

Legislation

Act to Provide Special Measures for the Support of the Self Reliance of the Homeless

[Law No. 105, August 7, 2002 ; *Homuresu no jiritsu no shien tou ni kansuru tokubetsu-sochi-ho*]

Due to the prolonged economic recession of recent years, the number of homeless people living outdoors in public areas such as city parks and riverbanks has not only increased in the nation's major cities, but also, the homeless have spread to smaller cities around the country. This is now a major social problem, not only because of the risks it presents to the life and health of the homeless themselves, but also because the way the homeless have occupied parks and riverbanks makes it difficult for other local people to use these public areas, and because there has been a rise in problems related to the homeless, such as assaults on them by juvenile delinquents.

Before the law in question was enacted, there were no laws to help the homeless in Japan. Moreover, even though the Public Assistance Law was based on the principle of the right to life guaranteed by the Constitution (Article 25, Section 1), the government traditionally refused to provide public assistance to homeless people on the grounds that they had no fixed address. However, because such treatment is contrary to the spirit of the Constitution, which guarantees the right to maintain "the minimum standards of wholesome and cultured living", as well as that of the Public Assistance Law, this new law was enacted in a move to reform the Public Assistance System.

The new law stipulates that it is the responsibility of the national government to support the effort of the homeless to become self reliant and to prevent people from becoming homeless. It also aims to help solve the problems of the homeless by considering their human rights and taking necessary measures while obtaining the understanding and cooperation of local communities (Section 1). The term "the homeless" is defined in Section 2 as "people who illegally reside in city parks, on river banks and roads, or in railway stations and other facilities and lead their daily lives there".

In order to solve this problem, this law stipulates the following measures.

- 1) To support the homeless who desire to become self reliant, measures to secure stable employment, enhance labor potential through vocational training and similar programs, secure stable living quarters through housing support programs, and ensure access to health and medical services, as well as advice and guidance for the homeless must be comprehensively promoted with the aim of helping the homeless become self reliant. (Section 3)
- 2) The Minister of Health, Labor and Welfare and the Minister of Land, Infrastructure

and Transport shall devise a basic policy concerning support services for the independence of the homeless (Section 8) on the basis of a nationwide survey of the actual situation of the homeless (Section 14). For their part, prefectural and municipal governments shall prepare implementation plans that are in accordance with the national government's basic policy as the need arises (Section 9).

- 3) To promote the above measures, the national government shall strive to take financial measures and any other necessary measures to support the local public institutions that have large homeless populations within their jurisdiction as well as private organizations that support the self reliance of the homeless or offer them other support (Section 10).

The above is an outline of the act to provide special measures for the support of the self reliance of the homeless.

This law became effective from the date it was issued (August 7, 2002) and has a time limit of 10 years from the date of its promulgation. In addition, the law stipulates that approximately 5 years from the date of its enactment, the level of enforcement will be investigated and, depending upon the results of this examination, measures necessary to ensure enforcement shall be taken.

(SASAKI, T.)

Basic Intellectual Property Law (Law No. 144, November 27, 2002)

[*Chiteki zaisan kihon ho*]

I. Background

Because the Japanese economy has been sluggish since the 1990s, the government has enacted a number of laws and established various economic policies to try to rectify this situation. One such law was the basic intellectual property law, which was designed to promote creative activity in fields such as technology and business, culture and the arts, and, by protecting the fruits of such activity as intellectual property, to strengthen the nation's international industrial competitiveness and promote the development of intellectual industries and sustained economic growth.

Prime Minister Koizumi, in his plan for so-called "Structural Reform", clearly indicated the need to strengthen the ability of Japanese industry to compete internationally in order to revitalize the nation's economy. Accordingly, he announced his decision to set up an advisory panel called the Strategic Council on Intellectual Property within the Cabinet in a policy speech in February 2002, and the panel was established the following month. The Strategic Council released its comprehensive strategy on intellectual property in July 2002. In it, the advisory panel called for the introduction of a basic intellectual property bill. The Cabinet Secretariat therefore established an ad hoc committee to draft

the legislation. The intellectual property law, which consists of a total of 33 articles, was passed during an extraordinary session of the 155th National Diet.

This paper will explain the main contents of this law.

II. General Rules (Articles 1-11)

A. The purposes of this law are defined as follows (Article 1) :

“The purposes of this law are as follows : in view of the fact that changes in social and economic conditions both at home and abroad have led to the increasing necessity of strengthening the international competitiveness of Japanese industry, and in order to create an economy and a society with the vitality to produce added value by the creation and effective use of new intellectual property, this law aims to set forth the basic philosophy and fundamental factors needed for the actual creation, protection and application of intellectual property, to clarify the responsibilities of national and local public institutions, universities and other educational institutions, and businesses in this endeavor, to stipulate the creation of a plan to promote the creation, protection and application of intellectual property, and also to establish an intellectual property strategy headquarters in order to intensively and systematically promote a policy concerning the creation, protection and application of intellectual property.

B. Intellectual property and intellectual property rights are defined as follows. (Article 2)

1. “Intellectual property” is defined items in the following three categories.

- a. Inventions, ideas, new varieties of vegetables, designs, written works, and other things produced by human creative activity (including the discovery or elucidation of natural laws or phenomena which have potential industrial use),
- b. Trademarks, trade names, and other things which label goods or services that are used in the conduct of business.
- c. Trade secrets and other information on technology or business operations that is useful in business.

2. “Intellectual property rights” are patents, utility model patents, rights related to training or education, design rights, copyrights, trademark rights, and other rights that are prescribed by laws concerning intellectual property or rights concerning profits protected by law.

C. Articles 3 and 4 set forth the fundamental philosophy of the protection of intellectual property. Concretely, Article 3 explains its relation to the healthy development of the nation’s economy and creation of cultural wealth, while Article 4 relates it to the necessity of strengthening the international competitiveness of industry in our country and ensuring sustained development.

D. Articles 5-8 stipulate the responsibility which national and local public institutions, universities and other educational institutions and businesses have to carry out

measures to promote the creation, protection and application of intellectual property in order to put the concepts expounded in this law into practice.

E. In addition, the law stipulates that the national government should strengthen cooperation between itself and local public institutions, universities and other educational institutions and businesses, and take other legal measures to promote the creation, protection and application of intellectual property (Articles 9 and 11), and provides for the promotion of fair and free competition (Article 10).

III. Fundamental Policy (Articles 12-22)

Articles 12-22 stipulate the measures the government should take to achieve the goals of this law in accordance with the basic philosophy of the law. Concretely, it calls for the promotion of research and development (Article 12), promotion of the practical application of research results (Article 13), acceleration of the granting of rights (Article 14), improvement of legal procedures so that they are thorough and swift (Article 15), measures to deal with infringements (Article 16), creation of an international system to protect intellectual property (Article 17), protection of intellectual property in new fields (Article 18), development of an environment where entrepreneurs can make effective and appropriate practical applications of intellectual property (Article 19), the sharing of information (Article 20), promotion of education (Article 21), and the acquisition or development of human resources (Article 22).

IV. Plan for the Promotion of the Creation, Protection and Application of Intellectual Property

Article 23 stipulates that the Intellectual Property Strategy Headquarters should develop a plan to promote the creation, protection and application of intellectual property.

V. Intellectual Property Strategy Headquarters

Articles 24-33 stipulate the organization and function of the Intellectual Property Strategy Headquarters to be established within the Cabinet.

VI. Other Stipulations

The contents of this law will be examined again within three years of its enactment, and measures found to be necessary by this examination are to be carried out (Additional Stipulations, Article 2).

(KIMURA, K.)