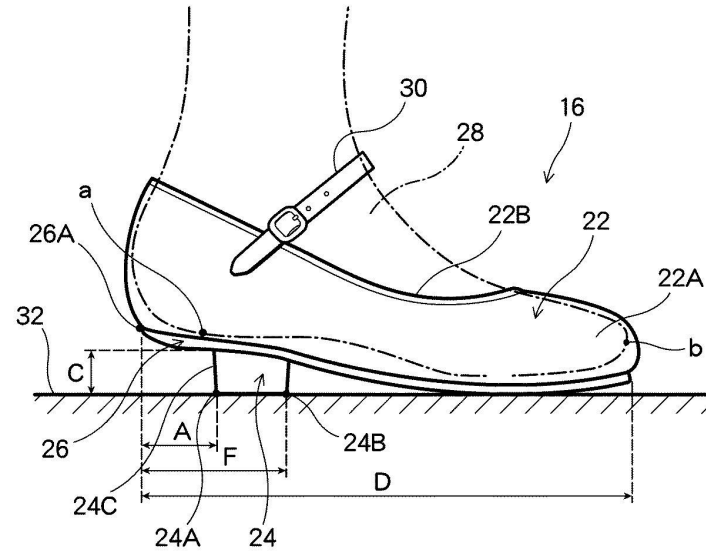


Criminal Punishment on Patent Infringement

• RYUKA •
with Free Vision

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The "Piano Shoes" Case



Japanese Police **arrested** a suspect for patent infringement on March 5, 2024.

The suspect sold the patented "piano shoes", even though he only had a license to produce them.

Criminal Punishment

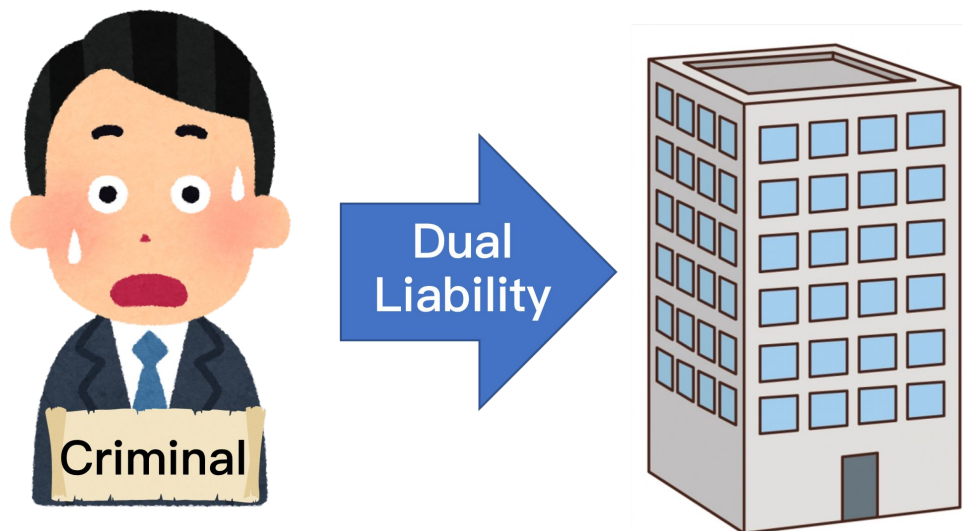
In theory, patent infringement is subject to:

- **Imprisonment** for no more than **ten years**,
- A **fine** of no more than **10,000,000 yen**, or,
- a combination of the above

in Japan.

(Patent Act Article 196)

Dual Liability



The punishment can be applied to both the **individual** and **his/her corporation** at the same time.

(Patent Act Article 202)

However...

In Japan, criminal punishments are rarely applied for patent infringements.

The Piano Shoes Case is

「the first criminal case recorded since 1989」

(Source: <https://news.yahoo.co.jp/articles/9b0fb8397ef8e462fd1b00bc19c0977a0b3cee00>)

Because...

To apply criminal punishments,

① The suspect must "**intentionally**" infringed the patent.

(Japan Criminal Law Article 38(1))

② The police has to decide whether the suspect's product belongs to the **scope of patent claims**.

⇒ which is difficult for non-expert.

The Rare Case

In the "Piano Shoes" Case,

① The patent was about the "shape" of shoes

⇒ **scope of patent claims** can be decided easily

② The suspect had the license to produce the piano shoes, but sold them without license

⇒ it was clear that the suspect was **intentional**, and the products **falls with the scope of patent claim**

The Rare Case

The police conducted **arrest** due to the rare situation in this case.

⇒ Although **rare**, criminal punishments are **possible** in Japan, especially for the **partial or former licensees**.

Cf. Design Infringement

Similar to the "Piano Shoes" Case, **scope of design rights** can be easily determined.

However, the "**intentionality**" standard is high.

October 5, 1961 Toyama District Court

The defendant paid to a distributor and mistakenly thought they had been licensed.

"The defendant behaviors are **not extremely against social common sense**... therefore, had **no criminal intent** to infringe on the design in question."

Criminal Lawsuits of IP Infringement in Japan

Number of Defendants	2016	2017	2018	2019	2020	2021	2022
Patent	3	0	0	0	2	7	0
Utility Model	0	0	0	0	0	0	0
Design	5	6	0	0	0	0	0
Trademark	534	525	496	476	416	425	426

Among these lawsuits above, there are:

2 convictions of patent infringement in the past by the end of 2023,

4 convictions of design infringement during 2016~2022.

(All convicted through summary orders, without formal trials)

However, both of them are **still rare**, compared to trademark infringement.