

related to foreign affairs. Strengthen research on global and strategic policies in the affairs related to overseas patents. In accordance with the development trend of international intellectual property regime, duly adjust international cooperation policies on patents. Promote development of high – end talents for international cooperation who are familiar with technology, laws, foreign languages and the market.

The implementation of the national patent devel-

opment strategy is a long – term and step – by – step process. We must fully mobilize the initiatives from all sides with the government as the leader, market as the basis and enterprise and public institutions as the principal players. We must plan carefully, organize meticulously and push it forward by steps with multiple layers and focus, and ensure the national patent development strategy is effectively implemented.

Circular Concerning Strengthening the Reporting and Complaining Service among China Assistance Centers for IPR Enforcement

G. ZH. F. G. Z. [2010] No. 139

Intellectual property offices in all provinces, autonomous regions and municipalities directly under the Central Government, urban intellectual property offices with intellectual property enforcement assistance centers and intellectual property enforcement assistance centers.

Recently the General Office of the State Council issued the Circular of the General Office of the State Council on Issuing the Plan for the Special Campaign on Crackdown on Intellectual Property Infringements and Production and Sale of Fake Commodities (G. B. F. [2010] No. 50), requiring that “ all the IPR enforcement assistance centers shall actively participate in the special campaign and receive through the “12330” hotline IPR complaints from the public and IPR owners; relevant departments shall receive and handle such complaints on a timely basis ” . In order to implement arrangements of the State Council, accommodate social needs, further enhance and improve work relating to IPR complaints, protect legitimate rights and interests of owners and create a favorable environment for innovation and development, this notice is hereby given in respect of relevant work items:

I. Objectives and Scope of Work

To establish a system for handling of IPR complaints mainly composed of IPR enforcement assistance centers (“Centers”), supported by intellectual property offices and featuring cross – department and inter – regional col-



laboration, promote increased efficiency of IPR enforcement, and facilitate IPR protection and supervision by owners and all circles of society.

The Centers shall receive complaints about and reports on IPR infringement, including patents, exclusive rights to use trademarks, copyright, rights in new plant varieties, proprietary rights in integrated circuit layout design, trade secrets and geographical indications. “Reports” refer to information on intellectual property offenses provided by persons other than intellectual property owners; complaints refer to intellectual property owners’ claims of infringement upon their legitimate rights and interests.

II. Standard Working Procedures

(i) Workflow

The workflow for handling intellectual property complaints and reports includes receipt of cases, preliminary review, referral of cases, feedback on results and filing and analysis.

(ii) Receipt of Cases

Reports and complaints are received through “12330” hotline, Internet, face – to – face interview, correspondence or transfer from other organizations.

Conditions:

1. Complaints and reports shall include identified offenders and factual details;
2. Complaints and reports are within the jurisdiction of local intellectual property administration departments (including patent administration department, industrial and commercial administration department, copyright administration department, new plant varieties administration department, cultural market enforcement agency, urban administration enforcement agency, public security authority and customs) . If any case involves judicial procedures, only general replies such as contact information will be provided to complainants and reporters.
3. Complainants and reporters shall provide their true personal information; if they are reluctant to provide such information, they shall provide sufficient ground to support existence of intellectual property infringements. Any complaints or reports that have been received by other administrative enforcement agencies or judicial authorities will not be accepted. Complaints and reports transferred from other centers or complaint handling organizations, which are in conformity to conditions on receipt, shall be accepted.

Complaints and reports that meet the foregoing conditions shall be accepted. The Registration Form for Intellectual Property Complaints and Reports (see Annex 1) shall be completed, including case numbering and description of details; any rejection shall be accompanied by timely notice of reasons.

(iii) Preliminary Review

Centers shall conduct preliminary review and analysis on cases received, give an opinion on subsequent handling and fill in the “Preliminary Review Opinion” section of the Registration Form for Intellectual Property Complaints and Reports. Preliminary review shall address conformity to conditions on receipt, completeness of case information, reliability of complaints and reports and the target agency of referral. Preliminary review shall be com-

pleted within three working days upon receipt of cases.

(iv) Referral of Cases

If preliminary review finds that any case should be referred to the administrative enforcement agency, the case shall be handled within three working days from the date of preliminary review, with “Handling Opinion” indicated in the Registration Form for Intellectual Property Complaints and Reports.

Referral requires completion of the Referral Form for Intellectual Property Complaints and Reports (see Annex 2), including description of the subject matter. The Registration Form for Intellectual Property Complaints and Reports may be attached as an annex. Case information shall be communicated to the referral organization on a timely, accurate and complete basis.

