

A faint, teal-colored map of Japan is visible in the background, showing the four main islands: Hokkaido, Honshu, Shikoku, and Kyushu.

IP related Litigation in Japan

**Chief Judge of the IP High Court
Makiko Takabe**

Today's Topic

- I. Introduction
- II. Structure of IP High Court
- III. Management of Proceedings at IP High Court
- IV. IP High Court in the Era of Globalization

I Introduction

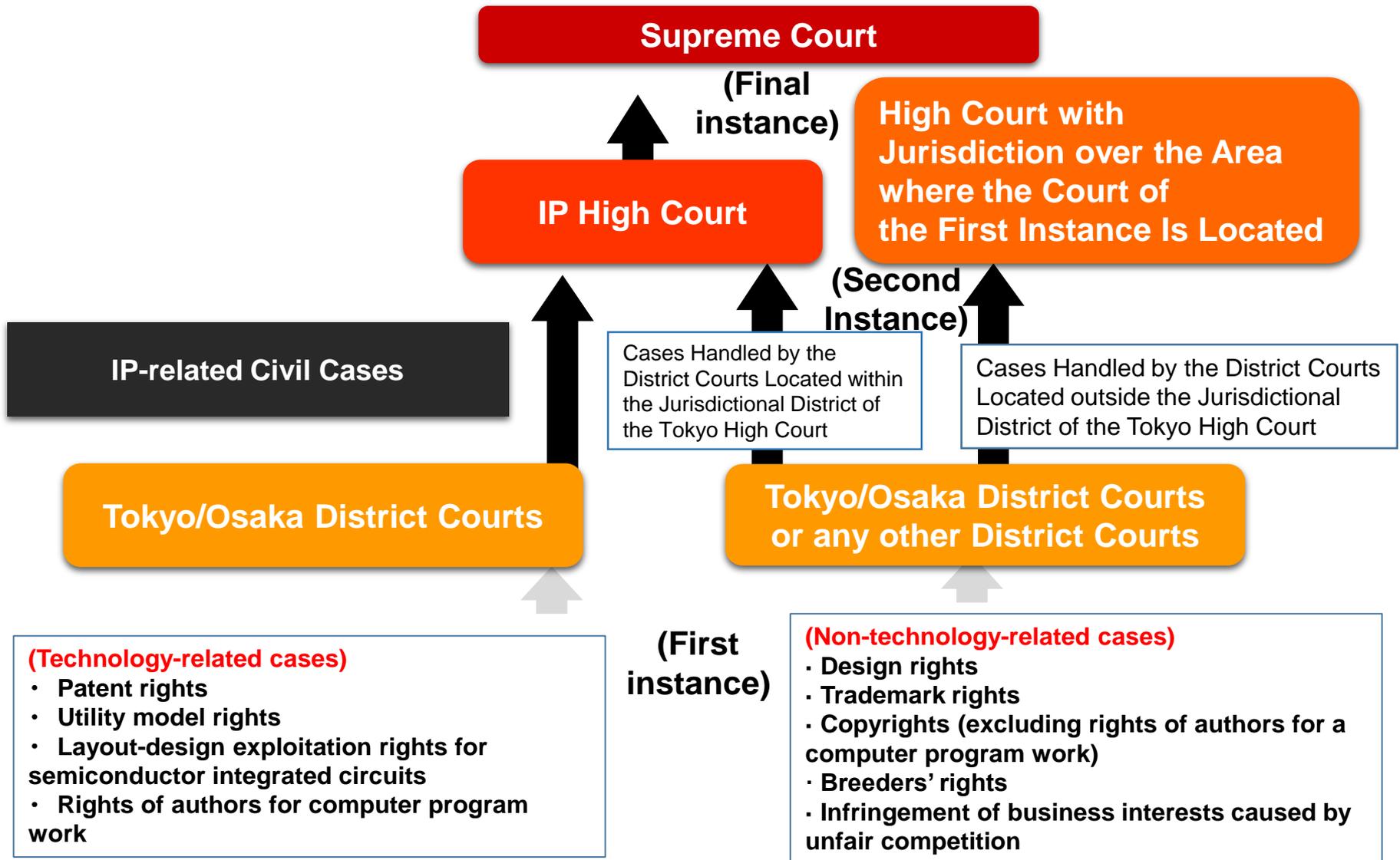
1. Establishment of IP High Court
2. Type and Jurisdiction of IP-related Litigation
3. Case Processing Trends

