



Circular of the General Affairs of State Intellectual Property Office Concerning the Printing and Distribution of *Guidelines on the Formulation of Industrial IP Alliance*

G. Z. B. H. G. Z. [2015] No. 192

To intellectual property offices in all provinces, autonomous regions, municipalities directly under the Central Government and Xinjiang Production and Construction Corps,

According to the *Circular of the State Intellectual Property Office concerning the Implementation of Several Opinions of the CCCPC and the State Council on Deepening the Reform of the Institutional Mechanisms to Accelerate the Implementation of Innovation-driven Development Strategy* (G. Z. F. G. Z. [2015] No. 20), for the purpose of deepening implementation of patent pilot projects, strengthening patent coordinated application and instructing establishment of IP alliance, it is hereby, upon approval of the State Intellectual Property Office, to print and distribute the *Guidelines on the Formulation of Industrial IP Alliance* for your active implementation in light of your work reality.

The State Intellectual Property Office will unceasingly improve IP alliance development policy supporting system, establish important industrial IP alliance management library, encourage important industrial IP alliance to carry out industrial patent navigation analysis and research, share relevant project achievement of the Office, and establish operation & management talent team of IP alliance, organize industrial IP alliance expert consulting group which shall give instructions on establishment and development of the IP alliance; and give priority, according to the types of industrial IP alliance, to the IP alliance and its operating organizations when they are applying for national patent coordinated application pilot entities and national patent operation pilot enterprises under the same terms and conditions.

Hereby to notify.

State Intellectual Property Office

April 24, 2015

Guidelines on the Formulation of Industrial IP Alliance

For the purpose of further implementation of patent navigation pilot projects, promoting integration of IP right with industrial development, setting up specialized service platform for mass entrepreneurship and innovation, and supporting construction of innovation-oriented country and IP powerful country, industrial patent coordinated application shall be further deepened and industrial IP alliance shall be constructed in an accelerated manner. This Guideline is hereby formulated for the purposed of guiding construction of industrial IP alliance.

I. Definition and Working Principle of Industrial IP Alliance

(I) Definition

Industrial IP alliance is an industrial development alliance taking IPR as link and patent coordinated application as basis. It is a consortium consisting of two or more market subjects, whose benefits are correlated tightly, aiming to maintain the overall industrial benefits and provide specialized IP services for industrial innovative entrepreneurship. It is also a new-type industrial coordinated development organization that is established based on IP resource integration and strategic application.

(II) Working Principle

Insist on market-orientation. By taking enterprise as subject, it should give full play to the decisive role of markets in resource allocation, and properly allocate industrial innovation resources according to IP systems, maintain and improve benefit distribution

mechanism, and encourage universities & colleges, financial institutes, IP service organizations and entrepreneurship groups to develop coordinated application of industrial patents.

Strengthen resource integration. Integrate IP resources in the whole industrial chain by constructing alliances, centralize innovation forces in the whole industrial chain, resolve the IP issues arising from industrial development, lower industrial innovation costs and increase industrial innovation efficiency. By relying on IP resources, it should optimize allocation of financial resources, technical resources, human resources and policy resources, and improve the industrial innovation-driven development capability.

Innovate service contents. Insist on the principle of mutual benefit and cooperation among an alliance, enrich service contents and provide the member entities with integrated service for achieving innovative development, and improve the industrial IP operating capability. Construct open innovative entrepreneurship service platform by relying on resources in alliances and taking advantage of Internet thinking, while insisting on the principle of opening and sharing.

II. Maintasks of Industrial IP Alliance

(I) Put more efforts on IP operating of industrial key fields

1. Establish order-like IP R&D system. Push forward communication and cooperation between universities & colleges, scientific research institutes and



industrial upstream & downstream enterprises; establish industrial–university–research cooperation mechanism that can properly interface with innovation front–end, tightly combine procedures and subsequently protect IP rights. By taking market as orientation and IP operating as objective, push forward establishment of industry–centralized IP R&D system thoroughly integrating “industry, universities, research, finance, media and application” and actively construct patent portfolio.

