

# Circular of the SIPO Concerning the Implementation of Fast Track on Coordinated IP Protection

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The intellectual property offices of provinces, autonomous regions, municipalities directly under the Central Government; departments of the SIPO, departments of Patent Office of the SIPO, all units directly under the SIPO:

To thoroughly implement the decisions and arrangements of the CPC Central Committee and the State Council on IP protection, further deepen the IP safeguarding assistance and rapid right safeguarding, accelerate the establishment of a mechanism for fast track IP protection, effectively perfect the industrial IP protection system, and promote industrial restructuring and transformation and upgrading, the SIPO has decided to, in eligible areas agglomerated by advantageous industries and relying on a batch of priority industrial IP protection centers, launch the work of rapid collaborated industrial IP protection where rapid examination, rapid right confirmation and rapid right safeguarding are integrated into one, and examination and right confirmation, administrative enforcement, rights safeguarding assistance, arbitration and mediation, and judicial linkage are interacted, and grant them the title of “China (xx①, xx②) Intellectual Property Center” (① refers to specific “area” and ②

refers to specific “industry”) (hereinafter referred to as “Protection Centers”). Relevant matters are hereby notified:

## I. Work contents

### i. Perfecting rapid rights safeguarding

1. Working hard to push forward rapid rights safeguarding. Intensifying the Protection Centers’ support of patent law enforcement and case handling, establishing a sound entrusted case handling mechanism in patent law enforcement, vigorously simplifying the case handling procedures, and actively assisting rapid handling of patent infringement disputes and the like, and promoting further improvement of the case handling efficiency.

2. Launching the work of reporting and complaints in an all-round manner. Opening 12330 IP report and complaint hotline at the Protection Centers, interconnecting the online platforms for national IP right safeguarding assistance, reporting and complaints, establishing a rapid response mechanism for reporting and complaints, and achieving rapid acceptance, rapid handling and rapid feedback.

3. Actively building an online right safeguarding mechanism for advantageous industries. The Protec-



tion Centers shall get connected to large-scale e-commerce platforms as soon as possible, establishing online patent protection cooperation mechanism in industry clusters, and actively pushing forward online patent infringement and judgment consultation work.

4. Effectively intensifying the punishment of dishonest behavior. Building an IP “black list” of dishonest entities in industrial cluster areas, listing into the “black list” those that conduct infringement repeatedly, counterfeit patents, refuse to execute administrative decisions, continue to submit abnormal applications, and engage in patent agency illegally and prohibiting them from applying for patents through rapid examination channels.

#### **ii. Deepening rapid examination and rapid right confirmation**

1. Expanding the types of rights for rapid examination in an orderly way. According to the actual demand of industrial development, effectively utilizing patent priority examination and other work mechanisms to actively optimize the examination procedure, reasonably allocate the examination resources, and launch the work of rapid examination of invention patents, utility model patents and design patents, and handle requests for patent reexamination and nullification.

2. Reasonably extending the industrial fields for rapid examination. Rapid examination shall be extended from a single field to relevant fields according to the development demand of advantageous industry clusters.

3. Collaboratively improving patent quality. Work shall be done to clarify the qualification require-

ments of staff of the Protection Centers, intensify professional training, improve staff's professional competence, improve team stability, and ensure smooth launch of various tasks. Developing stricter pre-examination of the entity conditions, format, and contents of patent application, establishing a sound rapid examination quality check mechanism and rewards and punishment mechanism, and collaboratively promoting steady improvement of patent quality.

4. Issuing patent right evaluation reports rapidly. Building channels to rapidly issue utility model and design patent evaluation reports according to the actual demand of industrial development.

#### **iii. Advancing IP protection collaboration**

1. Advancing and perfecting the administration and judicature linkage mechanism. Actively advancing the establishment of preposition system for administrative investigation and the handling of patent infringement cases, commissioned mediation system in proceedings, and judicial confirmation system for patent disputes administrative mediation agreements, and pushing forward the establishment of IP circuit courts.

2. Promoting the establishment of a social mediation and arbitration mechanism. Pushing forward the cooperation with various types of social mediation and arbitration agencies in an orderly way, forming a synergy to protect IP in multiple ways, and collaboratively resolving IP disputes of different types.

#### **iv. Pushing forward the work of patent navigation and IP operation**

1. Building a work mechanism for developing the patent navigation industry. In light of the characteristics of local corresponding advantageous industries,

establishing industrial patent databases, tracking domestic and foreign trends of industrial patent distribution, sending pre-warning of industrial patent risks, guiding industrial patent distribution, and focusing on key industrial fields and core technologies to strengthen the interactive development of patent navigation work and rapid examination, and actively cultivate high-value core patents.

2. Promoting industrial IP operation. According to the development demand of local corresponding advantageous industries, making full use of the service resources of the whole chain of Protection Centers, strengthening the construction of serviceability of the Protection Centers, and carrying out in-depth cooperation with industrial associations, industrial IP alliances and leading enterprises, exploring IP operation services with industrial characteristics, and advancing joint creation, integrated management, collaborative utilization and self-discipline protection of industrial IP.

