



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

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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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E220317X4

01 Three suspects prosecuted for stealing trade secrets of Taiwanese optics company in Southern Taiwan Science Park

Trade secret theft occurred to an optics company based in Southern Taiwan Science Park when one of the company's former sales managers, surnamed Wang (hereinafter referred to as "Wang") colluded with one of its former employees, surnamed Chen (hereinafter referred to as "Chen") and a Chinese sales manager, surnamed Zhou (hereinafter referred to as "Zhou") to steal the company's trade secrets and incorporate a new company and thus earn more than TWD18.22 million in illicit profits. For this occurrence, Ciaotou District Prosecutors Office charged the three former employees with the offense of disclosing trade secrets and had their illicit profits seized on March 17, 2022.

The investigation on Wang's accounting books revealed that two shell companies in China had been using the company's stolen trade secrets for selling products to university research labs and private companies in China and Hong Kong to earn around TWD18.22 million in illegal income and TWD14.22 million thereof has been seized by Ciaotou District Court.

The prosecutor ended the investigation and concluded that the three suspects, Wang, Chen, and Zhou are suspected of unlawfully acquiring and using the company's trade secrets, and Wang and Zhou are also suspected of committing the offense of trade secret disclosure as defined by the Trade Secrets Act of Taiwan. Moreover, acting as the key offender, Wang is also charged with unauthorized reproduction and disclosure of the company's trade secrets. The three suspects have been prosecuted and their illicit gains have also been seized accordingly. (Released 2022.03.17)

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E220608Y1

02 As of August 1, 2022, Sequence Listing submitted to the Taiwan Intellectual Property Office (IPO) for an invention patent application comprising nucleotide or amino acid sequence(s) shall be drafted in accordance with the WIPO ST.26 format.

WIPO announced that as of July 1, 2022, for an international patent application filed under Patent Cooperation Treaty (PCT) comprising Sequence Listing, the Sequence Listing shall be drafted in accordance with the WIPO ST.26 format. For facilitating global data exchange and search, the Taiwan IPO will fully implement the WIPO ST.26 format as of August 1, 2022. Sequence Listing submitted to the Taiwan IPO for an invention patent application filed on or after August 1, 2022 comprising nucleotide or amino acid sequence(s) shall be drafted in accordance with the WIPO ST.26 format. In view of the applicant's behalf in filing an international patent application, the Taiwan IPO accepts that Sequence Listing submitted for an invention patent application filed between July 1, 2022 and July 31, 2022 comprising nucleotide or amino acid sequence(s) can be drafted in accordance with either the current WIPO ST.25 format or the WIPO ST.26 format.

WIPO provides a desktop application named "WIPO Sequence" for enabling the applicant to compile a Sequence Listing meeting the WIPO ST.26 format (see the website: <https://www.wipo.int/standards/en/sequence>). (Released 2022.06.08)

E220315Y1

03 Hon Hai offers licenses to 1400 patents royalty-free to back up local startups

On March 15, 2022, Taiwan-based electronics manufacturing giant, Hon Hai Technology Group (hereinafter referred to as “Hon Hai”) announced a program that is formulated and implemented, based on its patenting strategy for patents of quality, quantity, and multipurpose and also in the spirit of patent-sharing, to back up local startups by granting to them free access to over 1400 patents and also by providing free patent consultation service. Resting on its existing patents and patent management experiences, Hon Hai supports startups through this program, under which startups will be able to ease their risk burden arising from innovation research and development in the early stage of operation and to bring their innovation into full play and ultimately to round out their patent portfolio. By launching this program, Hon Hai aims to establish a patent sharing system that will properly and fully operate to back up local startup companies and create more value.

Under the program, priority will be given to the startups that have been incorporated for less than two years and whose technologies, products, and scope of business in keeping with Hon Hai’s targeted core technology and future development. Startup companies will have access to the patents for three years under royalty-free and non-exclusive license after their applications have been approved. Hon Hai will first grant licenses to over 1400 patents involving innovations relating to information and communications, touch panels, process improvement, robotics, artificial intelligence, blockchain, wearable devices, signal control, motors, and machinery and structure, etc.. Relevant patent information is available on Hon Hai’s official website. (Released 2022.03.15)

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E220301Y1

04 Taiwan IPO implements new measures of Remote Video Interviews for Patent Applications as of March 1, 2022

With communication technology fully developed and in response to various changes in social circumstances that may impede patent applicants’ availability for interview in person at the Taiwan IPO, such as, the burst of COVID-19 pandemic, remote video interviews for patent applications may be conducted with technological equipment, if available, on condition that the patent examination process takes place fairly and transparently in less restricted location and conditions. Taiwan IPO has implemented the new measures of Remote Video Interviews for Patent Applications as of March 1, 2022. Under the new measures, applicants and patent agents may select a remote location to conduct trilateral video interviews with patent examiners through connecting Taiwan IPO’s system. For example, a video interview can still take place when the patent applicant is in Japan, his/her agent in Taiwan and the examiner at Taiwan IPO; the applicant does not have to go to Taiwan IPO’s service centers in person, which is able to avoid fatigue in transportation and elevate examination and service efficiency.