2. Structure and operate industrial patent pool. According to the requirements for industrial development, make multiple–type, cross–regional, multi–level and multi–purpose IP layout based on core technology and product combination, thus effectively protect the legal rights of industrial innovation achievements and member entities. In accordance with the principle of “freewill participation, mutual benefits and win–win results”, set up several centralized licensing patent pools around the upstream & downstream core technologies and products in the industrial chain, so as to form patent clusters in which patent pools support mutually; respectively work out reasonable license policies and carry out relevant commercial operation, and give support for mutual development of alliance members and the industry. Establish IP operating organizations and improve IP return on assets by way of transfer, stocklization and capitalization of patents.

3. Promote integration of IP rights with standards. Work out standard revision plan according to the requirements for industry development and market competition; actively participate into and lead revision to national and industrial technical standards, and

advance establishment of sound interaction mechanism of formulating standards and constructing patent pool. Jointly make oriented and systematic IP layout, formulate and implement standards in connection with core products and crucial technologies, and promote incorporation of relevant patents into products and technical standards, thus implementing effective linking and bundle–like application of IP and technical standards, and pushing forward tight integration of IP, standards with markets.

4. Jointly defense IP risks. Establish industrial IP infringement supervision mechanism in which tracking analysis may be made to the IP layout of major competitors and the IP risks and threats can be early judged. Establish industrial IP risk response mechanism, and proactively take several measures like combined IP layout, acquisition of defensive IP, IP licensing negotiation and launching patent invalidity procedures, so as to deal with the possibly threatened major industrial IP disputes and conflicts, improve risk prevention and settlement capability and safeguard industrial development.

(II) Support innovative development of member entities

1. Perform industrial patent navigation analysis service. Carry out industrial patent navigation analysis, clarify global core patent layout and competition pattern, comprehensively judge the industrial development trend, guide industrial IP layout and avoid IP risk, so as to lay an initiative strategic foundation for alliance members in international competition. Establish industrial IP information database, give alliance members support in carrying out directional tracking surveillance and further analysis of patent information

and assist the alliance members in making decisions in respect of R&D initiation, enterprise merger and market development.

2. Establish industrial development core element pool with patent pool as basis. Based on the development requirements of the industry and alliance members, by force of patent pools, raise funds by way of self-funding, pledge financing and introduction of venture investment, and establish fund pool and talent pool matching with the patent pool, and push forward construction of “IP + funds + talents” industrial development core element pools, so as to provide the alliance members with comprehensive service for innovative development.

3. Build IP industrialized incubation system. By independently building incubators or develop cooperation with incubators, create new IP incubation modes and provide the alliance members with entrepreneurship instructions, financing service, test platform, standard plants and required IP operating & other innovative service for secondary development and industrialization of patent technologies.

(III) Serve IP innovative entrepreneurship

1. Innovate IP innovation and entrepreneurship modes. By taking full advantage of alliance in integrating resources, construct industry-characterized IP innovation and entrepreneurship base with low cost, convenience, all-around elements and openness. Establish practical patent technology screening mechanism, and make IP information database resources and relevant innovation platforms available to the public, so as to provide the innovation entrepreneurs with technical support. Establish and improve IP entrepreneurship instruction system, according to which the

entrepreneurs and inventor who possess abundant experience and entrepreneurship resources are taken as entrepreneurship mentors so as to constitute special entrepreneurship guiding team. Establish IP entrepreneurship assistance systems, and give the growing and matured enterprises within the alliance instructions to establish IP and product linking mechanism with start-up enterprises.

2. Provide industry-characterized mass entrepreneurship service. Establish IP service platform and combine online/offline service, improve entrepreneurs' IP consciousness and provide the start-up enterprises in the industry with IP services. Organize specialized training and exchange activities such as industry-related IP entrepreneurship salon, patent recommendation meeting, case symposium, business instruction, expert diagnosis, industry forum, data release, talent cultivation and international exchange, so as to provide investment entities and innovation and entrepreneurs with linking platform.

