



MONGOLIA'S EXPERIENCE WITH LEGISLATIVE ASSISTANCE PROVIDED BY WIPO IN THE AREA OF INTELLECTUAL PROPERTY

Ms. Amarmurun Amartuvshin

Legal Policy Officer

Ministry of Justice and Home Affairs of Mongolia

/Secretary of the Working Group on Drafting the Patent law/

ᠮᠣᠩᠭᠣᠯ ᠤᠯᠤᠰ ᠶ᠋ᠢᠨ
ᠵᠠᠰᠭᠢᠨ ᠭᠠᠵᠠᠷ



Mongolia at a Glance



Population:
3.2 million;
GDP per capita:
USD 4009;

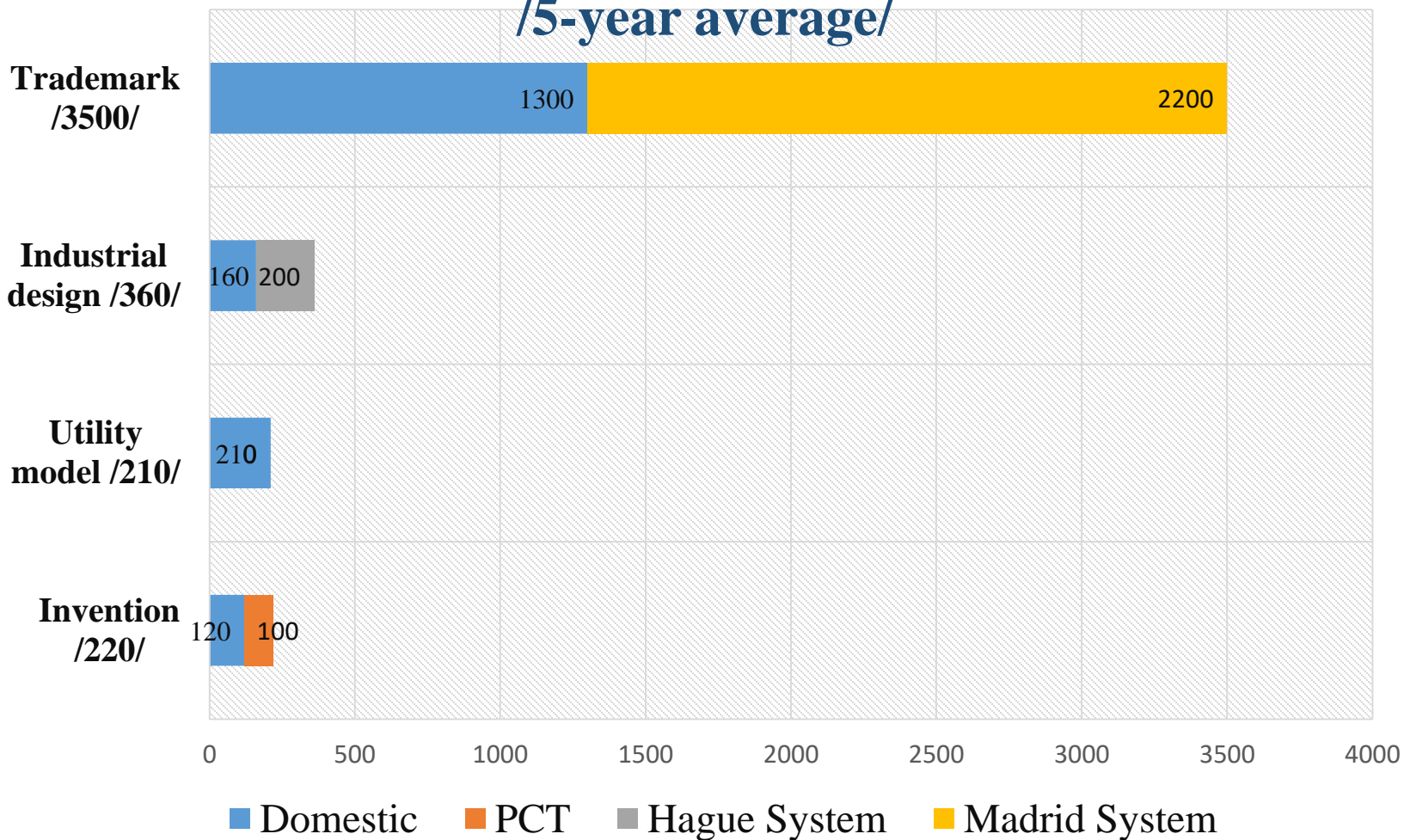
- 86.6% of export: mineral products;
- Civil law country;
- Legislative power: the Parliament;
- MPs, the President, the Government are entitled to propose bill;
- Mongolia joined WIPO in 1979;
- Party to 16 WIPO-administered treaties.

