Overview of Taiwan Intellectual Property Office

September 6, 2011
Outline

1. What is TIPO?
2. IP Enforcement & Public Awareness
3. International Cooperation
4. Future Prospects
1. What is TIPO?

- Created in 1999 by combining patent, trademark, copyright, IC layout and trade secret authorities into one agency
- Under the jurisdiction of Ministry of Economic Affairs (MOEA)
- Responsible for formulation of IP policy, enforcement and inter-agency coordination
TIPO Responsibilities

- Patent
- Trademark
- Copyright
- Trade Secret
- Coordinate Enforcement Efforts
- Integrated Circuit and Layout Design
Human Resources

Number of staff – 734 (as of July 2011)

- Patent 53.1%
- Trademark 13.9%
- Copyright 4.0%
- Others 29.0%

(390) Patent
(102) Trademark
(29) Copyright
(213) Others
# Patent System — First-to-file Rule

<table>
<thead>
<tr>
<th>Category</th>
<th>Process</th>
<th>Term of Right</th>
</tr>
</thead>
<tbody>
<tr>
<td>Invention</td>
<td>Application laid-open (early disclosure)</td>
<td>20 years</td>
</tr>
<tr>
<td></td>
<td>Request for Substantive Examination</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Term of right: 20 years</td>
<td></td>
</tr>
<tr>
<td>Utility</td>
<td>Formality Examination</td>
<td>10 years</td>
</tr>
<tr>
<td>Model</td>
<td>Technical Evaluation Report</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Term of right: 10 years</td>
<td></td>
</tr>
<tr>
<td>Design</td>
<td>Substantive Examination</td>
<td>12 years</td>
</tr>
<tr>
<td></td>
<td>Term of right: 12 years</td>
<td></td>
</tr>
</tbody>
</table>
Patent Applications

Number of patent applications and pending applications (2006-2010)

<table>
<thead>
<tr>
<th></th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application</td>
<td>80,988</td>
<td>81,834</td>
<td>83,613</td>
<td>78,426</td>
<td>80,494</td>
</tr>
<tr>
<td>Pending</td>
<td>89,654</td>
<td>117,112</td>
<td>146,386</td>
<td>162,457</td>
<td>176,350</td>
</tr>
</tbody>
</table>

Application
Pending App.
Invention Patent Applications by Nationality in 2010

<table>
<thead>
<tr>
<th>Nationality</th>
<th>R.O.C.</th>
<th>Japan</th>
<th>U.S.A.</th>
<th>Germany</th>
<th>South Korea</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Invention Applications</td>
<td>22,905</td>
<td>9,984</td>
<td>7,612</td>
<td>1,430</td>
<td>1,380</td>
<td>4,131</td>
<td>47,442</td>
</tr>
<tr>
<td>Ratio</td>
<td>48.28%</td>
<td>21.04%</td>
<td>16.04%</td>
<td>3.01%</td>
<td>2.91%</td>
<td>8.71%</td>
<td>100.00%</td>
</tr>
</tbody>
</table>

Note: Applications from France in 2010: 353 (0.74%)
Utility Model Applications by Nationality in 2010

<table>
<thead>
<tr>
<th>Nationality</th>
<th>R.O.C.</th>
<th>Mainland China</th>
<th>U.S.A.</th>
<th>Hong Kong</th>
<th>Japan</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utility Model Applications</td>
<td>24,917</td>
<td>296</td>
<td>176</td>
<td>129</td>
<td>106</td>
<td>82</td>
<td>25,832</td>
</tr>
<tr>
<td>Ratio</td>
<td>96.46%</td>
<td>1.15%</td>
<td>0.68%</td>
<td>0.50%</td>
<td>0.41%</td>
<td>0.32%</td>
<td>100.00%</td>
</tr>
</tbody>
</table>

Note: Applications from France: 6 (0.023%)
Design Patent Applications by Nationality in 2010

<table>
<thead>
<tr>
<th>Nationality</th>
<th>R.O.C.</th>
<th>Japan</th>
<th>U.S.A.</th>
<th>Germany</th>
<th>South Korea</th>
<th>Mainland China</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design Applications</td>
<td>4,285</td>
<td>1,369</td>
<td>408</td>
<td>272</td>
<td>112</td>
<td>34</td>
<td>740</td>
<td>7,220</td>
</tr>
<tr>
<td>Ratio</td>
<td>59.35%</td>
<td>18.96%</td>
<td>5.65%</td>
<td>3.77%</td>
<td>1.55%</td>
<td>0.47%</td>
<td>10.25%</td>
<td>100.00%</td>
</tr>
</tbody>
</table>

