

**Evaluation of Nonobviousness under Patent Law
in terms of Teaching Causation :
Focusing upon the Combination Inventions**

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Abstract

Under utilitarianism, it seems that a societal contract exists between the government, on behalf of the public, and the inventor. On the one side, the government granted the exclusive rights to enable the inventor to recover the R & D expenditures and obtain the profits to the reasonable extent for the sake of securing the inventor's incentives in further innovations. On the other side, subject to the price of exclusive rights, the inventor is obliged to disclose the high-quality invention to the public, and provide with opportunities for the public to access the aforesaid invention by licensing or other similar approaches. The requirement of "an inventive step" or "nonobviousness" for a patent under patent law serves a significant pivot to evaluate a high-quality invention. Recently, Taiwanese scholarship has been concentrated upon the studies on the issue of "the person having ordinary skills in the art" that functions a hypothetical expert for evaluation of "an inventive step" or "nonobviousness", in order to respond to the development of judicial practices. To converge with the aforesaid studies, and in view of KSR case under U.S. patent case law, this article attempts to explore the teaching causation of prior arts over the inventions in the evaluation of "an inventive step" or "nonobviousness". The clarification for the teaching causation will be expected to contribute to the decision on the issue of "an inventive step" or "nonobviousness" under Taiwanese judicial cases in the future.

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Keywords: an inventive step, nonobviousness, teaching causation, prior art, claims, the person having ordinary skills in the art, invention, exclusive rights, patent prosecution, invalidity defense