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## **Intellectual Property, Taiwan**

### **Differences in terminology do not necessarily mean that component lies outside scope of patent**

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The patent system grants patentees proprietary and exclusive patent rights and adopts the claims as legal documents so that the public can understand the scope of protection. When the patent at issue is compared with the accused infringing product in a patent infringement dispute, it is necessary to first confirm whether both components have the same technical features so as to confirm whether one is a literal reading of the other.

However, when the patent at issue is compared with an accused infringing product, if the corresponding components are named differently (eg, 'plug' and 'bolt'), can the different terms be directly seen as different technical features and thus lead to the conclusion that they are not a literal reading of the other? On 15 October 2020 the Taiwan Intellectual Property Court (2019 Min-Zhuan-Shang 45) held that when reviewing the relationship between the term 'plug' and 'bolt', the conclusion of 'not a literal reading' cannot be directly determined only because both belong to different components. Instead, it should be judged after the patent specifications and drawings are examined and the true meaning of the term 'plug' conferred by the invention of the patent as a whole is investigated.

According to the aforementioned judgment, when making patent infringement judgments, scrutiny should not be limited to the literal meaning of the wording of the patent claim to avoid the risk of the limitations of literal expression narrowing the scope of the patent. To understand the components of the patent, the specifications and drawings should be examined so as to investigate the true meaning of the term conferred to the overall invention of the patent. The so-called 'same technical features' are classified into three categories:

- the corresponding technical features of the patent claim and those of the accused infringing item are "exactly the same";
- "the difference lies merely in the wording or can be directly and unambiguously known"; and
- "the technical features of the accused infringing item are subordinate to the corresponding technical features of the patent".

In this case, the court determined that, according to the understanding of persons who are ordinarily skilled in the art, 'plug' and 'bolt' are different components, and this definition does not conform to the first and second categories mentioned above. As for the third category (ie, a superordinate or subordinate relationship), according to specifications in the prior art paragraph of the patent specification, the 'plug' should refer to the same or similar components that can generally be released quickly and can be easily assembled and disassembled, whereas the 'bolt' is used for the purpose of firm connection and sturdy fastening. The effects and functions of these two components are different and they constitute no superordinate or subordinate relationship conceptually. Therefore, the court ultimately determined that these two components did not constitute a literal reading and that the accused infringing product did not constitute patent infringement.

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