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# **Guidelines for the Administrative Enforcement of Patents**

## **(Draft for Comment)**

**State Intellectual Property Office of the People's Republic of China**

## Table of Contents

Chapter 1 General provisions.....	1
Part 1 Basic principles of administrative enforcement of patents .....	1
1.1.1 Principle of administration according to law .....	1
1.1.2 Principle of active case handling.....	1
1.1.3 Principle of openness and fairness .....	1
1.1.4 Principle of convenience and efficiency .....	1
1.1.5 Principle of feasibility and innovation .....	1
Part 2 Jurisdiction.....	1
1.2.1 Jurisdiction by hierarchy .....	1
1.2.2 Jurisdiction by region.....	2
1.2.3 Transfer and designation of jurisdiction.....	2
1.2.4 Objection to jurisdiction.....	2
Part 3 Recusal.....	3
1.3.1 Voluntary recusal.....	3
1.3.2 Recusal request.....	3
1.3.3 Approval on recusal.....	3
Part 4 Agency .....	3
1.4.1 Statutory agent and entrusted agent .....	3
1.4.2 Notes on entrusted agency.....	3
Part 5 Service .....	4
1.5.1 Service and acknowledgment of service .....	4
1.5.2 Service method.....	4
Chapter 2 Handling of patent infringement disputes .....	5
Part 1 Case receipt and examination of case acceptance.....	5
2.1.1 Receipt .....	5
2.1.2 The parties .....	5
2.1.3 Case acceptance examination.....	6
2.1.4 Steps of case acceptance .....	9
2.1.5 Statement of defense .....	10
Part 2 Investigation and evidence collection.....	11
2.2.1 Application to administrative departments of patents for investigation and evidence collection.....	11
2.2.2 Site investigation.....	11
2.2.3 Evidence collection .....	12
2.2.4 Transcripts preparation.....	13
2.2.5 Site identification .....	14
2.2.6 Technical appraisals .....	14
Part 3 Case proceedings .....	14
2.3.1 Preparations before oral proceedings .....	14
2.3.2 Holding of oral proceedings.....	15
2.3.3.1 Suspension of oral proceedings.....	18
2.3.4 Suspension and resumption of proceedings .....	20
Part 4 Verification of evidence .....	21
2.4.1 Evidence types .....	21
2.4.2 General principles of evidence verification.....	21
2.4.3 Examination and verification of a single item of evidence .....	22
2.4.4 Verification of weights of several items of evidence.....	22
2.4.5 Evidence that could not be used as the sole basis for deciding facts.....	23
2.4.6 Statements of reasons for relying on a certain item of evidence .....	23
2.4.7 Verification of foreign evidence .....	23
Part 5 Case closing.....	23
2.5.1 Manners of case closing .....	23
2.5.2 Time limit for case closing .....	23
2.5.3 Deliberations .....	24
2.5.4 Details of manners of case closing.....	24
2.5.5 Approval for case closing.....	27

2.5.6 Service of case closing instruments .....	27
2.5.7 Handling of repeated infringements .....	27
2.5.8 Filing of case materials .....	27
2.5.9 Special notes .....	27
Part 6 Execution and disclosure .....	27
2.6.1 Enforceability of handling decisions .....	27
2.6.2 Voluntary performance and site supervision .....	28
2.6.3 Application for coercive execution .....	28
2.6.4 Disclosure of case information .....	29
Chapter 3 Investigation and handling of patent passing-offs .....	30
Part 1 Case acceptance .....	30
3.1.1 Case source .....	30
3.1.2 Requirements for case acceptance .....	30
3.1.3 Time limit for case acceptance .....	30
3.1.4 Approval for case acceptance .....	30
Part 2 Investigation and evidence collection .....	31
3.2.1 Preparations for investigation and evidence Collection .....	31
3.2.2 Implementation of investigation and evidence collection .....	31
3.2.3 Administrative coercive measures .....	33
Part 3 Opinions of case closing .....	34
3.3.1 Formation of case settlement opinions .....	34
3.3.2 Approval for case closing opinions .....	34
Part 4 Notification and hearing before sanction .....	35
3.4.1 Notification before sanction .....	35
3.4.2 Statement and defense by the involved party .....	35
3.4.3 Hearing .....	35
Part 5 Violation rectification, sanction and sanction decision .....	43
3.5.1 Ordering the perpetrator to stop patent passing-off and correct its act .....	43
3.5.2 Types of sanction .....	43
3.5.3 Time limit .....	44
3.5.4 Noteworthy issues in the implementation of the administrative sanction .....	44
Part 6 Execution and disclosure of the sanction .....	50
3.6.1 Ordinary procedures for punishment execution .....	50
3.6.2 Special circumstances for execution .....	51
3.6.3 Disclosure of the result .....	51
Chapter 4 Mediation of patent disputes .....	53
Part 1 Types of patent disputes for mediation .....	53
4.1.1 Disputes on the ownership of the right of patent application and the patent right .....	53
4.1.2 Disputes on the qualification as an inventor or designer .....	54
4.1.3 Disputes on the reward or remuneration to the inventor or designer of a service invention .....	54
4.1.4 Disputes on failure of payment of proper fees for use of an invention after the publication of the patent application but before the granting of the patent .....	54
4.1.5 Damages amount for infringement on a patent right .....	55
Part 2 Conditions for requesting patent disputes mediation and the required materials .....	55
4.2.1 Conditions .....	55
4.2.2 Request for patent disputes mediation .....	55
4.2.3 Identity certificates of the requester .....	55
4.2.4 Evidence and materials relating to patent disputes .....	55
4.2.5 Other materials .....	56
Part 3 Service and case acceptance .....	56
4.3.1 Service .....	56
4.3.2 Case acceptance .....	56
4.3.3 Miscellaneous .....	56
Part 4 Mediation procedures for patent disputes .....	57
4.4.1 Evidence examination .....	57
4.4.2 Mediation .....	57

Part 5 Case closing.....	58
4.5.1 Case closing in the form of mediation .....	58
4.5.2 Case dismissal .....	59
Chapter 5 Cross-territory and cross-department collaborationsfor administrative enforcement of patents .....	60
Part 1 Handling of cross-territory disputes of patent Infringement.....	60
5.1.1 Conditions for collaboration requests .....	60
5.1.2 Materials submission.....	60
5.1.3 Preliminary examination .....	60
5.1.4 Jurisdiction .....	60
5.1.5 Case acceptance .....	61
5.1.6 Case closing .....	61
Part 2 Mediation of cross-territory disputes of patent Infringement .....	61
5.2.1 Materials submission.....	61
5.2.2 Receipt .....	61
5.2.3 Jurisdiction .....	62
5.2.4 Transfer of materials .....	62
5.2.5 Case closing .....	62
Part 3 Investigation and handling of cross-territory acts of patent passing off .....	62
5.3.1 Transfer .....	62
5.3.2 Case closing .....	62
Part 4 Cooperative handling of cross-territory cases.....	62
5.4.1 Entrusted evidence investigation.....	63
5.4.2 Assistance of evidence investigation .....	63
5.4.3 Entrusted Service .....	63
5.4.4 Execution assistance.....	63
Part 5 Targeted actions of cross-territory patent enforcement.....	64
5.5.1 Patent infringement cases.....	64
5.5.2 Cases of patent passing-offs .....	64
Part 6 Cross-department collaboration of administrative enforcement .....	64
5.6.1 Enforcement collaboration with the public security authorities .....	64
5.6.2Enforcement collaboration with functional departments such as industrial and commercial administrations and copyright administrations.....	65
5.6.3 Enforcement collaboration with customs .....	65
Chapter 6 Handling of patent infringement disputes in relation to exhibitions and e-commerce ...	66
Part 1 Mediation of patent infringement disputes in relation to exhibitions .....	66
6.1.1 Preconditions and basisfor mediation of patent infringement disputes in relation to exhibitions .....	66
6.1.2 Capacity and duties of personnelassigned by administrative departments of patents to exhibitions.....	66
6.1.3 The parties .....	67
6.1.4 Acceptance of a complaint .....	67
6.1.5 Investigation and verification and site handling.....	68
6.1.6 Site records.....	69
6.1.7 Defense.....	69
6.1.8 Measures and responsibilities.....	70
6.1.9 Files management and itemsreturn.....	70
Part 2 Mediation of patent infringement disputes in relation to e-commerce .....	70
6.2.1 Preconditions and basisfor mediation and determination of patent infringement disputes in relation to e-commerce.....	70
6.2.2 Capacity and duties of administrative departments of patents .....	71
6.2.3 The parties.....	71
6.2.4 Case submission .....	71
6.2.5 Case handling.....	72
6.2.6 Measures and responsibilities.....	72
6.2.7 Files management.....	73
Chapter 7 Law enforcement administration .....	74

Part 1 Law enforcement agencies .....	74
7.1.1 Enforcement affairs agencies .....	74
7.1.2 Building of law enforcement conditions .....	74
7.1.3 Building of law enforcement team .....	74
7.1.4 Entrusted enforcement .....	74
Part 2 Administration of enforcement officers .....	75
7.2.1 Law enforcement officers.....	75
7.2.2 Administration of law enforcement certificates .....	76
7.2.3 Law enforcement training .....	79
Part 3 Law enforcement funds .....	81
7.3.1 Scope of dedicated funds .....	81
7.3.2 Administration duties .....	81
7.3.3 Application, approval, use and acceptance inspection .....	81
7.3.4 Supervision and assessment .....	82
Part 4 Work mechanisms of law enforcement.....	83
7.4.1 Targeted actions of law enforcement.....	83
7.4.2 Law enforcement at exhibitions .....	83
7.4.3 Coordination of law enforcement collaborations .....	85
7.4.4 Instruments and files administration of law enforcement cases .....	87
Part 5 Affairs of IP rights safeguarding assistance and reports and complaints .....	90
7.5.1 Affairs of IP rights safeguarding assistance .....	91
7.5.2 Affairs of IP rights reports and complaints.....	91
7.5.3 "12330" platform for affairs of IP rights safeguarding assistance and reports and complaints .....	92
Part 6 Direction and supervision.....	94
7.6.1 Target accountability system of law enforcement .....	94
7.6.2 Supervisory inspection, supervisory direction, supervisory handling and instruction of law enforcement.....	94
7.6.3 Performance assessment of law enforcement and right safeguarding.....	96
7.6.4 Liabilities .....	97
Annex I Forms for patent infringement cases .....	100
I. Forms for patent infringement cases (for handling by IP Offices).....	101
Notice of receipt of request for handling patent infringement disputes .....	102
Notice of case dismissal for patent infringement dispute.....	103
Notice of acceptance denial of request for handling patent infringement disputes .....	104
Notice of submission of patent evaluation reports/utility model search reports .....	105
Notice of defense .....	106
Decision of taking of sampled evidence for cases of patent infringement dispute .....	109
List of sampled evidence for cases of patent infringement dispute.....	110
Decision of registered evidence preservation for cases of patent infringement dispute.....	111
List of evidence subject to registered preservation for cases of patent infringement dispute.....	112
Decision of lifting registered evidence preservation for cases of patent infringement dispute .....	113
List of releasing evidence subject to registered preservation for cases of patent infringement dispute.....	114
Transcript of site inspection for cases of patent infringement dispute .....	115
Notice of handling suspension for cases of patent infringement dispute .....	116
Notice of denial of suspension request for cases of patent infringement dispute.....	117
Notice of handling resumption for cases of patent infringement dispute.....	118
Notice of oral proceedings .....	119
Acknowledgment of oral proceedings.....	120
Decision on recusal application .....	121
Transcript of oral proceedings for cases of patent infringement dispute .....	122
Decision of case dismissal for infringement of patent rights .....	124
Handling decision on cases of patent infringement dispute .....	127
Acknowledgment of service.....	129
Application for coercive execution of handling decisions on patent infringement disputes .....	130

Notice of amendment/correction for patent infringement disputes .....	131
Application for coercive execution of handling decisions on patent infringement disputes ..	132
II. Forms for patent infringement cases (for internal use by IP Offices).....	133
Approval form of case acceptance for patent infringement disputes .....	133
Approval form of investigation and evidence collection for patent infringement disputes ..	135
Approval form of registered evidence preservation for cases of patent infringement dispute .....	136
Transcript of deliberations for cases of patent infringement dispute .....	137
Letter of engagement for technical appraisal .....	138
Approval form of case closing for patent infringement disputes .....	139
III. Forms for patent infringement cases (for use by a party concerned) .....	140
Request for handling patent infringement disputes .....	140
List of evidential materials submitted by a party .....	143
Power of attorney for patent disputes.....	144
Observations .....	145
Application for handling suspension in cases of patent infringement dispute .....	146
Request for evidence investigation and collection in patent infringement disputes.....	147
Application for withdrawal of request for handling patent infringement disputes.....	148
Settlement agreement for patent infringement disputes .....	149
Request for coercive execution of handling decisions on patent infringement disputes .....	150
Annex II. Forms for investigation and handling of cases of patent passing-offs .....	151
I. Forms for investigation and handling of cases of patent passing-offs (for handling by IP offices) .....	152
Notice of accepting a case for a patent passing-off .....	152
Notice of not accepting a case for a reported suspected patent passing-off .....	154
Notice of assistance in investigation .....	155
Notice of providing evidence and accepting investigation within the specified time .....	156
Transcript of the investigation into a patent passing-off case .....	157
Decision on evidence sampling in a patent passing-off case .....	159
List of sampled items of evidence in a patent passing-off case .....	160
Notice of evidence registration and preservation in a patent passing-off case.....	161
List of registered preserved items of evidence in a patent passing-off case.....	162
Decision on the lifting of the registered preservation of the items of evidence in a patent passing-off case .....	163
List of items of evidence released from registered preserved in a patent passing-off case...	164
Seal-up or detention decision .....	165
List of sealed-up (detained) items .....	166
Decision on the lifting of seal-up or detention decision.....	167
List of the items released from seal-up or detention .....	168
Notice before sanction .....	169
Notice of hearing before sanction .....	171
Notice of hearing for a patent passing-off case .....	173
Receipt of the notice of hearing for a patent passing-off case .....	174
Notice of not accepting the application for the hearing for a patent passing-off case.....	175
Decision on recusal application .....	176
Transcript of the hearing for a patent passing-off case .....	177
Notice of ordered correction .....	179
Administrative sanction decision .....	180
Notice of case dismissal .....	183
Decision on not imposing the administrative sanction.....	184
Fine payment notice .....	185
Form of approval of fine payment deference (by installment).....	186
Notice of ordered correction of the non-normative patent marking.....	187
Acknowledgment of service.....	188
II. Forms for investigation and handling of cases of patent passing-offs (for internal use by IP Offices).....	189
Form of registration of reported suspected patent passing-off .....	189

List of items of evidence in a patent passing-off case .....	191
Form of approval of accepting a suspected patent passing-off case .....	192
Case reference form .....	193
Form of entrusted custody of the items subject to the administrative coercive measure .....	194
Letter of engagement for technical appraisal .....	195
Transcript of the discussion of a patent passing-off case .....	196
Transcription of the collective discussion of a major patent passing-off case .....	197
Report on the hearing for a patent passing-off case .....	198
Approval form of case closing of a patent passing-off case .....	200
Report on the closing of a patent passing-off case .....	201
Letter of entrustment for administrative enforcement of patents .....	202
Notice of results of entrusted law enforcement .....	203
Form of approval of the closing of a non-normative patent marking case .....	205
Form of application for the enforcement of an administrative sanction .....	206
III. Forms for investigation and handling of cases of patent passing-offs (for use by a party concerned) .....	207
Form of registration of reported or complained suspected patent passing-off .....	208
Power of attorney for a patent passing-off case .....	209
Form of application for the hearing for a patent passing-off case .....	210
Annex III: Forms for mediation of patent disputes .....	211
I. Forms for cases of patent disputes mediation (for handling by IP offices) .....	212
Notice of observations for mediation of patent disputes .....	212
Notice of case acceptance for mediation of patent disputes .....	214
Notice of acceptance denial of request for mediation of patent disputes .....	215
List of evidential materials submitted by a party .....	216
Notice of mediation of patent dispute .....	217
Acknowledgment of mediation for patent disputes .....	218
Decision on recusal application .....	219
Mediation form of patent disputes .....	220
Notice of mediation termination for cases of patent dispute mediation .....	222
Acknowledgment of service .....	223
II. Forms for mediation of patent disputes (for internal use by the IP Offices) .....	224
Approval form for case acceptance of patent dispute mediation .....	224
III. Forms for mediation of patent disputes (for use by a party concerned) .....	226
Request for mediation of patent dispute .....	227
List of evidential materials submitted by a party to patent dispute .....	229
Observations .....	230
Power of attorney for patent disputes cases .....	231
Settlement agreement for patent disputes .....	232
Annex IV: Forms for law enforcement in relation to exhibitions or e-commerce .....	233
Request for complaints of patent infringement disputes .....	233
Notice of handling of suspected patent infringements .....	236
Registration form of petition for suspected infringements .....	237
Investigation form for patent complaints .....	238
Registration form for filing patent infringement disputes of e-commerce platform .....	239
Submission form for filing cases of patent infringement disputes of e-commerce platform .....	240
Annex V: Forms for administrative reconsideration cases .....	241
I. Forms for administrative reconsideration cases (for the use by IPOffice for reconsideration case) .....	242
Notice of the receipt of the application for an administrative reconsideration .....	242
Notice of denial of the application for an administrative reconsideration .....	244
Notice of written response to an administrative reconsideration .....	245
Decision on recusal application .....	246
Notice of the cease of execution during the administrative reconsideration .....	247
Transcript of the investigation into a case of administrative reconsideration .....	248
Notice of approval to withdraw the application for administrative reconsideration .....	250
Mediation form in administrative reconsideration .....	251

Intellectual Property Office .....	252
Administrative Reconsideration Decision .....	252
Acknowledgment of service .....	254
II. Forms for administrative reconsideration cases (for the internal use by the IP Office for reconsideration) .....	255
Report on case acceptance for administrative reconsideration .....	255
Transcript of the discussion in the administrative reconsideration case .....	257
Letter of engagement for technical appraisal .....	258
Report on the closing of an administrative reconsideration case .....	259
III. Forms for administrative reconsideration cases (for the use by a party concerned) .....	260
Application for administrative reconsideration .....	260
List of documents/evidence to be submitted in an administrative reconsideration case .....	263
Power of attorney for an administrative reconsideration case .....	264
Annex VI: Forms for cross-territory collaborations of patent administrative enforcement .....	265
List of received handling materials for cross-territory disputes of patent infringement .....	265
List of transferred handling materials for cross-territory disputes of patent infringement .....	267
Acknowledgment of transferred handling materials for cross-territory disputes of patent infringement .....	269
Notice of acceptance denial for cross-territory disputes of patent infringement .....	270
Notice of case closing for cross-territory disputes of patent infringement .....	271
List of received mediation materials for cross-territory patent disputes .....	272
List of transferred mediation materials for cross-territory patent disputes .....	273
Acknowledgment of transferred mediation materials for cross-territory patent disputes .....	275
Notice of case closing through mediation for cross-territory patent disputes .....	276
List of transferred materials for cross-territory investigation and handling of patent passing-offs .....	277
Acknowledgment of transferred materials for cross-territory investigation and handling of patent passing-offs .....	279
Notice of case closing for cross-territory investigation and handling of patent passing-offs .....	280
Entrustment for investigation and evidence collection for cross-territory dispute cases .....	281
Acknowledgment of assistance of investigation and evidence collection for cross-territory dispute cases .....	282
Notice of results of investigation and evidence collection for cross-territory patent cases .....	283



## **Chapter 1 General provisions**

These Guidelines are formulated in accordance with the Patent Law of the People's Republic of China (the "Patent Law"), the Detailed Rules for the Implementation of the Patent Law of the People's Republic of China (the "Detailed Rules for the Implementation of the Patent Law"), the Measures for Administrative Enforcement of Patents (the "Enforcement Measures") and relevant laws and regulations, with a view to regulate administrative enforcement acts of patents; strictly administer the law; ensure the quality and efficiency of administrative enforcement of patents; protect the legal rights and interests of patentee and the general public; build up an innovative country; and create a favorable legal environment for faster and better social and economic development.

### **Part 1 Basic principles of administrative enforcement of patents**

#### **1.1.1 Principle of administration according to law**

In administrative enforcement of patents, administrative departments of patents shall take the facts as the basis and the law as the criterion, in strict compliance with the relevant provisions of the laws and regulations, ensure more prudent handling procedures, and place itself under legal supervision and shall be held liable for legal consequence arising from the violation and dereliction of duties.

#### **1.1.2 Principle of active case handling**

An administrative department of patents shall actively receive any case that complies with its acceptance conditions and may not shuffle off any case or the department shall be held liable for corresponding legal consequence.

#### **1.1.3 Principle of openness and fairness**

For patent cases, administrative departments of patents shall try the case in an open session and promptly make the progress and information available to the public, except for cases involving state secrets, trade secrets and any one that is not suitable for open session according to the laws and regulations. Administrative departments of patents shall fairly handle the case or hand out punishment based on comprehensive, objective and scientific analysis and judgment.

#### **1.1.4 Principle of convenience and efficiency**

In carrying out administrative enforcement of patents, administrative departments of patents shall fully exploit the advantages of convenience and efficiency, strictly follow the provisions of laws, regulations and rules concerning the term, strive to improve case-handling efficiency and shorten the handling cycle as much as possible.

#### **1.1.5 Principle of feasibility and innovation**

Administrative department of patents shall, within the framework of the laws and regulations, adapt to the characteristics and needs of the local economic and social development, fully exploit the advantages of administrative enforcement to expand and innovate, actively explore the methods of administrative enforcement of patents that more effectively protect the legal rights and interests of patentee and the general public.

### **Part 2 Jurisdiction**

#### **1.2.1 Jurisdiction by hierarchy**

State Intellectual Property Office is in charge of the guidance, administration and supervision of the nationwide administrative enforcement of patents. In the event of any patent case with significant influence, State Intellectual Property Office may organize relevant administrative departments of patents to handle such case where necessary. In the event of any significant patent case involving several provinces, autonomous regions and/or municipalities directly under the Central Government, State Intellectual Property Office may coordinate such case where necessary.

The administrative departments of patents of each province and autonomous region shall be in charge of the guidance, administration and supervision of the administrative enforcement of patents within their respective administrative areas and of handling any patent case with

significance, complexity and huge influence within their respective administrative areas. In the event of any significant patent case involving several cities (regions, prefectures or leagues), the administrative departments of patents of each province and/or autonomous region may coordinate such case where necessary.

The administrative departments of patents of each municipality directly under the Central Government shall be in charge of patent cases within their respective administrative areas.

The administrative departments of patents at prefecture level shall administer any patent cases apart from those transferred to in the preceding paragraph.

Subject to local regulations, the administrative departments of patents of each city and/or county without districts (city, district, or banner) may handle patent cases within their respective administrative areas.

#### 1.2.2 Jurisdiction by region

The dispute over patent infringement shall be handled by the administrative department of patents in the location where the requester domiciles or where the infringement took place. The place of infringement includes the place where the infringement is committed and the place where the consequences of infringement arise. If the requester only requests for handling the producer of alleged infringing products and fails to request for the same to the distributor, where the production and the distribution locations of the alleged infringing products are not the same, the administrative department of patents in the location of production shall have the jurisdiction. For a patent dispute where two or more departments for the administration of patent have jurisdiction, the party concerned may file a request to one of them. Where the party concerned requests two or more departments for the administration of patent with the jurisdiction, the dispute shall be handled by the department for the administration of patent work that accepts it first.

The mediation of patent disputes shall be governed by the administrative department of patents in the location where the requester is domiciled. The patent dispute arising from the performance of any patent-related contract shall be governed by the administrative department of patents in the location where the respondent is domiciled or where the contract is performed.

Acts of patent passing-off shall be governed by the administrative department of patents in the location where the violation occurs.

#### 1.2.3 Transfer and designation of jurisdiction

If any administrative department of patents discovers that any patent case is not within its jurisdiction, the case shall not be accepted. If any administrative department of patents discovers that any patent case is not within its jurisdiction after its acceptance, it shall dismiss such case. Meanwhile, it shall transfer case clues to the administrative department of patents with jurisdiction after informing the requester of such transfer. The transferred administrative department of patents shall receive such case or accept the case. If the administrative department of patents to which a case has been transferred considers that, according to the relevant regulations, the transferred case is not within its jurisdiction, it shall report to its superior administrative department of patents for the designation of jurisdiction and shall not independently transfer the case.

A superior administrative department of patents may have jurisdiction over any patent case in the charge of its subordinate administrative departments of patents. If a subordinate administrative department of patents considers itself as not suited for handling any patent case, it may transfer the case to its superior administrative department of patents upon approval.

In the case of a jurisdictional dispute between the administrative departments of patents, it shall be settled by both parties involved through negotiation. Where the negotiation fails, the jurisdiction over the case shall be designated by the common superior administrative department of patents of the two administrative departments of patents. In the absence of such superior administrative department of patents, the jurisdiction shall be designated by State Intellectual Property Office.

#### 1.2.4 Objection to jurisdiction

If a party concerned has objection to the jurisdiction, the administrative department of patents

that accepts or receive the case shall make a decision within 5 days after the receipt of the Objection to Jurisdiction. If the objection sustains, a decision to transfer the case to the administrative department of patents with the jurisdiction shall be made; otherwise, a decision to reject the Objection to Jurisdiction shall be made.

Any one dissatisfied with the decision on the Objection to Jurisdiction made by an administrative department of patents may apply for an administrative reconsideration or lodge an administrative litigation.

### **Part 3 Recusal**

#### **1.3.1 Voluntary recusal**

Under any of the following circumstances, the enforcement officer responsible for a patent case shall make a voluntary recusal:

- (1) The officer is a party in the case or a lineal relative, a collateral relative within three generations or a close marriage relative to the party;
- (2) The officer or his/her close relatives have an interest in the case;
- (3) The officer has acted as a witness, expert appraiser or agent in the case; or
- (4) The officer has any other relations with a party in the case that could affect the impartial handling or investigation of the case.

#### **1.3.2 Recusal request**

If any enforcement officer is under any of the foregoing circumstances, the parties concerned and their agents may apply for recusing the officer, orally or in writing. If any party concerned applies for recusal, an administrative department of patents shall require such party to state its reasons. If any party concerned applies for recusal orally, a transcript of statements shall be made with the signature of the applicant for recusal. An administrative department of patents shall, within three days upon such application, decide whether or not to approve such recusal and shall inform the parties concerned of such decision, orally or in writing.

The enforcement officer applying for recusal shall suspend his/her involvement in the case prior to the decision of the administrative department of patents, except for investigation into cases of patent passing-offs or the circumstance under which emergency measures shall be taken for the case.

Parties that refuse to accept the decision may apply for reconsideration once. The decision on the reconsideration application shall be made within three days after the receipt of the application and the applicant shall be notified thereof.

During reconsideration, the enforcement officer applied to recuse shall not suspend his/her involvement in the proceedings.

#### **1.3.3 Approval on recusal**

The recusal of any enforcement officer shall be subject to the approval of the heads of the administrative department of patents. The recusal of the heads shall be determined by the director-general, while the recusal of the director-general shall subject to the resolution of the executive meeting of the administrative department of patents, in which the director-general may not attend.

### **Part 4 Agency**

#### **1.4.1 Statutory agent and entrusted agent**

Any person with no legal capacity to engage in litigation shall have his guardian(s) as statutory agent(s) to act on his/her behalf in handling a patent dispute. A party concerned or a statutory agent may appoint one or two persons to act as his/her agents.

#### **1.4.2 Notes on entrusted agency**

When a person appoints another to act on his/her behalf in handling a patent dispute, he/she

must file with an administrative department of patents a power of attorney bearing his /her signature or seal.

The power of attorney must specify the matters entrusted and the power conferred. An agent must obtain a special power of attorney from his/her authorizing party to admit, waive or modify claims or to compromise. If the entrusted authority is special authorization as specified in the power of attorney, the requester is required to clarify the specific issues of such special authorization. If the entrusted authority is not specified, the authority of such agent to do or not to do any act on behalf of the authorizing party shall be defined.

Any power of attorney executed overseas or in Hong Kong, Macao, or Taiwan shall be subject to notarization, certification, and other verification procedures under Chinese laws. A power of attorney in any foreign language shall be accompanied with its Chinese translation. The Chinese version shall be translated by a qualified translation provider, as signed by the translator and affixed with the official seal of such translation provider. In the absence of Chinese translation, the power of attorney will be returned back and the requester will be required to submit the Chinese translation with the original power of attorney within a specified time period.

Foreigners posting or entrusting a power of attorney to others must have it certified by the Chinese embassy or consulate in the country. Where no Chinese embassy or consulate may be found in that country, the power of attorney must be certified by an embassy or a consulate of a third country in the country that has diplomatic relations with the People's Republic of China, before being transmitted for authentication to the embassy or consulate of the People's Republic of China in the third country. Otherwise it must be certified by a local patriotic Chinese body.

If any agency is entrusted, its agent shall appear in court.

## **Part 5 Service**

### **1.5.1 Service and acknowledgment of service**

The served means any individual that is a party or related to the case on whom relevant instruments shall be served under laws, regulations and rules.

An acknowledgment of service shall be required for every instrument served and shall bear the date of receipt noted by the signature or seal of the served.

The date of receipt indicated on the acknowledgment of service by the served shall be the date of service.

### **1.5.2 Service method**

#### **1.5.2.1 Personal service**

Any instrument shall be delivered directly to the served; If the served is a citizen, the instruments shall, in case of his absence, be received by an adult member of his family living with him. If the served is a legal person or any other organization, the instruments shall be received by the legal representatives of the legal person or the responsible person of the other organization or anyone of the legal person or the other organization responsible for receiving such instruments. If the served has an agent, the instruments may be received by the agent. If the served has designated a collecting agent and has informed the administrative department of patents accordingly, the instruments may be received by the collecting agent.

The date put down on the acknowledgment of service and signed by the adult family member living with the served, or by the person responsible for receiving instruments of a legal person or any other organization, or by the agent or the collection agent shall be deemed as the date of service of the instruments.

#### **1.5.2.2 Depository service**

If the served or the adult family member living with him refuses to receive the instruments, the server shall ask representatives from the relevant grassroots organization or the employer of the served to be present, explain the situation to them and record on the acknowledgment of

service the reasons of refusal, the date and have it signed or sealed by the witness before leaving the instrument to the domicile of the served. The instrument may also be left at the domicile of the served and the service shall be recorded by taking photos or shooting video and shall be deemed as delivered.

The mediation form shall be directly delivered to the parties and may not be delivered by depository service. If any party concerned cannot receive the same for any reason, it may be received by any person designated by such party.

#### 1.5.2.3 Postal service

If it is difficult to deliver any instrument directly, it may be posted through China Post. The postal service shall be made through registered mail and the date of receipt shall be the actual date on which the served receives such instrument as indicated by the postal system.

If the acknowledgment of service delivered by mail fails to be returned, the same shall be otherwise prepared again and attached with a depository note of the sender of the registered mail, where the responsible officer shall indicate in the column "Remarks" the facts and date along with his/her signature.

#### 1.5.2.4 Service by publication

If the whereabouts of the served is unknown, or if the instrument cannot be served by any other methods specified in this Part, the instrument shall be served by publication. Sixty days after the publication is made, the instruments shall be deemed as having being served.

In relation to service by publication, it may either be posted on the bulletin and official website of an administrative department of patents and in the place where the served originally domiciled, or published in major local newspapers. If there is any special requirement for the method of service by publication, it shall be published in accordance with such requirement. Upon the expiry of the publication period, it shall be deemed as served.

In the case of serving a copy of the request by publication, it shall indicate the main points of such request, defense term of the served and the legal consequence of failing to defend. In the case of serving a notice of oral proceedings by publication, it shall state the venue and time of such oral proceedings and the legal consequence of failing to appear in court in time. In the case of serving handling decision or other notice by publication, it shall state the major contents of the handling decision and the remedies available to the parties concerned.

In the case of service by publication, an acknowledgment of service shall be prepared, to which the published text and relevant medium (original copy of the newspaper. In the case of publication on a website, the entire webpage containing the publication shall be printed with the date and website address, and shall be signed and dated by the responsible officer) shall be attached, and the responsible officer shall indicate relevant information with signature and date in the column "Remarks".

## **Chapter 2 Handling of patent infringement disputes**

### **Part 1 Case receipt and examination of case acceptance**

#### 2.1.1 Receipt

A case of patent infringement disputes shall be initiated upon the request of a requester.

An administrative department of patents shall decide whether or not to receive a request after examining whether the request filed by such requester complies with the receipt conditions under relevant provisions.

#### 2.1.2 The parties

##### 2.1.2.1 Requester

A requester shall be the patentee or an interested party:

(1) A patentee means the lawful owner of a patent.

