

Intellectual Property Court Organization Act

Promulgated on March 28,
2007 by Presidential Order
Hwa-Tzong-1-Yi-Tze
No. 09600035701

Chapter One – General Provisions

- Article 1 This Act is enacted to protect intellectual property rights, properly handle intellectual property cases, and further the nation's technological and economic development.
- Article 2 The Intellectual Property Court Act shall govern matters in relation to civil, criminal and administrative actions over intellectual property.
- Article 3 Jurisdiction of the Intellectual Property Court includes the following:
1. First instance and second instance of a civil action for the protection of intellectual property rights and interests arising under the Patent Act, Trademark Act, Copyright Act, Optical Disk Act, Regulations Governing the Protection of Integrated Circuits Configuration, Species of Plants and Seedling Act, or Fair Trade Act.
 2. Offenses under Articles 253 through 255, and Article 317 and 318 of the Criminal Code; violation of the Trademark Act or Copyright Act, or Paragraph 1, Article 35 of the Fair Trade Act concerning offences under Paragraph 1, Article 20, or Article 36 of the Fair Trade Act concerning offenses under Subparagraph 5,

Article 19; and appeal of the first instance decision of a criminal action rendered by a district court in an ordinary, summary, or settlement proceeding. Criminal actions involving juveniles shall be excluded.

3. First instance of an administrative action and compulsory enforcement action concerning intellectual property rights arising under the Patent Act, Trademark Act, Copyright Act, Optical Disk Act, Regulations Governing the Protection of Integrated Circuits Configuration, Species of Plants and Seedling Act, or Fair Trade Act.

4. Other cases prescribed by law or determined by the Judicial Yuan to be within the jurisdiction of the Intellectual Property Court.

Article 4 The Judicial Yuan shall determine the location of the Intellectual Property Court.

The Judicial Yuan may set up additional branches of the Intellectual Property Court based on geographic need and the docket load.

Article 5 The type and the required number of personnel for the Taiwan High Prosecutors Office, Intellectual Property Branch shall be set up as the counterpart of the Intellectual Property Court in accordance with the Schedule.

Article 6 First instance civil action and summary administrative action shall be tried by one judge. Second instance appeals in civil and criminal actions, and ordinary administrative actions shall be tried by a panel of three judges.

In a collegial panel, the Division Chief Judge shall be the

Presiding Judge; in the absence of the Division Chief Judge, the most senior judge, or the eldest if the judges are of the same seniority, shall act as the Presiding Judge.

In a one-judge trial, the sitting judge shall act and perform duties as the Presiding Judge.

Article 7 The type and the required number of personnel of the Intellectual Property Court or a branch thereof shall be determined in accordance with the Schedule.

The Judicial Yuan shall prescribe the rules governing the types and changes thereof concerning the Intellectual Property Court or a branch thereof.

Article 8 The Intellectual Property Court shall have one President, to be served by a Judge with a selection rank between the 13th and 14th grade, in charge of the court's overall administration.

The President of the Intellectual Property Court shall have the leadership and qualification of a Supreme Court Judge, Supreme Administrative Court Judge, or Supreme Court Prosecutor.

Article 9 The number of divisions required in the Intellectual Property Court shall be decided based upon the docket load; a special division may be set up when necessary.

Each division shall have one Division Chief Judge, with a selection rank between the 11th and 13th grade. The Division Chief Judge shall oversee the divisional affairs, may also serve as the President, or may be selected from the rest of the judges.

Article 10 Judges of the Intellectual Property Court shall have a selection rank between the 10th and 11th grade, or recommendation rank

of the 9th grade; judges on probation shall have a recommendation rank between the 7th and 9th grade.

Judges who have served on the Intellectual Property Court for over two years may be promoted to a selection rank between the 12th and 14th grade.

When transferred to a district court or a branch court to be the President or Division Chief Judge, Judges who have served on the Intellectual Property Court for over two years may be promoted to a selection rank between the 12th and 14th grade.

To determine the seniority of judges referred to in the preceding two paragraphs, years of service at the Intellectual Property Court shall be combined with those at the High Court, High Administrative Court or High Court Prosecutors Office.

To assist with the management of trial proceedings, clarification of disputes, collection of information, offering of analysis and drafting of judgments, the Judicial Yuan, when necessary, may transfer judges on probation or substitute judges from the District Court or a branch thereof to the Intellectual Property Court.

The years that a judge on probation or substitute judge has served on the Intellectual Property Court shall be counted toward his seniority.

