



Order of the State Intellectual Property Office

(No. 70)

The *Measures on Patent Agency Management*, as deliberated and adopted at the executive meeting of the State Intellectual Property Office, is hereby issued and shall come in force on May 1, 2015.

Shen Changyu, the Commissioner

April 30, 2015

Measures on Patent Commissioning Management

Chapter 1 General Provisions

Article 1 These measures are formulated in accordance with the *Patent Law of the People's Republic of China* (hereinafter referred to as "*Patent Law*") and the *Regulations on Patent Commissioning*, and relevant regulations of the State Council in order to improve the patent commissioning system, maintain the normal order of patent commissioning sector and safeguard legal practices of patent agencies and patent agents.

Article 2 The SIPO and intellectual property offices of all provinces, autonomous regions and municipalities directly under the Central Government shall carry out management and supervision over patent agencies and patent agents in accordance with the *Patent Law*, the *Regulations on Patent Commissioning* and these measures.

The All-China Patent Attorneys Association shall organize and guide patent agencies and patent agents to implement the *Patent Law*, the *Regulations on Patent Commissioning* and these measures, regulate the practice in patent commissioning sector, strengthen self-discipline in the sector and constantly enhance the quality of patent commissioning service.

Chapter 2 Establishment, Modification, Termination and Revocation of Patent Agencies and Their Offices

Article 3 The organizational form of a patent agency shall be partnership patent agency or limited liability patent agency.

A partnership patent agency shall be jointly invested and initiated by at least three persons, and a limited liability patent agency shall be jointly invested and initiated by five persons.

Partners of a partnership patent agency shall bear the unlimited joint liability for the debts of the patent agency; the limited liability patent agency shall bear the liability for the debts with its overall assets.

Article 4 The establishment of a patent agency shall meet the following conditions;

(I) having the agency name in compliance with Article 7 of these measures;

(II) having a partnership agreement or articles of association;

(III) having partners or shareholders stipulated by Article 5 and 6 of these measures;

(IV) having fixed offices and necessary working facilities.

Where a law firm applies for running the patent agency service, there shall be at least three full-time lawyers in this law firm, each of whom has the patent agent qualification.

Article 5 Partners or shareholders of a patent agency shall meet the following conditions;

(I) having the patent agent qualification;

(II) having over two years of experiences on the practice of patent commissioning;

(III) engaging in the full-time patent agency service;

(IV) being under the age of 65 when applying for establishing a patent agency;

(V) having good behavior.

Article 6 A person who is in one of the following circumstances shall not be the partner or shareholder of a patent agency;

(I) having no complete capacity of civil disposition;

(II) working in state organs or enterprises and

institutions and not formally going through formalities of resignation, dismissal or retirement;

(III) less than two years as a partner or shareholder of another patent agency;

(IV) less than three years circulated a notice of criticism stipulated by Article 5 of *Disciplinary Rules on Patent Agencies (Trial)* or reprimanded by certificate reclamation of the patent agent;

(V) being subject to criminal punishment (except for committing crimes by negligence).

Article 7 A patent agency shall only have and use one name.

The name of a patent agency shall be composed of the name of the city, name of the agency and “Patent Agency Firm”, “Patent Agency Co., Ltd.” and “Intellectual Property Agency Firm”, “Intellectual Property Agency Co., Ltd.”. Its name shall not be, throughout the country, identical with or similar to another patent agency’s name that is being or has been used.

Where a law firm runs patent agency services, it may use the name of this law firm.

Article 8 Whoever applies for establishing a patent agency shall submit the following application materials;

(I) application form for the establishment of a patent agency;

(II) partnership agreement of a patent agency or articles of association of the patent agency;

(III) duplicates of the patent agent qualification certificates and ID cards;

(IV) resumes and certification on the personnel file and duplicates of the retirement certification;

(V) certification of offices and working facilities;



(VI) other evidentiary materials.

A law firm that applies to run patent agency services shall submit the following application materials:

(I) application form for running patent agency services;

(II) a letter issued by the competent administrative organ of justice on approving the applicant to run patent agency services;

(III) partnership agreement or articles of association of the law firm;

(IV) duplicate of the practicing certificate of the law firm;

(V) duplicates of lawyers' practicing license of the patent agent, duplicates of the patent agent qualification certificates and duplicates of the ID cards;

(VI) certification of offices and working facilities;

(VII) other evidentiary materials.

The above-mentioned evidentiary materials shall be issued within six months before applying for establishment of a patent agency or running patent agency services.

