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Overview of Japan's AI Governance: What Global Companies Need to Know

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I. Introduction: The Current State of Japan's AI Governance

In May 2025, Japan's Parliament passed the Act on Promotion of Research and Development, and Utilization of Artificial Intelligence-Related Technologies (the "**AI Promotion Act**")[1] in response to the rapid advancement of AI technologies. This law establishes AI as a foundational technology for the development of Japan's economy and society and sets out the government's basic principles to promote consistent R&D in AI-related technologies—from basic research to practical applications.

The AI Promotion Act is not a regulatory framework that is focused on the private sector; rather, it articulates policy objectives to foster AI innovation in general while addressing its potential risks. A key feature of Japan's AI governance is its reliance on a soft law approach, which avoids legally binding penalties and instead provides guidance on AI governance through government-issued guidelines. This approach encourages voluntary corporate initiatives while avoiding excessive regulations that could hinder innovation.

In addition, many AI-related risks are already being addressed under existing legal frameworks. For example, the following laws apply to AI use:

- **Act on the Protection of Personal Information (Act No. 57 of 2003, as amended):** Regulates the collection, analysis and use of personal data by AI.
- **Copyright Act (Act No. 48 of 1970, as amended):** Governs the use of copyrighted works in the training and output of generative AI, with certain exceptions for data analysis and machine learning.
- **Consumer protection laws:** Regulate misleading representations and unfair solicitations.

Thus, Japan's AI governance operates wholistically by combining new measures—such as the AI Promotion Act and governmental guidelines—with the application of existing laws.

Japan's approach differs significantly from the EU's binding regulatory framework, as exemplified by the AI Act, which classifies AI systems by risk level and imposes strict legal obligations and penalties on high-risk AI. It also diverges from the U.S. model, which emphasizes a voluntary framework and flexible guidelines to foster innovation (e.g., the AI Risk Management Framework of the National Institute of Standards and Technology and the Blueprint for an AI Bill of Rights).

Japan has adopted a hybrid model that combines soft-law instruments—such as government-issued AI guidelines—with the application of existing sector-specific legislation. This approach aims to balance the promotion of innovation with the mitigation of risks and the building of public trust. Through this model, Japan seeks to play

1. Law No. 53 of 2025.

an active role in shaping international discussions on AI governance. This article provides an overview of Japan's AI governance by focusing on three key topics:

- the AI Promotion Act
- the AI Business Guidelines
- the application of existing laws to AI

II. Overview of the AI Promotion Act: Legal Framework and Policy Significance

The AI Promotion Act is a framework law that outlines Japan's basic policy framework for AI. Instead of imposing specific regulations and penalties, the Act sets out a national policy to comprehensively and systematically promote the research, development and utilization of AI-related technologies.

1. Purpose and Basic Principles

Article 1 (Purpose) of the AI Promotion Act defines the law's objective as contributing to the improvement of people's lives and sound development of the national economy, recognizing AI as a foundational technology for Japan's economic and social progress.

Article 3 (Basic Principles) of the AI Promotion Act outlines the following:

- Importance for economic society and national security—keeping R&D capabilities and enhancing international competitiveness
- Comprehensive and systematic promotion from basic research to utilization
- Ensuring transparency, etc., for appropriate R&D and utilization
- A leadership role in international cooperation

2. Structure of Basic Measures (Chapter 2)

The AI Promotion Act organizes the government's responsibilities into a set of policy measures, including:

- **Article 11:** Promotion of integrated R&D from basic research to practical application
- **Article 12:** Development and shared use of data centers and related infrastructure
- **Article 13:** Establishment of guidelines aligned with international standards
- **Articles 14–15:** Development of advanced AI talent and promotion of education
- **Article 16:** Investigation and analysis of risk cases, and provision of guidance to businesses
- **Article 17:** Participation in international rule-making

These measures aim to strengthen Japan's technological foundation while ensuring social acceptance and international alignment.

