

NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLE 63.2 OF THE AGREEMENT

JAPAN

The following communication, dated 11 August 2004, is being circulated at the request of the Delegation of Japan.

The Government of Japan, in accordance with Article 63.2 of the Agreement on Trade-Related Aspects of Intellectual Property Rights, notifies below the updated texts of Japanese laws as listed below. The English versions, which are provisional translations, are available for the "main dedicated intellectual property laws and regulations". Only relevant articles (in Japanese only) are extracted for "other laws and regulations".

- Main dedicated intellectual property laws and regulations (both in English and Japanese) (see Annex I below):
 - Copyright Law
 - Trademark Law
 - Design Law
 - Patent Law
- Other laws and regulations (in Japanese only) (see Annex II below):
 - Regulation under the Trademark Law (related articles only)
 - Regulation under the Design Law (related articles only)
 - Regulation under the Patent Law (related articles only)
 - Law Concerning the Cost of Civil Procedure (related articles only)
 - Rule of Criminal Procedure (related articles only)
 - Civil Code (related articles only)
 - State Redress Law (related articles only)
 - Code of Civil Procedure (related articles only)

- Code of Civil Preservative Procedure (related articles only)
- Administrative Litigation Act (related articles only)
- Penal Code (related articles only)
- Code of Criminal Procedure (related articles only)

ANNEX I

MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS

- Copyright Law
Law No. 48 of 6 May 1970, as last amended by Law No. 85 of 18 June 2003 (entry into force: 1 January 2004).¹
- Trademark Law
Law No. 127 of 13 April 1959, as last amended by Law No. 47 of 23 May 2003 (entry into force: 1 January 2004).²
- Design Law
Law No. 125 of 13 April 1959, as last amended by Law No. 47 of 23 May 2003 (entry into force: 1 January 2004).³
- Patent Law
Law No. 121 of 13 April 1959, as last amended by Law No. 47 of 23 May 2003 (entry into force: 1 January 2004).⁴

¹ See document IP/N/1/JPN/C/4.

² See document IP/N/1/JPN/T/3.

³ See document IP/N/1/JPN/D/3.

⁴ See document IP/N/1/JPN/P/4.

ANNEX II**OTHER LAWS AND REGULATIONS**

TITLE DATE OF ADOPTION AND ENTRY INTO FORCE	BRIEF DESCRIPTION
<p>Trademarks</p> <p><u>Regulation under the Trademark Law.</u> (Ordinance No. 13 of the Ministry of International Trade and Industry of 8 March 1960, as last amended by Ordinance No. 28 of the Ministry of International Trade and Industry of 2 March 2004.)</p> <p>Entry into force: 1 April 2004.</p> <p>Geographical indications</p> <p><u>Standard for Indication in Relation to Geographic Indication.</u> (Notification No. 4 of the National Tax Administration of 28 December 1994.)</p> <p>Entry into force: 1 July 1995.</p> <p><u>Act against Unjustifiable Premiums and Misleading Representations.</u> (Law No. 134 of 15 May 1962, as last amended by Law No. 89 of 12 November 1993.)</p> <p>Entry into force: 1 October 1994.</p>	<p>The Regulation implements the Trademark Law (Law No. 127 of 13 April 1959, as last amended by Law No. 398 of 10 September 2003).</p> <p>The Standard implements paragraph 1 of Article 23 of the TRIPS Agreement.</p> <p>The Act prevents inducement of customers by means of misleading representations, etc., in terms of ensuring fair competition. Among the actions provided for in paragraph 2(a) of Article 22 of the TRIPS Agreement, false representations of the place of origin misleading consumers in general are prohibited by Article 4 (Prohibition of Misleading Representation) of the Act.</p>

