



Newsletter

21COE-WIN-CLS RCLIP

❖ RCLIP Asia Seminar (2005/9/29)

“Company Judicial Affairs in China - Important Discussion Points in Relation to Intellectual Property Right and Investment Environment”



On September 29, 2005, The RCLIP invited Mr. Chen Youxi, Director of Zhe Jiang Capital Equity Law Firm, China, Attorney at Law, who specialized in IP related cases and corporate legal affairs, from Zhejiang Province, China for a speaker of the seminar with a title of “Company Judicial Affairs in China - Important Discussion Points in Relation to Intellectual Property Right and Investment Environment”. Mr. Fu Zhicao, Assistant Professor of Ninbo University, Attorney at Law and Mr. Akihiro Tatara, Representative Director&CEO, Nextage, Co, Ltd., participated as the interpreter and commentator. About 70 concerned parties took part in the seminar.

1. Economic development in China and investment environment from the perspective of Japanese-affiliated firms:

The Chinese government is now trying to harmonize the government-led planning economy and the market-led free economy. Chang Jiang delta area, which includes Zhejiang Province, is the most developing area among the three major

economic developing areas in China. Many Japanese-affiliated firms have their business in this area. Japanese investment to China has been increasing every year, recording its highest for five consecutive years. The total trade amount has already exceeded the total trade between Japan and China. It is expected to be over \$200 billion in the fiscal year of 2005.

In the background, there exists a preferential treatment on tax policies to foreign-affiliated companies by the Chinese government, especially on the policy of purchasing corporate equipment. The Chinese government gives special treatments to foreign-affiliated companies on corporate tax and income tax as well as exemption of customs tariffs on imported corporate equipment, tax refund for purchasing Chinese equipment, and special treatment on depreciation of fixed assets. However, in many cases, Japanese-affiliated corporations suffer a loss, not knowing about the duty exemption on procuring equipment and materials in China in addition to that on imported equipment and materials. In reality, quite a lot of Japanese corporations have difficulty to make use of those special treatments effectively.

2. The practical legal issues necessary to be concerned when a corporation has a business in China:

Currently, China has 110,000 lawyers over the nation. The lawyers are qualified through a rigid license system and the license is valid nationwide like Japan. On the other hand, some international law firms exit in China. In many cases, they collaborate with Chinese lawyers because foreign lawyers are not allowed to handle the litigation in China. Although there are also 240,000 judges in China, there is still a qualitative problem. So, the



lawyers with excellent expertise have a great influence on specialized matters in many cases. According to Attorney Chen, this is the unique feature of Chinese current judicial system.

Now China is establishing new legislations very energetically. By considering foreign circumstances, it is preparing to set up the legislations before actual incidents occur in China. Investment environment in China for foreign capital has been making progress for the recent twenty years in terms of a legal aspect as well.

Chinese laws on Intellectual Property Right have four tiers: (1) Legislations by National People's Congress (for example, Trademark Law), (2) Administrative Regulations by State Council (for example, Implementing Regulations of the Trademark Law), (3) Ministerial Regulations by direct organizations of State Council such as Patent Office of the People's Republic of China or State Administration for Industry & Commerce (for example, Provisions on the Recognition and Protection of Well-known Trademarks), (4) International Conventions. Each has been rapidly changing and expanding.

Enforcement of IPR has an administrative route and a judicial route. An administrative route is faster and also less in cost because it is easier to collect evidence. However, the right owner cannot claim damages against the right infringer with this route. Accordingly, it is effective to use both an administrative route and a judicial route concurrently. Attorney Chen explained the actual enforcement by using these two routes, referring to the cases that he actually involved with.

Following the report, a QA session with the participants took place. Then the seminar ended on a high note.

“Searchina.ne.jp (Searchina Co. Ltd.)” that is well known for providing Chinese investment information also covered this seminar on their website.