3. Policy Implementation System: Basic Plan and Strategic Headquarters (Chapters 3-4)

The government must adopt a Basic Plan for Artificial Intelligence in line with the AI Promotion Act's basic principles. The plan will be approved by the Cabinet and made public by the Prime Minister (Article 18).

The Cabinet will also establish the AI Strategy Headquarters (Articles 19–28), chaired by the Prime Minister and composed of relevant ministers. This headquarters will serve as the cross-ministerial command center for AI policy-making, enabling agile and flexible implementation.

4. Duties of Private Businesses and Citizens (Articles 7-8)

The AI Promotion Act assigns roles not only to the government but also to other stakeholders:

- **Private Businesses (Article 7):** Encouraged to actively utilize AI technologies to improve efficiency, enhance operations and create new industries, while cooperating with measures implemented by the national and local governments
- **Citizens (Article 8):** Encouraged to deepen their understanding of and interest in AI technologies, and make efforts to cooperate with measures implemented by the national and local governments

5. Legal Nature and Institutional Design

The AI Promotion Act is a non-binding framework law, imposing only "effort-based" and "cooperation" obligations on businesses and citizens. This design avoids excessive regulation that could hinder innovation, while allowing the government to provide direction through a soft law framework. However, failure to cooperate may lead to being subject to guidance, recommendations, or other measures from the authorities. In policy discussions, the possibility of publicly disclosing the names of non-cooperative businesses has also been suggested, but there is no formal mechanism yet for it.

III. Overview of the AI Guidelines for Business: A "Living Document" Bridging Practice and Ethics

While the AI Promotion Act sets the national direction as a framework law, the practical implementation of AI governance is supported by the government-issued AI Guidelines for Business Ver 1.0, published by the Ministry of Internal Affairs and Communications and the Ministry of Economy, Trade and Industry on April 19, 2024.

These guidelines, as a form of soft law without binding legal effect, systematically set out the voluntary measures expected of businesses involved in the development, provision and use of AI. The guidelines aim to present a unified set of guiding principles for AI governance in Japan to promote the safe and secure use of AI, help businesses fully recognize AI-related risks in line with international trends and stakeholders' concerns, and encourage voluntary countermeasures across the entire lifecycle of AI.

1. Human-Centered AI Principles as the Foundation

The core value of the AI Guidelines for Business is rooted in Japan's "Basic Philosophies" as articulated in its human-centered AI framework. These philosophies envision AI as a public good that fosters transformative innovation and global sustainability, anchored in three fundamental values: respect for human dignity, diversity and inclusion, and sustainability.

Based on this principle, the guidelines set out ten common principles: human dignity, inclusion of diversity, sustainability, safety, fairness, privacy protection, transparency, accountability, education and literacy, and innovation. These principles are aligned with Japan's constitutional values as well as international human rights norms and call for ethical and social considerations throughout the AI lifecycle.

2. Responsibilities by Stakeholder Type

A distinctive feature of the AI Guidelines for Business is that they go beyond listing abstract principles and provide concrete considerations tailored to three types of stakeholders: AI developers, providers and users. For example, developers are expected to ensure data accuracy and analyze bias; providers are expected to ensure service transparency and accountability; and users are responsible for appropriate use and establishing educational frameworks.

The guidelines also adopt a risk-based approach, recommending that the level of response be flexibly adjusted according to the purpose and impact of the AI system. This reflects a realistic design philosophy that seeks to secure public trust while avoiding overregulation.

3. Evolution as a "Living Document"

The drafting process of the AI Guidelines for Business involved diverse stakeholders, including educational and research institutions, private companies and civil society organizations, and incorporated public comments and discussions to ensure both practical relevance and legitimacy. The guidelines serve as a "living document" to be reviewed and, where

appropriate, revised in response to technological and societal changes, with particular attention to maintaining consistency with international standards.

