



HARAKENZO

WORLD PATENT & TRADEMARK
PATENT LAW FIRM

JAPAN

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Collective Trademark "Toyoma Kusuri (Medicine)" is Registered 団体商標「富山のくすり」登録、ブランド力の強化へ

A collective trademark "Toyoma Kusuri (Medicine)" for which Pharmaceutical Industry Association of Toyama Prefecture has filed an application with the Japan Patent Office is registered by August 16, 2007. The targets of this collective trademark registered are household medicines famous for "Medicine Seller of Toyama".

In the future, creation of a unified design is planned. The unified design will be used for a medicine box, a package, a packaging material, and the like of household medicines. The unified design also will be used in public information and advertising activities, during a nationwide visit of a salesman/saleswomen of the household medicines. Moreover, brand power of "household medicines of Toyama" is to be strengthened by active implementation of CMs and events. Thus, industry representing Toyama is planned to be disseminated all over Japan.

An application of this collective trademark "Toyama Kusuri" is filed in May, 2006 by Pharmaceutical Industry Association of Toyama Prefecture, with support of "Regionally Based Collective Trademark Information Distribution Promotion Plan of Toyama". The targets of the application are various kinds of medicines for household. Nationwide publicity is necessary for the registration of such a collective trademark indicative of a geographic name for which an application can be filed by a non-profit incorporated association or an industrial association. The registration of "Toyama Medicine" is granted for its long history and tradition known for "Medicine Seller of Ecchu Toyama (current Toyama Region)", or the like.

Household medicine industry of Toyama Prefecture has problems of decrease in sellers of the medicines as well as decrease in sales of medicines due to a drastic growth of drugstores expanded nationwide in a chain system. Therefore, the household medicine industry is facing survival issues. The Pharmaceutical Industry Association of Toyama Prefecture hopes that the registration of this collective trademark will become a trigger to activate the household medicine industry of Toyama.

富山県薬業連合会が特許庁に出願していた団体商標「富山のくすり」が、2007年8月16日までに登録された。この団体商標は、「富山の薬売り」で有名な配置用医薬品を対象に登録されたものである。

今後、統一デザインを作成し、それを配置薬の配置箱や包装・梱包材等に使用するとともに、配置薬販売員が全国を巡る中での広報・宣伝活動に生かしていく。また、CMやイベントなどを積極的に展開して、「富山の配置薬」のブランド力を強化し、富山を代表する産業を全国に発信していく。

この団体商標「富山のくすり」は、配置用医薬品の各種薬剤を対象に、同連合会が県の「地域団体ブランド発信応援事業」の助成を受けて2006年5月に出願したものである。非営利の社団法人や事業協同組合などが出願できる地名入り団体商標の登録には、全国的な知名度が必要であるが、「越中富山の薬売り」などで知られる長い歴史と伝統によって登録が認められたといえる。

富山の配置薬業界は、全国規模でチェーン展開されるドラッグストアの急成長などにより売り上げが減少するとともに販売員のなり手も少なくなり、その生き残りが迫られる状況にある。そこで、この団体商標の登録をはずみにして、富山の配置薬業界の活性化を図りたい考えである。

US House Approves Patent Reform 米下院、特許法改正案を可決、先願主義への転換が前進

The U.S. House of Representatives approved the patent reform bill on September 7, 2007 by a majority vote of 220 to 175. This patent reform bill would shift the U.S. patent system from the "first-to-invent" system to the "first-to-file" system. In the "first-to-invent" system a patent is granted to the first inventor whereas in the "first-to-file" system a patent is granted to an applicant who filed an application for the invention first, when the invention in one invention has the same content as an invention in another application.

U.S. is only one advanced country that adopts the "first-to-invent" system. Japan and Europe has been requesting a shift to the "first-to-file" system. This is because, in the "first-to-invent" system, particularly an individual inventor may file a lawsuit against a patent having been obtained. This has been a cause of concern in expanding business in U.S. that has a lawsuit society.

The shift to the "first-to-file" system has also been desired in view of harmonization of the patent system with various countries and an ultimate establishment of an international standard. There is still uncertainty in discussion of this patent reform bill in the Upper House or endorsement of this patent reform bill by the president. However, if this patent reform bill is approved, a radical reform of the U.S. patent system is to be realized for the first time since nineteenth century. This reform would influence patent strategies of enterprises of various nations in U.S.

Howard Berman, in Republican Party, who is the author of this reform bill points out in his statement that "the Act will inject needed clarity and certainty into the system". He also says that "While cognizant of the enormity of the change that a 'first-to-file' system may have on many small inventors and universities, a grace period is maintained to substantially reduce the negative impact to these inventors." Even after approval of a revised patent law, additional time may be required before the revised patent law is implemented.