The Intellectual Property Court shall have Assistants to Judge. An Assistant to Judge is to be recruited in accordance with the applicable laws or transferred from other courts, administrative courts, or other appropriate agencies. An Assistant to Judge shall support a Judge in the management of trial proceedings, clarification of disputes, collection of information and offering of analysis.

For those who have been admitted to the profession and

recruited as an Assistant to Judge, his service years as an Assistant to Judge shall be counted toward his seniority of practice.

The Judicial Yuan shall prescribe rules governing the recruitment and the transfer of Assistants to Judge.

Article 11 The Intellectual Property Court may set up an enforcement bureau to administer matters concerning enforcement, or request the enforcement bureau of the Civil Division of a ordinary court or an administrative agency to administer enforcement matters on its behalf.

The enforcement bureau shall have a Judicial Affairs Officer with a recommendation rank between the 7th and 9th grade. If there are more than two Judicial Affairs Officers, the Intellectual Property Court shall select one of the Judicial Affairs Officers to be the Chief Judicial Affairs Officer where he shall have a recommendation rank of the 9th grade or selection rank of the 10th grade.

Article 12 The Intellectual Property Court shall set up a Public Defender's Office. The Public Defender shall have a selection rank between the 10th and 11th grade, or recommendation rank of the 9th grade. If there are more than two Public Defenders, the Intellectual Property Court shall select one of the Public Defenders to be the Chief Public Defender where he shall have a selection rank between the 10th and 12th grade.

Chapter Two – Qualifications of Judges

Article 13 Judge of the Intellectual Property Court shall satisfy one of the criteria set forth below, to qualify for the position:

1. Has served as a judge on the Intellectual Property Court;
2. Has served as a tenure judge or tenure prosecutor for over two years, or has been a judge or prosecutor for over five years and been in public service of a recommendation rank for over ten years in total.
3. Has been admitted to the bar and served as a practicing attorney for over 12 years, during which he has specifically handled intellectual property cases as an attorney for over eight years with good track record;
4. Has been a full time professor, associate professor or assistant professor at a university or a college recognized by the Ministry of Education for over eight years, and has lectured on intellectual property law courses for over five years, and has specialized publication.
5. Has been a research fellow, associate research fellow or research assistant at Academia Sinica for over eight years, and has specialized publication on intellectual property law.
6. Graduated from a public or a private, independent university, college or any graduate school recognized by the Ministry of Education, is or was in public service with a selection rank, and has handled reviews, pleadings or legal proceedings in connection with intellectual properties for over ten years in total.

The Judicial Yuan shall set up a Selection Committee to administer the selection of candidates who possess the qualification set forth in Subparagraph 2 of the preceding paragraph. Before a candidate reports for duty, he shall receive on-the-job training on the Patent Act, Trademark Act,

Copyright Act or other applicable law and technology. The Judicial Yuan shall prescribe the rules governing the on-the-job training courses and the organization and selection process of the Selection Committee.

After passing the reviews of the Review and Admission Committee set up by the Judicial Yuan, candidates who possess the qualifications set forth in Subparagraphs 3 to 6 in the first paragraph shall receive pre-job training concerning the Administrative Law, Code of Administrative Procedure, Patent Act, Trademark Act, Copyright Act, Civil Code, Criminal Code and other relevant laws. The candidate shall not report for duty until he passes the examination of the training. The Judicial Yuan shall prescribe the rules governing the pre-job training courses and the organization, review and admission criteria of the Review and Admission Committee.

Article 14 Selection and review of Judges of the Intellectual Property Court shall take into account the candidates' ethics, experience, and discipline in the legal profession.

The Judicial Yuan shall conduct on-the-job training for personnel of the Intellectual Property Court every year to promote legal professionalism and improve their judicative quality.

Chapter Three – Appointment of Technical Examination Officers

Article 15 The Intellectual Property Court shall have a Technical Examination Officers' Office, which shall consist of Technical Examination Officers with a recommendation rank between the 8th and 9th grade, half of whom may have a selection rank of the

10th grade. If there are more than two Technical Examination Officers, the Technical Examination Officers' Office shall have a Chief Technical Examination Officer with a selection rank between the 10th and 11th grade. If required by the docket load, the Intellectual Property Court may recruit, in accordance with the applicable laws, professionals from various industries as Technical Examination Officers. The number of recruits shall depend on the adjustment, if any, of the prescribed number of Technical Examination Officers. The Judicial Yuan shall prescribe the rules governing such recruitment.

