



**INTELLECTUAL PROPERTY AND INNOVATION:
CROSS-BORDER COOPERATION AMONG IP OFFICES**

COMMUNICATION FROM AUSTRALIA; CANADA; THE EUROPEAN UNION; HONG KONG, CHINA;
JAPAN; SINGAPORE; SWITZERLAND; THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU,
KINMEN AND MATSU; THE UNITED KINGDOM; AND THE UNITED STATES OF AMERICA

1 INTRODUCTION

1. The development of free trade systems and the evolution of information technology have increased the cross-border movement of information, people, services, goods, and monetary funds, and companies' economic activities have become increasingly globalized. From the perspective of industrial property¹, while the total number of patent applications filed by innovators worldwide was around one million in the 1990s, this number has been drastically increasing in various regions/countries in recent years and exceeded 3.4 million in 2021.² This increasing trend is also true for trademarks and designs, with a record 13.9 million trademark applications and 1.2 million design applications filed worldwide in 2021.³ In addition, the numbers of international applications/registrations under WIPO's PCT (patent), Madrid (trademark) and Hague (design) systems, as indicators of multilateral industrial property activities, reached record levels in 2021. Even in the midst of the economic downturn caused by the COVID-19 pandemic, businesses, creators and innovators have remained strongly engaged in industrial property-related activities, helping the world recover from the pandemic in a resilient manner.⁴

2. As is evident from the above trends in patent, trademark and design applications worldwide, the globalization of economic activities has led to increased demand for industrial property protection to provide legal certainty to businesses, and promote and facilitate trade and investment. It should also be noted that the industrial property protection supports international trade, and can lead to an increase in the levels of knowledge and information worldwide through the dissemination of intellectual information.

3. When seeking industrial property protection in various regions/countries, it is vital for applicants that there is an established environment in which they can obtain industrial property rights smoothly and predictably. Domestic intellectual property (IP) offices play an important role in ensuring an industrial property system suitable to effectively promote and protect industrial property rights, thereby encouraging the creation of inventions and designs, protecting business credibility in trademarks, and contributing to the development of each region/country's economy. International

¹ For the purposes of this paper, its scope focuses on patents, trademarks, and industrial designs.

² WIPO, World Intellectual Property Indicators 2022.

³ *Id.*

⁴ Innovative Activity Overcomes Pandemic Disruption - WIPO's Global Intellectual Property Filing Services Reach Record Levels, [WIPO, https://www.wipo.int/pressroom/en/articles/2022/article_0002.html](https://www.wipo.int/pressroom/en/articles/2022/article_0002.html)

"IP filing activity has grown during the global pandemic, even during the 2020 drop in worldwide economic growth. Innovative activity and globalized operations are increasingly central to many enterprises and are long-term commitments. [...] The strong uptake of international trademarks during 2021 shows how companies seized opportunities for introducing new goods and services as consumer demands shifted and the digitalization of economies accelerated amid the pandemic."

organizations such as the African Regional Intellectual Property Organization (ARIPO) and the African Intellectual Property Organization (OAPI) also facilitate cooperation in granting such rights.

4. It should be noted that industrial property systems are linked to the economic policies of each region/country, and under the principle of territoriality, the provided rights are only effective in that region/country. However, this does not mean that IP offices should only focus on the activities in their own jurisdictions. IP offices may also seek to cooperate toward enhancing legal certainty and predictability, and in turn support cross-border trade and investment, while respecting the sovereignty and flexibility that Members retain under the TRIPS Agreement. Therefore, by encouraging IP offices to improve their industrial property systems, and by fostering an environment that promotes certainty and predictability in the application process, the trade and investment environment in each region/country can be improved. This contributes not only to industrial property protection for right holders engaged in business activities, but also to regional economic development through increased direct investment. Cooperation among IP offices on a daily basis helps to create a cohesive, robust and coordinated global industrial property and business environment that improves the economic development of all countries.

2 COOPERATION IN TERMS OF INDUSTRIAL PROPERTY SYSTEM AND ITS OPERATION

5. The industrial property system is based on the principle of territoriality, which means the rights are independent from those protected by the laws of other regions or countries. Therefore, in accordance with the principle of territoriality, if applicants wish to obtain rights not only in their own region/country but also in other regions/countries, they are required to file applications to obtain rights with the IP offices of those regions/countries in accordance with their laws. As mentioned above, the industrial property system is linked to the economic policy of each region/country, and the legal systems and standards of judgment may differ as a reflection of such policies. From the viewpoint of applicants intending to develop their business globally, it would therefore be ideal if, for example, they are able to obtain the same scope of rights for the same invention in multiple regions/countries based on the same standards.

