

NEWS LETTER

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Taking Effect in 2026!

Revised *Patent Examination Guidelines* Issued by CNIPA

On November 13, 2025, the China National Intellectual Property Administration (CNIPA) issued the Decision on Amending the *Patent Examination Guidelines* (Decree No. 84), which will come into force **on January 1, 2026**. This revision focuses on emerging fields and new formats such as **artificial intelligence, big data, biotechnology, and streaming media**, aiming to improve patent quality and standardize examination criteria.

The key revisions are as follows:

1. Inventors Must Be Natural Persons

The *Patent Examination Guidelines* clearly stipulate that inventors are limited to natural persons. The real identity information of all inventors must be filled in the application form, and it is prohibited to fill in the names of institutions, groups, or artificial intelligence (such as “XX Research Group” or “AI Model XX”). Patent agencies must verify the identity information and contact details of applicants, and are not allowed to file patent applications or lodge invalidation claims in their own names.

2. Refined Criteria for Assessing Inventiveness

When considering inventiveness, the consideration shall be conducted on the overall technical solution as defined by the claims, that is, judging whether the entire technical solution possesses inventiveness rather than assessing individual technical features. **Features that make no**

contribution to solving technical problems will generally not affect the inventiveness evaluation even if included in the claims.

Specifically, features that have no substantial contribution to addressing technical problems (such as conventional structures and decorative designs) will usually not influence the inventiveness judgment despite being stated in the claims. In contrast, features that truly reflect technical contributions, such as those achieving unexpected effects or overcoming technical prejudices, must be included in the claims; otherwise, they will not be taken into account during the examination.

3. Handling of Simultaneous Applications for Utility Model and Invention Patents

Where the same applicant submits both an invention patent application and a utility model patent application for the identical creation on the same day, the grant of the invention patent can only be obtained by waiving the already granted utility model patent right. The previous practice of achieving “double-patenting” by amending the claims to make the scope of the two patents different is no longer permitted.

4. Patent Applications Involving Artificial Intelligence

Algorithms or business rules are eligible for patent protection only when they are combined with specific technical scenarios and generate technical effects. A new ethical review clause has been added: if content such as data collection, label management, and recommendation decision-making violates laws, social ethics, or harms public interests (e.g., infringing on privacy or introducing discriminatory rules), the application will be rejected in accordance with Article 5 of the *Patent Law of the People's Republic of China*.

5. Patents Related to Plant Varieties

It is reaffirmed that plant varieties themselves are not entitled to patent protection. However, for plant populations that have been artificially selected or improved through biotechnology and possess consistency and stability, their breeding methods or specific uses can be protected by

patents. This revision complements the *Regulations on the Protection of New Varieties of Plants*.

6. Patents Involving Bitstreams

Pure data bitstreams are not patentable. Nevertheless, bitstreams generated by specific video coding algorithms and used for specialized storage or transmission purposes, along with their corresponding processing methods and storage media, may be granted patents **if they can solve technical problems and produce technical effects**.

7. Priority Claims and Divisional Applications

If a divisional application fails to declare the priority claimed in the original application in the request form, it shall be deemed that the priority has not been claimed, and the examiner will issue a formal notification to the applicant. This revision is intended to enhance the rigor of the patent application process.

In response to the rapid development of emerging fields like artificial intelligence, big data, biotechnology, and streaming media, CNIPA's revision of the *Patent Examination Guidelines* not only refines the criteria for evaluating inventiveness and clarifies the fundamental requirement that inventors must be natural persons but also introduces examination dimensions related to algorithm ethics, data compliance, and public interests for the first time. Overall, the revised *Patent Examination Guidelines* to take effect in 2026 will significantly raise the threshold for the technical substance of patent applications and further improve the overall quality of granted patents.

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