Japan

“Novelty – All Elements Rule”

Patent Act, Sec. 29(1) – *Tohr GmbH v. Rohm & Haas Co., Ltd.*

**Decision of the Intellectual Property High Court
24 October 2011**

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In cases where the cited prior art does not contain all elements of the invention, the application cannot be refused for lack of novelty. Where the claimed invention is technically limited by the element “free of A”, and the prior art document neither makes any reference to the problem caused by containing “A” and the technical function thereof, nor indicates anything about the technical idea for limiting the technical composition in such a manner, the patented invention should not be regarded as identical to the prior art and considered lacking novelty.

Summarised by Hisayoshi Yokoyama.