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WIPO ASIAN REGIONAL TRAINING COURSE FOR INTELLECTUAL PROPERTY TRAINERS AND INSTRUCTORS

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INTELLECTUAL PROPERTY (IP) TEACHING AND TRAINING

INTELLECTUAL PROPERTY (IP) TEACHING AND TRAINING IN IP OFFICES; THE EXPERIENCE OF CHINA

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Intellectual property rights (IPR) is an important issue in the global trade and economies, although it is a new issue for most developing countries. The society and the system are built by human beings, and the field of IPR is no exception. Therefore, in a certain sense, the IPR professionals are the foundation of the IPR regime. Correspondingly, the training to the IPR professionals is a fundamental work for IPR protection. The State Intellectual Property Office of People's Republic of China has some experience on the training of IPR professionals. I would like to introduce the recent training practice of SIPO, and to share the experience of SIPO with you.

Training of competent personnel has always been one of the major tasks of the State Intellectual Property Office of China (SIPO) (the former Chinese Patent Office). Before the establishment of the former Chinese Patent Office (CPO) in 1980, the former State Science and Technology Commission, the Chinese government agency responsible for the establishment of the former CPO, firstly organized a training seminar on patent to its staff members. This was the first training on IPR in China. From the founding of CPO up to now, a large number of training courses and seminars have been organized for the purpose of improving the professional qualities of the staff members of SIPO and other IPR professionals outside the SIPO. Moreover, SIPO have sent more than 1,000 people to take part in the training courses, seminars or workshops organized by WIPO and other abroad IPR Offices, and more than 40 employees of SIPO have been sent to France, Germany, Japan, the United Kingdom and the United States of America to study the IPR systems for more than half a year. All of the training effectively improved the qualities of the IPR professionals and played a great role in the IPR protection in China.

I. TRAINING OF THE EMPLOYEES OF SIPO

1. Training of the New Employees of SIPO

All of the new employees in SIPO who graduated from colleges or universities have first to pass the Civil Servant Recruiting Exam organized by the Ministry of Personnel of the People's Republic of China. Although they have possessed excellent technical backgrounds, and some of them have working experiences, they have little knowledge on laws, especially on the intellectual property laws. In order to get them qualified for patent examination in their respective field within a short time, the Office offered more than two years' training for them.

(1) *The centralized training*

All of the new employees in SIPO have to take the centralized training for about four months. The training consists of four parts: Civil Servant Recruiting Training; Introduction of SIPO; Patent Law and Related Treaties; and Fundamental Substantive Examination.

Civil Servant Recruiting Training. This training is organized by the Ministry of Personnel. The topics of this training include: Chinese civil servant system, the challenge for the government due to the accession of WTO, rule of law in China, the function and the

operation of government, the responsibility of the civil servant, the regulations on the civil servants' act.

Introduction of SIPO. The topics of Introduction of SIPO include: the structure and function of SIPO, the automation system of SIPO, Chinese Patent Procedure Management System, Assistant Examination System, Intranet, etc.

Introduction of Patent law and Related Treaties. The topics of this training include: the outline of patent system, Chinese Patent Law and its Implementing Regulations, Paris Conventions, Patent Cooperation Treaty, Patent Law Treaty, brief introduction of the PCT procedure, preliminary examination of the application for the Invention Patent, the writing of the patent application, international patent classification, etc.

Introduction of Fundamental Substantive Examination. The training includes: the examination of novelty, non-obviousness, and industrial applicability; the unity and the division of application; the procedure of the substantive examination; the examination of PCT application; the search of patent documents and non-patent documents; the writing of the Office Action, etc.

The new employees of SIPO have to take four exercises during the course of the centralized training. The first exercise is to classify 30 applications accepted by SIPO. The second one is for examination of novelty, non-obviousness, and industrial applicability. The third is to conduct the searching of three patent applications cases, and the last one is to write three Office Actions. In addition, there are two exams the new employees of SIPO have to take: one is for the Introduction of Patent Law and Related Treaties, and the other is for the Introduction of Fundamental Substantive Examination.

The new employee who is not substantive examiner may not take part in the training and the exam of the Fundamental Substantive Examination. Having finished the centralized training on patent basics, these members may perform their work in their respective department.

(2) *The continuous training of the new substantive examiners in their respective department*

Having finished the centralized training, the new substantive examiner must take one and a half years' continuous training on substantive examination. In the course of the continuous training, the new examiners were able to perform their work under the guidance of instructors who are experienced examiners. In the first half year, the new examiners shall complete 25 Office Actions. In the second half year, the new examiners shall complete 1/3 of their respective workload depending on their respective working experience. In the third half year, the new examiners shall completed 2/3 of their respective workload. During the continuous training, the new examiners hold regular meetings to communicate their experience on examination, so as to address the problems occurring at work, enrich their experience and improve their examination ability.

