

UNESCO
WORLD ANTI PIRACY OBSERVATORY

JAPAN

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I. Legislation

1. Copyright laws

Copyright is protected in Japan through international Agreements, the [Copyright Law No. 48 of 1970 as amended](#), Cabinet Orders relating to the implementation of the Copyright Law, supplementary provisions of previous copyright laws, Law No. 86 of 1956 concerning the Exceptional Provisions to the Copyright Law Required in Consequence of the Enforcement of the Universal Copyright Convention, Law No. 302 of 1952 concerning Exceptional Provisions for Copyrights Owned by the Allied Powers and the Allied Nationals, Law No.65 of 1986 on Exceptional Provisions for the Registration of Program Works, Law No.131, of 2000 on Management Business of Copyright and Neighboring Rights, Law on the Prevention of Unauthorized Recording of Movies in Theaters, and other legislation related to enforcement of copyright or affecting copyright protection.

The copyright law No. 48 of May 6, 1970, entered into force on January 1, 1971 and was last amended by Law No.81, dated June 18, 2006.

Cabinet Orders shall be issued relating to the implementation of certain provisions of the Copyright.

Law No. 86, of April 28, 1956 concerning the Exceptional Provisions to the Copyright Law Required in Consequence of the Enforcement of the Universal Copyright Convention, was last amended by Law No. 112, dated December 14, 1994. Provisions of this Law were included in the Copyright Law.

Law No. 302, of August 8, 1952 concerning Exceptional Provisions for Copyrights Owned by the Allied Powers and the Allied Nationals, was last amended by Law No. 48, dated May 6, 1970.

Law No.65 on Exceptional Provisions for the Registration of Program Works was promulgated on May 23, 1986. Provisions of this Law were included in the Copyright Law.

Law No.131 of November 29, 2000 on Management Business of Copyright and Neighboring Rights was last amended by Law No. 154, dated December 3, 2004.

The Copyright Law No. 48 of May 6, 1970 as amended by Law No.81, of June 18, 2006 abolished all previous legislation contrary to its provisions.

The Law on the Prevention of Unauthorized Recording of Movies in Theaters, was promulgated on May 30, 2007, and entered into force on August 20, 2007.

2. Other laws/regulations

- Civil Code (Law No. 89 of April 27, 1894, as last amended by Law No. 79 of May 21, 1991, Law No. 149 of December 1, 1999, Law No. 138 of August 1, 2003 and Law No. 78 of 2006 effective as of June 21, 2006).
- Penal Code (Law No. 45 of April 24, 1907, as last amended by Law No. 91 of May 12, 1995, Law No. 138 of August 1, 2003 and Law No. 36 of 8 May 2006).
- Code of Civil Procedure (Law No. 109 of 26 June 1996, as last amended by Law No. 151 of 1 December 1999, Law No. 128 of 25 July 2003, Law No. 102 of 21 October 2005 and Law No. 109 of 2006 effective on 30 September, 2007).

- Code of Criminal Procedure (Law No. 131 of 1948, as last amended by Law No. 36 of 2006, effective May 8, 2006).
- Civil Preservation Law (Law No.91 of December 22, 1989).
- [Law on the Limitation of Liability for Damages of Specified Telecommunications Service Providers and the Right to Demand Disclosure of Identification Information of the Senders](#) (Law No.137 of 2001)
- Customs Law No.61 of April 2, 1954.
- [Customs Tariff Law No. 54 of April 15, 1910, as last amended by Law No. 118 of 1994.](#)

3. Latest developments and perspectives:

Some provisions of the Copyright Law are being revised, in particular:

Article 113 (An act of offering distribution, of objects made by an act infringing copyright, by a person who is aware of such infringement, shall be considered to constitute infringements on copyright) and Article 30(1) (An act of making sound or visual recording, by a person who knows that such interactive transmission infringes copyright, shall be considered to constitute an infringement of the reproduction right, even if for the purpose of private use).

The Cabinet took decision on March 2009 to approve the "Draft Law on the Penalization of Acts of Piracy and Measures against Acts of Piracy", also known as the "Anti-Piracy Measures Bill". This bill establishes a legal system for measures against piracy, consistent with the United Nations Convention on the Law of the Sea. Moreover, discussions are in progress for the adoption of an Agreement on Anti-Counterfeiting Trade (ACTA). The objective of the Agreement is to combat global infringements of IPR, particularly in the context of counterfeiting and piracy, by increasing international cooperation, strengthening the framework of practices that contribute to effective enforcement, and strengthening relevant IPR enforcement measures themselves.

4. Brief summary of India's copyright legislation

- *Works protected by copyright*

Copyright applies to any created literary, scientific, artistic or musical work. This includes novels, dramas, articles, lectures and other literary works; musical works; choreographic works and pantomimes; paintings, engravings, sculptures and other artistic works; architectural works; maps as well as figurative works of a scientific nature such as plans, charts, and models; cinematographic works; photographic works; program works and derivative works such as compilations which, by reason of the selection or arrangement of their contents, constitute intellectual creations and databases which, by reason of the selection or systematic construction of information contained therein, constitute intellectual creations provided there is no prejudice the rights of authors of pre-existing works (Articles 10 to 12bis of the Copyright Law).

- *Exclusive rights of the authors and of the owners of neighbouring rights*

Under The copyright holder has the exclusive right to reproduce his work; perform his work publicly; present his work publicly; to make the public transmission of his work; to communicate publicly, by means of a receiving apparatus, his work of which the public transmission has been made; recite publicly his work; exhibit publicly the original of his work; transfer the ownership of the original or copies of his work; lend copies of his work; translate, arrange musically or transform, or dramatize, cinematize, or otherwise adapt his work and exploit derivative works of his work (Article 21 to 28 of the Copyright Law). In addition to the

aforementioned economic rights, the author enjoys imprescriptible and perpetual moral rights which include the right to offer to and to make available to the public his work which has not yet been made public; the right to determine whether his true name or pseudonym should be indicated or not, as the name of the author, on the original of his work or when his work is offered to or made available to the public; and the right to preserve the integrity of his work and its title against any distortion, mutilation or other modification against his will, whether or not such an act damages the authors honor or prestige (Articles 17 to 20 of the Copyright Law).

Neighboring rights are protected under Articles 89 to 104 of the Copyright Law. These rights are the rights of performing artists in their performances; producers of sound recordings (phonograms) in their recordings; broadcasting organizations in their broadcasts and wire diffusion organizations in their wire diffusions.

Performers have the exclusive right to make sound or visual recordings of their performances except for performances incorporated in cinematographic works with the authorization of the right holder where such performances are not to be incorporated in sound recordings; broadcast and diffuse by wire their performances except in the cases where the wire diffusion is made of performances already broadcast, where the broadcasting takes place of, or the wire diffusion is made of performances incorporated in sound or visual recordings with the authorization of the right holder, and performances incorporated in cinematographic works with the authorization of the right holder where such performances are incorporated in recordings; make their performances transmittable except for performances incorporated in visual recordings with the authorization of the right holder, and performances incorporated in cinematographic works with the authorization of the right holder where such performances are incorporated in recordings; fix their performances for broadcasting purposes by making sound or visual recordings of such performances provided that the contract has no stipulation to the contrary or that the sound or visual recordings are not intended for the purpose of use in broadcasting programs different from those authorized; offer their performances to the public by transfer of ownership of sound or visual recordings of their performances with exceptions; and offer their performances to the public by lending commercial phonograms incorporating their performances under specific conditions. A performer enjoy also imprescriptible and perpetual moral rights which include the right to determine whether his name, his stage name or any other alternative to his name should be indicated or not, as the name of the performer, when his performances are offered to or made available to the public; and to preserve the integrity of his performances against any distortion, mutilation or other modification of them that would be prejudicial to his honor or reputation except for modifications deemed unavoidable in the light of the nature of performances as well as the purpose and manner of exploiting them or those deemed compatible with fair practice.

