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News from PR China

Editor's note: Due to the diligent efforts of Editorial Advisory Board member, Professor Yang Zhiping, these contributions have been provided. Michael Blackman.

1. Carry Out Intellectual Property Strategy Formulation Work in an All Round Way

Since the issue and implementation of the *Outline of the National Intellectual Property Strategy* on June 5th, 2008, PR China governments at all levels have been stably promoting and implementing the intellectual property strategy by strengthening intellectual property legal system establishment, market establishment and culture establishment, and the efficiency has appeared gradually. Under the leadership and coordination of the Ministerial Joint Meeting on National Intellectual Property Strategy, 28 ministries, coordinating with each other, have been promoting intellectual property strategy at national, regional, industrial and enterprise levels in an all round way. Many intellectual property laws and regulations have been issued, kinds of special intellectual property measures implemented one after another, and the intellectual property administrative management level improved in ministries and regions. With the social intellectual property cultural atmosphere becoming richer and richer, international exchange and cooperation on intellectual property have expanded continuously.

Up to now, 13 provinces and cities have issued local intellectual property strategy outlines or relating documents, which are closely connected with local economic development features and highlight local leading and special industries. Among them, such 10 provinces as Liaoning, Shanghai, Jiangsu, Shandong, Henan, Hunan, Guangdong, Guizhou, Shanxi, Sichuan have set forth their local intellectual property strategies; and Chongqing launched *Opinion on Building IPR Protection Model City*. Beijing, promulgating *Opinion on Implementing Capital IPR Strategy*, takes high-tech and high-end industry as entry point, and focuses on the scientific and educational advantage of Zhongguancun region. Qinghai has launched *Opinion on Implementing National Intellectual Property Strategy*. Shanghai and Guizhou have carried out the evaluation for local intellectual property strategy. Shanxi and Henan has published plans on implementing local intellectual property strategies. In addition, Haerbin, Shenzhen, Wuhan, Xiamen, Shenyang, Guiyang, Jinan and some other cities have also set forth a series of municipal intellectual property strategies and implementation opinions. It is forecasted that most of the provinces and cities will issue local and regional intellectual property strategies in the next one or two years.

In PR China, State Intellectual Property Office, Ministry of Industry and Information Technology, Ministry of Justice, and PLA General Armament Department, etc have jointly established special leadership organization to implement and coordinate the *Outline of the National Intellectual Property Strategy* among ministries and departments. Over 10 ministries have set forth opinions and

detailed operating programs on implementing this outline so as to deploy the implementation of the intellectual property strategy in ministries in an all round way. These ministries include State Intellectual Property Office, the Ministry of Public Security, Ministry of Justice, Ministry of Agriculture, Ministry of Commerce, Ministry of Health, State-owned Assets Supervision and Administration Commission of the State Council, State Administration for Industry and Commerce, General Administration of Quality Supervision, Inspection and Quarantine, the State Administration of Radio Film and Television, National Copyright Administration, State Forestry Administration, PLA General Armament Department, and the Supreme People's Court.