The Technical Examination Officers' Office may be divided into teams if required by the docket load, the leader of each team shall be a Technical Examination Officer with no particular ranking.

The Judicial Yuan may transfer professionals with expertise in intellectual properties or specific technologies to serve as Technical Examination Officers, and shall prescribe the rules governing such transfer.

Pursuant to the Judge's instruction, Technical Examination Officers shall collect technical information as well as provide evaluation, advice and analysis on technologies. In accordance with the applicable laws, a Technical Examination Officer may participate in trial proceedings.

Article 16 A Technical Examination Officer of the Intellectual Property Court shall satisfy one of the criteria set forth below, to qualify for the position:

1. Has served as a Patent Examiner or Trademark Examiner for over three years in total with good track record; or has graduated with a Master's Degree or above from a graduate school of a public or private university or an independent college, or a foreign college or independent institute

recognized by the Ministry of Education, and served as a Patent Examiner or Trademark Examiner or Assistant Examiner for over six years in total with good track record; or has graduated with a diploma in a relevant field from a public or private college or a foreign college recognized by the Ministry of Education, and served as a Patent Examiner or Trademark Examiner or Assistant Examiner for over eight years in total with good track record; or

2. Is or was a lecturer in a relevant program of a public or private university or independent college for over six years in total, or an assistant professor, associate professor, or professor for over three years in total, or a research fellow at a public or a private professional research institute for over six years, and has specialized publications on intellectual properties with proof.

With respect to the qualification of a Technical Examination Officer referred to in Subparagraph 1 of the preceding paragraph, the seniority as a Patent Examiner or Trademark Examiner prior to the promulgation of the Statutes on Patent Examiners and Statutes on Trademark Examiners may be regarded and counted toward the seniority as the Technical Examination Officer described in the first paragraph.

“Good track record” in Subparagraph 1 of the first paragraph shall mean a record of at least two As and one B on the merit system in the past three years, with no criminal sentence, corrective measure or a demerit on the daily performance merit system, and shall be supported by documents issued by the relevant institutions.

Chapter Four – Appointment of Clerks, Aides and Other Personnel

Article 17 The Intellectual Property Court shall set up a Department of Clerks, which shall consist of a Chief Clerk with a recommendation rank of the 9th grade to a selection rank of 11th grade, to take charge of administrative affairs according to the instruction of the President; 1st Clerks with a recommendation rank between the 8th and 9th grade; 2nd Clerks with a recommendation rank between the 6th and 7th grade; and 3rd Clerks with an elementary rank between the 4th and 5th grade. Clerks shall be responsible for recordation, secretarial, research and evaluation, administrative, information and litigation assistance affairs. The Department of Clerks may be divided into sections and units. The Section Chief shall be served by the 1st Clerk, and the Unit Chief by either 1st Clerk or 2nd Clerk.

The total number of 1st and 2nd Clerks in the preceding paragraph combined shall not exceed half of the total number of 1st, 2nd and 3rd Clerks in the same Intellectual Property Court.

Article 18 The Intellectual Property Court shall set up a Lodgment Office, which shall consist of a Chief Lodgment Officer and his Assistants. The Chief Lodgment Officer shall have a selection rank of the 10th grade; the Assistants shall have an elementary rank between the 4th and 5th grade, half of whom may have a recommendation rank of the 6th grade.

Article 19 The Intellectual Property Court shall have 1st Interpreters with a recommendation rank between the 8th and 9th grade; 2nd Interpreters with a recommendation rank between the 6th and 7th grade; 3rd Interpreters with an elementary rank between the 4th and 5th grade; Technical Specialists with an elementary rank of the 5th grade or a recommendation rank between the 6th and 7th grade; Process servers with an elementary rank between the 3rd and 5th grade; and Assistants Clerks and Court Attendants with an elementary rank between the 1st and 3rd grade.

The number of 1st and 2nd Interpreters in the preceding paragraph shall not exceed half of the total number of 1st, 2nd and 3rd Interpreters in the same Intellectual Property Court.

If required by trial, the Intellectual Property Court may recruit specially arranged interpreters on a case-by-case basis. The Judicial Yuan shall prescribe the rules governing such recruitment.

Article 20 For court monitoring, security, escort of fugitives, and judicial police matters, the Intellectual Property Court shall recruit Bailiffs: a Chief Bailiff shall have an elementary rank of the 5th grade or a recommendation rank between the 6th and 7th grade; a Deputy Bailiff shall have an elementary rank between the 4th to 5th grade or a recommendation rank of the 6th grade; and Bailiffs shall have an elementary rank between the 3rd and 5th grade.

