

Operation Directions Governing Priority Document Exchange by Means of Electronic Communication Between the Taiwan Intellectual Property Office and the United States Patent and Trademark Office

1. In the implementation of the provision set forth in Paragraph 3, Article 26 of the Enforcement Rules of the Patent Act, these Operation Directions are formulated to strengthen cooperation between Taiwan and the United States, to provide convenience for applicants to claim priority, and to enhance examination efficiency.
2. The Priority Document Exchange (PDX) Program refers to the obtaining of priority documents by means of electronic exchange between the Taiwan Intellectual Property Office of the Ministry of Economic Affairs (hereinafter referred to as “TIPO”) and the United States Patent and Trademark Office (hereinafter referred to as “USPTO”).
3. The terms used in these Operation Directions are defined as follows:
 - (1) Office of First Filing (OFF): the office where an applicant first files a patent application that serves as the basis for a priority claim.
 - (2) Office of Second Filing (OSF): the office where the applicant, following the first application at the OFF, files a subsequent patent application in respect of the same creation and claims priority on the basis of the first application at the OFF.
 - (3) Access-Code: a code issued by the OFF allowing participating offices to obtain the applicant’ s

first-filed patent application in electronic format and verify the application number, filing date, patent type and other relevant information.

4. Operational procedures for TIPO as the OFF:

- (1) An applicant that first files a patent application at TIPO and subsequently intends to file a patent application with the USPTO and claim priority may apply to TIPO for an access-code for the priority application.
- (2) The applicant may indicate the request for an access-code in the priority document request form; the same shall apply to electronic filing.
- (3) No official fee shall be charged for an application for an access-code.
- (4) An applicant that subsequently files a patent application with the USPTO may provide the access-code in lieu of a priority document in claiming priority based on the Taiwan application.
- (5) The USPTO shall handle the electronic exchange of priority documents in accordance with its operational procedures.
- (6) Upon receipt of a list of claimed priorities transmitted by the USPTO, TIPO shall verify the filing date, application number and access-code corresponding to the Taiwan application. Once verified, TIPO shall prepare an electronic file of the priority document and transmit it to the USPTO via the Internet.

5. Operational procedures for TIPO as the OSF:

- (1)An applicant that files a patent application with the USPTO and subsequently intends to file a patent application with TIPO and claim priority may apply to the USPTO for issuance of an access-code for the priority application.
- (2)An applicant that subsequently files a patent application with TIPO and claims priority based on a U.S. application may provide the access-code issued by the USPTO for the priority application in lieu of submitting a priority document.
- (3)The submission of an access-code under the preceding subparagraph shall comply with the time limits prescribed in Paragraph 2 of Article 29, mutatis mutandis Paragraph 2 of Article 29 as applied by Article 120, and Paragraph 3 of Article 142 of the Patent Act.
- (4)Based on the access-code provided under Subparagraph (2), TIPO will include the filing date, application number, patent type and access-code of the priority application in a list of claimed priorities and transmit such list to the USPTO via the Internet.
- (5)After receipt of the list of claimed priorities transmitted by TIPO, the USPTO will proceed in accordance with its operational procedures.

6. Where TIPO fails to obtain the correct electronic file of the priority document within the statutory period due to factors not attributable to the applicant, such as Internet transmission problems or system failures, and the document is subsequently obtained through

coordination between TIPO and the USPTO, the applicant shall be deemed to have submitted the priority document within the statutory period.

7. Where TIPO fails to obtain the correct electronic file of the priority document due to factors attributable to the applicant, such as errors in the access-code or information concerning the priority application provided by the applicant, TIPO shall notify the applicant to correct the information or submit a paper priority document within two months. The applicant that fails to do so within the specified time period shall be deemed not to have provided the priority document.

8. Applications filed prior to the implementation date of these Operation Directions may also be processed in accordance therewith.