Inputs from Member States and Regional Patent Offices to the Thirty-Eighth Session of the Standing Committee on the Law of Patents

Respondent Information

First Name:

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Last Name:

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Country:

Japan

IP Office

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Job title

Assistant Director

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Disclaimer:

The information provided in response to this questionnaire is understood to be submitted on behalf of the Member State or regional organization concerned, through its competent authority and in accordance with its applicable official internal procedures.
It is assumed that the person completing and submitting the questionnaire is duly authorized to do so and that the information reflects the official position or practice of the Member State or organization, to the extent possible.

I confirm that I have read and understood the statement above and that I agree with its contents.

i) Study on the determination of inventorship and conditions of foreign filing, with a view to identifying potential challenges for innovators in the cross-border collaborative environment

1. Which of the following does the applicable legal framework in your jurisdiction require before a patent application can be filed in another country or at a regional patent organization?

'First filing' or first domestic filing requirement (FDFR)

2. Please list the statutes or guidance documents that patent applicants in your country can consult to inform themselves of the foreign filing requirements and the procedure to follow.

Articles 78 and 79 of the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures (https://www.japaneselawtranslation.go.jp/en/laws/view/4523/je)
Japan Patent Office website (System for Non-Disclosure of Patent Applications | Japan Patent Office : https://www.jpo.go.jp/e/system/patent/shutugan/patent_applications.html

3. Please list the most important case law on foreign filing conditionality requirements, if any, with a brief summary of the main findings.

None

Do you have a digital copy of the case law that you could upload?

No

Please provide below the exact citation of the case law, or provide an online link to the case law.

None

4. What specific criteria will trigger the Foreign Filing Conditionality?

The place of invention;
The technical field or subject matter of the invention (e.g. atomic/nuclear, weaponry, arms, ammunition, blasting, surveillance, cryptology etc.);

Please provide any further details on the scope of the specific criteria applicable in your jurisdiction.

- the place of invention;
An invention made in Japan.

- the technical field or subject matter of the invention;
An invention belonging to a specified technology field provided by Cabinet Order in accordance with an international patent classification or a classification divided in accordance to it that could include an invention that would be highly likely to create a situation that undermines the security of the State and its citizens through actions taken from the outside if made known to the public (in cases when the invention belongs to a specific technology field provided by Cabinet Order as a technology field that is found to have a significant impact on the development of industry if a security designation is made, limited to inventions that fall under the requirements provided by Cabinet Order).

5. Does your law allow for a deemed license or automatic approval, if the Office does not act or respond within a specific time period?

Yes

What is that period?

If the notification that the documents have been sent to the Cabinet Office has not been made within three months from the day of the relevant patent application.

6. Does your jurisdiction's patent law provide for the imposition of a "Secrecy Order" (or other similar national security restrictions) that prohibits or restricts an applicant from filing for patent protection in other jurisdictions?

Yes

What is the nature/impact of this restriction regarding foreign filing?

Not under the Patent Act, but Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures provides for "Security Designation" (Article 70(1)).
In principle, the foreign application is prohibited.

7. Please cite, if available, any official studies, policy documents, or reports which highlight the working of the foreign filing requirements in your jurisdiction.

None

Final review before submission

Confirmation of submission

I am aware that by clicking "Submit" below, my responses will be sent to the SCP Secretariat.