

IS A JUDGMENT A
SINGULAR EFFECTIVE
WAY FOR SOLUTION OF
THE PATENT
CONFLICT?

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PRACTICE OF JUDICIAL SETTLEMENT IN JAPAN

- A.
- Japanese Civil Procedure Law states that a court may attempt to arrange a settlement at any stage of a litigation.

PRACTICE OF JUDICIAL SETTLEMENT IN JAPAN

◎ B. Practice

- ◎ In Japan, settlement by the court plays a very important role at the final stage of the patent litigations, especially in a case when the patentee has a good chance to win the case.
- ◎ It is principally possible to persuade the parties only when judges have reached their conclusions after hearing the profound discussions by the parties.

SUBSTANTIAL WINNING RATE OF THE PATENTEE

- ◉ Tokyo and Osaka District Courts in 2011-2013
- ◉ When we look at the outcome of cases ended by judgments, approximately 25 percent of patentees won their cases.
- ◉ According to the recent research,
- ◉ the total number of cases in which a patentee won is approximately 45 percent out of all the patent litigations that ended by judgments and by courts settlements.

RISK AND MERITS OF THE JUDICIAL SETTLEMENT

- A. Risk
- Might judges be tainted by the settlement procedures?

RISK AND MERITS OF THE JUDICIAL SETTLEMENT

- ⦿ a) Settlements at the courts could lead to final and complete solution of conflicts, while the judgments often result in appeals and conflicts continue.
- ⦿ b) Settlements could result in various and flexible solution of conflicts, e.g. (cross) licensing agreement or setting of the grace period to cease the production or sales of the products.

RISK AND MERITS OF THE JUDICIAL SETTLEMENT

- c). Parties could predict the conclusion of the judgment through the comments made by judges at the settlement procedure.