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

6. Quality of patents, including the opposition system

<Japan's presentation at the Sharing session on the patentability issues relating to artificial intelligence>

I would like to thank you for giving me this opportunity to discuss the JPO's initiatives for Patentability issues in regards to AI-related Inventions.

In recent years, the number of AI-related inventions has increased rapidly. The blue line in the graph shows the total number of domestic applications, while the pink bar graph shows the number of domestic applications for AI-related inventions. As can be seen from this graph, the ratio of AI-related inventions to the total number of applications has increased significantly, especially since 2016.

This slide shows our initiatives for AI-related inventions thus far.
In 2018, the JPO solicited public comments on issues of examinations for AI-related inventions and carefully considered the opinions from our users.
In 2019, we added case examples of AI-related inventions to the Examination Handbook for Patent and Utility Model.
Also in November, our office held the International Symposium on Patent Examination Practices on AI-related Inventions. I will provide the details of this Symposium later.
Furthermore, in July of this year, the JPO presented its approach to patentability of AI-related inventions at the second session of the WIPO Conversation on Intellectual Property and Artificial Intelligence.

While listening to opinions from our users, it became obvious that the challenge applicants were facing was the lack of clarity regarding what points should be focused on in the acquisition of patent rights for AI-related inventions in multiple countries.

The International Symposium on Patent Examination Practices on AI-related Inventions was held in November, 2019.

Practitioners of the IP5 gathered together to have discussions focusing on points of identity and differences in criteria for determination and its results at each IP office, using case examples of JPO's AI-related inventions as common cases.

A request was made to further expand the examination guidelines for AI-related inventions at each office regarding patent eligibility, inventive step, and description requirements.

The impacts and issues of the progress of AI technology include differences of the examination guidelines and criteria among IP offices, difficulties with the drafting of claims for AI-related inventions, and low predictability of AI-related Inventions at each process from examinations to enforcements of rights.

Regarding the cooperation of the IP5, many expectations were expressed for comparative research on examination practices and the creation of common guidelines.

The JPO believes that it is not always necessary to create new examination standards for AI-related inventions. Rather, we believe that it is very important to provide specific case examples to clarify how examination standards are applied.
Going forward, we will continue to focus on user opinions and contribute to discussions with WIPO and other IP offices for further clarification of examination practices.

We believe that the SCP is a suitable forum to share our views and experiences and learn from each other on initiatives for developing a better patent system. We look forward to further discussions at this forum.
Thank you very much for your kind attention.