

**Circular of the State Intellectual Property Office on
Printing and Distributing the *Project Plan for
Enhancing Patent Administrative Enforcement***

G. ZH. F. G. H. Z. [2013] No. 34

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 spirit of the 18th CPC National Congress, actively promote the implementation of the IP strategy and patent strategy, intensify the implementation of Decisions on Enhancing Patent Administrative Enforcement (G. ZH. F. G. Z. [2011] No. 74), and carry out *related requirements of the 12th Five-year Plan for IP Talents (2011–2015)*, SIPO decides to implement the project of enhancing patent administrative enforcement from this year, and try to, with three years of hard work, build a professional, specialized, standardized and information-based patent administrative enforcement team, innovate in the system and mechanism that is conducive to giving full play to the advantages of patent administrative enforcement, improve enforcement conditions, promote patent administrative enforcement capacity in an all-round manner, and give full play to the important role of patent administrative enforcement in encouraging innovation, guaranteeing people's livelihood, and promoting development. Therefore, SIPO has developed the the *Project Plan for Enhancing Patent Administrative Enforcement* (hereinafter referred to as the Plan). The Plan is hereby issued for your implementation.

Local intellectual property offices may apply for undertaking specific tasks according to the nature and requirements of each and every task in the Plan and taking into consideration local conditions and needs. SIPO will appropriately increase its support to local intellectual property offices that stand out in patent administrative enforcement, and have a strong demand and a reasonable plan. Local intellectual property offices shall pay due attention to patent administrative enforcement, intensify their support to patent administrative enforcement, and work together to push forward the promotion of patent administrative enforcement.

This Circular is hereby given.

State Intellectual Property Office

March 20, 2013



Project Plan for Enhancing Patent Administrative Enforcement

This plan is developed in order to meet the development demands of the situation and to promote patent administrative enforcement in an all-round manner.

I. Improve the service quality of the enforcement officers, and promote the level of specialization and professionalization of the enforcement team

i. Improve enforcement orientation training. The State Intellectual Property Office organizes patent administrative enforcement orientation training for the system IP Offices each year. The intellectual property offices of provinces (autonomous regions and municipalities directly under the Central Government) and municipal intellectual property offices that rank among the top in caseload terms among cities of the same category, may apply for holding enforcement orientation training as needed, mainly for local enforcement officers and giving consideration to training the enforcement officers in neighboring areas. Those who attend such training and pass the examination will obtain a patent administrative enforcement certificate issued by the State Intellectual Property Office. Those who attend such training, but fail in the examination may apply for attending the training once again within two years. No other person is allowed to attend such enforcement orientation training repeatedly.

ii. Intensify the training for enforcement improvement. Patent administrative enforcement improvement training will be held for active and certified

patent administrative enforcement officers and the persons in charge of enforcement; the trainees will be required to each write a graduation report at the end of the training. The training for performance improvement will be completed for the patent administrative enforcement officers in rotation manner within three years.

iii. Strengthen the preparation work of enforcement training. The role of the competent enforcement officers in local intellectual property offices shall be brought into full play in collaborative compilation of the patent administrative enforcement training books that combine entities with procedures, and theories with cases. Within 2013, the compilation, editing, argumentation, printing and distribution of the outline of patent administrative enforcement training, patent administrative enforcement training textbooks and patent administrative enforcement cases collection will have been completed. In 2014 and 2015, the above textbooks will have been adjusted and improved based on work practice.

Select outstanding teachers from enforcement officers, lawyers, patent agents, judges, scholars and foreign experts through the recommendation of local intellectual property offices and relevant units, through others, through individual's self-recommendation and also through direct nomination by the offices, and build a database of patent administrative enforcement trainers. Basically complete the building of the database of patent administrative enforcement

trainers in 2013; make adjustments and replenishments in the practices of patent administrative enforcement training, and speed up building a database of patent administrative trainers that features a full range of categories and a reasonable structure in 2014 and 2015.

iv. Deepen enforcement training and exchanges. Selectively support competent patent administrative enforcement officers, who have been engaged in enforcement for over two years and had a greater caseload, to attend relevant legal trainings or study for a master's or doctor's degree in Chinese universities, and select several competent patent administrative enforcement officers who have engaged in enforcement for over three years, had a greater caseload, passed related examinations, and had acquired foreign language proficiency to attend international legal trainings on IP.