(2) Interested parties include any licensee of a patent license contract and lawful successor of a patent right. The licensee of a sole license contract may file a request independently; the licensee of an exclusive license contract may file a request independently provided that the patentee does not file a request; unless otherwise stipulated in an ordinary license contract, the licensee of the contract may not file a request independently.

#### 2.1.2.2 Respondent

A respondent shall be a natural person, legal person, or other organization.

#### 2.1.2.3 Joint requesters or respondents

If any patent infringement dispute falls under any of the following circumstances, the entity or individual concerned shall jointly participate in the handling of the dispute case:

(1) If there are two or more patentees of a patent right involved in dispute, all the joint patentees are joint requesters, unless other joint patentees expressly waive their relevant substantial rights.

(2) If the respondent is an individual partnership, all partners are joint respondents.

(3) Other circumstances prescribed by laws and regulations.

#### 2.1.3 Case acceptance examination

To request an administrative department of patents to handle a patent infringement dispute, the following conditions shall be satisfied:

(1) The requester shall be a patentee or interested party;

(2) There is a specified respondent;

(3) There are specific claims and detailed facts and reasons;

(4) There is evidence that the respondent is suspected of patent infringements;

(5) The case falls into the scope of receipt and jurisdiction of the administrative department of patents which receives the case; and

(6) No parties concerned have lodged a lawsuit at the people's court, and there is no arbitration agreement between/among them.

To request for handling any patent infringement dispute, a request shall be filed, the contents of which shall be examined in accordance with the provisions set forth in 2.1.3.3.

Law enforcement officers shall, within 5 working days after receipt of materials submitted by parties concerned, issue a Notice of Acceptance to the requester if such request meets the receipt conditions upon examination, or issue a Notice of Case Dismissal if such request fails to meet the receipt conditions after case acceptance.

The foregoing materials examination against the receipt conditions shall be governed by the following provisions.

##### 2.1.3.1 Requester

The qualification examination of the requester shall be subject to relevant provisions set forth in 2.1.2.1.

##### 2.1.3.1.1 Domestic requester

If the requester is a natural person, the copy of his/her valid identity certificate or business license of individually-owned business shall be required and checked against their originals.

If the requester is a legal person or other organization, the following materials shall be submitted and checked against their originals:

(1) The copy of its business certificate affixed with its official seal, or the copy of its valid business license, or the copy of its organizational code certificate.

(2) Identity certificate of its legal representative or responsible person.

#### 2.1.3.1.2 Foreign requester or requester from Hong Kong, Macao, or Taiwan

If the requester is a foreigner, law enforcement officers shall require such requester to submit his/her valid identity certificate issued by the notary office in his/her country and have the same certified by the embassy or consulate of the People's Republic of China in his/her country or go through certificate procedures set forth in relevant treaties entered into by the People's Republic of China and such country.

If the requester is from Hong Kong, Macao, or Taiwan, law enforcement officers shall require such requester to go through relevant certification procedures.

#### 2.1.3.1.3 Chinese and foreigners or persons from Hong Kong, Macao, or Taiwan as joint requesters

If a Chinese and a foreigner or a person from Hong Kong, Macao, or Taiwan jointly file a request for handling patent infringement dispute, the provisions set forth in 2.1.3.1.1 shall be applicable to the Chinese requester, while the provisions set forth in 2.1.3.1.2 shall be applicable to the requester from Hong Kong, Macao, or Taiwan.

#### 2.1.3.1.4 The requester is the licensee of a patent license contract

If the requester is the licensee of a patent license contract, the law enforcement officer shall require such requester to submit the copy of such patent license contract and check the same against the original. If the requester is the licensee of an exclusive patent license contract, the requester shall also submit the relevant patentee's written declaration of waiving the right to request for handling patent infringement disputes.

#### 2.1.3.2 Specified respondent

The qualification examination of the respondent shall be subject to relevant provisions set forth in 2.1.2.2.

In general, a "specified respondent" refers to that the respondent has a specific name, domicile or address. If the respondent is a legal person or other organization, law enforcement officers shall require the requester to submit the materials of enterprise information research of the respondent.

#### 2.1.3.3 Request

The requester shall submit an original request and its copies in the number of the respondent(s). A case can only involve one patent number and a respondent; if there are several patent numbers of a single patentee or a single patent number involves several respondents, several requests shall be completed and cases shall be accepted respectively.

The request shall contain the following contents:

(1) Name or address, name, postcode, telephone number, the legal representative or controller and other information of the requester, and name of the agent and name and address of the agency, if any.

(2) Name or address, name, postcode, telephone number, and other the legal representative or controller of the respondent.

(3) The requested issues, reasons, and infringement facts, in which the infringement reasons are, for example, infringement analysis and comparison (indicating which claim is infringed); as for the infringement facts, the basic information on infringement shall be stated, such as time and place of infringement and time, place, and process of purchasing alleged infringing products.

(4) List of evidential materials attached.

(5) Signature (of natural person) or seal (of legal person and other organization) of the requester or agent that is specially authorized.

(6) Special attention shall be given to that the requested issues made by the requester may not go beyond the scope of statutory powers of reference of the administrative department of patents.



#### 2.1.3.4 Power of attorney

The requester may entrust one or two person as his/her agent; if an agent is entrusted, such agent shall submit the power of attorney signed or sealed by the authorizing party.

The power of attorney must specify the matters entrusted and the powers conferred. An agent must obtain a special power of attorney from his/her authorizing party to admit, waive or modify claims or to compromise.

If the entrusted authority is special authorization as specified in the power of attorney, the requester is required to clarify the specific issues of such special authorization. If the entrusted authority is not specified, the authority of such agent to do or not to do any act on behalf of the authorizing party shall be defined.

Any power of attorney executed overseas or in Hong Kong, Macao, or Taiwan shall be subject to notarization, certification, and other verification procedures under Chinese laws. A power of attorney in any foreign language shall be accompanied with its Chinese translation. The Chinese translation shall be translated by a qualified translation provider, as signed by the translator and affixed with the official seal of such translation provider. In the absence of Chinese translation, the power of attorney will be returned back and the requester will be required to submit the Chinese translation with the original power of attorney within a specified time period.

#### 2.1.3.5 Patent certification documents

##### 2.1.3.5.1 Patent certificate and published texts of patent

Law enforcement officers shall require the requester to submit the copies of patent certificate, published texts of patent (publication page, attached drawings, claims, and description) and original patent certificate for verification.

##### 2.1.3.5.2 Certificate of patent legal status

Law enforcement officers shall require the requester to present the original copy of patent register, or any certificate that may prove the valid existence of involved patents, including patent certificate and receipt of the payment of annual patent fees.

##### 2.1.3.5.3 Patent rights evaluation report or utility model research report

In the case of any patent infringement dispute upon a utility model whose filing date (or priority date, if any) is before October 1, 2009, an administrative department of patents may require the requester to present a utility model research report issued by State Intellectual Property Office within a specified time limit as the evidence for handling the patent infringement dispute.

In the case of any patent infringement dispute upon utility model or design of which the filing date (or priority date, if any) is on or after October 1, 2009, the administrative department of patents may require the requester to present the patent right evaluation report issued by State Intellectual Property Office within a specified time limit as the evidence for handling patent infringement dispute.

#### 2.1.3.6 Relevant evidence of patent committed patent infringements

Relevant evidence of committed patent infringements refers to the evidence that is submitted by the requester and may prove the infringing acts committed by the respondent, including physical evidence and documentary evidence.

Whether or not the evidence is sufficient is not the condition precedent for case acceptance. At the stage of case acceptance examination, law enforcement officers shall only carry out formal examination on whether items of evidence or clues are provided or not.

##### 2.1.3.6.1 Submission time of evidential materials

Law enforcement officers shall require the requester to submit relevant evidential materials together with the request.

If it is difficult for the party concerned to submit relevant evidence at the time of filing a request, the submission may be extended to prior to the oral proceedings.



#### 2.1.3.6.2 Formal examination

##### 2.1.3.6.2.1 Notarization documents

Only formal examination is required for the notarization documents submitted by the requester. If there are any significant defect in the form of such notarization documents, such as absence of signature or seal of notary public, law enforcement officers may require the requester to correct.

##### 2.1.3.6.2.2 Foreign evidence

###### (1) Overseas evidence

Any overseas evidence shall be **notarized** by a notary public of the country of the requester and certified by the embassy or consulate of the People's Republic of China in his/her country or shall go through certification procedures set forth in relevant treaties entered into by the People's Republic of China and such country.

###### (2) Evidence in foreign languages

When receiving evidence in foreign languages from parties concerned, law enforcement officers shall examine whether a **Chinese translation** thereof is provided. In the absence of Chinese translation, the evidence in foreign language will be returned back and the requester will be required to submit the Chinese translation with the original evidence in foreign language within a specified time period. The Chinese version shall be translated by a qualified translation provider, as signed by the translator and affixed with the official seal of such translation provider. The evidence in foreign languages shall not be deemed as having been received, if the Chinese translation thereof is not furnished. The requester **may** submit the Chinese translation of **a portion of the evidence in foreign languages**; a portion of the evidence in foreign languages may not serve as evidence, if the Chinese translation of the portion is not furnished.

##### 2.1.3.6.2.3 Evidence from Hong Kong, Macao, and Taiwan

If the evidence furnished by the requester is generated in Hong Kong, Macao, or Taiwan, law enforcement officers shall require such requester to go through relevant certification procedures.

##### 2.1.3.6.2.4 Evidence for new products

If the case of a patent infringement dispute involves the invention or **patent right of production** method of any **new product** and the requester requires the **reversal of burden of proof**, law enforcement officers shall require the requester to provide the following evidence: (1) evidence proving that the product made by patented techniques is a new product, in which the "new product" refers to a product that is unknown to the public, domestically or internationally, prior to the filing date of the patent; and (2) evidence proving that the product made by the respondent and that made by patented techniques are identical products.

##### 2.1.3.6.3 Receipt of evidential materials

(1) When submitting evidential materials, a party concerned shall submit a **List of Evidential Materials Submitted** by a Party in which the party shall **number each item** of evidential materials, and **briefly describe** their sources, objects of proof, and contents of such evidential materials, and sign on and seal the same and indicate the date of submission. The List shall be signed by the party concerned for acknowledgment.

(2) After receiving the evidential materials submitted by the party concerned, law enforcement officers shall **examine** whether they are originals and, if not, check the copies against the originals and affixed the official seal **"Verified Correct" to the copies**. The Evidential Materials Submitted by a Party shall be signed or sealed by the receiver and executed in duplicate, with the **first counterpart to be attached to the case file and the second counterpart to be delivered to the parties concerned**.

#### 2.1.4 Steps of **case acceptance**

##### 2.1.4.1 Examination and approval

After the requester submits evidential materials, law enforcement officers shall carry out a

case acceptance examination in accordance with requirements set forth in 2.1.3, give opinions on whether or not to accept the case, and fill in an Approval Forms to be approved by the case handling division (section). If the person responsible for the case handling division (section) believes that it may be accepted, three or more law enforcement officers may be appointed to handle the patent infringement dispute, subject to the examination and approval by the head of the Intellectual Property Office.

#### 2.1.4.2 Preparation and service of instruments

Upon approval by the head of the Intellectual Property Office, responsible officers shall number the case, prepare a Notice of Acceptance and a Notice of Defense, and deliver the requester the Notice of Acceptance within 5 working days after receipt of request; within 5 working days after case acceptance, responsible officers shall serve the Notice of Defense and copy of the Request and its evidential materials to the respondent and require the respondent to submit his/her defense within 15 days after receipt of the Notice of Defense. The failure of submitting the defense by the respondent in time will not affect the handling of the administrative department of patents.

If the head of the Intellectual Property Office decides not to accept the case, law enforcement officers shall prepare the Notice of Acceptance Denial, state the reasons for such denial, and inform the parties concerned of that they may, within 60 days, apply for administrative reconsideration at the administrative reconsideration authority or, within 3 months, file an administrative lawsuit with the intermediate people's court with jurisdiction, if they are dissatisfied with the Notice; the parties concerned may also lodge a civil proceedings at the intermediate people's court directly for the requested issues.

In the service of the foregoing instruments, the recipient of process shall sign or seal on the acknowledgment of service and indicate the date of receipt. Law enforcement officers shall also sign on the acknowledgment of service.

#### 2.1.5 Statement of defense

(1) Submission of statement of defense: within 15 days after receipt by the respondent of the copy of a request and a Notice of Defense.

If any party concerned has any objection to the jurisdiction after the administrative department of patents accepts a case of patent infringement dispute, such party shall make the objection in writing within the time limit for defense and the administrative department of patents shall reply in writing.

(2) Number of copies of statement of defense: One original and copies in the number of parties concerned.

(3) Form of statement of defense: in the absence of signature or seal of the respondent on a statement of defense, the respondent shall be informed to re-submit the same within 3 days; otherwise, it shall be deemed as having not submitted the statement of defense.

(4) Forwarding statement of defense: if the respondent submits a statement of defense, law enforcement officers shall, within 5 working days after receipt of the same, deliver the copy of the statement of defense to the requester.

(5) The respondent shall be required to submit his/her valid identity certificate if it is a natural person, or its business license issued by the relevant administration for industry administration or business certificate of public institutions, organizational code certificate, and certification of its legal representative or responsible person if it is a legal person or other organization.

(6) When submitting evidence, the party concerned shall be required to submit the original copy or items. If the party concerned has to keep the original copy or item of evidence or it is difficult to provide the same, the party concerned may submit the verified reproductions of the same.

## Part 2 Investigation and evidence collection

An administrative department of patents may, if necessary, investigate and verify relevant evidence within its scope of powers. If any party concerned is unable to collect evidence on its own for any objective reason, it may request an administrative department of patents to investigate and collect evidence.

### 2.2.1 Application to administrative departments of patents for investigation and evidence collection

#### 2.2.1.1 Conditions to applications for evidence investigation and collection

If the following conditions are met, any party concerned or its agent may apply to an administrative department of patents for evidence investigation and collection:

(1) The evidence applied for investigation and collection is archive materials kept by relevant state departments, the inspection of which shall be made by an administrative department of patents ex officio.

(2) Other materials that cannot be collected by the party concerned and its agent due to objective reasons.

#### 2.2.1.2 Procedures to apply for evidence investigation and collection

When any party concerned or its agent applies to an administrative department of patents for evidence investigation and collection, law enforcement officers shall require the party concerned or its agent to submit a written application. The application shall contain the basic information, including name and address of the investigated person or entity, contents and deposited place of the evidence applied for investigation and collection, reasons for requesting the administrative department of patents to investigate and collect evidence (i.e., objective reasons for incapacity to collect by itself) and the facts to be evidenced.

If the administrative department of patents believes that the application complies with the conditions to apply for evidence investigation and collection, it shall investigate and collect evidence according to the application; otherwise, it is not required to investigate and collect evidence according to the same.

### 2.2.2 Site investigation

Upon case acceptance, an administrative department of patents may carry out a site investigation for the case according to law, which shall be generally made at the same time when the relevant instrument is served. The number of law enforcement officers in a site investigation shall not be less than two. In site investigation, law enforcement officers shall present their administrative enforcement certificate and investigate into the information on the production, sales, and construction of relevant alleged infringing products of the respondent after ascertaining the identity of such respondent so as to find out relevant facts.

#### 2.2.2.1 Site investigation may be made by the following means:

(1) Inspecting and reproducing relevant documents, including contract and books related to the case.

(2) Inquiring relevant parties and witnesses to investigate information related to the case.

(3) Site inspection by measuring, taking photos, and shooting video, among others.

(4) Examining items related to the case and sampling evidence.

(5) The administrative department of patents may require the investigated to demonstrate on site any product that is suspected infringing method patent.

#### 2.2.2.2 Preparations for site investigations

Prior to a site investigation, law enforcement officers shall complete the following works:

(1) Reading and researching case files, understanding the case, and figuring out main facts to be investigated into.

(2) Studying and determining the time, labor division, and contents of the site investigation, issues to be ascertained with priority, and any possible situation and countermeasures.

(3) Preparing necessary instruments, stationeries, and law enforcement equipment, including cameras, video cameras, and recorders.

(4) Whether other authorities shall be contact for joint law enforcement.

(5) Specific address of the respondent to be investigated.

(6) Whether the requester should be informed to participate in the site investigation.

(7) Other issues to be prepared.

#### 2.2.2.3 Procedures for site investigations

##### 2.2.2.3.1 Presenting identity certificates, stating the purposes, and informing the party concerned of its rights and obligations

During a site investigation, law enforcement officers shall inform the party concerned of its rights to verify law enforcement certificates and request any law enforcement officer to withdraw and its obligations to cooperate in investigation, faithfully answer questions as raised by law enforcement officers, and provide relevant materials at the request of law enforcement officers.

##### 2.2.2.3.2 Investigations

After entering into the field, law enforcement officers shall carry out site investigations of relevant premises, including production premises, storage warehouses, displaying and exhibiting counters, and may collect evidence from any items related to the facts of the case, including relevant products, molds, templates, and special tools, as well as packaging and promotional materials, which shall be sufficient to prove relevant facts. In relation to any facts necessary to know, relevant officers may be inquired.

#### 2.2.3 Evidence collection

##### 2.2.3.1 Methods for collecting evidence

(1) Sampling evidence: in the case of evidence that may be obtained by sampling, such as alleged infringing products, products made by alleged patented processes, and product promotion brochures and specifications that may indicate the appearance or construction of the alleged products, law enforcement officers may adopt the method of sampling. When sampling evidence, law enforcement officers shall count the products to be sampled and sample the same at random. The quantity of products to be sampled shall be limited to the extent to sufficiently prove relevant facts.

(2) Site inspection: in the case of evidence that cannot be sampled, but the appearance, shape, and construction can be determined by taking photos and shooting video, the evidence of the same can be collected by site inspections. When carrying out site inspections, law enforcement officers shall take photos or shoot video for the corresponding features of the technical features that represent their claims according to the claims made for the involved patent; in the case of any connection that cannot be described by taking photos or shooting video, it shall be recorded in transcripts so as to preserve evidence.

(3) Registered preservation: during site inspection, law enforcement officers may, according to the actual situation, put evidence under registered preservation that is likely to lose or hard to obtain in the future and that cannot be sampled or inspected on site and shall, within 7 days, make decisions of resolution on the evidence subject to the registered preservation such as to evaluate the evidence that requires technical appraisal. In the case of any evidence on which other handling decisions cannot be made, the decision of releasing the same from registered preservation shall be made.

(4) Collection of evidence of process patents: in the case of process patents, law enforcement officers shall require the investigated to demonstrate on site and shall take photos and shoot video for the production method and process so demonstrated.

(5) Investigating and collecting documentary evidence: when it is necessary to inspect and/or reproduce any archive, drawing, material, books of accounts, and other evidence related to the case, law enforcement officers shall reproduce or take photos of the documentary evidence to be investigated and collected and the reproductions shall be marked "Certified Correct" and signed or affixed with official seals by the investigated, while the relevant information shall also be recorded in the transcripts of site inspection.

#### 2.2.4 Transcripts preparation

In investigation and evidence collection, law enforcement officers shall make transcripts and all transcripts, lists, and inquiry records related to a site inspection shall be signed or sealed by law enforcement officers and the investigated entity or individual page by page and marked with "Certified Correct" and shall be dated. If the investigated entity or individual refuses to sign or affix seals, law enforcement officers shall indicate such failure in the transcripts.

##### 2.2.4.1 Making transcripts of site inspections

In site inspection, law enforcement officers shall make the transcripts of site inspections, indicating information on premises such as production premises, storage warehouses, displaying and exhibiting counters and inspection information on related products, molds, templates, special tools, and packaging. In the case of sampled evidence or evidence subject to registered preservation, the sampling and registered preservation shall also be included in the transcripts and the list of sampled items or items subject to registered preservation shall be made, indicating the name, quantity, specification, model and preservation place of the same, in duplicate, of which the first counterpart shall be attached to the case file and the second counterpart shall be delivered to the inspected; in the case of site inspections, the inspection process, taking photos, and recording video, as well as the shape, construction, or their combination that cannot be depicted by photos and videos shall be recorded in the transcript.

##### 2.2.4.2 Making transcripts of site inquiries

Law enforcement officers may inquire the respondent on site and make transcripts of site inquiries.

###### 2.2.4.2.1 Main issues to be recorded in transcripts of site inquiries:

- (1) Case ref. number, names of law enforcement officers, time and place of preparation.
- (2) Basic information of the inquired, including name and ID card number, position, and job responsibilities.
- (3) Basic information of production and operation, including main products, the place of sales of products (specific places at home or abroad), among others.
- (4) Basic information of alleged infringing products, including:
  - ① Names and models of alleged infringing products.
  - ② Production dates of alleged infringing products (as of production start).
  - ③ Production quantities of alleged infringing products.
  - ④ Stock quantities of alleged infringing products (finished products and products in process).
  - ⑤ Sales of alleged infringing products.
  - ⑥ Others.

Basic information of a mold of alleged infringing products includes the name, model, quantity, and storage location of such mold.

(5) If any method patent is involved, the specific production process, procedures, and techniques thereof shall be inquired.

###### 2.2.4.2.2 Notes on transcripts of site inquiries

(1) Law enforcement officers shall require the inquired to present his/her valid identity certificate.

(2) One transcript shall contain the inquiry record of one inquired person only and shall be signed by the same.

(3) The wording shall be formal, the handwriting shall be clear and names shall be correct and any obliteration in the transcript shall be confirmed by the inquired by signature, thumb print, or seal.

(4) The transcript shall be marked "Hereinafter intentionally left blank" by law enforcement officers and "Verified" by the inquired with signature and date.

#### 2.2.5 Site identification

In general, the requester or other relevant persons may not be permitted to enter into the premise where the site inspection is being conducted; if the requester fails to provide samples of infringing products or the scene of alleged infringing products cannot be identified, the requester or other relevant persons may be required, according to the progress of the case, to cooperate in the onsite inspection, except that it may endanger the personal safety of the same. The requester or other relevant persons shall, after entering into the site, cooperate in the site inspection to the extent required by law enforcement officers and may not act without permission, nor take photos and make audio or video recordings. Once identification is completed, such identifying person shall be required to leave the production and/or operation site of the respondent.

#### 2.2.6 Technical appraisals

##### 2.2.6.1 Proposal for technical appraisals

An administrative department of patents may, according to the progress of the case or upon application of any party concerned, entrust relevant departments to carry out technical appraisals. Appraisal institutions shall be determined by both parties through negotiation or, if failed, designated by the collegial panel; in the case in which facts could only be ascertained by technical appraisals, the parties concerned shall be informed of such.

##### 2.2.6.2 Examination on appraisal reports

The collegial panel shall examine whether an appraisal report contains the following contents:

- (1) Name of the entrusting party and contents of entrusted appraisal.
- (2) Materials for appraisal.
- (3) Appraisal basis and scientific and technological means employed in such appraisal.
- (4) Descriptions of appraisal.
- (5) Explicit appraisal opinions.
- (6) Descriptions on the qualifications of the appraisal institution and appraiser.
- (7) Signatures and seals of the appraiser and appraisal institution.
- (8) Appraisal results achieved through analysis, in which the analysis process shall be stated.

## Part 3 Case proceedings

### 2.3.1 Preparations before oral proceedings

#### 2.3.1.1 Decision on oral proceedings

The administrative department of patents handling a patent infringement dispute may, according to the case, determine whether or not to adopt oral proceedings and specify the lead and members of the collegial panel.

#### 2.3.1.2 Notice of oral proceedings



(1) In oral proceedings, the administrative department of patents handling a patent infringement dispute shall issue a Notice of Oral Proceedings and an Acknowledgment of Oral Proceedings, which shall be received by the parties concerned within 3 working days prior to the commencement of the oral proceedings. The parties concerned shall be informed of the time and venue of such oral proceedings and shall be required to submit the Acknowledgment of Oral Proceedings to the administrative department of patents within specified time limit.

(2) The time and venue of oral proceedings, in principle, will not be changed once fixed and the parties concerned shall be informed of the change in advance if an exceptional circumstance occurs.

(3) The service of the Notice of Oral Proceedings shall be subject to 1.5.2.

(4) The absence of the requester of patent infringement disputes in oral proceedings without justified reasons shall be deemed as a withdrawal of the request for oral proceedings; if the respondent is absent from oral proceedings, the proceedings could proceed in his/her absence.

#### 2.3.1.3 Preparations before oral proceedings

Prior to the commencement of oral proceedings, the collegial panel shall complete the following acts:

(1) The collegial panel may organize parties concerned to exchange evidence and go through cross-examination in the event of complicated cases with numerous evidential materials.

(2) The collegial panel shall read and study case files, understand the case, and figure out main facts to be investigated into. In particular, the collegial panel shall check whether the involved patent has gone through invalidation procedures, whether the claims have been amended and specific content of the amended claims, among others.

(3) The collegial panel shall hold a meeting prior to the oral proceedings to study and determine the labor division of each member in the oral proceedings, order and content of investigation, issues to be ascertained with priority, and possible situations that are likely to occur in the oral proceedings and solutions.

(4) Preparation of necessary documents.

(5) Unless oral proceedings will not be held in an open session, the relevant information on the oral proceedings shall be announced 3 working days prior to the commencement, including names of both of the requester and the respondent, time and venue of the oral proceeding, and numbers and titles of involved patents.

(6) Preparation of other affairs related to oral proceedings

#### 2.3.2 Holding of oral proceedings

(1) Oral proceedings shall be held at the time and venue specified in the Notice of Oral Proceedings.

(2) Oral proceedings shall be held in an open session, unless otherwise specified by national laws and regulations for confidentiality.

(3) The cases involving the same requesters or respondents, alleged infringing products, or several patent rights may be consolidated. In cases consolidation, the case ref. number, patent numbers, specific facts, reasons, evidence, and statements of parties concerned of each case shall be recorded separately.

(4) The identity information of all attendees in oral proceedings shall be checked to confirm whether they are eligible to attend such oral proceedings and whether the identity information of any agent is consistent with that in the power of attorney.

(5) Oral proceedings may be divided into five stages:

##### 2.3.2.1 Stage 1: Commencement of oral proceedings

Oral proceedings shall be presided over by the lead panel member.

(1) Announce the commencement of oral proceedings.

(2) Announce the disciplines of the oral proceedings: all attendees shall turn off communication devices and may not take photos, make audio or video recordings, and walk around without permission; the statement of any party concerned shall be subject to the approval of the lead panel member; no audience shall have right of statement or pass through relevant information to any party concerned attending the oral proceedings.

(3) Brief description of cause of action.

(4) Both parties concerned shall introduce their respective information, including name and address of the party concerned, information on its legal representative (the responsible person), entrusted agent and his/her scope of powers; if both parties appear in court, each party shall be asked whether they have any objection to the eligibilities of attendees of the other party.

(5) Declare the rights and obligations of parties concerned. Rights of parties concerned: entrusting agents, applying for recusal of any member of the collegial panel, clerk, appraiser, or translator, collecting and furnishing evidence, applying for the appearance of witness for testimony, debating, and requesting mediation. Parties concerned are permitted to settle by themselves and the requester may waive or change his/her request. Obligations of parties concerned: parties concerned shall arrive at the venue at the time specified in the notice; if the requester fails to appear without any justified reason, the request shall be deemed as having been withdrawn; if the respondent fails to appear without any justified reason, the proceeding may proceed in the absence of the respondent. During the proceeding, parties shall actively abide by the trial order and may not leave during the proceeding without permission; if the requester leaves during the proceeding without permission, the request shall be deemed as having been withdrawn; if the respondent leaves during the proceeding without permission, the oral proceedings may proceed in the absence of the respondent. Any party concerned shall have the burden of proof for his/her claim and state the reasons when rebutting the arguments of the other party.

(6) Announce the list of members of the collegial panel and clerks, ask the parties whether to apply for recusal and whether requires the appearance of any witness to testify in court or makes physical demonstration.

#### 2.3.2.2 Stage 2: Investigation stage of oral proceedings

In general, the investigation in oral proceedings shall be carried out in the following order:

(1) The requester makes statements and the respondents makes defense;

(2) Cross-examination, during which the requester, the respondent, and the administrative department of patents (if it has investigated and collected evidence) produce evidence respectively;

(3) Comparison of patent infringements;

(4) Summarize the key issues and debate them;

(5) Final statements; and

(6) Mediation.

##### 2.3.2.2.1 Statements by the requester and defense by the respondent

(1) The requester states its claims of patent infringement dispute and the reasons therefor, and briefly describes relevant facts;

(2) The respondent defends itself and responds to the claims of the requester, with specific facts and reasons.

##### 2.3.2.2.2 Cross-examination: the requester, the respondent, and the administrative department of patents produce evidence respectively

The evidence furnished by both parties shall be produced in court and shall be cross-examined by both parties; that whether the evidence that is furnished by a party during oral proceedings other than prior to the oral proceedings, shall be decided by the collegial panel; if any



party requires to furnish further evidence after the oral proceedings, the collegial panel shall specify the time limit for submission and require such party to do so within such time limit.

(1) The parties concerned shall be required to explain, state, and debate the probative force of evidence in respect to the authenticity, relevance, and lawfulness.

(2) The cross-examination shall be carried out in the following order:

The requester produces evidence and states the contents that each piece of evidence to prove, and the respondent cross examines such evidence with the requester;

The respondent produces evidence and states the contents that each piece of evidence to prove, and the requester cross-examines such evidence with the respondent.

The administrative department of patents who has investigated and collected evidence produces the investigated and collected evidence and the transcripts, and the requester cross-examines such evidence with the respondent.

#### 2.3.2.2.3 Comparison of patent infringements;

(1) During oral proceedings, the requester shall be asked which claim of a patent should serve the protection scope of the case; if such claim is not clear yet after inquiry of the collegial panel, Claim 1 of the patent shall automatically serve as the default protection scope, and the requester shall compare all the essential technical features as claimed with the involved products or techniques one by one.

(2) The respondent shall make his/her statements on whether the involved products or techniques fall within the protection scope of the involved patent right.

#### 2.3.2.2.4 Summarize the key issues and debate them

The lead panel member shall summarize the key issues of the case, which shall be decisive issues to determine the case, such as similarity of any technical feature and legal effect of any key evidence.

During the debate stage, the parties shall debate with each other around the key issues; if the collegial panel believes that it is enough to clarify the positions of both parties or the parties have given answers with respect to a key issue through the debate, the debate on such key issue may be suspended and the debate on the next key issue may commence so as to prevent the parties from getting entangled in wording and causing a prolonged court hearing lacking efficiency.

#### 2.3.2.2.5 Final statements

Upon the delivery of debating opinions of both parties, the lead panel member may announce the closing of debate and both parties shall make the final statements. If both parties have no new arguments, the parties are generally required to adhere to their original arguments.

#### 2.3.2.2.6 Mediation

After final statements, the collegial panel shall ask both parties whether they agree with mediation; if yes, the mediation may be carried out after the oral proceedings or at any date otherwise agreed. If any agent suggests that he/she may not express the position on mediation until he/she is authorized by the authorizing party, it shall be faithfully recorded in the transcript of the oral proceedings and the agent shall ask the opinion of the authorizing party as soon as possible and the position shall be passed to the collegial panel separately.

The mediation shall be carried out through the entire process of handling a patent infringement dispute; in order to ensure the completeness of oral proceedings, and the mediation will not introduced in the oral proceedings in general, unless otherwise required.

#### 2.3.2.2.7 Issues to be ascertained in the investigation of oral proceedings

(1) Filing date, granting date, and present legal status of a patent right;

(2) The date on which the respondent was found suspected of patent infringements and the source of the samples of alleged infringing products;

(3) Name, incorporation date, telephone number, address, legal representative, business scope, and other basic information of the respondent;

(4) Evidence that have been obtained by an administrative department of patents, including samples, materials, and books of accounts;

(5) Relationship between the respondent and any person that signed on the transcript of a site inspection (or inquiry);

(6) Whether the sample of alleged products (provided by the requester or collected by any administrative department of patents) was produced (distributed, used, offered for sale, or imported) by the respondent;

(7) The start time of production, the quantity of production, the purchase, the stock, the sales, the product cost or purchase price and the sale price of the alleged products;

(8) The quantity, storing place, and making of molds;

(9) Whether the alleged products or techniques fall within the protection scope of involved patent right and the reasons therefor;

(10) The facts that the respondent believes not infringing and the reasons therefor; and

(11) Other issues to be learned about and checked.

#### 2.3.2.2.8 Notes on investigation stage of oral proceedings

(1) The collegial panel **questions** parties concerned. The members of the collegial panel may questions parties concerned or witnesses on the facts and evidence, or require the same to explain. The questions raised by the collegial panel shall be fair, objective, specific, and clear.

(2) Upon permission of the lead panel member, parties concerned **may question each other and witnesses or experts.**

(3) If the respondent objects the legal status of the involved patent, the respondent shall require the respondent to provide the original copy of the patent register or verified copy of the same.

#### 2.3.2.3 Stage 3: Closing of oral proceedings

The lead panel announces the closing of oral proceedings and both parties concerned shall sign on each page of the transcript of the oral proceedings after verification and indicate the date.

