
INTRODUCTION OF ARTICLES

The Scope of “Information” as a New Subject Matter under Japanese Patent Law

The Second Subcommittee,
The First Patent Committee

“Law Amending Parts of Patent Law” submitted to the Diet on February 21, 2002, enacted in April and become effective in September of the same year, stipulates that “product” as set forth in Patent Law includes software programs. “Programs” as used here mean a software program and “other information used for process by computer and similar to programs.”

In fact, the current examination manual does not stipulate what “information” “similar to programs” is.

This article reviews how information is actually protected under Patent Law, and identifies and examines the gray-zone cases of “information having specific function” or “data having data structure.”

As a result of the examination, we found several problems including “obscure border between programs and information,” “unsatisfactory protection to data structure” and “imbalance in protection of object and information.”

This article further calls for revision of examination manual in respect of the following points as specific recommendations to enhance protection of “information:”

- 1) to allow applicant to claim “data structure” as “product”;
- 2) to clarify application of “definitions of programs”; and
- 3) to provide the same protection as given to “object” to three-dimensional protein structure to which unique information identified as technical concept is added.

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Relationship of Recycled Products and Patent Rights

The Fifth Subcommittee,
The Second Patent Committee

Recycling movement has actively been promoted in recent years under which reusable parts of disused article and wastes are processed for reuse in light of protection of environment. While it is widely known that anyone who bought patented products from patentee or any authorized party can freely use the products in principle because of exhaustion of the patent rights, it is not