known if bringing a recycled product using the reusable parts of once-exhausted patented products to the market again will be subject to any restriction from the patent rights.

This article reviews Japanese and U.S. court decisions relating to recycling system to examine the relationship of recycled products and patented rights where patented products are recycled. Each decisions are examined from two viewpoints: narrow construction of exhaustion doctrine focusing on the recycled products itself (examination based on subject matter); and construction reflecting proprietor's intention (examination based both on subject matter and subjective factor). Logical structure of grounds for finding or not finding infringement is also examined.

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"Completeness" of Gene-Related Inventions

The First Subcommittee,
Biotechnology Committee

Heretofore, it has been considered that in order to complete an invention on a chemical substance, the chemical substance has to be actually produced and that the utility has to be proved. In contrast, a gene-related substance have closer relationship between the structure and the function than a generally known low molecular weight substance. In addition, according to the recent development of biotechnology, the coding region of a protein can be predicted by the genome sequence. Accordingly, once that the genome sequence has been determined, one with ordinary skill in the art could identify the substance encoded by the gene sequence and anticipate the function and utility from the homology of known protein sequences without actually producing the substance, finding its functions and showing the utility based on the functions. Under these backgrounds, the First Subcommittee of Biotechnology Committee has studied the completeness of invention on the gene-related substance in the light of recently rendered two actions of annulment of the trial decision in Japan: "Brain Natriuretic Peptide case (BNP case)" and "T-cell Antigen Receptor Polypeptide-β case (TCR-β case)." In addition, we have tried to provide the criteria for how to decide if the gene-related invention is incomplete or lacking in a requirement of enablement.

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