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Empirical Study of Patent Infringement Litigation in Taiwan

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Abstract

During the period between August 1, 1999 and September 30, 2005, there are a total of 169 cases of patent infringement litigation in all district courts of Taiwan. Among them, only 23% of judgments were in favor of plaintiff. Concerning the issues of claim construction and negligent test standard, the judgments are not in concert. In general, most of judgments mainly relied on the expert opinion(s) to determine whether defendants infringed or not. However, 26% of judgments were determined directly by the judge, not entirely relying on the expert opinion. The test standards of the preliminary injunction relief are investigated by using the AHP analysis. The factors concerning “reasonable likelihood of success”, “irreparable harm”, and “public interest” have roughly the same weight. Concerning that only 23% of judgments are in favor of plaintiff, the “reasonable likelihood of success” should be a key factor in Taiwan.

Keywords: patent infringement litigation, empirical study, expert opinion, preliminary injunction relief