### 2.3.3 Other notes on oral proceedings

#### 2.3.3.1 Suspension of oral proceedings

Under any of the following circumstances, the lead panel member may announce a suspension of the oral proceedings and, when necessary, determine the time of the adjourned oral proceedings.

(1) Any party concerned requests the **recusal** of any proceedings personnel;

(2) **Negotiation** is required for settlement;

(3) **Further demonstration** is required for the invention-creation;

(4) If the collegial panel finds that any fact has not been ascertained and requires the parties concerned to **supplement evidence** or an administrative department of patents to investigate and collect evidence on its own; or

(5) Other circumstances that the collegial panel believes necessary.

#### 2.3.3.2 Leaving in the middle of a court session by a party

If any party concerned leaves amidst of the oral proceedings without permission of the collegial panel, or is ordered to leave by the collegial panel for impeding the oral proceedings, the content of statements of the party concerned and the leaving amidst of the oral proceedings, or being ordered to leave shall be recorded and the record shall be confirmed by the party concerned

or the collegial panel by signature.

#### 2.3.3.3 Testimony of witnesses

(1) The witness who gave testimony may appear in court for testimony; if any party concerned requests the appearance of witness in court during the oral proceedings, the collegial panel may decide whether or not to approve such request according to the specific situation of the case;

(2) When appearing in court for testimony, the witness shall be required to present his/her identity certificate and the collegial panel shall inform the witness of the legal obligations of making a faithful testimony and the legal consequence of perjury;

(3) The witness appearing in court for testimony may not be audience of the proceedings. No other witness may be present when a witness is questioned, except for confrontation of witnesses; and

(4) The collegial panel may question a witness. Upon the permission of the parties concerned, they may cross-examine a witness. The collegial panel shall require a witness to clearly answer the questions raised by the collegial panel and the parties concerned and the witness may refuse to answer any question irrelevant to the case raised by any party concerned;

(5) After being questioned, the witness shall sign on the page of the transcripts of the oral proceedings relating to the questions he/she answered to.

#### 2.3.3.4 Transcripts of oral proceedings

In the oral proceedings, the transcripts shall be made by clerks. Clerks shall completely record the content of the court session. If the conditions permit, the record may be made by audio and video recording.

After the oral proceedings, the collegial panel shall give the transcripts to the parties concerned for verification. Any party concerned may request to correct any error contained therein, if any. After verification, the transcripts shall be signed by the parties concerned, members of the collegial panel, and clerks and shall be included into the case files. If any party refuses to sign, it shall be marked in the transcripts of the oral proceedings.

The parties concerned shall be informed of the right to read and excerpt the transcripts of oral proceedings.

#### 2.3.3.5 Audience of oral proceedings

Audience is allowed for any oral proceedings in an open session.

The lead panel member shall promptly stop any violation of disciplines of oral proceedings by any member of the audience; if the member continues, the lead panel member shall order the same to leave.

If necessary, the administrative department of patents concerned may request any member of the audience to go through audience procedures.

#### 2.3.3.6 Notes on oral proceedings

(1) The lead panel member shall preside over each procedure of the oral proceedings;

(2) The collegial panel shall promptly stop any act of radical emotion of the parties concerned or discussion irrelevant to the case and maintain a good order;

(3) The collegial panel shall seriously and carefully listen to each party and may not give any opinion on the nature of the case and validity of evidence, nor will it debate with any party concerned;

(4) Special attention shall be given to the scope of powers of the entrusted agent, especially the scope of powers relating to admission and waiver;

(5) The transcripts of the oral proceedings shall be full and accurate; if the clerk cannot catch

up with the progress, the lead panel member shall signal the party concerned to pause or slow down his/her statements so that it can be recorded; and

(6) Important numbers, such as quantity, price, and time, shall not be expressed in an ambiguous and uncertain way, such as "about" or "approximate".

#### 2.3.4 Suspension and resumption of proceedings

##### 2.3.4.1 Circumstances of suspension

Under any of the following circumstances, any party concerned may apply for the suspension of case handling and the administrative department of patents may, at its own discretion, decide whether or not to suspend the handling of the case:

(1) The respondent applies for invalidation of the involved patent right and such application is received by the Patent Reexamination Board;

(1) One of the parties dies and it is necessary to wait for the heir or heiress to make clear whether to participate or not in the proceedings;

(2) One of the parties has lost the capacity to engage in litigation and his statutory agent has not been designated yet;

(4) A legal person or any other organization as one of the parties dissolves, and the party succeeding to its rights and obligations has not been determined;

(4) One of the parties is unable to participate in the proceedings for reasons of force majeure;

(5) The adjudication of the case pending is dependent on the results of the trial of another case that has not yet been concluded; or

(6) Other circumstances that warrant the suspension of the litigation.

##### 2.3.4.2 Application for suspension for the reason that the request for invalidation of the patent right is filed

###### 2.3.4.2.1 Conditions to file an application for suspension

The following conditions shall be met, if the respondent requests for suspension of the handling by applying for invalidation of the involved patent right:

(1) The application for the invalidation of a patent right is filed by the respondent;

(2) The application for the invalidation of a patent right is received by State Intellectual Property Office; and

(3) There is a clear reason for the invalidation together with relevant evidence.

###### 2.3.4.2.2 Materials to be submitted for application for suspension

When applying for suspension, the respondent shall submit the following materials:

(1) A written request for suspension;

(2) Notice of the Patent Reexamination Board of State Intellectual Property Office on the receipt of request for invalidation; and

(3) Relevant evidence affecting the stability of the involved patent right;

###### 2.3.4.2.3 Examination and approval on applications for suspension

If the respondent requests the suspension by applying for the invalidation of the involved patent right, the administrative department of patents shall examine whether the request complies with the foregoing conditions and, if met, may grant the suspension. Where the department for the administration of patent work considers that the reason for suspension given by the respondent is obviously untenable or there is any of the following circumstances, it may refuse to suspend.

(1) Any party concerned filed a request for invalidation, but the Patent Reexamination Board has not received such request or within the specified reasonable time of period, provide the administrative department of patents with the copy of the request for the invalidation and the

notice of receipt of the request for invalidation issued by the Patent Reexamination Board;

(2) There is no evidence in the patent right evaluation report or utility model search report submitted by the applicant that the utility model or the design patent will lose its patentability;

(3) The evidence or reason on which the respondent requests for the invalidation of a patent right is obviously insufficient;

(4) The patent right against which the party concerned requests the invalidation of patent right is a utility model or design patent of which the patent right is partially or entirely valid after examination by the Patent Reexamination Board;

(5) The evidence furnished by the respondent is sufficient to prove that the technique or design it used is a prior art or design;

(6) The technique or design that is alleged of infringing a patent right is obviously not under the scope of protection of such patent right; or

(7) Other circumstances prescribed by laws and regulations.

#### 2.3.4.3 Procedures for suspension

The collegial panel shall, based on opinions of the parties concerned on suspension of the trial, decide whether or not to suspend according to law; if it decides to suspend, it shall issue a Notice of Handling Suspension for Cases of Patent Infringement Dispute to the parties concerned; if it decides not to suspend, it shall issue a Notice of Denial of Suspension Request for Cases of Patent Infringement to the parties concerned.

In relation to the case of dispute on patent infringement in which the handling has been suspended, the administrative department of patents shall promptly resume the handling of the same and inform the parties concerned of the same, if the Patent Reexamination Board decides to maintain the patent right or invalidate partial patent right.

If the Patent Reexamination Board invalidates the involved patent right, the administrative department of patents may inform the applicant to withdraw the request; if the applicant fails to do so, the administrative department of patents shall dismiss the request and issue the decision of dismissal of handling request to both parties concerned.

### Part 4 Verification of evidence

The collegial panel shall conduct a comprehensive and objective examination on the evidence furnished by parties concerned and obtained by the administrative department of patents ex officio, to determine the probative force and admissibility of the same from the aspects of legitimacy, relevance and authenticity.

When the evidential materials submitted by a party should be original, but the party needs to keep the original copy or item of evidence or it is difficult to provide the same, the party concerned may submit the reproduction of the same as verified by the administrative department of patents.

#### 2.4.1 Evidence types

Evidence includes: (1) documentary evidence; (2) physical evidence; (3) visual and audio materials; (4) testimony of witnesses; (5) statements of parties; (6) appraisal opinion; (7) transcripts of inspection and site investigation; and (8) electronic data.

The above-mentioned evidence must be verified before it can be taken as a basis for ascertaining a fact.

#### 2.4.2 General principles of evidence verification

The law enforcement officers shall thoroughly and objectively examine the evidence in accordance with statutory procedures, make independent judgment on the probative force of evidence and its extent in accordance with laws, with professional ethics, and using logic reasoning and daily life experience, and disclose the reasons for judgment and results.

In the case of the following evidence furnished by any party concerned to which the other party concerned has objection without evidence to the contrary, the collegial panel shall admit its

probative force:

(1) Original documentary evidence or the verified copies, photos, copy, and excerpts of the same;

(2) Original physical evidence or verified reproductions, photos, and video materials of the same; and

(3) Audio-visual materials supported by other evidence and obtained by legal means without point of doubts or the reproductions of the same;

The panel shall take the acts, facts and documents legalized by notarization according to legal procedures as the basis for ascertaining facts, unless there is evidence to the contrary sufficient to invalidate the notarization.

The panel shall verify audio-visual materials and take into account other evidence, and determine whether they can be taken as a basis for ascertaining the facts.

In the case of any evidence furnished by any party concerned that is admitted by the other party or cannot be objected by the other party with any evidence to the contrary, the collegial panel shall admit its probative force.

If any evidence furnished by any party is objected by the other party with rebutting evidence which is admitted by the other party, the probative force of the rebutting evidence may be admitted.

If both parties furnish contrary evidence for the same fact, but both parties have no sufficient basis to deny the evidence of the other party, the collegial panel shall, taking into account the particularities of the case, judge which probative force is greater and admit the evidence with a greater probative force.

If any fact is hard to verify due to that the probative force of any evidence cannot be judged, the collegial panel shall make a judgment in accordance with the rules for distribution of burden of proof.

The evidence obtained by infringing the lawful rights and interests of others or by violating prohibitive provisions of laws may not serve the basis to verify the case-related facts.

In disputes handling, the admission by any party of any case-related fact for the purpose of entering into a mediation agreement or settlement may not serve as the evidence against such party in the subsequent dispute settlement.

#### 2.4.3 Examination and verification of a single item of evidence

Any single evidence can be examined and verified from the following aspects:

(1) Whether the evidence is original and whether the copy and/or reproduction matches the original;

(2) Whether the evidence is related to the case facts;

(3) Whether the form and source of evidence comply with laws;

(4) Whether the content of evidence is true; and

(5) Whether the witness or person who furnishes evidence has any interest in the party concerned.

#### 2.4.4 Verification of weights of several items of evidence

The probative force of several items of evidence for the same fact shall be determined in the following principles:

(1) The probative force of any official documentary evidence prepared by the state authority or social organizations shall be in general greater than that of other documentary evidence;

(2) The probative force of physical evidence, archives, appraisal opinions, inspection transcripts or notarized and/or registered documentary evidence shall be in general greater than



that of other documentary evidence, audio-visual materials, and testimony of witnesses;

(3) The probative force of **original** evidence shall be in general **greater than** that of **hearsay** evidence;

(4) The probative force of **direct** evidence shall be in general **greater than** that of **indirect** evidence; and

(5) The probative force of evidence furnished by any witness in favor of any party concerned who is his/her relative or has other close relationship with him/she shall be in general be smaller than that of other witnesses.

#### 2.4.5 **Evidence that could not be used as the sole basis for deciding facts**

The following evidence may not serve as the basis independently to verify case-related facts:

- (1) Testimony of any minor that is inconsistent with his/her age or intelligence;
- (2) Testimony of any witness that has an interest in any party concerned or his/her agent;
- (3) Audio-visual materials with doubts;
- (4) Copies and duplicates that cannot be checked against the originals; and
- (5) Testimony of any witness who has not appeared in court.

#### 2.4.6 **Statements of reasons for relying on a certain item of evidence**

The collegial panel shall explain its reasons to admit any evidence in its handling decision; the evidence without dispute may be exempted from such explanation.

#### 2.4.7 **Verification of foreign evidence**

If any party concerned furnishes any evidence in a foreign language and the other party has any objection to any specific content of its translation, a Chinese translation of the disputed portion shall be submitted. If necessary, an institution jointly recognized by both parties concerned may be entrusted to translate the full text, relevant portion or disputed portion. If both parties fail to agree on the entrusted translation, the collegial panel may entrust a professional translation agency to translate the full text, relevant portion or disputed portion. When entrusting translation, the administrative department of patents shall require both parties to prepay the translation fees; after the closing of the case, the parties shall be required to share the translation fees according to their respective responsibilities. Any party who refuses to pay such translation fees shall be deemed that such party has no objection to the specific content of such translation.

### **Part 5 Case closing**

#### 2.5.1 **Manners** of case closing

When handling any dispute on patent infringement, the administrative department of patents shall close the case according to law on the basis of investigate and verified facts of case.

According to the results of case, the case closing could be in any of the following forms:

- (1) Making an administrative handling decision: resolution and **issuing a Handling Decision**, and terminating the administrative procedures;
- (2) **Closing by mediation**: a Mediation Agreement for Patent Infringement Disputes is made, if a mediation agreement is entered into by both parties after mediation, and the administrative procedures are terminated.
- (3) **Dismissing the case**: issuing a Decision of Case Dismissal for Infringement of Patent Rights and terminating the administrative procedures...

#### 2.5.2 **Time limit** for case closing

To investigate and handle a case of **patent passing off**, the administrative department of patents shall conclude the case within **3 months** from the date of acceptance of the case. If it is necessary to extend the time limit for an extremely complicated case, it shall be subject to the approval of the responsible person of the administrative department of patents. The time limit

approved for extension shall under no circumstance exceed 1 month.

The case handling time limit as mentioned in the preceding paragraph does not include the time for publication, appraisal, suspension, etc. during the process of handling a case.

In relation to any case that has been suspended for the procedure of invalidation of a patent right, the administrative department of patents shall promptly resume its handling after the Patent Reexamination Board makes the decision of invalidation.

### 2.5.3 Deliberations

Prior to the closing of a dispute on patent infringement, the collegial panel shall have thorough deliberations on the verified facts, evidence, legal liabilities, applicable laws, and handling results.

The deliberations shall be convened and presided over by the lead panel member and members of the collegial panel shall give express opinions. In relation to any case subject to deliberations, the collegial panel shall, in the principle of majority, vote on whether the involved evidence should be admitted, whether the facts should be ascertained, and whether the reasons are well founded, and shall make a conclusion on the handling decision. Dissenting opinions in the deliberations must be truthfully entered in the transcript. The transcripts of the deliberations shall be signed by all members of the collegial panel and marked with date. All members of the collegial panel and audience of deliberations shall keep the content of deliberations in confidence. The opinions of the collegial panel shall be reported by the lead panel member to the person in charge of the administrative department of patents for approval.

### 2.5.4 Details of manners of case closing

#### 2.5.4.1 Making handling decisions

Except that parties concerned have entered into a settlement agreement and except for any other circumstances under which the case shall be dismissed, the collegial panel shall promptly make handling decisions and prepare the Handling Decision.

##### 2.5.4.1.1 Contents of the Handling Decision

The Handling Decision shall contain clear narration of facts, sufficient argument on reasons, correct citation of legal provisions, and specific results.

The Handling Decision shall contain the following contents:

(1) The name and address of the parties; If any party concerned is a natural person, the name and number of his/her identity certificate shall be indicated; if any party concerned is a legal person, the name and title of its legal representative shall be indicated. If any party concerned entrusts any agent, the name, employer and title, qualifications or name and number of the identity certificate and address of the agent shall be indicated.

(2) Cause of action.

(3) Oral proceedings and attendance.

(4) Arguments of the parties, reasons therefor, and relevant evidential materials.

(5) Site inspection by law enforcement officers.

(6) Cross-examination opinions by the parties on evidence, and admission by the collegial panel of evidential materials.

(7) Ascertained facts and basis to prove facts.

(8) The reasons and basis for determining whether the infringement is established;

(9) Results of resolution if the infringement on patent right is established, the type, object and scope of patent infringement that respondent shall be ordered to immediately cease shall be specified; any request that is not within the scope of powers of the administrative department of patents shall be dismissed; if there is no infringement on patent right as determined, all claims filed by the requester shall be dismissed; if the patent is invalid or inconsistent with the governing



conditions, the request filed by the requester shall be dismissed.

(10) Distribution of fees, if applicable.

(11) The channel and time limit for instituting an administrative lawsuit if any party is not satisfied with the handling decision.

(11) Decision-making date.

(13) Names of members of the collegial panel.

The handling decision shall bear the official seal of the administrative department of patents.

#### 2.5.4.1.2 Measures for stopping infringements

If an administrative department of patents determines that a patent infringement is established and makes a handling decision, it shall order the infringer to promptly stop the infringement, and take the following measures to curb the infringement:

(1) If the infringer produce any patent-infringing products, the department shall order it (him) to promptly stop the production, destroy the equipment and molding devices for producing the infringing products, and not to sell or use any unsold infringing products or put them to the market by any other means; if it is difficult to preserve the infringing products, the department shall order it (him) to destroy them;

(2) If the infringer uses a patent approach unlicensed by the patentee, the department shall order it (him) to stop using the said patent approach, destroy the equipment and molding devices for producing the infringing products, and not to sell or use any unsold infringing products which are obtained through the patent approach or put them to the market by any other means; if it is difficult to preserve the infringing products, the department shall order it (him) to destroy them;

(2) If the infringer sells patent infringing products or infringing patents obtained directly through a patent approach, the department shall order it (him) to stop selling such products promptly and not to sell or use any unsold infringing products which are obtained through the patent approach or put them to the market by any other means; if it is difficult to preserve the unsold infringing products, it shall order it (him) to destroy them;

(4) If the infringer offers to sell patent infringing products or infringing products directly obtained through a patent approach, the department shall order it (him) to stop offer to sell the said products, eliminate the consequences and not to actually sell such infringing products;

(5) If the infringer imports patent infringing products or infringing products directly obtained through a patent approach, the department shall order it (him) to stop the import thereof promptly; if the infringing products have entered into China, it (he) shall not sell or use them or put them to the market by any other means; if it is difficult to preserve the unsold infringing products, the department shall order it (him) to destroy them; if the infringing products have not entered into China, it shall notify the relevant customs house about the handling decision;

(6) The infringing exhibitor shall be ordered to withdraw infringing exhibits from the exhibition, destroy or seal relevant promotional materials, and replace or cover relevant exhibition board, or take other withdrawal means;

(7) Other necessary measures for stopping infringements.

If the administrative department of patents determines that a patent infringement on any electronic commerce platform is established and makes a handling decision, it shall notify the provider of such electronic commerce platform to take measures to the website containing infringing products or any infringing products that are directly obtained from using the patented process, such as deletion, blocking, or disconnection of any link.

#### 2.5.4.2 Case closing in the form of mediation

When meditating patent disputes, an administrative department of patents shall, according to the principle of own free will and legitimacy, urge the parties concerned to understand each other and reach a mediation agreement on the basis of finding facts and distinguishing the right from the wrong. The content of the mediation agreement shall not contravene the law or the interests of the

state and others.

Mediation shall run through the whole process of handling patent infringement dispute. It can be hosted by the lead panel member or other members of the collegial panel.

When mediating, an administrative department of patents can notify the parties concerned and their agents in a simple manner.

Where an agreement is reached through mediation, the administrative department of patents shall prepare a Mediation Agreement of Patent Infringement Disputes, upon which the parties concerned shall sign or affix seal and then the administrative department of patents shall affix official seal.

The Mediation Agreement of Patent Infringement Disputes shall timely be served on the parties concerned and the administrative department of patents shall keep a copy for record filing and close the case in the form of Mediation Agreement of Patent Infringement Disputes. Where no agreement is reached through mediation or a party concerned repudiates the Mediation Agreement of Patent Infringement Disputes before signing for acceptance, the administrative department of patents shall timely make a Handling Decision on Cases of Patent Infringement Dispute for case closing.

The Mediation Agreement of Patent Infringement Disputes shall specify the following content:

(1) Requester's name and address, name and title of its legal representative or main responsible person, and name and title of its entrusted agent.

(2) The main content of handling request, fact-finding and the mediation agreement.

#### 2.5.4.3 Case dismissal

##### 2.5.4.3.1 Scope

Where one of the following situations occurs, the administrative department of patents may dismiss a patent infringement case:

(1) Where noncompliance with receipt conditions is found after the case is accepted.

(2) Where the requester withdraws his/her administrative handling request.

(3) Where the parties concerned reach a settlement agreement on their own during the case handling process and propose to withdraw the handling request.

(4) Where the requester dies or is de-registered without a successor, or the successor waives the handling request.

(2) Where the requester dies or is de-registered without estate, nor anyone to succeed to his obligations;

(6) Other situations in which the case shall be legally dismissed.

##### 2.5.4.3.2 Contents of Decision of Case Dismissal for Infringement of Patent Rights

Decision of Case Dismissal for Infringement of Patent Rights shall contain:

(1) Case ref. number;

(2) The name and address of the parties;

(3) Number and title of the patent in question;

(4) Reasons for case dismissal;

(5) Decision or approval on case dismissal.

(6) Distribution of fees, if applicable.

(7) Date on which the case dismissal decision is made.

(8) Remedies for dissatisfaction with the decision.

The Decision of Case Dismissal shall bear the official seal of the administrative department of patents.

2.5.5 Approval for case closing

When believing the case can be closed, the collegial panel shall fill in an Approval Form of Case Closing, which shall be examined and approved by the person in charge of case handling division (section) and then be reported to the Intellectual Property Office leaders for approval.

Where a handling decision is proposed, the completed handling decision (draft) shall also be reported for approval as an annex of the Approval Form of Case Closing.

Where a case dismissal is proposed, concise reasons shall be given and the Decision of Case Dismissal (draft) shall also be reported for approval as an annex of the Approval Form of Case Closing.

2.5.6 Service of case closing instruments

After a case closing instrument (Handling Decision, Decision of Case Dismissal or Mediation Agreement for Patent Infringement Disputes) is generated, it shall be served on parties concerned according to the provisions of Part 5, Chapter 1.

2.5.7 Handling of repeated infringements

After the administrative department of patents or the people's court makes a handling decision or judgment which ascertain the establishment of infringement and orders the infringer to stop the infringement promptly, the respondent commits the same type of infringement upon the same patent, if the patentee or the interested party requests the case to be handled, the administrative department of patents may directly make a handling decision, which orders prompt stop of the infringement.

2.5.8 Filing of case materials

After a Handling Decision, Decision of Case Dismissal or Mediation Agreement for Patent Infringement Disputes is served on parties concerned, the administrative department of patents shall file all materials involved in the case according to the filing system of patent case instruments.

Where a party concerned is dissatisfied with the administrative handling decision and lodges an administrative litigation, all materials related to the administrative litigation shall be timely and separately filed.

2.5.9 Special notes

After the service of a Handling Decision, Decision of Case Dismissal or Mediation Agreement for Patent Infringement Disputes is served, in principle no word shall be added to or deleted from them.

Where a few important words are actually incorrect or missed and need to be corrected, parties concerned shall be required to return the original legal instrument and a new one shall be prepared and served on parties concerned.

Where any party concerned refuses to return the original legal instrument, a Notice of Amendment/Correction for Patent Infringement Disputes shall be separately prepared to supplement or correct the errors and then be served on the parties concerned.

## Part 6 Execution and disclosure

2.6.1 Enforceability of handling decisions

Administrative handling decisions will have enforceability upon being made. Where a party concerned lodges an administrative litigation, the administrative department of patents may not suspend the execution of the handling decision.

If one of the following situations occurs, however, the execution shall be suspended:

(1) Where suspension of execution is required by the provisions of laws or regulations.

(2) Where a people's court rules the suspension of execution.

(3) Where the administrative department of patents which made the handling decision considers it is necessary to suspend the execution.

#### 2.6.2 Voluntary performance and site supervision

Where the parties concerned voluntarily perform a handling decision, at the request of a party (parties) concerned, the collegial panel may designate 2 members to supervise the parties concerned to perform their obligations on site and to prepare execution transcript. The execution transcript shall be signed by the on-site parties concerned and on-site law enforcement officers.

#### 2.6.3 Application for coercive execution

Where an administrative department of patents ascertains the establishment of an infringement, it may order the infringer to immediately cease the infringement; if the defendant is dissatisfied with the decision, he may initiate a lawsuit at the people's court within 15 days from receipt of the handling notice in accordance with the Administrative Procedure Law of the People's Republic of China; if he does not cease the infringement nor initiate a lawsuit with the time limit, the administrative department of patents may apply to the people's court for coercive execution.

##### 2.6.3.1 Jurisdiction of coercive execution

The handling decision legally made by an administrative department of patents shall be executed by the intermediate people's court, which is competent to receive patent cases in the province/autonomous region, municipality directly under the Central Government/city with districts where the domicile or properties of the person subject to execution locate.

##### 2.6.3.2 Proposal of coercive execution

If the infringer does not cease the infringement nor initiate a lawsuit with the time limit, the administrative department of patents may apply to the people's court for compulsory enforcement. In case of request for execution, the requester shall file the request after the expiration of lawsuit initiation period of the person subject to execution and fill in the Request for Coercive Execution of Handling Decisions on Patent Infringement Disputes.

The administrative department of patents may also apply to a People's Court for coercive execution of its own motion.

##### 2.6.3.3 Period for application for coercive execution

The administrative department of patents shall make such application within three months from the expiration of the performance period of the person subject to execution.

Where the administrative department of patents fails to apply to a people's court for coercive execution within the said period of execution application, the right holder or its successor or the right successor determined by the valid handling decision can apply to a people's court for coercive execution within 90 days.

##### 2.6.3.4 Procedures of application for execution

Before applying to a people's court for coercive execution, an administrative department of patents shall remind the party concerned to perform its obligations. Where the party concerned still fails to perform its obligations within ten days from the service of the reminder, the administrative department of patents may apply to a local competent people's court with the jurisdiction for coercive execution.

In case of application for coercive execution, the administrative department of patents shall submit the following materials to the people's court:

(1) Application for coercive execution;

(2) Handling decision and the facts, reasons and basis for the decision making

- (3) Opinions of the party concerned and the reminder of administrative department;
- (4) The details of the subject matter applied for coercive execution;
- (5) Other materials required by laws and administrative regulations.

The application for coercive execution shall be signed by the person in charge of the administrative department of patents, affixed with official seal and dated.

#### 2.6.3.5 Collaboration for execution

When the people's court receives and carries out the execution, the administrative department of patents shall give assistance and collaboration.

#### 2.6.4 Disclosure of case information

##### 2.6.4.1 The contents of handling results that could be disclosed

For a patent infringement case in which an infringement is established and a handling decision is made, the information to be disclosed shall include: the instrument number of the administrative handling decision; case name; name of the infringing enterprise or natural person; organizational code of the infringing enterprise and name of its legal representative; main infringing facts; type and basis of administrative handling; the performance manner and term of administrative handling measures; the name of the organization which made the handling decision and the corresponding date.

##### 2.6.4.2 Term of disclosure

For a patent infringement case in which an infringement is established and a handling decision is made, relevant information shall be legally and actively disclosed **within 20 working days** from the date of the administrative handling decision; In the event of any change in or dismissal of the handling decision due to an administrative litigation, the information of the change or dismissal shall be disclosed within 20 working days from the date the change or dismissal is made.

##### 2.6.4.3 Manner of disclosure

Administrative departments of patents shall mainly disclose information of administrative enforcement cases **via their official websites**, and they may also choose bulletin boards, press conference, newspaper, magazines, radios, TV or other means that the public are easy to access. The case information shall be disclosed in a proper manner that the public are easy to access.

## **Chapter 3 Investigation and handling of patent passing-offs**

The acts in Article 84.1 of the Detailed Rules for the Implementation of the Patent Law shall be patent passing-offs.

### **Part 1 Case acceptance**

#### **3.1.1 Case source**

The administrative department of patents shall investigate and handle patent passing-offs from the following sources:

- (1) Reports and complaints;
- (2) Discoveries.

##### **3.1.1.1 Reports and complaints**

In accordance with government affairs disclosure requirements, the administrative department of patents shall make public the channels and methods for patent passing-offs report and complaint.

When a reporter or complainant reports a patent passing-off to the administrative department of patents, it shall truthfully provide the clues to a patent passing-off case.

The officer receiving a report shall record the clues to and materials of the patent passing-off case provided by the reporter or complainant, and fill in the Form for the Registration of the Report or Complaint about a suspected patent passing-off.

The documents to register the report or complaint shall be timely transferred to the case-handling division (section).

##### **3.1.1.2 Discoveries**

The administrative department of patents shall enhance the market supervision and administration, regularly examine the commodity production and circulation within its administrative region, and investigate and handle patent passing-offs.

#### **3.1.2 Requirements for case acceptance**

The administrative department of patents shall meet the following requirements to investigate and handle a patent passing-off:

- (1) A clear administrative counterpart;
- (2) Preliminary clues to the patent passing-off;
- (3) Within the scope of jurisdiction of the administrative department of patents;
- (4) The suspected patent passing-off being discovered within 2 years upon the occurrence. For suspected patent passing-offs that are continual or continuous, the occurrence counts from the date of the termination of the act.

#### **3.1.3 Time limit for case acceptance**

If the administrative department of patents discovers or receives report of or the complaint about a suspected patent passing-off, it shall accept the case within 5 working days upon discovery or 10 working days upon receipt of the report or complaint, and designate two or more enforcement officers for investigation.

#### **3.1.4 Approval for case acceptance**

The enforcement officers of the case handling division (section) shall timely sort out and review the reporting materials, hand over the relevant documents and materials, examine the discovered case materials by itself, put forward its opinions or suggestions on whether to accept the case, fill in the Form for the Approval of Accepting a Suspected Patent passing-off Case, submit the Form to the head of the case handling division (section) for review, and then submit the Form to the administrative department of patents leader for approval.

## **Part 2 Investigation and evidence collection**

“Investigation and evidence collection” means that two or more enforcement officers take statutory measures to fix and collect evidence in order to identify law breakers and ascertain case facts. Pursuant to Article 64 of the Patent Law, when enforcement officers investigate and handle a suspected patent passing-off, they may inquire about the involved party and investigate the issues related to the suspected patent passing-off; conduct site investigation on the premises related to the involved party’s suspected illegal act; examine and copy the contracts, invoices, account books and other materials related to the suspected illegal act; examine the products related to the suspected illegal act, and seizure or impound the products that are indicated by evidence to be those of the patent passing-off. When the administrative department of patents exercises its functions and powers set forth in the preceding paragraph in accordance with the law, the involved party shall assist and cooperate, and shall not refuse or obstruct such authority.

### **3.2.1 Preparations for investigation and evidence Collection**

Before investigation and evidence collection, enforcement officers shall do as follows:

(1) Retrieve the relevant patent, preliminarily identify the information about the involved patent; read and study the case file, and learn about the main case facts to be investigated;

(2) Hold preparative meeting for site investigation, determine the division of work, time and contents of site investigation, identify the key issues to be ascertained, propose situations that could occur and formulate response plans accordingly; and make clear the division of work of the members of the investigation group, consider the necessity to act in separate groups in the light of the actual situations, and when necessary, make clear the tasks and the head of each group;

(3) Prepare necessary instruments, stationery and enforcement devices such as cameras and recording pens; and

(4) Contact the relevant authorities and make clear the work responsibilities of the relevant authorities if cooperation with other authorities is needed for site investigation.

### **3.2.2 Implementation of investigation and evidence collection**

In investigation and evidence collection, enforcement officers shall dress properly, produce enforcement certificates to the involved party, show their identity and explain their purpose on their own initiative; record the investigation in writing; and fill in the List of the Items of Evidence in a Patent Passing-off Case. The List of the Items of Evidence in a Patent Passing-off Case shall be consistent with the transcript and shall be in duplicate. The first copy shall be annexed to the case file, and the second copy shall be handed over to the involved party.

#### **3.2.2.1 Prepare investigation transcripts**

In investigation and evidence collection, the investigation transcript shall be made in the presence of two or more enforcement officers through inquiring of the involved party and recording the process of collecting documentary evidence, physical evidence and other evidence so as to record important issues. The investigation may be also recorded by recording or video equipment.

The investigation transcript shall comprehensively and objectively describe the case facts and shall be written in normative language. The name of the involved enterprise or person shall be checked to ensure the consistency with that on enterprise business license or the person’s identity certificate. “/” shall be drawn on the blanks of the transcript, and “blank below” shall be written immediately at the end of the transcript. Enforcement officers shall sign and date each page of the site investigation transcript.

