

were nullified owing to: (1) cancellation under the War-Time Law; (2) expiration of the terms; (3) non-payment of patent or registration fees. For the restoration of these rights it will be necessary to promulgate detailed rules to provide the criteria for such restoration. According to precedents, such rules are stipulated by the peace treaty. But if the matter is to be solved without waiting for the conclusion of the treaty, the criteria to take the place of treaty provisions will have to be set up.

With the repeal of the War-Time Law and the restoration of foreign-owned industrial property, those Japanese, who have been using those rights nullified for the above-mentioned reasons, (1), (2) and (3), and those specially designated Japanese firms which have operated under the licenses for exclusive use under War-Time Law will be deprived of the basis for their operation rights, which would mean sometimes serious losses not only to themselves alone but also to the country itself now on its way to economic reconstruction. Inasmuch as these firms have been operating properly under domestic law, it is hoped their position will receive special consideration.

As regards the rights the Japanese industrialists had obtained by contract before the war with regard to foreign-owned industrial property, it is not clear what effect the war might have had on the validity of the contracts. But it is also desired that an arrangement will be made so as to permit the continued exercise of these rights.

(b) Protection of Foreign-owned Industrial Property

Japan is, of course, committed to strict observance of the International Convention for the Protection of Industrial Property, to which she has been a signatory ever since 1899. Criticism is frequently voiced against Japan on the score of scant regard for industrial property. Discussions on the subject have been held with Allied authorities, and the conclusion is that it is essential to cultivate among the people the sense of respect for incorporeal rights. The Japanese Government is determined to do everything for guiding the nation in the right direction with respect to this point.

The following are some of the questions now under study.

(i) In Japan, as in other countries, infringement of patent rights is prosecutable only on complaints of the injured party, while that of trade marks is liable to prosecution by the public prosecutor. In any case, Japan has been criticized for the slowness of her court procedure. In view of the vital interests of the parties concerned it is a problem

how far the procedure can be simplified or expedited. It is the intention of the Japanese Government to investigate the points of revision as part of the general question of legal proceedings by taking into consideration the examples in other countries. For one thing, it is considered advisable to assign to courts officials who are versed on the subject of industrial property.

(ii) The penalties under the Japanese Patent Law and Trade Mark Law are not believed to be so light as compared with other countries. But as a means of deepening the sense of respect for incorporeal rights it may be expedient and effective to make the penalties heavier. There is the Unfair Competition Prevention Law (Law No. 14, 1914) which is based on the provisions of the International Convention for the Protection of Industrial Property (Article 10, Paragraph 2). But this law does not fully achieve the purposes of prevention and control of violations of industrial property rights. Investigations are being carried on into the matter of setting up more detailed provisions and heavier penalties.

(c) Application in Foreign Countries for Registration of Industrial Property owned by Japanese.

It is not known how many Japanese industrial property rights have been applied for and registered in foreign countries. But there is no doubt that the actual royalties on such rights have amounted to a considerable sum.

The advent of inventions by Japanese capable of contributing to the promotion of peace industries and the welfare of mankind is desirable not only for Japan but also for the entire world.

It is expected that there will be many Japanese who would wish to apply for patents, including those who want to patent the inventions they made during the war years. Of course, the question of the foreign-owned rights in Japan will have to be first settled. But at the same time, it is hoped that this matter of Japanese patent applications in foreign countries will be considered in due course.

ANNEX I.

War-Time Law of Industrial Property

(Promulgated on July 21st, 1917, as Law No. 21 of the year 1917 and enforced as from September 15th 1917.)

Article 1. In respect of an application or a demand relating to an industrial property made by an enemy national, a patent or registration thereof shall be stayed during the war-time.

When an invention, a design or a device under application or demand mentioned in the preceding paragraph has come to fall under any one of the following items during the war-time, a patent or registration shall not be granted in respect to its application or demand:

1. Those have been publicly known or publicly used within the Empire.
2. Those have been described in publications circulated in the Empire in such a manner that it can be easily put in use.

Article 2. An enemy national may not demand a trial, an appeal trial or take an action against a judgment in an appeal trial during the war-time, relating to industrial property.

Article 3. No enemy national may claim a right of priority under the provisions of Art. 4 of the International Convention for the Protection of Industrial Property, against a patent right that comes into existence during the war-time.

Article 4. If it is necessary either for military purpose or the public interests in view of the present conditions, a patent right or registration of trade mark belonging to an enemy national, may be cancelled by order.

Article 5. A person who is granted to use a patented invention belonging to an enemy national may use it exclusively. The same shall apply to a patented invention which has been cancelled under the provisions of the preceding Article.

The duration of a right of exclusive use referred to in the foregoing paragraph shall be the period prescribed within the limits of the remainder of the term of the said patent right. Provisions relating to necessary

matters in respect of the right of exclusive use shall be made by Imperial Ordinance.

Article 6. A trade mark, identical with, or similar to any trade mark of which registration has been cancelled under the provision of Art. 4, and intended to be used for the same merchandise, shall not be registered.

Article 7. The provisions of the preceding 6 Articles apply mutatis mutandis to an application, a demand, an action, a patent right of a trade mark right belonging to other than an enemy national, of which the interests are dominantly attributable to an enemy national.

Article 8. Provisions relating to the necessary matters at the end of war shall be made by Imperial Ordinance.

Article 9. Any person who has infringed the right of exclusive use specified in this Law shall be punished with penal servitude for a period not exceeding five years or a fine not exceeding one thousand yen.

Supplementary Provision

The date of enforcement of this Law shall be fixed by Imperial Ordinance.

ANNEX II.

List of Industrial Property registered in the Names of Foreign Nationals
as of December 7, 1941 (Submitted to G.H.Q. in compliance with
13-July-1946 and 28-August-1947 Directives)

Nationality	Patents	Utility models	Designs	Trade marks	Total
* Argentine	9	1		3	13
Armenia				2	2
* Australia	9			16	25
Austria	30	2	1	70	103
* Belgium	18	5		38	61
* Brazil	1				1
* Canada	30	2		50	82
* China	11	3	10	86	110
* Cuba	1			8	9
* Czechoslovakia	43	3		131	177
* Denmark	63	5		38	106
Esthonia				2	2
Finland	2			1	3
* France	244	22	2	972	1,240
* England	477	81	26	3,445	4,029
* Greece				4	4
Germany	4,522	1,173	26	4,291	10,012
* Holland	162	6	4	512	684
Hungary	7	2		10	19
* India			1	33	34
* Iraque				1	1
* Iran			1	2	3
Italy	104	13	1	119	237
Latvia	1			3	4
Liechtenstein	2				2
* Luxemburg	5	2		2	9

* Mexico	1			1	2
* New Zealand				8	8
* Norway	32	3		19	54
* Poland	10			3	13
Portugal				1	1
* Philippines				4	4
Rumania	2	2		1	5
Spain	5	3	1	39	48
* Sweden	188	24		151	363
Switzerland	561	30	2	864	1,457
* Syria				8	8
Trinidad				2	2
* Turkey	1				1
* U. S. A.	1,982	562	20	4,730	7,294
* Soviet Union	5			1	6
* Yugoslavia	2				2
Total	8,530	1,944	95	15,671	26,240

(* United Nations member)

AC/R

DEPARTMENT OF STATE

Memorandum of Conversation

DATE: April 12, 1949

SUBJECT: Disposition of Japanese-owned patents outside Japan.

PARTICIPANTS: L/E - Mr. Stanley Metzger
EP - Mrs. Selma G. Kallis
IR - Mr. Roger C. Dixon
IR - Mr. Joseph A. Greenwald
IR - Mr. Sigmund Goldblatt

COPIES TO: NA - Mr. Hemmendinger
L/E - Mr. Metzger
EP - Mrs. Kallis
ITP - Mr. Schaetzel

894.542

894.542/4-1249

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The meeting was called to discuss the problem of working out an agreement concerning the disposition of Japanese-owned patents outside Japan, in view of the Russian rejection of FEC 311, dealing with this subject.

The following methods for arriving at a solution to this problem were considered:

1. To approach a selected number of governments through our missions in order to arrive at a multilateral agreement by an exchange of notes. It was decided that this would be impractical.

2. To negotiate a formal accord similar to the London Patent Accord. This was believed to be unduly complicated in view of the small number of Japanese patents involved.

3. It was agreed that the best approach would be to obtain final OAP concurrence in the substance of FEC 311/7 as firm United States policy. When approved by the OAP, the paper would be submitted to the Embassies in Washington of the ten FEC members who approved FEC 311. When agreed upon by these foreign governments, the policy would then be submitted to the Washington Embassies of non-FEC countries, giving them an opportunity to adhere to the agreement.

CS/A

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Col.	<i>[Signature]</i>
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Action Assigned to RCD
Action Taken none
THE FOREIGN SERVICE
OF THE UNITED STATES OF AMERICA

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APR 21 1949
DEPARTMENT OF STATE

Date of Action 4-23-49
United States Political Adviser
Action Office Symbol ITP-1R for Japan
Name of Officer RCD Tokyo, April 13, 1949
Direction to DC/R file

UNCLASSIFIED

OFFICE OF
INTERNATIONAL TRADE POLICY
APR 20 1949
DEPARTMENT OF STATE

Subject: Transmission of Memorandum for Japanese Government on Procedures for Restoration of Patents, Utility Models, and Designs to Allied Nationals

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APR. 19

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The Acting Political Adviser for Japan has the honor to refer to this Mission's despatch No. 194 dated April 1, 1949, regarding the revalidation and restoration of patents in Japan owned by foreign nationals.

- 1/ There is now enclosed a copy of a memorandum (SCAPIN 1990) dated April 8, 1949, sent to the Japanese Government by General Headquarters, Supreme Commander for the Allied Powers (SCAP), Tokyo, and entitled "Procedures for Restoration of Patents, Utility Models, and Designs to Allied Nationals." Also enclosed
- 2/ is a copy of a press release on this subject issued April 11, 1949, by the Public Information Office, General Headquarters, Far East Command, Tokyo.

As stated in the press release, Brigadier General Patrick H. TANSEY, Civil Property Custodian, SCAP, considers SCAPIN 1990 as being one of the most important directives issued to the Japanese Government with respect to restitution of Allied properties. The order will affect approximately 5,000 patents, utility models, and designs which had been registered in Japan prior to the war.

SCAPIN 1990 is also important because it removes an important obstacle to foreign investment in Japan by permitting foreign nationals to register patents, et cetera, developed abroad as early as 1940, and to have such patents accorded the same protection by the Japanese Government as those now subject to revalidation and restoration. As procedures have already been developed whereby foreign patentees may enter into licensing agreements with Japanese manufacturers, "it is expected that there will be a substantial renewal of business relations between Japanese concerns and those in Allied countries," according to the press statement.

Enclosures:

- ✓ 1. Copy of SCAPIN 1990 dated April 8, 1949, entitled

"Procedures

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APR 28 1949

STAMP

ACTION COPY

RETURN TO DC/R FILES WITHIN 14 DAYS, WITH A NOTATION OF ACTION TAKEN.

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DMR

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800.54294

Tokyo's Despatch No. 223,
April 13, 1949.

- 2 -

"Procedures for Restoration of
Patents, Utility Models, and De-
signs to Allied Nationals.

- ✓ 2. Copy of Press Release dated April 11,
1949.

Parchment Mat to Department

Copy to American Embassy, Nanking
Copy to American Embassy, London
Copy to American Consulate General, Shanghai
Copy to American Consulate General, Hong Kong

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Enclosure No. 1 to Despatch No. 223
dated April 13, 1949, from United States
Political Adviser to Japan, Tokyo, on
the subject "Transmission of Memorandum
for Japanese Government on Procedures
for Restoration of Patents, Utility
Models, and Designs to Allied Nationals."

(COPY)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
APO 500

AG 072 (8 Apr 49) CPC/FP
SCAPIN 1990

8 April 1949

MEMORANDUM FOR: JAPANESE GOVERNMENT

SUBJECT: Procedures for Restoration of Patents, Utility
Models, and Designs to Allied Nationals

1. The Japanese Government is directed to provide the necessary procedures to implement the provisions of this memorandum relative to patents or patent applications previously owned or applied for by Allied nationals and to certain new applications for patents to be filed by Allied nationals in the future.

2. In this memorandum the following definitions and explanations are applicable:

a. "Allied national" means a person whose property was treated as enemy property by the Japanese Government, or whose property rights lapsed owing to the existence of hostilities between Japan and the country of that national.

b. "Effective date of loss" applicable to the patents or applications therefor of Allied nationals means the date of entry of the country of that national into war with Japan. When the date of entry into war is clearly inapplicable to the case of a particular Allied national, as defined above, the "effective date of loss" shall be interpreted to mean the actual date of sequestration of his patent or the date on which his patent rights lapsed.

c. In paragraph 5 hereof the phrase in which the term, "bona fide manufactured, used, sold, or leased," is used, is defined to mean:

- (1) Manufacture, use, sale, or lease of an invention which was made independently of the applicant for the patent or the person from whom he derived title, or,
- (2) Manufacture, use, or sale which commenced before the first filing of an application by the person to whom a patent is subsequently granted.

3. a. Patents

UNCLASSIFIED

Enclosure No. 1 to
Despatch No. 223,
April 13, 1949.

- 2 -

3. a. Patents existing in Japan on the effective date of loss or granted thereafter on applications filed before that date, which were owned, or had been applied for, by Allied nationals and which have since lapsed, or have been invalidated or sequestrated or otherwise taken away from such owners without their free consent, shall be revalidated and restored upon request therefor made by the Allied national owners. With respect to such requests the following provisions shall apply:

- (1) The owner of a patent so revalidated and restored shall be entitled to all the rights and privileges to which any national of any country is entitled under the Japanese patent law existing at the time of such restoration.
- (2) Payment of any special or regular fees that may have accrued to the Japanese Government with respect to such patents from the effective date of loss to date of such restoration shall not be required.

b. At the request of the Allied national owner, a period of duration of any Japanese patent owned by him on the effective date of loss or granted thereafter on application filed before that date, shall be extended beyond its normal expiration date for a period equal to that from the effective date of loss to the effective date of restoration or to the normal expiration date of the patent, whichever is the earlier. Such extension will only be granted, however, provided such owner waives all claims to royalties for use of the patent from the effective date of loss to the effective date of restoration and remits to the Japanese Government any funds received by him or credited to him in a blocked account as royalties for such use.

c. If an Allied national requests restoration of his patent under paragraph 3a above, he may elect to receive royalties for use of the patent during the period from the effective date of loss to the effective date of restoration or to the normal date of expiration, whichever is the earlier, in lieu of an extension of term as provided in paragraph 3b above.

d. Applications filed by Allied nationals for patents in Japan which were pending on the effective date of loss and on which patents were not issued shall, upon request of the Allied national applicant, be reinstated as pending applications in the Japanese Patent Office, and shall be processed in accordance with law. Any patents thereafter registered on such applications shall be treated in a manner which conforms generally with applicable provisions of 3a above.

4. Nationals of countries at war with Japan who had duly

filed

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Enclosure No. 1 to
Despatch No. 223,
April 13, 1949.

- 3 -

filed in any country the first application for patent not earlier than twelve (12) months before the effective date of loss shall be entitled to apply for corresponding rights in Japan with rights of priority based upon the previous first filing of the application.

5. Third parties who had bona fide manufactured, used, sold, or leased the subject matter of any Japanese patent obtained under the provisions of paragraph 4 hereof shall not be liable for infringement on account of such use, but should be enabled to continue such use after the publication of the application under the terms of a non-exclusive license which the Allied owner shall be required to grant on terms providing for reasonable royalties.

6. The Allied patent owner will be afforded a period of one (1) year, commencing 1 May 1949, within which to make his request for revalidation and restoration, and for acquiring such priority rights as defined in paragraph 4 above, and a reasonable time thereafter to perform all legally required acts in connection with restoration, revalidation, working, and/or maintenance of his rights which have not been performed since the effective date of loss.

7. The provisions set out above with respect to patents will be applied insofar as applicable to utility models and to designs.

8. The Japanese Government will take necessary steps effectively to implement the above instructions.

9. The Japanese Government is further directed as follows:

a. To provide adequately for the full disclosure of the invention which is the subject of a patent or patent application, without regard to intent of the patentee or applicant.

b. To take positive steps for prohibiting the maintenance in secrecy of any invention which is the subject of a patent or patent application.

10. The Japanese Government is further directed to invalidate all provisions of the "Wartime Law of Industrial Property" and supplementary legislation pertaining thereto, which are now in force.

11. The Japanese Government will submit to General Headquarters, Supreme Commander for the Allied Powers for approval, not later than twenty-one (21) days from the date hereof, proposed legislation, Cabinet orders, and/or Ministerial orders setting out the laws, procedures, and practices intended to carry out the provisions of this memorandum.

FOR THE SUPREME COMMANDER:

R. M. LEVY,
Colonel, AGD,
Adjutant General.

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Enclosure No. 2 to Despatch No. 223 dated April 13, 1949 from United States Political Adviser, for Japan, Tokyo, on the subject "Transmission of Memorandum for Japanese Government on Procedures for Restoration of Patents, Utility Models, and Designs to Allied Nationals."

(COPY)

GENERAL HEADQUARTERS
FAR EAST COMMAND
Public Information Office

April 11, 1949

Press Release:

ALLIED NATIONALS PATENT RIGHTS TO BE RESTORED

Patent properties in Japan owned by Allied nationals will be revalidated and restored to their owners upon request, under the terms of a SCAP directive issued today to the Japanese government.

One of the most important directives relating to restitution of Allied properties, according to Brig. Gen. Patrick H. Tansey, Civil Property Custodian, the order will affect approximately 5,000 patents, utility models, and designs which had been registered in Japan prior to the war.

Most of the patent property rights involved had been terminated by the Japanese government under the terms of the Wartime Law of Industrial Property, or had been cancelled for non-payment of required annual fees, or had lapsed by passage of the 15 year period of duration.

Revalidation at the request of the owners will put these patent property rights back into a state of validity, and their life terms may be extended upon request for a period equivalent to that during which the owners had lost control.