Producers of phonograms have the exclusive right to reproduce their phonograms and make their phonograms transmittable; offer their phonograms to the public by transfer of ownership of copies of their phonogram with exceptions; and offer their phonograms to the public by lending commercial phonograms in which their phonograms are reproduced under specific conditions.

Broadcasting organizations have the exclusive right to make sound or visual recordings of their broadcasts or those diffused by wire from such broadcasts, and reproduce by means of photography or other similar processes the sounds or images incorporated in these broadcasts; rebroadcast and diffuse by wire their broadcasts except for wire diffusion made by a person who is required to do so under the provisions of laws and regulations; make transmittable their broadcasts or those diffused by wire from such broadcasts; and communicate to the public their television broadcasts or those diffused by wire from such broadcasts, by means of a special instrument for enlarging images.

Wire diffusion organizations have the exclusive right to make sound or visual recordings of their wire diffusions, and reproduce by means of photography or other similar processes the sounds or images incorporated in their wire diffusions; broadcast and to re-diffuse by wire their wire diffusions; make their wire diffusions transmittable; and communicate their wire television diffusions to the public, by means of a special instrument for enlarging images.

- *Allowed use of a work without the permission of the owner of the copyright*

The Excluded from copyright protection are news of the day and miscellaneous facts having the character of mere items of information; programming language, rule or algorithm used for making program works; the Constitution and other laws and regulations; notifications, instructions, circular notices and the like issued by organs of the State or local public entities, independent administrative organs or local independent administrative organs; judgments, decisions, orders and decrees of law courts, as well as rulings and decisions made by administrative organs in proceedings similar to judicial ones; and translations and compilations, of those aforementioned materials made by organs of the State or local public entities, independent administrative organs or local independent administrative organs (Articles 10 and 13 of the Law on Copyright).

Limitations to exclusive rights are provided in Articles 30 to 49 of the Copyright Law provided that there is no conflict with the normal exploitation of the work or there is no unreasonable prejudice to the legitimate interests of the right holder. These limitations include the reproduction of a work for private use including personal use, family use or other similar uses within a limited circle (a fair compensation should be paid to the copyright holder in digital sound or visual reproduction for private use), except for reproduction made by means of automatic reproducing machines placed for the use by the public and reproduction made by a person who knows that such reproduction becomes possible by the circumvention of technological protection measures; reproduction of library materials for non-profit-making activities under specific conditions for purposes of research, preserving library materials; or rare availability through normal trade channel; reproduction as quotation from a work already made public for purposes such as news reporting, criticism or research; reproduction by the press or other periodicals of informatory, investigatory or statistical data, reports and other works of similar character prepared and made available to the public by State, public or administrative bodies for the purpose of public information; reproduction in school textbooks of works already made public provided the right holder is informed and compensated; reproduction of works already reproduced in a school textbook, by enlarging print letters or illustrations used in that textbook, for the purpose of study use by weak-sighted children or pupils provided the right holder is informed and compensated if the reproduction is made for profit-making purposes; broadcast or diffusion by wire a work already made public, in broadcasting or wire diffusion programs in conformity with school education's curriculum standards, and the reproduction of such work in teaching materials for these programs provided the author is informed and compensated; reproduction of a work already made public by a teacher or a pupil/student in a non profit-making school or educational institutions for the purpose of use in the course of lessons and public transmission of such work to pupils/students at the same time at a place other than that where such lessons are given; reproduction or public transmission (excluding broadcasting or wire diffusion) of a work already made public in examination question provided the right holder is informed and compensated if the reproduction is made for profit-making purposes; reproduction in Braille of a work already made public or making sound recordings by Braille libraries and similar establishments, exclusively for lending them to visually handicapped; interactive transmission for the aurally handicapped, of a work broadcast or diffused by wire, by converting oral words of that work into written words; public performance, public display, public recitation, diffusion by wire, public communication, offering to the public by lending , under specific conditions, of a work already made public, for non-profit-making purposes and without charging any fees to

audience or spectators; reproduction in the press, broadcasting and wire diffusion of articles published in newspapers or periodicals on current political, economic or social topics, not having a scientific character, provided that such reproduction, broadcasting or wire diffusion thereof is not expressly prohibited; exploitation, by any means, of political speeches delivered in public, speeches delivered in the course of judicial proceedings and speeches delivered in public by State, public or administrative organs, except such exploitation as involves a collection of the works of the same author ; reproduction and exploitation of a work involved, seen or heard in reporting current events; reproduction of a work of internal use by legislative or administrative organs for judicial proceedings; exploitation of a work in accordance with the Government Organizations Information Disclosure Law by State, public or administrative organs, for offering it to or making it available to the public; exploitation of a work by means of translation, musical arrangement, transformation, and under specific conditions; reproduction of ephemeral sound or visual recordings of a work by broadcasting or wire diffusion organizations and preservation of such recordings for a period exceeding six months after their making or broadcast under specific conditions; public exhibition of the permanent location of the original of an artistic work in open places accessible to the public or at places easily seen by the public; exploitation of artistic works permanently located in open places with exceptions; reproduction of the originals of artistic works or photographic works in pamphlets for the purpose of explaining or introducing them to spectators by the person who legitimately exhibits them; and reproduction or adaptation of a program work by the owner of a copy of such work for the purpose of exploiting that work on a computer by himself, provided specific conditions are met.

The use of the work in the aforementioned cases (where appropriate) should be compatible with fair practice and to the extent justified by the purpose and provided that the source is clearly indicated to the extent deemed reasonable by the form of the reproduction or exploitation.

Compulsory licenses are permissible in Japan in limited cases, under specific conditions and provided that fair compensation is paid to the author of the original work. The cases are limited to the exploitation of works in the case where the copyright owner thereof is unknown; the broadcasting of works already made public and the recording on commercial phonograms. In the latter two cases, applicants for a license should prove that they requested the authorization of the copyright owner and failed to reach an agreement or that they were unable to enter into negotiations with him. The Commissioner of the Agency for Cultural Affairs may grant the compulsory license provided specific conditions are met (Articles 67 to 70 of the Copyright Law).

Limitation to copyright apply *mutatis mutandis* to the exploitation of performances, phonograms, broadcasts or wire diffusions which are the subject matter of neighboring rights (Article 102 of the Copyright Law).

- *Protection of the foreign works*

In addition to the works of Japanese nationals, including legal persons established under the Japanese law and those who have their principal offices in Japan, the protection of the copyright law covers works first published in Japan and those which are first published in another country and then published in Japan within 30 days from their publication in the other country; and works to which Japan has the obligation to grant protection under an international treaty; performances which take place in Japan (Article 6 of the Copyright Law).

