

文章摘要

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专利产品再制造的侵权辨析及授权许可策略

Infringement Analysis and Licensing Strategy of Remanufacturing patented product

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英文关键词: circular economy; patent; remanufacturing; license

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中文摘要:

为了充分发挥产品的功能, 购买者或第三方再制造商往往会针对产品采取修理、改造以及再制造等措施, 实际上成为了“生产者”的角色。对专利产品进行一定修理, 符合专利的“权利用尽”原则, 不形成对专利产品新的制造。为促进再制造产业的发展, 需要兼顾权利人与社会公众的利益, 应坚持防止专利权滥用的原则, 对正常维修与非法再制造行为进行合理的区分, 并综合市场因素、专利产品自身特点以及维修技术难度等方面来进行侵权辨析。最后在侵权辨析的基础上提出合理、有效的策略。

英文摘要:

In order to give full play to the function of the product, the buyer or the third party manufacturers often take repairing, renovation and remanufacturing to the product, and becomes a role of "producer". Repairing on the certain level to the patent product is in conformity with "exhaust rights principle" of patent, not the formation of new manufacturing to the patent products. To promote the development of remanufacturing industry take into account the interests of rights holders and the public, adhere to the principle of preventing the abuse of the patent right, get a reasonable distinction between normal repairing and illegal remanufacturing of the patent product, and make infringement analysis considering market factors, characteristics of patent product, the difficulty of repair technology and other aspects. Finally, we put forward some reasonable and effective licensing strategy based on the infringement analysis.

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