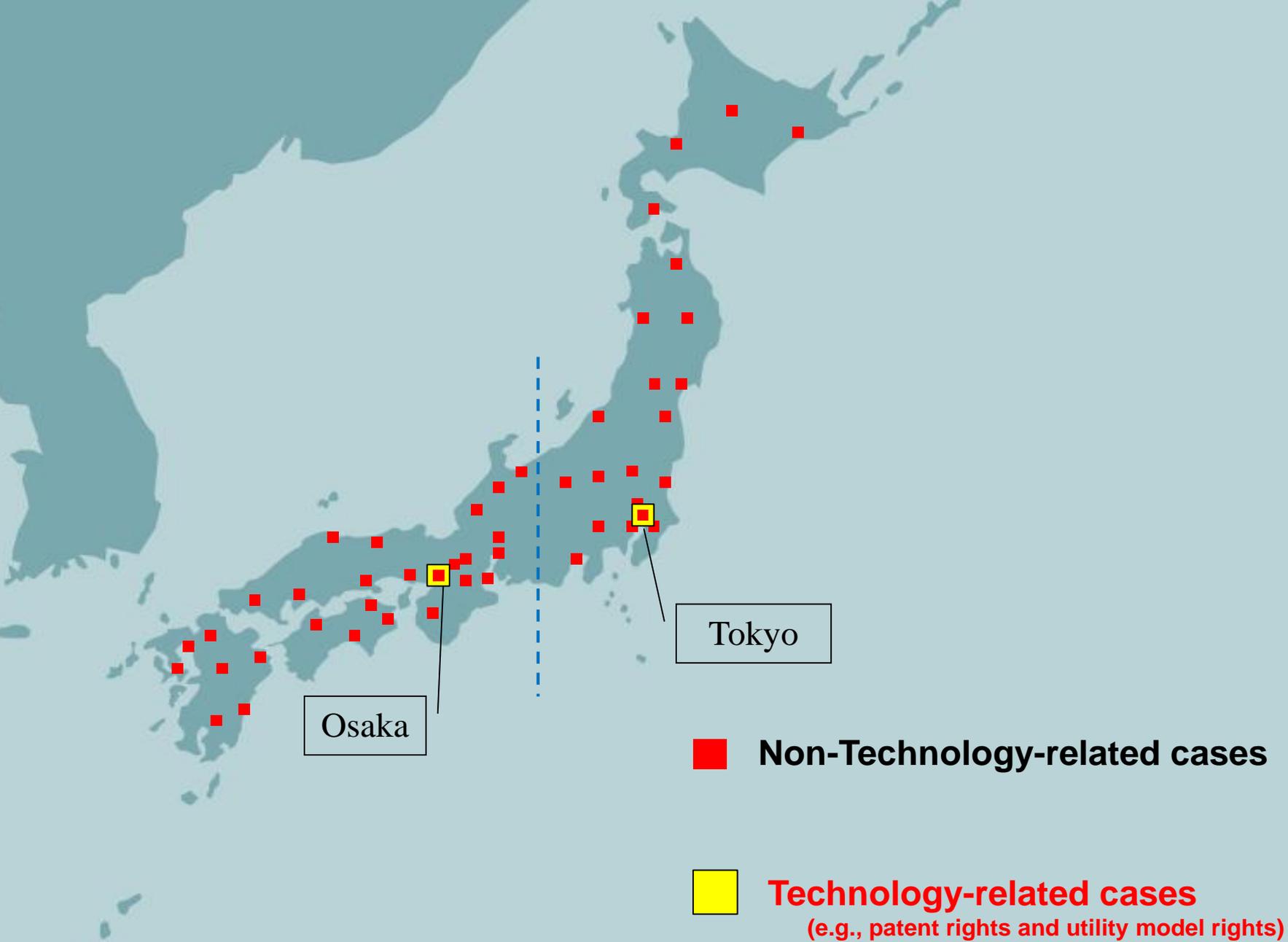
1. Establishment of IP High Court

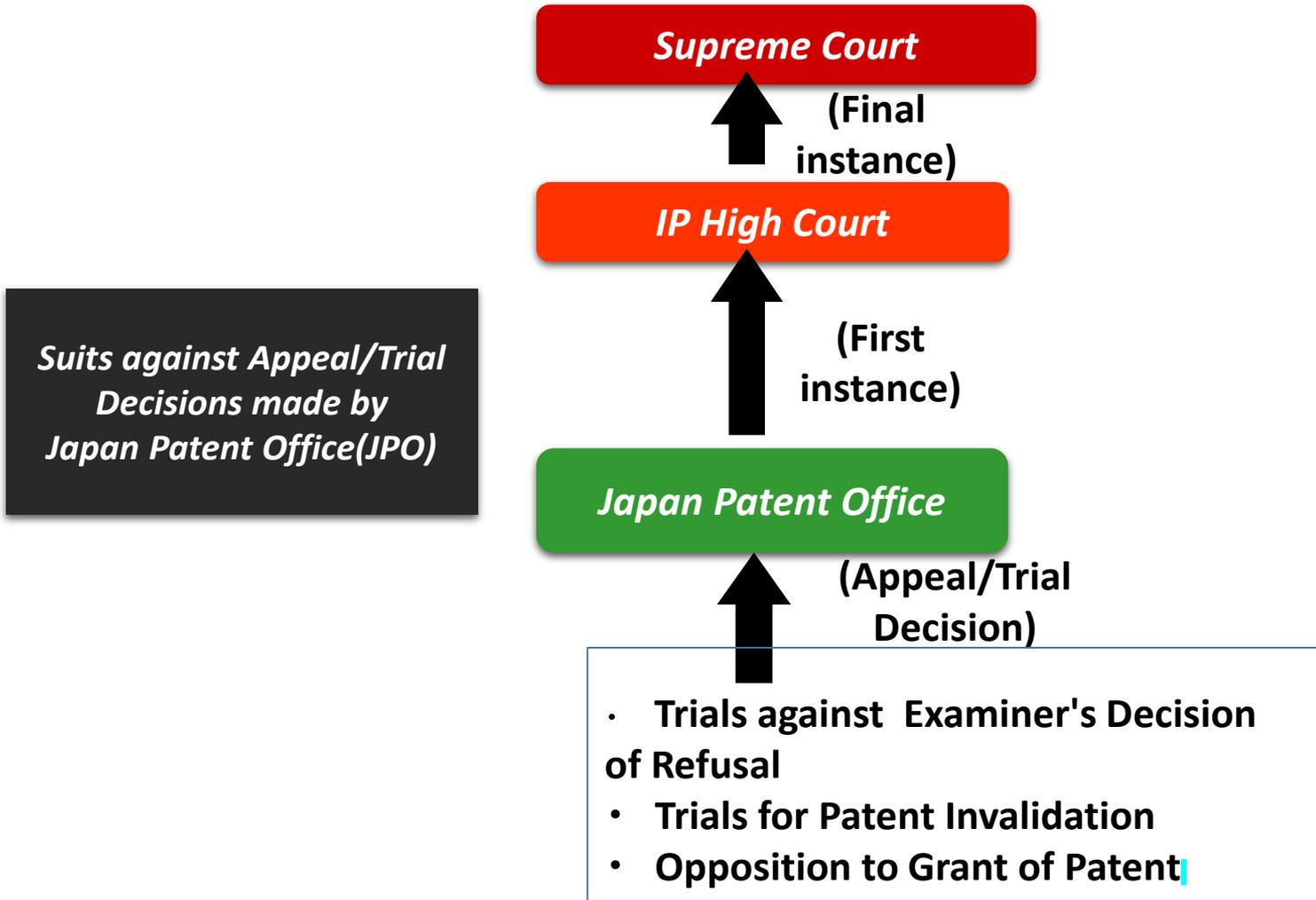
- Established on April 1, 2005
- For the purpose of further increasing the effectiveness and efficiency of court proceedings for IP- related cases
- As a court that specializes in handling IP-related cases
- For the purpose of further enhancing the specialized judicial system



