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PATENT REEXAMINATION AND INVALIDATION DEPARTMENT OF THE PATENT OFFICE, CNIPA



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2022



PATENT REEXAMINATION AND INVALIDATION DEPARTMENT OF THE PATENT OFFICE, CNIPA

I Overview

• History

Established on April 5th, 1985, the Patent Reexamination and Invalidation Department (PRD) was originally named as the Patent Reexamination Board of China Patent Office. Then, in 1998, it was named as the Patent Reexamination Board of China Patent Office of SIPO. Ever Since 2001, it has been named as the Patent Reexamination Board of SIPO. At the end of 2003, it was officially approved as an independent legal entity subordinated to SIPO. In 2019, during the restructuring of IP institutions, it became an internal department of the Patent Office, China National Intellectual Property Administration (CNIPA), named as Patent Reexamination and Invalidation Department.

• Main Responsibilities

The Main Responsibilities of the Patent Reexamination and Invalidation Department

To examine requests for reviewing CNIPA's decision rejecting patent application or registration application of layout-design of integrated circuits

To examine requests for invalidating the patent right or for revoking the exclusive right of layout-design of integrated circuits

To appeal in court where CNIPA is sued against the decisions from the Patent Reexamination and Invalidation Department

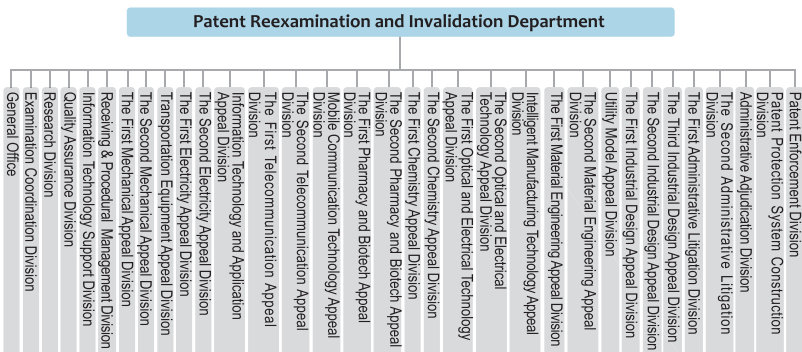
To research on right validation and infringement determination of patent and layout-design of integrated circuits

To provide consultation on right validation and infringement determination of patent, upon the commission of the People's Court and the Patent Administration department



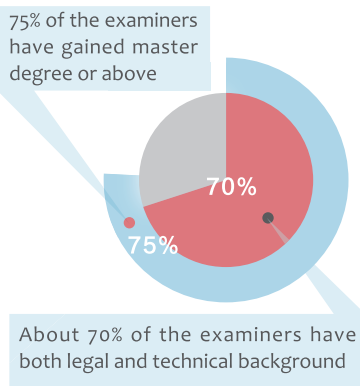
• Organization

At present, the Patent Reexamination and Invalidation Department is supervised by one director general, 3 deputy directors general. It consists of 33 divisions, the organizational chart of which is shown as follows.



• Human Resources

The Patent Reexamination and Invalidation Department consists of technical and legal experts appointed by the patent administration department under the State Council. Most of them are selected from those highly qualified examiners who have been working at the Patent Office of CNIPA for several years. With the development of the patent work, the staff team of the Patent Reexamination and Invalidation Department has grown accordingly. By 2021, there are 307 employees working for the Patent Reexamination and Invalidation Department.



II Information on Patent Examination

• Examination System

Collegiate Examination

To ensure the fairness and authority of the examination decision, the Patent Reexamination and Invalidation Department adopts collegiate examination, and sets up a panel of three or five members, depending on the technical field and complexity of the case, to examine and decide on reexamination or invalidation requests.



Oral Proceedings

The procedure of oral proceedings is a formal administrative hearing procedure provided pursuant to Rule 70 of *Implementing Regulations of the Patent Law*, by which the panel convenes the parties concerned, cross-examining the evidence, making observation and argumentation, so as to effectively ascertain the facts of the case.