The Copyright Law covers also performances fixed in the phonograms the producers of which are Japanese nationals; performances fixed in the phonograms composed of the sounds which were first fixed in Japan; performances transmitted through the broadcasts transmitted by broadcasting organizations of Japanese nationality or from transmitters

situated in Japan, excluding those incorporated in sound or visual recordings before the transmission with the authorization of the performers concerned; performances transmitted through the wire diffusions transmitted by wire diffusion organizations of Japanese nationality or from wire transmitters situated in Japan, excluding wire diffusions made upon receiving broadcasts and excluding performances incorporated in sound or visual recordings before the transmission with the authorization of the performers concerned; performances which take place in a Contracting State of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (the Rome Convention); performances fixed in the phonograms the producers of which are nationals of any of the Contracting States of the Rome Convention and phonograms composed of the sounds which were first fixed in any of the Contracting States of the Rome Convention; performances transmitted through the broadcasts transmitted by broadcasting organizations who are nationals of any of the Contracting States of the Rome Convention or from transmitters situated in any of the Contracting States of the Rome Convention, excluding those incorporated in sound or visual recordings before the transmission with the authorization of the performers concerned; performances which take place in a Contracting Party to the WIPO Performances and Phonograms Treaty (the WPPT); performances fixed in the phonograms to which Japan has the obligation to grant protection under the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (the Phonograms Convention); performances which take place in a member of the World Trade Organization (WTO); performances fixed in the phonograms the producers of which are nationals of any of the members of the WTO, or phonograms composed of the sounds which were first fixed in any of the members of the WTO; and performances transmitted through the broadcasts transmitted by broadcasting organizations who are nationals of any of the members of the WTO or from transmitters situated in any of the members of the WTO, excluding those incorporated in sound or visual recordings before the transmission with the authorization of the performers concerned (Article 7 of the Copyright Law).

The Copyright Law protects also phonograms the producers of which are Japanese nationals; phonograms composed of the sounds which were first fixed in Japan; phonograms the producers of which are nationals of any of the Contracting States of the Rome Convention; phonograms composed of the sounds which were first fixed in any of the Contracting States of the Rome Convention; phonograms the producers of which are nationals of any of the Contracting Parties to the WPPT; phonograms composed of the sounds which were first fixed in any of the Contracting Parties to the WPPT; phonograms the producers of which are nationals of any of the members of the WTO; phonograms composed of the sounds which were first fixed in any of the members of the WTO; and phonograms to which Japan has the obligation to grant protection under the Phonograms Convention (Article 8 of the Copyright Law).

The Copyright Law grants protection to broadcasts transmitted by broadcasting organizations of Japanese nationality; broadcasts transmitted from transmitters situated in Japan; broadcasts transmitted by broadcasting organizations who are nationals of any of the Contracting States of the Rome Convention; broadcasts transmitted from transmitters situated in any of the Contracting States of the Rome Convention; broadcasts transmitted by broadcasting organizations who are nationals of any of the members of the WTO; and broadcasts transmitted from transmitters situated in any of the members of the WTO (Article 9 of the Copyright Law).

A copyright protection is also granted to wire diffusions transmitted by wire diffusion organizations of Japanese nationality (excluding those made upon receiving broadcasts; the same shall apply in the next item); and wire diffusions transmitted from wire transmitters situated in Japan (Article 9bis of the Copyright Law).

"Nationals" includes legal persons established under the law of such State, member, or Contracting Party and those who have their principal offices in such State, member, or Contracting Party respectively.

- *Terms of copyright protection*

As a general rule, copyright protection shall begin with the creation of the work and shall subsist until the end of a period of 50 years following the author's death; 50 years following the date of the death of the last surviving co-author in the event of a joint work; 50 years following the making public of the work for anonymous or pseudonymous works, provided that copyright subsisting in such work, the author of which is presumed to have been dead for fifty years, shall be considered expired as of the time when the author is so presumed to have been dead - or 50 years following the author's death when the pseudonym adopted by the author leaves no doubt as to his identity or if the author of an anonymous or pseudonymous work discloses his identity during the above mentioned period or if he makes public his work on which he indicates his true name or generally known pseudonym as the name of the author; 50 years following the making public of the work or the creation of the work if it has not been made public within a period of 50 years following its creation for works bearing as the name of the author that of a legal person or other corporate body - or 50 years following the author's death if the author makes public his work on which he indicates his true name or generally known pseudonym as the name of the author; 50 years following the making public of the work or the creation of the work if it has not been made public within a period of 50 years following its creation for works the authorship of which is attributed to a legal person or other corporate body; and 70 years following the making public of the work or the creation of the work if it has not been made public within a period of 70 years following its creation for cinematographic works. Moral rights are protected in perpetuity (Articles 51 to 57 and 60 of the Copyright Law).

In the case of works of non- Japanese nationals, if the country of origin thereof is considered to be a foreign country which is a member of the Berne Convention for the Protection of Literary and Artistic Works, a contracting party to the WIPO Copyright Treaty or a member of the World Trade Organization, the WIPO Treaty or the Marrakesh Agreement Establishing the World Trade Organization and if the duration of copyright therein granted by that country of origin is shorter than that provided in the Japanese Copyright Law, the duration of copyright shall be that granted by that country of origin (Article 58 of the Copyright Law).

Rights of performing artists begin when the performance took place and subsist until the end of a period of 50 years from the year following the date when the performance took place; rights of producers of sound recordings begin when the first fixation of sounds was made and subsist until the end of a period of 50 years from the year following the date when the publishing was made or when the first fixation of sounds was made if the publishing has not been made within a period of 50 years following the first fixation of sounds; rights of broadcasting organizations begin when the broadcast took place, and persist until the end of a period of 50 years from the year following the date when the broadcast took place; and rights of wire diffusion organizations subsist until the end of a period of fifty years from the year following the date when the wire diffusion took place. Moral rights of the performer are protected in perpetuity (Articles 101 and 101ter of the Copyright Law).

The Law provides for a retroactive protection for certain works, performances, phonograms, broadcasts and wire diffusions created, fixed or broadcast before the entry into force of the Copyright Law provided specific conditions are met in accordance with the Supplementary Provisions of previous Copyright Laws.

- *Registration*

Author's right is granted automatically at the moment of the creation of a work. The enjoyment of moral rights of authors and economic rights of copyright holders does not depend on formalities. Therefore, failure to deposit the work does not prejudice the author's rights provided for under the Copyright Law and related legislation (Article 17 of the Copyright Law).

However, the transfer (except that by succession) of copyright or the restriction on the disposal of copyright, the establishment, transfer, alteration or expiry (except because of the merger of the right of pledge, or because of the expiry of copyright or the obligatory right secured), or the restriction on the disposal, of the right of pledge established on copyright shall not be effective against any third party without registration. The registration of the aforementioned rights shall be made by the Commissioner of the Agency for Cultural Affairs on the copyright register (Articles 77 and 78 of the Copyright Law).

Any person may demand of the Commissioner of the Agency for Cultural Affairs the delivery of a certified copy or a certified abstract of entries in the copyright register or a copy of its annexed documents or the opportunity to inspect the register or its annexed documents. A person making such demand shall pay a fee, the amount of which is fixed by Cabinet Order. Details relating to registration of copyright are provided by Cabinet Order (Article 78 of the Copyright Law).

The registration of copyright shall apply mutatis mutandis to the registration of neighboring rights (Article 104 of the Copyright Law).