ᠮᠣᠩᠭᠣᠯ ᠤᠯᠤᠰ ᠶ᠋ᠢᠨ
ᠵᠠᠰᠭᠢᠨ ᠭᠠᠰᠠᠷ



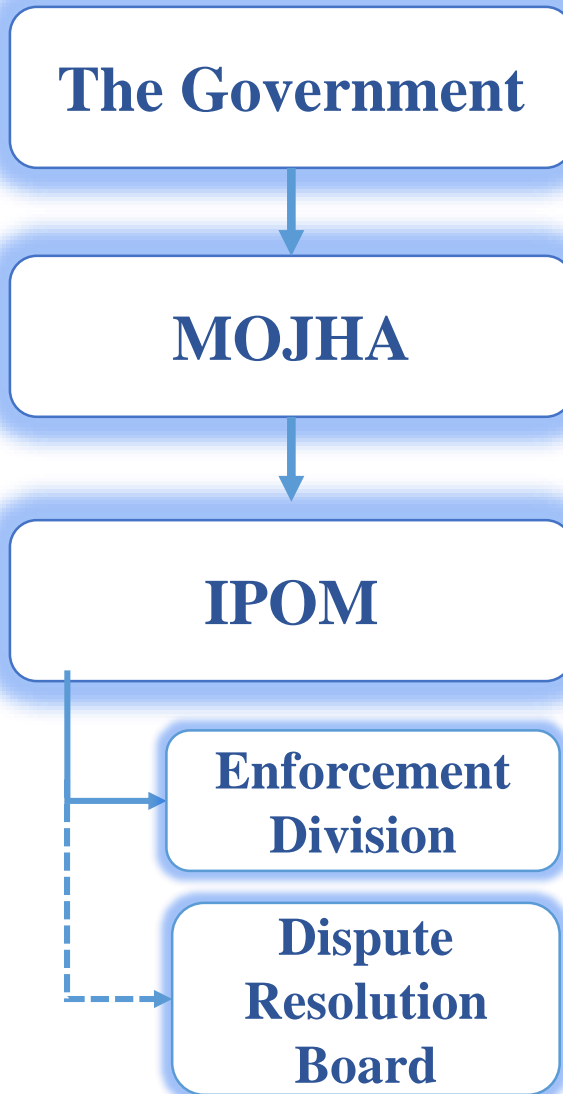
МОНГОЛ УЛСЫН
ЗАСГИЙН ГАЗАР

Number of Annual Applications /5-year average/





ᠮᠣᠩᠭᠣᠯ ᠤᠯᠤᠰ ᠶ᠋ᠢᠨ
ᠵᠠᠰᠭᠢᠨ ᠭᠠᠵᠠᠷ



Some roles of the IPOM are:

- Issuing patent, utility model and trademark certificates;
- Promote intellectual property rights;
- Inspect infringement;
- Resolve oppositions and disputes.



Legislations governing IP matters:

- Patent Law (2006);
- Law on Copyright and Related Rights (2006);
- Law on Trademarks and Geographical Indications (2010);
- Others.



Mongolia received comments by the WIPO Secretariat on:

- Draft Patent Law (2013);
- Draft Acts on Patents, Utility Models and Enforcement (2017);
- Draft Law on Industrial Designs (2017).

МОНГОЛ УЛСЫН
ЗАСГИЙН ГАЗАР



МОНГОЛ УЛСЫН
ЗАСГИЙН ГАЗАР

Progress with the Draft Bill

- Received legislative assistance from WIPO in 2017;
- Established working group on revising the Patent Law (in the MOJHA) and prepared first draft of the Law;
- Conducted assessments according to the Law on Legislation;
- Received feedback on the Bill from government organisations, NGOs, professionals;
- Submitted the Bill to the Government;
- To submit the Patent Bill to the Parliament.

Needs to Revise the Patent Law



МОНГОЛ УЛСЫН
ЗАСГИЙН ГАЗАР

Legal needs:

- Eliminate conflict, gap and duplication in the law;
- Implement international treaties and agreements to which Mongolia has become party.

