

II: Legal Affairs

1. Legal System Construction

(1) Drafting documents regarding the IPR protection for service inventors

Implementing the Outline of the National Medium and Long-term Talent Development Plan, SIPO drafted Several Opinions on Further Enhancing the Protection of Service Inventors' Lawful Rights and Promoting the Implementation of Intellectual Property Protection (for review). The 33rd meeting of the Central Coordination Group for Talent Work approved the draft in principle.

(2) Making stage progress in drafting the Regulation on Service Invention

SIPO conducted preparatory researches on the drafting of Regulation on Service Invention, formed the first draft and after revision formulated the Regulation on Service Invention (for discussion).



(3) Promoting the revision of the Regulation on Patent Agency

In January, SIPO submitted the Draft Amendment to the Regulation on Patent Agency (for review) to the State Council. SIPO actively assisted the Legislative Affairs Office of the State Council with preparation for review, including collection and analysis of public opinions, sorting out domestic and overseas data, investigation of enterprises, agent offices and agent associations, consultation with local IP offices, and etc.

(4) Revising SIPO regulations and facilitating the utilization, implementation and protection of patent right

To implement the Outline of National Intellectual Property Strategy, SIPO finished the revision of Administrative Measures on Filing Patent License Contracts, and simplified procedures for filing patent license contracts.

SIPO accelerated the revision of Measures for Compulsory Licensing on Patent Implementation, held meeting to solicit opinions of domestic and foreign enterprises, foreign representative offices and related departments

of the State Council, and formulated a draft for soliciting opinions.

To standardize the labeling of patent marks, SIPO drafted the Rules on the Methods for labeling Patent Marks (draft), solicited public comments, and made researches and revision.

SIPO also drafted the Administrative Measures on Prioritized Examination of Patent Applications and the Regulations on Administrative Review of SIPO and invited opinions from the public.

(5) Improving work mechanism for SIPO's legal system and improving administrative capacity pursuant to law of IP system

SIPO formulated the SIPO Implementation Plan for the 6th Five-Year Legal Education Work (2011-2015), founded the Legal Outreach Office and recruited a team of legal contact points. To improve the capacity of law-based administration, SIPO organized lectures on administration according to law and scientific legislation such as the lecture on the Administrative Compulsion Law of People's Republic of China.

SIPO organized training on the Methods of Patent Administrative Enforcement in line with features in eastern and western areas, which improved the professional skill and administrative capacity of administrative enforcement staff.

(6) Conducting researches for the improvement of patent system

By holding workshops and conducting researches on scenario of the disclosure of origin of genetic resources and on examination, SIPO organized a follow-up research on the implementation of the disclosure of origin of genetic resources, and made an in-depth analysis on the approach to the protection and protection mode of genetic resource and traditional knowledge.

SIPO conducted an in-depth survey on PCT utilization in China and finished the Report on the Demand of PCT Users in China.

SIPO actively organized tracking research on the development of international patent system, completed relevant research reports and organized the translation and publication of Report on International Patent System.

2. Patent Agency

On September 26, the “2011 National Working Meeting on the Management of Patent Agency” was held in Tianjin. Deputy Commissioner He Hua attended the meeting and delivered an important speech.

SIPO made an overall adjustment to the implementation plan for annual inspection. SIPO is responsible for the organization, guidance and supervision of the annual inspection of patent agencies and agents; local IP offices and Bureau of National Defense Patents are responsible for the annual inspection of annual test for patent agencies over their jurisdictions; All-China Patent Attorneys Association is responsible for the annual test for patent agents. By the end of December 2011, 677 patent agencies have passed the inspection.

In 2011, SIPO received 105 applications to establish patent agencies, among which 79 were approved, 23 rejected and 3 withdrawn the applications. SIPO received 233 applications for registration items changes by patent agencies, among which 228 were approved and 5 rejected. SIPO also approved the revocation of 3 patent agencies. By the end of 2011, the number of patent agencies nationwide has reached 869.

SIPO launched the construction of platform for agencies to file the patent applications electronically. Throughout the year, SIPO received 22 complaints, among which 14 were investigated.

SIPO successfully organized the Qualification Examination for Patent Agents. In 2011, a high increase in the numbers of people registered and participated in the Qualification Examination for Patent Agents, with 13,854 and 10,212 respectively. The minimum scores for the two parts of the exam are 150 for legal test and 90 for agent practices. A total of 1,493 participants passed the exam. 2011 also witnessed the first opening of the exam to Taiwan residents. There were 188 Taiwan residents that took the examination and 17 of them passed the exam.

In March, SIPO held two training classes on patent agent in Taiyuan and Changsha. Trainees from 21 provinces (autonomous regions/municipalities) participated in the training and the exam of patent agency. 172 received the patent agent certificates, a 32% up than 2009.

SIPO started the training toward patent agents, formulated and issued the Implementation Plan for Training of Patent Agents, deployed work on the overall training for patent agents during the 12th Five-Year Plan period, and finished the preparatory work such as textbook editing and recruitment and training of teachers. SIPO authorized the Beijing Intellectual Property Office to organize a pilot training and the BIPO completed training job on the first group of patent agents.

SIPO launched two pilot patent agency assistance programs in Tianjin and Shaanxi.

3. Administrative Review

In accordance to the regulations of the Administrative Review Law of the People's Republic of China and the Rules of the State Intellectual Property Office on Administrative Review, patent applicants, patentees and other stakeholders may request for administrative review when they refuse to accept a specific administrative action other than SIPO's decision to rejection. SIPO shall receive and examine the request and make decisions according to law. In 2011, SIPO received 84 requests for administrative review.