



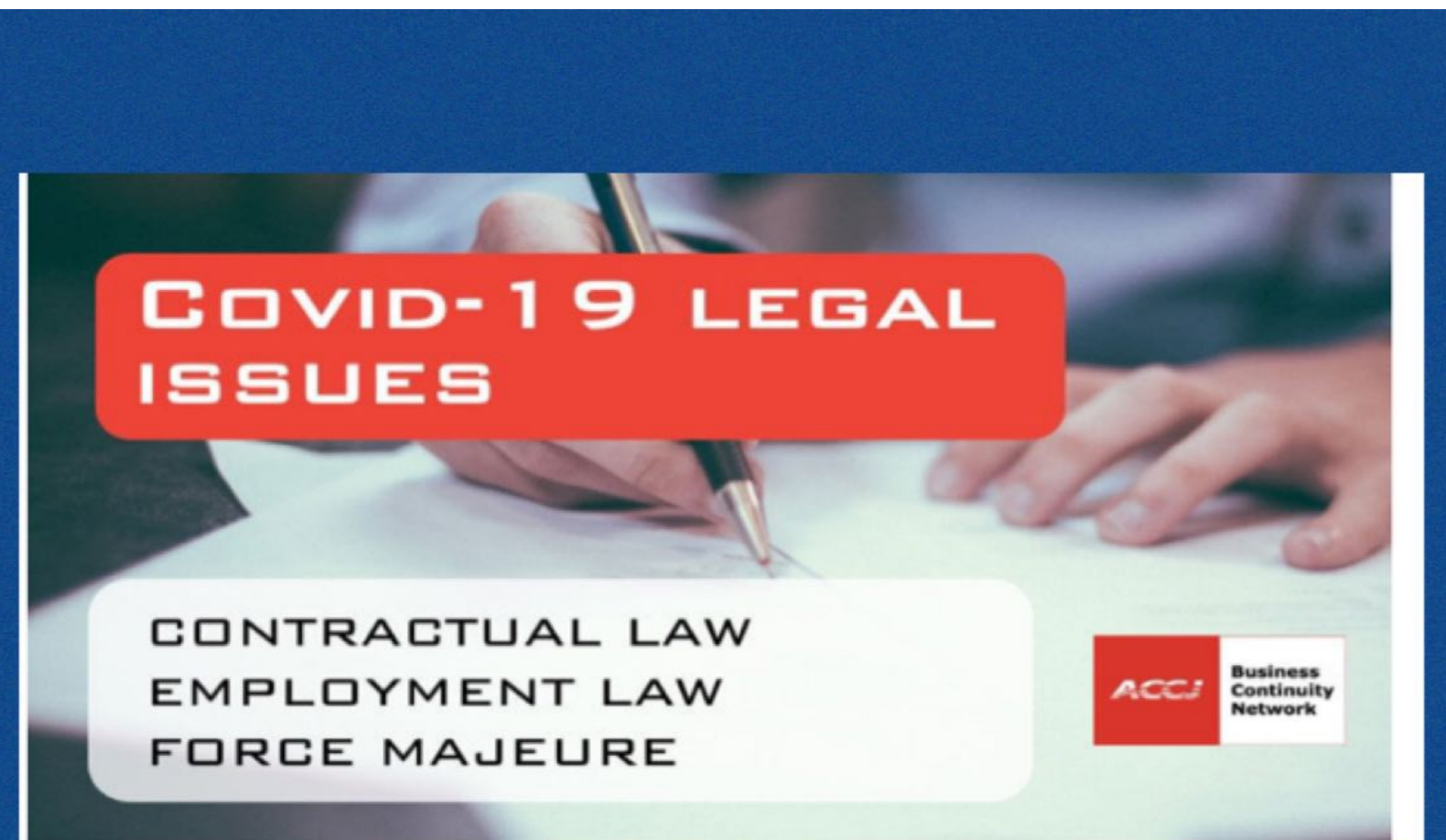
# Legal Services-IP March to May in Review

---

5/29/20



# March 30 Webinar: COVID-19 Legal Issues



## COVID-19 LEGAL ISSUES

CONTRACTUAL LAW  
EMPLOYMENT LAW  
FORCE MAJEURE

ACCJ Business Continuity Network

MONDAY  
MARCH  
**30**  
12:00-13:15

### COVID-19 LEGAL CHALLENGES



**Chris Jacobson**, Registered Foreign Lawyer, Fukuoka International Law Office  
**Takuo Misaki**, Attorney at law, Matsuda & Partners (Labor Law)

HOSTED BY THE ACCJ LEGAL SERVICES & INTELLECTUAL PROPERTY COMMITTEE  
THIS IS A FREE VIRTUAL EVENT

This event will present a selection of topics challenging businesses around two principle areas of law: labor law and commercial contacts. Challenges include labor issues such as how to handle employee concerns and questions, and on the commercial side, how to deal with contractual challenges and supply chain risks.