After the one and a half years' continuous training, the new examiner shall take a evaluation concerning their working ability. In the evaluation, the new examiner must illuminate a case examined by him or her, and answer the questions asked by the Evaluation Group consisting of 11 experienced examiners. The Evaluation Committee decides whether the new examiner is able to perform his or her work independently. If not, the new examiner must take additional continuous training for another half year.

SIPO organized two sessions of the training for the new staff members in 2000 and three sessions in 2001. The trainees were 56 in 2000 and 169 in 2001.

2. The Further Training of the Employees of SIPO

As you know, technology and society change more and more quickly. We must update the employees' professional knowledge, and improve their skill to use modern information and network technology. SIPO organized the following further training for the employees.

Intellectual property laws and related laws training for the examiners, include: the Chinese Copyright Law, the Chinese Trademark Law, the Administrative Reconsideration Law and the Administrative Litigation Law. This training enriched the examiners' knowledge on laws, and enhanced their legal quality and increased their awareness of conformity to law.

Long-term Study abroad. In order to cultivate the young cadre, SIPO has planned to send approximately 15 outstanding persons to study in the law schools abroad for a semester every year beginning from 2001. Thirteen persons were sent to study in the U.S.A. in 2001, and they finished their study in December 2001. Through the study, they had made a great progress in respect of English and knowledge of the legal system, especially the IPR laws of U.S.A., and had acquired more intensive and extensive knowledge of the international development and trends of IPR. SIPO plans to send some employees to study in Europe this year.

Languages training. In order to support the selection of outstanding personnel to study abroad, and to improve the foreign language level of the examiners, so as to enable them to search and communicate in multi-languages, SIPO organizes language training in different languages and at various levels in very year. Based on the elementary class organized in 2000, SIPO organized Middle-training Courses on Japanese in 2001, and invited a Japanese expert to teach. The trainees' speaking ability have improved greatly. SIPO also organized an Intensive English Courses Program for the outstanding personnel who will be selected to study abroad, and added a lesson for IPR English every week in the training. All of the languages training efficiently improved the speed and quality of searching by using the foreign languages, and the examiners' language level was elevated.

Directors training. In the early 2000, SIPO invited some famous experts and professors from the State Administrative Academy to train newly appointed directors. The topics of the training included the qualification and capacity of the leader, and the science and technology of leading. The training enlarged the knowledge of management and improved the ability of leading.

Foreign IPR law training. In order to improve the legal qualification of the staff members, and to have them track the latest developments and trends of IPR protection in foreign countries, in 1999, SIPO invited a professor from the United Kingdom to present a lecture on new IPR development in Europe. In 2000 and 2001, SIPO invited some professors of law from the U.S.A. who were teaching in China to give four lectures. The lectures involved the judicial system and the civil procedure of U.S.A., the IPR protection in the computer field, the latest development of America Patent Law. The voluntary attendance in the lectures was more than 100 every time.

Short-term training in EPO and other patent offices. According to the cooperation agreement between SIPO and the European Patent Office, SIPO sends certain number of examiners to study or visit every year from 1985. At the same time, the office received EPO

experts in the fields of electricity, physics, chemistry and mechanics. Through the studies, visits and communications with EPO experts, the examiners of the office upgraded their search and examination skills.

Besides the regular communication with the experts from EPO, SIPO also occasionally invited many experts in some special areas from the Japan Patent Office (JPO), German Patent Office, Austrian Patent Office, and the Swedish Patent Office to present lectures to the examiners. For instance, JPO experts specialized in the field of biotechnology and business methods visited SIPO in November 2000, and delivered lectures to the examiners and patent agents on examination standards, search and latest development in these areas.

Computer and network training. In order to make full use of the modern information and network technology, SIPO organized more than 20 sessions of computer and network training for all employees in 2000. The purpose was to train every one in the office to make full use of the automation system so as to increase the working efficiency. All of the staff members had taken part in the training for one or more times, and the training effectively increased automation level of the office.

Field research and social practice. SIPO encourages each examination department to invite experts in the corresponding field for speech and also provides the funding support. SIPO also encourages examiners to do field research and social practice. Examiners were required to prepare research scheme in advance and make summaries upon return. Such social practice not only helped the examiners gain more face-to-face knowledge of the latest development in the corresponding technical field, but also strengthened the mutual understanding between examiners and applicants.

