

Suggestions for Claim Drafting and Enforcement of Business Method Patent

The Second Subcommittee,
The Second Patent Committee

In US, a large number of patent rights have already been granted to those inventions called “business method-related inventions”, and there are quite many patent infringement lawsuits filed for those business method patents being underway. In consideration with this fact, discussions were made in the light of enforcement of patent rights, especially of those related to businesses involving commercial transactions over the Internet. In this article, the author provides detailed discussions on; (1) determinants for finding infringements of business method patents in US and in Japan in terms of direct infringement, indirect infringement, cross border, joint illegal acts; (2) suggested claim drafting approaches deemed as most effective for respective possible types of parties upon which a patent is intended to be enforced, such as purchasers, service providers, system developers etc.; (3) comparison between the exemplary claims recommended in this article and 11 instances of well-known business method patents in US; and (4) the manners of enforcement that should be employed for enforcing a patent upon the aforementioned possible types of parties. There is no doubt that, in the future, those businesses involving the use of networks will further globalize, and business method patents or any related patents will increase in number. It is believed that this article will help applicants in obtaining and enforcing their patent rights.

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