



Recent Developments in Japan

Yukihiro TAKEMOTO
Japan Patent Attorneys Association
International Activities Center

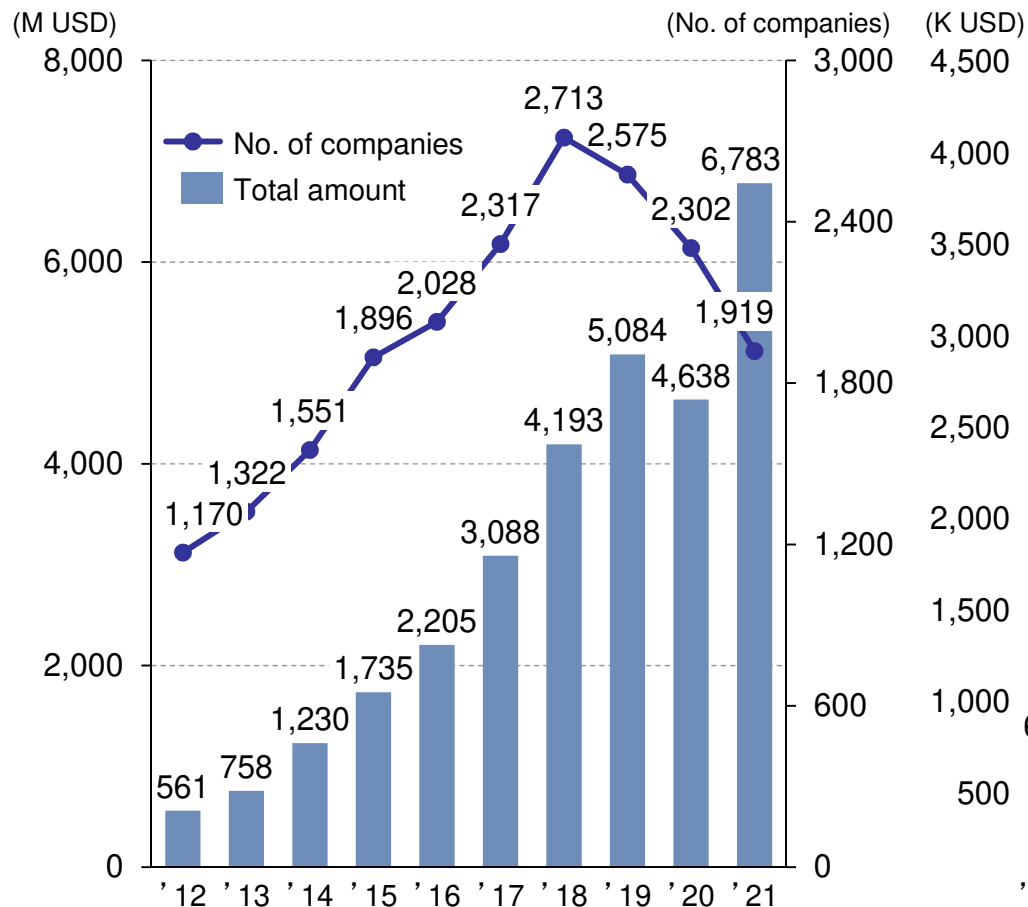


Agenda

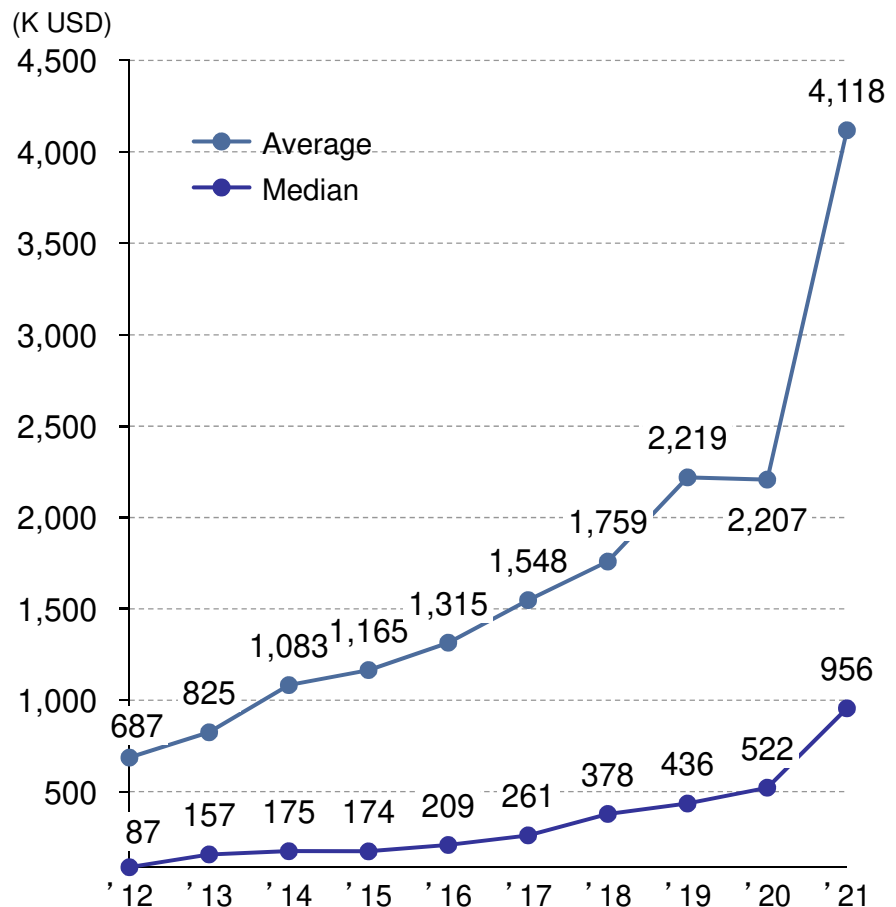
1. Highlights from JPO statistics
2. Recent IP-related law updates
3. High damage awarded in patent litigations

