

**From:** 野元 澄男 [mailto:nomoto@jipa.or.jp]  
**Sent:** Monday, February 08, 2010 12:02 AM  
**To:** patent\_quality\_comments  
**Cc:** JIPA土井事務局長殿; JIPA政策G濱田さん; JIPA政策G堀さん  
**Subject:** JIPA Comments on the Enhancement in the Quality of Patents

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Importance: High

Dear Sirs,

Please find the attached JIPA Comments on "The Enhancement in the Quality of Patents".  
If you have any question, please feel free to contact me.

Best regards,

Hideo Doi  
Japan Intellectual Property Association

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Hideo Doi  
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# JAPAN INTELLECTUAL PROPERTY ASSOCIATION

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February 8, 2010

Hon. David J. Kappos  
Undersecretary of Commerce for Intellectual Property and Director  
United States Patent and Trademark Office  
Alexandria, Virginia

## Re: JIPA Comments on the Enhancement in the Quality of Patents

The Japan Intellectual Property Association (JIPA) is a non-profit, non-governmental intellectual property user organization with a regular membership of more than 900 Japanese companies (as of January 1st, 2010). We would like, on behalf of the users of Japan, to submit our comments to the USPTO with a view to support the improvement of the intellectual property systems implemented throughout the world and the operations thereof.

Among the many issues on the intellectual property systems, we have a significant interest on the quality of patents in the view of the users, utilizing the patent rights in the world. We believe that the quality of the patents should be the most important for users, however, we have been facing with problems on the quality of the patent rights for many years.

In this context, we welcome that the USPTO is attempting to improve the quality of patents issued by the patent office. According to the Federal Register concerning the "Enhancement in the Quality of Patents", a quality patent is defined from the following aspects: (a) For which the record is clear that the application has received a thorough and complete examination, addressing all issues on the record, all examination having been done in a manner lending confidence to the public and patent owner that the resulting patent is most likely valid; (b) for which the protection granted is of proper scope; and (c) which provides sufficiently clear notice to the public as to what is protected by the claims.

We support the recognition of the aspects of the USPTO and in particular the necessity of the confidence to the public and patent owner that the resulting

patent is valid, the protection granted with proper scope, and the patent with sufficiently clear notice to the public. We believe that it leads us to reduction of unnecessary disputes between patentee and the third party on the validity as well as the infringement of the patents.

As the applicants' point of view, we make a significant investment during the processes from filing patent applications through obtaining patents and enforcing the patents. Nevertheless, we occasionally found our patent rights invalid in the enforcement stage and it causes fatal problems for our business activities.

As the third parties' view, we have undue burden for watching the patents that might be invalid, and we are concerned about a possibility of enforcement by such invalid patents.

Therefore, we believe that the quality of patents issued by the patent office should be improved, which is critical for all of the users, including applicants and third parties.

We recognize that the improvement of the quality of patents is an issue not only for the USPTO but for all of the patent offices in the world. Therefore, we expect that the patent offices cooperate much closer each other. For example, we believe that a work-sharing in the examination with common database of prior arts and file history among the patent offices is one of the best ways to improve the quality of patents.

We appreciate your continuing efforts to improve the patent quality and for your consideration of the view of the users.

Sincerely, yours,



( Tsuneaki Hagiwara )

President

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