Efforts and Challenges in Enforcing Design Rights against Infringement

Overseas Business Support Office
International Cooperation Division
Japan Patent Office(JPO)

特許庁

1 The Importance of Protection Through Multiple IPRs

2 Japan’s Efforts to Strengthen Enforcement against Goods Infringing Design Rights

3 Role of IP Offices

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The Importance of Protection Through Multiple IPRs

- The growth of e-commerce has made it easier for overseas sellers to directly sell counterfeit goods to individuals, thereby increasing the need to monitor infringing goods in B2C transactions.
- The Intellectual Property Activity Survey Report for FY2024 indicates that Japanese companies have suffered the following infringement-related damages:

  Online infringement mainly impacts trademarks, followed by copyrights and design rights.

  Offline infringement mainly impacts trademarks, followed by patents/utility model rights and design rights.

Infringement-related damage extends beyond trademark rights to other IPRs.

⇒**It is essential to strengthen the utilization and enforcement of multiple IPRs in a combined manner.**

Intellectual Property Activity Survey Report for FY2024

	Trade-mark	Design	Patent/Utility Models	Copy-right	Trade Secrets/ Know-how	Other	No Damage
Online	362	113	79	148	8	31	112
Offline	293	123	141	70	12	26	108

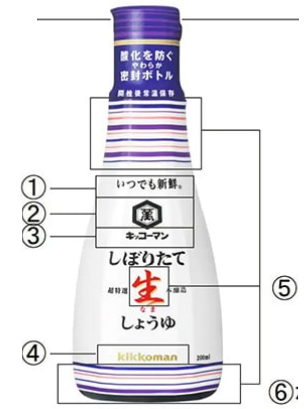
Note: This was a survey of counterfeit and infringement damage to Japanese companies, categorized by IP right, in domestic and foreign markets.

Source: JPO 'Intellectual Property Activity Survey Report for FY2024' (April 2025)

Right Holders' Practice

Bottle's Shape By Industrial Design

Bottle Cap By Patent and Industrial design



①～⑥ Brands (words and marks) By Trademarks (incl. 3D TMs)

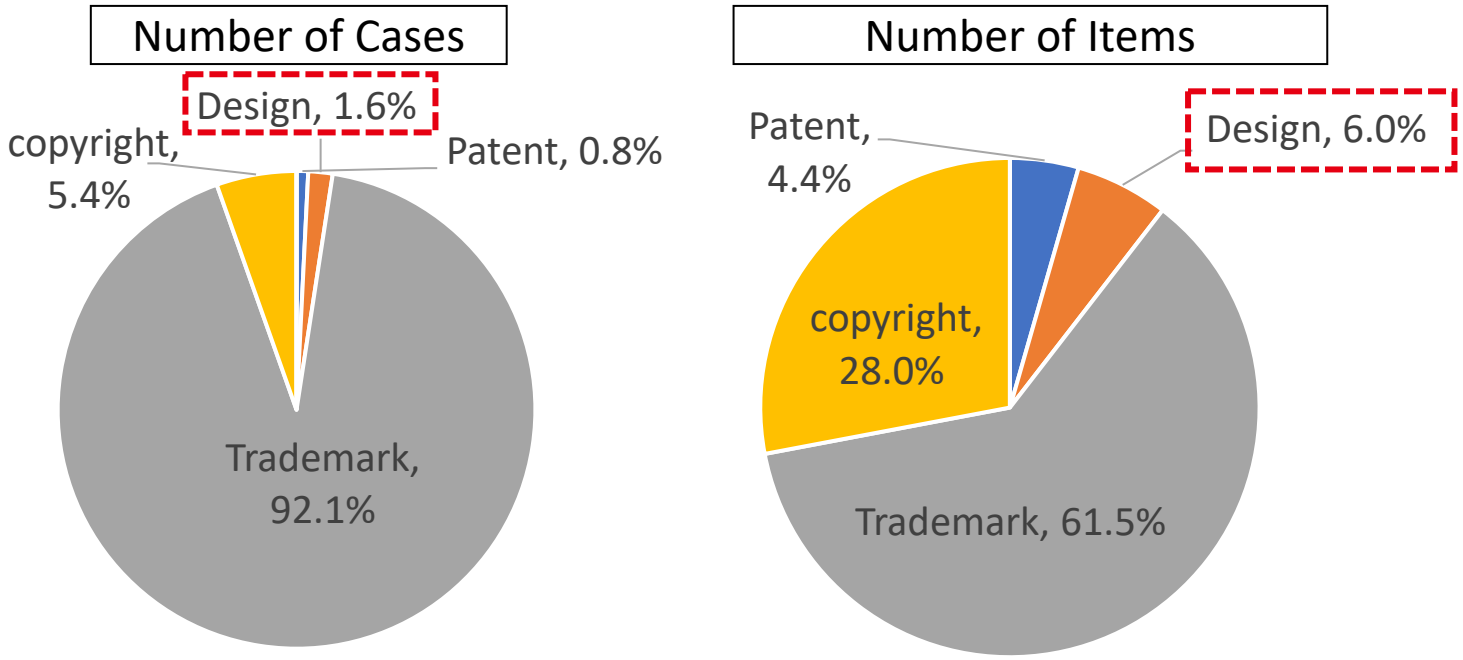
… there are countless other examples.

