

zation or individual obtaining the compulsory license within 5 days after the decision is made.

### Supplementary Provisions

**Article 40** The legally effective decision on the grant or termination of compulsory license, and the case of automatic termination of compulsory license shall be registered on the patent register and announced in the patent gazette.

**Article 41** Where a party concerned refuses to accept the decision made by the SIPO on compulsory license, it may apply for administrative reconsideration or institute administrative proceedings.

**Article 42** The power to interpret these Meas-

ures shall remain with the State Intellectual Property Office.

**Article 43** These Measures shall come into force as of May 1, 2012. The Measures on Compulsory Licensing for Patent Exploitation issued by No. 31 Order of the SIPO on June 13, 2003 and the Measures on Compulsory Licensing for Patent Exploitation Concerning Public Health issued by No. 37 Order of the SIPO on November 29, 2005 shall be abolished simultaneously.

## Order of State Intellectual Property Office

( No. 65 )

The Administrative Measures for Prioritized Examination of Invention Patent Applications, 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 August 1, 2012.

Commissioner: Tian Lipu

June 19, 2012



## Administrative Measures for Prioritized Examination of Invention Patent Applications

**Article 1** These Measures are formulated in accordance with relevant provisions of the Patent Law of the People's Republic of China and the Implementing Rules for the Patent Law of the People's Republic of China in order to promote optimization and upgrading of the industrial structure, boost implementation of the national intellectual property strategy, and speed up the building of an innovative country.

**Article 2** The State Intellectual Property Office (SIPO) shall conduct prioritized examination of an eligible invention patent application based on the applicant's request and shall close the case within one year after the date of consent to the request for prioritized examination.

**Article 3** Where prioritized examination is conducted according to a bilateral or multilateral agreement between/among the SIPO and the patent examination authorities of other countries or regions, the case shall be handled in accordance with relevant provisions and shall be excluded from these Measures.

**Article 4** Invention patent applications for which prioritized examination may be conducted shall include:

( I ) Important patent applications involving energy conservation and environmental protection, new-generation information technology, biotechnology, high-end equipment manufacturing, new energy, new material, new energy vehicles and other technical fields;

( II ) Important patent applications involving low-carbon technology, resource conservation and other fields that help green development;

( III ) First Chinese application in the case where the application concerning a subject is filed for the first time in China and then the application concerning the same subject is filed again in other countries or regions;

( IV ) Other patent applications that are of great significance to the national or public interests and that need prioritized examination.

**Article 5** The quantity of invention patent applications under prioritized examination shall be determined by the SIPO based on the examination capability of different technical fields, the quantity of patents granted in the previous year, and the quantity of pending applications in the current year.

**Article 6** An invention patent application in respect of which a request is made for prioritized examination shall be an electronic application.

Where a request is made for prioritized examination of an invention patent application which has not entered the substantive examination procedure, the applicant shall initiate the substantive examination procedure.

**Article 7** When handling the prioritized examination procedures, the applicant shall submit the following materials:

( I ) The Request for Prioritized Examination of

Invention Patent Application which has been examined by the IP office of the province, autonomous region or municipality directly under the central government and bears the signed opinion and official seal of such IP office; and

( II ) The search report in the prescribed format issued by the organization qualified for patent search, or the search report and examination result issued by the patent examination authority of another country or region with Chinese translation thereof;

**Article 8** “Qualified for patent search” as referred to in subparagraph II of Article 7 shall mean:

( I ) Qualified for searching by using patent and non-patent literatures for the purpose of search as specified in the Patent Examination Guide;

( II ) With search operators having specialized technical backgrounds and well trained in patent practice and search;

( III ) Able to conduct searching, for the invention patent application in respect of which prioritized examination is required for, by people specialized in relevant technical fields in accordance with the Patent Examination Guide.

**Article 9** The SIPO shall be responsible for examining requests for prioritized examination and notifying the applicant of its opinions on examination in time.

**Article 10** For any invention patent application in respect of which consent is given to the request for prioritized examination, the SIPO shall handle such case in time and issue the first office action on examination within 30 working days after the date of consent.

**Article 11** For any invention patent application eligible for prioritized examination, the applicant shall make a reply or supplement/correction as soon as possible. The time limit for the applicant to reply to the office action on examination shall be two months. Where the applicant delays such reply, the SIPO will stop prioritized examination and handle the application as an ordinary one.

**Article 12** The power to interpret these Measures shall remain with the State Intellectual Property Office.

**Article 13** These Measures shall come into force as of August 1, 2012.