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The Research on the Scope of the Compensatory Damages Incurred from Patent Infringements of the U.S. and Taiwan

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Abstract

Through the survey of academic issues and judicial practices, this study will make a research and comparison between the scope of the compensatory damages incurred from patent infringements of the U.S. and that of Taiwan's. Because the Paragraph 1 of Article 85 of Taiwan's Patent Law omits some other causes that may cause injury to the patentee, and hence violates the basic principle of compensatory damages, this study suggests that this Paragraph should be deleted and the method of calculating damages also be revised. Besides, to prevent willful and reckless infringement of valid patents, and to return the injured party to the position before injury, the court should be able to award reasonable attorneys' fees to the prevailing party where the infringement is willful.

Keywords: patent infringements, the compensatory damages, the Paragraph 1 of Article 85 of Taiwan's Patent Law, attorneys' fees