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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

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01 FocalTech Electronics files patent lawsuit against Novatek Microelectronics

In September 2018, FocalTech Electronics, Ltd. (a subsidiary company of FocalTech Systems Co., Ltd.; hereinafter “FocalTech Electronics”) initiated a civil action with the Taiwan IP Court against Novatek Microelectronics Corp. (hereinafter “Novatek”) to assert that Novatek infringed upon FocalTech Electronics’ patents(s) by the TDDI product (touch and display driver integration). By initiating this action, FocalTech Electronics sought removal and cease of all infringing acts and requested that FocalTech Electronics should not and should not cause any third person to manufacture, offer for sale, and sell the infringing products involved and should recall and destroy the same as well. Also, FocalTech Electronics claimed damages against Novatek in an amount of TWD794,350,000. (September 2018)

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02 Taiwan FDA completes proposed draft of Enforcement Rules for Western Pharmaceuticals Patent Linkage

Taiwan Pharmaceutical Affairs Act has incorporated a new chapter of “Patent Linkage of Western Pharmaceuticals” since its amendment passed the third reading at the Legislative Yuan at the end of 2017 and the amendment was promulgated by presidential order on January 31, 2018. Under the patent linkage system, a new drug approval holder may complete listing and reporting of the patent information with respect to his/her pharmaceutical patent(s). On the other hand, a generic drug approval applicant who seeks grant of drug approval for his/her generic drug shall make relevant certification or declaration in regard to the patent(s) listed by the new drug approval holder with the competent authority, and the competent authority will stay issuance of drug approval for a period of 12 months to clear relevant patent disputes. The first applicant of generic drug approval to successfully challenge patent validity or make non-infringement declaration against the new drug and to have produced complete in full the materials required of his/her application for approval of the generic drug will be granted an exclusive marketing term of 12 months. The introduction of this system will clear potential patent infringement dispute before the marketing of generic drugs, which will ultimately upgrade the research and development of Taiwan’s pharmaceutical industry and expand international market.

On September 11, 2018, Taiwan Food and Drug Administration completed and announced a proposed draft of the “Enforcement Rules for Western Pharmaceuticals Patent Linkage” to facilitate implementation of the patent linkage and fulfill IP right protection for pharmaceuticals. The proposed draft was compiled and formulated in accordance with the 3rd paragraph of Article 48-20 and Article 48-22 of the Taiwan Pharmaceutical Affairs Act. Main points of the draft are summarized below.

1. Method of filing patent information, content of patent information to be filed, amendment, deletion, publication and/or disclosure of the patent information filed;
2. Generic drug approval applicant’s patent-related declaration or statement, required written notices, examination procedure for generic drug approval applications, and issuance of drug approval;

3. Required notice to be issued by the new drug approval holder with respect to the patent infringement action initiated by the patentee or exclusive licensee or with respect to the final judgment that sustains occurrence of infringement;
4. Grant and duration of exclusive marketing term;
5. The applicability of provisions, with appropriate and necessary alterations, to the drug approval applications for the new drugs other than those of new chemical entity; and
6. Exclusion of indications, declaration and statement, and other compliance matters. (September 2018)

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E180831Y3

03 Taiwanese company pays TWD6 million for imitation of French luxury branded bags

A Taiwanese company, 2R International Co., Ltd. (hereinafter "2R International") is suspected of imitating the appearance of the branded French **C'eline Luggage** of C'eline, **Givenchy Pandora** and **Givenchy Antigona** of Givenchy, and so forth by the four kinds of women's leather bags 2R International made and sold under the designation of "微笑之星smile", against which C'eline and Givenchy filed a lawsuit against 2R International with the Taiwan IP Court in 2017. The IP Court rendered a judgment sustaining 2R International's offense of imitation alleged against it, ruling that 2R International should pay to C'eline TWD2 million and to Givenchy TWD4 million, respectively, in damages and should never use or make any leather bags of similar types.

According to the IP Court judgment, the **C'eline Luggage** bag, **Givenchy Pandora** and **Givenchy Antigona** bags are of artistic and creative pieces of works to some extent, rather than products made simply out of mold or machine; that is, these branded bags are works of artistic techniques and thus should be eligible for Copyright Act protection as artistic works. Besides, the four types of women's bags in question made and sold by 2R International are highly similar to the **C'eline Luggage** bag, **Givenchy Pandora** and **Givenchy Antigona** bags in their overall appearance. Therefore, the IP Court affirmed and sustained 2R International's infringement. (August 2018)

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04 NARLabs and Imec join hands to develop advanced imaging and optics technologies

On September 20, 2018, Taiwan's National Applied Research Laboratories (NARLabs) and Interuniversity Microelectronics Centre (Imec) signed a memorandum of understanding. Under this MOU, Taiwan's Instrument Technology Research Centre of NARLabs (ITRC-NARLabs) and Imec Taiwan will closely collaborate to develop advanced imaging and optics applications including development on demand of electronic systems, design of instruments for industry and manufacturing quality inspection, feasibility studies and prototyping, which will help customers build future generation devices based on scientific methods and shorten their time to market.

The President of NARLabs, Professor Yeong-Her Wang indicated that Imec is an international well-known research center and ITRC-NARLabs has committed itself to optics, vacuum technology, and opto-mechatronics integration technology, etc. for a long period of time. Initiating their R&D collaboration since 2014, Imec Taiwan and ITRC-NARLabs have had mutual pleasant cooperation and the past experiences have contributed to their signing this MOU for a closer collaboration on advanced hyperspectral imaging technology and wearable device applications.

This collaboration is expected to build and enhance NARLabs' future partnership with global companies and to increase Taiwan's visibility, reputation, and influence in instrument technology field. (September 2018)

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