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## **Intellectual Property, Taiwan**

### **IPO to launch industry collaborative interview programme**

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On 12 May 2021, at a meeting of the Patent Examination Advisory Consultation Committee, the Intellectual Property Office (IPO) stated that it would like to launch an industry collaborative interview programme in the near future to benefit patent applicants' portfolios and enhance the efficiency and quality of its patent examination.

#### **IPO preliminary plans**

According to the IPO's preliminary plan, in the case of a forward-looking invention patent for which substantive examination has been requested and for which the applicant has not yet received any examination results, the patent examiner may, ex officio, notify the applicant and hold an interview if:

- the examiner considers it necessary; or
- the applicant requests such an interview and the examiner considers that the application relates to forward-looking technology and that an interview may facilitate a better understanding thereof.

The applicant's technical personnel and the examiner handling the invention may jointly participate in a patent technology presentation meeting for a face-to-face discussion on the technical contents of the invention.

According to the IPO's plan, "forward-looking technology" includes fields such as:

- stem cell and regenerative medicine;
- neural networks; and
- gate-all-around field-effect transistor 3nm processes.

However, the examiner may also independently judge whether a certain invention constitutes forward-looking technology based on the facts of each case. A patent applicant may request that a single interview addresses several invention patent applications; however, in principle, such an interview should be limited to less than 10 applications.

Under the current plan, the examiner would not provide any preliminary examination results at the interview but would issue a notice of the examination results within six months of the presentation meeting. However, the specific details of the programme are still pending deliberation by the IPO.

#### **Current practice**

Under current practice, in addition to article 42 of the Patent Act – which stipulates that the IPO may, on request or ex officio, notify the applicant to hold an interview – the IPO provides various other approaches to allow an interview before patent examination, such as:

- the patent positive examination programme for start-ups (the positive interview); or
- the collective interview for relevant invention patent applications programme (the collective interview).

#### **Positive interview**

The positive interview is available on the request of an applicant that matches the definition of a "start-up company" (ie, a business that has been established for less than five years). Before the interview, the examiner will provide:

- a novelty and non-obviousness search report;
- brief opinions with respect to other grounds for not granting a patent; and
- constructive suggestions.

In principle, the patent examiner will issue a notice of examination results within two months of the interview.

### **Collective interview**

The collective interview is also subject to a request by the applicant. Patent applicants may request a collective interview for between two and 10 invention patent applications that are technically related and that have not been claimed as domestic priority rights, provided that:

- the applicant of the collective patent applications is the same;
- a request for substantive examination has been made for all of the collective patent applications and they have all been laid open; and
- the applicant has not received a notice of the examination results from the IPO.

In principle, the IPO will issue a notice of examination results within three months of the interview (or within three months of the applicant filing a response or submitting amendments within a period designated at the interview).

### **Comment**

To improve the development of an enterprise, it is recommended that patent applicants pay close attention to the implementation of the industry collaborative interview programme and comprehensively compare various interview approaches when formulating their own patent portfolio strategies.

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