

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



**Patent Public Advisory Committee
Quarterly Meeting
Office of Policy and
International Affairs Update**

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UNITED STATES
PATENT AND TRADEMARK OFFICE



Topics To Be Discussed

- China Update
- ID5 Industrial Design Forum
- USPTO's Conference on Artificial Intelligence (AI)

China updates

- **Patent law amendments**
 - National People's Congress (NPC) issued new patent law amendments for public comment
- **Memorandum of Cooperation issued by the National Development and Reform Commission (NDRC) with 38 agencies**
 - Ties certain acts related to patent applications and infringement to China's social credit system
- **Judicial developments**
 - Establishment of national IP Appellate Court
- **Section 301 investigation and WTO case update**

New patent law amendments

- Issued by the National People's Congress this month for public comment; comments due on February 3, 2019
- Most significant changes from the previous December 2015 draft
 - New provision for patent term restoration due to marketing approval delays
 - Does not provide provision to pave the way for a patent linkage regime
 - Does not provide protection for partial designs
 - Further expansion of administrative patent enforcement
 - New provision to deal with online enforcement of patent infringing products
 - Enhanced statutory damages for patent infringement

Memorandum of Cooperation issued by the National Development and Reform Commission (NDRC)

- MOC issued by the NDRC on December 4, 2017, signed by 38 government agencies in joint effort to strengthen punishment of IP infringement
- Outlines six types of “dishonest conduct” and 38 disciplinary measures
 - Dishonest conduct includes repeated patent infringement, abnormal patent applications and providing false documents, and refusing to execute administrative decisions according to the law
 - Disciplinary measures include restricting the company’s access to financial tools, government resources, and access to social benefits and travel

Judicial developments

- **New National Appellate IP Court established within the Supreme People's Court (SPC) in Beijing**
 - Designated a pilot for now
 - Nationwide jurisdiction over appeals of patent and other complex technical IP cases
 - Jurisdiction: appeals of first-instance court decisions regarding invention or utility model patent, new plant varieties, integrated circuits layout designs, technical secrets computer software and anti-monopoly cases; appeals of administrative cases from the specialized IP courts
 - No jurisdiction over trademark, commercial secrets and non-software copyright cases, or IP related criminal cases (unless these cases also include anti-monopoly claims)
 - SPC's existing IP tribunal still remains – cases from new appellate IP court can be retried there

Growing need for industrial design forum

- Continued **growth** in **industrial design applications** across the world
- Greater **access to international industrial design protection** through the **Hague Agreement**
- Need for **greater convergence and consistency** in **policies and practices** from jurisdiction to jurisdiction

Launch of ID5

2015 ID5 was launched
at the USPTO

- EUIPO
 - JPO
 - KIPO
 - SIPO
 - USPTO
 - + WIPO (observer)
- } 90% of global
industrial
design filings

ID5 website: www.id-five.org



ID5 INDUSTRIAL DESIGN FORUM

The logo features the text "ID5" in a large, bold, blue font, with the "5" inside a red circle. To the right, "INDUSTRIAL DESIGN FORUM" is written in a smaller, blue, sans-serif font. Below the text is a world map composed of blue and red dots, with the red dots forming the outlines of the continents.



A row of five logos: the USPTO logo (a blue rectangle with "uspto" in white), the EUIPO logo (a blue circle with a yellow sun and stars), the JPO logo (a red and blue stylized "P" with stars), the KIPO logo (a black and red stylized "K" with a red arrow), and the SIPO logo (a blue and red stylized "S" with a red dot).

