

How Intellectual Property Divisions Should Participate in Creative and Business Activities – A model of ideal participation –

The First Subcommittee,
The Second Intellectual Property Management Committee

Japanese companies are required to promptly respond to this rapid development of advanced information technology society and economic globalization for their survival. Under the circumstances, how intellectual property divisions of each company should participate in the business activities of their company? Here we form ideal models focused on the “best participation in the business activities.”

The ideal models include following three features:

- 1) to incorporate participation in “planning of business strategies” into the cycle of activities of intellectual property divisions ;
- 2) to place the participation in “planning of business strategies” prior to activities of “ production of rights”; and
- 3) to link “ the production of rights” and ”enforcement of rights” with “business strategies.”

To be more specific, intellectual property information should be timely provided to the top management in the “planning of business strategies”. In the “Production of rights,” the intellectual property divisions should fully use intellectual property information to evaluate themes for research and development, propose individual themes for research and development by themselves and act as not only patent specialists but also inventors. In the “enforcement of rights,” enforcement strategies should be formed in consistency with the business strategies.

Interviews with major Japanese companies are also introduced.

We propose an ideal way of participating in business activities from the standpoint that intellectual property divisions should promote their own activities more actively and boldly break out the old mold.

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Review and Analysis of Recent Cases Relating to Reasonable Royalties

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Royalties for intellectual property, especially patent and utility model, in a license agreement currently seems to be decided by each company based on the conventional formulas as well as its own studies and considerations to find the reasonable amount taking into account the relationship with the other party because there is no single clear criterion. Under the circumstances, patent infringement cases are recently increasing in Japan because of the pro-patent policy of the government. While many cases are settled, disputes pursued until the final decision is delivered are increasing to the extent enough to draw the trends of court decisions as case law.