

# Circular of the General Affairs Office of the SIPO Concerning the Printing and Distribution of *Guidelines for IP Analysis and Review*

G. ZH. B. F. X. Z. [ 2014 ] No. 47

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

In order to guide IP analysis and review in economic, scientific and technological activities and ensure the quality of IP analysis and review, *Guidelines for IP Analysis and Review* is hereby printed and distributed with the approval of the SIPO for your thorough implementation on the basis of your actual working environment.

This Circular is hereby given.

The SIPO General Affairs Office

December 23, 2014

## Guidelines for Intellectual Property Analysis and Review

### Chapter 1 General Provisions

**Article 1** These Guidelines are hereby developed in order to guide Intellectual Property (IP) analysis and review in economic, scientific and technological activities, ensure the quality of Intellectual Property analysis and review, thoroughly implement related deployments in *The Further Implementation of the National IP Strategy Action Plan (2014–2020)*

(G. B. F. [2014] No. 64), *Several Opinions on Accelerating the Development of the Science and Technology Service Sector* (G. F. [2014] No. 49) and *Several Opinions on Strengthening the Intellectual Property Work in Strategic Emerging Industries* (G. B. F. [2012] No. 28).

**Article 2** IP analysis and review refers to comprehensively applying information analysis means to make overall IP analysis of the competitive status of



intellectual property, especially technology-related patent, in economic and technical activities; appraising, evaluating, checking and demonstrating the IP risks, the quality value and disposal of IP assets in such activities, giving targeted suggestions on countermeasures, and providing consultation services for the government, enterprises and institutional organizations to launch economic, scientific and technological activities.

**Article 3** These Guidelines apply to all interested parties in IP analysis and review, including the client, the implementing party and the user of such IP analysis and review.

Client mainly refers to the organizer of IP analysis and review. It may be a government department, an enterprise or an institutional organization, and its main tasks are to identify demands, organize coordination, provide guarantee, and integrate the IP analysis and review achievements into decision making. For major economic, scientific and technological activities, the client shall be of the combination of the competent administrative department and the intellectual property administrative department of such activities in general; and the intellectual property administrative department shall also be responsible for supervising and guiding the implementation of IP analysis and review to meet quality requirements.

Commissioned by the client, the implementing party completes IP analysis and review with the participation and cooperation of the user. It is the specific undertaker of IP analysis and review, and generally refers to the intellectual property service agency engaged in IP analysis and review or the specific intellectual property team within an enterprise or institu-

tional organization.

The user is the party that puts IP analysis and review results into practice. Generally, it refers to the specific practitioner of economic, scientific and technological activities that is responsible for putting IP analysis and review achievements into practice.

**Article 4** Basic principles of implementing IP analysis and review

—Being targeted. It shall be based on the client's real intellectual property demand and actual problems met in economic, scientific and technological activities.

—Being scientific. It shall determine the task of IP analysis and review as the client demands, and launch information retrieval and information analysis in areas of law, technology and the market in a scientific and comprehensive way.

—Being comprehensive. It shall be based on the implementation requirements of economic, scientific and technological activities and, on the basis of systematically analyzing intellectual property-related information and with industrial environment, market environment, legal and policy environment taken into consideration, making comprehensive studies and judgments.

—Being constructive. It shall give operable strategic suggestions on the characteristics, problems and risks of intellectual property competitions in economic, scientific and technological activities.

## Chapter 2 IP Analysis and Review Categories

**Article 5** IP analysis and review applies to public and business management activities. IP analysis and review mainly comprises three modules, namely legal

analyses, technical analyses and market analyses. The implementing party shall choose to organize and select specific analysis module to launch IP analysis and review according to the characteristics and specific requirements of the economic, scientific and technological activities.

**Article 6** IP analysis and review applies to, but is not limited to, the following public management activities: technological innovation plan management; technological industrialization plan management; technological awards review and determination; identification of hi-tech enterprises and new products; development, amendment, examination and approval of technical norms; examination and approval of state-owned assets regrouping and peeling; examination and approval of major investment projects; introduction of major technical projects; supervision of enterprises going public; introduction of technical innovators; introduction of technical entrepreneurs; management of technology importing and exporting; development of major strategic planning projects in the industry and development of industrial policies, etc.