Extension of the term of a patent, however, will be at the option of the owner who may otherwise elect to recover in lieu of extension any funds which have been deposited or set aside as royalties by the Japanese manufacturer for use of the invention without authority during the war.

Extension of the terms of Allied patents when chosen by their owners as an alternative to the recovery of royalties for wartime use will be the basis for new contractual agreements with Japanese manufacturers for use of Allied inventions in the future.

A number of American, British, and French concerns have indicated readiness to invest capital in Japanese industry and to assist Japanese manufacturers with foreign patents but have hesitated to do so because of the lack of protection of their patented inventions in Japan up to the present time.

As protection

UNCLASSIFIED

Enclosure No. 2 to
Tokyo's Despatch No. 223,
April 13, 1949.

- 2 -

As protection of foreign patent property rights must apply not only to prewar inventions but to those patented developments made abroad during the war, the Japanese government has also been ordered to accept and process applications for patents with a right of priority based on applications filed in other countries as early as 1940 and ultimately registered. In case patents were issued to Japanese during this period covering similar inventions, the Board of Patents has been ordered to grant a priority to the Allied inventors.

SCAP's patent property director, J. E. Jackson, pointed out that the new directive provides wide protection to Allied patentees as it covers the revalidation, restoration, and extension of prewar patents in Japan and further, priority filing of more recent inventions patented in Allied countries.

To effectuate the patent property program which has been sent to the Japanese government it was ordered that the Wartime Law of Industrial Property be repealed in all its parts and further, that the Board of Patents eliminate all possibility of secrecy in connection with patent property registered in Japan. Full disclosure of all details essential to the operation of a patented invention is also required in all future patent property registrations.

One of the most serious obstacles to foreign investment in Japan has been removed by the restoration of Allied patentees' rights under this directive, which will be administered by the Civil Property Custodian. As procedures have already been developed whereby patentees may enter into licensing agreements with Japanese manufacturers it is expected that there will be a substantial renewal of business relations between Japanese concerns and those in Allied countries.

The Japanese government is now engaged in affectuating the patent property policy directive through appropriate procedures.

Patent property owners in Allied countries desiring information concerning procedures to be followed in recovering and establishing patent property rights under the new program should communicate with their diplomatic missions in Japan.

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1949
OFFICE OF LEGAL ATTACHES
ADMINISTRATIVE ASSISTANT

UNITED STATES

DIVISION OF REPARATIONS AND RESTITUTION DELEGATION
NORTHEAST ASIAN AFFAIRS
TOKYO, JAPAN

JULI-2 1949 18 April 1949

ACTION
is assigned to

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No. 61

UNCLASSIFIED

Subject: Patent Properties in Japan

OFFICE OF STATE
INTERNATIONAL TRADE POLICY
DEPARTMENT OF STATE
MAY 24 1949

Action Assigned to RCD

Action Taken [Signature]

Date of Action _____

Action Office Symbol 107-12

Name of Officer _____

Direction to DC/R _____

LEGAL ADVISER

The Honorable
The Secretary of State
Washington

DEPARTMENT OF STATE

Sir:

I have the honor to transmit Supreme Commander for the Allied Powers Press Release dated 12 April 1949, "Patent Property Program", and Memorandum for the Japanese Government dated 8 April 1949 concerning "Procedures for Restoration of Patents, Utility Models, and Designs to Allied Nationals." Also enclosed is copy of unclassified cable No. 53 to the Department from this Delegation dated 18 April 1949 regarding procedures instituted by the Civil Property Custodian for the restoration of patent property rights in Japan. In view of the time limitation for initiating restoration procedures, the Office of the Civil Property Custodian stresses the need for widest publicity on this policy which affects the American owners of approximately 3,100 patents registered in Japan at the outbreak of the war.

Respectfully yours,

Charles L. Hodge

Charles L. Hodge
Chief

INTERNATIONAL RESOURCES DIVISION
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MAY 25 1949
DEPARTMENT OF STATE

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DEPARTMENT OF STATE

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DC/R
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Enclosures:

1. SCAP Press Release, 12 Apr 49 "Patent Property Program"
2. Memo for Japanese Gov., 8 Apr 49 AG 072, CPC/FP SCAPIN 1990

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Department of State
E-Mr. Thorp
Assistant Secretary
for Economic Affairs
AUG 3 1949

94.542/4-1849
1920

894.542/4-1849
FILED
AUG 4 1949

740,0019 PW

18 April 1949

No. 61

UNCLASSIFIED

Subject: Patent Properties in Japan

The Honorable
The Secretary of State
Washington

Sir:

I have the honor to transmit Supreme Commander for the Allied Powers Press Release dated 12 April 1949, "Patent Property Program", and Memorandum for the Japanese Government dated 8 April 1949 concerning "Procedures for Restoration of Patents, Utility Models, and Designs to Allied Nationals." Also enclosed is copy of unclassified cable No. 53 to the Department from this Delegation dated 18 April 1949 regarding procedures instituted by the Civil Property Custodian for the restoration of patent property rights in Japan. In view of the time limitation for initiating restoration procedures, the Office of the Civil Property Custodian stresses the need for widest publicity on this policy which affects the American owners of approximately 3,100 patents registered in Japan at the outbreak of the war.

Respectfully yours,

Charles L. Hodge
Chief

Enclosures:

1. SCAP Press Release, 12 Apr 49 "Patent Property Program"
2. Memo for Japanese Gov., 8 Apr 49 AG 072, CPC/FP SCAPIN 1990

16 April 1949

No. 61

UNCLASSIFIED

Subject: Patent Properties in Japan

The Honorable
The Secretary of State
Washington

Sir:

I have the honor to transmit Supreme Commander for the Allied Powers Press Release dated 12 April 1949, "Patent Property Program", and Memorandum for the Japanese Government dated 8 April 1949 concerning "Procedures for Restoration of Patents, Utility Models, and Designs to Allied Nationals." Also enclosed is copy of unclassified cable No. 53 to the Department from this Delegation dated 18 April 1949 regarding procedures instituted by the Civil Property Custodian for the restoration of patent property rights in Japan. In view of the time limitation for initiating restoration procedures, the Office of the Civil Property Custodian stresses the need for widest publicity on this policy which affects the American owners of approximately 3,100 patents registered in Japan at the outbreak of the war.

Respectfully yours,

Charles L. Hodge
Chief

Enclosures:

1. SCAP Press Release, 12 Apr 49 "Patent Property Program"
2. Memo for Japanese Gov., 8 Apr 49 AG 072, CPC/PP
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DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

DEPARTMENT OF STATE INCOMING TELEGRAM

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Date of Action *4-25-49*

Action Office Symbol *ITP-IR*
Name of Officer *W.C. Control* 6347

Direction to DC/R *file*
Rec'd April 18, 1949
10:13 a.m.

FROM: Tokyo
TO: Secretary of State
NO: 53, April 18 (Army Message)

FROM OUSRRD, PASS TO DEPT OF STATE SIGNED HODGES.

Reference FEC policy directive restoration of patent property rights in Japan.

Civil Property Custodian has established following procedure: Patent owner to make direct inquiry to CPC regarding revalidation of patent or title to accumulated royalties. CPC to reply direct to patent owner giving sufficient information to initiate appropriate action to protect his rights and instruction to file demand for restoration with this delegation. All correspondence after initial inquiry and reply to be through this delegation.

In view time limitation for initiating restoration, CPC requests widest publicity be given this subject with instruction to make early inquiry to CPC regarding patent property. Approximately 3100 American-owned patents affected. Despatch follows with SCAP press release and memorandum to Japanese Government.

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OFFICE OF INTERNATIONAL TRADE POLICY

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PERMANENT RECORD COPY: THIS COPY MUST BE RETURNED TO DC/R CENTRAL FILES WITH NOTATION OF ACTION TAKEN.

PLANTS: MARCUS HOOK, PA. · ROANOKE, VA. · LEWISTOWN, PA.
PARKERSBURG, W. VA. · NITRO, W. VA. · MEADVILLE, PA.
FRONT ROYAL, VA. · FREDERICKSBURG, VA.



OFFICES: PHILADELPHIA · CHARLOTTE · CLEVELAND
NEW YORK · PROVIDENCE · WASHINGTON
WILMINGTON

Action Assigned to Reo
Action Taken Letter
drafted
Date of Action 5-9
Action Office Symbol YP-IR
Name of Officer JML
Action to DC/R file

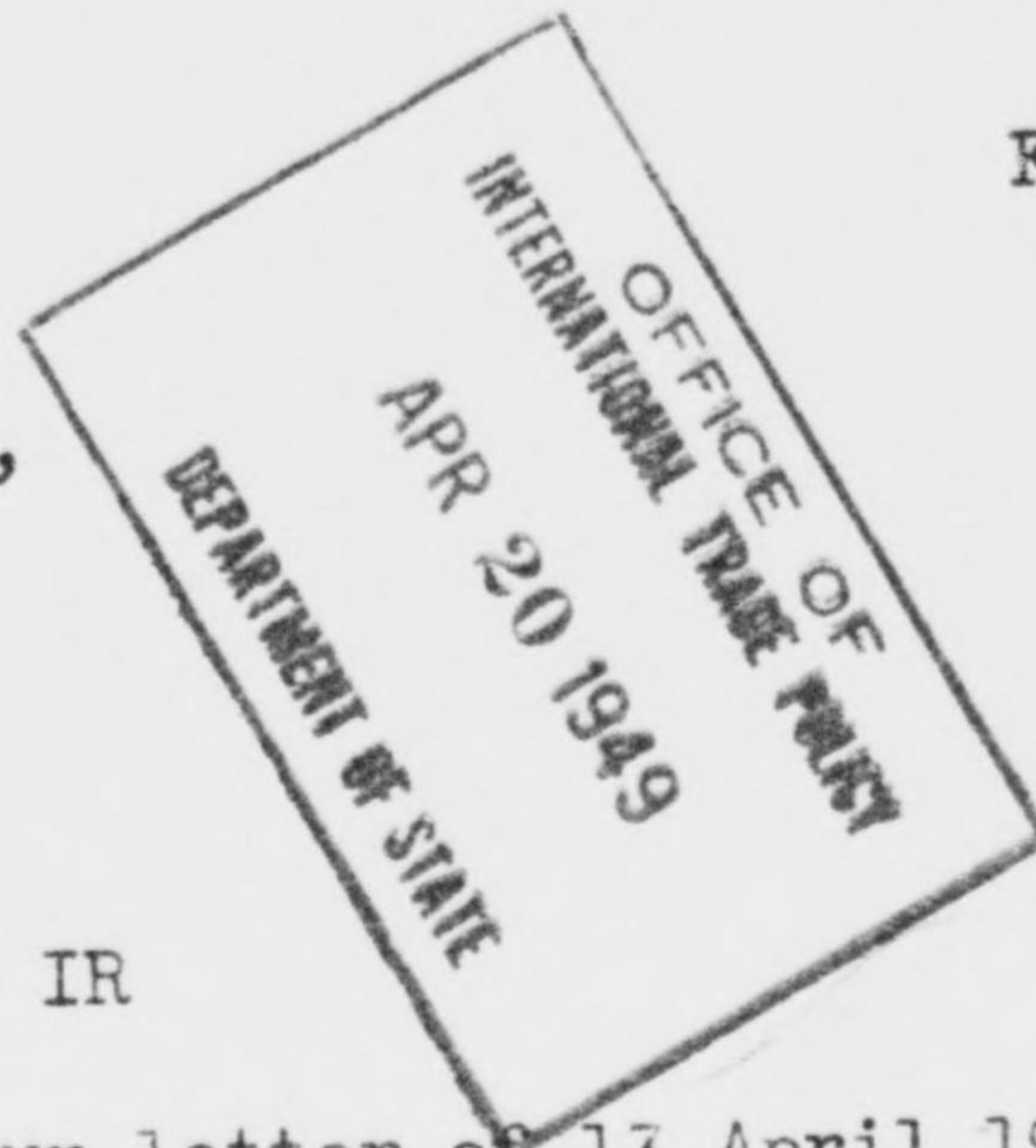
AMERICAN VISCOSE CORPORATION

1617 PENNSYLVANIA BOULEVARD · PHILADELPHIA 3, PENNSYLVANIA

File: M 44.20

19 April 1949

Mr. Edwin M. Martin,
Office of International Trade Policy,
Department of State,
State Department Annex #7,
21st & C Streets, N. W.,
Washington 25, D. C.



Dear Mr. Martin:

Re: Your IR

I wish to thank you for your letter of 13 April 1949, answering the question on the status of Japanese patents. I appreciate the information you have given me and am glad to know how the subject stands.

There is one element of the question, however, which is not answered. With regard to question #3, you say "it is assumed that you are referring either to Japanese-owned patents in the United States which have been vested, or patents in Japan formerly owned by American nationals."

I am glad to have the information on these two points, but I would like to know also the status of the general bulk of Japanese patents issued pre-war regardless of American interest or connection. The patent system, as you know, is of tremendous value in affording classified disclosures of invention. Other nations are combing our technology for everything they can obtain from us. At the same time, I learned, on the Textile Mission to Japan, that the Japanese had contributed many interesting inventions in the textile field. One channel of normal intercourse between our two countries would be free access to patents in Japan which, of course, in normal times are public. During the war, the Japanese patents were seized, and when I tried to look up specific patents about which I had learned in the industry in Japan, I found that they could not be obtained in Tokyo for they had been moved to Washington. I found in Washington that they were in Central Intelligence, and while I succeeded in obtaining photostat copies of the specific ones I sought, it was only after considerable difficulty. Here was the situation where we seized public property and put it under a veil of secrecy.

I hope that by this time anyone can obtain a copy of any Japanese patent under the normal operation of the patent system, and I would appreciate your advising on this point, in addition to the information which you so kindly have furnished.

With best wishes, I am

Clyde J. Roberts, Jr.

Sincerely yours,

H. Wickliffe Rose
H. Wickliffe Rose

INTERNATIONAL RESOURCES DIVISION

APR 20 1949
DEPARTMENT OF STATE

HWR/a

174647

894.542/4-1949 OS/FK

FILED

JUN 28 1949

894.542/4-1949

894.655

MAY 13 1949

My dear Mr. Rose:

Reference is made to your letter of April 19, 1949 regarding the status of Japanese pre-war patents. In your letter you requested further information concerning the availability of copies of Japanese patents.

Under normal pre-war exchange arrangements between the United States and Japanese Patent Offices, Japanese patents were made available in this country for public dissemination. Photostatic copies of these prewar Japanese patents can be obtained by communicating with the Scientific Library, U. S. Patent Office, Washington 25, D. C., Attention: Mr. E. W. Chapin. Some of these patents have been indexed in the publications of the Office of Technical Services, Department of Commerce.

The wartime Japanese patents have now, for the most part, been transferred from the Central Intelligence Agency to the Scientific Library, U. S. Patent Office. Photostatic copies of these patents can be obtained by communicating with that office.

You will note that paragraph 1 of Far Eastern Commission Press Release No. 52, enclosed with my letter of April 13, provides for the resumption of the publication of Japanese patents. In this connection, the U. S. Patent Office is taking the necessary steps to resume the normal peacetime exchange with the Japanese Patent Office.

Please do not hesitate to call upon me if I can be of further assistance to you.

Sincerely yours,

BCP - ITP Unit	
Anal.	<i>[Signature]</i>
Rev.	<i>[Signature]</i>
Dist.	<i>[Signature]</i>

EM.
Edward M. Martin
Deputy Director
Office of International Trade Policy

Mr. H. Wickliffe Rose,
American Viscose Corporation,
1617 Pennsylvania Boulevard,
Philadelphia 3, Pennsylvania.

RED JML
ITP:IR:JMLightman:prg
5-9-49

CR
MAY 13 1949 P.M.

894.542/4-1949 CS/FL

894.542/4-1949

Form DS-10 Department of State 6-1-45		Date 4/11
REFERENCE SLIP		
To: <i>CR</i>		
<input type="checkbox"/> Advise	<input type="checkbox"/> Note & Return	
<input type="checkbox"/> Approve & Return	<input type="checkbox"/> Note & File	
<input type="checkbox"/> As You Requested	<input type="checkbox"/> Per Telephone Talk	
<input type="checkbox"/> Attention	<input type="checkbox"/> Previous Correspon.	
<input type="checkbox"/> Attach File	<input type="checkbox"/> Priority Action	
<input type="checkbox"/> Comment & Return	<input type="checkbox"/> Reconsider	
<input type="checkbox"/> Consider	<input type="checkbox"/> Recommend Action	
<input type="checkbox"/> Copying	<input type="checkbox"/> Record	
<input type="checkbox"/> Correct	<input type="checkbox"/> Reply	
<input type="checkbox"/> File	<input type="checkbox"/> Return to Sender	
<input type="checkbox"/> Follow up	<input type="checkbox"/> Rewrite	
<input type="checkbox"/> Hold	<input type="checkbox"/> Signature Required	
<input type="checkbox"/> Initials Needed	<input type="checkbox"/> See Me	
<input type="checkbox"/> Investigate & Report	<input type="checkbox"/> Take Action	
<input type="checkbox"/> Instruct	<input type="checkbox"/> Transfer	
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<input type="checkbox"/> Keep Me Advised	<input type="checkbox"/> Verify	
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<input type="checkbox"/> Memo Required		
<input type="checkbox"/> Not Interested		
<input type="checkbox"/> Note & Destroy		
<input type="checkbox"/> Note & Forward		
REMARKS: <i>Should not this letter be acknowledged? We find that this was answered by Sigmund Goldblatt of IR on 3/30. His extension is 5913. JMC</i>		
From MICHAEL H. CARDOZO <i>MHC</i>		

This Form Printed on Salvaged Stock

MAY 17 1949

In reply refer to
IR

My dear Mr. Kingsland:

At the request of the Japanese Government, I am transmitting herewith a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks in the United States by Japanese nationals.

