

【海外出張】

ミャンマー現地セミナー（知的財産）

国際協力部教官

梅本友美

第1 はじめに

当職らは、JICAミャンマー法整備支援プロジェクトに関し、平成29年10月19日（木）及び同月20日（金）、ミャンマー連邦共和国において開催された「新知財法案に係る司法及び法的課題に関する現地セミナー」に参加した。

第2 セミナーの背景及び目的

1 ミャンマーでは、目下、知的財産（知財）4法案（特許法、商標法、意匠法、著作権法）が国会審議中であり、JICAミャンマー法整備支援プロジェクトにおいても、連邦最高裁判所に対する知財関連紛争の司法手続改善や人材育成、連邦法務長官府に対する法案審査能力向上等の支援を実施している。

現在、具体的な活動として、アドバイザーグループ委員（三村量一弁護士〔長島・大野・常松法律事務所〕、小野寺良文弁護士〔森・濱田松本法律事務所〕、熊谷健一教授〔明治大学法科大学院〕）の協力を得て、ミャンマー連邦最高裁判所のワーキンググループと協働し、初任判事向け知財教科書、知財事件担当裁判官向けの個別法（商標法、著作権法）教科書や知財訴訟に関する執務資料の作成を進めているところである。

2 本現地セミナーは、アドバイザーグループ委員から知財の実体法及び訴訟実務に関する知見の提供を受けた上、ミャンマーの新たな知財制度の中枢を担う各機関の関係者と実質的な協議を行い、その結果を本邦研修に反映させるとともに、上記の教科書及び執務資料に結実させる目的で実施された。

第3 セミナーの概要

1 日本側からは、当部教官ら3名のほか、JICA本部の小松健太国際協力専門員が、ミャンマー側からは、連邦最高裁判所ワーキンググループメンバーを中心に、次回の本邦研修に参加予定の国会議員、連邦法務長官府職員、教育省職員ら28名が参加した（別添1参照）。

2 セミナーの日程は、別添2のとおりであり、個別法教科書に即し、商標の目的及び機能、国際条約、ミャンマー商標法の基礎知識等に関する講義（熊谷教授担当）、執務資料に関する質問集の問題解説（三村弁護士、小野寺弁護士担当）、及びこれらを土台に意見交換が行われた。

3 セミナーでの議論を踏まえ、個別法教科書については、更に国際条約の基本原則や具体例等の記載を充実させることとし、執務資料については、民事訴訟一般の実務の

運用につき、ワーキンググループメンバーにおいて整理し、本邦研修で協議を続けることとなった。また、知財訴訟の管轄や商標等審査基準（ガイドライン）については、各関係機関において引き続き検討することとなった。



【現地セミナーの様子】



【参加者の集合写真】

第4 おわりに

以上のとおり、現地セミナーへの参加を通じて、新法下での知財制度運用に係る議論の状況を把握することができ、本邦研修で取り組むべき具体的な課題や目指すべき成果が明確となった。

**Participants List for Seminar on IP Judicial and Legal Issues on the
New Intellectual Property Bills
(Supreme Court of the Union)**

- 1 Daw Tin Nwe Soe
Deputy Director General
Training/IT/IR and Research Department
Office of the Union Supreme Court
- 2 Daw Khin Khin Cho
Director, Training Department
Office of the Union Supreme Court
- 3 U Nyo Tun
Director, IR and Research Department
Office of the Union Supreme Court
- 4 Daw Khin San Myint
Deputy Director, Civil Justice Department
Office of the Union Judiciary Supervision
- 5 Daw Thin Thin Aung
Deputy Director, Civil Justice Department
Office of the Union Judiciary Supervision
- 6 U Tun Tun Aung
Deputy Director, IT/IR Department
Office of the Union Supreme Court
- 7 U Kyaw Kyaw
Working Group III Leader
Deputy Director, Civil Justice Department
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- 8 U Min Thant
Working Group III Member
Assistant Director, Law and Procedure Department
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- 9 U Soe Khun Phyu
Working Group III Member
Assistant Director, Office of the Union Chief Justice
Supreme Court of the Union
- 10 Daw Kay Thi Khaing Nyein
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Assistant Director, Training Department
Office of the Union Supreme Court
- 11 U Zaw Zaw Tun
Working Group III Secretary
Assistant Director, IR and Research Department
Office of the Union Supreme Court
- 12 U Hla Oo
Assistant Director, Criminal Justice Department
Office of the Union Judiciary Supervision
- 13 Daw Mie Mie Htwe
Assistant Director, Law and Procedure Department
Office of the Union Judiciary Supervision
- 14 U Thura Thwin
Assistant Director, Law and Procedure Department
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- 15 U Kyaw Kyaw Moe
Assistant Director, IT/IR Department
Office of the Union Supreme Court
- 16 U Myo Min
Assistant Director, Inspectorate Department
Office of the Union Supreme Court
- 17 U Aung Nay Myo
Assistant Director, Office of the Union Chief Justice
Supreme Court of the Union