Searchina.ne.jp: <http://searchina.ne.jp/>

The article about this seminar (located at this URL as of November 15, 2005):

http://news.searchina.ne.jp/disp.cgi?y=2005&d=0930&f=business_0930_009.shtml

(COE Research Associate Tetsuya Imamura)

❖ US Patent Law Suit Seminar (2005/10/4)

On October 4, 2005, the RCLIP and Finnegan, Henderson, Farabow, Garrett & Dunner, LLP co-sponsored the US Patent Legal Procedure Law Seminar at Toranomon Pastoral, Tokyo, inviting Hon. Liam O’Grady, U.S. District Court Magistrate Judge, Eastern District of Virginia, which is famous for speeding up a IP lawsuit, a so-called “rocket docket”

As the lecturers, the seminar invited Judge Liam O’Grady as well as several lawyers from Finnegan, Henderson, Farabow, Garrett & Dunner, LLP including Mr. Robert Burns, Mr. David Hill, Ms. Doris Hines, Mr. Michael Jakes, Mr. Michael Morin and Mt. Naoki Yoshida. The lecturers gave practical advice on strategies and techniques of litigation and those at the court by explaining how to manage the cases through a mock trial and lectures in the seminar. After the opening remark from Professor Ryu Takabayashi, Director of the RCLIP, there was a brief explanation about the current IP lawsuits. Then, Mr. Naoki Yoshida introduced the seminar agenda and the case detail used for the mock trial at the seminar. Judge Liam O’Grady outlined the judicial system and the IP lawsuits in the United States. After that, Mr. Michael Jakes explained about prior investigation for IP lawsuits, preliminary arrangements for the lawsuits, and the strategy for a lawsuit in the U.S. by referring to some concrete examples. Mr. David Hill presented about the issues related to IP lawsuits in the U.S., as well as a judgmental standard of doctrine of equivalents and its proceedings. Next,



Mr. Robert Burns, Ms. Doris Hines, Mr. Michael Morin and Mr. Michael Jakes talked about various issues such as evaluation of risks and compensation in IP lawsuits, the roles of the court and juries in the U.S. court system, merits and demerits of various courts and location including ITC, a strategic use of discovery and actual examples, a claim interpretation for the purpose of having a desirable result or a settlement, a strategic use of Markman Hearing, preparation for trials, selection of witnesses and juries, witness examination and legal procedures for an appeal.

In conclusion, a mock trial and a mock witness examination were conducted with advice and comments from the lecturers, to see whether the subject product infringed the claim or not. The participants also had comments on the questions and answers of the trial to make the seminar very fruitful and participatory.

This seminar was designed to help the people involved with IP strategies in the U.S. to acquire higher knowledge and techniques through the participation. 180 seminar materials were prepared for the seminar. The room could not accommodate all the people interested in signing up. Although the seminar was a one-day session from 9 a.m. in the morning to 5 p.m. in the afternoon, which seemed rather long as a seminar, so many participants came to take part in it.

With the consent of the participants, the five-hour content of this seminar will be freely available on the website of LexisNexis through streaming from next January, with the presentation materials and Japanese-English interpretation. In addition, responding LexisNexis's request to promote the free use of the material as much as possible, the RCLIP is considering delivering the video material of the Japan-U.S. IP mock trial held two years ago at the LexisNexis website.

(RA Lea Chang)

❖ RCLIP Asia Seminar (2005/10/12)

FY2005 JPO Project of Intellectual Property Research by the University

The 1st RCLIP Asia Seminar, "Dispute settlement of the courts related to Industrial Property in East Asia - Thailand"

On October 12, the RCLIP and Waseda University Institute of Comparative Law invited Hon. Justice Phattarasak Vannasaeng, Appeal Court of Thailand, Former Chief Judge of the Central Intellectual Property and International Trade Court ("IP&IT Court"), Hon. Justice Suvicha Nakvachara, Chief Judge, the IP & IT Court, Hon. Justice Sripibool Visit, the IP&IT Court, and Hon. Justice Rungsit Tankarnjananuruk, the IP&IT Court to hold the seminar of "Dispute settlement of the courts related to Industrial Property in East Asia"



Hon. Justice Suvicha presented a report titled as "Overview of IP Enforcement in Thailand". She explained about an outline of IP related laws in Thailand as well as some interesting issues related to IP enforcement in Thailand – U.S. Free Trade Agreement. For example, the Agreement has a provision to admit claiming for Pre-established Damages. In addition, she mentioned the jurisdiction of the IP&IT Court, the joint project with the RCLIP and so on.