Article 21 The Intellectual Property Court shall set up a Personnel Office, which shall consist of a Chief Personnel Officer with a recommendation rank of the 9th grade to selection rank of the 10th grade; and Personnel Officers with an elementary rank of the 5th grade or a recommendation rank between the 6th and 7th grade. The Chief Personnel Officer and the Personnel Officers shall administer personnel matters pursuant to law.

Article 22 The Intellectual Property Court shall set up an Accounting Office and a Statistics Office consisting of a Chief Accounting Officer and a Chief Statistics Officer respectively. Both shall have a recommendation rank of the 9th grade to a selection rank of 10th grade. The two offices may recruit Accounting Officers and Statistics Officers with an elementary rank of the 5th grade or a recommendation rank between the 6th and 7th grade. Such Officers shall administer matters relating to annual calculation,

accounting, and statistics pursuant to law.

Article 23 The Intellectual Property Court shall set up an Ethics Office, which shall consist of a Chief Ethics Officer with a recommendation rank of the 9th grade to a selection rank of the 10th grade; and Ethics Officers who shall have an elementary rank of the 5th grade or a recommendation rank between the 6th and 7th grade. The Chief Ethics Officer and the Ethics Officers shall administer matters relating to public service ethics pursuant to law.

Article 24 The Intellectual Property Court shall set up an Information Office, which shall consist of a Chief Information Officer with a recommendation rank of the 9th grade to a selection rank of the 10th grade; Programmers and Management Information System Officers, all with a recommendation rank between the 6th and 8th grade; and Assistant Programmers with an elementary rank between the 4th and 5th grade or a recommendation rank of the 6th grade. Information Office personnel shall administer matters related to information technology.

The number of Assistant Programmers with a recommendation rank in the preceding paragraph shall not exceed half of the total number of Assisting Programmers in the same Intellectual Property Court.

Chapter Five – Judicial Year and Allocation of Assignments

Article 25 A judicial year shall start on January 1 and end on December

31 of a year.

Article 26 The Judicial Yuan shall prescribe the administrative procedures and rules for the Intellectual Property Court.

Article 27 Before the end of a judicial year, the Intellectual Property Court shall hold a meeting of the President, the Division Chief Judge and the Judges, who shall decide on the allocation of judicial assignments and the order of rotation for the following judicial year in accordance with the administrative procedures and applicable laws.

In the meeting in the preceding paragraph shall be decided the sitting sequence of the judges in collegial trials in the following judicial year.

Article 28 The President shall act as moderator of the meeting described in the preceding article, and resolutions of the meeting shall be passed with a majority votes. The moderator may decide whether a resolution shall be passed in case of a tie.

Article 29 If because of an increase/decrease of the number of Judges or other reasons, an adjustment is required to the already decided allocation of assignments, order of rotation, and sitting sequence of judges in collegial trials, the President may make a decision regarding the adjustment after consulting with the Division Chief Judge and the Judges.

Chapter Six – Commencement and Closure of Trials; Court Order

Article 30 Unless otherwise prescribed by law, trials of the Intellectual Property Court shall be held within court.

The Judicial Yuan shall prescribe the rules governing court seats and auditing matters.

Article 31 If necessary, the Intellectual Property Court may hold a temporary trial at a designated location of its jurisdiction.

The Judicial Yuan shall prescribe the rules governing the temporary trial in the preceding paragraph.

Article 32 The Presiding Judge shall have the authority to direct the commencement, closure, and proceeding of a trial.

Article 33 The Presiding Judge shall have the authority to maintain court order in a trial.

Article 34 The Presiding Judge may bar a person who is obstructing a court order or engaging in other inappropriate behavior from entering the courtroom, or order such person to leave the courtroom. If necessary, the Presiding Judge may arrange to have the person detained until the court session is adjourned.

An order given pursuant to the preceding paragraph shall not be appealed.

The provision in the preceding two paragraphs shall apply where the Presiding Judge is performing duties outside of court.

Article 35 In the event an agent *ad litem* or a defender acts or speaks inappropriately during the course of a trial, the Presiding Judge

may give warnings or restrain him from representation on the trial day.

Article 36 When giving an order pursuant to the preceding two articles, the Presiding Judge shall provide grounds in the record.

Article 37 Rules governing the Presiding Judge shall also apply to the Commissioned Judge or Assigned Judge.