Sincerely yours,

For the Secretary of State:

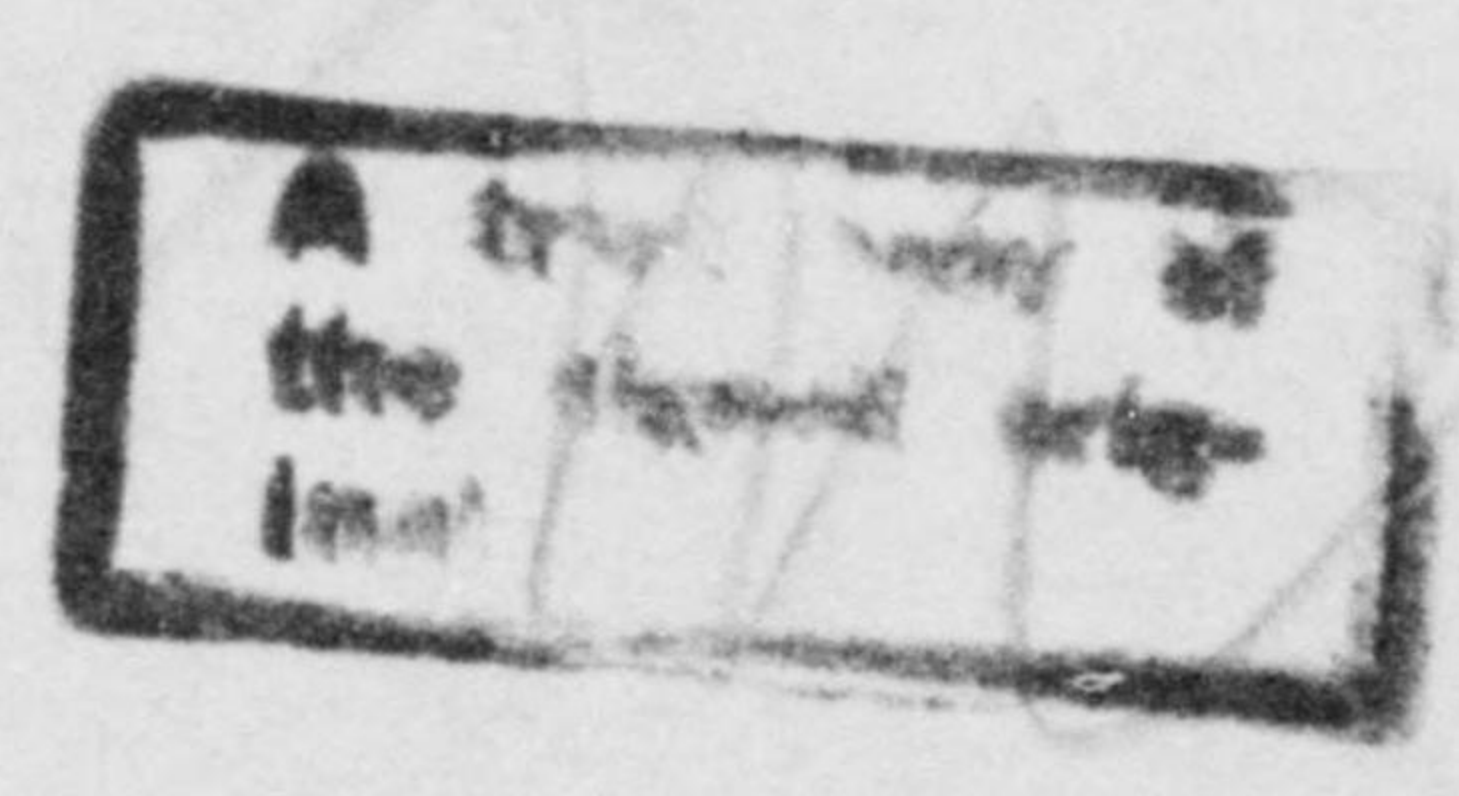
WFB
Winthrop G. Brown
Director, Office of
International Trade Policy.

Enclosure:

Letter from Japanese
Board of Patents.

894.542/4-2649

MAIL ROOM
TO: *WFB*
FROM: *ES*



Mr. Lawrence C. Kingsland,
Commissioner of Patents,
Department of Commerce.

WFB
MAY 10 1949 P.M.
MAY 16 1949 *Red*
IR:JAGreenwald:sl
5-9-49

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NA

894.542/4-2649
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MAY 17 1949

UNCLASSIFIED

No. 34

To the
Officer in Charge of the American Mission,
Bucharest.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Rumania.

If the Legation perceives no objection, it is requested that the enclosed letter be transmitted to the Rumanian Patent Office.

Enclosure:

Letter from Japanese Board of Patents.

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894.542/4-2649

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Handwritten: NA

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MAY 17 1949

UNCLASSIFIED

No. 19

To the
Officer in Charge of the American Mission,
Sofia.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Bulgaria.

If the Legation perceives no objection, it is requested that the enclosed letter be transmitted to the Bulgarian Patent Office.

Enclosure:

Letter from Japanese Board of Patents.

894.542/4-2649

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894.542/4-2649
CS/H

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MAY 17 1949

UNCLASSIFIED

No. 45

To the
Officer in Charge of the American Mission,
Warsaw.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Poland.

If the Embassy perceives no objection, it is requested that the enclosed letter be transmitted to the Polish Patent Office.

Enclosure:

Letter from Japanese Board of Patents.

Encl.	<i>ll</i>
Rev.	<i>ML</i>
Col.	<i>5</i>
Dist.	<i>R</i>

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MAY 17 1949

No. 33

To the
Officer in Charge of the American Mission,
Praha.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Czechoslovakia.

If the Embassy perceives no objection, it is requested that the enclosed letter be transmitted to the Czech Patent Office.

Enclosure:

Letter from Japanese Board of Patents.

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MAY 17 1949

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No. 109

To the
Officer in Charge of the American Mission,
Habana.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Cuba.

If the Embassy perceives no objection, it is requested that the enclosed letter be transmitted to the Cuban Patent Office.

Enclosure:

Letter from Japanese Board of Patents.

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MAY 17 1949

UNCLASSIFIED

No. 101

To the
Officer in Charge of the American Mission,
Budapest.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Hungary.

If the Legation perceives no objection, it is requested that the enclosed letter be transmitted to the Hungarian Patent Office.

Enclosure:

Letter from Japanese Board of Patents.

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MAY 17 1949

UNCLASSIFIED

No. *22*

To the
Officer in Charge of the American Mission,
Dublin.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Ireland.

If the Legation perceives no objection, it is requested that the enclosed letter be transmitted to the Irish Patent Office.

Enclosure:

Letter from Japanese Board of Patents.

Handwritten initials and scribbles

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MAY 17 1949

UNCLASSIFIED

No. 23

To the
Officer in Charge of the American Mission,
Beirut.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Lebanon.

If the Legation perceives no objection, it is requested that the enclosed letter be transmitted to the Lebanese Patent Office.

Enclosure:

Letter from Japanese Board of Patents.

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MAY 17 1949

No. *21*

To the
Officer in Charge of the American Mission,
Damascus.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Syria.

If the Legation perceives no objection, it is requested that the enclosed letter be transmitted to the Syrian Patent Office.

Enclosure:

Letter from Japanese Board of Patents.

894.542/4-2649

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MAY 17 1949

No. 51

To the
Officer in Charge of the American Mission,
Ankara.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Turkey.

If the Embassy perceives no objection, it is requested that the enclosed letter be transmitted to the Turkish Patent Office.

Enclosure:

Letter from Japanese Board of Patents.

894.542/4-2649

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MAY 17 1949

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No. 38

To the
Officer in Charge of the American Mission,
Belgrade.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Yugoslavia.

If the Embassy perceives no objection, it is requested that the enclosed letter be transmitted to the Yugoslav Patent Office.

Enclosure:

Letter from Japanese Board of Patents.

894.542/4-2649

To	<i>SS</i>
For	<i>MT</i>
On	<i>215</i>
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5-9-49 *[Signature]*

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894.542/4-2649

MAY 17 1949

UNCLASSIFIED

No. 184

To the *Adviser* United States Political Adviser on German Affairs,
Berlin.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Western Germany.

The enclosed letter is apparently addressed to the old German Patent Office in Berlin. If the Political Adviser perceives no objection, it is requested that the enclosed letter be transmitted to the appropriate patent agency for the Bizonal area.

Enclosure:

Letter from Japanese Board of Patents.

Recd.	<i>ES</i>
Rev.	<i>MC</i>
Cal.	<i>ES</i>
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5-9-49

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894.542/4-2649

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MAY 17 1949

UNCLASSIFIED

No. *62*

To the
Officer in Charge of the American Mission,
Vienna.

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in Austria.

If the Legation perceives no objection, it is requested that the enclosed letter be transmitted to the Austrian Patent Office.

Enclosure:

Letter from Japanese Board of Patents.

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[initials]

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894.542/4-2649

MAY 17 1949

UNCLASSIFIED

No. 48

To the
Officer in Charge of the American Mission,
Ciudad Trujillo. *894-542/4-2649*

The Secretary of State encloses a letter from the Japanese Board of Patents requesting information concerning applications for patents, designs and trade-marks by Japanese nationals in the Dominican Republic.

If the Embassy perceives no objection, it is requested that the enclosed letter be transmitted to the Patent Office of the Dominican Republic.

Enclosure:

Letter from Japanese Board of Patents.

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Asst. Dir.	<i>ES</i>
Asst. Dir.	
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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

Handwritten initials

United States Political Adviser
for Japan

Tokyo, April 26, 1949.

No. 258

F94, 542/4-2649

Action Assigned to *RCD*

Action Taken *14 instructions and 25th Army patents*

Date of Action *5/9/49*

Name of Officer *JAG*

Director of Office *file*

UNCLASSIFIED

REC'D
MAY 2

ACTION
ITP

SUBJECT: Request for Transmittal of Letters from Japanese Board of Patents.

INFO
FR
DCR
FE
L

The Acting Political Adviser has the honor to transmit at the request of General Headquarters, Supreme Commander for the Allied Powers, fifteen letters from the Japanese Government's Board of Patents regarding foreign patents in Japan and requesting information on future Japanese patent applications abroad.

If no objection is perceived by the Department, it is requested that these letters be forwarded to the appropriate authorities for delivery to the addressees indicated on each individual envelope. One of these is addressed to the Commissioner of Patents, Washington. There are also letters for the patent offices of each of the following countries: Germany, Hungary, Yugoslavia, Austria, Syria, Lebanon, Dominican Republic, Cuba, Turkey, Bulgaria, Eire, Poland, Rumania and Czechoslovakia.

This Mission, in its capacity as Diplomatic Section, General Headquarters, Supreme Commander for the Allied Powers, has already forwarded twenty-three similar letters to the foreign Missions accredited to this Headquarters for onward transmittal to the patent offices of Great Britain, New Zealand, France, Tunis, Morocco, Tangier, the Netherlands, Indonesia, Sweden, Mexico, Finland, Greece, Switzerland, Australia, Portugal, Brazil, Denmark, Canada, Belgium, Luxembourg, Italy, Spain and Norway.

Enclosures: *15*

Fifteen letters addressed to Patent Offices listed in paragraph two.

OFFICE OF
INTERNATIONAL TRADE POLICY
MAY 5 1949
DEPARTMENT OF STATE

503
RWAdams/bk
F parchment Mat to the Department

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INTERNATIONAL RESOURCES DIVISION
exc. etc
MAY 5 1949 *File*
DEPARTMENT OF STATE

MAY 24 1949
FILED

R/PM
ACTION COPY

RETURN TO DC/R FILES WITHIN 14 DAYS, WITH A NOTATION OF ACTION TAKEN.

894.542/4-2649

DMR

APR 27 1949

In reply refer to
IR

RESTRICTED

My dear Mr. Bazelon:

There is enclosed a paper entitled "Policy on the Treatment of Japanese Patents Outside Japan", which constitutes the Department's position on this subject.

This policy was acceptable to nine members of the Far Eastern Commission, but was not passed because of the dissent of the Soviet delegate. The Department hopes to discuss the paper with the interested countries with a view to obtaining an international agreement, and would appreciate your views in the light of your policy regarding this matter.

In order that the adoption of a final policy on this subject may be expedited, we would appreciate receiving an early reply from you.

Sincerely yours,

894.542/4-2749

DOB - ITP Unit	
Anal.	
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Enclosure:	<i>ad</i> <i>WP</i> <i>CC</i>

Willard L. Thorp
Assistant Secretary

Policy on the Treatment
of Japanese Patents
Outside Japan.

The Honorable
David L. Bazelon,
Assistant Attorney General,
Director, Office of Alien Property,
Department of Justice.

WVA
CR
APR 21 1949 P.M.

RESTRICTED

RCP
ITP:IR:SGoldblatt:s1
4-20-49 *JS*

ITP

Cleared by phone
OFD
Mr. Bennett
Cleared in substance
L/E
NA
Mr. Henniger

894.542/4-27
CS/M
JS
49

ACTION
is assigned to
JUN 6 1949

CABLE ADDRESS
GILAW-CHICAGO
TELEPHONE FRANKLIN 2-3551
MAY 31 1949

LAW OFFICES OF
HARVEY M. GILLESPIE

SUITE 3120
105 WEST ADAMS STREET
CHICAGO 3

OFFICE OF
INTERNATIONAL TRADE POLICY
JUN 1 1949
DEPARTMENT OF STATE

PATENTS
TRADE MARKS
COPYRIGHTS
Action Assigned to RCO

Action Taken etc

Date of Action 6/7

Action Office Symbol ITP-12/R

Name of Officer JAG

Direction to DC/R File

Department of State
Washington 25, D. C.

Sir:

It is my understanding that the Department of State, under date of March 29, 1949, issued a Directive to the Supreme Commander of the Allied Powers regarding the revival and extension of Japanese patents owned by citizens of the United States.

I represent a client who owned several Japanese patents which have evidently lapsed during hostilities. I am quite anxious to receive information regarding the procedure necessary to revive and revalidate these patents. I will appreciate it, therefore, if you can give me any additional information in regard to the procedure. I understand that the Japanese Patent Office is not yet functioning. To whom do I address my Petition or other form of application to obtain formal consideration?

Yours very truly,

Harvey M. Gillespie

HMG:BS

163592

INTERNATIONAL RESOURCES DIVISION

JUN 1 1949
DEPARTMENT OF STATE

FILED
JUN 9 1949

DCR - GILLESPIE
Encl. 2
Rev. 1
Cat. 1
Dist. 1

894.542/5-2749

894.542/5-2749
CS/H

JUN 8 1949

In reply refer to
IR 894.542/5-2749

My dear Mr. Gillespie:

The receipt is acknowledged of your letter of May 27, 1949 concerning the restoration of patents in Japan owned by citizens of the United States.

The basic policy concerning the restoration of patent rights in Japan is contained in the enclosed press releases. With respect to the procedure for the revalidation or revival of the Japanese patent rights of United States citizens, I am enclosing an advanced copy of a notice which will be published shortly in the Official Gazette of the United States Patent Office. This notice contains the information you have requested concerning the address of the office which has been designated to receive applications for the restoration of patent rights in Japan. For your information, the Japanese Patent Office was reopened in September, 1948 and has been receiving applications for new patents since that time.

If there is any further information which you require, please do not hesitate to communicate with me.

Sincerely yours,

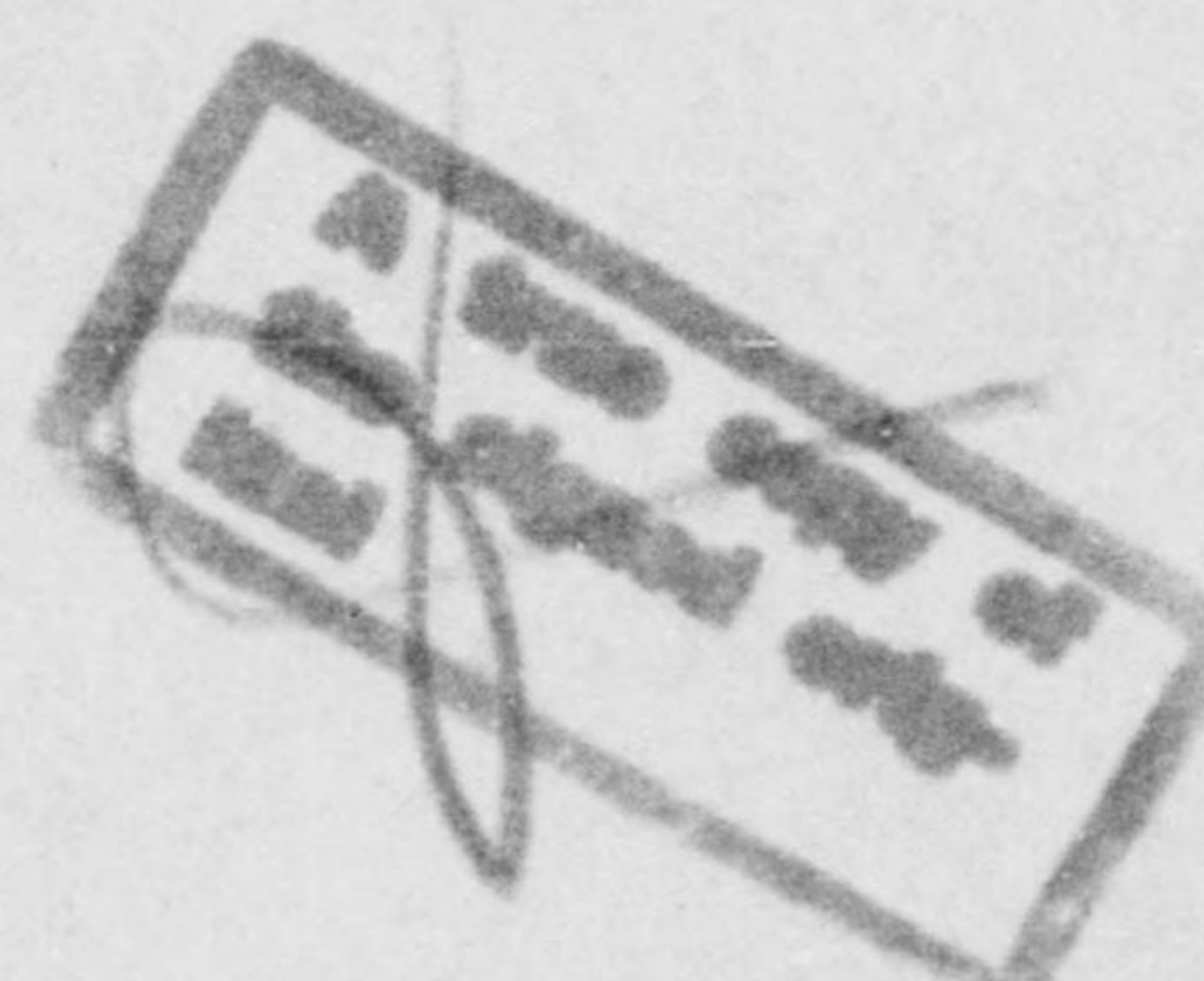
For the Acting Secretary of State:

RC
Roger C. Dixon
Acting Assistant Chief
International Resources Division

DUP. ITP Unit	
Anal.	<i>ODH</i>
Dev.	<i>[Signature]</i>
Cal.	<i>[Signature]</i>
Dist.	
Enclosures:	

1. Press Release No. 198.
2. FEC Press Release No. 52.
3. Notice re Restoration of Patent Rights in Japan.

[Handwritten mark]
CR Mr. Harvey M. Gillespie,
 Suite 3120,
 JUN 8 1949 P.M. 105 West Adams Street,
 Chicago 3, Illinois.
 ITP:IR:JAGreenwald:s1 6-7-49



894.542/5-2749

CS/A

894.542/5-2749

May 31

Patent Bureau
The Department of Commerce, U.S. Government
Washington, D.C.
U.S.A.

