

## **Research and Study on Standard Essential Patents and Exhaustion - Current Status and Issues of Patents Related to Networks and Services (Exhaustion)**

The Industrial Structure Council, in its July 2020 report, "The Ideal Patent System for field on AI and IoT Technologies - Interim Summary," stated the following Since the industrial structure is shifting from "products" to "services," it is appropriate to consider how appropriate and fair licensing should be, including the consolidation of the concept of exhaustion of patent rights.

There is no explicit provision in Japan's Patent Law regarding the exhaustion of patent rights. On the other hand, academic theories and Supreme Court precedents have recognized (1) the need to protect the safety of transactions (positive grounds) and (2) the absence of necessity to recognize double gain (negative grounds) as the theoretical grounds for exhaustion of patent rights. However, there is an opinion that these grounds for patent exhaustion may have weakened due to the aforementioned changes in the industrial structure.

Therefore, the purpose of this study is to organize way of thinkeing exhaustion of patent rights suitable for the age of AI / IoT technology through research of domestic and foreign theories, corporate issues awareness concerning patent right exhaustion, and discussions by a expert group.

We hope that this study will help Japanese companies and others to accurately respond to the change in industrial structure from "products" to "services".