



# HARAKENZO

WORLD PATENT & TRADEMARK  
PATENT LAW FIRM

JAPAN

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## Japan's surplus in patent royalty payment reaches 547 billion yen in 2006 for the first time

2006年の特許黒字、過去最高の5470億円に

Japan's balance in patent royalty payment, which is a difference between patent royalty income from foreign countries and patent royalties paid to foreign countries, reached 547 billion yen in 2006 for the first time. It is mainly because: Japanese enterprises receive more patent royalties from foreign subsidiaries as overseas manufacturing increases; and Japanese enterprises lay more weight on patent strategies so as to reduce patent royalties paid to U.S. and European enterprises. Furthermore, the increase in patent royalty income from Asian enterprises also contributes to Japan's surplus in patent royalty payment. Japan's balance in patent royalty payment became surplus in 2003. Since then, Japan's surplus in its balance has increased steadily, which shows that Japanese enterprises have almost established a system for making profits on intellectual property.

According to International Balance of Payments published by the Ministry of Finance, the sum of patent royalties which Japan received from foreign countries in 2006 was 2.329 trillion yen, which represents an increase of 20% over the previous year. On the other hand, the sum of patent royalties which Japan paid to foreign countries in 2006 was 1.782 trillion yen, which represents an increase of 11% over the previous year. As a result, Japan's surplus is 547 billion yen which is an increase of 66% over the previous year. The surplus is the largest since 1991 from when comparable statistics has been recorded.

海外から受け取った特許料収入から支払い分を差し引いた日本の特許収支が、2006年に初めて5000億円を超えた。主な要因として、海外生産の拡大で日本企業が海外子会社から受け取る特許料が増えたこと、また特許戦略の強化で欧米企業に支払う特許料を抑制したことが挙げられる。さらに、アジア企業からの収入も拡大していることも背景にある。特許収支は03年に黒字に転換して以降、着実に黒字幅を増やしており、「知的財産」で収益を上げるという体制が定着しつつある。

なお、財務省の国際収支速報によると、06年に日本が海外から受け取った特許料は前年比で20%増の2兆3290億円、海外に払ったのは11%増の1兆7820億である。この結果、黒字は66%増の5470億円になり、統計で比較可能な1991年以来、過去最高となった。

## Former researcher filed lawsuit seeking 870 million yen 脂血症治療の成分発明、元研究員が対価8億円求め提訴

On March 6, 2007, a former researcher of pharmaceutical company Shionogi & Co., Ltd. filed at the Osaka District Court a lawsuit against the company for seeking 870 million yen. The researcher had invented a main ingredient of a therapeutic drug for hyperlipemia, one of the diagnostic criteria for metabolic syndrome, but the researcher alleged that he was insufficiently rewarded for the invention.

According to his claim, in 1991, the researcher invented, in collaboration with three other researchers, "rosuvastatin calcium" which reduces bad cholesterol in human blood. In May 1997, Shionogi was granted a patent over a substance ("Crestor") whose main ingredient is "rosuvastatin calcium".

Thereafter, Shionogi agreed licensing of Crestor with British pharmaceutical company AstraZeneca and received 20.3 billion yen as patent royalties from the company.

Shionogi paid 6000 yen to the four inventors at the time when the patent application for the invention was filed, and paid 9000 yen to them at the time when Shionogi was granted a patent over the invention. In 2006, Shionogi proposed to pay about 14.5 million yen as a bonus for their results based on the amended company rules of Shionogi, but the researcher refused to receive the payment, alleging that the sum of the payment was unreasonable.

The researcher alleged that in consideration of judicial precedents, the sum of payment corresponding to the four inventors' contribution to the invention is 20% of the sum Shionogi had received as patent royalties, and in consideration of the degree of his contribution out of the four inventors' contribution, it was valid for him to receive 870 million yen in compensation for his contribution.

