

# Protect and Preserve

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## Technology and car innovators back Qualcomm litigation

Representatives of the US car and technology industries have written to the White House to raise awareness of standard-essential patent abuse and ask the new administration to ensure an “impartial and substantive determination” in the Federal Trade Commission’s (FTC) litigation against Qualcomm. The 20 April letter was signed by 15 organisations, including the App Association, the Alliance of Automobile Manufacturers, Dell, Intel and Samsung.

The car and technology organisations voiced concerns about a rise in the number of standard-essential patent holders in the telecommunication chip industry that are allegedly backing out of voluntary commitments to license their patents on fair, reasonable, and non-discriminatory (FRAND) terms. They argued in their letter: “The standard setting system is vulnerable to abuse because of the unique power that it can give to a patent holder whose patents are voluntarily incorporated into standards.”

“Such abuse can occur when a patent holder commits to license its patents on fair and reasonable terms, but then reneges on its commitments once its patents have been included in standards and technological alternatives are excluded.”

The organisations went on to stress the importance of the FTC’s litigation against Qualcomm, which was lodged in January.

In its complaint, the FTC claimed the semiconductor company has engaged in similar behaviour, resulting in “exclusionary conduct that taxes its competitors’ baseband processor sales, reduces competitors’ ability and incentive to innovate, and raises prices paid by consumers for cell phones and tablets”.

The FTC’s complaint against Qualcomm was derided as ‘midnight litigation’, launched on the eve of a presidential transition that would likely see many of the agency’s top brass lose their jobs.

“While we take no position here on the merits of this case, the critical issues it raises deserve a robust adjudication,” the organisations stressed in their letter. Those that disagree with any of the allegations in the FTC’s complaint will have their day in US court.”

“The US intellectual property system and the US courts have served—and continue to serve—as a model for the rest of the world. The

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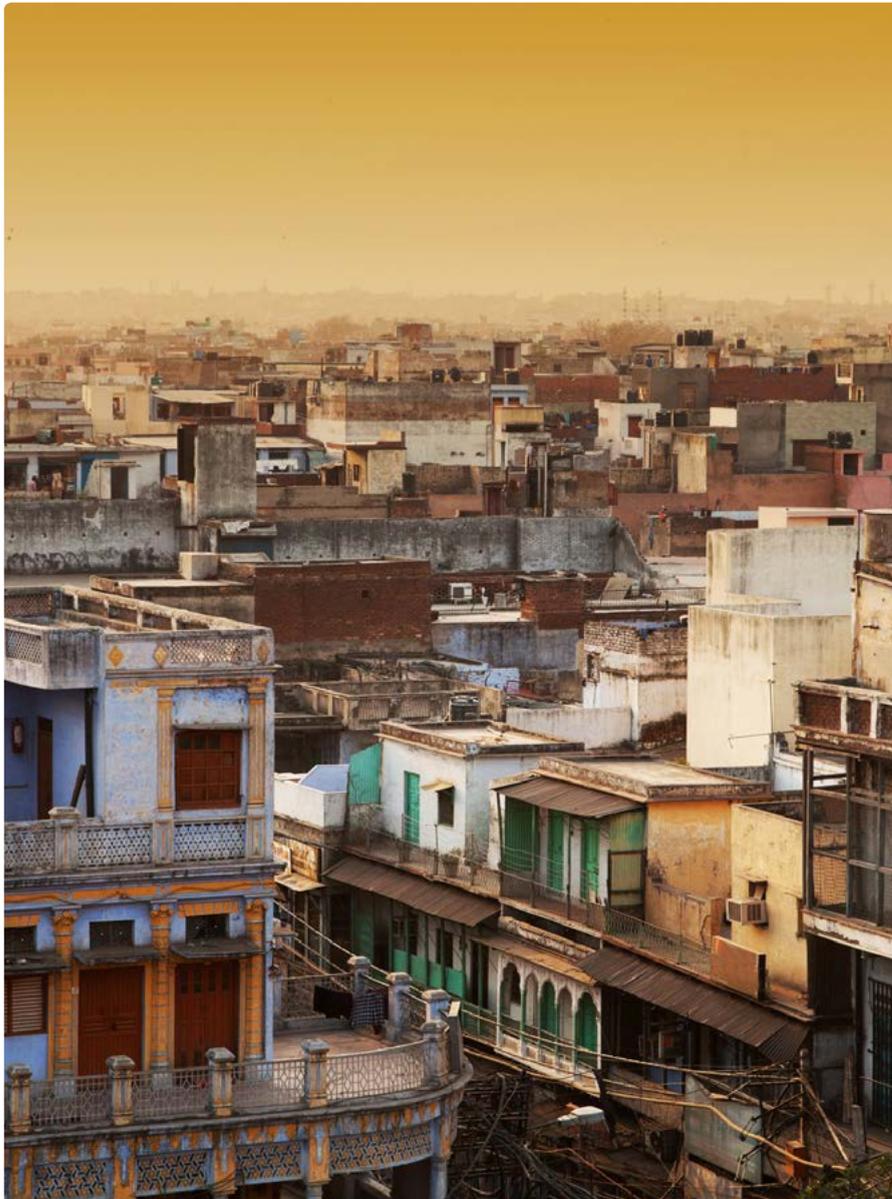


FTC’s complaint is well in-line with mainstream, broadly supported legal approaches. By not acting, the US might risk losing its voice or influence in foreign jurisdictions, particularly in jurisdictions where both protection for legitimate patent rights and enforcement against patent abuses is weak.”

Morgan Reed, president of the App Association, commented: “The letter’s signatories own more than 100,000 patents and believe strongly in the value of intellectual property, but the issue here is companies

who voluntarily committed to license their patents under fair, reasonable, and non-discriminatory terms who are reneging on those promises”.

“Nearly every industry and companies of every size depend on standards to create interoperability and opportunities for innovation. That is why the App Association created the All Things FRAND initiative to track these issues, and it’s why we are urging the White House to support efforts to stop standard-essential patent licensing abuse.”



## Green Mountain Glass wins \$50.3 Million from rival

A jury sitting the US District Court for the District of Delaware has awarded \$50.3 Million in damages in a patent infringement dispute between rival glass manufacturers.

The award for wilful infringement was handed down on 21 April. Green Mountain Glass's patent (5718737) covers technology that allows glass manufacturers to use recycled glass of mixed colours.

Claims of infringement of another patent (6,230,521) were dismissed.

The damages that Ardagh Glass might eventually have to pay for its infringement could be trebled to more than \$150 Million.

"We are gratified that the jury found in favour of our client," said Susman Godfrey partner Justin Nelson, who acted as lead counsel to Green Mountain Glass.

The technology covered by Green Mountain's patent allows glass manufacturers to use recycled glass known as mixed colour cullet.

This allowed Ardagh to save money on raw materials and energy, reduce emissions and extend glass furnace life when compared with the use of other raw materials, according to Green Mountain

The suit alleged that Ardagh made use of this technology without licensing it from Green Mountain.

