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The International Comparative Legal Guide to:

Litigation & Dispute Resolution 2012

A practical cross-border insight into litigation & dispute resolution

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Chapter 19

Japan

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I. LITIGATION

1 Preliminaries

1.1 What type of legal system has Japan got? Are there any rules that govern civil procedure in Japan?

The Japanese legal system is based on the civil law tradition. The Japanese courts are bound by statutes. The Code of Civil Procedure (1996 Law No. 109, as amended) ("CCP") (*minjisosho ho*) governs civil actions filed in Japanese courts. Although court precedents have no legal binding effect, Japanese courts, as a matter of practice, generally respect precedents, especially the decisions of the Supreme Court.

1.2 How is the civil court system in Japan structured? What are the various levels of appeal and are there any specialist courts?

Japan's civil court system has three major strata. The "Supreme Court" (*saiko saibansho*) of Japan is the country's premier court, and it hears appeals from intermediate appellate courts, which are referred to as "high courts" (*koto saibansho*). The high courts review appeals from courts located within the high courts' geographic ambit, with the exception of "intellectual property high courts" (*chitekizaisan koto saibansho*), which hear all intellectual property appeals. Lower courts in Japan are called "district courts" (*chiho saibansho*), which are primarily the courts of first instance. However, district courts may sit in an appellate capacity when reviewing appeals filed in "summary courts" (*kani saibansho*), which deal mainly with small claims (JPY 1,400,000 or less).

Japan has two types of specialised courts. As mentioned above, "intellectual property high courts" are the intermediate appellate courts for cases involving patent rights and other forms of intellectual property. "Family courts" (*katei saibansho*) have jurisdiction over domestic matters, such as divorces.

1.3 What are the main stages in civil proceedings in Japan? What is their underlying timeframe?

The main stages in civil procedures before the first instance courts in Japan are:

- the filing of a complaint;
- the service of the complaint on the defendant;
- the filing of an answer;
- several court hearings, which are conducted on roughly monthly intervals. The parties will exchange their allegations and written evidence;
- examination of witnesses; and
- the final judgment.

The court may recommend a settlement to the parties at any time during the court hearings, which may be an indication of how the court is inclined to rule on the matter.

The overall average duration of civil proceedings for courts of the first instance varies from one to two years, but occasionally more than two years is necessary depending on the complexity of a case.

1.4 What is Japan's local judiciary's approach to exclusive jurisdiction clauses?

In general, if, by prior written consent, the parties agree that a certain foreign country's court has exclusive international jurisdiction over a dispute between them and if one party files a lawsuit in Japan in contravention of such agreement, then the Japanese court will, in principle, dismiss the case on the basis that it has no international jurisdiction over such dispute. However, under the amendment to the CCP which will come into effect on April 1, 2012, an exclusive international jurisdiction clause applicable to a dispute with consumers or employees will be null and void unless certain conditions specified in the amendment to CCP are satisfied.

1.5 What are the costs of civil court proceedings in Japan? Who bears these costs?

In principle, the non-prevailing party shall bear all costs, such as the revenue stamp payable at the filing of the complaint. If a party prevails on less than all claims, then the court will allocate the costs between the parties. Attorneys' fees are not categorised as costs in this context, and, in principle, the prevailing party is not entitled to claim for a refund of any part of his attorneys' fees from the non-prevailing party, except for certain categories of cases, such as personal injury caused by car accidents, medical malpractice, and intellectual property infringement cases.

1.6 Are there any particular rules about funding litigation in Japan? Are contingency fee/conditional fee arrangements permissible? What are the rules pertaining to security for costs?

"No win, no fee" arrangements are not specifically prohibited.

However, it is generally considered that such arrangements are not desirable in light of lawyers' ethics. In practice, they are uncommon.

If a plaintiff does not have an office address or a residence in Japan, the defendant may request the court to order the plaintiff to provide security for costs of civil court proceedings, unless otherwise stipulated by an applicable treaty.

Please note that attorney's fees are not categorised as costs of civil court proceedings and are, therefore, not covered by the security mentioned above.

