INTELLECTUAL PROPERTY TRAINING – LESSONS FROM JAPAN FOR SRI LANKA

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ABSTRACT

This paper examines the training policy and practices on Intellectual Property in Japan. The rapid development of the international trade and commerce has deepened the need for implementing proper intellectual property system in any country irrespectively whether developed or otherwise. However, there are still only a small number of people who fully recognize the real importance of intellectual properties.

Japan has manufactured and exported a large number of industrial products as a country of industrial production, and at one time, prospered as a major economic power. Today many new inventions have come to the market making a total revolution in the production mechanism. Some of those inventions are beyond imagination. But due the power of human mind, many things made possible.

Japanese people have realized that the inventions of new unique technologies or create original and appealing designs, can only help Japan to thrive in the 21st century. Therefore, they consider 21st century as an "era of intellectual creation" or an "era of wisdom". Intellectual properties, such as inventions or designs, will become properties after a specific protection term and benefit many people around the world, irrespective of their nationalities.

The education and training on intellectual properties is contributing to raise national awareness through which a country can expect high economic growth. The role played by intellectual property is therefore very decisive on the survival and the development of a country.

This paper begins with discussing the origin and the growth of intellectual property rights and the present status of intellectual property rights in Japan. It provides the definitions of various intellectual property rights and outlines the salient features of different rights. Further, it discusses the important of training in changing behavior of the people who work for the betterment of the organizations. It also contains the detailed discussion on the different types of intellectual property trainings offered by the large number of Japanese organizations. Finally the paper highlights the important lessons one can learn from Japan in education and training on intellectual property and attempts to introduce some training programs for the benefits of the different target groups that have the power to make improvements in the IP field in Sri Lanka.

ABBREVIATIONS

APIC	Asia-Pacific Industrial Property Center of JIII
AOTS	Association for Overseas Technical Scholarship
APEC	Asia-Pacific Economic Cooperation
BOI	Board of Investment of Sri Lanka
BT	Bio Technology
CEO	Chief Executive Officer
DLC	Distance Learning Center of Sri Lanka
FDI	Foreign Direct Investment
IC	Integrated Circuits
IT	Information Technology
IPR	Intellectual Property Rights
IPTC	Intellectual Property Training Center of JIII
IPTI	Industrial Property Training Institute of JPO
JIII	Japan Institute for Invention and Innovation
JICA	Japanese International Cooperation Agency
JIPA	Japanese Industrial Property Association
JPAA	Japanese Patent Attorney Association
JPO	Japan Patent Office
NIPO	National Intellectual Property Office in Sri Lanka
METI	Ministry of Economy, Trade and Industry
MITI	Ministry of Industry, Trade and Information
ODA	Official Development Assistance

PCT	Patent Cooperation Treaty
R & D	Research and Development
SLIDA	Sri Lanka Institute of Development Administration
SWOT	Strengths, Weaknesses, Opportunities and Threats
SME	Small and Medium Enterprises
TNA	Training Needs Analysis
TOT	Training of Trainers
TRIPS	Trade Related Intellectual Property Rights
WIPO	World Intellectual Property Organization
UM	Utility Model
UCC	Universal Copyright Convention
VDT	Visual Display Terminal

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1. CHAPTER ONE

" The process of intellectual property teaching and research can only be effective if resources are committed to teaching, to research and to the effective organization of educational and research programs. To fulfill those requirements, government and various sectors of the economy, as well as the educational community must work together. The tasks are too large for any one of them to proceed on its own. Each must help the other. Each must also offer to join their counterparts in other countries to identify their interests in common, so that the mutual assistance through international cooperation can be brought to bear"[1]

1.1 Introduction

Human beings from their civilization used to invent many new things for their comfort of life. In ancient times, in a Greek colony named Sybaris, the inventor of a new food recipe was granted a one year exclusive right for the recipe.[2] In this manner throughout the human history in all over the world there were some systems of recognizing human innovations.

The " Inventor By laws" promulgated in the Republic of Venice in 1474 was considered as the first Patent law in the world. These Bylaws provided exclusive rights for the innovators for a fixed period. After that gradually different countries have enacted laws to protect innovations.

The term "Intellectual Property" used to separate the movable and immovable properties from the creations of the human mind, the human intellect. Like any other term of property, intellectual property can be sold, leased or mortgaged so long as ownership has been established unambiguously.

Intellectual property has two main branches i.e. "industrial property" and "copyright". The Convention that established the world Intellectual Property Organization (WIPO) in July 14,1967 in Stockholm declared that intellectual property shall include rights relating to the followings.[3]

1. Literary, artistic and scientific works
2. Performances of performing artists, phonograms and broadcasts
3. Inventions in all fields of human endeavor
4. Scientific discoveries

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[1] World Intellectual Property Organization (WIPO), Introduction to Intellectual Property: Theory and Practice (Kluwer Law International) at page 580

[2] Industrial Property Rights Standard Textbook – Obtaining a Patent in Japan, JPO Publication.

[3] Art. 2(8) of Paris Convention.

5. Industrial designs
6. Trademarks, service marks, and commercial names and designations
7. Protection against unfair competition and
8. All other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

With the realization of the importance role played by intellectual property rights for economic, social and technological development of industrialized countries, there is an increasing interest shown by many developing countries to safeguard innovators rights in their countries. This process has accelerated with the introduction of the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). TRIPS establish comprehensive standards for the protection of intellectual property and the enforcement of intellectual property rights in World Trade Organizations' (WTO) member countries. It requires each WTO member country to apply the substantive obligations of the world's most important intellectual property conventions. In addition those conventions embodied substantial additional protections and ensures that critical enforcement procedures will be available in each member country to safeguard intellectual property rights.

Dissemination of information on intellectual property rights related matters has become a critical factor for effective implementation of those rights in every member countries of WTO. In addition many people are not fully aware of the significance of the value of intellectual properties. Even in developed country like Japan there are still only a small number of people who fully recognize the real importance of intellectual properties[4].

Intellectual properties such as technical or process inventions or literary works like novels or music are commonly found in people's everyday life. People generally know these are some kind of intellectual properties. But many people do not thoroughly understand the importance of creating such inventions or literary works that are products of human mind and can be protected as rights and get benefits out of those inventions.

The key strategy used to raise national awareness on intellectual property rights in Japan can be quoted as dissemination of IP knowledge through educational and training programs. By developing national awareness of intellectual properties, Japan is now seizing a chance to change into a nation supported by "intellectual creation activities".

[4] MR: Toshiya Kimura – Deputy Director, JPO- Lecture note on "Education Promotion of IPR to the public and researches.

1.2 Research objectives

The main objectives of this research can be broadly summarized in two folds.

1. To understand the IP training systems adopted by JPO and other IP training institutions in Japan.
2. To find out the applicability of those training systems to improve IP training in Sri Lanka.

Along with these broad research areas, the researcher wants to achieve the following specific research objectives through this research study.

1. To understand the definitions of different types of intellectual property rights.
2. To understand the different revisions made to the Japanese patent law.
3. To familiarized with the IPR training systems in Japan.
4. To understand the training design process and training delivery mechanism in Japan.
5. To assess the current training programs in IPR in Sri Lanka and suggest new areas for further improvements

The especial emphasis will be drawn to understand the issues relating to implement effective IP training programs in Japan and assist to improve the IP training activities in Sri Lanka.

1.3 Research scope

Research in any IP related subject needs through study of the existing laws and treaties on that subject. Since this research mainly focuses on the training activities on the IP subjects, it only provides the background information of the relevant laws and treaties to facilitate the easy understanding for the reader. However, this paper does not provide a detailed analysis of all IP laws in Japan

The research scope will be limited to examine the IP training activities in Japan and Sri Lanka. In Japan, the study has given a much emphasis to the training activities sponsored by the Japan Patent Office (JPO). The training pertaining to copyrights is not discussed in this paper.

1.4 Research methodology

A systematic research needs to employee a variety of data collection methods to obtain reliable and up-to-date data for the proposed study. In this research, the researcher mainly conducts face-to-face interviews with the officers attached to JPO, APIC, IPTI, JICA, AOTS and Patent Attorneys to obtain primary data for this study. (See annex 1) The researcher also had the opportunity to participate in training course on Industrial

Property Administration from 26th February to 6th March 2002 at APIC. The second " International Patent Appeal Examination Symposium was held on 7th and 8th March 2002 at the Hotel Asakusa in Tokyo. The researcher had the rare opportunity to take part in this symposium as well. The above-mentioned training program and symposium provided an excellent opportunity to hear different viewpoints of eminent persons in IP field. Also it was a real life experience for the researcher to understand how training delivery is done in Japan.

The researcher visited Intellectual Property Training Institute (IPTI), Association of Overseas Technical Scholarship (AOTS), Japan International Corporation Agency (JICA), Japan Patent Attorneys Association (JPAA) and the University of Tokyo to familiarize with their intellectual property training systems. These visits provided ample opportunities for the researcher to observe many aspects relating to training activities in their actual working situations.

The researcher also had the opportunity to exchange views on training related activities with both international participants as well as local participants who attended the classes. These discussions provided a lot of insights about the training on IP in Japan.

The APIC library has large collections of books, journals and other international publications. The researcher had the privilege of freely refer those materials and collect much information on various areas of IPR. In addition there were large collections of training materials used in training classes available in APIC for easy reference.

1.5 Limitation of the research

This study was carried out within the limited time period of four months and therefore it was difficult to go deep in certain subject matters. The aspects covered within the intellectual property field include many different subjects; the researcher has to limit his exploration of all the amendments only to the Japanese patent law. The revisions made to utility model, trademarks, designs and other IP related laws were not discussed in this report since the emphasis of the report mainly lies on training activities. The authority to deal with copyright law lies with the Ministry of Education and Cultural Affairs. Therefore, it was difficult to collect much information about their training activities.

Other main constrain was the poor Japanese language knowledge of the researcher. The most of the training institutions in Japan conduct training programs in Japanese language. Therefore, it becomes difficult for researcher to understand training related behavior of the participants. Only exception is the programs for foreigners. These programs are mostly conduct in English. However, when the researcher discuss with officers who are not very comfortable in English, in most cases the researcher was provided with English translation.

Since the subject area selected for research has much relevant information both on legal aspects as well as training aspects, it was not possible to incorporate all the details in

this report. Therefore this paper contains only the facts that are directly relating to IP training activities in Japan.

1.6 Chapter outline

This paper consists of seven chapters. Chapter one discusses the research objectives, research scope, and methodology of the research and the limitation of the research. Chapter two provides a basic introduction on IPR in general and it discusses the importance of IPR in economic, social and technological development of a country. It further discusses the historical evolution of IPR in Japan and the key aspects of Paris Convention and the TRIPS Agreement. Chapter three highlights the role in training in human resource development attempts in the organizations. It further provides a discussion on the different training methods and adult training techniques for better results. Chapter four outlines the role of the JPO in education and training on IPR in Japan. Chapter five provides a brief discussion on the IP training activities carried out by the JIII, APIC, JIPA, JPAA, AOTS, and JICA. Chapter six deals with the IP system in Sri Lanka and highlights the present issues, future challengers and the role of training in IP. The final chapter emphasis on the lessons one can learn from Japan in IP education and training and make suggestions for improvement of IP education and training in Sri Lanka.

2. CHAPTER TWO

2.1 Introduction

The clear understanding of the meanings of different intellectual property rights is important because it provides a stage for further discussion on the subject. In this chapter it is expected to provide a brief description on different types of IP rights available for inventors. While Patent, Utility model, Design and Trademark rights are classified as industrial property rights; Copyrights separately deal under Copyright law. In addition Layout-Designs of Integrated Circuits rights, New Varieties of Plant, Trade name rights and Rights related to the Unfair Competition Prevention will be dealt with the laws concerning the Circuit layout, Seeds and Seedlings law, Commercial law and Unfair Competition Prevention law respectively. Trade secrets can be dealt with Civil law, Penal Code or Unfair Competition Prevention law. Therefore, it is necessary to highlight the important Articles of TRIPS Agreement on the abovementioned IP rights to develop better understanding among the readers. In addition it will discuss the relationship between IPR and the economic, social and technological development. The evolution of intellectual property rights in Japan and the definitions given to different IP rights in Japan is also discussed in this chapter. Further, it highlights the various revisions made to the Japanese Patent Law as an example to show how Japan wanted to par with the requirements of international treaties and conventions.

2.2 What is Intellectual Property?

Jeremy Phillips & Alison Firth says that intellectual property has two meanings, one colloquial and other legal[5]. The colloquial description of intellectual property is that it simply comprises all those things, which emanate from the exercise of human brain, such as ideas, inventions, poems, designs, microcomputers etc. The legal description of intellectual property differs from colloquial one and it focuses upon the rights, which are enjoyed in the produce of the mind, rather than upon that produce it. For an example, we call a piece of land or a motorcar “property” not because it is a solid, but because individuals or legal entities such as companies can assert a right in it against other persons. The word “ property” has come from the Latin word “ proprius”, which means “ one’s own”.

2.3 Intellectual property rights

Intellectual property rights may be defined as legal devices which guarantee the exclusive right to exploit for a period of time “ a prescribed body of knowledge, signs or

[5] Jeremy Phillips & Alison Firth. “Introduction to Intellectual Property Law”, Third edition, Butterworths-London, 1995. at 3-4

symbols"[6] There are many types of intellectual property rights but main ones are patents, utility model, designs, trademarks and copyrights.

With the exception of trademarks, the basic function of all types of intellectual property rights is the same. Trademarks have a different rationale, in that their primary purpose is to differentiate a producer's product from other similar products. But they may also play a role in stimulating product diversity and quality, and so share to some extent the function and purpose of intellectual property. Other intellectual property rights grant exclusive right to a natural or corporate person the right to use or profit from a creative, innovative or original expression of thought. Others must wait until the right has expired before they may use the knowledge. Also regardless of type, the basic purpose of all intellectual rights is the same; to encourage creative activity and the development of goods or knowledge to bring prosperity to the country.

2.4 Economic, social and technological Development and IPR

Intellectual property is generally believed to be crucial to the economic development of the country. It also crucial to the social and technological development. Many people give too much emphasis on the economic benefits derived from intellectual property. Also it believes that intellectual property rights give absolute monopoly to the right holders within a limited time frame. This kind of thinking overlook the underline concept of intellectual property itself, namely, the use of intellectual property should also promote greater creativity and innovation among the public at large.

There is a general belief that intellectual property only benefits the developed countries. However it takes time to realize that intellectual property when properly used will generate greater creativity and innovation, which are indispensable for the economic and technological development of the country. Nations' competitiveness is no longer measured by abundance of natural resources or cheap labor; it is measured by the quality of the human resources. Any belief or action that undermines domestic creativity and innovation is severely detrimental to the aspiration of the people in developing countries for greater economic prosperity.

Many development strategies incorporated basically three major aspects to make economic development possible. These aspects are: entrepreneurial culture; the role of the Government in fostering economic development through an adequate IP policy, and linking the academic and scientific sectors with economic development.

Innovative entrepreneurs are the ones who influence the most, economic development by generating products, processes or services that have not existed beforehand. Through innovations, entrepreneurs create markets and extend economic activity through the

[6] Transnational Corporation and Management Division, " Intellectual Property Rights and Foreign Direct Investment" New York: United Nations, 1993 at 8

creation of new forms of supply and demand. Innovations always associated with greatest risks since it works under unknown grounds and uncertain conditions. However innovations discover new areas where economic exploitation could be made. These new areas help to generate diverse complementary industries that provide great benefits to other productive sectors in a country. So development of entrepreneurial culture is fundamental to achieve greater economic growth rate.

The role of the Government is also crucial for economic development and entrepreneurial activities. The Government not only through monetary and fiscal policy but also through legislation influences the economic development. To stimulate economic development, the Government must follow a strong IP policy that helps to stimulate economic development. Along with the policy it is the responsibility of the Government to create a legal and institutional structure for IPR protection. This must guarantee an adequate and effective protection for IPR of innovators.

The scientific sector of any country constitutes an important source of solutions to productive problems. In most developing countries, the scientific sector has not been developed for generation of knowledge applied to the creation of new products or to the solution of productive problems. This situation has negatively effects the economic development of a country. The other main factor one could observe in these countries that there is weak or no link between the academic and scientific sectors aiming at economic development. So the challenge for most of the developing countries is to find ways and means to link academic and scientific sectors to stimulate economic development.

It is a fact that strong IPR protection has major effect on technology transfer through Foreign Direct Investment (FDI) depending on the type of investments in question. For example, where investments are made on standardized (assembly facilities) or rudimentary production, protection of intellectual property has little effect. But it has a greater impact when such investment is made on facilities to manufacture components and complete product as well as R &D facilities. In all over the world, R&D and business activities have become global and borderless; the need for securing of worldwide IP protection is becoming an essential factor.

2.5 Evolutions of Intellectual Property rights in Japan

"It was during the Meiji period (1868-1912), when the Meiji civilization and enlightenment prompted the import of western culture, that clear guidelines on patents and other rights were created"[7]. Japan changed dramatically as a result of the Meiji Restoration. Japanese industries and trading activities were influenced by the new ideas came from west. The concept of "Patent" was also brought from the west. The person who was instrumental in introducing patent system to Japan is considered as MR:Yukichi Fukuzawa, founder of the Keio University. MR: Fukuzawa made an

[7] Experience of Japan- "Industrial Promotion measures in Edo period", Institute of Intellectual Property, 2001. At 14.

inspection trip to Europe in 1861 and found that inventors in those countries were granted patents for a fixed period of time to earn profit. As a result, inventors are encouraged to improve technologies and in turn they contributed to enhance the productivity of their countries.

Since inventions bring benefits to the country, it is the duty of the Government to protect the inventors right so as to enable them to earn profit for a fixed period of time. With MR: Fukazawa, MR: Takahira Kanda also emphasized the benefits of introducing patent system in Japan aiming economic development. At that time there was a big question of how Japan should protect its interest when importing new technologies from western countries. On the other hand Japan had only recently reopened itself to overseas trade. So they realized the need for establishment of a legislative system not only to meet the needs of the Japanese, but also to protect the national interest with regard to trade relations with other countries.

As a result of the activities of Messrs: Fukazawa and Kanda and other interested parties, Japan's first Patent law was enacted with the promulgation of the Provincial Regulations for Monopoly in 1871. With this law the authority to grant monopoly licenses have changed from prefectures to the central government. Unfortunately this arrangement was failed mainly due lack of competent patent examiners. Therefore the enforcement of Provisional Regulations for Monopoly was suspended after one year.

The other major incident that prompted the introduction of patent rights was the first Industrial Exhibition held in Tokyo in 1877. Many believed that this exhibition was extremely successful compared to other events of that time. However, without adequate laws to protect technologies and products, there was strong possibility of counterfeiting those products. This demanded strong legal protections for new products.

Since the abundance of the Provisional Regulations for Monopoly in1872, there was a great demand for the enactment of a patent monopoly system in Japan. As a result of these agitations, on June 7th 1884, Trademark Law was enacted in Japan. In the following year i.e. on April 18th 1885, the Patent Law was enacted and the Design Law was enacted on December 18th 1888. Mr.: Korekio Takahashis'[8] was instrumental in introducing full-fledged patent system in Japan.

Mr.Mizumatsu Hotta filled the first patent application in Japan on July 1, 1885: for "Hotta-style Anti-Corrosive paint and Painting Method". The patent was granted to him August 14th of the same year. After that there were gradual increase of request for patent rights.