Startup funding is increasing every year.

Total amount of startup funding in Japan



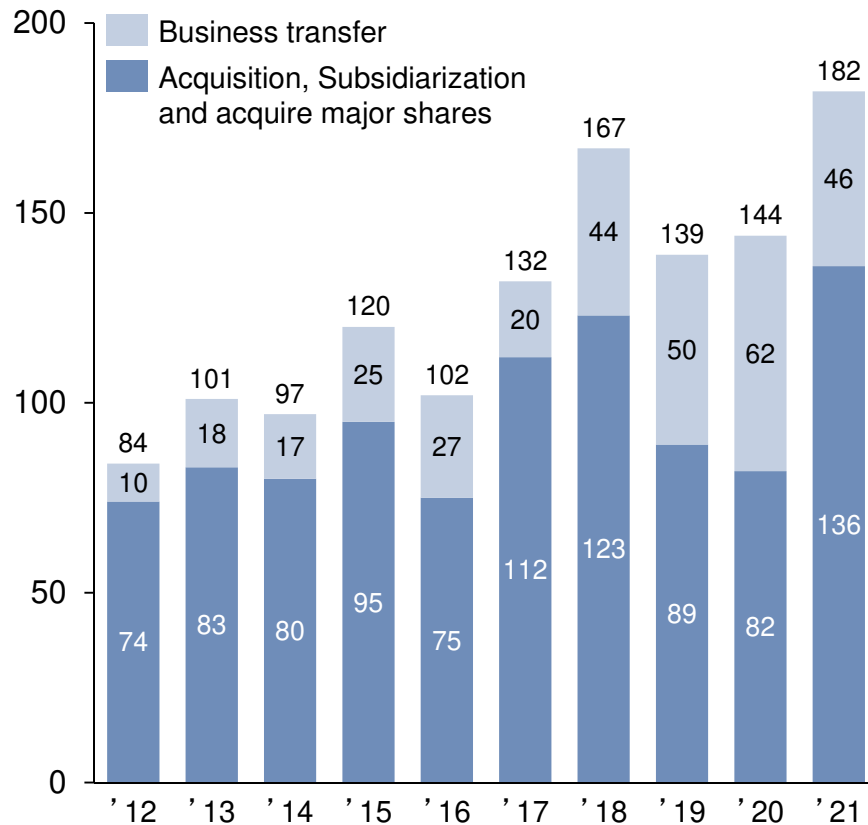
Funding amount per 1 company



Source: Japan Startup Finance 2021, Feb. 4, 2022, INITIAL Enterprise (Uzabase, Inc.); Exchange rate: 115.01 USD/JPY on Feb. 4, 2022.

