

# **The Provisions on Patent Electronic Application**

**Come into effect as of October 1, 2010.**

Article 1 The present Provisions are hereby formulated in accordance with Article 2 and paragraph 2, Article 15 of the Implementing Regulations of the Patent Law of the People's Republic of China (hereinafter the Implementing Regulations of the Patent Law), for the purpose of regulating the relevant procedures and requirements for patent applications put forward in electronic document form through the Internet (hereinafter the patent electronic application), making it convenient for applicants to submit patent applications, improving the efficiency of examining and approving patents and promoting Electronic government construction.

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

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

Where an applicant who appoints a patent agency that has signed the User Agreement with the State Intellectual Property Office to handle patent electronic application business, shall be exempted from signing an additional User Agreement with the State Intellectual Property Office.

Article 3 Where there are two or more applicants without appointing a patent agency, the applicant submitting the electronic application shall be the representative.

Article 4 Patent Applications of inventions, utility models and industrial designs may all be filed in electronic document form.

The patent application which enters the Chinese national phase in accordance with the provisions of paragraph 2, Article 101 of the Implementing Regulations of the Patent Law may be filed in electronic document form.

For international patent applications being filed to the State Intellectual Property Office in accordance with the provisions of paragraph 1, Article 101 of the Implementing Regulations of the Patent Law, the present Provisions shall not apply.

Article 5 Where a patent application relates to the security or other vital interests of the State and is required to be kept secret, shall be submitted in paper form.

After an applicant submits a patent application in electronic document form, if the State Intellectual Property Office finds the patent application required to be kept secret, shall convert the patent application into paper document form to continue examining, and notify the applicant. The applicant shall submit various documents in paper form in the following procedure.

Where an applicant files an application for patent directly in a foreign country or an international patent application with a relevant foreign organization in accordance with item (1) of paragraph 2, Article 8 of the Implementing Regulations of the Patent Law, shall submit the Request for Confidentiality Examination and Technical Solution to the State Intellectual Property Office in paper form.

Article 6 Where an applicant submits a patent electronic application and relevant documents, he/it shall abide by the file formats, data standards, operational procedures, and ways of transmission as prescribed. The patent electronic application and relevant documents which are not received normally by the patent electronic application system of the State Intellectual Property Office, shall be deemed as not being submitted.

Article 7 Where an applicant goes through various formalities of patent electronic application, he/it shall submit the relevant documents in electronic document form. Except as otherwise prescribed, the State Intellectual Property Office shall not accept the relevant documents in paper form submitted by applicant. And the relevant documents shall be deemed as not having been submitted in case it does not comply with the provisions of this paragraph.

Where an applicant files a patent application in paper form which is then accepted, he/it may request to transfer the paper application into patent electronic application, unless the patent application relates to the security or other vital interests of the State and is required to be kept secret.

Where an applicant need transfer a patent electronic application into paper documents in a special case, he/it shall request and may transfer into the paper application after being examined and approved by the State Intellectual Property Office and going through relevant formalities.

Article 8 Where an applicant goes through various formalities of patent electronic application, for the relevant documents which shall be submitted in original form ruled by the Patent Law, its Implementing Regulations or the Guidelines for Patent Examination, he/it may submit electronic scanning documents of the originals. The State Intellectual Property Office may, when necessary, require the applicant to submit the originals within the specified time limit.

Where an applicant submits relevant certifying documents for a reduction or postponement of the payment ruled by the Implementing Regulations of the Patent Law when making a patent electronic application, He/it should submit the electronic scanning documents of the originals of the certifying documents when making patent applications. The relevant certifying documents shall be deemed not being submitted in case the electronic scanning documents are not submitted.

Article 9 Various documents are submitted to the State Intellectual Property Office in electronic document form, the date on which the patent electronic application system of the State Intellectual Property Office receives the electronic documents is the submission date.

Where for the patent electronic applications, various notices, decisions or other documents are sent by the State Intellectual Property Office to applicants in electronic document form, the 16th day from the date of mailing shall be presumed to be the date on which the applicants receive the documents.

Article 10 All the provisions concerning patent application and relevant documents of the Patent Law, its Implementing Regulations and the Guidelines for Patent Examination except those especially regulating patent application and relevant documents submitted in paper form, apply to patent electronic application.

Article 11 The power to interpret the present provisions shall remain with the State Intellectual Property Office.

Article 12 The present provisions shall enter into force on October 1, 2010. The Provisions on Electronic Patent Application promulgated by the Ordinance of the State Intellectual Property Office No.35 shall be repealed at the same time.