Note: Applications from France: 63 (0.87%)
Pendency for 3 types of patent in 2010

<table>
<thead>
<tr>
<th>Patent type</th>
<th>First Action Pendency</th>
<th>Total Pendency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Invention</td>
<td>37.81</td>
<td>41.04</td>
</tr>
<tr>
<td>Utility Model</td>
<td>3.30</td>
<td>4.09</td>
</tr>
<tr>
<td>Design</td>
<td>8.69</td>
<td>10.65</td>
</tr>
</tbody>
</table>
The Patent Act amendments are under review and most likely to be completed during the next Legislative Yuan session.

- Providing protection for plant and animal patents
- Harmonizing with international regulations
- Implementing Article 31bis of WTO/TRIPS
- Revising the exemptions to patent rights
- Patent term extension for pharmaceuticals
- Revising provisions on compulsory license
Accelerated Examination Program (AEP)

Applicants may apply for accelerated examination, if one of the following three conditions is met:

1. The application’s foreign counterpart has been granted under substantive examination by a foreign patent authority;
2. The EPO, JPO or USPTO has issued an OA during substantive examination but yet to allow application’s foreign counterpart;
3. The invention application is essential to commercial exploitation.

• All patent applications under AEP must be laid-open and an AEP application fee of TWD $4000 (€100) will be charged for request made under Condition 3 from July 1, 2011.
Signs eligible for TM registration

Any sign is capable of indicating the source of the goods or services and distinguishing them from those of others may be protected by registration as a trademark, e.g., hologram, motion, and scent marks.
Trademark System — First-to-file Rule

• A registered trademark is valid for ten years, calculated from the time at which the registration is published.

• The recent amendments to the Trademark Act had been promulgated by President on June 29, 2011. However, a transitional period is required to revise supplementary measures, such as the Trademark Regulations and related legislations, examination guidelines and IT programs, in conjunction with the amendment, the Amendment is scheduled to enter into force in June 2012.
Key amendments to Trademark Act

• The requirement on proving the distinctiveness or reputation of well-known trademark has been diluted is replaced by proving the likelihood of dilution.
• Inserting definitions of geographical certification mark and geographical collective trademark, as well as provisions on application.
• Stipulating the act of selling or having the intention to sell on the Internet or via electronic media goods that are known to have infringed upon trademark rights as an act of trademark infringement; such act is subject to criminal liability.
• Custom *ex officio* action to suspend the release of infringing goods and to disclose key information about infringing shipment.
Trademark Applications

Statistics of trademark applications and pending applications (2006-2010)

<table>
<thead>
<tr>
<th>Year</th>
<th>Applications</th>
<th>Pending Applications</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>79,767</td>
<td>42,089</td>
</tr>
<tr>
<td>2007</td>
<td>76,332</td>
<td>43,408</td>
</tr>
<tr>
<td>2008</td>
<td>75,033</td>
<td>41,372</td>
</tr>
<tr>
<td>2009</td>
<td>74,177</td>
<td>42,515</td>
</tr>
<tr>
<td>2010</td>
<td>83,072</td>
<td>41,293</td>
</tr>
</tbody>
</table>
2. IP Enforcement & Public Awareness

(1) IPR Action Plan
(2) IPR Enforcement Network
(3) IP Court
(4) IPR Police
(5) Campus IPR Action Plan
(6) Public Awareness
(1) IPR Action Plan (2009-2011)

- Key elements in the 2009-2011 period:
  - TIPO coordinates with relative agencies to ensure the protection of intellectual property rights
  - Review/perfect IPR policies and regulations
  - Strengthen border control measures
  - Continue trainings for judicial and enforcement personnel
  - Design IPR awareness activities that appeal to public interests
(2) IPR Enforcement Network

Executive Yuan

Ministry of Justice

Ministry of the Interior

Ministry of Finance

Ministry of Economic Affairs

Ministry of Education

Ministry of Foreign Affairs

Government Information Office

Higher Court Prosecutors Office

National Police Agency (including IPR Police)

Task Force

Directorate General of Customs

TIPO

IPR Inter-Agency Coordination Committee

Bureau of Foreign Trade

Joint Optical Disk Enforcement Task Force (JODE)