The investigation transcript shall objectively describe the evidence. The completed transcript shall be handed over to the involved party and other persons concerned for check and confirmation, after which each page shall be signed, sealed and dated. If the involved party or other person concerned refuses to sign or seal on the transcript, the enforcement officers shall indicate the reason on the transcript and may request other persons present to sign or seal as the proof. The involved party may modify the transcript where the transcript is incorrect, but they shall sign and date the modifications.

The important issues to be recorded in the investigation transcript shall include:

- (1) Basic information about the investigated entity, including the entity name, and the name and address of the legal representative or the controller;
- (2) Basic information about the investigated person, including the name, ID card No., position and work under his/her charge;
- (3) Time and location of investigation;
- (4) Basic information about business operation, including the following information: name, model, stock of the products involved, production and sale time, quantity, and sales prices;
- (5) Information about the patent number or patent mark labeled on the involved products, including whether the patent is owned or licensed to the involved party, and what's the purpose for using the patent number or patent marking;
- (6) Basic information about the mold of the involved products (such as name, model, quantity and storage place of the mold) if the patent number or the patent mark of the involved products is related to the mold;
- (7) Information about evidence collection.

#### 3.2.2.2 Collection of documentary evidence

“Documentary evidence” mainly refers to the texts, graphics and so on that can prove illegal acts. Documentary evidence collected during investigation may be originals or verified duplicates or copies. Enforcement officers shall require the involved parties to sign their names or affix their seals on the documentary evidence, and indicate the sources and evidence collection process in the investigation transcript. In addition to the signature, seal and date by the involved party, the two enforcement officer shall also sign and date the verified duplicates or copies, and indicate that the duplicates or copies have been found consistent with the originals.

#### 3.2.2.3 Collection of physical evidence

“Physical evidence” mainly refers to items or physical traces that can prove illegal acts. Physical evidence collected in investigation shall be originals. An investigated person shall provide the copies of items of physical evidence if it is indeed difficult for them to provide the originals. If copies are provided, enforcement officers shall indicate the evidence collection information in the investigation transcript.

##### 3.2.2.3.1 Evidence collection through sampling

Enforcement officers may collect evidence from suspected illegal items through sampling. If a product patent is involved, products suspected of patent passing-off may be sampled; if a process patent is involved, products suspected of being obtained directly from such process may be sampled. The quantity of products to be sampled shall be limited to the extent to sufficiently prove relevant facts. If evidence is collected through sampling, the involved party shall be provided with the Decision to Collect Evidence through Sampling in a Patent Passing-off Case and the List of Items of Evidence to Be Collected through Sampling in a Patent Passing-off Case.

##### 3.2.2.3.2 Registered preservation of evidence

In site investigation, if the evidence may be lost or are difficult to be obtained later, or are unsuitable or difficult to be collected, enforcement officers may decide to put such evidence to registered preservation according to the actual situation. Enforcement officers shall seal up and take photos of the items subject to be registered preservation, and indicate the relevant information and issues in the Notice on Evidence Registered Preservation, which shall be signed or sealed by the enforcement officers, the involved party and other relevant persons.

Enforcement officers shall notify the involved party or the relevant persons not to tear up the seals, and not to destroy or transfer the registered and preserved items.

The administrative department of patents shall decide the treatment of the registered and preserved items within 7 days.



#### 3.2.2.4 Audio-visual materials

Evidence in the form of audio-visual materials may be obtained by enforcement officers through photography or video shooting so as to fully record the involved party's operation of the products involved in patent passing-off, the relevant information about the involved products, and the information about on-site enforcement by enforcement officers. The information about photography and video shooting shall be recorded in the investigation transcript.

In addition, where the enforcement officers could also collect audios, videos and other audio-visual materials, the law enforcement officers shall require the investigated person to provide the original carriers of the relevant materials. Copies could be provided if it is indeed difficult to provide original carriers. If copies are provided, enforcement officers shall indicate the sources and production processes.

#### 3.2.3 Administrative coercive measures

If necessary for the case, the administrative department of patents may take coercive measures such as sealing up or detaining of the relevant evidence.

##### 3.2.3.1 Seal-up and detention

The administrative department of patents may seal up or detain the products proven by preliminary evidence to be involved in patent passing-off. Based on the case facts, enforcement officers shall put forward suggestions on whether to seal up or detain the involved products, submit the suggestion to the head of the case-handling division (section) for review, and then submit the decision to the administrative department of patents leader for approval.

Enforcement officers shall seal up or detain the involved products in accordance with the following procedures:

- (1) Issue the Decision of Seal-up or Detention to the involved party;
- (2) Inventory the items to be sealed up or detained, and/or take apart the molds sealed up for checking;
- (3) Determine the places to store the sealed-up or detained items, take photos of or shoot videos of such items after sealing them up; and
- (4) Fill in the List of the Sealed-up (Detained) Items in duplicate;
- (5) Designate relevant persons to properly take care of the sealed-up or detained items, and prevent them from being damaged, stolen or transferred;
- (6) Make sure that items sealed up or detained for not more than thirty days. If the case is complex, this period may be extended subject to the approval of the head of the administrative department of patents for no more than thirty days, except the laws or administrative regulations have provided otherwise. Decisions on the extension of seal-up or detention period shall be timely notified to the involved party in writing, with the reasons stated;
- (7) The administrative department of patents shall bear the costs incurred in keeping the sealed-up or detained items.

##### 3.2.3.2 Lifting of coercive measures

Seal-up or detention may be lifted under any of the following circumstances:

- (1) The involved party did not commit an illegal act;
- (2) The sealed-up or detained premises, facilities or properties are unrelated to the illegal act;
- (3) The administrative authority has decided on how to deal with the illegal act and it is no longer necessary to seal up or detain the premises, facilities or properties;
- (4) The seal-up or detention period has expired; or
- (5) Other circumstances where seal-up or detention is no longer necessary.

If the coercive measures may be lifted according to the needs of the case, the Decision on the

Lifting of Seal-up or Detention shall be issued subject to the consent of the leader of the case handling division (section) and the approval of the administrative department of patents leader, and the seal-up shall be lifted in the presence of at least 2 enforcement officers.

When enforcement officers lift the seal-up, they shall fill in the List of Lifting Seal-up or Detention, which should be signed or sealed by the involved party. Where the involved party's refusal to sign or seal, cases shall be indicated by enforcement officers as such.

### **Part 3 Opinions of case closing**

#### **3.3.1 Formation of case settlement opinions**

After investigation and evidence collection, if case facts are clear and evidence is conclusive, the investigation shall be terminated, and the enforcement officers handling the case shall put forward the following treatment opinions:

(1) Where the act constitutes an illegal act subject to an administrative sanction, issue the sanction decision in accordance with seriousness and specific conditions;

(2) Where a lighter sanction or sanction mitigation is applicable, impose a lighter sanction or mitigate the sanction if there is a circumstance;

(3) Where the illegal act is light and has been rectified, and may be exempted from sanction in accordance with the law, exempt the sanction and issue the Notice on Rectification as Required to close the case;

(4) Dismiss the case if the illegal act is not verified;

(5) Transfer the case to the judicial authority if the illegal act constitutes a crime.

If enforcement officers deem that the case can be closed, they shall submit the Approval Form of Case Closing and other relevant case materials to the case handling division (section) for review, and then submit the aforesaid form and materials to the administrative department of patents leaders for approval.

#### **3.3.2 Approval for case closing opinions**

The head of the case handling division (section) and the administrative department of patents leader shall review the case closing opinions of enforcement officers in the following aspects:

(1) Whether the facts of the illegal act are clear. "Facts being clear" shall mean that enforcement officers have collected the basic facts adequate to confirm whether the involved party has committed the illegal act and how serious the consequence of the illegal act is. The focus of fact review shall be on whether the opinions of the involved party on the sanction are consistent with those of enforcement officers, and whether enforcement officers have adequate evidence to support their opinions if they disagree with the involved party on certain facts.

(2) Whether the evidence of the illegal act is lawful, adequate and conclusive. Here included are whether evidence collection is lawful and whether the evidence is related to the case facts. "Adequate evidence" shall mean that the evidence collected in investigation and evidence collection is specific and comprehensive, obviously evidential, and constitutes sufficient basis for the affirmation of the existence and seriousness of the illegal act. If the head of the case handling division (section) or the administrative department of patents leader deems that the evidence is inadequate after review, he/she shall require enforcement officers to conduct supplementary investigation.

(3) Whether the investigation procedure of the enforcement officers is lawful and whether the enforcement officers have violated the provisions on the sanction procedure. In other words, the head of the case handling division (section) or the administrative department of patents leader shall review whether enforcement officers have conducted the investigation in accordance with the statutory procedure; whether enforcement officers have notified the involved party of its rights, and the basis, facts and reason for sanction; whether enforcement officers have carefully listened to the statement and defense of the involved party; and whether enforcement officers have reviewed the facts, reasons and evidence put forward by the involved party. If the head of the case handling division (section) or the administrative department of patents leader finds that

enforcement officers have breached the statutory procedure, he/she shall immediately require the officers to correct their act.

(4) Whether the basis for sanction for the administrative illegal act is lawful and whether the sanction decision is clear. In other words, the head of the case handling division (section) or the administrative department of patents leader shall review whether the administrative sanction imposed by enforcement officers for an illegal act are in compliance with laws, regulations and rules, and whether the application of laws, regulations or rules is appropriate. If the application is inappropriate, the provisions relevant laws, regulations and rules shall be complied with.

## **Part 4 Notification and hearing before sanction**

### **3.4.1 Notification before sanction**

If as approved by the administrative department of patents leader, a sanction is to be imposed on an administrative counterpart, the Notice before Sanction shall be issued to the involved party before the administrative sanction decision is made. The issuance of the Notice before Sanction shall be subject to the provisions of Part 5 in Chapter I on service.

The Notice before Sanction shall contain the following:

- (1) Facts and evidence of the illegal act by the administrative counterpart;
- (2) Reasons and basis for the administrative sanction, and the administrative sanction decision to be issued;
- (3) The right of the administrative counterpart to make a statement and defense, the time limit for the statement and defense (generally within 3 days upon the receipt of the Notice, which may be extended as the circumstances so require), and the consequence of making a statement and defense beyond the aforesaid time limit or making no statement or defense; and
- (4) The right of the involved party to hearing if the hearing requirement is met.

The Notice before Sanction shall bear the common seal of the administrative department of patents.

### **3.4.2 Statement and defense by the involved party**

If the administrative counterpart requests a statement and defense, it shall submit the statement and defense in writing. If the statement and defense is made by the administrative counterpart orally, it shall be recorded by enforcement officers.

The administrative department of patents shall not aggravate the sanction due to the defense by the administrative counterpart.

### **3.4.3 Hearing**

If the hearing requirements are met, and the administrative counterpart requests a hearing, the administrative department of patents shall hold the hearing in accordance with the applicable provisions.

If the administrative department of patents should organize the hearing but does not organize it, its administrative sanction decision shall be invalid.

#### **3.4.3.1 Definition of hearing**

“Hearing” shall mean the procedure where, before issuance of the administrative sanction decision, and upon the application of the administrative counterpart, the administrative authority listens to the statement, defense and cross-examination of the administrative counterpart through a hearing in an administrative sanction case where the hearing procedure applies.

#### **3.4.3.2 Cases where the hearing procedure applies**

Before the administrative department of patents makes the following administrative sanction decision against the administrative counterpart, the hearing procedure set forth in this Part shall apply if the administrative counterpart requests a hearing:

- (1) Where a large-amount fine is imposed on an individual (the specific amount of a “large

amount” shall be subject to the local regulations on administrative sanction hearing);

(2) Where a large-amount fine is imposed on a legal person or other organization (the specific amount of a “large amount” shall be subject to the local regulations on administrative sanction hearing); or

(3) Where other specific administrative acts which may be heard in accordance with laws and regulations.

### 3.4.3.3 Notification of and request for a hearing

#### 3.4.3.3.1 Notification of a hearing

For an administrative sanction case to which the hearing procedure applies, the administrative department of patents shall serve the Hearing Notice to the administrative counterpart before issuing the administrative sanction decision, so as to notify the administrative counterpart of its right to request a hearing.

The Hearing Notice shall contain the following:

(1) Facts and evidence of the illegal act of the administrative counterpart;

(2) Reasons and basis for the administrative sanction, and the administrative sanction decision to be issued; and

(3) The right of the administrative counterpart to request a hearing, the means (in writing) and the time limit (within 3 days upon receipt of the Notice) to request a hearing, and the consequence of failing to request a hearing within the aforesaid time limit or not requesting a hearing.

The Hearing Notice shall bear the common seal of the administrative department of patents.

#### 3.4.3.3.2 Request for a hearing

If an administrative counterpart requests a hearing, the administrative department of patents shall review whether the administrative counterpart is eligible to request a hearing, whether the hearing is requested within the statutory time limit and in writing as required, among other aspects.

The administrative department of patents shall review the application for hearing received. It shall hold the hearing if the hearing requirements are met.

If the administrative counterpart does not request a hearing within the aforesaid time limit or expressly gives up the hearing, it shall be deemed to have waived the right to apply for a hearing and shall not request a hearing for the same case for a second time.

If the administrative counterpart requests a hearing beyond the aforesaid time limit or does not meet the hearing requirements, the administrative authority shall, within 3 days upon receipt of the hearing request, notify the administrative counterpart in writing not to hold the hearing.

##### 3.4.3.3.2.1 Eligibility for requesting a hearing

The written materials submitted by the administrative counterpart to request a hearing shall bear the signature or seal of the administrative counterpart. If an administrative counterpart entrusts another person to request a hearing, the written materials submitted to request a hearing shall bear the signature or seal of the entrusted person. A written statement of the administrative counterpart to entrust the entrusted person to request a hearing shall also be submitted.

##### 3.4.3.3.2.2 Time limit for requesting a hearing

If an administrative counterpart requests a hearing, it shall apply to the administrative department of patents within 3 days upon its receipt of the Hearing Notice or the Pre-Sanction and Hearing Notice.

If the administrative counterpart is unable to request a hearing within the specified time limit owing to Force Majeure, the time limit for requesting a hearing may be extended subject to the consent of the hearing-holding department.

If the administrative counterpart requests a hearing by post, shall be the postmark date of sending shall be the time of application.

#### 3.4.3.3.2.3 The means to request a hearing

An administrative counterpart shall apply to the administrative department of patents in writing for a hearing.

#### 3.4.3.4 Organization of a hearing

A hearing shall be organized by the administrative department of patents which intends to issue the administrative sanction to which the hearing procedure applies.

The administrative department of patents shall organize the hearing in the following manner:

(1) Within 3 days, the case-handling division (section) shall submit the main violation facts ascertained for administrative sanction, copies of evidence, the photos, the evidence catalog and the witness list to the hearing department; and

(2) The hearing department shall decide the hearing board members within 3 days after receipt of the case materials.

#### 3.4.3.5 Hearing board members

The hearing board members shall include the hearing moderator and the hearing officers.

The hearing moderator and the hearing officers shall be designated by the leader of the administrative department of patents. The administrative department of patents may appoint external hearing officers to participate in the hearing. If a case is difficult, complex and significant, the hearing board members shall be designated by the director of the administrative department of patents.

There shall be 1 to 4 hearing officers to assist the hearing moderator in hearing organization.

The number of hearing board members shall be in an odd number.

There shall be 1 clerk to record the hearing in writing and handle other affairs.

Hearing board members shall not be enforcement officers in the same case.

#### 3.4.3.5.1 The hearing moderator and his/her duties

The hearing moderator shall have 3 years of experience or more in administrative enforcement of patents.

The hearing moderator shall perform the following duties:

(1) Decide the hearing time and place and notify the hearing board members;

(2) Review the eligibility of hearing board members;

(3) Moderate the hearing, raise questions about case facts, evidence or related laws, and require participants of the hearing to provide or supplement evidence;

(4) Maintain the order of hearings, stop the acts in violation of the hearing disciplines by warning the violators or taking other necessary measures, and order the violators to walk off if the violation is serious;

(5) Review the hearing transcript, and formulate the hearing report and put forward treatment suggestions;

(6) Decide to suspend, terminate or adjourn the hearing, and announce the closing of the hearing; and

(7) Perform other duties stipulated by laws and regulations.

#### 3.4.3.5.2 Duties of hearing officers

(1) Read the case file, look up relevant evidence, and get familiarize with the case details;

(2) Participate in the discussions convened by the hearing moderator, and draft the key

hearing points;

(3) Attend the hearing, and raise questions about case facts, evidence or related laws;

(4) Read and sign the hearing transcript; and

(5) Participate in the deliberations at the end of the hearing to discuss and decide on the content of the Hearing Report.

#### 3.4.3.6 Hearing participants and their duties or rights

##### 3.4.3.6.1 Hearing attendees

Hearing attendees shall mean the relevant persons attending the hearing and having physical and procedural impacts on the hearing, and they shall include:

(1) Enforcement officers;

(2) The administrative counterpart and its agent;

(3) Third parties and their agent having a direct stake in the case settlement result;

(4) Witnesses, appraisers and interpreters; and

(5) Other relevant persons.

A third party may apply of his motion to the hearing moderator for attending the hearing, and the hearing moderator may also notify a third party to attend the hearing.

An administrative counterpart and a third party may attend the hearing in person or by appoint 1 or 2 agents to attend the hearing on his/her behalf; if the administrative counterpart or the third party is a legal person, the legal representative shall attend the hearing; if the involved party is an organization of other types, the responsible person shall attend the hearing. If the administrative counterpart or the third party has no or limited capacity for civil acts, his/her legal representative shall attend the hearing on his/her behalf. If an authorized agent attends the hearing, it shall submit the power of attorney signed (sealed) by the authorizer, which shall indicate the issues and authority under authorization.

##### 3.4.3.6.2 Duties of enforcement officers in the hearing

(1) Consult the case file, verify relevant evidence, and learn about the relevant case in details;

(2) Submit the relevant case materials to the hearing department and the hearing moderator;

(3) Prepare for the speech at the hearing;

(4) Attend the hearing, put forward the facts and evidence of the illegal act of the administrative counterpart, the suggestions on the to-be-imposed administrative sanction and the relevant legal basis, ask other attendees questions, answer the questions raised by the hearing moderator and the hearing offices, answer the questions raised by the administrative counterpart and its agent, participate in the cross-examination and debate, and express the final opinions; and

(5) Check and sign the hearing transcript.

##### 3.4.3.6.3 Rights of the administrative counterpart at the hearing

(1) Request or give up the hearing;

(2) Recuse the hearing board members;

(3) Attend the hearing in person or appoint 1 or 2 agents to attend the hearing on its behalf, and issue the power of attorney to make clear the agent's authority;

(4) Make the statement, defense and cross-examination; and

(5) Check the hearing transcript.

The legal representative of a person having no capacity for civil acts or having limited capacity for civil acts, shall have the right in the preceding paragraph.

##### 3.4.3.7 The hearing

#### 3.4.3.7.1 Preparation before the hearing

The time of hearing shall be determined by the hearing moderator, and the hearing shall generally be conducted within 15 days after the administrative counterpart requests a hearing.

Prior to the hearing, the hearing moderator shall call together the hearing officers to read the case file, look up relevant evidence, get familiar with the case details, discuss the case facts, evidence and application of laws, put forward the key hearing points, and notify enforcement officers to make relevant preparations.

After the hearing moderator determines the time and the place of the hearing, it shall serve the Hearing Notice to the administrative counterpart 7 days in advance, require the administrative counterpart to sign the acknowledgement of the service of the Hearing Notice, and notify the other attendees of the time, the place and other information of the hearing.

The Hearing Notice shall contain the following:

- (1) The time and the place of the hearing;
- (2) Names of the hearing board members;
- (3) The right to the administrative counterpart to recuse the hearing board members;
- (4) Other issues such as preparation of evidence and notification to witnesses by the administrative counterpart.

The Hearing Notice shall bear the common seal of the administrative department of patents.

If a case is subject to a public hearing, the cause of action, the name of the administrative counterpart, and the time and the place of the hearing shall be announced 3 days in advance.

#### 3.4.3.7.2 Adjournment of the hearing

A hearing shall be conducted on time. Under special circumstances, the administrative department of patents may decide to adjourn the hearing and notify the hearing attendees. If the involved party meets the requirements for adjourning the hearing, it shall timely notify the hearing moderator in writing and request the adjournment of the hearing. The hearing moderator shall decide on whether to adjourn the hearing and notify the hearing attendees in writing.

Under any of the following circumstances, the hearing may be adjourned:

- (1) The administrative counterpart is unable to attend the hearing on time for force majeure;
- (2) The administrative counterpart recuses the hearing board members for a justified reason and the hearing board members shall be re-determined; or
- (3) Other circumstances where the hearing shall be adjourned.

#### 3.4.3.7.3 Hearing disciplines

A hearing shall be held at the time and the place determined in the Hearing Notice.

The hearing shall be held publicly, unless confidentiality is required under national laws and regulations.

Before the hearing starts on the designated date, the clerk shall find out whether the administrative counterpart and other attendees are present, and announce the hearing disciplines:

- (1) Attendees shall follow the hearing moderator's directions and shall not speak or ask questions without the hearing moderator's permission;
- (2) Attendees shall not record, take photos or shoot videos of the hearing without the hearing moderator's permission;
- (3) Attendees shall not leave before the hearing is over without the hearing moderator's permission; and
- (4) Visitors shall keep quiet, shall not talk, make noises, create disturbances or have other acts disturbing the hearing order.

The hearing moderator shall have the authority to stop the attendees in violation of the hearing disciplines or the attendees' improper debate, and to order the visitors in violation of the hearing disciplines to leave the hearing. Those seriously disturbing the hearing order shall be dealt with by the public security authority.

#### 3.4.3.7.3.1 Hearing process

- (1) The hearing moderator shall announce the starting of the hearing and describes the cause of action;
- (2) The clerk shall announce the hearing disciplines;
- (3) The hearing moderator shall announce the names of the hearing board members, the clerk and the interpreter;
- (4) The hearing moderator shall check the identities of the hearing attendees;
- (5) The hearing moderator shall inform the administrative counterpart of its rights and obligations and ask the administrative counterpart whether it recuses the hearing board members;
- (6) Investigation at the hearing: the case investigators shall put forward the facts and evidence of the illegal act of the administrative counterpart, the suggestions on the to-be-imposed administrative sanction and the legal basis for such sanction, and the administrative counterpart, the third party and their authorized agents make the statement and defense;
- (7) Cross-examination at the hearing: as organized by the hearing moderator, the enforcement officers, the administrative counterpart, the third parties and their authorized agents shall produce evidence, read witnesses' testimonies, and examine each other's evidence and testimonies;
- (8) Debate at the hearing: the enforcement officers, the administrative counterpart and its authorized agent, the third party and its authorized agent shall debate;
- (9) The hearing moderator shall seek the final opinions in the following order: the enforcement officers, the administrative counterpart, the third party and their agents; and
- (10) The hearing moderator shall announce the adjournment, suspension, termination or closing of the hearing.

#### 3.4.3.7.3.2 Recusal

If the hearing moderator, a hearing officer or the clerk is of the following identity, he/she shall recuse himself/herself, and the administrative counterpart and its agent shall also have the right to recuse the hearing moderator, a hearing officer or the clerk:

- (1) An enforcement officer;
- (2) A close relative of the administrative counterpart or an enforcement officer in this case;
- (3) Once being a witness or an appraiser in this case; or
- (4) Having a stake in the case settlement result.

The above provisions shall also apply to the interpreter, the appraiser and the inspector.

#### 3.4.3.7.3.3 Investigation at the hearing

In the investigation at the hearing, enforcement officers shall put forward the facts and evidence of the illegal act of the administrative counterpart, the suggestions on the to-be-imposed administrative sanction and the legal basis for such sanction.

Then the administrative counterpart, the third party and their authorized agents shall make the statement and defense.

Enforcement officers may question the administrative counterpart.

The administrative counterpart may question the enforcement officers. Subject to the consent of the hearing moderator, the agent of the administrative counterpart may question the enforcement officers and the administrative counterpart.



The hearing board members may question the enforcement officers and the administrative counterpart.

If without a justified reason, the administrative counterpart fails to attend the hearing on time or leave the hearing midway without the permission of the hearing moderator, it shall be deemed to have waived the hearing.

#### 3.4.3.7.3.4 Cross-examination at the hearing

The evidence that is collected by the enforcement officers in case investigation and used as the factual basis for the to-be-imposed administrative sanction shall be presented, announced, identified and cross-examined at the hearing, and evidence not cross-examined shall not be used for basis of identifying the facts.

The evidence submitted by the administrative counterpart to the hearing shall also be presented, announced, identified and cross-examined at the hearing, and evidence not cross-examined shall not be used for the verdict.

The administrative counterpart and the enforcement officers may examine and question each other on the relevant evidence, and subject to the consent of the hearing moderator, the agent of the administrative counterpart may question the enforcement officers and the involved party. Subject to the permission of the hearing moderator, the administrative counterpart and the enforcement officers may question the witnesses, appraisers and inspectors present at the hearing. The hearing board members may question the enforcement officers, the administrative counterpart and its agent.

If the hearing moderator deems that the evidence is doubtful and may affect the accuracy of the administrative sanction, he/she may announce the suspension of the hearing. The hearing could be continued or scheduled at another time after the enforcement officers have investigated and verified the evidence.

The enforcement officers, the administrative counterpart and its agent shall have the right to notify new witnesses to attend the hearing, retrieve new evidence, and apply for re-appraisal or re-inspection. The hearing moderator shall decide whether to approve the aforesaid application. The costs incurred by re-appraisal or re-inspection shall be borne by the applicant.

Evidence involving State secrets, trade secrets or personal privacy shall be kept confidential. Such evidence shall be verified by the hearing board and shall not be presented to public at the hearing.

#### 3.4.3.7.3.5 Written hearing record

The whole process of the hearing shall be recorded in writing.

The hearing transcript shall be used by the administrative department of patents as the basis for the administrative sanction decision.

The hearing transcript shall contain the following:

- (1) Cause of action.
- (2) The names and the addresses of the hearing attendees;
- (3) The names of the hearing moderator, the hearing officers and the clerk;
- (4) The time, the place and the manner of the hearing;
- (5) The facts, the evidence and the suggestions on the administrative sanction to which the hearing procedure applies put forward by the enforcement officers;
- (6) The contents of the statement, the defense and the cross-examination by the administrative counterpart, the third party and their agents;
- (7) Witnesses' testimonies;
- (8) Speeches of the interpreter, the appraiser and the inspector;
- (9) The final statement of the hearing attendees; and

(10) Other hearing-related contents.

The hearing transcript shall be checked by the administrative counterpart and the other attendees. If it is found correct, it shall be signed or sealed by the attendees. If the administrative counterpart refuses to sign or seal, the hearing moderator shall indicate such refusal on the hearing transcript.

After the hearing transcript is reviewed by the hearing moderator, it shall be signed or sealed by the hearing board members and the clerk.

3.4.3.7.4 Suspension of the hearing

Under any of the following circumstances, the hearing moderator shall suspend the hearing:

(1) The administrative counterpart dies or is dissolved and the successor of rights and obligations hasn't been determined;

(2) The administrative counterpart or an enforcement officer is unable to attend the hearing for a Force Majeure event;

(3) The relevant evidence needs to be re-appraised or re-inspected in the hearing process; or

(4) Other circumstances where the hearing needs to be suspended.

After the elimination of the circumstances where the hearing needs to be suspended, the hearing moderator shall resume the hearing. For the resumption of the hearing, the hearing moderator shall serve the Hearing Notice to the administrative counterpart 7 days in advance as provided in Section 3.3.3.7.1, and notify the other attendees of the time, the place and other information of the hearing.

3.4.3.7.5 Termination of the hearing

Under any of the following circumstances, the administrative department of patents shall terminate the hearing:

(1) The successor of rights and obligations hasn't been determined within 3 months after the death or dissolution of the administrative counterpart;

(2) The administrative counterpart fails to attend the hearing without a justified reason; or

(3) Other circumstances where the hearing needs to be terminated.

The absence of the administrative counterpart shall be indicated by the clerk in the hearing transcript and signed or sealed by the hearing director.

3.4.3.8 Hearing report

After the closing of the hearing, the hearing moderator shall organize the hearing board members to make an independent, objective and impartial judgment of the case in accordance with the law, complete the Hearing Report within 10 days upon the closing of the hearing, and submit the Hearing Report and the hearing transcript to the head of the administrative department of patents. Different opinions of the hearing board members shall be truthfully indicated in the Hearing Report.

The Hearing Report shall include the following:

(1) Cause of action;

(2) Basic information about the hearing board members and the hearing attendees;

(3) The time, the place and the manner to hold the hearing;

(4) The basic information about the hearing; and

(5) The settlement opinions and suggestions.

The head of the administrative department of patents shall decide whether to impose the administrative sanction based on the Hearing Report and the hearing transcript.

3.4.3.9 Case settlement after the hearing

After the end of the hearing, the case shall be settled by the case handling division (section).

Within 15 days after the closing of the hearing, the administrative department of patents shall decide on whether to impose the administrative sanction on the administrative counterpart.

Such a decision shall be based on the evidence identified in the hearing transcript and the hearing procedure.

#### 3.4.3.10 Miscellaneous

The hearing cost shall be borne by the administrative department of patents and shall not be charged from the administrative counterpart. The administrative department of patents shall provide the premises, equipment and other convenient conditions needed by the hearing.

### **Part 5 Violation rectification, sanction and sanction decision**

#### 3.5.1 Ordering the perpetrator to stop patent passing-off and correct its act

If the administrative department of patents affirms the patent passing-off, it shall order the perpetrator to take the following corrective measures:

(1) Where the perpetrator prints the patent mark on unpatented products or packages thereof, continue to print the patent mark on products or product packages after the patent right is announced invalid or has expired, or print others' patent numbers on products or product packages without permission, it shall immediately stop printing the patent mark and eliminate the patent marks on the unsold products or the packages thereof; if it is difficult to eliminate the patent mark on products, it shall destroy such products or the packages thereof;

(2) Where the perpetrator sells the products referred to Subparagraph (1), it shall immediately stop the sale;

(3) Where in product manuals or other materials, the perpetrator refers to unpatented technologies or designs as patented technologies or patented designs, refers to patent applications as patents, or uses others' patent numbers without permission so that the public mistake the involved technologies or designs as others' patented technologies or patented designs, the perpetrator shall immediately stop distributing such materials, destroy the materials not distributed yet, and eliminate the effect;

(4) Where the perpetrator forges or alters patent certificates, patent documents or patent application documents, it shall immediately stop such forgery or alteration, destroy forged or altered patent certificates, patent documents or patent application documents, and eliminate the effect;

(5) An exhibitor involved in patent passing-off shall remove the exhibits involved in patent passing-off, destroy or seal up relevant disclosure materials, and replace or cover the relevant display boards; and

(6) Other necessary corrective measures.

If the administrative department of patents affirms the patent passing-off on an e-commerce platform, it shall notify the e-commerce platform provider to timely delete, block, or disconnect the web links, or otherwise eliminate the webpages of the products involved in patent passing-off.

#### 3.5.2 Types of sanction

##### 3.5.2.1 Confiscation of illegal gains

If the administrative department of patents affirms the patent passing-off and the involved party has illegal gains, it shall confiscate the illegal gains.

If the administrative department of patents affirms the patent passing-off, it shall determine the perpetrator's illegal gains in the following manner:

(1) If the perpetrator sells the products involved in patent passing-off, the illegal gains shall be the product sales price multiplied by the number of products sold;

(2) If the perpetrator signs a contract involved in patent passing-off, the illegal gains shall be

the charges.

#### 3.5.2.2 Imposition of fines

If a patent passing-off is subject to administrative sanction, the administrative authorities for patent affairs may order the perpetrator to correct its act, make public the patent passing-off, confiscate the illegal gains, and impose a fine no more than four times the illegal gains or impose a fine no more than RMB 200,000 yuan if there are no illegal gains.

#### 3.5.2.3 Sanction decision

If the involved party makes the statement and defense before the issuance of the Notice before Sanction, the facts, reasons and evidence put forward by the involved party shall be verified by the administrative department of patents and discussed by the case panel; after the formation of the majority opinion on the maintenance or change of the previous to-be-imposed sanction, such opinion shall be put forward to the authority leader by the submission of the Administrative Sanction Decision or other case closing document; such Decision or document shall be reviewed by the head of the case handling division (section) and then submitted to the administrative department of patents leader for approval.

If the administrative department of patents leader approves the decision to impose the administrative sanction on the involved party, the administrative department of patents shall issue the Administrative Sanction Decision to the involved party.

The preconditions for an administrative sanction decision shall include clear affirmation of the illegal act, conclusive and full evidence for ascertaining case facts, accurate determination of the nature of the illegal act, correct application of laws, lawful case handling procedure, and reasonable and proper sanction extent.

The Administrative Sanction Decision shall bear the common seal of the administrative department of patents.

The Administrative Sanction Decision shall be handed over to the involved party on the spot after the announcement; if the involved party is absent, the administrative authority shall serve the Administrative Sanction Decision to the involved party within seven days in accordance with the relevant provisions of the Civil Procedural Law. The Administrative Sanction Decision shall become effective once it is served.

