

Yoshimichi Makiyama

Yoshimichi Makiyama is an Attorney-at-Law with KITAMURA & MAKIYAMA in Tokyo, Japan.

His practice areas include finance, intellectual property, environment, energy, antitrust, IT/information security/privacy and international corporate transactions. He received an LL.B. from The University of Tokyo. He also studied with the Legal Training and Research Institute of the Supreme Court of Japan and received an LL.M. from Columbia University School of Law.

He was admitted as an Attorney-at-Law in Japan in 1990 and in New York in 1999. He was admitted as a Patent Attorney in 2004. He is a member of several professional organizations including IBA, IPBA, LAWASIA, ABA, the Daini Tokyo Bar Association, and the Japan Patent Attorneys Association, among others. He is also the executive director of the Entertainment Lawyers Network and an auditor of the Council for Personal Data Protection. He has written articles for several Japanese and international publications.

<http://kitamuralaw.com/staff.html>

Abstract “Globalization of Business Lawyering in Japan: Achievements, Challenges, and Expectations to American Law Schools”

The development of a legal system under globalization has impacted on the legal practice of cross-border transaction, and businesses are being confronted with several different legal systems in foreign jurisdictions as well as foreign languages. On the other hand, the role of the legal system of each country becomes relatively diminished in the area of cross border transactions. The legal risk may realize through uncertain knowledge and recognition of foreign legal systems and international law. From these aspects, it is more important to understand the roles of lawyers who support to solve legal issues in transnational business.

Cross border transactions involve numbers of different jurisdictions and need to care about both global and local aspects. We would mention two major legal systems, common law and civil law.

Japan is the civil law country that has well-developed legal structure and practice under the civil law system, and we can point out development of its own way of lawyering under civil law concept. However, international transaction is likely to adopt common law principles. Comparing with legal practice mainly within existing statutes in civil law countries like Japan, lawyers in the common law countries tend to create their own legal structures. Therefore, it is very significant for the lawyers who practice in civil law countries to learn common law concept and to compare it with one of civil law.

The crucial element for Japanese lawyers is to create ways to form a bridge between different jurisdictions, especially with common law countries. With regard to legal education and training, one of essential methods for young lawyers in Japan is to take an LL.M. or other certain degree at law schools in such common law countries as the United States.

Under globalization, sophisticated legal solutions in different countries should be developed for providing unified and complex structure to support with international transaction. Therefore, creative lawyering is required.