

II: Legal Affairs

The patent law system was greatly strengthened in the 11th Five-year Plan. The third revision of the Patent Law and Implementing Regulations was smoothly completed. The revision sets a higher threshold for patent granting, strengthens patent protection, increases the number of measures to safeguard the rights and interests of the public, and improves the industrial design system, the confidential review system for outbound patent application and the compulsory licensing system. SIPO formulated and amended 12 regulations, including Measures on Implementing the Compulsory Licensing for Patents Involving Public Health Issues, and Measures for Patent Administrative Enforcement.

The patent agency industry achieved steady and healthy development. By the end of December, there were 794 patent agencies and about 20,000 people engaged in the patent agency business in the country. SIPO also published its Development Plan for the Patent Agency Sector (2009-2015). During the 11th Five-year Plan, 4,306 people passed the national patent agent qualification test. SIPO issued the new Rules of Professional Moral and Practice Discipline for Patent Agent, and formulated and improved the Guiding Standards for the Patent Agency Service (for trial).



In 2010, the major progress in patent law and regulation, patent agency administration system and other work are as follows:

1. Legal System Construction

(1) Revised and formulated administrative regulations in support of the Patent Law

The revision of the Regulations on Patent Commissioning was included in the Legislation Plan of the State Council in 2010. Work was started to formulate the Regulation on Service Technical Achievement and the Measures of Interests Sharing for Inventors of Service Invention during Transferring.

(2) Revision and formulation of departmental regulations

The Transitional Practice for the Implementation of the Revised Implementing Regulations of the Patent Law, and the Guidelines for Patent Examination were published and went into effect on February 1 together with the revised Implementing Regulations of the Patent Law.

At the end of August, the Patent Pledge Registration Measures and the Rules on the Electronic Application for Patent were published and came into effect on October 1. The revised Patent Administrative Enforcement Measures will go into effect as of February 1, 2011. The drafting, opinion soliciting, amendment and other work related to the revision of the Administrative Measures for Recording of Patent Implementation Licensing Contract were completed.

(3) Departmental regulations comprehensively sorted

According to the overall deployment of the State Council, a total of 227 regulatory and normative documents published by SIPO and the former Patent Office of China were sorted completely during the year. At the end of November, the Decision to Revise and Abolish Some Regulations and Normative Documents were released.

2. Patent Agency

The reform scheme for the testing system was comprehensively implemented and the national patent agent qualification test was organized orderly. Testing venues were set up in 15 cities, including Beijing. The online test system was under continued optimization, and online registration scheme was realized. A total of 11,851 people signed up for the test nationwide, and 1,368 of them altogether passed the test.

The Guideline to 2010 National Patent Agent Qualification Test was revised and published.

The Interim Measures on the Administration of the Special Fund for Patent Agency Aid (Exposure Draft) was formulated.

By the end of December, a total of 73 applications to establish patent agencies had been reviewed. 30 applications were rejected, representing 41% of the total, and 238 applications for bibliographic data changes submitted by patent agencies were examined.

3. Administrative Reconsideration

In 2010, 54 applications for administrative reconsideration were accepted, and 6 administrative litigations were brought due to disagreement with SIPO's decision on administrative reconsideration.