News from PR China

Editor's note: Due to the diligent efforts of Editorial Advisory Board member, Professor Zhiping Yang, these contributions have been provided.

Michael Blackman

1. Administrative regulation on national standards involving patents have been implemented

The Standardization Administration of China (SAC) and the State Intellectual Property Office (SIPO) have published the Administrative Regulation on National Standards Involving Patents-Interim (Interim Regulations), which addresses the formulation and implementation of national standards involving patents. The Interim Regulations took effect on January 1, 2014.

The scope of the Interim Regulations includes the Disclosure of Patent Information, Patent Licensing Declarations and Special Requirements for the Mandatory National Standards Involving Patents.

Standards being revised, updated, or added to need to adhere to certain rules. Organizations and individuals participating in revisions of the national standards must disclose the following information to the technical committee or the responsible entity in a timely fashion: the essential patents owned and/or known to them, detailed patent information, and all corresponding verification materials. All submitted documents should be authenticated.

According to the Regulations, patentees/patent applicants should issue their own patent licensing declarations. In accordance with the National Standards, the patentee can license their patent to an organization or individual on a fair, reasonable and non-discriminatory basis, with or without royalty fees. The patentee/patent applicant can also choose not to license. Excluding the National Compulsory standards, failing to obtain the patent licensing declarations from the patentee/patent applicant will result in the standards not including any provisions based upon such patent.

In principle, mandatory national standards do not involve patents. In some cases where the national standards indeed must involve patents, the patentees/patent applicants have refused to issue their patent licensing declarations according to the Regulations. In these cases SAC, SIPO, and other relevant authorities shall jointly negotiate a disposition resolution with the patentee/patent applicant. Before allowing the publication of a mandatory national standard involving patents, SAC shall publish the full text of the standard and the known patent information for a period of 30 days. Any organization or individual may notify SAC in writing with additional patent information. (http://www.sipo.gov.cn/yw/2013/201401/t20140124_900699.html, http://www.sipo.gov.cn/zcfg/flfg/zl/bmgfxwj/201401/t20140103_894910.html).

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2. Implementation of the patent navigation pilot project for guiding industrial scientific development

In April 2013, the State Intellectual Property Office (SIPO) launched the patent navigation pilot project.

The patent navigation pilot project is designed to explore methods of guiding and supporting industrial scientific development by examining the inherent technical and legal characteristics of patents. By utilizing patent information resources and patent analysis, patent applications can be used to enhance industrial technological innovation, product innovation, as well as organization and business model innovation.

The main goals of the patent navigation pilot project are as follows:

- 1) Vigorously develop the patent-intensive industries to form prominent groups in industrial, development, and patent sectors-groups with a competitive edge and distinct advantages;
- 2) Focus on the principle position of enterprises to enable them to become the main body of patent operations;
- 3) Integrate various types of resources including patent resources, policy resources, technical resources, human resources, financial resources, and information resources;
- 4) Highlight the guiding role of government

According to the goals and reasoning of the patent navigation pilot project, SIPO identified six key tasks for the implementation of the project, including the creation of industrial development mechanisms, optimization of patent establishment, support of patent collaboration, enhancement of patent operation development, improvement of the patent application service system, and the construction of a policy support system for patent navigation development.

To fully implement and accomplish the key tasks, SIPO will build a working platform for the patent navigation pilot project, including the National Patent Navigation Industrial Development Experimental Zone, the national pilot unit for patent collaboration and the national pilot enterprise for patent operations. In August 2013, SIPO designated the Zhongguancun Science Park and eight other industry cluster areas as the National Patent Navigation Industrial Development Experimental Zone. The China Electronics Materials Industry Association and five other industry associations will act as the national pilot units for patent collaboration. Wuhan Research Institute of Posts and Telecommunications (Group) and 35 other companies will act as the national pilot enterprises for patent operations. SIPO also issued "The Guidelines for the Construction of the National Patent Navigation Industry Development Experimental Zone", "The Guidelines for Supporting the National Pilot Units for Patent Collaboration" and "The Guidelines for Supporting the National Pilot Enterprises for Patent Operations".

In order to effectively support the implementation of the patent navigation pilot project, SIPO has set up The Patent Navigation Pilot Project Research Base. In addition, a committee of experts will be at the helm, including experts in the fields of patent examination, law and policy, information processing and application, patent analysis and project management. (http://www.sipo.gov.cn/ztl/ywzt/zldhsdgc/gztz/201311/t20131106_876679.html, <http://www.nipso.cn/oneas.asp?id=19583>).