Article 9 The procedures for approving the establishment of a patent agency are as follows:

(I) Whoever applies for establishment of a patent agency shall apply to the intellectual property offices of the province, autonomous region and municipality directly under the Central Government at his/her locality. The intellectual property office of the province, autonomous region or municipality directly under the Central Government shall, after examination, submit the application to the SIPO for approval within 30 days upon the receipt of the application if the application meets the conditions provided for in

these measures; or shall notify the applicant in written form within 30 days upon the receipt of the application if the application fails to meet the conditions provided for in these measures.

(II) The SIPO shall, within 30 days upon the receipt of the submitted documents, make a decision on approving the application which meets the conditions provided for in these measures, and notify the intellectual property office of the province, autonomous region or municipality directly under the Central Government, and issue the registration certificate of patent agency and the agency code. For applications that fail to meet the conditions stipulated in these measures, the SIPO shall notify the intellectual property office of the province, autonomous region or municipality directly under the Central Government to re-examine the application within 30 days upon the receipt of the submitted documents.

A law firm that applies for running the patent agency services shall be approved with reference to the above-mentioned provisions.

Article 10 In case of the modification on registration matters such as name, address, articles of association and partner or shareholder, the patent agency concerned shall apply to the SIPO within 30 days upon the date of modification and submit the application to the intellectual property office of the province, autonomous region or municipality directly under the Central Government at his/her locality. The modification shall come into force upon approval of the SIPO.

The SIPO and the intellectual property office of the province, autonomous region or municipality directly under the Central Government shall order the patent agency which is not in compliance with the pro-

visions of Article 9, to go through formalities of modification within a time limit.

Article 11 A patent agency shall register the information with the SIPO in accordance with what has been registered with the industrial and commercial administrative department.

Article 12 In case of termination or revocation, the patent agency concerned shall apply to the intellectual property office of province, autonomous region or municipality directly under the Central Government at its locality after properly handling various matters that are yet to be settled. If agreed upon review, a registration certificate of the patent agency and the mark plate shall be submitted to the intellectual property office of the province, autonomous region or municipality directly under the Central Government at its locality. The patent agency also shall go through formalities of termination or revocation with the SIPO.

Article 13 In case of establishing an office in the province, the patent agency concerned shall apply to the intellectual property office of provinces, autonomous regions or municipalities directly under the Central Government at its locality. If approved, it shall be filed by the intellectual property office of provinces, autonomous regions or municipalities directly under the Central Government to the SIPO for the record.

In case of trans-provincial establishment of an office, the patent agency concerned shall, after obtaining consent of the intellectual property office of the province, autonomous region or municipality directly under the Central Government at its locality apply to the intellectual property office of the province, autonomous region or municipality directly under the Cen-

tral Government at its office locality. If approved, it shall be filed by the intellectual property office of the province, autonomous region or municipality directly under the Central Government at its office locality to the SIPO for the record.

Article 14 A patent agency applying for establishing an office shall meet the following conditions:

(I) the time of establishment more than two years;

(II) having over ten patent agents;

(III) not on the list of patent agencies with abnormal operation or the list of patent agencies with severe violation of the law.

Article 15 A patent agency shall meet the following conditions:

(I) having over two full-time patent agents assigned or engaged by the patent agency;

(II) having fixed offices;

(III) the name of the office shall be composed of the full name of the patent agency, the name of the city at the office locality and "Office".

Article 16 The intellectual property offices of provinces, autonomous regions or municipalities directly under the Central Government may additionally stipulate other conditions and procedures for patent agencies establishing offices in their administrative areas and submit the relevant provisions to the SIPO.

Article 17 The offices of the patent agencies shall not handle patent agency services in the names of their own, and their personnel, finance and service shall be unified and managed by their patent agencies. The patent agencies shall bear the civil liability to the service activities of their offices.

In case of trans-provincial establishment of of-



fices, their offices shall accept the instruction and supervision of the intellectual property offices of provinces, autonomous regions or municipalities directly under the Central Government at their locality.

Article 18 In case of termination or revocation, the office concerned shall apply to the intellectual property office of the province, autonomous region or municipality directly under the Central Government at their locality after properly handling various matters that are yet to be settled. If approved, it shall be filed by this intellectual property office to the SIPO, and shall submit with a copy to the intellectual property offices of provinces, autonomous regions or municipalities directly under the Central Government at their locality.

In case of winding up or revocation, the office shall be terminated at the same time.

Chapter 3 The Professional Practice of Patent Agents

Article 19 The professional practice of patent agents shall accept the employment and appointment of a patent agency with approved establishment and have professional practice certificates.

Article 20 When employing patent agents, the patent agency shall reach an employment agreement with the patent agents in the principle of free will and mutual consent through consultation, and both parties of the employment agreement shall abide by and implement the agreement.