8, 2-chome, S
Tamura-cho, M
Tokyo

894.542/5-3149

Dear Sirs:

We refer to the Modern Plastics, No.23 of November, 1945
this company published a very suggestive article entitled "New Synth
Acrylic Acid". At the end of an article, they put a notation that
ment of Commerce is merely distributing this technical information
come into its hands from captured German territory." "This informat
be made available to all United States citizens interested in it but
by anyone must be and is at one's own risk insofar as the United St
patent violations are concerned."

AUG 24 1949

We, as a chemical company, are very much interested in t
ment of plastic industry in Japan, but at the same time, wish to take
precaution not to violate patent right, especially of your country
countries. We consulted with the American competent officers of Gen
MacArthur's Headquarters, SCAP, Tokyo and was advised to write to yo
order to ascertain whether or not this is patented in the United St
of the allied countries. They also stated that insofar as German pa
are concerned we do not need to afraid very much of using them. The
authorities reported that all patent rights in the captured German
now possessed by the United States Government. Is it correct? If
procedure shall we have to take to utilize the new synthesis of acry
If the royalty problem is involved, to whom shall we have to pay and

We should be very much obliged if you would kindly enlig
the above respects.

Yours very truly,

For Toa Gosei Chemical Indu

M. Nagatani
President

191932

*at
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m m*

May 31, 1949

Bureau
Department of Commerce, U.S. Government
Washington, D.C.

8, 2-chome, Shiba
Tamura-cho, Minato-ku,
Tokyo

894.542/5-3149
[Handwritten initials]

894.542/5-3149 *m*

32 CS/H

Re: We refer to the Modern Plastics, No.23 of November, 1945, wherein your company published a very suggestive article entitled "New Synthesis of Acrylic Acid". At the end of an article, they put a notation that "The Department of Commerce is merely distributing this technical information which has come into its hands from captured German territory." "This information should be made available to all United States citizens interested in it but use of it must be and is at one's own risk insofar as the United States or foreign patent law violations are concerned."

FILBD
JUL 1 1949
cc IR

We, as a chemical company, are very much interested in the development of the plastic industry in Japan, but at the same time, wish to take every precaution not to violate patent right, especially of your country and the allied countries. We consulted with the American competent officers of General Headquarters, SCAP, Tokyo and was advised to write to you direct in order to ascertain whether or not this is patented in the United States or any other allied countries. They also stated that insofar as German patent problems are concerned we do not need to be afraid very much of using them. The Japanese authorities reported that all patent rights in the captured German territory are controlled by the United States Government. Is it correct? If so, what steps shall we have to take to utilize the new synthesis of acrylic acid? If a royalty problem is involved, to whom shall we have to pay and in what way?

DIVISION OF ECONOMIC POLICY
JUL 5 1949
DEPARTMENT OF STATE

We should be very much obliged if you would kindly enlighten us on these respects.

Yours very truly,

For Toa Gosei Chemical Industry Co., Ltd.

[Signature]
President

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ad
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Toa Gosei Chemical
Industry Co., Ltd.

8, 2-chome, Shiba
Tamura-cho, Minato-ku,
Tokyo



PAR AVION

AIR LETTER

Patent Bureau
The Department of Commerce
U.S. Government
Washington, D.C.
U.S.A.



航空

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折込線

折込線

AUG 24 1949

UNCLASSIFIED

No. 199

To the
Office of the Acting United States Political Adviser for Japan,
Tokyo.

The Secretary of State refers to the enclosed copy of a letter to the United States Patent Office from Mr. Nagataki, President of the Toa Gosei Chemical Industry Company, Limited, 8, 2-chome, Shiba, Tamura-cho, Minato-ku, Tokyo, which was referred to the Department for reply. Mr. Nagataki requests information concerning the patent situation with respect to a "New Synthesis of Acrylic Acid".

The Department would appreciate the Acting Political Adviser's replying to Mr. Nagataki along the following lines. From the information supplied ~~by~~ Mr. Nagataki it is not possible to transmit any specific information concerning the availability of the patents covering the "New Synthesis of Acrylic Acid". Certain technology and patents were obtained ~~in~~ in Germany during the war and are now available upon request to the Office of Technical Services, Department of Commerce. However, as stated in the article referred to by Mr. Nagataki, the use of this information must be subject to any patent rights which are still valid.

German patents in Allied countries which were seized during the war have been made generally available to nationals of signatory countries under the terms of the London Patent Accord on the disposition of German-owned Patents Outside Germany. Since Japan is, of course, not a signatory of this Accord, the right to license under these German patents would not be available to nationals of Japan. However, many countries have placed German-owned patents in the public domain. In these cases there would be no bar to importation of goods which were produced under the German-owned patent. In the United States the German-owned patents have not been placed in the public domain, and under the present policies of the Office of Alien Property (in accordance with the London Patent Accord), licenses to German-owned patents in the United States would not be available to Japanese nationals.

With respect to German-owned patents in Japan, it should be pointed out that these patents are presently in the custody of SCAP pending the ultimate disposition of German external assets. In the event that licenses should be granted in the future under German-owned patents in Japan, it is assumed that SCAP will issue the appropriate press release. Finally, it should be emphasized

that

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that on the basis of the information submitted by Mr. Nagataki, it is not possible to determine what specific patents are involved and, therefore, it is impossible to answer his question as to whether or not the process is patented in the United States or any other Allied country.

Enclosure:

Letter from Toa Gosei
Chemical Industry Company.

FOR
AUG 23 1949

A true copy of
the signed orig-
inal

RPJ
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L/E NA



THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

[Handwritten signatures and initials]

REC'D
JUNE 15

Office of the U. S. Political Adviser
for Japan

Action Assigned to RLB

Tokyo, June 6, 1949

Action Taken none

ACTION
ITP

INFO
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GTD

No. 361

OFFICE OF
INTERNATIONAL TRADE POLICY
JUN 20 1949
DEPARTMENT OF STATE

Date of Action 6/20/49

Action Office Symbol 661

Name of Officer _____

Direction to DC/R File

Subject: Supplementary Information on Procedures
for Restoration of Patent Property in
Japan to Allied Nationals.

The Chargé d'Affaires ad interim has the honor to refer to this Mission's despatch no. 223 dated April 13, 1949, transmitting a copy of a memorandum (SCAPIN 1990) dated April 8, 1949, sent to the Japanese Government by General Headquarters, Supreme Commander for the Allied Powers (SCAP), Tokyo, regarding procedures for restoration of patents, utility models, and designs to Allied nationals.

1/ There is now enclosed a copy of a supplementary memorandum on the same subject (SCAPIN 1990/1) dated May 16, 1949, and also sent by SCAP to the Japanese Government. Although the title of this SCAPIN refers to patent property, the text of the memorandum indicates that the SCAPIN applies also to utility models and designs.

The present SCAPIN directs the Japanese Government to provide the necessary procedures for revalidation and restoration, at the request of owners, of patents, utility models, and designs existing in Japan on the effective date of loss or granted thereafter on applications filed before that date, which were owned or had been applied for by Allied nationals and which have since lapsed, or have been sequestered, or otherwise taken away from such owners without their free consent. Detailed procedures for restoration of such properties are included.

INTERNATIONAL RESOURCES DIVISION

JUN 20 1949

DEPARTMENT OF STATE

Enclosure: *[Handwritten initials]*

1/ Copy of SCAPIN 1990/1 dated May 16, 1949, on subject "Procedures for Restoration of Patent Property in Japan to Allied Nationals."

- Copies to: American Embassy, London
- American Embassy, Nanking
- American Consulate General, Shanghai
- American Consulate General, Hong Kong

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ACTION COPY

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Parchment Mat to the Department.

RETURN TO DC/R FILES WITHIN 14 DAYS, WITH A NOTATION OF ACTION TAKEN.

JUN 29 1949

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Enclosure No. 1 to Despatch No. 361 dated June 6, 1949 from the Office of the U. S. Political Adviser for Japan, Tokyo, on the subject "Supplementary Information on Procedures for Restoration of Patent Property in Japan to Allied Nationals."

(COPY)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
APO 500

AG 072 (8 Apr 49)CPC/FP
SCAPIN 1990/1

16 May 1949

MEMORANDUM FOR: JAPANESE GOVERNMENT

SUBJECT: Procedures for Restoration of Patent Property in Japan to Allied Nationals

1. Reference is made to memorandum for the Japanese Government, file AG 072 (8 Apr 49)CPC/FP, SCAPIN 1990, 8 April 1949, subject, "Procedures for Restoration of Patents, Utility Models, and Designs to Allied Nationals," from General Headquarters, Supreme Commander for the Allied Powers.

2. The Japanese Government is hereby directed to provide the necessary procedures for revalidation and restoration, at the request of owners, of patents, utility models, and designs existing in Japan on the effective date of loss or granted thereafter on applications filed before that date, which were owned or had been applied for by Allied nationals and which have since lapsed, or have been sequestered, or otherwise taken away from such owners without their free consent.

3. Patent properties will be restored in accordance with the following procedures:

a. General Headquarters, Supreme Commander for the Allied Powers will forward to the Board of Patents a signed "Request for Information." The Board of Patents will conduct the necessary investigation to determine the status of the patent property listed on above-mentioned form, its use in Japan during the period since effective date of loss, and the amount of any funds deposited or credited to the name of the owner as royalties. Names and addresses of all users, and names and locations of all depositories or creditors will be included in this report, as well as the date of and reason for termination of the rights of the owner. Reports will be submitted to General Headquarters, Supreme Commander for the Allied Powers in conformity with the following:

- (1) "Request for Information"
- (2) "Official Report of Status and Use of Allied-Owned Patent Property" together with "Certification"
- (3) "Royalties"

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Enclosure No. 1 to Tokyo's
Despatch No. 361,
June 6, 1949.

- 2 -

(3) "Royalties Report"

b. General Headquarters, Supreme Commander for the Allied Powers will subsequently forward to the Board of Patents a "Demand for Restoration of Patent Property." The Board of Patents will make necessary changes in its records to indicate revalidation of property rights and restoration thereof to the owner.

c. General Headquarters, Supreme Commander for the Allied Powers will in some cases forward to the Board of Patents, in connection with above "Demand for Restoration of Patent Property," a "Demand for Extension of Patent Property Rights." Upon receipt of such demand, the Board of Patents will make necessary changes in its records to indicate extension of such rights beyond the normal expiration date.

d. The Board of Patents will forward to General Headquarters, Supreme Commander for the Allied Powers a "Certificate of Restoration" setting forth actions taken under paragraphs b and c above. Such certificate shall indicate the normal date of expiration, the extended date of expiration, if any, and shall bear official witness of the fact of restoration of patent property to its owner. In order to maintain validity after restoration, the Board of Patents will state on this certificate amount of annual fees due from the owner and the date payable, for the first year following restoration.

4. Copies of the above-mentioned forms are enclosed.

FOR THE SUPREME COMMANDER:

R. M. LEVY
Colonel, AGD
Adjutant General

- 6 Incls (For addressee only)
1. "Request for Information" form
 2. "Official Report of Status and Use of Allied-Owned Patent Property" form w/"Certification" form
 3. "Royalties Report" form
 4. "Demand for Restoration of Patent Property" form
 5. "Demand for Extension of Patent Property Rights" form
 6. "Certificate of Restoration" form

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Action Assigned to Red

Action Taken letter

ITP

IN REPLY, PLEASE REFER TO FILE NUMBER

HGH:PEL:ON:ER
019-217

OFFICE OF ALIEN PROPERTY

DEPARTMENT OF JUSTICE

Date of 5/14 WASHINGTON 25, D. C.

Action Office symbol ITP:IR

Name of Officer JAG 1622

June 21, 1949.

Direction to File Mr. Thorp

Assistant Secretary
for Economic Affairs

JUN 23 1949

Department of State

INTERNATIONAL RESOURCES DIVISION

JUN 24 1949

DEPARTMENT OF STATE

Mr. Willard L. Thorp
Assistant Secretary
Department of State
Washington 25, D. C.

Dear Mr. Thorp:

OFFICE OF
INTERNATIONAL TRADE POLICY
JUN 23 1949
DEPARTMENT OF STATE

894.542/4-2749

Consideration has been given to your letter of April 27, 1949, and to the draft of the policy on the treatment of Japanese patents outside Japan.

The general principles of the policy seem to be in line with those of the London Accord with respect to German patents, and to this extent are acceptable to this Office.

There are, however, certain deviations from the London Patent Accord which should be noted, and which would be contrary to the present policy of this Office. These are as follows:

1. In Paragraph 1 is set out a means of making former Japanese-owned patents available to the public by "continuously offering for licensing without royalty, in each case, without charges or restrictions,".

An administrative charge for licensing formerly enemy-owned patents has been uniformly required by this Office. It is a nominal charge of \$15.00 for each patent licensed, but the charge has been made over a long period of time, and we would not desire to change the policy now to make licenses under Japanese patents available with no charge.

2. An exception to the theory that there shall be no restriction on licenses says: "except so far as restriction is necessary to protect rights which have been lawfully granted to or acquired by any national of a country at war with Japan".

DAH

The language of this exception greatly limits the rights which may be protected. Many neutral countries were not at war with Japan, and it has been the policy of this Office to protect not only the rights of neutral countries, but the rights of nationals of countries which were not at war with the United States, regardless of whether they were at war with the enemy power concerned. We would be opposed to the adoption

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OS/H

Mr. Willard L. Thorp

- 2 -

June 21, 1949.

of any policy which would make it necessary for this Office to disregard the rights of a non-enemy licensee of a Japanese patent simply because his country did not declare war upon Japan. Paragraph 3 of the policy makes this discrimination even more pointed suggesting that only the rights in former Japanese-owned patents of nationals of countries at war with Japan should be protected. Nowhere in the proposed policy is any provision made for protection of rights of non-enemy nationals and nationals of countries which were neutral during the war, and for this reason, it is objectionable to this Office.

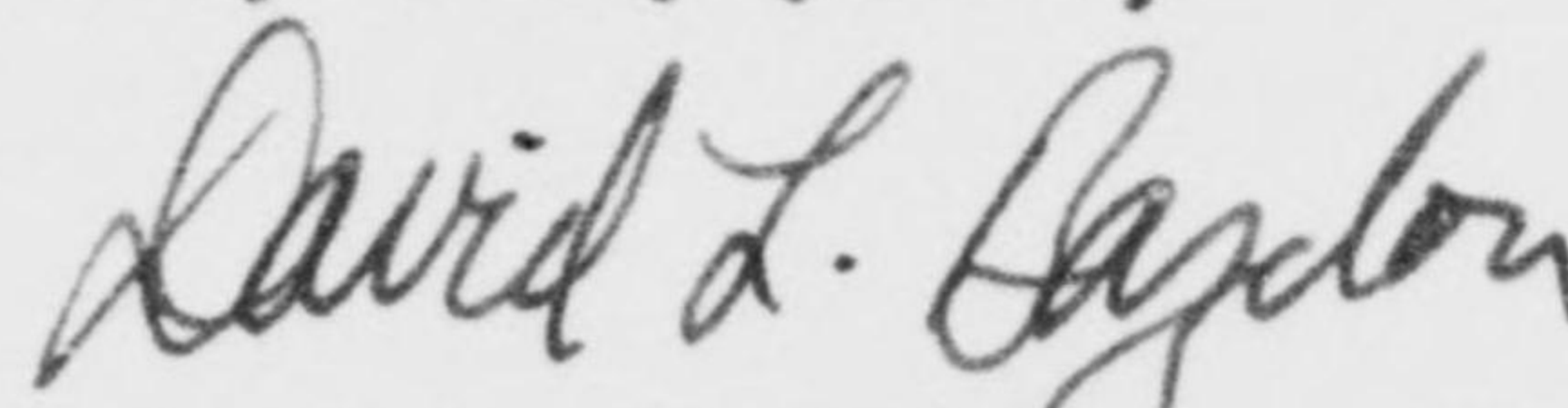
In this connection, we believe that the language of the London Accord might well be applied to Japanese property insofar as the rights of others than Japanese and enemy nationals are concerned. As an example, it is felt that it would be preferable to define the property to be controlled as "all former, wholly Japanese-owned patents, issued by a country and in its possession or control under the general law and regulations relating to Japanese-owned property", instead of the present language of Section 1.