UNITED STATES PATENT AND TRADEMARK OFFICE
OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
STATE INTELLECTUAL PROPERTY OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA
KOREAN INTELLECTUAL PROPERTY OFFICE
JAPAN PATENT OFFICE

DECEMBER 3-4, 2015
UNITED STATES PATENT AND TRADEMARK OFFICE | ALEXANDRIA, VIRGINIA

USPTO strategic objective for ID5

- A **key mechanism** for implementing global best practices **benefiting U.S. innovative design applicants** by **effectively and efficiently protecting their designs across the globe**
 - Ensuring effective industrial design protection exists for designs in all technologies
 - Furthering consistency in design registration/examination policies and practices
 - Enhancing global efforts to identify the needs of the design community through stakeholder outreach and information sharing

2018 – Achievements & results

- **Electronic Priority Document Exchange (WIPO DAS)**
- **First of its kind comparative studies for users**
 - Eligibility
 - Grace period*
 - Partial design*
 - New Technological/Emerging Designs (GUI, icons, etc.)*
- **Improvements to global design system**
 - Japan - Grace period shift to 12 months
 - China – Enhanced consideration of partial design

2019 – What's Next at ID5?

- All five offices complete implementation of WIPO DAS*
- ID5 Joint Recommendation on Design Formality Practices (DLT)*
- **Additional project highlights:**
 - Analysis of underlying economic factors effect on design filings
 - 3-D printing and design
 - Admissibility of internet information as novelty defeating disclosures
 - Comparative study on design remedies (begins 2020)*

* USPTO conceived, proposed and led ID5 initiatives

Introduction

History

News

Events

Notifications

Sitemap



Projects

ID5 RECOMMENDED DESIGN PRACTICES

JPO USPTO

A finalized "ID5 Recommended Design

REMEDIES AND RELIEF FOR INDUSTRIAL DESIGN INFRINGEMENT

KIPO USPTO

The desired outcome of the study is to enhance

STUDY ON THE ADMISSIBILITY OF INTERNET INFORMATION AS LEGITIMATE DISCLOSURE FOR NOVELTY EXAMINATIONS

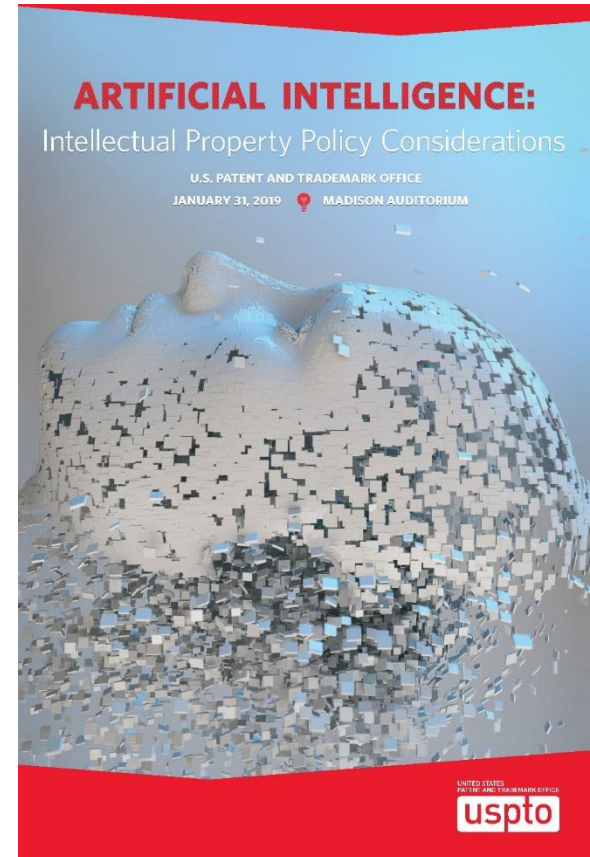
CNIPA JPO

To deepen mutual understanding of the

ID5 website:
www.id-five.org

USPTO AI Conference

- Six panels covered AI policy issues relating to patents, trade secrets, copyright, trademark, IP enforcement, and international perspectives
- Patent panel explored the following for AI inventions:
 - Desired scope of eligibility
 - Adequacy of written description/enablement
 - Inventorship
 - Assessment of the level of ordinary skill in the art
- Panels included speakers from corporations, governments, law firms, and academia



USPTO AI Conference

14 entities showcased exhibitions of their respective AI technologies during the conference

Booz | Allen | Hamilton®

corsearch™

entrupy



Google



TELES

ISONYM

Berkeley
ENGINEERING



PERCEPTION PARTNERS

Palantir

IBM

uspto

Questions and Comments

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