

日本版バイ・ドール制度を適用した特許出願の網羅的調査

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要旨

産業活力再生特別措置法に、いわゆる日本版バイ・ドール制度と称される条項が措置されてから 20 年以上が経過した。この間、知的財産戦略会議等で同制度の利用徹底を図るべく、国等からの委託研究開発への適用措置の拡大方針が決定されるなど、時限法から恒久法への転換を経て制度の適用拡大に向けた取り組みがなされてきた。

本報告書では、公開特許公報から網羅的に特定、抽出した日本版バイ・ドール制度を適用した全ての特許出願をデータベース化し、それらの情報を用いて制度の施行から現在に至る諸状況を考察する。

1999 年 10 月の日本版バイ・ドール制度施行以降、同制度を適用した特許出願件数は増加し、現在は年間 2,500 件前後で推移するまで成長している。同制度施行初期の出願件数の増加には、企業からの出願が圧倒的に寄与している状況にあった。2004 年の国立大学の法人化を境に高等教育機関の影響が見え始め、現在は企業に次ぐ出願件数保有者の地位を確保し、出願件数の変化に対する寄与が大きくなっている。

また、同制度を適用した出願の審査請求率は我が国の平均的な率よりも 10 ポイント程度高く、発明を権利化しようとする意欲は高い。特許査定率も同じく 10 ポイント程度高く、特許要件を満たした優れた発明が多いことが判った。

さらに、国立大学の研究者の発明を対象に同制度を適用した特許出願を見ると、国立大学が権利を承継した件数は法人化前の 15%未滿(国として承継)から法人化後は 90%を超え、日本版バイ・ドール制度は政府資金による委託研究開発成果に対する国立大学の権利意識の変革に多大な影響を与えている。

Title

Comprehensive Survey on Patent Applications under the Japanese version of the Bayh-Dole System

ABSTRACT

More than 20 years have passed since a clause commonly called the Japanese version of the Bayh-Dole system was implemented in the Act on Special Measures for Revitalization of Industrial Vitality. Meanwhile, in order to ensure thorough use of the system at intellectual property strategy meetings, etc., efforts have been made to expand the application of the system through the conversion from the thyme law to the permanent law, such as the decision of the government to expand the measures applied to commissioned research and development.

In this report, all patent applications that apply the Japanese version of the buy-dole system comprehensively identified and extracted from the public gazette are made into a database, and various situations from the enforcement of the system to the present are examined using such information.

Since the Japanese version of the buy-dole system came into effect in October 1999, the number of patent applications applying the system has increased, and it has grown to around 2,500 cases per year. The increase in the number of applications in the early days of the system was due overwhelmingly to applications from companies. After the conversion to public incorporation of national universities in 2004, the influence of higher education institutions began to be seen, and now the position of the holder of the number of applications after companies has been secured, and the contribution to the change in the number of applications is increasing.

In addition, the examination request rate of applications applying this system is about 10 points higher than the average rate in Japan, and there is a high willingness to make inventions a right. The patent appraisal rate was also about 10 points higher, and it was clarified that there were many excellent inventions that met the patent requirements.

In addition, looking at patent applications that apply the system to the inventions of researchers at national universities, the number of patent applications in which national universities have succeeded rights has exceeded 90% from less than 15% before in-business (succession as a country), and the Japanese version of the buy-dole system has had a significant impact on the transformation of national universities' rights awareness of the results of government-funded commissioned research and development.