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Third-party observations can be submitted prior to laying open

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Since the inception of laid-open patent applications, the Taiwan Intellectual Property Office (TIPO) has allowed any party to provide relevant materials to support rejections of subject patent applications before the examination decision is rendered.

On 9 November 2012, referring to patent practice in Japan and China, TIPO clearly stipulated this long-running practice in Article 39 of the Enforcement Rules of the Patent Act, which states that:

Subsequent to a patent application being laid open but prior to an examination decision being rendered, any person(s) considering that the claimed invention should not be granted a patent may submit their opinions to the Patent Agency, along with reasons and evidence.

Having sustained the foregoing provision for several years, TIPO amended the rule on 24 June 2020 by deleting the original restriction that supporting materials may be submitted only after a patent application is laid open.

According to the amended rule, as long as the examination decision has yet to be rendered, any party that considers that a claimed invention should not be granted a patent may submit their reasons and supporting evidence to TIPO.

Enterprises and individuals should make good use of this system as part of their overall competition strategy.

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