Please click the link (<https://www.tipo.gov.tw/tw/cp-85-902710-65e97-1.html>) for more information regarding Remote Video Interviews for Patent Applications published by Taiwan IPO. (Released 2022.03.01)

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E220224Y1

05 Taiwan Executive Yuan approves draft amendment to Article 60-1 of Taiwan Patent Act

According to the Taiwan IPO's press release, with an aim for Taiwan's access to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and for operating in coordination with the implementation of the patent linkage system introduced to the Pharmaceutical Affairs Act as of August 20, 2019, the draft amendment for inserting Article 60-1 of the Taiwan Patent Act was passed at the Executive Yuan's meeting on February 24, 2022.

Key points of the draft amendment are introduced in brief as follows.

For rounding off the implementation and operation of the patent linkage system, the patentee of a new drug may file a patent infringement lawsuit against a generic drug permit applicant during the examination of the generic drug permit application where the application is filed with a declaration that the listed patent(s) corresponding to the new drug is not infringed by the generic drug for which the drug permit is applied or the listed patent(s) should be revoked, so as to clear any possible infringement disputes. Also, where the patentee of a new drug fails to file such a lawsuit within a designated time limit, the generic drug permit applicant may initiate an action to seek a declaratory judgment confirming non-infringement by the generic drug for which the permit application is filed. (Released 2022.02.24)

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E220215Y1

06 Taiwan IPO releases statistics of top 100 patent applicants and grants for 2021

Taiwan IPO released the statistical rankings for patent applications filed and patent grants in 2021. Among the overall applications filed for all three kinds of patents, TSMC still headed the list by filing 1,950 applications in 2021, clinging to the top spot for six consecutive years, while Qualcomm claimed its top honor with 845 applications filed in Taiwan to be the top foreign applicant for the second year in a row. As to the number of patents granted for all three patent types, TSMC and Applied Materials each took the lead on the list of patent grants to domestic and foreign applicants with 1,053 grants and 492 grants, respectively. Invention patent applications filed by 100 top domestic corporations and research institutions rose by 17% and 11%, respectively.

Statistics of patent applications and rankings of the top 100 applicants are summarized as follows.

1. TSMC sits comfortably at the 1st place as the top domestic applicant for the sixth year in a row

Among the domestic applicants, TSMC has held on to the first spot with respect to the number of patent applications since 2016, and such remarkable success remained unchanged with 1,950 applications filed in 2021, surging by 78%. AU Optronics followed TSMC by filing 471 applications in 2021. Moreover, Realtek Semiconductor and Nanya Tech each filed their highest number of applications since 2001 to rank 4th and 6th with 442 and 290 applications, respectively. Delta Electronics, Inc. also saw their 18% growth by filing 205 applications and got a reentry to the top 10 list since 2015.

The statistics shows that there had been a total of 12,234 applications filed for three

types of patents by the top 100 domestic applicants throughout 2021, which marks a year-on-year increase of 8%. Such an increase is attributable to the 13% growth in the number of invention patent applications (which accounted for 75% of the overall applications); corporations and research institutions experiences their growth in filings of invention patent applications by 17% and 11%, respectively. The number of design patent applications moved up by 1% as well. On the contrary, the filings in utility model patent applications declined by 7% mainly due to 20% fall in the applications filed by school applicants.

2. Six local banks appear on the top 100 applicants list with MEGA International Commercial Bank grabbing the top ranking and Hua Nan Bank filing the most invention patent applications.

There were six banks among the top 100 domestic applicants in 2021, including MEGA International Commercial Bank that headed the list with 165 applications, surpassing CTBC Bank that filed 155 applications and Taiwan Cooperative Bank that filed 144 applications. All the top three domestic banks saw their growth by 53%~85%. It is noticeable that for two consecutive years since 2020, Hua Nan Bank has been the top bank-applicant for invention patent applications by filing 46 applications in 2021.

