TIPS®

July 2020

www.tsailee.com | info@tsailee.com.tw

Taiwan Intellectual Property Special

Global Vision

Greater China IP Experts

Inside this issue :

- TIPO Launches Fast-Track Trademark Examination on May 1st, 2020
- TIPO to Amend Rules about Biological Sequence Disclosures and Third Party Observations
- International Trademark Exhaustion Applies if Foreign and Local Trademark Holders are Deemed Identical
- Chapter on Patent Examination Guidelines for Pharmaceutical-Related Invention Revised
- Supreme People's Court Calls for Public Comment on New Procedural Rules for Reviewing Patent Re-examination and Invalidity Cases

TSAI, LEE & CHEN

Patent Attorneys & Attorneys at Law

TIPS
Taiwan Intellectual Property Special

TIPO Launches Fast-Track Trademark Examination on May 1st, 2020

Pacing up trademark examination time to match the timeline of a new product or service's launch and turnover is critical to the trademark owners.

Albeit to date, the Taiwan IP Office's mean trademark examination pendency has been constantly decreasing to be abreast with many peer countries, it yet receives some demands on accelerating examination to meet the needs of advancing trademark use. To further accelerate trademark examination pipeline, TIPO introduces a pilot fast-track examination program ("Program") by encouraging the use of the existing trademark e-filing system, in the hope that the applicants may find it avail themselves.

An application has to meet several requirements at the time of filing in order to enter the Program.

1. Using the e-filing system hosted by TIPO;
2. Plain trademark only, excluding non-traditional trademarks such as certification marks, collective membership marks, and collective trademarks;
3. Naming goods and services identical to the specific terminologies in the e-fling system;
4. Paying application fee via an electronic portal; and
5. Submitting a Power of Attorney within 20 days from filing, if any.

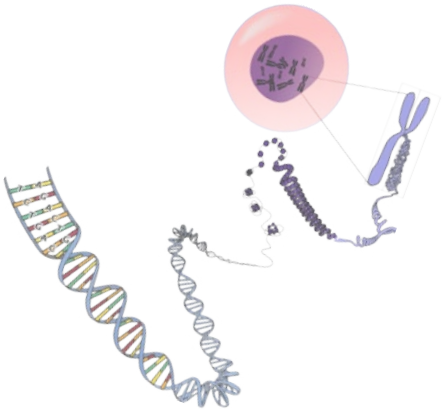
The applicant does not need to make an additional request for the Program when filing. The e-filing system will check through spontaneously and then determine whether an application is eligible for the Program. In about one (1) months after filing, a label showing "Fast-Track" will be noted in the case status page on the TIPO's trademark search system online.

The applicant of a prioritized application should expect 1.5-2.0 months less to have a mark examined than another regular case does. That is, the average pending time is 5.0-5.5 months whereas the Program can enjoy the pendency for 3.5-4.0 months only. However, for foreign applicants who may claim priority to their first-filed applications, it may be difficult for them to be eligible for the Program because the terms of goods and services must be identical to those listed in the priority document. In practice most terms that are already designated in the priority application cannot fully comply with the standard terminologies in the e-filing system.

It is worth to note that the first-to-file principle remains to dominate. A first-filed regular application may remain to bar registration of a later prioritized application.

TIPS
Taiwan Intellectual Property Special

TIPO to Amend Rules about Biological Sequence Disclosures and Third Party Observations



TIPO announced on April 6, 2020, that two Articles in the Enforcement Rules of the Patent Act will be amended. TIPO proposed a draft to invite public comment for an open period of about 60 days. The amendment concerns the procedural rules during patent prosecution.

● E-Submission of Biological Sequence Disclosures

To suffice the duty of disclosure, Article 17 of the Enforcement Rules specifies the structure of a patent specification to include the title of invention, the field of technology, the description of invention, etc., in its order. For a patent application containing biological materials, submission of the necessary amino acid and nucleotide sequence is a part of the duty of disclosure. To submit sequence listings, the applicant is required to use TIPO's template. Moreover, the sequence pasted in the template shall be printed in paper for submission.