**Article 7** IP analysis and review applies to, but is not limited to, the following business management activities: management of R&D programs; introduction and management of innovation talents; development and amendment, or adoption of technical norms; technology/intellectual property licensing or transfer; construction of the enterprise supply chain; products' going public and product exporting; participation in industrial exhibitions; management of intangible assets by enterprises; enterprises' going public and guidance to and assistance in it; enterprise M&As; assets regrouping and peeling in enterprises;

enterprise bankruptcy and liquidation; development of enterprise strategic planning; business financing and investment activities; intellectual property rights defense; handling of intellectual property infringements, etc.

**Article 8** The module of legal IP analyses and reviews covers investigation and verification of IP legal information; investigation and verification of IP ownership; analysis of IP legal risks; investigation of IP-related rights and obligations; surveys of the IP legal environment in the target market (s); examination of provisions of IP-related agreements; review of IP legal stability; evaluation of the intensity of IP protection, etc.

The module of technical IP analyses and reviews covers analysis over the development trend and competitiveness of patented technology, the space and enlightenment of innovation; the investigation of the fungibility of technology, the evaluation of innovativeness of the technology, and the survey over the maturity of the technology, etc.

The module of market IP analyses and reviews covers survey of industrial IP competitions; survey of IP relevance; IP strategy and capability review of the targets; IP assets auditing and evaluation; survey of IP economic effectiveness, etc.

**Article 9** The main purpose of launching IP analysis and review in public management activities is to improve the predictability and management efficiency of major economic, scientific and technological activities, avoid IP risks, protect investment security, and ensure benefits upon investments.

The main purpose of launching IP analysis and review in business management activities is to improve



the innovation efficiency and quality in enterprises and institutional organizations, properly solve IP problems in business and commercial management, avoid IP risks, and develop effective market competition strategy.

**Article 10** IP analyses and reviews in public management activities concentrate on analyzing, reviewing and comprehensively studying the direction of projects on major economic, scientific and technological activities; IP risks, plans and projects; IP performance; the feasibility of public policies so as to give reasonable suggestions on the management and decision making of major economic, scientific and technological activities based on industrial and regional planning, the level of innovation and development, etc.

IP analyses and reviews in business management activities concentrate on predicting, appraising, auditing and evaluating IP competitions, IP risks, IP assets and IP performance in specific economic, scientific and technological activities; seeking innovation space; giving support to the IP mapping; assisting in handling disputes based on the business objectives, status of resources, competition environment of enterprises and institutional organizations so as to “protect” the smooth implementation of business activities.

### **Chapter 3 Concrete Implementation of IP Analysis and Review**

**Article 11** In public management activities, generally the competent administrative department directly entrusts a third party to provide IP analysis and review services, or requires the management counterpart to provide an IP analysis and review report issued

by a service agency with certain qualifications. When the competent administrative department is the direct client of IP analysis and review, it usually adopts the mode of purchasing service, and may entrust a third party independently or together with the IP administrative department.

Enterprises and institutional organizations may adopt the mode of setting up a special team to undertake IP analysis and review independently or entrust an IP service agency engaged in providing IP analysis and review services. Through establishing a working mechanism of IP analysis and review, integrate IP analysis and review into the work systems for purchase of raw materials/parts, production and manufacturing, marketing, talent management, R&D innovation, assets operation and management.

**Article 12** In order to carry out IP analysis and review, a highly targeted and operable work mechanism, process and procedures shall be established according to the nature, characteristics and specific requirements of the client, and create tailored solutions as a result.

**Article 13** IP analysis and review normally cover such links as demand analysis, task identification, IP analysis and review preparation, program implementation, delivery of achievements, feedback on delivery and follow-up services.

**Article 14** In such links as demand analysis and task identification, the implementing party and the client shall fully exchange ideas on the background and demand of IP analysis and review and, based on comprehensive analysis of the conditions for and specific requirements of economic, scientific and technological activities, as well as characteristics of

industrial fields, identify the tasks and objectives of IP analysis and review.

**Article 15** During the preparation for IP analysis and review, the implementing party shall bear in mind the established tasks and objectives, the competitions in the industry, the category of IP analysis and review and the implementation characteristics of such IP analysis and review to develop work schemes and plans, set up a team, and initiate earlier data collection, research and study. The client shall actively cooperate with the implementing party in the latter's information demand, and provide the latter with industry related information and project data needed.

**Article 16** During program implementation, the implementing party shall follow the work scheme and plan to select proper module of IP analysis and review according to the category of IP analysis and review. The implementing party shall do a good job in managing the time, quality, costs, communication and risks of IP analysis and review; ensure its team's time investment; and allocate professional IP analysis and review tools to make sure that the information adopted is correct and complete, logical reasoning thorough and objective, analysis conclusion reasonable and well-grounded, and recommended countermeasures rational and effective.