The Administrative Sanction Decision shall not be changed at will by the administrative department of patents once it is served.

#### 3.5.3 Time limit

The administrative department of patents shall close a patent passing-off case within 1 month after the case is accepted for investigation and prosecution. If it is necessary to extend the time limit for an extremely complicated case, it shall be subject to the approval of the responsible person of the administrative department of patents. The time limit shall be extended for 15 days at maximum.

Hearing, announcement and other procedures in the case processing shall not be included in the time limit provided in the preceding paragraph.

#### 3.5.4 Noteworthy issues in the implementation of the administrative sanction

##### 3.5.4.1 Case dismissal

If an illegal act is not established, no administrative sanction shall be imposed, the relevant items shall be returned, and the seal-up, detention or other coercive measures shall be lifted. The administrative department of patents shall send the Case Dismissal Notice to the administrative counterpart and close the case by case dismissal.

##### 3.5.4.2 Circumstances for not imposing sanction

- (1) A person 14 years old or younger commits the illegal act;
- (2) A mentally disabled commits the illegal act when he/she is unable to recognize or control

his/her act;

(3) The illegal act is light, has been timely rectified, and it causes no harmful consequences;  
or

(4) The patent passing-off is not discovered within two years unless otherwise provided by law. The period prescribed in the preceding paragraph shall start from the date when the illegal act is committed; if the act is continual or continuous, the period shall be started from the date when the act is terminated.

(5) Other circumstances where no sanction shall be imposed in accordance with the law.

#### 3.5.4.3 Circumstances for lighter sanction and mitigated sanction

(1) A person more than 14 years old but less than 18 years old commits the illegal act;

(1) The perpetrator has taken the initiative to eliminate or lessen the harmful consequences of his/her illegal act;

(3) The perpetrator plays a secondary or auxiliary role in a joint illegal act;

(4) The perpetrator has meritorious performance through the coordination with the administrative authority in the investigation into and punishment of the illegal act;

(5) The perpetrator has been coerced by others to commit the illegal act; or

(6) Other circumstances where lighter or mitigated sanction shall be imposed in accordance with the law.

#### 3.5.4.4 Circumstances for aggravated sanction

(1) The illegal act is malicious and causes serious consequences;

(2) The perpetrator plays a major role in a joint illegal act;

(3) The perpetrator conceals or destroys the evidence of the illegal act, or unseals or transfers the sealed-up or detained items without authorization;

(4) The perpetrator obstructs, refuses, or uses violence, threat or other illegal means to resist the enforcement by enforcement officers but such obstruction, refusal or resistance has not constituted a crime;

(5) The perpetrator disturbs the public order, jeopardizes public security, infringes personal rights or property rights, obstructs social administration or commits another illegal act, which has caused huge social harms but has not constituted a crime;

(6) The perpetrator commits the illegal act by a mean trick, or he/she commits illegal acts repeatedly and refuses to behave properly despite the repeated correction; or

(7) Other circumstances where aggravated sanction shall be imposed in accordance with the law.

#### 3.5.4.5 Prohibition on repeated fine

An involved party shall not be fined twice or more times for the same illegal act.

#### 3.5.4.6 Illegal act suspected to constitute a crime

The case shall be transferred to the judicial authority if the illegal act constitutes a crime.

##### 3.5.4.6.1 Patent passing-off constituting a crime

Pursuant to Article 10 of the Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on the Several Issues Concerning the Specific Application of Laws in the Handling of Criminal Cases Involving the Infringement of Intellectual Property Rights (Fa Shi [2004] No. 19), any of the following acts shall be deemed as a "patent passing-off" defined in Article 216 of the Criminal Code:

(1) Without permission, the perpetrator marks others' patent numbers on the products produced or sold by it or on the packages of such products;

(2) Without permission, the perpetrator uses others' patent numbers in its advertisement or other disclosure materials so that people misunderstand the involved technologies as others' patented technologies;

(3) Without permission, the perpetrator uses others' patent numbers in its contract so that people misunderstand the involved technologies under the contract as others' patented technologies; or

(4) The perpetrator forges or alters others' patent certificate, patent documents or patent application documents.

Pursuant to Article 72 of the Regulations (II) of the Supreme People's Procuratorate and the Ministry of Public Security on the Standards for Accepting Criminal Cases under the Jurisdiction of the Public Security Authority for Investigation and Prosecution, a patent passing-off falling under any of the following circumstances shall be transferred to the public security authority:

(1) The illegal turnover is more than RMB 200,000 yuan or the illegal gain is more than RMB 100,000 yuan;

(2) The direct economic loss caused to the patentee is more than RMB 500,000 yuan;

(3) The perpetrator passes off two or more patents, and the illegal turnover is more than RMB 100,000 yuan or the illegal gain is more than RMB 50,000 yuan; or

(4) Other serious circumstances.

The illegal turnover shall mean the value of the products produced, stored, transported or sold in the patent passing-off by the perpetrator. The value of the sold products shall be the actual sales price. The value of the produced, stored, transported or unsold products shall be the marked price or shall be calculated at the average of the actual sales price ascertained for the products sold. If there are no marked prices or it is unfeasible to ascertain the actual sale prices of the products, the value of the products shall be calculated at the middle market price.

The illegal gain in this paragraph shall be different from that in Section 3.4.1.2 and here it shall mean the profit.

If a perpetrator passes off others' patents several times but no administrative or criminal sanction has been imposed on them, the illegal turnover or the illegal gain shall be accumulated.

#### 3.5.4.6.2 Certificate forgery or alteration constituting a crime

If a perpetrator's forgery or alteration of a patent certificate is suspected of constituting the crime of forging, altering, purchasing or selling official documents, certificates or seals of the State authorities provided in Article 280 of the Criminal Code of the People's Republic of China, the administrative department of patents shall transfer the case to the public security authority to prosecute the perpetrator for its criminal responsibilities.

#### 3.5.4.6.3 Transfer procedure

If enforcement officers deem that the perpetrator is suspected of having committed a crime, they shall propose to the authority head that the case be transferred to the public security authority in accordance with the Provisions on the Transfer of Suspected Criminal Cases by Administrative Enforcement Authorities (Decree No. 310 of the State Council of the People's Republic of China), and the transfer shall be reviewed by the head of the case handling division (section) and approved by the administrative department of patents leader.

If the public security authority decides not to accept a case for investigation and prosecution, the administrative department of patents shall impose the administrative sanction in accordance with the law.

**Table 1 Benchmark for the Discretion in Administrative Sanctions for Patent Passing-offs**

Illegal act	Sanction basis	Seriousness of the illegal act	Circumstance of the illegal act	Benchmark for discretion of sanction
<p>Patent passing-off acts:</p> <p>(1) The perpetrator prints the patent mark on unpatented products or packages thereof, continue to print the patent mark on products or product packages after the patent right is announced invalid or has expired, or print others' patent numbers on products or product packages without permission;</p> <p>(2) The perpetrator sells the products set forth in subparagraph (1);</p> <p>(3) The perpetrator refers, in product manuals or other materials, unpatented technologies or designs as patented technologies or patented designs, refers</p>	<p>Article 63 of the Patent Law of the People's Republic of China: For perpetrators of patent passing-offs, in addition to the civil responsibilities imposed in accordance with the law, the administrative department of patents may order the perpetrator to correct its act and confiscate the illegal gain, and may additionally impose a fine up to four times the illegal gain; if there is no illegal gain, the administrative department of patents may impose a fine less than RMB 200,000 yuan; and if the patent passing-off constitutes a crime, the perpetrator shall be prosecuted for its criminal responsibilities.</p>	Light	<ol style="list-style-type: none"> <li>1. The perpetrator sells the products involved in patent passing-off without knowledge thereof, and can prove the lawful sources of the such products;</li> <li>2. The perpetrator prints the patent mark of a patent that is under application and not granted yet;</li> <li>3. The illegal turnover is less than RMB 5,000 yuan;</li> <li>4. Other light circumstances.</li> </ol>	The perpetrator shall be ordered to correct its act, its illegal gain shall be confiscated, but it may be exempt from fines.
		Minor	<ol style="list-style-type: none"> <li>1. The illegal turnover is more than RMB 5,000 yuan and less than RMB 50,000 yuan, or the illegal gain is less than RMB 20,000 yuan;</li> <li>2. The direct economic losses caused to the patentee is less than RMB 100,000 yuan;</li> <li>3. The perpetrator refers to or marks the patent within 6 months after the patent right is declared invalid in whole or has expired, or after patent rights are given up or terminated for failure to pay the annual fee;</li> <li>4. Other circumstances where a lighter or mitigated sanction shall be imposed in accordance with the law.</li> </ol>	The perpetrator shall be ordered to correct its act, the illegal gain shall be confiscated, and a fine up to the illegal gain shall be imposed; if there is no illegal gain, the fine less than RMB 50,000 yuan shall be imposed.
		Relative	<ol style="list-style-type: none"> <li>1. The illegal turnover is more than RMB 50,000 yuan and less than RMB 100,000 yuan, or the illegal gain is more than RMB 20,000 yuan and less than RMB 50,000 yuan ;</li> <li>2. The direct economic losses caused to the patentee is more than RMB 100,000 yuan and less than RMB 250,000 yuan;</li> </ol>	The perpetrator shall be ordered to correct its act, the illegal gain shall be confiscated, and a fine more than the illegal gain and

<p>patent applications as patents, or uses others' patent numbers without permission so that the public take the involved technologies or designs as patented technologies or patented designs;</p> <p>(4) The perpetrator forges or alters patent certificates, patent documents or patent application documents; or</p> <p>(5) The perpetrator commits other acts so that the public confuses unpatented technologies or designs as patented technologies or patented designs.</p>	<p>Article 84 of the Detailed Rules for the Implementation of the Patent Law of the People's Republic of China</p>	<p>very serious</p>	<p>3. The perpetrator refers to or marks the patent more than 6 months but less than 12 months after the patent right is declared invalid in whole or has expired, or after patent rights are given up or terminated for failure to pay the annual fee;</p> <p>4. Other circumstances where a lighter, mitigated or aggravated sanction shall be imposed.</p>	<p>less than twice the illegal gain shall be imposed; if there is no illegal gain, the fine more than RMB 50,000 yuan and less than RMB 100,000 yuan shall be imposed.</p>
		<p>Serious</p>	<p>1. The illegal turnover is more than RMB 100,000 yuan and less than RMB 150,000 yuan, or the illegal gain is more than RMB 50,000 yuan and less than RMB 80,000 yuan ;</p> <p>2. The direct economic losses caused to the patentee is more than RMB 250,000 yuan and less than RMB 400,000 yuan;</p> <p>3. The perpetrator refers to or marks the patent more than 12 months after the patent right is declared invalid in whole or has expired, or after patent rights are given up or terminated for failure to pay the annual fee;</p> <p>4. The perpetrator forges or alters a small number of others' patent certificates, patent documents or patent application documents, or it has forged or altered a large number of such certificates or documents but has not used them, and in both two circumstances, it has not caused actual harms to others or society;</p> <p>5. The perpetrator passes off two or more patents, and the illegal turnover is less than RMB 50,000 yuan or the illegal gain is less than RMB 25,000 yuan; or</p> <p>6. Other circumstances where aggravated sanction shall be imposed in accordance with the law.</p>	<p>The perpetrator shall be ordered to correct its act, the illegal gain shall be confiscated, and a fine more than twice the illegal gain and less than three times the illegal gain shall be imposed; if there is no illegal gain, a fine more than RMB 100,000 yuan and less than RMB 150,000 yuan shall be imposed.</p>
		<p>Extremely</p>	<p>1. The illegal turnover is more than RMB 150,000 yuan and less than RMB 200,000 yuan, or the illegal gain is more than RMB 80,000 yuan and less than RMB 100,000 yuan ;</p> <p>2. The direct economic losses caused to the patentee is more than RMB 400,000 yuan and less than RMB 500,000 yuan;</p>	<p>The perpetrator shall be ordered to correct its act, the illegal gain shall be confiscated, and a fine more than three times the illegal</p>



		serious	<p>3. The perpetrator has forged or altered and used patent certificates, patent documents or patent application documents, and has caused actual harms to others or society;</p> <p>4. The perpetrator passes off two or more patents, and the illegal turnover is more than RMB 50,000 yuan and less than RMB 100,000 yuan or the illegal gain is RMB 25,000 yuan and less than RMB 50,000 yuan;</p> <p>5. The perpetrator commits the illegal act by mean tricks and do not behave properly despite repeated correction; or</p> <p>6. Other extremely serious circumstances under the law.</p>	<p>gain and less than four times the illegal gain shall be imposed; if there is no illegal gain, a fine more than RMB 150,000 yuan and less than RMB 200,000 yuan shall be imposed.</p>
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## **Part 6 Execution and disclosure of the sanction**

### **3.6.1 Ordinary procedures for punishment execution**

#### **3.6.1.1 Execution of the immediate ceasing of the illegal act and the immediate implementation of the corrective measures**

If the administrative department of patents affirms the patent passing-off, it shall order the perpetrator to take the following corrective measures:

(1) If the perpetrator prints the patent mark on unpatented products or packages thereof, continues to print the patent mark on products or product packages after the patent right is announced invalid or has been terminated, or prints others' patent numbers on products or product packages without permission, it shall immediately stop printing the patent mark and eliminate the patent mark on the unsold products or the packages thereof; if it is difficult to eliminate the patent mark on products, it shall destroy such products or the packages thereof;

(2) If the perpetrator sells the products referred to Subparagraph (1), it shall immediately stop the sale;

(3) If the perpetrator refers, in product manuals or other materials, unpatented technologies or designs as patented technologies or patented designs, refers patent applications as patents, or uses others' patent numbers without permission so that the public take the involved technologies or designs as others' patented technologies or patented designs, the perpetrator shall immediately stop distributing such materials, destroy the materials not distributed yet, and eliminate the effect;

(4) If the perpetrator forges or alters patent certificates, patent documents or patent application documents, it shall immediately stop such forgery or alteration, destroy forged or altered patent certificates, patent documents or patent application documents, and eliminate the effect;

(5) Other necessary corrective measures.

#### **3.6.1.2 Disposal of the products involved in patent passing-offs**

The administrative department of patents shall return the products involved in patent passing-offs to the perpetrator so that the perpetrator can correct its act in accordance with the administrative decision. If the perpetrator neither brings an administrative lawsuit or applies for an administrative reconsideration, nor acts in compliance with the sanction decision, the administrative department of patents may apply to the people's court for the coercive execution of the sanction.

#### **3.6.1.3 Execution of the imposition of the fine and the confiscation of the illegal gain**

##### **3.6.1.3.1 Payment of the fine**

With 15 days upon receipt of the Administrative Sanction Decision, the punished party shall pay the fine with the designated financial institution by presenting the Fine Payment Notice (in the unified form, in triplicate) issued by the administrative department of patents.

##### **3.6.1.3.2 Reduction, exemption or deferred payment of the fine**

If the involved party indeed faces financial difficulty and has to defer the fine payment or pay the fine by installment, it may defer the fine payment or pay the fine by installment upon approval by the approval by the administrative authority of its application thereof.

(1) The involved party shall indeed face financial difficulty and indeed has to defer the fine payment or pay the fine by installment. For example, the punished party suffers property losses caused by a disaster after being sanction, so that it is unable to pay the fine on time and has to defer the fine payment or pay the fine by installment. Payment deferment or payment by installment shall be distinguished from deliberate refusal or stalling to pay the fine. If the involved party is able to pay the fine but deliberately refuses or stalls to pay the fine, the administrative department of patents shall impose an additional fine or apply to the court for coercive execution.

(2) The involved party shall apply to the administrative department of patents for payment deferment or payment by installment, and shall obtain the approval by the administrative department of patents. The punished party shall apply to the administrative department of patents, explain the reasons for its inability to pay the fine on time, and state the deadline or the number of installments needed to complete the fine payment. The administrative department of patents shall strictly review the application by the involved party, and investigate the current financial position of the involved party to ascertain whether the involved party is able to pay the fine. After review, if the administrative department of patents deems that the application of the involved party is ungrounded, it shall reject the application; if the administrative department of patents deems that the application is grounded, it shall allow the involved party to defer the fine payment or pay the fine by installment. The administrative authority shall issue the Decision in writing and serve the Decision to the punished party.

### 3.6.2 Special circumstances for execution

#### 3.6.2.1 Application for coercive execution

Upon receipt of the Administrative Sanction Decision, if the punished party neither applies for administrative reconsideration within 60 days, nor brings a lawsuit within 3 months nor execute the administrative sanction decision, the administrative department of patents may apply to the people's court for coercive execution.

If the administrative department of patents applies for coercive execution, it shall fill in the Application for Coercive Execution and submit the Application for Coercive Execution, and submit to the administrative department of patents leader for approval.

#### 3.6.2.2 Imposition of additional fine

Pursuant to Article 51 of the Administrative Sanction Law, if the punished party fails to pay the fine on time without a justified reason, its fine shall increase by 3% of the fine amount for each day overdue.

Pursuant to Article 45 paragraph 2 of the Administrative Coercion Law, the additional fine or the demurrage fee shall not exceed the amount of the monetary payment obligation.

#### 3.6.2.3 Suspension of execution

The execution of the administrative sanction decision shall not be suspended during the administrative reconsideration or the administrative lawsuit. The execution of the administrative punishment decision shall be suspended under any of the following circumstances:

or (3) where suspension of execution is required by the provisions of laws or regulations.

(2) Where a people's court rules the suspension of execution.

(3) The execution shall be suspended as deemed necessary by the body for administrative reconsideration; or

(4) The execution shall be suspended as deemed necessary by the administrative department of patents.

### 3.6.3 Disclosure of the result

#### 3.6.3.1 Body and responsibilities for disclosure

The administrative department of patents of the People's Government of a province (an autonomous region or a municipality directly under the central government) and the administrative department of patents of the People's Government of a city with a district or districts shall make public the information about its administrative enforcement cases;

the entrusting party shall make public the information about the administrative enforcement cases handled by the administrative department of patents established by the People's Government of a region (an autonomous prefecture or league) or a county (district) entrusted to enforce the patent law; and the administrative department of patents established by the People's Government of a region (autonomous prefecture or league) or a county (district) with the patent enforcement authority under local regulations shall make public the information about its administrative

enforcement cases.

#### 3.6.3.2 Matters to be made public

The matters to be made public about a patent passing-off case for which an administrative sanction decision has been made shall include: the reference number of the Administrative Sanction Decision; the case name, name of the law-breaking enterprise or natural person; the organization code of the law-breaking enterprise; the major facts of the illegal act; the type of and basis for the administrative sanction; the manner and the time limit to execute the administrative sanction; and the name of the authority making the sanction decision and the date of the decision.

If the administrative sanction decision made public for a patent passing-off case is modified or revoked as a result of the administrative reconsideration or the administrative lawsuit, the relevant information shall be timely made public.

A case where the punishment is ordering the perpetrator to correct its act may not be made public by the administrative department of patents on its own initiative. But in order to meet the need of the public to learn about the handling of relevant cases, a local intellectual property administration with the patent enforcement competence may include such cases in the scope of disclosure at request provided that such cases do not infringe trade secrets, personal privacy or a third-party's interests.

#### 3.6.3.2 Time limit for disclosure

In a case where the administrative sanction is imposed for a patent passing-off, the relevant information shall be made public by the administrative department of patents on its initiative within 20 working days from the date of issuance of the administrative sanction decision; if the administrative sanction decision is modified or revoked as a result of the administrative reconsideration or the administrative lawsuit, the relevant information about the modification or revocation shall be timely made public within 20 working days upon the change or revocation.

#### 3.6.3.4 Manner of disclosure

Administrative departments of patents shall mainly disclose administrative enforcement case information via their official websites, or select the manners such as bulletin board, press conference, newspaper, magazine, radio and TV that the public are easy to access for disclosure. The disclosed case information shall be in a proper manner for the public to inquire for.

## **Chapter 4 Mediation of patent disputes**

### **Part 1. Types of patent disputes for mediation**

#### **4.1.1 Disputes on the ownership of the right of patent application and the patent right**

##### **4.1.1.1 Disputes on the right of patent application**

Disputes on the right of patent application mainly include:

(1) Disputes on service inventions and non-service inventions, which are disputes mainly between inventors or designers and their entities on who are entitled to patent application of invention-creations.

(2) Disputes on the ownership of the patent application right for an invention-creation completed jointly or completed under commission

##### **4.1.1.2 Disputes on the ownership of patent rights**

Disputes on the ownership of patent rights mainly include:

(1) Disputes on a service invention-creation that has been applied for patent by an inventor or designer as a non-service invention-creation.

(2) Disputes on a non-service invention-creation that has been applied for patent by an entity as a service invention-creation.

(3) Disputes on an invention-creation completed under commission where the commissioning developer applies for patent and obtains the patent right without explicit agreement being entered into among parties concerned.

(4) Disputes on an invention-creation jointly developed where a party of the joint invention-creators applies for patent and obtains the patent right and there is neither contractual agreement nor waiver of joint patent application by parties concerned.

##### **4.1.1.3 Legal basis**

An invention-creation, made by a person in implementation of the tasks of the entity to which he belongs, or made by him mainly by using the material and technical facilities of the entity is a service invention-creation. For a service invention-creation, the right to apply for a patent belongs to the entity; after the application is approved, the entity shall be the patentee.

For a non-service invention-creation, the right to apply for a patent belongs to the inventor or designer; after the application is approved, the inventor or designer shall be the patentee.

In respect of an invention-creation made by a person using the material and technical facilities of an entity to which he belongs, where the entity and the invention-creator have entered into a contract in which the right to apply for and own a patent is provided for, such a provision shall apply.

For an invention-creation jointly made by two or more entities or individuals, or made by an entity or individual in implementation of a commission given to it or him by another entity or individual, the right to apply for a patent belongs, unless otherwise agreed upon, to the entity or individual that made, or to the entities or individuals that jointly made, the invention-creation; after the application is approved, the entity or individual that applied for it shall be the patentee.

Where two or more applicants file applications for patent for the same invention-creation, the patent right shall be granted to the applicant whose application was filed first.

"Service invention-creation made by a person in implementation of the tasks of the entity to which he belongs" mentioned in Article 6 of the Patent Law means any invention-creation made:

(1) in the course of performing his own duties;

(2) in implementation of any task, other than his own duties, which was delivered to him by the entity to which he belongs; and

(3) within 1 year from his resignation, retirement or change of work, provided that the

invention-creation relates to his own duties or to the other task distributed to him by the entity to which he previously belonged.

"The entity to which he belongs" mentioned in Article 6 of the Patent Law may also be an entity for which the person works temporarily; "material facilities of the entity" mentioned in Article 6 of the Patent Law shall include the entity's money, equipment, spare parts, raw materials, or technical data which are not to be disclosed to the public.

#### 4.1.2 Disputes on the qualification as an inventor or designer

"Inventor" or "designer" as mentioned in the Patent Law means any person who has made creative contributions to the substantive features of the invention-creation. Any person who, in the process of accomplishing the invention-creation, is responsible only for organizational work, or who offers convenience for the use of material resources, or who takes part in other auxiliary functions, shall not be an inventor or designer.

#### 4.1.3 Disputes on the reward or remuneration to the inventor or designer of a service invention

The entity that is granted a patent right shall give to the invention-creator of a service invention-creation a reward and, upon exploitation of the patented invention-creation, shall pay the invention-creator a reasonable remuneration based on the extent of spreading and application and the economic benefits yielded.

Any entity granted of patent right that has neither agreed with the inventor or designer nor specified the method and amount of reward as referred to in Article 16 of the Patent Law in its by-laws lawfully formulated shall, within three months after the publication of the patent right, give rewards to the inventor or designer. The sum of money prize for a patent for invention shall be no less than RMB 3,000; the sum of money prize for a patent for utility model or design shall be no less than RMB 1,000.

Where an invention-creation was made on the basis of an inventor's or designer's proposal adopted by the entity to which he belongs, the entity which has been granted a patent right shall award to him a money higher prize liberally.

Any enterprise holding the patent right may include the said money prize paid to such inventors or designers into its production cost; any institution holding the patent right may disburse the said money prize out of its operating expenses.

Any entity that is granted a patent right but fails to agree with the inventor or designer on or specify in its lawfully formulated by-laws as the method and amount of remuneration referred to in Article 16 of the Patent Law shall, within the valid term of such patent right and after the exploitation of such invention-creation, annually set aside no less than 2% of the operating profit resulted from the exploitation of such invention or utility model or no less than 0.2% of the operating profit resulted from the exploitation of design as the remuneration to be given to the inventor or designer, or may, by making reference to the above said percentages, give a lump sum of money to the inventor or designer as remuneration; If the entity that is granted a patent right license such right to another entity or individual, no less than 10% of the royalties from such license shall be deducted and given to the inventor or designer as the remuneration..

#### 4.1.4 Disputes on failure of payment of proper fees for use of an invention after the publication of the patent application but before the granting of the patent

Where no appropriate fee for exploitation of the invention, subject of an application for invention patent, is paid during the period from the publication of the application to the grant of patent right, **time limit for instituting legal proceedings by the patentee to demand the said fee** is two years counted from the date on which the patentee obtains or should have obtained knowledge of the exploitation of his invention by another person. However, where the patentee has or should have known thereof before the date of the grant of the patent right, the time limit shall be counted from the date of the grant.

Disputes on the use of an invention by failing to pay proper fees after the application for a patent for invention has been published but before the patent right is granted, shall be claimed after the grant of such patent right, if parties concerned request mediation by a competent

administrative department of patents.

#### 4.1.5 Damages amount for infringement on a patent right

At the request of parties concerned, the competent administrative department of patents in charge of disputes on patent infringements may mediate the damages amount for infringement on a patent right.

### **Part 2 Conditions for requesting patent disputes mediation and the required materials**

#### 4.2.1 Conditions

In requesting for mediation in a patent dispute, the applicant shall meet the following conditions:

(1) The applicant shall be an entity or individual having direct interest in the case concerned.

(2) There is any specified respondent, with specific claims and factual basis.

(3) Parties concerned have neither lodged any lawsuit to the people's court for the patent dispute in question, nor agreed on arbitration.

(4) The case falls under the acceptance scope and jurisdiction of the competent administrative department of patents.

#### 4.2.2 Request for patent disputes mediation

A request shall be filed for requesting the competent administrative department of patents in mediating patent dispute.

The request shall containing the following contents:

(1) Applicant's name and address, name and title of its legal representative or main responsible person, and name and title of its entrusted agent. If there is any entrusted agent, the name and contact information shall be indicated.

(2) Respondent's name and address, name and title of its legal representative or main responsible person.

(3) Issues, facts, and reasons of such mediation request.

(4) The request shall be signed or sealed by the applicant.

In the case of request for mediating damages amount for infringement on patent right only, a copy of the handling decision of the competent administrative department of patents on the establishment of such infringing acts shall be submitted.

The request shall be made in one original copy and its copies shall be provided in the number of respondents.

#### 4.2.3 Identity certificates of the requester

(1) Registration certificate (counterpart of business license).

(2) Identity certificate of the legal representative.

(3) Identity certificates of the applicant and its agent.

The submission of a copy of certificate materials may be required, but the original copy shall also be presented for verification and will be returned after that.

#### 4.2.4 Evidence and materials relating to patent disputes

Evidence and materials relating to patent disputes include:

(1) Evidence furnished by the applicant, including evidence of disputes on ownership of the patent application right and patent right, disputes on qualifications of inventor and/or designer, disputes on reward and/or remuneration of the inventor and/or designer of a service invention, and disputes on the use of an invention by failing to pay proper fees after the application for a patent

for invention has been published but before the patent right is granted.

(2) Evidence furnished by the respondent, including evidence of producing, using, selling infringing products (such as sale invoices, receipts, quotations, product advertising and promotional materials, production task orders, warehouse receipts, and notarial certificates).

(3) Evidential materials shall be submitted in original and photocopy (in the number of respondents).

#### 4.2.5 Other materials

##### 4.2.5.1 Overseas evidence

In case that the applicant is a foreign company or a foreigner without domicile or business premise within the territory of the People's Republic of China, whose evidential materials such as identity certificates and power of attorney are formed outside of the territory of the People's Republic of China, such evidential materials shall be notarized by the notary public in its country and certification by the embassy or consulate of the People's Republic of China, or go through certification procedures stipulated in relevant treaties entered into by the People's Republic of China and its country.

##### 4.2.5.2 Evidence from Hong Kong, Macao, or Taiwan

In case that evidence furnished by the applicant is formed in Hong Kong, Macao, or Taiwan, the applicant shall be required to go through relevant certification procedures.

### **Part 3 Service and case acceptance**

#### 4.3.1 Service

A competent administrative department of patents shall, after receipt of mediation request, deliver the Notice of Mediation of Patent Disputes, a copy of the request, acknowledgment of service to the respondent, requiring the respondent to submit its observations within 15 days after receipt of the same, indicating whether or not to agree with mediation, and shall state reasons for mediation issues raised by the respondent.

Service methods are subject to the provisions on service in Part 5 of Chapter 1.

#### 4.3.2 Case acceptance

If the respondent submits observations and agrees with mediation, the competent administrative department of patents shall, within 5 working days after receipt of the observations, accept the case, designate more than two officers to handle the case, prepare the Notice of Mediation, and shall inform both the applicant and respondent of the time and venue of mediation.

If the respondent fails to submit the Observations, or refuse to accept the mediation in the Observations, the competent administrative department of patents shall, upon the expiry of the term or receipt of the Observations, promptly prepare the Notice of Acceptance Denial for Mediation and deliver the same to the respondent.

In the case of complicated cases, a collegial panel may be formed according to the actual need.

Parties concerned shall, after receipt of the Notice of Mediation and 3 days prior to mediation date, fill in the Acknowledgment of Oral Mediation and submit written materials stating names and titles of the person(s) to attend such mediation and any application for the recusal of any mediator to the competent administrative department of patents.

#### 4.3.3 Miscellaneous

In mediating patent disputes, the competent administrative department of patents shall comply with the principle of voluntariness, lawfulness, and convenience to parties concerned.

In mediating patent disputes, the competent administrative department of patents may invite any entity that has specific relationship with the parties concerned or connection with the case or any individual with expertise and specific social experience and having specific relationship with the parties concerned that helps to assist the mediation to provide assistance in such mediation.



## **Part 4 Mediation procedures for patent disputes**

### **4.4.1 Evidence examination**

In mediating patent disputes, law enforcement officers shall examine the materials furnished by the applicant and the observations and materials submitted by the respondent.

(1) If parties concerned furnish evidential materials, law enforcement officers shall require such parties to categorize and number such evidential materials, briefly describe the source, objects of proof, and contents of such evidential materials, and sign and seal such evidential materials, as well as indicate the date of submission.

(2) When parties concerned submit evidential materials, law enforcement officers shall complete the List of Evidential Materials Received from Parties and deliver it to parties concerned for their signature confirmation. The List of Evidential Materials Received from Parties shall be made in duplicate, with the first counterpart to be attached to the case file and the second counterpart to be delivered to the parties concerned.

(3) Parties concerned shall furnish originals or original items in submission of evidence. If it is truly difficult to preserve or provide original evidence or items, parties concerned may provide verified reproductions. Law enforcement officers shall, after receipt of evidential materials furnished by parties concerned, examine whether they are originals or, if not, indicate "the same as originals" on the copies after checking against the originals and have the examiner signed and sealed on the same.

(4) In receiving evidence in any foreign language so furnished by parties concerned, law enforcement officers shall examine whether the Chinese version of the same is provided or, if not, return the same and inform the parties concerned to furnish Chinese version together with originals of evidence in such foreign language within a specified term.

(5) Law enforcement officers shall require the parties concerned to furnish all the evidence materials within the specified term. If any party concerned fails to do so for a particular reason and requests for a postponement, such party shall file a written application and state the reason therefor, which shall be examined by the responsible official of case handling division (section) and subject to the approval by the leader in charge of the Office. If any party concerned delays the submission without a justifiable reason, the delayed submission may be rejected.

(6) In the case of any evidence that shall be kept in confidence, the responsible officer for the case and relevant officers shall be obliged to keep the same in confidence.

### **4.4.2 Mediation**

In mediation, law enforcement officers shall announce the mediation disciplines, check identities of the parties concerned, announce the rights and obligations of the parties concerned, announce the identities of the law enforcement officers and recorders, and ask whether the parties concerned apply for avoidance.

During mediation, law enforcement officers shall fully listen to the observations of both parties, ascertain the basic facts related to disputes, and persuade and advise both parties concerned to a mediation agreement in accordance with laws, regulations, rules, and policies.

The parties concerned may propose mediation plans at their own discretion and the law enforcement officers may also propose mediation plans for consideration of the parties in negotiation.

In mediating a patent dispute, the competent administrative department of patents shall maintain mediation minutes, indicating the time, venue, and participants of mediation, negotiated issues, opinions of parties concerned, and mediation results, which shall be signed or sealed by participants after verification.