- 18 U Than Htike Soe
Staff Officer, IR and Research Department
Office of the Union Supreme Court

- 19 Daw Thwae Hnin Ei Pe
Staff Officer, Office of the Director General
Office of the Union Judiciary Supervision

- 20 Daw Htay Htay Lwin
Staff Officer, Civil Justice Department
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**Participants List for Seminar on IP Judicial and Legal Issues
on the New Intellectual Property Bills
(Parliament)**

1. Dr. Myo Aung
Member, Bill Committee
Amyotha Hluttaw

2. U Tun Tun Win
Member, Judicial and Legal Affairs Committee
Pyithu Hluttaw

**Participants List for Seminar on IP Judicial and Legal Issues
on the New Intellectual Property Bills
(Union Attorney General's Office)**

1. Dr. Kyi Kyi Than Aung
Director, Legal Advice Department
Union Attorney General's Office

2. U Hla Tun
Director, Legislative Vetting Department
Union Attorney General's Office

3. U Ye Myint
Director, Prosecution Department
Union Attorney General's Office

4. Daw Thandar Oo
Deputy Director, Legislative Vetting Department
Union Attorney General's Office

5. Daw Nwe Ni Oo
Deputy Director, Administration Department
Union Attorney General's Office

**Participants List for Seminar on IP Judicial and Legal Issues on the
New Intellectual Property Bills
(Ministry of Education)**

1. Daw Hnin Nwe Aye
Director, Intellectual Property Department, Department of Research and Innovation
Ministry of Education

**Participants List for Seminar on IP Judicial and Legal Issues on the
New Intellectual Property Bills
(JICA)**

- 1 **Mr. Ryoichi MIMURA**
Attorney at Law
Nagashima Ohno & Tsunematsu

- 2 **Mr. Kenichi KUMAGAI**
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Graduate School of Law
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- 3 **Mr. Yoshifumi ONODERA**
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- 4 **Mr. Kenta KOMATSU**
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- 5 **Mr. Hiroyuki ITO**
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- 6 **Mr. Yumi UMEMOTO**
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- 12 **Ms. Wai Mon Aye**
Administrative Assistant

- 13 **Mr. Htet Naung Win**
Interpreter

JICA Project
For Capacity Development of Judicial, Legal and Relevant Sectors in Myanmar
Seminar on IP Judicial and Legal Issues on the New Intellectual Property Bills

Date: 19-20 October 2017

Venue: Park Royal Hotel, Nay Pyi Taw

Day 1. (Oct 19)

- 09:30 - 10:00 **Registration**
- 10:00 - 10:20 **Opening**
- 10:20 - 12:30 **Discussion on the Textbook of Trademark Law**
 Moderated by Professor KUMAGAI
- 12:30 - 13:30 Lunch
- 13:30 - 16:30 **Discussion on the Textbook of Case Study**
 Mr. MIMURA, Prof. KUMAGAI, Mr. ONODERA
 ※Tea/Coffee break in accordance with progress of the session

Day 2. (Oct 20)

- 09:30 - 10:00 **Registration**
- 10:00 - 12:30 **Discussion on the Textbook of Case Study (continued)**
 Mr. MIMURA, Prof. KUMAGAI, Mr. ONODERA
- 12:30 - 13:30 Lunch
- 13:30 - 16:20 **Discussion on Textbook of Case Study & Question and Answer**
 Mr. MIMURA, Prof. KUAMAGI, Mr. ONODERA
- 16:20 - 16:30 **Closing**
 ※Tea/Coffee break in accordance with progress of the session

Resource Persons:

- 1. Mr. Ryoichi MIMURA**
 Attorney at Law, Nagashima Ohno & Tsunematsu
 (Former Judge of Tokyo High Court)
- 2. Professor Kenichi KUMAGAI**
 Graduate School of Law, Meiji University
- 3. Mr. Yoshifumi ONODERA**
 Attorney at Law, Mori Hamada & Matsumoto