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The Practical Development of Doctrine of Equivalents in the Supreme Court of Taiwan —A Survey of 2013 Tai Shang No. 1986 Decision

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Abstract

The doctrine of equivalents is an established legal rule adopted by patent infringement litigation practitioners and professors. However, the Supreme Court of Taiwan has drawn criticisms for not elaborating the theory of this doctrine and providing little guidance on how to apply this doctrine in the decisions. In response to these criticisms, the Supreme Court of Taiwan provided its first clear delineation on the doctrine of equivalents in 2013 Tai Shang No. 1986 decision, which made a meaningful stride in developing the doctrine theory in the jurisprudence of Taiwan. Taking a comparative perspective to the Taiwanese Supreme Court decision, this article discusses the doctrine of equivalents and its limits as applied in the United

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States and Japan to explore their differences, specifically with respect to the all-elements rule, prosecution history estoppels, prior art preclusion, interchangeability and readiness of replacement among these jurisdictions. Based upon a legal analysis of the Supreme Court decision, the article concludes by presenting preliminary suggestions and possible approaches taken as references to deal with disputes yielded during application of the doctrine, along with the aim of achieving further development of the doctrine theory in the Supreme Court in Taiwan.

Keywords: Doctrine of Equivalent, All-elements Rule, Prosecution History Estoppels, Prior Art Preclusion, Interchangeability and Readiness of Replacement