



IP Guide



Latest Progress In Patent Open Licensing

On August 24, 2022, the China National Intellectual Property Administration (CNIPA) held a press conference with a headline "Intellectual Property Transformation and Application", during which the latest progress and fruits in intellectual property transformation and application has been introduced, including intellectual property pledge financing, intellectual property application, patent open licensing, and etc.

Patent open licensing is a new system established in the Amendments IV to the China *Patent Law*, which defines a "one-to-many" licensing that is simple and convenient to operate, which is beneficial to promoting supply-demand docking, improving negotiation efficiency and reducing institutional transaction cost, and which is widely concerned by all industries. Currently, the patent open licensing system is in the critical window period of pilot promotion. The trial work will pave the way for the launch of the system in aspects of policies, mechanisms, platforms, projects and the like, with an aim to stimulate supplies and demands, reserve projects, accumulate experiences, and perfect the policies.

Beijing is one of a few cities in which the patent transformation project has been initiated. On June 27, 2022, the Beijing Municipal Intellectual Property Office issued a plan called "Beijing Trial Work Plan of Patent Open Licensing", laying a solid foundation for steady landing and efficient operation of the patent open licensing system. The China Technology Exchange, i.e., Beijing IP Trading Center, established a patent open licensing information release and trading service platform <https://patentol.ctex.cn/> to provide full-flow services such as information release, policy inquiry, data retrieval, theme push, transaction contracting, fund settlement and the like to parties concerned in the licensing. To date, the first batch of open-licensed patents has been announced in Beijing. **A total of 41 patent open licensing projects (3 patent package projects) announced this time all come from Tsinghua University, including 45 patents in the fields of high-end equipment manufacturing, new materials, new generation information technology, new energy, energy conservation and environment protection, medical health and the like.** Among them, 44 are invention patents, and the remaining one a utility model patent.



CNIPA: Reform of utility model system will be completed

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On October 28, 2022, the CNIPA issued a promotion program for further executing the "Opinions on Strengthening IP Protection" (hereinafter referred to as the "Opinions"). As pointed out in the Opinions, a reform of the utility model system will be completed at the end of December 2025, by the time **the examination as to obvious lack of an inventive step of the utility model application will be introduced.**



EPO-CNIPA Joint Communiqué

Chinese applicants continue to designate EPO as ISA under PCT

An agreement has been reached between the CNIPA and the European Patent Office (EPO) to allow the EPO-CNIPA pilot project which has received tangible fruits to be extended to November 30, 2023. The Chinese applicants can continue to select the EPO as their International Searching Authority (ISA) for their international applications.

The international applications filed in English under the Patent Cooperation Treaty (PCT) by the nationals and residents of the People's Republic of China may continue to select the EPO as their International Searching Authority (ISA) for their international applications. Following the agreement between the EPO and the CNIPA, **the pilot will be extended by one additional year until November 30, 2023 and up to a further 3000 applications.**

This decision is based on the positive evaluation of the pilot which has been running since December 1, 2020. Interest in this pilot has been remarkable with active participation **over 270 applicants, including universities, research institutes and private individuals.** In particular, both local and international companies based in China showed a strong interest in obtaining timely patent protection in Europe. By having their international searches carried out by the EPO, pilot participants benefit from both more legal certainty prior to entering the European phase and faster prosecution of their Euro-PCT applications.

The pilot also enables PCT applicants who are nationals or residents of the People's Republic of China and whose international search was performed by the EPO as ISA to file a request for international preliminary examination with the EPO.



Interpretation of "Implementation Opinions on Strengthening Diversified Mediation of IP Disputes, Beijing" (hereinafter referred to as the "Implementation Opinions")

By the end of July 2022, under the direction and management of the Beijing Municipal Intellectual Property Office, a total of 35,643 disputes have been accepted by various mediation committees, among them 18,362 were concluded with 11,528 being successfully mediated, exhibiting a success rate of 62.7%. In the year of 2021, 9,893 disputes were accepted, among them 5,016 cases were concluded. This was the first time the concluded cases exceeded the number of 5,000 and the accepted cases accounted for more than a half. The Mediation provides a convenient, efficient and low-cost channel for the right holders to protect their rights.

