



Interim Measures for Examination Procedures Relating to the Implementation of the Amended Patent Law

As the amended Patent Law has come into force on June 1st, 2021, and the *Implementing Regulations of the Patent Law* is still in the process of amendment, the China National Intellectual Property Administration (CNIPA) has formulated the *Interim Measures for Examination Procedures Relating to the Implementation of the Amended Patent Law* (hereinafter referred to as “*the Measures*”) to ensure the implementation of the amended Patent Law, which has come into force on June 1st, 2021.

The following is the key points of *the Measures*:

1. As of June 1st, 2021 (this day is included, hereinafter the same), the applicant for a patent shall submit a patent application for design that requests for protection of **partial product** in paper form or by using the electronic application system (CPC).
2. For the patent application of which the filing date is after June 1st, 2021, where the applicant considers that the invention-creation was first disclosed for public interest purposes **when a national emergency or any abnormal status of affairs occurs; the applicant shall submit a request for not losing novelty** in paper form. The CNIPA shall perform examination for the above-mentioned application after the implementation of the amended *Implementing Regulations of the Patent Law*.

3. For the patent for invention that is announced being granted as of June 1st, 2021, which is **also granted after the expiration of four years from the filing date and three years from the date of the request for substantive examination**; the patentee shall, within three months from the date of announcement of grant, **submit a request for compensating the duration of patent right** in paper form, then pay relevant fees according to the Notification to Pay the Fees issued by the CNIPA. The CNIPA shall perform examination for the above-mentioned request after the implementation of the amended *Implementing Regulations of the Patent Law*.

4. As of June 1st, 2021, the patentee shall, **within three months from the date of approval of the request for new drug marketing license, submit a request for compensating the duration of patent right** in paper form, then pay relevant fees according to the Notification to Pay the Fees issued by the CNIPA. The CNIPA shall perform examination for the above-mentioned application after the implementation of the amended *Implementing Regulations of the Patent Law*.

5. As of June 1st, 2021, the patentee shall voluntarily declare that he is willing to **implement the open licensing** of his patent in paper form. The CNIPA shall perform examination for the above-mentioned declaration after the implementation of the amended *Implementing Regulations of the Patent Law*.

6. As of June 1st, 2021, the alleged infringer shall request in paper form for **an evaluation report of patent** furnished by the CNIPA.

7. The duration of patent right for design of which the filing date is before May 31st, 2021 (this day is included) shall be ten years, counted from the date of filing.

The Measures for Administrative Adjudication of Major Patent Infringement Disputes

On May 28th, 2021, the China National Intellectual Property Administration (CNIPA) promulgated Notice No. 426, the *Measures for Administrative Adjudication of Major Patent Infringement Disputes* (hereinafter referred to as “*the Measures*”) has come into force on June 1st, 2021.

This article excerpts from *the Measures* regarding the content of the definition of the major patent infringement disputes and the conditions of requesting for administrative adjudication:

1. In one of the following circumstances, the case shall be regarded as major patent infringement disputes:

- (1) relating to major public interest;**
- (2) seriously affecting the development of the industry;**
- (3) a major case that involves cross-provincial administrative areas;**
- (4) other patent infringement disputes that may cause major impacts.**

2. Where the person requests for administrative adjudication of major patent infringement dispute, the case shall comply with the circumstances as defined in the above and meet all the following conditions:

- (1) the person who made the request shall be the patentee or the interested party;**
- (2) the person against whom request shall be clear;**
- (3) the request, specific facts and reasons shall be clear;**
- (4) the People’s Court shall have not put the subject patent infringement dispute on its trial docket.**

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