<p>TITLE DATE OF ADOPTION AND ENTRY INTO FORCE</p>	<p>BRIEF DESCRIPTION</p>
<p>Industrial designs</p> <p><u>Regulation under the Design Law.</u> (Ordinance No. 12 of the Ministry of International Trade and Industry of 8 March 1960, as last amended by Ordinance No. 28 of the Ministry of International Trade and Industry of 2 March 2004.)</p> <p>Entry into force: 1 April 2004.</p> <p>Patents (including plant variety protection)</p> <p><u>Regulation under the Patent Law.</u> (Ordinance No. 10 of the Ministry of International Trade and Industry of 8 March 1960, as last amended by Ordinance No. 28 of the Ministry of International Trade and Industry of 2 March 2004.)</p> <p>Entry into force: 1 April 2004.</p> <p><u>Anti-monopoly Act Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade.</u> (Law No. 54 of 14 April 1947, as last amended by Law No. 160 of 22 December 1999.)</p> <p>Entry into force: 1 July 2000.</p> <p>Protection of undisclosed information</p> <p><u>National Public Service Law.</u> (Law No. 120 of 21 October 1947, as last amended by Law No. 33 of 15 June 1994.)</p> <p>Entry into force: 1 September 1994.</p>	<p>The Regulation implements the Design Law (Law No. 125 of 13 April 1959, as last amended by Law No. 398 of 10 September 2003).</p> <p>The Regulation implements the Patent Law (Law No. 121 of 13 April 1959, as last amended by Law No. 398 of 10 September 2003).</p> <p>Article 100 of the Act (Revocation of Patent Rights or Patent Licences) provides that it is the court that makes the declaration of revocation of patent rights or patent licences. Therefore, an opportunity for judicial review of decisions to revoke or forfeit a patent shall be available. This provision implements Article 32 of the TRIPS Agreement.</p> <p>Article 100 of the Law contains provisions relating to paragraph 3 of Article 39 of the TRIPS Agreement.</p>

<p style="text-align: center;">TITLE DATE OF ADOPTION AND ENTRY INTO FORCE</p>	<p style="text-align: center;">BRIEF DESCRIPTION</p>
<p>Prevention of the abuse of intellectual property rights</p> <p><u>National Public Service Law.</u> (Law No. 120 of 21 October 1947, as last amended by Law No. 54 of 31 March 1995.)</p> <p>Entry into force: 1 April 1996.</p> <p><u>Anti-monopoly Act Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade.</u> (Law No. 54 of 14 April 1947, as last amended by Law No. 160 of 22 December 1999.)</p> <p>Entry into force: 1 July 2000.</p> <p><u>Cabinet Ordinance on Organization of Executive Office of Fair Trade Commission.</u> (Cabinet Ordinance No. 373 of 30 August 1952, as last amended by Cabinet Ordinance No. 219 of 2 July 1999.)</p> <p>Entry into force: 29 July 1999.</p> <p>Civil judicial procedures and remedies</p> <p><u>The Constitution of Japan.</u></p> <p>Promulgation: 3 November 1946.</p> <p>Entry into force: 3 May 1947.</p>	<p>Article 100 of the Law contains provisions relating to paragraphs 3 and 4 of Article 40 of the TRIPS Agreement.</p> <p>The Act aims at promoting fair and free competition. The measures which are provided for in paragraph 2 of Article 40 of the TRIPS Agreement are implemented by Articles 3 (Prohibition of Private Monopolization and Unreasonable Restraint of Trade), 6 (Prohibition of Particular International Agreement or Contract) and 19 (Prohibition of Unfair Trade Practices) of the Act. Supply of information to the Member (paragraphs 3 and 4 of Article 40 of the TRIPS Agreement) shall be done within the limits of Article 39 of the Act (Duty of the Personnel of the Fair Trade Commission to preserve trade secrets).</p> <p>Fair Trade Commission is in charge of consultations and supply of information (paragraphs 3 and 4 of Article 40 of the TRIPS Agreement) based on item 2 of Article 12 of the Ordinance.</p> <p>Article 82 of the Constitution provides that the judicial procedures shall be open to the public and this provision relates to Article 42 of the TRIPS Agreement.</p>

<p>TITLE DATE OF ADOPTION AND ENTRY INTO FORCE</p>	<p>BRIEF DESCRIPTION</p>
<p><u>Civil Code.</u> (Law No. 89 of 27 April 1894, as last amended by Law No. 149 of 1 December 1999.)</p> <p>Entry into force: 1 April 2000.</p> <p><u>Code of Civil Procedure.</u> (Law No. 109 of June 1996, as last amended by Law No. 128 of 25 July 2003.)</p> <p>Entry into force: 1 April 2004.</p> <p><u>State Redress Law.</u> (Law No. 125 of 27 October 1947.)</p> <p>Entry into force: 27 October 1947.</p> <p>Provisional judicial measures</p> <p><u>Civil Code.</u> (Law No. 89 of 27 April 1894, as last amended by Law No. 149 of 1 December 1999.)</p> <p>Entry into force: 1 April 2000.</p> <p><u>Code of Civil Preservative Procedure.</u> (Law No. 91 of 22 December 1989, as last amended by Law No. 138 of 1 August 2003.)</p> <p>Entry into force: 1 March 2004.</p> <p>Special requirements related to border measures</p> <p><u>Civil Code.</u> (Law No. 89 of 27 April 1894, as last amended by Law No. 149 of 1 December 1999.)</p> <p>Entry into force: 1 April 2000.</p>	<p>Articles 703 and 709 of the Code are general provisions of damages, and implement Articles 45 and 48 of the TRIPS Agreement.</p> <p>The Code is the general law on civil procedure and Articles 54, 61, 138, 139, 181, 196, 197, 207, 208, 220, 223, 224 and 232 of the Code relate to Articles 42, 43, 45 and 48 of the TRIPS Agreement.</p> <p>Article 1 of the Law relates to paragraph 2 of Article 48 of the TRIPS Agreement.</p> <p>Article 709 of the Code relates to paragraph 7 of Article 50 of the TRIPS Agreement.</p> <p>Articles 3, 13, 14, 17, 23, 24, 26, 27, 29 and 37 of the Code provide the provisional measures and implement Article 50 of the TRIPS Agreement.</p> <p>Article 709 of the Code relates to Article 56 of the TRIPS Agreement.</p>

