

ened. Local IP offices should effectively strengthen organization and leadership, develop local objectives and policy measures in line with the overall objectives defined by SIPO and having regard to local conditions, and make such arrangements as circular forwarding, task breakdown and organized implementation in a timely manner.

Incentive mechanisms should be created. Local IP offices should combine E-filing promotion with local specific areas of work, such as pilot and model projects, identification of preponderant enterprises, accelerated examination, circuit hearing and agency capability enhancement, and grant preferential policies to outperformers in E-filing of patent applications. In addition, SIPO will actively support local IP offices and regard local E-filing rates as an important

index in performance assessment and ranking of the local receiving offices.

Collaboration should be enhanced. SIPO will further improve policy measures on E-filing of patent applications, step up efforts to build the patent application E-filing system, pay visits to relevant areas to direct and carry out E-filing publicity and training from time to time, and regularly release dynamic data on E-filing rates of all provinces, autonomous regions and municipalities directly under the Central Government as well as patent agencies. Any problems that emerge in the course of promoting E-filing of patent applications should be promptly reported to SIPO.

This Circular is hereby given.

May 31, 2011

## **Decision of the State Intellectual Property Office on Strengthening Patent Administrative Enforcement**

G. ZH. F. G. Z. [ 2011 ] No. 74

The intellectual property offices of all provinces, autonomous regions, municipalities directly under the Central Government, cities under separate state planning, sub-provincial cities and Xinjiang Production and Construction Corps; all departments of the State Intellectual Property Office, all departments under the Patent Office of SIPO and all entities and social

groups directly under the State Intellectual Property Office, to carry into full effect the work arrangements of the CPC Central Committee and the State Council on strengthening the intellectual property law enforcement, accelerate the promotion of the construction of the patent administrative enforcement system, effectively establish and improve a long-term effect mech-



anism for patent administrative enforcement, further improve the law enforcement competence of the nationwide intellectual property system, and promote social and economic development, the State Intellectual Property Office has made the following decisions.

**I. Vigorously promoting the construction of the patent administrative enforcement system**

1. Promoting the formulation and improvement of the administrative regulations and rules for patent protection

We shall accelerate and promote the formulation and improvement of administrative regulations on patent protection, vigorously strengthen the construction of a patent infringement relief system, effectively solve such problems as weak means of law enforcement, inadequate measures for patent infringement relief, etc., and lawfully enhance the crackdown on infringement and counterfeits.

We shall strengthen the construction of the system for assistance in intellectual property reporting, complaint filing and right protection, and encourage and support intellectual property reporting and complaint filing.

2. Strengthening the accountability system for patent administrative enforcement

All local intellectual property offices must place the law enforcement and case handling at the top of their agenda, major leaders and relevant personnel must fulfill the responsibility of law enforcement according to their duties, resolutely eliminate the shuffling of responsibilities in law enforcement and case handling, actively participate in administrative lawsuits, ensure the impartial, uncorrupted and efficient law enforcement, and comprehensively improve the

level of administration according to law.

Local intellectual property offices must complete the special tasks in law enforcement arranged by the State Intellectual Property Office with high quality and as required. The intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government shall, in light of the actual demand, assign tasks of law enforcement and case handling to the intellectual property offices within their administrative regions, put forward and urge the implementation of the responsibility requirements.

3. Establishing a system for the supervision and inspection of patent administrative enforcement

The State Intellectual Property Office shall organize annual and special supervision and inspection of the law enforcement of the intellectual property offices of the provinces (autonomous regions, municipalities directly under the Central Government), which shall carry out annual and special supervision and inspection of the law enforcement of the intellectual property offices within their administrative regions.

The law enforcement archives, law enforcement data, case handling conditions, the set-up of IPR Enforcement Assistance Centers and the receipt of report and complaint and transfer for handling of 12330 shall be verified in the supervision and inspection. The local intellectual property offices accepting supervision and inspection shall make rectifications on the prominent problems raised in the supervision and inspection.

4. Establishing a system for the supervision over the handling of patent administrative enforcement cases

The State Intellectual Property Office shall super-

vises the handling of the cases of patent infringement and counterfeit patent which have significant impact. The intellectual property offices of the provinces (autonomous regions, municipalities directly under the Central Government) shall supervise the handling of the cases of patent infringement and counterfeit patent which are relatively influential within their administrative regions. Based on the actual situation, the supervision of the handling of relevant cases shall be conducted in an open manner, and the supervision over the handling of infringement and counterfeit cases that occur in large exhibitions shall be enhanced.