## Federal Circuit hangs up on patent licensing company

Seven patents supposedly covering various aspects of an in-car hands-free phone system and asserted against five car manufacturers have been held invalid.

The Court of Appeals for the Federal Circuit ruled on 19 April that West View Research, a patent licensing company, failed to demonstrate that the patents had sufficient inventive concept to pass the Supreme Court's Alice Corp v CLS Bank test.

West View Research asserted the seven patents, which purport to cover various aspects of an in-car hands-free phone system, including hardware, software and connective capabilities to peripheral devices, against Audi, Volkswagen, Hyundai, Nissan and Tesla in the US District Court for the Southern District of California.

The Federal Circuit affirmed the district court's ruling, holding that all of the

## Qualcomm signs patent license agreement in India

Qualcomm has signed a 3G and 4G technology licensing agreement with Indian internet of things manufacturer Smartron.

The patent licence grants Smartron the right to develop, manufacture and sell WCDMA, CDMA2000 and 4G LTE complete devices.

Qualcomm and Smartron will also collaborate on technology products relating to smart devices.

Jim Cathey, senior vice president and president of the Asia Pacific and India region at Qualcomm, said the company is "committed to help enable Prime Minister

Narendra Modi's Make in India vision and lay the foundation for a digital India".

"We are thrilled to enable Smartron in its mission to create technologies that advance the mobile industry."

The Make in India initiative was launched by Modi's government in 2014 with the aim of encouraging multinational and national companies to manufacture their products in India. Mahesh Lingareddy, founder and chairman of Smartron, said: "We are excited to collaborate with a global technology leader like Qualcomm to bring new and powerful products that delight our customers."



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## USITC launches investigation into set-top boxes

The US International Trade Commission (ITC) has launched an investigation into set-top boxes after Sony filed a complaint.

Its investigation will focus on set-top boxes supplied to Comcast under its Xfinity brand and DIRECTV for its Genie products.

Sony claimed in March that imports of digital cable and satellite products, set-top boxes, gateways and components infringed its patents, and wants them to be blocked.

The products under investigation were imported into the country by US-based telecommunications company ARRIS and Pace, a UK-based provider of IPTV technology.

The USITC's investigation, which was instituted on 12 April, comes amid a severe crackdown on IPTV set-top boxes and other, newer means of intellectual property infringement.

Earlier in April, EU law enforcement agency Europol coordinated the dismantling of a criminal network specialised in the illegal distribution of pay TV channels through IPTV technology across Europe.

Amazon, meanwhile, has added streaming media players to its seller guidelines, reminding users of its marketplace that "products offered for sale on Amazon should not promote, suggest the facilitation of, or actively enable the infringement of or unauthorised access to digital media or other protected content".

The Premier League is also getting in on the act, seeking and obtaining an order in the UK that compels ISPs to block certain servers until the conclusion of the current season on 22 May.

patents were directed toward abstract ideas and lacked the inventive concept required to transform them into patentable subject matter.

"Whether analysed individually or as an ordered combination, the claims recite conventional elements at a high level of generality and do not constitute an inventive concept," the Federal Circuit explained.

"These claims do not go beyond receiving or collecting data queries, analysing the data query, retrieving and processing the information constituting a response to the initial data query, and generating a visual or audio response to the initial data query."

West View Research's patents failed the Supreme Court's two-part test as laid down in *Alice Corp v CLS Bank*, which requires claims directed toward an abstract idea to demonstrate inventive concept and the transformation into patentable subject matter.

## WiLAN diversifies in wake of patent licensing challenges

WiLAN is acquiring an internet of things company for \$47.4 million as it looks to diversify away from its core patent licensing business.

The deal for International Road Dynamics, which specialises in transportation, was struck on the same day as WiLAN announced plans to rebrand, spin-off its patent licensing business and focus on acquiring internet of things companies and technology.

James Skippen, executive chairman of WiLAN, explained during a conference call: "The legal environment for patent licensing business has undergone significant changes."

"These changes have altered the performance and outlook for participants, creating some headwinds to growth and lumpiness in financial performance."

"Because the environment for patent licensing companies has changed so much, we have concluded that patent licensing as a standalone business will not meet our long-term objectives as a public company."

Skippen added: "The board of management believes that the best path to grow the business and ensure shareholder value is to acquire promising growth companies and support them while they grow their businesses. The knowledge and experience we have gained as a leader in the patent licensing industry can be applied to identifying and evaluating promising technology businesses."

WiLAN will become Quarterhill on 1 June and the patent licensing business will continue as a subsidiary under the WiLAN brand.

Skippen was optimistic about WiLAN's future, despite the change in strategy: "WiLAN has a very strong established brand in the intellectual property licensing industry, which we will continue to build-on."

WiLAN generated revenues of \$92.9 million last year. "The future focus will be on generating positive cash flow and consistent performance from the patent business," added Skippen, who has taken on the role of executive chairman, having previously served as president and CEO. Skippen is taking temporary charge of WiLAN while a permanent head is sought. He also expects to play a part-time role in the business in the future.

## Wolters Kluwer's Cheetah makes new leap with ktMINE collaboration

Wolters Kluwer Legal & Regulatory is set to collaborate with ktMINE, an IP data and information services firm, in order to increase its intellectual property content and workflow solutions.

Using the Wolters Kluwer legal research platform Cheetah, users to access IP content relevant to negotiating royalty rates and concluding licensing agreements, as well as mergers and acquisitions deal data and agreement summaries.

The information will be drawn from public sources including the Securities and Exchange Commission, foreign security filings, and the web in general.

According to Wolters Kluwer, the benefits of Cheetah include faster access to more accurate research, improved browsing, searching and collaborating capabilities, and access to company insights and expertise.

Susan Gruesser, product line director at Wolters Kluwer, said: "This move is another key step in our efforts to seamlessly integrate our world-class content directly into the workflow stream, and to provide IP professionals with valuable access to royalty rates, license agreement offerings, patent, trademark and mergers and acquisitions deal data that cannot be found anywhere else."

David Jarczyk, president and CEO of ktMINE, added: "While legal professionals are seeing an influx in IP work and pressure to improve efficiency, we are thrilled to offer, through Wolters Kluwer, our IP research and analytics capabilities to enable professionals to make better decisions and better advise their clients."



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# CRISPR-Cas9: Inventors clash

With UC Berkeley appealing against the US PTAB's decision in the CRISPR-Cas9 case, what is next for the groundbreaking gene-editing technology? Kevin O'Connor, partner at Neal Gerber Eisenberg, explains

**Is the CRISPR-Cas9 technology proving to be particularly difficult to patent, or is its potential putting a lot of focus on these patent battles?**

CRISPR-Cas9 technology is not necessarily difficult to patent. In fact, the US Patent and Trademark Office (USPTO) has already issued dozens of patents relating to CRISPR-Cas9 technology.

