

[COMPILATION OF CHANGES IN TAIWAN PATENT ACT]

Taiwan Patent Act and its Enforcement Rules were enacted on May 29, 1944 and September 26, 1947, respectively, both effective from January 1, 1949. To meet the needs in Taiwan and comply with international practice, the Taiwan Patent Act was amended several times over the decades, and the latest 13th amendment was implemented and enforced on May 1, 2017. As these past amendments could be valuable references for government policy making, as well as academic study and research, Taiwan Intellectual Property Office (TIPO) has compiled the changes to chronicle the historical events and provided the compilation online. The following are some of the compiled amendments of Taiwan Patent Act.

January 1, 1949

- Stipulating the novelty and industrial utility requirements of patentability
- Setting the patent term as 15 years for an invention patent, 10 years for a utility model patent, and 5 years for a design patent from their respective filing date
- Addition of patent can be filed for granted invention patent within its patent right duration
- Stipulating that a co-owner must have the consent of the other co-owner when assigning his or her right to a third party
- Allowing foreign applicants to seek patent protection on the basis of reciprocity
- Adopting the first-to-file principle for patent application
- Unity invention requirement for each patent application
- Dual system for public contest including opposition and invalidation against the validity of a pre-grant patent and post-grant patent, respectively

April 16, 1979

- Adding the requirements of inventive step for patentability
- Changing the patent term in which 15 years for invention patent starting from publication but not exceeding 18 years from filing date, 10 years for utility model patent starting from publication but not exceeding 12 years from filing date, and 5 years for design patent starting from publication but not exceeding 6 years from filing date

December 24, 1986

- Medicines/pharmaceuticals and chemicals declared to be patentable matter
- Clarifying the patent right scope of product patent versus process patent

January 21, 1994

- Broadening patentable matter to include foods, beverages, new varieties of microorganisms, and new uses of existing product
- The necessity of microorganism deposition when seeking patent protection, unless the microorganism is readily obtained by a person skilled in the art

- Introduction of the international priority claim system
- Changing the patent term to 20 years for invention patent and 10 years for design patent from filing date, and the patent rights effective from publication date
- Extension of patent term can be filed for medicines, agriculture pharmaceuticals or their process related invention patent
- Deleting the aesthetic requirements of design patent

October 24, 2001

- Deleting the restrictions of priority right based on the nationality principle, so that a foreign applicant shall be entitled to claim priority if he/she has domicile in any member of WTO or in the territory of a reciprocal country with Taiwan
- Introducing the domestic priority claim system while abolishing patent of addition system
- Adopting 18-month laying open period and request for substantive examination for invention patent application (starting from October 26, 2002)

January 1, 2002

- Amending provisions to meet requirements for Taiwan's accession to WTO
- Allowing applicant from the countries/regions of WTO to claim priority of foreign basic application when filing Taiwan patent application
- Changing the patent protection term of design patent to 12 years from its filing date

March 31, 2003

- Deleting criminal penalties for infringement on utility model patent and design patent (to bring in line with the civil penalties for infringement on invention patent)

July 1, 2004

- Abolishing the pre-grant opposition system while retaining the post-grant invalidation system
- Adopting formality examination on utility model patent application and technical evaluation report system thereof, and changing the patent term of utility model patent to 10 years from its filing date
- Repealing the requirement of an oath from the inventor/creator when filing patent application
- Relaxing the payment of official filing fee for obtaining an effective filing date of patent application
- Expressly stipulating that the calculation of a time period shall not include its beginning date (except for the patent term which starts from the filing date of a patent application)

January 1, 2013

- Amending the applicable scope of a grace period to include the novelty and inventive step concepts, and to prior disclosure made by the applicant per se
- Repealing the requirement of an assignment (which was required if the patent applicant is not the inventor/creator) for patent application
- Separating claims and abstract from specification, and stipulating the requirements of application main file using foreign language for obtaining an effective filing date of patent application
- Relaxing the time period for voluntary amendment and setting also a final notice system to prevent delay of examination due to amendments made by applicant
- Reinstatement of rights for applicant who has unintentionally failed to claim priority at the time of filing patent application or not paid the annuity fee in time
- Divisional application can be filed within 30 days upon receipt of Notice of Allowance for invention patent application at the primary examination stage
- Amending the provisions for invalidation proceedings to include the bases to initiate

- revocation of all or partial claims, abolishment of *ex officio* revocation, etc.
- Stipulating provisions for exclusive or non-exclusive licensing and sub-licensing systems
 - Extending patentable matter of design to cover a partial design, computer icons and GUI, set of articles
 - Adopting derivative design system while abolishing associated design system
 - Adding provisions for patent filings of both invention and utility models by the same applicant on the same date in which the applicant must choose either one when the invention patent application is to be allowed (after the grant of utility model patent), and the utility model patent shall be deemed non-existing *ab initio* if the applicant has chosen invention patent application to be granted patent
 - Changing the payment of annuity fee within 6-month grace period to be based on a ratio of 20% per belated month

June 11, 2013

- Stipulating the calculation of damages claim for infringement not exceeding 3 times of proven loss
- Deleting the above provisions related to non-existent of utility model patent when choosing the grant of invention patent (to ensure the continuous right of patentee)
- Stipulating that the patentee shall not make a warning notice without presenting the technical evaluation report of a utility model patent

March 24, 2014

- Adding provisions related to border measure on the detention of products suspected of infringing patent rights

May 1, 2017

- Relaxing the provisions of grace period which include a 12-month period for invention/utility model application (6-month period for design application remains unchanged) and no limitation on the disclosure manner.

For the prevailing Taiwan Patent Act, TIPO has recently proposed a thorough amendment for public hearings. The proposed Patent Act amendment includes extending the time period from 12 to 14 months for the claim of priority right, relaxing the limitations on divisional applications, changing the patent term of a design patent from 12 to 15 years, and others.