According to the new rule that TIPO proposes, the sequence listing can be submitted only as an electronic document of a certain built-in template provided by TIPO. Specifically, the applicant can submit a TXT or content-copyable PDF only. The new Article 17 not only serves the examiner convenience to perform search but also benefits to the reduction of paper consumption.

● Enlarged Time Window for Third Party Observation

Third party observation is available for any interested parties to submit evidence and/or arguments seeking to reject patentability of an application. Pursuant to Article 39 of the Enforcement Rules, observation is open from publication of an application until an examination decision is concluded.

An application will be published in 18 months from filing. However, thanks to TIPO's dedicating efforts to clear out backlogs, the mean pendency has been efficiently dropped to 14 months. It suggests that some cases would not have a chance to open for observation before grant. The unpublished period seems to overlook the fact that the interested parties may still get to learn of the existence of an unpublished Taiwanese filing from a foreign counterpart, a utility model of a parallel filing, or any other circumstance. To rebalance the tilted interests between the patent applicant and the general public, TIPO proposes to enlarge the observation time window from an application's very beginning. Therefore, third party observation will be available at any time from filing until an examination decision is concluded. Under the proposed Article 39, a case will receive challenges from the public earlier.

TIPS
Taiwan Intellectual Property Special

International Trademark Exhaustion Applies if Foreign and Local Trademark Holders are Deemed Identical

Two rulings from the Supreme Court and the Intellectual Property Court ("IP Court") rendered in January and April of 2020 respectively, collectively constitute a milestone for the way in which Taiwan adjudicates cases involving parallel importation and trademark exhaustion.

The statutory provision governing trademark exhaustion is stipulated in Article 36(2) of the Trademark Act which reads "[W]here goods have been put on the domestic or foreign market under a registered trademark by the proprietor or with his consent, the proprietor is not entitled to claim trademark rights on such goods […]" As a policy choice, Taiwan clearly adopts the doctrine of international exhaustion, a doctrine which leans more towards the public interest than the exclusivity of the trademark owner. Therefore, importation into Taiwan of a genuine product bearing an existing trademark in Taiwan does not infringe the trademark right of the holder in Taiwan if circulation of the trademarked goods is permitted by the trademark owner. In practice, Article 36(2) of the Trademark Act in its literal meaning only applies to situations where a trademark belongs to the same proprietor domestically and abroad at the time the first sale of goods happens anywhere in the world. However, if domestic and foreign right holders for the same trademark are different, it was not clear whether it would be appropriate applying Article 36(2), namely international exhaustion, to justify the parallel importation.

The "PHLIIP B" word mark associated with hair beauty and skin care products was registered both in Taiwan and in the United States but owned by different entities. The Taiwanese trademark holder was the exclusive sales agent who acquired an exclusive license from the American brand owner. At some point in time, another company was found to have imported genuine PHILIP B products and sold them online without having obtained prior consent from the Taiwanese trademark holder. In response, the Taiwanese trademark holder filed both the criminal complaint which served as the basis for the final ruling and the infringement action against the parallel importer based on the Trademark Act. Before 2020, the case had gone through both the trial and appellate levels (first and second instances) for the civil action and through the trial level (first instance) for criminal action, respectively. Up to then both civil and criminal courts uniformly ruled in favor of the Taiwanese trademark holder with the rationale that international trademark exhaustion did not apply in this case because Article 36(2) of the Trademark Act applies only when the domestic and foreign trademark proprietors are the same at the time of the first sale. When the first transaction of the trademarked products is completed domestically or abroad, the trademark owner or its licensee has obtained compensation or consideration from the transaction and therefore any subsequent retail or resale of the products will be deemed to have trademark owner's implied license and therefore do not infringe upon the trademark right. As such the

trademark right has been exhausted on its first sale of the trademarked products. Both courts reasoned that in this case, since the same trademark was owned by different entities in different countries, buying from the U.S. brand owner did not exhaust the Taiwanese trademark right but rather exhausted the U.S. trademark right only. For the right holder in Taiwan, there was no "first sale" as the right holder did not consent to the importation and circulation of the genuine products in the domestic marketplace, nor was any request for consent even made. Therefore, it was ruled that the importer had infringed the PHLIIP B trademark right in Taiwan by importing and selling products bearing the PHLIIP B mark.

