

**□ Royal Philips Electronics engages in obviously unfair conduct that was able to affect trading order, which violated Article 24 of the Fair Trade Law. 【April 20, 2006】**

Royal Philips Electronics (hereafter Philips) in its CD-R technology patent license agreement requested that licensees provide an inventory of their manufacturing facilities and written sales report. During its 754th Commissioners' Meeting on April 20, 2006, the FTC determined that such action was obviously unfair conduct able to affect trading order, and violated Article 24 of the Fair Trade Law. In addition to ordering Philips to immediately cease the aforementioned unlawful action, the FTC also imposed a fine of NT\$6 million.

Philips and Sony had jointly defined the technical specifications for CD-R disc production. Local manufacturers that intended to manufacture CD-R discs with specifications compliant with the Orange Book needed to obtain a patent license from Philips. For this reason, Philips enjoyed a dominant position relative to the licensee in the CD-R patent licensing process. In its license agreement, Philips requested that licensees provide an inventory of their manufacturing facilities and written sales report, the contents of which included important information relevant to the licensee's operational cost and market competition, such as the production capacity utilization rate, production capacity, a list of clients, and the transaction volume with each client. Since the information was not closely related to the total royalty fees, it was difficult to determine whether Philips requested the aforementioned information to achieve a reasonable business objective, which was to ensure the collection of royalty fees. In addition to being the holder of the patents at issue, Philips also licensed other manufacturers to manufacture CD-R discs labeled with the Philips brand name for sale. Philips was thus competing in the market with its licensees. By using its dominant position in the CD-R patent licensing process, Philips obtained important information about the licensees such as that on operational costs. The action was at risk of causing unfair competition in the CD-R product market.

After taking into account the motive, objective, expected improper benefits, degree of damage to trading order, duration of the action, benefits obtained, scale of business, business operations, revenue and market position, whether the competent authority had previously corrected or warned against such acts, type and number of previous violations, interval of violations, punishments incurred, conduct after the violation, cooperation during the investigation, and other factors, the FTC imposed the aforementioned punishment in accordance with Article 41 of the Fair Trade Law.