

## INTRODUCTION

The Board of Editors is honored to have Professor Karjala serve as Special Guest Editor for this symposium issue and wishes to express its sincere gratitude for his commentary. This issue brings together a diverse group of practitioner and student pieces focusing on Japanese and East Asian Intellectual Property issues.

Bendegkey, Mead, and Miki compare computer program users' rights under Japanese and U.S. copyright law. The legislative branches of both the Japanese and U.S. governments have recognized that computer software's unique characteristics necessitate special treatment under their respective copyright laws. As the authors note, however, recent amendments to Japanese and U.S. copyright law take fundamentally different approaches to the issue of limiting a computer software purchaser/user's liability. While the Japanese copyright act excludes internal reproduction of a program in a computer's memory from its definition of "reproduction," this term under the U.S. act includes such reproduction. The authors suggest that this disparity may lead to situations in which ostensibly private uses of a computer program would be lawful under Japanese law but would infringe a U.S. copyright. They conclude, however, that given a broad interpretation, the U.S. act should accomplish the same goals as its Japanese counterpart.

In a complementary article, Durney first analyzes the impact of Japanese copyright reform on computer software producers and users in the context of two key interpretive decisions, and then analyzes how Japanese courts will likely decide future computer software cases. He argues that Japanese copyright law as it applies to computer software has emerged from this redefining process as more coherent and well-reasoned than its American counterpart. Consequently, Durney maintains, Japan's relative success merits study not only for its relevancy to U.S. computer software copyright reforms, but also for its potential use in international efforts to construct a tenable global intellectual property regime.

Matsuo discusses the most recent amendment to Japan's Unfair Competition Prevention Law, enacted in June, 1990. After tracing the Law's background, the amendment's his-

tory and scope, and the injunctive relief available thereunder, Matsuo examines the amendment's impact on Japanese enterprises.

Taylor, O'Rourke, and Marchese examine procedural differences between the U.S. and Japan regarding the enforcement of restrictive provisions in international licensing agreements. Noting that both countries have recently revised their licensing guidelines, the authors examine the different approaches taken in determining the legality of restrictive provisions, the procedures utilized, and the resulting effect upon the licensing parties. The authors also provide a brief history of how the present guidelines were derived and discuss how they differ from previous regulations.

Devéza summarizes the history of relevant provisions of copyright and patent laws in the U.S., Japan, and the European Community. The author uses case law and legal commentary to evaluate and compare the effectiveness of computer software protection in each.

Fedrick and Adachi examine American and Japanese legal responses under their respective copyright laws to the growth of the rental record industry in both countries. The authors trace this industry's development in the U.S. and Japan, and detail the concerns of copyright holders of rented recordings who discovered that existing copyright law in neither country provided effective legal remedies against such recording. Fedrick and Adachi analyze subsequent legislation passed by the U.S. Congress and Japanese Diet to give copyright holders a statutory basis to stop the growth of the American and Japanese rental record industries. After exploring the results of the legislative record in both countries, the authors discuss several possible reasons why the rental record business continues to flourish in Japan, while its growth has been stopped in the U.S.

Takenaka compares the novelty standard under Japanese patent law and under American and European patent laws. Although the Japanese novelty standard is statutorily identical to both the European and the U.S. standards, Japanese courts and the Japanese Patent Office have adopted a much more relaxed rule, referred to as the substantial identity rule. The author argues that the substantial identity rule should be removed from Japanese patent law to further the harmonization of patent laws throughout the world, and in particular, in the major industrial countries.

Finally, as Professor Karjala stated so competently earlier, it is important that developed nations not view the suc-

cess and legitimacy of intellectual property legislation simply with regard to their own technological status and protection needs. We thought it beneficial to include an intellectual property perspective from a country still in the midst of development.

Wang examines the PRC's Patent Law, enacted in 1984, against the socio-economic background of economic reforms undertaken in the early 1980's and Beijing's more recent austerity policy. Wang observes that government authorities have explicitly limited the law's role in Chinese technology development. He argues that the patent law system's status has diminished in conjunction with the enactment of the 1985 Regulations on Awards for Science and Technology Advance. The award regulation system provides inventors with prizes but does not recognize their proprietary rights in the inventions. Wang explains the Chinese government's emphasis on the award regulation system by the fact that it requires few economic reform measures to implement, while the patent law's success depends on a commitment to a commodity economy and increased managerial power in enterprises. Given the PRC leadership's swing towards an austerity policy and central economic planning in 1989, Wang predicts that the patent law's role in PRC scientific and technological development will be limited in the coming years.

I join with the Board of Editors in commending these articles to you. We hope you find the issue timely and informative, and welcome your comments.

KRISTIN WHEELER  
FOR THE BOARD OF EDITORS