IV. Application of Existing Laws to AI in Japan

While the newly introduced AI Promotion Act and the AI Business Guidelines provide new policy frameworks, Japan also applies existing legislation to AI-related activities. Although the guidelines themselves are soft law without any binding effect, any use of AI that breaches existing statutes may be deemed unlawful and could trigger civil or criminal liability. Below are examples of legal issues frequently encountered in corporate practice:

1. Act on the Protection of Personal Information ("APPI"): Can personal data be input into AI?

The APPI requires that the purpose of use of personal information be clearly specified and notified or disclosed to the individual. If AI processes personal data in a way that exceeds or deviates from the stated purpose, it may constitute a violation.

Practical Interpretation:

- Explicitly include AI-related processing within the stated purpose of data use.
- When transferring personal data overseas, obtain the individual's consent or ensure that the transfer is made under a legally compliant cross-border data protection framework.

2. Copyright Act: Who owns the copyright in AI-generated outputs?

If AI-generated outputs are substantially similar to existing copyrighted works, then there is a risk of infringement.

Practical Interpretation:

- Infringement is assessed based on two factors: similarity to a pre-existing work and the derivation from (or dependence on) it.
- Where copyrighted works are included in the training data, derivation may be presumed depending on the nature and extent of their use.
- For AI-generated outputs to qualify for copyright protection under Japanese law, there must be human creative involvement—for example, through specific and substantive prompt design or other creative choices that materially influence the output.

3. Consumer Protection Laws: What if AI provides incorrect information to consumers?

Misleading advertisements or product descriptions generated by AI may violate the Act against Unjustifiable Premiums and Misleading Representations (Act No. 134 of 1962, as amended), or, in certain cases, the Consumer Contract Act (Act No. 61 of 2000). Under these laws, a company may be held liable if it publishes or relies on AI-generated output without prior adequate human verification, particularly where the information could mislead consumers or influence their transactional decisions.

Practical Interpretation:

- Establish internal procedures to ensure that all AI-generated consumer-facing content is subject to human review and verification before being released.
- For information that could materially influence consumer decisions—such as pricing, product functionality or safety—adopt formal internal rules, maintain records of the review process, and document the basis for factual claims to demonstrate compliance in case challenged by regulators.

V. Conclusion

1. Characteristics of Japan's AI Governance

Japan's AI governance model is characterized by the integration of soft law and existing legislation. The AI Promotion Act provides a foundational

direction of government and national policy, while the AI Business Guidelines offer practical behavioral standards to the private sector. This framework respects corporate autonomy while ensuring public trust, with the government supporting enforcement through recommendations, guidance and information dissemination rather than penalties.

In addition, Japan applies existing laws—such as the APPI, Copyright Act, and consumer protection laws—to AI-related issues. This approach enables flexible and effective responses without creating entirely new AI-specific regulations.

2. Practical Implications for Global Companies

Japan's approach to AI governance is attracting growing international attention for its attempt to balance innovation with public trust. Given its characteristics, global companies operating in Japan must pay close attention to the local regulatory landscape. While Japan imposes relatively few binding legal obligations, the government-led soft law framework—particularly the AI Business Guidelines—can significantly influence corporate reputation and public perception.

Moreover, companies must carefully assess how existing Japanese laws apply to their AI-related activities. Practices that are lawful in one jurisdiction may violate Japanese laws, such as the APPI or the Copyright Act, while certain actions that are restricted elsewhere may be permissible in Japan.

Accordingly, companies operating in Japan are strongly advised to review and update their internal policies on AI use. This should include clearly defining the purposes for using personal data, implementing robust trade secret management and protection systems, and verifying the accuracy and reliability of consumer-facing AI-generated outputs. Such measures go beyond mere legal compliance—they are critical to protecting corporate reputation and maintaining public trust.