Source: https://www.kikkoman.com/jp/quality/ip/protection.html

Import Seizure Results by Japan Customs

In terms of 2025 import seizures by IPR type, trademark-infringing goods had the largest share at 29,685 cases (92.1%), followed by copyright at 1,746 cases (5.4%) and **designs at 530 cases (1.6 %).** The number of seized items reflected the same order: trademark infringement totaled 469,878 items (61.5%), copyright infringement 213,569 items (28.0%), and **design rights infringement 46,112 items (6.0%).**

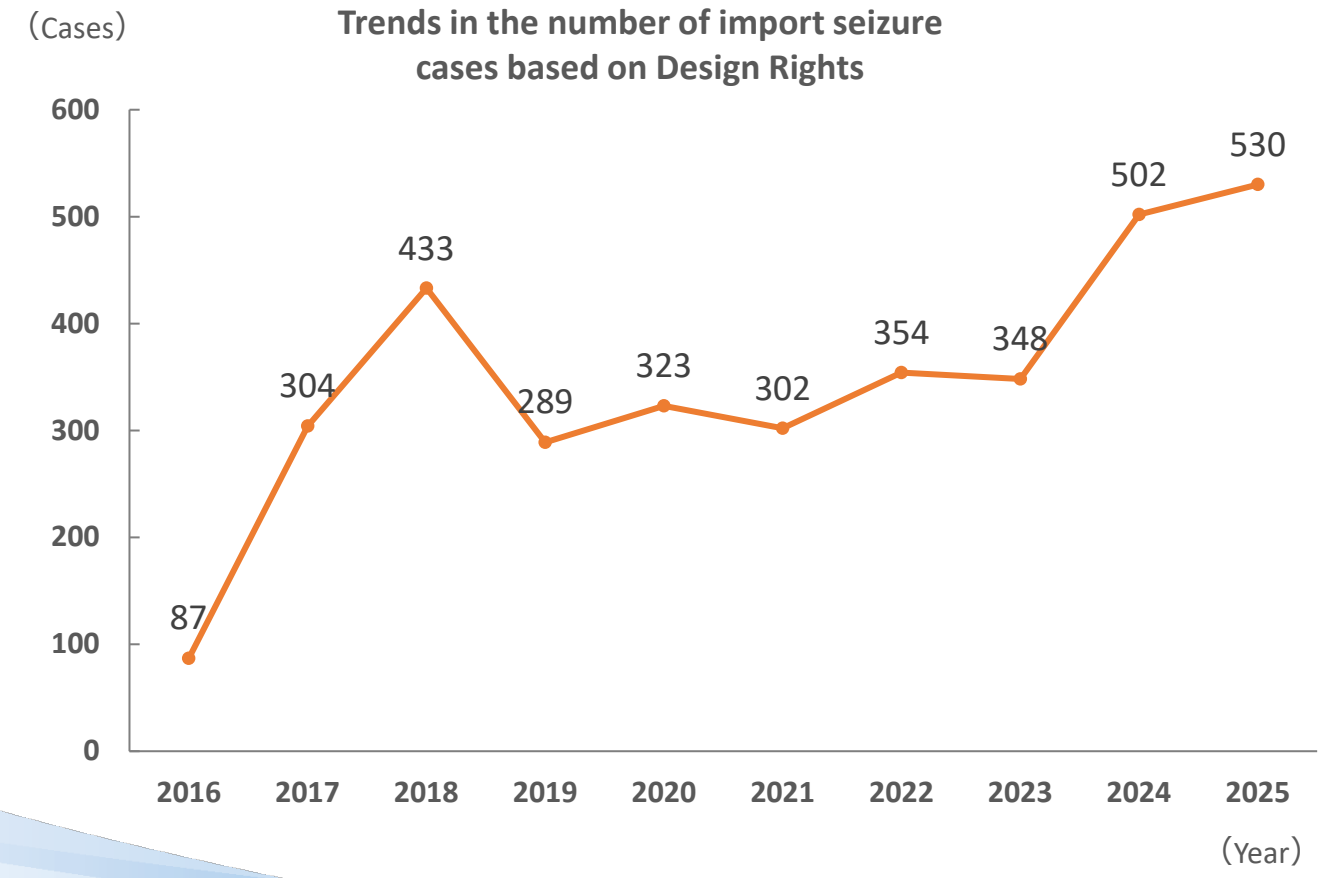
Import Seizure Results by IPR type, 2025



