

LEGAL AFFAIRS

1 Legislative Activities

(1) Third Amendment of the Patent Law

In 2008, SIPO actively assisted the National People's Congress and the State Council in the review of the amendment of the Patent Law, ensuring the successful conclusion of this third amendment of the Patent Law.

On December 27, the Sixth Session of Standing Committee of the 11th National People's Congress of the People's Republic of China adopted the Decision of the Standing Committee of the National People's Congress on Amending the Patent Law of the People's Republic of China, released under Order of the President of the People's Republic of China (No.8) signed by Chinese President Hu Jintao. The amended Patent Law shall come

into force as from October 1, 2009. The smooth completion of the third amendment of the Patent Law is another milestone in the development of Chinese patent system.

The third amendment of the Patent Law was conducted based on summarizing China's 20 years of practice in patent administration and legislation under the background of strengthening self-innovation capacity and building an innovative country. Bearing China's own development need in mind, the amendment aimed to resolve the practical problems faced by China's economic and social development, fully protect the legitimate rights and interests of Chinese and foreign patent right holders,

elevate innovation capacity and promote economic and social development. The amendment involved 36 articles. The amended Patent Law now has seven chapters and 76 articles.

(2) Amendment of the Implementing Regulations of the Patent Law

In an effort to ensure the simultaneous implementation of the Patent Law and its Implementing Regulations, SIPO formulated the first draft amendment of the Implementing Regulations of the Patent Law at the beginning of March. The Draft Amendment of the Implementing Regulations of the Patent Law of the People's Republic of China (Draft for Soliciting Opinions) was

formulated in early September and released on the SIPO's website in early November, inviting comments and suggestions from the general public. SIPO also sent nearly 500 letters directly to other State Council agencies, People's Courts at different levels, local intellectual property offices, Chinese and foreign companies, patent agencies, universities, research institutes, experts and scholars for comments.

From late November to early December, SIPO heard comments from all walks of life on the Draft Amendment of the Implementing Regulations of the Patent Law of the People's Republic of China (Draft for Soliciting Opinions) by way of holding conferences and field studies.

(3) Other Activities

SIPO continued legislative work

to further refine patent legal system, initiating the amendment of Guideline for Examinations to accompany amendment of the Patent Law and its Implementing Regulations and improve patent examination and granting, investigating the amendment of Measures on Recordal of Patent Licensing Contracts and Measures on the Register of Patent Right Pledge Contracts, amending Implementation Measures of Patent Agent Qualification Examination and Patent Agent Qualification Examination Rules and enacting Measures for the Handling of Disciplinary Violations in the National Patent Agent Qualification Examination.

2 Patent Representation

SIPO Regulated the patent representation sector by law and promoted healthy development of IP intermediate service organizations. By December, SIPO approved request for establishment of 54 patent agencies, processed changes of 154 agencies, designated 19 agencies accepting overseas requests and issued or changed 992 records of patent agents. SIPO continued annual check of patent agencies, announcing the first group of 601 agencies passing 2008 check, further regulating the procedure of complaint handling concerning patent representation and handling more than ten complaints over patent representation directly

or transmitting them to local intellectual property offices in time, and initiating e-management of patent administration archives.

SIPO consolidated the results of the reform on patent agent qualification exam and handle relevant exam affairs, SIPO initiated the building of online exam management information system and simplified exam registration formalities. In 2008, 8,766 persons registered for the exam, 5,492 took the exam and 692 passed with 12.6% passing rate.

3 Administrative Reconsideration

According to the Administrative Reconsideration Law of the People's Republic of China and Administrative Reconsideration Instructions of the State Intellectual Property Office, any patent applicant, patent right holder or other stakeholder, who is not satisfied with a specific administrative act other than rejection decision made by SIPO, may file an application for administrative reconsideration. SIPO receives and exams the application and makes a decision. In 2008, SIPO received 151 cases for administrative reconsideration and responded to 8 administrative complaints in its own name at court.