



[연재 일정 안내] ( CAFC )

연도	월	일	주제
2007. 1	1		
2007. 2	2	(1)	1.
			2. ISSUE
			3. /
2007. 3	2	(2)	4.
			5.
			6. (1 )
2007. 4	2	(3)	7.
			8.
2007. 5	3	Issue	(1) 1. (Patentability)
2007. 6	3	Issue	(2) 2. (Claim Construction)
2007. 7	3	Issue	(3) 3. (Patent Infringement)
2007. 8	3	Issue	(4) 4-1. Equitable Defense
2007. 9	3	Issue	(5) 4-2.

(<http://www.patentmap.or.kr/>)

## 4 Equitable Defense,

### 1. Equitable Defense

가. (Inequitable Conduct Before the PTO)

§

(duty of candor and good faith)

(duty to disclose)가 .(37 C.F.R. 1.56 (a))

(inequitable conduct)

가 4

(intent to deceive); (threshold level)

(materiality)

가

(intent)

(materiality)

56 (37 C.F.R. 1.56 ),

(Patent Misuse)/ (Antitrust Claim)

§ Precision Instrument Manufacturing Co. v. Automotive Maintenance Machinery Co.

“unclean hand” (false affidavits)

(public policy)

§ (Patent misuse)

(public policy approach) (antitrust approach)

(1945 )

가

1949 3 ( Rules of Practice in Patent Cases ) 56 (37 C.F.R. §1.56) (fraud)

가

. Martin v. Ford Alexander Corp.

(tying)

3가

CAFC (Pro-patent) 親 (Patent misuse)

(intent)

1)

(materiality)

1952 (non-obvious subject matter) Trio Process Corp. v. L. Goldstein s Sons, Inc.

가

§ Motion Picture Co. v. Universal Film Co.

非

Merck v. Danbury Pharmacal (materiality)

, Morton Salt Co. v. Suppiger Co.

8

Refac Int I v. Lotus Dev. Corp. (Affidavit)

가

(public interest)

1) Xerox (In re Indep. Serv. Org. Antitrust Litig., 203 F.3d. 1322 (Fed. Cir. 2000)) CAFC 9 (Image Technical Services, Inc. v. Eastman Kodak Co., 125 F.3d 1195 (9th Cir. 1998))

Brulotte v. Thys Co.

Eastman Kodak Co. v. Image Technical Services, Inc.

가 (tying)

1988

271

(d)(5)

가

Image Technical Services, Inc. v. Eastman Kodak Co.

가

가 (downstream market)

Monsanto Company v. Homan McFarling

1

2

1

U.S. Philips Corp. v. International Trade Commission

가 (tying)  
(licensee)

가

(Laches)

§

가

(laches)

가

6

가

(laches)

§

Whitman v. Walt d Disney Productions, Inc.

6

TWM Mfg. Co. v. Dura Corp.

A.C.Aukerman Co. v. R.L. Chaides Construction Co.

2가

가

(戰時)

Eastman Kodak Co. v. Goodyear Tire & Rubber Co.

가

Wanless v. General Elec. Co.

가

가

Symbol Technologies, INC. v. Lemelson Meducal,  
Education & Research Foundation

가

18 39

(prosecution

laches)

(Estoppel)

§

3가

(equitable estoppel) ’

1.

(misleading communication),

2.

가

(reliance),

3.

가

(prejudice)

가

가

(doctrine of assignor estoppel) ’

§

Studiengesellschaft Kohle, M.B.H. v. Dart Indus.

가

가

A.C.Aukerman Co. v. R.L. Chaides Construction Co.

(equitable estoppel)

(laches)

가

Schollo Corp. v. Blackhawk Molding Co.

가

가

Pandrol USA v. Airboss Railway Products

Dane Industries v. Ameritek Industries

(Patent Exhaustion)

§

(exhaustion theory)

가

(First-sale Doctrine) ’

가

§

Dr. Miles Medical Co. v. John D. Park & Sons Co.

가

Aro Mfg. Co. v. Convertible Top Replacement Co

(repair)

가

(reconstruction)

Met-Coil Systems Corp. v. Korners Unlimited, Inc.

가 ,

가

Carborundum Co. v. Molten Metal Equip. Innovations

Jordan Spencer Jacobs v. Nintendo of America, Inc.

가

. Research Exception (35 U.S.C. §71(e)(1))

§

1984 가

(Drug Price Competition and Patent Term

Restoration Act) ( ‘ Hatch-Waxman Act ’ )

가 35 USC 271 (e)(1) (FDA)

가

§

Whittemore v. Cutter (common law)

Roche Prods., Inc. v. Bolar Pharm. Co.

(producers of generics)가FDA 가

(Hatch-Waxman Act

).

Bristol-Myers Squibb Co. v. Rhone-Poulenc Rorer, Inc.

FDA

271 (e)(1)

Merck KGaA v. Integra Lifesciences I, Ltd.

271 (e)(1)

FDA

• 2007. 8

