



INTELLECTUAL PROPERTY
OFFICE OF THE PHILIPPINES

28 February 2020

Mr. FRANCIS GURRY
Director General
World Intellectual Property Organization
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Dear **DG Gurry**:

This respectfully refers to the Circular Note C. 8940 dated 10 January 2020 requesting Member States to submit to the International Bureau of WIPO the following:

- A. Additional inputs for the preparation of the following documents:
- i. A draft reference document on the exception regarding prior use. The inputs may relate to, for example, relevant court cases, challenges faced by Member States in implementing the exception and the results of the national/regional implementation; and
 - ii. A document compiling information on patent law provisions and practices that contribute to effective transfer of technology.
- B. Updated information on:
- i. Certain aspects of the applicable national or regional patent law;
 - ii. National and regional laws on oppositions system and other administrative revocation and invalidation mechanisms;
 - iii. International sharing and collaborative activities for search and examination on patent applications; and
 - iv. Compilation of laws and practices regarding the scope of client attorney privilege and its applicability to patent advisors.

In this regard, we submit the following responses and updated information:

- A. i. A draft reference document on the exception regarding prior use. The inputs may relate to, for example, relevant court cases, challenges faced by Member States in implementing the exception and the results of the national/regional implementation.
- Kindly note that we have not received any cases to date.
- ii. A document compiling information on patent law provisions and practices that contribute to effective transfer of technology.

The Philippines recently passed three new laws to assist micro, small, and medium enterprises (MSMEs) and start-ups. These laws demonstrate that innovation is at the centre of the country's development policies:

a. **Republic Act No. 11293** , otherwise known as the Philippine Innovation Act (PIA), was signed into law on April 17, 2019. This law is mainly intended to generate and scale up action in all levels and areas of education, training, research and development towards promoting innovation and internationalization activities of MSMEs as drivers of sustainable and inclusive growth.

Under this law, the government shall adopt a broader view in developing its innovation goals and strategies covering all potential types and sources of innovation. The PIA established the National Innovation Council (NIC), an inter-agency committee to develop the state's innovation goals, priorities, and long-term national strategy.

The NIC is tasked to develop a National Innovation Agenda and Strategy Document (NIASD) to establish the country's vision and long-term goals for innovation and provide a road map and the strategies for improving innovation governance.

It is envisioned that through a startup MSME innovation development program, the government shall mobilize its various agencies to work hand in hand with private organizations to provide technical and/or financial support programs for the development training of entrepreneurs.

One of the notable programs under the PIA is the Innovation Fund, where grants will be issued to qualified entrepreneurs and enterprises that are engaged in developing innovative solutions benefiting the poor and the marginalized.

Specific to intellectual property, the PIA mandates the enforcement of the Intellectual Property Code of the Philippines (IP Code), as well as other relevant intellectual property legislations (e.g., E-Commerce Act, Technology Transfer Act, etc.), for the protection of the exclusive rights of scientists, inventors, and innovators to their intellectual property and creations. Further, the Intellectual Property Office of the Philippines (IPOPHL) is tasked to introduce reforms which seek to promote, streamline, and rationalize the registration of patents, trademarks, copyrights, industrial designs, and geographical indications among scientists, inventors, and innovators to ensure protection of innovation against misappropriation.

b. **Republic Act No. 11337**, otherwise known as the Innovative Startup Act (ISA) took effect on August 6, 2019. It is aimed to streamline government and non-government initiatives in both local and international spheres in order to create new jobs and opportunities, improve production, and advance innovation and trade in the Philippines. This law seeks to provide tax benefits to all registered startup companies in the Philippines.

The government agencies mandated to implement the programs, benefits, and incentives will include full or partial subsidies for the following: business documents processing costs; processing of claims with other government agencies; the use of facilities, office space, equipment, and services provided by government or private institutions; the use of repurposed government spaces and facilities; and grants-in-aid for research, development, training, and expansion projects.

c. Republic Act No. 11057, otherwise known as the Personal Property Security Act (PPSA) allows the use of personal property (including intellectual property rights) as collateral in securing loan obligations.

B. Updated information on:

- i. **Certain aspects of the applicable national or regional patent law**
 - a. **Revised Rules and Regulations on VOLUNTARY LICENSING**
(Memorandum Circular No. 2020-002), please find attached copy
 - b. **Amendments to the Rules and Regulations on INTER PARTES PROCEEDINGS**
(Memorandum Circular No. 2019-024), please find attached copy
- ii. **National and regional laws on oppositions system and other administrative revocation and invalidation mechanisms**

Kindly note that there are no updates on this subject matter.

Information on Rules of Procedure for IPOPHL Mediation Outside Litigation (Memorandum Circular No. 2019—006) was submitted on September 20, 2019 as a response to Circular Note C. 8893.

- iii. **International sharing and collaborative activities for search and examination of patent applications**

IPOPHL has been in collaboration with other patent offices through different partnerships, programs, trainings and seminars such as:

- Patent Prosecution Highway Program (PPH) since 2012 through bilateral partnerships with JPO, USPTO, KIPO and EPO;
- ASEAN Patent Examination Cooperation (Regional Worksharing for ASEAN IP Offices) since 2012;
- WIPO CASE since 2014;

- RPET Mentoring Program (RPEM) with the support of IP Australia, which commenced in June 2017; and
- Several Patent Search and Examination Trainings and Workshops in different/specialized fields of technology such as macromolecular chemistry, computer implemented inventions, mechatronics are being conducted by WIPO, USPTO, EPO, JPO, KIPO.

iv. **Compilation of laws and practices regarding the scope of client attorney privilege and its applicability to patent advisors**

Kindly note that there are no updates on this subject matter.

Please refer to IPOPHL's response to Circular Note C. 8728 dated March 9, 2018 posted at : scp.forum@wipo.int regarding the Scope of Client-Attorney Privileged covered in the relevant provisions of the Revised Penal Code (Article 29, as amended by RA 10951) and Article 21 of the Civil Code of the Philippines.

We appreciate this opportunity to provide and share our existing national patent laws and practices.

Thank you for the continued support and partnership.

Very truly yours,


ATTY. LOLIBETH R. MEDRANO
Director of Patents 