Among all these opinions and programs, Ministry of Agriculture has formulated the *Implementation Program on Promoting Important Measures of the Outline of the National Intellectual Property Strategy*, in order to direct the agricultural intellectual property work. Ministry of Commerce has drawn up *Implementation Measures on Overseas Intellectual Property Rights Protection*, so as to strengthen the power of overseas IPR protection; Ministry of Health, combining with State Food and Drug Administration, and State Administration of Traditional Chinese Medicine, has formulated *Directions for strengthening the work of traditional Chinese medicine intellectual property*, so as to promote and amend traditional Chinese medicine IPR mechanism. In order to lead national enterprises to elevate their comprehensive IPR capabilities, State-owned Assets Supervision and Administration Commission of the State Council has formulated *Opinions on National Enterprises' Implementing the Outline of the National Intellectual Property Strategy*. State Administration for Industry and Commerce has developed *Opinion on Implementing the Outline of the National Intellectual Property Strategy to Vigorously Promote Brand Strategy*, so as to direct enterprises to raise their capabilities of brand registration, use and protection. *Notice on the Work of Implementing the Outline of the National Intellectual Property Strategy* has been issued by General Administration of Quality Supervision, Inspection and Quarantine, in order to powerfully promote the IPR work in this Administration. The State Administration of Radio Film and Television has issued *the Opinion on Implementing the Outline of the National Intellectual Property Strategy*, so as to ameliorate the establishment of IPR relating policies, regulations and systems. State Forestry Administration has paid close attention to comprehensively promote the development of the IPR work in Forestry departments and has formulated the *Program on Implementing the Forestry Intellectual Property Strategy*. State Intellectual Property Office of PR China has come up with *the Plan on State Intellectual Property Office Implementing IPR Strategy in 2009*, and decided to carry out the implementation of IPR strategy from nine aspects. PLA General Armament Department has decided to lift the IPR requirements of the Army and has formulated the *Work Program on Distributed Implementing the Outline of the National Intellectual Property Strategy*. The Supreme People's Court

has issued the *Opinion on Some Issues of Implementing the Outline of the National Intellectual Property Strategy*, so as to further emphasize the leading role of Judicial Protection to Intellectual Property.

http://www.sipo.gov.cn/sipo2008/yw/2009/200906/t20090604_463326.html

http://www.sipo.gov.cn/sipo2008/yw/2009/200906/t20090603_463117.html

<http://www.shanghaiip.cn/wasWeb/news/20090605/2009060506402595.html>

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2. The State Council of PR China: Foster the Protection of Biotechnology Patents and Species Resources

An announcement, "The Policies to Accelerate Biological Industry Growth", publicized by the General Office of the State Council of PR China, was posted on China's central government website recently. The measures have been made to foster the protection of biotechnology patents and species resources, elevate the level of the development and utilization of species resource, and guarantee bio-safety.

The measures were discussed and approved on the State Council Standing Meeting on May 13, presided over by Chinese Premier Wen Jiabao. The measures consist of 33 items in ten parts with 4800 Chinese characters, involving targets of the policies, key fields in biological industry, technology innovation, attracting talents, providing fund support, optimizing market environment, boosting bio-genetic resources protection and bio-safety regulation and enhancing relating administration and leadership.

The measures aim to foster bio-industry as a pillar industry in high technology and a booming strategic industry in China. Details are as follows:

The measures indicate to create a good market circumstance, and enhance the IPR protection, including ameliorating the biotechnology IPR protection mechanisms, boosting the construction of the law enforcing team of biotechnology IPR, increasing the punishment of IPR violation, and guaranteeing rights and interests of IPR possessors in accordance with law. They also indicate to cultivate the market for biotechnology products and evaluate biopharmaceuticals with independent intellectual properties according to laws and orders, and list biopharmaceuticals meeting requirements into Medical Insurance Medicine List.

The measures propose to enhance bio-genetic resources protection and bio-safety regulation, establish and perfect laws and regulations for bio-genetic resources protection, as well as mechanisms for bio-genetic resources accessing and sharing, and additionally, construct bio-genetic resources information system to investigate and evaluate bio-genetic resources.

The measures claim to energetically promote international cooperation, by encouraging and supporting biotechnology enterprises with independent IPR to register international brands, implement international marketing, set up R&D institutions abroad, and invest to build enterprises. The measures also support domestic organizations to participate in the work of the formulation and amendment of relating international standards, and conduct international exchange in the certification and accreditation in bio-industry.

