



Article 47 The actor that passes off any patent shall, within 15 days as of the date of receipt of the decision of punishment, pay to the designated bank the penalty as specified in the said decision of punishment. If he fails to pay the penalty due, he shall pay an additional 3% of the penalty due per day.

Article 48 Where any actor refuses to let the administrative authority for patent affairs perform its

official duties or hinders the same from doing so, the public security organ shall punish him in accordance with the Law of the People's Republic of China on Public Security Administration Punishments. If the circumstance is serious and any crime is constituted, the judicial organ shall prosecute him for criminal liabilities.

Chapter VII Supplementary Provisions

Article 49 The administrative authority for patent affairs may serve the relevant legal documents and materials by mail, direct delivery, leaving at a prescribed place, by announcement, or by other means.

Article 50 The power to interpret these Measures shall remain with the State Intellectual Property

Office.

Article 51 These Measures shall come into force as of February 1, 2011. The Measures for Patent Administrative Law Enforcement promulgated by Order No. 19 of the State Intellectual Property Office on December 27, 2001 shall be abolished simultaneously.

Order of the State Intellectual Property Office

(No. 62)

The Measures for the Record Filing of Patent Exploitation License Contracts, 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, 2011.

Commissioner: Tian Lipu

June 27, 2011

Measures for the Record Filing of Patent Exploitation License Contracts

Article 1 These Measures are formulated in accordance with the Patent Law of the People's Republic of China, the Contract Law of the People's Republic of China, and other relevant laws and regulations for purposes of effectively protecting patent rights, regulating the licensing of patent exploitation and promoting the exercise of patent rights.

Article 2 The State Intellectual Property Office shall be responsible for the record filing of patent exploitation license contracts throughout the country.

Article 3 A patent exploitation licensor shall be a lawful patentee or any other right holders.

For the conclusion of a patent exploitation license contract on the basis of a co-owned patent right, the consent of all other co-owners shall be obtained except as otherwise agreed upon by all the co-owners or otherwise provided for by the Patent Law of the People's Republic of China.

Article 4 A patent exploitation license contract for which an application is filed for record filing shall be concluded in writing.

A patent exploitation license contract may be prepared on the basis of the model contract uniformly formulated by the State Intellectual Property Office, or other contracts in compliance with the Contract Law of the People's Republic of China.

Article 5 The parties to a patent exploitation license contract shall, within 3 months as of the date on which their contract entered into effect, undergo the record filing procedures.

Article 6 A foreign individual, enterprise or any other organization that has no regular residence or business premises in China shall authorize a legally established patent agency to undergo the relevant record filing procedures.

Chinese entities or individuals may authorize legally established patent agencies to undergo the relevant record filing procedures.

Article 7 The parties concerned may undergo the relevant procedures for the record filing of a patent exploitation license contract by mail, personal delivery or any other means as prescribed by the State Intellectual Property Office.

Article 8 To apply for the filing of a patent exploitation license contract, the applicant shall submit the following documents:

- (1) an application form for the filing of a patent exploitation license contract affixed with the signature or seal of the licensor or a patent agency authorized by the licensor;
- (2) the patent exploitation license contract;
- (3) identity certificates of both parties;
- (4) where a patent agency is authorized, a power of attorney specifying the scope of authority; and
- (5) other materials required.

Article 9 A patent exploitation license contract submitted by any party concerned shall include:

- (1) the name and address of the party;
- (2) the quantity of patents and the title, patent number, date of application and date of granting an-



nouncement of each patent; and

(3) the type and duration of the exploitation license.

Article 10 Except for identity certificate, all documents submitted by the parties concerned shall be in Chinese. If any identity certificate is in a foreign language, a Chinese translation thereof shall be attached, otherwise it shall be deemed to have not been submitted.

Article 11 The State Intellectual Property Office shall, within 7 working days as of the date of receipt of an application for record filing, conduct examination and decide whether to grant the record filing.