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Patent Utilization Strategies: Patent Funds and Key Contractual Considerations

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I. Introduction

In recent years, there has been growing recognition of the strategic importance of intellectual property ("**IP**") rights—particularly patents—in corporate business strategy. Traditionally, companies have tended to acquire patents and exercise their exclusive rights to block competitors. However, patents are now increasingly viewed not only as tools for exclusive use but as assets that can create value through monetization strategies, including the controlled opening and licensing of those rights.

In Japan, however, it is not uncommon for companies to be unable to fully leverage their patents. This may be due to factors such as the nature of their relationships with other companies or the lack of personnel within the organization who are knowledgeable about IP management. According to the Japan Patent Office, of the approximately 1.63 million patents held domestically as of 2024, only roughly half or about 850,000 are actively being utilized.

Against this backdrop, one strategy for the effective use of patent rights is through IP funds, which is the focus of this article—hereinafter referred to as "**patent funds**." This article provides an overview of the concept and structure of patent funds and outlines key considerations for companies who are thinking of contributing their patents to such funds.

II. Patent Funds in General

1. What is a Patent Fund?

A patent fund is a financial entity that invests in and manages patents by assembling them into a portfolio, operating the fund with the capital contributed by investors, and distributing the returns generated from such operations to both the original patent holder(s) and the investors.

Patent funds come in various forms, targeting specific technological fields or encompassing the full spectrum from patent issuance to commercialization. Broadly speaking, they can be classified into the following three types. However, from Section III hereof, this article will focus primarily on two of them—licensing revenue funds and litigation-based funds.

(a) Licensing Revenue Funds

In this type of fund, the patent portfolio is leveraged to negotiate licenses with companies that are believed to be practicing the patented inventions. After concluding license agreements, the fund collects royalties as its revenue. In forming the portfolio, the fund typically identifies a specific technology area and aggregates patents accordingly.

While the primary goal is to conclude agreements through negotiation, discussions can become

difficult or fail entirely if, for example, the target company denies that it is practicing the invention. Therefore, patent holders must thoroughly assess the likelihood of successful negotiations based on the fund's due diligence and business plans. Should negotiations fail, the fund may consider initiating legal action against the target company for alleged infringement, shifting to the model described in subsection (b) below.

(b) Litigation-Based Funds

Litigation-based funds target companies believed to be infringing on the patents held in the portfolio. The fund initiates patent litigation to seek damages, settlement payments, or other forms of compensation. Because this strategy involves a high degree of legal confrontation, patent holders must carefully vet the potential defendants and confirm that litigation would not interfere with their own business strategies.

(c) Support-Oriented Funds

This type of fund aggregates patents deemed promising for the future or technologies with long-term potential that have not yet been patented. The fund then holds and manages these assets, aiming to generate revenue through their eventual commercialization or enforcement. Although enforcement of rights may occur (as in the licensing or litigation types of funds), support-oriented funds differ in that they do not narrowly define a target portfolio. Instead, they focus on building broad networks with external companies and institutions and emphasize long-term development and flexible portfolio management.

2. Two Typical Structures of Patent Funds in Japan

Patent funds can be structured in various ways. Two representative models that are available under Japanese law are outlined below:

(a) TK-GK Scheme (*Tokumei Kumiai-Godo Kaisha*)

Under the TK-GK scheme, a limited liability company ("**LLC**") (*gōdō kaisha*) is established. Investors enter into an anonymous partnership agreement (*tokumei kumiai*) with the LLC by contributing capital to the fund. The LLC then holds and manages the operational assets, i.e., the patent portfolio. The anonymous partnership agreement stipulates that investors will provide funds for the fund's activities and share in the profits generated by it. Although this structure is widely used in real estate investments it can be adapted to the management of patent portfolios as an alternative asset class.