The measures emphasize to make a good job of the transfer service of biotechnology achievements, accelerate the examination process of biotechnology IPR, strengthen the registration and transfer of scientific research achievements in biotechnology, perfect the evaluation system and transfer mechanism of biotechnology achievements, speed up the industrialization of independent innovation achievements, organizationally implement projects of industrialization of biotechnology achievements, vigorously promote the transformation of key biotechnology achievements with independent IPR, accelerate their large-scale production and application, actively carry out the formulation, amendment and implementation of relating standards for biological products, enhance R&D and industrialization of biological standard samples, and encourage companies, research institutes, universities and individuals to apply for new plant species, patents, trademarks and other intellectual property rights.

http://www.sipo.gov.cn/sipo2008/yw/2009/200906/t20090608_464054.html

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3. Intelligent Retrieval System for PR China's Design Patent

Intelligent Retrieval System for PR China's Design Patent (IRSCDP) developed by the State Intellectual Property Office of PR China was opened to public on April 26th, 2008. In order to continuously improve the function and update the system data, the retrieval system has been used and tested for more than a year by local intellectual property offices, patent commission agencies and partial public.

IRSCDP is a graphic-based retrieval system, which could search images via graphic factors (such as shape, color, grain etc.) without indexing them. The main functions carried out by this system are full-text search of description items, image search, relevant sorting, user administration, search results' processing, search reports' generation and administration, online help etc. With these functions, IRSCDP not only enriches the ways to search design patent, but also provides a solid technical support for testing of products development, protecting intellectual property and avoiding legal disputes. Thus this system could help to save a lot of time, fund and to avoid wasteful duplication of effort. Now, the system already has more than four million images in the database.

Presently, IRSCDP is opened to every local intellectual property office and patent commission agency, and both of them are responsible to provide relevant service to the public. State Intellectual Property Office encourages all the enterprises and public institutions to use this retrieval system for further improvement of the level of national patent information service. This action will also help to upgrade industrial design and innovation ability and promote and boost our industrial design to develop in a fast, steady and healthy way.

http://www.sipo.gov.cn/sipo2008/yw/2009/200904/t20090422_455467.html

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4. Status of gene invention patent application in PR China

PR China's independent R&D ability in gene field enhanced remarkably. The statistics revealed that the average annual growth

rate of the gene invention patent application is 26.4% from home compared with 17.8% from abroad. In 2008, 4532 such cases were accepted, among which 3410 cases were from home, account for 75.2% of all the applications. The number of granted applications in 2008 is 1321, among which 945 cases were from home. From 2004 to 2008, the average growth rate of domestic applications is 16.3%, which is higher than the rate overseas. However, the distribution of domestic applications was unbalanced. Among the top 10 applicants, eight were universities and two were scientific research institutions, while no enterprises were included.

Therefore, it is necessary to reinforce the level of creation, utilization, protection and administration of related intellectual property to promote the development of our gene industry; it is also necessary to encourage the innovative enterprises to gain independent intellectual property and apply for PCT patent. Meanwhile, it's necessary to perfect relevant laws and regulations, to reinforce the intellectual property administration work of biological industry base, meanwhile intensify the combination of production, teaching and research to gain a higher application conversion rate, to build up early warning and response system for gene patent. All the measures will protect relevant researches and the industry to develop in a sound way.

<http://www.cipnews.com.cn/showArticle.asp?Articleid=11983>

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5. Status on PR China Receiving New Plant Variety Right

Since PR China adopted the policy of protecting new varieties of plants 10 years ago, the total application number is 6348, and the total granting number is 2312. The applicants came from 30 provinces at home and covered 15 countries.

On April 23rd, 1999, while China received the first variety right application with the main breeder Mr. Yuan Longping, China joined the International Union for the Protection of New Varieties of Plants (UPOV) and became its 39th member. The UPOV is an inter-governmental organization, whose member is responsible for granting variety right to the new variety plants following the regulation of UPOV Convention.

As of 2008, Chinese agricultural administration received 1123 cases about new variety of plants and protected very well the legitimate interests of the applicants of new varieties and mobilized the positivity of social funds into breeding new variety of plants. The quantity of new variety right applied by enterprises and individuals is 40% that of the total applications nationwide, and has raised approximately 10 percent comparing with initial period of the system.