2. Type and Jurisdiction of IP-related Litigation



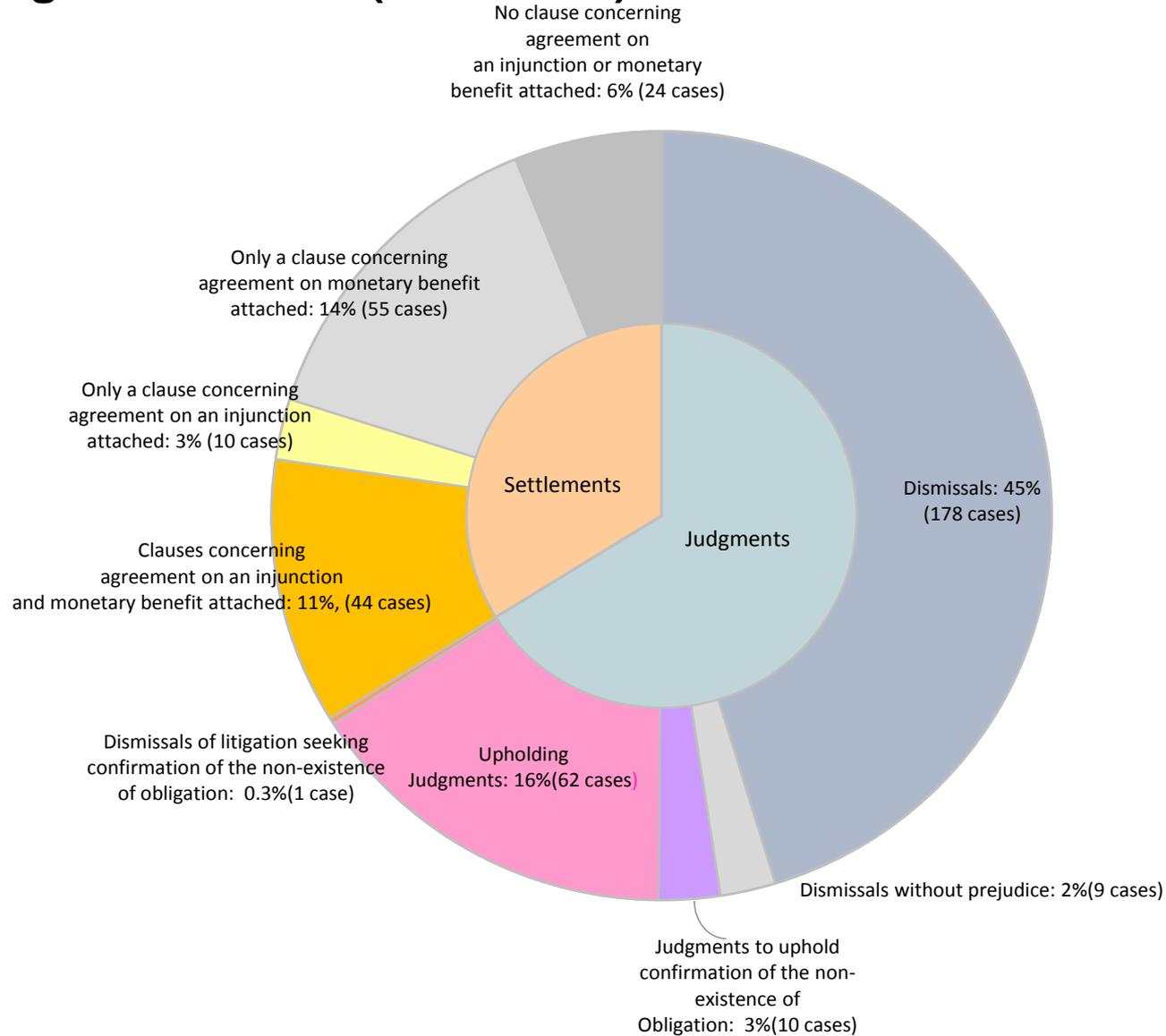




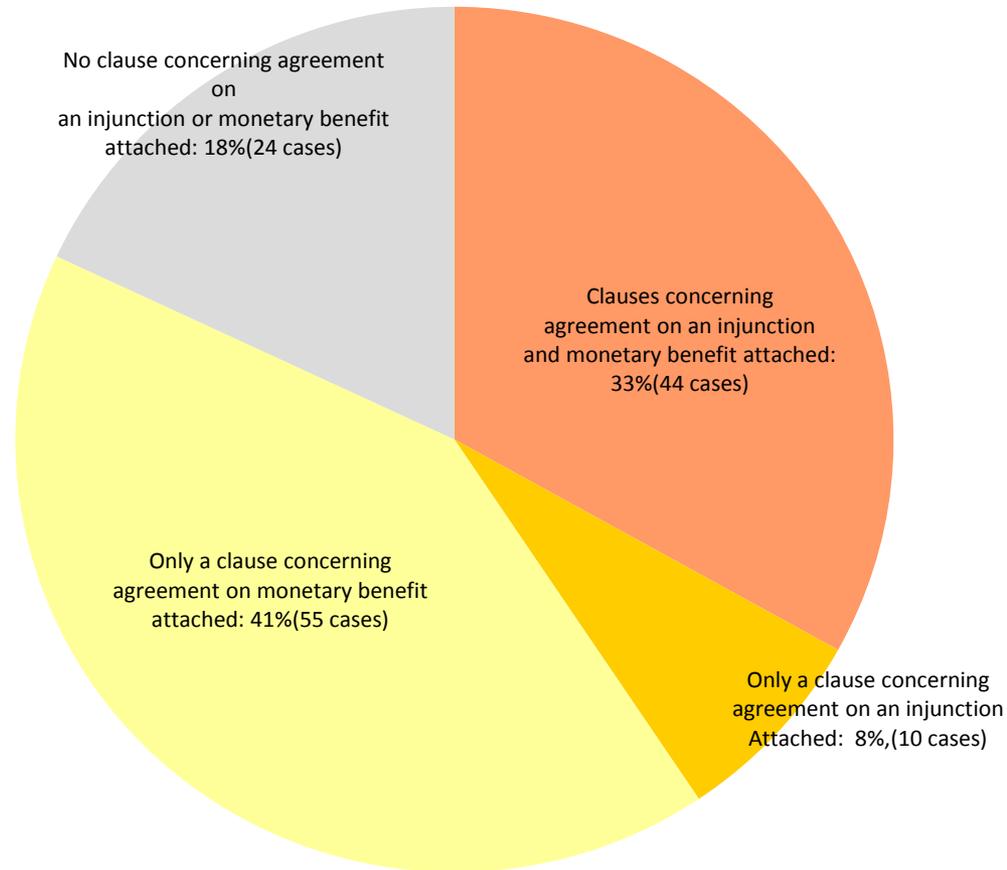
3. Case Processing Trends

- Average time intervals from commencement to disposition of Infringement suits : 13 months for first instance and 7 months for second instance
- Average time intervals from commencement to disposition of Suits against Appeal/Trial Decisions made by JPO : 8 months

Content of Judgements and Settlements regarding Patent Infringement Cases (2014-2017)



Content of Settlements (Whether or not a clause concerning agreement on an injunction and monetary benefit attached)