We believe that the language providing for licensing "in each case without charges or restrictions" should be deleted, and such words as "on the same terms as to the nationals of the licensing country" substituted.

In place of the exception now in the Article 1 with respect to restrictions in licenses, the language of Article 4 of the London Accord might be substituted, as follows: "except that these provisions shall be subject to the right of each government to take appropriate measures to protect and preserve proprietary, license, or other rights or interests, in such patents which have been lawfully granted to or acquired by any non-Japanese prior to June 30, 1949."

With respect to Article 4 of the proposed policy, this matter has already been provided for by the passage of Public Law 380 and the Regulations of this Office, revised in accordance therewith, 8 CFR 507.26 published at 13 Fed. Reg., page 9511, December 31, 1948.

Very truly yours,



David L. Bazelon
Assistant Attorney General
Director, Office of Alien Property

G.P.C.17

FINAL ACT OF THE CONFERENCE HELD IN
LONDON OF REPRESENTATIVES OF CERTAIN
GOVERNMENTS MEMBERS OF I.A.R.A. TO
CONSIDER THE QUESTION OF THE TREATMENT
OF GERMAN-OWNED PATENTS.

The Conference, which was convened on the invitation of the Governments of the French Republic, the United Kingdom, and the United States of America, held meetings in London between the 15th and 27th July, 1946.

The following Delegations participated in the Conference:-

	<u>Delegates</u>	<u>Advisers</u>
GOVERNMENT OF AUSTRALIA	Mr. H.F.E. Whitlam Mr. L.B. Davies	
GOVERNMENT OF BELGIUM	M. J. Hamels Baron de Lettenhove	
GOVERNMENT OF CANADA	Dr. E.H. Coleman	Mr. K.J. Burbridge Mr. P.H. Russell
GOVERNMENT OF CZECHOSLOVAKIA	M. Celestin Simr M. Frank Kafka	M. V. Sedlacek M. B. Stuchly M. J. Rieger M. F. Vohryzek M. J. Vojacek
GOVERNMENT OF DENMARK	Mr. Ehrenreich-Hansen Mrs. Janson Simonsen	Miss Julie Olsen
GOVERNMENT OF THE FRENCH REPUBLIC	M. R. Monmayou M. E. Mathon	M. P. Dreyfus M. O. Pichot
GOVERNMENT OF LUXEMBOURG	M. A. de Muyser	
GOVERNMENT OF THE NETHERLANDS	Dr. H. Gelissen Mr. J. Dyckmeester	Mr. J. Al Dr. J.M. Fehmers Dr. A. Koerts Dr. H. Jonker
GOVERNMENT OF NORWAY	Mr. Bredo Stabell Dr. Harald Aarflot	Mr. Jacques Raeder Mr. Johan Helgeland
GOVERNMENT OF THE UNION OF SOUTH AFRICA	Mr. G.D. Louw Mr. E. Swart or Mr. D.B. Sole	

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DelegatesGOVERNMENT OF THE
UNITED KINGDOMSir Harold Saunders
Mr. B.G. Crewe

Mr. J.L. Blake

GOVERNMENT OF THE UNITED
STATES OF AMERICA

Mr. Casper W. Coms

Mr. Bennett Boskey
Mr. Francis Brown
Mr. John Green
Mr. Howland H. Sargeant
Mr. James Simsarian
Mr. Robert Terrill.

Sir Harold Saunders (United Kingdom) was elected President of the Conference, and Mr. H.W. Clarke and Mr. T.H. Hobbs, Secretaries.

The Conference drew up an Accord of which the text is set forth in the Annex to this Final Act. This Accord was signed on behalf of the Governments of the French Republic, the Netherlands, the United Kingdom and the United States of America. The Accord remains open for signature until the 31st December, 1946, on behalf of all other Governments represented at the Conference. The Governments of any other members of the United Nations or of Neutral Countries may also become parties to this Accord. The Delegations of the Commonwealth of Australia, Canada, Czechoslovakia, and the Union of South Africa will recommend to their respective Governments that the Accord should be signed on their behalf.

The following Resolutions were adopted at the Conference:-

Resolution No. 1.

To render possible the fulfilment of the Accord set forth in the Annex, each Government whose Delegation has signed this Final Act undertakes that, after the 1st August, 1946, and until it has decided whether it will sign this Accord, it will not sell or transfer, encumber or restrict its rights to grant licenses under, or to take any other action with regard to, the patents referred to therein, which would interfere with its ability to carry out the terms of the Accord.

Any Government which decides not to sign the Accord will immediately communicate its decision to the Government of the United Kingdom, which will transmit this information to all other Governments represented at the Conference.

The Delegation of Australia wished to record that, while fully in favour of this Resolution, it was not able to commit the Government of Australia.

Resolution No. 2.

Each Delegation will recommend to its Government that the Delegates of that Government to the Inter-Allied Reparation Agency should be instructed to support proposals: (a) that the reparation share of any Government, party to the Accord, set forth in the Annexé should not be charged under the Paris Reparations Agreement with the value of German rights or interests in patents issued by that Government and made available, without royalty, as provided in Articles 1 and 2 of the Accord and: (b) that, in cases where royalties and other sums have been or will be received by any Government, party to the Accord, in respect of German rights or interests in these patents, the Inter-Allied Reparation Agency should consider whether any, and if so what, charge should be made against the reparation share of that Government.

The Delegations of Belgium, Denmark, Luxembourg and Norway desired to record that they considered this Resolution to be so closely connected with the Accord that the view of their Governments with regard to this Resolution would depend on the question whether they were prepared to sign the Accord.

The Conference also decided to record the following:-

1. Subject to the statement of the position of the French and United Kingdom Delegations as set forth below, it is the view of all Delegations to the Conference that the programme now in operation for obtaining, analysing and publicly disseminating German technology and "know-how" has proved of great common benefit and should be continued. At the suggestion of other Delegations, the Delegates of France and the United States will urge their Governments to request the military occupation authorities in Germany to give early consideration to utilising in this programme, so far as practicable, trained technical personnel and physical equipment which any other country represented at the Conference is able to furnish.

2. The Delegation of the United Kingdom, while sharing the view that the programme now in operation has proved of great common benefit, and declaring that the Government of the United Kingdom would continue its practice of publishing all information of this character received from Germany, was unable to participate in any recommendation on this matter because there had been no time for the consultation with the occupying authorities in Germany which the Government of the United Kingdom considered to be necessary.

3. The French Delegation, while associating themselves wholly with everything that is stated in paragraph 1 above, added that in this matter questions of reciprocity should, of course, be taken into consideration.

IN WITNESS WHEREOF the undersigned have signed this Final Act.

Done at London this 27th day of July, 1946, in English and French, both texts being equally authentic, in a single copy which will remain deposited in the archives of the United Kingdom.

The Government of the United Kingdom will transmit to all Governments represented at the Conference certified copies of this Final Act.

FOR AUSTRALIA:

FOR BELGIUM:

FOR CANADA:

FOR CZECHOSLOVAKIA:

FOR DENMARK:

FOR THE FRENCH REPUBLIC:

FOR LUXEMBOURG:

FOR THE NETHERLANDS:

FOR NORWAY:

FOR THE UNION OF SOUTH AFRICA:

FOR THE UNITED KINGDOM:

FOR THE UNITED STATES OF AMERICA:

A N N E X EACCORD

The Governments on whose behalf the present Accord is signed:

Desiring to make arrangements with regard to former German-owned patents in their possession or control:

Have agreed as follows:

Article 1

Subject to the provisions of the following Articles, each Government, party to this Accord, undertakes that all former wholly German-owned patents, issued by it and in its possession or control under the general law and regulations relating to German-owned property, which have not ceased or been dedicated to the public, shall be dedicated to the public or placed in the public domain or continuously offered for licensing without royalty to the nationals of all Governments, parties to this Accord.

Article 2

In cases where a Government, party to this Accord, makes available by the grant of licences or otherwise to its own nationals rights under patents in which there was formerly a German interest (other than the patents specified in Article 1), such rights shall be made available to the nationals of all Governments, parties to this Accord, on the same terms as to the nationals of that Government.

Article 3

Subject to the provisions of Article 4, all licences granted in accordance with Article 1 and, in cases where the Government is not prevented by the terms of the patent, licence or other right which it acquires, all licences granted in accordance with Article 2 shall include the right to practice and exercise the inventions claimed in the patents, and to make, use and sell the products of the inventions regardless of where such products are manufactured.

Article 4

The provisions of Articles 1 and 2 shall be subject to the right of each Government to take appropriate measures to protect and preserve proprietary, licence or other rights or interests in such patents which have been before the 1st August, 1946, lawfully granted to or acquired by any non-German. An exclusive licence granted before the 1st August, 1946, may be protected by declining to grant any new licence during the period of such exclusive licence, and a non-exclusive licence may be protected by imposing on new licensees the same terms as those imposed on the existing licensee.

Article 5

For the purposes of this Accord, each Government may treat as non-German-owned those patents, or interests in patents, belonging to persons in special classes (such as Germans residing outside Germany, German refugees etc.) whose property that Government has exempted or may in the future exempt from its general law and regulations relating to German-owned property.

Article 6

In order to carry out the purposes of this Accord and to provide for the interchange of information through a central office, the Government of the French Republic will provide facilities for receiving and disseminating reports from Governments, parties to this Accord, and for notifying these Governments of matters of common interest under this Accord.

Article 7

Each Government, party to this Accord, shall furnish as soon as possible to the central office referred to in Article 6, for transmission to the other Governments, parties to this Accord, a list of all former wholly or partly German-owned patents which are not available to the nationals of these Governments by way of dedication or royalty-free licences, together with a schedule of the licences and of non-German interests existing under or in those patents. In addition, the Governments, which can conveniently do so, shall furnish a list of all such patents still in force which are licensable on a royalty-free basis and of all such patents as have ceased or been dedicated to the public.

Article 8

The present Accord shall remain open for signature in London on behalf of any Government represented at the Conference in London until the 31st December, 1946. The Government of the United Kingdom shall notify to all other Governments represented at the Conference the names of the Governments on whose behalf the Accord has been signed.

Article 9

The Government of any other member of the United Nations, or of any country which remained neutral during the second World War, may become a party to this Accord by notifying the Government of the United Kingdom of its acceptance thereof before the 1st January, 1947. The Government of the United Kingdom shall inform all Governments represented at the Conference in London on German-owned patents, or which have accepted this Accord under this Article, of all acceptances so notified.

Article 10

Any Government, party to this Accord, may extend the Accord to any of its colonies, overseas territories, or to any territories under its protection or jurisdiction or which it administers under mandate, by a notification addressed to the Government of the United Kingdom.

The Government of the United Kingdom shall inform all other Governments, party to this Accord, of any notification which it receives under this Article.

Article 11

This Accord shall come into force as soon as it has been signed or accepted by the Governments of the French Republic, the United Kingdom, the United States of America and of four other countries.

IN WITNESS WHEREOF the undersigned duly authorized thereto have signed the present Accord.

Done in London this 27th day of July, 1946, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Government of the United Kingdom.

The Government of the United Kingdom shall transmit certified copies of this

Accord to all Governments represented at the Conference in London on German-owned patents and to all Governments entitled to become a party to this Accord under the provisions of Article 9.

For the Government of Australia

For the Government of Belgium

For the Government of Canada

For the Government of Czechoslovakia

For the Government of Denmark

For the Government of the French Republic

For the Government of Luxembourg

For the Government of the Netherlands

For the Government of Norway

For the Government of the Union of South Africa

For the Government of the United Kingdom

For the Government of the United States of America

~~SECRET~~
AUG 1 1949

In reply refer to
IR

My dear Mr. Bazelon:

In Mr. Thorp's absence, I have received
~~the receipt to acknowledge~~ your letter of
June 21, 1949 in which you give your views on the draft
policy on the treatment of Japanese patents outside
Japan.

The Department is gratified that the general principles
of the policy are acceptable to the Office of Alien Property,
and your specific comments are appreciated. The draft
policy will be revised in accordance with your suggestions
before it is presented to representatives of other
interested countries.

Sincerely yours,

WGB
~~XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX~~

Winthrop G. Brown
Director, Office of
International Trade Policy

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The Honorable
David L. Bazelon,
~~XXXXXXXXXXXXXXXXXXXX~~
Director, Office of Alien Property,
Department of Justice.

CR
JUL 28 1949 P.M.

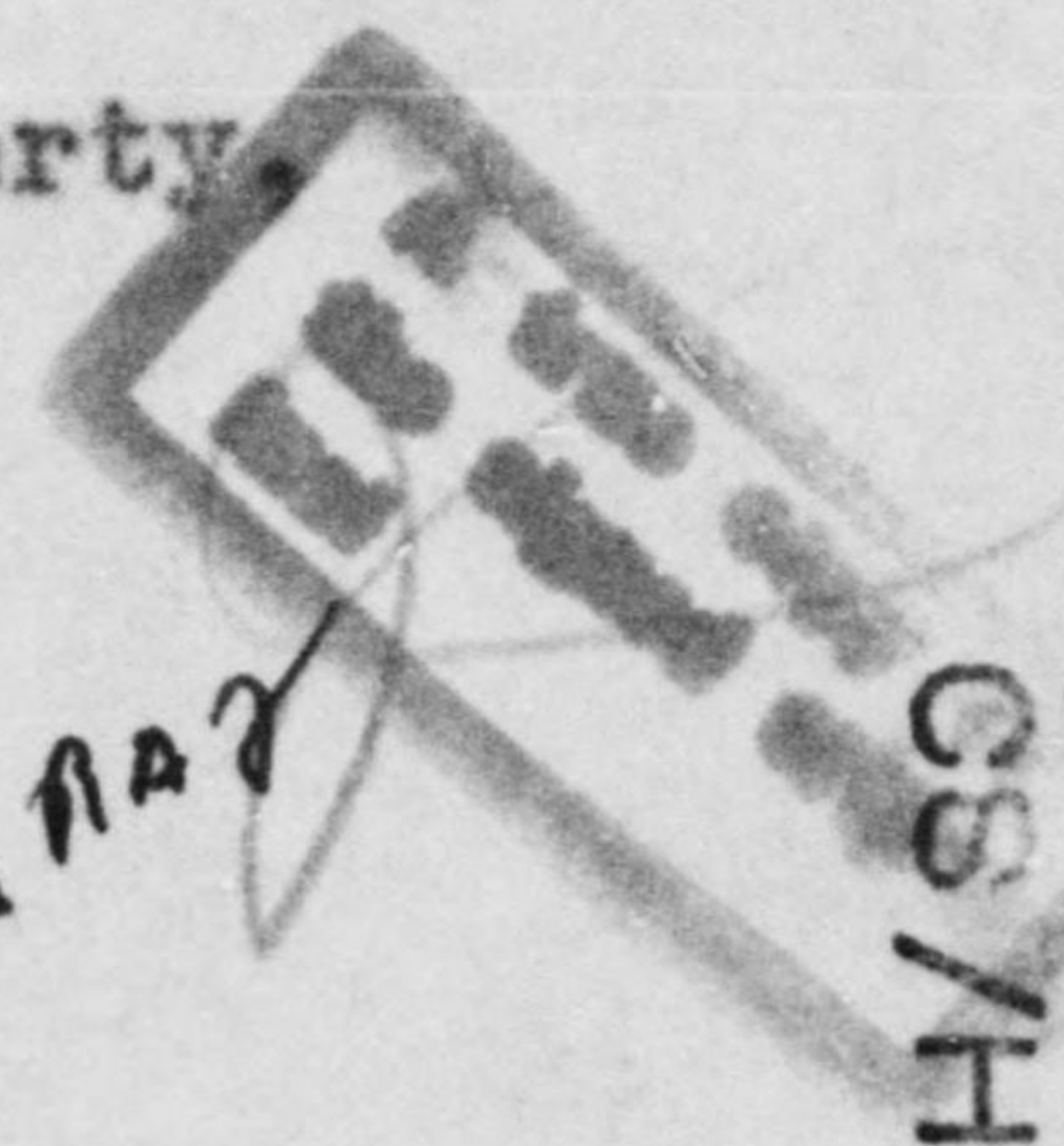
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[Signatures]
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OFFICE OF
INTERNATIONAL TRADE POLICY
JUN 28 1949
DEPARTMENT OF STATE

LEGATION OF SWITZERLAND
WASHINGTON 8, D. C.

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The Minister of Switzerland presents his compliments to the Honorable the Secretary of State, and on instructions from his Government has the honor to submit the following matter to his attention.

DC/R

From a decision concerning policy toward patents, utility models and designs in Japan approved by the Far Eastern Commission on March 17, 1949, it was learned that special provisions have been established with regard to patent rights in Japan of allied nationals. If those rights were lost during the course of the war, the allied patent holder may remedy his situation and in some measure be compensated for losses sustained. A further provision requires that applications for patents in Japan, which were filed by allied nationals, and which were pending on the effective date of loss, but on which no patents were issued, should upon

894.542/6-2449

RECEIVED
DEPARTMENT OF STATE
JUN 27 1949

RECORDS BRANCH

Action Assigned to
Action Taken

Date of Action
Action Office
Name of Officer
Direction to DC/R

request of the original applicant be reinstated as pending applications in the Japanese Patent Office and restored to

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CS/H

174712

DOB - ITP Unit

Anal. *al*

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Cat. *[Signature]*

Dist.

AUG 16 1949

the
INTERNATIONAL RESOURCES DIVISION
JUN 28 1949
DEPARTMENT OF STATE

original applicant.

The Swiss Authorities are of the opinion that these special measures in favor of allied nationals might in fact be of a discriminatory nature as regards Swiss interests involved. As a matter of fact, Swiss holders of Japanese patents or Swiss nationals who filed applications before the outbreak of the war and who, during the war, had lost control of these rights may find themselves in virtually the same situation as the respective allied patent holders. The Swiss Government trusts, therefore, that Swiss citizens will not be excluded from the benefit of these particular provisions.

Washington, D.C.
June 24, 1949.

