

CAFC decisions in this respect. Furthermore, based on the analysis results, we discussed practical points worth noting when companies independently consider whether narrow interpretation is possible.

The analysis we conducted in the main text from the viewpoint of the party receiving the notice is also useful as information that provides “points worth noting in order to obtain strong patents.”

[This article appeared on pp. 1225-1234 of “*CHIZAI KANRI*” (Intellectual Property Management), Vol. 55, No. 9(2005).]

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## Study of Recent Patent Infringement Decisions in China

### The Third International Affairs Committee

China, where the number of civil actions on intellectual property infringement has been increasing along with economic development and advancement of science and technology, is currently endeavoring to strengthen intellectual property protection by acceding to the World Trade Organization (WTO) and putting the necessary legal framework in practice by way of the second revision to the Patent Law which preceded the accession.

Under the Chinese justice system, the Supreme People’s Court issues “judicial interpretations,” which binds on the decisions of lower courts. As a “judicial interpretation” on patent infringement, “Several Provisions by the Supreme People’s Court on Issues Relating to Application of Law to Adjudication of Cases of Patent Disputes” (No. 21; 2001) came into force in July 2001, and has significantly influenced court decisions rendered thereafter.

Also in China, databases on court decisions have been created following the development of the justice system, and several people’s courts publicize their decisions on their websites.

In the main text, with the objective to understand the decisions Chinese courts made in patent infringement cases, we examined the decisions rendered by the Beijing Court and the Shanghai Court on infringement of patent rights and utility model rights in January 2003 and thereafter, which have been posted on the Internet. In particular, we selected six court decisions relating to factors that may be important for the comparison with Japanese court decisions, such as claim interpretation (including the doctrine of equivalents), indirect infringement, and working in good faith, and presented points worth noting for infringement cases in China.

[This article appeared on pp. 1243-1253 of “*CHIZAI KANRI*” (Intellectual Property Management), Vol. 55, No. 9(2005). ]

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## Study of Cases Involving Abuse of Trademark Rights

### Trademark Committee

Since the Supreme Court rendered its judgment on the Kilby patent (judgment of the Third Petty Bench of the Supreme Court of April 11, 2000), trademark infringement cases have also been judged

in reference to and in accordance with this judgment. However, unlike the Patent Law, the interest protected by the Trademark Law is the business reputation that is symbolized in the trademark, and the Trademark Law sets a period of limitation for filing an appeal with the Patent Office for invalidation of a registered trademark even where there is a reason for invalidation. Thus, in some aspects, trademark rights cannot be dealt with in the same manner as patents rights being dealt with in terms of invalidation and abuse of rights. Based on this awareness, we examined and analyzed court cases on trademark rights that were judged before and after the Kilby patent judgment, and discussed abuse of trademark rights from the viewpoint of persons engaging in trademark practice.

[This article appeared on pp. 1993-2006 of “*CHIZAI KANRI*” (Intellectual Property Management), Vol. 55, No. 13(2005).]