



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 Amendment to Article 67 and Article 80 of Enforcement Rules of Patent Act of Taiwan**
- 02 Executive Yuan approves draft amendments to Intellectual Property and Commercial Court Organization Act and Intellectual Property Case Adjudication Act**
- 03 OPTIMAL-IM, first-ever partnership established on self-driving technology by and between Taiwan's ARTC and Optimal Group of the U.S.**
- 04 Taiwanese and US firms ink seven MOUs to seize business opportunities of 5G communications and renewable energy**

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01 Amendment to Article 67 and Article 80 of Enforcement Rules of Patent Act of Taiwan

According to a recent announcement by the Taiwan IPO, the Ministry of Economic Affairs promulgated the amendment to Article 67 and Article 80 of the Enforcement Rules of the Patent Act on October 20, 2022. An outline of the amendment is provided as follows.

1. On the premise of protecting both the patentee's and the pledgee's rights and interests simultaneously, relevant stipulation of Article 67 is eased to simplify the procedure for requesting for recordation of pledge establishment of a patent right by removing the requirement of patent certificate submission;
2. To fit in with patentees' practical needs, Article 80 is amended by adding a new circumstance for requesting for reissuance or renewal of a patent certificate, and the circumstance is when there are changes to the particulars entered in the certificate to be updated. Also, the original patent certificate will be nullified by a public notice when it is reissued or renewed. (Released 2022.10.21)

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02 Executive Yuan approves draft amendments to Intellectual Property and Commercial Court Organization Act and Intellectual Property Case Adjudication Act

The Executive Yuan issued a press release to the effect that the Executive Yuan passed the draft amendments to the Intellectual Property and Commercial Court Organization Act and to the Intellectual Property Case Adjudication Act on October 29, 2022, and that the Executive Yuan and the Judicial Yuan jointly sent the draft amendments to the Legislative Yuan for deliberation, in order to have IP-related cases heard and adjudicated in professional, appropriate, expeditious process and also to enhance competitiveness.

Main points of the two draft amendments are summarized as follows.

1. Amendment to partial provisions of the Intellectual Property and Commercial Court Organization Act
 - (1) The scope of jurisdiction of the Intellectual Property and Commercial Court (hereinafter the "IPC Court") is amended. (Article 3 amended)
 - (2) In principle, civil actions in the IPC Court shall be tried by a collegial panel of three judges. The proposed amendment sets out the scenarios of exceptions where the actions at the IPC Court shall be heard and tried by a single judge. (Article 6 amended)
 - (3) Revisions are made in the proposed amendment to impose restrictions on the selection and appointment of the divisional chief judge of the intellectual property court and the commercial court under the IPC Court, the reassignment of judges or category of selection, and on the category of affairs the judges handle and try (Article 9, Article 10, and Article 15 amended)
 - (4) The proposed amendment adds the criteria and qualifications for appointment of commercial investigation officers. (Article 17 amended)

2. Amendment to the Intellectual Property Case Adjudication Act

(1) Introduction of new measures and practices and adoption of mandatory representation by an attorney

The measures of “trial plan”, neutral technical expert’s “verification” in evidence gather proceedings, “expert witness”, and “amicus curiae system” are introduced to the procedure of IP-related civil cases. Also, the system of mandatory representation by attorneys is adopted and relevant provisions are amended to alleviate the burden of proof resting with the plaintiff, and to reinforce protection of trade secrets involved in IP-related civil cases. (Article 18, Article 19, Article 28, and Article 29 amended)

(2) In response to the draft amendments to the partial provisions of the Patent Act and Trademark Act proposed by the Ministry of Economic Affairs on April 19, 2022, the proposed amendment replaces administrative litigation currently adopted for the administrative remedy procedure for patent and trademark cases with adversarial system under civil procedure and also incorporates new provisions with respect to the reexamination and dispute of patent or trademark cases. (Article 55, Article 56, and Article 58 amended)

