

★★★ <第30回知的財産翻訳検定試験【第16回和文英訳】> ★★★
《 1 級課題 -知財法務実務- 》

【問 1】

Even if, as in the present case, the characterizing part of the patented invention is only a part of the product of the patentee as an implementation of the patented invention, the full amount of the marginal profit obtained from the sale of the patentee's product should be virtually presumed as the lost profit of the patentee. In the meantime, it is also recognized that realization of good rotation of the rolling part is also important for the plaintiff's product and the above characterizing part which is a necessary member therefor, that is, the shape of the bearing and the inner circumference of the rotor, contributes to the profit from the sale of the plaintiff's product to a certain extent.

However, as described above, since the plaintiff's product is a beauty instrument that plucks up the skin and confers a cosmetic effect by pressing a pair of rolling parts against the skin and rotating them, we find that the part of the plaintiff's product that has significant goodwill is the configuration of the rolling parts. Meanwhile, as described in (a) above, the plaintiff's product is equipped with a solar panel to generate a weak electric current, which is admitted to increase the goodwill. In view of these circumstances, since it cannot be found that the characterizing part of the present case contributes to the entire profit from the sale of the plaintiff's product, it is not reasonable to recognize the full amount of the marginal profits from the sale of the plaintiff's product as the plaintiff's lost profit. Therefore, we have found that the above virtual presumption should be partially overturned in the case of the plaintiff's product.

【問 2】

1. I hereby covenant to, during my employment with the Company and thereafter, keep the confidentiality of any and all non-public information related to the Company and made accessible to me (including without limitation any information controlled by the Company as secret, and any information that may, by its nature, bring some impact to the business of the Company if known to any third party, irrespective of whether or not

the Company controls such information as secret) (the “Confidential Information”), and also not use any Confidential Information for any purpose other than for the business of the Company, unless otherwise explicitly authorized by the Company in writing.

2. With respect to any and all idea, invention, design, work of authorship and other intellectual property conceived or created by me during my employment with the Company and so prescribed under the Employment Rules of the Company (the “Intellectual Property”), I hereby acknowledge that such Intellectual Property shall constitute a property of the Company in accordance with such Employment Rules, and also covenant to not claim any right in respect of any Intellectual Property, and to handle any Intellectual Property *mutatis mutandis* in accordance with the preceding Section, deeming such Intellectual Property as the Confidential Information.
3. I hereby covenant to, in the event where my breach of any covenant made herein causes any dispute between the Company and any third party, hold the Company harmless from such dispute and resolve such dispute with such third party at my liabilities. I also hereby covenant to indemnify the Company or such third party as applicable from any damages incurred by the Company or such third party as the result of such dispute, to the extent that the Company is not liable therefor and that such indemnification is permitted under the applicable law.