



Interpreting Patent Claims: The United States, Germany and Japan

Toshiko Takenaka

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Patents have become a vital tool in the international exploitation of advancing technologies. There is no issue of greater significance to patent law than the interpretation of claims, since these measure the scope of protection granted. This study analyzes patent claim interpretation in three leading jurisdictions, the United States, Germany and Japan. Starting from well-established concepts such as literal infringement, the doctrine of equivalents and prosecution history estoppel, the author demonstrates significant differences in their application by reference to case examples. These differences are explained in historical and policy terms. The need for a clear-cut, harmonized standard of claim interpretation throughout the world is urgent. As an aid towards that goal, the final chapter of this study contains a proposal for aligning still divergent legal principles.

Interpreting Patent Claims takes its place alongside two other studies of related aspects of patent rights in the IIC Studies Series: Benyamini's Patent Infringement in the European Community (Vol. 13, 1993) and Gilat's Experimental Use and Patents (Vol. 16, 1995). Together these objective and informed discussion form an essential contribution to debates on central issues of intellectual property law and policy.

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