Hon. Justice Phattarasak presented a report



titled as “Patent System and Enforcement in Thailand”. Concerning the enforcement, some including the media criticize that the government puts too harsh legal penalties for small resellers, who is often punished in many cases instead of their controller of the distribution channel. On the other hand, some right holders claim the punishment is too light under the current law. Also, with many reasons, most of the cases handled in the IP&IT Court are not civil cases, but criminal cases. Hon. Justice Phattarasak introduced an ongoing discussion to correct it. In addition, he referred to the introduction of Petty Patent, equivalent to the Utility Model Law of Japan, to the Thai Patent Law in 1999 in order for Thai people to acquire patent right easily. He pointed out that an easy granting of Petty Patent had become controversial in Thailand. He introduced a case where a person successfully slipped through the meshes of the law to obtain a Petty Patent for the other’s Petty Patent that had been registered in other countries but not applied in Thailand, pretending the first inventor.

Hon. Justice Rungsit gave a presentation titled as “Trademark Law Enforcement in Thailand” He explained a brief overview of the system of protecting trademark in Thailand. Using some precedents that were translated into English for the joint project with the RCLIP, he also explained trademark related issues in Thailand. He stated that the Thai government would maintain the direction toward constant reviewing of IP legislation in response to IP advancements and economic globalization.

Hon. Justice Sripibool Visit presented his report titled as “Protection of IPRs and Litigation over IP Cases in Thailand”. He outlined the system mainly focusing on Copyright Law, referring to the precedents that were collected for the IP precedents database. According to him, the government of Thailand is now reforming the laws including Copyright Law. As of October 2005, the Cabinet is examining the draft law such as Copyright Law. Concretely, the discussion

includes (a) abolishing Act 76 of the current Copyright Law, that is, the clause that one half of the fine paid in accordance with the judgment will not be paid to the copyright owner, (b) allowing the collecting society for copyrighted works, (c) changing the treatment of court settlement, that is, copyright infringement will be non compoundable offence, (d) protecting copyright against copyright infringement in the digital environment, and (e) protecting sound and scent marks.

As stated above, the reports in this seminar used the IP precedents database that had been established with the help of the IP&IT Court of Thailand. The purposes of the IP precedents database project are, by collecting concrete IP precedents, to understand the actual operation of Asian legal systems that has not been well known to each other, and to discuss together the revealed issues around the legal systems as well as the issues on IP Laws in terms of the interpretation theory and the policy theory. Through this kind of seminar, if the IP legislation in Asian region is developing steadily by rational discussions among the parties with the relations of trust instead of political pressure, it would be a great movement even though the movement develops little by little.

The seminar was also reported by the website of the Nikkei BP IP Awareness.

The home page of Nikkei BP IP Awareness :

<http://chizai.nikkeibp.co.jp/chizai/index.html>

The article about the seminar (as of November 15, 2005) :

http://chizai.nikkeibp.co.jp/chizai/biz_univ_tlo/waseda20051014.html

(COE Research Associate Tetsuya Imamura)



❖ RCLIP Workshop Series No.10 (2005/8/25)

“Protection of Customer Attraction”

Tatsuki Shibuya, Professor of Law, Waseda University



In this report, Professor Shibuya took up “Customer Attraction”, the power to attract customer, as an example of the subject matter that is not fully protected by law although it is included in the scope of statutory legal protection. After reviewing the proper protection of customer attraction by Trademark Law, Unfair Competition Prevention Law, and Tort Law, he specifically talked about the protection scope by Tort Law by citing some precedents. The way he approached was trying to analyze the subject matter that was generally considered as a so-called publicity right from a different perspective: customer attraction. The theme was just right for the first shot of the RCLIP’s new annual theme, “Expansion of Intellectual Property Right and Interface of Different IP protections”.

Misappropriation of customer attraction is essentially “unfair competition”. Professor Shibuya defined it as “distortion of competition to achieve results by controlling price and quality”. However Japanese Unfair Competition Prevention Law does not have general clauses. In case that an unlawful act does not fall under any

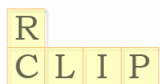
of the enumerated unfair competition acts, in other words, the act involves no medium that embodies customer attraction such as a person or an object or no likelihood of confusion, an unfilled protection is perceived for misappropriation of customer attraction. Thus, it is necessary to apply Tort Law as a complement.

As customer attraction relating to a person, he raised the customer attraction embodied in a person, the one embodied in the name or portrait of a person, and the one embodied in other medium. As customer attraction relating to an object, he raised the customer attraction embodied in an object itself, the one embodied in the picture of an object, and the one embodied in the name of an object. Then he examined related precedents for each case to propose a basic framework for establishing the nature of the right of publicity.