The intellectual property offices responsible for supervision shall follow up the progress of the handling of cases, and the local intellectual property offices accepting supervision shall handle the cases under supervision as soon as possible and timely submit the handling results.

5. Establishing a performance appraisal and evaluation system for patent administrative enforcement

The State Intellectual Property Office shall conduct appraisal and evaluation of the intellectual property offices of all provinces (autonomous regions, municipalities directly under the Central Government), the intellectual property offices entering into the “5.26” law enforcement promotion program and IPR Enforcement Assistance Centers. The intellectual property offices of the provinces (autonomous regions, municipalities directly under the Central Government) shall conduct appraisal and evaluation of the law enforcement and IPR protection of the sub-level intellectual property offices within their administrative regions.

We shall formulate criteria for the evaluation of

patent administrative enforcement, reporting, complaint filing and right protection, and take the number of cases handled and the quality of law enforcement and case handling and the number of reports and complaints received and transferred for handling and the quality of right protection as an important basis for an objective and comprehensive evaluation of the law enforcement and right protection.

6. Improving the system of open reporting of patent administrative enforcement information

All local intellectual property offices shall report the law enforcement statistical data and law enforcement and case handling materials to the intellectual property offices at higher levels within the required period. Major cases shall be reported in a timely manner. The law enforcement statistical data shall comprehensively and objectively reflect the mediation, handling, investigation and prosecution of cases in accordance with the *Patent Law* and other implementing regulations, local rules on patent protection, *Measures for Patent Administrative Enforcement*, *Measures for the Protection of Intellectual Property Rights during Exhibitions* and other laws and regulations.

The State Intellectual Property Office and the intellectual property offices of the provinces (autonomous regions, municipalities directly under the Central Government) shall disclose the law enforcement statistical data on the government websites.

7. Establishing an award system for intellectual property reporting and complaint filing

Right owners and people from all walks of life are encouraged to report and file complaints against intellectual property infringement and counterfeiting, and the establishment of an award system for intellectual



property reporting and complaint filing shall be accelerated.

The State Intellectual Property Office shall encourage the local intellectual property offices and the IPR Enforcement Assistance Centers to accelerate the formulation and implementation of the measures for the reward of intellectual property reporting and complaint filing, and offer rewards to those who report or file complaints through the 12330 platform in accordance with relevant provisions. The local intellectual property offices and the IPR Enforcement Assistance Centers shall offer rewards to those who provide important clues or provide clues for multiple times in the reporting or complaint filing. The reward for intellectual property reporting and complaint filing shall be based on facts and evidence, and real-name reporting and complaint filing are encouraged. The mechanism for keeping confidential reporting and complaint filing shall be established and improved, and the legitimate rights and interests of informers and complainants shall be protected effectively.

## **II. Effectively improving the working mechanism for patent administrative enforcement**

8. Updating working mechanism for administrative mediation of patent disputes

We shall vigorously carry out the administrative mediation of various kinds of patent disputes, update the working mechanisms, and, in light of the patent types and the actual situation of disputes, simplify mediation procedures and take prompt and effective mediation methods.

We shall optimize the mechanism for the connection between patent infringement relief and ownership affirmation or invalidation procedures, and give full

play to the advantages of administrative enforcement of being simple, convenient and fast.

9. Improving the cooperation mechanism for patent administrative enforcement

We shall improve the coordination mechanism for and regulate cross-regional patent administrative enforcement. The intellectual property offices of the provinces (autonomous regions, municipalities directly under the Central Government) shall be responsible for organizing and carrying out the cross-provincial law enforcement cooperation in case handling within their respective administrative regions, and making arrangements and providing guidance for the relevant intellectual property offices to timely complete the tasks of cross-provincial law enforcement cooperation in case handling.

We shall strengthen the law enforcement coordination with departments in charge of public security, industry and commerce, copyright, customs, culture, radio, film and television, quality inspection, agriculture, forestry, etc. We shall consolidate the communication and coordination with the judicial organs, promote the connection between administrative mediation and judicial mediation, and jointly improve the efficiency of solving patent infringement disputes. We shall strengthen the cooperation with public security organs, promote the connection between administrative enforcement and criminal enforcement, timely transfer the patent counterfeits suspected of criminal offence and the fraudulent acts involving patent to the public security organs for resolute punishment.

