１．６ タイ知的財産及び国際取引中央裁判所への質問書

CIPITC:The Central Intellectual Property and International Trade Court

１．組織・全般
[1]現在の CIPITC の概要（人数，規模，権限，施策），取組み方針を教えてください。
[2]判事（Career Judge）及び補助判事（Associate Judge）に関する下記項目を教えてください。
- ・分野ごとの人数
- ・権限及び職務範囲
- ・判事及び補助判事にはどのような人がなれるか？
- ・専門性の維持・向上のために行っているトレーニングなど

[3]知的財産権の保護のために、特に注力されている点及び現状の課題について教えて下さい。
[4]知的財産権訴訟の判決内容を知るための方法（判決文公開データベース等）はありますか？

２．統計・傾向
[5]次の知財訴訟の統計についてご教示下さい。
- ・ 過去５年間の知的財産権に関する訴訟件数（年度別）
- ・ 権利の内容（特許権、小特許、意匠特許、商標権、営業秘密、ライセンス契約等）、
- ・ 請求内容（知的財産権侵害に基づく差止請求、損害賠償請求、ライセンス契約の不履行に基づく損害賠償請求等）、
- ・ 結論（棄却、和解、認容、損害賠償額）、
- ・ 民事裁判と刑事裁判の比率、
- ・ 権利の無効が争点となった裁判の割合
- ・ 平均的な審理期間
- ・ 特許侵害が多い技術分野

[6]知的財産権訴訟の当事者は、どこの国の企業が多いでしょうか？ 日本企業が当事者となった事件はどのくらいありますか？
[7]知的財産権訴訟における審理手続の流れや特徴を教えてください。
[8]最近の特許訴訟の傾向や注目された訴訟事件がありましたら、教えてください。

３．制度
[9]過去の判例はどの程度、後の判決に拘束力を与えるのでしょうか？
[10]次の論点が扱われた事件がありましたら、教えてください。
- ・仮差止命令（特許法 77 条の 2）が認められた事件
- ・均等（特許法 36 条の 2）が争点になった事件（均等が認められる要件について判例や裁判所の判断基準）
- ・先使用権（特許法 36 条 2 項（2））が争点となった事件
- ・並行輸入（特許法 36 条 2 項（7））が争点となった事件
- ・証拠保全（アントンピラー命令）が認められた事件
- ・裁判外紛争解決手続（ＡＤＲ）が用いられた事件

以上

Questionnaires to The Central Intellectual Property and International Trade Court [CIPITC]
Japan Intellectual Property Association
4th international Affairs Committee

1. Organization and General

[1]   Could you inform us of the overview of the current CIPITC (number of the staff, scale, authority, measures), policy?

[2]   Could you inform us of the following items regarding Career Judges and Associate Judges?

• the numbers of the Career Judges and Associate Judges by fields

• authority and duties scope of Career Judges and Associate Judges

• What kind of person can become Career Judges and Associate Judges?

• training for Career Judges and Associate Judges to maintain and improve the expertise

[3]   Could you inform us of any points and current issues on which the CIPITC particularly focuses for the protection of the intellectual property rights?

[4]   Is there any database to know the ruling contents of the intellectual property rights litigation (ruling public database, etc.)?

2. Statistics and Trends

[5]   Please teach us about the following *statistics* of IP litigations:

• the number of litigations on intellectual property rights in the past five years by year;

• the contents of the rights at issue (patent rights, petty patent, design patents trademarks, trade secret, license agreements, etc.);

• contents of claims at issue (claims for injunctive relief based on the intellectual property rights against infringement, damages claims, claims for damages or the like based on default of license agreements);

• conclusion (admitted, non-admitted, settlement, withdrawal, amount of damages);

• the ratio of civil and criminal trials, the percentage of trials in which the right at issue was invalidated;

• the average trial period;

• the technical fields in which patent infringement often occurs.

[6]   Which country's companies account for a large part of the parties of intellectual property right litigation as plaintiff or defendant?   How many cases are there in which a Japanese company were involved?

[7]   Could you inform us of the flow chart and features of the trial proceedings in intellectual property litigation?

[8]   Could you inform us of any trends of recent patent litigations and remarkable legal cases?

3. System

[9]   How much past precedents have a binding force over the rulings thereafter?

[10]   Could you inform us of any case which handles the following issues?

- case in which a preliminary injunction was admitted (Article 77-2 of the Patent Law)
- case in which the doctrine of equivalents (Article 36-2 of the Patent Law) was at issue (any case law on the conditions therefor or criteria by the court, if any)
- case in which right of prior use (Article 36 (2)(2) of the Patent Law) was at issue
- case in which parallel import (Article 36 (2)(7) of the Patent Law) was at issue
- case in which preservation of evidence (Anton Pillar Order) was admitted
- case in which Alternative Dispute Resolution (ADR) was used

End