

Announcements & Circulars

Order of State Intellectual Property Office

(No. 63)

The Patent Marking Measures, which have been deliberated and adopted at the executive meeting of the State Intellectual Property Office, are hereby promulgated and shall come into force as of May 1, 2012.

Commissioner: Tian Lipu

March 8, 2012

Patent Marking Measures

Article 1 These Measures are formulated in accordance with relevant provisions of the Patent Law of the People's Republic of China (hereinafter referred to as the "Patent Law") and the Implementing Rules for the Patent Law of the People's Republic of China in order to regulate ways of patent marking and maintain the normal order of market economy.

Article 2 Patent marking shall be in compliance with these Measures.

Article 3 The patent Administration Department shall supervise and administer patent marking within its administrative area.

Article 4 Within the term of a patent after it is

granted, the patentee or the licensee who has the patent marking right with the patentee's consent may mark, as patented, its patented product, a product acquired directly pursuant to its patented method, or the packing or instruction manual of such product.

Article 5 Patent marking shall include the following content:

(I) Category of patent in Chinese, e. g. Chinese invention patent, Chinese utility model patent, Chinese design patent, *etc.* ;

(II) Patent number of the patent granted by the State Intellectual Property Office. Besides the content mentioned as above, other words and graphic marks



may also be included, provided such words and graphic marks and the way of marking are not misleading to the public.

Article 6 Where a product acquired directly pursuant to a patented method or the packing or instruction manual of the product is marked as patented, the marking shall indicate in Chinese that the product is acquired directly pursuant to such method.

Article 7 Where a product, or the packing or instruction manual or other material of the product is marked before patenting, the marking shall include the category and patent application number of the Chinese patent application and the notice “patent pending” in Chinese.

Article 8 Where patent marking is not in compliance with the provisions of Article 5, 6 or 7 of

these Measures, the patent Administration Department shall make instructions on correction of such marking.

Where patent marking is inappropriate, constituting patent counterfeiting, the patent Administration Department shall impose punishments in accordance with the provisions of Article 63 of the Patent Law.

Article 9 The power to interpret these Measures shall remain with the State Intellectual Property Office.

Article 10 These Measures shall come into force as of May 1, 2012. The Provisions on Marking of Patent Marks and Patent Numbers promulgated on May 30, 2003 as the No. 29 Order of the State Intellectual Property Office shall be abolished at the same time.

Order of State Intellectual Property Office

(No. 64)

The Measures on Patent Compulsory Licenses, which have been deliberated and adopted at the executive meeting of the State Intellectual Property Office, are hereby promulgated and shall come into force as of May 1, 2012.

Commissioner: Tian Lipu

March 15, 2012