5. International treaties/conventions:

Japan is a member of the following International Convention and Treaties on Copyright and Related Rights:

- [Berne Convention on the Protection of Literary and Artistic Works](#) (Paris Act of 1971), in force since July 15, 1899.
- [Universal Copyright Convention](#), accession on January 28, 1956 to UCC of 1952 and acceptance on July 21, 1977 to UCC of 1971.
- [Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms](#) (Phonograms Convention), in force since October 14, 1978.
- [Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations](#), in force since October 26, 1989.
- [WIPO Copyright Treaty](#) (WCT), in force since March 6, 2002.
- [WIPO Performances and Phonograms Treaty](#) (WPPT), in force since October 9, 2002.
- [WTO TRIPS Agreement on Trade Related Aspects of Intellectual Property Rights](#), adopted by Law No. 7 of 1994 and in force since January 1, 1995.

II. Measures and remedies

1. Copyright infringement

The Copyright Law defines copyright infringement (including moral, economic and publication rights of copyright and neighboring rights holders and holders of publication rights) as follows (Article 113 of the Copyright Law):

- Importation into Japan, for distribution, of objects made by an act which would constitute an infringement on moral rights of authors, copyright, right of publication, moral rights of performers or neighboring rights if they were made in Japan at the time of such importation.
- Distribution or the possession for distribution, or the exportation by trade or the possession for exportation by trade, of objects made by an act infringing moral rights, copyright, right of publication or neighboring rights by a person who is aware of such infringement.
- Using on a computer, in the conduct of business, copies made by an act infringing copyright in a program work, so far as the person using such copies is aware of such infringement at the time when it has acquired the authorization to use these copies.
- Committing any of the following acts relating to rights management information:
 - knowingly adding false information as rights management information;
 - knowingly removes or alters any rights management information excluding the case where such act is conditional upon technology involved in the conversion of recording or transmission systems or other cases where it is deemed unavoidable in the light of the purpose and the manner of exploiting works, performances, phonograms, sounds or images of broadcasts or wire diffusions;
 - distributing, importing for distribution, or possessing for distribution of copies of works, performances, phonograms, sounds or images of broadcasts or wire diffusions by a person knowing that rights management information has been added, removed or altered without authority, or transmitting to the public or making transmittable such works, performances, phonograms, sounds or images of broadcasts or wire diffusions by such person.
- Importation into Japan for distribution within Japan, distribution within Japan or the possession for distribution within Japan of commercial phonograms for foreign distribution by a person who knows that such phonograms are those for foreign distribution provided that an exception is made of the importation, distribution or possession of phonograms for foreign distribution having the same contents as those of phonograms for domestic distribution which go beyond a period, provided by Cabinet Order, within seven years from the first publication of such phonograms in Japan.
- Exploiting a work in a way prejudicial to the honor or reputation of the author.

Additional acts are punished by the copyright law and hence are considered to be infringing its provisions. These are found under Articles 119 to 124, in particular, the following:

- Infringing any copyright, right of publication or neighboring rights.
- Infringing moral rights of authors or performers.
- Violating limitations to copyright or neighboring rights.
- Violating an order to keep secrets.

- Reproducing works, performances, phonograms, sounds or images of broadcasts or wire diffusions for profit-making purposes, by making others using automatic reproducing machines other than in cases permitted by the limitations to copyright or neighboring rights.
- Transferring to the public the ownership of, or lending to the public, manufacturing, importing or possessing for transfer of ownership or lending to the public, or offering for the use by the public, a device having a principal function for the circumvention of technological protection measures or copies of a program having a principal function for circumvention of technological protection measures, or transmitting publicly or making transmittable such program.
- Circumventing technological protection measures in response to a request from the public.
- Distributing copies of works on which the true name or generally known pseudonym of a non-author is indicated as the name of the author (including copies of derivative works on which the true name or generally known pseudonym of a non-author of the original work is indicated as the name of the original author).
- Making, distributing or possessing for distribution copies of commercial phonograms reproduced from any of the following commercial phonograms (including copies of such commercial phonograms and those made through one or more intervening copies).
 - commercial phonograms manufactured by those engaging in the business of manufacturing commercial phonograms in Japan, from matrices of phonograms (except those phonograms protected under the Copyright Law) offered by producers of phonograms.
 - commercial phonograms manufactured by those engaging in the business of manufacturing commercial phonograms outside Japan, from matrices of phonograms (except those phonograms protected under the Copyright Law) offered by producers of phonograms who are nationals of any of the Contracting States of the Rome Convention, the members of the World Trade Organization or the Contracting States of the Phonograms Convention ("nationals" includes legal persons established under the law of such State or member and those who have their principal offices in such State or member).

2. Remedies to protect copyright holders

The Copyright Law, the Civil Code, the Code of Civil Procedure, the Code of Criminal Procedure, the Civil Preservation Law and the Customs Law and the Customs Tariff Law provide for a number of remedies that may apply for protecting copyright and neighboring rights holders in the case of violations of their rights. These remedies include the following:

- Provisional measures may be taken to stop infringement of copyright and neighboring rights and to protect right holders from substantial detriment or imminent danger. In such a case, the author, the performer or the owner of copyright, right of publication or neighboring rights may submit a claim against those who infringe or are likely to infringe their moral, economic or publication rights, for cessation or prevention of such infringements. In this case, holders of copyright and neighboring rights may request the competent authority to take measures necessary to enforce such cessation or prevention of infringement, by seizing objects the making of which constituted an infringement, objects made by an act of infringement or implements and tools used solely for an infringement. (Article 112 of the Copyright Law and Articles 23(2) and 23(4) of the Civil Preservation Law).
- Legal action may be instituted at the request of the right holder including fair and equitable civil judicial procedures (Articles 114bis to 114octies, 116, 123 and 124 of

the Copyright Law, Articles 54, 79, 89, 138, 139, 180, 181, 196, 197, 202, 207, 208, 220, 223, 224, 229, 230, 232, 247, 253, 255, 281, 311 to 317 and 335 to 339 of the Code of Civil Procedure and Articles 43, 44, 46, 293, 297, 298, 304 to 306, 308, 309, 317, and 342 of the Code of Criminal Procedure).

