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Regulation

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CNIPA and SAIP Extend PPH Pilot Program

The China National Intellectual Property Administration (CNIPA) and the Saudi Authority for Intellectual Property (SAIP) have jointly decided to extend their Patent Prosecution Highway (PPH) pilot program for an infinite period of time from November 1, 2023. The established Guidance of CNIPA-SAIP PPH Request remains controlling the pertinent requirements and procedures governing applicants' PPH requests.

PPH is a fast track linking patent examination duties of different countries or regions, allowing patent examination authorities to speed up patent examination by work sharing. Since the initiation of the first PPH pilot program in November 2011, the CNIPA has built PPH ties with patent examination authorities of 32 countries or regions.

The extension of the CNIPA-SAIP PPH pilot program will continuously advance the two offices' cooperation in patent examination, provide better services to both Chinese and Saudi innovators and speed up patent examination process.

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Refreshed Rules for the Implementation of the Patent Law Aims to Sound Law-Governed Environment

The Rules for the Implementation of the Patent Law of the People's Republic of China (Amendment Draft) was recently deliberated and approved at a State Council executive meeting. The meeting stresses actions to squarely execute the CPC Central Committee's decisions and deployment on heightening IP protection and the said Rules for the Implementation.

"The amendment of the Rules for the Implementation of the Patent Law will facilitate smooth execution of a slew of new measures prescribed in the Patent Law after its fourth amendment and serve an crucial role in cultivating, assuring and supporting the law-governed environment for innovation," comments Cao Xinming, a professor of IP Research Center, Zhongnan University of Economics and Law.

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Supplemental Guidance for Examination of Design Patent Applications Related to Computer-Generated Electronic Images

The USPTO has prepared supplemental guidance for use by USPTO personnel in determining whether a design patent claim including a computer-generated electronic image per se or a computer-generated electronic image shown on a display panel (e.g., computer screen, monitor, computer display system, mobile phone screen, virtual reality/augmented reality goggles), or a portion thereof, satisfies the article of manufacture requirement in 35 U.S.C. 171. This guidance supplements the guidance provided in section 1504.01(a), subsection (I) of the Manual of Patent Examining Procedure (MPEP) (9th ed., Rev. 07.2022, February 2023).

This guidance does not constitute substantive rulemaking and therefore does not have the force and effect of law. It has been developed as a matter of internal USPTO management and is not intended to create any right or benefit, substantive or procedural, enforceable by any party against the USPTO. Rejections will continue to be based on the substantive law, and it is these rejections that are appealable. Consequently, any failure by USPTO personnel to follow the guidance is neither appealable nor petitionable.

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News

Nov. 2023

InventisBio sued by New Jersey-based Beta in patent application dispute

Chinese biotech company InventisBio (688382.SH) disclosed a lawsuit on Thursday over a patent application dispute.

InventisBio Co., Ltd said in a statement that Princeton-based Beta Pharma Inc. filed a civil lawsuit against the company, as well as the company's secretary of the board of directors, Yueheng Jiang, in the U.S. District Court District of New Jersey.

The lawsuit also includes U.S. law firm Fox Rothschild LLP and its partner Wansheng Jerry Liu as defendants.

Beta claimed that InventisBio's Patent Application No. CN201910491253.6 was subject to trade secret theft, among other things.

The American firm accordingly petitioned the court, asking the defendants to compensate it for its losses and for InventisBio to change the registration of the right holders of the relevant patents and patent applications, including the patent application in question, to Beta.

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FTC Challenges More than 100 Orange Book Patents to Lower Drug Prices

On November 7, 2023, the U.S. Federal Trade Commission (FTC) announces that it issued notice letters to several major pharmaceutical manufacturers and medical device companies, challenging the U.S. Food and Drug Administration (FDA) has questioned the accuracy and relevance of more than 100 patents listed in the FDA's Orange Book, a move intended to address rising drug prices and promote fair competition in the pharmaceutical industry. The targeted patents include those related to critical medical devices such as asthma inhalers and epinephrine auto-injectors. The Orange Book is a list of FDA-approved drugs that are safe and effective. When a brand-name pharmaceutical company lists a patent in the Orange Book, it can result in a statutory stay that typically blocks the introduction of competing drug products for 30 months, including lower-cost generic alternatives. If listing a patent in the Orange Book is inappropriate under the law, it may have a negative impact on competitive conditions. In September 2023, the FTC warned drug manufacturers that they may face legal consequences if they improperly list patents with the FDA.