[8] Mr:Korekiyo Takahashi (1854-1936) First Commissioner of JPO and served as Governor of the Bank of Japan and latter became a Minister and finally served as the Prime Minister in Japan.

2.6 Paris Convention and TRIPS Agreement and Japans' Intellectual Property Rights

On March 20, 1883, the Paris Convention was concluded to safeguard the rights related to protection of industrial property. The Paris Convention began as an alliance among 11 countries: Belgium, Brazil, Spain, France, Guatemala, Italy, the Netherlands, Portugal, Salvador, Serbia and Switzerland. By the year 1899, Japan amended its industrial property system acceding to the Paris Convention.

The Convention of Paris for the protection of Industrial Property is the most fundamental treaty of alliance for the international protection of international property rights. This Convention has been amended 6 times so far. The World Intellectual Property Organization (WIPO) conducts the management of the Convention.

The objectives of the Paris Convention is the protection of patents, utility models, industrial designs, trademarks, service marks, trade names, indication of source or application of origin, and unfair competition.

The Paris Convention consists of following provisions;

1. International organization and each country of the Union (Article 13 and thereafter)
2. Obligation which requires member countries to make certain national laws (Article 11,12 etc)
3. The right of applications or right holders of industrial property (Article 2,3,4, 4bis, 6quiquies etc)

The three fundamental principles of the Convention, i.e. " principle of national treatment", "right of priority system" and "principle of independent of industrial property rights" fall under the above category of (3).

The principle of national treatment ensures that nationals of any other countries of the Union and persons as for nationals of the Union shall have the same protection as nationals, provided that the conditions and formalities imposed upon nationals are complied.

The right of priority system means that any person who has duly filled an application for a patent, or for the registration of a utility model, of an industrial design, or of a trademark, in one of the countries of the Union, or his successor in title can enjoy the benefit which prevents disadvantage to him and which also prevents any third-party's right, by reason of any third-party's acts during the priority period, if he files, by claiming priory rights, an application of patent, utility model, industrial design, or trademark, to other country of the union, within 12 months from the first filing date in the case of patent or utility model, or within 6 months from filing date in the case of industrial design or trademark (Article 4).

Independence of industrial property means that each right once established is independence of each other. For example, each country may not make laws, which provide the right shall be depended by the right in the other country where the right was first established (Article 4bis, 6(3).

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) establishes comprehensive standards for the protection of intellectual property and the enforcement of intellectual property rights in WTO member countries. Each member country is required to apply the substantive obligations of the world's most important intellectual property conventions and ensure the enforcement of procedures to safeguard intellectual property rights.

The TRIPS Agreement consisted of following seven parts.

Part 1. General principles
Part 2. Standards for protection for various forms of intellectual property, Copyright and neighboring rights, Trademarks, Geographical indications, Industrial designs, Patens, Integrated Circuit layout designs, and Trade Secrets.

Part 3. Regulate enforcement of intellectual property rights
Part 4. Procedures for acquiring and maintaining such rights.
Part 5. The agreement provides for dispute prevention and settlement
Part 6. Transitionnels arrangements
Part 7. Institutional and final provisions

According to the Article 2 of the TRIPS Agreement, it requires to give effect to the substantive obligations of the Paris Convention for the Protection of Industrial property (1967) by each member country of WTO. Also Article 9 provides that member countries must also comply with Articles 1 through 21 and the appendix of the Berne Convention for the Protection of literary and artistic works (1971). Article 3 imposes a broad national treatment obligation on each WTO member country with respect to intellectual property protection. Under this obligation, each member country should give "nationals" from other countries treatment that is no less favorable than that which it gives to its own nationals with regard to the protection of intellectual property rights.

The significance of the TRIPS Agreement can be summarized in the following points:

- Clarifies the minimum protection norm in a variety of fields.
- Mandates protection standards exceeding the existing international treaties.
- Mandates most-favored-nation treatment.
- Provides for the exercise of rights.
- Applies unified procedures in settling disputes.

Since developing countries became obliged to implement the WTO/TRIPS Agreement on 1st January 2000, legal safeguards for IP related works have been undertaken by many developing countries.

WIPO plays a key role in evolving and developing international intellectual property laws through treaty, negotiations and soft laws. WIPO through its global registration systems for patent, trademarks, and industrial designs provides services to industry and other public sector organizations. WIPO further provides assistance to developing countries currently in the process of building up their patent, trademarks, and copyright laws and system for economic and cultural development.

2.6.1 Copyright and related rights

With regards to Copyright and related rights the Agreement emphasized the basic principle of copyright protection. It says, " The protection extends only to expression and not to ideas, methods of operation, or mathematical concepts. (Section 10 (3) of the Japanese Copyright Act embodied this principle) Article 10 of the Agreement confirms that all types of computer programs are "literary works" under the Berne Convention and requires each WTO country to protect them as such. It also requires copyright protection for compilations of data or other materials that are original by reasons of their selection or arrangement. Article 11 requires providing exclusive rental rights with respect to at least computer programs and cinematographic works by member countries. Article 12 provides minimum standards for the term of protection or copyrighted works. The term of protection for many works is the life of author plus 50 years. Article 13 widens the scope of reproduction rights. Article 14 requires providing sound recording producers 50-year term of protection and the right to authorize or prohibit the direct reproduction and commercial rental.

2.6.2 Trademarks

Article 15 provides the definition of "Trademarks" and Article 16 sets out certain basic rights that member countries must grant to the holders of trademarks. Article 18 requires that the initial registration of a trademark must be for a term of not less than seven years and must be renewable indefinitely. Article 19 says that the cancellation of a trademark can only be done for non-use of an uninterrupted period of at least three years. Article 20 safeguards the role of a trademark as an indication of the source of the trademarked product or service by prohibiting imposition of special requirements

2.6.3 Geographical Indications

Articles 22 have provided the protection for geographical indications for goods to 24. Article 22 requires member countries to provide interested parties a means to prevent the use of product descriptions that mislead the public about the origin of a good. Further it requires refusing or invalidating the registration of a trademark that contains a

false indication of geographic origin. Also it prohibits the false representation to the public that goods originate in another geographic location. Additional protection for geographical indication for wines or sprits provides by Article 23. Article 24 provides exceptions for the requirements of Article 23.

2.6.4 Industrial Designs

By Articles 25 and 26 it require that each member country to provide protection for independently created industrial designs that are new or original and that meet the other conditions specified. The owner of a protected design must be given the exclusive right to use it for at least 10 years. Article 25 tells about the protection for textile designs, either under an industrial design law or through copyright, to ensure that owners can obtain protection without delay and unreasonable cost.

2.6.5 Patents

Each member country of WTO is required to make patent available for invention in all fields of technology, provided that the inventions are new, involve an inventive step and are capable of industrial application according to the Article 27 of the Agreement. Article 28 specifies that a patent must include the right to exclude others from making, using, offering for sale, selling or importing the product. The TRIPS Agreement puts stringent conditions on use of a patent invention without the authorization of the right holder. This includes situation use the “compulsory” license. Article 33 requires that the term of protection must be at least 20 years for patent from the filing of the application.

2.7 Japanese IP laws

In accordance with the provisions of the Paris Conventions and the TRIPS Agreement, Japan has revised its IP laws in the past. The brief definition on each IP right operating in Japan today is given below.

2.7.1 Patent rights

In Japan, patent rights are granted for novel and industrially applicable inventions that utilize a law of nature. Patent rights are protected for 20 years from the date of the application.

2.7.2 Utility model rights

Utility model rights are granted for devices (petty inventions) related to shape, structure or combination of articles. Utility model rights are protected for 6 years from the filing date of the application.

2.7.3 Design rights

Design rights are granted for design of shapes, patterns or colors of articles with an original and aesthetic appearance. Design rights are protected for 15 years from the date of registration.

2.7.4 Trademark rights

Trademark rights are granted for marks (letters, figures, signs etc.) used for goods or services. Trademark rights are granted for 10 years from the date of registration.

2.7.5 Copyrights

Copyrights are protected for 50 years after the death of the author of an original intellectual work of literature, art, music, software, etc.

2.8 The revisions made to Japanese patent law

Japanese patent law was first introduced in April 18th of 1885. This law has been revised in many occasions as response to various international Conventions and treaties. As an example the major revisions made to Japanese patent law is given below in the summary form to highlight the major changes. Similarly revisions were made to utility model law, trademark law, design law, copyright law and other IP related laws in Japan.

2.8.1 Revision in 1899

The Japanese patent law was revised in 1899 to meet the requirements to join the Paris Convention. The main revisions are as follows:

1. Recognized rights of non-residents;
2. Incorporated a priority claim provision; and
3. Set forth a provision for the protection of an invention exhibited at an international exposition, etc.

2.8.2 Revision in 1909

1. New provision for an employee's invention;
2. Definition on public knowledge and public use at home and abroad as criteria for the judgment of novelty; and
3. Corrected the problematic aspect of the first-to-invent principle to grant a patent, in the presence of more than a single patent application with the dates of their inventions unclear, to the first-filed application.

2.8.3 Revision in 1921

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1. Adopted the first-to-file principle;
2. Incorporated a provision for a compulsory license;
3. Adopted a system for a notification of reasons for refusal;
4. Adopted a publication system and an opposition system; and
5. Provided rights to obtain a patent to an inventor (an employee) and use by his/her employer and receive compensations.

2.8.4 Revision in 1959

1. The requirement of "industrial invention" to obtain a patent was changed to an "industrially applicable invention";
2. Overseas applications were also included in the criteria for the judgment of novelty;
3. A provision was included concerning an inventive steps;
4. A substance manufactured through a nuclear transformation was included in unpatentable items;
5. It was made possible to file a patent application covering more than a single invention;
6. An application and a disclosure at an academic meeting were included in cases where an exception to the loss of novelty is applicable.

2.8.5 Revision in 1970

1. Adoption of application laying open system;
2. Adoption of examination demand system;
3. Adoption of pre-trial examination system;
4. Limitations on time limit for correction, divided application; and
5. Reinforcement of rights under provisional protection.

2.8.6 Revision in 1975

A major revision was adopted with regard to a substance patent system and a multi-claim application system. In the revision " an invention relating to a foodstuff or table luxuries", " an invention for manufacturing a drug with the use of a single medicine or a combination of more than a single medicine" and " an invention for manufacturing a substance through chemical processing" were deleted from unpatentable items. Thus inventions falling into these categories were made patentable.

2.8.7. Revision in 1978

To comply with the Law Concerning the International application of the Patent Cooperation treaty (PCT), the patent law was revised to incorporate provisions to link an international application to domestic procedures under the patent law. The major changes are as follows:

1. An international application including Japan in its designated countries is deemed to be a regular domestic Japanese application; and
2. An applicant is required to submit a translation, etc of his international application, in principle, within 20 months.

2.8.8 Revision in 1985

This revision was to comply with the requirement of PCT to establish an internal priority system.

2.8.9 Revision in 1987

1. Improvement of multi-claim system;
2. Internationalization and international harmonization systems;
3. Restoration of patent right not exercised with regard to pharmaceutical products, etc;
4. Adoption of flexibility to time to withdraw demand for trial.

2.8.10 Revision in 1990

1. The introduction of an electronic information processing organization;
2. The publication of official gazettes in the form of a magnetic disk;
3. The introduction of a handling fee deposit system; and,
4. Reliance on organizations designated to, among other things, process information.

2.8.11 Revision in 1994

1. Introduction of foreign-language file application system;
2. Restoration of patent right;
3. Rescission of reservation of compliance with PCT articles;
4. Review of requirements for description in specification;
5. Consideration to detailed explanation of invention for sake of claim's interpretation;
6. Post-grant opposition system for patent.

2.8.12 Revision in 1998

1. New system for awarding damages for patent infringement

    a. The calculation principle of damage for patent infringement, which enable the patent holders to prove the fact of damage easily.
    b. Recognition of damages commensurate to the license fee in consideration of individual situation.

2. New penal regulations on patent infringement

    a. Imposition of heavy penalties on corporations.
    b. Penal procedure against patent infringement does not require accusation from the right holder.

3. Acceleration of procedure of invalidation trail.
4. Reduction of patent fee.

The above explanation about the different revisions introduced to Japanese Patent Law provides a good example of how Japan wanted to strengthen the protection for intellectual property rights of their inventors keeping with the international standards. During the period of 100 years, the Japanese Patent Law has revised 12 times. Every revision of the law has introduced a major change to the patent law. In the similar manner, other IP laws such as Utility model, Designs, Marks and Copyrights also have revised in many occasions to accommodate rapid changes taking place in these subject areas. In future also, one can expect some more revisions in those laws as well.

It important to note that each revision carries an addition or deletion of legal provisions of the relevant laws. Therefore, it become necessary to keep informed to the relevant people about the new changes of the law. For this task, training can be used as an effective method of dissemination of information.

3.CHAPTER THREE

3.1 Introduction

The development of any country mainly depends on the quality of people who live in that country. Similarly, the success of any individual organization is also depending on the positive contribution of its workforce. Hence, human resource is the key factor for organizational development and growth. Many different strategies have been used to develop human resources in organizations. The training interventions are heavily employed to develop human resources and to change the entire culture of certain organizations in many developed countries.

This chapter provides an overview on the importance training in human resource development in general. It particularly, discusses the different stages of the training process, which include the techniques for identification of training needs, training design, training implementation, delivery of training and the evaluation of training impacts. This includes the setting of training objectives, preparation of the time table for the training program, defining of sessions' objectives, identification of suitable resource persons, development of training materials and audio visuals, preparation of logistic arrangements and course administration, etc. After that the chapter will discuss the intellectual property training policy in Japan.

3.2 Training and human resources development

" In most of industries, it is now possible to buy on the international market place machinery and equipment that is comparable to that in place by the leading global firms. A company that lost all of its equipment but kept the skills and knowledge of knows how, its workforce could be back in business relatively quickly. A company that lost its workforce, while keeping its equipment, would never recover".[9]

This excerpt captures the difference between physical and intellectual capital – and reveals the unique advantages of the latter. Investment in human resources to enhance productive capabilities; utilization of those human resources to produce increased output and finally enhanced the quality of life of the people in the country. Among the resources that used to produce an output, human capital become the most crucial factor. The human who make the life of the organizations will decide its future. Therefore the proper management of human resources is vital for any type of organization.

Changes in organizations occur more rapidly today than at anytime in the past. At the same time, the people are concern about the quality of work life and their career development. The management style of the organization has shifted from authoritarian

[9] Brian E. Becker, Mark A. Huselid and Dave Ulrich. The HR Scorecard – Linking People Strategy and Performance. Harvard Business School Press. 2001 at 3

and hierarchical style to teamwork and employee involvement approaches. Expansion of technology and information has found new directions to bring prosperity to the people.

The key areas of human resources management consist of human resources planning, recruitment and selection, job placement, conducting of job analysis, preparation of job descriptions and job specifications, performance appraisal systems and reward management, training and career development, grievance handling and counseling, disciplinary actions and adherence to the labor rules and regulations.

The training has been considered as the most powerful tool for the development of human resources through training one can acquire new knowledge, develop his skills and inculcate positive attitudes. Through training one can acquire information. Information has always been of great value. "Organizations all over the world are undergoing a dramatic change not only due to globalization but also because of the force that makes truly global companies competitive – information exchange"[10]. The training intervention for development of human resources in an organization needs proper planning, implementation and monitoring.

3.3 What is training?

Training is defined as " change in behavior". To change behavior it needs to create a situation that stimulate learning. Training is application driven and aims to impart skills that are useful immediately in particular setting. So without learning, training may not be a useful exercise. On the other hand the results of training is not immediate, non visible and long-term. Therefore some tend to think that training is not profitable. It may be true that training cannot cure all the evils of the organization, but it will definitely help to develop human resources in that organization.

Education is principle driven and tends to be only broadly applicable to students. It teaches general skills and knowledge for the sake of a field or discipline, rather than a particular job. Education tends to be professionally oriented or related to an industry in general. It often uses a longer time frame and consumes more instructional hours than training. Also, education is often meant to be useful for many years in a wider variety of setting than training.

Development focuses more on the learner than on learning per se. It is not as concerned with uniformity of learning outcomes as training and education tend to be. Development concentrates on enhancing jobs by enhancing employees. It tends to allow the learner to choose from a variety of styles and outcomes rather than teach specific techniques or general pattern of thinking.

[10] Jac Fitz-Enz, The ROI of Human Capital: Measuring the Economic Value of Employee Performance. Prentice hall 2001, at 3

In the attempt to develop human resources within the organization, the training can help to improve the necessary knowledge required for the job, develop skills and inculcate positive attitudes within the jobholder. However there are many challenges one has to face when attempting to develop staff through training interventions.

The first step in the formation of a training and development program is " needs analysis". Other steps are based on the results of needs analysis. The needs analysis process must be carefully planned at the individual, organizational, and strategic levels to provide satisfactory results. At the individual level it is expected to assess the strengths and weaknesses of individuals. At organizational level, it identifies the objectives of the organizations and present levels of performances of the workforce etc. At the strategic level concentration is more on the human resource strategies to be evolved to achieve business goals.

It is important to closely understand the performance gaps of the individual jobholders. This has to be done with the help of supervisors and the colleges of the jobholders. The Job description is a pre-requisite for identification of job performance of jobholders. Job description is a document that contains the expected duties of the jobholder and his/her responsibilities towards the job. One's performance is depended on his ability, his motivation to work and other environmental factors. When identifying training needs, it is important to look at the following factors.

	Knowledge	**Skills**	**Attitudes**
Required level			
Actual level			
Performance gaps			

The performance gap identification can be done through various means. The observation of jobholders' performances is one of the common methods that can easily use to identify training needs. The following methods also can be used for this purpose.

- To conduct an interview with the job holder
- To obtain evaluation reports from supervisor and colleges.
- To conduct a trade test
- To obtain opinions of customers about the job holders performances
- To conduct examinations

Basically, two levels of training needs can be identified, i.e. macro level and micro level. In the macro level it is expected to identify the level of general understanding of many things related to an industry. In micro level the attention is with the particular job and the related knowledge, skills and attitudes required for that job.

The training cannot support to solve all the problems relating to individual performances. Some problems are relating to the availability of resources or market situation. Training can only support to improve the knowledge, skills and attitudinal aspects of the jobholders. When providing training, it is important to prioritize the training needs on the following basis.

- Must know,
- Should know,
- Good to know.

The above priority bases would help the trainees to acquire knowledge, skills and attitudes that arerequired for the job on an urgent basis. In a subsequent stage they can acquire other two categorise labaled as " should" and "good".