### Covid-19 Legal Challenges

By the Legal Services & IP (Intellectual Property) Committee

**STAFF ISSUES**  
May I temperature-scan my employees and require them to submit their personal health data?  
This question poses issues on two fronts: personal information and employment law. Regarding the personal information aspect, Japan's Act on the Protection of Personal Information (APPI) states that a business shall not obtain personal information by deception or other wrongful means. It does not require the consent of the subject in each event of personal information collection.  
However, the same law (and its enforcement ordinance) states that, regarding certain health records, the consent of the subject is required. Therefore, it would appear the law considers health information as a more sensitive category of personal information. Accordingly, it is desirable to obtain consent prior to conducting a temperature scan to avoid any risk of giving rise to a claim based on the APPI or perhaps even an invasion of privacy tort claim.  
However, it is unclear specifically what form of consent is needed. For example, as a practical matter, an employer may issue an email to its employees, update its work rules, and perhaps post signs indicating its intent to temperature-scan employees for the express purpose of Covid-19 prevention. Unless the employer objects, it may be considered consent (keyword being "may," as it is unclear how a case would be decided).

**Can employees' wages be reduced?**  
Under Japanese law, this generally depends on the terms of the employment contract. If an employee is bound by the terms of the contract, the employer may reduce wages if the contract allows for it.

**What steps are required to shorten employee roles during the current Covid-19 pandemic, and how can employers ensure a safe working environment?**  
No matter where the data is collected, such sensitive health data belongs only to essential employees, and k...

**What steps are required to shorten change employee roles during the current Covid-19 pandemic, and how can employers ensure a safe working environment?**  
No matter where the data is collected, such sensitive health data belongs only to essential employees, and k...

**How do I deal with delayed performance of my supplier?**  
In this unprecedented situation, the first thing you must do is read the terms and conditions of the agreement, purchase order, or other document you have with your supplier, assuming there is one. If you have such, please identify if it has what is known as a "force majeure" provision. These provisions cover circumstances where the contract is delayed or frustrated. Many such provisions are based on the contract is delayed or frustrated. Many such provisions are based on the contract is delayed or frustrated. Many such provisions are based on the contract is delayed or frustrated.

**Rule of exemption from breach of contract liability due to a reason not attributable to the breaching party**  
**Rule of significant circumstantial change**

Note that, in general, the interpretation by a court in Japan will tend to be very strict, looking only to the wording of the provision (if a force majeure provision or other provision exists) or narrow constraining the fact situation causing the impossibility. In the case of California, and most other US jurisdictions, the doctrines of impossibility and frustration of purpose will apply when a party's contractual performance is made impossible or impracticable by intervening and unforeseeable events. Cal. Civ. Code §1511(2) states that performance can be excused "... when it is prevented or delayed by an irresistible, superhuman cause or by the act of public enemies..." Again, the scope of application will differ by state and jurisdiction, so consult your attorney about your specific situation.

An indirect, but important, concern is whether such an event may be covered by any business interruption or other relevant insurance you or your supplier may have. In general, such insurance is often based on physical property damage that prevents performance, not on contagion. After the spread of severe acute respiratory syndrome (SARS) from 2002 to 2004, some business insurers added provisions to exclude the effects of contagious diseases from coverage. However, it is important to review your insurance policies to see if such policies may provide some relief.

**THE JOURNAL**  
THE AUTHORITY ON GLOBAL BUSINESS IN JAPAN

**THE HUMAN TOUCH**  
Cisco Japan President  
Dave West on saving your business and community

**Scott Warren**  
Co-Chair  
Legal Services & IP Committee  
scott.warren@sqweb.com

# April 15 Networking : Mid-Month Wednesday Wine Down



**THE WEDNESDAY MID-MONTH WINE DOWN**  
HOSTED BY THE ACCJ LEGAL SERVICES & IP COMMITTEE  
A BYOB VIRTUAL MEETING, WEDNESDAY APRIL 15, 18:00-19:00



PIC•COLLAGE

# May 22 Webinar : Japanese Legal Landscape



 An Introduction to the Japanese Legal Landscape



**Date:** Friday, February 28, 2020  
**Time:** 18:00-20:00  
**Venue:** [ACCJ Tokyo Boardroom](#)  
**Speakers:** Maika Kawaguchi, Squire Patton Boggs;  
Jeffrey Jackson, Jackson Sogo Gyoseishoshi Law Office;  
Sane Sekiya, Tri-Star Legal Office  
**Hosting Committee:** Legal Services and IP  
**Member Fee:** ¥500

PIC•COLLAGE

# May 29 Networking: Fun Friday Month-end Wine Down



# Webinar: The Role of Non-Executive Directors ( LS&IP Committee are co-sponsoring committee)



## THE ROLE OF NON-EXECUTIVE DIRECTORS: THE RIGHT SKILLSETS AND MINDSET

### SPEAKERS:

- *Nicholas Benes*, Representative Director of the Board Director Training Institute of Japan, and non-executive Director at Imagica Group and Advantest
- *Melanie Brock*, CEO of Melanie Brock Advisory, and non-executive Director at Sega Sammy Holdings Inc.
- *Jenifer Rogers*, General Counsel for Asia for Asurion and non-executive Director at Mitsui & Co. Ltd., Kawasaki Heavy Industries Ltd. and Nissan Motor Co., Ltd.

**MODERATOR:** *Yumiko Murakami*, Head of OECD Tokyo Centre

**HOSTING COMMITTEES:** Women in Business, Financial Services Forum, Alternative Investment, Human Resource Management, Legal Services and IP

# Japan Entry Ban: Letter to MOJ & MAF



(January 30 Networking Party) Let's hope we can get back to in person events soon!