Referral of cases shall conform to the principles on division of jurisdiction and duties. Cases falling within jurisdiction of the intellectual property office at the corresponding level shall be referred from the center to the intellectual property office. Cases falling within jurisdiction of other departments at the corresponding level shall be referred from the Center or its intellectual property office to such other departments. Where a case requires cross-area handling, (i) if there is a Center in the local area, the case shall be directly referred from the present Center to the local Center, which shall accept and handle the case if conditions on receipt are met; (ii) if there is no Center in the local area, the case shall be referred from the present intellectual property office to the local intellectual property office, which shall receive and handle the case within its scope of authority if the case falls within its extent of duties.

If the case is rejected by the receiving department in the course of referral, the Center shall analyze reasons for rejection. If the case is referred to the wrong department that has no jurisdiction over the case, the case shall be referred to the competent administrative law enforcement department. If there is no problem with jurisdiction of the receiving department but its conditions on receipt are not met, coordination shall be made; if coordination attempt fails, reasons shall be provided and recorded prior to filing.

After referral of cases, the Centers shall urge the receiving departments to handle such cases on a timely basis and provide assistance as necessary to facilitate handling of cases.

(v) Feedback on Results

After the receiving department closes the case, the Center shall give a feedback on result to the complainant or reporter within five working days after receiving the result and complete the Feedback Form on Handling Results of Intellectual Property Complaints and Reports (see Appendix 3).

Feedback may be made by correspondence, telephone, personal delivery or Internet.

(vi) Filing and Analysis

The Center shall regularly collect and analyze information on cases, find common features of cases, identify problems and make timely reporting to the corresponding IP office and the State Intellectual Property Office and give a notice to other administrative law enforcement departments in charge of IP at the corresponding level.



III. Establish and Improve the Systems and Mechanisms of Work

Strengthen mechanisms of responsibility. The head and deputy heads of the IP office that has established the Center are primarily responsible for reports and complaints received by the office; head of the Center is primarily responsible for complaints and reports received by the center; staff of the Center is responsible for specific work according to division of duties.

Establish a mechanism of inter – regional and cross – department collaboration. Centers shall utilize the existing mechanism of IP collaboration and the “12330” hotline to strengthen cooperation and carry out direct referral of cases between Centers. The IP office overseeing Centers shall establish a coordination mechanism for local case referral to ensure cross – department cases are handled in accordance with law on a timely basis.

Establish a filing management system. The whole – process filing of cases shall be established. Specific persons shall be designated to manage filing and develop a variety of forms to allow one file for one case and immediate availability for review. Both paper and electronic files shall be created, unless there is a whole – process paperless office system that allows maintenance of electronic filing alone.

Improve the mechanism of information analysis and reporting. The Center shall report to the Office on work on a quarterly basis pursuant to the Circular on Reporting on Work of the IPR enforcement assistance centers. Annual reports shall be prepared annually to analyze complaints and reports received and their trend. Relevant matters or summaries shall be reported to the Office on a timely basis.

Establish an informer incentive system. Material or non – material rewards may be granted to informers that provide significant clues for investigation and solving of cases without affecting personal safety and other rights of the informer. Centers may commend and reward informers using coordinated effort with judicial and law enforcement agencies.

Improve the exchange and training system. Centers shall strengthen communication with other Centers and learn from each other's experience and best practices through exchange visits, telephone calls and meetings. In addition, Centers shall draw experience from other organizations providing complaint handling services. Centers shall establish a regular training system to broaden staff's horizon and improve their working skills.

Establish a confidentiality system for case data. Staff of Centers shall strictly follow the discipline of work to keep confidential case data provided by complainants and reporters. Information on complainants and reporters or case materials shall not be disclosed in any manner to persons such complaints and reports are filed against.

All IP offices and Centers shall be fully aware of the importance of work on IP complaints and reports, strengthen arrangement and leadership, put in place organizations and personnel, ensure basic input, expedite improvement in systems and mechanisms of work, actively carry out relevant work and fully unleash the important role of work on IP complaints and reports.

All IP offices and Centers shall effectively implement this Notice. Any problems arising during implementation of this Notice shall be reported to the Patent Management Division of the Office on a timely basis.

This Notice is hereby given.

- Annexes: 1. Registration Form for Intellectual Property Complaints and Reports (omitted)
2. Referral Form for Intellectual Property Complaints and Reports (omitted)
3. Feedback Form on Handling Results of Intellectual Property Complaints and Reports (omitted)

November 4, 2010

Circular Concerning the Printing and Distribution of Special Action Plan on Enforcement among National IP Administrations

G. ZH. F. G. Z. [2010] No. 140

Intellectual property offices of all provinces, autonomous regions and municipalities under the Central Government,

In order to carry out work arrangements of the State Council, the National IP Office's Action Plan on IPR Enforcement is hereby issued for your implementation.

Local IP offices must pay high attention to the campaign, strengthen leadership, assign responsibilities, provide adequate staffing and make quick arrangements for the local campaign to ensure full implementation of the campaign and build a favorable environment for expediting transformation of the economic development mode, deepening reform and opening up and building an innovative nation.

This Notice is hereby given.

November 5, 2010