米下院本会議は2007年9月7日、特許法改正案を賛成多数(220対175)で可決した。この特許法改正案には、発明の内容が同じ場合、最初に発明した人物に特許権を与える「先発明主義」から、最初に特許を出願した人に特許権を与える「先願主義」への転換が盛り込まれている。

米国は主要先進国で唯一、先発明主義を採用しており、日本や欧州が先願主義への転換を求めている。これは、先発明主義では、保有する特許に対して、特に個人発明家などから「先に発明した」と訴訟を起こされることがあり、訴訟社会である米国での事業展開における懸念材料となっていたためである。

また、各国間の特許制度の調和、引いては国際基準の確立の観点からも、先願主義への転換が望まれていた。

今後、上院の審議や大統領の署名には不透明な部分もあるが、この特許法改正案が成立すれば、19世紀以来という米国特許制度の抜本改革が実現され、各国企業の米国での特許戦略に影響を与える可能性がある。

なお、本改正案の起草者である共和党の Howard Berman 下院議員は声明のなかで、「この改正案は、米国の特許制度に明瞭性と確実性ともたらず。」点を指摘するとともに、併せて「先願主義への移行が、零細発明家や大学に衝撃を与える恐れがあり、その影響を軽減するべく猶予期間を設ける。」と述べている。改正特許法は、その成立後も施行までには更に期間を要する可能性がある。

Takeda Settles Lawsuit Claiming Remuneration for Employee Inventions

武田薬品、発明対価訴訟で和解、元研究員遺族に3759万円支払い

On September 4, 2007, Takeda Pharmaceutical Company Limited ("Takeda") announced that it has settled a lawsuit claiming remuneration for employee inventions and will pay 37.59 million yen (approximately 327 thousand US-dollar) in the settlement. The lawsuit has been filed by a bereaved family of a former researcher involved in the invention of Takeda's main medicine. This main medicine is Leuprorelin acetate (marketed under the brand name of "Leuplin" in Japan), a treatment for prostate cancer and endometriosis, sold by Takeda since 1989. The "Leuplin" has a characteristic such that one injection of "Leuplin" keeps a treatment effect of suppressing progress of cancer and cancer pain for four months at the maximum. The "Leuplin" is widely used for treatment of prostate cancer, and Takeda achieves "Leuplin" sales of two trillion yen in approximately 80 countries.



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Takeda has introduced a system in which remuneration is paid for employee inventions in accordance with an amount of sales. However, such remuneration has not been paid to the former researcher involved in the development of a technique to keep the beneficial effect of this medicine for an extended period.

The lawsuit was brought against Takeda before the Tokyo District Court in October 2004 and December 2005 by the bereaved family, including mother, wife, and the like, of the former researcher, as plaintiffs who alleged that they had inherited the right to claim remuneration of the employee inventions. The plaintiffs have initially claimed in the lawsuit payment of 1.5 billion yen (approximately 13 million US-dollar) as remuneration for the employee inventions. In the settlement proposed by the Tokyo District Court, it is stipulated that, in settlement, Takeda shall pay 37.59 million yen (including interest) for all employee inventions (including foreign patents and know-how as well) of the former researcher who was one of the inventors of the patents in dispute. Both Takeda and the plaintiffs have accepted the settlement proposed.

武田薬品工業は2007年9月4日、同社の主力薬の発明にかかわった元研究員の遺族から、発明の対価を支払うよう求められていた訴訟について、3759万円を支払うことで和解したと発表した。

この主力薬は1989年に発売された前立腺ガン・子宮内膜症治療薬「リュープリン」で、1回の注射で最長4カ月、ガンの進行や痛みを抑える治療効果が持続するのが特徴である。前立腺ガン治療で広く使われており、約80カ国で販売され2兆円以上を売り上げている。

同社は、職務上の発明に対し、売上高などに応じて補償金を支払う制度を導入していたが、この薬の薬効を長期間持続させる技術の開発に携わっていた元研究員には、補償金は支払われていなかった。

これに対して、元研究員の母親や妻などの残された遺族が、職務発明についての対価請求権を相続したとし、2004年10月と2005年12月とに東京地方裁判所に約15億円の支払いを求めて提訴していた。

これに対して、東京地方裁判所は、「訴訟対象特許の発明者の一人である元従業員の全ての職務発明(外国特許及びノウハウを含む)を対象として、武田薬品が原告らに金3759万円(遅延損害金を含む)の和解金を支払う」との和解勧告を提起し、今回原告被告の双方が裁判所の和解案を受け入れたものである。



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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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For extension of business, we moved our Tokyo Office from the 12th floor to the 21st floor of the World Trade Center Building on August 1, 2007. There are no changes in the phone number, the facsimile number, and the like.

弊所東京事務所は、業務拡張のため2007年8月1日に、同ビル内の12階から21階に移転しました。
なお、電話番号、FAX番号等に変更はありません。