★★★＜第１５回知的財産翻訳検定試験【第７回和文英訳】＞ ★★★

≪１級課題 -知財法務実務-≫

【解答にあたっての注意事項】
課題は２題あります。それぞれの課題の指示に従い、２題とも解答してください。

問１．下記の英文は、米国連邦巡回控訴裁判所による特許事件の判決文から抜粋したものです。この英文を読み、その要旨を２００字以内の日本語にまとめてください。日本語要旨の字数には、句読点も含めるものとします（ただし、文頭の字下げ、及び文中に意図せず混入したと思われる空白は字数に含めません）。なお、２００字の字数制限は厳密に適用することとし、字数超過は減点の対象とします。

When a single actor commits all the elements of infringement, that actor is liable for direct infringement under 35 U.S.C. section 271(a). When a single actor induces another actor to commit all the elements of infringement, the first actor is liable for induced infringement under 35 U.S.C. section 271(b). But when the acts necessary to give rise to liability for direct infringement are shared between two or more actors, doctrinal problems arise. In the two cases before us, we address the question whether a defendant may be held liable for induced infringement if the defendant has performed some of the steps of a claimed method and has induced other parties to commit the remaining steps, or if the defendant has induced other parties to collectively perform all the steps of the claimed method, but no single party has performed all of the steps itself. The problem of divided infringement in induced infringement cases typically arises only with respect to method patents. When claims are directed to a product or apparatus, direct infringement is always present, because the entity that installs the final part and thereby completes the claimed invention is a direct infringer. But in the case of method patents, parties that jointly practice a patented invention can often arrange to share performance of the claimed steps between them. In fact, sometimes that is the natural way that a particular method will be practiced, as the cases before us today illustrate.
Recent precedents of this court have interpreted section 271(b) to mean that unless the accused infringer directs or controls the actions of the party or parties that are performing the claimed steps, the patentee has no remedy, even though the patentee's rights are plainly being violated by the actors' joint conduct. We now conclude that this interpretation of section 271(b) is wrong as a matter of statutory construction, precedent, and sound patent policy. To be clear, we hold that all the steps of a claimed method must be performed in order to find induced infringement, but that it is not necessary to prove that all the steps were committed by a single entity.

問２．***START***から***END***までを和訳してください。

START

The scope of the exclusive rights bestowed upon a patentee is determined not by the formal patent grant itself but by the copy of the specification (including the claims) and drawing that are required by 35 USC 154(a)(4) to be annexed to and made a part of the patent. When mistakes, errors, or inconsistencies appear in printed copies of the specification, drawing, or claims, these errors are incorporated directly into the patent grant itself and therefore affect the legal and technological interpretation of the patent and, in some cases, the validity or enforceability of the rights granted to the patentee by the government.

Relatively minor errors may be left uncorrected without having legal or practical effect on the patentee's ability to license or enforce the patent. Such errors do not meaningfully detract from the subject matter described and claimed in the patent, and they may be readily explained by simple reference to the USPTO file history. Occasionally, however, errors will appear in the printed patent document that, although readily apparent to other patent practitioners, may, unless corrected, place an undue burden of explanation or proof upon the patentee during litigation.

Failure to correct substantive errors in an issued patent may greatly prejudice the patentee's future rights. For example, if a patent contains only claims that were made unnecessarily restrictive in scope, it may be possible for others to avoid those claims although they would have infringed broader claims to which the patentee was actually entitled. Similarly, where a patentee seeks enforcement of a patent having a claim that was held invalid and other claims that were not held invalid, correction by disclaimer should be made because no costs for a suit is recoverable for a patentee unless a disclaimer of the invalid claim has been entered at the Patent and Trademark Office before the commencement of the suit.

END