [Law No. 103 of 1999]; also applicable in Article 30(1) of this Law) that are engaged in experiment and research activities, public corporations (corporations directly established by a law or corporations specially established by a special law, to which the provision of Article 4(15) of the Law on Establishment of the Ministry of Public Management, Home Affairs, Posts and Telecommunications [Law No.91 of 1999] are applicable; also applicable in Article 30(1) of this Law) that are designed for Research and Development, and experiment and research institutions that belong to the State and local governments.

(Sound development of the national economy and creation of rich culture)

Article 3. Measures for the creation, protection and exploitation of intellectual property shall be promoted with the objective of realizing a society in which the public can enjoy the benefit of intellectual property and establishing a foundation for the creation of new intellectual property in the future, thereby contributing to the sound development of the national economy and the creation of rich culture, through developing an essential environment to develop human resources that are rich in creativity, effectively exercise such creativity, achieve prompt and appropriate protection of intellectual property in response to the progress in technical innovation at home and abroad, actively exploit intellectual property in the economy and society, and utilize its value to the maximum.

(Intensification of the international competitiveness and sustainable development of Japanese industry )

Article 4. Measures for the creation, protection and exploitation of intellectual property shall be promoted with the objective of achieving an intensification of the technical capabilities of Japanese industry and the revitalization of the industry, the activation of the local economy, and an increase in job opportunities, thereby contributing to the intensification of the international competitiveness of Japanese industry and a sustainable development of Japanese industry that precisely responds to the changes in the economic environment at home and abroad, through encouraging smooth transfer of the results of creative Research and Development into commercial use and promoting the development of new business fields, management innovation and business startups, all of which are based on intellectual property.

(Responsibilities of the State)

Article 5. The State shall have the responsibility for formulating and implementing measures for the creation, protection and exploitation of intellectual property in accordance with the basic ideas on the creation, protection and exploitation of intellectual property set forth in the provisions of the preceding two articles (hereinafter referred to as the "basic ideas").

(Responsibilities of local governments)

Article 6. Local governments shall have the responsibility for formulating and implementing autonomous measures that reflect distinctive features of the territories of the relevant local governments with regard to the creation, protection and exploitation of intellectual property in accordance with the basic ideas, by appropriately sharing roles with the State.

(Responsibilities of universities, etc.)

Article 7. Universities, etc. shall, considering that their activities are to contribute to the creation of intellectual property in the whole society, make voluntary and positive efforts to develop human resources, carry out research and diffuse the research results.

2. Universities, etc. shall make efforts to assure proper treatment of researchers and engineers and to establish and improve research facilities so that the job contents and working conditions of such researchers and engineers will be attractive and suitable for their importance.

3. In formulating and implementing measures for the creation, protection and exploitation of intellectual property that involve universities, colleges of technology and inter-university research institutions, the State and local governments shall respect researchers' independence and pay attention to the characteristics of the research that is carried out at universities, colleges of technology and inter-university research institutions.

(Responsibilities of business enterprises)

Article 8. In light of the importance of the role that intellectual property plays in the development of Japanese industry, business enterprises shall, in accordance with the basic ideas, make efforts for positive exploitation of the intellectual property that is created by themselves or by other business enterprises and the intellectual property that is created by universities, etc. as well as for proper management of their own intellectual property in order to increase their productivity and reinforce their business foundation through vigorous business activities.

2. Business enterprises shall make efforts to assure proper treatment of inventors and other employees who are engaged in creative activities so that the job contents of such inventors and other employees who are engaged in creative activities will be attractive and suitable for their importance.

(Strengthening of cooperation)

Article 9. The State shall, considering that mutual cooperation and collaboration between the State, local governments, universities, etc. and business enterprises can effectively achieve the creation, protection and exploitation of intellectual property, take necessary measures to strengthen cooperation between these parties.

(Attention for promoting competition)

Article 10. In promoting measures for the creation, protection and exploitation of intellectual property, attention shall be paid to secure the fair use of intellectual property and public interests and to promote fair and free competition.

(Legal measures, etc.)

Article 11. The government shall take the legal, fiscal and other actions that are necessary for implementing measures on the creation, protection and exploitation of intellectual property.

## **Chapter II Basic Measures**

(Promotion of Research and Development)

Article 12. Considering that the creation of high-value added intellectual property at universities, etc. is a source of sustainable development for the Japanese economy and society, the State shall take necessary measures to promote Research and Development, such as securing and developing researchers rich in creativity, improving research facilities, and making effective use of Research and Development funding, while paying attention to the policy on the advancement of science and technology stipulated in Article 2 of the Basic Law on Science and Technology (Law No. 130 of 1995).

(Promotion of transfer of Research and Development results, etc.)