3.4 Andragogy vs. Pedagogy

In early 1970s when andragogy and the concept of adults and children learn differently was first introduced in the United States by Malcolm Knowles, the idea was rapidly spread among the academic community. Since the earliest days, adult educators have debated what andragogy really is? Knowles' idea of andragogy has been extensively analysed and critiqued. The principles of andragogy consist the following key elements.[11]

Andragogy
(Core Adult Learning Principles)

1. **Learner's Need to Know**
   - **Why**
   - **What**
   - **When**
   - **How**

2. **Self-Concept of the Learner**
   - **Autonomous**
   - **Self-directing**

3. **Prior Experience of the Learner**
   - **Resources**
   - **Mental models**

4. **Readiness to learn**
   - **Life related**

[11] Knowles, Holton and Swanson. " Andragogy in Practice", Prentice Hall 1998

- **Development oriented**

5. **Orientation to learning**
   - **Problem centered**
   - **Contextual**

6. **Motivation to learn**
   - **Intrinsic value**
   - **Personal payoff**

Andragogy is an honest attempt to focus on the learner than the teacher. Pedagogy in contrast mainly defends on the teacher with regard to knowledge transaction. Therefore pedagogy has become the main mode of teaching method of primary, secondary and even tertiary education in many countries. The understanding of unique characters of adults is very important aspect for training programs. Adults like to learn by doing things. They like to be getting involved in training with the trainer. Therefore they don't like to be considering them as trainees. Since they have experiences in their respective fields they want to share those experiences and learn from their colleges as from the trainer. This characters demand different kinds of training methods to be employed when training adults.

3.5 Types of training and Adults training methods

Deciding on a number of types or categories of training is rather arbitrary. Some writers use as few as two, using distinctions such as on-the-job verses classroom training or technical verses non-technical training. On the other hand, other experts use over a dozen categories.

Van Wart and others in their book on Training and Development for the Public Sector, use nine categories of training, including three technical categories (procedural, mechanical, professional), two skills categories that are not job specific (basic and general skills), three management categories (supervisory, management, executive), and an employ-enrichment category.

Procedural training is form of technical training that focuses on procedures, rules, laws, or codes that are required for compliance with agency mandates and for coordination and flow of work.

Mechanical –technical training focuses on how things operate, how they are built, how they can be fixed when broken, and how they can be maintained. Manual or physical skills are a large part of the training.

Professional-technical training focuses on the select knowledge, skills, and abilities needed by practicing professionals in performing their jobs. Professional-technical workers apply principles from mathematics, physical or natural science, law, social sciences, administrative science, education, political science, and so on.

Basic skills training include listening and speaking and general skills focuses to make employees more effective outside their roles as subject-area specialists. General skills training aims to improve employees' ability to learn, to work with others, to adopt, and to be productive.

Supervisory skills training focus on supervisors' direct interaction with subordinates and on getting work done by, with, or through other people.

While management development training focuses on the general management issues, executive development training focuses on the conceptual, broadest, and most externally oriented type of training.

Training methods play a vital role in transmitting knowledge from one person to another. Selecting appropriate mix of training methods needs the proper understanding of adults training psychologies. The following training methods are open for any adult training course.

- Lectures
- Lecture/discussions
- Group works
- Syndicat exercices
- Case Studies
- Role-plays
- Management games
- Video presentations
- Observation visits
- Demonstrations/Practical works
- On-the-job training

Since adults like to be involved in training, it is important to minimize the lecture method and to used other methods like group work, case-studies, role play and games etc. Accordingly prior-preparation for the training program has become very important. In this situation the trainer should not only be a master of the subject but also be a master of training methods.

3.6 Training design

The design of any training program should be started with the identification of training needs of the participants. As mentioned earlier, the proper identification of training need therefore become a very important part of the whole training process

Once the organization has identified the training needs of the jobholder, the next step is to design a training program to offer the required knowledge, skills and attitudes for him to improve his performances.

Once the target group for training has been identified, the first task to be done with regard to the development of a training program is to set overall purpose or overall learning objectives of the program. The overall training objective should tell what they want to achieve through this training program. When writing training objectives it should be clear and measurable. For an example, "Aimed at those who make decisions in private companies and design to provide them with opportunities to learn about corporate strategy for and management of industrial property"[12]

Sometimes the training program carries more specific objectives like this. " By the end the course the participants should be able to;

- Enhance the knowledge on various subjects of Intellectual Property;
- Improve the knowledge on the current law of Intellectual Property in Sri Lanka;
- Understand the basic norms relating to intellectual Property Administration;
- Develop skills in the management of Intellectual Property;
- Promote the use of Intellectual Property as a tool for development;
- International Conventions on Intellectual Property and recent international development in Intellectual Property"[13]

Claire Belilos, President of CHIC Hospitality Consulting Services based in Vancouver, B.C., Canada (http:www.easytraining.com), says the following on designing training program:

> *"The clarity of the overall purpose or objectives will help to decide on the contents of the program. This will also help to assess what each person trained is expected to be able to do, and expected to know at the conclusion of training program. There are several important points to note when writing learning objectives.*
>
> - *The learning objectives are performance-based*
> - *The objectives are clear and not subject to misinterpretations- (the trainees know exactly what is expected of them and how they will be tested)*
> - *The shift and onus for learning is upon the trainees themselves*
> - *The training lesson is action-oriented*
> - *The end-result is observable and measurable*

[12] The training program on Industrial Property Rights for Management 2001 by JIII & AOTS
[13] The training Prospectus for 2002- Sri Lanka Institute of Development Administration (SLIDA)

By the nature of the subject chosen, reinforcing training will take place on the actual work site and while the trainees are actually performing the lesion learned, enabling the trainer to perform follow-up evaluations.

"There are three learning domains, which have their own hierarchies:

- *Cognitive (knowledge, retention)*
- *Affective (behavior, attitude)*
- *Psychomotor (skill performance)"*

When training addresses cognitive aspects, it mostly deals with knowledge imparting activities. Affective training attempts to deal with attitudes or thinking aspects of people. Psychomotor directed training deals with the skills development aspects.

After finalizing the overall objectives, it is necessary to identify the subjects to be discussed in the program. These subjects should be arranged in a sequential order without disturbing the coherent of the program. Each session needs to have session objectives and session plan. In session objectives, it is important to mention what trainees are expected to learn from this session. The session plan should include the training methods, time allocation for each part of the session, training materials and audio-visuals etc.

Claire Belilos continues to say *"A main guideline in the design of a training program or session is to set aside the ego, the self, and to direct one's thoughts towards the alter, the other, the trainee or audience; to think in terms of what the trainee(s) will be able to do, demonstrate, or explain by the end of the training.*

The only exception to this rule is in the preliminary stage of design, and the subsequent actions you take:

- *What do I want the trainees to be able to do, demonstrate, or explain by the end of the training program?*
- *What training resources and activities will I use to facilitate learning?*
- *How will I measure that the desired change in behavior took place?*
- *What tools and process will I use to evaluate my method of instruction and the training content?*

- *What is the best way for me to reinforce learning"*[14]

In a training program it is better to use pre-training assessment as well as post-training assessment to evaluate the achievements levels of the participants.

To facilitate an effective training session needs variety of training materials prepared by the trainer. The preparation of training materials needs a careful study of the subject and to collect all the relevant information about the subject. These materials should provide the additional inputs to supplement the lectures.

In general there will be an evaluation at the end of the each training. Usually it is expected to assess the achievements of the training objectives at the end of the program. Most the time both verbal and written methods will be used to obtain the participants views on the course.

Training evaluation poses a difficult question to training experts since it is hard to establish a direct relationship between performance and training. Anyway trainers are trying hard to design meaningful and logical training evaluation systems. For this purpose the most training institutions have established link with the organizations where the trainees are really working. Through these contacts, they attempt to monitor their performance progress. It also helps to identify new training needs of the trainees as well.

The effectiveness of training programs depends upon several factors that have greater impact over the outcome of the program. These factors can be identified as follows:

- Commitment for training,
- Clarity of training objectives,
- Type of training and trainees,
- Resource persons,
- Training budget,
- Training location,
- Training facilities,
- Training time and frequency,
- Performance evaluation,
- Performance based career development.

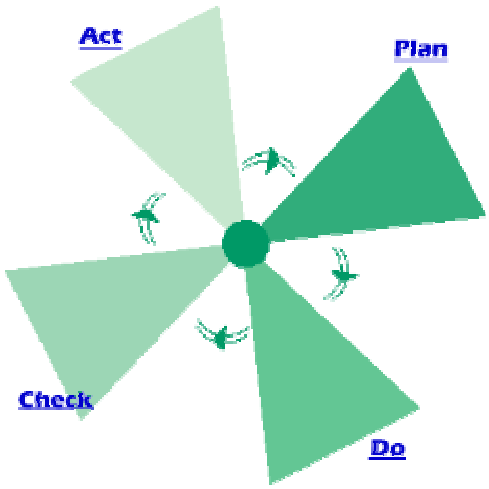
The duty and the responsibility of the trainer is to give due recognition for the above mentioned factors when designing the program as well as when conducting the training program. It is unfortunate that some trainers have not given much emphasis on these factors and they mostly consider about the subject matters on the top of everything. That may not bring the expected results from the program.

Dr. W. Edwards Deming has introduced "PDCA Cycle" to support continuous improvement in organizational activities. This approach can easily be adopted to get

[14]Claire Belilos, "Demystifying Training Design: Defining Effective Objectives," http://www.easytraining .com/training.htm

better results from training interventions as any other management activities. Dr. Deming's PDCA approach was the catalyst for revitalizing Japanese industry. PDCA cycle is a simple concept, which consists of the following four steps.

PDCA Cycle



1. **Plan** – Transformation must take place with directed effort. Failure to plan for the future and foresee problems has brought about the waste of manpower, materials, machinery and time. This failure raises the cost of the system without adding value.

2. **Do** – Everyone doing his or her best isn't the answer. Drastic changes are required. The first step in the transformation is to learn how to change.

3. **Check** – A very simple phase that is often overlooked is checking the results of what you did to see if the objective was achieved. The real trick is to determine what things should be measured, and how often they should be measured. This information is useful as explained in the last phase of the PDCA cycle.

4. **Act** – Perhaps the place in the PDCA cycle which the most rewarding. It can show where the success are, building confidence to deal with areas that need further improvement.

When organizing training programs, it is important to adopt the PDCA cycle as a checklist for better results. Since training always aims at behavioral changes, it needs to have a plan to begin and direction for improvement.

4.CHAPTER FOUR

4.1 Introduction

Japan, being a developed country is heavily used training interventions to enhance and upgrade the quality of their human resources. This chapter will discuss the importance of IP education in the context of a changing society. It also highlights the importance of IP education in newly emerging knowledge and information society. In addition, this chapter will outline the role of JPO in providing IP training in Japan as the key player in protection and promotion of IP related activities in Japan. It appears that many institutions are directly involved in IP related protection and promotion activities in Japan. Therefore the discussion in this chapter will be limited to only the education and training activities of the JPO. Especial attention will be given to training activities of Intellectual Property Training Institute (IPTI), which is the main training arm of the JPO.

4.2The importance of IP education in the changing society

Intellectual property education in many parts of the world has seen dramatic changes in recent years to accommodate rapid changes and wide-ranging developments in the field of intellectual property. When one look at the history, the development of human civilization can be categorized into three broad eras. Firstly, human identified the land as the primary factor for production. That society they identified as "Agricultural Society" up to the mid of 18^{th} century. Subsequent to the industrialization, the next era was labeled as "Industrial Society" where labor and capital considered as main production factors. In the third era information technology (IT) has become the powerful means of production called "Knowledge and Information Society".

Information Technology, the product of a combination of computer technology and information communications technology, covers various industrial sectors relating to the production, maintenance and distribution of information. IT industry, which is essential for all business factors, forms and integral part of any knowledge base economy. In a IT society, the services provided are becoming multimedia-based, more intelligent and more individualized while technologies are becoming high-speed, miniaturized, multi-functional, and larger in size.

The recent development and application of efficient and useful technologies through the use of bio-system has directed the world to think and talk about Bio technology (BT). The result of the growth of the Bio Technology industry will include the promotion of a healthy life style through prevention (gene examination), treatment of incurable diseases and expansion of human life span. It also draws the attention for formation of new industries such as DNA Chip, Bioinfomatics, Super Com, and Artificial Organs.

The success or failure of a company or organization depends more on intangible assets such as knowledge and information than on the tangible ones of similar value. Entering the era of technological hegemony, IPR have emerged as one of the hottest issues in international trade conflicts. IPR are exclusive rights that accrue to the owner of each form of intellectual property and prohibit others from using it without permission. IPR also allow earning of royalty income through credit creation improvement in consumer reliability, and technology sales.

It is IPR that determine the value of a company or nation in the knowledge and information society. National interest and participation in IPR activities is a key factor to determine the existence of accompany or nation. The intellectual industry is the product of the brain activity of humans. The increased demand for high-quality brains is the heightened importance of human resources management.

The growth in the importance of intellectual property especially in the field of information technology and Bio technology demands a deeper understanding of the applicable laws in those areas and the means and methods of managing intellectual property rights. The spread of IT facilities such as computer and internet access has brought about improvements in educations, providing equal education opportunities for everyone. Today one find various IPR-related data have been converted into electronic or multimedia format for their easy availability. At the same time one would witness the gradual shift from provider-centered educational packaged services to customer-centered individualized services.

The subjects to be covered in the intellectual property rights are becoming larger and deeper day by day. Hence the designing of effective IP training programs needs to have considerable expertise in both subject matters as well as training techniques

4.3 The role of Japan Patent Office (JPO) in IP education

In order for the industrial property system to properly function, it is important for government agencies to actively promote reforms and developments that needs of the time. People and industrial circles, including inventors, applicants and right holders must also be able to utilize the system in accordance with government policy. Therefore, bodies and organizations associated with industrial property rights are important to support or work in line with the government in planning and implementing policies, mediating between the government and general users of the system and facilitating the efficient use of the system by citizens.

The Japan Patent Office (JPO), established as an external agency of the Ministry of Economy, Trade and Industry (METI) is mainly dealt with the enforcement of the industrial property laws, namely Patent Law, Utility Model Law, Design Law, and Trademark Law. Another role of JPO is to plan and design a policy for industrial property rights, as the country is on the threshold of a creative age requiring an intellectual property policy for the twenty first century. In summery the role of the JPO can be categorized into five main areas.

- Granting exclusive rights to industrial properties such as patents, utility model, designs and trademarks,
- International exchange and co-operations,
- Planning and designing industrial right policy,
- Improving the system for industrial property rights and improving the operations of this system,
- Dissemination of information about industrial property rights.

"The JPO also participate actively in international exchange related to the protection of industrial property rights and harmonization of the international system for industrial property rights, exchanges related to patent disputes, cooperates with industrially advanced countries in Europe and America, and promote international cooperation between individual countries on education of experts, exchange of information, cooperative examination, etc"[15].

The JPO also provides information related to IPR and responds to general inquiries. The organization consists of National Center for Industrial Property information, Industrial Property Training Institute, Industrial Property Council and seven departments. The seven departments named as the General Affairs Department, the Trademark, Design and Administrative Affaires Department, the First Patent Examination Department, the Second Patent Examination Department, the Third Patent Examination Department, the Fourth Patent Examination Department and the Appeal Department.

The Commissioner who is appointed by the Ministry usually for 2-year period heads the JPO. The above-mentioned institutions and departments coming within the JPO are headed by Director Generals. (See annex 2 for detail of organization structure of JPO).

4.4 Paperless system of JPO

JPO has inaugurated the paperless project in 1984 to achieve the following objectives.

- To reduce of the pending period,
- To improve the information provision service relating to industrial property rights,
- To increase in the levels of administration efficiency,
- To establish closer cooperative relationship with other nations in terms of IP information exchange.

There were important landmarks in the paperless system in the JPO. The following events are notable in the history of the paperless system.

1984 Paperless project inauguration

[15] Sardjono Arus, The Japanese Patent Law System, A final report – WIPO Fund-in-Trust/Japan Research Felowship- 18th October 1999 – 17th April 2000. at page 73

1985 Inauguration of the patent document search system (F-term)

1986 Start of electronic inspection of the comprehensive document database

1990 Start of acceptance of online application for patents and utility models

1993 Start of the peripheral examination assistance system, the online system for Requesting certification and on-line inspection system

1996 Inauguration of cash payment system

1997 New registration system inauguration

1998 Online filing using PCs

1999 Establishment of Industrial Property Digital Library (IPDL)

2000 Inauguration of the paperless system for designs, trademarks, PCT (National phase) and appeals

A well develop system has been adopted for the smooth operation of paperless system in the JPO. Under this system, applicants are required to preliminary register with the JPO the address, name, and his seal and are given an identification number. The JPO identifies the applicant using this number for subsequent procedures. In an on-line filing, it is impossible to make a payment in cash at the same time with the filing. Thus, the applicant is required to preliminary deposit a certain amount of money in an account and notifies the JPO of this effect submitting an Advance Payment Notification in order that the JPO may withdraw necessary fees from this account. In an on-line filing, it also impossible to submit a power of attorney at the same time with the filing. Thus, the applicant is required to preliminary submit a general power of attorney which certifies that the attorney is the applicant's representative entrusted with all the applications filed by the applicant. Then, the applicant has to notify the JPO of this effect and be given a general power of attorney number in order that the JPO may write this number for future applications instead of power of attorney.

There are some merits of the on-line filing system. Most importantly, one can use a personal computer as a platform for filing an application and interact with the JPO instantly (see the annex 3). JPO promotes to develop worldwide paperless system in near future.

4.5 National Center for Industrial Property Information

The National Center for Industrial Property Information of JPO, keeps a wide range of industrial property information from about 80 countries. This includes the valuable information on the first Japanese Patent granted in 1885. One of the remarkable achievements of JPO is the effective utilization of IP information using the IP Digital

Library (IPDL). The IPDL is a public resource, which provides free access to the JPO database of industrial property information with search functions through the Internet. In this system, anyone can access to the IPDL without any permission, in any time, from anywhere, free of charge. The IPDL has been working since March 31st 1999 and over 45 million documents are available. It has been provided free of charge over the Internet with search tool.

From January 2000, using a terminal installed at the National Center for Industrial Property Information has provided public inspection facilities. One can access the IPDL free of charge from this Center. Patent gazettes published since 1998 and design, trademark, and appeal decision gazettes published since January 2000 have been made available at a marginal cost.

4.6 Industrial Property Training Institute (IPTI)

The Industrial Property Training Institute was established on May 20th, 1958 as an affiliated organization of the JPO under the partial amendment of the Ministry of International Trade and Industry Establishment Law. The IPTI has two main purposes:

- Providing training necessary for industrial property-related operations to JPO officials;
- Providing training for outside attorneys with strengthening of attorney ability in affairs pertaining to inter partes trials and cutting edge technology fields.[16]

In 1960, it was mandated to obtain qualification as an " examiner" or an " appeal examiner" by completing the training of the curriculum prescribed by Industrial Property Training Institute under the promulgation of the Patent Law Enforcement Order.

The IPTI designs and conducts various training programs for JPO staff members to obtain wide range of knowledge both theory and practice to keep them update on the rapid changers in the society. IPTI also provides industrial training courses for staff members of other governmental organizations. The limited number of Patent Attorneys is also entertained in certain programs conducted by the IPTI.

The IPTI conducts mainly three types of programs as follows:

- Examiner's course for technical staff
- Appeal examiner's course for technical staff
- Administrative course for administrative staff

[16] Mr: Terayama Keishin " Systematic Intellectual Property (IP) Teaching and Training; Lessons to be Learned; The experience of Japan. July 2001.