- Seizure of objects the making of which constitutes an infringement, objects made by an act of infringement or implements and tools used solely for an infringement. The court may, when it believes it to be necessary, seize articles of evidence or articles which are considered to require confiscation; provided, however, that this shall not apply when otherwise so provided. The court may specify the articles to be seized and order the owner, possessor or custodian to submit them (Article 112 of the Copyright Law, Article 99 of the Code of Criminal Procedure Article 21 of the Customs Tariff Law, Articles 69-11 and 69-12 of the Customs Law and Articles 23(2) and 23(4) of the Civil Preservation Law).
- Confiscation of any object which constitutes a component of the infringing act, any object used or intended for use in the commission of the infringing act as well as any object produced or acquired by means of the infringing act. The court may, when it believes it to be necessary, seize articles of evidence or articles which are considered to require confiscation; provided, however, that this shall not apply when otherwise so provided. The Director-General of Customs may confiscate and destroy pirated goods which are to be imported or may order any person who intends to import such goods to reship them (Article 19 of the Penal Code, Article 99 of the Code of Criminal Procedure, Articles 69-11 and 69-12 of the Customs Law and Article 21 of the Customs Tariff Law).
- Fair and adequate damages may be imposed including moral damages; any profits attributable to the prohibited activity; damages adequate to compensate for the injury the right holder has suffered as a result of the infringement the amount of which being that corresponding to the amount of money which would be received by the right holder through the exercise of his rights or obtained by multiplying the number of objects so transferred or the number of copies made of works, performances, phonograms, sounds or images of broadcasts or wire diffusions as a result of reception by the public of such transmission, by the amount of profits per unit from such sale of objects as the right holder could make if there was no such infringement, in cases where the infringer has transferred the ownership of objects or has made the public transmission constituting such infringement, within the limits of the amount corresponding to the ability of the right holder to sell such objects or do other acts relating to them; court costs or fees and reasonable attorney's fees to be paid by the losing party (Articles 114, 114quinquies, 115 to 118 of the Copyright Law, Articles 703, 704, 709, 710 and 724 of the Civil Code and Article 61 of the Code of Civil Procedure and Articles 181, 188-2 to 188-7 of the Code of Criminal Procedure).
- Measures may be taken, following a request by the author, the performer or their successors in cases of infringement of their moral rights intentionally or negligently, to identify him as the author or the performer, to correct distortions, mutilations, or modifications or to recover his honor or reputation either in place of or together with indemnification of damages (Articles 115 to 118 of the Copyright Law).
- Criminal sanctions may be imposed, in particular imprisonment for a for a term not exceeding ten years and/or a fine not exceeding ten million Yen. A fine is imposed against natural or legal persons whose representatives, agents, employees or workers violate the Penal provisions of the Copyright Law in connection with their business. Sanctions are also imposed on conspirators (Articles 119 to 122bis and 124 of the Copyright Law, Articles 60 to 65 of the Penal Code).

3. Provisional measures

The Copyright Law permits the author, the performer or the owner of copyright, right of publication or neighboring rights to submit a claim against those who infringe or are likely to infringe their moral, economic or publication rights, for cessation or prevention of such infringements. In this case, holders of copyright and neighboring rights may request the competent authority to take measures necessary to enforce such cessation or prevention of infringement, by seizing objects the making of which constituted an infringement, objects made by an act of infringement or implements and tools used solely for an infringement (Article 112 of the Copyright Law).

Provisional/preliminary injunction may be issued, following an application by the right holder, if he would suffer substantial detriment or it would be necessary to avoid imminent danger. The judicial authorities could order the infringer, as a provisional measure, to stop infringing acts and take into custody suspected infringing goods, materials and implements relevant to the acts of infringement. The injunction order as a provisional measure may not be issued without holding a hearing which the opponent is able to attend. However, the court may issue the order without holding such a hearing where the court finds in light of circumstances that the purpose of the petition cannot be achieved if the opponent is heard (Articles 23(2) and 23(4) of the Civil Preservation Law).

4. Penalties for copyright infringement

The Copyright Law, the Civil Code, the Code of Civil Procedure, the Code of Criminal Procedure, the Civil Preservation Law, the Customs Tariff Law and the Customs Law provide for penalties in case of copyright or neighboring rights infringement. These penalties include the following:

- Fair and adequate damages may be imposed including moral damages; any profits attributable to the prohibited activity; damages adequate to compensate for the injury the right holder has suffered as a result of the infringement the amount of which being that corresponding to the amount of money which would be received by the right holder through the exercise of his rights or obtained by multiplying the number of objects so transferred or the number of copies made of works, performances, phonograms, sounds or images of broadcasts or wire diffusions as a result of reception by the public of such transmission, by the amount of profits per unit from such sale of objects as the right holder could make if there was no such infringement, in cases where the infringer has transferred the ownership of objects or has made the public transmission constituting such infringement, within the limits of the amount corresponding to the ability of the right holder to sell such objects or do other acts relating to them; court costs or fees and reasonable attorney's fees to be paid by the losing party (Articles 114, 114quinquies, 115 to 118 of the Copyright Law, Articles 703, 704, 709, 710 and 724 of the Civil Code and Article 61 of the Code of Civil Procedure and Articles 181, 188-2 to 188-7 of the Code of Criminal Procedure).
- Seizure of objects the making of which constitutes an infringement, objects made by an act of infringement or implements and tools used solely for an infringement. The court may, when it believes it to be necessary, seize articles of evidence or articles which are considered to require confiscation; provided, however, that this shall not apply when otherwise so provided. The court may specify the articles to be seized and order the owner, possessor or custodian to submit them (Article 112 of the Copyright Law, Article 99 of the Code of Criminal Procedure and Article 21 of the Customs Tariff Law, Articles 69-11 and 69-12 of the Customs Law and Articles 23(2) and 23(4) of the Civil Preservation Law).

- Confiscation of any object which constitutes a component of the infringing act, any object used or intended for use in the commission of the infringing act as well as any object produced or acquired by means of the infringing act. The court may, when it believes it to be necessary, seize articles of evidence or articles which are considered to require confiscation; provided, however, that this shall not apply when otherwise so provided. The Director-General of Customs may confiscate and destroy pirated goods which are to be imported or may order any person who intends to import such goods to reship them (Article 19 of the Penal Code, Article 99 of the Code of Criminal Procedure, Articles 69-11 and 69-12 of the Customs Law and Article 21 of the Customs Tariff Law).
- Measures may be taken, following a request by the author, the performer or their successors in cases of infringement of their moral rights intentionally or negligently, to identify him as the author or the performer, to correct distortions, mutilations, or modifications or to recover his honor or reputation either in place of or together with indemnification of damages (Articles 115 to 118 of the Copyright Law).
- Criminal sanctions may be imposed, in particular imprisonment for a for a term not exceeding ten years and/or a fine not exceeding ten million Yen. A fine is imposed against natural or legal persons whose representatives, agents, employees or workers violate the Penal provisions of the Copyright Law in connection with their business. Sanctions are also imposed on conspirators (Articles 119 to 122bis and 124 of the Copyright Law, Articles 60 to 65 of the Penal Code).

5. Requirements for foreign persons

As a general rule, foreign natural and legal persons shall enjoy the right to take action in Japanese courts (Article 3 of the Civil Code and Article 4 of the Code on Civil Procedures).

An action shall be subject to the jurisdiction of the court that has jurisdiction over the location of the general venue of the defendant. The general venue of a person shall be determined by his/her domicile, by his/her residence if he/she has no domicile in Japan or his/her domicile is unknown, or by his/her last domicile if he/she has no residence in Japan or his/her residence is unknown.

The general venue of a foreign association or foundation shall be determined by its principal office or business office in Japan, or by the domicile of its representative or any other principal person in charge of its business assigned in Japan if it has no business office or other office in Japan.

The general venue of a state shall be determined by the location of a government agency that represents the state in a suit.

III. Enforcement

1. Enforcement authorities

a) Authorities responsible for enforcing the copyright law

The police (National Police Agency), public prosecutors, the judiciary, customs officials, and the judicial police are the competent authorities responsible for enforcing the Copyright Law and combating piracy in Japan (Article 112 of the Copyright Law, Articles 189 and 191 of the Code of Criminal Procedure)

b) Enforcement bodies entitled to act *ex-officio* in copyright infringement cases

A judicial police official shall, when he/she deems that an offense has been committed, investigate the offender and evidence thereof (Article 189 of the Code of Criminal Procedure).

A public prosecutor may, if he/she deems it necessary, investigate an offense him/herself, or he may order the public prosecutor's assistant officer to do so (Article 191 of the Code of Criminal Procedure).

c) Courts dealing with copyright cases

The Japanese judicial system includes the Supreme Court, the High courts, the District courts, the family courts, and the summary courts.