Seminars on patent examination. In 1999, SIPO organized four office wide seminars on the patent examination, addressing common problems arose in the examination practice. In total, more than 300 people attended the seminars. In 2000, SIPO organized 10 internal seminars on patent examination, the topics of which include: exchanging of special topics on examination practice, related laws and regulations, revision of Examination Guidance, administrative reconsideration, etc. Over 800 examiners participated in the seminars through the whole year. The seminars remarkably improved the working ability of examiners, and the ideas formed during the seminars effectively facilitated the examination.

II. EXTERIOR TRAINING ORGANIZED BY SIPO

1. Training for the Enterprises and the Government Authorities

Training the leaders of Major State-owned Enterprises. In order to extend the social influence of IPR, working together with the State Commission for Economic and Trade, SIPO provided a series of IPR training to entrepreneurs in 2000 for the first time. The Major State-Owned Enterprise Training Program was organized six times in 2000 and 2001, and more than 400 Major State-Enterprises took the program. The training effectively facilitate the IPR work in Major State-owned Enterprises.

Training the leaders of the governmental agencies. From 2000, SIPO strengthened the training of the leaders of the governmental agencies. In the Advanced Courses Program for the Leaders at the Level of Minister organized by the Central Party Academy, and the Special Topic Courses for the Leaders organized by the State Administrative Academy, the

Commissioner of SIPO respectively delivered a lecture entitled "the Accession to WTO and the IPR Protection" in 2000. More than 1,000 leaders at the ministerial level or department directors under the ministry attended the lecture. The lecture greatly boosted up the leaders' sense of pressure and responsibility to strengthen the IPR protection.

Training the leaders of the local IPR administrative authorities. Due to the fact that IPR work was conditioned upon an efficient work team, SIPO provided corresponding training to the leaders of the local IPR administrative authorities. The topics of the training include: patent law, trademark law, copyright law, civil law, civil procedure, administrative procedure and so on. Almost all of leaders of the province-level IPR administrative authorities participated the training, and the training were welcomed by the trainees. The training enlarged the trainee's knowledge of IPR laws and related laws, and improved the level of administration and enforcement by the local IPR administrative authorities.

Training Program for the Teacher Resources of the Local IPR Authorities. In 2001, SIPO for the first time sponsored a Training Program for the Teacher Resources of the Local IPR Authorities to the outstanding personnel of the province-level IPR authorities. The program not only provided teachers resource for the local IPR authorities, but also improve the operation level of the cadre of the local IPR authorities. Some of the cadre attending the program has already delivered lectures in the training program organized by the lower IPR authorities.

2. Training for Patent Agents

Sessions on the patent agency and examination. SIPO organized four sessions on the patent agency and examination in 1995, 1997, 1999, and 2001. More than 30 examiners and 150 patent agents attended the session very time. The attendants intensively and extensively discussed the Chinese Patent Law and its Implementing Regulations, the Examination Guidance, and the other issues concerning the patent agency and examination. The sessions not only enhanced the mutual understanding and cooperation between the examiners and the patent agents, but also improve the capacity of examination and agency.

Professional training for patent agents. In order to promote the professional quality of patent agents, SIPO worked out the "Measures for the Professional Training of Patent Agents," which came into force in 2000. SIPO have organized nine sessions of training courses, in which more than 1,000 patent agents from nationwide participated. This was the first systematic training provided by SIPO to patent agents. The training were welcomed by patent agents, and effectively improved the professional level of patent agents.

III. TRAINING IN CHINA INTELLECTUAL PROPERTY TRAINING CENTER

Speaking of the training in SIPO, I have to talk about the China Intellectual Property Training Center (CIPTC) and its fruitful work on the IPR training.

1. The Brief Introduction of CIPTC

The China Intellectual Property Training Center, an organization directly set up by the Chinese Government and governed by SIPO, is the first national organization dedicated to

training in-service IPR professionals. Commissioner of SIPO, Mr. Wang Jingchuan, acts as its Dean. The CIPTC provides various classrooms and conference rooms furnished with advance educational facilities. From April 1998, when the it was put into use, the CIPTC had organized more than 150 seminars, including a dozen of high profile international symposia in cooperation with WIPO, and trained over 15,000 persons. The training covered the fields of patent, copyright, trademark, licensing, anti-unfair competition, intellectual property litigation, IP protection concerning the computer and biotechnology. The trainees primarily were examiners, patent agents, IPR judges, patent professional in enterprise, and officials working in IPR administrative authorities.

