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TIPLO News

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This news mail distributed in Japanese and English from time to time provides updates on the development of law in Taiwan with focus on intellectual property rights law. For more information about the status of intellectual property right protection and practice in Taiwan, please visit our website www.tiplo.com.tw

Topics in this issue

- 01 Taiwan-Canada PPH Mottainai program operates since February 1, 2018**
- 02 Taiwan's ITRI and Hon Hai make the list of 2017 top 100 global innovators**
- 03 TWD1 million monetary damages awarded to Kosé Corporation in patent infringement case**
- 04 TSMC gets an entry in the 2017 list of top 10 US patent recipients**
- 05 Taiwan IPO "Global Patent Search System" launched on January 1, 2018**

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01 Taiwan-Canada PPH Mottainai program operates since February 1, 2018

Taiwan and Canada inked the Memorandum of Understanding on Patent Prosecution Highway (PPH Mottainai) on January 31, 2018 at the Canadian Trade Office in Taipei on January 31, 2018, and the MOU has come into force since February 1, 2018. The Taiwan-Canada MOU forges another new chapter of Taiwan IPO's PPH cooperation subsequent to that with the USA, Japan, Spain, Korea, and Poland.

The PPH cooperation between Taiwan IPO and Canadian Intellectual Property Office (CIPO) will accelerate both sides' examination process of invention patent applications and patent granting, so as to facilitate applicants' patent layout for business and innovation. Under the Taiwan-Canada PPH MOTTAINAI program, an applicant who files a patent application for the same invention in both countries and obtains positive examination results from either patent office will be eligible for requesting for examination of PPH program with the other patent office to seek accelerated patent examination. The PPH program is formulated to provide more effective examination service. (January 2018)

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02 Taiwan's ITRI and Hon Hai make the list of 2017 top 100 global innovators

Clarivate Analytics, the US information service firm, released the 2017 Top 100 Global Innovators Report on January 25, 2018. According to the Report, 45 organizations in Asia were named the world's top 100 innovators, up 15% compared to 2016. Asia is the region that has the most organizations on the list.

Taiwan has had a presence on the list for five straight years. In the 2017 annual survey, Taiwan continued its presence with ITRI and Hon Hai (also known as Foxconn Technology) this year, while the latter was a newcomer on the list. Hon Hai's debut on the list features the influential innovations it has continued to create in the past five years in the area of information technology and its active protection implemented by patent filings around the world. On the other hand, ITRI returned to the list since 2014 and it is also one of the three government-run academic organizations that made the list.

As a result of ITRI's five-year sustained devotion to innovative research and developments, ITRI's patents have been frequently cited by third parties (without self-citations), and therefore, ITRI shined in the criterion of influence in 2017. This result also demonstrates ITRI's R&D energy and power in impacting future technological developments. In addition, ITRI also made progress in the criterion of globalization, which manifests ITRI's global vision of its patent portfolio.

Launched since 2011, the Top 100 Global Innovator Report has been engaged in identifying the most innovative organizations around the world that are active and innovative in R&D, IPR protection, and successful commercialization. The selected organizations in 2017 came from three main continents across eleven sectors. As revealed in the annual survey, Japan and the US are the two main innovative hubs as

75% of the selected innovative organizations came from the two nations. Moreover, 85% of the named organizations made their reappearance on the list in 2017, while there were six organizations getting their entries in the list for the first time, which are Facebook, Fuji Electric, Hon Hai, Molex, Nichia, and Western Digital. (January 2018)

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03 TWD1 million monetary damages awarded to Kosé Corporation in patent infringement case

In 2016, Kosé Corporation (“Kosé”) found its Taiwanese design patent under Reg. No. D139201 for packaging container infringed by True Love Eternity Company (hereinafter “True Love Company”) by a cosmetic product sold under the designation of *HANROON Firming Instant-Shaped Cream* (hereinafter the “product in dispute”). In September 2016, Kosé issued the second letter to demand True Love Company’s cease in infringement. True Love Company, however, not only ignored Kosé’s demand but also continued selling the product in dispute on the Internet, for which Kosé filed a complaint against True Love Company over the suspected infringement.