The Supreme Court is the highest court in Japan. It exercises appellate jurisdiction of appeals to the court of the last resort, and appeals from or against rulings as provided for in the codes of procedure.

High courts are located in 8 major cities in Japan, with each court having its own territorial jurisdiction over one of the 8 regions into which Japan is divided. Some high courts have different branches. In April 2005, the Intellectual Property (IP) High Court was newly established as a special branch of the Tokyo High Court. High courts, except for the Intellectual Property High Court, have jurisdiction over appeals filed against judgments rendered by district courts in the first instance, family courts and summary courts. The IP High Court hears appeals from district courts on patent actions and suits against appeal/trial decisions made by the Japanese Patent Office (JPO). It also hears any other cases before the Tokyo High Court, as far as the nature and contents of the case are related to intellectual property. Appeals from district courts in civil cases relating to rights of the authors of a program work come under the exclusive jurisdiction of the Tokyo High Court, and are heard by the IP High Court. Appeals from district courts in civil cases relating to copyrights (excluding rights of the authors of a program work), rights of publication, neighboring rights, and those relating to infringements of business interests by acts of unfair competition come under the jurisdiction of the relevant high court among the eight high courts in Japan, depending on where the court of first instance is located. Therefore, the IP High Court, as a special branch of the Tokyo High Court hears such appeals when they come under the jurisdiction of the Tokyo High Court. The IP High Court also hears other civil cases and administrative cases under the jurisdiction of the Tokyo High Court that need expertise on intellectual property to conduct proceedings and make judgments on the main issues (Articles 2(1) and 2(3) of the Law for Establishing the IP High Court and Articles 6-3, 92-8 and 92-9 of the Code of Civil Procedure).

There are 50 district courts in Japan which have territorial jurisdiction over their respective districts (or the geographical area which corresponds to a given prefecture). They are primary courts of first-instance or original jurisdiction except for matters specifically coming under the exclusive original jurisdiction of other types of court.

Family courts and their branches are established at the same places where district courts and their branches are located. The family court has mainly jurisdiction over all disputes and conflicts that take place within the family, as well as all related domestic affairs of legal significance.

Summary courts are located in cities, towns and villages and have the original jurisdiction over civil cases involving claims for amounts not exceeding 1,400,000 yen and criminal cases for offenses punishable by fines or lighter punishment and other offenses.

Accordingly, litigations related to intellectual property rights including copyright may arise both as civil disputes and criminal disputes. With respect to civil disputes, there are no specialized courts in intellectual property on a trial court level. The Tokyo and Osaka District Courts, however, have civil divisions specialized in intellectual property litigations. On an appeal court level, the Intellectual Property High Court (location: Tokyo) is the court specialized in intellectual property cases. The High Court handles all kinds of cases related to intellectual property rights. With regard to criminal cases related to intellectual property rights, the regular courts handle those cases pursuant to criminal procedure.

For more information about the Japanese judicial system please check the following websites:

<http://www.ip.courts.go.jp/eng/index.html>

<http://www.courts.go.jp/english/system/system.html#02>

2. Enforcement at the border

The Customs is the Authority responsible for combating piracy at the borders.

Goods that infringe any intellectual property right, including copyrights and neighboring rights shall not be imported to Japan or exported from Japan. Infringing or attempting to infringe copyright or neighboring rights is dealt with under the Customs Law and the Customs Tariff Law as importing or exporting or attempting thereof, as the case may be, prohibited goods and should be subject to penalties (Article 21 of the Customs Tariff Law and Articles 30, 65-2 and 69-11 of the Customs Law).

The Director-General of Customs may confiscate and destroy such goods which are to be imported or may order any person who intends to import such goods to reshipe them. When the Director-General of Customs suspects that goods to be imported are infringing copyright or neighboring rights, he shall, as may be prescribed by a Cabinet Order, carry out the procedures necessary to verify whether the said goods are pirated or not (hereinafter "the verification procedures"). In this case, the Director-General of Customs shall, as may be prescribed by a Cabinet Order, notify the holder of copyrights or neighboring rights relating to the goods, the person who has the right to seek an injunction of unfair competition and the person who intends to import the said goods that he is to carry out the verification procedures and that the right holders may submit evidence to prove whether the goods are pirated and state opinions, and any other matter prescribed by other Cabinet Orders (Article 21 of the Customs Tariff Law and Articles 69-11 and 69-12 of the Customs Law).

In cases where the Director-General of Customs gives a notification, he shall notify the name and address/domicile of the person who intends to import the goods and the consignor of the said goods to the right holder relating to the said goods, and the name and address/domicile of the said right holder to the person who intends to import the said goods. When the Director-General of Customs considers that the name or address of the producer of the goods concerned are evident from the import declaration or other relevant documents submitted to him relating to the importation of the goods about which the verification procedures are carried out, or documents submitted to him under the said verification procedures, or labels of the said goods, he shall notify, with the aforementioned notification, or after the said notification while the verification procedures are carried out, the name or address of the said person to the right holder relating to the said goods (Article 21 of the Customs Tariff Law and Article 69-12 of the Customs Law).

The Director-General of Customs may confiscate and destroy such goods only after carrying out the verification procedures. When the Director-General of Customs has verified that the goods are pirated, he shall notify the right holder relating to the verified goods and the person who intends to import the said verified goods of such fact and of the reason therefore. The Director-General of Customs shall discontinue the verification procedures and notify the right holder about it in cases where the goods in question are no longer to be imported or they fall under any specific condition enumerated by the Customs law (Article 21 of the Customs Tariff Law and Article 69-12 of the Customs Law).

The holder of a copyright or neighboring right or a person who has the right to seek an injunction of unfair competition may, as may be prescribed by a Cabinet Order, apply to the Director-General of Customs at one of any regional customs houses for carrying out the verification procedures with respect to any suspect infringing goods, by producing evidence necessary for proving prima facie the fact of infringement. In this case, as may be prescribed by an Ordinance of The Ministry of Economy, Trade and Industry, a person who has the right to seek an injunction of unfair competition shall seek the opinion of the Minister of Economy, Trade and Industry and submit the said written opinion to the Director General of Customs. The Director-General of Customs may refuse to accept the application if he considers that there is no sufficient evidence for proving prima facie the fact of infringement. In this case he shall notify the applicant of the fact and of the reason thereof. If the Director-General of Customs has accepted the application, he shall notify the applicant of such fact and of the period in which he is to carry out, in response to the application, the verification procedures each time he considers that goods to be imported include those goods relating to the application (period of effectiveness). In this case, the Director-General of Customs shall, as may be prescribed by a Cabinet Order, provide opportunities for the applicant or the person who intends to import the said goods to inspect the said goods if the said person makes a request to do so. The Director-General of Customs may ask the applicant to provide a reasonable security or equivalent assurance sufficient to protect the defendant. The applicant shall then file an application with the Director-General of Customs for approval of the inspection. The latter shall notify any person who intends to import the goods in question of such fact. He shall also approve that the applicant inspects samples of the goods in question provided Customs requirements and conditions are met. A customs officer shall observe the inspection in question. In such a case, any person who intends to import the goods in question relating to the samples may observe the inspection by filing application with the Director-General. It is possible to request the Director-General of Customs to discontinue the verification procedures in accordance with Customs rules and conditions (Articles 21-2, 21-3, 21-3-2 and 21-5 of the Customs Tariff Law, Articles 69-13, 69-15, 69-16 and 69-20 of the Customs Law).