2 Before Commencing Proceedings

2.1 Is there any particular formality with which you must comply before you initiate proceedings?

No. Under the CCP, there is an advance notice system, which allows a prospective plaintiff to request a prospective defendant to respond to its inquiries in order for such prospective plaintiff to prepare allegations and evidence in advance of the actual initiation of a lawsuit. However, a prospective plaintiff can determine at its discretion whether to use such system and, as a matter of practice, it is rarely used.

2.2 What limitation periods apply to different classes of claim for the bringing of proceedings before your civil courts? How are they calculated? Are time limits treated as a substantive or procedural law issue?

The Civil Code (1896 Law No. 89, as amended) (*minpo*), the Commercial Code (1899 Law No. 48, as amended) (*shoho*) and other relevant laws prescribe various limitation periods depending on the type of claims. In principle, the limitation period is ten years. However, it is shortened to five years if claims are related to commercial activities. It should be further noted that there are many other exceptions to the length of applicable limitation periods, such as three years for tort claims and two years for attorneys' fees.

Limitation periods commence when a right becomes exercisable. Limitation periods are basically characterised as a matter of substantive law. Although the right in question is deemed to expire at the conclusion of the relevant limitation period, a party is not prevented from filing suit, and the court will not inquire into the limitation period unless it is raised by the opposing party as a defence.

3 Commencing Proceedings

3.1 How are civil proceedings commenced (issued and served) in Japan? What various means of service are there? What is the deemed date of service? How is service effected outside Japan? Is there a preferred method of service of foreign proceedings in Japan?

A civil action is commenced when a plaintiff files a complaint with a court. If the court determines that the complaint meets the formality requirements, then the clerk of court serves it on the defendant.

The clerk of court usually uses the post office's staff to serve the complaint to the defendant at the defendant's residential or work address. Such service is completed usually one to two weeks after the filing of the complaint.

If the clerk of court cannot serve the defendant due to the defendant's lack of an obvious address, then the clerk of court may effectuate service by publication, which consists of posting a notice at the courthouse.

If the defendant has no residential or work address in Japan, then the court will request a foreign country where the defendant is located to serve the complaint on such defendant, through formal diplomatic channels and in accordance with applicable treaties such as the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. This process may take several months to complete.

With respect to the service of process of foreign proceedings on a defendant in Japan, service of process need not occur in the same manner as domestic proceedings in Japan since it is primarily a matter of the civil procedure of the foreign country. However, if the plaintiff intends to enforce a judgment against any of the defendant's assets which are located in Japan, then it would be advisable to serve the complaint through a formal diplomatic channel in accordance with applicable treaty(ies). See question 9.3. In such case, the Japanese court will take charge of the service on the defendant in Japan.

3.2 Are any pre-action interim remedies available in Japan? How do you apply for them? What are the main criteria for obtaining these?

In Japan, there are two types of interim remedies available in advance of initiation of the lawsuit under the Civil Preservation Act (1989 Law No. 91, as amended) (*minjihozen ho*): provisional attachment (*kari sashiosae*); and provisional disposition (*kari shobun*). Provisional attachment may be issued to prohibit a prospective defendant from disposing of specified assets for the purpose of preserving the plaintiff's monetary claim. In contrast, provisional disposition may be issued to prohibit a prospective defendant from disposing of or moving disputed assets for the purpose of preserving the plaintiff's monetary or non-monetary claim.

To obtain such provisional orders which freeze the *status quo* of the target assets, a party must first file a petition in court and convince a judge that the petitioner has the alleged claim, and that urgency is needed. If the judge is convinced during this *ex parte* procedure, then an order granting provisional relief is rendered. Usually, the court requires the petitioner to post a bond as collateral to be used for possible future loss to be incurred by the opposite party. The amount of the bond is determined by the judge, taking several factors into account such as the value of the assets.

3.3 What are the main elements of the claimant's pleadings?

A complaint must contain the following:

- names and addresses of parties;
- relief sought, including the amount to be paid by the defendant;
- claims for relief with supporting facts; and
- legal grounds to establish the claim.

The plaintiff must set forth the relevant facts and evidence which are material to prove the complaint so that the court may understand the nature of the dispute and claims in dispute at an early stage.

