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OVERVIEW OF THE GUIDE ON USING INVENTIONS IN THE PUBLIC DOMAIN: A GUIDE FOR INVENTORS AND ENTREPRENEURS

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1. The Annex to this document contains an Overview of the Guide on Using Inventions in the Public Domain: a Guide for Inventors and Entrepreneurs, developed in the context of the project on Use of Information in the Public Domain for Economic Development (document CDIP/16/4 Rev.). The Overview of the Guide describes the purpose and framework for the guide, and defines its scope.

2. *The CDIP is invited to take note of the information contained in the Annex to this document.*

[Annex follows]

GUIDE ON USING INVENTIONS IN THE PUBLIC DOMAIN: A GUIDE FOR INVENTORS AND ENTREPRENEURS¹

OVERVIEW OF THE GUIDE

The purpose of the guide is to help inventors and entrepreneurs gain access to, and use, information in the public domain, knowledge and technology for invention, innovation and product development in their own country. To be in the public domain means that information, knowledge or technology is not proprietary and may be freely accessed by anyone. The focus of this guide is on information and technology disclosed in patent documents. By patent documents, we refer to published patents and patent applications plus other publicly accessible official information about pending and issued patents, such as that available through patent offices or courts. The process by which inventions and innovations become products and/or services is called new product development (NPD). NPD is a disciplined and defined process comprising a set of tasks, steps and decision gates that an organization or individual uses to convert embryonic ideas into salable products and services.

The guide describes how the information disclosed in patent documents can be used and/or integrated into new products and enhance the processes for their development. It is intended to help efficiently integrate public domain information and knowledge into the process of product design and development. Using the public domain knowledge together with constructs illustrated in the guide can help make more informed management decisions. Doing so will leverage the investments of time and money in developing product and service improvements to add value to inventors' and entrepreneurs' products and services, while minimizing the risk of infringing the intellectual property (IP) rights of others. Overall, the guide intends to equip readers with knowledge of many of the patent-related resources that are available to help in making suitable decisions about an invention and its future market potential, and aims to serve as a reliable starting point for navigating the universe of publicly accessible patent document information.

Framework for the guide

Information and knowledge in published patents and patent applications plus other public domain knowledge can be utilized to help conceive, refine and/or formalize a concept for a product, protect the idea for a product and map its path to commercial viability. The framework for the guide is:

Using public domain knowledge in patents to conceptualize product and/or service features and functionality: Conceptualization of a product and/or service can be realized by using public domain knowledge disclosed in patents and patent applications to examine features and functionalities that go into a product.

An inventor or innovator who is starting with an idea for a product can make use of public domain information and knowledge to:

- Gain insights for their product or service concept from inventive knowledge as disclosed in patent documents that are similar to their product and/or service concept.
- Exploit technology and inventive knowledge that may not be protected by an enforceable patent(s) in their or other countries.
 - Anticipate when or where an invention disclosed in an enforceable patent will be available to use as indicated by the date of filing of the patent application and the period of protection in that jurisdiction's patent laws and regulations.

¹ The full Guide will be available at: https://www.wipo.int/ip-development/en/agenda/work_undertaken.html

- Identify other patents disclosed in the References section of a patent that are not in the same field of use but could offer insight into parallel applications for their technology.
- Use patent statistics and patent families to help assess the uses of a technology that may directly affect their product.
- Help determine the potential viability of a product and/or service being conceptualized in terms of end-users, target markets, etc. disclosed in the Background of the Invention section of a patent or patent application or other patent documents.

Using public domain knowledge in patent and non-patent literature in the NPD process:

NPD processes can be supported by useful business information disclosed by patent and non-patent literature describing similar technologies.

An inventor or innovator with a formalized new product and/or service concept can seek patent information and knowledge in the public domain to:

- Help estimate the commercial viability and value of their concept by reviewing the patent portfolio of similar established products/services.
- Determine if the product and/or service is novel to a region by searching for patents, patent applications or research reports for similar products/services.
- Avoid infringement of enforceable patents and subsequent restrictive legal actions.
- Conduct technology intelligence using the disclosed innovative activities of competitors with complementary products/services.
- Find experienced personnel who may be candidates for employment by examining the inventors and/or assignees in patents and patent applications for related technology.
- Study the prosecution history of patents of interest with similar technology for useful information to apply to prosecuting their own patents.
- Seek licensing, partnership, mergers or acquisitions by determining the owners of relevant patented or patent pending technology.
- Conduct competitive intelligence by examining patent activity associated with substitutable products and/or services.
- Discover emerging trends leading to new market opportunities in technology fields through exploring the patent activity of others.
- Create innovation and market opportunities by patenting around existing patents.

This guide is organized in three distinct modules that review and explore the applicability of information from inventions in the public domain:

MODULE I

- Review of the public domain as a function of geography and time, with a focus on:
 - The public domain in developing and least developed countries.
 - The relationship between patents and the public domain.

MODULE II

- Exploration of public domain knowledge in patents, the relationship between patents and other intellectual property rights, and using the insights gained to find opportunities to leverage existing inventions and public domain knowledge for facilitating business success.

MODULE III

- Using and integrating public domain knowledge in product development processes from an idea's conception to its analysis, design, testing and launch to the market and post-launch analysis for continuous improvement. This module explores most of the key concepts of the guide and presents Teaching Examples to help clarify key concepts and how they are applied.

Considerations for using the guide

Skills: The guide is meant for researchers, inventors, entrepreneurs, technology transfer personnel and corporate, non-profit and government research program managers and product developers. It will be particularly useful to Technology and Innovation Support Center (TISC) staff around the world involved in assisting inventors/innovators seeking guidance for developing their inventive ideas. WIPO established TISCs in developing countries, least developed countries and countries in transition to provide inventors/innovators with relevant technology information from patent and non-patent resources along with services to develop and manage their inventive endeavors. The guide assumes readers already have some understanding of intellectual property and its applicability in business contexts and possess a basic working knowledge of management tools.

Training: Each module begins with a list of learning points that summarizes the knowledge and skills readers should have acquired after completing the module. The guide adopts a generic process-focused methodology that employs logic, flowcharts and annotated diagrams to aid in the use of the public domain knowledge contained in patents and non-patent literature. Modules I, II and III primarily have content based on this process-focused methodology. The sections are written for inventors, entrepreneurs, innovators, etc. who would benefit from using public domain knowledge across the various stages of product development to protect their ideas and/or apply such knowledge to facilitate successful commercialization. Contexts and/or Teaching Examples originally authored by innovators in developing countries and LDCs (Module III) explore how public domain information is used and integrated in product development decision-making.

Limitations of the guide: The guide is neither a formal nor comprehensive introduction to product development. Instead, it is a guide for inventors on how public domain information and knowledge can be used to improve decision-making in product development processes. Likewise, the guide is not a comprehensive description of all that encompasses the public domain. It is designed to be a supplement to enhance knowledge of the potential and limitations of public domain information knowledge that are helpful for identifying and evaluating technology capabilities within a firm or a project and for conducting product development. The knowledge gained by TISCs, technology transfer and other service providers through this guide should be shared with inventors, innovators and managers seeking their support and guidance.

[End of Annex and of document]