Like other nascent technologies, there is a potential for securing claims having greater breadth than more well-developed technologies where a great deal of prior art may be available.

The potential applications of the technology coupled with this potential for securing broad claims—particularly for the early entrants to the field—have increased the focus on these patent battles. Patent battles over platform technology are common in biotechnology—areas such as antibody humanisation and DNA sequencing technology have given rise to similar hotly contested proceedings before the patent office.

**In the US, were these patents filed pre-America Invents Act and so subject to the first-to-invent paradigm? Could this have been hashed out more quickly and efficiently under first-to-file?**

These patents and applications were subject to examination under pre-America Invents Act (AIA) provisions. In particular, UC Berkeley's patent application was filed on 15 March 2013 and was subject to examination under pre-AIA provisions.

All of the Broad Institute's involved patents issued from what is known as a transition application: an application with a filing date on or after 16 March 2013, but which claims priority to an application filed before that date.

Interference proceedings are undoubtedly lengthy, complex, and costly. The AIA replaced interference proceedings with derivation proceedings. Derivation proceedings were intended to more efficiently resolve disputes between two patent applicants claiming the same or substantially the same subject matter. However, very few petitions to institute a derivation proceeding have been filed with the USPTO and even fewer have been actually instituted.

Also, germane to your question, UC Berkeley sought authorisation to file its proposed Motion 1, which would have alleged that examination of the Broad Institute's patents was erroneously conducted under pre-AIA provisions because the patents contain and/or contained at some time one or more claims that are not supported by the Broad Institute application filed prior to 16 March 2013.

The Patent Trial and Appeal Board (PTAB) did not authorise UC Berkeley to file its proposed Motion 1, so that underlying issue was not decided by the PTAB. UC Berkeley appealed against the PTAB's refusal to authorise its proposed Motion 1.

One effect of a court or the PTAB determining that the Broad Institute's patents should have been examined under the AIA provisions is that the Broad Institute could not antedate UC Berkeley's earlier filing

with testimony, a tactic that the Broad Institute employed during examination of its patents under the pre-AIA provisions.

**What will be the crux of UC Berkeley's federal circuit appeal? What do they hope to achieve?**

The PTAB's determination of no interference in fact deprives UC Berkeley of standing in the interference. Thus, the PTAB was not required to decide any of the other issues raised by the parties. The crux of UC Berkeley's appeal then is to (re)gain standing.

One issue that it will likely ask the Court of Appeals of the Federal Circuit to address is whether substantial evidence supports the PTAB's determination that one of ordinary skill in the art would not have reasonably expected a CRISPR-Cas9 system to be successful in a eukaryotic environment.

**The technology is also being patented in Europe, which is obviously the next biggest market after the US. Is this a common patent strategy? Secure protection in the biggest markets first, and worry about laying claim to the technology elsewhere later?**

Companies often file patent applications around the world, particularly on key aspects of technology. Often the European Patent Office and the USPTO are the first offices to initiate substantive prosecution, usually between 12 and 18 months after the application is filed (at least for biotechnology-related applications).

Typically, this occurs because these patent offices are better staffed than others around the world and not through any effort by the applicant. However, in this instance, the Broad Institute was able to take advantage of a special accelerated examination process in the US.

For a fee, the USPTO's Track One prioritised examination provides an applicant with a final disposition within about 12 months. The USPTO receives over 600 Track One applications every month, so it is a fairly commonly used option to move examination along even more quickly in the US. **IPPro**

## CRISPR-Cas9: UC Berkeley v Broad Institute

UC Berkeley moved in April to appeal against a US PTAB decision in the high-profile CRISPR gene-editing dispute.

The appeal, which was filed at the Federal Circuit, seeks to overturn the PTAB's decision in the case between UC Berkeley and the Broad Institute, and reinstate interference.

Interference is a legal proceeding that determines who was the first to invent a technology. Both UC Berkeley and the Broad Institute's patents overlap in scope, but the PTAB found that the claims in the interference were separately patentable, and therefore terminated the interference.



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# A defensive state of mind

## Although they litigate less now than they did in the past, technology companies remain prolific patent litigators, according to Bloomberg Law

Despite a downward trend in terms of the amount of overall litigation filed year on year, Apple, Samsung and Qualcomm remain prolific patent litigators in the US, and represent a shift toward patent litigation at high technology companies, according to the recent technology snapshot from Bloomberg Law Litigation Analytics.

Nearly 60 percent of Qualcomm's litigation in the past five years (2013 to 2017) has been patent-related, while Apple and Samsung punch higher with just over 70 percent and 76 percent, respectively.

While the numbers certainly paint these three companies as prolific, Tony Dutra, senior legal editor of intellectual property at Bloomberg Law, says that the majority of this is not aggressive. In fact, with the downward trend, the majority of these companies' appearances in court are as patent defendants, rather than initiators of infringement complaints.

"That's not surprising for Apple and Samsung because of the thousands of patents on smartphone elements and features," says Dutra.

"Patent-owning plaintiffs charge the two firms with being technology followers more than leaders. Phone makers Apple, Samsung, LG Electronics, Motorola and Huawei, combined, are defendants in 95 percent of their district court litigations."

Apple and Samsung have targeted one another in patent infringement cases, most recently with the issuance of a US Supreme Court decision that resulted in remand back to the US Court of Appeals for the Federal Circuit.

Qualcomm bucks expectations, too. Between 2008 and 2013, Qualcomm was the plaintiff in 22 percent of its patent cases.

"In those earlier days, Qualcomm was more likely to be fighting with other chip designers over who was the first to invent the technologies at issue."

### Success rate

Looking at the success rates of these three companies in patent litigation, Dutra says that tangible statistics are hard to acquire.

"Less than 10 percent of infringement cases are decided on merits. The vast majority end in settlements, the details of which are rarely disclosed."

"Even when the merits are decided, individual cases take twists and turns. We only have to look at the Apple v Samsung 'smartphone patent war'."

The cornerstone Apple v Samsung litigation was highly anticipated, and widely reported by mainstream media outlets. The cornerstone case saw Samsung accused of copying key design elements of Apple's flagship iPhone.

Initially, the US District Court for the Eastern District of California jury awarded Apple \$399 million in damages, a verdict that was backed up by the Federal Circuit. But the Supreme Court, which

remanded the case back to the Federal Circuit, overturned this decision. Dutra says: "It's anybody's guess when we'll see the end of those litigations. In one case, Apple got a \$399 million jury win, but it's been vacated by the Supreme Court."

"Their worldwide fight outside of the US ended in a settlement, and we'll never know the terms of it. We can't determine who won that fight at all."

### The Eastern District of patent litigation

According to Bloomberg Law's research, a huge proportion of this litigation begins in the US District Court for the Eastern District of Texas. Since 2011, Apple and Samsung have litigated a combined 211 cases there.