(3) In order to answer to the expectations for the enforced trade secrets protection and to fulfill adjudication of IP cases in a professional and proper manner, the proposed amendment sets forth that jurisdiction over the first instance of the criminal cases involving violation of Article 13-1 of the Trade Secrets Act is transferred from the district courts to the IP Court under the IPC Court, and that in response to the regulation of the 2nd paragraph of Article 18 of the National Security Act, the criminal cases involving the trade secrets regarding national core technologies shall undergo trial from the second instance of the IPC Court. (Article 59 amended)

(4) Relevant procedural requirements are revised or added to facilitate electronic process, enhance trial efficiency, avoid different judgments between institutions, and resolve practical disputes. (Article 5, Article 6, Article 9, Article 18, Article 35, Article 36, Article 54, Article 58, Article 62, Article 63, and Article 71 amended) (Released 2022.09.29)

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Attorneys-at-Law

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03 OPTIMAL-IM, first-ever partnership established on self-driving technology by and between Taiwan’s ARTC and Optimal Group of the U.S.

With the support of the Ministry of Economic Affairs, the Automotive Research & Testing Center (ARTC) of Taiwan set up a joint venture, OPTIMAL Intelligent Mobility (hereinafter “OPTIMAL-IM”) with Optimal Group of the U.S. by contribution of technical know-how; OPTIMAL-IM officially kicked off operation as of October 26, 2022 with the North America as the target of marketing during its initial operation period. The autonomous driving technology developed under OPTIMAL-IM will be used on vehicles for sale in the North America in 2024 after the completion of verification and validation test conducted on the autonomous driving technology in 2023. The joint venture represents the first partnership for self-driving system between the Taiwan-based non-profit organization and an U.S. firm and will develop massive business opportunities for Taiwan’s autonomous driving supply chain.

Incorporated since 1986, Optimal Group of the U.S. has been the design developer exclusively for the “Big Three” automobile manufacturers of the U.S. (Ford Motor Company, General Motors, and Chrysler Stellantis North America) and is the first-ever manufacturer and developer of electric low-floor midi-bus. As the leader in the field

of electric vehicles, Optimal Group has sought for a suitable partner in autonomous driving technology, while ARTC of Taiwan presents its homegrown and essential achievement in self-driving technology, the ADAS Level 3 Integrated Technology. Impressed by ARTC's stunning achievement, Optimal Group decided to set up OPTIMAL-IM jointly with ARTC to vie for the autonomous vehicles market.

ARTC has poured considerable resources into self-driving technology for many years. By transferring its 12 ADAS technologies as technological contributions based on its two core technologies, adaptive cruise control (ACC) and lane following system (LFS), ARTC set up OPTIMAL-IM with Optimal Group to combine relevant technologies with the OPTIMAL-EV. ARTC expects that its launch into the U.S. market will help pave the way for the debut of Taiwan's homegrown self-driving technologies on the international market. (Released 2022.10.26)

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04 Taiwanese and US firms ink seven MOUs to seize business opportunities of 5G communications and renewable energy

Taiwanese companies including Aerospace Industrial Development Corporation (AIDC), Taiwan Power Company (Taipower), Quanta Cloud Technology, HTC Corporation, TMY Technology Inc., and Edgecore Networks Corporation signed seven memorandums of understanding (MOUs) with US companies including GE, Intel, and RingCentral, etc. on October 13, 2022, to pave the way for launch into the business of renewable energy and 5G communications.

The MOUs signed mostly involve technology cooperation in the sectors, such as, carbon reduction, renewable energy, and 5G connectivity. For the collaboration in the area of renewable energy, GE works with AIDC to help AIDC establish its own "localized maintenance capabilities" on a turbine-supported electrification project and also with Taipower to achieve its goal of net zero carbon emissions by 2050.

As to the cooperation in the sector of 5G communications, based on their already robust partnership in the information and communication industry, the Ministry of Economic Affairs will continue boosting both sides' cooperation by combining Taiwan-based information and communication service providers' abundant hardware design and manufacturing capacity with the US companies' strength in software, service, and branding, with a view to contributing to the diversification of 5G supply chain and assisting Taiwanese and US companies in jointly seizing the business opportunities of 5G communications and broadband infrastructure. (Released 2022.10.13)

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