3. Taipei City University of Science & Technology takes the lead in overall patent applications, and National Yang Ming Chiao Tung University files the most invention patent applications

Twenty-eight schools were among the top 100 applicants for three kinds of patents with Taipei City University of Science & Technology ranking 1st by filing 170 applications. A breakdown by the number of invention patent applications filed by schools shows that National Yang Ming Chiao Tung University contributed most of the invention patent applications filed by schools and colleges by filing 135 applications for invention patents, followed by National Cheng Kung University with 102 filings, National Taiwan University with 86 filings, and National Tsing Hua University with 86 filings.

4. Industrial Technology Research Institute stays firmly at the 1st place for invention patent applications filed by research institutions

There were five research institutions recognized as the top 100 domestic applicants for patents of any types. The Industrial Technology Research Institute, which finished 5th in the overall rankings, outshined other research institutions by filing 404 applications and was followed by the Metal Industries Research & Development Centre that filed 89 applications in 2021.

5. Qualcomm sticks to the top spot as the top foreign applicant for the second consecutive year

As to the top 10 foreign applicants, Qualcomm saw its growth by 17% by filing 845 applications. Four of the top 10 foreign applicants were semiconductor equipment manufacturers, which are Applied Materials ranking 2nd with 793 applications, Tokyo Electron ranking 5th with 477 applications, and Disco coming in 10th with 225 applications. ASML's applications in 2021 hit its own record high ever to take the 8th place. Besides, Samsung Electronics rose to the 4th spot with 520 applications, marking the highest increase rate of 98% among the top 10 foreign applicants.

To sum up, the top 100 foreign patent applicants had filed a total of 14,149 applications for three kinds of patents throughout 2021, which represents a 5% rise. The invention patent applications accounted for 87% of the total applications, rising by

5%. The similar growth occurred also to the utility model and design patent applications by 3% and 6%, respectively. (Released 2022.02.15)

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07 Taiwan IPO releases IPR statistics for 2021

Taiwan IPO had received a total of 72,613 patent applications throughout year 2021, which marks 1% increase. Among the overall patent applications, those filed for invention patents grew by 5% to 49,116 cases, while those for utility model patents and design patents diminished by 10% and 4% to 15,796 cases and 7,701 cases, respectively. On the other hand, trademark registration applications filed throughout 2021 totaled 95,917 cases to hit a record high number since 1999 when Taiwan IPO was founded. As to examination efficiency, the average disposal pendency was 14.0 months for invention patent applications and decreased to 6.2 months for trademark applications, which marks the efficient and good examination service to applicants.

1. Domestic invention patent applications attaining record high since 2014 with similar growth also occurring to industry and research institutes

There were 19,547 applications filed by resident-applicants for invention patents, setting a record high since 2014, which was mainly attributable to a 6% rise in the number of applications filed by corporate-applicants (the applications filed by large enterprises alone increased by 9%) and marked a rise for five consecutive years. Meanwhile, applications filed by research institutes also experienced a growth of 2%. On the contrary, the applications for utility model patents and for design patents amounted to 14,543 cases and 3,534 cases, respectively, both of which were down by 12% and 10% from last year, respectively, as a result of the slip by 8%~10% in the number of applications filed by corporations and also a drop by 16% in the number of applications filed by individuals. The applications filed by non-resident applicants moved up by 7% with 29,569 cases for invention patents, by 13% with 1,253 cases for utility model patents, and by 2% with 4,167 cases for design patents.

2. Japan holding onto the top spot for non-resident patent applications

In terms of the nationality of the non-resident applicants, Japan continued to sit comfortably at the first place by filing 13,324 overall applications, surpassing the US that contributed 7,986 applications and China that filed 4,253 applications. Moreover, South Korea presented the highest growth rate at 27% among the top five countries by filing a total of 2,388 applications. The analysis by types of patent applications shows that Japan also led in the number of invention and design patent applications, while China surpassed other countries by filing the most non-resident applications for utility model patents.

3. Number of overall trademark registration applications reaches the record high due to the climb in the counts of resident and non-resident applications

The total trademark registration applications filed throughout year 2021 amounted to 95,917 cases (covering 123,217 classes), growing by 2% and comprising 73,374 cases filed by resident applicants and 22,543 cases by non-resident applicants, both of which rose by 2% and 3%, respectively.

Among the top five filing countries (or regions), China remained at the top spot by filing 4,929 applications with 8% growth. Also, the US jumped to the 2nd position by filing 4,032 applications, up 6%, to outnumber Japan, which filed 3,437 applications,

down 14% from last year.