Practical needs:

- Describe in more detail the procedure to grant patents;
- Make patent granting timeline more accurate.

ᠮᠣᠩᠭᠣᠯ ᠤᠯᠤᠰ ᠶ᠋ᠢᠨ
ᠵᠠᠰᠭᠢᠨ ᠭᠠᠵᠠᠷ

The Purpose of the Patent Bill



МОНГОЛ УЛСЫН
ЗАСГИЙН ГАЗАР

- **“... to govern the granting of patents for inventions, utility models, industrial designs;**
- **to protect exclusive rights of inventors and patent holders;**
- **to regulate the exploitation of patented inventions, utility models and industrial designs;**
- **and to encourage inventive activity and the development of the industry”.**

ᠮᠣᠩᠭᠣᠯ ᠤᠯᠤᠰ ᠶ᠋ᠢᠨ
ᠵᠠᠰᠭᠢᠨ ᠭᠠᠵᠠᠷ



Extent of the Revision of the Patent Law:

- Current Law: 6 chapters and 30 articles;
- Draft Law: 9 chapters and 60 articles.

Newly added Chapters are:

- Search and substantial examination;
- Industrial designs;
- International applications.

МОНГОЛ УЛСЫН
ЗАСГИЙН ГАЗАР



Features of the Patent Bill

1. revised definitions (*such as “creator”, “invention”, “utility model” and “industrial design”*);
2. differentiated requirements for inventions and utility models;
3. emphasized difference between *“formality examination”, “search” and “substantive examination”*;
4. substantive examination subject to request by the applicant (the applicant shall decide whether or not to proceed further after receiving a search report from IPOM);

МОНГОЛ УЛСЫН
ЗАСГИЙН ГАЗАР



Features of the Patent Bill

5. precisely defined timeline for the patent grant procedure;
6. separate provisions for industrial designs, inventions and utility models;
7. specific grounds for refusing to grant a patent and the procedure to appeal such a refusal;
8. possibility of amending applications and related documents during the patent grant procedure;
9. grace period and exhibition priority;

МОНГОЛ УЛСЫН
ЗАСГИЙН ГАЗАР



Features of the Patent Bill

10. more elaborate provisions on licensing;
11. extended terms of protection from the date of filing
 - 10 years for utility models
(*currently seven years*),
 - 15 years for industrial designs
(*currently 10 years*).

МОНГОЛ УЛСЫН
ЗАСГИЙН ГАЗАР



Mostly safeguarded by different laws:

- Law on Infringement (2017);
- Law on Infringement Procedure (2017);
- Law on State Inspection (2003);
- Criminal Code (2015);
- Law on Criminal Procedure (2015);
- Law on Civil Procedure (2002);
- Law on Customs (2008);
- Law on Competition (2010).



Included in the Bill:

- State Inspector /IPOM/
 - conduct IP inspections
- Dispute resolution Board /under IPOM/
 - resolves TM and patent disputes and oppositions



State Inspectors' Rights and Responsibilities

- During the inspection process, to stop any actions that violate the Patent Law and other relevant regulations,
- to confiscate documents and infringing articles,
- to request citizens, legal entities and officials to stop infringements and enforce this request;
- to decide whether to prohibit the sale of infringing products, to destroy them or to use them, where appropriate, for other purposes;
- to pronounce sanctions in conformity with the Law on Infringement.

ᠮᠣᠩᠭᠣᠯ ᠤᠯᠤᠰ ᠶ᠋ᠢᠨ
ᠵᠠᠰᠭᠢᠨ ᠭᠠᠵᠠᠷ



Major Problem

- Lack of coordinated efforts of customs, police, public prosecutors and the judiciary.
- IPOM acting on its own will not be able to eliminate IP infringements.
- Mongolia is therefore requesting WIPO's further support on building respect for IP to better enforce IP rights.

МОНГОЛ УЛСЫН
ЗАСГИЙН ГАЗАР



МОНГОЛ УЛСЫН
ЗАСГИЙН ГАЗАР

МОНГОЛ УЛСЫН ЗАСГИЙН ГАЗАР
ХУУЛЬ ЗҮЙ, ДОТООД ХЭРГИЙН ЯАМ

ᠮᠣᠩᠭᠣᠯ ᠤᠯᠤᠰ ᠤᠯᠤᠰ
ᠵᠠᠰᠭᠢᠢᠨ ᠭᠠᠵᠠᠷ

Thank you.