



# Japan and China sign second intellectual property agreement

On 24 August 2009, the Japanese government reached an agreement with China's trade mark administrator to strengthen co-operation in protecting intellectual property rights (IPR). A similar agreement was reached two months earlier with China's Ministry of Commerce. This briefing summarises the new agreement and its potential implications for businesses operating in the region.

## Introduction

To improve protection of intellectual property rights (IPR) and strengthen co-operation, Japan's Ministry of Economy, Trade and Industry (METI) and China's State Administration for Industry and Commerce (SAIC) signed the second Memorandum of Understanding for Intellectual Property Protection Exchanges and Co-operation (MOU) on 24 August 2009. This follows a similar agreement two months earlier with China's Ministry of Commerce.

## Background

In June 2009, the METI signed the first MOU with China's Ministry of Commerce. The two parties planned to co-operate on the protection of IPR in an effort to strengthen economic stability in the region.

According to Chen Deming, the People's Republic of China's minister of commerce, the June agreement was aimed at creating a legal framework to enforce crackdowns on violations of IPR. Chen also commented that the countries will use the working group mechanism to solve problems in respect of IPR protection. The working group will focus on sharing information on laws and regulations with regards to IPR, as well as experience from Japan in enforcement.

## Purpose of the MOU

After signing the June agreement, the Japanese government decided that it needed to bolster

communications with China's trade mark administrator due to the high number of counterfeits of Japanese products manufactured in China and the related infringement of Japanese enterprises' trade marks in China. To address this concern, the METI and China's State Administration for Industry and Commerce (SAIC) executed the MOU in August to further protect IPR in each country. For that reason, the MOU is aimed at fostering bilateral communications and co-operation in fields including trade mark registration systems, policing counterfeit products and preventing unfair competition.

## Content of the MOU

Under the MOU, Japan and China will co-operate in activities such as trade mark registration, examination, oppositions, re-examination and management, crackdown on counterfeit operations, anti-unfair competition related to IPR, IPR protection (especially on the internet) and the enhancement of consumers' and trade mark users' IPR awareness.

Such activities will be carried out under a framework for bilateral co-operation, which the two countries will use to drive relevant efforts in their jurisdictions. The mechanism for communication between the two countries and the technical structure of a working group are also defined in the MOU.

The working group formed by the two countries will formulate an annual work plan in each field of co-operation. This will include working group meetings, consultation and joint research on cases involving trade

mark infringement and responding to inquiries about related matters. Furthermore, the working group will convene a conference on trade mark protection and clamping down on counterfeit goods.

Under the MOU, Japan and China expect the environment for IPR protection to be improved as a result of the co-operation between the authorities.

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