

January 26, 2007

To: Intellectual Property Office
Ministry of Economic Affairs
Republic of China

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Intellectual Property Committee
Japanese Chamber of Commerce and Industry, Taipei

Opinions on the Amendments to the Patent Act of the ROC

The Japan Intellectual Property Association (JIPA) is a non-profit, non-governmental intellectual property organization that was established in 1938, which counts more than 880 Japanese companies among its regular members. As a representative body of users of the intellectual property system, the JIPA makes recommendations and requests to relevant parties in regards to intellectual property systems within and outside Japan, as well as to improvements to the operation of these systems.

The Japanese Chamber of Commerce and Industry Taipei is a non-profit, non-governmental organization that was established in 1971, which has about 400 companies as members. The Intellectual Property Committee within the Chamber, acting on behalf of Japanese companies conducting business in Taiwan, makes recommendations and requests to relevant parties in regards to the intellectual property systems of Taiwan and improvements to the operation of these systems.

We would hereby like to present our opinions with regard to the amendments to the Patent Act that the Intellectual Property Office (TIPO) is currently overseeing. We would appreciate it if you could take these under consideration.

We take the view that the opinions shown below are of interest not only to foreign companies, including Japanese companies, but also to Taiwanese companies.

Opinion 1: Concerning the deletion of Article 102 and Article 114 (Conversion of

application) from the Patent Act

As we stated in JIPA's written opinion submitted to you on August 9, 2006, we disagree with the abolition of the application conversion system.

<Reasons>

The reasons for our disagreement therewith were stated in our previous written opinion; in the case where an application for a utility model patent is refused by reason of violation of Article 97(1)(i), there would be very few options open to the applicant to obtain a patent right if conversion of a utility model patent application into an invention patent application were not an option.

In addition, the application conversion system completely differs from the patent-utility model patent dual application system or the domestic priority system; therefore, even where the dual application system has been introduced and the domestic priority system continues to exist, there is still a need for the continuation of the application conversion system.

Opinion 2: Concerning the addition of a new clause, Article 107-1 (Revocation of utility model patent right *ex officio*) to the Patent Act

A plan is underway to introduce a new clause, in the form of Article 107-1, which is to allow the TIPO to revoke a utility model patent right *ex officio*, regardless of the intention of the parties concerned, without going through the proceedings for an invalidation action prescribed in Article 67(3) as applied *mutatis mutandis* pursuant to Article 108. As we stated in the JIPA's written opinion submitted to you on August 9, 2006, we disagree with this plan.

<Reasons>

The reasons for our disagreement therewith were stated in our previous written opinion (we also find a problem with Article 67(1) which provides that "an invention patent right shall be revoked...either by an invalidation action or *ex officio*," although this provision is not included in the coverage of the amendments currently under consideration.)