News from PR China

1. China working on developing the law enforcement and rights protection mechanism of patent rights in E-commerce sector

To construct a more convenient and efficient law enforcement and rights protection mechanism of patent rights in E-commerce sector, State Intellectual Property Office of the P.R.C. (hereinafter referred to as SIPO) will further develop the cooperation and dispatching mechanism and establish the dispatching center of law enforcement and rights protection in E-commerce sector in Zhejiang Province (hereinafter referred to as center), which will be in charge of the linkage, cooperation and dispatch of the cases of patent protection report and complaint between the subject of law protection and the linkage, cooperation, and dispatch of the cases of patent infringement report and complaint between the subject of law enforcement and E-Business platform in Zhejiang Province.

The specific work requirements are as follows:

The first task is to increase the efficiency of online determination of patent infringement cases. The center is able to send the patent infringement report and complaint cases of E-commerce platform of Zhejiang Province to all of the IPR (Intellectual Property Rights) protection aid centers in the whole country for help. Accordingly, the centers are supposed to give consulting opinion as soon as possible.

The second task is to improve the cooperation level of online cases transfer and execution. As for the cases in the E-commerce sector, the local intellectual property offices should offer assistance rapidly after receiving the assistance executive paper. As for the patent infringement complaint cases which have profound effects on the society or group, they are supposed to be transferred to and handled by SIPO.

The third task is to complete the linkage work of cases transferring from online to offline. As for the patent infringement and counterfeiting cases ascertained online, the details given by requestors can be confirmed by the center through businessmen in E-commerce platform so that the local jurisdictional IPOs can get the clues of cases and deal with them offline to hit the torts from the source.

These tasks require all local IPOs and intellectual property protection and aid centers to make clear of the responsibility, pay attention to the implementation and make a good use of the human resources and information resource superiority in law, technology and other fields within the whole system, thereby improving the efficiency and level of law enforcement and rights protection cooperation in E-commerce sector.

2. Online trial operation of Chinese intellectual property rights aid & report complaints

Recently, the web of China Intellectual Property Rights Aid and Report Complaints Network (www.12330.gov.cn) is in trial operation. It implements online application, case acceptance, dealing, feedback and other functions of intellectual property rights aid and report complaints, etc.

China Intellectual Property Rights Aid and Report Complaints Network (for short as “web”) is a web portal for state intellectual property system to promote rights aid and report complaint and to publish relevant information. It sets up columns such as Rights Aid, Rapid Rights Protection, Report Complaint, Infringement Determination, Announcement, News Consulting, Laws, etc., and it also has functions of Online Rights Aid and Report Complaint.

This site is directly related to Intellectual Property Rights Aid & Report Complaints Management System. The system provides functions of online acceptance, reply, handover, feedback, current statistics, analyzing of cases, reporting complaints, and rights aid. It also provides national unified entrance to submit report complaints and application for rights aid online, thereby realizing the integrative, intellectual and informational management of national intellectual property rights aid & report complaints.

The operation of the site will give full play to the effect of “Internet & Intellectual Property Rights Protection” on promoting innovation and startup of business. It will also broaden the channels of Rights Aid and Report Complaint for the public and satisfy the service needs of social public on the basis of 12,330 welfare hot lines.

In recent years, intellectual property system has constantly strengthened the informational construction work of law enforcement and rights protection, and successively launched the Patent Administrative Law Enforcement Cases Report and Management System, the Patent Administrative Law Enforcement Personnel Management System and Rights Aid and Report Complaint Management System. Also, it has started to run Online Patent Administrative Law Enforcement Case Handling System. With orderly implementation of informational establishment of law enforcement and rights protection, the patent administrative law enforcement cases handling efficiency and the law enforcement and rights protection management level have been constantly developed, which satisfies innovative mainstay, market mainstay’s new needs in the information age.
3. New progress on Chinese and foreign Patent Examination PPH Pilot Program

Chinese and Hungary Patent Examination PPH Pilot Program will start at March 1st, 2016 and terminate at February 28th, 2019 with duration of 3 years.

After releasing the SIPO-HIPO PPH Pilot Program, the applicants are allowed to send request to SIPO (State Intellectual Property Office of the P.R.C) on PPH according to the Requests for PPH to SIPO In Chinese and Hungary Patent Examination PPH Pilot Program, and send request to HIPO (Hungary Intellectual Property Office) on PPH according to Requests for PPH to HIPO In Chinese and Hungary Patent Examination PPH Pilot Program.

