
Contents & Abstracts

■ Utilization of Intellectual Property as a Tool to Understand Customers' Business2

Nobuyoshi YAMORI

■ Abuse of Right Defense Created by the Supreme Court in “Eemax” Case.....6

Masaharu MIYAWAKI

In “Eemax” case (Supreme Court, 3rd Division, February 28, 2017, Minshu Vol. 71 No.2, p.221 [Case No Heisei 27 (Ju) 1876]), The Supreme Court held that:

In a case that a trademark has been registered in violation of Article 4, paragraph (1), items (x) of the Trademark Act, claim for injunction or other claims based on such trademark against the person who had been already recognized as a holder of a well-known mark, at the time of filing of the application for the trademark registration constitutes abuse of the trademark right, except in extenuating circumstances.

This article criticizes the new abuse of right defense created by the Supreme Court. This article will conclude:

(1) violation of Article 4, paragraph (1), items (x) of the Trademark Act itself is not sufficient to establish a prior existing abuse of right defense, which was approved by the Supreme Court in “Popeye muffler” case (Supreme Court, 2nd Division, July 20, 1990, Minshu Vol.44 No.5, p.876 [Case No. Showa 60 (o) 1576]), and

(2) because there are no persuasive reasons why prior users are exempt from the Article 32 of the Trademark Act by relying on the new abuse of right defense, the Court’s decision to create such defense is questionable.

■ Future Directions of Evidence-based Intellectual Property Policy Making 14

Isamu YAMAUCHI

The intellectual property system should respond to the recent development of IoT- and AI-related technology and to the increase in the amount of data. However, we cannot so much as measure and grasp the spread and progress of these technologies. Therefore, it is quite important to provide high quality “evidence” that bases the discussion on the future directions of Intellectual Property Policy. This paper introduces the empirical studies on the effects of patent system in Japan and the United States, and points out the importance of PDCA cycle of policy making that incorporates the ex-ante prediction by experimental economics and ex-post evaluation by econometric analysis.

■ **IP Management in University toward Innovation in View of Exit-oriented for Maximizing the Social and Economic Value** 33

Ryo FUNAKOSHI & Yuji TOKUMASU

In the context of innovation in view of exit-oriented, it would be important for university to manage IP toward maximizing the social and economic value. This paper attempts to address what university should pay attention to in that case.

■ **IP High Court Decision on Likelihood of Confusion relating to Device Mark** 41

Masako NISHIMURA

The JPO trial decision dismissed an invalidation request against the present mark, because, even if the prior mark used was a famous name for Energy Drink, there was no likelihood of confusion with the cited mark consisting of its constituent part. IP High Court ruling decided that the present mark fell under Article 4(1)(xv) of the Trademark Law, because the cited mark was also famous and the present mark was similar thereto, and revoked the trial decision.

■ **Simple Analysis over Non-use Related Clauses in Major Countries' Patent Laws** 50

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Yoshihiro TANABE, Hayato IKOMA & Soichiro HASEGAWA*

This article mentions the similarity and difference among patent laws of developed countries in Europe and US and emerging countries such as BRICS and ASEAN as for the no-use related clauses such as compulsory license and forfeiture or revocation of patent in the laws.

■ **IP Library as a Base for Study of Intellectual Property** 70

Manami ISHIMOTO

The IP Library of the Foundation for Intellectual Property is a library specializing in collecting materials on intellectual property and making them available to the public. This paper explains the features of this library's collection of books and journals and introduces the patent database accessible on the Internet.

■ INPIT - KANSAI is with Everybody in an Area: Opening of INPIT-KANSAI 75

Yuji IZUMI

In July 2017, the JPO and the National Center for Industrial Property Information and Training (INPIT) opened the “INPIT-KANSAI office” in Osaka to provide better support in IP protection and utilization by small and medium-size enterprises, etc. located in the Kansai region of Japan.

INPIT-KANSAI office offers multifaceted functions and systems to provide detailed support while closely coordinating with local governments and related agencies, etc. in the region.