First, he examined two theories on the nature of the right of publicity. Although many agree that it is property right, it has a strong aspect of personal right. If it is considered as personal right, it will become possible that misappropriation of customer attraction affirms infringement of the right of publicity despite its degree of use. On the other hand, it seems limited to the protection of customer attraction relating to a person and will not cover the protection of the one relating to an object. (Derby Stallion Decision by Tokyo District Court, found at Tokyo District Court Decision on September 9th of 2002, or Hanrei Times 1114 187)

If it is considered as property right, misappropriation of customer attraction infringes the right of publicity. But the act that does not apply customer attraction will not infringe the right of publicity. If the customer attraction disappears, the right of publicity will also disappear. Then, it allows the protection of customer attraction relating to an object as well as a person. Professor Shibuya considers the latter as appropriate.

Next, the report examined which the right of



publicity should attribute to. First, the decision on Doi Bansui (Yokohama District Court Decision on June 4th of 1992, Hanrei Times 1434 116) depicted that the right of publicity relating to a person basically attributed to the person himself and an inheritor would not acquire the right of publicity after the person's death. (However, because the deceased person is considered as equivalent to the object, the question was raised whether to allow the inheritor acquiring the right after the person's death or not.) Also, as the King Crimson Case (Tokyo District Court Decision on January 1st of 1998, Hanrei Times 1644 141), it is possible to inherit the right of publicity like a portrait picture except the one that can be transferred or consigned. The right of publicity concerning an object is generally formed by the intent of the owner of the object and attributes to the owner. It is also possible to be transferred, inherited or consigned.

As the conditions of infringement, Professor Shibuya raised two conditions: (1) the medium like a picture has customer attraction and (2) the act deemed to be an infringement entirely depends on customer attraction. The decision on the Onyanko Club case (Tokyo District Court Decision on September 26th of 1991, Hanrei Times 1400 3) affirmed the protection because these conditions were met. The decision on Hidetoshi Nakata Case (Tokyo District Court Decision on February 29th, 2000, Hanrei Times 1715 76) rejected the protection because the second condition was not met.

If the infringement is affirmed, the right to claim damages equivalent to royalty fee of the right is allowed first. This is supported by the fact that licensing is granted to the medium embodying customer attraction. Also the Mark Lester case (Tokyo District Court Decision on June 29th of 1975, Hanrei Times 817 23) was raised as an example. Furthermore, if the use of the right injures the customer attraction, the right to claim direct damages is also permitted. If the name or portrait of the person him/herself

appears in the medium, the compensation for injuries is permitted.

Concerning the right to demand injunction, the customer attraction in the names or portraits that attributes to celebrities themselves is "unique" to the celebrities. Since the Onyanko Club Decision decided that the owner had exclusive dominant property right, the right to demand injunction is permitted for the right of publicity concerning a person. Conversely, the decision gave the ground that the right to demand injunction is not permitted for the right of publicity concerning an object.

Finally, he referred to the interface with copyright. The use of the picture of a person or an object limits copyright as far as it intends to use customer attraction and also, the use by the owner of the right of publicity is also limited. This kind of conflict would possibly occur.

Following the report stated above, a QA session took place with the participants, having an active discussion mainly focused on the second condition of an infringement.

(RC Taro Hirayama)

❖International Private Law Group

On September 3 and 4, 2005, the 4th Japan-Korea Intellectual Property Law and Private International Law Joint Seminar "Issues on International Intellectual Property Right, International Private Law and Tourism Law" was held by Waseda Institute for Corporation Law and Society and Korea Private International Law Association, sponsored by the Suntory Foundation and Kookmin University in Korea. This is the fourth joint research seminar of Japan-Korea Intellectual Property Law and Private International Law. Since the first seminar, our Private International Law Research Group has been examining issues on private international law on IP and continued research including development of substantive Laws of IP in Japan and Korea, movement toward



establishing international harmonized rules concerning Private International Law problems on IP, which has been discussed in WIPO, U.S or Europe, and Articles on Intellectual Property in Japan-Korea Economic Partnership Agreement. This seminar examined IP infringements on the Internet as well as jurisprudence and theories on this matter in Japan and Korea, and then deepened the understanding of the current legal situations in both countries and discussed the issues with a view to the establishment of future harmonized rules in East Asia. In addition, we examined the recent legislative movement of Private International Law, and then had a discussion about the Convention on Choice of Court Agreements by Hague Conference of Private International Law, which was adopted recently, and the draft law on the revision of Private International Law in Japan. Furthermore, concerning the International Family Law, we mainly examined the issues on applicable law and international civil procedure law on child abduction, international divorce, and international succession. The participants from Japan and Korea broadened the recognition of those issues with each other as well as had a discussion to seek future appropriate solutions. The following introduces the summary of the seminar briefly.