In mediation, the personal information and trade secrets of parties concerned shall be protected.

If the mediation result involves the lawful rights and interests of any third party, it shall be subject to the consent of such third party. If such third party disagrees such results, the mediation

shall be terminated.

## **Part 5 Case closing**

### **4.5.1 Case closing in the form of mediation**

If any agreement is entered into after mediation, the competent administrative department of patents shall prepare the Mediation Form of Patent Disputes, indicating:

(1) Names and addresses of parties concerned, names and titles of their legal representatives or main responsible persons, and name and title of any entrusted agent.

(2) Major facts related to the dispute and liabilities assumption.

(3) Contents of agreement.

(4) Conditions on the effect of mediation form and the effective date.

(5) Signature or seal of parties concerned.

(6) Signature of mediators.

The content of Mediation Form of Patent Disputes may not violate any national laws, regulations, rules, and policies, nor will it impair public interest or lawful rights and interests of others.

The Mediation Form of Patent Disputes shall come into force after both parties sign their signatures or affix their seals thereupon and shall be delivered to the competent administrative department of patents for record filing.

The Mediation Form of Patent Disputes shall be signed or sealed by the competent administrative department of patents.

The Mediation Form of Patent Disputes shall be promptly delivered to both parties concerned.

#### **4.5.1.1 Mediation principles**

(1) A mediation of patent dispute shall be made in the principle of voluntariness of both parties concerned.

(2) A mediation shall be made under laws. First, the competent administrative department of patents shall do protect the lawful rights and interests of right holders under substantive laws and procedural laws; second, the compromise or waiver of any lawful rights by the right holder shall be made voluntarily. The collegial panel may not force any right holder to compromise, nor will it mediate against their will.

#### **4.5.1.2 Circumstances requiring special attention in mediating disputes on a patent application right or ownership of a patent right**

In the case of any application for mediation of disputes on patent application right or ownership of patent right, the parties concerned may, after case acceptance by the competent administrative department of patents, apply to the State Intellectual Property Office for suspending any procedures relating to the patent application or patent right by presenting the Notice of Case Acceptance for Mediation.

If an agreement is entered into after mediation, the parties concerned shall go through resumption procedures with the State Intellectual Property Office by presenting the Mediation Form; if fails, the parties concerned shall go through resumption procedures with the State Intellectual Property Office by presenting the Notice of Mediation Termination issued by the competent administrative department of patents. If any dispute on patent application right or ownership of patent right has not been closed within 1 year after suspension of the request and the applicant has not applied for the extension of such suspension, the State Intellectual Property Office shall automatically resume relevant proceedings.

In the case of any change of register entry, relevant entity or individual may change such register entry with the State Intellectual Property Office by presenting an effective mediation form

and relevant certificates.

#### 4.5.2 Case dismissal

In relation to any case for which no agreement is entered into or which has not been closed after long-time mediation, the competent administrative department of patents may close the case in the form of dismissal, issue the Notice of Mediation Termination to both parties; if the case meet the case acceptance conditions of the court, the applicant may file the case with the court.

## **Chapter 5. Cross-territory and cross-department collaborations for administrative enforcement of patents**

### **Part 1. Handling of cross-territory disputes of patent Infringement**

#### **5.1.1 Conditions for collaboration requests**

The following requirements shall be met if a requester requests an administrative department of patents to handle a cross-territory dispute of patent infringements:

(1) The requester is the patent holder or an interested party, and located in the administrative area of the administrative department of patents receiving the case;

(2) The place of the respondent's domicile or the infringement is outside the administrative area of the administrative department of patents receiving the case;

(3) There are specific claims and detailed facts and reasons;

(4) The dispute is within the scope of case receipt by the administrative department of patents, but not within the scope of jurisdiction by the administrative department of patents receiving the case; and

(5) The party concerned has not lodged a lawsuit in the people's court in respect of the said patent infringement dispute.

#### **5.1.2 Materials submission**

If a requester requests an administrative department of patents to handle a cross-territory dispute of patent infringements, it shall submit the following materials:

(1) Request for Handling Patent Infringement Disputes;

(2) Photocopies of the patent certificates and the granted text of patent;

(3) Evidence and certification materials;

(4) Photocopies of ID card;

(5) Photocopies of the duplicate of the entity's business license;

(6) Identity certificate of the entity's legal representative;

(7) Power of attorney; and

(8) Other materials, including the patent right evaluation report for utility models or industrial designs required by the administrative department of patents in the place where the respondent is located.

The number of copies of the request, the patent certificate and the granted texts of patent shall be the same as the number of respondents.

#### **5.1.3 Preliminary examination**

After receiving a requester's request for handling of a cross-territory dispute of patent infringements, an administrative department of patents shall conduct a preliminary examination and check the original of any patent certificate or identity certificates or any other materials.

If a request meets the requirements, the administrative department of patents shall issue a List of Received Handling Materials for Cross-Territory Disputes of Patent Infringement to the requester within 5 working days upon receipt of the request; if a request does not meet the requirements, the local administrative department of patents shall notify the requester and state the reasons within 5 working days upon receipt of the request.

#### **5.1.4 Jurisdiction**

The jurisdiction of cross-territory disputes of patent infringements shall be subject to Part 2, Chapter 1 of the Guidelines.

Within 3 days upon the issuance of the List of Received Handling Materials for

Cross-Territory Disputes of Patent Infringement, the administrative department of patents shall fill in the List of Transferred Handling Materials for Cross-territory Disputes of Patent Infringement in duplicate, and transfer one copy thereof and the request, evidence and other materials submitted by the requester to the competent administrative department of patents as determined by the requester, and notify the receiving administrative department of patents.

#### 5.1.5 Case acceptance

The competent administrative department of patents shall decide whether to accept the case within 5 working days upon receipt of the transferred materials. If it decides to accept the case, it shall fill in Acknowledgment of Transferred Handling Materials for Cross-territory Disputes of Patent Infringement in duplicate, and send one copy thereof to the transferring administrative department of patents; if it decides not to accept the case, it shall fill in the Notice of Acceptance Denial of Request for Handling Patent Infringement Disputes and state the reasons, and send the Notice to the transferring administrative department of patents and return the relevant materials.

After the case acceptance, the competent administrative department of patents shall handle the patent infringement dispute in accordance with relevant laws, regulations and rules. If necessary, the administrative department of patents accepting the case may request the transferring administrative department of patents to dispatch personnel, or the transferring administrative department of patents may dispatch personnel on its initiative to assist in investigation and handling.

#### 5.1.6 Case closing

After the closing of a patent infringement dispute, the competent administrative department of patents shall fill in Notice of Case Closing for Cross-territory Disputes of Patent Infringement in triplicate, and send one copy thereof to the transferring administrative department of patents.

### **Part 2 Mediation of cross-territory disputes of patent Infringement**

#### 5.2.1 Materials submission

If a requester requests the administrative department of patents to mediate a cross-territory dispute of patent infringements, it shall submit the following materials:

- (1) Request for Mediation of Patent Disputes;
- (2) Photocopies of ID card;
- (3) Photocopies of the duplicate of the entity's business license;
- (4) Identity certificate of the entity's legal representative;
- (5) Power of attorney; and
- (6) Other materials.

The number of copies of Request for Mediation of Patent Disputes shall be the same as the number of respondents.

In the case of request for mediating damages amount for infringement on patent right only, a copy of the handling decision of the competent administrative department of patents on the establishment of such infringing acts shall be submitted.

#### 5.2.2 Receipt

After receipt of a requester's request for mediation of a cross-territory patent dispute, an administrative department of patents shall conduct preliminary examination in accordance with Part 2, Chapter 4.

If the request meets the requirements, the administrative department of patents shall issue a List of Received Mediation Materials for Cross-territory Patent Disputes to the requester within 7 days upon receipt of the request; if the request does not meet the requirements, the administrative department of patents shall notify the requester and state the reasons within 7 days upon receipt of the request.

### 5.2.3 Jurisdiction

The jurisdiction of cross-territory disputes of patent infringements shall be subject to Part 2, Chapter 1 of the Guidelines.

### 5.2.4 Transfer of materials

Within 3 days upon the issuance of the List of Received Mediation Materials for Cross-territory Patent Disputes, the administrative department of patents shall fill in the List of Transferred Mediation Materials for Cross-territory Patent Disputes in duplicate, transfer one copy thereof and the request and other materials submitted by the requester to the local competent administrative department of patents as determined by the requester.

A patent dispute transferred to a competent administrative department of patents for mediation shall be handled in accordance with Chapter 4 of the Guidelines.

If a competent administrative department of patents mediates a patent dispute, it shall fill in an Acknowledgment of Transferred Mediation Materials for Cross-territory Patent Disputes and send one copy thereof to the transferring administrative department of patents.

If the competent administrative department of patents decides not to accept the case of patent dispute mediation, it shall notify the transferring administrative department of patents in writing and return the materials.

### 5.2.5 Case closing

After the closing of a patent dispute through mediation, a competent administrative department of patents shall fill in the Notice of Case Closing in the Form of Mediation for Cross-territory Patent Disputes in triplicate, and send one copy to the transferring administrative department of patents and another copy to the Patent Affairs Administration Department of State Intellectual Property Office for recording filing.

If no agreement is reached and the case is closed through dismissal, the local competent administrative department of patents shall notify the transferring administrative department of patents in writing.

## **Part 3. Investigation and handling of cross-territory acts of patent passing off**

### 5.3.1 Transfer

If the discovery place has no jurisdiction over a case of suspected patent passing-off, the administrative department of patents of the discovery place shall fill in the List of Transferred Materials for Cross-territory Investigation and Handling of Patent passing-offs in duplicate, and send one copy thereof and the relevant evidential materials to the competent administrative department of patents.

The competent administrative department of patents shall decide whether to accept the case within 7 days upon receipt of the List of Transferred Materials for Cross-territory Investigation and Handling of Patent Passing-offs and relevant materials. If it decides to accept the case, it shall fill in the Acknowledgment of Transferred Materials for Cross-territory Investigation and Handling of Patent Passing-offs in duplicate and send one copy thereof to the transferring administrative department of patents; if it decides not to accept the case, it shall state the reasons, notify the transferring administrative department of patents in writing, and return the relevant materials.

A case of patent passing-off transferred to the competent administrative department of patents for investigation and handling shall be dealt with in accordance with Chapter 3, this Guidelines.

### 5.3.2 Case closing

After the completion of the investigation and handling of a patent passing-off, the competent administrative department of patents shall fill in the Notice of Results of Cross-territory Investigation and Handling of Patent Passing-offs in triplicate, and send one copy thereof to the transferring administrative department of patents and another copy to State Intellectual Property Office for record finding.

## **Part 4. Cooperative handling of cross-territory cases**

#### 5.4.1 Entrusted evidence investigation

##### 5.4.1.1 Entrusted evidence investigation

If a local administrative department of patents entrusts the administrative department of patents in the place where the evidence is located to investigate and collect evidence, it shall fill in the Entrustment for Investigation and Evidence Collection for Cross-territory Dispute Cases in duplicate, specifying the investigation issues, requirements and time limits, and transfer one copy thereof and the photocopies of the relevant case materials to the administrative department of patents in the place where the evidence is located. If necessary, the local administrative department of patents shall briefly describe the case or attach investigation outlines therewith.

The administrative department of patents in the place where the evidence is located shall decide whether to accept the entrustment within 7 days upon receipt of the Entrustment for Investigation and Evidence Collection for Cross-territory Dispute Cases. If it accepts the entrustment, it shall fill in the Acknowledgment of Entrusted Investigation and Evidence Collection for Cross-territory Dispute Cases in duplicate and send one copy to the entrusting administrative department of patents; if it does not accept the entrustment, it shall state the reasons, notify the entrusting administrative department of patents in writing, and return relevant materials.

##### 5.4.1.2 Investigation and evidence collection

After accepting the entrustment, the administrative department of patents in the place where the evidence is located shall complete investigation and evidence collection within the specified time limit, generally not exceeding 15 days. In an exceptional case, it shall discuss with the entrusting administrative department of patents to agree on the time limit for investigation and evidence collection.

##### 5.4.1.3 Notice

After the administrative department of patents in the place where the evidence is located completes the investigation and evidence collection, it shall fill in the Notice of Results of Investigation and Evidence Collection for Cross-territory Patent Cases in duplicate, and send one copy thereof and the evidence collection result to the entrusting administrative department of patents.

#### 5.4.2 Assistance of evidence investigation

If a local administrative department of patents requests the administrative department of patents in the place where the evidence is located to assist in evidence investigation and collection, it shall issue an official letter to specify the issues and time of assistance. The assisting administrative department of patents may assist in contacting respondents and if necessary, it may dispatch enforcement officers to assist in investigation and evidence collection.

##### 5.4.3 Entrusted Service

When a local administrative department of patents handles or investigates a patent case, if the party concerned and the relevant persons or entities are located in the administrative area of another administrative department of patents or the local administrative department of patents is unable to serve legal instruments and case materials in other special situations, it may entrust the aforesaid another administrative department of patents to serve legal instruments and case materials. The entrusting administrative department of patents shall fill in the Entrustment for Service of Process for Cross-territory Patent Cases in duplicate and transfer one copy thereof to the administrative department of patents in the place to which instruments and materials is to be served.

The entrusted administrative department of patents shall timely serve legal instruments and case materials on the party concerned and the relevant persons or entities, and send the acknowledgment of service back to the entrusting party or provide the entrusting party with the feedback about the service.

##### 5.4.4 Execution assistance

If a case is related to the administrative area of another administrative department of patents, a local administrative department of patents shall timely provide such other administrative department of patents with the information about any relevant punishment or handling decision which will be legally effective. If execution assistance is needed, such another administrative department of patents shall provide assistance and actively urge the party concerned to fulfill the relevant obligations.

A competent administrative department of patents may request the administrative department of patents in the place where a respondent is located, an infringement takes place or certain property is located to assist in the execution of its administrative handling decision, and the administrative department of patents receiving the request shall provide such assistance.

## **Part 5. Targeted actions of cross-territory patent enforcement**

### **5.5.1 Patent infringement cases**

For a cross-territory case of **group patent infringements**, the patent holder or interested party concerned may request a local administrative department of patents for handling the patent infringement, and the local administrative department of patents may carry out targeted actions to coordinate with the administrative department of patents in the place where the infringer are located or the infringement takes place to investigate and handle the patent infringement, and stop the patent infringement.

The patent holder or the interested party may also request the local administrative department of patents for handling of cross-territory group case of patent infringements in accordance with Chapter 1.

The requester's local administrative department of patents shall coordinate with competent administrative departments of patents to fairly, efficiently and synchronously handle the case so as to timely settle the case.

The case-related administrative departments of patents may coordinate and negotiate with each other, and jointly conduct technical appraisals and case analysis to seek the best solutions to patent case.

If a case is material and difficult and involves the application of laws, an administrative department of patents may request State Intellectual Property Office to provide guidance and coordination.

### **5.5.2 Cases of patent passing-offs**

The administrative department of patents in the place where a cross-territory patent passing-off is discovered may coordinate with the administrative departments of patents in the place where related patent violations take place to jointly carry out targeted actions.

The administrative department of patents in the place where a cross-territory patent passing-off is discovered may, in accordance with Part 3 of this Chapter, transfer the cases respectively to the administrative departments of patents in the places where patent violations take place for investigation and handling.

The administrative department of patents in the place where a cross-territory patent passing-off is discovered may work with the administrative departments of patents in the places where related patent violations take place to jointly carry out targeted actions at the same time to investigate and handle the patent violations in their respective regions.

## **Part 6. Cross-department collaboration of administrative enforcement**

### **5.6.1 Enforcement collaboration with the public security authorities**

When an administrative department of patents investigates patent **passing-offs**, it shall transfer the cases of patent passing-off with serious circumstances and constituting crimes or involving the forgery or alteration of patent certificates to the public security authority at the same level, fill in a Notice of Case Transfer, and timely send the Notice and case materials to the public security authority.



After an investigation into a transferred case by the public security authority, if the public security authority deems that there is no criminal fact or the criminal circumstance is light and it is unnecessary to hold the party concerned criminally responsible, and it shall transfer the case to an administrative department of patents, and the administrative department of patents shall timely administratively settle the case.

In an investigation and handling of a case of patent passing-offs, the administrative department of patents may request the public security authority to intervene in the case in advance if the case involves serious circumstances, significant social influence or possibly involve criminal responsibilities.

#### 5.6.2 Enforcement collaboration with functional departments such as industrial and commercial administrations and copyright administrations

If a single act of the party concerned also constitutes the infringement of the patent right and/or trademark right and/or copyright, a local administrative department of patents shall handle such patent infringement dispute in accordance with patent-related laws. If necessary, it may collaborate with the competent industry and commerce administration, the copyright administration and other functional departments to jointly and properly resolve the dispute.

#### 5.6.3 Enforcement collaboration with customs

When handling a patent infringement dispute, if an administrative department of patents needs the customs to obtain the evidence related to imported or exported goods, it may request the customs to provide assistance. When the customs investigates the goods suspected of infringing patents, if it needs an administrative department of patents to provide advisory opinions, the administrative department shall provide assistance.

## Chapter 6. Handling of patent infringement disputes in relation to exhibitions and e-commerce

### Part 1. Mediation of patent infringement disputes in relation to exhibitions

For the investigation and handling of the act of passing off a patent, see Chapter 3 hereof. With respect to a patent infringement dispute, the patent protection of exhibitions may apply two methods, namely administrative handling and handling by self-regulation, and the latter also consists of mediation and stipulated determination. For the method of administrative handling, see Chapter 2 for details. An exhibition may apply the tool of mediation to solve a patent infringement dispute, including inviting an administrative department of patents to dispatch officers to the exhibition.

#### 6.1.1 Preconditions and basis for mediation of patent infringement disputes in relation to exhibitions

##### 6.1.1.1 The exhibition participation contract executed by the organizer of an exhibition and the exhibitors shall involve patent protection clauses.

By signing and executing such an exhibition participation contract, the organizer and exhibitors may establish a relationship of rights and obligations regarding the complaint, acceptance and mediation of patent infringement disputes. An exhibition participation contract shall contain the main clauses of patent protection, including:

(1) An exhibitor shall comply with the patent protection rules of the exhibition;

(2) An exhibitor shall agree to submit to mediation organized by the exhibition for patent complaints, and any refusal of cooperation in the mediation may allow the exhibition organizer the right to dissolve the contract as per agreement and to cancel the exhibitor's exhibition qualification;

(3) In case that an exhibitor refuses to cover, remove, seal up relevant promotion materials of, replace the display panel with regard to, or take any other removing measures against, an exhibit suspected of patent infringements and prohibited from exhibiting by the patent complaint handling body of the exhibition upon mediation, the exhibition organizer may dissolve the contract as per agreement and cancel the exhibitor's exhibition qualification;

(4) An exhibitor shall handle its patent infringement dispute proactively through judicial or other methods after the exhibition; otherwise, the exhibition organizer will not accept any further complaint submitted by it in respect of the same patent right and against the same infringer.

(5) In case that an exhibitor refuses to cover, remove, seal up relevant promotion materials of, replace the display panel with regard to, or take any other removing measures against, an exhibit considered as constituting a patent infringement by an administrative department of patents or a people's court, the exhibition organizer may dissolve the contract as per agreement and cancel the exhibitor's exhibition qualification; and

(6) Other contents related to patent protection.

##### 6.1.1.2 The organizer of an exhibition shall set up a patent complaint handling body

The organizer of an exhibition shall set up a patent complaint handling body for accepting any complaint filed by a patentee or interested party and handling through mediation any patent infringement dispute arising in the exhibition.

The patent complaint handling body set up by the exhibition organizer may handle any patent infringement dispute arising in the exhibition through mediation according to the exhibition participation contract. It shall comprise no less than 3 (three) members, who may be selected from the expert database of an administrative department of patents, or may be an expert in a field concerned and appointed or engaged in by an administrative department of patents upon request.

#### 6.1.2 Capacity and duties of personnel assigned by administrative departments of patents to exhibitions

The patent infringement disputes arising in an exhibition shall be mediated by the organizer

of the exhibition; an officer dispatched by an administrative department of patents may participate in the whole process of acceptance and mediation of a patent infringement dispute in the capacity of "expert", with the main duties as investigating and verifying a complaint and deciding whether a patent infringement is constituted.

### 6.1.3 The parties

#### 6.1.3.1 The plaintiff

For the qualification of a complainant, see the contents concerning the requester in Chapter 2.

#### 6.1.3.2 The complainee

A complainee shall be an exhibitor.

### 6.1.4 Acceptance of a complaint

#### 6.1.4.1 The complaint materials to be submitted by a plaintiff:

(1) A request of patent infringement disputes, which shall indicate the name, booth number and other information of the alleged exhibitor, the facts and grounds of the suspected infringement, along with the signature or seal of the complainant or its/his/her agent;

(2) The patent certificate, certificate of legal status of a patent, and published text of granted patent (the original copies shall be submitted for verification)

(3) The resident ID card or business license of the patentee (the original ID card shall be submitted for verification, while the business license shall be attached with the entity's red seal); for the required certificates and documents of a interested party or a complainant from overseas, Hong Kong, Macao or Taiwan, see the contents concerning the requester in Chapter 2;

(4) The Power of Attorney (original copy) and identity certificate of the agent (the original copy shall be submitted for verification), if an agent is entrusted.

#### 6.1.4.2 A complaint will not be accepted, if:

(1) Any of the complaint materials submitted by the complainant is untrue or incomplete.

(2) The patent right is under the procedure of invalidation, which is supported by sufficient grounds and evidence.

(3) An ownership dispute arises over the ownership of patent right, pending a trial by a people's court or mediation or arbitration by an administrative department of patents.

(4) The patent right has been terminated or is under an application for restoration of right filed by the patentee.

(5) It is filed less than twenty-four (24) hours prior to the end of an exhibition.

#### 6.1.4.3 Special circumstances

(1) A plaintiff may be required to submit further evidence to prove a suspected infringement, if a large mechanical equipment, internal structure of precision instrument, manufacturing process, or other patent that is difficult to determine, is involved. In case that the complainant is unable to make such submission, the complaint may not be accepted.

(2) Any complaint that has been filed by a plaintiff in the previous exhibition may not be accepted if it is filed again in the current exhibition in respect of the same patent right and against the same complainee, unless the complainant has sought to handle the patent infringement dispute through judicial or other methods.

#### 6.1.4.4 Other provisions

(1) The patent complaint handling body of an exhibition will only accept complaints of suspected IP right infringements arising within the exhibition hall during the holding of the current exhibition.

(2) The organizer of an exhibition may require a complainant to provide a guarantee. A plaintiff shall be liable for any loss incurred by the exhibition organizer or the complainee due to

the complaint filed in bad faith.

(3) Any patent infringement dispute arising within the exhibition hall during the holding of an exhibition shall be handled in accordance with the complaint procedures of the exhibition; any person that negotiates with an infringer without the permission of the exhibition organizer and causes prejudice to the order of the exhibition hall will be handled as if he/she has violated the rules for maintaining the good order of exhibition hall.

#### 6.1.5 Investigation and verification and site handling

##### 6.1.5.1 Documents preparation

The patent complaint handling body of an exhibition shall, after acceptance of a complaint, prepare a Notice of Resolution of Suspected Patent Infringements, Investigation Form for Patent Complaints, and Registration Form of Petitions for Suspected Patent Infringements.

##### 6.1.5.2 Site investigation

The patent complaint handling body of an exhibition shall dispatch its personnel to conduct site investigation at the booth of a complainee and serve relevant instruments within twenty-four (24) hours of acceptance of a complaint. The investigation shall cover all the exhibits displayed in the complained booth, including exhibits, display panels, stands, products and photos, catalogs, videos, and other relevant promotion materials.

Such personnel may review and copy any and all the documents involved, question the parties concerned, take photos, shoot by camera, or conduct site investigation by other means. With regard to the photo-taking, the first is to shoot an overall view, which shall clearly show the booth number and name of the exhibitor; second is to shoot the product suspected of infringement (in case of an invention or utility model, both the whole view and key parts (which will be determined according to the claims) of the product shall be shot, while in the event of a design, a six-sided view and 3D view shall be shot); the last is to shoot the parties concerned and their certificates and documents.

##### 6.1.5.3 On-site handling

###### 6.1.5.3.1 No discovery

In case that no suspected infringement is found or the suspected infringing product is considered as not constituting any infringement upon comparison, it will be handled as "no discovery"; in such case, the exhibits and brochures that do not constitute any infringement shall be allowed to continue displaying.

###### 6.1.5.3.2 Suspected infringements

If a suspected infringement is ascertained on site and the complainee fails to provide effective evidence on site to prove that the suspected infringing exhibit subject to complaint "does not constitute any infringement", the complainee shall immediately cover, remove or take other measures on such exhibit and stop displaying the infringing item and promotion materials. The personnel shall complete the Notice of Resolution of Suspected Patent Infringements, and require the complainee to sign and confirm the same.

In case the complainee fails to cover or remove an infringing exhibit, the patent complaint handling body of the exhibition may remove the complainee's exhibits, and seize the exhibits and promotion materials suspected of infringement temporarily. In addition, the personnel shall complete the Notice of Resolution of Suspected Patent Infringements, and require the complainee to sign and confirm the same.

###### 6.1.5.3.3 Special circumstances

(1) If a complaint involves any large mechanical equipment, internal structure of precision instrument, manufacturing process, or other patent that is difficult to determine, and is hard to handle during the exhibition, the personnel may terminate the mediation process and inform the complainee of the same.

(2) In case that a complainee submits any defense materials which is difficult to judge by the

personnel, the personnel shall take a sample of the suspected infringing product and bring back the relevant defense materials for research, and, if necessary, arrange the plaintiff and complainee to conduct cross-examination, so as to come to a definite conclusion for continuing site handling. The sample of the suspected infringing product as taken shall be returned promptly after the site handling is completed.

(3) If the plaintiff is dissatisfied with the investigation & verification and site handling, the patent complaint handling body of the exhibition shall dispatch personnel again to investigate, verify and handle the case on site.

#### 6.1.6 Site records

The personnel shall print out the photos regarding the investigation and complete the Investigation Form for Patent Complaints. As to major and difficult cases, the comparison and analysis of the features of the suspected infringing product and patent right involved shall be recorded in details in the Investigation Form for Patent Complaints.

#### 6.1.7 Defense

##### 6.1.7.1 Time limit of defense

A complainee has the right to defend and make a statement against any suspected infringement being complained, and the right to know the information with respect to investigation & verification and site handling. A complainee shall submit a defense within twenty-four (24) hours after it/he/she is considered as constituting an infringement.

##### 6.1.7.2 Grounds of defense

- (1) Defense upon exhaustion of rights.
- (2) Defense upon prior use right.
- (3) Defense upon prior art.
- (4) Defense upon different technical features.
- (5) Other sufficient defenses.

##### 6.1.7.3 Defense evidence

Such evidence shall include but not limited to documents to certify ownership, custom documents related to import and export, supply contracts or agreements, invoices, test and inspection reports, publications (patent documentation, textbooks, magazines, etc.), and other effective evidence.

##### 6.1.7.4 Defense procedures

(1) The complainee completes the Registration Form of Petitions for Suspected Patent Infringements, files a request for defense, stating the grounds of defense, and submits relevant evidence.

(2) The patent complaint handling body of an exhibition shall specially assign a person for the defense. He/she will make analysis and comparison based on the grounds of defense and evidence submitted by the complainee, and may, if necessary, call the parties concerned for cross-examination. When several complainees are complained by the same plaintiff in respect of the same patent right, and have all been considered as constituting suspected infringements, the determination that the defense of one of them is tenable may not be based upon to decide that the defenses of the others are tenable.

(3) If the grounds of defense are tenable, a notice to that effect shall be given to the plaintiff and complainee, and the complainee shall be allowed to continue its/his/her exhibition; if the grounds of defense are untenable, the complainee shall be notified that the conclusion of site handling would be maintained, and the personnel for defense affairs will complete the Registration Form of Petitions for Suspected Infringements with relevant opinions and conclusions and affix his/her signature on the same.

(4) If the grounds of defense are untenable, the complainee who is dissatisfied with such

result may submit a defense again within the statutory period.

#### 6.1.8 Measures and responsibilities

(1) Where the complained content is with regard to an effective administrative handling decision, judicial judgment or ruling, etc., and is considered to have the same fact of infringement, the organizer of an exhibition shall immediately prohibit the exhibition of the infringing products in accordance with law; However, the complainees may still have the right, among others, to defend and make a statement against the suspected infringement subject to a complaint.

(2) In case of any noncooperation in investigation, or displaying of any exhibit that has been considered as constituting a suspected infringement in the same booth and at the same exhibition, the organizer of the exhibition may cancel an exhibitor's exhibition qualification, close the relevant booth and take other appropriate measures.

#### 6.1.9 Files management and items return

(1) After an exhibition, the organizer will arrange the files in respect of all the complaints. A complete file in respect of a complaint shall include: the complaint materials, Notice of Resolution of Suspected Patent Infringements, Investigation Form for Patent Complaints, and Registration Form of Petitions for Suspected Infringements as submitted by the complainant, as well as the defense evidence and investigation photos submitted by the complainees, etc.

(2) After an exhibition, the organizer will notify the relevant complainees to take back the exhibits and promotion materials, which are suspected of infringement and seized temporarily.

## Part 2. Mediation of patent infringement disputes in relation to e-commerce

With respect to the investigation and handling of a patent infringement dispute in the field of electronic commerce ("e-commerce"), three methods may be applied, including administrative handling, handling at the discretion of an e-commerce platform provider, and mediation or determination by an administrative department of patents at the request of an e-commerce platform provider. For the administrative handling, see Chapter 2 for details; the handling at the discretion of an e-commerce provider shall follow its rules and handling procedures of IP rights complaints. This Chapter mainly deals with mediation or determination by an administrative department of patents with respect to a case handed over by an e-commerce platform provider.

#### 6.2.1 Preconditions and basis for mediation and determination of patent infringement disputes in relation to e-commerce

6.2.1.1 The platform use contract as executed by an e-commerce platform provider and a merchandiser shall involve patent protection clauses.

An e-commerce platform provider shall establish and improve the system of patent right management and protection and the system of handling patent infringement complaints; when entering into a platform use contract with any merchandiser for permission of platform operation, the e-commerce platform provider shall define the patent right protection responsibilities of a merchandiser so as to prevent it from infringing any patented product by using the transaction platform. Such platform use contract shall contain the main clauses of patent protection, including:

(1) A merchandiser shall comply with the patent protection rules of the e-commerce platform provider;

(2) Where the patent complaint handling department of the e-commerce platform provider considers that a suspected patent infringement exists, it shall promptly delete or block the links to relevant products or take any other necessary measure;

(3) Where any product distributed by a merchandiser is considered as constituting a patent infringement by the administrative department of patents or a people's court, the patent complaint handling department of the e-commerce platform provider shall promptly delete or block the links to relevant products or take any other necessary measure;

(4) Other contents related to e-commerce patent protection.

#### 6.2.1.2 An e-commerce platform provider may set up a patent (IP rights) complaint handling body

An e-commerce platform provider may set up a patent (IP rights) complaint handling body for accepting any complaint filed by a patentee or interested party, mediating any patent infringement dispute arising on its platform, and submitting any patent infringement dispute which is difficult to determine to a competent administrative department of patents for mediation or determination.

#### 6.2.2 Capacity and duties of administrative departments of patents

An officer from an administrative department of patents shall mediate in an e-commerce patent infringement dispute as a law enforcement personnel, while in the capacity of "expert", give opinions of determination on whether an e-commerce patent infringement under a complaint is constituted or not.

#### 6.2.3 The parties

##### 6.2.3.1 The plaintiff

For the qualification of a plaintiff, see the contents concerning the requester in Chapter 2.

##### 6.2.3.2 The complainee

A complainee shall be a merchandiser only.

##### 6.2.3.3 The person to file a case

The person to file a case shall be an e-commerce platform provider.

#### 6.2.4 Case submission

##### 6.2.4.1 Cases to be filed

An e-commerce platform provider may file an administrative department of patents with any patent infringement dispute which is of major social influence and difficult to determine, for mediation or opinions of determination on patent infringement.

(1) Any case of patent infringement complaints which involves regional key-industry development and a patent right of unstable novelty, inventive step and practical applicability;

(2) Any case of patent infringement complaints which involves people's welfare and security, and social public interest;

(3) Any case of patent infringement complaints which involves foreign factors, or Hong Kong, Macao, or Taiwan.

(4) Other cases of patent infringement complaints with major social influence.

##### 6.2.4.2 Case materials

###### 6.2.4.2.1 The complaint materials to be submitted by a complainant

Where a patentee or interested party discover that any product sold in a transaction platform is suspected of infringing its/his/her patent right, it/he/she may file a complaint through the complaint system set up by the transaction platform provider, demanding to delete or block the suspected infringing product. The complaint materials shall include:

(1) The identity certificate (photocopy of the duplicate of the business license or the ID card), effective contact information and address of the patentee. The power of attorney, if an agent is entrusted to file the complaint.

