

## The Panelists パネリスト



**Makiko Takabe**, Chief Judge, IP High Court

**Makoto Hattori**, Attorney at Law, Abe, Ikubo & Katayama



**Kyuhong LEE**, Presiding Judge, Patent Court of Korea

**Sang-Wook HAN**, Attorney at Law, Kim & Chang



**Wang yuanyuan**, Senior Judge, Shenzhen Intellectual Property Court of Shenzhen Intermediate People's Court

**Chixue WEI**, Attorney at Law, Linda Liu & Partners



**John Nicholas**, Justice, Federal Court of Australia

**Sarah Matheson**, Attorney at Law, Allens

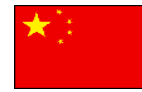
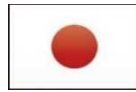


**Prathiba M. Singh**, Justice, High Court of Delhi

**Pravin Anand**, Attorney at Law, Anand & Anand

Moderators: **Harumi Kojo** and **Sumiko Sekine** 

# The Outcome of the Mock Trials 模擬裁判の結果



Element/Conclusion 構成要件/結論	Japan 日本	Korea 韓国	China 中国	Australia オーストラリア	India インド
“Car navigation system” 「カーナビゲーションシステム」	✓	✓	✓	✓	✓
“First memory means” 「第1記憶手段」	✓	✓	✓	✓	✓
“Second memory means” 「第2記憶手段」	✓	✗	✓	✗	✓
Literal infringement 文言侵害	Infringement 侵害	No infringement 非侵害	Infringement 侵害	No infringement 非侵害	Infringement 侵害
Doctrine of equivalents 均等侵害		No DOE 均等侵害 なし		N/A 均等論 なし	

✓ element satisfied 充足

✗ element unsatisfied 非充足

## Topics for Discussion トピック

Consideration of the Claim Terms and the Specification

クレーム文言と明細書の参酌

1

Consideration of the Prosecution History

出願経過の参酌

2

Specifying the Features of Accused Product/Method

被告製品/方法の特定

3



1. Does the court always consider the specification?

明細書を常に参酌するか

2. Construction of the “first memory means” and the

“second memory means”

「第1記憶手段」, 「第2記憶手段」の解釈

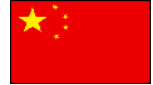


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2. What is “Purposive Construction”?

目的的解释とは何か

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# Consideration of the Prosecution History

## 出願経過の参酌

2



Australia オーストラリア	India インド	China 中国	Korea 韓国	Japan 日本
Prosecution history is not considered	Prosecution history estoppel may be applied			
出願経過は参酌されない	出願経過禁反言が認められる場合がある			



No country considered the Written Opinion in the mock trial

模擬裁判で本件意見書を参酌した国はなし

1. To what extent does the plaintiff need to describe the features at the time of filing a lawsuit?  
提訴時までにはどの程度詳細に特定する必要があるか
2. What can the plaintiff do when it is difficult to describe the features?  
詳細な特定が困難な場合に取れる手段
3. How to gather information before filing a lawsuit  
提訴前における情報収集手段

1. Difficulties the plaintiff might face in fully specifying the accused product/method at the time of filing a lawsuit



原告が提訴時までには詳細に特定することの困難

2. What can the plaintiff do when it is difficult to describe the features?

詳細な特定が困難な場合に取り得る手段

3. How to gather information before filing a lawsuit

提訴前における情報収集手段



1. To what extent does the plaintiff need to describe the features at the time of filing a lawsuit?

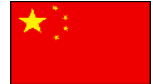
提訴時までにはどの程度詳細に特定する必要があるか

2. What happens when the defendant contends the features are not fully specified?

特定不十分であると争われた場合の対応

3. How to gather information before filing a lawsuit

提訴前における情報収集手段



1. To what extent does the plaintiff need to describe the features at the time of filing a lawsuit?

提訴時までにはどの程度詳細に特定する必要があるか

2. What can the plaintiff do when it is difficult to describe the features?

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提訴前における情報収集手段



1. Why is the onus to prove the accused method shifted to the defendant in Section 104 A of Indian Patent Act?

インド特許法104条Aによる被疑侵害方法についての立証責任の転換

2. To what extent does the plaintiff need to describe the features at the time of filing a lawsuit?

提訴時までにはどの程度詳細に特定する必要があるか

# Thank you!

