



SIPO Circular Concerning the Publication of Specific Items Relating to the Information of Patent Administrative Enforcement Cases

G. ZH. F. G. Z. [2014] No. 23

Intellectual property offices of all provinces, autonomous regions and municipalities directly under the Central Government and Xinjiang Production and Construction Corps,

In order to thoroughly implement *the Decree of Government Information Disclosure of the People's Republic of China, Circular on Publishing the Case Information Concerning Administrative Punishment Against Producing and Selling Counterfeited and Shoddy Goods and Intellectual Property Infringement According to the Law (Trial)* (G. F. [2014] No. 6), developed by the National Leading Group of Special Campaign against Intellectual Property Infringements and the Production and Sales of Counterfeited and Shoddy Commodities and approved and forwarded by the State Council, and regulate the publication of information concerning patent administrative enforcement cases, this Circular is hereby given on the basis of the reality and in respect of relevant matters:

I. Publication Departments and their Competence

People's governments of all provinces (autonomous regions or municipalities directly under the Cen-

tral Government) and the departments in charge of patent management of people's governments in all cities with districts shall be responsible for making public their respective information concerning patent administrative enforcement cases;

Administrative enforcement cases handled by departments—which are set up by the people's governments of all regions (autonomous prefectures and leagues), counties (districts) with the function of patent-related administrative enforcement to take charge of patent management and are entrusted to carry out patent administrative enforcement—shall be made public by the clients correspondingly;

Departments that are set up by the people's governments of regions (autonomous prefectures and leagues), counties (districts) with the function of patent-related administrative enforcement authorized by local laws and regulations shall be responsible for making public the information of their administrative enforcement cases.

II. Contents to be Made Public

The following information on cases of patent pass-off, against which decisions of administrative

punishment have been made, shall be made public; file number of the decision of administrative punishment; name of the case; name of the enterprise or natural person violating the law; organization registration code of the enterprise violating the law; name of the legal representative; main facts of violations of law; the type and basis of administrative punishment; the way of fulfillment and term of administrative punishment; name of the organ making the punishment decision and date on which such decision is made.

The following information on cases of patent infringement against which the fact of infringement has been confirmed and a decision has been made, shall be made public; file number of the decision of administrative processing; name of the case; name of the enterprise or natural person violating the law; organization registration code of the enterprise violating the law; name of the legal representative; main facts of violations of law; the type and basis of administrative processing; the way of fulfillment and term of administrative processing; name of the organ making the decision and date on which such decision is made.

Where a decision of administrative punishment against cases of patent pass-off, which has been made public, is changed or revoked through administrative reconsideration or administrative proceedings, related information shall be timely made public. Where a decision on the dispute over patent infringement, which has been made public, is changed or revoked for administrative proceedings, related information shall be timely made public.

Cases of patent pass-off suspected of crimes shall be timely transferred to the public security organ according to related provisions; for cases of patent

pass-off which are transferred after the decision of administrative punishment is made, information on the results of administrative punishment must be made public.

Information on other patent administrative enforcement cases which citizens, legal persons or other organizations apply for making public shall be subject to the provisions of Decree of Government Information Disclosure of the People's Republic of China and related laws and regulations.

III. Time Limit of the Publication

For cases of administrative punishment against patent pass-off, related information shall be made public in accordance with the law within 20 working days after the date when such decision of administrative punishment is made; in case the decision of administrative punishment is changed or revoked through administrative reconsideration or administrative proceedings, information on such change or revocation shall be made public within 20 working days after the date when such decision is changed or revoked.

For cases of administrative punishment against patent pass-off, related information shall be made public in accordance with the law within 20 working days after the date when such decision of administrative punishment is made; in case the decision of administrative punishment is changed or revoked through administrative reconsideration or administrative proceedings, information on such change or revocation shall be made public within 20 working days after the date when such decision is changed or revoked.

IV. Ways of Publication

The department in charge of patent management shall make public administrative enforcement informa-



tion through its official website or in such ways easy for the public to access as bulletin, news conferences, newspapers, broadcasting and TV. Case information made public shall be easily accessed by the public in proper ways.

V. Work Specifications

The department in charge of patent management shall establish a complete system for managing information on patent administrative enforcement cases and an accountability system, clearly identify the office leaders in charge, designate the department (office) to take charge of the work of making public information on administrative enforcement cases, the person in charge, the liaison, the way of contact (phone, fax or email), and the address of the government website to make public case information. The departments in charge of patent management of all provinces (autonomous regions, municipalities directly under the Central Government) shall collect the information of the departments responsible for information publication at all levels in their respective administrative areas; fill the information sheet (see Annex 1) on the persons in charge of making public related patent administrative enforcement information and then submit it to the SIPO Patent Management Department before May 15, 2014.

The department in charge of patent-related work shall build an internal mechanism for examining the information on patent administrative enforcement cases to be made public and a files management system; appoint special personnel to examine case information to be made public; and timely enter related case information into the national system for submitting and reporting patent enforcement cases. Specific contents to

be made public and the format shall be subject to the Publicity Sheet of Information on Cases of Administrative Punishment against Patent Counterfeiting (see Annex 2) and Publicity Sheet of Information on Cases of Disputes over Patent Infringements (see Annex 3).

The department in charge of patent management shall develop related supportive measures, intensify the training of law enforcement officers, learn related laws and regulations and get related business knowledge, improve the quality of case handling and the level of law enforcement; strengthen promotion, do a good job to interpret related policies, and timely explain and respond to possible social concerns about case information that is made public.

The publication of relevant information of patent administrative enforcement cases shall not involve any business or technical secrets, or personal privacy like the residence, portrait, phone number and property status of a natural person. However, information can be made public with the consent of the administrative counterpart or under the circumstance that, in the opinion of the administrative enforcement organ, it may have great influences on the public interests if such information is not made public. A written notice on the contents to be made public and the grounds for such publication shall be issued to the administrative counterpart.

The publication of relevant information of patent administrative enforcement cases shall not leak national secrets or damage national political and economic security or endanger social stability. Where relevant information cannot be made public for the above reasons, grounds shall be given in clear-cut terms and submitted to the higher authority for approval.

Where the publication of relevant information of patent administrative enforcement cases involves other administrative organs, communication and confirmation of such information shall be completed before such information is made public to ensure accuracy and consistence.

Each and every publication department shall make public the patent administrative enforcement information as required in this circular since June 1, 2014, and shall report to the SIPO Patent Management Department the publicity of patent administrative enforcement information monthly from July.

VI. Supervision and Guidance

The departments in charge of patent management of all provinces (autonomous regions, municipalities directly under the Central Government) have to strengthen guidance and supervision over the publication of information on patent administrative enforcement cases in their respective administrative areas, and urge lower level departments to build a complete system for managing information publication.

The SIPO will carry out supervision and examina-

tion of the work of making public information on patent administrative enforcement cases nationwide on a regular basis. Meanwhile, it will integrate the work of case information publication into the annual enforcement and rights-defense performance assessment, commend those with outstanding performance, intensify support, and order rectification of and investigate responsibilities for such behaviors as not fulfilling the duty of information publication, and not timely making public or updating information.

This Circular is hereby given.

Annexes:

1. Information Sheet of Persons in Charge of the Publication of Patent Administrative Enforcement Information (Omitted)
2. Publicity Sheet of Information on Cases of Administrative Punishment against Patent Counterfeiting
3. Publicity Sheet of Information Cases of Disputes over Patent Infringements (Omitted)

April 21, 2014