Measures for the Administration of Priority Examination of Patents[1]

Authorities: **National Intellectual Property Administration (CNIPA)**

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Chapter I General Provisions

Article 1

These Measures are formulated in accordance with the relevant provisions of the Patent Law of the People's Republic of China (hereinafter referred to as the Patent Law) and the Implementing Regulations of the Patent Law of the People's Republic of China (hereinafter referred to as the Implementing Regulations) for the purposes of further advancing the construction of an intellectual property powerhouse and regulating the priority examination of patents.

Article 2

The priority examination of patents shall adhere to the leadership of the Party, uphold high-quality development, contribute to the optimization of the business environment, support the development of new-quality productive forces, and promote the building of an innovative country.

Article 3

The National Intellectual Property Administration shall be responsible for the administration of priority examination of patents, accepting and reviewing requests for priority examination, strengthening examination resource support, and improving the quality and efficiency of examination. The provincial intellectual property authorities shall be responsible for the

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recommendation of requests for priority examination within their respective administrative regions.

The National Intellectual Property Administration may accept requests for priority examination recommended by the relevant competent departments of the State Council in accordance with these Measures.

Chapter II Conditions for Application

Article 4 The priority examination under these Measures shall apply to the following patent applications or cases:

(1) Invention patent applications that are in the substantive examination stage and for which no first action has been taken, where "first action" means that the examiner has commenced examination and issued a notification;

(2) Utility model and design patent applications;

(3) Reexamination cases of invention, utility model, and design patent applications (hereinafter referred to as reexamination cases); and

(4) Invalidation cases of invention, utility model, and design patents (hereinafter referred to as invalidation cases).

Priority examination carried out pursuant to bilateral or multilateral agreements signed between the National Intellectual Property Administration and patent examination authorities of other countries or regions, or fast-track examination carried out after a preliminary examination has been passed by a national-level Intellectual Property Protection Centers and Rapid Intellectual Property Rights Protection Centers, shall be handled in accordance with the relevant provisions and shall not be subject to these Measures.

Article 5

For a patent application or reexamination case that possesses significant innovative value and prospects for transformation and application, and that meets one of the following circumstances, the patent applicant or the reexamination requester may request priority examination:

(1) It pertains to emerging industries and future industries, or to key core technology research and development;

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(2) It pertains to industries specifically encouraged by the people's government at the provincial level or at the city level with districts;

(3) The patent applicant or reexamination requester has already industrialized the subject matter or has made preparations for industrialization, or there is evidence that another party is practicing the invention-creation;

(4) The Chinese patent application for which, after the first filing in China on the same subject matter, a request for substantive examination has been filed in another country or region; or

(5) Other circumstances that are of significant importance to the national interest or public interest.

Article 6

Where an invalidation case meets one of the following circumstances, the invalidation requester or the patentee may request priority examination:

(1) The patent in question is involved in an infringement dispute, and the parties have requested the local intellectual property authority to handle the matter or have filed a lawsuit with the people's court;

(2) The patent in question is involved in a dispute, and the parties have requested the National Intellectual Property Administration to conduct an administrative adjudication or mediation in major patent infringement disputes, an administrative adjudication under the early resolution mechanism for pharmaceutical patent disputes, or a mediation of disputes concerning the implementation of patent open licenses;

(3) The patent in question is involved in a dispute over a licensing contract, and the parties have requested arbitration by an arbitration institution; or

(4) The patent in question is of significant importance to the national interest or public interest.

The local intellectual property authority or people's court referred to in subparagraph (1) of the preceding paragraph, and the arbitration institution referred to in subparagraph (3) of the preceding paragraph, may file a request for priority examination of the invalidation case of the patent in question.

Article 7

Patent agencies providing services for patent applicants or parties to a case in requesting priority examination shall maintain good credit and a high level of professional and service standards, and shall consciously fulfill their obligations of industry self-discipline.

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Article 8

Priority examination shall generally not be granted to a patent application or case under any of the following circumstances:

(1) The patent application is a divisional application whose parent application has already been granted accelerated examination;

(2) The patent applicant has filed, on the same day, a utility model patent application for the same invention-creation in respect of an invention patent application;

(3) The patent application, reexamination case, or invalidation case has already been granted priority examination or any other form of accelerated examination within the respective examination proceedings; or

(4) For a patent application requesting priority examination pursuant to subparagraph (4) of Article 5 of these Measures, there is evidence that it clearly does not have prospects for being granted.

Chapter III Filing of Requests

Article 9

Where there are two or more patent applicants, reexamination requesters, or patentees, a request for priority examination filed in accordance with Article 5 or paragraph 1 of Article 6 of these Measures shall be subject to the consent of all applicants, all reexamination requesters, or all patentees.

Article 10

A patent application or case for which priority examination is requested shall be filed in a compliant electronic application form.

Article 11

An applicant filing a request for priority examination of an invention, utility model, or design patent application shall submit a request form for priority examination and the materials relevant to the applicable circumstances set forth in Article 5 of these Measures; except for the circumstances set forth in subparagraph (4) of Article 5 of these Measures, the request form for priority examination shall bear the endorsement of competent department of the State Council or the provincial intellectual property authority. The applicant may submit materials

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containing information on prior art or prior design that are conducive to expediting the examination process.