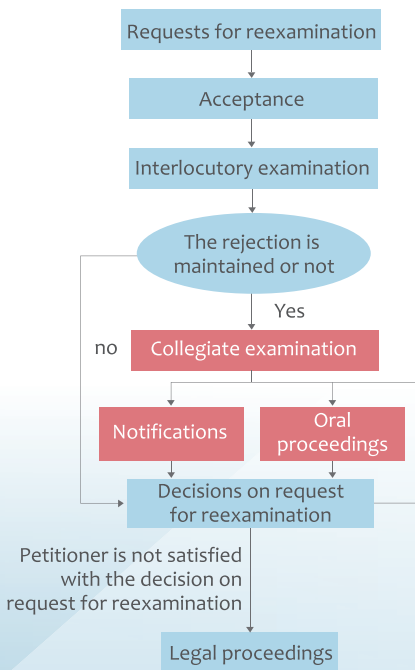
• Examination Procedure

1. Reexamination

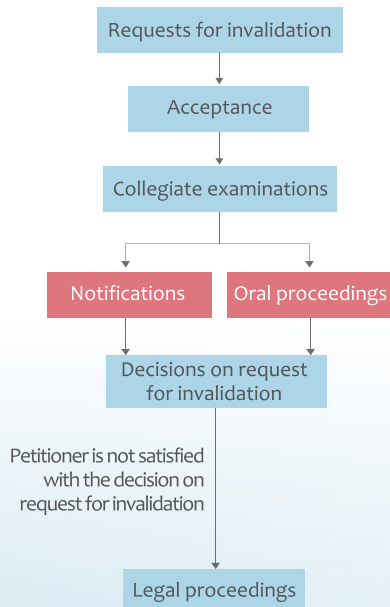
Where an applicant for patent is not satisfied with the decision of the patent administration department rejecting the application, the applicant may, within three months from the date of receipt of the notification, request the Patent Reexamination and Invalidation Department to make a reexamination.

2. Invalidation

Where, starting from the date of the announcement of the grant of the patent right by the patent administration department under the State Council, any entity or individual considers that the grant of the said patent right is not in conformity with the relevant provisions of the *Patent Law*, it or he may request the Patent Reexamination and Invalidation Department to declare the patent right invalid.



Flow chart for Reexamination



Flow chart for Invalidation



3. Reexamination and Revocation of Layout-design of Integrated Circuits

The Patent Reexamination and Invalidation Department is responsible for examining requests for reexamination, where an applicant for layout-design of integrated circuits is not satisfied with the decision of CNIPA rejecting the application, and examining requests for revocation after granting the registration of a layout-design.

4. Administrative Litigation

Where the petitioner is not satisfied with the reexamination decision, the decision to invalidate or maintain a patent right, or the revocation decision of the exclusive right of layout-design of integrated circuits, he may institute legal proceedings before the People's Court within three months from the date of receipt of the decision.

Information on Requests Received and Cases Concluded

1. Reexamination & Invalidation

By 2021, reexamination and invalidation requests received by the Patent Reexamination and Invalidation Department added up to 401,404 and 75,101 respectively, 320,269 reexamination cases and 69,606 invalidation cases were concluded. In 2021, the Patent Reexamination and Invalidation Department accepted 76,093 requests for reexamination, and accepted 7,628 invalidation requests. 54,006 reexamination cases and 7,065 invalidation cases were concluded in 2021. The average pending period for reexamination requests was 16.4 months and 5.8 months for invalidation requests.

