



II . Legal Affairs

1 Legal System Construction

The amendments to *the Patent Law* and *the Patent Commissioning Regulations* saw breakthrough. By introducing the “two-week inspection” mechanism and carrying out research on domestic and foreign situation, SIPO worked closely with the Legislative Affairs Office of the State Council to accelerate the legislative efforts. *The drafts of the amendment to the Patent Law* and *the Patent Commissioning Regulations* has been submitted to the Executive Meeting of the State Council for consideration.

SIPO deepened research on IP protection of innovation outcomes in new business models and new areas. The Office continued to improve the current protection measures of the patent system, and explored for model regulations on business models, which resulted in *the draft of the Effective Protection of Proprietary Rights of Internet-Based New Business Models (Model Regulations)* and recommendations on industrial policy adjustment and amendments to relevant laws.

SIPO completed its annual assignments in relation to the implementation of *the Compendium on the Development of a Rule of Law Government*, and timely reported and published progress made by SIPO in relation to the development of a rule



of law government in 2016. The Office also made *the Work Plan for Legal Advisors and Public Lawyers* and carried out the selection of external legal counsels.

Significance effects were achieved in respect of guidance to and coordination with local legislative efforts. Deep involvement of local legislative bodies was invited to focus on key and difficult issues in the legislative process and the guiding and coordinating roles of the mechanism were fully exploited to facilitate legislative process in local regions. Jilin completed the formulation of patent regulations, Hebei and Hubei completed the amendment to their patent regulations, Guangdong and Shanghai launched preparatory work in relation to amendments, Tianjin carried out a post-legislation evaluation, and Beijing and Hebei were actively involved in the amendment to *the Olympic Intellectual Property Protection Rules of Beijing*.

SIPO carried out legal awareness building. The Office published the Division of Key Assignments and Work Plan for the Intellectual Property Legal Awareness Building 7th Five-Year Plan. The Office organized a number of events such as web security regulations awareness education, micro video display and lectures on the Constitutional Law. SIPO also drafted the capacity building implementation plan and training plan for legal professionals and carried out training for core legal specialists at SIPO.

SIPO complied with the requirements of the State Council and actively responded to the need of the public to complete the amendments to *the Guidelines for Patent Examination, Provisions on Regulating Patent Application Conduct, the Measures on Prioritized Examination of Patent Applications*. It carried out preparations for

amending a number of departmental rules such as *the Rules for Regulating Patent Agencies* and *the Implementing Rules for the Patent Agents Qualification Exam*.

SIPO continued the survey on PCT users to widely understand details and issues about the use of the PCT system by domestic users. The Office pushed forward the implementation of survey results of the previous years and coordinated the pilot program for increasing communication opportunities during the international phase of PCT applications.

2 Regulation of Patent Agency Sector

Deepen reform. SIPO published and implemented *the 13th Five-Year Plan for the Patent Agency Sector*. In 2017, the number of patent agencies nationwide reached 1,824 with a total of 16,367 practitioners. The number of patent agent qualification holders was 37,200. The Office deepened the pilot reform on patent agency sector and published the Work Plan for the Pilot Reform on Patent Agency Sector in 2017. In 2017, the number of provinces/autonomous regions/municipalities participating in the pilot programs reached 12 and a total of 464 people obtained patent agent qualification which allowed them to practice in the local region. A total of 150 new patent agencies eligible for the pilot program were set up.

Optimize approval procedures. SIPO comprehensively implemented the standardization of administrative approval procedures and prepared and updated, on a timely manner, administrative service guidelines, streamlined procedures, optimized workflow and cancelled requirements on unnecessary certification documents and achieved real-time publication of approval results. The Office deregistered 11 patent agencies and no overtime happened for all administrative approval items.

Enhanced regulation. SIPO enhanced regulation moves and created long-effect mechanism and carried out a regulation operation against the patent agent certificate “leasing” conduct, and reported 122 pieces of case clues

regarding suspected certificate “leasing” conduct to local IP administrations. The local IP administration randomly checked 1,205 patent agencies, accounting for 73% of the total number, and 6,935 practitioners, accounting for 43.5% of the total number. A number of agencies and personnel engaging in illegal practice were made public and punished, of which 26 individuals have been disqualified or were in the process of being disqualified and 1 agency received administrative penalty. This has further regulated the patent agency sector.

SIPO organized the National Patent Agent Qualification Exam and expanded the number of examination centers to 30. The number of applicants for the exam reached record-high 32,722, of whom 22,712 participated in the exam and 5,094 passed it.

The Office promoted the patent agency quality improvement campaign. A mechanism building draft plan involving quality feedback, evaluation, questioning and penalties was prepared. SIPO worked together with the Standardization Administration of China to prepare and publish *the Service Standard for Patent Agencies*, which has become effective on 1 January, 2018.

3 Administrative Reconsideration

In accordance with *the Administrative Reconsideration Law of the People’s Republic of China* and *the Rules on Administrative Reconsideration of the State Intellectual Property Office*, any patent applicant, patent right holder or other stakeholders who is dissatisfied with a specific administrative conduct of the State Intellectual Property Office other than a decision to reject a patent application may file a request for administrative reconsideration. Throughout 2017, SIPO received 107 administrative reconsideration cases and responded to 35 first instance administrative litigation cases in the name of SIPO.