In January of 2020, the Supreme Court made a final decision with respect to the civil action and reversed the lower court's decision, instead ruling in favor of the parallel importer. The Supreme Court opined that in a scenario in which a trademark right owner licenses another to register the same trademark in a different jurisdiction, although trademark rights are territorial and different entities each possess their respective trademark rights, the exclusive right in nature should still be originated from the original owner of right. In other words, as long as there is a license or other forms of lawful relations between trademark holders from different countries, the consequences of trademark right exhaustion for the original mark should be extended to the same trademark in Taiwan. In this case, the local trademark holder acquired the license from the U.S. trademark registrant and registered the same mark in Taiwan with the U.S. registrant's consent. The Supreme Court was of the opinion that the lower court did not put that fact into consideration, and therefore erred in its interpretation of Article 36(2) of the Trademark Act that international exhaustion only applies to scenarios where domestic and foreign trademark holders are the same.

In April, 2020, following the Supreme Court's opinion, the IP Court in the second instance made a decision over the criminal action which reversed the trial court decision, this time favoring the importer, holding that the trademark PHILIP B was not infringed upon because the plaintiff (right holder) cannot claim a trademark right against a parallel importer. Therefore, the defendants were acquitted.

The IP Court reached its conclusion by considering precepts from many legal theories as well as legal precedent to build up its analytical foundation. The first theory examined was the "exhaustion doctrine," which is also known as the "first sale doctrine." Under this doctrine, when a patented article is sold, the patent holder's exclusive rights over the use or sale of that patented article has lapsed, meaning that parallel importation is a perfectly legal activity. Exhaustion Theory aims to remove undue barriers over the circulation of products in order to facilitate the public's interest in the free transfer of goods. Meanwhile, the local consumers enjoy the economic benefits of having more competitive prices for the same product.

The other theory considered is known as the "trademark purpose doctrine" Like the exhaustion doctrine, parallel importation is legitimate under the trademark purpose doctrine. The trademark purpose doctrine emphasizes that the statutory purpose of a trademark is to protect the indication of the genuine source of a particular good, as well as to assure product quality. If there is no likelihood of confusion as to the legitimate source (single purpose theory) or if there is neither likelihood of confusion nor differences in the product quality (dual purposes theory), the law does not prohibit parallel importation. Furthermore, under this theory, parallel importation does not infringe against the locally registered trademark when (1) the foreign brand owner and the local trademark holder who enforces trademark right are of the same identity, or if not identical but are bound commercially or contractually affiliated (such as license); or when (2) genuine products entering domestic market it does not compromise the local trademark's essential function to indicate the source of origin, neither does it damage the quality assurance function of a trademark by misleading local consumers as to the quality of product with the given marks.

Moreover, in its April ruling, the IP Court cited the Supreme Court's 1992 CHELSEA and 1993 CITGO decisions to further support its analysis. The Supreme Court in the CHELSEA decision ruled that parallel importation did not constitute infringement because the product with the same mark as a product sold by a local trademark licensee was similar in quality to the product sold by the local trademark licensee. The Court held that there was no likelihood of confusion, misleading, or fraud, also opining that local consumers would benefit from more competitive prices for the same product. When a trademark user's business reputation and the consumers' welfare are not damaged by parallel importation, parallel importation may actually prevent a domestic trademark user's monopoly in the marketplace, something which does not go against the trademark law system. In CITGO, the court further stressed that an imported genuine product in its original packaging has not undergone additional processing, reformation or modification can be sold without causing harm to the trademark holder, its licensee or sub-licensee's commercial reputation. Furthermore, parallel importation could even help prevent monopolization and encourage competitive pricing in the market.

The IP Court found that the two Supreme Court precedents were both based on the fact that the trademark right owner is the same home and abroad, which is contrary to the fact of the present case. In analyzing the April case, the IP Court slightly enlarged its interpretation for Article 36(2) of the Trademark Act, holding that the term "by the proprietor or with his consent" in that provision should be interpreted to "include the one that may be deemed identical to the trademark right holder." As to the one "deemed identical," the Court further opined that between the two entities there should be economic or legal relationship such as affiliated enterprises, or agencies, distributors, commissioned manufacturers

International Trademark Exhaustion Applies if Foreign and Local Trademark Holders are Deemed Identical

and so on; and the trademark represents the same origin of goods.