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Regeneron Sues Celltrion For Proposed Biosimilar of Eylea in West Virginia District Court

Regeneron filed a Complaint on November 8 against Celltrion in the U.S. District Court for the Northern District of West Virginia, alleging infringement of thirty-eight patents under the BPCIA based on Celltrion's submission of an aBLA for CT-P42, a proposed biosimilar of EYLEA (aflibercept), and Celltrion's provision of Notice of Commercial Marketing with respect to the same.

Regeneron's Complaint asserts that (1) use of Celltrion's CT-P42 infringes eight patents which are generally directed to methods of administering aflibercept on specified dosing schedules to treat certain angiogenic eye disorders and/or to patients who have been determined to have certain polymorphisms, (2) Celltrion's CT-P42 formulation infringes four patents, which are generally directed to stable formulations of aflibercept, (3) Celltrion's process for manufacturing CT-P42 infringes, or leads CT-P42 to infringe, twenty-five patents, and (4) the proposed container-closure system for CT-P42 infringes one patent.

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Chinese Flash Memory Chip Giant YMTC Sues Micron for Patent Infringement

Yangtze Memory Technology, China's leading flash memory chipmaker, is suing Micron Technology in the United States for alleged patent infringement, saying the US chip giant illegally makes widespread use of eight of its patented innovations to head off competition and guard market share. YMTC filed the lawsuit against Micron and its subsidiary Micron Consumer Products Group on Nov. 9, seeking to end Micron's alleged widespread and unauthorized use of its patented technology, according to information released by the Northern District Court of California. YMTC claims that Micron uses its patented technology for three-dimensional not-and flash, including those with 96-layer, 128-L, 176-L, and 232-L specifications, to fend off competition, protect its market share, and try to force the Chinese firm out of the 3D NAND flash market.

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Maxeon Solar Technologies Files Patent Action Against Aiko in Germany

Singapore-based PV manufacturer Maxeon Solar Technologies is suing its Chinese competitor Aiko Solar Energy, as well as wholesaler Memedo GmbH, for alleged patent infringement regarding a specific design related to the architecture of back contact solar cells.

According to a press release from Maxeon, Maxeon's subsidiaries filed the patent infringement lawsuit against Aiko Solar and its subsidiaries in Nov. 15 in Mannheim District Court, Germany. Maxeon said in the press release that Aiko and Memedo have allegedly breached Maxeon's European Patent No. EP2297788B1.

Aiko Solar has rejected the allegations: "AIKO's ABC products are fundamentally different from the technology protected by the asserted patent, as has been confirmed by our intellectual property team

and our European outside counsel, a renowned IP firm,” the company said in a statement sent to pv magazine.

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Amazon Ordered to Pay \$46.7 Million in Voice-Assistant Patent Case

Amazon, the tech giant known for its revolutionary voice assistant, Alexa, has been ordered to pay \$46.7 million in damages. A jury in Delaware federal court found that Amazon’s Alexa virtual assistant violates patents related to speech recognition and natural language processing.

The lawsuit was filed by VB Assets, whose predecessor, VoiceBox Technologies, created voice-control software for companies including carmakers Toyota, Chrysler, and Dodge, and GPS makers TomTom and Magellan. VB Assets accused Amazon of copying its innovations and infringing four patents covering advances in voice-based search technology.

According to the lawsuit filed in 2019, VoiceBox representatives first met with Amazon executives in 2011 to discuss integrating its patented technology into Amazon products. However, Amazon launched Alexa in its Echo smart speakers in 2014 and has since integrated the voice assistant into other devices and mobile apps. The lawsuit alleges that Amazon began poaching dozens of VoiceBox employees starting in 2016, and that the two companies met again about VoiceBox’s patents in 2017.

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\$20M Google Case : Challenge on Reissue Patents

In a legal saga entwined with the intricacies of reissue patents and a hefty \$20 million infringement verdict, the U.S. Supreme Court dealt a decisive blow on Monday by rejecting a petition lodged by inventors Alfonso Cioffi and the estate of co-inventor Allen Rozman. The duo had fervently contested the Federal Circuit’s decision to invalidate their three anti-malware reissue patents, which allowed Google to sidestep the substantial infringement penalty.

The roots of this legal clash extend a decade, with the inventors alleging that Google’s Chrome web browser infringes their anti-malware patents. In 2017, a jury in the Eastern District of Texas sided with the inventors, refusing to invalidate the patents and awarding them a substantial \$20 million victory.

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Nike sues New Balance and Skechers over patent infringement

Sports apparel giant Nike is suing two of its competitors, arguing that New Balance and Skechers are wrongfully using technology that Nike developed for making shoes light-weight and strong.