(2) The certificate of patent right and the certificate of validity of the same;

(3) The name and specific Internet links in respect of the product required to delete or block;

(4) The materials for comparison of the suspected infringing product and the scope of protection of the patent right;

(5) Other evidential materials that may prove the infringing acts.



In case of a complaint filed by a interested party of the patent right, a power of attorney issued by the patentee or a license contract, or other relevant evidence shall be also provided.

A patentee or interested party shall be liable for the authenticity of the complaint materials. In case of submission of false materials for complaint, the appropriate legal liability will be imposed.

#### 6.2.4.2.2 Defense materials to be submitted by a complained merchandiser

Any complained merchandiser who alleges that the product sold by it/him/her does not infringe the patent right of others shall submit defense materials within the statutory period prescribed by the complaint system of the e-commerce platform provider. The defense materials shall include:

(1) The identity certificate (photocopy of the duplicate of the business license or the ID card), effective contact information and address of the complained merchandiser;

(2) The comparison and analysis materials for proving that no infringement is constituted;

(3) Other evidential materials that may prove that no infringement is constituted.

A complained merchandiser shall be liable for the authenticity of the defense materials.

### 6.2.5 Case handling

#### 6.2.5.1 Mediation

(1) An administrative department of patents shall, within three (3) working days after receipt of any case of patent infringement complaints filed by an e-commerce platform provider, examine the complaint materials referred to it and decide whether to accept the case or not;

(2) In case of acceptance, the parties concerned shall be contacted by telephone, e-mail, site investigation, service, or other methods to hold mediation in five (5) working days as of the date of acceptance;

(3) After the mediation, if a mediation agreement is entered into by the parties concerned, the e-commerce platform provider shall be notified in three (3) working days as of the signing of such agreement, requesting it to perform and execute in accordance with the contents thereof; if no agreement is entered into, the case will then be handled according to law as consented by the patentee or interested party, and a notice to that effect will be given to the e-commerce platform provider.

#### 6.2.5.2 Determination

An administrative department of patents shall, within three (3) working days after receipt of any case of patent infringement complaints filed by an e-commerce platform provider, examine the complaint materials referred to it, and to the extent that the case is of clear fact, irrefutable evidence and little controversy, it may, within two (2) working days and based upon the evidential materials of the case, directly issue the opinions of determination on whether an infringement is constituted and notify the transaction platform that whether it shall delete, block or disconnect or close an online shop.

#### 6.2.5.3 Other circumstances

(1) Where an administrative department of patents considers that the complaint evidential materials as filed fail to prove an infringement, it may require the party concerned to provide supplementary evidential materials within the specified period;

(2) In the event that any technical appraisal is considered to be necessary, the evidential materials may be referred to a technical appraisal department or an expert for appraisal;

(3) The time used for providing supplementary evidence or conducting technical appraisal will not be calculated into the period for resolving a case.

### 6.2.6 Measures and responsibilities

With regard to the opinions of determination on patent infringement as issued by an administrative department of patents, a transaction platform provider shall stop the infringing acts



by deleting, blocking or disconnect a link, or closing an online shop, or by other means.

#### 6.2.7 Files management

After an exhibition, the administrative department of patents shall promptly sort files. A complete file in respect of a case of electronic patent infringement dispute shall include: the submission form for cases of patent infringement dispute of e-commerce platforms, complaint materials submitted by the plaintiff, defense materials submitted by the complaine, registration form for patent infringement disputes of e-commerce platform, and mediation form or opinions of determination on patent infringement, among others.

## Chapter 7. Law enforcement administration

### Part 1. Law enforcement agencies

#### 7.1.1 Enforcement affairs agencies

Each of administrative departments of patents at all levels shall meet the following conditions in line with the needs for administrative enforcement of patents:

(1) It has an internal department dedicated to administrative enforcement of patents;

(2) Such internal enforcement department in an administrative department of patents at provincial-level shall have a headcount of no less than five, and the internal enforcement department in an administrative department of patents of the city (region, prefecture or league) or county (city, district or banner) as authorized by laws and regulations shall have a headcount of no less than three;

(3) It has a permanent venue for the purpose of carrying out administrative enforcement of patents, and is equipped with necessary instruments and tools for investigation and evidence collection such as those for transportation, telecommunication, inspection, photographing, videotaping, and recording;

(4) It has mature internal mechanisms.

#### 7.1.2 Building of law enforcement conditions

Administrative departments of patents at all levels shall improve the working conditions for enforcement and set up dedicated enforcement locations and provide unified work attire, enforcement vehicles, investigation and evidence collection instruments, as well as unified enforcement signs.

#### 7.1.3 Building of law enforcement team

Administrative departments of patents at all levels shall enhance the building of enforcement team and fully elevate the professional level of administrative enforcement officers of patents.

An annual training program of enforcement officers shall be prepared and fully implemented to ensure that each of enforcement officers within an administrative area receives no less than five days of business training each year.

Efforts shall be reinforced with respect to the study visits of enforcement officers in which a number of approaches could be employed, including enforcement study visits between higher level and lower level authorities or among authorities at the same level, so as to foster mutual learning and joint advancement and enhance the enforcement abilities and proficiency of patent enforcement officers.

#### 7.1.4 Entrusted enforcement

According to the provisions of Article 6 of Measures for Administrative Enforcement of Patents, administrative enforcement departments of patents may, depending on local circumstances, entrust an administrative department of patents of ability of handling set up by a prefecture/county-level people's government to investigate and handle patent passing-offs and mediate patent disputes.

##### 7.1.4.1 Entrusting entities

Local Intellectual Property (IP) Offices that are categorized as administrative agencies may carry out a task of entrusted administrative enforcement of patents according to law.

Authorities that are categorized as public institutions whose employees are administered in similar ways as civil servants shall not directly entrust tasks of enforcement.

For a city (including cities with districts, regions, autonomous prefectures, and leagues) IP Office that is categorized as public institutions whose employees are administered in similar ways as civil servants or as pure public institutions, the provincial IP functional department under which it operates shall enter into an entrusted enforcement agreement with an eligible county-level IP

functional department to carry out a task of entrusted enforcement.

Where a provincial IP functional department entrusts a county-level IP functional department to carry out a task of enforcement, the business instruction to the latter may be carried out by the applicable prefecture-level IP functional department.

#### 7.1.4.2 Entrusted entities

An entity undertaking a task of entrusted enforcement shall:

- (I) be an entity which is lawfully established with the function of public affairs administration, and
- (II) have more than two members of staff qualified for administrative enforcement.

#### 7.1.4.3 Notable matters for entrusted enforcement

(1) Any matter under entrustment shall be clear and well defined. An entrusted enforcement agreement in writing shall be entered into by and between the entrusting party and the entrusted party to set forth the specific regions, scope, procedures and term of the entrusted enforcement, the conditions for canceling the entrust, supervision, assessment and liabilities allocation, among other things, so as to regulate entrusted enforcement behaviors.

(2) No sub-entrustments shall be made. Upon acceptance of an entrustment, the entrusted party shall independently carry out the enforcement task so entrusted and shall not sub-entrust it to any other organization or individual.

In the event that the entrusted party sub-entrust its entrusted enforcement task without permission, it shall be solely responsible for the legal consequences so incurred.

### **Part 2. Administration of enforcement officers**

#### 7.2.1 Law enforcement officers

##### 7.2.1.1 Qualifications of enforcement officers

Administrative departments of patents at all levels shall be staffed with full-time officers responsible for administrative enforcement of patents.

An enforcement officer shall possess appropriate qualification for administrative enforcement of patents, that is, holding an administrative enforcement certificate of patents issued by State Intellectual Property Office, or an administrative enforcement certificate issued by provincial people's governments.

A lead panel member handling patent infringement disputes and main responsible officers investigating and handling patent passing-offs, in addition to the conditions set out above, shall have two or more years' experience and above in administrative enforcement of patents shall be required.

##### 7.2.1.2 Main duties

###### 7.2.1.2.1 Composition and duties of enforcement officers for cases involving patent infringement disputes

A collegial system shall be adopted for the handling of such cases. A regular case shall be handled under a collegial panel composed of three or more enforcement officers (in odd numbers), including one lead panel member and several members. In the event of major cases, lead panel member may be assumed by heads of a case handling division (section) or administrative department of patents.

###### 7.2.1.2.1.1 Duties of lead panel member

Lead panel members shall be responsible for all aspects of cases, such as convening deliberation meetings of collegial panels, studying and discussing facts, evidence and legal bases of cases to arrive at ways to settle the cases, presiding over case mediation, drafting opinions of collegial panel and case closing reports and conclusion papers, taking responsibilities for case conclusion approval, implementing case execution or applying for forcible execution, collating

case paperwork and case record filing.

#### 7.2.1.2.1.2 Duties of collegial panel members

Members of a collegial panel shall assist their lead member with his or her work, namely to attend case oral proceedings and deliberations, act as clerks if and when necessary, take part in case mediation, receive and deliver documents and materials in relation to cases, and complete other tasks assigned by the lead member.

They are responsible for preparing transcripts of oral proceedings, deliberations of collegial panel or inquiries, which shall accurately record the comments made by speakers.

#### 7.2.1.2.2 Composition and main duties of enforcement officers for patent disputes

Administrative departments of patents shall appoint more than two enforcement officers responsible for patent disputes.

Enforcement officers for patent disputes shall be responsible for receiving and delivering case-related documents and materials, conducting examination and give suggestions for case acceptance, presiding over oral mediation, preparing mediation transcripts, drafting case conclusion reports and papers, and collating and filing case documents.

#### 7.2.1.2.3 Enforcement officers for cases of patent passing-offs and their duties

Administrative departments of patents shall appoint more than two enforcement officers responsible for handling cases of patent passing-offs.

##### 7.2.1.2.3.1 Duties

For each case, heads of case handling division (section) shall determine the lead officer and associate officers among the appointed enforcement officers.

The lead officer shall be responsible for drafting documents during the case, presiding over site inspections, discussing the case, making proposals for the handling of the case and reporting the closing of the case, among other things.

The associate officers shall work alongside the lead officer in enforcement tasks, and be responsible for collating papers and taking evidence by taking photos or voice recording.

##### 7.2.1.2.3.2 Decorum and discipline

During administrative enforcement, enforcement officers shall wear administrative enforcement signs of patents, keep personable appearance, and wear serious and clean uniforms.

Enforcement officers shall abide by the following discipline:

(1) Work in cooperation with a due division of jobs and obey orders;

(2) Never disclose or convey to external parties information on pending cases;

(3) Keep confidential technical and trade secrets of the parties involved;

(4) Never accept gifts, gift money or valuable securities, among others, as offered by the parties in violation of applicable national laws and regulations;

(5) Never carry out any other action that obstructs justice of enforcement or impairs the image of the administrative departments of patents.

#### 7.2.2 Administration of law enforcement certificates

For administrative enforcement certificates of patents, a central regulation and tiered management system shall be adopted.

State Intellectual Property Office shall be solely responsible for making administrative enforcement certificates of patents and issuing them to the persons who are qualified as administrative enforcement officers of patents after receiving induction training for administrative enforcement position of patents and passing exams.

Administrative departments of patents under provincial-level people's governments shall be

responsible for organizing the administrative enforcement officers of patents in their administrative areas to attend induction training for administrative enforcement position of patents and manage the certificates.

#### 7.2.2.1 Application and issuance

##### 7.2.2.1.1 Application forms for administrative enforcement certificates of patents

Officers of administrative departments of patents at all levels shall complete application forms for administrative enforcement certificate of patents to obtain the certificates. The application forms completed by officers of provincial-level IP Offices shall be submitted to State Intellectual Property Office for applications; the application forms completed by the officers of administrative departments of patents at all other levels shall be reviewed by provincial-level IP Offices and submitted to State Intellectual Property Office for approvals.

##### 7.2.2.1.2 Application requirements

**Any person who applies for administrative enforcement certificates of patents shall:**

- (1) Have an education level of junior college or above;
- (2) Be a regular employee of an administrative department of patents at any level;

The department refers to an administrative department of patents set up by a provincial-level people's government or the people's government of a city with districts with a heavy workload of patent administration and capable for handling.

The officers in any of the following organizations who meet the application requirements above are also eligible for applying for administrative enforcement certificates of patents:

(I) IP Offices set up by the region, autonomous prefecture, league, the people's government of the city without districts that have express power of enforcement under local regulations.

(II) IP Offices of county (district, city or banner) that have express power of enforcement under local regulations.

(III) Subordinate organizations of IP Offices at all levels that engage in enforcement tasks under applicable regulations, e.g., enforcement squads.

(IV) Centers of IP reports and complaints and rights safeguarding assistance which are categorized as public institutions.

(V) IP Offices of county (district, city or banner) that undertake entrusted enforcement tasks.

In any of the above-mentioned cases, pertinent certification shall be provided.

**(3) Be familiar with patent laws, regulations and rules; and**

(4) Have received induction training for administrative enforcement of patents organized by State Intellectual Property Office or administrative departments of patents of provincial-level people's governments and passed assessments.

**Such trainees shall sign up, attend all training sessions, sit and pass qualification exams, and abide by applicable training administration regulations during the training period.**

State Intellectual Property Office shall verify the information of the applicants for administrative enforcement certificates of patents and issue the same to those eligible.

##### 7.2.2.1.3 Denial of administrative enforcement certificates of patents

No administrative enforcement certificates of patents shall be issued if the applicant:

- (1) Is concluded as unfit for his/her job in the annual assessments of the past two years; or
- (2) Violated laws or discipline during the administrative enforcement in the past two years.

##### 7.2.2.2 Usage administration

Administrative enforcement officers of patents shall carry and firstly show their administrative enforcement certificates of patents when and before performing their enforcement

duties. Administrative enforcement certificates of patents shall only be used by the certificate holders within their administrative areas in accordance with statutory duties, and shall not be used in non-administrative enforcement activities.

For administrative enforcement certificates of patents, a “one officer, one certificate” system shall be implemented. Certificate holders shall keep in good custody their administrative enforcement certificates and shall not alter, reproduce, lend, give as gift, trade or intentionally damage the same. In the event of lost administrative enforcement certificates of patents, the certificate holders shall promptly report to the administrative departments of patents they work for; after the departments verify the facts to be true, State Intellectual Property Office shall be timely informed in a level by level manner to cancel the certificate. The certificate holders shall apply for re-issuance according to regulations. In the event of damaged administrative enforcement certificates of patents, the holders may apply for replacement after their administrative departments of patents verify the facts to be true.

#### 7.2.2.3 Annual review of administrative enforcement certificate of patents

A review system shall be implemented for administrative enforcement certificates of patents and the review shall be carried out once every two years. The employers of certificate holders shall, in the fourth quarter of the year after certificate issuance, submit the administrative enforcement certificates of patents and pertinent papers of their certificate holders to the issuing authority. Upon successful review and inspection, the issuing authority shall affix its stamp for inspection thereon; for those failing to meet the annual review requirements, they shall be deemed as having failed to pass the annual review. Those having failed to pass the annual review may not engage in administrative enforcement of patents any more. The administrative enforcement certificates of patents that fail to pass annual review by the issuing authority shall become null and void.

State Intellectual Property Office shall be responsible for reviewing the administrative enforcement certificates of patents of the administrative departments of patents under all provincial-level people’s governments; the administrative departments of patents under all provincial-level people’s governments shall be responsible for reviewing the administrative enforcement certificates of patents of administrative departments of patents at all levels in their own administrative areas and report to State Intellectual Property Office for filing.

Issuing authorities shall inspect the following aspects of certificate holders:

- (1) The assessment of enforcement activities;
- (2) Details in respect of attending enforcement trainings;
- (3) Details in respect of enforcement violations or gross negligence;
- (4) Details of rewards/punishments received;
- (5) Other details as provided by the issuing authorities.

An administrative department of patents shall confiscate a enforcement certificate and submit it to State Intellectual Property Office for cancellation if its holder:

- (1) Has not attended the annual review of the administrative enforcement certificate of patents;
- (2) Has been transferred out of the administrative department of patents
- (3) Has resigned, been dismissed, been on long term vacation or retired; or
- (4) Is in any other circumstance where the confiscation is warranted.

Those having had their enforcement certificates canceled shall not apply for a new one within two years.

An administrative enforcement certificate of patents shall be rescinded, if its holder

- (1) Has carried out enforcement outside its statutory authority or in violation of statutory procedures, as a result of which severe consequences have occurred;

(2) Has used the certificate when not performing his/her duties or exercising a public function, as a result of which negative impact has occurred;

(3) Has reproduced, lent, mortgaged, given as gift, sold to others, intentionally damaged his/her administrative enforcement certificate of patents, as a result of which severe consequences have occurred;

(4) Has forged the administrative enforcement certificate of patents;

(5) Has used the certificate to engage in illegal or disciplinary activities;

(6) Has engaged in malfeasant, derelict behaviors or other misconducts;

(7) Has been punished by administrative disciplinary actions including dismissal from public office;

(8) Has been punished by disciplinary actions including administrative detainment or criminal punishments; or

(9) Is involved in other illegal or disciplinary behaviors and is not suitable for administrative enforcement of patents.

Those having had their administrative enforcement certificate of patents rescinded shall no longer engage in administrative enforcement of patents.

### 7.2.3 Law enforcement training

#### 7.2.3.1 Induction training

##### 7.2.3.1.1 Trainees

Administrative enforcement officers of patents who newly engage in administrative enforcement of patents and have not received administrative enforcement certificates of patents issued by State Intellectual Property Office.

##### 7.2.3.1.2 Training objective

To ensure that the trainees master the basic policy/legal knowledge, enforcement procedures and case handling requirements applicable to administrative enforcement of patents, and possess the ability to preliminarily undertake administrative enforcement cases of patents.

##### 7.2.3.1.3 Training contents

Patent administrative enforcement trainings shall adopt an approach incorporating classroom teaching and mock trials, and mainly include basic laws and regulations, administrative enforcement practice of patents, patent infringement determination, patent infringement remedies, patent infringement case analysis, and mock case investigation/mediation.

##### 7.2.3.1.4 Training channels

###### 7.2.3.1.4.1 Induction training held by State Intellectual Property Office

For the induction training classes held by State Intellectual Property Office, the prospective trainees include the enforcement officers in pertinent local offices nationwide, and provincial-level IP Offices and the prefecture-level IP Offices with a heavy enforcement workload may recommend 1-2 officers from their enforcement divisions (sections) in their administrative areas to attend the training sessions.

###### 7.2.3.1.4.2 Induction training organized by local IP Offices

According to local demands for enforcement and the number of new enforcement officers, provincial IP Offices may apply to hold induction training classes for which State Intellectual Property Office shall issue enforcement certificates. The training classes shall primarily target local enforcement officers and extend to the enforcement officers in neighboring areas as appropriate.

Local IP Offices who plan to organize induction training classes shall submit in advance their training requests and training programs (including training demand, training targets and number,

and training location) to State Intellectual Property Office. Upon the review and approval by State Intellectual Property Office, the induction training classes for which State Intellectual Property Office issues enforcement certificates may be held.

For induction trainings held by local IP Offices, the training shall be carried out according to the training contents and other requirements set forth by State Intellectual Property Office and exams shall be held according to the exam questions from State Intellectual Property Office. The staff of State Intellectual Property Office shall supervise the exam process and organize the marking of the exam papers.

#### 7.2.3.1.5 Manners of assessment

The trainees shall sit the qualification exams organized by State Intellectual Property Office. Preparation materials include patent administrative enforcement-related laws and regulations, pertinent teaching materials and teachers' courseware. State Intellectual Property Office shall assign staff to supervise the exam process. State Intellectual Property Office shall organize the marking and record filing of the exam papers.

The exam questions shall be selected from the question database of induction training exam for administrative enforcement of patents. Those having passed the exam shall be eligible to be awarded the administrative enforcement certificates of patents issued by State Intellectual Property Office. The trainees that have failed the exam shall be required to re-sign up for subsequent induction trainings and pass subsequent exams, before being eligible for receiving the administrative enforcement certificates of patents.

To apply for administrative enforcement certificates of patents, an applicant having passed the exam shall complete an Application Form for Patent Administrative Enforcement Certificates, and after the applicant's employer and provincial level administrative department of patents sign their comments and affix their official seals thereon, the application shall be submitted to the Patent Affairs Administration Department of State Intellectual Property Office.

#### 7.2.3.2 Enhancement training

##### 7.2.3.2.1 Trainees

Those engaged in administrative enforcement of patents on a full-time basis for over two years.

##### 7.2.3.2.2 Training objective

To ensure that the trainees have a good knowledge of the policies and regulations in relation to administrative enforcement of patents, increase their enforcement laws and policies proficiency, so as to enhance their abilities of case-handling and cross-territory enforcement collaboration.

##### 7.2.3.2.3 Contents of training

Trends and policy developments of China's administrative enforcement of patents and IP protection efforts; the development and involvement of international IP rules and overseas IP enforcement; the practice and thought in relation to systematic IP enforcement; patent approval and invalidation procedures, patent right stability evaluation, patent information search and analysis; study on determination and remedies of patent infringement; and analysis and discussion of typical patent infringements.

##### 7.2.3.2.4 Manners of training

State Intellectual Property Office shall hold enhancement training classes on an annual basis, and each of provincial-level IP Offices and city IP Offices with a heavy enforcement workload shall recommend 1-2 officers in their administrative areas who have obtained administrative enforcement certificates of patents to attend the training classes.



### **Part 3. Law enforcement funds**

#### **7.3.1 Scope of dedicated funds**

Dedicated funds for administrative enforcement of patents are the special funds allocated from the state budget to support administrative enforcement of patents. The desired targets of the dedicated funds include provincial-level IP Offices and prefecture-level IP Offices.

The dedicated funds shall be administered on a project basis where State Intellectual Property Office shall enter into an engagement contract with project-undertaking entities. The engagement contract shall serve as the key basis for the budget enforcement, supervision and financial acceptance inspection of the dedicated funds. The dedicated funds shall be directly appropriated to project-undertaking entities.

The administration and use of the dedicated funds shall adhere to the following principles: specified rights and responsibilities; dedicated funds for dedicated purposes; and performance-orientation; in addition, the applicable national financial systems shall be observed.

#### **7.3.2 Administration duties**

##### **7.3.2.1 Duties of State Intellectual Property Office**

State Intellectual Property Office shall be responsible for the development of dedicated funds programs, approval of the engagement contracts, supervision of funds usage and performance assessment. Its main duties include:

- (1) Developing the dedicated funds administration system;
- (2) Preparing the annual budget for the dedicated funds and proposing the arrangements for dedicated funds projects;
- (3) Directing and supervising the use of dedicated funds and organizing financial acceptance inspection and assessment.

##### **7.3.2.2 Main duties of project-undertaking entities**

(1) Establishing and perfecting the management accountability system that incorporates main members of management and project leaders of project-undertaking entities, in which the main members of management shall be responsible for leading the projects and the project leaders shall be responsible for project implementation;

(2) Executing the budgeting according to project contracts and incorporating project expenditures into the entities' financial management to ensure dedicated funds for dedicated purposes and independent accounting;

(3) Rigorously executing the requirements of the project contracts and ensuring project progress and implementation results;

(4) Summarizing and reporting project progress and the related information statements, and collecting, collating and filing the pertinent documentation and presenting the final accounting reports in a timely manner;

(5) Carrying out annual financial acceptance inspections and performance assessment of the implementation of the projects.

#### **7.3.3 Application, approval, use and acceptance inspection**

##### **7.3.3.1 Requisite conditions to be met by a project-undertaking entity**

(1) Having the basic conditions and support abilities for project implementation, and a robust financial management system;

(2) Having a project team with reasonable staff structure, and the project leader has the organization management and coordination abilities required for the completion of the project;

(3) Having a good reputation; and

(4) Other conditions that required by the project.

Local IP Offices' performance assessment results of the law enforcement and rights safeguarding in the previous year shall serve as the main basis for awarding projects.

#### 7.3.3.2 Application for and approval of dedicated funds

For dedicated funds projects, the application shall be made by the project-undertaking entities to State Intellectual Property Office. The application materials shall include project application, work plan, expenditure budget, implementation progress arrangements and performance targets.

Approval of dedicated funds projects shall be carried out in accordance with the national IP regulations.

During project implementation, project-undertaking entities must rigorously execute the applicable financial systems of the state and follow the purpose and requirements for usage as provided in the engagement contracts, so as to ensure dedicated funds for dedicated purposes and independent accounting.

Once approved, the dedicated funds projects shall not be altered without permission. In the event that a project indeed needs to be altered or terminated during its implementation, a written application must be submitted by the project-undertaking entity to State Intellectual Property Office and adjustments shall only be made upon approval.

The dedicated funds projects shall be completed in the same year. State Intellectual Property Office shall be informed of any potential incompleteness within the same year due to objective circumstances.

#### 7.3.3.3 Acceptance inspection

Upon the completion of dedicated funds projects, State Intellectual Property Office shall carry out financial acceptance inspection of the projects, which shall include expenditure and project completion details.

The application, work plan, funds budget, implementation progress schedule and performance targets of a dedicated funds project shall serve as the key base for financial acceptance inspection.

In the event that a project is completed over one month behind schedule without the consent of State Intellectual Property Office, or fails to meet the target requirements and the actual results severely deviate from expectations, State Intellectual Property Office shall not carry out financial acceptance inspection.

A project-undertaking entity could not pass the financial acceptance inspection in the event of any of the following:

- (1) The tasks assigned has not been completed on time;
- (2) Project completion failed to meet the requirements of the engagement;
- (3) Project expenditure has not been separately accounted;
- (4) The dedicated funds has been intercepted, embezzled or misappropriated;
- (5) The dedicated funds was re-allocated or transferred in violation of regulations;
- (6) Falsified financial accounting details have been provided; or
- (7) Other acts that contravene the financial disciplines of the state.

After a project passes the financial acceptance inspection, its project-undertaking entity shall effect financial account settlement within one month.

#### 7.3.4 Supervision and assessment

Project-undertaking entities shall accept the supervision and assessment by State Intellectual Property Office and provide active cooperation. Local IP Offices shall reinforce the supervision and administration of dedicated funds and carry out independent accounting for the same. Any severe violations of regulations or discipline during the use of project funds shall be dealt with in accordance with applicable national laws and regulations.

A project-undertaking entity shall submit a performance reports in accordance with the provisions of Interim Administrative Measures on Performance Assessment of Fiscal Expenditure (Cai Yu [2011] No. 285).

The performance report shall primarily include:

(1) A general description, including the basic details of project-undertaking entity, project details, project objectives and adjustment details;

(2) Details on the arrangements and actual use of project funds;

(3) Details on the management of project funds, including the financial management system and implementation details;

(4) Project management measures and organization details, including the establishment of project management system and day-to-day inspection, supervision and management;

(5) Details on the completion of project targets: project cost control, completion progress and quality, results of funds usage, among other details, shall be analyzed and the actual situation after implementation of project expenditure shall be compared against the project targets. Reasons for non-completion of targets shall be given;

(6) Main experiences and practices, existing problems and advice for the arrangements and use of the funds; and

(7) Other issues that need to be specified.

State Intellectual Property Office shall record the project completion details of project-undertaking entities, which shall serve as a key basis for deciding the continued support or engagement in the subsequent year.

## **Part 4. Work mechanisms of law enforcement**

### **7.4.1 Targeted actions of law enforcement**

All local IP Offices shall, in accordance with the principles of concentration, effectiveness and pragmatism, deepen the work mechanisms of targeted action and solidly implement targeted actions by treating them as crucial means to cultivate the law enforcement teams, enhance case handling of law enforcement and improve law enforcement abilities, as a key lever for increasing the satisfaction of the general innovators and consumers and supporting the public welfare. In the second and third quarters of every year, efforts shall be concentrated to **carry out the "Escort" action**, a targeted action of IP enforcement and rights safeguarding. The targeted action shall take into account local circumstances, focus on public welfare areas, major projects and promising industries, and carry out a variety of initiation and promotion activities. **Centralized inspections and enforcement shall be carried out at least once a month at large commodity trading venues and exhibitions in which patent infringements and patent passing-offs shall be rigorously investigated and severely punished, so as to build up the influence of enforcement.** Efforts shall be stepped up in the supervision and inspection of **wholesale markets, specialized wholesale markets and commodity hubs**. At least two centralized inspections and enforcement operations shall be carried out each month to enhance the quick response abilities of enforcement and rights safeguarding forces and boost public satisfaction over IP enforcement and rights safeguarding. During the targeted action, major local media, government websites and the website of the Office shall be employed to communicate to the public the telephone number of case handling and main activities in relation to the targeted action. All provincial IP Offices shall, in the first quarter every year, submit work programs for the targeted action to the State Intellectual Property Office, and submit a summary on the targeted action in the fourth quarter. State Intellectual Property Office shall, based on the contents and actual results of the targeted action plan, select local IP Offices to give focused promotion and support.

### **7.4.2 Law enforcement at exhibitions**

All administrative departments of patents shall make efforts in the following areas while rigorously implementing the Measures on Intellectual Property Protection at Exhibitions (Decree

No.1 (2006) issued by Ministry of Commerce, State Administration of Industry and Commerce, National Copyright Administration, and State Intellectual Property Office:

#### 7.4.2.1 Organize the screening of exhibits for patent infringements prior to exhibition.

To prevent patent infringements in exhibits, all administrative departments of patents shall coordinate the organizers of exhibitions and team up with pertinent commerce chambers/associations (when necessary) to direct the exhibitors in self-screening for patent infringements in the exhibits to be displayed on the exhibitions. In addition, the exhibitors that require special attention shall be subjected to random check; if any item is determined to be likely to infringe a patent of others, the exhibitor shall be notified to cease its participation in the exhibition and be dealt with according to the applicable regulations. All administrative department of patents shall inform local exhibitors that the exhibits shall be terminated removed once the IP complaint office of exhibition has identified the exhibits are suspected of infringements or passing-offs.

#### 7.4.2.2 Impose a higher level of harshness in the handling of patent infringements and act of passing off patents at exhibitions

In cases where the complaint office at an exhibition is able to ascertain the facts around the infringement, the perpetrator shall be required to immediately cease his infringement behavior and promptly remove the exhibits suspected of infringements. And at the same time, the parties shall be prompted to negotiate towards a solution and the matter shall be resolved through fast mediation. For those matters that are hard to be resolved through fast mediation, the complainant shall be assisted in preserving evidence and issuing related certificates, and shall be guided to promptly request the competent administrative department of patents to handle the matter or filing for action at the people's court. In the event that an infringement cannot be ascertained, the matter shall be promptly referred to the competent administrative departments. Upon receipt of the infringement or passing-off cases referred by other entities, any administrative department of patents shall immediately launch legal proceedings and duly carry out enforcement and rights safeguarding. For a patent passing-off suspected of criminal liabilities, the case shall be promptly handed over to public security departments to pursue criminal liabilities.

In the subsequent procedures of exhibition patent cases, a cross-provincial crackdown mechanism shall be established to address patent infringements and patent passing-offs, in particular repeated infringements, group infringements and severe cases of patent passing-offs, under which the intensity of crackdown shall be reinforced and the cases meeting the conditions for supervised handling shall be promptly reported to State Intellectual Property Office for supervision. All administrative departments of patents shall identify the accountabilities, collaboration scope and case settlement timeline through the cross-provincial crackdown mechanism. All administrative departments of patents shall rigorously and resolutely crack down the patent infringements and passing-offs involving exhibitions in accordance of laws and policies, and shall not harbor companies suspected of infringements or passing-offs.

#### 7.4.2.3 Establish an information reporting mechanism of patent enforcement and rights safeguarding of exhibitions within the IP system

All administrative departments of patents shall promptly report to State Intellectual Property Office all key issues and details involving patent enforcement and rights safeguarding of exhibitions. For the cases referred based on jurisdiction, the competent administrative departments of patents shall appropriately handle the handover of case leads. In the event that local exhibitors fall victim to group, repeated or malicious infringements by non-resident exhibitors, the matter shall be promptly reported to the IP Offices where the infringing exhibitors are located.

The IP Office at the exhibition location shall promptly report to State Intellectual Property Office on the patent infringement and passing-off cases that occurred at each exhibition. State Intellectual Property Office shall then communicate the information to all administrative departments of patents and the latter then shall adopt measures according to the case details. All local offices shall establish a database for the complaint cases over the years and promptly summarize and analyze the same for early warning. For exhibitors that have been the subject of multiple complaints, related departments are advised to cancel their qualifications for attending

exhibitions and include them into pertinent local social credit and evaluation systems.

#### 7.4.2.4 Reinforce the exhibitor targeted efforts of publicity training

All administrative departments of patents shall coordinate local departments in charge of exhibitions to carry out publicity training for local exhibitors prior to exhibition. The publicity training shall stress the legal liabilities for patent infringements and passing-offs, and emphasize the harm of infringements and passing-offs, communicate the government's policies and measures aimed at combating patent infringements and passing-offs of exhibitions, introduce the basic procedures and the evidence materials required for patent enforcement and rights safeguarding of exhibitions, and promote the 12330 public hotline for IP rights safeguarding assistance and reports and complaints. The publicity training shall be highly targeted to deter the prospective perpetrators of infringements and passing-offs.