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メタボリック・シンドローム(内臓脂肪症候群)の診断基準の一つ、高脂血症の治療薬の主成分を発明した塩野義製薬の元研究員が2007年3月6日、「発明への十分な対価を受け取っていない」ことを理由として、同社を相手に約8億7000万円の支払いを求める訴えを大阪地裁に起こした。

訴状によると、元研究員は1991年、他の研究員ら3人と共同で、血中の悪玉コレステロールを低下させる「ロスバスタチンカルシウム」を発明し、塩野義製薬は1997年5月、これを主成分とする物質(「 Crestor 」)で特許権を取得した。

その後、同社はライセンス契約を結んだアストラゼネカ社側から計203億円の特許使用料収入を得た。

一方、同社は発明者4人に特許申請時に計6000円、取得時に計9000円を出した。そして、2006年には、改定した社内規定に基づき実績報奨金約1450万円の支給を打診したが、元研究員は「不合理である」と受け取りを拒否していた。

元研究員は、判例などを考慮した結果、発明者の貢献度は利益の20%と判断され、また、共同発明者との寄与度などを算定すると対価は、8億7000万円が相当であると主張している。

The Examination of Proficiency in Intellectual Property becomes national examination  
「知的財産検定」が国家試験へ

"The Examination of Proficiency in Intellectual Property", a private examination system for intellectual property, is now in the last stage of transition to a national examination. According to Association of Intellectual Property Education which is in charge of the Examination of Proficiency in Intellectual Property, the examination will be included in "National trade skill testing and certification system" authorized by the Ministry of Health, Labour and Welfare in 2008.

The Examination of Proficiency in Intellectual Property was established for improving minor enterprises' abilities in intellectual property practice, allowing Japan to be "a nation built on intellectual property". However, as the examination is a private examination system, minor enterprises must check qualities and reputations of the examination by themselves, which is troublesome for the minor enterprises. Consequently, the examination has been adopted almost only by major enterprises.

If the Examination of Proficiency in Intellectual Property becomes a national examination, learning wills of engineers will be further enhanced while more and more engineers are getting interested in intellectual property. Furthermore, as the examination will be authorized by the government, minor enterprises are likely to adopt the examination.

As regards the contents of the examination, three major points will be changed after the examination becomes a national examination. (1) In addition to current "1st grade" and "2nd grade", "3rd grade" is newly provided. (2) A certain amount of experiences in intellectual property practice will be required to take the examination (it is likely that workers in other industrial fields and students can take the examination for "3rd grade" regardless of experiences in intellectual property practice). (3) In the examination, a written examination has so far doubled as a practice examination. In the future, a written examination and a practice examination will be separately provided.



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知的財産に関する民間の検定制度「知的財産検定」を、国家検定にするための準備が大詰めを迎えている。同検定を実施する知的財産教育協会によると、2008年から新体制に移行することを目指し、厚生労働省が所管する「技能検定制度」に組み入れてもらう方向だ。

知的財産検定が創設された背景として、日本が“知財立国”を目指すために、中小企業の知財実務能力を高める狙いがあった。しかし、民間検定の場合、検定の質や評判などを中小企業が自ら調べなくてはならず負担が大きいため、実際に知的財産検定を採用する企業は大手がほとんどであった。

知財検定が国家試験となれば、知財に関心を持つ技術者が増える中で技術者の学習意欲を高める効果が期待できる。さらに、国が認めていることから中小企業でも採用が広がる可能性が高い。

試験の内容に関しては、国家検定になった後、大きく三つの変更点が出てくる。第1に、これまでの「1級」「2級」に加えて、「3級」が新設される。第2に、(3級に関しては実務経験を問わず、一般の社会人・学生も受験できるものとなる可能性が高いが)受験資格として一定の実務経験が必要になる。第3に、試験の実施形式が従来は、筆記で学科試験と実務試験の両方を兼ねていたのに対し、学科試験(筆記)と実務試験の二つに分かれることになる。



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Please Contact us if You have any Comments or Require any Information.

Please acknowledge that the purpose of our column is to provide general information on the field of intellectual property, and that the description here does not represent our legal opinion on a specific theme.

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