II Structure of IP High Court

1. Organizational Structure
2. Personnel Structure

1. Organizational Structure

- Four ordinary divisions
- The Special Division comprising all judges (in charge of Grand Panel cases)
- Secretariat Office

2. Personnel Structure

- 17 judges (including Chief Judge)
- 11 judicial research officials
- 12 court clerks and court secretaries
- 7 staff members of Secretariat Office
- About 200 technical advisors (part-time officials)

- Tokyo District Court IP division (four divisions): 39 personnel, including 16 judges
- Osaka District Court IP division (two divisions): 13 personnel, including 5 judges

III Management of Proceedings at IP High Court

1. Well-organized Proceedings: Prompt and Proper trial
2. Explanatory Session: Expert Knowledge of Technology
3. Active Oral Arguments

1. Well-organized Proceedings

(Suits against Appeal/Trial Decisions made by JPO)

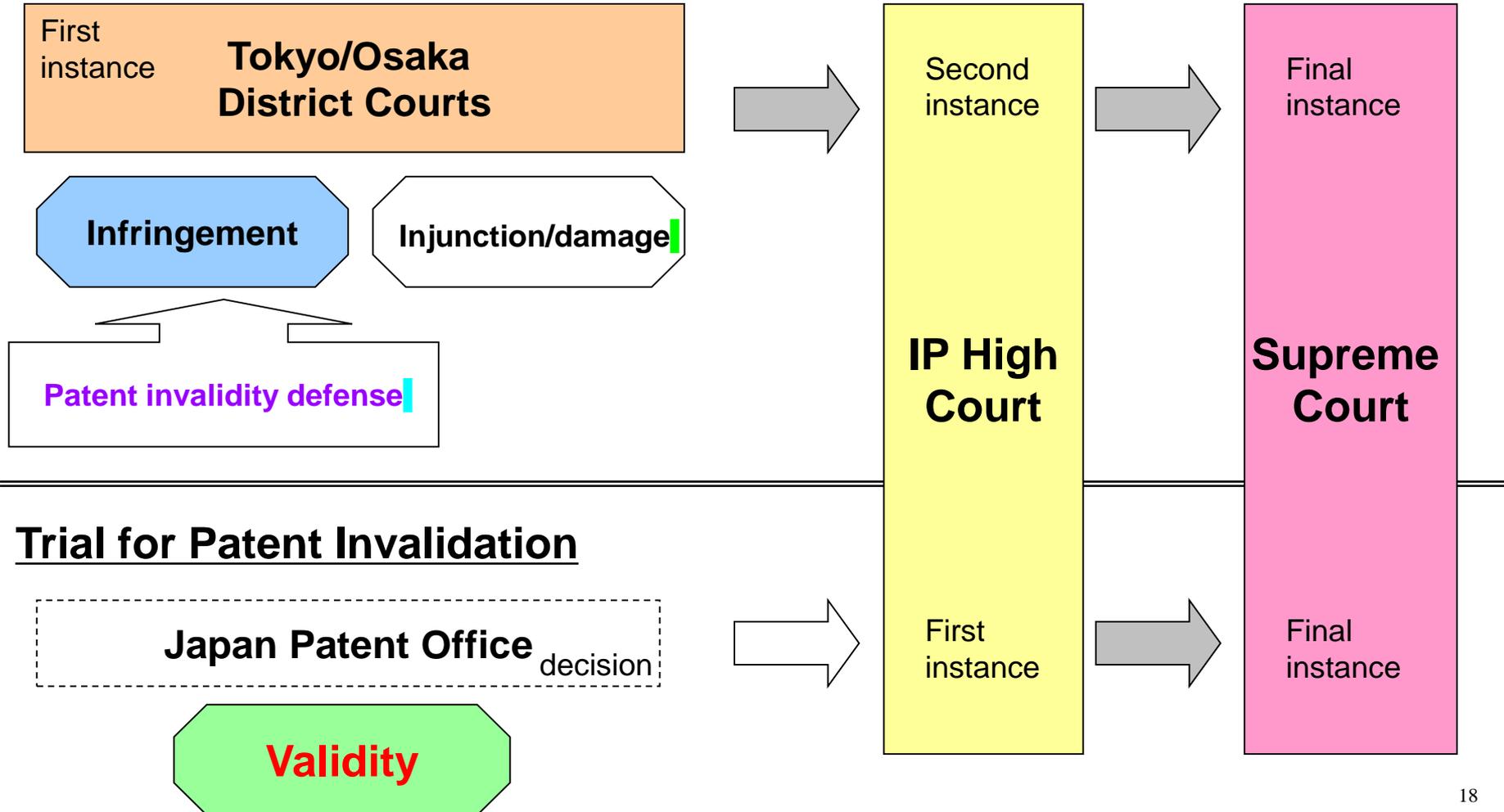
- Publication of “proceedings model”
- 2 dates for preparatory proceedings and a single date for oral argument, in principle
- Explanatory session
- Presentation on the date for oral argument