Article 13. Considering that Research and Development results achieved by universities, etc. are useful for the development of new business fields and the improvement of industrial technology, the State shall take necessary measures to encourage universities, etc. to properly manage their Research and Development results and smoothly transfer the results to business enterprises, such as improving systems in universities, etc. to utilize human resources that have technical knowledge on intellectual property, improving such proceedings as registration for establishment on intellectual property, carrying out market research and surveys and providing market information.

(Prompt granting of right, etc.)

Article 14. The State shall take necessary measures, such as improving the examination systems to enable the necessary procedures to be promptly and properly carried out so that business enterprises will be able to smoothly carry out their business activities by promptly obtaining definite rights with respect to intellectual property for which a right is established on the basis of such national registrations, as inventions, new varieties of plants, designs, and trademarks.

2. In taking the measures mentioned in the preceding clause, the State shall make efforts to obtain the understanding and cooperation of business enterprises for the purpose of ensuring effective implementation of such measures.

(Effective and prompt legal proceedings, etc.)

Article 15. Considering that the judicial authorities will play more important role in protecting intellectual property rights along with advancement in the exploitation of intellectual property in the economy and society, the State shall take necessary measures to ensure more effective and prompt legal proceedings, improve technical resolution systems at court and reinforce alternative dispute resolution systems, with regard to lawsuits on intellectual property rights.

(Measures against infringement of right, etc.)

Article 16. The State shall take necessary measures against infringements of intellectual property rights in the domestic market and against importation of the products that infringe intellectual property rights into the domestic market, such as controlling such infringements of intellectual property rights and forfeiting the infringing products, in a close cooperation and collaboration with business enterprises, business associations and other associations concerned.

2. Where intellectual property owned by juridical persons and other associations that are established under Japanese laws or by persons who have Japanese nationality (hereinafter called “Japanese juridical persons, etc.”; also applicable in the next article) is not properly protected in a foreign country, the State shall take necessary measures, such as achieving proper enforcement of rights under intellectual property-related treaties, in cooperation with the government of the foreign country concerned, international organizations and associations concerned, according to the situation.

(Establishment of international systems, etc.)

Article 17. The State shall make efforts to establish intellectual property-related systems that are internationally consistent in collaboration with governments of other countries by cooperating intellectual property-related international organizations and other international frameworks, and shall take necessary measures to develop an environment in which Japanese juridical persons, etc. can promptly and certainly obtain or enforce intellectual property rights in countries or regions where an intellectual property protection system has yet to be sufficiently developed.

(Protection of intellectual property in new fields, etc.)

Article 18. Considering that creation of new businesses will be expected through active business startups when useful Research and Development results are promptly and properly protected as intellectual property rights in the fields, such as life sciences, where outstanding progress of technological innovation is seen, the State shall take necessary measures, such as taking legal measures on the basis of an examination of the scope of rights that need proper protection.

2. The State shall take necessary measures, such as reviewing the contents of rights and supporting business enterprises in developing and utilizing their technical means for protection, in order to achieve proper protection of intellectual property rights while precisely responding to the diversified applications of intellectual property along with the spread of the Internet and other changes in social and economic circumstances.

(Development of an environment in which business enterprises can effectively and properly exploit intellectual property)

Article 19. The State shall take necessary measures to develop an environment in which business enterprises can effectively and properly exploit intellectual property, such as establishing methods for appropriate evaluation of intellectual property and setting forth management guidelines that will be helpful examples for business enterprises, in order to enable business enterprises to start up new businesses and smoothly carry out these businesses by exploitation of intellectual property.

2. In taking the measures mentioned in the preceding clause, the State shall specially reckon business startups by individuals and the development of new businesses by Small and Medium Enterprises with volition, considering the fact that Small Medium Enterprises are entrusted with an important mission for maintaining and strengthening the vitality of the Japanese economy.

(Provision of information)

Article 20. The State shall conduct research and analysis on domestic and international trends concerning intellectual property, prepare necessary statistics and other data, develop databases on intellectual property, and take necessary measures to promptly provide information for business enterprises, universities, etc. and other parties concerned through access to the Internet and other advanced information and telecommunications networks.

(Promotion of education, etc.)

Article 21. The State shall take the necessary measures to promote education and learning on intellectual property and provide knowledge on intellectual property through public relations activities, etc. in order to develop a society in which intellectual property rights are respected, through making the public more aware of and deepening its interest in intellectual property.

(Securing human resources, etc.)

Article 22. The State shall take necessary measures to promote the creation, protection and exploitation of intellectual property, such as securing and developing human resources that have technical knowledge on intellectual property and improving their quality in close cooperation and collaboration with universities, etc. and business enterprises.

### **Chapter III Promotion Program on the Creation, Protection and Exploitation of Intellectual Property**

Article 23. The Intellectual Property Policy Headquarters shall develop a promotion program according to the provisions in this Chapter.