The Eastern District of Texas is infamous for forum shopping, prompting calls for congressional reform of venue selection. Most recently, TC Heartland brought a question to the Supreme Court, hoping to solve the problem once and for all.

But why does the Eastern District of Texas attract so much attention? Dutra says this is down to judges in the court believing they have "an expertise in handling the cases and a set of case procedural rules that lead to fair outcomes".

"The court's detractors accuse the judges of 'forum selling'—deliberately adopting procedural rules that attract patent plaintiffs."

"The critics say that early discovery deadlines and drawn-out transfer decisions don't allow the accused infringers a chance to avoid discovery costs. The high expected expense forces the defendants' hands. Patent owners can force favourable settlements from defendants who want to avoid the litigation costs."

Detractors also claim pro-patent owner bias among Eastern District of Texas judges, but Dutra says neither of these observations has been statistically verified.

The ongoing TC Heartland v Kraft Foods litigation at the Supreme Court threatens the status quo, though, and Dutra adds that a decision in favour of TC Heartland could result in a drop from 40 percent of patent cases to about 15 percent. This would result in significant losses in business for the local law firms attached to these cases.

But, thinking optimistically for local law firms in the Eastern District of Texas, Dutra says to look to the history of one such firm, Potter Minton, which has existed for more than 100 years and shows the ability for firms to survive various downturns in specific legal business.

Potter Minton, a firm of only 15 attorneys, began in 1909, and over its lifespan has covered various industries, including oil, real estate and intellectual property.

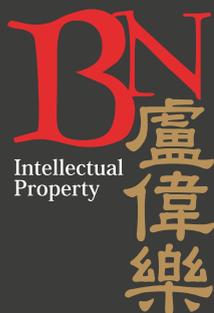
The firm is proud of its ability to adapt, and Dutra says that this could be indicative of other firms that operate around the patent space in the Eastern District of Texas. **IPPro**

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# Your friendly neighbourhood patent office

SIPO has amended its patent examination guidelines.  
Zhang Guangyu of Peksung reports

China's State Intellectual Property Office (SIPO) issued a decision on 1 March to amend its patent examination guidelines, which took effect on 1 April. The amendments involve provisions about business method, software-related inventions, post-filing data, invalidation procedure, accessibility of patent documents, and the suspension procedure. A notable amendment is the introduction of a provision concerning the protection of business models. A new paragraph has been added in Chapter 1 of Part II, which concerns unpatentable invention creations. This new paragraph stipulates that a claim involving business models shall not be excluded from patent protection if, apart from the description of the business rule and method, it includes technical features. This provision opens a door for protecting a business method under the Patent Law.

Several amendments have been introduced in Chapter 9 of Part II concerning invention patent applications for computer programs. They intend to clarify that a computer program per se is different from an invention relating to a computer program, and so it is allowed to draft a claim directed to a media plus computer program flow. The amendments also clarify that a claim directed to an apparatus may include a program as a component part. The expression "function module" is replaced by "program module", in order to better reflect the technical nature and distinguish clearly from the expression "functional definition". The amendments in this part reflect a tendency that SIPO is becoming open to protecting computer program under the Patent Law.

The provisions about post-filing data (Chapter 10 of Part II) have also been amended. The current provisions that any embodiment and experimental data submitted after the filing date shall not be taken into consideration have been deleted. Instead, a new section about post-filing data has been introduced to specify that the examiner has to examine the experimental data submitted after the filing date, but the technical effect shown by the experimental data will be obtainable based on the disclosure contained in the initial

description and claims, from the viewpoint of a person skilled in the art. This amendment seems to be a sign that SIPO has become more lenient toward the applicant.

Regarding invalidation requests, Chapter 3 of Part IV loosens the way to amend a patent document, specifying that it is allowed to incorporate one or more technical features recited in other claims into a claim so as to limit the protection scope and that it is allowed to correct obvious errors in the claims. The provisions about the introduction of new invalidation grounds and new evidence have also been amended to specify that new grounds concerning the claims that have been amended by incorporating technical features recited in other claims or by correcting obvious errors must be limited to responding to such amended contents. The provisions that the petitioner may present additional evidence within a specified time limit in response to amended claims by way of combination have been deleted. As a result of these amendments, the patent owner will be in a more advantageous position in a patent invalidation procedure.

Regarding accessibility to patent application documents, Chapter 4 of Part V broadens the scope of the contents accessible to the public. Anyone may consult and photocopy notifications, search reports and decisions issued during the substantive examination procedure for a patent application under examination, as well as the priority documents for a patent.

Chapter 7 of Part V has brought the examination guidelines in compliance with the new Civil Procedure Law, specifying that the patent office will suspend relevant procedures for the period indicated by a civil order or notification on assistance in execution issued by a people's court, in relation to property preservation.

Generally speaking, the amendments reflect an attitude of SIPO to be more friendly to applicants and patent owners and to provide better service for the public. **IPPro**

*The amendments reflect a tendency that SIPO is becoming open to protecting computer program under the Patent Law*



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# Follow the bilaterally agreed road

The road to cost-effective patent prosecution is paved with PPH agreements, as Kelly Sánchez of OMC Abogados & Consultores explains

Patents of invention, on dealing with novel creations resulting from arduous research in a particular technical field, have always been characterised by a very detailed and complex registration process, especially at the stage of the substantial examination, or patentability examination. This is precisely where it will be determined whether the invention meets the three basic requirements: novelty, inventive step and industrial application. In Peru, obtaining a patent for an invention can take up to five years, of which three correspond only to the patentability examination.

The Patent Prosecution Highway (PPH) is a filing system for patent applications. Through the PPH, an application filed with a patent office of a country that has signed a PPH agreement (first filing office), which has already passed the patentability examination and has obtained a report that determines that at least one claim is patentable or can be granted, will allow the applicant to request the office of another signatory country (second filing office), where an application for the same patent is pending, to make use of the report at the time of the patentability examination. The Japanese Patent Office proposed the PPH and put it into practice for the first time with the US Patent and Trademark Office in 2006. This became permanent in 2008.

Peru's INDECOPI signed its first pilot programme to implement PPH with the Spanish Patent and Trademark Office (OEPM) in 2015. This PPH programme came into force on 1 January 2016 and is valid for two years, which will be automatically renewable and for equal periods. Currently, Peru has signed agreements for the implementation of the PPH with the IP offices of the states that are part of the Pacific Alliance (Chile, Colombia and Mexico) and PROSUR (Argentina, Brazil, Chile, Colombia, Ecuador, Uruguay and Paraguay). While it is true that each PPH agreement has its own norms and guidelines, there are general requirements such as:

- The application must be national, in the national phase via the Patent Cooperation Treaty, or a divisional application of either of these
- The application must have one or more claims that have been considered patentable in the first filing office
- The claims of both applications must have sufficient correspondence, in addition to not infringing any provisions with respect to the particular legislation of each country
- The second filing office should not have initiated the patentability examination of the application

The main advantages of the PPH is that when the patentability reports of the first filing offices are reused, there will no longer be duplication of effort on the part of the second filing office when examining the application, which will allow greater certainty and speed in obtaining the registration, without jeopardising the quality of the patents. It will also lighten workloads for the public administration, and result in lower costs for the applicant, since this system does not involve additional expenses at the official rates of a regular patent procedure.