Meanwhile, Ministry of Agriculture gave a big push to the trading service of the new variety rights, accelerated the transformation application of the new variety rights, and promoted the real deal and transformation application of the new variety rights. The authorized varieties have been the main force to an increasing grain yield. According to the main variety's statistics of grain in 2007, with a plant area of more than 100,000 acre, the authorized rice is about 19.18% of the total rice planted nationwide, the authorized wheat is about 38.38% and corn 50.73%.

Along with the continuous development of protection system for new variety of plant in China, the variety right application from abroad also increases rapidly. By the end of March 2009, 445 variety right applications from 15 countries have been received, and among them 101 have been authorized. These excellent varieties have not only promoted the development of agriculture and forests as well as the trading, but also met the growing needs of people.

A new variety of plant is a cultivated plant variety or a developed one based on a discovered wild plant with the characteristics of novelty, specificity, consistency and stability, also with a suitable name. According to the relevant regulations in our country, the entity or the individual who accomplished the breeding has an exclusive right to its authorized variety.

http://www.sipo.gov.cn/sipo2008/ztl/ndcs/zscqxcz/2009xcz/xwtd/200904/t20090424_456803.html

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6. Development Plan for China's Patent Agency Industry

At the first anniversary of the promulgation of the *Outline of the National Intellectual Property Strategy, the Development Plan for Patent Agency Industry from 2009 to 2015* (hereinafter referred to as the Plan) is promulgated by China's State Intellectual Property Office, which is the first time that China issues the mid-long term development plan for patent agency industry.

China's patent agency industry started in the early stage of the establishment of China's patent system. In 1992, the State Council issued the Regulations on Patent Commissioning for the work of patent agents. So far, 10,219 people have acquired the licenses of patent attorney, 5993 of them are practicing in 719 patent agencies in China. From April 1985 to March 2009, among the 5.03 million patent applications ever received by SIPO (State Intellectual Property Office), 3.57 million of them were represented by the patent agencies, namely, 71.1% of them has professional representation. Thus, the patent agency industry plays an indispensable and important role in the aspects of promoting enterprise technological innovation, increasing the efficiency of patent examination, improving the affirmative petition rate of patent application, protecting the legitimate interest of clients, and promoting the implementation of the patent technology, etc.

The Plan specifies the development target, fundamental principle, main task, special work and policy safeguard measures, etc. of the patent agency industry in the next seven years. Meanwhile, the Plan also puts forward that the ability and level of patent agency service should be ensured to have a big increase by 2015; the number of patent agent will increase greatly, up to around 10,000 in total, wherein, thousands of them will be high-quality, inter-disciplinary and internationalized patent agents; the development level of the patent agency will be improved significantly, the number of the excellent patent agencies with unique characteristics and high specialization level will be more than 100; the legal and regulatory systems of the patent agency industry will be more perfect; an honest, fair and orderly market competition order will be initially established for the patent agency industry; and the trend of balanced development among regions in the patent agency service industry will be formed gradually.

The State Intellectual Property Office will adopt a series of measures to ensure the realization of the goal of the Plan. Wherein, in this year, reform measures for further perfecting the Patent Agent Qualification Examination will be expected, and in 2009, the way of online registration will be used in the examination; the patent attorney association has promulgated the *Training Guide for Professional of Patent Agency Industry*, and the *Guide for Patent Agent Services Standards* will be promulgated; the development on the credit information management platform of the patent agency industry will be completed within this year, and the construction on the credit evaluation system will be in full swing; the development of the automated management software which is suitable for the small and medium-sized patent agencies has been completed the content of user demand, and comes into the stage of software

development; and the research work relevant to the tax and insurance policy of the patent agency industry is proceeding smoothly.

http://www.sipo.gov.cn/sipo2008/yw/2009/200906/t20090603_463255.html

<http://www.sciencenet.cn/htmlnews/2009/6/219858.html>

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