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DEPARTMENT OF STATE

FOR THE PRESS

MARCH 29, 1949
NO. 198

FOR RELEASE AT 7:00 P.M., E.S.T., TUESDAY, MARCH 29, 1949.
NOT TO BE PREVIOUSLY PUBLISHED, QUOTED FROM OR
USED IN ANY WAY.

EXTENSION OF TIME FOR EXERCISING RIGHT OF
PRIORITY FOR PATENT APPLICATIONS IN JAPAN

The Department of State today announced the issuance by the United States Government of an interim directive to the Supreme Commander for the Allied Powers regarding the extension of time for exercising the right of priority for patent applications in Japan. The Department pointed out that this interim directive is complementary to a recent policy decision of the Far Eastern Commission regarding patents, utility models and designs in Japan. Because the Commission did not take action on the urgent matter of extension of priority rights, this Government has acted in accordance with the authority granted it in paragraph III, 3 of the Terms of Reference of the Far Eastern Commission which provides: "The United States Government may issue interim directives to the Supreme Commander pending action by the Commission whenever urgent matters arise not covered by policies already formulated by the Commission; provided that any directives dealing with fundamental changes in the Japanese constitutional structure or in the regime of control, or dealing with a change in the Japanese Government as a whole will be issued only following consultation and following the attainment of agreement in the Far Eastern Commission."

The Department explained that the urgency for a policy on priority for patent applications in Japan is accentuated by the long period which has elapsed since it was last possible for nationals of countries at war with Japan to file patent applications in Japan. Under normal circumstances persons who had filed in any country a first application for a patent and wished to have comparable protection in Japan would have filed an application there within a year in order to take advantage of the priority right derived from the previous first filing. By extending the priority period, the interim directive affords protection to persons who have not been able to exercise their priority rights in Japan because of the war. The interim directive also provides that third parties who have, before the filing of the application in Japan, bona fide manufactured, used, sold or leased the subject matter of any Japanese patent obtained with such priorities shall be given the usual protection from liability for infringement.

The text of the interim directive, which has been issued to the Supreme Commander for the Allied Powers and will be filed with the Far Eastern Commission, is as follows:

"Nationals

-2-

"Nationals of countries at war with Japan who had duly filed in any country the first application for a patent not earlier than twelve months before the effective date of loss of right to file patent applications in Japan should be entitled, within twelve months after the date, as determined by the Supreme Commander, on which such Governments and nations are again permitted to apply for patents directly to the Japanese Patent Office and to obtain legal services necessary for this purpose, to apply for corresponding rights in Japan with a right of priority based upon the previous first filing of the application. Third parties who have bona fide manufactured, used, sold or leased the subject matter of any Japanese patent obtained with this priority should not be liable for infringement on account of such use but should be enabled to continue such use after the filing of the application only under the terms of a non-exclusive license which the patent owner should be required to grant on terms providing for reasonable royalties as fixed by an agency to be authorized to make such determinations. Payment of such royalties should be subject to applicable financial regulations in effect in Japan at the time they are paid."

* * *

28 March 1949

PRESS RELEASE

FAR EASTERN COMMISSIONOFFICIAL PRESS RELEASEOne-Hundred Forty-fifth Meeting of the Far Eastern CommissionFor Release in A.M. Newspapers, 30 March 1949

I. The Far Eastern Commission on 17 March 1949 approved a policy decision relating to patents, utility models, and designs in Japan. (text below)*

II. Pursuant to the Terms of Reference of the Far Eastern Commission a directive based upon this policy decision has been forwarded by the United States Government to the Supreme Commander for the Allied Powers for implementation.

POLICY TOWARD PATENTS, UTILITY MODELS, AND DESIGNS IN JAPAN

The Far Eastern Commission decides as a matter of policy the following:

1. The Japanese Patent Office

The Japanese Patent Office should continue to exercise its functions, in such manner as will fulfill the provisions in paragraphs 3, 4 and 5 below. The Japanese Patent Law should contain explicit provisions requiring disclosure in the specifications or drawings of all information necessary to the working of a patented invention, and such provisions should be strictly enforced. The Patent Office should resume the publication of official gazettes and patent specifications.

2. Patent Rights in Japan

No action should be taken to interfere with patent rights in Japan which now exist, or which are restored, or which are newly acquired during the period of occupation, except

a. where the continued protection of such rights is in conflict with policies established or to be established in accordance with the terms of reference of the Far Eastern Commission;

b. where such rights interfere with such production, use, sale or importation of products as are necessary to carry out the purposes of the occupation. In such cases the Supreme Commander should request the Japanese Government to invoke appropriate provisions of the Japanese Patent Law to the extent that such action may provide a remedy.

The provisions of this paragraph do not apply to German-owned or former German-owned patents in Japan.

3. Secret Patents in Japan

The future maintenance in secrecy of any patent in Japan should be prohibited, existing secret patents should be published and treated in the same manner as all other patents, and pending applications heretofore treated as secret should be removed from such classification and treated in the same manner as all other applications.

4. Patents in Japan Owned by Allied Nationals

(For the purposes of this paragraph:

(1) An "Allied national" is one whose property was treated as enemy property by the Japanese Government, or whose property rights lapsed owing to the existence of hostilities between Japan and the country of that national.

(2) The "effective date of loss" applicable to the patents or applications therefor of Allied nationals should be the date of entry of the country of that national into war with Japan. When the date of entry into war is clearly inapplicable to the case of a particular Allied national, as defined above, the "effective date of loss" should be the actual date of sequestration of his patent, or the date on which his patent rights lapsed.)

a. Patents existing in Japan on the effective date of loss or granted thereafter on applications filed before that date, which were owned or had been applied for by Allied nationals and which have since lapsed, or have been invalidated or sequestered or otherwise taken away from such owners without their free consent should be subject to revalidation and restoration upon request therefor made by the Allied national owners within a reasonable period and in a manner as may be provided by the Supreme Commander. To such cases the following provisions should apply:

(1) Such owner should be afforded a reasonable time within which to perform all legally required acts in connection with restoration, revalidation, working and/or maintenance of his rights which have not been performed since the effective date of loss.

(2) The owner of a patent so restored or revalidated should be entitled to all the rights and privileges to which any national of any country is entitled under the Japanese patent law existing at the time of such restoration.

(3) The owner to whom such patent is restored should refund to the Japanese Government any sums paid or credited to him that are the proceeds from sale of the patent by the Japanese Government during the war.

(4) Payment of any special or regular fees that may have accrued to the Japanese Government with respect to such patents from the effective date of loss to date of such restoration should not be required.

b. Extension

At the request of the Allied national owner made within a reasonable time (in such form and prior to such date as may be prescribed by the Supreme Commander), the

period of duration of any Japanese patent owned by him on the effective date of loss or granted thereafter on an application filed before that date should be extended beyond its normal expiration date. Such extension should be for a period equal to that from the effective date of loss to the effective date of restoration or to the normal expiration date of the patent, whichever is earlier, provided that such owner waives all claim to royalties for use of the patent from the effective date of loss to the date so fixed, and remits any funds received by him or credited to him in a blocked account as royalties for such use.

c. Royalties

The Supreme Commander should not be responsible for obtaining, or attempting to obtain, on behalf of Allied nationals compensation for any use made of their patents prior to date of restoration. However, the Supreme Commander should make available to Allied national owners information as to funds credited to their accounts which constitute royalties for use of their rights from the effective date of loss to date of restoration. If the Allied national owner elects to receive such funds in lieu of an extension of term as provided in para. b above, he should be entitled to do so on the same basis as other funds are restored to Allied national property owners in Japan.

d. Applications Pending on Effective Date of Loss

Applications filed by Allied nationals for patents in Japan which were pending on the effective date of loss and on which patents were not issued should, upon request of the Allied national applicant within a reasonable time and in a manner prescribed by the Supreme Commander, be reinstated as pending applications in the Japanese Patent Office and be restored to the Allied national applicant. Any patents thereafter issued on such applications should be treated in a manner which conforms generally with applicable provisions of subparagraph 4 a above.

5. Application to Registered Utility Models and Designs

This policy applies also to those patents designated as "registered utility models" and, to the extent applicable, to "registered designs".

A D D I T I O N A L I N F O R M A T I O N

(For use in connection with Press Release on Far Eastern Commission Decision regarding Policy Toward Patents, Utility Models, and Designs in Japan)

For Release in A.M. Newspapers, 30 March 1949

The Far Eastern Commission at its 145th meeting on 17 March approved a decision setting forth the policy that will re-establish an effective patent system in Japan, assure full publication of all patents in Japan, and provide for the restoration of Allied-owned patent rights which were lost as a result of the war.

This policy decision, the 56th approved by the Far Eastern Commission in its three years of continuous session in Washington, falls logically into two parts: (1) general provisions governing all patents in Japan (paragraphs 1, 2, and 3 of the policy decision); (2) special provisions applicable to Allied owners of patent rights whose rights were lost during the war (paragraph 4 of the policy decision).

GENERAL PROVISIONS

The Japanese patent office, while already operating under the guidance of the Occupation authorities, will now expand its functions to approximately its pre-war standards, including the publication of official gazettes and patent specifications as in the past. Furthermore, under this policy decision the Japanese patent law must contain explicit provisions requiring the disclosure of specifications or drawings "of all information necessary to the working of a patented invention." The policy decision further requires that those provisions "should be strictly enforced."

In general, protection will be given under the policy to all holders of patent rights in Japan, whether those rights derive from patents now honored in Japan, from rights restored under the policy, or from rights newly acquired during the period of occupation. However, certain qualifications are placed upon the exercise of such rights. For example, the protective provisions do not apply to German-owned or former German-owned patents in Japan. Similarly, in any case where the continued protection of patent rights conflicts with present or future policies of the Far Eastern Commission, Commission policies must be given precedence. Furthermore, in cases where the continued protection of patent rights interferes with the production, use, sale or importation of products "necessary to carry out the purposes of the occupation," the usual protection need not be granted. In such cases the Supreme Commander is empowered to request the Japanese Government "to invoke appropriate provisions of the Japanese patent law" with a view to protecting the interests of the Occupation. The Policy also contains a provision preventing the maintenance in secrecy of any patents in Japan, and requiring that existing secret patents "should be published and treated in the same manner as all other patents." A further provision requires that pending applications heretofore treated as secret "should be removed from such classification and treated in the same manner as all other applications."

SPECIAL PROVISIONS FOR ALLIED OWNERS OF PATENT RIGHTS

The new policy adopted by the Far Eastern Commission contains special provisions whereby those Allied nationals whose patent rights were lost during the course of the war may remedy their situation and in some measure be compensated for losses sustained. Under the policy any Allied nationals who lost their normal patent rights may request, within a reasonable period of time and in accordance with procedures to be established by the Supreme Commander, the revalidation and restoration of their patent rights. Upon restoration or revalidation, such patent-holders are entitled to "all the rights and privileges to which any national of any country is entitled under the Japanese patent law existing at the time of such restoration."

In requesting revalidation or restoration, the Allied patent-holder has a choice under the policy of either accepting such funds as would normally have accrued to him during the period in which he did not enjoy his full rights, or accepting an extension of the duration of his patent for the same period of time. Should he prefer to accept the extension of the period of duration of his patent, he is required to remit any funds received by him or credited to him from the effective date of the loss of his rights to the date of restoration. Similarly, he must waive all claim to royalties for use of the patent during the period of loss. In this connection the Supreme Commander, while not responsible under the policy for attempting to obtain compensation for Allied nationals for any use which may have been made of their patents during the period of loss, is, however, responsible for making available to such persons information regarding any funds credited to their accounts in the form of royalties during that period.

A further provision in the new policy requires that applications for patents in Japan which were filed by Allied nationals and which were pending on the effective date of loss but on which no patents were issued, should, upon request of the original applicant, be reinstated as pending applications in the Japanese patent office and restored to the original applicant.

A final provision makes the policy applicable not only to patents as generally understood but also to "registered utility models" and "registered designs."

Summarizing, the patent policy adopted by the Far Eastern Commission means the return to normal operation of the Japanese patent office, full publication of all patents in Japan, and the restoration to Allied nationals of patent rights lost during the war.

The Secretary of State presents his compliments to the Honorable the Minister of Switzerland and has the honor to refer to his note of June 24, 1949 concerning the policy toward patents, utility models and designs in Japan approved by the Far Eastern Commission on March 17, 1949.

The policy decision referred to in the Legation's note deals in part with patents in Japan owned by Allied nationals, who are defined therein as those "whose property was treated as enemy property by the Japanese Government, or whose property rights lapsed owing to the existence of hostilities between Japan and the country of that national". It appears that nationals of Switzerland could not have suffered losses due to the specific causes set forth in the definition quoted above, and it is consequently clear that no discrimination against Swiss interests was intended in the Commission's policy decision.

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If there are in fact Swiss nationals who have suffered losses of the type dealt with in the aforesaid Far Eastern Commission policy decision by reason of actions taken in Japan during the war, such persons might avail themselves of the usual recourse to Japanese courts. If, in the opinion of the Government of Switzerland, it is demonstrated that adequate remedy is not afforded to such persons under Japanese law as applied by those courts, the Government of Switzerland may desire to discuss the matter with the General Headquarters of the Supreme Commander for the Allied Powers through its Mission in Tokyo.

Department of State,

Washington, August 11, 1949

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(attached).
 (See clearance on earlier version, new version cleared with Mrs Kallis and Mr. Barnett.) RAZ

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 Mrs. Snow.

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suffered by Swiss nationals as a consequence of the war, with the view of assisting the Far Eastern Commission to determine what steps it may be necessary for the Supreme Commander for the Allied Powers to take to correct grievances of Swiss nationals in Japan.

In the meantime, it is suggested that Swiss nationals who may have suffered such losses due to actions taken in Japan during the war would have the usual recourse to Japanese courts in such matters.]

AUG 11 1949

Department of State,

Washington,

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The Secretary of State presents his compliments to the Honorable the Minister of Switzerland and has the honor to refer to his note of June 24, 1949 concerning the policy toward patents, utility models and designs in Japan approved by the Far Eastern Commission on March 17, 1949.

The policy decision referred to in the Legation's note deals in part with patents in Japan owned by Allied nationals, who are defined therein as those "whose property was treated as enemy property by the Japanese Government, or whose property rights lapsed owing to the existence of hostilities between Japan and the country of that national". It appears that nationals of Switzerland could not have suffered losses due to the specific causes set forth in the definition quoted above, and it is consequently clear that no discrimination against Swiss interests was intended in the Commission's policy decision. [The Legation of Switzerland may wish to offer to the Far Eastern Commission detailed information relating to losses of Japanese patent rights suffered...

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Action assigned to RCD
File THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

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Date of Action _____ Office of the U. S. Political Adviser
for Japan

Action Office Symbol ITP:IR

Tokyo, June 25, 1949.

REC'D
JULY 1

Name of Officer _____

ACTION:
ITP

Direction to DC/R File
No. 414

OFFICE OF
POLITICAL AFFAIRS
JUL 8 1949
DEPARTMENT OF STATE

UNCLASSIFIED

INFO:
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Subject: Japanese National Permitted to File Applications
for Patents in Foreign Countries.

The Chargé d'Affaires ad interim has the honor to enclose a copy of a memorandum dated May 27, 1949, on the subject of "Patent Applications," sent to the Japanese Government by General Headquarters, Supreme Commander for the Allied Powers, Tokyo. This memorandum, designated as SCAPIN 2010, advises the Japanese Government that Japanese nationals may now file applications for patents in foreign countries. Detailed provisions are included regarding the procedures which must be complied with locally in this regard.

According to statements made June 24, 1949, by the chief of the Foreign Department of the Patent Agency, Ministry of International Trade and Industry, to a representative of this Mission, thus far only two applicants for five patents have been recommended by the Japanese Government, and approved by the Economic and Scientific Section, General Headquarters, to file patent applications in the United States under SCAPIN 2010. The products or processes for which patents are being sought include (1) a turn-table for phonographs; (2) and (3) two processes for metal plating electric non-conductive materials; (4) process for metal plating aluminum wires; and (5) process for metal plating synthetic compounds. Under consideration by the Patent Agency is an application for a patent covering a pneumothorax apparatus to be applied for in the United States.

The chief of the Foreign Department of the Patent Agency stated further that his office, since issuance May 27, 1949, of SCAPIN 2010, has received two or three inquiries daily from Japanese nationals interested in filing applications abroad for patents. Practically without exception, he said, these individuals expressed a desire to file applications only in the United States.

The Patent Agency official went on to state that the provisions of paragraph three of SCAPIN 2010, which he indicated were severely restrictive, generally served to disqualify most potential applicants. Special mention was made of the SCAPIN's provision excluding inventions made prior to January 1, 1946. In the case of Japanese desiring to file applications in the United States, he said, added restrictions were contained in the United States Patent Law which assertedly rules out the possibility of filing applications for patents registered in Japan more than 12 months ago.

INTERNATIONAL RESOURCES DIVISION

JUL - 8 1949
DEPARTMENT OF STATE

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RETURN TO DC/R FILES WITHIN 14 DAYS, WITH A NOTATION OF ACTION TAKEN.

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Tokyo's Despatch No. 414,
June 25, 1949.

- 2 -

The official added that it was also difficult for the Patent Agency to recommend a given invention "as having definite potentialities of being worked or imported into the country to which the patent application is to be sent," especially since travel of Japanese abroad is highly restricted. The question of payment of fees was also mentioned as a deterrent; in the case of an applicant having a friend or agent abroad in position to advance the fees, and also to handle the details of filing the application, then the procedure is much simpler, he pointed out, adding that the two applicants mentioned in the second paragraph of this despatch were in position to have all fees for registration of their patents in the United States paid by associates resident in Hawaii.

Enclosure: *att.*

✓ Copy of SCAPIN 2010 dated May 27,
1949, subject: "Patent Applications".

Wife
Copy to American Embassy, London.

Parchment Mat to the Department.

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Enclosure No. 1 to Despatch No. 414,
of June 25, 1949, from the Office of
the U. S. Political Adviser for Japan,
Tokyo, on the subject "Japanese Nationals
Permitted to File Applications for Pa-
tents in Foreign Countries".