III. Setting-up of Industrial IP Alliances

(I) Conditions to set up industrial IP alliances

1. Industry to which an IP alliance belongs shall be IP intensive industry or IP-dependent industry and is in germination stage or growing stage, and satisfy the industrial conditions to establish an industrial IP alliance and perform its work.

2. All alliance members have the common rights and urge to establish an industrial IP alliance; all alliance members have accumulated patent rights and other IP rights which can centralize and mutually supplement the advantages of IP rights; all alliance members have appropriate economic strength and possess sound goodwill and honesty character.



3. Charter or cooperation agreement of an alliance is prepared, and resources and investments as required by incorporation of an alliance are arranged in place.

4. All conditions as specified in applicable Chinese laws to set up different types of industrial IP alliances shall have been satisfied.

(II) Form of organization of industrial IP alliances

Form of organization of industrial IP alliances mainly includes: business entity, social organization, cooperative organization, etc.

The form of business entity means that all members of an industrial IP alliance implement management and operation of the industrial IP alliance by way of setting up business entity. Under general circumstances, the newly-incorporated business entity is a limited liability company or stock company, and members of the alliance shall act as the corporate shareholders of such company.

The form of social organization means that all members of an industrial IP alliance implement management and operation of the industrial IP alliance by way of setting up new social organization. Under general circumstances, the member entities of the alliance shall be the founders or members of such social organization.

The form of cooperative organization means that all members of an industrial IP alliance, based on a series of cooperation agreements, implement management and operation of the industrial IP alliance by way of setting up a cooperative organization. Under general circumstances, such alliance does not have the qualification as a legal person, and all members of the al-

liance develop strategic cooperation subject to respectively independent legal status.

An industrial IP alliance is of several forms of organizations including business entity, social organization and cooperative organization, and its preparation and setting-up thereof shall be in accordance with applicable Chinese laws, regulations and policies.

(III) Setting-up procedures of industrial IP alliances

Where an industrial IP alliance is established in the form of business entity or social organization, setting up and registration shall be completed in accordance with the procedures as specified in applicable Chinese laws and regulations.

In case of the form of cooperative organization, the procedures are set forth below:

1. Preparation. Sponsorship members of an alliance put forward the intent or offer to establish the alliance; hold an alliance preparation meeting and establish a preparation work team through proper communication and negotiation, and work out a setting-up program and a plan; the preparation work team prepares the drafts of alliance charter or cooperation agreement, and drafts relevant work & management systems; prepare to establish a working department of the alliance.

2. Setting-up. Hold the first general meeting of alliance members on which the alliance charter and the decision of setting up the alliance shall be adopted. In addition, the name and the form of organization of the alliance shall be determined, and the working department of the alliance shall be set up.

(IV) Charter of an industrial IP alliance

Charter of an industrial IP alliance is an impor-

tant document for setting-up, construction, operation and development of an industrial IP alliance, generally containing the following information:

1. name, address of an alliance;
2. nature, tenet, scope of business and working area of an alliance;
3. working purpose, principle and main contents of an alliance;
4. qualifications of alliance members and their rights and obligations;
5. organizational structure, management system and production procedures of an alliance;
6. source, use, management and supervision of alliance funds and assets;
7. modification procedures of the Charter;
8. termination procedures of an alliance and asset disposal procedures upon termination;
9. other matters as specified in the Charter.

According to the form of organization of an industrial IP alliance, cooperation agreements concluded by alliance members or other written documents having the same validity as the Charter or cooperation agreement shall be available if the Charter of the alliance is not prepared.

IV. Operation of an Industrial IP Alliance

(I) Prepare a strategic plan of alliance development

An industrial IP alliance shall work out an alliance development strategic plan based on the derivation features of industrial technologies, global IP layout situation, international competition pattern and important development fields, and in light of the development stage of the members, and the quantity, quality and layout structure of all members' intellec-

tual properties. Such plan shall define the development orientation and determine strategic targets, development tasks and key work. In addition, the alliance shall work out prospective and feasible strategic route map.