Source: Ministry of Finance, Japan
https://www.mof.go.jp/policy/customs_tariff/trade/safe_society/chiteki/cy2025/ka20260306.pdf

Import Seizure Results by Japan Customs

In recent years, the number of import seizure cases based on design rights has been steadily increasing.



Examples of Items (Design Rights)

Earphones

Portable vacuum flask

Charger

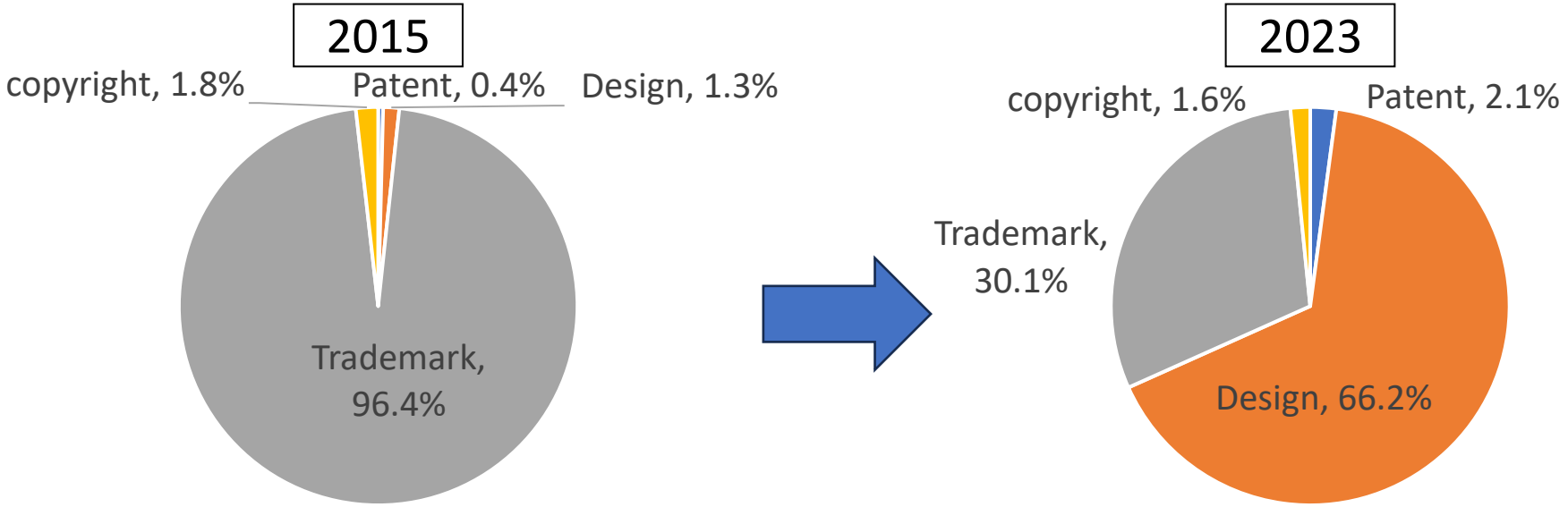
Source: Ministry of Finance, Japan
https://www.mof.go.jp/policy/customs_tariff/trade/safe_society/chiteki/cy2025/ka20260306.pdf

Increasingly Sophisticated Infringement Methods

- Some products are imported without logos, which are later added before domestic sale.
- Tokyo Customs reported that nearly all seized items had brand logos in 2015, but about 70% of seized items lacked any logos by 2023.