" The training for examiner's course and that for appeal examiner's course are intended to make trainees master the ability in legal knowledge and the ability in practical business…The training for administrative officials course is intended to make trainees master the knowledge on duties needed for being engaged in administrative works relating to examination and appeal examination concerning industrial property rights".[17]

4.6.1 Organization and facilities of IPTI

The IPTI is located in the 8th floor of the Annexed Building in the close proximity of the Ministry of Economy, Trade and Industry. The Director General is responsible for smooth functioning of the institute. A Managing Director who mainly look after the administrative affaires of the institute and two Unite Chiefs, one for General Affairs and the other for Instruction, will assist him. The IPTI has two main unites namely, Instruction Unite and General Affairs Unite. The Instruction Unite is responsible for coordinating and implementing of IPTI training programs. (See the Annex 4)

The budget allocated for IPTI for the year 2001 was 290 million yen. The total number of 5645 JPO's officials has participated in the IPTI training programs in the year 2000. One officer may have participated more than one program.

Currently there are 10 officials attached to IPTI. In addition another 25 posts are available for temporary trainers/ instructors. The most of the instructors are drawn from JPO since they have practical experiences on the subject. At present, four officers from Patent and Utility Model, two from Industrial Deign, two from Trademark, two from the Appeal Examiner of Patent and Utility Model, one from the Appeal Examiner of Industrial Design, and one from the Appeal Examiner of Trademark have attached to IPTI from the JPO. The administrative staff is also drawn from the JPO.

The General Affairs Unite is responsible for providing logistic arrangements for conducting training programs. This includes general affairs, administer of travel expenses, Preparation for training for examiners and appeal examiners, training by each stratum of the post for administrative officials and also in charge of preparation for English training and expert training.

The Instruction Unite is responsible to academic aspects of the institute. There is a Unite chief to look after the training courses related affairs. The IPTI does not have permanent lecturers as such. The most of the lecturers are drawn from outside organizations such as JPO, based on their subject specialty. Evaluating their reputation and performances will do the selection of capable lecturers.

The institute has a large lecture hall of a capacity of 100 people, 2 medium sized lecture and seminar room of a capacity of 50 people each, 2 small sized lecture and seminar of a capacity of 30 people, a small seminar room for 20 people, a language laboratory for

[17] Industrial Property Training Institute, The training system of the Japan Patent Office- 2001 at page 3

English language training and a well equipped Visual Display Terminal (VDT) for 30 people.

In order to match with the rapidly increasing applications for patents and other related IP rights, training has become vital for the officers who are working in JPO. In this respect IPTI plays an important role of facilitating training mainly for JPO staff.

4.6.2 Training programs conducted by IPTI

In accordance of the decision made by the Patent Office Council on " Basic policy of training" on November 19th, 1997, the IPTI sets out a training execution plan every fiscal year and executes training programs to achieve the following objectives:

- Improvement of basic business prosecution ability;
- Improvement of the ability to correspond to globalization;
- Reinforcement of the ability to correspond to the computerization;
- Improvement to expert ability in legal matters;
- Improvement of sensibilities to the change of administrative needs.

The Director General is responsible for preparation of the training plan for the next year by the end of current fiscal year and reports it to the Patent Office Council. It is the duty of the Director General to report the results of the training conducted by IPTI to the Commissioner of the JPO once a year and he should make a presentation to the Patent Office Council.

It is mandated to be completed the prescribed curriculum of the training as executed by IPTI to become an examiner or an appeal examiner. The training has been classified based on the each stratum of posts. The objective is to make trainees master the knowledge required for the each year or post concerned. The training for examiners and appeal examiners is divided into three main categories.

1. Training for becoming examiners;
2. Training after appointment as examiners;
3. Training for becoming appeal examiners.

It is necessary to pass the government official examination type 1 (the technical field) to be recruited as candidates for patent examiners or design examiners. Those who are working in administrative posts in JPO, after certain years of experiences have the opportunity to sit for an examination to become trademark assistance.

The training curricular for examiners and appeal examiners training programs mainly focus on fundamentals of examinations such as general legal knowledge and basic expert knowledge of industrial-property-rights-related legislation, treaties and examination practices. It also included the expert knowledge on industrial-property-rights-related regulation, treaties and examination practices, practical knowledge and arbitration ability. The curricular also considered the necessity to raise the knowledge of

examination practices and to enable trainees to acquire proficiency in examination practices and to develop broader views and insights as an examiner. In addition, it is intended to foster the leadership needed by senior examiners having responsibility of leading and educating, and to improve his or her ability to solve problems encountered in the course of practical work.

4.6.2.1 Training requirements to become examiners

The newly appointed patent examiners called as assistant examiners are required to get through the examination stipulated by law to be qualified as examiners. (See annexed 4) For patent examiner and design examiner, the training continues for four years and for the trademark examiner the training is for 2 years. The duration of the training courses is three months for first year, two months for the second year for both patent and trademark examiners. In addition, another 2 weeks training for patent examiners in the fourth year. The total training period is 5.5 months for patent examiners.

The curriculum for the training course for patent and utility model examiners is shown below:

First year, (The duration of the training is three months)

Section 1: Training Courses on Law and Procedure

- Introduction to Japanese law
- Outline of Industrial Property Rights
- Outline of Civil Law
- Outline of Japanese Patent Law and Utility Model Law
- Outline of the Design Law
- Outline of the Trademark Law
- Processes from receipt to registration of an application
- Outline of industrial property related treaties
- Outline of the Patent Cooperation Treaty

Section 2: Training Courses on Examination Processes

- Outline of the International Patent Classification (IPC) and exercise in granting classes
- Processes of international search and international preliminary examination
- Examination standards
- Outline of examination process
- Applications and specifications
- Notifications of reasons of refusal, decision of refusal, and decision to grant a patent
- Reason for refusal (exercises in preparation of notification of reasons of refusal by citing examples)

Section 3: Special Lectures

- General lectures by the Commissioner and Deputy Commissioner
- Composition of sentences
- Role of patent attorneys
- Industrial property and companies
- Outline of the JPO's computer system
- Function of patent information
- Organizations associated with the JPO and their functions
- Budget of the JPO

(2) The second year (the duration of training is two months)

Section 1: Training Courses on Law and Examination Process

- Substantive industrial property laws
- The patent law and utility model law
- The trademark law
- Industrial property-related treaties
- Examinateur processes

Section 2: Special Lectures

- General lectures by the Commissioner and the Deputy Commissioner
- International environment surrounding industrial property rights
- Outline of the Civil Proceeding Act
- International search international preliminary examination
- Industrial property rights-related legislation

(3) The fourth year (the duration of the training is two weeks)

Section 1: Training Courses on Examination Processes

- The practical exercises in examination processes

Section 2: Special Lectures

- General lectures by the Commissioner and the Deputy Commissioner
- Patent system in the U.S
- Patent system in Europe
- Claims and technical scopes

- Outline of the Copyright Law
- Outline of the Unfair Competition Prevention Law
- Private companies' business activities across national borders in the field of intellectual property rights

Those officers who successfully complete the training programs prescribed above will be granted qualification as examiners in the fifth year after entrance to JPO.

4.6.2.2 Training after appointment as examiners

Once appointed as examiners, it is required to improve the knowledge and skills of those officers on the technical subjects they handle in a continuous basis. In addition, it is necessary to develop their leadership skills to work as effective examiners. Therefore, the following programs have designed for them.

a. One week training program in the eight year after entrance into the office as examiners;
b. Three-day training program in the 15th year after entrance into the office as examiners.

4.6.2.3 Training for becoming appeal examiners

The training for becoming appeal examiners is training to master legal knowledge and practical ability needed as examiners. The trainees will be the officers who have engaged in examination work for five years. The duration of training will be 2 weeks. Once they have completed this 2 weeks training program, they will obtain the qualifications to become appeal examiners.

4.6.2.4 Training programs for administrative staff

The IPTI conducts several training programs targeting the administrative staff attached to JPO. These programs can be categorized as follows;

a. Four day training program for managers
b. One week training program for assistant section chiefs in the 18th year;
c. One week training program as preceding for assistant section chiefs in the 13th year;
d. Two weeks training program for administrative officials in the 8th year;
e. One and half week training program for administrative staff in the 4th year;
f. Two weeks training program for administrative officials in the 1st year.

These training programs have been designed mainly to teach public service ethics and the basic knowledge needed by a member of the JPO's staff and to provide the practical knowledge and level of education needed by staff of middle rank in order that they may acquire a comprehensive understanding of the JPO's clerical works.

4.6.2.5 Training for specialists

This training is required to acquire the ability in legal knowledge and practical work needed for secretaries of appeal examination, and is executed for administrative staff. The duration of the training is two months. Those who have successfully completed this program will be granted the qualification as secretaries of appeal examination prescribed in the law.

The training for specialist for formality examination is the training in which administrative officials shall take part when they engage in formality examination, registration officials, and specialist for registration or specialist for appeal.

4.6.2.6 Language training

Since English is accepted as one of the key business language through out the world, the importance of learning English has been accepted by many non English-speaking nations like Japanese. The officers who attached to JPO deals not only with Japanese people but also with the international community. Therefore the need is very high to improve the English command of these officers. The English training provided by IPTI is divided into eleven courses ranging from elementary courses to advanced course for international conferences. Language training is open for all the officials including both technical and administrative.

In addition to English language, other foreign languages such as French, Chinese and Korean are also provided for trainees who posses intermediate level of language ability.

4.6.2.7 Expert training and training by dispatching

Expert training is provided for the purpose of mastering expert knowledge required for practical businesses. Under expert training, the legal training is provided to acquire the latest knowledge, technical skills, business related practical work and latest development related to patent administration. In addition, in-house course of lectures is provided for examiners and appeal examiners to acquire the latest or basic techniques step-by-step. The training on handling of PC is also provided by the institute.

Another interesting training method used by IPTI is the " Training by Dispatching". In this case, the officials are dispatched to colleges, private companies, specialized agencies etc, for variable time periods range from one day to one year. Further, opportunities are provided to examiners to improve their knowledge and skills through participating in overseas programs. With the objective of improving legal knowledge

and updating the latest techniques in IP field, JPO's officials are dispatched to colleges and other ministries.

4.7 Information dissemination and awareness creation activities of the JPO

The JPO plays a vital role in dissemination of information on IPR and attempts to raise the awareness among the general public on this important subject of intellectual property. The International Affaires Division is directly involved in these activities and they organize various seminars, workshops and other activities to promulgate the knowledge on intellectual property.

In the recent past the JPO has conducted the following international symposiums.

- Symposium Commemorating the Centennial of Japan's Accession to the Paris Convention, November 16, 1999
- Technology Transfer Symposium, January 17, 2000
- International Trademark Symposium, May 23, 2000
- International Patent Appeal Examination Symposium, March 7-8, 2002

The other activities involving dissemination and raise awareness are the " Introduction of Intellectual Property Study" in elementary and secondary education, higher and professional education. In addition, seminars are conducting for the academic researchers and venture business managers in various parts of Japan. The main aim of these activities is to raise interest in discovery and invention, and to foster creativity as well as appreciation of creative activities. Further, it encourages pupils to value the personality and originality of individuals and learn the importance of creativity.

The JPO has developed industrial property standard textbooks targeting students who will work as R & D staff in the laboratories of companies or universities. These textbooks will also help to high school students and university students who learn science and technology to acquire fundamentals of IPR and practical skills relating to preparation and filing of patent applications.

The JPO also wanted to get teachers involve in preparation of guidebooks. For this purpose, JPO has conducted explanatory meetings nationwide, and held model classes. This process has helped to understand the actual ground situation of real classes.

In addition, the JPO has produced supplementary reading materials to the elementary school pupils in the form of a game. The goal of this supplementary reader not only shows pupils the fun of discovery and the importance of observing matters from their own perspectives, but also fosters awareness of valuing the discoveries of others.

5 CHAPTER FIVE

5.1 Introduction

In Japan, other than JPO, there are many other organizations conduct training programs on IPR. This chapter provides an overview of those training programs conducted by different organizations belongs to the public sector, the private sector and the non-governmental sector in Japan. The Japan Institute of Invention and Innovation (JIII), which mainly responsible for enhance creativity, encourage inventiveness and enlighten the practical use of inventions also conducts training programs on IPR. The Asia Pacific Industrial Property Center (APIC) which operates under the direction of Japan Institute of Invention and Innovation (JIII) mainly provides the IP training for foreign participants. The Japan Intellectual Property Association (JIPA), which has around 700 member companies with them, provides training for the benefit of their employees. The Japan Patent Attorney Association (JPAA) also plays a vital role in IP training field by fulfilling the training requirements of Patent Attorneys. Further, it is expected to provide an overview of training activities of The Association for Overseas Technical Scholarship (AOTS), Japan International Corporation Agency (JICA). When one discuss about IP training, it is important to assess the role of the Universities in IP education. Therefore it is expected to highlight the key aspects IP education in Japanese Universities. The chapter will also discuss the methods of identifying training needs of the staff in the field of IP, designing of training programs, training delivery systems and available resources, training management and evaluation of training programs conducted by those organizations.

5.2 Japan Institute of Invention and Innovation (JIII)

The JIII was originally established under the name of " Association for the protection of Industrial Property" on May 5th 1904, both by Mr: Keigo Kiyoura, the then Minister of Agriculture and Commerce, and by Mr: Kinya Kume, the then Director General of the Patent Office, for the purpose of developing and safeguarding industrial property."[18] Today JIII is a public corporate legal body under the Japanese Civil Code # 34. In January 1998, the membership was 12000, including 6500 lawyers and 5500 individuals. The headquarters of JIII is located in Tokyo and branch offices in forty-seven prefectures in Japan. His Imperial Highness of Prince Hitachi (brother of the Emperor) is the president of the JIII. Mr: Katsushige Mita, the CEO of Hitachi, Ltd is the present chairman of the JIII. The total number of staff is about 480.

The main purpose of establishment of the institute was to encourage the use of the patent system by Japanese people in association with the series of movements toward modernization and to encourage development of Japanese technology. Thereafter, the JIII has been encouraging inventions for nationals in cooperation with the government

[18] Japan Institute of Invention and Innovation, Chronology of JIII.2001 at page 6

and has been making efforts to spread information regarding the patent system. The objectives of the JIII is to encourage invention, enhance original ideas, promote the practical use of them, and diffuse and develop the industrial property system, thus advancing science and technology and contributing the development of economy in Japan.

The main activities of the JIII includes the followings:

- The encouragement of inventions and devices;
- The enhancement of original ideas;
- The development of human resources skills;
- The guidance and assistance for the practical application of inventions, devices, and original ideas;
- The promotion and support of research development;
- The diffusion and development of the industrial property system;
- The fostering of strong human resources skills;
- The investigation and study of the industrial property system and reports on the dissemination of the results
- Guidance and services for promoting the utilization of the industrial property system;
- The promotion of international exchange through the encouragement of invention and device and the diffusion of the industrial property system;
- Conducting of training programs, exhibitions and publishing of books etc;
- The dissemination and distribution of Official Gazettes related to industrial property and other related information;
- The commendation of persons who have rendered distinguished services in the encouragement of invention and device.

The Intellectual Property Training Center (IPTC), which operates under IP research institute of the JIII, is mainly responsible for human resources development activities. The main aim of these training programs conducted by IPTC is to foster human resources with high degree special knowledge, uncommon intelligence and managerial ability in the industrial property system. The center conducts various training programs for the participants from private companies, law offices, research institutions and many others to achieve this aim.

The main training provides by JIII can be divided into four categories.

- General training
- Open Courses (basic)
- Open Courses
- Workshop as a part of Activity for Medium and Small Enterprises (SME)

The Asia Pacific Industrial Property Center (APIC) and the Association for Overseas Technical Scholarship (AOTS) will carry out the training of overseas participants.

The example of the structure of a general training program is shown below:

IPR training

[Purpose] Development of human resources who have broad expert knowledge on the whole field of IPR

[Contents] Course 1 - Laws and treaties
Course 2 - IP management and license agreement
Course 3 - Suits against JPO's decisions and suits against infringements

[Term of the training] Course 1 – 2 days a week . For about 2 months from mid May
Course 2 - - ditto- For about 2 months from mid August
Course 3 - - ditto- For about 2 months from mid October

[Fees] 168,000 ~ 235,000 yen per course

[Lectures] Professors, attorney-at-laws, patent attorneys, corporate personnel

[Main participants] People concerned to IP from private companies

[Number of participants] The small class system with the capacity of 40 participants

[Note] This training program attains the 27th year in the current fiscal year.

The clear identification of the training purpose at the beginning of the training designing is very important because it helps to formulate the training program in an effective manner and to deliver it having some specific objectives.

" Aimed at those who do not yet possess sufficient basic knowledge of the industrial property rights system and who have only limited experience in this field. Participants will gain a general understanding of the industrial property right system through lectures, and will learn about procedures for acquiring patent and trademark rights in Japan through visits to related institutions."[19]

[19] Program Outline for " Fundamental Course for IP Practitioner" (EIPF) conducted by JIII & AOTS from 10th October – 30th October 2001

Along with the abovementioned training purpose, they have developed a course schedule, which will facilitate the training delivery. The example of the training schedule for a training program is given in annex 5.

5.3 Asia-Pacific Industrial Property Center (APIC)

" Asia-Pacific Industrial Property Center" (APIC) was established in 1996 for developing countries in the Asia Pacific region with the aim of developing human resources in related intellectual property fields. The activities are commissioned by the Japan Patent Office (JPO) and sponsored by collaborate Companies of Japan Institute of Invention and Innovation (JIII) and related organizations, and receives cooperation from the Japan International Cooperation Agency (JICA) and the Association for Overseas Technical Scholarship (AOTS) etc."[20]

The APIC conducts training programs on intellectual property targeting the nations in the Asia-Pacific region. The center has well equipped training classes, Office Automation (OA) training room and a good library which contained around 4000 intellectual property related books and documentations relating to European and North American intellectual property systems. The center has a pool of experts as in various fields, including Japanese academics, legal circles, and private businesses both from overseas and Japan.

The training courses offered by the center on IP systems are directly linked to practical activities and based on the global perspectives. Most training classes conduct using problem-solving techniques and methods. The examples of curricula for the training programs conducted by the center are given below for the better understanding of the nature of the training programs.

- Present situation and future measures of industrial property related administration.
- Related conventions of industrial property systems.
- WTO-TRIPS Agreement and legal ramifications and changes in signatory countries.
- Comparison of international intellectual property rights system with various national systems.
- Corporate activities and industrial property strategies.
- Technology transfers and licensing.
- The role of patent attorneys.

The center with the cooperation of WIPO, AOTS and JICA was able to train more than 1200 participants from government and private sector from Asia and from many other nations.

[20] Asia-Pacific Industrial Training Center of JIII, Information Pamphlet page 2

Another main activity relating to dissemination of information regarding IPR is the publication of variety of texts on specialized fields in IPR. These texts include research materials presented in Chinese, Vietnamese, Thai and Indonesian for further understanding of each countries system. The facilities have provided to access English and Japanese texts through Internet.

As a training center, APIC has developed on some videotape to introduce the intellectual property system, from the basics to specialized fields. These videos present the details of specialized fields an easy-to-understand way and they can be used for self-training or as supplementary aids for related training courses.

Intellectual Property Handbook was prepared by the center and is particularly helpful for overseas trainees to understand the basic information regarding the intellectual property system in Japan as well as the daily life of Japan.

The center entertains research fellows from the region and provides facilities to undertake useful researches in IP related activities. In addition, the center arranges overseas seminars to promote personnel skills among IP professionals and those in related fields in each country. Based on the requirements of each country, the center dispatches IP experts to serve in those countries.

