



Please rest assured that Taiwan IPO and our firm have been maintaining normal operation as the coronavirus pandemic spreads throughout the world.

When faced with the severe global health crisis triggered by the pandemic, please take good care of your health and stay healthy.

## **TIPLO News**

**JULY 2021 (E260)**

*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](http://www.tiplo.com.tw)*

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### **E210622Y1**

#### **01 Taiwan IPO announces the second draft amendment to Taiwan Patent Act**

Taiwan IPO published the second draft amendment to partial provisions of the Patent Act, which amends 79 articles of the Act. Highlights of the amendment are summarized as follows based on the comparison and consolidation of the first and second draft amendments.

##### 1. Extension of time limit for filing divisional applications

Under the second draft amendment, the time limit for filing a divisional application is largely extended to allow a divisional application to be filed within 2 months after the rejection decision for the original application has been served or during the reexamination process.

##### 2. Introduction of *civil remedy procedure for disputes over patent ownership*

For any disputes that arise out of the ownership issue with respect to right to apply for a patent and to the patent and are brought to the court, mediation, or arbitration for seeking remedies, the relevant applicant may request for suspension of the examination, deliberation, and other relevant procedures that would affect or change the ownership.

##### 3. Inclusion of grounds for submitting supplementary evidence in invalidation proceedings

For enhancing remedy efficacy in invalidation proceedings and giving consideration to the particularity of invalidation cases at the same time, the second draft amendment introduces the circumstances where the invalidation requester or intervener is allowed to submit new evidence or new grounds in patent lawsuit.

##### 4. Stipulation of process of adjudication for litigation involving patent disputes

The second draft amendment sets forth the process and method for the court's adjudicating patent lawsuits to facilitate court practice in the litigation involving patent disputes. (Released 2021.06.22)

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### **E210605Y1**

### **E210604Y1**

#### **02 Court finds Phoenix Silicon International's patent invalid in patent lawsuit against Integrated Service Technology**

Phoenix Silicon International Corporation (hereinafter referred to as "Phoenix Silicon") filed a lawsuit to assert patent infringement against Integrated Service Technology (hereinafter referred to as "IST"). The Taiwan IP Court determined and found Phoenix Silicon's patent in question to be invalid in the first instance proceedings by a judgment and further affirmed its decision in the second instance proceedings. Phoenix Silicon's appeal was dismissed accordingly.

According to IST, Phoenix Silicon appealed against the IP Court's first instance

judgment rendered on June 23, 2020 and insisted on its allegation that IST infringed upon its No. I588880 Taiwanese invention patent.

However, the IP Court further adjudicated this case in the second instance proceedings and still established and reaffirmed the lack of inventive step of Phoenix Silicon's No. I588880 patent, "manufacturing process of wafer thinning" on the ground that the patent can be easily made by a person having ordinary skill in the art. Therefore, the IP Court decided that the patent in question should be invalid. (Released 2021.06.05)

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## **E210701Y2**

### **03 Taiwan IPO announces second draft amendment to Taiwan Trademark Act**

On January 7, 2021, Taiwan IPO commenced the notice period for the second draft amendment to partial provisions of the Trademark Act. During the notice period for public consultation, 39 comments and suggestions had been received and gathered to formulate, after thorough deliberation and discussion, the second draft amendment to a total of 53 articles of the Trademark Act with 9 articles revised, 33 added, and 11 repealed.

Highlights of this amendment are summarized as follow based on the comparison and consolidation of this draft amendment announced herein and that announced for public comments.

1. Adjustment of the circumstances where requests for reexamination and dispute adjudication are rejected: The second draft amendment sets forth the circumstances where Taiwan IPO should issue a notice for the applicant to submit an amendment within a designated period, adjusts the wording in relevant adjusted subparagraphs, and removes paragraph 4 of Article 56-9 of the draft amendment announced for public comments (Article 56-7 and paragraph 4 of Article 56-9 of the draft amendment).
2. Adjustment of the provisions in regard to agent *ad litem* for reexamination or dispute lawsuits: The draft amendment specifies the circumstances where an agent *ad litem* may not be an attorney-at-law. (Article 67-4 of the draft amendment)
3. Repeal of required court costs for reexamination: The determination of court costs should be subject to the Judicial Yuan's authority. In this regard, the relevant provision of Article 67-5 in the previous draft amendment announced for public comments that governs court costs is removed, and the relevant provisions of the Taiwan Code of Civil Procedure governing the determination of court costs should apply *mutatis mutandis*. (Article 67-5 of the previous draft amendment announced for public comments)
4. Introduction of new provisions allowing the intervener to initiate an action: The intervener's participation in trademark reexamination and trademark dispute adjudication process has auxiliary function. Now for facilitating dispute resolution in trademark reexamination and dispute lawsuits, the draft amendment provides that the intervener of the reexamination and dispute adjudication process may also initiate an action. (Article 67-5 and Article 67-8 of the draft amendment)
5. Inclusion of grounds for submitting supplementary evidence in trademark dispute lawsuit