Article 21 The issuance for the professional practice certificates of patent agents shall be in compliance with the following conditions:

- (I) having the patent agent qualification;
- (II) being able to full-time engage in the patent

agency services;

(III) the person who have no experiences of the patent commissioning or patent examination continually practiced over a year in a patent agency and participated in training before formal work;

(IV) being employed by the patent agencies;

(V) being under the age of 70 when the certificate was issued;

(VI) having good behavior.

Article 22 A person who is in one of following circumstances shall not be issued the professional practice certificate of patent agent:

(I) having no complete capacity of civil conduct;

(II) prior to application working for another patent agency, not formally be dismissed by the patent agency and not going through revocation formalities on the professional practice certificate of the patent agent;

(III) less than one year after obtaining the professional practice certificate of patent agent, transferring to other patent agencies;

(IV) less than three years reprimanded by the certificate reclamation of patent agent stipulated by Article 5 of *Disciplinary Rules of Patent Agencies*;

(V) being subject to criminal punishment (except for committing crimes by negligence).

Article 23 Whoever applies for being issued a professional practice certificate of a patent agent shall submit the following materials:

(I) application form for the professional practice certificate of the patent agent;

(II) duplicates of the patent agent qualification certificate and ID card;

(III) certification on the personnel document or duplicates of the retirement certification;

(IV) employment agreement issued by the patent agency;

(V) those working for another patent agency prior to application, shall submit dismissal certification of the patent agency;

(VI) in case of applying for being issued the professional practice certificate of the patent agent for the first time, shall submit the practice certification and certification for participating in training before formal work issued by the probation patent agency.

Article 24 All China Association of Patent Agents takes charge of the specific matters relating to issuance, modification and revocation of the professional practice certificates of the patent agents. The SIPO shall carry out supervision and guidance in accordance with the law.

Article 25 Upon reviewing, where all China Association of Patent Agents believe that the issuance and application of the professional practice certificates of the patent agents are in compliance with the conditions stipulated by these measures, they shall issue the professional practice certificates of the patent agents within 15 days upon the receipt of the application; otherwise, the association shall notify the applicant with written form within 15 days upon the receipt of the application.

Article 26 If a patent agency wants to dismiss the patent agents, it shall notify the patent agents 30 days in advance; if the patent agents want to resign, they shall notify the relevant patent agencies 30 days in advance.

If the patent agency wants to discharge the em-

ployment relationship with the patent agents, it shall withdraw the professional practice certificates of the patent agents and issue dismissal certification, and go through revocation formalities of the professional practice certificates of the patent agents within 10 days upon issuing the dismissal certification with All China Association of Patent Agents.

Article 27 In case of termination or revocation, the patent agencies shall withdraw all the professional practice certificates of their patent agents and go through cancellation formalities of the professional practice certificates of the patent agents with All China Association of Patent Agents within ten days upon obtaining the review and approval of the intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government.

Article 28 All China Association of Patent Agents shall report to the SIPO for the record and submit the relevant materials within five days upon issuing, modifying or repealing the professional practice certificates of the patent agents, and send with a copy to the intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government at the locality of the patent agencies.

Article 29 A person who has no professional practice certificate of a patent agent shall not engage in patent agency services for seeking for economic benefits in the name of the patent agent.

Article 30 In case of undertaking the patent agency services, the patent agents shall accept the authorization in the name of relevant patent agencies, sign the written authorization contract with the authorizer, uniformly charge expenses and take into account



according to the facts. The patent agents shall not accept the authorization without permission, handle the patent agency services and charge expenses.

Chapter 4 Supervision and Management of Patent Agencies

Article 31 The SIPO is responsible for the organization and publication on the annual report of patent agencies and patent agents and for the publication on directory of patent agencies with abnormal operation record and of illegal patent agencies.

The intellectual property offices of provinces, autonomous regions and municipalities directly under the Central Government shall cooperate with the SIPO to conduct the above-mentioned work.

The All China Association of the Patent Agents shall make an evaluation on the professional practices of patent agents according to articles of association and self-discipline regulations.

Article 32 Patent agencies and patent agents shall submit annual reports to the SIPO once a year, from March 1 to March 31.

Patent agencies shall be responsible for the truth of the annual report they have submitted.

Article 33 The annual report of a patent agency shall include:

(I) postal address, zip code, contact number, email address of the patent agency;

(II) name of managing partner or legal representative, name of partner or shareholder, name of patent agent and the number of people engaging in the practice;

(III) amount of contribution subscribed and paid by the partner or shareholder; the time and method of investment;

(IV) existence information such as the opening, close-up and clearing of the patent agency;

(V) information about the establishment of the patent agency;

(VI) information about the website of the patent agency, name of the online shop operated by the patent agency and its website;

(VII) information about the application, re-examination, invalidation, litigation, pledging and financing of the patent agency;

(VIII) information about the total assets, total liabilities, gross revenue, main business income, total profits, net profits, and total tax-paying of the patent agency;

(IX) other information that shall be reported.