Article 12 Where an application for record filing passes the examination, the State Intellectual Property Office shall issue a Certificate of the Record Filing of a Patent Exploitation License Contract to the parties.

Where an application for record filing falls under any of the following circumstances, the record filing shall not be granted, and a Notice on Not Granting the Record Filing of a Patent Exploitation License Contract shall be issued to the parties:

1. A patent has been terminated or is declared invalid;
2. The licensor is not the patentee recorded in the patent register or any other right holder entitled to grant a license;
3. The patent exploitation license contract does not comply with the provisions of Article 9 of the Measures;
4. The term for the exploitation of a license exceeds the term of validity of a patent right;
5. The co-owners of a patent conclude a patent

exploitation license contract in violation of any law or agreement;

6. The annual fee of a patent has become overdue;

7. The relevant patent procedures have been suspended, because any dispute arises over the ownership of a patent or a people's court has ruled to take any preservation measure for a patent;

8. Applications for the record filing of the same patent exploitation license contract are filed repeatedly;

9. The patent has been pledged, unless the pledgee agrees;

10. The application conflicts with a patent exploitation license contract already recorded; or

11. Any other circumstances under which the record filing shall not be granted.

Article 13 Where, after a patent exploitation license contract is recorded, the State Intellectual Property Office discovers that the record filing application falls under any of the circumstances as listed in Paragraph 2 of Article 12 of the Measures and the circumstance has not been eliminated, it shall revoke the record filing of the patent exploitation license contract and issue a Notice on Revoking the Record Filing of a Patent Exploitation License Contract to the parties.

Article 14 The State Intellectual Property Office shall register the record filing information on a patent exploitation license contract in a patent register and publish the following in a patent gazette: licensor, licensee, main classification number, patent number, date of application, date of authorized announcement, type and term of exploitation license, and date of recording.

Where a patent exploitation license contract is al-

tered, deregistered or revoked after recording, the State Intellectual Property Office shall conduct corresponding registration and issue a public announcement.

Article 15 The State Intellectual Property Office shall establish a database for the record filing of patent exploitation license contracts. The public may search for the legal status of the record filing of patent exploitation license contracts.

Article 16 To extend the term of an exploitation license, the parties shall, within 2 months before the expiry of the original exploitation license, undergo the record filing alteration procedures at the State Intellectual Property Office with an alteration agreement, a record filing certificate and other relevant documents.

The alteration of other contents of a patent exploitation license contract shall be conducted by reference to the provision of the preceding paragraph.

Article 17 Where the term of an exploitation license expires or a patent exploitation license contract is dissolved in advance, the parties shall, within 30 days after the expiry of the term or the conclusion of a dissolution agreement, undergo the record filing deregistration formalities at the State Intellectual Property Office with the record filing certificate, dissolution agreement and other relevant documents.

Article 18 Where a patent right involved in a recorded patent exploitation license contract is declared invalid or is terminated before the expiry of the term of the contract, the parties shall undergo the record filing

deregistration formalities in a timely manner.

Article 19 The type and term of a filed patent exploitation license contract, the methods for the calculation of royalties and the amount of royalties, among others, may serve as a reference for the mediation by the administrative authority for patent affairs of the amount of damages for infringement.

Article 20 The parties concerned shall apply for the filing of a patent application and exploitation license contract by reference to the Measures.

During the application for record filing, if the patent application is rejected, withdrawn or deemed to have been withdrawn, the record filing shall not be granted.

Article 21 Where the parties concerned apply for the record filing of a patent application and exploitation license contract, after a patent is granted upon the patent application, the parties concerned shall make corresponding alteration to the title and relevant clauses of the patent application and exploitation license contract in a timely manner; or if the patent application is rejected, withdrawn or deemed to have been withdrawn, the parties concerned shall undergo the filing deregistration formalities in a timely manner.

Article 22 The Measures shall come into force as of August 1, 2011. The Administrative Measures for the Record Filing of Patent Exploitation License Contracts issued by Order No. 18 of the State Intellectual Property Office on December 17, 2001 shall be abolished simultaneously.