The intellectual property offices of provinces (autonomous regions and municipalities directly under the Central Government) and municipal intellectual property offices, which are outstanding in enforcement and case handling, may recommend excellent cases of the year to SIPO, organize experts to evaluate and analyze before selecting excellent cases of the year, and make public the selected excellent cases to the enforcement officers in the system. The State Intellectual Property Office organizes competent enforcement officers in local intellectual property offices and related experts to launch analyses and make demonstrations.

v. Improve enforcement agencies. Ask the intellectual property offices of provinces (autonomous regions and municipalities directly under the Central Government) to set up dedicated enforcement depart-

ments and offices, to set up patent administrative enforcement corps, and to guide eligible municipal intellectual property offices in the administrative district to set up dedicated enforcement departments and offices and establish patent administrative enforcement detachments.

Advance the work to accredit enforcement supervisors. The State Intellectual Property Office designates enforcement supervisors to related areas as needed; and the intellectual property offices of provinces (autonomous regions and municipalities directly under the Central Government) may designate enforcement supervisors to the intellectual property offices under their administration as needed in 2013. The work of short-term designation of enforcement supervisors, or long-term enforcement supervisors in certain places with necessary conditions will be launched in 2013. The work to designate enforcement supervisors and properly prolong the term of designation of enforcement supervisors will be gradually strengthened in 2014 and 2015.

vi. Strengthen enforcement incentives. Select and make public model heads, directors of intellectual property offices and departments doing great in patent administrative enforcement, and also excellent patent administrative enforcement officers, actively innovate in the incentives for case handling by the enforcement officers, and speed up the research of the ways and methods of pushing forward the building of a professional and specialized patent administrative enforcement team.

Hold patent administrative enforcement and case handling knowledge contests annually, and make the ranking in such contest one of the references for the



qualifications for attending training both at home and abroad and for undertaking tasks such as enforcement supervision, studies on enforcement topics, and teaching in enforcement trainings.

II. Innovate in the enforcement mechanism, and improve the level and efficiency of enforcement and case handling

i. Set up a mechanism for rapid mediation of disputes over patent infringements. Set up a mechanism for rapid mediation of disputes over patent infringement to vigorously and rapidly mediate patent disputes of different types. Study before putting forward plans for rapid mediation of disputes over patent infringements, select local intellectual property offices where conditions are mature to be pilots, and preliminarily build a mechanism for rapid mediation of disputes over patent infringements in 2013; further promote and publicize the mechanism, and give full play to the advantage of patent administrative enforcement of being simple and convenient in 2014 and 2015.

ii. Strengthen the enforcement cooperation mechanism. Establish an overall center and several regional patent administrative enforcement collaboration dispatch centers to improve the level and efficiency of collaboration in enforcement and case handling; select several regions to be the pilots, and set up several regional patent administrative enforcement collaboration dispatch centers; advance the establishment of an overall commanding and dispatching center for patent administrative enforcement, and accelerate the building of systematic and standardized cross-regional enforcement collaboration.

iii. Improve the mechanism for special actions. Follow the principle of being more centralized, more

powerful and more pragmatic to improve the mechanism for special actions; hold firm special actions as an important means of exercising the enforcement team, intensifying case handling and promoting enforcement capacity and the important tool of making the innovators and consumers more satisfied and guaranteeing people's livelihood; from 2013 to 2015, launch the special action of "escort" of IP enforcement and right defense in a centralized way in the second and the third quarters each year; take into consideration local reality when launching special actions; give priority to the fields that are related to people's livelihood, major projects and industries with advantages; hold at least one centralized check, rectification and case handling each month at large-scale sites for commodity circulation and exhibitions; vigorously investigate and punish patent infringements and patent counterfeiting; expand the influence of enforcement case handling; improve rapid response to enforcement and rights protection; and raise public satisfaction of IP enforcement and rights protection. In special actions, the contact numbers and main activities of enforcement and case handling in special actions shall be made public via mainstream local media, local government websites and the website of the offices concerned. The intellectual property offices of provinces (autonomous regions and municipalities directly under the Central Government) and selected intellectual property offices in the promotion project of patent administrative enforcement shall report and submit their plans for special actions in the first quarter each year, and their summing-up reports in the fourth quarter each year. The State Intellectual Property Office shall give priority support to selected local

intellectual property offices according to the contents and actual effects of the plans for special actions.

