

Introduction

Japan does not treat pacts as for
substantial patent issues

Beyond the Letter of the Law
Sometime Beyond our Precedents

Osaka High Court Case 1996 t-PA Patent

- Patent for tissue plasminogen activator
(t-PA)
- Invention and method for dissolving blood clots used in treating diseases such as cardiac infarction and thrombosis
- t-PA patent applicants specified by the sequence of amino acid according to JPO examiner's suggestion.

Equivalence

- The court relied on the doctrine of equivalent
- Infringement suit was also brought in the U.S. On the basis of the U.S. patents corresponding to Japanese patents
- Both decisions are derived from the nature of the product of recombinant DNA technology

Eligibility

- Patent Act Article 1(1)
 - Invention in this Act means the highly advanced creation of technical ideas utilizing the laws of nature.
- Industrial application
- Laws of nature

Obviousness

- EPO applies Problem-and-solution approach
- The US Federal court applies TSM test.
teaching, suggestion, motivation test

Obviousness

- Patent Act Article 29(Conditions for Patentability)
 - (2) Where, prior to the filing of the patent application, a person ordinarily skilled in the art of the invention would have been able to easily make the invention based on an invention prescribed in any of the items of the preceding paragraph, a patent shall not be granted for such an invention notwithstanding the preceding paragraph.

6th International Judges Conference on Intellectual
Property Law
May 2011 Brussels Belgium

- On the obviousness issue, secondary consideration theme seems to be controversial.
- At that conference, whether secondary consideration could be put in mind or not was discussed. In Japan, this issue is immature, yet to be stabilized.

International Judges Conference

- 6th International Judges Conference on Intellectual Property Law
 - May 2011 Brussels Belgium
- Joint Judicial Conference on Japan and U.S. Intellectual Property Rights
 - October 2011 Tokyo Japan

Conclusion

- Our judgments rely and rest on the hands of all patent attorneys' hands, depend on your shoulder.
- I expect your good arguments and persuasion.