⇒**Suspension based on rights other than trademark, including design rights, are important.**

Import Seizure Records by Tokyo Customs (items)



Source: Tokyo Customs, Japan
https://www.customs.go.jp/tokyo/yun/tokyo_chizai_R5_1.pdf

Legal Scope of Customs Authorities

- Japan's border enforcement is consistent with the TRIPS Agreement.
- The TRIPS obligations are noted in pink. These obligations do not extend to goods which infringe upon design rights.

TRIPS: Obligation		Patent	Utility Model	Industrial Design	Trademark	Copyright, Neighboring Right	IC Layout Design	Plant Breeders' Right	Goods Violating Unfair competition Prevention Law
Import	Application	✔	✔	✔	✔	✔		✔	✔
	Ex officio	✔	✔	✔	✔	✔	✔	✔	✔
Export	Application	✔	✔	✔	✔	✔		✔	✔
	Ex officio	✔	✔	✔	✔	✔		✔	✔
Transit	Application								
	Ex officio	✔	✔	✔	✔	✔		✔	✔

(Prepared by Japan Customs)

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Japan's Efforts to Strengthen Enforcement against Goods Infringing Design Rights

Issues in the enforcement of design rights

Specific issues

- Since design infringement is harder to determine than trademark infringement, the suspension system may not work effectively in some regions.
- Due to constraints such as limited human resources, actual import suspensions tend to focus on trademark-infringing goods.

These issues are addressed via the following measures:

Utilization of the Application for Suspension System

Support for similarity determinations through initiatives such as personnel exchanges, and implementing training programs between the Japan Patent Office and Japan Customs

Opinion Hearing from Government Authorities

Utilization of the Application for Suspension System

Application for Suspension

Right holders may file an application for Verification Procedures with the Director-General of Customs.

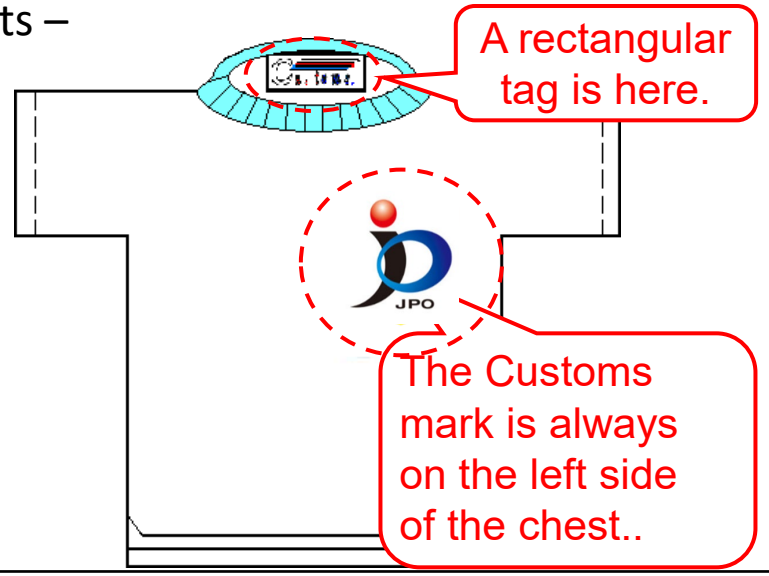
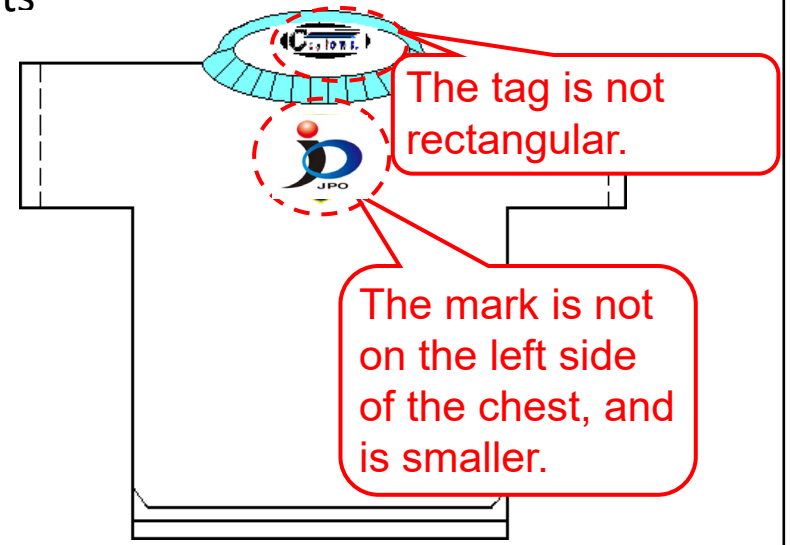
When filing an application for suspension, the right holder is required to file documents with the Customs Office that include the following information:

- the contents of the IPR
- the existence of infringing goods
- Prima facie evidence of infringement
- Materials concerning the information to verify infringing goods (next slide)

By using the Application for Suspension system, rights holders provide Customs with information on goods subject to suspension and materials concerning **the information to verify infringing goods**. As a result, Customs can more easily detect infringing goods and conduct effective border enforcement with limited resources.

⇒**The ability to file applications for suspending a broad range of IPRs, including design rights, is expected to help curb the distribution of infringing goods.**

Example of information to verify infringing goods

Genuine	Counterfeit
- T-Shirts – (front)  	-T-Shirts – (front) 
① A rectangular tag is always on the collar, and the size is 5cm in length and 2cm in width. ② The JPO mark is embroidered on the left side of the chest, and the size is 6 cm in length and 4cm in width.	① The tag is oval, and is different in size from the genuine one. ② The JPO mark is not on the left side of the chest, and is smaller than genuine one.

Source: Ministry of Finance, Japan(adapted)

Contribution of the JPO toward the Use of Design Rights for Import Suspension

Overview:

- The JPO has developed a user-oriented guidebook showcasing case examples of applying for suspension based on design rights.
- The guidebook is used in JPO briefing sessions to raise awareness about applications for suspension.

Key Findings:

- A certain level of IP literacy has been established among users.
- A survey of design system users indicates that enforcement through customs import suspension based on design rights is effective in combating counterfeit and imitation products.
- Among the enforcement measures cited, “import suspension by Customs” is one of the most frequently mentioned methods for enforcing design rights.

(Source: https://www.jpo.go.jp/system/design/gaiyo/info/document/2907_jirei_katsuyou/jirei_katsuyou.pdf)

(Source: https://www.jpo.go.jp/system/design/gaiyo/info/document/2907_jirei_katsuyou/jirei_katsuyou.pdf)

Number of Valid Applications (Import)

In Japan, Applications for Suspension based on design rights are actively used, following those based on trademark rights.