3.4 Can the pleadings be amended? If so, are there any restrictions?

The plaintiff may change and/or add a claim if the following

conditions are satisfied:

- the change and/or addition of a claim will not result in excessive delay of court proceedings;
- the common nucleus of operative facts is the same;
- the change and/or adding of the claim occurs before the conclusion of a series of court hearings; and
- the claim sought to be added must not fall within the exclusive jurisdiction of another court.

The court is entitled to disallow changes or additions if it concludes they are inappropriate.

4 Defending a Claim

4.1 What are the main elements of a statement of defence? Can the defendant bring counterclaims/claim or defence of set-off?

In the answer to the complaint, the defendant is required to state which parts of allegations of the complaint he admits, denies or is without knowledge. The defendant may also allege facts that controvert the plaintiff's allegations.

The defendant may include the defence of set-off in the answer.

Counterclaims are permissive so long as they are related to the plaintiff's original claim and/or the defendant's defence thereto. Counterclaims may be filed at any time prior to the conclusion of a series of the court hearings. If bringing a counterclaim will result in excessive delay of court proceedings, however, then the counterclaim will not be permitted and the defendant must initiate a separate action.

If the defendant validly files a counterclaim, then the plaintiff is required to file a defence thereto.

4.2 What is the time-limit within which the statement of defence has to be served?

Generally speaking, the court conducts a first hearing within one to two months after the filing of the complaint. The court will direct the defendant to file his statement of defence, together with relevant evidence about one week before the first hearing.

In case the complaint is served on the defendant outside of Japan, then the first hearing date will be several months after the filing of the complaint.

4.3 Is there a mechanism in your civil justice system whereby a defendant can pass on liability by bringing an action against a third party?

There is no mechanism whereby the defendant can force a third party, who the defendant believes should be solely liable or jointly liable with the defendant, to become an additional defendant in the ongoing lawsuit.

However, the defendant may request a court to send a formal court notice (*sosho kokuchi*) to a third party through the ongoing lawsuit procedures. If the third party receives such formal court notice, then such third party is entitled to voluntarily intervene in the lawsuit by way of "Intervention to Assist Parties" (see question 5.1). If the third party intervenes, then the judgment rendered will be binding not only on the defendant, but also on such third party. If such third party does not intervene in the ongoing lawsuit after receiving such formal court notice, then such third party would be, in principle, regarded as having intervened in the ongoing lawsuit, and as a result a judgment will be binding on such third party.

4.4 What happens if the defendant does not defend the claim?

If a defendant, upon whom the complaint has been properly served, does not file a defence prior to the first hearing and does not attend the first hearing, then the defendant is deemed to have admitted the plaintiff's allegations. Accordingly, the court will grant a default judgment for the plaintiff.

4.5 Can the defendant dispute the court's jurisdiction?

It is possible for a defendant to dispute the court's jurisdiction. In the case of the international jurisdiction, the defendant simply asks for dismissal of the lawsuit. In the case of domestic jurisdiction within Japan, the defendant seeks to transfer the case to a court of competent jurisdiction. However, the defendant must raise lack of subject matter jurisdiction at the outset of the case and before going into the arguments on the merits, otherwise he will be regarded to be subject to the jurisdiction of the pending court.

5 Joinder & Consolidation

5.1 Is there a mechanism in your civil justice system whereby a third party can be joined into ongoing proceedings in appropriate circumstances? If so, what are those circumstances?

Joinder of third parties into ongoing proceedings may occur, for example, in the following cases:

1) Intervention as an Independent Party (*dokuritsu tojisha sanka*)

A third party may intervene in pending litigation as an independent party when he has an independently legally cognisable interest in the outcome of the litigation that is not aligned with any existing party.

2) Intervention as Co-party (*kyodo sosho sanka*)

A third party may intervene in pending litigation as a co-plaintiff or co-defendant when he has a legally cognisable interest in the outcome of the litigation in common with an existing party.

3) Intervention to Assist Parties (*hojo sanka*)

A third party may intervene in pending litigation as a supporter to assist either party, when his interest would be affected by the judgment of such litigation.