The contents from Section I to VI of Article 33 shall be publicized since April 1 of each year; patent agencies which select to publicize Section VII to IX shall publicize the above-mentioned contents. In case of submitting the annual report exceeding the time limit, the publicity shall be conducted within 30 days upon submitting the report.

Article 34 Staff members of the SIPO and the intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government shall keep confidential the contents that have not been disclosed in the annual report of the patent agency.

Article 35 In case of finding any inaccurate information publicized by any patent agency, any institution or individual may report to the SIPO and the SIPO shall make corrections after examination.

Article 36 In case of finding false information publicized by any patent agency, any institution or

individual may report to the SIPO and or intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government which shall handle the matter accordingly after examination within 30 days upon the receipt of the report.

Article 37 Where a patent agency is in one of the following circumstances, the SIPO shall put it on the list of patent agencies with abnormal operation and make it public;

(I) providing false information when obtaining the registration certificate of the patent agency or submitting the annual report;

(II) failing to submit the annual report within the specified time limit or submit the relevant information about the patent agency in accordance with the time limit stipulated by the SIPO;

(III) modifying the name, office, managing partner or legal representative, partner or shareholder without authorization;

(IV) establishing an office without authorization;

(V) still failing to meet the conditions for establishing a patent agency, after rectification and reform ordered by the SIPO and intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government;

(VI) accepting an authorization commissioned by other authorizer who has a stake in the same patent application or patent case;

(VII) applying for a patent application or patent invalidation in its own name;

(VIII) causing severe consequences due to neglect of management.

The SIPO shall remove the patent agency from the list of patent agencies with abnormal operation if

the agency is not in the circumstance stipulated by Section I of Article 37 within one year from the date of being put on the list.

Article 38 where a patent agency fails to meet the conditions three years from the date of being put on the list of patent agencies with abnormal operation, it shall be put on the list of patent agencies with serious violation of law and publicized by the SIPO.

Where a patent agency is not in circumstances stipulated in Section I of Article 37 of these measures for three years after the date of being put on the list of patent agencies with serious violation of law, it shall be removed from the list by the SIPO.

Article 39 The SIPO shall organize and guide the intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government to carry out inspection and supervision over information announcement and professional practices of patent agencies and patent agents.

The intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government shall submit an annual examination and inspection report before December 31 of each year.

Article 40 The intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government shall make random inspection or general inspection on the patent agencies based on the number of patent agencies within their respective administrative regions in a fair and standard manner.

Where there are less than 20 patent agencies in the administrative region, the general inspection shall be conducted; where there are over 21 but less than



50 patent agencies, the random inspection shall be conducted on at least 20 patent agencies; where there are more than 50 patent agencies, the random inspection shall be conducted on at least 30 patent agencies.

Article 41 The intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government may make inspection on the patent agencies by means of written inspection, on-the-spot inspection and network monitoring and may work with related departments in the inspection. On-the-spot inspection shall be carried out on patent agencies which have been put on the list of patent agencies with abnormal operation, or the list of patent agencies with serious violation of law.

Article 42 The intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government shall carry out inspection and supervision with focus on the following items:

(I) whether the patent agency meets requirement of establishment;

(II) whether the managing partner or the legal representative, partner or shareholder meets the eligibility qualifications;

(III) whether the publicity information of annual report submitted by the patent agency is consistent with the actual situation and with the information publicized by the industrial and commercial department;

(IV) whether the patent agency is in the circumstances stipulated by Section I of Article 37 of these measures;

(V) whether the patent agent meets the qualifications of professional practice and whether his/her practice is in compliance with the practicing regulations.

Article 43 Upon finding the professional practices of patent agencies and patent agents not in compliance with the relevant laws and regulations during the inspection, the intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government shall handle the matters in a timely manner. Upon finding the patent agencies are in the circumstances stipulated by the Section I of Article 37 of these measures, they shall report the situation to the SIPO.

Article 44 When the intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government carry out examination and inspection on the patent agencies in accordance with the law, they shall make a record on the inspection and on the handling of the matters and ask the inspector to sign the name for filing.

The patent agencies shall cooperate with the intellectual property offices of the provinces, autonomous regions and municipalities directly under the Central Government in the inspection and supervision, accept inquiry and truthfully provide relevant information and materials.

Chapter 5 Supplementary Provisions

Article 45 The interpretation of these measures will be vested with the SIPO.

Article 46 These measures shall come into force as of May 1, 2015. The *Measures on Patent Commissioning Management* issued by Order No. 39 of the SIPO on June 6, 2003 and the *Decision on Amending the Measures on Patent Commissioning Management* issued by Order No. 61 of the SIPO on March 28, 2011 shall be abolished at the same time.