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Part 1: The Possibility of Acquiring Rights for Business Model Related Inventions from a New Perspective



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Patent applications for business model related inventions (often referred to as business model patents), which suddenly attracted attention in 2000 and boomed for several years, have been on the rise since 2012. It is believed that this is because of the development of new enterprises and businesses due to the utilization of IoT, AI, and big data in various fields including the service industry.

Inventions related to business models are clearly defined by the Japan Patent Office as "an invention realized by using information and communications technology (ICT) for a business method". At the time of the boom in 2000, although such a clear definition did not exist, it was essential for the invention to use information and communications technology such as the Internet, but there was a widespread misunderstanding that a business method itself could be granted a patent right, probably because of the name "business model patent". For this reason, I remember that at that time, there were many consultations on business methods that did not use information and communications technology, mainly among managers of SMEs in the service industry as well as the manufacturing industry, who said they wanted to consult with us because they had thought of a new business. After that, as misunderstandings about business model related inventions were cleared, the number of patent applications rapidly decreased. Of course, when it comes to a business model that can be realized using information and communications technology, it is not easy for SMEs in the manufacturing industry to invent such a model, let alone for SMEs in the service industry which has less to do with technology.

In October of the year before last, the Intellectual Property High Court made a decision that a business model related invention (some people argue that the above definition of the Japan Patent Office does not fall under business model related inventions) of this kind called a "Steak Serving System" was eligible for a patent. The Japan Patent Office, which received this decision, granted a patent right for the Steak Serving System.

This patent is owned by Pepper Foods Co., Ltd., which operates the famous "Ikinari Steak" restaurants, and the content of the patent relates to the operation of the Ikinari Steak restaurants, so it is clearly an invention related to a business model. Please see the following

patent claim indicating the content of the patent right.

A steak serving system implementing a steak serving method including a step of guiding a customer to a stand-up table, a step of asking an amount of steak from the customer, a step of cutting the amount of steak from a block of meat, a step of grilling the meat that has been cut, and a step of carrying the grilled meat to the customer's table, wherein the steak serving system comprises:

a tag having printed thereon a number of a table to which the customer has been guided; a weighing machine configured to weigh the meat that has been cut according to a customer's request; and

a marking configured to distinguish the meat that has been cut according to the customer's request from meat of other customers, and

wherein the steak serving system is characterized:

in outputting a seal on which the amount of meat weighed by the weighing machine and the table number printed on the tag are printed, and

in that the marking is the seal on which the amount of meat weighed by the weighing machine and the table number are printed.

As you can see, there are constituent elements such as "tag", "weighing machine", and "marking" but there are no technical elements relating to information and communications. In other words, this patent right can be regarded as a business model invention that has been realized without using information and communications technology, which is considered to be essential for business model related inventions. In short, this fact indicates that it is possible to acquire patent rights for business model related inventions that do not use information and communications technology. This means that SMEs in the manufacturing industry as well as the service industry also have more opportunities to create business model related inventions.

This patent application was filed on June 4, 2014, and the content of the patent right was officially finalized by the Japan Patent Office, which had received the previous decision from the Intellectual Property High Court, on December 14, 2018. Four and a half years passed during that time. You might be surprised that it would take such a long time for the content of the patent right to be finalized, but during that time Pepper Foods Co., Ltd., the owner of the patent right, proceeded to develop the "Ikinari Steak" restaurants, achieved rapid development owing to the restaurant management method that they created themselves, and was able to acquire an overwhelming name value in the industry. One of the reasons is that they filed the patent application for the business model related invention referred to as the "Steak Serving System". That is to say, the existence of the business model related invention restrained competitors from

entering into ventures similar to "Ikinari Steak" and prevented them from adopting the same restaurant management method for four and a half years.

Once a patent is granted, the content basically cannot be changed. In other words, if you don't infringe the content, you can do something similar without infringing the patent. Therefore, the existence of a patent-pending invention for which it is difficult to decide whether or not a patent right can be acquired is often more troublesome for competitors than the existence of a patent right whose content has been finalized, no matter how large the opponent is. In the case of Pepper Foods Co., Ltd., it can be said that this is a good example of the effective use of the business model related invention known as the "Steak Serving System".

Currently, the Japan Patent Office has been promoting various measures to encourage SMEs and venture companies to file patent applications, mainly from the viewpoint of reducing the number of patent applications from large corporations and improving the industrial competitiveness of SMEs. In particular, for companies in the service industry who have not been able to protect their business models, I think that the efforts of Pepper Foods Co., Ltd. may be useful in terms of formulating business strategies that utilize business model related inventions.

This article is based on my column, which appeared in the December 1 and 15, 2019 issues of Keizai Sangyo Shinpo, and has been revised and edited.

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