On the first day of the seminar, on the theme of “Various Issues on International Intellectual Property Right”, Mr. Kong-Woong Choe, President of Korea Private International Law Association chaired the report and discussion. Professor Gyooho-Lee, Kwangwoon University had a report on “International issues of infringement of copyright on the Internet” and Research Associate Mari Nakayama, Waseda Institute of Corporation Law and Society led a discussion about the issue, examining the issues on applicable law in view of each different type of copyright infringements. Mr. Kyun-Han, Sohn, Vice President of Korea Private International Law Association had a report on “International Jurisdiction of International Copyright Disputes –

Focusing on the Judgment on the Dreamworks case in Korea”. Then, based on the recent Korean court case on copyright infringements occurred in the U.S., Canada, Japan, and Korea for which a Korean brought suit against American and Korean companies, the discussion took place about decision on the international jurisdiction for that American company. Next, Mr. Takaya Ito, Researcher of Kyoto Comparative Law Center, presented a report about “Infringement of Trademark Right on the Internet –Territoriality and Cross-boundary nature of Digital Information Networks”. With the traditional discussions over the territoriality principle in mind, he proposed emphasizing the law of the country of the market by referring to the criterion of judgment in “Joint Recommendation Concerning Provisions on the Protection of Marks, and Other Industrial Property Rights in Signs, on the Internet” made by WIPO, which decides whether the right is used or not, depending on the absence or presence of commercial effect. In addition, Mr. Chi-Yong, Rim, Judge of Seoul Central District Court gave a presentation about “UDRP Agreement of International Jurisdiction – with a Focus on the hpweb.com Decision in Korea” with a detail analysis of recent Korean cases on this matter, followed by a active discussion among the participants.

In the morning of the second day, on the theme of “Recent Movements in Private International Law”, Mr. Kyun-Han, Sohn, Vice President of Korea Private International Law Association chaired the report and discussion. Professor Masato Dogauchi, Waseda University, reported on “Significance and Issues of Convention on Choice of Court Agreements by Hague Conference of Private International Law” and Professor Tae-Ak, Rho, Judge and Professor of Judicial Research & Training Institute in Korea led a discussion based on the report. Next, Mr. Huang Renting, Lecturer of Tezukayama University, gave a report based on the recent precedents on “Issues of Private International



Law on International Tourism”. Then, Professor Dogauchi explained about the background of this time’s revisions in Japan and the discussions over the issues as “Recent Movements in Private International Law in Japan”. He reported especially on contract, tort, and transfer of receivables. Professor Jun Hyok Jang, Kyung Hee University, debated about the meaning and purpose of each provision of the draft law to lead a discussion.

In the afternoon of the second day, Professor Son-Gwon, Im, Inha University chaired the debate on the theme of “Issues on International Family Law”. In the report of “Issues of Private International Law on Child Abduction”, Professor Satoshi Watanabe, Ritsumeikan University, analyzed in detail the past disputes about abduction of children by their other parent in Japan and examined international jurisdiction, claim to handover children from abroad, and application for the determination of custody in Japan as a motion of countersuit. Then, he made a legislative proposal on this matter. Next, about “Issues of Private International Law and International Civil Procedure Law on International Divorce”, Professor Wont-Tae, Kim of Chungbuk National University reported on applicable law of international divorce, international jurisdiction, and recognition and enforcement of foreign judgment, considering the difference between Japanese law and Korean law. Professor Shoichi Kidana of Waseda University reported on “Legal Issues on Japan-Korea International Succession”. After confirming the similarities and differences regarding International Succession Law between Japan and Korea, he explained, as a matter of the determination of applicable law of succession, about problems of determination of law of nationality and the possibility of remission (renvoi) to Japanese law for Korean and North Korean residents in Japan. Concerning application of applicable law, he insisted the special care is needed in the application of

Korean civil law in view of the transition of Korean Civil Code, and explained problems of the distribution share in case of division of an estate and handling of succession debt. The constructive debate followed the report.

