

Administrative Measures on Prioritized Examination of Invention Patent Applications

Order No. 65 of the State Intellectual Property Office
(promulgated on 19 June 2012 and implemented on 1 August 2012)

Article 1 These Measures are formulated on the basis of relevant provisions of the Patent Law of the People's Republic of China and Implementing Regulations thereof with the purpose of facilitating and fostering the upgrading of industrial structure, the implementation of the national intellectual property strategy, and the development of an innovative nation.

Article 2 Where the State Intellectual Property Office ("SIPO") conducts prioritized examination on a qualified invention patent application in response to the request of an applicant, it shall close the case within one year from the date of acceptance of the request for prioritized examination.

Article 3 Prioritized examination conducted according to bilateral or multilateral agreements entered into by the SIPO with other national or regional patent offices shall be governed by relevant provisions thereof and shall not be applicable to these Measures.

Article 4 Invention patent applications that are qualified for prioritized examination include:

- (1) Important patent applications relating to technical fields involving energy conservation and environmental protection, new generation information technology, biology, high-end equipment manufacturing, new energy, new materials, and new energy vehicles;
- (2) Important patent applications relating to technical fields favorable to green development such as low-carbon technologies and resources conservation;
- (3) Patent applications first filed in China and subsequently filed in other countries or regions with respect to the same subject matter;
- (4) Patent applications of great significance to national or public interest.

Article 5 The quantity of invention patent applications to be accepted for prioritized examination will be determined by SIPO according to examination capacity by technical field, the volume of patents granted in the preceding year and the number of applications pending for substantive examination for the current year.

Article 6 The invention patent applications to be accepted for prioritized examination shall be filed electronically.

In case that the invention patent application for which prioritized examination is requested has not entered into the substantive examination stage, the applicant shall first initiate the substantive examination procedures for the application.

Article 7 When requesting for prioritized examination, the applicant shall submit documents as follows:

- (1) Request for Prioritized Examination of Invention Patent Application that is verified, signed and sealed by a provincial, autonomous regional, or municipal intellectual property office;
- (2) Search report in prescribed format issued by a legal entity qualified for conducting patent search, or search report and examination results issued by a patent office of other countries or regions and the Chinese translation thereof.

Article 8 "Qualified for conducting patent search" in item 2 of Article 7 refers to the following:

- (1) Qualified for conducting searches of patent documents and non-patent literature for purposes of search set forth in the Examination Guidelines;
- (2) The search personnel have professional and technical expertise with training on patent practice and search;
- (3) The search on the invention patent application for which prioritized examination is requested is conducted by those with knowledge of the relevant art in accordance with corresponding requirements set forth in the Patent Examination Guidelines.

Article 9 SIPO shall be responsible for receiving and reviewing the requests for prioritized examination, and shall notify in a timely manner the applicants of the review results.

Article 10 Upon accepting an invention patent application for prioritized examination, SIPO shall handle the application promptly and issue the First Office Action within 30 working days from the date of acceptance of the request for prioritized examination.

Article 11 The applicant of an invention patent application accepted for prioritized examination shall file responses or rectification as soon as practicable. The time limit for the applicant to respond to an office action is two months. If the applicant files a request for extension, SIPO will cease the prioritized examination for the application and treat it as regular application.

Article 12 SIPO is vested with the interpretation of these Measures.

Article 13 These Measures shall become effective on 1 August 2012.