iv. Establish consulting mechanisms for judging patent infringements. Select several IP rights protection and assistance centers around China according to actual demands, work foundation and regional distribution to set up consulting centers for judging patent infringement and, to establish consulting committees on judging patent infringement, consulting expert databases, and consulting e-archives, to study and develop consulting measures on judging patent infringement, and to timely organize professionals of different categories to provide public services concerning consultations on patent infringement judging for local intellectual property offices; the consulting centers shall begin their operations, and the centers that fail to fully complete their work shall be timely adjusted in 2013; in 2014 and 2015, on the basis of completing the work mechanism, enhance the scale and level of consulting services on judging patent infringement.

v. Improve the mechanism for advancing enforcement with priorities. Include the work of promoting patent administrative enforcement into the promotion project of patent administrative enforcement capacity, select local intellectual property offices with outstanding performance in enforcement and case handling or with greater progress to promote their work with priority and to effectively drive the improvement of patent administrative enforcement capacity in the whole system; and determine the candidates for the promotion project of patent administrative enforcement according to the results of the annual enforcement performance assessment, especially case handling in enforcement, and in combination with different conditions and re-

quirements of the eastern, central and western areas in China.

vi. Improve the enforcement investigation work mechanism. Organize dynamic investigations according to the situation of patent administrative enforcement and patent infringement and counterfeiting; organize volunteers of IP rights protection to discover and provide clues of patent violations through the Internet, newspapers and field investigations; local intellectual property offices shall, after considering the number of local patents granted and the actual situation of local economic development, each establish a team of IP rights protection volunteers of a certain size, and select and designate volunteers to actively investigate the IP rights protection and provide IP rights protection services at R&D parks and areas, large business sites, industrial clusters, large-scale exhibitions and other large-scale event sites.

III. Speed up the building of enforcement system, and improve the level of standardized enforcement

i. Improve standards of enforcement and case handling. Local intellectual property offices shall intensify their work, innovate in their work methods, and accelerate the development and improvement of patent administrative enforcement laws, regulations, rules and systems. While pushing forward the formulation and revision of local rules and regulations on patent protection, speed up the building of the patent administrative enforcement system in such aspects as enforcement and case handling references like refinement of the judgment of patent infringements, identification of counterfeit patents, calculation of the damage compensation for patent infringements, discretion



on administrative punishment to the behavior of counterfeiting patent, rapid investigation and settlement of patent disputes and rules for collecting and presenting evidence.

ii. Improve the accountability system for reaching enforcement goals. Local intellectual property offices shall establish the accountability system with enforcement and case handling as the core. The main person in charge of the local intellectual property office shall be the primary person in charge of enforcement, and shall actively push forward the establishment of the three-rank (office leader, department leader and enforcement officers) accountability system, where the office leader carries out supervision, the enforcement department leader gives instructions, and the enforcement officers execute such instructions. In 2013, the intellectual property offices of provinces (autonomous regions and municipalities directly under the Central Government), sub-provincial cities and cities at the prefecture level shall each establish a perfect accountability system based on the goals of enforcement; from 2014 to 2015, the priority shall be checking the completion of the work to improve the system and its operation.

iii. Improve performance appraisal system for enforcement and rights protection. The State Intellectual Property Office shall make an annual appraisal of the enforcement and rights protection performance of the intellectual property offices selected into the promotion project of patent administrative enforcement and the intellectual property offices and rights protection centers in demonstrative cities, and shall make public the results of such open performance appraisal in a certain range. The intellectual property offices of provinces

(autonomous regions and municipalities directly under the Central Government) shall appraise and evaluate, annually, the enforcement and rights protection performance of the intellectual property offices under their administration. The appraisal and evaluation indicators on the performance of patent administrative enforcement and rights protection assistance shall be adjusted and improved according to the feedbacks of different fields, and the application of the appraisal results shall be enlarged year by year.

iv. Improve the system for rewarding reporting, complaints and assistance for rights protection. Encourage the right owners and all social sectors to report or submit complaints on patent violations, and improve the system for incentives for reporting, complaints and assistance for rights protection; study and put forward the ways and methods of patent rights protection and assistance, guide the rights assistance centers to, for the purpose of guaranteeing people's livelihood and reducing the rights protection cost by the right owner, give assistance to and provide necessary financial support for patent owners with actual difficulties in rights protection to help the patent owners timely and effectively protect their legitimate rights and interests. In 2013, local intellectual property offices and intellectual property rights protection and assistance centers shall develop and carry out specific methods on providing incentives to those who make IP reporting and complaints according to the local conditions, and reward those reporters of IP violation and complainants who provide important clues or provide clues for many times via the 12330 platform. From 2014 to 2015, the assistance to IP rights protection and incentives for IP violation reporting and com-

plaints shall be advanced progressively.

