

Research Study on Unpredictable and Remarkable Effects in Determining Inventive Step

The Supreme Court decision on August 27, 2019 (Supreme Court Case 2018 (Gyo-Hi) 69), a certain guideline was provided regarding the consideration of whether or not the effect of an invention is unpredictable and remarkable in determining the inventive step of an invention relating to the pharmaceutical use of a compound. Taking the Supreme Court decision as an opportunity, there is a growing interest in Japan in the method of determining whether or not the effect of an invention is unpredictable and remarkable concerning whether or not the invention has an inventive step.

Also, in other countries/regions, such as the U.S., Europe, China, and South Korea, the advantageous effect of the invention compared to the cited invention is also taken into consideration when determining the inventive step. To improve the predictability of patenting in other countries/regions and to harmonize patent systems and practices internationally, it is necessary to understand international trends in methods for determining whether the effect of an invention is unpredictable and remarkable.

This research and study purpose is to investigate and analyze the treatment of unpredictable and remarkable effects in determining inventive steps in each country/region by conducting research and study on unpredictable and remarkable effects in determining inventive steps.

We hope that the results of this research and study will contribute to the examination of the necessity of IP system amendment and operational revision about unpredictable and remarkable effects in determining inventive steps.