5.2 Does your civil justice system allow for the consolidation of two sets of proceedings in appropriate circumstances? If so, what are those circumstances?

The court has discretion to consolidate two or more proceedings. The court takes into consideration: 1) whether rights or liabilities in controversy are common to the parties; 2) whether rights or liabilities in controversy are based on law or facts in common; 3) whether the rules of court procedure applicable to each of the proceedings may be consistently applied in one action; 4) whether excessive delay will be caused as a result of the consolidation; and 5) other relevant factors.

5.3 Do you have split trials/bifurcation of proceedings?

The CCP does not provide for split trials or bifurcated proceedings.

However, Japanese courts, especially in the intellectual property litigation, at its discretion, may determine whether a defendant infringed the plaintiff's rights before the amount of damages may be addressed.

6 Duties & Powers of the Courts

6.1 Is there any particular case allocation system before the civil courts in Japan? How are cases allocated?

Allocation of cases at the first instance court is made pursuant to the court's internal rules, but cases are generally automatically assigned to judges.

Certain district courts that deal with numerous cases, such as the Tokyo District Court, have special divisions which deal with specific categories of cases, such as those relating to intellectual property, construction, labour, and medical malpractice. If a new lawsuit falls under one of these categories, then such lawsuit will be allocated to one of the appropriate special divisions.

6.2 Do the courts in Japan have any particular case management powers? What interim applications can the parties make? What are the cost consequences?

The court has discretion on how to manage cases over which it presides. The court may order the parties to clarify the allegations in the pleadings, and it may also establish a case management plan (which is required in case of certain kinds of lawsuits, such as a complex case).

In addition, the court may establish timelines for the filing of court briefs or submitting evidence. Further, the court can actively encourage the parties to settle the case or any issues raised therein, and, as a matter of actual practice, the court frequently promotes resolution of the case by settlement.

For interim applications, please see questions 3.4, 4.1 and 7.1.

6.3 What sanctions are the courts in Japan empowered to impose on a party that disobeys the court's orders or directions?

The primary type of sanctions available is the adverse inference. In addition, if any submission of allegations and/or evidence is unreasonably late, the court may dismiss such submission.

6.4 Do the courts in Japan have the power to strike out part of a statement of case? If so, in what circumstances?

There is no established system of "strike out".

6.5 Can the civil courts in Japan enter summary judgment?

There is no summary judgment.

6.6 Do the courts in Japan have any powers to discontinue or stay the proceedings? If so, in what circumstances?

Legal proceedings are stayed in very limited cases, such as where a civil reconciliation procedure has been separately commenced on the same matter, where a litigant (individual) dies, etc.

7 Disclosure

7.1 What are the basic rules of disclosure in civil proceedings in Japan? Are there any classes of documents that do not require disclosure?

A party may file an application with a court to order an adverse party to produce documents. This application should be made for specific documents, and comprehensive production is not permitted. In addition, the applicant should establish that the documents in question are necessary to prove the applicant's allegations. The other party may oppose such application by saying that production is unnecessary or that the documents are immune from production (e.g. documents prepared solely for internal purposes or those which may invoke criminal liability). As a matter of practice, Japanese courts are not inclined to issue document production orders. If a document production order is issued and if the adverse party fails to comply with such order, then the court may draw an adverse inference.

7.2 What are the rules on privilege in civil proceedings in Japan?

There is no categorical concept of "attorney-client privilege" with respect to production of documents. Please also refer to question 7.1, above.

7.3 What are the rules in Japan with respect to disclosure by third parties?

Japanese courts are entitled to order, at the request of a party, a non-party who is in possession of documents that are critical to the proceedings to produce such documents. If such non-party does not comply with the order, he will be subject to an administrative fine.

7.4 What is the court's role in disclosure in civil proceedings in Japan?

See questions 7.1 and 7.3.

7.5 Are there any restrictions on the use of documents obtained by disclosure in Japan?

The CCP does not specifically govern the use of documents obtained by the document production order. Under the Patent Law and certain intellectual property laws, however, the court may enter an order prohibiting litigants from using certain evidence containing trade secrets for any purposes outside of the litigation, a violation of which is subject to criminal sanctions.