M&As are increasing and acquisition amounts are becoming higher

Startup acquisitions, subsidiarization, and business transfers



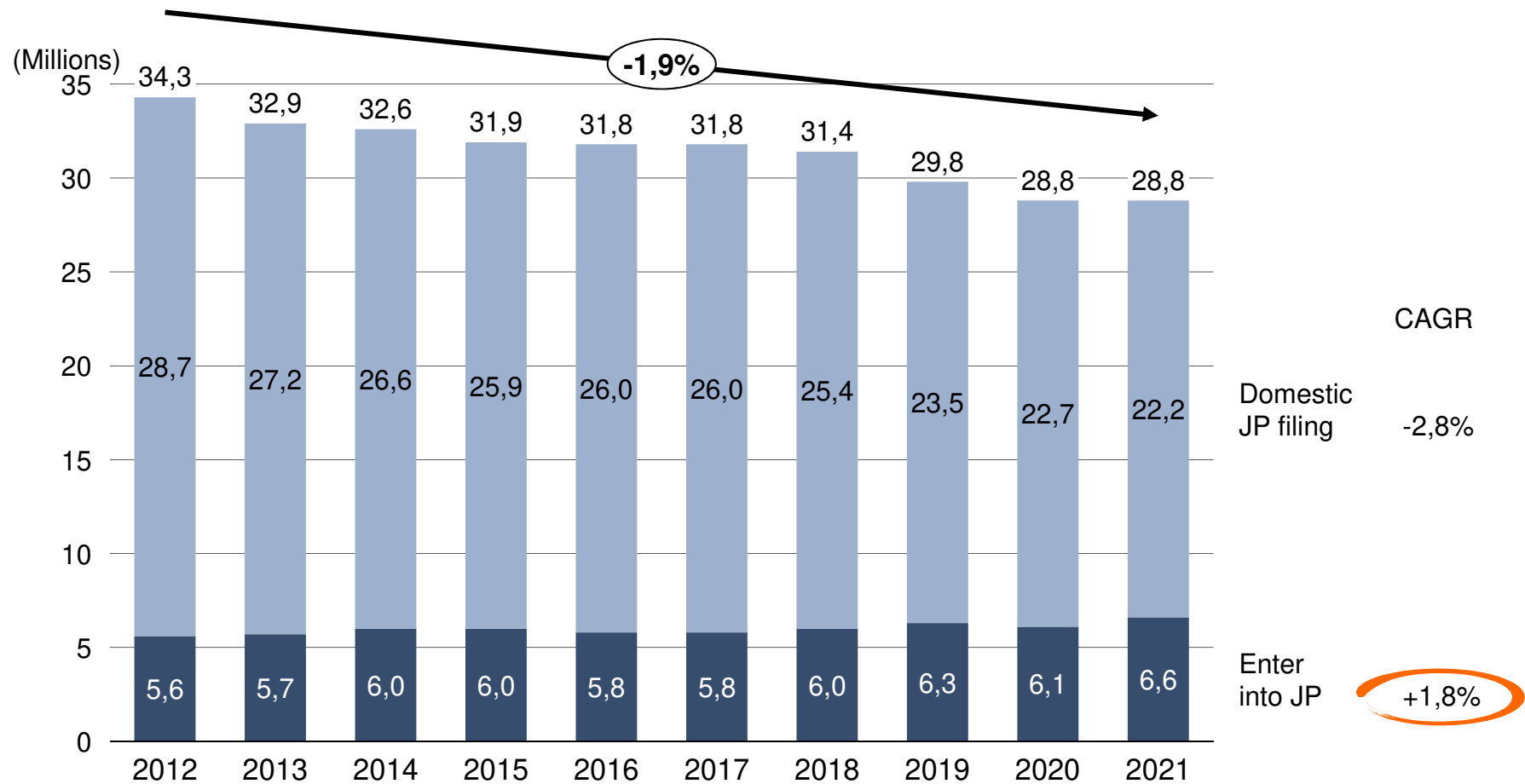
Major startup acquisitions and divestitures in 2021