TCPavements of Chile became the first company to apply through the PPH before INDECOPI on 29 December 2016. Through resolution N°566-2017/DIN-INDECOPI of 28 March 2017, INDECOPI granted the invention patent, which covers a method for producing a fibre concrete slab for paving low-traffic roads, among other claims, making it the first patent to be granted under the PPH programme in Peru.

Consequently, national applicants will be able to achieve accelerated protection for their technology in countries where PPH agreements have been signed, which will likely have a favourable impact on our industry abroad, facilitating trade in technology products and, above all, encouraging innovation. **IPPro**

*The main advantage of the PPH is that the patentability reports of the first filing offices are reused*



Kelly Sánchez, IP lawyer, OMC Abogados & Consultores



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# CHINA PAT

## INTELLECTUAL PROPERTY OFFICE

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- Ranked as the top Chinese firm filing Hague Agreement international design applications in 2015
- Ranked No.5 worldwide and No.2 in China in 2015
- Ranked as the top Chinese firm filing Hague Agreement international design applications in 2016

# Switzerland and Liechtenstein: The particularities of patent prosecution

In the first of a two-part series, Joachim Frommhold of Weinmann Zimmerli provides an overview of patent protection and enforcement in Switzerland and Liechtenstein. This part focuses on patent prosecution in both jurisdictions

The handling of Swiss patents is governed by the Federal Act of 25 June 1954 on Patents for Inventions (PatG), which was updated in 2012. Patents are administered by the Institute of Intellectual Property (IGE), which is situated in Berne, the capital of Switzerland.

Liechtenstein has neither its own patent law nor a patent office. Instead, patents for inventions are also governed by the IGE due to the bilateral patent protection act of 1978. Switzerland and Liechtenstein are a common territory for national invention patents as well as for European patents having effect in Switzerland and Liechtenstein. And it should be mentioned that the bilateral patent protection act is limited to invention patents.

Liechtenstein does, however, have its own trademark law as well as its own design law. Trademark and design applications may therefore be filed with and registered by the department of intellectual property of the Liechtenstein Office of Economic Affairs. Filing of priority trademark applications in Liechtenstein requires a private seat or seat of business in Liechtenstein. And as a peculiarity, it should be mentioned that unlike the Swiss trademark law, the Liechtenstein trademark law does not provide for an opposition procedure. Accordingly, any trademark disputes will have to be settled by bringing an action to the competent court.

A unitary Swiss-Liechtenstein patent may only be granted, transferred, annulled, or lapse in respect of the whole territory of protection, ie, both Liechtenstein and Switzerland. Similarly, a European patent may only be granted jointly in respect of Liechtenstein and Switzerland. Inventors either from Switzerland or Liechtenstein will file national (Swiss) patent applications according to the rules of the federal law on invention patents and respective patent regulation.

Patents will be granted for inventions that are new, not obvious over the prior art and commercially applicable (Article 1(1) of PatG). Certain types of subject matter are not patentable, according to Articles 2 and 1a-b of PatG. In particular:

- Ideas, discoveries, business or mathematical methods, aesthetic creations and software, having no technical character
- Inventions contrary to public morality and/or policy
- Inventions covering surgical, therapeutic or diagnostic methods used on humans or animals
- Human body in all its phases of formation and development, animal species, plant varieties, and essentially biological methods for breeding plants or animals
- Naturally occurring gene sequences and partial sequences (with the exceptions mentioned in Article 1(b) of PatG, namely sequences or partial sequences derived from naturally occurring gene sequences, if produced by means of a technical process and if a specific function is indicated)

Unlike European patent applications, for example, national patent applications are not substantively examined, with respect to novelty and inventiveness, by the IGE. The applicant has no obligation to disclose prejudicial documents and/or other disclosures. Therefore, national patents can be obtained 'easily', looking like 'low grade' rights. But they imply common rights for patent holders and obstacles for potential infringers.

The grant of a national patent may not, as a rule, be opposed in proceedings before the IGE.

As one exception, the PatG allows the filing of an opposition within nine months of the publication of the grant of the patent, if the opposition is based on the grounds that the patent covers a certain subject matter that is not patentable as described above.

Decisions of the IGE may be appealed to the Swiss Federal Patent Court, and decisions of the Swiss Federal Patent Court may be appealed to the Swiss Federal Court.

Swiss patent law is based on a first-to-file system. Therefore, the right to the patent belongs to the applicant who either filed the earlier patent application or has the earlier priority date, in case the same invention is filed by different applicants independently. Another applicant, having a later filing or priority date, may have the right for further use of his or her invention, if the invention was already being commercially used before the filing date or the priority date of the earlier filed patent application.

An invention patent may be invalidated if the owner is neither the inventor nor his or her successor in law, and if there is no other legal reason why the owner should be entitled to the patent. A person who is entitled to a patent may file an action for assignment of the patent or application, if a patent is not yet granted. An action must be filed within two years from publication of the patent, unless the original applicant acted in bad faith.

A patent may be amended ex parte after grant. A patent owner is permitted to partially renounce the patent by requesting the IGE, in the case of national patents, or the European Patent Office, in the case of European patents, to cancel a claim or to restrict an independent claim. The restricted claim shall refer to the same invention and define an embodiment that is included in the specification of the published patent, according to the version of the patent application as filed.

In case of court proceedings concerning the validity of a patent, the patent owner is allowed to partially acknowledge the invalidity. The court may also declare parts of the patent invalid. Furthermore, it is possible to amend (restrict) claims.



A partial renunciation or declaration of partial invalidity of a patent only pertains to the patent claims, but not to the description, the drawings or the abstract. The scope of protection of the patent claims may only be narrowed, not enlarged.

Swiss patent law does not, in general, provide for a grace period. However, if the patent application (or application for design) has been disclosed to the public within six months prior to the priority or application date (according to Article 7b of PatG), such a disclosure does not form part of the prior art, if the disclosure was due to an evident abuse that was detrimental to the patent applicant (or his or her legal predecessor). Note the difference to the European Patent Convention (EPC) for which an applicant's protection goes only with the European patent application, but not with its national priority application.

Furthermore, if the patent applicant or his or her legal predecessor has, within six months prior to the priority or application date, disclosed the invention at an official international exhibition, falling within the terms of the Convention on International Exhibitions, such a disclosure does not form part of the prior art. The scope of protection of a process claim extends to products that directly result from the process. This also applies in cases where the process is carried out in a third country and its product is then imported.

Any means are deemed to be equivalent if they deviate only in non-essential features from the patented product or process, that is, if the features are regarded by one skilled in the art as equivalents to the features of the patent claim.

