

The Provisions of the State Intellectual Property Office on Electronic Patent Application
Promulgated by State Intellectual Property Office on 2004-2-12

Article 1 The present Provisions are hereby formulated in accordance with Article 3 and paragraph 2, Article 16 of the Detailed Rules for the Implementation of Patent Law, for the purpose of regulating the relevant procedures and requirements for patent application put forward in the form of electronic documents through the Internet (hereinafter referred to as the electronic patent application).

Article 2 Anyone who wishes to make electronic patent applications shall sign the User Agreement for Registration in Electronic Patent Application System (hereinafter referred to as the "User Agreement") with the State Intellectual Property Office beforehand.

A patent agency that opens agency business for electronic patent application shall sign the User Agreement with the State Intellectual Property Office in the name of the patent agency.

Where an applicant who entrusts a patent agency that has signed the User Agreement with the State Intellectual Property Office to handle electronic patent application business, does not need to sign an additional User Agreement with the State Intellectual Property Office.

Article 3 Patent Applications for inventions, utility models and industrial designs may all be filed in the form of electronic documents.

For an applicant who is going through the formalities of international patent application and is at the Chinese phase in accordance with the provisions of paragraph 2, Article 99 of the Detailed Rules for the Implementation of Patent Law, he may submit the documents as prescribed in Article 101 of the Detailed Rules for the Implementation of the Patent Law in electronic form.

The present Provisions are not applicable to the international application for patent to the State Intellectual Property Office in accordance with the provisions of paragraph 1, Article 99 of the Detailed Rules for the Implementation of Patent Law.

Article 4 Where an applicant submits an electronic patent application and relevant documents, he/it shall abide by the file formats, data standards, operational procedures, and ways of transmission as prescribed in the User Agreement. If the application does not comply with the forgoing prescriptions, and leads to the failure of normal reception of the electronic patent application and relevant documents by the electronic patent application system, the electronic patent application shall not be accepted, and the relevant documents shall be deemed as not being submitted.

Article 5 Where an applicant files a patent application in the form of paper documents which is then accepted, he/it shall submit the relevant documents in paper form in each

process of the patent application. Unless there are provisions otherwise, the State Intellectual Property Office shall not accept the relevant documents submitted by the applicant in the electronic form, and the application will be deemed as not being submitted in case it does not comply with the provisions of this paragraph.

Where an applicant files an electronic patent application, which is then accepted, he/it shall submit the relevant documents in the electronic form in each process of the patent application. Unless there are provisions otherwise, the State Intellectual Property Office shall not accept the relevant documents submitted by the applicant in paper form. And the application will be deemed as not having been submitted in case it does not comply with the provisions of this paragraph.

Article 6 Where an applicant files an electronic patent application which is then accepted, he shall, for relevant documents that must be submitted in their originals as prescribed in the Patent Law and its Detailed Implementation Rules and the examination guidelines, submit the electronic scanning or image text of the original one, and submit the originals within the prescribed or specified time limit.

Article 7 Where an applicant files an electronic patent application, the application date shall be deemed as the date when the State Intellectual Property Office receives the patent application documents in conformity with the provisions of Patent Law and its Detailed Implementation Rules. The State Intellectual Property Office shall issue notice of acceptance to the applicant after receiving the patent application fees paid by the applicant within a prescribed time limit. Where an applicant submits the patent application documents in conformity with the provisions of the Patent Law and its Detailed Implementation Rules, but fails to pay patent application fees within the prescribed time limit, the State Intellectual Property Office shall issue notice that is regarded as withdrawal at the same time of issuing a notice of acceptance.

Article 8 Where an applicant files an electronic patent application, he/it shall pay patent application fees and various other fees. Unless otherwise there are special provisions, the various fees for electronic patent application shall be paid in accordance with the amount of charge rates in existence.

Article 9 Where the State Intellectual Property Office issues various notices, decisions and other documents to an applicant for his/its electronic patent application in the form of electronic documents, the applicant shall obtain them in the way as prescribed in the User Agreement.

Article 10 All the provisions of the Patent Law and its Detailed Implementation Rules and the examination guidelines on patent application and relevant documents shall be applicable to the electronic patent application, unless there are special provisions otherwise on patent application and relevant documents that shall be submitted in the form of paper documents.

Article 11 The power to interpret the present Provisions shall remain with the State

Intellectual Property Office.

(Source: Invest In China)