



〈英国〉

## Covid-19 パンデミック下の 知的財産

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現在の Covid-19 のパンデミックは、政府、企業及び個人に多くの課題をもたらしています。知的財産の分野でも、特許庁、弁理士及びそのクライアントが知的財産を管理しようとするときに問題が生じました。さらに、多くのテクノロジー企業がウイルスとの戦いを支援するよう圧力をかけられており、これによりいくつかの興味深い問題が明らかになりました。

ここ英国で、1 件の事件が発生しました。パンデミックの初期に、医療用人工呼吸器の需要が非常に高まる一方で、供給は限定的であると予想されました。

英国政府は、製造が容易な新しい人工呼吸器の設計の開発を委託することを決定しました。掃除機で最も有名なダイソンやスポーツカーで有名なマクラーレンなどの多数の研究機関や民間企業です。人工呼吸器にお金を払うことをいとわない一方で、英国政府は知的財産の所有権に制約を課さず、関係する組織は、開発成果を保護する方法と、そのような知的財産を利用する方法を自由に決定できました。

それらの組織は困難な立場にあることに気づきました。彼らは人工呼吸器の開発にかなりのリソースを費やしていましたが、彼らが開発成果を保護しないという道義的責任はどの程度あるのでしょうか？英国政府については、英国特許法の中に強制実施の許可に関する規定がありますが、政府は成功した組織に対してそれらの規定の適用を示唆していません。

結局、関係するすべての組織は、努力が成功したかどうかにかかわらず、開発成果の知財保護を求めないと意思決定したようです。金銭的利益を得る可能性があったであろうが、公益に向けて取り組み、救命設備を提供する可能性に関連する積極的な宣伝を通じて、より大きな利益が得られたという見方があったようです。

知財制度の価値を非常に強く信じ、知財制度の利用により得られるメリットを長年にわたって見てきた弁理士として、潜在的にはるかに大きなメリットを備えた知財制度を利用しないという明確な意思決定を下した状況を見出すのは興味深いことでした。

(邦訳：当研究所)

< the United Kingdom >

## Intellectual property during the Covid-19 pandemic

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The current Covid-19 pandemic has produced a large number of challenges for governments, companies, and individuals. Even the field of intellectual property there have been issues as national patent offices, patent attorneys, and their clients, try to manage their intellectual property. In addition, many technology companies have come under pressure to assist in the fight against the virus and this has brought to light some interesting issues.

One case has occurred here in the United Kingdom. In the early days of the pandemic it was expected that there would be a very high demand for medical ventilators and supply of these was limited.

The UK government decided to commission the development of new ventilator designs that would be easy to manufacture. A number of academic institutions and private companies, such as Dyson, most famous for their vacuum cleaners, and McLaren, who are famous for their sports cars. Whilst willing to pay for the ventilators, the UK government put no constraints on ownership of intellectual property, and the organisations involved were free to decide how to protect any that was created and also how they might exploit such intellectual property.

Those organisations found themselves in a difficult position. They were committing considerable resource to ventilator development, but to what extent would they have a moral obligation not to protect what they created? As for the UK government, there are provisions within the UK Patents Act for compulsory licensing but the government gave no indication that they would employ them against any successful organisations.

In the end, it seems that all of the organisations involved, whether they were successful in their efforts or not, decided not to seek IP protection for their developments. The view seemed to be that, whilst there may have been the potential for financial gain, there was a greater benefit to be obtained through the positive publicity associated with working towards the common good and potentially providing lifesaving equipment.

As a patent attorney who believes very strongly in the value of the IP system and has seen over many years the benefits that can be obtained from using it, it was interesting to discover a situation in which a clear decision not to use intellectual property system had potentially far greater benefits.