(COPY)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
APO 500

AG 072(22 Sep 45)ESS/ST
SCAPIN 2010

27 May 1949

MEMORANDUM FOR: JAPANESE GOVERNMENT

SUBJECT: Patent Applications

1. Reference the following memoranda for the Japanese Govern-
ment from General Headquarters, Supreme Commander for the Allied Powers:

a. AG 130(22 Sep 45)ESS, SCAPIN 45, 22 September 1945, sub-
ject: Control of Financial Transactions.

b. AG 072(8 Mar 46)ESS/LE, SCAPIN 802, 8 March 1946, subject:
Patent Rights and Restrictions Concerning Patent Rights.

2. The Japanese Government is advised that applications may be
submitted to the Supreme Commander for the Allied Powers requesting ap-
proval for designated Japanese nationals to file patent applications
in those foreign countries, the domestic laws of which allow Japanese
nationals to obtain and hold patent rights therein.

3. The Japanese Government will not submit any applications for
approval unless the invention concerned was made subsequent to 1 Janu-
ary 1946 and is one which it recommends as having definite potential-
ities of being worked or imported into the country to which the patent
application is to be sent. Provided that if the applicant can estab-
lish that a person, legally entitled to hold the appropriate currency
of payment, will pay the necessary fees and charges for obtaining the
patent, then the potential value of the subject invention need not be
taken into consideration.

4. On written approval being given by the Supreme Commander for
the Allied Powers to the forwarding of a patent application to a for-
eign country, such approval may be presented to a bank licensed by the
Supreme Commander for the Allied Powers, together with a request to
remit the necessary fees in dollars or sterling to a designated ad-
dressee in the country in which the application is to be filed. After
the Foreign Exchange Control Board has commenced operation, the request
for remittance will be accompanied by certification by the Board as to
availability of the necessary foreign exchange.

5. The term "necessary fees" in paragraph 4 above means reason-
able fees and charges payable in respect of the acquirement of a pa-
tent when no substantial ex parte dispute or third-party hearing is
involved.

6. Actions

UNCLASSIFIED

Enclosure No. 1 to
Tokyo's Despatch No. 414,
June 25, 1949.

- 2 -

6. Actions likely to involve costs or charges other than "necessary fees" as defined in paragraph 5 above, must be approved by the Japanese Government and by the Supreme Commander for the Allied Powers before such actions are instigated.

7. Remittances to pay reasonable costs and charges for such actions as have been approved by the Japanese Government and by General Headquarters, Supreme Commander for the Allied Powers, may be obtained in the same manner as remittances to pay necessary fees.

8. All requests for remittances in dollars or sterling as in paragraphs 4 and 7 above will be accompanied by an amount in yen, equivalent to the dollars or pounds sterling to be remitted, at the official foreign exchange rate.

9. The Japanese Government is notified that any transactions, by way of assignment, license or otherwise, concerning the patent granted or to be granted on an application filed in a foreign country in the name of a Japanese National, must be approved by the Supreme Commander for the Allied Powers prior to finalization. Also, the instrument must be filed with the Fair Trade Commission in accordance with the terms of article 6 of the Law relating to the Prohibition of Private Monopoly and Methods of Preserving Fair Trade.

10. The Japanese Government is further notified that approval will be given to the finalization of such transactions only if the instrument contains a provision that any foreign currency to be paid as consideration, will be remitted, for the account of the Supreme Commander for the Allied Powers to a bank licensed by the Supreme Commander for the Allied Powers which will pay the patentee or applicant in yen.

11. Any patents obtained in foreign countries by Japanese will be subject to the domestic laws of those foreign countries.

12. Direct communication between the Japanese Patent Agency and the interested agencies of General Headquarters, Supreme Commander for the Allied Powers is authorized.

FOR THE SUPREME COMMANDER:

R. M. LEVY,
Colonel, AGD,
Adjutant General.

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ADDRESS ONLY
THE COMMISSIONER OF PATENTS
WASHINGTON 25, D. C.

DEPARTMENT OF COMMERCE
UNITED STATES PATENT OFFICE
WASHINGTON

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Your reference:
IR

July 12, 1949

JUL 21 1949

Mr. Winthrop G. Brown
Director, Office of
International Trade Policy
Department of State
Washington 25, D. C.

Dear Mr. Brown:

Forwarded herewith is a letter for transmittal to the Director General of the Board of Patents, Tokyo, Japan. This letter is in reply to a communication from him, dated February 15, 1949, requesting information concerning applications for patents, designs and trademarks in the United States by Japanese nationals, which you sent to this office on May 17, 1949.

Sincerely

Lawrence C. King

Commissioner.

894.542/7-1249

Enclosure:
Reply to letter from
Japanese Board of Patents

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OFFICE OF
INTERNATIONAL TRADE POLICY
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DEPARTMENT OF STATE

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INTERNATIONAL RESOURCES DIVISION
JUL 19 1949
DEPARTMENT OF STATE

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No. 173

894.542/4-2649

To the Office of the
Acting United States Political Adviser for Japan,
Tokyo.

7-12-49

The Secretary of State refers to the Acting Political Adviser's despatch No. 258, dated April 26, 1949 transmitting fifteen letters from the Japanese Government's Board of Patents regarding foreign patents in Japan and requesting information on future Japanese patent applications abroad.

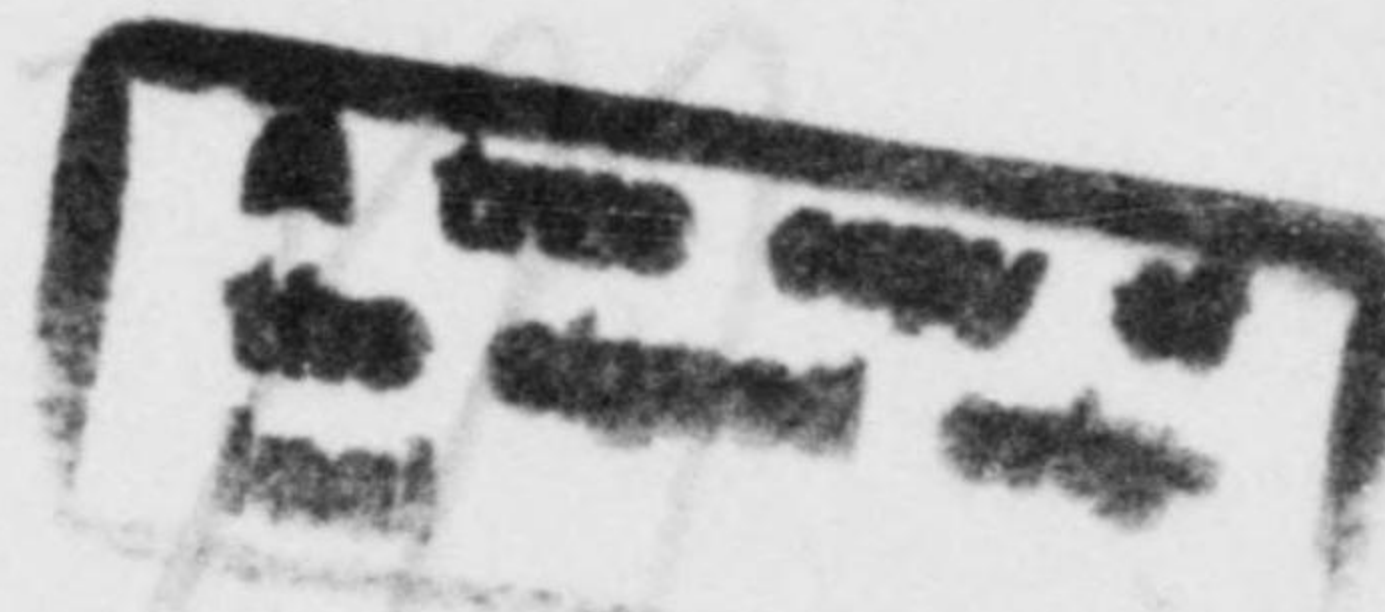
In reply to the letter addressed to the Commissioner of Patents, Washington, D.C., the Secretary of State encloses a letter from the United States Patent Office addressed to the Board of Patents, together with two copies of United States patent laws and rules of practice. If no objection is perceived by the Acting Political Adviser, it is requested that the letter and enclosures thereto be forwarded accordingly.

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Enclosure:

Material from the
United States Patent Office.

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THE FOREIGN SERVICE
OF THE INTERNATIONAL RESOURCES DIVISION
UNITED STATES OF AMERICA

AUG 9 - 1949

DEPARTMENT OF STATE

No. 353
894.542/7-2749

American Legation,

Vienna, Austria, July 27, 1949.

UNCLASSIFIED

SUBJECT: Letter for Transmittal to Japanese Board
of Patents.

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The Charge d'Affaires ad interim refers to the Department's Instruction No. 62 of May 17, 1949, and has the honor to enclose herewith for transmittal through appropriate channels to the Board of Patents of the Japanese Ministry of Commerce and Industry a letter dated July 18, 1949, with enclosures, from the Austrian Federal Ministry for Commerce and Reconstruction.

Action Assigned to RCD

Action Taken transmitted
enclosure to usps
20/1/49

Date of Action 9/1/49

Action Office Symbol ITP, IR

Name of Officer JAC

Direction to DC/R File

Enclosure:

Letter dated July 18, 1949,
with enclosures, addressed to
Board of Patents of the Japanese
Ministry of Commerce, and Industry.

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RETURN TO DC/R FILES WITHIN 14 DAYS, WITH A NOTATION OF ACTION TAKEN.

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

DIVISION OF
NORTHEAST ASIAN AFFAIRS

RAF
LP

TO : Mr. Niles Bond - NA, Mr. Conrad Snow - GL/P 1949 DATE: 8 August 1949
FROM : R. W. Barnett - OFD
SUBJECT: Patents

DEPARTMENT OF STATE

RM/R
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1. On page 210 of SCAP Summation of Non-Military Activities in Japan, December 1946, it is reported that the Japanese Government finds that amongst patents which were registered in Japan on December 7, 1941, there is one case of a Swiss patent which was cancelled subsequently on grounds of non-payment of fee.

This may be the basis for the Swiss note protesting their exclusion from the terms of the FEC policy on patents, etc.

This Document Must Be Returned to
894.542/8-849

CS/W

cc: Mrs. Kallis - EP
Mr. Greenwalt - IR

FEC:RWBarnett:evc

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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

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No. 486

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placed in American Embassy
Prague, Czechoslovakia, August 9, 1949

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SUBJECT: Information concerning applications for patents, designs and trade-marks by Japanese nationals in Czechoslovakia.

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ITP NA

The Ambassador has the honor to refer to Department's instruction Number 33 of May 17, 1949, enclosing a letter to be transmitted to the Czechoslovak Patent Office, and to forward three copies of a note of the Czechoslovak Ministry of Foreign Affairs dated July 13, 1949, in which the Ministry states to the Embassy the attitude of the Czechoslovak Government toward patent applications of Japanese citizens and the protection of Japanese trade-marks and samples.

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J. E. J.

INTERNATIONAL RESOURCES DIVISION
AUG 23 1949
DEPARTMENT OF STATE

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Enclosure: *att*

Three copies of Foreign Office Notes dated July 13, 1949.

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DEPARTMENT OF STATE

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ENCLOSURE TO
Despatch #486
August 9, 1949
Translation.

MINISTRY OF FOREIGN AFFAIRS

No. 125.899/49-A/VI-4.

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America, and has the honor to acknowledge with thanks receipt of the Embassy's Note of 24th May 1949 and as regard the matter in question to state as follows:

As regards patents the standpoint of the Czechoslovak Government is based on the fact that a state of war still exists between the Czechoslovak Republic and the Empire of Japan. According to a Note of the Czechoslovak Government of 28th April 1944, circulated to all the Allied Governments, a state of war had existed between the Czechoslovak Republic and Japan from the 16th December 1941. From that day the Paris Convention was regarded as being in suspense between the Czechoslovak Republic and Japan. In view of the fact that up to now no treaty of peace has been concluded, this state of affairs still exists at this present moment. As a consequence applications submitted in Czechoslovakia by Japanese Nationals for grants of patents have in the meantime not been dealt with /just as in the case of applications from Germans/.

To the Embassy of the United States of America

Prague.

- 2 -

As to the protection of trade-marks and samples the situation is similar. The Czechoslovak Republic does not recognize the right of Japanese subjects to the protection of trade-marks and samples as long as no peace treaty has been concluded with Japan. The regulations applying in Czechoslovakia in the sector of the protection of trade-marks and samples dating from war time and the post-war period have all been published in French in the official organ of the Paris Union for the Protection of Trade Rights "La Propriété industrielle".

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the assurance of its highest consideration.

Prague, July 13, 1949.

COPY

TRANSLATION

MINISTRY OF FOREIGN AFFAIRS

No. 125.899/49-A/VI-4.

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America, and has the honor to acknowledge with thanks receipt of the Embassy's Note of 24th May, 1949 and as regard the matter in question to state as follows:

As regards patents the standpoint of the Czechoslovak Government is based on the fact that a state of war still exists between the Czechoslovak Republic and the Empire of Japan. According to a Note of the Czechoslovak Government of 28th April 1944 circulated to all the Allied Governments, a state of war had existed between the Czechoslovak Republic and Japan from the 16th December 1941. From that day the Paris Convention was regarded as being in suspense between the Czechoslovak Republic and Japan. In view of the fact that up to now no treaty of peace has been concluded, this state of affairs still exists at this present moment. As a consequence applications submitted in Czechoslovakia by Japanese Nationals for grants of patents have in the meantime not been dealt with/just as in the case of applications from Germans/.

As to the protection of trade-marks and samples the situation is similar. The Czechoslovak Republic does not recognize the right of Japanese subjects to the protection of trade-marks and samples as long as no peace treaty has been concluded with Japan. The regulations applying in Czechoslovakia in the sector of the protection of trade-marks and samples dating from war time and the post-war period have all been published in French in the official organ of the Paris Union for the Protection of Trade Rights "La Propriete industrielle".

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the assurance of its highest consideration.

Prague, July 13, 1949

To the Embassy of the United States of America

Prague.

SEP 20 1949

UNCLASSIFIED

No. 215

To the

~~Office of the~~ Acting United States Political Adviser for Japan,
Tokyo.

894.542/4-2649

The Secretary of State refers to the Acting Political Adviser's despatch No. 258, dated April 26, 1949 transmitting 15 letters from the Japanese Government's Board of Patents regarding foreign patents in Japan and requesting information on future Japanese patent applications abroad.

same/8949

894.542/8-949

The Secretary of State encloses ^{at Praha} a copy of despatch No. 486 dated August 9, 1949, from ^{the} Embassy, Prague with a note dated July 13, 1949 from the Czechoslovak Ministry of Foreign Affairs. If no objection is perceived by the Acting Political Adviser, it is requested that the note be forwarded to the Japanese Government.

Enclosures:

1. Despatch No. 486.
2. Note from Czechoslovak Ministry.

A true copy of the signed original

DOB - ITP Unit

Anal. ODK

Rev. SS

UNCLASSIFIED

*copy
SEP 19 1949
complete file
attached.*

RED
ITP: IR: JMightman: prg
9-15-49

EE

NA

CS/H

894.542/8-949

STANDARD FORM NO. 64

Office Memorandum · UNITED STATES GOVERNMENT

DATE: August 17, 1949

TO : FE - Mr. Allison
FROM : NA - R. Fearey *RAF*
SUBJECT: Attached Memorandum



The attached seems O.K. to me.
I have attached a proposed concurring
memo from you to Dixon at the bottom
of the file.

FW 894.542 / 8-12-49

FE:NA:RAFearey:db
X 100195

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : FE - Mr. John M. Allison
FROM : IR - Mr. Roger C. ^{Rep}Dixon
SUBJECT: Disposition of Japanese-owned patents outside Japan.

DIVISION OF
NORTHEAST ASIAN AFFAIRS
DATE: August 12, 1949
AUG 15 1949
DEPARTMENT OF STATE

DC/R
File

As you know, the proposed FEC "Policy on the Treatment of Japanese Patents Outside Japan" (FEC 311 Series) was accepted by nine members of the FEC but not passed because of the dissent of the Soviet delegate. As a result of this action, it was decided to seek agreement on this subject outside the FEC. Before initiating inter-governmental discussions, we presented the paper to the OAP for its comments and concurrence. A number of suggestions were made by the OAP to bring the paper in line with the London Accord on German Patents Outside Germany. The attached is a revision made in accordance with these suggestions.

If you have no objection, it is now proposed to call an informal meeting of the members of Committee One of the FEC who were responsible for developing this policy and whose governments approved the policy in the FEC. It is felt that this will be the most expeditious way of handling the matter, since they are all familiar with the subject. The purpose of the proposed meeting is to develop a procedure to be followed in obtaining international agreement to the proposed plan for the disposition of Japanese patents outside Japan. We have discussed the matter informally with Mr. Thresher of the British delegation, who agrees with this approach.

Assuming that agreement is reached among the FEC countries attending the proposed meeting, it is our intention to present the proposal to other governments in order to achieve a very simple international accord on Japanese patents outside Japan.

Attachment

cc: OFD - Mr. Barnett
L/E - Mr. Metzger

Files Document Must Be Returned to
DC/R
Central
894.542/8-1249

894.542/8-1249

FILED
JUL 15 1952
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JAG
ITP:IR:JAGreenwald:sl

Policy on the Treatment of Japanese Patents Outside Japan

1. All former wholly Japanese-owned patents, issued by a country and in its possession or control under the general law and regulations relating to Japanese-owned property, which have not ceased or been dedicated to the public, should be dedicated to the public or placed in the public domain or continuously offered for licensing without royalty except that these provisions should be subject to the right of each government to take appropriate measures to protect and preserve proprietary, license, or other rights or interests, in such patents which have been lawfully granted to or acquired by any non-enemy national prior to June 30, 1949.
2. Unpublished applications for patents abandoned or refused during the war should be published or otherwise made available to the public.
3. All existing rights of non-enemy nationals in former Japanese-owned patents should be protected.
4. The provisions of international conventions relating to patents to which Japan was a party on the 6th December 1941, should be applied to Japan, and applications for protection should be entertained in respect of inventions made by Japanese after the 1st January 1946, except for inventions relating to articles, the manufacture, ownership or operation of which or to processes, the ownership or operation of which, is forbidden to the Japanese by policies established in accordance with the Terms of Reference of the Far Eastern Commission.
5. This policy applies also to those patents designated as "registered utility models" and, to the extent applicable, to "registered designs".

