

- <<1>> Thank you. It is my great pleasure to have an opportunity to present my comments on the speakers' reports that provided us with a great number of diverse insights.
- <<2>> Copyright as well as patent right is an artificial concept created by the law. It is marvelous that deals and transactions based upon such artificial rights are so widely executed and create such mega industries. I assume that our confidence in institutions enforcing copyrights, as well as controlling misappropriation of copyrights, is the essential foundation of those deals and transactions, and industries. Furthermore, confidence in the copyright law itself also constitutes an essential part of such a foundation.
- <<3>> However, the rapid progress in digital and communication technologies has been destabilizing the relationship between people and such institutions. In other words, those institutions that have not yet earned full confidence from us are forced to handle enforcement and control of copyrights.
- <<4>> Furthermore, conflicts between the media industries, strongly protected by copyrights, and the people seeking free and liberal access to information undermine our confidence in the copyright law. **Professor Peter Drahos** explains the patent law as a social contract while pointing out the duties of Patent Offices. The copyright law system may also be explained as a social contract giving monopoly to media industries as well as authors in exchange for their duties to diffuse information. However, this social contract is facing a danger partly because the copyright law does not expressly provide such duties of media industries and authors. As **Professor Branislav Hazucha** shows the progress of wide-spread digital technologies and devices has made every piece of copyrighted work distributable through communication networks and available to us. Under those circumstances, the distribution of and access to copyrighted works now passes easily through state borders. Naturally, copyright related legal disputes have become characterized with cross-border issues. Accordingly, even an ordinary consumer can be a party to an international intellectual property dispute.
- <<5>> However, our confidence in the institutions enforcing laws is still of a domestic nature. We find it difficult to have confidence in a foreign jurisprudence. A typical example of such a difficulty is the objections raised by foreign authors and governments against the Google Book Search Settlement made within the United States jurisprudence, which affects authors, publishers and consumers world wide. Why do the people who do not have full confidence in the United States legal system be subject to the legal decision arising out of such a system? How can one justify a legal

institution which has not acquired full confidence from foreign nations and people making a decision affecting the whole world? **Ms Zheng Zhong** shows the struggle of China, a typical developing country in terms of an intellectual property law enforcing system, to obtain confidence in its intellectual property law and enforcing institutions. She also pointed out the difficulties the institutions face in obtaining confidence from people. There is no reason why the countries with a longer history of intellectual property law should be exceptions in their duties to obtain confidence in their legal system from their citizens and foreign nations and people.

- **<<6>>** Another problematic phenomenon is that the private sector, including Internet service providers and technology providers, is forced to play a role in intellectual property regulations. **Professor Hazucha** described this situation. Here, we find a two-pronged problem. First, these actors in their private sector are not necessarily willing to play such a role. Second, the consumers do not have full confidence in these actors. It is an urgent issue for every domestic and international institutions, both the public and private sectors, playing roles in intellectual property regulations to establish full world-wide confidence. **Professor Thomas Hoeren** provides us with the updates of the European movements; domestic and international licensing organizations are also expected to play a major role in promoting dissemination of cultural works, while avoiding disputes and conflicts in this digital age. Such organizations are also required to establish the same full confidence in order to perform their functions. But, how?
- **<<7>>** Let us look at the current status of institutions functioning in other fields. International arbitration institutions play a great role in resolving disputes arising out of international large-scale transactions or trades. We should pay attention to the role of the attorneys of disputing parties. Disputing parties do not necessarily have direct confidence in international arbitration institutions, while they have direct confidence in their attorneys. Because their attorneys have confidence in certain established international arbitration institutions, disputing parties can have indirect confidence in such institutions. Here, you will find that the attorneys function as intermediary of confidence.
- The arrangement of international bankruptcy also gives us an insight. The creditors of a bankrupt entity do not necessarily have direct confidence in foreign bankruptcy procedures. However, they have confidence in the domestic court of the state where they conduct their main business activities. Accordingly, once such domestic court accepts the effect of foreign bankruptcy procedures, the creditors can have indirect confidence in foreign procedures.
- Moreover, as Professor Drahos pointed out, there is growing mutual recognition between Patent Offices world-wide.

- <<8>>In the context of "Social Capital," where we consider that mutual confidence between actors will generate profit, the role of an intermediary in which the actors have confidence is emphasized. It is necessary for us to have confidence in a certain institution prior to utilizing it. Without confidence of users, no institutions are useful. On the other hand, one cannot have direct confidence in any institution without first utilizing it.
- <<9>>In a domestic legal system, formalized confidence - namely, legal authorization -- is often used. Any domestic legal system can be authorized by any other legal system, and finally by the constitution of the state. Thus, difficulties in obtaining full and real confidence could be avoided or eased. However, in an international legal system, including institutions in the private sector, the series of authorization becomes ineffective, especially when it involves non-professionals or consumers. We need a network of confidence in order to justify the role of international or private institutions.
- <<10>>Nobody other than legal professionals can play a substantial role to intermediate such confidence. I believe this symposium is the first step to clearly recognize the responsibilities of lawyers.
- <<11>>But confidence in institutions can resolve only half of our difficulties.
- <<12>>As **Professor Ryu Kojima** shows, copyright protection has a potential but serious conflict with fundamental civil rights, including freedom of speech, and cultural diversification. He pointed out that the copyright system should be located within an overarching framework of cultural policy to promote freedom of speech and cultural diversification, and finally to be accepted by society. **Professor Yoshiyuki Tamura's** report gave me the idea that an intellectual property may be nothing more than a vehicle for media industry business. If so, to have full confidence in copyright law and enforcing institutions becomes extremely difficult for outsiders of the media industries.
- <<13>>Apparently, people's confidence in the copyright law system is in peril due to these serious conflicts. Through the reports and discussions today, I'm convinced that we intellectual property law students and experts have an absolute duty to explain the legitimacy of such a law, and to reform the system of intellectual property law to be worthy of full international confidence. The excellent comments and discussions made by young students show that they will share this responsibility.
- <<14>>Thank you for all. Especially, thank you for **Professor Kono** and **Professor Kojima**, and students of Kyushu University.