(b) IP Trust Scheme

Under the IP trust scheme, an LLC is established to hold the patent portfolio. Using the legal trust system, patents are placed into the trust as trust assets. The beneficial interests in the trust are then transferred to investors as a means of raising capital. While less commonly used than the TK-GK scheme, the IP trust scheme is gaining attention partly due to recent amendments to the Trust Business Act (Act No. 154 of 2004, as amended), Trust Act (Act No. 108 of 2006, as amended), and Patent Act (Act No. 121 of 1959, as amended), which now allow entities other than financial institutions to serve as trustees. In addition, the ability to record patent trusts and changes in ownership thereof, as well as their favorable tax treatment, have contributed to the gradual rise in the adoption of this scheme.

3. Three Benefits of Patent Funds from the Perspective of Patent Providers (Companies)

The first two subsections of Section II of this article outlined the structures and schemes of patent funds. This subsection discusses the advantages and potential benefits for companies considering contributing their patents to patent funds.

(a) Leveraging the Expertise and Human Resources of Fund Managers

As noted earlier in the Introduction section, unless a company is deeply engaged in the strategic use of IP, it is often the case that internal personnel lack sufficient expertise in valuing and utilizing IP assets. Fund managers, on the other hand, typically possess extensive experience in patent valuation techniques, networks of external partners, know-how in enforcement and licensing negotiations, and global contracts. Leveraging these resources allows for more efficient and effective patent utilization.

(b) Broader Utilization of Patent Rights

Although the range of ways a single company can utilize its own patents may be limited—depending on the number of patents it holds—a patent fund typically aggregates patents from multiple companies, enabling the formation of more robust patent portfolios. This makes it possible to pursue enforcement and commercialization strategies that are otherwise unavailable to individual companies, thereby expanding the scope of patent utilization.

(c) Lower Costs of Patent Maintenance and Enforcement

Enforcing patent rights often requires significant costs, including legal and professional fees. By delegating enforcement to patent funds, companies can shift these financial burdens to such funds. Moreover, when patents are transferred to a patent fund, the fund typically assumes responsibility for maintenance fees, resulting in lower patent-related costs for the original patent holders.

(d) Bankruptcy Remoteness and Limited Liability

Patent fund structures are generally designed to isolate patent portfolios from the effects of the fund's insolvency and ensure that investors are not liable for losses exceeding their investment. From a company's standpoint, such arrangements provide practical benefits in terms of limiting exposure and risk associated with any potential insolvency of the patent fund.

III. Agreements with Patent Funds

1. Types of Patent Rights Contributions

When a company participates in a patent fund, it must consider two distinct phases: the contribution of patent rights (including the grant of licenses, hereinafter referred to collectively as the "**contribution of patent rights**") and the capital investment. As explained in subsection 2 of Section II, investment-related agreements, such as anonymous partnership agreements (*tokumei kumiai*) or trust beneficiary rights transfer agreements, must be reviewed from the investor's perspective and involve various considerations. Due to space limitations, this section will focus on agreements related to the contribution of patent rights.

Broadly, there are two common structures by which companies may contribute patent rights to a patent fund: (a) patent transfer scheme, and (b) license scheme. Under the patent transfer scheme, the company transfers ownership of the patent rights to the patent fund. Under the license scheme, the company grants a license (with sublicense rights) to the patent fund. In some cases, only one of these schemes may be adopted, while in others, a combination of both may be used.

2. Two Key Characteristics and Considerations in Patent Rights Contribution Agreements

When a company contributes patent rights to a patent fund, it must enter into either a patent assignment agreement or a patent license agreement with the patent fund. The following subsection outlines key considerations and practical points to be addressed when entering either type of agreement.

(a) Scope and Conditions of Enforcement

First and foremost, if a company is considering contributing its patent rights to a patent fund (i.e., a licensing revenue fund or litigation-based fund), it is essential to confirm whether the potential targets of enforcement would pose any commercial or strategic conflict for the company. In this regard, the company should proactively inquire with the patent fund about which entities are being contemplated as enforcement targets under the patent fund's business plan, and whether additional targets may be included in the future.