Therefore the international exhaustion clause under an enlarged interpreted Article 36(2) shall apply when:

(1)the imported product bearing the same trademark and the trademark is labeled by (A) the local trademark holder, (B) one having consent from, or having commercial or legal relationship with the local rights holder, and the trademark indicating the same product origin; and

(2)the imported product circulated in both the foreign and domestic markets is made by (A) the local trademark holder, (B) one having consent from, or having commercial or legal relationship with the local right holder, and the trademark indicating the same product origin.

For the first part of the test, the imported hair beauty products were lawfully labeled with "PHILIP B" marks by the U.S. brand owner Philip B. For the second part of the test, the imported hair beauty products were sold and circulated in the U.S. by Philip B as well. The Taiwanese trademark holder was commercially related to Philip B because the company was the exclusive sales agent in Taiwan. Furthermore, the local rights holder imported and sold the same Philip B products without producing or promoting any of other series of its own. In its advertisement campaigns, the Taiwanese trademark holder constantly touted itself as the sole sales agent for Philip B in Taiwan and obviously did not establish an independent reputation of its own. The IP Court thus determined that the U.S. company Philip B and the Taiwanese trademark holder were deemed identical. As a result, the first sale in the U.S. exhausted the exclusive trademark right in Taiwan for any subsequent domestic sale of the same imported product. Parallel import of Philip B products did not constitute an infringement; the defendants are thus not guilty of violation of the Trademark Act.

The enlarged application of international exhaustion will certainly impact exclusive sales agents and distributors in Taiwan even if they have acquired a local trademark right from the original brand owner.

TIPS
Taiwan Intellectual Property Special

Chapter on Patent Examination Guidelines for Pharmaceutical-Related Invention Revised

The Taiwan Intellectual Property Office has promulgated a new revision to Chapter 13 of the Patent Examination Guidelines for Pharmaceutical-Related Inventions, which took effect on January 1, 2020. The revision aims to improve the patent examination mechanism of Taiwan through the consultation of related cases from the United Kingdom, Japan and Europe. A summary of the some changes in the revision is as follows.

Reaching a diagnostic conclusion as the immediate purpose

A non-patentable diagnostic method is required to incorporate "all" steps from obtaining data to make a diagnostic conclusion, including measurements from the biological system, identification of the difference between the measured data and the standard value, and determination of diagnostic result from the difference. Hence, a claimed invention is not patentable when the method (1) directs to a living human or animal system; (2) relates to disease diagnosis; and (3) aims immediately to obtaining a diagnostic result.

In determining whether a method directs to a living system, one must consider whether the claimed method involves interactions between method's steps and the living system. However, the type or intensity of interaction is not determinative. As long as the operation of method requires a living system, it refers to one directing to a living system and therefore not patentable. To the opposite, when a method does not immediately direct to disease diagnosis but for obtaining data from a system (such as blood pressure measurement, CT imaging, and glycemia measurement), it is eligible for patent because the acquired data are only intermediate information which alone cannot serve to bring about diagnostic result.

Claim(s) covering both therapeutic and non-therapeutic effects

Methods which possess both therapeutic and non-therapeutic effects that are "not separable" are considered non-patentable methods for treatment. However, when the two kinds of effects are separable and the claim is limited to be non-treatment in nature, the claimed method is patentable.

For example, an invention for oral health titled "a method using a composition X for removing dental plaque" describes in the specification that the claimed method generates beauty effects of removing dental plaque and improving tooth appearance. As a matter of course, the invention also cures gum disease and prevents tooth decay. The method invention is therefore not patentable.

In the contrary, a mere cosmetic enhancement such as applying a composition to prevent hair loss and a process to resurface the aged skin is patentable.

The revision further emphasizes that a method which involves both ex vivo processes and in vivo steps is a non-patentable therapeutic method. Examples of this are as dialysis and closed-loop blood circulation (where the blood leaves the system

for e.g. adding with anticoagulant agents or being cleansed of immunoglobulins before returning to the bloodstream).