As asserted by True Love Company, in the Hong Kong Cosmetics Exhibition in November 2015, they found the packaging container with diamond check design being widely used for cosmetics products without any patent labeling thereon in China and Hong Kong. True Love Company also conducted a check on the Internet and market to make sure that such packaging container with diamond check design had not been duly registered as a patented one. In this regard, True Love Company purchased such packaging container from Chinese factory on March 10, 2016. Unexpectedly, however, in September of the same year, True Love Company received Kosé’s attorney’s letter, which caused True Love Company to immediately seek a re-confirmation with the said Chinese factory and was assured of the fact that the packaging container was not patented. They also entrusted patent infringement analysis to a local patent office and no conclusion of infringement was made. Besides, True Love Company also stopped selling the product in dispute after Kosé had filed a complaint. True Love Company does not hold the intent to commit the alleged patent infringement.

The Taiwan IP Court sustained True Company Company’s infringement upon the No. D139201 patent by the packaging container of the product in dispute and affirmed that True Love Company has negligence as opposed to the high degree of care and attention True Love Company, as a competitor of Kosé in the same industry, should have exercised to the relevant information of the products made and sold by and among the same industry.

Therefore, as requested in the IP Court judgment, True Love Company should be enjoined from making and selling any article infringing the Taiwanese design patent under Reg. No. D139201 for “packaging container” and should also recall and destroy the finished and semi-finished products and mould of the said packaging container for the product in dispute. Moreover, True Love Company and its responsible person should severally and jointly pay TWD1 million to Kosé as damages. This case is appealable. (January 2018)

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04 TSMC gets an entry in the 2017 list of top 10 US patent recipients

IFI Claims Patent Services, the leading producer of global patent databases, released the annual analysis with respect to the 2017 top U.S. patent recipients. The top three US patent recipients are IBM (No. 1), Samsung Electronics (No. 2), and Canon (No. 3). Intel and Korea-based LG each rises two spots to No. 4 and No. 5, respectively. Qualcomm moves down to No. 6, while Taiwan-based, TSMC stays No. 9 and China-based Huawei breaks into the top 20 list.

IBM still claims the top honor with 9,043 grants, followed by Samsung with 5,837 grants. Canon holds the No. 3 position with 3,285 grants. Moreover, Huawei makes its debut in the top 20 ranking with 1,474 grants, and TSMC had received a total of 2,425 patents, up around 6% from 2016.

According to IFI Claims report, the USPTO (U.S. Patent and Trademark Office) had granted a total of 320,003 invention patents in 2017, up around 5.2% from 2016. The analysis by region shows that the U.S. accounts for 46% of the 2017 grants, and Asia holds the second largest share at 31% after the U.S.. Following Asia, Europe holds 15%. Even though Mainland China holds only 3.5% share of the 2017 grants or 11,240 patents, Mainland China sees a 28% increase from 2016.

Besides, IFI Claims' research uncovered eight technologies with most significant growth, which include e-cigarettes, 3D printing, machine learning, autonomous vehicles, molding materials, hybrid vehicles, aerial drones, and food. (January 2018)
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05 Taiwan IPO "Global Patent Search System" launched on January 1, 2018

To effectively assist local industries and small and medium enterprises to have access to any information with respect to industrial technology developments and trends, Taiwan IPO completed establishment of the "Global Patent Search System" (hereinafter referred to as the "GPSS") for free-of-charge use by the industry, government, and the academia. Launched since January 1, 2018, the GPSS provides the local industries with a significant, high efficient, and convenient patent research and development tool.

For meeting the novelty requirement, prior art search must be first conducted on the system of every patent office, which causes part of R&D works to be inefficient and ineffective because every patent office has its own search database containing diverse patent data. To integrate all patent data, Taiwan IPO has worked with every patent office to exchange patent data and build up a search platform, on which the patent data of Taiwan IPO's and the five major patent offices of other countries for the past ten years (2006-2017) are collected, maintained, and available to the industry. Taiwan IPO has been expanding the database of this search platform to avail transnational patent search by the industry. Following the search instructions provided by the GPSS, the industry can find accurate patent data to get a clear picture of technology development and further to elevate their competitiveness.

Besides, as it is difficult to export and integrate the data searched from every major patent office to have it analyzed in graphics, the functions of analysis by statistics and

by graphics and other functions have been introduced and provided on the GPSS in 2018 to facilitate the industry's analysis of the data searched and to get a grasp of the industrial development and patent portfolio and R&D trends. (December 2017)

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