4. Most of resident applicants' and non-resident applicants' trademark applications filed for Class 35 and Class 9, respectively

Breakdown by trademark classification, Class 35 (advertisements and business operation) topped the list with 15,034 applications, which marked a yearly increase of 13%. Among resident corporate applicants, Uni-President headed the list with 567 applications, followed by Taiwan Familymart with 180 applications and King Car Food with 147 applications.

On the other hand, most of the non-resident applicants' trademark applications were filed for registration under Class 9 (computer and technology products) in 4,502 cases, while the applications filed for Class 42 (scientific and technological services) grew most strikingly at 20%. Also, among foreign corporate applicants, Bunny Girl topped the list by filing 135 applications, ahead of Xiaomi with 132 applications and Shiseido with 107 applications.

5. Disposal pendency for patent and trademark applications remaining stable and reasonable to be in support of businesses' portfolio development

Taiwan IPO has been going full on to maintain examination efficiency, and as a result, the average disposal pendency is kept less than 14 months for invention patent applications. As to trademark applications, the average disposal pendency fell to 6.2 months to go down to the record low since 2009. Moreover, the average pending applications for both invention patents and trademarks remain at about 50,000 cases, so as to assist businesses in acquiring IP rights and developing their portfolios. (Released 2022.02.15)

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E220325Y3

08 Copyright ownership of online game *Enigma Online* to be ascertained by IPC Court

The Taiwan Supreme Court rendered a judgment on the case between Heluo Games Co., Ltd. (hereinafter referred to as "Heluo") and Soft-World International Corporation (hereinafter referred to as "Soft-World") for economic right dispute, remanding this case to the Intellectual Property and Commercial Court (hereinafter referred to as the "IPC Court") that dismissed Heluo's appeal.

Soft-World alleged that its online role-playing game, *Enigma Online*, released on August 27, 2001, is the work developed and accomplished by its former employee, XU Chang-Long (hereinafter referred to as "Xu") during his employment at Soft-World, and in this regard, the economic right subsisting in the work should be vested in Soft-World. The former employee, XU has incorporated another online game company, Heluo since March 7, 2014 and further launched another online game, *Tale of Wuxia* in July 2015, which is a plagiarized and adapted version of *Enigma Online*. Soft-World also pointed that by *Tale of Wuxia*, Xu infringed upon Soft-World's economic rights, and hence, Xu, as the statutory representative of Heluo, should be held severally and jointly liable for the damages suffered by Soft-World.

Heluo countered Soft-World's allegation by the following arguments. It is a fact that Xu signed an employment agreement with Soft-World on December 26, 1994. After that on January 23, 1996, for cost control purpose, Soft-World concluded another agreement for game development outsourcing with Heluo Studio (namely, Heluo Games Co., Ltd. before its reorganization), under which Soft-World should

advance copyright royalty and provide Heluo Studio with a fund, office, computer equipment for developing new games and also deal with the labor insurance, health insurance, and taxation matter for the employees of Heluo Studio. However, Heluo Studio is not an internal division subject to Soft-World, and Xu and the members of Heluo Studio are not Soft-World's employees. *Enigma Online* is created and developed by Heluo Studio, instead of a work for hire by Xu during his employment at Soft-World. In a word, Soft-World has only publishing right according to the agreement for game development outsourcing.

The IPC Court adjudicated in the first instance proceedings that Heluo and Xu should pay TWD24 million in damages to Soft-World, stop distributing or transmitting in public *Tale of Wuxia* and also run a notice of the gist of the first-instance judgment in the front page of the local newspapers for one day. The IPC Court's first-instance judgment was affirmed in the second instance proceedings, and therefore, Heluo appealed this case to the Taiwan Supreme Court.

This case moved on to the proceedings at the Supreme Court, which found the IPC Court's holding disputable on the ground that the IPC Court sustained *Enigma Online* as a work for hire during Xu's employment at Soft-World simply based on witnesses' testimonies and Xu's labor insurance records. Besides, such issues as the enjoyment of economic rights of *Enigma Online*, the exact time when Soft-World was aware of the content of the *Tale of Wuxia*, and if Soft-World has a basis to claim damages against and to seek removal of infringement against Heluo, and to request for Heluo's running a notice for rehabilitation of reputation matter a lot in this case. Therefore, the Supreme Court sees the necessity of remanding this case back to the IPC Court for further investigation on these issues. (Released 2022.03.25)

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