Written description, novelty, and inventiveness

The revision introduces several tips to illustrate the rules governing description, novelty, and inventiveness.

For derivative forms of compounds, such as pharmaceutically acceptable salts or esters, stereoisomers, hydrates, and others, they can be included in the compound claim if the specification clearly describes that the compound has derivatives and a person having ordinary skill in the art can understand the use well enough to generate the derivative without undue experimentation based on the specification's disclosure.

For an invention of a different pharmaceutical dosage form, such as "a transdermal patch" or "an orally-administered sustained-release lozenge", the claim must define both the specific active ingredient and the necessary technical features related to the dosage form, such as excipients and compounding dosage. Merely stating the property parameters (solubility for example), pharmacokinetic or pharmacodynamic parameters as the necessary technical feature does not meet the written description requirement.

If the technical features of an invented pharmaceutical composition are a compound or a group of compounds which produce specific pharmacological effects, the novelty of the composition mainly depends on the compound or group of compounds. That is to say, if the claimed pharmaceutical composition distinguishes a prior art composition from one or a group of compounds of particular pharmacological effect, the claimed composition will be considered novel.

For a drug or agent containing hydrated compound, different amounts of water would yield different effects on a drug's solubility, dissolution rate, and bioavailability, as well as an agent's chemical and physical stability. If a specific compound is expected to have hydrates, and a person having ordinary skill in the art is motivated to search for the optimal water content and to this end successfully finds the optimal water content, an invention for that hydrated compound will be deemed to not have inventiveness. More evidence for unexpected results or others is necessary in order to overcome a rejection.

Lastly, the revision introduces several examples demonstrating that an invention may or may not have novelty when it involves any new (1) pharmaceutical use, (2) application for a particular type of patients, (3) dosage, (4) administration routes, and (5) time intervals between administrations. An invention may or may not have inventiveness when it involves any (1) different dosages, (2) application for a particular type of patients, (3) relatedness of pharmacological effect, and (4) treatment for different diseases but having a common causative factor, as the revision suggests.

TIPS
Taiwan Intellectual Property Special

Supreme People's Court Calls for Public Comment on New Procedural Rules for Reviewing Patent Re-examination and Invalidity Cases

On April 28, 2020, the Supreme People's Court of the People's Republic of China announced a revised version of the "Provisions of the Supreme People's Court on Several Issues concerning the Trial of Administrative Cases for Patent Grant and Confirmation (1) (Draft for Comment)." The Provisions was not an entirely new creation, but rather a revision of the previous draft, which dates back to June 1, 2018. The revised "Draft for Comment" was formulated in response to the ever-changing nature of IP practice and the judicial environment, as well as to some of the stipulations found in the trade agreement reached between China and the United States in January of this year.[1] The Draft for Comment, which contains a total of 36 articles, was formulated with the intent to standardize the exercise and interpretation of laws in matters of patent re-examination and invalidation for the benefit of the CNIPA's (China National Intellectual Property Administration) examiners, patent applicants, patentees, and invalidity petitioners.

Looking at the Draft for Comment from a comprehensive perspective, the provisions features to restrict the power of CNIPA, be more acceptable on post-filing data submissions, and endows the Court with larger power in substantive determination of patentability as well as introduce the new rules for evidence.

DISCRETION OF THE COURT

Per the Draft for Comment, the court's scope of case review is by default limited to the plaintiff's litigation claims and reasons.[2] In instances in which the court identifies an apparently illegitimate fault in a finding of the CNIPA, however the court may adjudicate against the faulty finding which the plaintiff has even not challenged. As such, the Draft for Comment expands the court's power of judicial review.

The Draft for Comment empowers the court to determine inventiveness in situations which the CNIPA fails to address a certain issue or errs on the determination of technical problems to be solved.[3] Traditionally, the "three-step test[4]" has been implemented in China to analyze inventiveness. In the second step of the test, the examiner must ascertain the "technical problem" to be solved by the claimed invention and weigh the various factors when the specification and drawings fail to particularly describe the technical effects produced from the special technical feature(s) in the claimed solutions. In Article 15 of the Draft for Comment, the court may determine inventiveness at its own discretion after its analysis of the second step, when the court believes CNIPA's decision on claims' patentability was made in error or was not existent.