5.4 Japan Intellectual Property Association (JIPA)

The present Japan Intellectual Property Association (JIPA) was founded as " Choyokai" in 1938 with individual patent staff from ten electrical appliances companies in Japan. In 1994 the name changed to Japan Intellectual Property Association and today it functions as a non-profit, non-governmental and largest intellectual property rights users' organization in the world. As of 9th May 2001, the total membership has reached to eight hundreds and ninety-five. The main activities of JIPA can be classified as follows.

- Conducting of professional studies and researches and provides feedback to JIPA members.
- Provide IP education/ Training to employees of JIPA members.
- Publish monthly bulletin " CHIZA KANRI", and present research papers and dissertations.
- Send representatives and observers to various international conferences in order to serve internationally to improve systems for protection of IP.
- Communicate/ coordinate with various IP related institutions and organizations.

The General assembly and the Board of Directors' meeting consisting of the Chairperson and thirty or fewer Board members determine the activities of JIPA. The President is responsible for execution of the annual agenda pursuant to the decision of

the Board of Directors. JIPA has 19 committees each responsible for an allocated subject area. Member companies are divided into two geographical groups, each consisting of companies from Kanto and Kansai regions.

The main aim of the JIPA is to assist the appropriate use of intellectual property systems and make improvements in the member companies' businesses. It also promotes the progress of technology and help to develop industries.

JIPA conducts wide range of training programs targeting the staff of the member companies. These training courses are planned and implemented by the training committee. Four different types of courses are offered by the JIPA.

- Regular courses
- Combined courses
- Overseas courses
- Extraordinary courses

The regular courses are again divided into two categories namely basic courses and specialist courses. Under basic courses, JIPA offers introductory course, primary course and secondary course. Introductory course targets the newly appointed staff to intellectual property departments, engineers and scientist in R & D departments to acquire basic knowledge in intellectual property. The course is for six days per session and is held for 26 times a year. Primary course offered to those who have finished the introductory course to develop their practical skills. This is a compulsory course for newly appointed staff and other staff in the intellectual property department of the member companies. Secondary course provides the additional knowledge and skills to enhance the capability of officers in intellectual property departments who have certain amount of experiences in IP related activities. This course is for nine days per session and is held between two to thirteen times per year depending on the subject matter and demand by the members.

Specialized course is divided into two categories namely advanced course and research course. Advanced course is meant for the officers who have finished the secondary course or those with comparable proficiency to advance their abilities. This course is for nine days per session and is held between one to ten times per year depending on the subject matter and demand by the members. Research course mainly consists of hands-on and debate sessions. This course is targeted for those who have finished advanced course above or those with equivalent abilities. It aims at perfecting professional capability for those in the field of intellectual property as specialists. This course is for nine days per session and is held between one to seven times per year depending on the subject matter and demand by the members.

Combined courses are geared to provide outlines in patent management, computer software, copyright and other intellectual property issues. It also discuss the IP situation in Asia and the company strategies to be adopted there, in order to make intellectual property as a working tool for effective business operations. This course is for four days per session and is held between seven to thirteen times per year.

JIPA has two kinds of overseas courses. The first category is the “study tours of IP situations in some leading Western countries”. The objectives of these study tours are to familiarize the participants with the practices of patent offices, law and patent firms and organizations in the Western countries. The second category is the “ study tours of U.S. patent law/ regulations and judicial precedents”. In this type, the seminars are held for certain duration of time in one overseas location, where a number of local and foreign experts deliver lectures on the “ U.S patent law”. From 1999, JIPA has started an overseas study tour to familiarize IP specialists in member corporations with the rapidly changing IP environment in Asian countries.

JIPA also cater to the specific needs of the member companies by offering tailor made training programs. The subject matters in the regular courses are selected for these tailor made courses. The course is for two days and is held at least for times a year depend on the demand.

5.5 Japan Patent Attorney Association (JPAA)

The origin of the Japanese patent attorney system dates back to 1899, which was the same year that Japan joined the Paris Convention. Although the system underwent several changes to keep pace with international trends or changes in the needs of the business world, the Japanese attorney system has continued to contribute to the protection of industrial property rights. In particular, it may be remarkably noted that patent attorneys have played a vital role in the intermediary care of industrial property matters involving legal and technical problems between the applicants for patents, utility models, designs, and trademarks and the Patent office.

“ Benrishi” and “Bengoshi” are the two Japanese words used to identify Patent Attorney and Attorney at law respectively. A patent attorney in Japan is not like a patent attorney nor patent agent in the U.S. Japanese patent attorney can represent a client before the Patent Office in any industrial property cases. He/she can represent an even before the Tokyo High Court or the Supreme Court for case appealed against the Appeal/ Trial Board decision in the JPO. In addition, patent attorney can give a client an infringement/ validity opinion on patent, utility model, design, and trademark cases. This includes the advice of designing around or avoiding an infringement or comprehensive advice on industrial properties. Patent attorney can participate in an infringement lawsuit as an adviser or a counselor to a general attorney representing plaintiff/ defendant before a court. He/ she also can be an arbitrator/ moderator before the Industrial Property Arbitration Center. Either patent attorney or attorney at law can only handle the PCT international patent applications and Madrid Protocol international registration applications.

The patent attorney system was originally intended to help smooth prosecution at the JPO. However, mere acquisition or possession of IP right is no longer the main concern of acquiring those rights. Rather, the importance has shifted to effective utilization of the acquired IP rights. Reflecting the transition of such concerns, the new Patent

Attorney Law amends or adds some provisions to authorize patent attorneys to play a more effective role in several aspects of protection and utilization of IP rights.

With the overall revision of the Patent Attorney Law in 2000, some new businesses such as representation for seizure procedure before Customs House relating to industrial property rights, Arbitration matters, layout of circuits or unfair competition matters and licensing agreement or mediation relating to industrial property matters.

The main professional role of patent attorneys in Japan is to take proceedings for the acquisition of industrial property rights at the Japan Patent Office. Patent attorneys closely cooperate with their clients in preparing applications, especially the specification, claim and drawings, in filing the applications and in prosecuting the applications, especially in preparing arguments in response to office Actions.

The Japan Patent Attorneys Association (JPAA) was founded under the Ministry of Economy, Trade and Industry in 1922. It was established officially by the Ordinance of Professional Patent Attorney's Registration. Since then, JPAA has been proposing its opinions to the JPO regarding the improvements in the industrial property rights system and its operation and management. JPAA is also actively involved in promoting various activities, such as holding training classes on IP related laws and international treaties for the benefits of their members.

The JPAA is the only organization of patent attorneys in Japan. Any person who wishes to work as a patent attorney must be a member of the JPAA. Therefore, enrollment is mandatory by the Law.

Since its establishment, the JPAA has played a very important roll in promoting as well as developing the patent attorney system. One of the important roles is to guide and supervise patent attorneys on behalf of the Minister and thereby maintain the quality of patent attorneys as specialists in industrial property rights.

In Japan, industrial property rights are generated through registration thereof at the Patent office. The scope of the rights is measured according to the description in the documents as registered. Therefore, correct and efficient prosecution is very important. For this reason, representation at the Patent office is still one of the most important businesses of a patent attorney.

The patent attorneys have to represent client in an administrative action against a decision of appellate trial. There he should play the role of a litigator. He also has to represent at the customs in certain procedures to stop importation of products infringing third parties' IP rights.

As a response to the need of educating JPAA members, the training institute was established in 1979 as an attached organization. The Management Committee operates the institute with 65 members including a Director, Deputy Directors, and Division Heads. The JPAA's Board of Directors is organized with nine Directors; the President and eight Vice-Presidents. The Board of Directors executes all matters concerning

internal and external issues of the JPAA, except those matters to be decided by General Assembly.

The need for continues training is high because some young attorneys lack business experience although their knowledge of law is sufficient. On the other hand, even for well-experienced attorneys need to keep abreast of revisions of the laws and practices that occur almost every year in the rapidly developing IP field?

JPAA training institute is headed by the Director and assisted by an Assistant Director. The institute is divided into six operational divisions as follows:

- Training Planning Division
- Orientation Training Division
- Member Training Division
- Compulsory Training Division
- Aptitude Training Division
- Ethics Training Division

The main curriculums for the patent attorney training are: laws and rules concerning patent attorneys; how to write patent specification (Mechanical, Electrical and Chemical); amendment and remarks; application and registration procedures of patent; utility model; design and trademark; procedures for opposition, appeals and trial in the Patent Office; foreign patent and trademark applications; judicial procedures; and copyright law.

The training courses offered by the institute can be categorized into four main groups.

- **Compulsory Training Programs:**

  This training is conducted as Patent Attorney's Law was changed so that the patent attorneys can handle copyright, unfair competitions, license agreement and arbitration.

- **Training for Litigation of Infringement of Industrial Properties:**

  As patent attorney's law is going to be changed to enable a patent attorney to handle litigation of infringement of industrial properties, JPAA is now preparing a training program so that the patent attorneys can have an enough ability to handle litigation.

Training for Basic Laws of Infringement Litigation:

To receive the training program of the infringement litigation set forth above, basic knowledge about the Civil Law and the Civil

Procedure Act is required. Therefore, JPAA will arrange the basic law courses of these laws, which will be out by the assistance of private colleges and universities.

- **Study of Ethics as Patent Attorney**:

  From April 1, 2002 to March 31, 2003, the entire patent attorney has to study the ethics as patent attorney such as the matter of conflict between clients and the duty of confidentiality.

5.6 Association for Overseas Technical Scholarship (AOTS)

Association for Overseas Technical Scholarship (AOTS) was established with the support of the Japanese ministry of Economy, Trade and Industry (METI) in 1959. AOTS is a non-profit organization dedicated to promote technical cooperation for the industrialization and development of developing countries and enhance mutual understanding and friendly relationship between those countries and Japan. AOTS believes that developing talents of those with abilities in production and management is vital for the more rapid industrial advancement of developing countries.

AOTS has trained nearly 97000 persons in Japan from over 150 countries. In addition, it has organized various training programs outside Japan involving about 130000 participants from developing countries.

The main source of funds for AOTS activities is come from the Japanese government. In addition, some private companies are also contributed to fund certain training programs conducted by the center.

The training programs conducted by AOTS can be divided into four main categories.

1.Technical and managerial training services on a private basis in Japan

   1. General orientation courses on general subjects, e.g., Japanese language, industries, technology, culture and society,
   2. Specialized technical in-plant training by Japanese host companies, and
   3. Management training program on modern theory and practice of business management, production management, quality control, etc.

2.Overseas training programs outside Japan.
3.Training programs entrusted by the Japanese government.
4.Training programs in collaboration with international organizations.

All the trainees are expected to participate either in the AOTS General Orientation Course prior to proceeding to their Specialized Technical Training in their host companies, or in the Management Training Course. The main objective of this orientation course is to enable the participants to make it easy familiarized with the Japanese environment.

AOTS conducts the training programs on IPR in corporation with the Asia-Pacific Economic Cooperation (APEC). These courses are funded by the METI and implement by the AOTS. The participants for these programs are drawn from the developing countries of the APEC region. AOTS has organized five major types of IP training courses for China for the fiscal year 2002. The details are shown below.

1. **IP Rights training courses for management**
   (Participants should be middle to senior management who are working in the industrial property field in the private sector, and should be preferably between 27 and 55 years of age, with more than 5 years of professional experience)

2. **IP Rights training course for lawyers**
   (Participants should be patent attorneys, or professionals specializing in industrial property rights, and should be preferably between 22 and 50 years of age)

3. **Expert course for IP practitioners**
   (Participants should be working for the industrial property field in private companies, patent offices, law firms, or organizations related to industrial property, and should be preferably between 27 and 50 years of age)

4. **Advance course for IP practitioners**
   (Participants should be working for the industrial property field in private companies, patent offices, law firms, or organizations related to industrial property, and should be preferably between 25 and 50 years of age)

5. **Fundamental course for IP practitioners**
   (Participants should be working for the industrial property field in private companies, patent offices, law firms, or organizations related to industrial property, and should be preferably between 22 and 50 years of age)

The candidates are supposed to send “pre-training” reports, which will duplicate and distribute them to lecturers and other participants as reference materials for the presentations and group discussions to be held during the program. Generally the pre-training report should be prepared in accordance with the following guidelines.

1. Your name, country, name of company/ organization including telephone and facsimile numbers and e-mail,
2. Your duties in detail, preferably by also attaching an organization chart indicating your position,

3. Outline of your organization, preferably by attaching a brochure of the organization,
4. Present situation of activities for industrial property rights in your organization (i.e., patent or trademark)
5. Most critical problems related to industrial property rights you are now facing,
6. Possible measures to solve such problems together with limitation factors,
7. Your expectations of the program in relation to the described problems,
8. A written plan of how you intend to apply what you have learnt on this course when you return home.

It is expected that the participants of the "Advanced course for IP practitioners" should bring materials relating to the present situation for law adjustment to allow the implementation of the "WTO, TRIPS" agreement in their countries when they come to Japan. The participants of the " IP rights training course for management" should prepare materials to explain the encouragement of invention in their countries in addition to the above pre-training reports.

At the end of the each training program, AOTS conducts an evaluation. The participants are given a questionnaire form to be filled. The objective of this evaluation is to find out what extend the course benefits the participants and make room for improvement if it required. AOTS uses a comprehensive course evaluation method, which consist of three stages. At he first stage, evaluate the performance of the previous course held and get learning points and add to the current course. In the second stage, they monitor the performance of the trainees while the training course is in progress. Finally, they evaluate the usefulness of the training after they have returned their home countries.

5.7 Japan International Cooperation Agency (JICA)

Japan International Cooperation Agency (JICA) has established in 1974, with the main objective of supporting human-resource and socioeconomic development effects of developing countries. JICA is one of Japan's Official Development Assistance (ODA) implementing bodies, responsible for the technical cooperation aspects of Japan's ODA programs.

JICA has accepted that it is vital to develop a country's human resources in order to support its overall development. JICA encourages self-help efforts in the developing countries with which it cooperates, for instance by assigning counterparts, providing facilities, and bearing a portion of operational costs commensurate with the country's ability to pay.

JICA's activities fall into seven major categories as shown below.

1.Technical Cooperation

- Technical training of overseas participants

- Dispatch of experts
- Provision of equipment
- Project-type technical cooperation
- Development studies

2 Dispatch of Japan Overseas Cooperation Volunteers (JOCV)
3. Recruitment and training of expert for technical cooperation
4. Studies and implementation guidance for grant aid cooperation
5. Development cooperation
6. Support for Japanese emigrants and ethnic Japanese
7. Emergency disaster relief.

The programs for training personnel to take responsibility for sustainable development are considered to be the main aspect of technical cooperation.

In the field of intellectual property training JICA conducts three major programs.

- Intellectual Property Rights
- Intellectual Property for APEC Economies
- Copyright system development

Intellectual property rights course is intended for specialists who are in a leading post to prepare and promote policies and measures for technology transfers and for the protection of intellectual properties. The participants will be trained in highly specialized matters such as legal practices regarding technology transfer and legislation regarding intellectual properties in Japan. The course aims not only to help foster specialists in technology trade but also to develop and promote legal systems for the protection of intellectual properties. The main themes of this course are as follows:

- Outline of Japanese Law,
- Intellectual property right system in general,
- IPR in Japan: Industrial Property Rights, Copyright Act, Unfair Competition Prevention Act,
- Legal practices concerning technology transfer,

In addition, the participants are requested to report on the current issues regarding the trend of intellectual property rights in their countries. A compulsory intensive Japanese language course will be conducted prior to the technical training for one week.

The course on Intellectual property for APEC economies will provide the knowledge and skills for harmonious establishment and effective operation of industrial property in their countries. Since countries in APEC region have been getting advanced in development of Industrial Property System comparing to other developing countries in recent years, demand for higher level technical support for policy or legislation reform planning and reinforcement of examination system on IP have also been increased. This course has designed to cater the above demand. The following themes will be covered in the course.

- Comparative theory of Industrial Property System,
- International protection and present status of Industrial Property,
- Well-known trade marks and correspondence to the illegal commodities,
- Role of patent information and its application,
- Exercise of privilege,
- Economic value of Industrial Property,
- Infringement cases of Industrial Property.

The participants of the above course should be government officials with more than 3 years of experience in administration or examination in the field of IPR system.

The purpose of Copyright System Development course is to contribute to the development of copyright systems, including collective administration and educational activities of copyright, in the participating counties. The training is providing through practical work on various copyright related subjects, such as the purpose and significance of copyright system, international trends in copyright protection including relevant treaties, outline of copyright system in Japan, copyright management/ administration system, etc., By the end of the course the participants are expected to achieve the following objectives.

- Understand the purpose and significance of copyright systems,
- Understand the development of the copyrights systems,
- Understand the significance and activities of copyright management/ administration organization,
- Deepen knowledge of new copyright systems for the development of information technologies, and
- Understand the contents of current international copyright treaties and recent international movements.

The applicants should be at least 5 years experience as administrative officials who belong to organization related to copyright management/ administration or lecturers at universities.

Training classes are held in JICA's international training centers in Tokyo and Osaka. Both these training centers have accommodation facilities as well as other training facilities such as training rooms, AV and computer facilities.

5.8 Intellectual Property education in Japanese Universities.

Even though, Japan has a long history of intellectual property laws and practices, the graduate and post-graduate level education programs are rear in Japan. However, in many universities, IP is taught as an elective subject, but not as a core subject.

In the fall of 1994, the Faculty of Law of the Kyushu University instituted Japan's first LL.M. program taught entirely in English – the Master's Program in International Economic and Business Law. The main objective of this program is to provide international and Japanese students with the ability to confront the many challenges of international economic affairs. Taught in English from a Japanese perspective, the Program seeks to develop a critical understanding of Japanese economic and legal principles within the framework of international law.

All students will be expected to complete a 20-credit curriculum and submit a master's thesis. The range of available courses is designed to provide students with a well-rounded analysis of the relevant issues, while the same time introducing students to some of the leading members of the faculty.

The following courses have formed the core of the curriculum.

- Japanese Business Law
- International Law and Japan
- Intellectual Property Law in Japan and abroad
- Comparative Contract and Transnational Commercial Arbitration
- International Maritime Law
- International Economic and Institutional Law
- International Civil Litigation
- Introduction to Public Law in Japan
- Japan and International Economics

This program is open to applicants with a Bachelors degree (Law degree or equitant) from an accredited university.

The university of Tokyo, one of the most reputed universities in Japan also offers some special seminars on selected subjects on IP laws for the undergraduate students. In addition, Professor. Nobuhiro Nakamura of the Tokyo University has organized some seminars on IP for the benefits of the business community in Japan. These seminars were highly attended and they encouraged conducting more seminars on the IP related subjects. However, it takes some time to introduce a full-fledged course on IP in the Japanese universities.

6.CHAPTER SIX

6.1 Introduction

It is important to have a brief background on the present Intellectual Property system in Sri Lanka for the better understanding of the current situation on IP in Sri Lanka. This will facilitate to identify the training needs in this subject area and would help to suggest some useful training programs based on Japanese experiences. Therefore, in this chapter, it is expected to discuss the brief history of Intellectual Property Law in Sri Lanka, its evolution, the main features of the present law and administration framework for IP related activities. It also highlights the nature of problems/ issues faced by Sri Lankan authorities in dealing with IP related activities in accordance with the international stands.