The patent term is 20 years from patent application date. The payment of annual fees is payable from the fourth year on. The term of a patent cannot be extended.

However, supplementary protection certificates (SPCs) are available for active ingredients of patented pharmaceuticals or pesticides. The term of protection of SPCs corresponds to the time period from the filing date of the patent application up to regulatory approval, minus five years. This term of protection begins at the moment of patent expiration and ends after a maximum of five years. An SPC protects, within the limits of the respective patent, all types of uses of the product as a medical product that has received regulatory approval, and affords the same rights as the basic patent and is subject to the same restrictions. At present, the current law does not provide for an extension of pediatric pharmaceuticals. The IGE evaluates a change of the practice to grant SPCs according to the relevant jurisdiction of the Court of Justice of the EU. Namely, to grant a SPC in light of the Actavis decision (C-433/12).

Licensing parties are free to agree on the contractual terms of a licensing agreement. There is no specific legislation limiting the terms. However, terms in a licensing agreement must comply with anti-trust law. Furthermore, the parties may have in mind the Group Block Exemption Regulation, insofar as the territory of the EU is concerned. Compulsory licences are available to an owner of a junior patent, if the invention is of significant economic relevance compared to the invention that is the same subject matter of the senior patent. Furthermore, they are available if the use of the patent is in the public interest, for diagnostic products or methods (provided a practice in violation of anti-trust law is proven), and for patented biotechnological inventions that shall be used as research tools. This is also valid, if the patentee of a senior patent does not use the patented invention in Liechtenstein. But in practice, compulsory licences have very negligible relevance in Liechtenstein. **IPPro**

*The second part of this article, covering patent enforcement in Switzerland and Liechtenstein, will feature in the next issue of IPPro Patents, published on 17 May*

***Licensing parties are free to agree on the contractual terms of a licensing agreement. There is no specific legislation limiting the terms***



**Joachim Frommhold**, Patent attorney, Weinmann Zimmerli

# How can African countries benefit from Article 31bis of TRIPS?

Least developed countries can now more easily obtain compulsory licences during public health emergencies, but some have been slow to take advantage. Vítor Palmela Fidalgo of Inventa International explains why

After 11 long years, the amendment to the agreement on intellectual property rights eventually came into force. On 6 December 2005, the World Trade Organization (WTO) general council adopted the protocol amending the Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Article 31bis) and opened it for acceptance by the member states. The protocol provided additional flexibilities to grant special compulsory licences for the export of medicines, which was first established by a decision taken by members in 2003, known as the Declaration of Doha.

The problem was the well-known conflict between patents and public health. Entered into force in 1995, the TRIPS Agreement raised and standardised IP protection and enforcement for all members of the WTO.

This situation became a concern for the least developed countries, which would be forbidden to refuse pharmaceutical patent protection and to manage IP according their local policies. In confronting epidemic problems, such as HIV or malaria, it would be impossible for these countries to purchase and distribute patented drugs. So, the only way out of this dilemma would be to adopt Article 31 of TRIPS, which provided for compulsory licences.

Following a profound discussion between developed and least developed countries, in 2001, the Doha Declaration was adopted, which affirmed the flexibility of TRIPS in circumventing patent rights so as to allow for easier access to medicines. Apart from stating that public health emergencies would be within the admissible grounds for compulsory licensing, the Doha Declaration went beyond and eventually admitted the use of compulsory licensing through exportation. Actually, despite providing for compulsory licensing in Article 31(f), TRIPS only allowed its use “predominantly for the supply of the domestic market of the member authorising such use”.

In this sense, due to the lack or absence of medicine manufacturing capacity of the least developed countries, this provision would result in a catch-22 situation for these countries, as although they were authorised to issue compulsory licensing for public health

reasons, they were unable to make use of it due to the lack of manufacturing capacity.

Following the Doha Declaration and a subsequent council decision, a permanent amendment to TRIPS was approved, thus creating the new Article 31bis. This article partly waives Article 31(f) for least developed countries, allowing them to issue compulsory licences for public health reasons through importing the drugs from other countries. The article also contains an open definition of “pharmaceutical products” and some formalities which should be complied with by importer and exporter countries in order to prevent fraud.

Despite having been enacted in 2005, this regime needed to be accepted by two-thirds of the members. After successive delays, this amendment eventually came into effect in January 2017. It is now time to understand how this amendment can be effective for the least developed countries, in particular, for the African countries that make up most of the jurisdictions in this category.

For the time being, this amendment has been ratified by 87 countries. However, among these countries, only 20 are from Africa, namely, Benin, Botswana, Burkina Faso, the Central African Republic, Egypt, Kenya, Lesotho, Mali, Mauritius, Morocco, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Tanzania, Togo, Uganda and Zambia. Furthermore, only Botswana, in Sections 31 and 32 of its Industrial Property Act, provides a legal basis for this regime.

Even before its official incorporation into TRIPS, this legal regime had already been used in Africa. In 2007, Rwanda became the first country in the world to notify WTO of its intent to import products based on a compulsory licence. Canada was the ‘export’ country chosen to provide generic drugs to Rwanda. After tough negotiations but failed with the holders of the patents to obtain a contractual licence, pharmaceutical company Apotex was authorised by the Canadian government to produce a generic version of a drug to treat AIDS, which would cost approximately USD 0.20 per pill compared to its brand name equivalents, which cost USD 6. However, the process revealed itself to be very bureaucratic and cumbersome. The supply



of the medication to Rwanda took more than a year to reach the country, despite the fact that Rwanda has received the entire order via two shipments in 2008 and 2009.

How African countries may benefit more from this legal regime is, for the time being, uncertain. First of all, it is unclear why only 20 African countries have ratified this amendment to TRIPS, since its provisions are specifically designed for the countries of this continent. The lack of internal legal amendments would be also a problem, seeing that, for some countries, Article 31bis of TRIPS is not self-executing, meaning it will not become effective immediately without the implementation of the necessary ancillary legislation in each country.

There are, in fact, alternative measures to cope with public health crises that can be taken instead of compulsory licences.

Parallel imports are an option. This measure involves the importation, without the consent of the patent holder, of a patented product that has a lower price in the exporting country. Although Article 6 of TRIPS provides that member states are free to implement or not the principle of international exhaustion of rights, the concept is normally forbidden or limited by national legislations.

Another option could be a differential pricing strategy. This strategy can ensure that prices in least developed countries are as low as possible, in comparison with most developed countries, which maintain the higher prices and so do not jeopardise the incentives for research and development. Notwithstanding, differential pricing is not an IP issue and, even when big pharmaceutical companies agree to adopt this measure in the poorest countries, the price is still unaffordable for them.