Similar procedures relating to the export of prohibited goods, including goods infringing copyright and neighboring rights, are available under Articles 69-2 to 69-4, 69-6 and 69-10 of the Customs Law.

IV. Public awareness

1. Awareness campaigns and actions

2. Promotion of legal exploitation

- **Recording Industry Association of Japan (RIAJ)**

The objective of the Recording Industry Association of Japan (RIAJ) is to contribute to the development of Japanese culture by means of enhancing harmony and conciliation across the recording industry, diffusion of high-quality recordings (pre-recorded CDs etc.), protection of record producers' right, and efforts to promote proper use of recordings.

For more information: <http://www.riaj.or.jp/e/index.html>

3. Associations and organizations with awareness-raising purpose

- **Copyright Research & Information Center (CRIC)**

Copyright Research & Information Center (CRIC) was established in 1959 as a public service corporation authorized by the Government, and has been developing its activities and programs on author's right and neighboring rights, coping with social/economic changes. CRIC's services now cover such areas as public awareness raising, information services, seminar/training programs, research/survey, and international cooperation. CRIC is eager to further develop our services based on our principle: to contribute to cultural development through the protection of copyright by public awareness raising as well as other activities such as research for better legislation and implementation of copyright systems.

For more information: http://www.cric.or.jp/cric_e/clj/clj.html

- **Association of Copyright for Computer Software (ACCS)**

The Association of Copyright for Computer Software (ACCS) aims to promote the cultural development of a computerized society through the protection of copyrights of digital works and the promulgation of the concept of copyright. The "Illegal Copying Prohibition Mark", the symbol of ACCS, is displayed on members' products, their manuals, their promotional ads, and ACCS' pamphlets, posters, and protest advertisements, to convey our commitment to protecting rights to digital contents, including the prohibition of illegal copies.

For more information: <http://www2.accsjp.or.jp/en/>

- **Japan Video Software Association (JVA)**

The main activities of the Japan Video Software Association (JVA) include the following:

- Activities to promote sound marketing including to prevent copyrighted video products from unauthorized exhibition and illegal duplication.
- Activities to promote copyright protection including to study revisions to the existing Japanese copyright law for a proposal to the Agency for Cultural Affairs.
- Studies on censorship restrictions
- Market survey and publicity
- Cooperation with government offices and allied organizations
- Promotion of Multi-Media

For more information: <http://www.jva-net.or.jp/en/index.html/>

- **Japan International Movie Copyright Association (JIMCA)**

JIMCA (Japan and International Motion Picture Copyright Association, Inc.) represents the interests in Japan of major motion picture companies and the Motion Picture Association, conducting investigations, supporting the criminal and civil litigation generated by such cases, and organizing educational programs to teach Japanese movie fans about the harmful effects of copyright theft. JIMCA works closely with Japanese and foreign film companies, government agencies and the Anti-Counterfeiting Association to combat intellectual property rights infringement and the economic damage it inflicts on businesses and society, not only in Japan, but globally. The Anti-Counterfeiting Association is a strong coalition of organizations representing the rights of copyright, trademark and patent owners. ***To report movie copyright theft, please call JIMCA's 24-hour piracy hotline: 0120-110397.***

For more information: <http://www.jimca.co.jp/english/index.html/>

4. Best practices

Japan Copyright Office has produced several materials to raise public awareness about copyright, and they are posted on the site below.

http://www.bunka.go.jp/chosakuken/index_4.html

V. Capacity-building

1. Trainings

2. Specialized units

Private bodies have been created to promote intellectual property in Japan and to fight against piracy, in particular the following:

- **Japanese Government's IP Policy**

The Japanese Government's IP Policy includes three main components: the Strategic Council on IP (March 2002) which is comprised of the Prime Minister, Cabinet Members and other key figures from the private sector; the [Intellectual Property Basic Act](#) (November 2002), the establishment of which was proposed by "the IP Policy Outline" in July 2002 and the IP Strategy Headquarters (March 2003), established in accordance with Chapter 4 of the [Intellectual Property Basic Act](#), and has published the IP strategic programs annually since 2003. The measures against counterfeiting and piracy are taken as one of the most important issues in the IP strategy. The related governmental organizations and private sectors have been involved in the implementation of those measures. They consist of the ones in overseas market, ones at the border, ones relating to domestic regulations, ones relating to internet, ones promoting public understanding, and ones promoting cooperation among governmental agencies and private sectors. Japan Customs, including major regional customs, have the divisions solely in charge of the IP matters. In relation to public awareness campaign, several related governmental organizations, including Japan Patent Office, Japan Customs and Japan Police, have made campaigns by means of posters and so forth.

The annual [IP Strategic Programs](#) (since July 2003) was established, in accordance with Chapter 3 of the [Intellectual Property Basic Act](#), to formulate "a promotion plan on the creation, protection and exploitation of IP" that outlines measures that the government should take in a planned and focused manner (revised annually since 2003):

- Enlargement of activities abroad and reinforcement of measures against counterfeits and pirated goods
- Efforts for construction of global piracy system
- International standardization activity
- Reinforce of contents companies' global competitiveness
- Reinforce of global competitiveness in the field Japan especially focuses on etc.
- Efforts for early realization of Anti-Counterfeiting Trade Agreement (ACTA)
- Ministry of Foreign Affairs of Japan's [Undertakings to Promote Intellectual Property Rights](#)
-

For more information: http://www.ipr.go.jp/e_materials.html

- **ICC-Japan Commission on Intellectual Property**

The intellectual property policy of the International Chamber of Commerce (ICC) is formulated by its Commission on Intellectual Property, which gathers over 300 business executives and private practitioners from 50 countries. The commission identifies key intellectual property issues facing the international business community and contributes the business voice to debates to resolve these. It also works to raise awareness of intellectual property by initiatives such as its annual *Roadmap on Current and Emerging IP Issues for Business and other publications*. The Commission on Intellectual Property meets twice each year in plenary, but carries out work constantly throughout the year in issue-specific task forces. The Commission also works closely with intergovernmental organizations involved in intellectual property policy-making, such as the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO) where ICC has observer status.

For more information: <http://www.iccwbo.org/policy/ip/id2465/index.html>

3. Best practices

The CJ Mark by Content Overseas Distribution Association (CODA):

The CJ Mark is a trademark that helps protect the copyright of Japanese content, such as film, music, animation, TV programs, video games, books and toys. The trademark, which is being registered in countries where these products are officially distributed, is affixed to the products of CODA members. In February 2008, CODA, with the support of Hong Kong Customs, successfully confiscated 10,615 pirated materials for the infringement of the CJ trademark. It is believed that this is the first case in the world to apply the trademark infringement to anti-piracy. http://www.coda-cj.jp/CODA_en01.pdf

VI. Other

1. Technological Protection Measures (TPM)

The Copyright Law provides protection for Technological Protection Measures (TPM) through prohibiting and punishing the following acts (Articles 2(1)(xx), 30, 113 and 120bis of the Copyright Law):

- Transferring to the public the ownership of, or lending to the public, manufacturing, importing or possessing for transfer of ownership or lending to the public, or offering for the use by the public, a device having a principal function for the circumvention of technological protection measures or copies

of a program having a principal function for circumvention of technological protection measures, or transmitting publicly or making transmittable such program.