6.2 History of IP laws in Sri Lanka

" Ceylon" was the popular name used by the British who ruled the country for almost 200 years, to identify this small island situated in the southern part of India. Ceylon got its independence from the British in 1948. In 1972, with the introduction of the new Constitution the name the country was changed as " Sri Lanka".

As a result of the long rule by the British, the English Laws have influenced most of the laws in the country. The laws governing patents, designs, trademarks and copyrights were introduced by Imperial Legislation and were subject to statutory modifications after independence. The chronological order of the laws that have been introduced in the intellectual property field is as follows:

- The Merchandise Marks Ordinance, No 13 of 1888.
- The Design Ordinance, No 7 of 1904.
- The Patent Ordinance, No 15 of 1906.
- The Copyright Act 1911 of the United Kingdom which continued to apply to Sri Lanka by virtue of the Ceylon Independence Act 1947.
- The Copyright Ordinance, No 20 of 1912.
- The Trade Marks Ordinance, No 15 of 1925.
- The Patents, Designs, Copyright & Trade Marks (Emergency) ordinance, No 32 of 1942.
- The Patents, Design & Trade Marks (Neuchatel Agreement) Act No 34 of 1949.
- Code of Intellectual Property Act No 52 of 1979.

The new government that came into power in 1977 has introduced a drastic change in economy by liberalizing the economy into an open market system where the laws of

supply and demand could govern the economic activities of the country. This open market system demanded the necessary changes in the legal system to be more effective in achieving desired results. Accordingly, the Code of Intellectual Property Act No. 52 of 1979 was passed by the Parliament. This Code was based on the World Intellectual Property Organization's (WIPO) model for developing countries. It is important to note that Sri Lanka was one of the first countries in this region to adopt this model.

Sri Lanka is a member of the following international bodies.

- WIPO Convention, since September 1978.
- Paris Convention (Industrial Property), since December 1952.
- Berne Convention (Literary and Artistic Works), since July 1959.
- PCT (Patents), since February 1982.
- Madrid Agreement (False or Deceptive Indications of Source on Goods), December 1952.
- Nairobi Treaty (Olympic Symbol), since February 1984.

Intellectual Property Act revised, consolidated, amended and embodied in the form of a Code the law relating to Copyright, Industrial Designs, Patents, Marks, Trade Names and Unfair Competition. It provided the provisions for better registration, control and administration thereof and for matters connected therewith. Regulations under the Code have been made and published in the Sri Lanka Government Gazette Extra Ordinary No. 60/20 of 31.10.1979. This Act has been in operation for more than two decades and except for minor amendments (Act No. 30 of 1980/ Act No. 2 of 1983/ Act No. 17 of 1990/ Act No. 13 of 1997) no major changes have been made. However, a new law in accordance with the WIPO/ TRIPS Agreement is due to present to the Parliament very soon.

6.3 Intellectual Property Act No 52 of 1979

The present Intellectual Property Code is divided into eight parts.

1. Administration,
2. Copyright,
3. Industrial Designs,
4. Patents,
5. Marks, Trade names and Unfair Competition,
6. Offences and penalties,
7. Miscellaneous.

Part 1 of the Code deals with the administration matters such as appointment of the Registrar and his duties, Deputy Registrar and Assistant Registrar and maintenance of registers.

Part 11 of the Code deals with the subject of Copyright Law and authors of Original literary, artistic and scientific works are entitled to protection, irrespective of the quality

and the purpose for which they were created. This is an exclusive right to del with original literary, dramatic, artistic and musical work. As well as protecting the fruits of creative effort, the legislation also protected those whom have invested in those efforts by providing protection for sound recording, films and published editions of literary work. It is important to note that Sri Lanka is a member of the Universal Copyright Convention (UCC) and the Berne Convention for the protection of works of Art and literature. Even though, there are no provisions to register a Copyright with any Authority in Sri Lanka, the above Conventions provide protections for the works first published in Sri Lanka irrespective of the nationality or residence of their authors. The right of the Author of a protected work shall subject for the life of the Author and 50 years thereafter. After the Author's death the said right shall be exercisable by his heirs, but limited to a period of 50 years.

Part 111 of the Code deals with Industrial Designs. Any composition of lines or colors or any three dimensional form, whether or not associated with lines or colors, that gives a special appearance to a product of industry or handicraft and is capable of serving as a pattern for a product of industry or handicraft shall be deemed to be an industrial design. The protection granted by this Code is in addition to and not in derogation of any other protection under any other written law, in particular the law relating to Copyright. Therefore, if an Industrial Design is such an artistic work that gives it protection under copyright then that Industrial Design is protect able under the Copyright law even though the same may not have been registered as a design under the Act. To claim protection for an Industrial Design the same must be registered. Novelty in relation to an Industrial Design is defined to men an Industrial Design which had not been made available to the public anywhere and any time whatsoever through description, use or in any other manner before the date of application for registration of such Industrial Design or before the priority date validly claimed. Certain exceptions to this rule are more fully setout in the Act including the right to obtain protection and matters relating to or more persons jointly creating the design, creation of design in the performance of a on contract of employment etc.

An application to register an Industrial Design should accompany with a specimen or article embodying the Industrial Design, copies of photographic or graphic representation of the Design in color where it is in color or drawings and tracings of the design are required to be filed with an indication of the kind of products for which the Industrial Design is to be used. The prescribed fee at present, which should accompany the application for registration is Rs: 200/ for each design.

The Director of intellectual Property, earlier known as the Registrar of Parent and Trademarks, examines the Design applications, only to ensure certain formal requirements. There is no extensive examination of an application for substance. A design application is not published for opposition before being granted registration. If all formalities are complied with, registration is mandatory. It is only published after registration and any person is entitled to apply to the District Court of Colombo to have the registration declared null and void on grounds specified in the Code. The registration of an industrial Deign will expire 5 years after the date of receipt of the application and may be renewed for two consecutive period of 5 years each, paying Rs:

650/- for the first renewal and Rs: 1300/- for the second renewal. However, the maximum life of an Industrial Design is 15 years from date of application.

Part 1V of the Code deals with Patents. A patent will be granted in respect of an invention, if it is new, involves an inventive step and is industrially applicable. Under the Code an invention has been defined as " An idea of an inventor which permits in practice the solution to a specific problem in the field of technology". An invention may be related to a product or a process. For an invention to be patentable it should be new i.e. it should not have been anticipated by prior art. A patent is a monopoly to a person to make, sell and use an invention for a limited period.

Certain documents are required to accompany the application form (P1). These documents are: Description of the Invention (Specification); Claim or claims; a drawing or drawings, where required; an abstract of the invention; Power of Attorney/ Authorization if necessary and where the applicant is the inventor the application may be accompanied by a declaration signed by the inventor giving his name and address and requesting that he be named as such in the patent, and where the applicant is not the inventor, the request should be accompanied by a statement justifying the applicant's right to the patent.

The grant of a Patent shall not be refused and a Patent shall not be invalidated on the ground that any law or regulation except where the performance of the act would be contrary to public order prohibits the performance of any act in respect of the claimed invention. Once the Director is satisfied of conditions for grant set out in Section 75 of the Code, the registration will be granted. The fee required to be paid is Rs: 1800/- . Where the Director grants the Patent he should forth with issue to the applicant a Certificate of the Grant of the Patent and a copy of the search report. Thereafter, the Director will cause to be published in the Gazette a reference to the grant of the Patent and make available to the public on payment of the prescribed fee, copies of patent together with the copies of the search report.

A patent will expire 15 years after the dates of its grant, which relates back to the date of application. However, if a patentee intends to keep the patent in force he should be pay the prescribed annual fee twelve months before the date of expiration of the 2nd and each succeeding year during the term of the patent.

An application for invalidation or declaration for nullity of a patent can be made to the District Court of Colombo on grounds specified in Section 95 of the Code.

Part V of the Code deals with Trade Marks. The Code has defined Trade Mark as " any visible sign serving to distinguish the goods of one enterprise from those of other enterprises". A mark means both a Trade Mark and a Service Mark, and a Service Mark has been defined as " any visible sign serving to distinguish the service of one enterprise from those of other enterprises". A Trade Name means " the name or designation identifying the enterprise of a natural or legal person".

A Trade Mark or Service Mark obtains protection as spelt out under the Code if the same is registered. Registration of a Mark is granted to the person who has first fulfilled the conditions for a valid application or who is the first to claim priority for his application provided that the Mark is not inadmissible under Section 99 or 100 of the Code. A registered owner of a Mark has exclusive right in relation to that mark to use the mark, to assign or transmit the registration of the mark and to conclude license contract.

An application for registration should be submitted to the Director, Intellectual Property. When a party makes an application, the Director examine the application and if the application complies with Section 102 and 105 the Director will examine whether the mark contravenes any provisions of Section 99 or 100 of the Code. If the mark is admissible under Section 99 or 100 the applicant, once notified, within 2 months, should pay the prescribed fee for publication of the mark by the Director in the Government Gazette. Thereafter, any person interested can oppose the registration of the mark within a period of 3 months of the publication in the Gazette or the registrar may allow such extended time. If the Director from any person receives no notice of opposition, the Director will proceed to register the mark.

If the Director is of opinion that the mark is inadmissible under Section 99 or 100 he will notify the applicant. On receiving such notice the applicant may within one month make submissions in writing to the Director against the refusal. Thereafter, the Director will hear the applicant and may either accept the mark for registration or affirm his refusal to register.

Once the mark is registered, the Director will issue a Certificate of Registration to the applicant. Thereafter, the registered owner can enjoy the exclusive rights on the given mark. Once the mark is registered it cannot be removed from the Register except under the provisions of Section 130, 132 and 172 of the Code.

The registration of a mark shall expire 10 years after the date of registration. The registration dates back to the date of receipt by the Director of the application for registration. However, the registration of a mark may be renewed for consecutive period of 10 years each on payment of the prescribed fee.

When an application is made for the registration of a mark which is identical or resembles closely a registered mark of the applicant for the same class of goods the Director will require as a condition that such mark should be entered on the register as an associated mark. Associated marks are assignable and transmissible only as a whole and not separately.

As defined in the Code, “Collective Marks” means “ any visible sign designated as such and serving to distinguish the origin or any other common characteristics of goods or services of different enterprises which use the mark under the control of the registered owner”. However, unlike an individual trademark, it does not distinguish the services or goods of one enterprise from those of another.

The Code specifically provides provisions to protect Trade Names even prior to or without registration against any unlawful acts committed by a third party. Furthermore, any subsequent use of a Trade Name by a third party likely to mislead the public will be deemed unlawful.

Any act of competition contrary to honest practices in industrial or commercial matters is deemed to constitute an act of unfair competition including:

(a) All acts of such a nature as to create confusion by any means whatsoever with the establishment, the goods, services or the industrial or commercial activities of a competitor;
(b) A false allegation in the course of trade of such a nature as to discredit the establishment, the goods, services or the industrial or commercial activities of a competitor;
(c) Any indication of source or appellation of origin the use of which in the course of trade is liable to mislead the public as to the nature, manufacturing process, characteristics, suitability for their purpose or the quantity of goods;
(d) Making direct or indirect use of a false or deceptive indication of the source of goods or services of the identity of their producer, manufacturer or supplier; and
(e) Making direct or indirect use of a false or deceptive appellation of origin or imitating an appellation of origin even if the true origin of the product is indicated, or using the appellation in translated form or accompanied by terms such as “kind”, “type”, “mark”, “imitation” or the like.

These acts can be restrained by an injunction on application made by any person or association of producers, manufactures or traders aggrieved by any of the acts referred above.

Part V1 of the Code deals with the offences and penalties. The Code describes the nature of offences and possible legal remedies; one can seek for any infringement act against the abovementioned intellectual property rights.

Part V11 of the Code deals with miscellaneous items such as regulations, application to, and proceeding before, the Director and the Court and repeal and savings.

The western Provincial High Court has the jurisdiction with regard to all intellectual property matters. The President of Democratic Socialist Republic of Sri Lanka appoints High Court Judges. The enforcement of rights in intellectual property is found in the Code. It mainly provides for civil remedies, interim relief in the form of injunctions and criminal sanctions.

The National Intellectual Office (NIPO) was established under the provisions of the Code of Intellectual Property Act No 52 of 1979. The NIPO is functioning under the supervision of the Ministry of Commerce and Consumer Affairs.

The head of the office is the Director and there are one Deputy Director post and two Assistant Director posts, to assist the Director for smooth functioning of the office. The approved cadre is 46 at present. The annual budget for year 2002 is Rs: 5110000/- The NIPO is responsible for proper administration of intellectual property system in Sri Lanka.

The NIPO has four main divisions; namely, Patent & Industrial Designs, Marks, Finance, and Establishment. The office is being restructured and reorganized including the provisions of some automated facilities. The computerization of Patents, Industrial Designs and Trade Mark Divisions has satisfactorily got through the initial stage. Arrangements are being made to get connected to the WIPO net in the near future.

6.4 Present issues, Future challenges and the role of training

Sri Lanka is a country with nearly ninety percent literacy rate and a trained work force that is developing high-tech industries including computer software. The Board of investment (BOI), the main government organization responsible to attracting foreign investors to the island, emphasized the skillfulness of Sri Lankans on computer software as an encouragement to draw investments in that field. However, the lack of an effective intellectual property law was adversely affecting prospective investment in this field. Both the government and the private sector have identified the need for developing a new intellectual property law for Sri Lanka. In fact the proposed new law is due to tabled in the Parliament very soon.

Entering the era of technological hegemony, IPR emerged as one of the hottest issues in international trade conflicts. Advanced countries holding high value-added source technologies and state-of-the art technologies are using IPR as a trade weapon to erect trade barriers against the developing world.

One of the things developing countries like Sri Lanka always need is the transfer of technology. Sri Lanka needs modern inventions in the developed world for quick economic development. Until the modern inventions from the developed world get the same protections they will not come to Sri Lanka. It is not a secret that most of the companies in the developed world keep their latest inventions off the market in developing countries. Instead, they make available older, off-patent technology, for which intellectual property protection is no longer available. The message to developing countries is that to provide strong intellectual property protection for them to receive the most recent technology.

As a result of Globalization, Sri Lanka had to response to the changes that are taking place in all over the world. The rise of globe-spanning communications networks, along

with the rapid growth of electronic commerce demand new ways to protect intellectual property rights. The technologies that are presently raising issues for copyright law are those related to digital storage and transmission of works. The emergence of global digital networks permits the rapid, worldwide dissemination of works in digital form. Like broadcasting, digital networks allow dissemination to many individuals from a single point. Unlike broadcasting, through, digital networks allow each recipient on the network to engage in further dissemination of the work, which can cause the work to spread at a geometric rate of increase. This combined with the ease of reproducing works, means that a single digital copy of a work can be multiplied many thousands of times around the world within a few hours.

Development in Information Technology (IT) has been growing and today it is witnessing a steady growth of worldwide communication and this has affected Sri Lanka as well. Although IP Code in Sri Lanka is based on the WIPO model and incorporated internationally recognized legal principles, it lacks effective provisions to protect certain intellectual property rights in IT. Many new issues such as protection of rights of broadcasting organizations and protection of audiovisual performances, protection of rights of broadcasting organizations and protection of data are emerging.

Some of the most difficult challenges posed by new technology are those that enable new means of exploiting copyrighted works. New forms of exploitation have periodically unsettled preexisting business arrangements. This is common, for example, in case where it is unclear whether a preexisting license from an author or copyright owner grants rights to exploit a work in ways that did not exist when license was granted. The challenges that the policy makers have to face are to left the market place to solve the new technology related issues or can the law play an important role in this end.

The Asahi Shimbun, Japan's leading national newspaper reported the following news item on 14th May 2002. " A week before the film's release, an unauthorized copy of the next " Star Wars" sequel has already hit the Internet, offering a stark demonstration of Hollywood's growing problem with piracy in a digital age. "Start Wars Episode ii: Attack of the Clones" reached the Internet on Thursday, the latest example of how high-quality bootleg versions of blockbuster movies appear online long before they are available in video stores, or even before they appear in the theaters. Improved picture quality, combined with the proliferation of high-speed Internet links and easy-to-use piracy tools, means that illegally copied movies are rapidly reaching the mass market.

The other important issues have been raised with the rapid development of electronic-commerce for business activities. E-commerce means that all transactions relating to a business done by the electronic media utilizing Internet technology. This needs design technologies, communication technologies, money technologies and business modes. Each of these areas has its own challenges and when all these aspects come together it become more complex.

Biotechnology has shown rapid development during the past few years especially in the developed countries. The word "bio" means the use of biological process and

"technology" means to solve problems or make use of products. When the word "biotechnology" use it means the use of cellular and molecular processes to solve problems or make products. Since the biotechnology is not widely spread, the issues of reviewing of prior arts, disclosure of unpublished techniques, precaution of the patent disputes and prevention of R & D overlapping have to resolved for the improvement of this new field.

Advances in microbiology were resulting in new production techniques for pharmaceutical and other substances that depended upon the use of microorganisms. In the field of Agriculture, horticulture and animal husbandry scientists are adopting artificial procedures to increase production and to develop new clones. In the field of Agriculture by adapting artificial methods such as adding chemicals, herbicides and subjecting special physical conditions such as alterations in light, temperature and humidity. New high yielding varieties of plants have been evolved using similar techniques. New laws have to be enacted to accommodate their techniques within the patent system.

Piracy and counterfeiting is also creating many issues in IP field. However, some believes that piracy and counterfeiting of goods will increase worldwide for the following reasons.

- The globalization of brands and the desire of consumers to have and be seen to have goods bearing such brands,
- The reducing cost of international trade, and the reduction in restrictions in international trade,
- The increasing cost of development of more sophisticated software and other products,
- The reducing cost of replicating sophisticating products,
- The availability to sell via Internet means greater opportunity to purchase without prior inspection.

As Sri Lanka more open to international communication, trade and travel, the country become increasingly attractive as a destination for pirate and counterfeit goods. The increasingly global outlook makes more and more people will be willing to customers for counterfeit goods. As long as the consumers are willing or want to buy the counterfeits, the counterfeiters will never stop counterfeiting.

The time has come to update the Code of Intellectual Property Act in Sri Lanka to accommodate new challenges, new issues especially in the IT field. Most of the existing provisions of the Code are outdated and unable to accommodate new concepts. It is expected to incorporate the obligations imposed by the TRIPS Agreement. Sri Lanka has already complied with Article 10(1) of the TRIPS Agreement, by amending the Code to include computer programs as a protected work providing adequate protection to safeguard intellectual property rights in computer software.

A comprehensive bill has been drafted incorporating requirements of TRIPS Agreement and expected to be presented to parliament soon. Once the bill has been passed it will be able to provide the legal safeguards against the violations of those rights.

As many of us expecting, the law may only helps to solve the legal difficulties. In addition to the legal problems, there are many other issues in Sri Lanka in the field of IP. One of major issue that one has to face in Sri Lanka is to provide on-line registration facilities for the inventors. The JPO model would be a good example for Sri Lanka to adopt. It needs expertise and other resources. This paperless system will also help to provide update information about the registered IP rights.

It is important to have an advanced research institute for a country especially to conduct research on IPR matters on a continues basis. This will help to identify areas that need attention for improvement. It also will support the policy formulation process of the government. At present, there is no such institute in Sri Lanka to fulfill the research needs of the country.