8 Evidence

8.1 What are the basic rules of evidence in Japan?

A party is entitled to submit any evidence in his possession. A party can submit the evidence that is disclosed by other persons. The court has the discretion to determine which evidence is credible and which evidence is valuable.

8.2 What types of evidence are admissible, which ones are not? What about expert evidence in particular?

In Japan, essentially all forms of evidence are admissible, including hearsay, expert opinions, and witness statements.

8.3 Are there any particular rules regarding the calling of witnesses of fact? The making of witness statements or depositions?

If the parties would like to call a witness, they must file an application setting forth the identity of the witness and the matters upon which such witness will testify. The court will determine whether such testimony is necessary and, if so, will hear the witness's testimony.

Although it is not mandatory, written statements are usually prepared and exchanged to shorten examination-in-chief and to enable the opposite party to fully prepare for cross-examination.

There is no deposition system.

If the witness does not appear, it is possible for the court to force him to appear before the court with the assistance of the police.

8.4 What is the court's role in the parties' provision of evidence in civil proceedings in Japan?

See questions 7.1, 7.3, 8.1 and 8.3.

9 Judgments & Orders

9.1 What different types of judgments and orders are the civil courts in Japan empowered to issue and in what circumstances?

A final judgment on the merits (*honan hanketsu*) is rendered when the court concludes that it has reached a conclusion.

Another type of judgment (*sosho hanketsu*) is rendered when the court does not decide the case on the merits, but rather dismisses the complaint if it determines, for example, that it does not have jurisdiction over a case.

A court may render a certain type of decision (*kettei*) or order (*meirei*) to make ancillary decisions, such as those for witness examinations or document production orders (see question 3.2).

9.2 What powers do your local courts have to make rulings on damages/interests/costs of the litigation?

If the court concludes that a party is liable for damages, the court will assess the amount of damages and enter a judgment in such amount.

There is no punitive damage system.

When the court renders the judgment ordering monetary payment, it decides the interest payable. In principle, the court uses a statutory rate of 5% per annum or, for payment arising from commercial activities, another statutory rate of 6% per annum. If the claim derives from a contract which adopts a different interest rate, then the court may use such agreed interest rate.

With respect to the cost allocation, please refer to question 1.5.

9.3 How can a domestic/foreign judgment be enforced?

There are different procedures for monetary and non-monetary claims. Monetary claims are enforced by garnishment of the defendant's bank account or its accounts receivable, and/or by attachment of the defendant's real estate or movable assets. For non-monetary claims, such as eviction of a tenant, enforcement can take place in various ways as stipulated in the Civil Execution Act (1979 Law No. 4, as amended) (*minjishikko ho*).

Regarding a judgment of a foreign (non-Japanese) court, Japanese courts will issue an enforcement order, provided that all of the following requirements are satisfied:

1. in light of principles of international jurisdiction established under Japanese law, the foreign (non-Japanese) court has jurisdiction over the matter;
2. the defendant was properly served;
3. the foreign court's judgment is not contrary to Japanese public order and sound morals;
4. there is a reciprocal guarantee with the foreign jurisdiction rendering the judgment; and
5. the foreign court's judgment is final and conclusive.

If the enforcement order is rendered, then it is possible for the plaintiff to proceed with the enforcement procedures against the defendant's assets, just like the case of the Japanese domestic court judgment.

9.4 What are the rules of appeal against a judgment of a civil court of Japan?

Judgments of the first instance courts (usually district courts) can be appealed to the intermediate appellate courts (usually high courts) and then to the second appellate courts (usually the Supreme Court). Non-prevailing parties can appeal if they are not satisfied with a judgment, and their appeals may be based on legal error or factual findings. However, the gateway to the Supreme Court is quite narrow and the grounds for secondary appeals are limited to (a) misinterpretation of the Constitution and violations of the Constitution, (b) significant violations of procedural law, and (c) cases where the Supreme Court finds significant misinterpretations of laws which would obviously affect the conclusions in judgment.

