



Science in the Courtroom—*Research* **Taiwan's Perspective**

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Taiwan Intellectual Property Court
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An Innovation in the Judicial System



We are here today to take note...of **an innovation in the Judicial System**. Our system of Justice in this country, and particularly the Federal Courts, has not been remarkably noted for hospitality toward innovation...

because this day marks a departure, even though a small one, in the federal court system.

Remarks of Former Chief Justice of U.S., William H. Rehnquist at the Inauguration of CAFC on October 1, 1982



The Establishment of Taiwan IP Court

The Origins of the IP Court

Intellectual Property Court Organization Act

(passed on March 5, 2007, promulgated on March 28 2007, enforced on July 1, 2008)

Intellectual Property Case Adjudication Act

(passed on Jan. 9, 2007, promulgated on March 28 2007, and enforced on July 1, 2008)

The Establishment of the IP Court

The IP Court was established officially on July 1, 2008.



Objectives of Taiwan IP Court

Court of Creativity, Professionalism and Justice

Three Major Goals

To avoid delays
by suspending the
case in civil
proceedings

To cultivate
experienced
&
professional
IP judges

To promote
the competitiveness
& development of
Taiwan's economy



The Enlightenment of TIPC



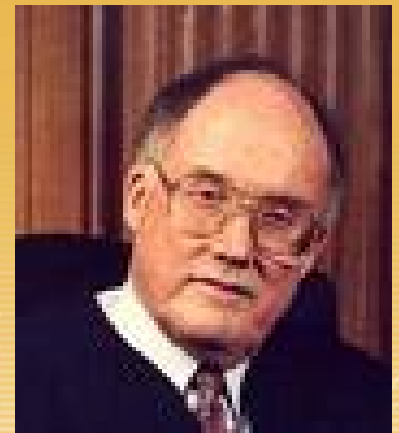
- Where to Visit for Law Professions in October 1 Long Holidays? (No. 7)
- 法律人假期去哪儿？/天同訴訟圈/10.1, 2014

Research



Science in the Courtroom

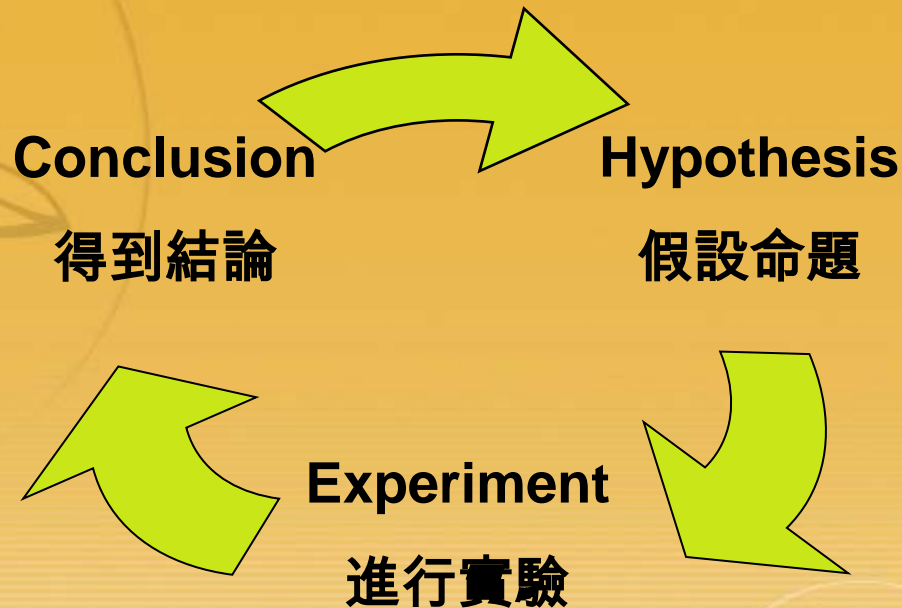
- In *Daubert*, the U.S. Supreme Court held that the judge must act as a gatekeeper, screening the evidence to ensure that it is truly scientific.
- However, former Chief Justice Rehnquist pointed out “the court **does not have to become an amateur scientist** in order to perform that role”; “the court would be better to decide **only the questions presented**”. (Daubert v. Merrell Dow Pharmaceutical, Inc. 509 U.S. 579 (1993)).





Scientific Truth

- “Scientific Truth” = The Scientific Method
- The test of all knowledge is experiment.
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Judging Science



Generally speaking, Taiwanese judges are trained to be “generalist” to deal with wide ranges of litigations. However, a *passionate judge* can develop his/her expertise in science cases by way of *diligent work* on each individual case with *appropriate support* and through *arguments presented by parties*.



Judging Science

- It is, of course, hard to invent a patent, but it is not impossible to understand it.



V.S.





Innovative Design of TIPC



- No stay for invalidity actions
in a civil infringement case

§16 of the Intellectual Property Case Adjudication

1. When a party defends that an IP right shall be revoked or abolished, **the Court shall decide based on the merits of the case...**
2. The IP right holder shall not claim any rights during the civil action against the opposing party where the court has recognized the grounds for cancellation or revocation of the IP rights.

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Judging Science– the assistance of TEO

- Patent cases account for no 1 in Taiwan IP Court
- The Introduction of Technical Examination Officers

Under Judge's instruction,
Technical Examination
Officers shall offer the
following assistance :





Judges of TIPC

- Population of Taiwan: 23,361,147
- Currently, TIPC has a chief judge, two presiding judges and 13 judges.
- Among 16 judges, 3 hold doctorate degree, 10 obtained master of laws, and 3 has technical background.



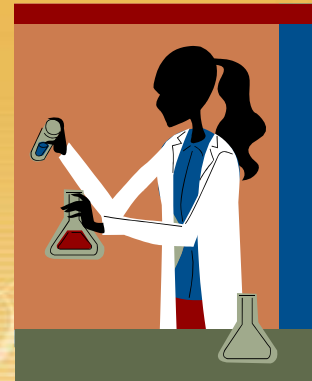
智慧財產法院

Intellectual Property Court



The Introduction of Technical Examination Officers

- Currently, TIPC is staffed with 14 technical examination officers, 11 are transferred from the Taiwan Intellectual Property Office by a 2-3 years tenure; 3 are recruited by contract with the Court.





The Introduction of Technical Examination Officers

Item	Professional Technical Fields	Number
1	Mechanical Engineering Civil Engineering , Architecture	6
2	Electronic & Electrical Engineering Computer Science	4
3	Industrial Design	1
4	Chemistry Chemical Engineering Biotechnology Medicine	3



Challenges Ahead for TIPC

- The Practice of Technical Examination Officers—Transparency
- The Origin of Technical Examination Officers—Diversity
- The Cross Strait Judicial Competition



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THANK
YOU

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