In addition, SIPO, KIPO (Korean Intellectual Property Office) and the Austrian Patent Office started their Patent Examination PPH Pilot Program on March 1st, 2012 and March 1st, 2013, respectively and both will terminate on February 29th, 2016.

On the basis of China and Korea offices’ agreements, SIPO-KIPO PPH Pilot Program will be extended from March 1st, 2016 with unlimited duration. It will not terminate unless one party of the offices offer its expiration on written notice. All the requirements and procedure of SIPO-KIPO PPH Pilot Program shall remain unchanged.

On the basis of China and Austria offices’ agreements, Chinese-Austrian PPH Pilot Program will be extended from March 1st, 2016 for 2 years until February 28th, 2018. All the requirements and procedure of Chinese-Austrian PPH Pilot Program shall remain unchanged.

Beyond that, the service term of Patent Examination PPH Pilot Programs between Chinese and Russian, also Chinese and Poland will both be extended.

http://www.sipo.gov.cn/ztzl/ywzt/pph/zxdty/  
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4. China’s invention patent filings break record of 1 million

It was reported that the invention patent applications exceeded 1 million for the first time in China in 2015, keeping steady growth. Enterprises maintained a stable status in intellectual property continuously.

The State Intellectual Property Office (SIPO) received 1102 thousand invention patent applications in 2015 with a year-on-year rise of 67%, ranking first in the world during the last 5 years. 359 thousand invention patents were granted, among which, 263 thousand were granted to domestic applications, 100 thousand more than those in 2014 with a year-on-year increase of 61.9%. Domestic (excluding Hong Kong, Macao and Taiwan) effective invention patents had a total amount of 872 thousand by the end of 2015.

The top 10 provinces (including autonomous regions) which had the most invention patent authorization in 2015 were Jiangsu (36,015), Beijing (34,308), Guangdong (33,477), Zhejiang (23,345), Shandong (16,881), Anhui (11,180), Sichuan (9105), Hubei (7766), Shaanxi (6812). The top 10 enterprises which had foreign patents in China in 7 fields such as optics, engine, etc. had and foreign patents in China in 7 fields such as optics, engine, etc.

http://www.sipo.gov.cn/twzb/2015ndzygztsjy/  
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5. Characteristics of data in law enforcement and case handling of intellectual property system in 2015

The State Intellectual Property Office (SIPO) and local intellectual property offices intensified efforts to combat infringement and counterfeiting patents in 2015. The achievements of patent law enforcement and case handling have been made in a comprehensive way. The analyses and characteristics of data in law enforcement and case handling of intellectual property system were as follows:

1) The Strength of fighting against patent infringement and counterfeiting patents enhanced significantly. The number of patent administrative law enforcement cases broke through 30 thousand, reaching 35,844 with a year-on-year increase of 46.4%. Meanwhile, the number of patent dispute cases broke through 10 thousand, reaching 14,607, including 14,202 patent infringement dispute cases which rose 77.7% over last year. The
number of counterfeiting patent cases reached 21,237 with a year-on-year increase of 30.6%. During the period of "Twelfth Five-Year Plan", the number of patent law enforcement and cases has grown continuously in five years with an average annual growth rate 81.4%, reaching 87 thousand which was as 9.8 times as that during "Eleventh Five-Year Plan" period.

2) The number of law enforcement and case handling in various regions increased significantly. There were 9 provinces whose numbers of patent law enforcement and case handling broke through 10 thousand, including Zhejiang (8584), Jiangsu (4918), Guangdong (3214), Hunan (3115), Shandong (2747), Henan (1448), Hubei (1409), Guizhou (1346), Fujian (1269). The numbers of law enforcement and case handling in the provinces of east China and central China were higher than those in the rest areas. The numbers of law enforcement and case handling in the provinces of east China and southwest China increased faster than those in other areas. The top 5 provinces which had the highest growth rate were Shanxi (147.1%), Zhejiang (144.8%), Beijing (87.8%), Hebei (82.9%), Guizhou (74.4%). The number of patent infringement dispute cases exceeded 100 in half of provinces (including autonomous regions, municipalities). There were 6 provinces (including autonomous regions, municipalities) whose number of patent infringement dispute cases increased more than 100%, including Zhejiang, Tianjin, Liaoning, Guangxi, and Ningxia.

3) Provincial intellectual property offices played as prominent leading roles in patent law enforcement and case handling. In 2015, provincial intellectual property offices directly handled 8744 patent infringement disputes with an increase of 88.3%, accounting for 61.6% of all the infringement cases.