Name	Business	Date of est.	Amount (M USD)	Acquirer
Paidy Inc.	Post-payment service "Paidy"	2008/3/13	2,608.5	PayPal Holdings Inc.
IRIAM Inc.	Virtual live-streaming app "IRIAM"	2020/5/1	104.3	DeNA Co., Ltd.
pring Inc.	Money Transfer App "pring"	2017/5/1	94.4	Google International LLC.
Asirrera Inc.	RPA Solutions "Robo-operator", etc.	2015/3/1	39.1	PKSHA Technology Inc.
tricot inc.	Customized supplements prescribed based on skin diagnosis "FUJIMI"	2018/1/11	28.9	Pola Orbis Holdings Inc.

Source: Japan Startup Finance 2021, Feb. 4, 2022, INITIAL Enterprise (Uzabase, Inc.); Exchange rate: 115.01 USD/JPY on Feb. 4, 2022.

Although patent applications in Japan are decreasing at about 1.9% per year, applications from foreign countries are increasing at about 1.8% per year

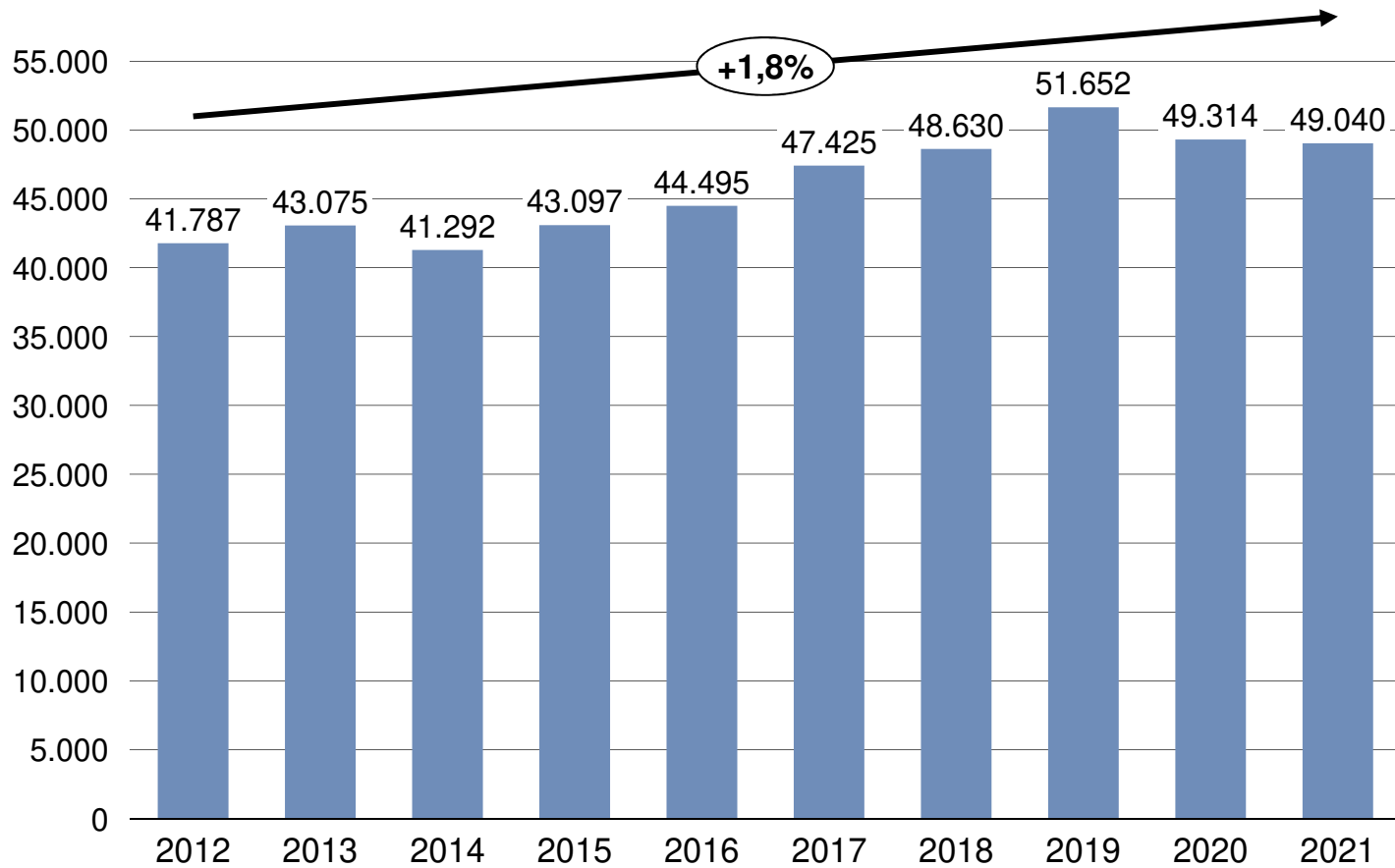
Number of patent application filings



Source: JPO Patent Administration Annual Report 2022

PCT applications from Japan are increasing at about 1.8% per year

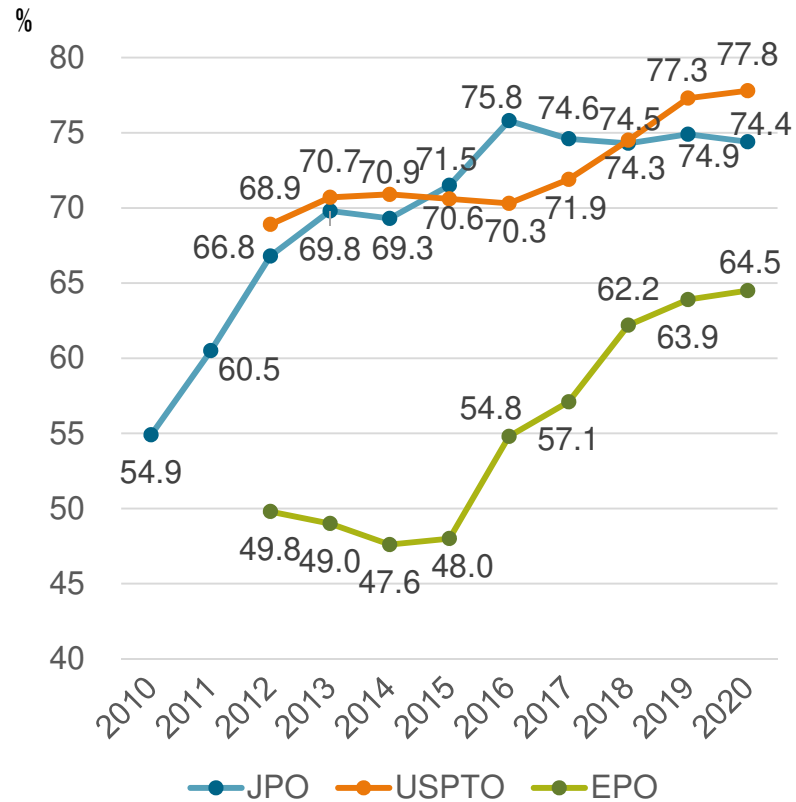
Number of PCT application filings in Japan



