



Opinions of the State Intellectual Property Office on Further Improving the Quality of Patent Applications

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Intellectual property offices of all provinces, autonomous regions and municipalities directly under the Central Government and Xinjiang Production and Construction Corps, all departments of the State Intellectual Property Office, all departments under the Patent Office of SIPO, and all entities and social groups directly under the State Intellectual Property Office,

In order to fully and thoroughly implement the spirit of the 18th CPC National Congress, further implement the national intellectual property (IP) strategy, further improve the quality of patent applications, give full play to the role of the patent system in encouraging and protecting innovation, and support innovation-driven development, the following opinions are given.

I. Fully realize the importance and urgency of improving the quality of patent applications

The quality of patent applications takes the patent application documents as the carriers, and is mainly determined by the level of drafting the patent application documents and the innovation of the technology in patent applications. Further improve the quality of patent applications is of great significance to improving the patent protection for independent inno-

vation achievements, and to ensuring efficient operation of the patent system in China. Since China implements the intellectual property strategy, the number of patent applications in China has been growing rapidly, providing a powerful support for building China into an innovative country. However, there are problems to be solved immediately concerning the quality of patent applications. Mainly, the level of drafting patent application documents is yet to be improved, so is the level of technology innovation in patent applications. More attention is paid to quantity instead of quality in some guiding policies and examination and evaluation work. There are patent applications whose aim is neither to protect innovative achievements nor to promote market competitions. Although these phenomena are few and regional, they have produced adverse influences. If not solved timely, they will weaken the credibility of the patent system, and affect the confidence of the public in the patent system, the basic system that supports innovation-driven development. It is a must to start from the overall situation of building an innovative country to fully understand the importance and urgency of improving the quality of patent applications, adopt truly effective measures,

and well improve the quality of patent applications.

II. Optimize the policy orientation that helps improve the quality of patent applications

i. Optimize the orientation of the regional patent evaluation. According to the requirement of “paying equal attention to quality and quantity, and giving priority to quality”, we shall further highlight the quality orientation of patent applications in regional patent evaluation, classify and determine the evaluation indicators on the basis of giving full play to the leading role of “the number of invention patents owned by every 10,000 people” and taking into consideration the level of development of different regions, and gradually include such indicators as the ratio of applications for patents of invention, the rate of invention patents granted, the number of applications for PCT patents, patent maintenance rate, the rate of patents that are deemed as being withdrawn for failing to pay the application fees, and the rate of patents that are regarded as abandoning patent rights into the regional system for patent evaluation. We do not allow the setting of unrealistic growth rate of patents.

ii. Improve the patent general subsidy policy. The patent general subsidy policy shall be oriented towards giving support to the small and the disadvantaged, mainly subsidize small and medium-sized and micro enterprises, public institutions, research institutes and non-service invention applicants, and give financial assistance to them for the officially-set fees paid to domestic and foreign patent examination authorities and the service charges paid to patent agencies. The requirement of “Grant first, partial subsidy” shall be followed to constantly adjust and improve the patent general subsidy policy. Such subsidy is on-

ly for patent applications that have been granted. The total sum of the subsidies given to the applicants shall not be higher than the total sum of the officially-set fees and service charges for the patent agency paid. To get the subsidy for the application of utility models and industrial designs, a patent search analysis report issued by the patent agency service institution or the patent information service institution, or a patent right evaluation report issued by the patent administrative department under the State Council of China shall be submitted.

iii. Carry out the policy of providing special funds to certain patents. The policy of providing special funds to certain patents shall be oriented towards giving support to the big and the strong, mainly subsidize the enterprises with IP advantages or IP model enterprises at different levels, or other enterprises and public institutions who enjoy good IP foundations, and IP service institutions, and give financial assistance to them for their utilization of patent information, analysis and deliberation, transfer and transformation, pledge financing, patent insurance, defense of rights overseas, and management standardization. The beneficiaries shall be determined by selecting the excellent ones through assessment. We shall accelerate the increase in local special funds for patents on the basis of constantly improving the input-output performance, and give instructions to the local competent department to help them gradually shift patent subsidy from general subsidy to special subsidy.

iv. Highlight the quality orientation of the patent incentives. Give full play to the stimulation and guiding roles of patent incentives, reward the patent owners and inventors, who have made outstanding contri-



butions to technological innovation and the industrialization of patented technology, determine the candidates to be rewarded by selecting the outstanding ones through assessment, and make public the assessment result. The number of patent applications or that of patents granted shall not be used as an essential condition for getting rewarded. Encourage local governments to give matching financial incentives to the patent right holders and inventors (designers) who are winners of China Patent Gold Awards and China Patent Honorable Mention.

v. Include the quality of patent applications into relevant policies. Through pilot exploration and classified promotion, we shall actively push forward the policies and projects concerning patent evaluation like the innovation capability evaluation of R&D projects, industrialization projects, enterprises and public institutions, introduction of talents and title review; and gradually adopt the evaluation indicators that go with policies and project characteristics such as the number of invention patents owned, the rate of invention patents granted, the ratio of the applications for invention patent, invention patent output rate, exploitation rate, the number and amount of patent licensing contracts; actively make it an important content of cultivating hi-tech enterprises to thoroughly implement the *national standards of Enterprise Intellectual Property Management Standards*; and submit a patent search analysis report issued by the patent commissioning service institutions or patent information service institutions, or a patent right evaluation report issued by the patent administrative department under the State Council of China if a utility model or a design patent is to be evaluated.