(II) Formulate and improve internal management system

An industrial IP alliance shall formulate and improve the alliance liaison systems and daily communication mechanism, routine meeting system and major decision-making mechanism, so as to strengthen communication among the alliance members and improve the internal control and management within the alliance. Additionally, the alliance shall establish and improve information reporting and business communication mechanism, carry out pertinent investigation and study, immediately report relevant information and release research reports, so as to assist the member entities in promptly understanding the information about the industrial frontier and IP tendency at home and abroad, establish a mechanism to ensure fund for alliance work, practice a reasonable system for fund sharing and raising, and ensure the alliance can develop in a sustainable and healthy manner.

(III) Establish win-win resource sharing and profit distribution mechanism

Commonly use the patents or patent portfolio in patent pools by way of cross licensing, sharing patent rights, etc., to realize IP rights sharing; unceasingly accumulate and liquidize the fund pool of the alliance by way of IP operating, and provide the members with bridge funds at a low cost; promote exchange and sharing of talent pools, and take full advantage of the technical experts and specialty talents from each mem-



ber entity, set up academician working stations, post-doctor shift stations and other working platforms. Formulate and improve profit distribution mechanism and distribute the profit of patent operation at the proportion of patents' value during operation of patent pools; implement the market-based profit distribution mechanism of "shared risk and benefit" by employing the "case-by-case" approval system during the course of serving the IP innovation and entrepreneurship.

(IV) Organize business training and talent cultivation

An industrial IP alliance shall, gearing to the needs of management, research staff, IP officers from the alliance members, organize IP business training. For the management, training shall be organized to improve their consciousness upon important role of IP resource integration and strategic application for innovation-driven and international development of enterprises, making their IP management philosophy innovated; for the R&D and marketing personnel, training shall be organized to improve their awareness and capabilities to apply the IP throughout the course of innovation and market competition; for the IP officer, training shall be made to cultivate their IP strategic awareness, improve their IP capabilities and enrich their experience in terms of IP alliance operation.

V. Management Measures

An industrial IP alliance shall abide by national laws and regulations, effectively implement relevant guidelines and policies, comply with industrial practice and submit to business instruction from the competent national and local IP authorities. In no event shall an industrial IP alliance violate applicable laws

and regulations, misuse patent rights, conduct monopoly or unfair competition, and hamper sound market competition and healthy industry development. For the purpose of improving industrial IP alliance management and service, the following management measures shall be adopted:

(I) Carry out recording work

The system of voluntary and post recording shall be implemented. The State Intellectual Property Office delegates the IP authorities at provincial (regional, municipal) level to accept industrial IP alliance recording materials. In applying for recording, the following materials shall be submitted:

1. Form of Application for Recording of Industrial IP Alliance (see Appendix for more details);

2. Charter of industrial IP alliance or cooperative agreement proposing establishment of an industrial intellectual property alliance (the charter or cooperation agreement shall be duly signed and sealed by the legal representatives of all member entities);

3. Copies of business licenses of the supervisor and general secretary of the industrial IP alliance (copies of legal person's registration of institutions in case of universities or scientific research institutes);

4. Name list of members within an industrial IP alliance, information about the principals and contact persons of members.

(II) Establish important industrial IP alliance management library

According to the types of industrial IP alliances, the State Intellectual Property Office incorporates the alliances which are developed maturely into important industrial IP alliance management library for centralized management, and provides corresponding in-

structions and services. During selection of important industrial IP alliances, priority will be given to the following three circumstances: being one of the members of national patent technology exhibition and trade center; possessing the completed resource elements including “industry, universities, research, financing, media, application”; employing the form of business entity or delegating third party specialized

service organization for IP operating.

The competent IP authorities at provincial (regional, municipal) level may, in light of actual conditions, establish important local industrial IP alliance management library and provide corresponding service and support.

Appendix: Form of Application for Recording of Industrial IP Alliance (omitted)