Compulsory licences are the main legal tool to address the problem of the prices of patented drugs and public health in Africa. However, much is still to be done. Firstly, political will on the part of some African governments is needed to accept the amendment to TRIPS and implement it in national legislation as soon as possible. Secondly, it is also necessary to change the way a compulsory licence is obtained through this process, since the red tape and complexity involved are not consistent with the emergency that is usually involved in these matters, such as epidemics.

It would be necessary, for example, to waive the requirement that demands an attempt to obtain a voluntary licence from the patent holder and to simplify or avoid the numerous notifications required. **IPPro**

*How African countries may benefit more from this legal regime is, for the time being, uncertain*

## Rules of engagement

Diana Portna of D&L IP Group explains how Ukraine's compulsory licensing laws could be opened up for the public interest, and how rights owners could react

Patent protection granted by the state is always a balance between an inventor's entitlement to the material proceeds from his or her intellectual pursuits and his or her responsibility towards the advancement of science and technology at large. There is also the obligation to contribute required technology to ensure security, health and sound environmental conditions for the general public in times of specific need.

Although compulsory licensing has proven to be scarcely used in practice worldwide, clients need to take these rules into consideration to determine country-specific patent requirements and assess the potential risks of losing control of rights.

One of the recent developments now defined in the draft law of Ukraine, but yet to be adopted, might allow manufacturers of generic drugs to benefit from compulsory licence provisions of the local law and get into the market over the head of the patent owner based on social need of less expensive vital drugs. Compulsory licensing laws open up opportunities for unfair play, especially in corrupt environments and in times of ongoing military conflict in the country, which could be advantageously used to establish required circumstances for a creative licence seeker.

The legal framework for compulsory licensing in Ukraine is set out in the Law of Ukraine on Protection of Rights in Inventions and Utility Models (Article 30), as well as in the Law of Ukraine on Protection of Rights in Designs (Article 23), meaning compulsory licensing may relate to inventions, utility models and industrial designs.

The law establishes the following conditions for the grant of a compulsory licence:

- The invention, utility model or industrial design is not used or is not adequately used in the jurisdiction
- The patent owner refuses to grant a licence to an interested party
- Public safety requires the use of the technology to secure essential public interests in a time of need

Based on the law, there is no requirement for the patent owner to routinely confirm that the invention, utility model or industrial design is actually being used in Ukraine.

In some countries, such as India, the owner has to proactively file a working patent declaration to show use in the country. In Ukraine, there is no such requirement. Third parties, however, that are willing and ready to use certain patented technology have options to use inventions, utility models and designs that are not adequately used by the patent owner where the patent owner refuses to grant a licence on such an invention, utility model or industrial design.

There are two avenues to obtain a compulsory licence in Ukraine:

- Administrative: Exercised by the government in the public interest
- Civil: Exercised by individual entities that are willing and ready to use the invention in the absence of consent from the patent owner.



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# Compulsory Licensing

The administrative avenue is chosen when public interests or public security are at stake. In this case, the cabinet of ministers is taking it upon itself to grant a licence on the invention, utility model or industrial design to a specific entity without the consent of the patent owner if it refused to grant a licence without legitimate grounds.

Limitations of the compulsory licence include:

- Granted for the internal market only
- The patent owner can still grant licences to other entities
- The licence is terminated as soon as the circumstances that warranted its grant cease to exist or change
- The patent owner must be adequately compensated based on the value of the right
- The rights are granted together with the enterprise and or part of business practice that facilitates implementation
- The owner should be properly notified of the grant of a licence

Based on the above, we can conclude that administrative avenue has the following prerequisites:

- Extraordinary circumstances and/or established public need
- Refusal by the owner to grant a licence without legitimate reasons

The law is very vague as to what those circumstances are.

It leaves the patent owner with a level of uncertainty and the willing licensee with much leverage, especially in view of the ongoing struggle to elevate government corruption in our jurisdiction, as well as the military conflict that could easily become a catch-all ground for establishing extraordinary circumstances.

The civil option can be exercised in the form of a legal suit filed with the local court to request a compulsory licence from the patent owner, if it refuses to voluntarily grant a licence without proper cause.

One of the conditions is that the invention, utility model or industrial design has not been used or not adequately used in Ukraine during three years from publication date, or within any three continuous years of the validity of the patent.

In this case, any entity willing and ready to use the objective of the patent may file a court action requesting the court to grant a compulsory licence.

Unless the patent owner provides persuasive arguments explaining legitimate reasons for non-use, the court may decide to grant such a licence to the petitioner, defining the scope, royalty and term, basically concluding the agreement between the parties.

Based on the above, compulsory licences can only be granted through court action where the following conditions are present:

- Non-use or inadequate use of the underlying invention, utility model or industrial design without adequate cause during any continuous three years of the validity of the patent
- Refusal by the patent owner to grant a licence

The patent owner is also obligated to grant a licence to a rival who filed a later application for the same invention, utility model or design, if its subject is directed to another goal or has overwhelming technical and economic benefits and may not be used without violation of the rights of the prior patent owner. The licence would be limited to the scope specifically needed to achieve the purpose of the later invention, utility model or industrial design and the earlier patent owner can request a reciprocal licence on reasonable terms. While there is no established practice for compulsory licensing in Ukraine, the country could soon follow jurisdictions such as India, Brazil and Thailand that have granted compulsory licences in the pharmaceutical field:

- **Rwanda:** In 2007, Apotex requested a licence from four pharmaceutical companies for pharmaceutical preparations that were the elements of the compound under the brand name TriAvir, which it manufactured to treat AIDS. Apotex specified that it intended to sell and export 15.6 million tablets without royalty. Apotex was granted the licence
- **Thailand:** In 2006, a compulsory licence was granted to import from India a cheaper generic pharmaceutical with the active compound efavirenz to treat AIDS, which was patented by Merck. Other compulsory licences followed
- **India:** In 2012, the Indian government granted a compulsory license to Natco Pharma to manufacture and distribute Nexavar for a 3 percent of the cost of the original drug patented by Bayer. The decision was ultimately appealed and the licence was revoked.

The proposed bylaws in Ukraine that aim to implement provisions of the law related to compulsory licences may have the public interest in mind, but in effect may influence the presence of innovative companies that invest in research and development and do not want to risk being subjected to a compulsory licence, which would compromise their projected revenues in the jurisdiction. The lobby for the law cited social responsibility and the critical need for medicine in times of epidemics, as well as uncooperative patent owners. It remains to be seen what the outcome of the lawmaking efforts in Ukraine will be. They are meant to protect both the original manufacturer and allow for exceptions for generic drug companies to step in for the benefit of the public in extraordinary circumstances. **IPPro**

*The proposed bylaws in Ukraine may influence the presence of innovative companies that invest in research and development*



**Diana Portna**, Director of operations, D&L IP Group

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# Soar above your competition with Citation Eagle: A business-driven patent watch service

## Citation Eagle discovers and monitors customised opportunities

Patent citations can hold a lot of value and capture important information straight from the heart of the global patent system. With more than 1.5 billion records, growing daily, Citation Eagle can help a patent owner or patent attorney easily find those citations or reference documents that have actual business value, or pose a risk. Be it for licensing opportunities, negotiations, opposition or litigation procedures. Unlike traditional patent monitoring services, which often overwhelm users with quantity rather than quality of information, Citation Eagle was developed to focus alerts on growth opportunities or risks, checked against legal and business filters set by the user.

