

Announcements and Circulars

Order of the State Intellectual Property Office

(No. 67)

The Decision of the State Intellectual Property Office on Amending the *Guidelines for Patent Examination*, as deliberated and adopted at the executive meeting of the State Intellectual Property Office, is hereby issued, and shall come into force on October 15, 2013.

Commissioner: Tian Lipu

September 16, 2013

Decision of the State Intellectual Property Office on Amending the *Guidelines for Patent Examination*

It is hereby decided by the State Intellectual Property Office to amend the *Guidelines for Patent Examination* as follows:

I. Amendment to Section 11, Chapter II of Part I

11. Examination in accordance with Article 22.2 of the *Patent Law*

In preliminary examination, the examiner shall examine whether the application for utility model patent obviously does not present novelty. The examiner may, with the information on prior art or any conflict-

ing application(s) already filed, examine whether the utility model obviously does not present novelty.

Where an abnormal application for the patent of the utility model is involved, such as an application that apparently plagiarizes prior art or repeated submission of an application with substantially the same contents, the examiner shall, according to the reference files obtained through search or information obtained by other approaches, examine whether the utility model obviously does not present novelty.

With regard to the examination on novelty, the



provisions of Chapter 3, Part II hereof shall apply.

II. Amendment to Section 13, Chapter II of Part I

13. Examination in accordance with Article 9 of the *Patent Law*

Article 9.1 of the *Patent Law* provides, “Only one patent can be granted for the same invention.”

Article 9.2 of the *Patent Law* provides, “If two or more applicants apply for a patent for the same invention separately, the patent right shall be granted to the first applicant.”

In preliminary examination, the examiner shall examine whether the application for utility model patent conforms to the provision of Article 9 of the *Patent Law*. The examiner may examine whether the application for utility model patent conforms to the provision of Article 9 of the *Patent Law* with the application(s) for the identical invention—creation or patent(s) already filed.

With regard to the handling of identical invention—creations, the provisions in Section 6, Chapter III of Part II here shall apply.

III. Amendment to Section 8, Chapter III of Part I

8. Examination in accordance with Article 23.1 of the *Patent Law*

In preliminary examination, the examiner shall examine whether the application for industrial design patent obviously does not conform to the provision of Article 23.1 of the *Patent Law*. The examiner may, with the information on prior art or any conflicting application(s) already filed, examine whether the application for the patent of design obviously does not conform to the provision of Article 23.1 of the *Patent Law*.

Where an abnormal application for the patent of design is involved, such as an application that apparently plagiarizes prior art or repeated submission of an application with substantially the same contents, the examiner shall, according to the reference files obtained through search or information obtained by other approaches, examine whether the application for the patent of design obviously does not conform to the provision of Article 23.1 of the *Patent Law*.

With regard to the examination of identical or substantially identical applications, the provisions of Chapter V, Part IV hereof shall apply.

IV. Amendment to Section 11, Chapter III of Part I

11. Examination in accordance with Article 9 of the *Patent Law*

Article 9.1 of the *Patent Law* provides, “Only one patent can be granted for the same invention.” Article 9.2 of the *Patent Law* provides, “If two or more applicants apply for a patent for the same invention separately, the patent right shall be granted to the first applicant.”

In preliminary examination, the examiner shall examine whether the application for the design patent conforms to the provision of Article 9 of the *Patent Law*. The examiner may examine whether the application for the design patent conforms to the provision of Article 9 of the *Patent Law* with the application(s) for the identical invention—creation or patent(s) already granted.

This Decision shall come into force on October 15, 2013.