Article 38 Anyone who violates an order given by the Presiding Judge, Commissioned Judge or Assigned Judge intending to maintain court order, thereby obstructing the court proceeding, and continues to refuse to comply upon warning, shall be subject to imprisonment not more than three months, detention and, in addition thereto or in lieu thereof, a fine not more than NT\$9,000.

Chapter Seven –Supervision over Judicial Administration

Article 39 Administrative supervision of the Intellectual Property Court is as follows:

1. The Judicial Yuan President shall supervise the Intellectual Property Court and all branches thereof.
2. The Intellectual Property Court President shall supervise his court and all branches thereof.

Article 40 Bodies with the supervisory powers in the preceding article

may impose the following restrictions:

1. give orders that bring the subjects, attention to their duties;
2. impose penalty or corrective measures according to the law on subjects performing poorly, committing *ultra vires* or misbehaving.

Article 41 Provisions in Chapter Seven shall not affect the independence of the exercise of judicial powers.

Chapter Eight – Supplementary Provisions

Article 42 Decisions given by the Intellectual Property Court shall be subject to the terms prescribed by the Judicial Yuan.

Article 43 No judgment of the Intellectual Property Court or any branch thereof that involves the trade secrets of a party or third party shall be disclosed.

Article 44 Issues not addressed herein shall be governed by the Court Organization Act and other applicable laws.

Article 45 This Act shall come into effect on a date to be prescribed by the Judicial Yuan.

**Schedule to Article 5 of the Intellectual Property Court
Organization Act**

**Taiwan High Prosecutors Office Intellectual Property Branch
Number of Personnel List**

Title	Number of Personnel
Chief Prosecutor	1
Head Prosecutor	2
Prosecutor	12
Prosecutor's Investigator	6
Clerk	6
Bailiff	3
Total	30

Remarks:

1. Taiwan High Prosecutors Office Intellectual Property Branch does not have sections for the time being.
2. The Chief Prosecutor of Taiwan High Prosecutors Office or a branch thereof may also serve as the Chief Prosecutor of Taiwan High Prosecutors Office Intellectual Property Branch.
3. Taiwan High Prosecutors Office or a branch thereof may spare its existing manpower to administer full-time or part-time matters concerning personnel, accounting, statistics, civil service ethics, general affairs, documentation, research and evaluation, and information management in the Intellectual Property Branch. Therefore, those positions do not appear on the Number of Personnel List.
4. People on the Number of Personnel List shall be transferred from the existing Prosecutors Offices.

**Schedule to Article 7 of the Intellectual Property Court
Organization Act**

**Number of Personnel List for the Intellectual Property Court and
Branches**

Type of Court No. of Personnel		First Type	Second Type	Third Type
		1	1	1
President		20~40	10~20	5~10
Division Chief Judge		40~80	20~40	10~20
Judge		60~120	30~60	15~30
Assistant to Judge		5~8	3~5	0~3
Judicial Affairs Officer		2~4	1~2	1
Public Defender		52~104	26~52	13~26
Technical Examination Officer		1	1	1
Chief Clerk		68~128	38~68	19~38
Lodgment Office	1 st , 2 nd and 3 rd Clerks	1	1	1
	Chief Lodgment Officer	1~2	0	0
Personnel Office	Assistant	1	1	1
	Chief Personnel Officer	8~16	4~8	2~4
Accounting Office	Personnel Officer	1	1	1
	Chief Accounting Officer	8~16	4~8	2~4
Statistics Office	Accounting Officer	1	1	1
	Chief Statistics Officer	8~16	4~8	2~4
Statistics Office	Statistics Officer	1	1	1
	Chief Statistics Officer	8~16	4~8	2~4

Ethics Office	Chief Ethics Officer	1	1	1
	Ethics Officer	4~8	2~4	1~2
Information Office	Chief Information Officer	1	1	1
	Programmer	1	1	1
	MIS Officer	1~2	1	1
	Assistant Programmer	4~5	3~4	1~2
	1 st , 2 nd and 3 rd Interpreters	20~40	10~20	5~10
Chief Bailiff	1	1	1	
Deputy Chief Bailiff	1~2	1	1	
Bailiff	45~89	24~44	14~23	
Process-server	4~6	3~4	2~3	
Assistant Clerk	65~122	32~67	17~33	
Court Attendant	9~17	6~9	4~6	
Technical Specialist	1	0	0	
Total	436~836	232~435	125~231	

Remarks:

The Intellectual Property Court shall be annually regarded as the first-type court if it handles over 10,000 cases; second-type if it handles over 5,000 but less than 10,000 cases; and third type if it handles less than 5,000 cases.