Under the Administrative Litigation Law of the PRC, the court is vested with the power to revoke an administrative decision that is either made without sufficient evidential support, was rendered as a result of an erroneous interpretation of applicable laws, was rendered in violation of due process, was rendered in a manner that was beyond or in abuse of statutory power, or was rendered in an inappropriate manner. The Draft for Comment further explains the court's power to exercise partial revocation.[5]

1 Officially tilted as the "Economic And Trade Agreement Between The Government Of The United States Of America And The Government Of The People's Republic Of China"

2 Article 2

3 Article 15

4 (1) Determining the closest prior art; (2) Ascertaining the inventions' special technical features and the technical problem to be solved by the invention; and (3) Resolving whether the claimed invention is obvious to a person having ordinary skill in the art.

5 Article 27

The court may revoke only the erroneous part of the CNIPA's decision on (1) claims, (2) designs, or (3) other matters that can be partially revoked and in which the CNIPA is not required to reissue a correct decision. In addition, for instances in which the court finds that the grounds and reasoning utilized by the CNIPA to invalidate a claim are not tenable, the court may rule to revoke entirely or partially the CNIPA's decision so that the claim shall revive spontaneously without an extra step to order the CNIPA to revive those claims.[6]

DESIGN PATENTS

The Draft for Comment stipulates the time point for what is termed as a "design space" as well as the associated determinative factors of the design space. Design space is a widely accepted concept in the judicial practice. In simple terms, it refers to the degree of freedom to design. It is more heavily considered by courts during an analysis of similarity between a design patent and an accused product. Under this concept, customarily seen products such as coffee mugs and car wheels would have narrower design spaces than a new product does, meaning that an analysis for similarity for something such as a new car wheel design would only require the consideration of minor changes. According to the Draft for Comment, when evaluating the level of knowledge and cognitive ability of the ordinary consumer (the fictional subject for similarity analysis), the court must consider design space. Furthermore, design space is determined on its "filing date" rather than the time of infringement analysis. Factors which define a design space in a given case include (1) function and/or use of a product; (2) comprehensive status of the prior design; (3) customary designs; (4) compulsory rules in the laws and regulations; (5) national or industrial standard for the particular technology; and (6) other required factors for consideration.[7]

Functional designs are not patentable. The Draft for Comment emphasizes that the design features which are necessary or of only limited options for generating a specific technical function do not significantly contribute to the entire visual effect of a design.[8] Hence such kinds of design features cannot be relied upon to gain patent eligibility for a rejected design.

DATA SUBMISSION

The Draft for Comment also reflected partly the recently reached phase one Sino-U.S. trade agreement. For lab data submitted by pharmaceutical patentees or applicants after the filing date, the court will consider those data if they evidence the same technical effect by a person having ordinary skill in the art in view of patent specification, drawing, and common knowledge, for either purpose as shown below:[9]

- in order to support the sufficient disclosure of the technical description relating to some specific technical effects stated in the patent specification (in the event of reexamination)
- in order to corroborate the technical effect of the patent or application distinguishable

6 Article 28
7 Article 16
8 Article 17
9 Article 11

from the cited prior art reference (in the event of reexamination or invalidation)

This clause echoes Article 1.10 on Consideration of Supplemental Data, Chapter 1 for Intellectual Property of the trade agreement.[10]

Post-filing submission can be challenged for its authenticity, relevance, and evidentiary ability. When needed, the court may order the party which submits the experimental data to demonstrate the source and formation of that data, including the materials used and their sources, experimental steps, conditions, environment, or parameters, as well as the personnel or facility which completes the lab work.[11] If one party challenges the authenticity of the experimental data, the court may order the transfer of the data to an institution which has been agreed upon by both parties for the purposes of testing or verifying the experimental data.

NEW EVIDENCE AFTER CNIPA'S DECISION

The Draft for Comment stipulates that in patent invalidation cases, the court will examine the new evidence submitted by the patentee in support of a patent validity argument that was not previously presented during an invalidation proceeding.[12] The rationale lies in an intent to adopt a more lenient approach allowing the patentee to seek remedy while defending the validity of its patent.