An appellant must file an appeal within 14 days after the service of a judgment and must submit detailed reasons for the appeal within 50 days thereafter.

II. ALTERNATIVE DISPUTE RESOLUTION

1 Preliminaries

1.1 What methods of alternative dispute resolution are available and frequently used in Japan? Arbitration/Mediation/Expert Determination/Tribunals (or other specialist courts)/Ombudsman? (Please provide a brief overview of each available method.)

Arbitration (*chusai*)

Except certain types of disputes, such as labour disputes, parties are generally free to agree to resolve disputes through arbitration prior to or after the occurrence of a dispute; provided, however, that a consumer may terminate an arbitration agreement anytime without cause. If one party files a lawsuit with a Japanese court in defiance of an arbitration agreement, the Japanese court is, in principle, bound to dismiss the lawsuit. Arbitrations are not as common in Japan as they may be in other jurisdictions.

Civil Conciliation (*minji chotei*)

Civil conciliation is one of the dispute resolution systems provided by the Japanese courts and is a mechanism which tries to achieve resolution through a consensus of the parties. For this procedure, a conciliation panel is formed by one judge and two neutral civic persons (often lawyers or experienced businessmen). When the parties have reached an amicable settlement or when the conciliation panel finds an amicable settlement cannot be reached, the panel closes the conciliation proceeding. During the process, the two neutral civic persons (not the judge) take initiative roles. These civil conciliation procedures are frequently used in Japan.

Labour Tribunals (*rodo shinpan*)

Labour tribunals are also one of the dispute resolution systems provided by the Japanese courts and they consist of a panel of one judge and two neutral experts (one being chosen by management and the other by labour). The panel is expected to resolve disputes related to employment within three hearings (about two to three months) by facilitating a settlement between the parties, or, if no settlement is reached, by rendering an order. These labour tribunals were introduced in 2006, and an increasing number of cases have been resolved in an expeditious manner (mainly by settlement).

1.2 What are the laws or rules governing the different methods of alternative dispute resolution?

The laws governing each method of dispute resolution are as follows:

1. Arbitration: the Arbitration Act (2003 Law No. 138, as amended) (*chusai ho*).
2. Civil Conciliation: the Act on Conciliation for Civil Affaires (1951 Law No. 222, as amended) (*minjichotei ho*).
3. Labour Tribunal: the Labour Tribunal Act (2004 Law No. 45, as amended) (*rodo shinpan ho*).

1.3 Are there any areas of law in Japan that cannot use Arbitration/Mediation/Expert Determination/Tribunals/ Ombudsman as a means of alternative dispute resolution?

A basic rule is that if the matter in question can be resolved through settlement by its nature, then such matters are considered arbitrable. Therefore, most of the commercial matters are arbitrable. An example of a non-arbitrable case is a family law matter. In addition, there are certain restrictions on the ability to arbitrate certain disputes which involve labour law and consumer law.

Civil conciliation covers all types of civil disputes. However, family matters are subject to family conciliation (*kaji chotei*) available at the family courts.

Labour tribunals are available only for labour disputes.

1.4 Can local courts provide any assistance to parties that wish to invoke the available methods of alternative dispute resolution? For example, will a court - pre or post the constitution of an arbitral tribunal - issue interim or provisional measures of protection (i.e. holding orders pending the final outcome) in support of arbitration proceedings, will the court force parties to arbitrate when they have so agreed, or will the court order parties to mediate or seek expert determination? Is there anything that is particular to Japan in this context?

If one party files a lawsuit with a Japanese court in defiance of an arbitration agreement, the Japanese court is, in principle, bound to dismiss the lawsuit. Civil proceedings may be stayed when a civil conciliation procedure or proceeding before a labour tribunal have been separately commenced on the same matter.

1.5 How binding are the available methods of alternative dispute resolution in nature? For example, are there any rights of appeal from arbitration awards and expert determination decisions, are there any sanctions for refusing to mediate, and do settlement agreements reached at mediation need to be sanctioned by the court? Is there anything that is particular to Japan in this context?