Furthermore, in determining the method of contribution—whether to transfer ownership of the patent rights or merely to grant a license—the company must carefully coordinate with its internal business departments. This is especially important where the subject patents are currently significant to ongoing operations or are expected to become strategically important under future business plans. It is therefore critical for business development and IP departments to align their understanding and strategy. If internal hurdles render an outright transfer of the patents impractical, then the company may consider granting a license with sublicensing rights instead. However, from the patent fund's perspective, whether it holds full ownership of the patents or merely a license can significantly impact both the scope of enforceable rights and its negotiating leverage with third parties. Holding title to the patents allows the patent fund to assert them without restriction, whereas a license-only structure may impose certain limitations on its enforcement authority. Accordingly, careful evaluation of the enforcement scope consistent with the patent fund's business objectives is essential when structuring the rights to be granted.

(b) Consideration and Cost Allocation

Under both the patent transfer scheme and the license scheme, it is essential to determine how consideration for the transfer or license of the patent rights will be structured. Two primary payment models are generally considered: a lump-sum cash payment based on a pre-assessed valuation of anticipated enforcement outcomes, and a profit-sharing model.

The profit-sharing model, which has become increasingly common in recent years, typically involves an initial payment at the time of the patent transfer or license grant, followed by ongoing revenue sharing based on the actual monetization results achieved by the patent fund. This approach is particularly suitable for patents whose value is difficult to quantify upfront, as it allows for the allocation of profits in proportion to the returns realized. When adopting a profit-sharing arrangement, the company must conduct a detailed review of the patent fund's business plan, including the anticipated targets and number of enforcement actions, the projected revenue from such actions, and the methodology for calculating and allocating profits. It is also important to examine how the profit split is structured among the company, the patent fund, and its investors. In particular, with respect to the projected revenues and the calculation methodology, the company must ensure a sound understanding of the underlying assumptions, taking into account the scope and conditions of enforcement discussed in subsection 2(a) of Section III of this article. Based on this understanding, the company should engage in thorough discussions and negotiations with the patent fund to agree on appropriate profit allocation terms.

(c) Coordination with Existing Use of Patents (Self-Use and Licensing by Group Companies)

Where a company has already granted licenses to third parties or entered into cross-licensing agreements within its corporate group, transferring or licensing the same patents to a patent fund requires careful coordination with these existing agreements. For example, if a patent under an existing license agreement is being transferred to a patent fund, the licensee must be assured that they can continue using the patent under the same conditions. In such cases, a tripartite agreement among the company, the patent fund and the licensee is usually required. The company should proactively provide information to licensees and begin coordination for such three-party agreement alongside the main agreement with the patent fund.

(d) Reversion of Patent Rights and Treatment upon Fund Termination

While it is ideal for the patents contributed to a patent fund to be fully utilized and generate revenue throughout their remaining term, there may be cases where, due to various circumstances, the patent fund is unable to continue monetization efforts. Additionally, the possibility that the patent fund itself may be prematurely terminated cannot be ruled out. From the company's perspective, if the patent fund is no longer pursuing monetization, it would be reasonable to seek the return of the relevant patents to explore alternative avenues for commercialization. Therefore, it is advisable for the company and the patent fund to agree in advance on the conditions under which the patents may be returned to the company. However, in the case of litigation-based funds, setting return provisions may be challenging due to concerns over standing to sue (i.e., whether the fund qualifies as the proper plaintiff). If the structure allows for patents to be easily returned to the original owner, then courts in certain jurisdictions may conclude that the transfer of ownership was not substantive enough, potentially resulting in the patent fund being denied standing in litigation.

Accordingly, any return provisions must be carefully structured with consideration of these legal implications, particularly regarding the requirements for standing in the relevant jurisdictions.

IV. Conclusion

The strategic utilization of companies' dormant patents not only contributes to effective asset management and monetization but also acts as a catalyst for industrial revitalization. Patent funds are expected to play an increasingly important role in facilitating such use.

We hope that this article provides useful insights for companies considering leveraging patent funds to unlock the value of their patent portfolios.

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