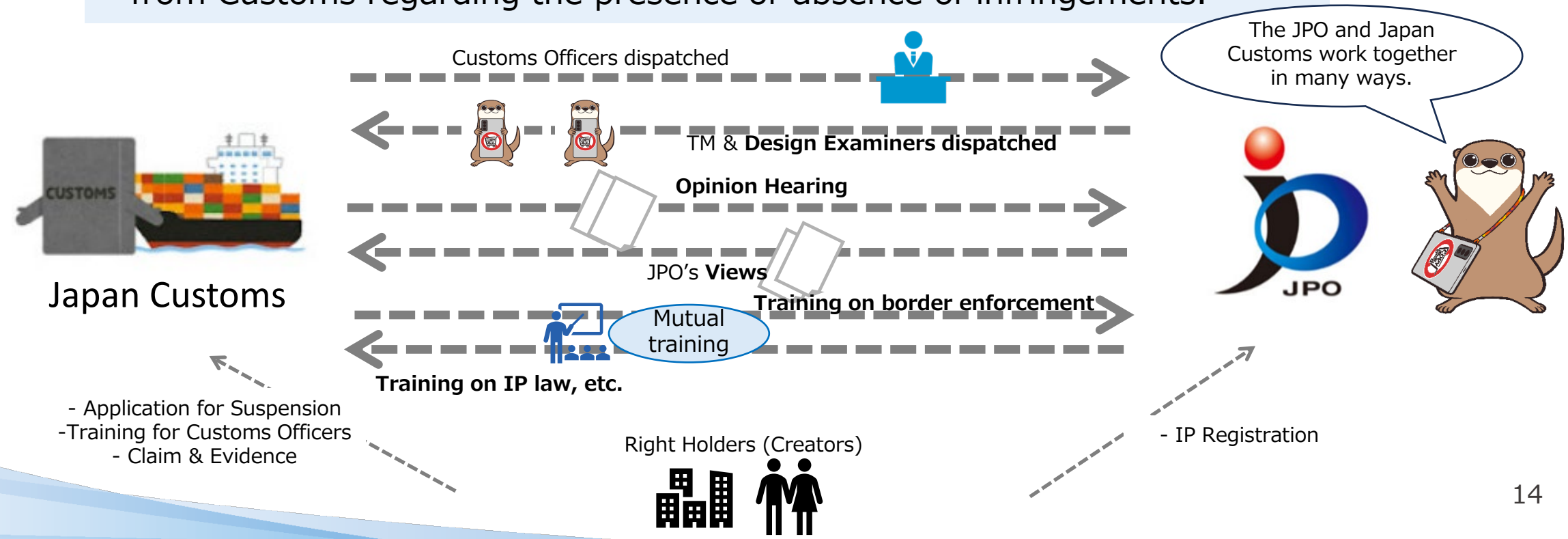
(※As of Dec. 31 each year)

	2021	2022	2023	2024	**2025**	Share
Patent	34	34	34	36	**34**	4.2%
Utility Model	0	0	0	0	**0**	-
Design	123	124	127	144	**148**	18.1%
Trademark	434	454	477	503	**534**	65.4%
Copyright	90	93	90	92	**91**	11.2%
Neighboring Right	18	6	4	1	**0**	-
Plant Breeders'	1	1	1	2	**2**	0.2%
Unfair Competition	3	4	3	3	**7**	0.9%
Total	703	716	736	781	**816**	100.0%

Source: Ministry of Finance, Japan
https://www.mof.go.jp/policy/customs_tariff/trade/safe_society/chiteki/cy2025/ka20260306.pdf

Cooperation between JPO and the Customs Office

- Such cooperation contributes toward the investigations by law enforcement bodies on IP infringement in several aspects.
- There has been particularly closer cooperation with Customs, including HR exchanges and mutual trainings.
- Such cooperation involves border enforcement by responding to inquiries from Customs regarding the presence or absence of infringements.



Opinion Hearing from Government Authorities

Decision-making in Verification Procedures*

*Except for Trademarks and Copyrights.

（Prepared by Japan Customs (adapted)）

Customs

Unfair Competition	Patent, Utility Model, Design	Plant Breeders
Minister of Economy, Trade and Industry	Commissioner of the Japan Patent Office	Minister of Agriculture, Forestry and Fisheries

Customs may consult with the related government agencies on the technical scope of patents, etc., during verification procedures.

- Customs seeks opinions following the request of importers and right holders, or on its own initiative, as necessary.
- JPO should give its opinion within 30 days.
- The opinion is to be disclosed to both exporters/importers and right holders.
- Customs is not bound by the opinions of the JPO.
- Importers cannot request the release of the goods until the JPO gives its opinions.

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Role of IP Offices

Multiple IP Protection: A product can be protected by various IPRs (patents, trademarks, design rights, copyrights), enhancing its value and safeguarding against counterfeits.

Border Control in E-Commerce: With the rise of cross-border e-commerce, preventing IP infringement through border control is increasingly important.

Design Rights Effectiveness: As imitation often occurs by removing trademarks, preventing the import of design right-infringing products at the border is effective, with strong demand from rights holders.

Collaborate with enforcement agencies, and play a certain role in rights protection after granting rights, in order to enhance the value of individual rights.

THANK YOU

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