



Circular of the General Affairs Office of the SIPO on Further Strengthening the In-Process and Afterwards Supervision on the Examination and Approval of Patent Agencies

G. ZH. B. H. G. Z. [2014] No. 502

The intellectual property offices of all provinces, autonomous regions and municipalities directly under the Central Government, the National Defense Intellectual Property Office,

In order to implement the requirements of the *Decision of the CPC Central Committee on Some Major Issues Concerning Comprehensively Deepening the Reform, Several Opinions of the State Council Concerning the Promotion of Fair Market Competitions and the Maintenance of a Normal Market Order* and *Registered Capital Registration System Reform Plan*, the SIPO cancels the annual inspection of patent agencies since 2014, and starts to implement the system of disclosing the annual inspection reports of patent agencies, build a directory of patent agencies that run abnormally and a list of patent agencies seriously breaking the law, and further strengthen the in-process and afterwards supervision on the examination and approval of patent agencies. This Circular is hereby given in respect of relevant matters:

I. Implementing the system of disclosing the annual inspection reports of patent agencies.

Submission of the annual reports. Patent agen-

cies established with the approval of the SIPO and law firms providing the business of patent commissioning (hereinafter collectively referred to as "patent agencies") shall each submit an annual report during March 1 and March 31 each year through the patent agency management system.

Contents of the annual reports. Patent agencies shall be responsible for the truthfulness and legality of their respective annual reports.

The annual report shall cover the following concrete matters:

(1) Patent agency's postal address, zip code, contact number, email box, etc.;

(2) Name (s) of the managing partner (s) or the legal representative, name (s) of the partner (s) or shareholder (s), name (s) and the amount of practicing patent agents;

(3) Amounts, time and way of investment subscribed and paid in by the partner (s) or the shareholder (s);

(4) Information on the status of the patent agency, including start of businesses, closedown and clearing;

(5) Information on the business of the patent agency, like patent applications, reexaminations, invalidations, litigation and pledge financing it has undertaken as an agent;

(6) Information on the establishment of branch offices;

(7) Information on the website of the patent agency, and name (s) and website (s) of its online shops if such patent agency does online business;

(8) Information on the patent agency's total assets, total debts, total business income, total income from its main businesses, total profits, net profits and taxes paid;

(9) Other information that shall be submitted.

Publication of the annual reports. The SIPO publicizes the above information of the annual reports submitted by the patent agencies except Items (5), (8) and (9). In case a patent agency chooses to make public the information of Items (5) and (8), the SIPO shall make public of it.

On discovering of any information concealment or falsification, or any inconsistency with the registration matters made public by the SIPO in any patent agency's annual report, any unit or individual can report it to the SIPO or the intellectual property offices of all provinces (autonomous regions and municipalities directly under the Central Government) (hereinafter referred to as "local intellectual property offices").

II. Establishment of the directory of patent agencies that run abnormally and the list of patent agencies seriously violating the law.

The SIPO establishes the directory of patent agencies that run abnormally and the list of patent

agencies seriously violating the law, and make public the patent agencies that have irregular behaviors in the process of setting up the agency or daily operation.

For any of the following circumstances, a patent agency will be put in the directory of patent agencies that run abnormally and punished by the SIPO in accordance with related laws and regulations.

(1) Concealing true information or falsifying information when obtaining the patent agency business license or submitting the annual report;

(2) Failing to submit the annual report during the set period, or failing to submit related patent agency information before the time limit set by the SIPO;

(3) Changing the name, business venue, partner or shareholder, legal representative or managing partner without permission;

(4) Setting up branches without permission;

(5) No longer meeting the requirements and still being unable to meet the requirements even upon the expiry of the rectification notification issued by the local intellectual property offices or the National Defense Intellectual Property Office;

(6) Carrying out unfair competitions through fake publicity or by denigrating the rivalries;

(7) Refusing to act as a patent agent after being commissioned without any justified reason;

(8) Accepting the commission of another interested party in the same patent application or patent case;

(9) File patent applications or requests for invalidation in its own name;

(10) Managing patent agents carelessly and causing serious consequences;



(11) Engaging in other illegal businesses or violating relevant provisions of the State Council.

Local intellectual property offices and the National Defense Intellectual Property Office shall timely report the above circumstances, if any, in daily supervision, to the SIPO.

Patent agencies which have been in the directory of patent agencies that run abnormally, which have not had any of the above circumstances within one full year shall be deleted from the directory; but will be put in the list of patent agencies seriously violating the law if failing to meet the requirements for three full years, in which case the SIPO will make them public. Patent agencies which haven't had any of the above circumstances for five full years since the date they are put in the list of patent agencies seriously violating the law will be deleted by the SIPO from the list of patent agencies seriously violating the law.

III. Further Intensify supervision over patent agencies

The SIPO, local intellectual property officers and the National Defense Intellectual Property Office shall give full play to their role in government supervision, enhance supervision awareness, and fulfill the supervision duty in accordance with the law. During the process of supervision, they shall supervise with no fears and be dutiful and timely and justifiably deal with illegal behaviors discovered.

Strictly control the examination and approval process. Local intellectual property offices shall strictly control applications for the establishment of patent agencies, carefully check each and every application, and carry out field investigation if necessary. Applications for setting up branches shall be examined

and approved in strict accordance with laws and regulations. In case the application for setting up branches is approved, the local intellectual property office concerned shall be timely notified, and it shall be reported to the SIPO for recording.

Strengthen daily supervision. Local intellectual property offices and the National Defense Intellectual Property Office shall take into consideration local reality, identify the supervision requirements, work out more specific supervision plans, enrich the supervision methods, improve the supervision measures, standardize the supervision process and ensure the implementation of the supervision tasks. When a patent agency no longer meets the establishment requirements, it should be timely notified to make rectification. Annual reports submitted by the patent agencies in the area under jurisdiction shall be randomly checked as needed.

Consolidate the supervision foundation. Local intellectual property offices and the National Defense Intellectual Property Office shall correctly master the supervision contents and effectively improve the supervision capability, provide a solid guarantee for the work of supervision in terms of personnel and funds. Local intellectual property offices and the National Defense Intellectual Property Office shall be equipped with corresponding numbers of supervisors according to the local reality, allocate sufficient funds, and effectively fulfill the supervision duty.

Ensure the implementation of supervision. The SIPO, local intellectual property offices and the National Defense Intellectual Property Office shall unify thinkings, fulfill their respective duties, and cooperate with one another to effectively do a good job on the

in-process and afterwards supervision of patent agencies; work with business and commercial departments and taxation departments to carry out multi-department and multi-link supervision, share supervision information, intensify coordinated cooperation among different departments, and create a market atmos-

phere conducive to integral operation of the patent agency industry.

This Circular is hereby given.

The SIPO General Affairs Office

December 8, 2014