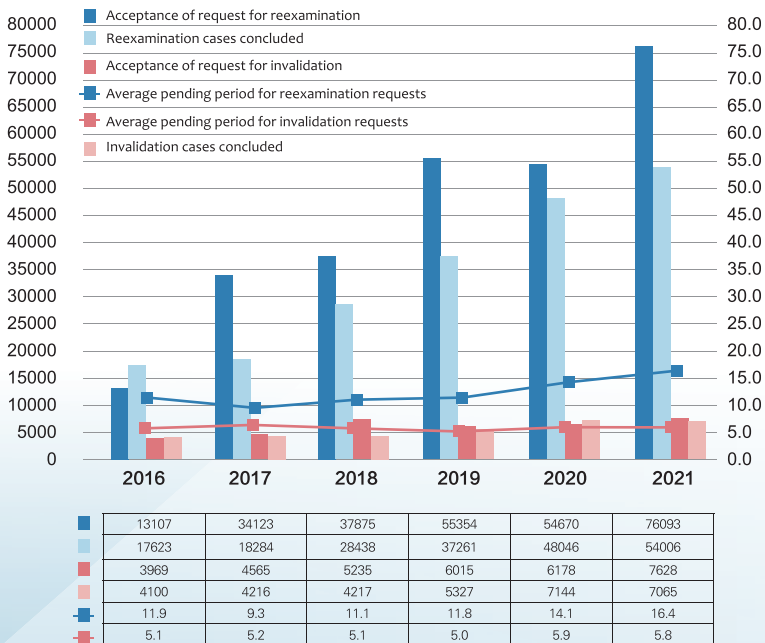


Diagram of Reexamination and Invalidation Requests Received and Concluded from 2016-2021



2. Patent Administrative Litigation

In 2021, 1,746 first-instance administrative litigation cases for patent reexamination and invalidation were filed, and 1,139 patent reexamination and second-instance administrative litigation cases were filed. Among them, 969 reexamination administrative litigation cases were filed at the first and second instance, and 1,916 invalid administrative litigation cases were filed at the first and second instance. 181 administrative litigation cases for patent reexamination and invalidation retrial were filed, and 165 administrative litigation cases for retrial were closed.

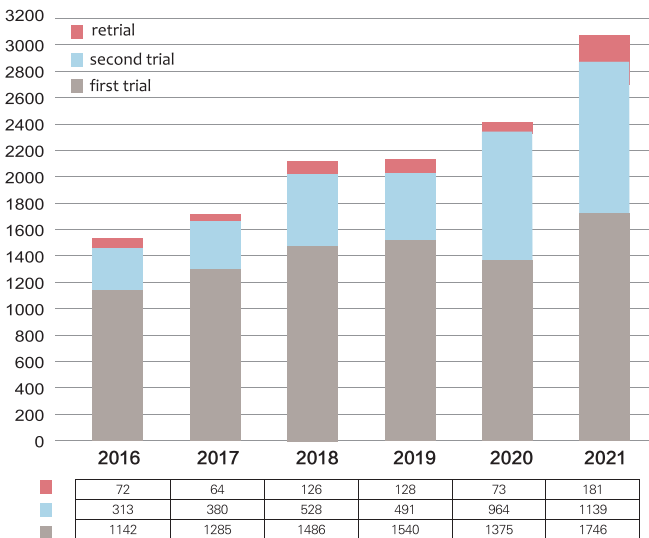


Diagram of Patent Administrative Litigation Cases Received from 2016-2021

III Support System of Patent Examination





• Personnel Training

Based on the personnel training principle that make top talents to play the leading role and realize the overall development for all staff members, the Patent Reexamination and Invalidation Department has established a talent-bank featuring three levels, namely experts for guiding examination, experts of examination and examiners for reexamination. The three-level personnel training system of the Patent Reexamination and Invalidation Department has been effectively connected to CNIPA's training system covering leading talents, high-level talents and key talents. By implementing systematic and personalized training programs which cater to talents of different level, the Patent Reexamination and Invalidation Department has strengthened its personnel training, built up reasonable talents echelon and energized the talents team.



• Academic Research

The Patent Reexamination and Invalidation Department has been keenly interested in academic research, undertaken dozens of research projects for CNIPA, and independently carried out related research according to its own features and need, all of which have produced fruitful results. These academic achievements have been working positively in promoting the improvement of our patent system, the standardization of patent examination practice and the overall enhancement of patent examination capability. The Patent Reexamination and Invalidation Department has long been attaching importance to accumulating academic achievements. Ever since its establishment, more than 40 monographs have been published either in the name of the department or in the authors' own name, and more than 40 foreign languages works have been compiled.

• Information System Construction

The Patent Reexamination and Invalidation Department has developed a diversified information system which is composed of reexamination and invalidation electronic application system, patent examination and granting system, multimedia trial court recording system, and examination decision search system.