Lack of sufficient expertise having deep understanding of legal matters, global business and advance technologies has slow down the progress of IP development activities in Sri Lanka. Furthermore, a relatively small number of lawyers have specialized in IP Laws. This situation is not satisfactory because the demand for the service of those lawyers has increased beyond their control. Hence, it is essential to develop IP expertise with many lawyers to involve in IP related litigation as well as dissemination of IP knowledge.

Unawareness among the general public and especially among the public officers on the importance of the IPR has created many difficult problems for the policy makers in many developing countries including Sri Lanka. If the public officers are fully aware of the IPR, they will prompt to introduce new laws by convincing political leaders to bring about required changes to the existing laws. It is a fact that some officers are fully aware of the IPR by participating various training programs and seminars. However, there is no proper system to obtain their contribution for IP promotion activities.

Lack of proper information dissemination system on IPR has mainly caused to create an unawareness situation among the public officers. Inherited from the British, the Sri Lanka has a fairly large public service to administer the country. The public service is responsible for proper implementation of policies of the government. They help to formulate new policies as well. Therefore, it is important to educate these officers on the importance of IPR.

A large number of challenges are facing relating to IPR training in Sri Lanka. Even though the Sri Lanka is a member country of WIPO at the early stage of its operation, the awareness creation activities have started in the recent time with the assistance of the WIPO. The Present Director being a dynamic person has planned many education and training programs on IPR. Most importantly, the IP Office conducts live discussions on various IP rights through mass media like TV, Radio and Newspapers.

The role of training in IPR has become much important with the globalization of business activities. Sri Lanka as country that follow an open economic system from 1978, is trying hard to attract foreign investors to the country. While accepting the importance of having a law, which meets the WIPO/TRIPS requirements, it further emphasized the necessity for making everybody aware of the importance of protecting the intellectual property rights of others. It is more important to develop the mind set of the Sri Lanka people to create new things while respecting others creations. For this, we need a systematic training and education programs on IPR.

When organizing educational programs on IPR, it needs to assess the present situation in Sri Lanka using "SWOT" analysis.[21]

SWOT Analysis

Strengths	**Weaknesses**
1.Existence of Intellectual Property law (52 of 1979) 2.Existence of National Intellectual Office 3.Quasi-Judicial power of the Director 4.Qualified and dedicated Director to manage IP Office 5.Availability of certain number of qualified staff 6 Availability of certain amount of funds 7.Use of IT for registration work	1.Lack of examiners in the IP Office 2. Lack of sufficient resources to IP Office 3. Lack of motivated staff 4. Poor remuneration for the staff 5. Use of IT is limited 6. Less priority for training
Opportunities	**Threats**
1. Increased importance of IPR 2. Assistances from WIPO and other agencies 3. Foreign training opportunities 4. Networking with other IP training institutes 5. Rapid development of IT 6.Already developed training materials 7.Qualified resource persons (limited) Lack of Support from authorities	1.Lack of importance on IPR 2. Lack of enough funds 3. Bureaucracy 4. Lack of training facilities 5. Limited number of resource persons

When analyzing the above points, it appears that Sri Lanka has many strengths and opportunities than weaknesses and threats. Therefore it is not difficult to develop IPR culture using an effective law supported by training and education programs.

[21] SWOT= Strengths, Weaknesses, Opportunities, and Threats.

When one looks at the holistic picture of a country on IP education and training, it should have a training plan to guide the training activities. The development of a training plan for IP needs the clear vision of the future direction of IPR in Sri Lanka. IP Office along cannot decide on these issues and it needs the active support of the Ministries and Departments that concerned on IPR and the private sector as well. It requires the recognition of the need for a comprehensive training plan for IPR in Sri Lanka.

The development of educational and training programs needs to a fair amount of resources to achieve expected results. One of the main barriers that Sri Lanka faced is non-availability of a training institute for the IP activities. As a strategy to overcome this problem IP office has developed cordial relationship with leading academic institutions in Sri Lanka. Currently, the IP Office conducts two major IP training programs, one with the University of Colombo and other with the Sri Lanka Law College. The IP subjects have been introduced to the curricular of the LLB degree program for the undergraduate level studies. A Diploma program on IP has been started in the Sri Lanka Law College targeting lawyers. In addition, two programs have been designed to educate public servants on the IPR jointly with the Sri Lanka Institute of Development Administration (SLIDA). These programs are due to conduct this year. Furthermore, IP Office conducts special tailor-made programs for the Custom Department, Police Department etc on specific subjects.

Currently the Director of NIPO personally designs and organizes IP training programs in Sri Lanka. However, it is difficult for the Director to devote much of his time for training activities since he has many other official duties to attend under the Code. It is unfortunate that the Deputy Director post is still vacant having Directors job more demanded.

Lack of effective resource persons to conduct training classes is another important barrier that Sri Lanka has to find solutions. Having the limited number of lawyers specialized on IP, the demand for their service is very high. On the other hand, the limited number of IP officers also undermined the training activities on procedural matters relating to IP applications since they cannot be away from job for a longer period.

On the top of all these issues, the unsettled political situation in the country as a result of long lasting ethnic conflict make a slow progress in IP related activities in Sri Lanka,

7.CHAPTER SEVEN

7.1 Introduction

In this final chapter, it is expected to highlights the lesions one can learn from Japan. The experiences of Japan in the field of IP education and training are very valuable since Japan has set examples for developing and delivering of effective training programs not only for Japanese but also for whole Asia-Pacific region. While assessing the current education and training programs on IP conduct in Sri Lanka, the researcher wishes to provide some inputs to enhance the effectiveness of those programs. It is also expected to suggest some training programs to cover different segments in the society including the public servants who need IP knowledge for better performances.

7.2 Lessons from Japan on IPR

Any successful IP system needs strong legal safeguards and effective implementation mechanism. Having recognized the important role of law, Japan has not only enacted required laws to promote and protect innovators rights but also has made necessary amendments in time to time to keep it with the international standards. On the other hand, Japan has established Japan Patent Office as the sole organization to administer the industrial property related activities in Japan.

It should be noted that training measures should be tirelessly updated and implemented to inculcate upon the people the timely information and developments on the intellectual property field to avoid any misunderstanding and confusion among the public. This demands the high level of commitment from the staff who involve in education and training activities. Japan has set an example of how the education and training can be designed and delivers in an effective manner.

Japan sees the 21st century as the " Century of Intelligence" and therefore aims to encourage innovation activities to achieve this end. They believe the best strategy to realize this aim is to develop experts in intellectual property field to support the smooth operation and development of IP system. Through these experts, Japanese want to diffuse, enlighten and educate others about the IP system not only in Japan but also in the region.

Japan believes that it is important for the intellectual property system to be widely recognized not only by experts in the field such as patent attorneys and officers attached to IP departments, but also by investors including other professional staff such as engineers, researchers, university dons and general public at large. This holistic approach has brought good dividends to Japan over the past few years. One of the evidence of the successfulness can be quote from the number of application receiving for registration. Now the amount of applications receives annually for registration has exceeded 400,000.

Japan Patent Office takes a lead in offering education and training programs on IPR in Japan. Along with the JPO, many other organizations such as JIII, APIC, AOTS, JICA, JPAA, JIPA and universities are involved in IP education, research and training activities. It is interesting to note that all of these organizations have well developed training programs both specialized and general subjects on IPR.

JPO has taken a keen interest on to establishing its own training institute for the benefit of its own staff. As described in the chapter 4 the training programs offered by IPTC is mainly targeted to the staff attached to the JPO. The notable character of those programs is the linkage between job responsibilities and required knowledge and skills to perform those job responsibilities. It is very important to make training compulsory not only to the officers who have just recruited but also to those who have completed certain amount of years in the service. This make a training oriented culture in the organization that set the minds of the staff for learning new things. Linkage between career development and training has become the prominent feature at JPO.

The other notable character of IP training in Japan is the mode of identification of training needs of the officers who need development. It shows the common method among most of the training institutions. The superiors of their subordinates mostly identify the training needs. At the beginning of each financial year, training committee of the respective organization decides the types and the number of the training classes to be conducted during that year. The training committee consists of all the heads of the organization; hence it is easy to assess the training needs of their own staff.

There are different viewpoints on the training delivery methods used by the resource persons. In Japan, from their childhood, the teacher using pedagogical teaching method where the emphasis is with the teacher than the students teach the students. When it comes to adults training, it seems that the use of adults training methods is not very much seen. The researcher had the opportunity to talk to a few participants and resource persons on this issue. Most of the participants are of the opinion that they do not like to have many lectures in the program. They rather like to participate in learning activities. Since they also have some background knowledge on the topic discuss at the class, they also like to interact with the resource person to make the learning a happy experience. This needs the prior preparation of a session plan to make sure the proper delivery system.

The researcher had the opportunity to meet a number of resource persons during his research period. However, most of them have not undergone any formal training on " Training of Trainers" (TOT) programs. WIPO has conducted a few TOT programs in the recent years for the benefits of teachers and trainers of developing countries. Some of the Japanese experts have experience in conducting sessions in these programs. Anyway the researcher has not found a TOT program on IP conduct in Japan for the benefit of resource persons who undertake sessions on IP. It is very important factor that need a serious attention to develop training abilities of the resource persons. Otherwise, whatever the important subject you teach, the participants may not receive it as expected. The researcher has the personal experience in participating in a two weeks training program on "IP Administration" conducted at the APIC. Most of the resource

persons are either University professors or practicing officers from the JPO. There is no doubt about their knowledge on the subject matter. But the methods they used to pass the information were not very attractive. Therefore, it was difficult to obtain the maximum benefits out of these sessions. It is important to obtain a service of a professional trainer for a short period to review the program design and delivery methods will be very useful for IP training activities.

Every program conducts on IP contained of a fair amount of background reading materials. This is very important aspect of the training. Even though, the participants miss some points during the lecture, the training materials will help to supplement it. However, it is necessary to update and modify the materials time to time otherwise the contents will be outdated.

Being an industrially developed country, most Japanese are very competent with handling computers for their jobs. Therefore, the use of computers in training is very common. This brings much new information to the training programs.

In Japan, there are many experts on the different specialized areas of IP. Over the period of time, having working on the subject, JPO staff has developed their knowledge and skills in administration of IP work. It is interesting to note the type of on-the-job training conducts by the JPO. The JPO has organized their work environment establishing "Departments" and "Divisions" having Director Generals and Directors heading those places. The Departmental organization structure forms with Director General, Directors, Deputy Directors, Assistant Directors and other supportive staff.

The JPO has the policy of internal staff transfers for every two years time. This policy applies to every officer except technical staff attached to examination Departments. There are advantages as well as disadvantages associated with this policy. Main disadvantage would be the staff would not get enough time to specialized in one subject area. On the other hand, there are many advantages of this policy. Firstly, the organization can develop its staff to handle many different subject matters. Secondly, it will be good solution for bored ness of the staff when they work on the same subject over the period of time. Thirdly, it minimizes the work related corruptions and mal-practices. Individual become so indispensable in the job may not develop with the regular transfer scheme.

This transfer system needs the support of proper training system to educate the officers on their new assignments. Therefore, continuous training has become an integral part of the human resources development activities of JPO.

The following table shows the participants and organizations implementing training and dissemination/education projects relating to IPR system in Japan.[22]

Participants / Organization	Government Officials	CEOs of large enterprises	Persons in charge of IP in companies	Researchers of research institutes e.g. college.	Patent Attorneys	SMEs and Individuals	Young people and Students	General Public
JPO		◎	◎	◎	◎	◎	◎	◎
JPO Training Institute	◎		◎	◎				
Provincial public organization (e.g. Regional Bureaus of International and industry								
JIPA			◎					
JIII			◎			◎		
JPAA (JPAA Training Institute					◎			
Other IP Organizations			◎					
Departments in charge of IP in companies and research institutes			◎	◎	◎			
Education institutes				◎			◎	

The above chart shows that JPO is handling many training programs for different market segments in the society such as CEOs of large enterprises, person in charge of IP in companies, research institutes, patent attorneys, young people and student and general public at large while JIPA concentrate only on IP staff attached to companies. Similarly all the institutions that are involved in training have their targeted segments for training activities.

The researcher had the opportunity to discuss with the Director APIC about the IP training system in Japan in general. The important point he highlights was the Roundtable conference between JPO Commissioner and the CEOs of the enterprises. At

[22] A note prepared by Mr Shingo Tsuji, Director General of Asia-Pacific Industrial Training Center (APIC) in 2002

the beginning there was no much of an interest from the enterprises to participate that type of discussions. But the situation has changed rapidly over the past few years and now much interest is shown by the CEOs to participate in this Conference. This brings a close link between the industry and the JPO that helps to resolve many practical issues in an amicable manner. This meeting also helps to identify the training needs of the officers of who deals with the industry.

All the training institutes that the researcher has visited have the required training facilities. The important lesson one can learn from Japan is the effective management of those resources. A small staff that has many duties to be performed manages these institutions. One of the interesting aspects of conducting training program is the role of the program coordinator. A member of the administrative staff basically does the coordination work relating to a program. He or she has to prepare the program curricula with the advice of the academic committee. After that most of the administrative works such as inviting participants and their logistic arrangements, inviting resource persons and their payments, duplicating of training materials, introducing resource persons to the class etc are all attended by the coordinator with the help of other staff in the institute. The teamwork is very much seen in Japan. Almost every Monday, the staff has a meeting to discuss about the programs in that week. The idea of having this type of meeting is to obtain everybody participation in the program and make everybody aware about every aspects of the program. The researcher believes this team culture has a lot of impact on the success of their programs.

In Japan, many activities have been carried out in order to create awareness among the general public. It is important to understand some of those programs as examples to develop similar programs in Sri Lanka. Japan considers it important to foster the creativity and IP awareness among young people and have involved in the following activities.

- Since 1941, holding of " The Exhibition of the Concourse of School-children's Inventions".
- Since 1979, holding of " The exhibition of the Children's Art of tomorrow's science".
- Establishment of Invention clubs for school children in each region. The objective of the Invention club is to foster young people so as to have not only a scientific mind but also a human mind through making them create devices originating from their own ideas.
- The interchanging activity of dispatching a delegation of young people abroad.
- Publication of standard IP textbooks and distribute of their copies among the children of the junior school. This standard textbook is certainly one of the best studies the Japanese Patent System. Readers will find that contents of this textbook are easy understand for beginners in the industrial property rights field, while also covering

an extensive scope of matters including specialized knowledge required by those engaged in practical industrial property affairs[23].

In addition, there are many information sources available for those who wish to educate on the IP subjects. Much useful information is in the Internet for easy references.

7.3 Proposed education and training programs on IP for Sri Lanka

The study of education and training system on IP in Japan, has given an opportunity to the researcher to suggest some training programs for effective dissemination of IP knowledge in Sri Lanka. The researcher would like to identify the following eight main categories as target market segments for IP education and training programs in Sri Lanka.

1. The staff attached to the IP Office,
2. The officers of the IP law implementing organizations such as Police, Customs etc,
3. The managerial carder of the public service,
4. Judges and Lawyers,
5. Law students,
6. Private sector entrepreneurs
7. School children,
8. General publics.

7.3.1 Training programs for staff attached to IP Office:

As mentioned earlier, the total staff strength of the IP office is 42. Further it has only 14 IP Officers who have direct dealing with the IP work. Even though the number is small, it requires training of these officers for better performance. Therefore, the following three training courses are suggested for them.

(1) Introductory course

This course should be targeted to the newly appointed IP officers, to learn the basic techniques on how to conduct search, formality examination, data entry, computerization and other related activities. This course should be offered at the beginning of their career in the IP Office. It is important to offer this course to the existing staff, as they have not followed a similar program earlier.

[23] Paper presented by Mr Masakazu Yokoyama, Director of International Cooperation of Asia- Pacific Industrial Property Center, Japan for APEC/PEP course on Management of Industrial Property Rights, Conducted in Chiang Mai, Thailand in Nov-Dec 2002.

(2) Advance course

This course should provide the knowledge on Treaties and Conventions concerning the IPR and legal aspects that govern the IP system in Sri Lanka. It can also provide some IT knowledge for the participants to enhance their knowledge and skills to handle information. This course should be offered to the officers who have completed at least 5 years at the IP Office.

(3) Special Seminars

Once the staff has completed the introductory and advance courses, from time to time they should be educated on the current developments in the IP field by offering the special seminars.

The administrative staff attached to NIPO consists of Accountant, Administrative Officer, Budget Assistant, Translators, Data Entry Operator, Clerks, Stenographers, Typist, Shroff and Ancillary Staff. They all need to be aware of the main objectives and functions of the NIPO to discharge their duties efficiently and effectively. Therefore, it is necessary to organize a short training program to create their awareness on IPR and to develop their administrative skills to support the management of IP activities.

7.3.2 Training programs for officers of Police and Customs:

Especially Custom Officers and Police Officers are directly involved in the implementation of the IP laws. Therefore, it is necessary to design a regular training programs for them to develop their knowledge and skills on IP related subjects. The contents of these training courses should include the important provisions of the IP Code in Sri Lanka, important aspects of international conventions and treaties and current developments and examples of good practices of IP implementing agencies in the other countries.

7.3.3 Training programs for senior public officers:

The managerial grade officers of the public service in any country will have very important role to be played for the development of the country. In Sri Lanka, there are nine All Island Services that administer the whole country. These services are namely, Sri Lanka Administrative Service, Sri Lanka Accountants Service, Sri Lanka Planning Service, Sri Lanka Medical Service, Sri Lanka Engineers Service, Sri Lanka Education Administration Service, Sri Lanka Animal Husbandry and Health Service, Sri Lanka Scientific Service and Sri Lanka Agricultural Service. The officers of those services need to understand the importance of IP rights for them to positively contribute towards the development of the country.

SLIDA conducts induction-training programs mainly for the new recruits of Sri Lanka Administrative Service and Sri Lanka Accounts Service. It is suggested to include a short module on IPR to make them aware of the importance of IPR for economic development and to provide definitions on various IPR for the enhancement of their knowledge. Further, SLIDA has already designed two training programs on IPR to provide comprehensive knowledge on these subjects. The details of the five-day training program on IPR are given in Annex 6.

Distance Learning Center (DLC) has been established in the SLIDA premises with the assistance of the World Bank to provide higher-level training in association with the world-class universities and training institutions through out the world. There are possibilities to obtain the service of the DLC for IP training in Sri Lanka.

7.3.4 Training programs for Judges and Lawyers:

The Judges and Lawyers play a vital role in IP litigation work. The improvement of their knowledge on IP subjects is important. They need a comprehensive knowledge on IP matters since their role responsibilities are different from rest of the others. Having recognizing this fact, the NIPO has already started a Diploma program at Sri Lanka Law College.

7.3.5 Post-graduate course on IP for law students:

As mentioned earlier, IP subjects are taught in the curricular in the LLB program at the Colombo University. It is important to introduce a post-graduate level course on IP for students to master the subjects. This needs a fair amount of resources including experts on the subjects. NIPO can initiate discussion with a suitable university on this matter.

7.3.6 Training programs for entrepreneurs:

It is vital to educate the entrepreneurs on IPR, since they are the real contributors to the economic development activities of the country. In Sri Lanka, the private sector considers to be the engine of growth in economic development. They should be educating with the different types of IPR, legal situation on IPR and the registration procedures at the NIPO etc.

