

IP Legal Issues in the Motor Industry from the Viewpoint of Labor Relations and Service Provision

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Various Issues Discussed in Japan

- Illegal copying issues in China
- No more protection of car spare parts under EU design regulation
- Illegal sales of manuals and spare parts on the Internet
- Recent changes of employer- employee relationship in Japan

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Problems of Illegal Copying of Automobiles in China (1)

- Despite its participation in the WTO, the number of illegally copied automobiles in China has not decreased. In fact, it's increasing.
- The copying methods are becoming highly sophisticated, and it's impossible to counter the crime under the current legal system in China.
 - Example: In the case of hybrid copying, the front part of a car is copied from one car, and the rear part of the car is copied from a different car.

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Problems of Illegal Copying of Automobiles in China (2)

- There are many repeat offenders, and the detection of the crime has been a cat-and-mouse game.
- However, the offenders often had some relationship in the past with those Japanese companies.
 - ex 1. Japanese company A provides engines and related techniques to a Chinese company B and B produces similarly designed car.
 - ex 2. A contractor to Japanese motor cycle company in China filed design application prior to the Japanese company's application.
- It is needed to be very careful when choosing and making contract with local contractors and partners

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Illegally Copied Automobile and Spare Parts in China



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Issue of Design Parts Protection in European Community

- DG Internal Market of the European Commission is presently proposing to abolish design protection under the remaining national laws in the EU that grant design protection for certain spare parts. Japan Automobile Manufacturers Association (JAMA) very strongly opposes this proposal.
- Japanese automotive manufactures also worry about the increase in exports of cheap illegally copied repair parts from China into European market.

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Illegal Sales Using the Internet

- Illegally copied manuals in CD-ROM form are being sold and auctioned on the Internet.
- Increasing number of Internet sites selling automobile spare parts and supplies using automotive maker's logos.
- Need to be very carefully when selecting and contracting with outside contractor or partner. Because illegal usage are sometime sourced from such contractor or partner



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Employer- employee relationship is changing in Japan(1)



- Under the Life time employment system, salary of employee generally decided by their age, not by their skill or experience.
- Article 35 of Japanese Patent Law is to protect Japanese employees and when the employee assign their invention to company, the company must pay "reasonable compensation" to the employee.
- However, most companies set low flat rate as the reasonable compensation, and the employees have not complained against the rate.

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Employer- employee relationship is changing in Japan(2)

- However, due to the current recession in Japan, traditional life time employment system could not be maintained by most of companies, and employees also started to oppose the company by suing and require the "reasonable compensation"
- Recently Tokyo High Court admit 564 million US dollar (464 million Euro) to Dr. Nakamura who is a former employee of Nichia Chemical. Hitachi employee won 370 thousand US dollar. Many Japanese companies review their internal rules according to the decisions.
- Possible conflict between Article 35 and other country's provision – Does Article 35 also apply for patents obtained by foreign country?

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- Omori & Yaguchi is a Tokyo-based intellectual property law firm with a liaison office in Philadelphia, Pa (USA). Omori & Yaguchi assists non-Japanese corporations and universities with a "one-stop" solution for acquiring and protecting IP rights in Japan.



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