

## Japan's interventions in SCP 32 (7-10 December, 2020)

### 4. Report on the international patent system: Certain aspects of national/regional patent laws

Thank you, Mr. Chair.

First of all, the delegation of Japan would like to express its gratitude to the Chair and the Secretariat for their dedication and efforts in organizing this meeting under the difficult circumstances caused by the COVID-19 pandemic.

The delegation of Japan aligns itself with the statement delivered by the distinguished delegation of the United Kingdom on behalf of Group B.

As described in working document SCP/32/2, in this agenda, we are to share various aspects of patent laws with each country. Taking this opportunity, the delegation of Japan would like to share information on the recent revisions of the Patent Act of Japan.

Last year, the Patent Act of Japan was revised to review the methods of calculating damages, so that a sufficient and appropriate amount of damages can be granted to patent rights holders. Under the revised law, when determining lost profits, a right holder can claim damages based not only on lost profits due to declines in sales volume of products that have been sold by the right holder but also on lost profits due to the loss of opportunities for the right holder to grant licenses. Also, the law clearly states that, when calculating the amount of damages based on the sum equivalent to licensing fees, any additional amount, which could be determined in negotiations on the premise that patent right infringements have occurred, can be taken into consideration. Thanks to these measures, higher and appropriate compensation can now be granted even for SMEs and startups with limited production and sales capacity. This is the revision enacted to Article 102 of the Patent Act.

Also, when patents were granted to manufacturing methods in facilities such

as production plants, it was difficult to collect evidence for, and prove the infringement of patent rights.

After the revision, a new inspection system was established in which a fair and neutral expert nominated by the court enters the premises to collect evidence. This makes it much easier to prove patent infringement. In this revision, Article 105-2, etc, were added to the Patent Act.

For the specific details of the legal revisions in Japan, please see the English version on JPO's website ([https://www.jpo.go.jp/e/system/laws/rule/hokaisei/tokkyohoutou\\_kaiei\\_20190517.html](https://www.jpo.go.jp/e/system/laws/rule/hokaisei/tokkyohoutou_kaiei_20190517.html)). Further, the revised provisions are already published on WIPO Lex.

Thank you, Mr. Chair.