III. Build a supervision mechanism that helps improve the quality of patent applications

vi. Intensify the investigation and punishment of abnormal patent applications. Investigate and punish abnormal patent applications and other irregular patent application behaviors in a more timely, accurate and comprehensive way; timely report clues of local suspicious abnormal patent applications and other irregular patent application behaviors to the upper level authority; severely punish the patent applicants, patent commissioning institutions and patent agents that are confirmed to have conducted abnormal patent application behaviors according to relevant provisions; build a system for managing the credit files of the applicants; and push forward the involvement of the patent application credibility into the social credit system for IP protection.

vii. Severely punish the behavior of fraudulently acquiring patent subsidy or incentive funds for patents. The patent applicants who fraudulently acquire patent subsidy or incentive funds for patents shall be asked to return the patent subsidy or incentive funds for patents already allocated. When the circumstances are serious, the applicants concerned shall be investigated of legal liabilities. Patent applicants or patent right holders who are permitted to pay reduced patent fees by fraudulent means shall be ordered to make up for the reduced patent fees within a designated period.

viii. Further regulate the behavior of patent agencies. Actively cooperate with related departments to strengthen the investigation and punishment of organizations and individuals that are engaged in illegal patent commissioning services, and stop cutthroat price competition and false advertising so as to con-

stantly regulate the order of the market for patent commissioning services; strengthen the supervision and management of the branches of the patent commissioning institutions; and further regulate their business practices and operational activities. The “China National Patent Agency Credit Information Platform” will be further implemented to expose more irregular behavior.

ix. Explore to establish a system for monitoring and feedback collection on the quality of patent applications. Explore to establish a system for monitoring the information on the quality of patent applications for different areas, industries and different entities, launch pilots to monitor the quality of patent applications, improve the system for collecting feedbacks on the quality of patent applications, and deliver the monitored information to related departments, local governments and industrial associations on a regular basis to support them in decision-making.

IV. Strengthen capacity building for improving the quality of patent applications

x. Improve the capacity of utilizing patent information and the exploitation and designing of patents. Carry out the information promotion project; give instructions to the innovation entities for them to make full use of patent documents and patent information, to analyze future technical development, and to include patent information into the whole process of technological R&D. Actively push forward the building of a consultation service system to guide the enterprises and public institutions to further exploit the innovation achievements, to strengthen the design of patent distribution in key links of the industrial chain and core technologies, and to systematically protect

new innovation achievements.

xi. Improve the internal management capacity over the quality of patent applications. Through implementing the *national standards of Enterprise Intellectual Property Management Standards*, guide the enterprises to establish an internal management mechanism for the quality of patent applications, study and develop regulations on IP management in universities and research institutes, and make the management of the quality of patent applications an important content of such regulations, publicize *Standards on the Guidance of Patent Commissioning Services*, strengthen the building of management standards of patent commissioning services, regulate the professional behavior of patent commissioning institutions and patent agents, and give instructions on improving the internal capacity of managing the quality of patent applications.

xii. Enhance the service capacity of patent commissioning. Carry out the project of promoting the development of the patent commissioning industry, continuously strengthen the team of patent commissioning service talents, build a system for routinely updating the knowledge of patent agents and holding trainings for patent agents, intensify the practical skill training of patent agents, promote the patent commissioning institutions to improve the level of drafting patent application documents, guide the implementation of projects that help enhance the service capacity of the patent commissioning industry, and strengthen the cultivation of high-end talents in the patent commissioning industry.

xiii. Create a favorable environment that highlights the quality of patent applications. Highlight the publicity orientation of the quality of patent applica-



tions, launch a full range of publicity and advertising activities on improving the quality of patent applications, discover and report typical successful cases where independent patents are used to get high economic benefits, and enhance the social awareness of the quality of patent applications. Intensify our enforcement and rights defense, strengthen the means of patent enforcement, enhance the level of patent protection, further strengthen the confidence in the patent system in the patent right holders and the public, and stimulate the innovation enthusiasm of various innovation entities.

V. Strengthening organization and guarantee measures

xiv. Strengthen organization and leadership. The SIPO shall make it an important task of pushing forward the national patent cause development strategy to improve the quality of patent applications and organize the intellectual property offices of all provinces, autonomous regions and municipalities directly under the Central Government (hereinafter referred to as “the provincial intellectual property offices”) and all departments of the SIPO to develop specific implementation plans based on the reality and to advance the work step by step and phase by phase. The provincial intellectual property offices and all the departments of the SIPO shall attach great importance to it, strengthen organizational guarantee, increase the investment in the work, and concretely push forward relevant tasks.

xv. Improve the working mechanism. The SIPO shall establish an information notification system to notify the provincial intellectual property offices of

such data as the number of abnormal patent applications, and the rate of patents that are regarded as being withdrawn for failing to pay the application fees; build a mechanism for monitoring key areas to conduct prioritized supervision and monitoring of the areas with serious problems concerning the quality of patent applications; and build a mechanism for evaluating the policies on patent subsidy and rewarding. The provincial intellectual property offices shall timely develop or revise local policies on patent subsidy and rewarding before submitting them to the SIPO, and the SIPO will evaluate such policies.

xvi. Implement strict control over the quality of patent examination. Improve the system for guiding patent examination practices and that for ensuring the quality of patent examination, strengthen the building of the patent examination capacity, improve patent searches, strictly carry out the patent examination standards, intensify the examination of the applications for utility model that obviously lack novelty and those for designs that obviously belong to prior designs, and strictly control the quality of patent examination.

xvii. Further intensify supervision over implementation. The SIPO shall strengthen the supervision of the implementation of these Opinions in combination with its supervision of the advancement of the national patent undertaking development strategy, and shall link the implementation with relevant SIPO policies and projects. The SIPO shall circulate a notice to criticize the areas where the task is not concretely carried out which leads to the fall of patent examination quality of instead of being improved.