Arbitration (*chusai*)

In general, arbitration awards may not be appealed and have the same legal effect as a final and conclusive judgment. However, if one of the requirements under the Arbitration Act (for example, an arbitration award is contrary to public order and the morals of Japan) is satisfied, a Japanese court may rescind an arbitration award upon the request of one of the parties.

Civil Conciliation (*minji chotei*)

Once a record of settlement, reached through civil conciliation or family conciliation, is drawn up by the court, then such settlement has the same effect as a final and conclusive judgment.

Labour Tribunals (*rodo shinpan*)

Once a record of a settlement reached through the labour tribunals is drawn up by the court, then such settlement has the same effect as a final and conclusive judgment. If no settlement is reached, the panel may render an order. A party may object to such an order within two weeks, in which case the order will be deemed null and void and a legal proceeding will commence. If no objection is filed, then the order becomes final and conclusive.

2 Alternative Dispute Resolution Institutions

2.1 What are the major alternative dispute resolution institutions in Japan?

The major dispute resolution institutions in Japan are as follows:

1. Arbitration: Japan Commercial Arbitration Association (JCAA), Japan Shipping Exchange (JSE).
2. Civil Conciliation: district courts and summary courts.
3. Labour Tribunal: district courts.

2.2 Do any of the mentioned alternative dispute resolution mechanisms provide binding and enforceable solutions?

Please see question 1.5.

3 Trends & Developments

3.1 Are there any trends in the use of the different alterative dispute resolution methods?

To promote a fair and just ADR procedure, the Act on Promotion of Use of Alternative Dispute Resolution (2004 Law No. 151, as amended) took effect on April 1, 2007. To this end, the government may provide permission to act as an officially authorised ADR organisation to a private entity. As of the time of this writing, 108 private entities have such permission. Most of them deal with civil disputes or labour disputes, however, some of them deal with

disputes related to sports or revitalisation of business. The number of such private entities is expected to increase gradually.

Further, a new ADR procedure dealing with disputes relating to financial transactions commenced on October 1, 2010. As of the time of this writing, eight private entities are authorised by the Financial Services Agency to act as such ADR organisations.

3.2 Please provide, in no more than 300 words, a summary of any current issues or proceedings affecting the use of those dispute alternative resolution methods in Japan?

One of the current trends is to make dispute resolution systems more accessible to Japanese residents. To this end, the Japanese government established a legal aid institution known as "*Houterasu*" (Japan Legal Support Centre) based on the Comprehensive Legal Support Act (2004 Law No. 74, as amended) on April 10, 2006. The head office of *Houterasu* is in Tokyo, and it has local offices throughout Japan. It provides, for example, information on the Japanese legal system and dispute resolution as well as free legal consultation services to citizens. It also finances legal fees for those who are of limited means.

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Nobuhito Sawasaki is a partner at Anderson Mori & Tomotsune. Mr. Sawasaki has been engaged in a wide range of practice areas since he joined the firm in 2001. He has advised domestic and foreign clients on labour law, pension law, mergers and acquisitions, corporate law, the Private Information Protection Act and financial regulations.
Recently, Mr. Sawasaki has been advising domestic and foreign clients on compliance with labour and employment laws, the Private Information Protection Act and business licensing issues. He has also assisted domestic and foreign clients with numerous of labour disputes and other labour-related matters such as the redundancy process, formulation of working rules and reformation of employee benefits schemes. Further, Mr. Sawasaki contributes practical advice to domestic and foreign clients which handle personal information and proprietary information in the course of their business.

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Anderson Mori & Tomotsune is one of Japan's premier law firms. As of February 1, 2012, the firm has 319 Japanese lawyers (*bengoshi*), 12 lawyers qualified in foreign jurisdictions, approximately 135 other professional staff including patent lawyers, immigration lawyers, foreign legal trainees, translators and paralegals, and approximately 190 other general staff members.

Anderson Mori & Tomotsune has offices in Tokyo and Beijing and it provides a full range of specialised legal services for both international and domestic corporate clients. The firm is frequently involved in domestic and international legal matters of substantial importance. In particular, the firm has extensive expertise in large M&A and finance transactions, global securities offerings and other cross-border investment transactions. The firm also represents clients in complex international and domestic legal disputes.

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