Judicial Yuan

IP Court and courts of all levels
(3) IP Court

- Established in 2008
- To expedite and improve the quality of court judgments on intellectual property related cases
- 12 judges and 13 technical examiners to assist judges with the technical analysis.
IP Court

Civil Litigation

Criminal Litigation

Administrative Litigation

IP Court

IP Court

Supreme Court

District Courts

IP Court

Supreme Court

TIPO

Petitions & Appeals Committee, MOEA

IP Court

Supreme Administrative Court
Cases Terminated by IP Court in 2010

<table>
<thead>
<tr>
<th>Case Type</th>
<th>Average Number of Days to Close a Case (from first lodge to final closing)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Cases</td>
<td>165.45</td>
</tr>
<tr>
<td>Criminal Cases</td>
<td>113.21</td>
</tr>
<tr>
<td>Administrative Cases</td>
<td>140.02</td>
</tr>
</tbody>
</table>
(4) IPR Police

- Established in January 2003 with 220 police officers stationed island-wide to strengthen inspection efforts and protect IP right holders' legal interests.

- Tasks
  - Accept and process IP infringement reports from informants 24 hours a day.
  - Inspect IP related infringement cases.
  - Crack down IP infringement activities and detain/arrest suspects.
# The Intellectual Property Rights Police (IPRP) Inspection Results

<table>
<thead>
<tr>
<th></th>
<th>2010</th>
<th>No. of inspections</th>
<th>No. of police mobilized</th>
<th>Total</th>
<th>Trademark</th>
<th>Copyright</th>
<th>No. of Pirated Ods</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Cases</td>
<td>Persons</td>
<td>Cases</td>
<td>Persons</td>
</tr>
<tr>
<td>Jan- Dec 2010</td>
<td>4,642</td>
<td>16,678</td>
<td>1,948</td>
<td>1,231</td>
<td>1,506</td>
<td>717</td>
<td>686</td>
</tr>
<tr>
<td>Jan- Dec 2009</td>
<td>5,241</td>
<td>23,761</td>
<td>2,010</td>
<td>1,040</td>
<td>1,180</td>
<td>970</td>
<td>753</td>
</tr>
<tr>
<td>Percentage change</td>
<td>-11.43%</td>
<td>-29.81%</td>
<td>-3.08%</td>
<td>13.40%</td>
<td>18.37%</td>
<td>27.63%</td>
<td>-26.08%</td>
</tr>
</tbody>
</table>
(5) Campus IPR Action Plan

- Ministry of Education (MOE) launched a Campus IPR Action Plan in 2007 to combat textbook piracy and IPR violations on the Taiwan Academic Network (TANet).
- MOE issued strict Internet Guidance to universities, including rules forbidding all peer-to-peer (P2P) software use except with explicit permission, requiring daily bandwidth limits, and monitoring download volume per student using TANet.
(6) IPR Awareness

TIPO promotes various activities to enhance educational advocacy, such as:

- Publication of various advocacy materials
- Newspapers, Television and radio ads
- Internet activities
- Speeches to promote IPR
3. International Cooperation

♦ IPR cooperation platforms:
  ▪ Multilateral: WTO, APEC/IPEG
  ▪ Bilateral: trade talks, IPR/MOU

♦ IPR/MOU-cooperation
  ▪ Signed with:
    France, Italy, Czech Republic, Spain, Philippines, etc.
  ▪ Bilateral meeting held regularly with USA, Japan and EU to discuss issues of mutual concerns
  ▪ PPH with the United States patent and trademark office since September 1
Past issues

- No Cross-Strait mutual recognition of priority rights on patent and trademark
- Problems related to well-known trademark protection and trademark squatting
- Urgent needs to strengthen cooperation in investigation of counterfeited piracy
Negotiations

“Cross-Strait Agreement on IPR Protection and Cooperation” signed on June 29, 2010, and went into effect on September 12.

Important part of the Agreement:

1. Mutual recognition of priority rights of patent, trademark and plant variety.
2. Mutually accepting plant variety right applications and carry out consultation to expand the scope of protectable application
3. Establish communication platform and implementation mechanism for competent authorities
4. Copyright authentication service directly provided in Taiwan
4. Future Prospects

Establishing Sound IPR Protection Environment

- Improve patent and trademark examination quality and capacity
- Strengthen IPR enforcement
- Provide excellent IP information service
- Continue working on e-projects, such as e-filing system.
- Develop comprehensive IP laws and regulations
- Promote copyright collective management and licensing mechanism
- Strengthen international and Cross-Strait IPR protection & cooperation
Thank you for your attention