FCU 894 542 / 8-12-49

LEGATION OF SWITZERLAND
WASHINGTON 8, D. C.

ACTION
is assigned to
~~OFD~~

DIVISION OF ECONOMIC PROPERTY
POLICY
NAR File SGK 29 Aug 1949
AUG 19 1949
DEPARTMENT OF STATE

DIVISION OF
NORTHEAST ASIAN AFFAIRS
SEP - 1949
DEPARTMENT OF STATE

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FE

DC/R
file

The Chargé d'Affaires ad interim of Switzerland presents his compliments to the Honorable the Secretary of State and has the honor to acknowledge receipt of the Secretary's note of August 11, 1949, concerning the policy toward patents, utility models and designs in Japan approved by the Far Eastern Commission on March 17, 1949.

The contents of the note have been transmitted to the appropriate authorities in Switzerland for their consideration.

894.542/8-1749

RECEIVED
DEPARTMENT OF STATE

1949 AUG 19 AM 9 15

RECORDS BRANCH

Washington, D.C.
August 17, 1949.

OFFICE
INTERNATIONAL TRADE
AUG 29 1949
DEPARTMENT OF STATE

FILED
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INTERNATIONAL RESOURCES DIVISION
AUG 29 1949
DEPARTMENT OF STATE

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894.542/8-1749
E.O.



THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

INTERNATIONAL RESOURCES DIVISION

894.542/9-1349
SEP 26 1949
DEPARTMENT OF STATE

Action Assigned to [Signature]
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Date of Action 9/28
Action Office Stebell R
Name of Officer JAG
Direction to DC/R File
LEBANON

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OFFICE OF
INTERNATIONAL TRADE POLICY
SEP 26 1949
DEPARTMENT OF STATE

No. 160

September 13, 1949.

SUBJECT: Japanese Application for Patents.

The Minister has the honor to refer to the Department's Inspector No. 25 of May 17, 1949, enclosing a letter from the Japanese Board of Patents for transmission to the Lebanese appropriate authorities, and to enclose copy and translation of the reply of the Lebanese Ministry of Foreign Affairs to the Legation's Note in the matter.

Enclosures:
Copy and translation of
letter from the Lebanese
Ministry of Foreign Affairs.

XR
8902.542

503
Thomas J. McCormick/M. Jalko/js

Distribution:
Parliament to the Department.
Copy to the Division of Near Eastern Affairs.
copy to American Legation, Damascus.

ap
[Signature]

UNCLASSIFIED

OCT 11 1949
FILED

894.542/9-1349

FAP

ACTION COPY

RETURN TO DC/R FILES WITHIN 14 DAYS, WITH A NOTATION OF ACTION TAKEN.

UNCLASSIFIED

-1- Enclosure to Despatch No. 100 of September 13, 1949,
from Beirut, Lebanon.

TRANSLATION
C O P Y

REPUBLIQUE LIBANAISE
Ministère des Affaires
Etrangères

Beirut, le 10 Août 1949.

No. 4011/E

Le Ministère des Affaires Etrangères présente
ses compliments à la Légation des Etats-Unis d'Amérique
et se réfère à sa note No. 94 du 2 juin 1949
(honneur de lui communiquer ce qui suit:

Le Service de la Protection de la propriété
commerciale et industrielle au Liban ne voit pas
d'objection à ce qu'on la protection à la propriété
commerciale et industrielle japonaise.

Le Ministère des Affaires Etrangères saisit cette
occasion pour renouveler à la Légation des Etats-Unis
d'Amérique les assurances de sa haute considération./

LEGATION DES ETATS UNIS D'AMERIQUE

BEIROUTH

UNCLASSIFIED

001 5 1848
UNCLASSIFIED

-2- Enclosure to Despatch No. 160 of September 13, 1949,
from Beirut, Lebanon.

TRANSLATION

LEBANESE REPUBLIC
Ministry of Foreign Affairs

No. 4011/E

Beirut, August 19, 1949.

The Ministry of Foreign Affairs presents its compliments to the Legation of the United States of America and, referring to its Note. No. 94 of June 2, 1949, has the honor to communicate to it the following:

The Office of Protection of Commercial and Industrial Property in the Lebanon perceives no objection to grant protection to Japanese commercial and industrial property.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Legation of the United States of America the assurances of its high consideration.

Legation of the United States of America,

Beirut.

OCT 4 1949

UNCLASSIFIED

No. 223

To the
Acting United States Political Adviser for Japan,
Tokyo.

The Secretary of State refers to the Acting Political Adviser's despatch No. 258, dated April 26, 1949 transmitting fifteen letters from the Japanese Government's Board of Patents regarding foreign patents in Japan and requesting information on future Japanese patent applications abroad.

The Secretary of State encloses a copy of despatch No. 160 dated September 13, 1949, from the Legation at Beirut with a copy and translation of a letter from the Lebanese Ministry of Foreign Affairs in reply. If no objection is perceived by the Acting Political Adviser, it is requested that the note be forwarded to the Japanese Government.

Enclosure:

Despatch No. 160 with
copy and translation
of ltr. from Lebanese
Ministry of Foreign
Affairs.

894.542/9-1349
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CR ✓
SEP 30 1949 P.M.
OCT 4 1949

DOE - ITP Unit
[Signatures]
ITP:IR:JAGreenwald:sl NE NA
9-28-49

A true copy of
the signed orig-
inal

894.542/9-1349

Similar letters sent to:
Mr. Ralph Collins, Canadian Embassy
Mr. Y.C. Yang, Chinese Embassy
Mr. A. Fequant, French Embassy
Mr. S.N. Banerji, Indian Embassy
Mr. G.J. Jobsis, Netherlands Embassy
Mr. F.H. Corner, Emb. of N. Zealand
Mr. F. Lozada, Philippine Emb.
Mr. M.B. Thresher, British Embassy

SEP 14 1949

In reply refer to
IR

Circular

Sec 544.54v

My dear Mr. Bullock:

As you know, the proposed Far Eastern Commission "Policy on the Treatment of Japanese Patents Outside Japan" (FEC 311 series) was accepted by nine members of the FEC but was not passed because of the dissent of one member. The United States Government feels that it would be desirable to reach agreement on this subject. Accordingly, it is proposed that an informal meeting of the members of Committee 1 of the FEC whose governments approved the policy in the FEC be held in Room 2180, New State Department Building, on October 5, 1949 at 2:30 p.m., to discuss the possibility of obtaining international agreement to the proposed plan for the disposition of Japanese patents outside Japan.

I am enclosing a copy of a proposed "Policy on the Treatment of Japanese Patents Outside Japan". This paper is based upon the original FEC policy (FEC 311 series). However, certain modifications have been made to bring it in conformance with the Accord on German Patents Outside Germany (signed at London July 27, 1946), which has been accepted by many of the FEC countries.

I would appreciate a reply either by telephone or letter indicating whether you or one of your associates will be able to attend the proposed meeting.

DCB - ITP Unit Sincerely yours,

Anal.	<i>EPH</i>
Rev.	<i>EPH</i>
Dist.	<i>CMC</i>
Enclosure:	

Rep

Roger C. Dixon
Acting Assistant Chief
International Resources Division

SEP 14 1949

"Policy on the Treatment of Japanese Patents Outside Japan".

Mr. Harry W. Bullock,
Australian Embassy,
Washington, D. C.

CS/H

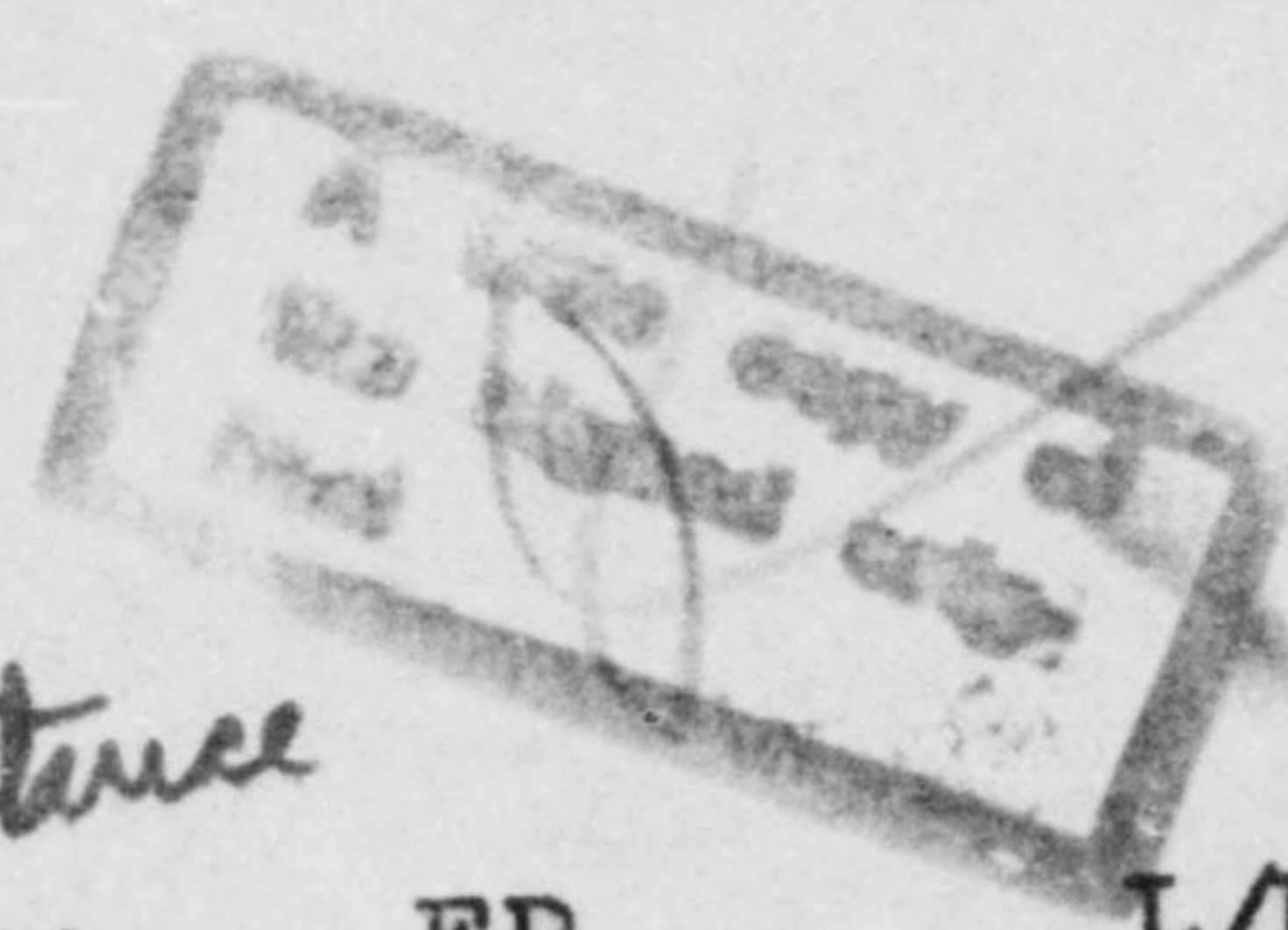
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ITP:IR:JAGreenwald:s1
9-12-49

Cleared with:

in substance
JAG

EP L/E FE
(Kallis) (Metzger)(Allison)





THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

Action Assigned to RCB

Action Taken File

Date of Action _____

Action Office Symbol _____

Name of Officer _____

United States Political Adviser
Departamento DC/R File

894.542/9-1749

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ACTION
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UNCLASSIFIED

OFFICE OF
INTERNATIONAL TRADE POLICY
SEP 27 1949
DEPARTMENT OF STATE

Tokyo, September 17, 1949.

INTERNATIONAL RESOURCES DIVISION

SEP 27 1949

DEPARTMENT OF STATE

Subject: Amendment to SCAPIN regarding Procedures for
Restoration of Patents, Utility Models, and
Designs to Allied Nationals.

The Acting Political Adviser has the honor to refer to this Mission's despatches no. 223 of April 13, 1949, entitled "Transmission of Memorandum for Japanese Government on Procedures for Restoration of Patents, Utility Models, and Designs to Allied Nationals," and no. 361 of June 6, 1949, containing supplementary information on this subject.

1/ There is now enclosed a copy of a memorandum for the Japanese Government dated August 27, 1949, sent by General Headquarters, SCAP, and designated SCAPIN 1990/2. This supplementary SCAPIN amends paragraph 6 of SCAPIN 1990 dated April 8, 1949, a copy of which was transmitted as enclosure to this Mission's despatch no. 223 of April 13, 1949, by changing the date specified therein, i.e., 1 May 1949, to 1 September 1949. The amended paragraph accordingly now reads as follows:

"6. The Allied patent owner will be afforded a period of one (1) year, commencing 1 September 1949, within which to make his request for revalidation and restoration, and for acquiring such priority rights as defined in paragraph 4 above, and a reasonable time thereafter to perform all legally required acts in connection with restoration, revalidation, working, and/or maintenance of his rights which have not been performed since the effective date of loss."

2/ Also enclosed is a copy of a press release dated August 19, 1949, issued by the Public Information Office, General Headquarters, Far East Command, Tokyo, and entitled "Cabinet Order on Restitution of Patent Property." This report states that the Japanese Government, in response to SCAPIN 1990, has promulgated a Cabinet Order to provide for restoration and revalidation of patent rights owned by Allied nationals at the outbreak of the war. An English translation of this Cabinet Order will be transmitted to the Department

upon publication

UNCLASSIFIED

ACTION COPY

RETURN TO DC/R FILES WITHIN 14 DAYS, WITH A NOTATION OF ACTION TAKEN.

894.542/9-1749

OCT 4 - 1949

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Tokyo's Despatch No. 646,
September 17, 1949.

- 2 -

upon publication in the English-language version of the Official Gazette, issuance of which is ordinarily delayed some three or four weeks following publication of the original Japanese version thereof.

Enclosures: *att*

- 1/ Copy of SCAPIN 1990/2 dated August 27, 1949, on subject "Procedures for Restoration of Patents, Utility Models, and Designs to Allied Nationals";
- 2/ Copy of press release entitled "Cabinet Order on Restitution of Patent Property," issued August 19, 1949, by Public Information Office, Far East Command, Tokyo.

Parchment mat to the Department

Copies to: American Embassy, London
American Consulate General, Hong Kong

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CHBoehringer:pf

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OK

Enclosure No. 1 to Despatch No. 646
dated September 17, 1949 from the
United States Political Adviser for
Japan, Tokyo, on the subject "Amend-
ment to SCAPIN regarding Procedures
for Restoration of Patents, Utility
Models, and Designs to Allied Nationals"

UNCLASSIFIED

(COPY)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
APO 500

AG 072 (8 Apr 49)CPC/FP
SCAPIN 1990/2

27 August 1949

MEMORANDUM FOR: THE JAPANESE GOVERNMENT

SUBJECT: Procedures for Restoration of Patents, Utility
Models, and Designs to Allied Nationals

1. Reference is made to memorandum for Japanese Government,
file AG 072 (8 Apr 49)CPC/FP, SCAPIN 1990, 8 April 1949, subject
as above, from General Headquarters, Supreme Commander for the
Allied Powers.

2. The date in paragraph 6 of memorandum referenced in
paragraph 1 above shall be amended to read as follows:

"1 September 1949."

FOR THE SUPREME COMMANDER:

/s/ A. J. REHE

for

R. M. LEVY
Colonel, AGO
Adjutant General

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Enclosure No. 2 to Despatch No. 646 dated September 17, 1949, from the United States Political Adviser for Japan, Tokyo, on the subject "Amendment to SCAPIN regarding Procedures for Restoration of Patents, Utility Models, and Designs to Allied Nationals".

(Copy of press release issued August 19, 1949, by General Headquarters, Far East Command, Tokyo)

CABINET ORDER ON RESTITUTION OF PATENT PROPERTY

Japanese patents owned by Allied nationals at the outbreak of the war and which lapsed or were cancelled by the Japanese government may now be revalidated and restored upon request of their owners.

The validity of such patents and of those which expired during the war may also be extended to compensate their owners for loss of rights during the war period.

These provisions were written into Japanese law today by a Cabinet Order promulgated in response to a SCAP Directive to the Japanese government. Most of the Allied-owned patents, utility models and designs in Japan were terminated during the war. Many such property rights lapsed because of failure to pay the required annual fees, and others were cancelled by the government under the provisions of the Wartime Law of Industrial Property.

The new Cabinet Order requires the Japanese Patent Office to revalidate such patent rights upon request and to restore them to their owners without payment of any regular or special fees. Such patent owners, furthermore, may elect to have their rights extended into the future for a period equivalent to that of the war provided all claims for damages or royalties for war-time use are waived. Likewise Allied owners of Japanese patents which expired during the war may request extension of their rights for a period equivalent to that between the outbreak of the war and the date of expiration.

A further provision of the Cabinet Order of interest to Allied nationals allows owners of patents registered in their own countries during the war to apply for registration in Japan with priority rights extended back to the date of first filing of the application in another country. Such first filing, however, must have been not earlier than 18 months before the outbreak of the war.

Full information about procedures and forms for use in obtaining restoration and extension of patent rights may be obtained from the Office of the Civil Property Custodian, General Headquarters, Supreme Commander for the Allied Powers.

Allied nationals seeking patent protection in Japan for their war-time inventions, however, should apply for patents through Japanese patent attorneys, just as they did before the war. Such applications should be accompanied by documents attesting the name of the country of first filing and the date of that filing.

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