

# Verdict on Patent Spat Sends Shock Wave through Corporate Japan

The development of the blue light-emitting diode (LED) is widely touted as a "Nobel prize-class invention." Nakamura Shuji, 49, a professor at the University of California, Santa Barbara, achieved the feat while working at Nichia Corp., a chemical maker based in Anan, Tokushima Prefecture. On Jan. 30, the Tokyo District Court ordered Nichia to pay an unprecedented ¥20 billion to the inventor of the key semiconductor device for his transfer of patent rights to the company. Nichia immediately appealed the ruling to the Tokyo High Court.

The court concluded that the patent rights are worth ¥60.4 billion. But given that the inventor demanded ¥20 billion in remuneration, the court ordered Nichia to pay ¥20 billion, the sum he demanded. In handing down the ruling, Presiding Judge Mimura Ryoichi said Nakamura deserves that sum since "the invention was an entirely rare example of a world-class invention attained by the inventor's individual ability and unique ideas" and Nakamura contributed at least 50% to the production of the device.

The court ruled Nichia was able to

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Nakamura Shuji speaks at a press conference

acquire an outstandingly advantageous position in the market because of its exclusive ownership of the patent, which prevented its rival companies from entering the market. It also said Nichia earned ¥120.8 billion in royalties, including those projected to be earned by 2010 when the patent will lapse.

"Nakamura invented the device with his individual ability in a poorer research environment than those of big companies which boast abundant personnel and material resources," it said.

Nakamura developed blue LED-manufacturing technology in 1990 while working with Nichia. The company applied for a patent and commercialized the technology to create the world's first blue LED in 1993, paving the way for the creation of flat panel displays and LED lighting equipment. Production of high-quality LED products has lifted the company's earnings sharply.

The latest ruling is likely to help boost the awareness of Japanese engineers who have found it hard to claim their own rights. The sum the court ordered the firm to pay was so enormous that the ruling sent a shock wave through business circles. Japanese businesses are seeking to improve their remuneration systems for the transfer of patent rights, but their financial resources are limited. Technological development is construed as a "lifeline" for manufacturing companies. The Jan. 30 verdict, therefore, cannot be seen as someone else's problem. The fact that Nakamura had originally received only ¥20,000 in remuneration indicates that corporate Japan and the Japanese government, which calls for building up an intellectual property-oriented country, will be urged to take measures to protect engineers' patent rights and improve remuneration systems.

The government submitted to the current regular Diet session a bill to revise the Patent Law that would give importance to the internal standards companies and employees set to compute the value of inventions by their employees. Critics say, however, that it will be difficult to determine an adequate level of remunera-

tion because employees find it hard to conduct talks on an equal footing with employers who have the power to shuffle personnel. Businesses are trying to survive intense global competition by developing new technologies. Nakamura quit Nichia and went to a U.S. university. In order to prevent the loss of talented technicians to other countries and focus on research and development, Japanese businesses need to establish a strategy under which such engineers are appropriately paid and incorporated into management without being worried about the immediate costs of the transfer of patent rights.

## COMING UP

The next issue of *Economy, Culture & History JAPAN SPOTLIGHT Bimonthly* will focus on the changing mechanism of the global economy. In order to ensure the continued growth of the Japanese economy, companies, regions and individuals must make the best use of their own special qualities in an era of rapid change.

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