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3. China introduces policies to further reinforce patent application quality

Recently, State Intellectual Property Office (SIPO) of China issued *Opinions on Further Improvement of the Quality of Patent Application* ("Opinions"). The "Opinions" consists of five parts, including recognizing the importance and urgency of improving the quality of patent application sufficiently, optimizing policy orientation, establishing monitoring system, enhancing the capacity-building efforts to reinforce patent application quality, and strengthening organizational guarantee.

The number of patent applications has been keeping a rapid growth in China during recent years. But the levels of writing patent application papers and technological creation are still too low. Although they are few and local phenomenon, negative effects on patent application quality have been made. If not solved in time, credibility of the patent system would be reduced. Considering overall situation of building an innovative nation, relevant departments must fully recognize the importance and urgency of improving the quality of patent application.

Optimizing policy orientation to reinforce patent application quality mainly includes five parts. It is made up of improving the orientation of regional patent evaluation system, perfecting the policy of general grant for patent applications, implementing the policy of special funding for patent applications, standing out the orientation of rewarding for patent application quality, and bringing the indices of patent application quality into the relevant policies.

Meanwhile, establishing a monitoring system for improving patent application quality is necessary. SIPO will reinforce the investigation and punishment of unusual patent applications. Defrauding the grants and rewards for patent applications will be dealt seriously. SIPO will regularize the behavior of patent agents more than before and try to set up supervisory and feedback mechanisms for patent application quality.

In the aspect of enhancing the capacity-building efforts to reinforce patent application quality, SIPO will improve the capacities of mining, designing and utilizing the patent information, internal management of improving patent application quality, and service ability of patent agents to create a good environment, in which the quality of patent applications is valued.

Finally, SIPO will enhance its own abilities of organization, leadership, supervision, guidance and examining patent applications to perfect its working system.

The introduction of "Opinions" will help China change from a country with numerous patent applications to a country with high-quality patent applications. It better shows that the National Intellectual Property Strategy plays the important role of support in driving development with innovation. (http://www.sipo.gov.cn/yw/2013/201312/t20131225_891785.html, http://www.sipo.gov.cn/yw/2013/201312/t20131225_891833.html).

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4. Some information about 2013 China National Patent Agent Qualification Exam¹

2013 National Patent Agent Qualification Exam (NPAQE) of China was held in 20 cities on November 2 and 3, 2013. The examination sits in Beijing, Shanghai, and Guangzhou were reserved in order to be more convenient for candidates from Hong Kong, Macao, and Taiwan. Taiwan residents could also take the examination in Fuzhou. In 2013, the number of examinees reached to 21,689, growing 29.26% compared to that of last year. The numbers of candidates who took the subject 1 (knowledge of the Patent Law), subject 2 (knowledge of relevant laws), and subject 3 (practice of patent agent) were 11,426, 11,292, and 12,738, respectively. Both the total number of examinees and the number of candidates taking exam in each subject were at record highs, since the first NPAQE had been held. The data indicated that 12,265 people applied for the exam for the first time and 9424 people had taken the exam more than twice. After 2009 innovation, the passing grade of each subject could be available within 3 years.

After releasing the reference answers and considering the public views on the reference answers, the State Intellectual Property Office (SIPO) finished the grading work and published the passing grade of each subject on December 18. The passing grades were the same as before. The sum of knowledge of the Patent Law's and knowledge of relevant laws' (subject 1's and subject 2's) grades must be equal to or greater than 150 and the grade of practice of patent agent (subject 3) must equal or exceed 90. The numbers of examinees passing the knowledge of laws (subject 1 and 2), the practice of patent agent (subject 3), and all the subjects were 5,107, 4,088, and 3812 (up 28.52% from that of last year), respectively.

1949 graduate students and Ph.D. candidates took the examination in 2013. Since 2012, graduate students and Ph.D. candidates were allowed to take NPAQE. It is an innovation conducted in order to satisfy the highly-educated young people's desire for engaging in patent agent work early. Among the top 10 with the highest total scores in 2013, four of them were graduate students or Ph.D. candidates. They were the greatest beneficiaries of this innovation. (http://www.sipo.gov.cn/yw/2013/201312/t20131220_890637.html, http://www.sipo.gov.cn/mtj/2013/201311/t20131113_879220.html, http://www.sipo.gov.cn/yw/2013/201310/t20131031_873564.html).

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¹ This section updates information on the qualification examinations in issue 36(2). Editor.