- Circumventing technological protection measures in response to a request from the public.
- Committing any of the following acts relating to rights management information:
 - knowingly adding false information as rights management information;
 - knowingly removes or alters any rights management information excluding the case where such act is conditional upon technology involved in the conversion of recording or transmission systems or other cases where it is deemed unavoidable in the light of the purpose and the manner of exploiting works, performances, phonograms, sounds or images of broadcasts or wire diffusions;
 - distributing, importing for distribution, or possessing for distribution of copies of works, performances, phonograms, sounds or images of broadcasts or wire diffusions by a person knowing that rights management information has been added, removed or altered without authority, or transmitting to the public or making transmittable such works, performances, phonograms, sounds or images of broadcasts or wire diffusions by such person.

The reproduction of a work for private use including personal use, family use or other similar uses within a limited circle is not permissible for reproduction made by means of automatic reproducing machines placed for the use by the public and reproduction made by a person who knows that such reproduction becomes possible by the circumvention of technological protection measures.

Any person who is found to have engaged in any of the aforementioned activities relating to TPM shall be punished by imprisonment for a term not exceeding three year and/or a fine not exceeding three million Yen.

Any person who is found to have engaged in any of the aforementioned activities relating to rights management information shall be punished by imprisonment for a term not exceeding five years and/or a fine not exceeding five million Yen.

2. Licensing Schemes

3. Optical Discs

4. Hotlines

5. Relevant contacts and links

Japan Copyright Office (JCO)

International Affairs Division

Government of Japan

3-2-2, Kasumigaseki

Chiyoda-ku

Tokyo 100-8959

Telephone: (81 3) 6734 3110

Telefax: (81 3) 6734 3813

Contact officials:

1. Mr. Hiroyuki Seki (Director General)
2. Mr. Kazushige Yamashita (Director, Copyright Division)
3. Mr. Makoto Kawase (Head, Multimedia Copyright Section / Director, Office for Promoting Work Distribution)
4. Mr. Yu Kameoka (Director, International Affairs Division)

Customs Authority

1. Mr. Hideo Mitsunashi
Special Officer for Intellectual Property Rights
Customs Clearance Division
Customs and Tariff Bureau
Ministry of Finance
3-1-1, Kasumigaseki, Chiyoda-ku
Tokyo
100 Japan
Telephone: +81 3 3581 3041
Telefax: +81 3 5251 2125

2. Mr. Noriaki Oka
Assistant Director
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Ministry of Finance
3-1-1, Kasumigaseki, Chiyoda-ku
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100 Japan
Telephone: +81 3 3581 3825
Telefax: +81 3 5251 2123

3. Mr. Koji Minamino
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Customs and Tariff Bureau
Ministry of Finance
3-1-1, Kasumigaseki, Chiyoda-ku
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100 Japan
Telephone: +81 3 3581 3041
Telefax: +81 3 5251 2125

4. Mr. Kazuhiro Itaya
Assistant Director
First International Organizations Division
Economic Affairs Bureau
Ministry of Foreign Affairs
2-2-1, Kasumigaseki, Chiyoda-ku
Tokyo
100 Japan
Telephone: +81 3 3581 3813
Telefax: +81 3 3581 9470

Intellectual Property Affairs Division, Economic Affairs Bureau, Ministry of Foreign Affairs (MOFA)

Kasumigaseki 2-2-1, Chiyoda-ku, TOKYO, 100-8919 JAPAN

Tel : +81-3-5501-8350

Fax : +81-3-3501-8343

[http:// www.mofa.go.jp/policy/economy/i_property/index.html](http://www.mofa.go.jp/policy/economy/i_property/index.html)

Office of Intellectual Property Protection (Ministry of Economy, Trade and Industry (METI))

Kasumigaseki 1-3-1, Chiyoda-ku, TOKYO, 100-8901 JAPAN

Tel : +81-3-3501-1701

Fax : +81-3-3501-6588

[http:// www.meti.go.jp/policy/ipr/eng/index.html](http://www.meti.go.jp/policy/ipr/eng/index.html)

Media and Content Industry Division, Ministry of Economy, Trade and Industry (METI)

Kasumigaseki 1-3-1, Chiyoda-ku, TOKYO, 100-8901 JAPAN

Tel : +81-3-3501-9537

Fax : +81-3-3501-1599

[http:// www.meti.go.jp/english/index.html](http://www.meti.go.jp/english/index.html)

Associations

The Anti-Counterfeiting Association (ACA)

TSUKIJI MF.BLDG.NO.26 3F, 12-10, Tsukiji 2, Chuo-ku, Tokyo 104-0045

Tel : +81-3-3542-2010

Fax : +81-3-3542-2535

<http://www.aca.gr.jp/>

Content Overseas Distribution Association (CODA)

Ark Mori Building 6F, 12-32 Akasaka 1, Minato-ku, Tokyo, 107-6006

Tel +81-3-3582-5198

Fax : +81-3-3585-7289

<http://www.coda-cj.jp/index02.html>

Copyright in General

Copyright Research and Information Center (CRIC)

Tel: +81-3-5353-6921

Tel: +81-3-5353-6922 (Consultancy Office)

http://www.cric.or.jp/cric_e/index.html

Musical Works

Japanese Society for Rights of Authors, Composers and Publishers (JASRAC)

Tel: +81-3-3481-2121

<http://www.jasrac.or.jp/ejhp/>

Novels

Japan Federation for the Protection of Copyright on Literary Works

Tel: +81-3-3265-9658

Scenarios

Nihon Kyakuhonka Renmei

Tel: +81-3-3401-2304
Nihon Shinario-sakka Kyokai
Tel: +81-3-3584-1901

Phonograms

Recording Industry Association of Japan (RIAJ)
Tel: +81-3-6406-0510
<http://www.riaj.or.jp/e/index.html>

Performances

Japan Council of Performers' Organizations (GEIDANKYO)
Tel: +81-3-5353-6600

Center for Performers' Rights Administration (CPRA)

Tel: +81-3-3379-3571

Broadcasting

Nihon Hoso Kyokai (NHK)
Tel: +81-3-3465-1111
National Association of Commercial Broadcasters in Japan (NAB)
Tel: +81-3-5213-7707

Computer Programs

Association of Copyright for Computer Software (ACCS)
Tel: +81-3-5976-5175
<http://www2.accsjp.or.jp/en/>

Video Works

Japan Video Software Association (JVA)
Tel: +81-3-3542-4433
<http://www.jva-net.or.jp/en/index.html>
Japan International Movie Copyright Association (JIMCA)
Tel: +81-3-3265-1401
<http://www.jimca.co.jp/english/index.html>

Publications

Japan Book Publishers Association
Tel: +81-3-3268-1303
<http://www.jbpa.or.jp/en/members/index.html>

Reprography

Japan Reprographic Rights Center (JRRC)
Tel: +81-3-3401-2382
<http://www.jrrc.or.jp/eng/index.html>

Artistic Works

Japan Artists' Association
Tel: +81-3-3542-2581

Photography

Japan Photographic Copyright Society (JPCA)
Tel: +81-3-3265-6655
http://jpca-graphica.jp/index_e.html

Educational and other Films

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6. Links:

<http://www.ip.courts.go.jp/eng/index.html>

<http://www.asianlii.org/jp/legis/laws/>

http://www.ipr.go.jp/e_materials.html

<http://www.cas.go.jp/jp/seisaku/hourei/data/CA.pdf>

<http://www.cas.go.jp/jp/seisaku/hourei/data/ALL.pdf>