Construction
of Website

**The official website of the Patent Reexamination and
Invalidation Department:**

Chinese website: www.cnipa.gov.cn/col/col2632

English website: english.cnipa.gov.cn/col/col2662



Examination Decision Search System

Examination Decision Search System:

The Examination Decision Search System collects all the examination decisions made since the establishment of the Patent Reexamination and Invalidation Department. The data of the system is monthly updated. It provides ample search portals and full-text download links of examination decisions.

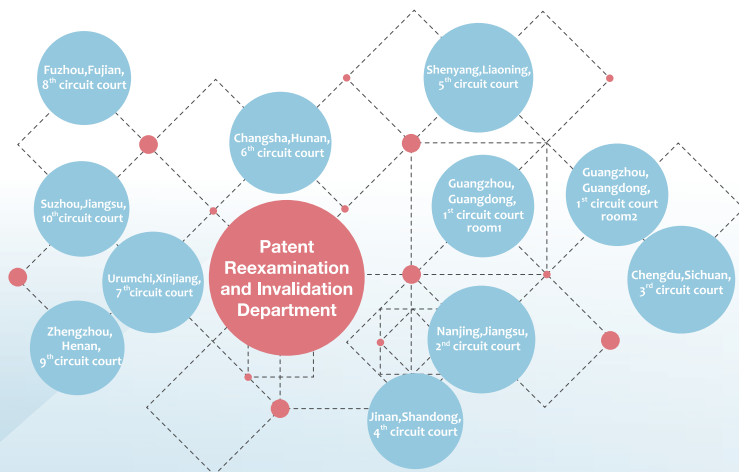
Reexamination and Invalidation Electronic Application System

Reexamination and Invalidation Electronic Application System (Download website): cponline.cnipa.gov.cn

The Reexamination and Invalidation Electronic Application System is a subsystem based on the China Patent Electronic Application System. Through this system, the petitioner for reexamination or invalidation and the patentee can submit requests and intermediate documents in electronic form.

• Construction of Trial Court

By the end of 2021, the Patent Reexamination and Invalidation Department had established 20 standard trial courts and 5 remote trial courts that meet the requirements of face-to-face trial and remote trial, set up 11 circuit courts and formulated the *Code for the Construction of Multimedia Trial Courts* to provide guidance for the construction of trial courts in local intellectual property protection centers. These courts are important workplace for conducting examination outside Beijing, and have become local IP bases for legal education, teaching practice, publicity and training.





IV External Cooperation

• Cooperation with Local Intellectual Property Offices

The Patent Reexamination and Invalidation Department has deepened and promoted the cooperation and staff exchanges with local intellectual property offices to actively support local intellectual property offices' construction of enforcement team and promotion of enforcement conditions, and to mutually explore the mechanism which could effectively connect patent administrative enforcement and invalidation procedure. By 2021, the number of temporary staff exchanges between the Patent Reexamination and Invalidation Department and local intellectual property offices added up to 96.

• Cooperation with the People's Courts

The Patent Reexamination and Invalidation Department regularly organizes legal and academic seminars and meetings with the People's Courts, and actively carries out staff exchange, to achieve effective communication with the People's courts, ensure the consistency between the standard for infringement determination and that for right validation. By 2021, the number of temporary staff exchanges between the Patent Reexamination and Invalidation Department and the People's Courts added up to 145.

• Participation in the Intellectual Property Protection of Relevant Exhibitions

The Patent Reexamination and Invalidation Department actively serves the intellectual property protection of relevant exhibitions, such as China Import and Export Fair (Canton Fair), China International Fair for Trade in Services, China International Import Expo, to deal with patent infringement disputes during the Fair, and pays tireless efforts to build up favorable environment for intellectual property protection.

• Field Research

By paying visits, holding and attending seminars and meetings, the Patent Reexamination and Invalidation Department has organized examiners to do social survey in local intellectual property offices, enterprises and institutions, and intellectual property agencies.

• International Communication

The Patent Reexamination and Invalidation Department maintains communication with Boards of Appeal of EPO, the Trial and Appeal Department of JPO, the Intellectual Property Trial and Appeal Board of KIPO, Boards of Appeal of EUIPO, the Chamber for Patent Disputes of Rospatent, the Patent Trial and Appeal Board of USPTO, etc. It plays a more and more important role in intellectual property international cooperation.



Postal Address

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