## **II. Application and approval of the Protection Centers**

### **i. Application conditions**

1. The applicants shall be prefecture-level or above cities or districts.

2. The output values of corresponding local advantageous industries top the output values of like industries nationwide. The types of rapid examination and rapid right confirmation (three patent types, namely design patents, invention patents and utility model patents) shall be selected in light of actual industrial need and local conditions. The number of applications for corresponding types of patents, the number of corresponding types of patents granted or

that of effective patents, and the quality of invention patents shall top like industries nationwide, and relevant industries have a strong need for IP protection.

3. The number of patent administrative enforcement cases handled rank among the top in like cities (districts), and the performance assessment results of local patent administrative enforcement are in the top one-third, or among the best in local provinces.

4. Local people's governments value the establishment of an IP team and can provide necessary guarantee for the construction of the Protection Centers (see the appendix).

5. Generally, the applicants shall be cities intending to develop IP advantages, IP demonstration and pilot cities, or cities where experiment areas for developing national patent navigation industries are set; on equal conditions, priority will be given to applications submitted by the above cities.

### **ii. Application and approval**

The local people's governments of the cities (prefecture-level or above) or autonomous regions that apply for establishing Protection Centers shall submit written application materials to the intellectual property offices of the provinces (autonomous regions, municipalities) where they are located (hereinafter referred to as provincial intellectual property offices), and the application materials shall focus on the application conditions, clarify and detail relevant contents, and propose the Protection Center construction plans, including the work goals, work measures and protection conditions. After such materials pass the examination of the provisional intellectual property offices, they will be submitted to the SIPO in the form of recommendation letters. In case the applicants are



provinces, autonomous regions, municipalities directly under the Central Government, the local people's governments may apply for it directly.

The SIPO, following the principle of objectiveness and fairness, organizes field observations of the areas that have complete application materials and basically meet the conditions, takes into full consideration the applicants' conditions and needs, and selects the best to approve them to set up the Protection Centers.

### **III. Work requirements**

The provincial intellectual property offices shall actively push forward the construction of the Protection Centers, guide and examine the construction and work of the Protection Centers, and coordinate local people's governments to intensify support of the Protection Centers in such aspects as the development of policies, laws and regulations, team building and conditions support. The intellectual property offices of the areas where the Protection Centers are located shall establish an accountability system for the construction of Protection Centers; study and develop work plans, guide various operational tasks, and hold professional trainings of the staff of the Protection Centers; entrust the Protection Centers with launching the work of law enforcement and case handling; ensure staffing, and personnel caliber up to job requirements; and cooperate in the supervision and handling of possible abnormal applications.

Local people's governments shall build a leadership mechanism where government leaders take the lead and relevant departments participate to actively support the construction of conditions and teams of the Protection Centers, coordinate and advance effective

linkage of administrative enforcement and judicial protection, and advance the establishment of IP circuit hearing mechanism.

The Protection Centers shall develop effective procedures for handling IP infringement and counterfeiting cases and, strengthening rapid case handling according to commission or authorization, ensure the quality of case handling, and improve the efficiency of case handling, and conclude cases of counterfeit patents and cases of infringement of design patents within ten days normally, and conclude cases of infringement of invention patents and utility model patents within a month normally. Refining the work procedures and conducting pre-examination in a timely way to ensure the quality and efficiency of pre-examination according to the types of rapid examination and rapid right confirmation. The Protection Centers shall strictly abide by the confidentiality provisions in the process of accepting and examining patent applications.

### **IV. Supervision and examination**

The SIPO supervises and guides the construction and operation of the Protection Centers, intensifies induction trainings and competence promotion trainings, and organizes operational communication and work supervision activities; organizes annual performance assessments of the Protection Centers in such aspects as patent infringement disputes investigation and punishment, the number and quality of pre-examined cases, acceptance of abnormal applications and applications from specified fields, team building, guarantee of conditions, as well as work mechanism construction and operation. For Protection Centers that are examined to be unqualified (with scores be-

low 60) or rank the last 10% in the assessment, they will be ordered to make rectifications within a set time limit; for Protection Centers that are examined to be unqualified or rank the last 10% in the assessment for two consecutive years, they will be disqualified from participating in the work of rapid examination, rapid right confirmation and rapid right safeguarding.

A circular is hereby made.

Appendix: Form of Protection Center Construction Demand Estimation

State Intellectual Property Office

November 23, 2016

## Appendix

### Form of Protection Center Construction Demand Estimation

Basic Elements	Demand Estimation			Remarks
Completion of annual basic workload	Design-type	Invention-and Utility Model-types	Full types	According to the work contents of the Protection Centers, the work of the Protection Centers is for public welfare in nature, and the Protection Centers may launch the work of patent law enforcement assistance and patent examination pre-review according to authorization and entrustment
	10 persons/year	15 persons/year	20 persons/year	
Construction and operational conditions	Business conditions construction fees	Protection Center annual operational fees		According to authorization and entrustment
	Above 1.5 million yuan	Above 1 million yuan		
Site	Above 300m <sup>2</sup>			

Notes:

(1) This table makes estimation of corresponding lowest data of the existing rapid IP right safeguarding centers at the prefecture level, and the estimation is made according to the demand in a single industrial field.

(2) Relevant estimation standard of the provincial Protection Centers is approximately: Prefecture-level standard × Number of prefectures under jurisdiction/3.