### What is a citation? A philosophical explanation

Citations refer to a list of references that are based on their similarity to a prior art document. A citation is the result of several hours of patent research by a patent examiner or another IP professional. The examiner considers the relevant prior art to decide whether the new invention is original based on its novelty and comparison to similar previous inventions.

### What makes citations the perfect basis for a watch service?

The objective of a watch service is to ensure you don't miss new patent applications that bear similarity to your own or your client's patent portfolio. Many watch services let you monitor companies, keywords, patent classes, or a combination of those. Patent citations benefit from the subject matter expertise of the examiner who provides context and meaning beyond general keywords and searches. The citations infer similarity between two patent documents regardless of what keywords or patent classes may have been used in the application. They will also direct the patent owner or patent attorney to the relevant patent document straight away.

### The challenge with citation watch services

Most patent attorneys or patent owners may receive automatic citation alerts from traditional watch services if their patent is cited. However, if you own or manage a reasonably sized patent portfolio, then you may end up receiving hundreds of citation alerts daily or weekly, which would need to be reviewed to find the ones that are worth following up for action. You may also have to search among multiple subscription based databases and maintain several spreadsheets, which can be a time consuming and expensive process. By the time you find the citations that matter, opposition deadlines may have been missed, or business decisions made without understanding or considering the alert information at all.

### Finding the citations that matter using smart filters

So how do you distinguish a real business opportunity among the hundreds of citations that arise each day? How do you make sure that you receive alerts well before the deadline for oppositions has passed? Citation Eagle is a new citation monitoring service that lets you easily discover and monitor customised opportunities from global patent citations by proprietor or responsible law firms. The Practice Insight team worked in cooperation with patent attorneys and licensing managers to ensure that Citation Eagle's smart filters are relevant to provide a high value information service.

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- Proprietor of Prior Art or New Case
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- Originator of Prior Art Case
- New Case Application Status
- Prior Art Legal Status
- Citation Level (x, y)
- Timeframe (last three months to last five years)

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By using the search filters that access more than 1.5 billion patent data sets, you can ensure that the alerts or reports you receive are the ones that matter. The business intelligence retrieved for each report or alert are delivered in a user friendly format. The information is ranked by organisations with the highest degree of overlapping citations, and flagging those opportunities with the highest impetus for action. The information highlights the available licensing opportunities, need for opposition proceedings or infringement/invalidity actions. Citation alerts provide enough detail to impress your internal and external clients. Patent owners or corporations can use Citation Eagle to discover new collaboration and licensing opportunities with organisations that have overlapping research and development interests, when drawing a report on historic citations. You can also download the results as a spreadsheet.

### And your clients

Patent attorneys can easily set up their own alerts to be notified about which of their high-profile clients may soon need their assistance with potential opposition proceedings or potential infringement/invalidity actions. You can streamline your portfolio monitoring and provide valuable advice about which of your clients' patents are worthy to be renewed. Patent attorneys can also ensure to be alerted to threats within the key timeframes of acceptance and grant periods by narrowing their alert filter with "originated by", "new case application status is accepted" and "citation type is highly relevant".

### Guiding business growth

While most organisations understand the 'insurance' value of a watch service, many feel deterred because of the sheer volume of information they provide. However, by not taking a closer look at what is being cited, organisations will miss key opportunities to establish new business revenue sources and in turn increase or protect their shareholder value. For example, patent owners and companies could look to license their technologies for use in adjacent industries.

By taking a closer look at your citations, you could transform your idle patent into one that could start producing thousands of dollars (if not more) in licensing royalties.

*Citation Eagle was developed by Practice Insight, creator of Filing Analytics. Visit [citationeagle.com](http://citationeagle.com) to register your interest.*



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# Industry Appointments

## **Alston & Bird has recruited intellectual property expert Paul Tanck.**

Tanck, who was previously chair of Chadbourne & Parke's IP group, has joined Alston & Bird's New York Office as partner.

His practice focuses mainly on patent litigation across a broad range of technologies, including industrial automation, intelligent control system software and IT.

Keith Broyles, co-leader of Alston & Bird's IP team said: "We are fortunate to add an attorney of Paul Tanck's calibre and leadership."

"Tanck's incredible track record handling commercially critical and legally complex patent litigations for industry leaders, combined with the big-picture view he brings to IP strategy will prove compelling to many of our clients."

Jamie Hutchinson, partner in charge of the firm's New York office, added: "Tanck's arrival is the latest example of how Alston & Bird invests in top talent in high-profile markets where we see a significant benefit to our clients."

"In the past six months alone, we have added six new partners in New York in bankruptcy and financial restructuring, litigation, investment management, and now IP."

## **McGuireWoods has added Steven Adkins to its IP and patent litigation department.**

Adkins has joined the firm's Washington DC office as partner. He focuses on IP infringement cases before the US International Trade Commission (ITC).

He has represented clients in 55 ITC investigations relating to a wide range of technologies and areas, including trademarks, patents and trade secrets.

Brian Riopelle, chair of the McGuireWoods IP and patent litigation department, said: "Steve Adkins significantly expands our capabilities in high-stakes investigations by the ITC, which has become a popular venue for disputes involving imported products."

"His track record representing global companies in these fast-paced and technically complex cases speaks for itself."

## **Rimon has added two IP partners to its Washington DC and New York offices.**

Marc Kaufman and Letao Qin have joined the firm as partner.

Kaufman previously worked at Reed Smith where he was partner and co-leader for the financial technology team.

His practice focuses mainly on patent strategy in the fintech space.

Michael Moradzadeh, CEO of Rimon, said: "Marc Kaufman is exactly the type of attorney we look to bring on board."

"He has developed a leading position as one of the top fintech attorneys in the country, and his knowledge of such next generation technologies like blockchain has led some of the key fintech players to search him out."

Qin is experienced in all aspects of IP prosecution, procurement and counselling, and previously worked at nuclear energy company Industrial Heat, where she was in-house counsel.

She has experience as an IP attorney at two boutique firms, focusing mainly on electrical and telecommunication technology.

Moradzadeh said: "Letao Qin's deep technical skills combined with her efficient approach to client service make her a perfect match for Rimon."

## **Allen & Overy has promoted European lawyers Frits Gerritzen and Peter Van Dyk to partner.**

Gerritzen, who is based in Amsterdam, joined Allen & Overy in 2012 and became counsel in 2014. Brussels-based Van Dyk joined Allen & Overy 13 years ago. These promotions follow the announcement earlier this year that Nicola Dagg would become the new head of the international IP group at Allen & Overy.



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