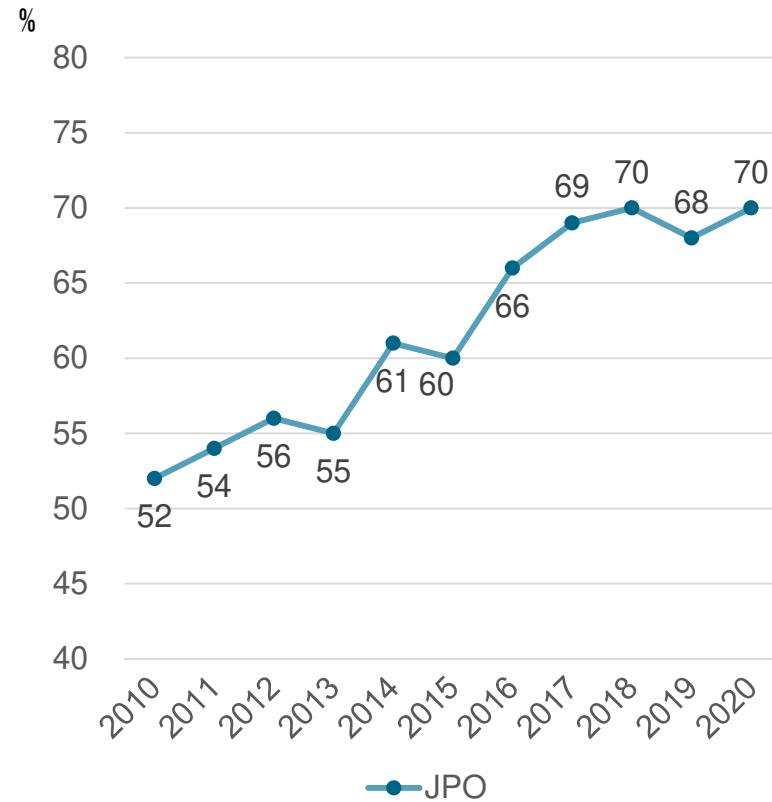
Source: JPO Patent Administration Annual Report 2022

75% allowed in prosecution and 70% reversed in Appeals for Refusal

Allowance rate¹⁾



Win rate of appeals against an examiner's decision of refusal



1. JPO: No. of NOA / (No. NOA + No. of Decision of Refusal + withdrawal + abandonment); USPTO: No. of NOA / No. of Dispositions; EPO: No. of NOA / (No. of Decision of Refusal + abandonment).

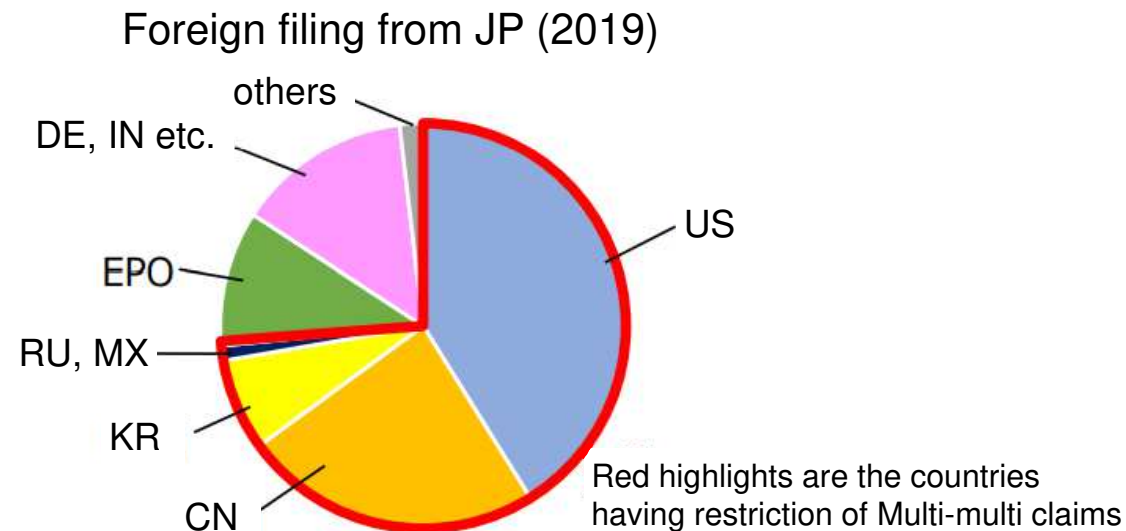
Source: JPO Patent Administration Annual Report 2022, 2018

