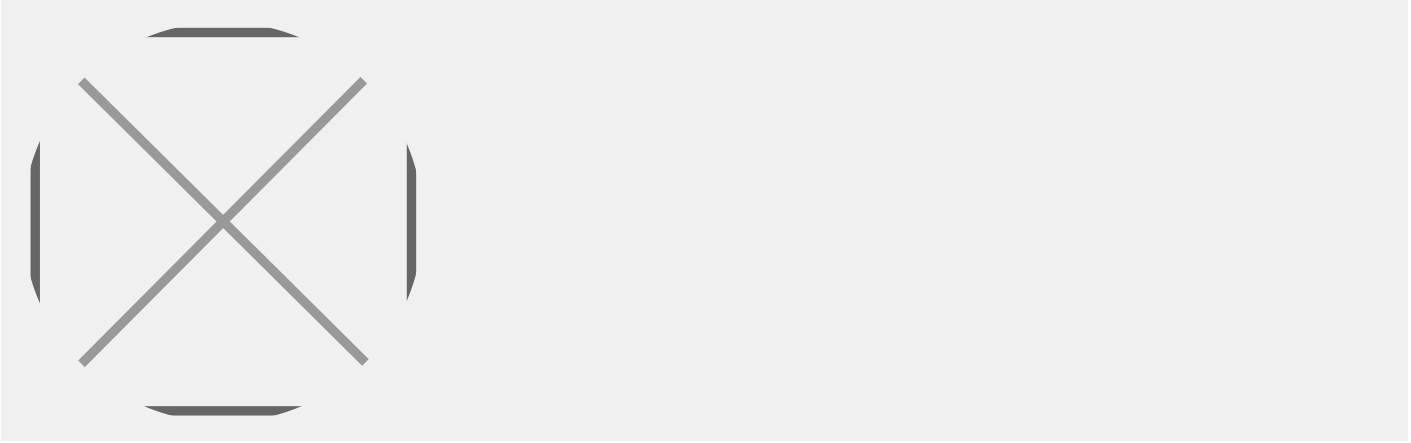
Interview with Mei-Hua Wang, , Taiwan Intellectual Property Office



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Tags: Taiwan Intellectual property Office

Please explain the factors that led to the creation of the Taiwan Intellectual Property Office, and its main activities today.

For the Taiwanese government, intellectual property (IP) rights are very important, as they are one of the key factors to attracting foreign investment. As a result, for a number of years we have focused on improving the overall IP environment in Taiwan. The Taiwan Intellectual Property Office (TIPO) was established in 1999 in order to centralise the government's efforts to improve IP regulation and enforcement.

TIPO's work breaks down into three categories. The first is concerned with improving the legal environment. TIPO is in charge of not only trademarks and patents, but also copyright issues, which is unique amongst IP agencies around the world. TIPO acts as the secretary office, coordinating customs, prosecutors and the department of education (to prevent piracy on-campus). In other words, TIPO's main role in the IP area is dealing with patent and trademark examination, copyright policy and coordination of IP enforcement. These are the four main targets in our office. In recent years we have amended Taiwan's patent law, trademark law and copyright law. In 2003 we instigated a major amendment to these laws, but this year we will again submit a patent law amendment to Taiwan's Legislative Yuan. In this amendment there are several articles that deal with issues faced by the pharmaceutical industry.

The second area of TIPO's main task force is examination in the patent and trademark area. In recent years we have received more than 80,000 patent applications annually, a huge number. But

due to our relatively small number of patent examiners our current main challenge has been to face the backlog of patent applications. Several years ago we reduced our number of external part-time patent examiners in order to increase quality, and today we are working very hard to build up the number of internal patent examiners we have in the office.

The third area is IP enforcement. There has been a marked improvement in Taiwan over the last few years, and last year the country was taken off the USTR Special 301 Report, which is a very positive response from the United States, and proves that they appreciate the efforts that we have done here to enhance IP protection.

In order to reach this level we have employed two special mechanisms. One is the IP police, who are responsible for IP issues only, which is quite unusual and very useful especially for foreign companies. The second mechanism is, Taiwan established a special IP court in 2008. The IP court is also only responsible for IP issues. On its creation, TIPO dispatched senior patent examiners to help judges deal with their technical patent issues. Before, judges only had a legal background in intellectual property, and not the technical background, but today the situation is much better.

How difficult has it been to create that environment where IP protection is respected and fully understood?

Taiwan's President and ministers fully understand that high IP protection is very important for attracting foreign investment so they asked TIPO to strengthen IP protection. Also, for the last ten years, Taiwan has faced pressure from both the US and Japan to take this action. Because Taiwan's main industries are focused on innovation and R&D, they know that if you want to internationalise your business, you must have a high quality patent and promote your trademark, so Taiwan also saw the need to change as a result of its industry. The country also sincerely wants to take care of this issue. Coordination and collaboration between agencies is very difficult, but by assuming this role TIPO understands that these things have to be done well.

So the creation of an IP aware culture in Taiwan not only comes from the government but also from civil society and from our key companies. All of them are working to educate people on why IP is important. That's why today at the USPTO, applications from Taiwanese companies or individuals rank number four globally.

What is the general situation for multinational companies in Taiwan today? What are their main issues and how do they feel about Taiwan for protection of intellectual property?

I think that the patent protection situation in Taiwan is highly regarded, because our current environment is quite close to developed countries. We are quite user-friendly, and in Taiwan in the pharmaceutical area, patent applications from foreign companies outnumber those from domestic companies by 9 to 1.

How will the upcoming amendment to the patent law you mentioned affect the pharmaceutical industry?

TIPO has submitted the draft of the patent law amendment to the Legislative Yuan. The amendment contains several articles relating to pharmaceutical issues, concerning both international issues and domestic ones. At the international level, 2 articles relate reflect to the Doha Declaration on certain public health issues. At the domestic level, articles relate to the fact that we recently had some pharmaceutical litigation in Taiwan, concerning multinational R&D companies who sued local companies over patent infringement. The issue was related to the issue of whether generic drug companies can begin clinical trials on their products before the expiration of the patent. The exemption of the clinical trials was only addressed in the Pharmaceutical Affairs Act and not in the Patent Act, while the article in the Pharmaceutical Affairs Act was very vague.

As a result, TIPO began talks with stakeholders of the pharmaceutical industries and other decision-makers about how to improve this situation. The conclusion was that we need to move such article into patent law, and so we started to amend the article. To do this, we examined the law of other countries – including the EU, the US, Japan and China, and finally we reach a very neutral stance on this article. The amendment allows generic drug companies to conduct clinical trials before the expiration of the patent rights. The R&D companies did not challenge this decision, but they asked for a stricter patent linkage mechanism in return. However, the patent linkage mechanism should be addressed in a Pharmaceutical Affairs Act rather than a Patent Act, so for now the matter is out of our hands.

The amendment also contains an article concerning patent term extension. Before, we have a 2 years threshold on the patent term extension application. But in the amendment, we delete such threshold.

The draft is now reviewed by the Legislative Yuan. We hope that the amendment will be concluded at the next session of the Legislative Yuan, and we hope we can implement the new law at the next year. Many R&D-based companies are looking forward to this new law.

Do you have a final message that you would like to send to our readers about Taiwan and the situation for IP here?

Now we are competing with many countries, especially with Mainland China, Taiwan needs to have a good IP protection environment, which will give us the power and the advantage to compete with other countries. This is happening today, and we have already achieved a great deal.

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