With the proceeding of the implementation of IP strategy in the capital city, the level of intellectual property creation and protection in Beijing upgrades continuously, which calls for more channels to effectively and orderly address intellectual property disputes. The parties concerned in a dispute generally have diversified interests and claims, while the complicated market and high technical difficulties also propose high requirements on the mediation of intellectual property disputes. In order to follow the 15-year Plan (2021-2035) on the Development of Intellectual Property Rights (IPR) Power, implement the Opinions on Strengthening Mediation of Intellectual Property Disputes and meet the relevant requirements of Beijing Intellectual Property Rights Protection Regulations, Beijing Municipal Intellectual Property Office has established the "Implementation Opinions" in cooperation with Beijing Municipal Bureau of Justice, Beijing Municipal Bureau of Market Supervision and Administration, Beijing Municipal Copyright Bureau, Beijing Municipal Cultural Market Law Enforcement Brigade, Beijing Municipal Bureau of Agriculture and Rural Affairs, Beijing Municipal Forestry and Parks Bureau, Beijing Municipal Bureau of Public Security, People's Procuratorate of Beijing Municipality, High People's Court of Beijing Municipality and Beijing Customs.

The major measures laid out in the "Implementation Opinions" include:

1. Furnishing the diversified mediation working system regarding intellectual property disputes

To attain the above object, Beijing Intellectual Property Dispute Mediation Coordination and Guidance Committee has been built, including 11 member units, with highlight being put on close cooperation and cross-department assistance between the intellectual property management department, judicial administration department, judicial department and the social organizations, which helps to construct a multi-dimensional mediation network.

2. Perfecting a collaborative and interactive mechanism for intellectual property dispute mediation

Under such interactive mechanism, mediation by people, mediation by industrial professionals, mediation by administrative departments and mediation by judicial departments are employed in combination, and the mediation by people is also in collaboration with arbitration, to exploit an intellectual property dispute mediation priority recommendation mechanism.

3. Promoting mediation of intellectual property disputes by industrial professionals

Civil organizations formed of professionals to mediate intellectual property disputes will be continuously guided and managed. The mediation of intellectual property disputes in industries where intellectual property disputes easily and frequently arise and those in new fields and newly-emerging industries will be actively exploited. The form and working mode of intellectual property dispute mediation organizations will be innovated, and use of market-oriented methods to carry out commercial mediation of intellectual property disputes will also be explored.

4. Strengthening administrative mediation of intellectual property disputes

The intellectual property administration department will actively fulfill administrative mediation functions, establish a sound administrative mediation mechanism that is convenient and efficient and is in strict compliance with laws and regulations while fully considering moralities and law dissemination. A judicial confirmation mechanism of administrative mediation agreements will be improved, which would promote the standardized operation of judicial confirmation of the administrative mediation agreement.

5. Putting more efforts in mediation of intellectual property disputes in key zones and fields

The extension of intellectual property dispute mediation will be vigorously promoted in key zones such as the national comprehensive demonstration zone for expanding opening-up in the service sector, China (Beijing) Pilot Free Trade Zone, the Agglomeration Area of High-Tech Industries and key areas and exhibitions, and in other key and internet enterprises.

6. Strengthening development of intellectual property dispute mediation organizations and mediation staff teams

The establishment and standardized operation of intellectual property dispute mediation organizations will be promoted according to the laws. The moderator shall be certified to work and conducted a rating evaluation to set up a standardized and professional moderator team. An intellectual property dispute moderator team having a reasonable structure including full-time moderators and part-time moderators will be set up to complement mutual advantages. An intellectual property right mediation expert database will be established to offer better service training in intellectual property dispute mediation.

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