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Restriction of Multi-Multi Claims

- According to the revision of the Ministerial Ordinance that came into effect on April 1, 2022, **‘Multi-Multi’ Claims** are no longer allowed.
- “Multi-Multi Claims” means “any dependent claim that refers back to more than one preceding claim (“multiple dependency claim”) that depends on another multiple dependency claim.”
- Statistics shows that the ratio of applications containing any Multi-Multi Claim to the total number of patent applications was about 65% before April 1st, while it decreased to about 5% in April and May, 2022.



Multi-Multi claim will be rejected as a violation of Art. 36(6)(iv) of the Patent Law.

Multi-Multi claims and the claims referring thereto will not be examined for Novelty and Inventive step requirements.

This violation is only a reason for rejection, not a reason for invalidation or opposition.

Example:

OK: 1. A device comprising X, Y and Z.

OK: 2. A device according to Claim 1, further comprising...

OK: 3. A device according to Claim 1 or 2, wherein...

NG: 4. A device according to any one of Claims 1 to 3, wherein...

NG: 5. An apparatus using the device according to any one of Claims 1 to 4, wherein...

Apply the restriction for the applications having the (international) filing date on or after April 1, 2022.

Japanese Amicus Brief system introduced

- A third-party opinion solicitation system, a Japanese version of “Amicus Curiae,” was introduced by amendment for patent and utility model infringement litigation, and came into effect on April 1, 2022.
- If the Tokyo District Court, the Osaka District Court, or the IP High Court considers it necessary, they can invite opinions from members of the public for use as evidence in proceedings.

Requirements

1. Requested by either party to the case
 2. Necessity approved by the court
 3. Opinion hearing from the other party
- The court alone may not initiate solicitation without the request.

Invited comments

No restrictions. Comments on matters necessary for the operation of Patent, Utility, and other Acts related to the case.

Handling by the court

The party to the case selects and submits some of the briefs as documentary evidence. The court may form a decision based on the brief submitted by the party.

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JP Courts awarded relatively high damages

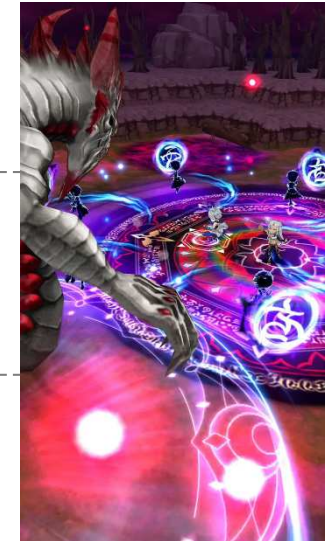
Parties	Fujifilm Corporation v. Sony Corporation and Sony Storage Media Manufacturing Corporation
Case No.	Heisei 28 (Wa) 42833 Heisei 29 (Wa) 21803 Heisei 30 (Wa) 27979
Patents	JP4459248, JP3818581
Products	Data cartridge, magnetic tape drive. OEM to Hewlett Packard Enterprise and Quantum Inc.
Damages	45.3 M USD (5.1 B JPY) ruled on March 7, 2019



Note: exchange rate: 111.67 USD/JPY on Mar. 7, 2019

JP Courts awarded relatively high damages

Parties	Nintendo Co., Ltd. v. Colopl, Inc.
Case No.	Heisei 29 (Wa) 43185
Patents	JP3734820, JP4262217, JP4010533, JP5595991, JP3637031, JP6271692
Products	Smartphone game (Shironeko Project)
Damages	30.3 M USD (3.3 B JPY) settled on August 4, 2021



Note: exchange rate: 109.07 USD/JPY on Aug. 4, 2021



Thank you for your attention!!



Yukihiro TAKEMOTO

takemoto@aceai.jp