**從專利授權契約之本質論專利法相關規範之解釋與適用**

摘 要

投入研發乃創新企業面對國際化競爭所不可或缺者，研究成果所累積之智慧財產，亦為科技產業之重要資產，尤以專利權為然。專利法賦予權利人排他性的權利，其能自行實施發明，抑或以讓與或授權方式交由他人實施。專利授權制度之運作，攸關經濟發展及消費者福祉，其可促進新產品或服務之擴散，授權契約之對價亦為專利權人投入後續研發之重要資金來源。本文依循民法之基本原則及二○一三年專利法之修正內容，探討授權契約之本質，包括法律性質與契約解釋原則、專屬與非專屬授權契約之定義與內涵、專利法中關於授權契約效力之相關規定等議題。

關鍵詞： 專利法、專利權、專利授權、授權契約、授權、專屬授權、非專屬

授權

**A Study on the Concept and Nature of Patent License Agreement in Taiwan Patent Act**

Abstract

Nowadays it is necessary to place enormous investments on research and development in order to survive in a competitive global market. In most high-tech enterprises, the main capital is the fruits of their research and development activities, namely, the patent and other intellectual property rights. Patent laws confer exclusive rights on holders of patents. Patentee is entitled to prevent unauthorized use of his invention and to exploit it, inter alia, by assigning and licensing it to third parties. Patent license plays an important part in economic growth and consumer welfare. It helps to spread innovation and allows companies to offer new products and services. Licensing also strengthens incentives for research and development by creating additional revenue streams to recoup costs. This article focuses upon the legal framework of license agreement in Taiwan, following the principles set forth in civil law and Patent Act amended in 2013. Important issues including nature of license agreement, definition and contents of exclusive and non-exclusive license, rights and obligations of licensees and licensors are reviewed in detail.

Keywords: Patent Law, Patent, Patent License, Licensing Agreement, License, Exclusive License, Non-Exclusive License