For enhancing remedy efficacy and giving consideration to the particularity of trademark dispute cases at the same time, the second draft amendment introduces the exceptional grounds for the party to the trademark dispute case or the intervener thereof to submit new evidence in trademark dispute lawsuit. (Article 67-9 of the draft amendment)

6. Adjustment of the applicability of transitional articles: The second draft amendment stipulates that the cases that have been decided or ordered and the cases that were remanded back to the trademark authority through administrative appeal or administration proceedings before enforcement of the amended Trademark Act shall be subject to the pre-amendment Act. (Article 109-2 of the draft amendment) (Released 2021.07.01)

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## **E210701Y9**

### **04 Commercial cases adjudication by Intellectual Property and Commercial Court officially in effect**

The Intellectual Property and Commercial Court (hereinafter referred to as the “IPC Court”) has officially kicked off its operation as of July 1, 2021 after consolidating and reorganizing with the existing Intellectual Property Court established since July 1, 2008, so as to adjudicate major commercial disputes in an appropriate, expeditious, and professional process, to optimize corporate governance, upgrade Taiwan’s business environment, and ultimately to boost economic development.

The IPC Court specifically hears and adjudicates major commercial litigious and non-litigious matters involving the price or value of the claim equivalent to or more than one hundred million Taiwan Dollars or involving any public company and thus greatly affecting trading order and investors’ rights and interests. The IPC Court operates at the same level as the High Court in a two-level and two-instance adjudication system with professional judges and commercial examiners recruited. Also, the IPC Court adopts such mechanism as mandatory preliminary mediation, mandatory representation by attorneys, trial plan discussion and formulation, e-filing transmission of written statements, distance interrogation and use of e-facility, litigant’s inquiry system, expert witness, and confidentiality preservation order, etc.. (Released 2021.07.01)

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## **E210603Z1**

## **E210602Z1**

### **05 T.Y.C. Brother Industrial Co. Ltd. sued by Hyundai and Kia for patent infringement in the U.S.**

T.Y.C. Brother Industrial Co., Ltd. (hereinafter referred to as “TYC”) made an announcement on June 2, 2021 that Hyundai Motor Company and Kia Corporation sued TYC and its subsidiary in the U.S., Genera Corporation in California Central District Court over alleged patent infringement related to vehlamp on May 28, 2021.

This case represents another lawsuit confronted by Taiwan-based car parts makers over patent infringement subsequent to that filed by Daimler AG against Taiwan-based *DEPO Auto Parts Ind. Co., Ltd.* (“DEPO”) in Germany and in Taiwan and also that initiated by Hyundai Motor Company against DEPO in the U.S.. (Released 2021.06.03)

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## *Taiwan High-Tech News*

### **E210603Y5**

#### **01 TSMC unveils innovative technologies at 2021 online Technology Symposium**

TSMC held the 2021 Technology Symposium on June 2, 2021, at which TSMC unveiled its latest innovations of advanced logic technology, specialty technologies, 3DFabric™ advanced packaging, and chip stacking technologies. For two consecutive years, TSMC has held the Technology Symposium online to share its latest technological developments with its customers, which include N6RF for next-generation 5G smartphone and WiFi 6/6e performance, N5A for state-of-the-art automotive applications, and enhancements across the range of 3DFabric technologies.

Moreover, TSMC plans to begin the risk production for its 4 nm (N4) process during the third quarter of 2021, and its N3 technology is set for volume production in the second half of 2022. Also, TSMC presents its N5A process, the newest member of the 5nm family, which is aimed at the growing demand for AI-enabled driver assistance and digitization of vehicle cockpits. (Released 2021.06.03)

### **E210601Y5**

#### **02 AU Optronics partners with Acer to introduce AmLED technology in Acer's Predator gaming notebooks**

AU Optronics joins hands with Acer to introduce its all-new AmLED (Adaptive mini LED) display technology to Acer's newly presented Predator Helios 500 gaming notebook, which is equipped with and powered by the world's highest performance gaming notebook display with 4K resolution, 120 Hz refresh rate, ultra-high contrast, and high brightness.

The Predator Helios 500 is launched along with a FHD variant with AU Optronics' industry-leading 360Hz high refresh rate<sup>(\*)</sup>, rocking a 3 ms response time for the smoothest image possible. (Released 2021.06.01)



台灣國際專利法律事務所

TAIPEI MAIN OFFICE  
7<sup>th</sup> Floor We Sheng Building,  
No.125, Nanking East Rd. Sec.2,  
P.O.BOX 39-243, Taipei 10409, Taiwan  
Tel: 886-2-2507-2811 • Fax: 886-2-2508-3711  
E-mail: [tiplo@tiplo.com.tw](mailto:tiplo@tiplo.com.tw)  
Website: [www.tiplo.com.tw](http://www.tiplo.com.tw)

TOKYO LIAISON OFFICE  
No.506 Lions Mansion ,  
13-11, Shinjuku 2-Chome,  
Shinjuku-ku, Tokyo 160-0022, Japan  
Tel: 81-3-3354-3033 • Fax: 81-3-3354-3010