10. Improving the incentive mechanism for patent administrative enforcement

The State Intellectual Property Office shall take

the results of the appraisal and evaluation of law enforcement and right protection as an important basis for giving special supports to law enforcement, commend and increase support for the local intellectual property offices and IPR Enforcement Assistance Centers with outstanding performance; as for those that fail to pass the appraisal and evaluation, make requirements for rectifications within a prescribed time limit, or make a decision for them to withdraw from the “5.26” Project and IPR Enforcement Assistances sequence, based on the situation of each specific case. The appraisal and evaluation results shall be taken as one of the important bases for the selection of national patent work advanced groups and the evaluation of city pilot and demonstration work, and the cities where the intellectual property offices that fail to pass the appraisal and evaluation are located shall be removed from the list of the city pilot and demonstration sequence of the State Intellectual Property Office.

The intellectual property offices of the provinces (autonomous regions, municipalities directly under the Central Government) shall strengthen the support for the municipal offices that have showed outstanding performances in law enforcement according to the results of the appraisal and evaluation of patent administrative enforcement. The local intellectual property offices shall commend and reward the law enforcement divisions (sections) and persons that have showed outstanding performances in law enforcement and case handling.

11. Establishing a mechanism for supervising the social credit rating on intellectual property protection

We shall establish a set of criteria for the social credit rating on intellectual property protection, carry

out investigation and evaluation on social satisfaction of the law enforcement of local intellectual property offices, monitor and evaluate the enterprises' acts of infringement and passing off, and establish intellectual property credit archives.

We shall give full play to the roles of associations, intermediary institutions, research institutes and various kinds of mass organizations, and build a multilevel mechanism for supervising the social credit rating on intellectual property protection.

12. Establishing a service mechanism for assistance in IPR protection for high level talents and major projects

We shall accelerate the establishment of a service mechanism for assistance in IPR protection for high level talents and major projects. We shall select areas with suitable conditions to implement pilot programs first, take such measures as comprehensive monitoring, initiative follow-up, guidance on special subject, intervening in advance, quick right protection, etc., give full play to the incentive role of IPR protection for high level talents and high level innovation of major projects, and create a favorable environment for our country to introduce high level talents, give play to their roles, support original and fundamental inventions and innovations of great significance and accelerate the development of strategic emerging industries.

As for patent disputes involving high level talents and major projects which have extensive impact, the corresponding regional IPR Enforcement Assistance Centers and intellectual property offices shall timely organize and carry out patent early-warning and response deployments.



13. Deepening the key liaison mechanism for patent protection

We shall strengthen the communication and coordination with various kinds of key liaison bases for patent protection, and make efforts to obtain support and assistance from the judicial organs, research institutes, legal service agencies and market entities.

All local intellectual property offices shall, where it so requires, select various kinds of eligible organizations as members of the local key liaison mechanism for patent protection, or recommend them to be members of the national key liaison mechanism for patent protection, draw support from all resources, promote the enhancement of the level of patent administrative enforcement, and create a favorable law enforcement environment.

### **III. Comprehensively strengthening the building of patent administrative enforcement capacity**

14. Strengthening the training of patent administrative enforcement professionals

We shall actively promote the training of patent administrative enforcement professionals according to law, ensure the number of full-time personnel for patent administrative enforcement, and stabilize and develop the teams of enforcement professionals. The intellectual property offices of the provinces (autonomous regions, municipalities directly under the Central Government), sub-provincial cities and the cities at the prefecture level that participate in the "5.26" Project shall, in accordance with the Patent Law and the policies and regulations related to staffing, clarify the departments and offices which are specially assigned with the law enforcement duties; the intellectual property offices of other cities shall clarify the offices which are

mainly responsible for law enforcement. With the approval of the local staffing departments, the intellectual property offices of the provinces (autonomous regions, municipalities directly under the Central Government) shall be regarded as the patent administrative enforcement head offices, and the intellectual property offices of sub-provincial cities and the cities at the prefecture level shall be regarded as patent administrative enforcement branches. The intellectual property offices at the county level shall strengthen the building of patent administrative enforcement professionals according to the need and the law, and provide personnel guarantee for actively carrying out the patent administrative enforcement according to law.