A party filing a request for priority examination of a reexamination case or invalidation case shall submit a request form for priority examination and the materials relevant to the applicable circumstances set forth in Article 5 or Article 6 of these Measures; the request form for priority examination shall bear the recommendation of the relevant competent department of the State Council or the provincial intellectual property authority.

A local intellectual property authority, people's court, or arbitration institution filing a request for priority examination of an invalidation case shall submit a request form for priority examination and state the reasons therefor.

Article 12

The National Intellectual Property Administration shall not charge any additional fees for patent applications or cases for which priority examination is requested, apart from the fees that are required to be paid under the Patent Law and the Implementing Regulations.

Chapter IV Review and Examination Procedures

Article 13

Provincial intellectual property authorities shall recommend patent applications or cases for which priority examination is requested in accordance with Articles 4 through 8 of these Measures, and shall state the reasons for the recommendation; if the requester of priority examination submits false materials or commits any other act in violation of the principle of good faith, the recommendation shall not be made.

Article 14

After accepting a request for priority examination, the National Intellectual Property Administration shall, in accordance with these Measures, review the request form for priority examination, the recommendation reasons, and the relevant materials; with respect to formal defects in the request materials, the requester of priority examination shall be permitted to make amendments; after the review, the National Intellectual Property Administration shall issue a decision on whether priority examination and shall notify the requester of priority examination of the review decision.

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Article 15

For a patent application or case in respect of which the National Intellectual Property Administration has agreed to conduct priority examination, processing shall be completed within the following time limits, calculated from the date of dispatch of the notification of granting priority examination, except in cases involving complexities or difficulties:

(1) For an invention patent application, the first action shall be taken within forty-five days, and the case shall be concluded within one year;

(2) For a utility model or design patent application, the case shall be concluded within two months;

(3) For a reexamination case, the case shall be concluded within seven months;

(4) For an invalidation case of an invention or utility model patent, the case shall be concluded within five months; and for an invalidation case of a design patent, the case shall be concluded within four months.

Article 16

For a patent application subject to priority examination, the applicant shall make a reply or amendment as soon as possible. The time limit for the applicant to reply to the examination opinion notification for an invention patent application shall be one month from the date of dispatch of the notification; the time limit for the applicant to reply to the notification of amendment or the examination opinion notification for a utility model or design patent application shall be fifteen days from the date of dispatch of the notification

Article 17

For a patent application subject to priority examination, under any of the following circumstances, the National Intellectual Property Administration may discontinue the priority examination procedure, process the application under the ordinary procedure, and promptly notify the requester of priority examination:

(1) After the National Intellectual Property Administration has dispatched the notification of granting priority examination, the applicant amends the application documents in accordance with paragraphs 1 and 2 of Article 57 of the Implementing Regulations;

(2) The applicant's time limit for reply exceeds the time limit prescribed in Article 16 of these Measures, or the applicant requests an extension of the time limit for reply; or

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(3) The applicant submits false materials or commits any other act in violation of the principle of good faith.

Article 18

For a reexamination case or invalidation case subject to priority examination, under any of the following circumstances, the National Intellectual Property Administration may terminate the priority examination procedure, process the case under the ordinary procedure, and promptly notify the requester of priority examination:

(1) The reexamination requester delays the reply;

(2) After the National Intellectual Property Administration has dispatched the notification of granting priority examination, the invalidation requester supplements evidence and grounds, or the patentee amends the claims in a manner other than by deletion;

(3) The patent reexamination or invalidation proceedings are suspended;

(4) The adjudication of the case depends on the examination conclusion of another case; or

(5) A party submits false materials or commits any other act in violation of the principle of good faith.

Chapter V Supervision and Administration

Article 19

The National Intellectual Property Administration shall, based on factors such as the management of priority examination work in each locality, the recommendation and subsequent examination of requests for priority examination, progress in intellectual property protection and utilization, and the support for national key industries and major strategies, allocate and adjust the number of priority examinations in each locality, and shall coordinate and determine the overall number of priority examinations in light of the overall demand and examination capacity.

Article 20

Provincial intellectual property authorities shall formulate rules for the recommendation of priority examination, specifying the recommendation criteria, and ensure that the recommendation work is fair, just, open, and transparent, so as to strengthen the administration of and provide targeted services to requesters of priority examination.

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Article 21

Personnel engaged in the recommendation, review, examination, and administration of priority examination shall strictly comply with the relevant provisions of laws and regulations, and shall not commit any acts of dereliction of duty, abuse of power, or engaging in malpractices for personal gain.

Article 22

For a requester of priority examination or a patent agency that has committed acts in violation of the principle of good faith, the National Intellectual Property Administration shall not accept any request for priority examination submitted thereby within one year from the date on which such has been confirmed.

Chapter VI Supplementary Provisions

Article 23

These Measures shall be interpreted by the National Intellectual Property Administration.

Article 24

These Measures shall take effect as of September 1, 2026. The Measures for the Administration of Priority Examination of Patents promulgated by Order No. 76 of the National Intellectual Property Administration on June 27, 2017, shall be repealed simultaneously.

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