In line with the discussion, our group will conduct further examination to publish the result of the seminar in the quarterly publication of Waseda Institute for Corporation Law and Society. Next Japan-Korea Intellectual Property Law and Private International Law Joint Seminar will be held on January 14 and 15 2006 at Waseda University. (RA Mari Nakayama)

The RCLIP’s

Asian IP Precedents Database Project

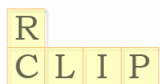
※ The database is available in English, free of use at: <http://www.21coe-win-cls.org/rclip/db/>

❖IP Database Project: China

After finishing accumulation of the past precedents as is originally planned, the RCLIP is planning to add 50 precedents to Chinese DB every year. For this project, an RA of the RCLIP visited China to discuss with Prof. Zhang Ping of Peking Univ., Prof. Wang Bing of Tsinghua Univ., Prof. Guo He of Renmin Univ., Associate Prof. Li Zhenghua of Zhongshan Univ., and Judge Zhang Xiaodu, the Third Civil Tribunal in Higher People’s Court of Shanghai. The discussion resulted in solving the issues of the previous year as well as renewing the contract that they agree to cooperate with the DB project for this fiscal year.

In addition, as a part of the Patent Office’s project, the RCLIP Asia Seminar, “Dispute settlement of the courts related to Industrial Property in East Asia - China” will be held on February 17, 2006 at Kousai Kaikan, Tokyo, co-sponsored by the RCLIP and Institute of Comparative Law, Waseda University, inviting Chinese professors. At the end of December, Prof. Takayashi, Director of the RCLIP will visit China, leading the members of China Working Group, to have a meeting about the seminar and the effective use of Chinese DB.

With the help of Judge Zhang Xiaodu, the report



was already completed on dispute settlement of the courts related to Industrial Property in China. It is now being translated. (RA Yu Fenglei)

❖IP Database Project: Thailand

Currently 210 Thai precedents have already been placed at the database. More 50 cases will be added within this fiscal year. In addition, as above noted, the RCLIP hold the Asian Seminar at Waseda University on October 12, inviting four Thai judges of the Intellectual Property and International Trade Court ("IP&IT Court") who are involved with the DB project.

(COE Research Associate Tetsuya Imamura)

❖IP Database Project: Indonesia

The RCLIP visited Indonesia's Supreme Court in Jakarta on October 17th. The purpose of the visit was to examine the precedents for the DB and to provide technical explanation of the DB. Also we had a chance to see the considerable progress of the DB project in Indonesia. Selection and summarization of the precedents has been already completed. Now what remains is translation by an American lawyer into English and final review by the judge of the Supreme Court.

After coming back to Japan, we received 14 translated data as a sample. As soon as the final review finishes, the data will be uploaded to the DB at the Website. (RA Yuka Aoyagi)

❖IP Database Project: Vietnam

In November 2005, Asuka Gomi, Tetsuya Imamura, and Lea Chang of the RCLIP visited Vietnam to ask Supreme People's Court of Vietnam, the SPC, to collaborate with the DB project. For collecting IP precedents, the SPC showed the intention to offer collaboration as possible as they could although it seems difficult to provide many precedents regularly due to lack of a nationwide accumulating system for precedents in Vietnam. However, when the system collecting precedents is established later, the collaboration might become systematic and

official in the future.

In addition, we could acquire basic information about legal condition and judicial system in Vietnam by meeting respectively with National Office of Intellectual Property (NOIP), JICA (Japan International Cooperation Agency) Legal Cooperation Project Office, Copyright Office of Vietnam, and Vietnam Office of JETRO.

- The judicial system of Vietnam consists of Supreme People's Court, provisional courts, and district courts. Handling IP cases is limited to the SPC and provisional courts. There are 64 provisional courts nationwide and all the documenting is done by hand. No national statistical system is available yet.
- Vietnamese precedents do not have the status of a source of law. In general, the precedents are not open to the public. However, as the policy of the ruling party, the status will be admitted. It is obvious to make them open in due course.
- For most of cases, administrative measures are taken rather than judicial measures.

(RA Akiko Ogawa)

❖IP Database Project: Korea

The DB project in Korea has had major progress since August when the RCLIP visited Korea. Concerning our request of selecting precedents to Mr. Choi Sung-Joon, Senior Judge, Patent Court of Korea, he finished selecting the recent 30 important precedents of the chancery and adding comments such as the significance of the case by the beginning of November. In attempt to upload the precedents to the DB in the near future, the 30 precedents are now being translated into English. In March of 2006, the RCLIP will hold a workshop with the tentative title of "Recent Movement of Korean IP Precedents", inviting Judge Choi Sung-Joon. (RA Lea Chang)

❖DB Project (other issues)

WIPO, the United Nations, will start the DB Project of English-translated IP Precedents of



developing countries in 2006. The RCLIP and WIPO agreed to have a technical discussion in order to establish a system to search the RCLIP DB for East Asia.