2. The Important Seminars and Other Short-Term Training Organized by CIPTC

On April 15, 1998, the building complex of CIPTC, which combines teaching, library, audiovisual, accommodations, food, health, and entertainment facilities, was set up after 15 months of construction and the opening ceremony of the CIPTC was held. Simultaneously, the opening ceremony of the International Symposium on the PCT System in the 21st Century, organized by SIPO and WIPO, was held in CIPTC. During the symposium, 19 speakers from China, Japan, United States of America, Germany, Mexico, Australia, the European Patent Office, the Eurasian Patent Office, African Industrial Property Office, Asian Patent Agents Association, and WIPO made significant speeches. They concentrated on the present and future development of the PCT system, the PCT system and its applicability to industry, the benefits to developing countries, effects on the national patent systems, the PCT system and the patent agencies, and the detailed procedures of the PCT system. There were altogether 70 foreign guests from four international organizations and 21 countries at the ceremony and inauguration, and around 200 participants from patent administrative authorities, courts, patent agencies, enterprise, universities and colleges, research institutes, and relevant government agencies attended the symposium.

In October 1998, the PCT National Training Seminar, organized by WIPO and SIPO, was held in CIPTC. Over 160 participants attended the seminar from WIPO, EPO, SIPO, the Intellectual Property Department of the Hong Kong Special Administrative Region, patent agencies, enterprises and research institutes.

Seminar on Patent Trial and Examination, jointly organized by IP Tribunal of the Supreme Court of P. P. China and Patent Re-examination Board under SIPO, was held in CIPTC from November 9 to 11, 1998. Nearly 90 participants, the examiners of SIPO or judges from some local courts, attended the seminar. The seminar discussed thoroughly the problems in patent examinations and trials, and produced some constructive solutions.

In 1999, WIPO Asian Regional Symposium on Intellectual Property and Information Technology, Symposium on Trademark Law and Practice, Seminar on Intellectual Property and Development, were held in CIPTC.

In 2000, WIPO Asian-Pacific Regional Training Course on PCT for Developing Countries, Symposium of IP Protection in China: Challenges and Opportunities in the 21st Century, and WIPO Asian Regional Seminar on Intellectual Property Protection of New Technologies were held in CIPTC. Doctor Kamil Idris, Director General of WIPO, was present at the opening ceremony of the WIPO Asian Regional Seminar on Intellectual Property Protection of New Technologies, and delivered the keynote speech.

In 2001, besides the three seminars jointly organized by WIPO and SIPO, the CIPTC began to cooperate with the Worldwide Academy of WIPO on the long-distance education, and have localized the IPR introduction course of the Worldwide Academy of WIPO. In October 2001, CIPTC organized an experimental courses program. More than 90 percent of the participants passed the exam, and 34 percent of the participants' grades were A.

In order to meet the needs of Chinese entry into WTO, CIPTC held six seminars on IPR for the leaders of the local government over the county level from six provinces in 2001. The leaders attending seminars expressed that the IPR work will be added as an important work in the agenda of the local government.

3. The Textbooks and Other Teaching Materials

As you know, the teaching materials and textbooks are the foundation of the training. Therefore, CIPTC have compiled a textbook series entitled "China IPR Textbook". The sub-series include Basics for IPR Laws, IPR Litigation, Patent Administration, the Legal System for Trademark Protection, the International Protection of IPR, the IPR Protection of the Digital Technology, the Legal System for Copyright Protection, and the Patent Documentation and Information. Up to now, nearly 30 textbooks have been compiled and published. The CIPTC library has ordered and collected 13 Chinese magazines, 17 foreign journals, and a number of foreign books donated by WIPO, John Marshall Law School, JPO, and KIPO. The textbooks and other publications provide a good foundation for the training in CIPTC.

4. The Master's Degree Advanced Courses Program

Besides the short-term training in seminars or courses, an important task of CIPTC is to cultivate high level IPR professionals. In 1999, CIPTC and the Central China University of Science and Engineering (CCUSE) jointly launched an IPR Master's Degree Advanced Courses Program. More than 50 people from various IPR authorities or institutes took the program.

In November 1999, the Commissioner of SIPO signed a formal cooperation agreement with the Dean of John Marshall Law School (JMLS) outlining a Co-training Master of Law Program between CIPTC and JMLS. According to the agreement, a professor from JMLS delivered lectures to the students for seven weeks in July 2001, and 14 students were sent to study in JMLS to get a master of law degree in August 2001. All of the 14 people were awarded Master of Law in January 2002.

In September 2001, while the students of the first IPR Master's Degree Advanced Courses Program graduated, CIPTC and China University of Political Science and Law jointly launched the second Master of Law Advanced Courses Program. Nearly 100 people from SIPO, the National Copyright Office, the Trademark Office, the courts, and the patent agencies took the program. The programs had provided, and will continue to provide, remarkable supports to the IPR work in China.

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