7.3.7 IP education for school children:

The importance of inculcating IP culture in the mind of Sri Lankan society should be started from the school. Japan has shown good examples in this area. In Sri Lanka, an assay competition has organized among the school children to create an interest on the subject. It is important to convince the Education Ministry to introduce basic ideas on IP from the primary level of education. This needs the support of teachers in the school. The standard textbooks can be prepared and the teachers should be trained on the subjects.

7.3.8 Public awareness creation programs on IP:

The awareness of the general publics on IPR always brings positive results to the society, which they live. Having literacy rate comparable to a developed country, Sri Lanka still has not systematically launch a public awareness promotion program on IP. However, NIPO has started live discussions on various IP rights through the electronic media with the participation of reputed persons in the respective fields. This program has drawn a much interest from the general public. It need to increase the number of programs as well as to get involve in organizing exhibitions, public talks and preparation of documentary and films etc.

7.4 Suggestions for training supported institutional arrangements

National Intellectual Property Office of Sri Lanka (NIPO) should take a lead in identifying, designing and delivering of effective education and training programs in Sri Lanka. As highlighted earlier, it will be a great challenge for NIPO especially with its limited resources in the present context. The following suggestions are made for consideration for the improvement of IPR education and training in Sri Lanka.

7.4.1 Establishment of IP Training Committee.

It is suggested to establish a Training Committee under the chairmanship of the Director, NIPO. It should consist with the following members.

- A representative from the Ministry of Commerce and Consumer Affairs,
- A representative from the Ministry of Human Resource Development, Cultural Affairs and Education,
- A representative from the Chamber of Commerce,
- A representative from the Law Faculty of Colombo University,
- A representative from the Sri Lanka Law College, and
- A representative from Sri Lanka Institute of Development Administration.

The main responsibilities of this committee on the policy matters of IP education and training can be identified as follows.

- To evaluate the current situation of the IP education and training activities in Sri Lanka in the face of the future world trends,
- To decide on the nature of education and training programs to suit to the current demand,
- To decide on strategies for acquiring necessary resources for those programs,

- To develop links with international agencies which provide support for IP education and training activities, and
- To monitor and supervise progress of the IP education and training activities in Sri Lanka.

This committee should be meet on a regular basis and decide on the policy matters on the above-mentioned responsibility areas. The Director, NIPO should be responsible for smooth implementation on the decisions of the Training Committee.

7.4.2 Establishment of a Promotion and Training Division at NIPO

As highlighted in the Chapter six, the organization structure of the NIPO does not provide an adequate organizational arrangement for IP promotion and training activities. Therefore, it is important to establish a separate Division under the direct supervision of the Director, NIPO for IP promotion and training activities. It is necessary to obtain the service of a qualified trainer on IP activities at the beginning of the operation. This Division should be responsible for implementation of the decisions of the Training Committee. The number of the staff required for this Division should be decided only after the assessment of the current and future activities of the proposed Division.

7.4.3 Establishment of Intellectual Property Digital Library

It is wise to take preliminary steps to start a Digital Library similar to that of JPO to store information with regard to IP related matters. Country like Sri Lanka, it will take a long period to properly establish a Digital Library. However, it is evident that the organizations such as WIPO and JPO would extend their assistance in many forms to initiate these models in developing countries, if they provided sensible project proposals. Since the IP has a global value, the need to access to updated and accurate data without delay is vital for everyone who is interested on the subject.

7.4.4 Obtaining the service of IP experts

The expertise services of both IP academics as well as practitioners will provide the latest developments on IP related activities around the world. As a part of assistances, JPO, JIII, JIPA, JICA and some other Japanese organizations dispatch experts to many countries to provide expert services. Sri Lanka also can request for the services of experts from the above named organizations.

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Annex 1

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Japan

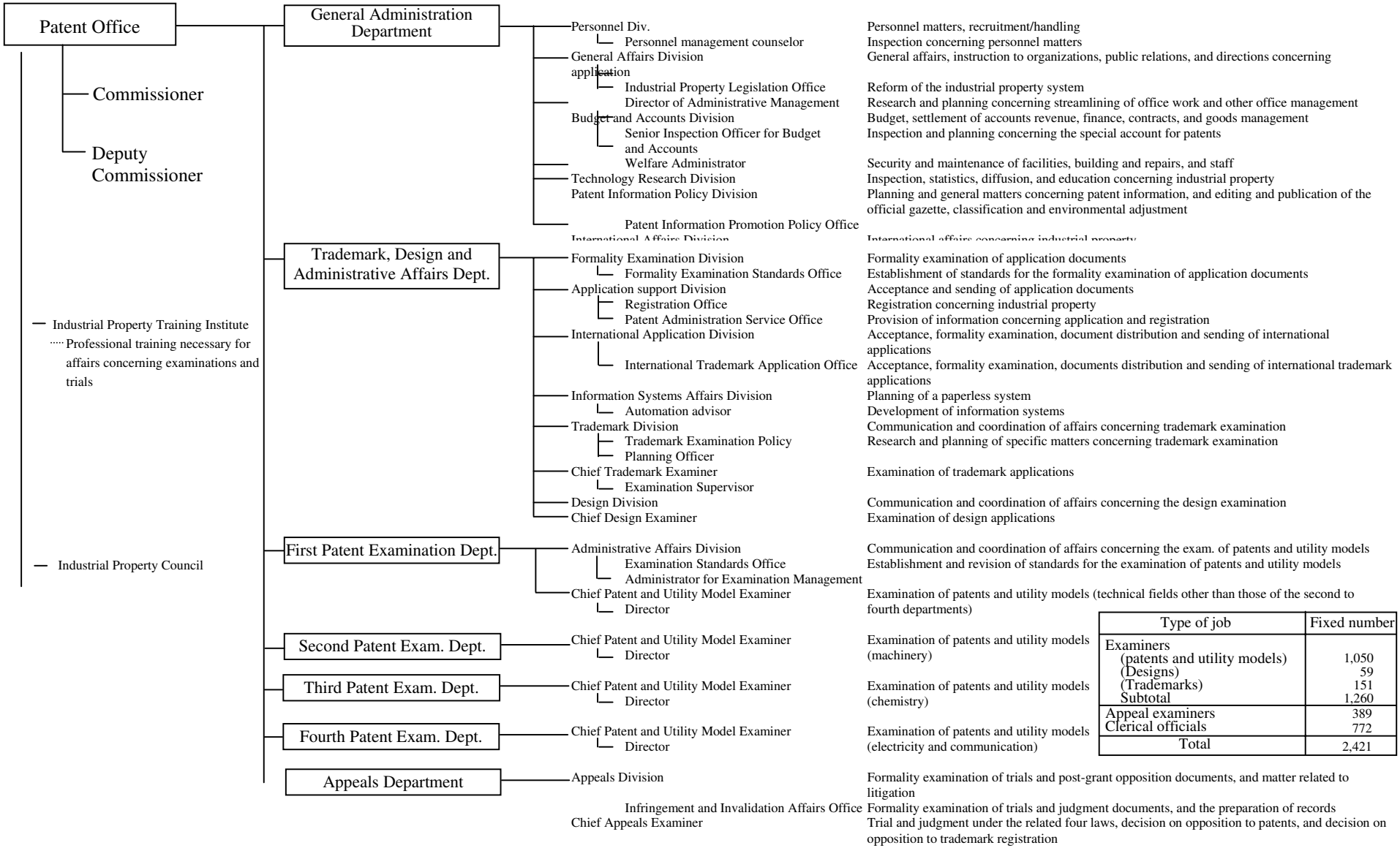
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2.Mr. Keiji Yamada	Director-General, Industrial Property Training Center (IPTI).
3. Mr. Keishin Terayama	Director General, 4th Patent Examination Department, JPO
4. Mr.Kensuke Isshiki	Deputy Director of the Training Institute, Japan Patent Attorneys Association (JPAA).
5.Mr. Masafumi Sato	Managing Director, The Association for Overseas Technical Scholarship (AOTS).
6. Ms. Makiko Yokosawa	Manager, Overseas Affairs Coordination Department, The Association for Overseas Technical Scholarship.
7. Ms. Umezaki Michiko	Director, Second Program Division, Japan International Cooperation Agency (JICA).
8.Ms. Kumiko Kasahara	Program Officer, Second Program Division, Japan International Cooperation Agency.
9. Mr. Rye Kojima	Research Associate, University of Tokyo.
10. Mr. Natsuo Suzuki	Training Instructor, IPTI

SRI LANKA

1. Dr.D.M. Karunaratne	Director, National Intellectual Property Office (NIPO).
2. Dr. Harsha Kabral	Lecturer in Intellectual Property Law. Sri Lanka Law College.
3. Mr. K.A.D.Gunaginghe	Senior Consultant, Sri Lanka Institute of Development Administration (SLIDA)

Organization of the JPO and the Fixed Number of Employees (As of July Fiscal 2001)

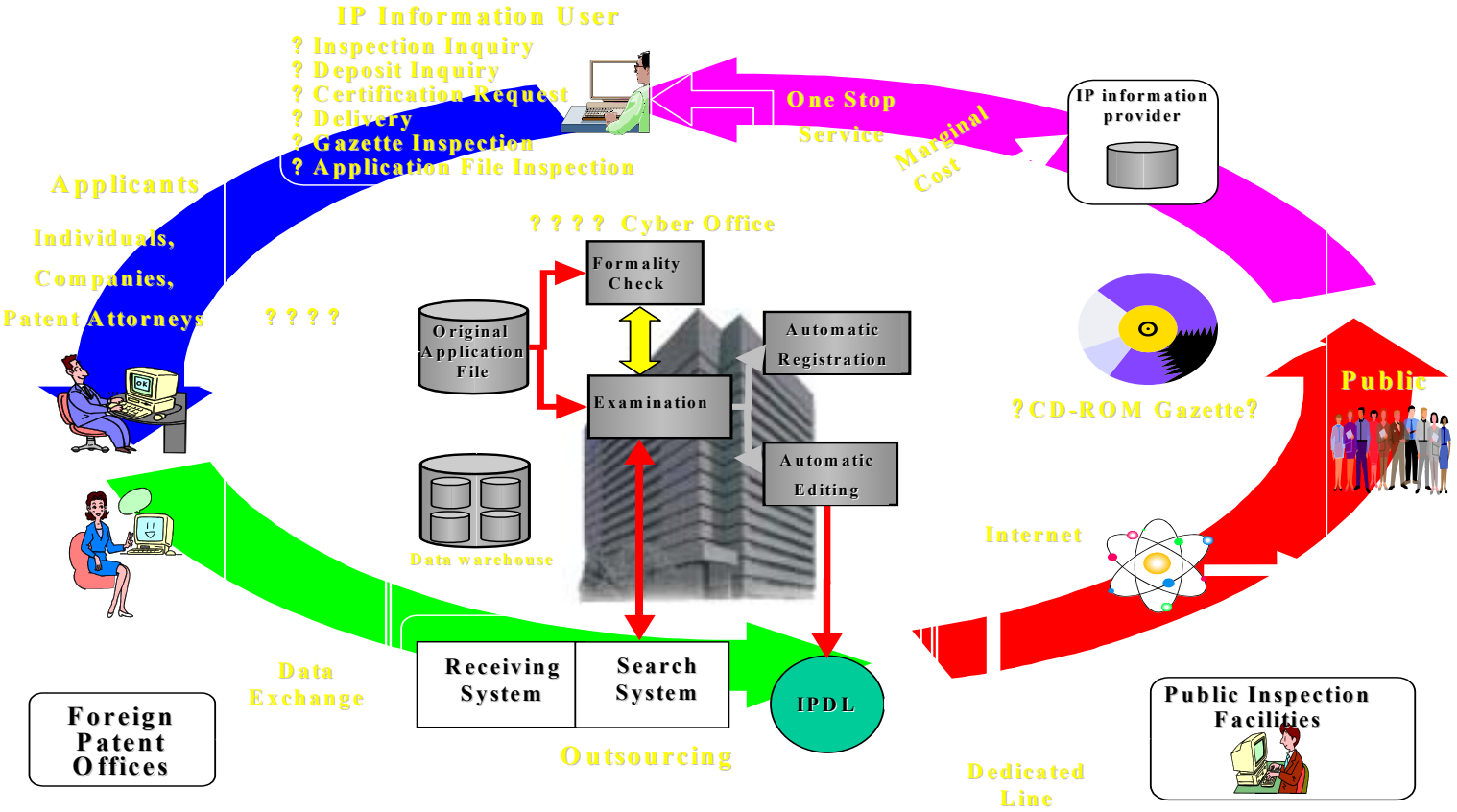
Annex 2



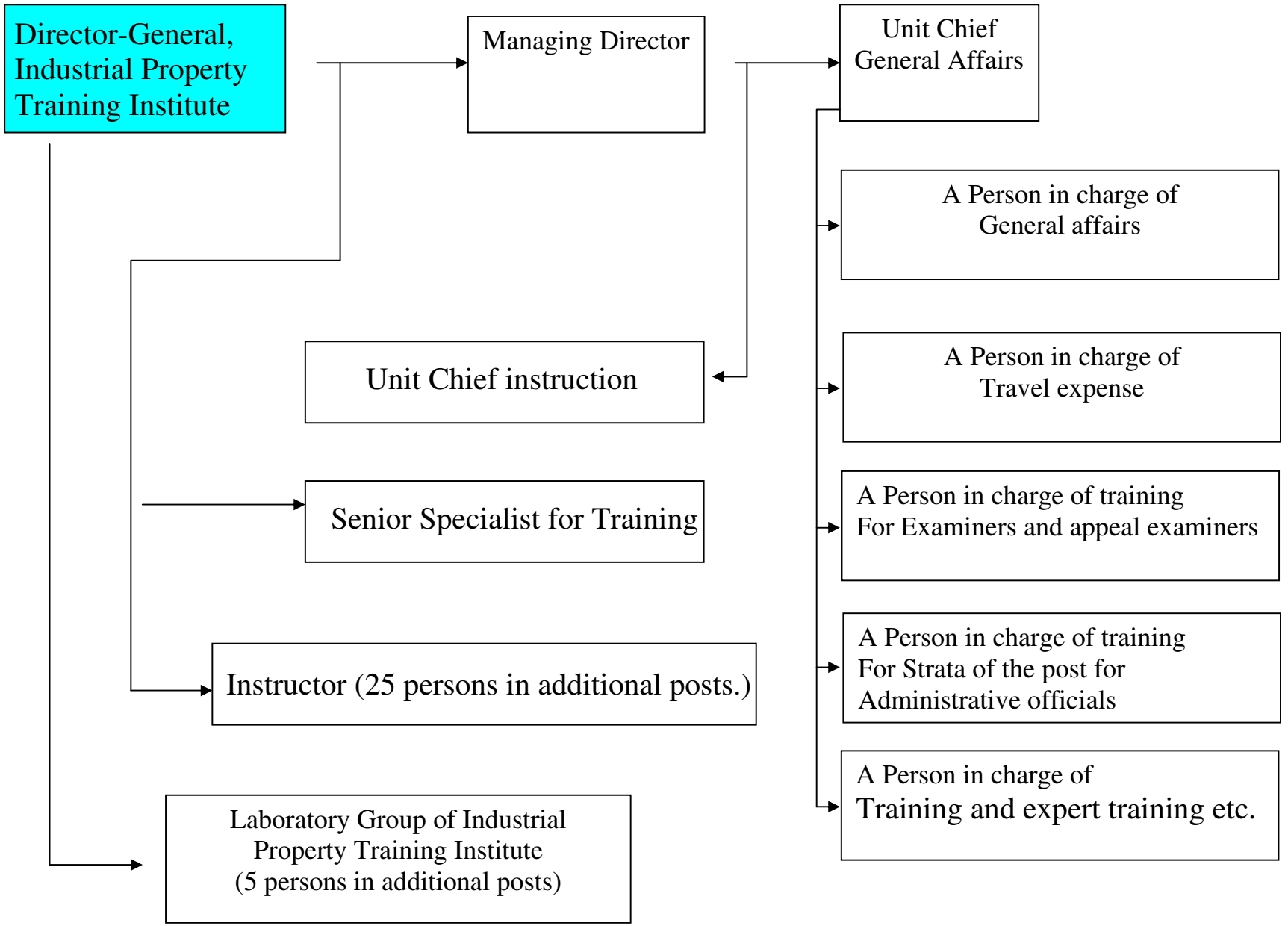
Type of job	Fixed number
Examiners	
(patents and utility models)	1,050
(Designs)	59
(Trademarks)	151
Subtotal	1,260
Appeal examiners	389
Clerical officials	772
Total	2,421

Current Paperless System

- Computerized Procedures from Entrance to Exit -



1. **Organization** # The current number of officials is ten. Annex 4



Annex 5

Industrial Property Rights Training Course for Management

Date	AM	PM
26 June (Wed)	Orientation /Program Overview 9.00-11.00) Opening Ceremony (11.00-12.00)	<Lecture>(13.30-16.30) Intellectual Property Management in Enterprises
27 (Thu)	<Presentation>(9.30-13.30-12.30,13.30-16.30) Presentation of Pre-training Report by Participants	Explanation Of AOTS Alumni Society (16.45-17.15) Guide to Study Tour (17.15-17.45)
28 (Fri)	(10.00-10.20) <Visit> APIC (10.30-12.30) <Lecture, Discussion The Present Status of The Japanese Industrial Property Administration & Its Future Direction	(13.30-16.30) <Visit> JPO Japan Patent Office
1 July (Mon)	< Study Tour, Visit to Private Enterprise>	
2 July (Tue)	<Study Tour>	
Date	AM	PM
3 July (Wed)	(10.00-10.30) Orientation of APIC <Lecture, Discussion>(10.30-13.00) Protection of Know – how &Trade Secret	<Case study>(14.00-17.00) Anti- Counterfeiting in Japan
4 July (Thu)	<Case study>(10.00-13.00) Protection of Industrial Design	<Case study>(14.00-17.00) Protection of well-know/Famous Trademarks
5 July (Thu)	<Case study>(10.00-13.00) Protection of Computer Software &Business Model Patent	<Lecture &Discussion>(14.00-17.00) The Role of Transfer Licensing Organization
8 July (Thu)	<Case study>(10.00-13.00) Patent Infringement Litigation Trademark Infringement Litigation	<Case study>(14.00-17.00) Technology Transfer, Licensing
9 July (Thu)	<Discussion>(10.00-13.00) Overall discussion	Course Evaluation Meeting (15.00-16.00) Certificate award Ceremony (16.00-17.00)

Annex 6

Sri Lanka Institute of Development Administration (SLIDA)

Intellectual Property Law and Administration

Objectives:

By the end of the course participants should be able to;

- Enhance the knowledge on various subjects of intellectual property;
- Improve the knowledge on the current law of intellectual property in Sri Lanka;
- Understand the basic norms relating to intellectual property administration;
- Developed skills in the management of Intellectual Property;
- Promote the use of intellectual property as a tool for development;
- International Conventions on Intellectual Property and recent developments in Intellectual Property.

Contents:

- The Intellectual Property Law of Sri Lanka including Patent, Trademarks, Industrial Designs, Unfair Competition, Trade Secrets, Geographical Indications and enforcement of intellectual property rights.
- Administration of intellectual property including practices of Intellectual Property Code.

Methodology:

Lectures, Discussions and practical sessions.

Designed for:

Senior Officials of Public Sector, Lawyers, Business Executives, Inventors, Designers, Industrialists, Artists, Patent and Trademark Agents.

Course Details:

Duration: 5 days Medium: English