2. The following matters shall be decided within the promotion program:

- (i) Basic policy concerning measures that the government should implement in a focused and planned manner for the creation, protection and exploitation of intellectual property;
- (ii) Measures that the government should implement in a focused and planned manner for the creation, protection and exploitation of intellectual property;

(iii) Measures that the government should implement in a focused and planned manner to promote education and learning on intellectual property and secure human resources, etc.

(iv) Matters other than those stipulated in the preceding clauses that are required for the government to promote measures in a focused and planned manner for the creation, protection and exploitation of intellectual property.

3. The specific objectives and time limits for accomplishment of these objectives shall be, in principle, decided for the measures determined within the promotion program.

4. When the Intellectual Property Policy Headquarters develops the promotion program pursuant to Clause 1, it shall publish the program via the Internet and other appropriate means without delay.

5. The Intellectual Property Policy Headquarters shall investigate the accomplishment circumstances of the objectives set forth in the provision of Clause 3 and publish the results via the Internet and other appropriate means in a timely manner.

6. The Intellectual Property Policy Headquarters shall, in light of the changes in the situation surrounding intellectual property and based on the evaluation of the effect of the measures for the creation, protection and exploitation of intellectual property, review the promotion program at least annually and amend the program if it considers such amendment necessary.

7. The provision of Clause 4 shall apply mutatis mutandis to amendments to the promotion program.

#### **Chapter IV Intellectual Property Policy Headquarters**

(Establishment)

Article 24. In order to promote measures for the creation, protection and exploitation of intellectual property in a focused and planned manner, the Intellectual Property Policy Headquarters (hereinafter referred to as the "Headquarters") shall be established in the Cabinet.

(Operations within the jurisdiction of the Headquarters)

Article 25. The Headquarters shall have jurisdiction over the following operations:

(i) Development of a promotion program (hereinafter referred to as the "promotion program"), and promotion of the implementation of such program; and

(ii) Besides those mentioned in the preceding clause, investigation and deliberation on planning important measures on the creation, protection and exploitation of intellectual property, and promotion and comprehensive adjustment of implementation of such measures.

(Organization)

Article 26. The Headquarters shall be organized to consist of the Director-General of the Intellectual Property Policy Headquarters, the Vice Director-Generals of the Intellectual Property Policy Headquarters, and Members of the Intellectual Property Policy Headquarters.

(Director-General of the Intellectual Property Policy Headquarters)

Article 27. The Headquarters shall be headed by the Director-General of the Intellectual Property Policy Headquarters (hereinafter referred to as the "Director-General"), the post which shall be served by the Prime Minister.

2. The Director-General shall be in charge of general coordination of the operations of the Headquarters, and shall direct and supervise the relevant officials.

(Vice Director-Generals of the Intellectual Property Policy Headquarters)

Article 28. The Vice Director-Generals of the Intellectual Property Policy Headquarters (hereinafter referred to as the "Vice Director-Generals") shall be assigned in the Headquarters, the posts which shall be served by State Ministers.

2. The Vice Director-Generals shall assist the duties of the Director-General.

(Members of the Intellectual Property Policy Headquarters)

Article 29. Members of the Intellectual Property Policy Headquarters (hereinafter referred to as the "Members") shall be assigned in the Headquarters.

2. The posts of the Members shall be served by the following persons:

- (i) all State Ministers other than the Director-General and Vice Director-Generals; and
- (ii) those having superior insights into the creation, protection and exploitation of intellectual property who have been appointed by the Prime Minister.

(Submission of materials and other forms of cooperation)

Article 30. The Headquarters may, if it considers it necessary for implementing operations under its jurisdiction, demand submission of materials, statements of views, explanations and other required cooperation from the heads of the administrative organs concerned, local governments and independent administrative institutions and the representatives of public corporations.

2. The Headquarters may also demand required cooperation from parties other than those set forth in the preceding clause, if it considers it especially necessary for implementing operations under its jurisdiction.

(Operations)

Article 31. Operations concerning the Headquarters shall be processed within the Cabinet Secretariat and administered by the Assistant Deputy Chief Cabinet Secretary under commission.

(Competent Minister)

Article 32. The competent Minister as set forth in the Cabinet Law (Law No.5 of 1947) for matters related to the Headquarters shall be the Prime Minister.

(Authorization to Cabinet Orders)

Article 33. Necessary matters concerning the Headquarters other than those set forth in this Law shall be stipulated by Cabinet Orders.

## Supplementary Provisions

(Date of enforcement)

Article 1. This Law shall enter into force on the date stipulated by a Cabinet Order within three months from the date of publication.

(Review)

Article 2. The government shall review the execution status of this Law within three years after it enters into force, and shall implement required measures based on the results.

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