**Article 17** The implementing party shall follow the established plan and arrangements to deliver phased and the final results. The implementing party shall take the initiative in communicating with the client about phased results. The client shall timely participate in the communication and confirm the phased results provided by the implementing party.

**Article 18** The IP analysis and review results may take the form of text results and non-text results. Text results include the final IP analysis and review report, process files, basic data, sub-item reports, documents cited, etc.; non-text results include consultation suggestions, application trainings, and implementation guidance and assistance, etc.

**Article 19** The form and key contents of the final IP analysis and review report shall be determined according to the utilization requirements of the client and the user. The report for the decision-maker shall concisely and correctly illustrate issues, and give clear-cut conclusions and suggested countermeasures. The reports for the user's specific implementing personnel shall explain issues in a detailed and comprehensive way, and give concrete and operable strategy suggestions.

**Article 20** In general, the final report on IP analysis and review comprises the main body and appendices.

The main body of the report generally covers basic information on economic, scientific and technological activities; IP analysis and review tasks and objectives; contents and main conclusions the IP analysis and review modules and suggested countermeasures. Contents of an IP analysis and review module shall be closely related to project requirements, and be analyzed and reviewed point by point. The IP analysis and review conclusion shall be clear and concise. Suggested countermeasures shall be targeted and operable. Appendices may be set according to the client's specific requirement, and include process files, basic data, sub-item reports and cited documents that are produced in the process of IP analysis and



review, etc.

**Article 21** All reasonable requirements raised by the client after the delivery of the IP analysis and review results shall be positively responded to by the implementing party which shall then communicate with the client for a solution. The implementing party shall positively complete related follow-up services like consultation and suggestion, application training, implementation guidance.

**Article 22** The implementing party shall establish a system for controlling the quality of IP analysis and review, collect review feedback from the client and the user in the process of IP analysis and review and after the delivery of the IP analysis and review results, analyze its own quality problems, set the improvement objectives, and develop a rectification scheme to get improvements.

The IP administrative department shall guide the implementing party to build a quality control system, for which the implementing party shall actively cooperate.

#### **Chapter 4 Implementation Team of IP Analysis and Review**

**Article 23** Implementation of IP analysis and review is generally undertaken by a professional service agency with the capability of carrying out IP analysis and review or a professional team inside the enterprise or institutional organization. The professional service agency undertaking the task shall set up an IP analysis and review team, and it may require the client or the user to designate experts to enter the implementation team if needed. The IP analysis and review team shall be able to search the minimum PCT documentation set

by the World International Property Organization and information on the IP legal status of major countries; acquire information on market competitions in related industries; and have IP analyzers and reviewers of various types who understand the technical and industrial status quo, and are proficient in intellectual property and related foreign languages.

**Article 24** The implementation team of IP analysis and review normally is made up of the person in charge of the project, information searcher, analyzers and researchers, technical and industrial experts; and duly introduce external law, technical and business experts when necessary. External experts must obey the duty of confidentiality.

**Article 25** The person in charge of the project of IP analysis and review implementation team shall have the capability of making overall project planning, be able to carry out project team management and resource allocation; have the ability to control the quality of IP analysis and review and to prevent and deal with possible problems in IP analysis and review; and have the communication ability for the smooth delivery of IP analysis and review results.

**Article 26** Information searchers shall have professional knowledge and language skills relating to the searches of IP information, be familiar with data search tools; be able to make technical analysis independently, develop search strategy, and search comprehensive and accurate information; and to launch data purification and data indexing.

**Article 27** IP analyzers and reviewers shall have a professional background for IP analysis and review projects and corresponding language skills; have the ability to master the situation and technical back-

ground of the industry which the IP analysis and review project belongs to, to systematically interpret, comprehensively analyze, evaluate and appraise intellectual property-related information and sensitively discover IP risks and problems, to provide solutions to risks and problems, and to write reports and make oral presentations.

**Article 28** Industry experts know well the status and development trend of the industry in which the IP analysis and review project belongs to, understand industrial policies and characteristics, and have the ability to evaluate technical difficulties and hot-spot issues in the industry.

**Article 29** When implementing IP analysis and

review, the implementing party shall sign a confidentiality agreement with the client or the user and fulfill the confidentiality duty. Without the prior permission of the client or the implementing party, the implementing party is not allowed to leak any confidential information to any third party.

## **Chapter 5 Supplementary Provisions**

**Article 30** The power to interpret these Guidelines shall remain with the State Intellectual Property Office.

**Article 31** These Guidelines shall come into force upon promulgation.