6. The harmonization of IP-office systems has been discussed in international organizations such as the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO), and cooperation among IP offices has also been developed to harmonize IP-office systems and procedures. Such harmonization may promote certainty and predictability, incentivize creation and innovation, and support trade and investment, including by reducing transaction costs such as for MSMEs. In addition, cooperative efforts to clarify and make transparent the differences among jurisdictions can support applicants, and thus help promote trade and investment.

7. In addition, in some cases, such as those occurring in the field of advanced technologies (e.g., Artificial Intelligence (AI) and the metaverse), it may not be clear how the existing industrial property system should be applied. In such cases, it can be very meaningful for IP offices of various regions/countries to discuss at the global level what form industrial property protection may take and how it can be implemented in this field, and to exchange national experiences and best practices on these emerging issues.

3 SUPPORT FOR A SMOOTH ENVIRONMENT FOR OBTAINING INDUSTRIAL PROPERTY RIGHTS

8. Since applicants may attempt to undertake procedures to obtain rights at the IP office of each region/country there may, in some cases, be a procedural duplication, such as the requirement to submit similar documents to multiple IP offices. In such cases, if this duplication can be eliminated, it will minimize the applicant's transaction costs and facilitate the application process. The international application systems and Digital Access Service (DAS) operated by WIPO are examples of such cooperative efforts. The DAS enables applicants to eliminate the need to submit certain documents in a physical format to multiple IP offices through electronic requests, which greatly reduces the transaction costs associated with application procedures.

9. Cooperation among IP offices, and particularly the sharing of search and examination products, can also help support the examination process. From the viewpoint of reducing the workload of each IP office and/or to improve its examination capacity, cooperation is also being implemented in many fields to create a mechanism to share search- and examination-related information among IP offices

to reduce the time required for the examination process, and enhance the quality of search and examination results, supporting an efficient, balanced industrial property system.⁵

10. In order to create such an environment to bring about a reduction in workload for applicants, it is desired to establish a global IT infrastructure to share information among IP offices as a base. Promoting the development of such an infrastructure is another effective form of cooperation that IP offices can work on together.

4 SUPPORT FOR DEVELOPMENT OF INDUSTRIAL PROPERTY SYSTEM AND CAPACITY FOR HUMAN RESOURCE DEVELOPMENT

11. In order for IP offices to ensure that only high-quality rights are granted, it is necessary for offices to conduct examinations according to their national laws and to ensure that examiners have sufficient practical skills and the ability to make consistent decisions that are compliant with national laws. If there is a lack of uniformity in decisions by examiners, in accordance with national law, and insufficient transparency in the processing of applications for industrial property rights, this can make the IP system less predictable and/or affect the quality of the resulting rights. Therefore, human resource support for IP offices that are seeking to improve the quality of industrial property rights granted in their jurisdiction can be an important factor in supporting trade and investment, as well as patent quality. Many IP offices, in addition to WIPO, provide training and various forms of support to other IP offices, and thereby IP offices around the world are growing together day by day. In addition to human resource support, support for infrastructure, including the establishment of IT systems necessary for examination, would contribute to strengthening examination capacity.

12. Human resource development does not solely contribute to the enhancement of examination capacity. IP offices also play an important role in promoting and raising awareness of industrial property systems in each region/country. For example, many IP offices are providing seminars and consultations to SMEs, universities and women that do not have sufficient knowledge of industrial property. The growth of IP offices as hubs will foster a large number of people becoming involved in industrial property fields, thereby creating an environment in which industrial property systems can be properly utilized.

13. With further regard to harmonization, IP offices can also support other IP offices in their accession to international treaties and their implementation. For example, through procedural treaties such as WIPO's PCT, Madrid, and Hague systems, it has become easier for applicants to file global applications in each member country and applicable region. If the IP offices are supported in improving how they operate their industrial property systems so that they can comply with these international treaties, leading to the increase of countries acceding to the treaties, it will therefore be easier for applicants to develop their global industrial property activities.

5 NON-EXHAUSTIVE LIST OF GUIDING QUESTIONS

14. The sharing of cooperative efforts among IP offices in each region and country will serve as a reference for each member to consider future policies and efforts in developing a more globalized industrial property system. In this regard, members are welcome to introduce and discuss cooperative efforts among IP offices from the following perspectives:

- a. What types of cooperation do IP offices in your region/country engage in?
- b. What are the benefits of cooperation between IP offices that you can share?
- c. What forms of cooperation among IP offices would directly benefit users of the industrial property system and would be most effective (not limited to the cooperation currently being undertaken)?
- d. Have there been any attempts at cooperation among IP offices that have not been successful or could be improved on? If so, why?

⁵ International Worksharing and Collaborative Activities for Search and Examination of Patent Applications, WIPO, <https://www.wipo.int/patents/en/topics/worksharing/>

- e. Are there any areas for improvement in the current cooperation efforts among IP offices, or are there any cooperative efforts that you intend to introduce in the future?
