

Title	知的財産の担保性（2・完）：取引という側面からみた知的財産法制度の現状と課題
Author(s)	小野，奈穂子
Citation	一橋法学，11(3)：203-249
Issue Date	2012-11-10
Type	Departmental Bulletin Paper
Text Version	publisher
URL	http://doi.org/10.15057/25303
Right	

Security Interests in Intellectual Property

ONO, Nahoko

Why can't a global top-level intellectual property (IP) producer like Japan connect this rich resource with wealth creation? Aside from social or cultural impediments, is there any legal impediment to the utilization of IP as an economic asset?

To answer these questions, the Article examines the following three issues: (1) how the Japanese IP transaction-related system has been developed in connection with the general law, Civil Code; (2) what implication can be drawn from the international moves; and (3) whether patent and copyright require different treatment in this respect.

To this end, the Article provides analysis on the historical development of the Japanese Patent Act and Copyright Act compared to that of the United States and other international efforts, namely the UNCITRAL Legislative Guide on Secured Transactions. As a consequence, the Article finds: (1) the later-enacted Civil Code as well as the present Act of the Patent Act caused the twisted development of IP laws; (2) internationally, a simple framework is sought with respect to IP transaction regime and (3) no distinction is needed between patent and copyright. Therefore, the Article concludes that the present complex provisions related to transaction must be abolished and total reconsideration is required to harmonize with the international efforts.