4) The ratio of law enforcement cases types changed significantly. The proportion of patent dispute cases and counterfeiting patent cases was approximately 1:1.45 in 2015. This proportion was 1:1.98 in 2014 and 1:2.21 in 2013, respectively. Patent dispute cases which were more complicated and difficult for handling increased in proportion year by year. It showed that the case handling capacity of the intellectual property system further improved.

5) The efficiency of law enforcement and case handling improved continuously. The closure rate of patent cases was 93.2% in 2015 with a year-on-year increase of 6.2%. The closure rate of patent infringement dispute cases was 93.6% with a year-on-year increase of 7.3%.

6) The efforts on law enforcement in the key fields continued to increase. In 2015, the numbers of patent law enforcement cases in the field of electronic commerce and exhibition were 7644 and 2743 with year-on-year rise of 155.2% and 54.1%, respectively, accounting for more than 1/4 of the total cases.

http://www.sipo.gov.cn/zscqgz/2016/201601/t20160118_1230431.html
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On February 17, 2016, State Intellectual Property Office (China) released Operational Guidelines for Patent Administrative Law Enforcement (trial edition). In recent years, SIPO has given great impetus to standardize patent administrative enforcement operations. Operational Guidelines for Patent Administrative Law Enforcement, Patent Administrative Law Enforcement Operations Forms, Guideline for the judgment of patent infringement and falsifying a patent, and Notice of public announcement details of relevant patent administrative enforcement cases have been released successively to standardize the system-wide patent administrative enforcement and enhance the ability of law enforcement.

In 2014, Patent Affairs Administration Department of SIPO organized a research group and launched the amendment of Operational Guidelines for Patent Administrative Law Enforcement. The first draft was completed in May, 2015, and was adapted to the new Rules for the Implementation of the Patent Law released on July 1, 2015. The amendment work actively absorbs the advice and recommendations from local law enforcement and local IP officers, through several rounds of modification and drafts. Meanwhile, the draft was open to the public for comment and suggestions. Based on these recommendations, the research group completed the final edition which was submitted to a higher level for examination and approval.

Operational Guidelines for Patent Administrative Law Enforcement (trial edition) has two sections, the main body and appendix which are "Patent Administrative Law Enforcement Procedure", and "Patent Administrative Law Enforcement Operations Forms", respectively. Compared with the previous version, the trial edition has a new chapter of "Handling the patent infringements dispute of exhibition and E-commerce". The Chapter of Law Enforcement Administration has been rewritten based on the current rules for the implementation of laws. "Patent Administrative Law Enforcement Operations Forms", which was previously an independent document, has been integrated into the guidance as appendix, and each form corresponds to the main body. The first four chapters involving infringement disputes, counterfeit patent cases, and mediation of patent disputes, have been amended to match the development of relevant regulations.

http://www.sipo.gov.cn/zcgs/zcjd/201602/t20160219_1241140.html
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7. Patent pledge financing exceeds 56 billion Yuan in 2015

2015 witnessed notable progress in China’s IP pledge financing. Some 2000 enterprises secured 56 billion yuan with patent pledge all through the year. Sampling results on 20 patent pledge projects showed that enterprises involved generated 3.77 billion yuan in sales and 320 million yuan in profits.

Instead of pledging immovable properties, patent pledge financing is an emerging method which corporations utilize to apply for a loan by pledging their patent right, trademark right, copyright, etc. Patent pledge financing plays an important role in broadening financing channel and promoting the application of technical innovations. For example, Duokang heating equipment corporation took a loan of 80 million yuan by pledging 6 patent rights of energy saving heating stove, which enables the entrepreneur to invest more in R & D department. In addition, the reputation of the relevant products raised as financial organization accepted its patent. Consequently, sales volume of relevant products increased from 16,000 to 120,000, leading to an income of 360 million yuan, which is a year-on-year growth of 650%.

In a bid to speed up the perfection of IP financial service mechanism, SIPO issued Opinions on Further Promoting IP Financial Services in 2015 to strengthen policy and professional guidance on IP
pledge financing, improve IP value assessment and analysis and strengthen risk management on pledge and financing. Under concerted efforts of IP organizations at all levels, the development of patent pledge financing tends to be normal and on large scale.

http://www.sipo.gov.cn/zscqgz/2016/201601/t20160128_1234421.html
http://www.sipo.gov.cn/mtjj/2015/201507/t20150703_1139487.html

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