❖ Web Streaming of the US Patent Legal Procedure Law Seminar

As described on p.2, from January 2006, there will be a free video streaming available at the LexisNexis website for the five-hour content from the US Patent Legal Procedure Law Seminar sponsored by the RCLIP and Finnegan, Henderson, Farabow, Garrett & Dunner, LLP.

Simultaneous interpretation is also available at the site. (<http://www.lexisnexis.jp/>)

❖ 『I.P. Annual Report 2005, Separate Volume of NBL 106』 (Edited by Tatsuki Shibuya, Toshiko Takenaka and Ryu Takabayashi)

“I.P. Annual Report 2005” was published in November 2005 as a separate volume of the NBL magazine, mainly by the effort of the RCLIP.

For details (Japanese only), please visit at <http://www.shojihomu.co.jp/newbooks/7078.html>

❖ Upcoming Event

For inquiries, please visit our website.

❖ RCLIP Special Seminar

【Date】 December 16, 2005, 18:00~21:00

【Place】 Waseda University (Bldg 8, 3rd floor)

【Theme】 Legislation and Policy-making Process in the U.S., focusing on Revision of Patent Law

【Lecturers】

Susumu Iwasaki, Senior Examiner of Japan Patent Office, the former IP researcher of JETRO in Dusseldorf, Germany

Mr. Stephen G. Kuni, the former Vice Director of USPTO; Director of the J.D. and LL.M. Programs in Intellectual Property Law at the George Mason University School of Law; Special Counsel, Oblon, Spivak, McClelland Maier and Neustadt

【 Moderator 】 Toshiko Takenaka, Visiting

Professor of Law, Waseda University, Professor of Law School, University of Washington

【Opening Remarks】 Ryu Takabayashi, Professor of Law, Waseda University

❖ Simultaneous interpretation (English/Japanese)

❖ Reception (free of charge) will be held after the seminar, sponsored by Oblon, Spivak, McClelland, Maier & Neustadt.

❖ RCLIP Workshop Series No.12

【Date】 January 31, 2006, 18:00~20:00

【Place】 Waseda Univ., International Conf. Hall

【Theme】 Roles of Suits for Canceling Trial Decision and Suits for Infringement in Invalidation Judgment

【Lecturer】 Ryu Takabayashi, Professor of Law, Waseda University

❖ The 2nd RCLIP Asia Seminar No.2

FY2005 JPO Project of Intellectual Property Research by the University

The 2nd RCLIP Asia Seminar, “Dispute settlement of the courts related to Industrial Property in East Asia - China”

【Date】 February 17, 2006, 16:00-20:00

【Place】 Kosai Kaikan, Yotsuya, Tokyo

【Theme】 Dispute settlement of the courts related to Industrial Property in East Asia - China

【Lecturers】

Wang Bing, Professor of Tsinghua University

Guo He, Professor of Renmin University

Zhang Ping, Professor of Peking University

Zhang Xiaodu, Judge, the Third Civil Tribunal in Higher People's Court of Shanghai

Li Zhenghua, Associate Prof. of Zhongshan Univ.

❖ This seminar is held with cooperation of Institute of Intellectual Property

❖ RCLIP Asian Seminar No.3

【Date】 March 2, 2006, 18:00-21:00

【Place】 Waseda Univ., International Conf. Hall

【Theme】 Recent Movement of Korean IP Precedents

【Lecturers】

Choi Sung-Joon, Senior Judge, Patent Court of



Korea

Judge Setsu Shimizu, Tokyo District Court

❖ **RCLIP Workshop Series No.13**

【Date】 April of 2006 (tentative)

【Place】 TBD

【Theme】 Issues on Design Law (tentative)

【Lecturer】 Masahiro Motoyama, Researcher of
Japan Copyright Institute, Copyright Research
and Information Center

Editor/issuer

Ryu Takabayashi,

**Director of Research Center for the Legal System
of Intellectual Property (RCLIP)**

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http://www.21coe-win-cls.org/e_index.html