<p style="text-align: center;">TITLE DATE OF ADOPTION AND ENTRY INTO FORCE</p>	<p style="text-align: center;">BRIEF DESCRIPTION</p>
<p>Criminal procedures</p> <p><u>Penal Code.</u> (Law No. 45 of 24 April 1907, as last amended by Law No. 138 of 1 August 2003.)</p> <p>Entry into force: within nine (9) months from the date of amendment.</p> <p>Any administrative procedures and remedies not covered above</p> <p><u>The Constitution of Japan.</u></p> <p>Promulgation: 3 November 1946.</p> <p>Entry into force: 3 May 1947.</p> <p><u>Code of Civil Procedure.</u></p> <p>(Law No. 109 of 26 June 1996, as last amended by Law No. 128 of 25 July 2003.)</p> <p>Entry into force: 1 April 2004.</p> <p><u>Code of Criminal Procedure.</u> (Law No. 131 of 10 July 1948, as last amended by Law No. 61 of 30 May 2003.)</p> <p>Entry into force: within two (2) years from the date of amendment.</p> <p><u>Law Concerning the Cost of Civil Procedure.</u> (Law No. 40 of 6 April 1971, as last amended by Law No. 138 of 22 August 2003.)</p> <p>Entry into force: within nine (9) months from the date of amendment.</p>	<p>Article 19 of the Code provides that a thing which is a constituent element of a criminal act or a thing which has been used or was intended to be used in the commission of a criminal act, etc. may be confiscated and this provision implements Article 61 of the TRIPS Agreement.</p> <p>Paragraph 2 of Article 37 and paragraphs 2 and 3 of Article 76 of the Constitution relate to the general obligation of enforcement of intellectual property rights provided for in Article 41 of the TRIPS Agreement.</p> <p>The Code is the general law of civil procedure and Article 91 of the Code relates to paragraph 4 of Article 63 of the TRIPS Agreement, and Articles 180, 181, 202, 247, 253, 255, 281 and 311 of the Code relate to Article 41 of the TRIPS Agreement.</p> <p>Articles 43, 44, 46, 293, 297, 298, 304 to 306, 308, 309, 317, 342, 372 and 405 of the Code of Criminal Procedure relate to Article 41 of the TRIPS Agreement.</p> <p>Table No. 1 based on paragraph 1 of Article 3 of the Law relates to paragraph 2 of Article 41 of the TRIPS Agreement.</p>

TITLE DATE OF ADOPTION AND ENTRY INTO FORCE	BRIEF DESCRIPTION
<p><u>Administrative Litigation Act.</u> (Law No. 139 of 16 May 1962, as last amended by Law No. 91 of 22 December 1989.)</p> <p>Entry into force: 1 January 1991.</p>	<p>Article 3 of the Act relates to paragraph 4 of Article 41 of the TRIPS Agreement.</p>
<p><u>Rule of Civil Procedure.</u> (Rule No. 5 of the Supreme Court of 17 December 1996, as last amended by Rule No. 5 of the Supreme Court of 29 July 1997.)</p> <p>Entry into force: 1 January 1998.</p>	<p>Article 33 of the Rule relates to paragraph 4 of Article 63 of the TRIPS Agreement, and Articles 113, 115 and 157 of the Rule relate to Article 41 of the TRIPS Agreement.</p>
<p><u>Rule of Criminal Procedure.</u> (Rule No. 32 of the Supreme Court of 1 December 1948, as last amended by Rule No. 5 of the Supreme Court of 29 July 1997.)</p> <p>Entry into force: 1 January 1998.</p>	<p>Articles 34, 35, 53, 211 and 222 of the Rule relate to Article 41 of the TRIPS Agreement.</p>
