

國立臺北科技大學 101 學年度碩士班招生考試

系所組別：6301 智慧財產權研究所

第二節 智財英文 試題

第一頁 共二頁

注意事項：

1. 本試題共四題，每題 25 分，共 100 分。
2. 請標明大題、子題編號作答，不必抄題。
3. 全部答案均須在答案卷之答案欄內作答，否則不予計分。

一、This following opinion is an excerpt from Taiwan Intellectual Property Court Civil Judgment (99) Min Zhuan Shang Zi No.9 (2010):

"專利權所欲保護的客體係技術思想，為確定無形體之技術思想的範圍，且為讓公眾能明確得知該項專利權的排他範圍，仍必須以書面文字確認發明人所欲請求保護的範圍，並公告週知。"

Please translate this opinion into English. (25%)

二、英翻中 (25%)

A trademark right holder may claim for damages from a person infringing whose trademark rights, and may request for excluding infringement thereto ; in case of likelihood of infringement, the said right holder may also request for the prevention thereof.

Using trademark under conditions stipulated by paragraph 2 of Article 29 without consent from a trademark right holder shall constitute infringement of the trademark rights.

A trademark right holder, when requesting in pursuance with provisions of the proceeding paragraph 1, may request for destructions or other necessary disposal of the goods infringing trademark rights, or raw materials or equipments utilized for infringement.

三、The following content is an excerpt from *Vizio, Inc. v. Int'l Trade Comm'n*, 605 F.3d 1330 (Fed. Cir. 2010):

Before MAYER, CLEVINGER, and DYK, Circuit Judges.

Opinion for the court filed by Circuit Judge DYK. Opinion dissenting-in-part filed by Circuit Judge CLEVINGER.

DYK, Circuit Judge.

Vizio, Inc. and Amtran Technology Company, Ltd. (collectively, "Vizio"), and TPV Technology, Ltd., TPV International, Inc., Top Victory Electronics Company, Ltd., and Envision Peripherals, Inc. (collectively, "TPV") appeal from the final determination of the International Trade Commission ("Commission") that the importation and sale of certain digital television products violated section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337. The Commission issued a limited exclusion order and a cease and desist order. *In the Matter of Certain Digital Televisions and Certain Products Containing Same and Methods of Using Same*, Inv. No. 337-TA617 (U.S.I.T.C. Apr. 10, 2009) ("Final Determination"). The Commission's action was based on its finding that the accused products infringed claims 1, 5, and 23 of U.S. Patent No. 6,115,074 (the "'074 patent"), and that the '074 patent was not invalid.

We affirm the Commission's construction of the term "channel map information," as well as the Commission's determination that the '074 patent is not invalid as anticipated or obvious. Furthermore, we affirm the Commission's construction of the term "identifying channel map information ... and assembling said identified information" in claims 1 and 23 as not precluding use of the Moving Picture Experts Group ("MPEG") Program Map Table ("PMT") and its determination that the '074 patent is infringed by the "legacy products." However, we find the Commission erred in its conclusion that the claims do not require that the channel map information be capable of being used, *see In the Matter of Certain Digital Televisions and Certain Products Containing Same and Methods of Using Same*, Inv. No. 337-TA-617, slip op. at 49 (U.S.I.T.C. Nov. 17, 2008) ("Initial Determination"), and we accordingly reverse the Commission's determination that the "work-around products" infringe.

...

We now turn to the validity of the asserted claims, which the Commission found to be not invalid as anticipated by the A/55 standard nor obvious in view of the A/55 standard combined with U.S. Patent No. 5,982,411 (the "Eyer patent"). *Initial*

Determination, slip op. at 68-70. Obviousness is a question of law based on underlying factual inquiries, and thus we review the Commission's ultimate determination *de novo* and factual determinations for substantial evidence. *See Crocs Inc. v. Int'l Trade Comm'n*, 598 F.3d 1294, 1308 (Fed. Cir. 2010). Whether a prior art reference anticipates a patent claim is a question of fact, which we review for substantial evidence. *Linear Tech. Corp. v. Int'l Trade Comm'n*, 566 F.3d 1049, 1066 (Fed. Cir. 2009).

注意：背面尚有試題

Please answer the following questions. (25%)

1. What is the patent at dispute? (Please also write down the patent number.) (3%)
2. What are the legal issues related to patentability which the court adjudicated? (5%)
3. What are the cited prior art documents used to challenge the patentability of the patent at dispute? (5%)
4. What is the name of the court that decided this case?(12%)

四、What are intellectual property rights of the TRIPS Agreement? (25%)