



Joint Minutes of the Second Meeting of the Committee on Intellectual Property under the Agreement between the European Union and Japan for an Economic Partnership

Videoconference, 13 December 2021

The second meeting of the Committee on Intellectual Property under the Agreement between the European Union (“EU”) and Japan for an Economic Partnership (“the EPA”) took place on 13 December 2021 by videoconference.

Japanese participants from MOFA, MAFF, MOF, NTA, METI, JPO, ACA, CAA and the Mission of Japan to the EU and EU participants from the Directorates-General TRADE, AGRI GROW, CNECT and the EU Delegation to Japan had a fruitful exchange of views on matters related to Chapter 14 of the EPA on Intellectual Property.

The meeting agenda was adopted.

Both sides exchanged information and addressed questions on recent developments in law and practice with regard to patents (including the Japanese Act on the Partial Revision of the Patent Act and Other Acts and standards essential patents), trademarks (including new measures against the sale of counterfeited goods), trade secrets, use and protection of data, and copyright and related rights. The EU side presented key elements of the Action Plan on Intellectual Property of 2020, which identified the main challenges in this area, from tackling the remaining fragmentation in the EU to fighting counterfeiting and piracy. The EU side outlined the main developments on standard-essential patents, trade secrets, copyright and related rights (including the Digital Single Market (DSM) Directive and the term of protection of the rights to performers in the EU)

Both sides had an exchange of views on the protection for the use of phonograms in connection with Article 14.12 of the EPA. Both sides shared the view that they would continue discussions in the course of 2022 as appropriate. The EU side proposed to take initiatives to organize a workshop with interested parties on this topic.

The Japanese side described the recent changes introduced in its trademark act and design act to tighten regulations on the influx of importation of IPR infringing goods by individuals. The EU side welcomed this development, referred to its existing rules and procedures on the topic, expressed interest in the work in Japan and offered its cooperation. Both sides showed interest in exchanging information and sharing best practice in these areas when useful.

As regards e-commerce sales of counterfeit goods, the Japanese side presented the latest developments, in particular the adoption of a new act to be implemented in 2022 requiring best efforts from digital platforms and envisaging the withdrawal of products in some cases. The EU side welcomed the developments and invited Japan to explore further measures to protect intellectual property rights, in particular injunctions against online intermediaries who promote infringements.

The Committee recommended a second amendment to Annex 14-B (List of Geographical Indications (“GI”s)) under the EPA, in order to add 28 Japanese GIs and 28 EU GIs to the respective lists.

The Committee referred to the bilateral meeting that took place by videoconference on 25 November in accordance with paragraph 6 of Article 14.25 of the EPA to review the implementation of paragraph 5 of that Article on grating, slicing and packaging operations in Japan with regard to particular EU GI cheeses. Both sides will continue the review process with a view to reaching a mutually acceptable solution within the timeframe laid down in the EPA.

With regard to the handling of trademark applications that include references to protected GI terms under the EPA, the Japanese side responded to the EU’s request and explained recently implemented trademark examination practices. According to the latest examination practices, such trademark applications should be limited in their product scope to goods that respect the relevant GI specifications. The EU side referred to an ongoing procedure concerning one Spanish GI and asked for confirmation that the opposition file lodged by Spain was ready to be considered by the Japanese relevant authority.

The Japanese side referred to a number of individual alleged cases of infringement of Japanese GIs on the EU market. The Japanese side referred to the EU’s responsibility to ensure the protection required under the EPA and requested that the EU side would consider new avenues to communicate and act upon detected cases of potential GI infringement. The EU side explained that, when GI stakeholders or the authorities of either Party obtain information on potential infringements, the most efficient course of action would be to submit the information to the authorities of the other Party that are directly competent

for the enforcement of GI rights. The EU side would nonetheless process the specific information submitted by Japan ahead of the Committee meeting.

The EU side briefly presented the “GI-view” database, a single entry point for data on GIs registered and protected in the EU, including the protected Japanese GIs. The EU explained that Japan may, if interested, gain rights to input directly in the database relevant information on Japanese GIs.