v. Perfect the enforcement management and supervision system. Taking into consideration the level of economic and social development, innovation capacity and IP creation in different places, study and put forward the ways and methods of carrying out patent administrative enforcement management standards in such aspects as the institutional building of the enforcement team, the investment of manpower and materials, case handling, fulfillment of responsibilities, the degree of attention from the leaders and policy support.

Study and put forward a specific plan for the utilization and regulation of the funds for patent administrative enforcement and IP rights protection so as to ensure standard and highly-efficient utilization of the funds for enforcement and rights protection. Strengthen supervision over the use of special funds, establish a sound mechanism for supervising the use of such funds, and intensify onsite check in two aspects, namely the process and the effect of the utilization.

Local intellectual property offices shall speed up the building of a sound duty system for making public and answering the telephone hotlines for enforcement and case handling. Make public the duty phone and duty mobile phone numbers for patent administrative enforcement and case handling on the local network and major local media to ensure answering of the phones during work hours, and use Mandarin Chinese to answer calls on case acceptance and consultation. In case of prevarication and refusal to accept the case in accordance with the law or bad attitude of the phone answerer, related leaders and the person concerned must undertake corresponding responsibilities.

Launch the work of checking the patent administrative enforcement certificate annually, grasp the dynamics of the enforcement officers, stabilize the team of enforcement officers, and give full play to the role of the intellectual property offices of provinces (autonomous regions and municipalities directly under the Central Government) in the annual check.

IV. Enhance enforcement conditions and improve the informationalization level of enforcement

i. Establish a system for submitting and reporting enforcement cases. Speed up the building of the three-level (national, provincial and municipal) patent administrative enforcement submission and reporting system, and realize the functions of summarizing, analyzing and reporting patent administrative enforcement data at different levels; initially set up such system in 2013; and adjust and perfect the system in operation from 2014 to 2015.

ii. Establish an enforcement officers' information management system. Establish a patent administrative enforcement officers' information management system including the module of enforcement personnel training management and that of basic information on enforcement personnel, through which local intellectual property offices can search, input and revise the information of their respective enforcement personnel; accelerate the informationalization of annual check and management of the enforcement certificate; establish the system for managing the information of patent administrative enforcement personnel in 2013; and keep perfecting the system and corresponding management work in the practice of system operation in 2014 and 2015.



iii. Establish a sound system for reporting and submitting complaints about rights protection assistance. Speed up the establishment of a system for giving assistance to IP protection, reporting and complaining about IP violations, achieve online transfer of IP violation reporting and complaints, and provide the online application service for IP protection assistance; set up the system and put it into operation in 2013; adjust and upgrade the system through operation in 2014 and 2015.

iv. Outfit enforcement equipment. Equip the pa-

tent administrative enforcement officers with portable patent legal status query equipment as soon as possible to improve the efficiency of enforcement and case handling, and ensure accurate and timely access to the legal status of a patent by the patent administrative enforcement officers. Local intellectual property offices with enforcement function shall improve their enforcement equipment, be strict with enforcement clothing, and set up special oral trial sites for the purpose of enforcement and case handling.

**Opinions of the State Intellectual Property Office,
the Ministry of Industry and Information Technology,
the State Administration for Industry & Commerce and
the National Copyright Administration on Strengthening
IP Protection in the Ceramic Industry**

G. ZH. F. X. Z. [2013] No. 26

The intellectual property offices of all provinces, autonomous regions, and municipalities directly under the Central Government, industry and information technology departments, administrations for industry and commerce, and copyright administrations,

These opinions are put forward in order to thoroughly implement the national intellectual property strategy, intensify enforcement and regulation in the ceramic field, promote the capacity of IP protection,

and create a favorable environment to promote the smooth and healthy development of the ceramic industry.

**I. Fully recognize the important significance
of strengthening IP protection in the ceramic
industry**

The overall economic aggregate of the ceramic industry kept growing in China in recent years. The total production of the industry accounts for over a half of the world total. Its annual output value exceeds