(Infringement Suits)

- Publication of “proceedings model” for the first instance
- Two-phase proceedings system, which consists of the stage for examination on infringement (first phase) and the stage for examination on damages (second phase)
- Disclosure of preliminary conclusion on whether infringement actually occurred or not, at the end of the first phase
- Defense of invalidity and re-defense of correction should be brought in a timely manner
- Explanatory session
- Attempt to arrange a settlement
- Proceedings in second instance

(Dual System for Patent Dispute)

Infringement suits



(Role of IP High Court)

- Suits against Appeal/Trial Decisions made by JPO and appeals against the decision in infringement suits regarding same patent rights will be handled by same judges as long as it is possible



- Securing legal stability for judgments on patent validity
- Unifying claim interpretation at stages at which technical scope is determined and validity is examined

2. Explanatory Session

- Elaborate to make easy to understand presentation: presentation using models, DVDs, and PowerPoint slides
- Attendance of technical advisors: 3 advisors, in principle (professors, researchers, and patent attorneys)
- Increase of cases in which explanatory session is held on the date for oral argument, instead of preparatory proceedings
- Acquisition of expert knowledge through Q&A



3. Active Oral Arguments

- Explanatory Sessions held on the date for oral argument
- Opportunities for stating opinions orally on the date for oral argument

IV The IP High Court in the Era of Globalization

1. Corresponding with Globalization
2. Enhancing the expertise
3. Enhancement of IT System and Paying Due Attention to Local Districts
4. Dissemination of Information

1 Corresponding with Globalization

- Increase of disputes concerning foreign parties and foreign rights
- Cross border disputes (e.g., Apple Inc. v. Samsung Electronics Co., Ltd.)
- International communication (visitors from foreign countries and attendance at overseas conferences)
- Hosting the Judicial Symposium on Intellectual Property / TOKYO

Judicial Symposium on Intellectual Property / TOKYO 2018
Global Collaboration for IP Dispute Resolution



2 Enhancing the Expertise

- Cases in which cutting-edge technology is involved
- Specialization and elaboration of legal theory



- Explanatory session
- Utilization of judicial research officials
- Utilization of technical advisors
- Expertise of judges

(Involvement of Technical Advisors)

- Scope of “interested parties”
- Relevance to technical advisor’s speciality
- 3 advisors involved in a single case: securing objectivity and fairness

- Raise issues by posing questions to parties
- Explanations given prior to the explanatory session so as to avoid errors regarding priority date, etc.
- Training sessions for technical advisors

3. Enhancement of IT system and Paying Due Attention to Local Districts

- Improvement of IT system
- Web conferences: Paying attention to local districts

4. Dissemination of Information

- Selected IP judgements and their English translations made available through the website of IP High Court
- The guidelines for proceedings made available through the website of IP High Court
- Dissemination through Grand Panel judgements
- Dissemination through hosting international symposiums and attending international conferences
- Acceptance of visitors and observers from foreign countries

Thank you
for your time. 

Makiko Takabe