Nike filed two patent infringement lawsuits on Monday, one in federal court in Massachusetts against New Balance and another federal suit in California against Skechers. The cases come after Nike sued Puma in 2018, Adidas in 2021 and Lululemon this year over the same issue.

Nike's lawsuit focuses on Flyknit, a special type of fiber the company developed and which it uses for the so-called upper of shoes, or the parts of a shoe above the sole and which cover the foot. Flyknit is a high-strength fiber that supports the user's feet but is also lightweight and breathable, according to Nike.

Nike wants a federal judge to block New Balance and Skechers from selling shoes with copied Flyknit material. In the lawsuits, Nike has also asked for "an award of damages," but didn't specify a dollar amount.

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Four top telecoms operators add their patents to the Sisvel Cellular IoT Patent Pool

China Mobile, Deutsche Telekom, KPN and Verizon are among the latest companies to become licensors in the Cellular IoT patent pool run by Sisvel International SA (Sisvel).

The four join existing members KDDI, NTT DoCoMo, Orange and Telefónica, demonstrating support by eight of the world's leading telecommunications operators for offering easy, transparent and efficient patent licensing for the IoT industry. The Sisvel Cellular IoT Patent Pool presents a single solution for IoT manufacturers seeking to license patents essential to the NB-IoT and LTE-M standards. With the four additions, it now provides foundational IP owned by 28 world class innovators, a significant increase compared to when the initiative was launched just last year. With its clear, one-stop framework for obtaining licences, Sisvel creates major efficiencies that reduce transaction costs and eliminate uncertainty. The Sisvel Cellular IoT Patent Pool has committed itself to make the terms of NB-IoT and LTE-M competitive, to encourage the use of the LPWAN cellular IoT standards, so helping to achieve a level playing field.

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The Pixel Watch could control Google's next AR glasses

Long, long before Apple unveiled the Apple Vision Pro, Google had augmented reality (AR) eyewear of its own dubbed Google Glass, and while this device never saw the success Google presumably hoped it would, there are signs that the company is readying a new attempt – this time with some help from smartwatches like the Google Pixel Watch 2.

The latest evidence of a new version of Google Glass is a patent – spotted by Wareable and filed with the USPTO – which shows an AR headset that's controlled by a smartwatch.

In the patent, this headset can use its camera to determine when a user is looking at their smartwatch screen, and once that has been established the watch can then be used to open apps and navigate the headset's interface. Examples of this are making the gesture for a letter on the smartwatch's screen, which would then cause a matching up to launch on the headset. For example, drawing a 'U' might launch the Uber app.

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Lenovo sues Asus for patent infringement, seeks US ZenBook ban

Chinese computer manufacturer Lenovo announced on Tuesday it had filed suit against Taiwanese manufacturer Asus for patent infringement related to software, hardware and connectivity in multiple products.

In a press release, Lenovo detailed that the action was in response to August 2023 filings from Asus in the Regional Court of Munich related to cellular technologies. The Chinese giant indicated it had offered a cross-licensing deal to Asus as a solution.

Lenovo claimed in its lawsuit that it "has suffered, and continues to suffer, immediate and irreparable harm as a result of Defendants' past and continuing infringement" and therefore called for Asus to "cease and desist from marketing, advertising, distributing, offering for sale, selling, or otherwise transferring, including the movement or shipment of inventory" the infringing products.

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German Patent Court preliminary backs Broadcom over Netflix

Broadcom has announced that the German Federal Patent Court issued a preliminary opinion finding that a Broadcom patent related to HEVC/H.265 video coding is valid. This opinion follows a September 19th judgment by the District Court of Munich that Netflix infringes this patent. The Munich Court also issued an injunction requiring Netflix to cease and desist all further infringement in Germany.

The European patent at issue, EP 2 575 366 ('366 Patent), covers key features of digital video processing often used in HEVC video coding. The Munich District Court ruled that Netflix infringes the '366 Patent through its transmission of HEVC video, which Netflix uses to provide Ultra HD content to its users.

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SK shares 171 patents with SMEs

SK Group will share 171 patented technologies in the fields of semiconductors, IT and chemistry with local small-to-medium-sized enterprises (SMEs) to support their growth, according to the Ministry of Trade, Industry and Energy, Monday.

The patented technologies were developed by SK Group's subsidiaries: SK innovation, SK hynix, SK telecom and SK siltron. The technologies are to be shared for free. The patented technologies include a fuel cell system for apartments; an interfacing-based semiconductor manufacturing system; a system for measuring a floating population in a specific area and a method for polishing both sides of a semiconductor wafer.

The technologies will be demonstrated to the public at this year's Korea Tech Fair in Seoul on Nov. 28.

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