Conversely, in the event that an invalidation petitioner submits new evidence during an invalidation proceeding, the invalidation petitioner must present evidence which meets certain criteria to the exclusion of others.[13] The rationale behind this limitation is the possibility that the invalidation petitioner may simply produce new evidence by initiating another new administrative proceeding at the CNIPA. The aforementioned exceptions for the submission of new evidence by an invalidation procedure are as follows:

(1) it is used to prove the common knowledge or customary design, and the evidence was not one which CNIPA previously requested to submit during invalidation proceeding but the submitting party failed to comply;
(2) it is used to prove the level of knowledge and cognitive ability of persons having ordinary skill in the art (for the invention patent) or of the general consumers (for design patent);
(3) it is used to prove the design space of a patented design product;
(4) it is used to reinforce the authenticity or probative ability of a piece of evidence already admitted to the CNIPA; and
(5) it is used to rebut new evidence submitted by the patentee.

SUPPPORT IN DESCRIPTION

When the descriptions regarding specification, drawings or other matters conflict with one another so that the person skilled in the art would be unable to ascertain whether the claimed technical solution can resolve technical problems as indicated in specification, the court will conclude that the

10 1. China shall permit pharmaceutical patent applicants to rely on supplemental data to satisfy relevant requirements for patentability, including sufficiency of disclosure and inventive step, during patent examination proceedings, patent review proceedings, and judicial proceedings.

11 Article 12

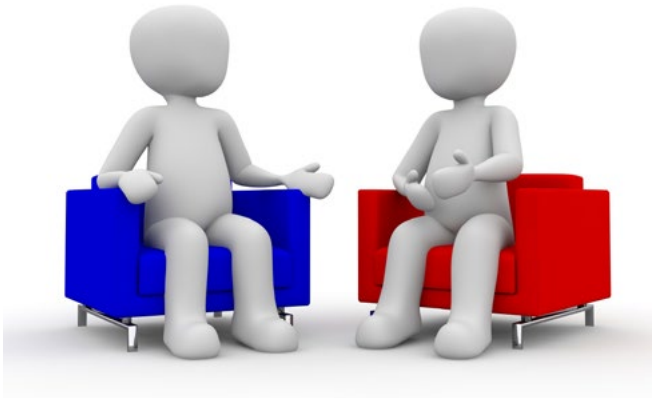
12 Article 33

13 Article 34

contradiction is not a sufficient support as required in Patent Law.[14] Likewise, when the specification and drawings fail to adequately disclose specific technical content so that a person skilled in the art could not confirm that the claimed technical solution can resolve the technical problem as indicated in the specification, the court will conclude that the description does not make sufficient support as statutorily required in the Patent Law.[15]

14 Article 9

15 Article 6



Greater China IP Counsel

-Global Vision-

TSAI LEE & CHEN

Patent Attorneys & Attorneys at Law

Trademark | Patent | Copyright | Technology Transfer
Domain Name Registration and Dispute Resolution
Unfair Competition and Trade Secret
Intellectual Property Licensing and Litigation

11F, 148 Songjiang Road, Taipei 104492, Taiwan
TEL +886-2-2564-2565 | FAX +886-2-2562-7650
info@tsailee.com.tw | www.tsailee.com

TIPS®
Taiwan Intellectual Property Special

July 2020

EDITORIAL PANEL

TSAI, LEE & CHEN
Patent Attorneys & Attorneys at Law


Publisher ttsai@tsailee.com.tw Thomas Q.T. Tsai
Editor in Chief cjchen@tsailee.com.tw Crystal J. Chen
Researcher & Writer Kevin C.W. Feng
Art Editor Tommy Y.H. Tang
Photo Credit (Cover) Aerial view of famous Keelung Islet near Keelung city, Taiwan

11F, 148 Songjiang Road, Taipei 104492, Taiwan | T (886) 2-2564-2565 | F (886) 2-2562-7650
info@tsailee.com.tw | japan@tsailee.com.tw 日 本 語 送 信 | www.tsailee.com