We shall establish and improve the organizations that provide guidance on patent administrative enforcement and those in charge of command and dispatch for intellectual property reporting, complaint filing and right protection. The State Intellectual Property Office shall dispatch law enforcement supervisors to places where it is needed. The intellectual property offices of the provinces (autonomous regions, municipalities directly under the Central Government) shall dispatch law enforcement supervisors to the intellectual property offices within their administrative regions where it is needed. All local intellectual property offices shall, where necessary, assign law enforcement supervisors and volunteers to various kinds of parks, business places, industrial agglomeration areas, large exhibitions and other places for large events.

15. Improving the professional qualities of patent administrative enforcement personnel

Patent administrative enforcement personnel may engage in law enforcement and case handling only after

they have obtained a patent administrative enforcement certificate. The intellectual property offices of the provinces (autonomous regions, municipalities directly under the Central Government) shall be responsible for organizing the personnel within their administrative regions to participate in the national induction trainings for patent administrative enforcement personnel. The organization of induction trainings for patent administrative enforcement personnel for which certificates will be conferred by the State Intellectual Property Office shall be reported to the State Intellectual Property Office for approval in advance. The State Intellectual Property Office shall issue the patent administrative enforcement certificate to qualified personnel who participate in the induction trainings on patent administrative enforcement and pass the exam. We shall improve the administration and coordination of the induction training for patent administrative enforcement personnel and the various trainings on patent administrative enforcement.

We shall, in light of the outstanding problems in practice, organize activities for the discussions and exchange of opinions on patent enforcement. We shall provide support for law enforcement functionaries to participate in domestic and overseas professional studies and on-job studies for a degree, and accelerate the foster of law enforcement backbones.

16. Improving the working conditions for patent administrative enforcement

The intellectual property offices of the provinces (autonomous regions, municipalities directly under the Central Government), sub-provincial cities and the cities at the prefecture level that participate in the “5.26” Project shall establish offices designated for

the mediation of patent disputes. The intellectual property offices of other cities shall establish offices available for the mediation of patent disputes. We shall provide law enforcement personnel with basic equipments for case handling. The local intellectual property offices responsible for patent enforcement shall have necessary law enforcement equipments. Relevant personnel shall be properly dressed in law enforcement and case handling. The law enforcement uniforms, vehicles and symbols must comply with the relevant provisions of the state. The symbols of law enforcement uniforms and vehicles shall be approved by the State Intellectual Property Office, so as to enhance the normalization, seriousness and coordination of law enforcement and case handling and guarantee the personal safety of law enforcement personnel in on-site case handling.

As for the special support for law enforcement offered by the State Intellectual Property Office, the local intellectual property offices shall seek matching funds from local governments, so as to jointly promote the improvement of the law enforcement conditions.

17. Strengthening the information construction for patent administrative enforcement

We shall accelerate the construction of the national patent administrative enforcement information network, improve the electronic archival repository for patent administrative enforcement, allocate electronic search equipments for patent enforcement, and establish a real time inquiry system.

All local intellectual property offices must establish complete and consistent paper and electronic patent enforcement archives, and allocate equipments used exclusively for enforcement archives preservation.



18. Strengthening the construction of the platforms for intellectual property reporting, complaint filing and legal assistance

We shall vigorously strengthen the construction of the “12330” platform for intellectual property reporting, complaint filing and legal assistance, accelerate the construction of national networks for intellectual property reporting, complaint filing and legal assistance, and establish and improve a electronic archival

repository for cases of intellectual property reporting, complaint filing and legal assistance.

The State Intellectual Property Office shall, in light of the operation status of each IPR Enforcement Assistance Center, build several key centers nationwide.

State Intellectual Property Office

June 27, 2011

## **Circular on the Issuance of the 12<sup>th</sup> Five-year Plan for Patent-related Work**

G. ZH. F. G. Z. [ 2011 ] No. 115

Intellectual property offices of all provinces, autonomous regions, municipalities directly under the Central Government and Xinjiang Production and Construction Corps; all departments of the State Intellectual Property Office, all departments under the Patent Office of SIPO, and all entities and social groups directly under the State Intellectual Property Office:

In order to implement the *Outline of the National Intellectual Property Strategy* and the *Outline of the 12th Five-Year Plan for the National Economic and Social Development of the People's Republic of China*, SIPO prepared the *12th Five-year Plan for Patent-related Work* (hereinafter referred to as the “Plan”). The Plan is hereby issued and you are requested to effectively implement the Plan according to local and specific conditions and ensure accomplishment of the objectives set forth in the Plan.

This Circular is hereby given.

October 9, 2011