#### 7.4.3 Coordination of law enforcement collaborations

##### 7.4.3.1 Objective and priorities

A system-wide and multi-territory collaboration control center for administrative enforcement of patents shall be established to carry out assignments and coordination of cross-territory cases and sophisticated cases and to launch joint targeted inspections, so as to boost the proficiency and efficiency of case handling and speed up the systemization and regularization of cross-territory enforcement collaborations.

##### 7.4.3.2 Organization structure

###### 7.4.3.2.1 Forms of operation of the collaboration control center

Regional collaboration control centers for administrative enforcement of patents shall be run in the form of territory collaborations on administrative enforcement of patents, under which provincial IP Offices within each region shall sign collaboration agreements witnessed by State Intellectual Property Office and shall carry out territory collaboration on administrative enforcement of patents in accordance with the provisions of the agreements.

###### 7.4.3.2.2 Leading bodies of the collaboration control center

Provincial IP Offices taking part in the collaboration shall implement a joint meeting system for the collaboration control of administrative enforcement of patents in common regions. The joint meeting shall be responsible for the management and coordination-related matters of the local collaboration control center for administrative enforcement of patents. The meeting, in principle, shall be convened annually where details on the work in the previous year shall be exchanged and the key tasks for the subsequent year shall be discussed and determined; and the meeting shall also be convened from time to time at the proposal of the convener if and when required. The meeting convener shall be rotated in order on an annual basis and shall act as the executive chief of the collaboration control center. The first meeting shall be convened by the provincial IP Office of the region determined by the State Intellectual Property Office.

The main duties of the joint meeting shall include: (1) to arrange and coordinate the collaboration affairs; (2) to review the management systems, work processes and work plans in relation to the collaboration control of administrative enforcement of patents; (3) to jointly discuss major and difficult problems encountered during enforcement collaboration; and (4) to deal with other matters that need to be determined by the joint meeting.

An office shall be set up for the joint meeting, which shall double as the office for the territory collaboration control center for administrative enforcement of patents, responsible for day-to-day tasks. The office shall be located at the provincial IP Office where the meeting convener is located. Other provincial IP Offices taking part in the collaboration control shall assist the office with its work.

The duties of the joint meeting office shall include: (1) undertaking daily organization and contact affairs; (2) drafting the work programs and proposing annual work plans of the local collaboration control center for administrative enforcement of patents; (3) according to the requirements of State Intellectual Property Office and at the requests of all administrative enforcement departments of patents within the region, controlling and coordinating the

collaboration among competent enforcement departments to carry out administrative enforcement of patents; (4) organizing routine work sessions and seminars based on the arrangements of the joint meeting; and (5) dealing with other matters assigned by the joint meeting.

#### 7.4.3.2.3 Executive body of the collaboration control center

The executive body of the collaboration control center shall be the provincial IP Office in a region. Each executive body shall set up a communication office responsible for cross-provincial collaboration and internal deployment, among other daily tasks. Provincial IP Offices participating in the collaboration efforts shall carry out administrative enforcement collaborations of patents according to the applicable laws, regulations and agreements. For the major matters that must be coordinated by the control center, requests may be made to the joint meeting office for coordination.

#### 7.4.3.3 Assignments and division of jobs of the collaboration control center

##### 7.4.3.3.1 Establish a cross-territory staff control system

In the event that difficulties arise in the handling of cases due to insufficient enforcement resources in a provincial IP Office in its own province (autonomous region, municipality directly under the Central Government), a request may be made to the competent provincial IP Offices for additional workforce to assist with the administrative enforcement. For major exhibitions, local departments may assign enforcement officers as experts to each other's jurisdiction for enforcement collaboration. All provincial IP Offices shall carry out more than one united enforcement actions a year. The joint meeting office may, according to the requests of any provincial IP Office, coordinate the enforcement officers of relevant provincial IP Offices to be stationed at the jurisdiction of the requesting province (autonomous region, municipality directly under the Central Government) for assistance.

##### 7.4.3.3.2 Establish a cross-territory collaboration system of case acceptance

Provincial IP Offices taking part in the collaboration must consent to the establishment of an internal and cross-territory collaboration system of case acceptance. For a cross-provincial case, a IP Office at prefecture-level and above within a jurisdiction may hand over the files of the case to the IP Office concerned and make a copy of the files to their and the counterpart provincial office; the IP Office receiving the files shall promptly feedback relevant information and inform the resolution details to the other party.

Any provincial office taking part in collaboration may refer a cross-territory case unable to be coordinated by it to the joint meeting office for coordination. If the coordination fails, a coordination request may be made to State Intellectual Property Office.

##### 7.4.3.3.3 Establish a cross-territory system of case control

Provincial IP Offices taking part in the collaboration shall communicate to one another the leads of patent passing-offs intercepted by themselves and share the same. For major cross-provincial patent infringements, a cross-territory case control system shall be set up in the form of joint case handling. For group infringements and joint infringements that are handled separately, a collegial proceedings system shall be set up under which a collegial body shall be determined according to the case handling capabilities of each region, and same-type cases shall be handled in accordance with uniform standards, so as to boost the efficiency and legal results of the handling this type of cases.

The joint meeting office may, depending on the specific circumstances, coordinate the collegial body of cross-provincial major patent infringements and specialists.

##### 7.4.3.3.4 Establish a cross-territorial system of enforcement assistance

For cases that require evidence collection from other region, at the request made by the party having the jurisdiction, the requested party shall actively cooperate and assist with the investigation and evidence collection for patent infringement disputes and patent passing-offs. Provincial IP Offices taking part in the collaboration may discuss and carry out centralized joint enforcement actions for major cross-territorial patent cases; for the particularly problematic cases, requests may be made for coordinated handling.

The joint meeting office may coordinate the relevant enforcement assistance according to the requests of provincial IP Offices or the circumstances.

#### 7.4.3.3.5 Establish an expert resource sharing system for infringement determination

All provincial IP Offices shall, based on the education, discipline and specialty of their own enforcement officers, establish an expert database for administrative enforcement of patents and share the expert resources. For difficult technical problems, a request can be made to a relevant provincial office to assign experts for assistance.

The joint meeting office shall work with the local consulting centers for patent infringement determination to establish the relevant collaboration mechanisms, and shall, according to the requests of the relevant provincial IP Offices, **recommend experts in related fields**; the local consulting centers for patent infringement determination shall carry out infringement determination consulting services in connection with the major and difficult patent disputes raised by the provincial offices.

#### 7.4.3.3.6 Reinforce enforcement exchange

Provincial IP Offices taking part in the collaboration shall invest heavily in terms of reinforcing exchange on administrative enforcement of patents, and may assign staff to one another as needed for exchanges and mutual learning. Exchanges on the experience in administrative enforcement of patents shall be enhanced and training resources for administration enforcement of patents shall be shared; joint training on administrative enforcement of patents shall be carried out as required to foster the enhancement of abilities and proficiency in the territorial administrative enforcement of patents. The joint meeting office shall coordinate the business and staff exchanges on territorial administrative enforcement of patents.

#### 7.4.3.3.7 Establish the consultation system of major problems

Provincial IP Offices taking part in the collaboration shall resolve the major and difficult problems encountered during the collaboration on administrative enforcement of patents under the principles of equality, collaboration and mutual assistance; for the disputes that cannot be resolved, they may be submitted to the joint meeting for discussion and the consultation decisions made at the joint meeting shall be respected.

The joint meeting office shall be responsible for coordinating the provincial IP Offices taking part in the collaboration to solve disputes in administrative enforcement of patents and may convene joint meetings as needed where the provincial communication offices taking part in the collaboration shall be convened for consultation over pertinent issues.

### 7.4.4 Instruments and files administration of law enforcement cases

#### 7.4.4.1 Enforcement instruments

Enforcement instruments shall be double printed vertically on A4 papers. The top of each page shall be left blank for 25mm, and the same margin shall apply on the left and the right sides; at the bottom of the page, a 20mm blank shall be maintained from the lower edge of page number to the edge of the page.

The texts shall be written horizontally from left to right. Each page shall contain 25 lines. The title texts shall use the bold Song typeface in size 2 and the body text shall use the Fang Song typeface in size 3. The font shall be in black color. The texts shall be single-spaced.

Arabic numerals shall be used in page numbers which shall be placed at the upper rims of the lower edges of each page and be in the center.

Enforcement instruments shall be affixed with the divisional seals on perforation of the administrative department of patents concerned.

#### 7.4.4.2 Files of patent enforcement cases

The case files for administrative enforcement of patents refer to the original historic records in various forms, including text, chart, audio and visual image, that are directly formed during administrative enforcement of patents and have evidence and observation values and shall be

stored.

Case files of patent enforcement are divided into two types: those for investigation and those for mediation.

#### 7.4.4.2.1 Principles for record filing of patent enforcement cases

Principles of record filing for patent enforcement cases are as follows: authenticity principle refers to that the contents being collected should be the original documents generated during the process of enforcement. Independence principle refers to that one independent case file shall be established for every case.

#### 7.4.4.2.2 Form of files administrative enforcement cases of patents

The files of administrative enforcement cases must be complete, accurate and interconnected which fully and objectively reflect the entire process of administrative enforcement of patents.

Case documents of administrative enforcement of patents must use A4 papers or be folded down to the size of A4. The texts shall be typed or printed or written with a ball pen or fountain pen (using carbon ink or blue-black ink) and signed; the handwriting shall be neat and tidy with complete signatures. Images, drawings and photos shall ensure clarity of contents and be folded into the size of A4 papers or be affixed to A4 papers.

The case files of administrative enforcement of patents shall include: file folder, file cover, internal table of contents, and various documents contained in the file.

#### 7.4.4.3 Collection of materials relating to administrative enforcement of patents

##### 7.4.4.3.1 Collector

A filing-by-manager (position may be assumed by clerks) system shall be implemented for the case materials under which the responsible officer for a case shall file the case documentation as soon as the closing of the case.

##### 7.4.4.3.2 Time of collection

The responsible officer for a case shall, within 15 days from the closing of the case, carefully check for the completeness of the case materials; if any document material is found missing, efforts shall be made in time to remedy the problem and the materials not related to the case shall be eliminated before the files are collated.

##### 7.4.4.3.3 Number of copies to be collected

The filed document on administrative enforcement of patents shall normally have one copy stored (except for those with the approval of the responsible official) and repeated copies shall be eliminated. For any redundant mediation form, award, notice of case dismissal, three copies may be inserted in the file holder for future reference.

##### 7.4.4.3.4 Enforcement documentation not to be filed

The following documentation on administrative enforcement of patents may be omitted from record filing at the discretion of the responsible officer for a case:

- (1) Envelopes, referral sheets and work materials with no reference value;
- (2) Repeated copies of identical contents; or
- (3) Materials not related to the case.

#### 7.4.4.4 Collation and cataloging of the documentation on the administration enforcement of patents

Documentation on administrative enforcement of patents shall be filed separately in chronological order under the principle of “one case, one number”. All legal documents, official documents and correspondences generated in each case from acceptance to closing shall use the case number determined at the time of case acceptance.



#### 7.4.4.4.1 Cataloging sequence

The sequence for arranging the documentation on administrative enforcement of patents shall follow the natural orders of the generation of documentation in the objective process of the administrative enforcement procedures and take into account the inter-relationships between documents. The specific sequence is as follows:

For mediation cases

- (1) File cover;
- (2) Internal table of contents;
- (3) Handling decision or notice for case dismissal;
- (4) Request;
- (5) Case acceptance approval sheet;
- (6) Notice of case acceptance, and notice of oral proceedings;
- (7) Notice of defense, and notice oral proceedings;
- (8) Identity certificates of the parties and related formalities for the parties' agents;
- (9) Materials for evidence representation by the requester;
- (10) Materials for evidence representation by the respondent;
- (11) Statement of defense;
- (12) Inquiry transcripts;
- (13) Investigation transcripts or materials of investigation and evidence collection;
- (14) Power of attorney of authorized agents and legal representatives, and the identity certificate of the legal representatives;
- (15) Oral proceedings transcripts;
- (16) Deliberation transcripts;
- (17) Request for mediation withdrawal and mediation agreement (for cases that are closed by mediation);
- (18) Examination and approval form of case closing; and
- (19) Acknowledgment of service.

For investigation cases

- (1) File cover;
- (2) Internal table of contents;
- (3) Decision of sanctions;
- (4) Materials of reports/complaint or market inspection;
- (5) Case acceptance approval sheet;
- (6) Transcripts;
- (7) Identity certificate of the suspect (including a photocopy of enterprise business license, and identity certificate and resident ID of legal representative);
- (8) Agency materials of the suspect;
- (9) Factual evidence of law violations;
- (10) Statements and defense materials of the suspect, and related evidence;
- (11) Information notice before sanction imposition;

- (12) Hearing notice (where applicable);
- (13) Hearing transcripts;
- (14) Examination and approval form of case closing;
- (15) Notice for rectification orders; and
- (16) Acknowledgment of service.

Independently bound written evidence materials shall be filed along with a case file and be numbered as an appendix to the file.

#### 7.4.4.4.2 Numbering by page

The documentation shall be numbered on a page-by-page basis upon being arranged systematically. The page numbers shall be written in Arabic numerals at the bottom right corners on the front sides with texts and the bottom left corners of the back sides. The file cover, internal table of contents and back cover shall not be numbered.

#### 7.4.4.4.3 Internal table of contents

The internal table of contents shall be completed according to the order in which the documents are arranged. One sequence number shall be given to one document. At the time of filing, one number system shall be adopted according to the nature of case and the page number shall be completed after the “Document name” column in the internal table of contents. The materials outside the scope listed in the internal table of contents that ought to be filed shall be placed in the “Others” column to complete or included in the “Written evidence attached” column.

#### 7.4.4.4.4 Binding of files

Before binding a file, the documents shall be thoroughly checked and those missing shall be supplemented and those damaged or faded in color shall be repaired and reproduced. A lining sheet shall be attached for those with overly narrow binding openings or have handwriting traces. Documents on oversized papers shall be trimmed or folded. The addition of rims, lining or folding shall fully conform to the specification of A4 papers. The envelopes that are required to be stored alongside the file shall be rolled out flat to have the lining sheet attached, without removing the stamp(s). Any metal traces/objects on a document shall be removed in full. The binding of a file must be sturdy, neat and presentable, without missing pages, blocking texts or damaging the file, and shall not impair reading and be easy to store and use.

The thickness of each file is preferably no more than 20mm. For excessive amounts of documents, the documents shall be bound in separate volume in order.

A case file shall be bound using the 3-hole-in-1-line method on the left side and the bottom of the file edge shall be aligned with the flipping opening.

#### 7.4.4.5 Handover of case files of administrative enforcement of patents

The files of a case shall be handed over to the case files manager by the responsible officer for the case within 6 months from the acceptance of the case.

The case files manager shall take stock of the individual documents and check quality and promptly adopt measures to remedy any case file that is not in compliance with requirements. After the case files manager confirms the compliance with requirements of the file handed over, the parties to the handover shall sign on a file handover checklist.

## **Part 5. Affairs of IP rights safeguarding assistance and reports and complaints**

In **March 2015**, the Party Central and the State Council published the **Several Opinions** of the CPC Central Committee and the State Council on **Deepening the Reform of Systems and Mechanisms to Accelerate the Implementation of Innovation-driven Development Strategies**, thereby laying down crucial top-tier design and major reform arrangements with respect to the innovation-driven development strategy. It was proposed that a rigorous protection system of IP rights shall be implemented and it specified that the assistance system of IP rights safeguarding

was to be further improved.

In 2008, State Intellectual Property Office replaced the former state IP protection taskforce in accordance with the Notice of the State Council on the Establishment of Advisory and Coordinating Organs (Guo Fa [2008] No.13). To adapt to the operational requirements, it was decided that all assistance centers for IP rights safeguarding were to carry out IP report and complaint services. State Intellectual Property Office published the Notice in Respect of Assistance Centers for Intellectual Property Rights Safeguarding to Carrying Out Reporting and Complaint Services.

#### 7.5.1 Affairs of IP rights safeguarding assistance

##### 7.5.1.1 Target of rights safeguarding assistance

(1) financial assistance: Chinese citizens and legal persons that are unable to pay for the costs of IP disputes and litigation due to financial difficulties; and

(2) Intellectual assistance: Chinese citizens, legal persons or other bodies that have encountered IP matters or cases that are hard to be resolved.

##### 7.5.1.2 Details of rights safeguarding assistance

(1) To organize the consultation of laws and regulations in relation to intellectual properties, the procedures and legal status of application grant and dispute handling and litigation, and to recommend services providers, among other services;

(2) To organize the provision of reference opinions on IP infringement determination and damages estimation;

(3) To provide appropriate financial assistance to Chinese parties involving high-profile foreign IP disputes and those unable to cover dispute handling and litigation costs;

(4) To coordinate the pertinent institutions to study programs for fostering the reasonable resolution of major foreign IP disputes;

(5) To organize the discussions of and offer consulting advice on difficult IP cases and the cases in which IP rights are abused or non-infringement litigation is initiated;

(6) To provide IP analysis and early warning services to organizations engaged in major research and development, trade, investment and technology transfer; and

(7) With respect to IP protection matters of large sports events, cultural activities, exhibitions, expositions and customs, to organize the provision of services of fast legal status search and infringement determination, among others.

##### 7.5.1.3 Main forms of rights safeguarding assistance

(1) To adopt the form of oral consultation and Q&A;

(2) To organize expert's discussion, and develop detailed rights safeguarding or treatment programs;

(3) To commission dedicated services; service firms from partner organizations could be recommended to carry out pertinent IP services, and the assistance center for rights safeguarding shall contribute to the service cost where appropriate;

(4) To offer funds support;

(5) To launch coordination and mediation procedures;

(6) Other feasible forms.

#### 7.5.2 Affairs of IP rights reports and complaints

##### 7.5.2.1 Details of reports and complaints affairs:

(1) The assistance centers for IP rights safeguarding shall receive the reports or complaints from any entity or individual with respect to IP infringements, IP legal violation cases, and receive the referred report or complaint cases;

(2) The assistance centers for IP rights safeguarding shall promptly submit the report or complaint cases received to the competent IP administrative enforcement departments or public security authorities, and shall give feedback to the informant or complainant on the status and results of the cases.

(3) Upon receipt of the cases referred from other report/complaint services institutions, the assistance centers for IP rights safeguarding shall, after handing over the same to the competent local enforcement departments for handling according to law, give feedback to the informant or complainant on the status and results of the cases through the assistance centers for IP rights safeguarding.

(4) The assistance centers for IP rights safeguarding shall further enhance rights safeguarding public services, offer legal consulting services in relation to the IP rights protection, and direct entities or individuals to report or complain IP infringements or law violations.

(5) In cases where the assistance centers for IP rights safeguarding and the former service centers for IP report/complaint are both set up under the local IP Office, the two organizations may be integrated to carry out services of report/complaint and rights safeguarding assistance (one entity operated under two names).

(6) Local governments shall, according to the needs for carrying out services of IP rights safeguarding assistance and report/complaint and taking into account actual circumstances, set up assistance centers for IP rights safeguarding in accordance with the applicable requirements in the Guiding Opinions on Affairs of Intellectual Property Rights Safeguarding (Guo Zhi Fa Guan Zi [2007] No.157).

#### 7.5.2.2 Objectives

To build an IP report/complaint work system which is mainly operated by the centers and supported by their affiliated IP Offices and the related authorities and under which authorities in varying fields collaborate and regions interact with one another, so as to increase in IP enforcement efficiency and facilitate the rights safeguarding and supervision of the rights owners and the society at large.

#### 7.5.2.3 Business scope

The centers shall receive reports and complaints that involve patents, exclusive rights to use a trademark, copyrights, rights to new plant variety, proprietary rights to integrated circuit design, trade secrets, geographic symbols and other IP rights. "Reports" refers to leads on IP violations or crimes offered non-rights owners offering, and "complaints" refers to rights owners claims that others have infringed their lawful interests.

### 7.5.3 "12330" platform for affairs of IP rights safeguarding assistance and reports and complaints

#### 7.5.3.1 Main duties:

(1) 12330 service hotline—for the receipt of rights safeguarding assistance applications and complaints

(2) IP-related knowledge consulting

(3) To set up an expert base, offering services of rights safeguarding aid, and

(4) To set up a case transfer mechanism for the referral of pertinent cases

#### 7.5.3.2 Specialty tasks:

##### 7.5.3.2.1 Consulting services of patent infringement determination

To play out the role of the assistance centers for IP rights safeguarding, organize and deploy private sector resources, provide all IP Offices with consulting services on patent infringement determination. The nature of this service is internal consulting service.

During the enforcement and rights safeguarding targeted action in the e-commerce area, the centers shall establish a communication and partnership mechanism with e-commerce platforms to provide the latter with consulting services of patent infringement determination.

#### 7.5.3.2.2 Promote the affairs of fast IP rights safeguarding

In 2012, State Intellectual Property Office published the Notice of State Intellectual Property Office in Respect of Carrying out Pilots of Fast Rights Safeguarding of Intellectual Property (Guo Zhi Fa Guan Zi [2012] No.112). Carry out pilot of fast IP rights safeguarding in industrial cluster areas to establish patent mechanisms of fast rights safeguarding, fast examination and fast rights confirmation. Advance the establishment of administrative and judiciary connection mechanism and industry protection mechanism. At present, fast examination and rights confirmation are restricted to design patents only.

#### 7.5.3.3 Supervision and administration

The rights safeguarding centers shall publish in the primary media within their jurisdictions the public hotline for IP rights safeguarding assistance and reports and complaints, and make available to the public the process and administration system of rights safeguarding assistance and reports and complaints, so as to be open to public scrutiny and raise social awareness.

The rights safeguarding centers shall establish regulated archives and records of the admission and handling process of rights safeguarding assistance and reports and complaints; voice recordings shall be prepared for calls with respect to rights safeguarding assistance and reports and complaints.

The rights safeguarding centers may accept court delegation to carry out the transition of litigation and mediation of civil patent disputes and judicial mediation delegation.

The rights safeguarding centers shall carry out occupational discipline education on their employees to regulate their behaviors and increase the business abilities and service proficiency of employees.

The rights safeguarding centers with the requisite resources may set up branches or work stations within their jurisdictions as needed. In the event that a branch or work station is set up, record filing shall be made at the competent provincial IP Office within one month from the date of issuing the relevant paper.

Provincial IP Offices shall be responsible for arranging and directing the operations of provincial rights safeguarding centers and carry out business trainings on the staff of rights safeguarding centers within their administrative areas.

Provincial and prefecture-level IP Offices shall be responsible for supervising and directing the operations of the rights safeguarding centers within their jurisdictions and their branches or work stations.

Provincial IP Offices shall be responsible for reviewing the application for establishment of provincial-level rights safeguarding centers submitted by local governments and carrying out site surveys; for those eligible, the title of “China (XX) Rights Safeguarding Assistance Center of Intellectual Property” shall be awarded.

Provincial rights safeguarding centers meeting the conditions for applying for national assistance centers for IP rights safeguarding shall submit their application according to the requirements of State Intellectual Property Office, and provincial IP Offices shall make their recommendation to State Intellectual Property Office.

Provincial IP Offices shall be responsible for assessing the operations of provincial rights safeguarding centers and impose rectification requirements on those determined to be unqualified. Those that have failed in two consecutive assessments shall be disqualified as provincial rights safeguarding centers.

In the event any employee at provincial rights safeguarding centers do not perform or do not properly perform their statutory duties, as a result of which damages or adverse impact arise, the employee shall be pursued for liabilities for misconduct in accordance with applicable regulations.

## **Part 6 Direction and supervision**

### **7.6.1 Target accountability system of law enforcement**

Administrative departments of patents shall establish an enforcement target accountability system centering on enforcement case handling. The head of an IP Office shall be the primary accountability owner for enforcement; a three-tiered accountability system shall actively implemented encompassing the office head, division (section) chiefs and enforcement officers, so as to establish an accountability mechanism under which the office head make supervision, enforcement division (section) chief make directions and enforcement officers make implementation.

Administrative department of patents shall rigorously implement the accountability system of enforcement case handling and assign the responsibilities of enforcement case handling to leaders and case handlers at all levels, so as to finely break down the case handling tasks of individual enforcement officers and enhance the lean management of enforcement case handling, while carrying out focused supervision and inspection of the implementation and operation of enforcement target accountability system by their subordinate offices at all levels.

### **7.6.2 Supervisory inspection, supervisory direction, supervisory handling and instruction of law enforcement**

#### **7.6.2.1 Enforcement supervisory inspection**

State Intellectual Property Office shall carry out annual supervisory inspections and special supervisory inspections of the enforcement efforts of IP Offices at provincial level. IP Offices at provincial level shall carry out annual supervisory inspection and special supervisory inspection of the enforcement efforts of IP Offices within their administrative area.

During the supervisory inspection, enforcement files, data, case handling conditions, arrangement of rights safeguarding centers and details on 12330 complaint receipts and referrals shall be verified. Administrative departments of patents subject to the supervisory inspections shall rectify the prominent problems raised during the supervisory inspections.

#### **7.6.2.2 Supervisory handling of enforcement cases**

State Intellectual Property Office shall supervise the handling of high-profile cases of patent infringements and patent passing-offs. IP Offices at provincial level shall supervise the handling of relatively high-profile cases of patent infringements and patent passing-offs within their administrative areas. Pertinent cases shall be handled under public listed supervision depending on the circumstances. Efforts shall be stepped up in supervising the handling of infringements and passing-offs occurred at large exhibitions and in the field of e-commerce.

IP Offices responsible for the supervision of case handling shall track the progress of cases; and administrative departments of patents being supervised shall process the cases in question and promptly submit handling results.

#### **7.6.2.3 Reporting and record filing of major law enforcement cases**

##### **7.6.2.3.1 Record filing principles**

Reporting and record filing of major patent cases must follow the principles of authenticity, comprehensiveness and efficiency.

##### **7.6.2.3.2 Major patent cases**

Major patent cases in this section refer to the following cases mediated or investigated by administrative departments of patents:

(1) Patent infringement disputes in which the victim is a party residing in a foreign country or Hong Kong, Macao or Taiwan, and the patent infringement damages amount to over RMB100,000 and the infringing party is a party [residing] in a foreign country or Hong Kong, Macao and Taiwan;

(2) Patent infringements in high-tech areas including information technology, biotechnology, pharmaceutical technology, environment protection and food safety, in which the damages exceed

RMB100,000;

(3) Disputes that span across over three provinces, autonomous regions or municipalities directly under the Central Government or involve group infringement with severe consequences;

(4) Disputes with damages exceeding RMB200,000;

(5) Patent passing-offs with an illegal gain exceeding RMB30,000;

(6) Patent passing-offs with a fine exceeding RMB40,000;

(7) Cases that require the guidance and coordination or organized investigation by State Intellectual Property Office or have wide-ranging influence.

#### 7.6.2.3.3 Receiving organization and time requirements

For a major patent case, the administrative department of patents undertaking the case shall, within one week from the closing of the case or during the handling thereof, report to State Intellectual Property Office; where the undertaking entity is a prefecture-level administrative department of patents, the report shall also be filed to the competent provincial administrative department of patents .

For a particularly severe patent case that has an impact on national economy and security and personal safety, the case handling authority shall, prior to case acceptance or within one week thereof, report to State Intellectual Property Office; where the undertaking entity is a prefecture-level administrative department of patents, the report shall also be filed to the competent provincial administrative department of patents.

In the event that the parties to major patent cases are not satisfied with the decisions made by the administrative departments of patents after the mediation or investigation of the same and file a lawsuit with the court, or that the administrative departments of patents appeal to the court for coercive execution, the administrative departments of patents in question shall report the litigation results or execution results to State Intellectual Property Office within one week from the end of the lawsuit or the completion of execution.

The Patent Affairs Administration Department of State Intellectual Property Office shall be responsible for the receipt, record filing of the reports and the corresponding administration and coordination affairs.

#### 7.6.2.3.4 Report contents

When reporting a case, the administrative department of patents undertaking the case shall complete a report sheet of major patent cases and submit upon signature by the head of their entity; the report sheet of major patent cases shall include:

- (1) Name of the recipient entity;
- (2) Date of case acceptance, and case number;
- (3) Number and title of the patent in question;
- (4) Name of the patent invention involved;
- (5) Details on the parties to the case;
- (6) Brief description of the case; and
- (7) Work plan or summary for case handling.

If and when necessary, any mediation form, handling decision, administrative sanction notice, and main written evidence involved in the case, among other pertinent materials (photocopy) shall also be submitted.

If and when State Intellectual Property Office believes pertinent materials need to be added to the submission, it may require the case handling entity to supplement.

The record filing of reports shall be completed according to the prescribed format and photocopied versions of the forms concerned shall be acceptable.

#### 7.6.2.3.5 Record filing

Within one week from the date the report materials of a case handling entity are collected in full, the Patent Affairs Administration Department of State Intellectual Property Office shall number the filing, complete the record filing notice and inform the case handling entity.

Local administrative departments of patents may access the record filings of patent case to understand the filing details.

#### 7.6.2.3.6 State Intellectual Property Office guidance on major cases

In the event that State Intellectual Property Office considers it necessary to direct, coordinate or organize the investigation of a case based on the reports of the case handling entity, it shall organize the competent authorities and experts to study and discuss the case and make comments, and shall inform the case handling entity and other relevant administrative departments of patents and departments.

The case handling procedures shall remain uninterrupted during the reporting process, unless considered necessary by the case handling entity.

The comments of State Intellectual Property Office shall not be directly binding on a case in question.

#### 7.6.2.3.7 Record filing management

State Intellectual Property Office shall implement regulated administration of the filed materials of major patent cases and carry out comprehensive analysis each year; and shall inform local administrative department of patents and the competent State Council departments.

For high-profile cases nationwide or in certain sectors, State Intellectual Property Office shall report to the State Council or inform the competent authorities at any time.

#### 7.6.2.3.8 Supervision and inspection

State Intellectual Property Office shall inspect the reports of major patent case each year. The pertinent details on reporting and handling shall serve as one of the key performance indicators of local administrative departments of patents.

#### 7.6.2.4 Enforcement business direction

State Intellectual Property Office shall reinforce the business direction to nationwide administrative enforcement of patents and promptly issue administrative interpretations or replies in respect of the difficult issues encountered during enforcement and case handling, so as to establish and perfect the progressive reporting and support requesting system for major and difficult cases.

### 7.6.3 Performance assessment of law enforcement and right safeguarding

#### 7.6.3.1 Scope of assessment

- (1) Provincial-level IP Offices;
- (2) Municipal-level IP Offices in cities (at prefecture level or above) that are on the shortlist of IP pilot cities and those expected to be qualified as a pilot city in the current year;
- (3) City IP Offices undertaking the pertinent entrusted enforcement by State Intellectual Property Office;
- (4) Other city IP Offices recommended by provincial IP Offices;
- (5) Assistance centers for IP rights safeguarding permitted to be set up by State Intellectual Property Office.

#### 7.6.3.2 Assessment process

(1) Local filling/submission. The performance assessment of all entities subject to assessment shall be organized centrally by the IP Offices at provincial level, in which the forms completed by the entities subject to assessment shall be submitted in electronic form to the such IP Offices, and



then be collected by the IP Offices at provincial level and sent to the Patent Affairs Administration Department of State Intellectual Property Office in electronic form.

(2) United assessment. State Intellectual Property Office shall engage a third party firm to carry out preliminary verification and scoring of the materials submitted by local governments according to uniform standards.

(3) Feedback review. Once the third party firm completes the preliminary verification and scoring, it shall submit the preliminary results to the Patent Affairs Administration Department which shall then review the submitted materials and give feedbacks on the entities subject to assessment. In the event that the entities subject to assessment have any doubt about the scores, rectification requests may be submitted in writing within five business days from the receipt of feedbacks, along with the evidential materials, and the Patent Affairs Administration Department shall have the third party firm review the problem.

(4) Results publication. Upon the completion of performance assessment scoring, the third party firm shall sequence the performance assessment results of enforcement and rights safeguarding by province (autonomous region, municipality directly under the Central Government), city and rights safeguarding assistance center, and release the details upon being accredited by the office.

#### 7.6.4 Liabilities

##### 7.6.4.1 Liabilities for fault during administrative enforcement

Liabilities for fault during administrative enforcement refers to the civil, administrative or legal liabilities for which the IP department employee is held accountable for having engaged in acts in intentional infringement of national interest or the lawful interest of enforcement subjects during the course of administrative enforcement of patents.

The pursuit for liabilities for administrative enforcement fault shall abide by laws and adhere to the principles of truthfulness and stick to criticism or education approaches for rectification of the problem.

##### 7.6.4.2 Dealing with administrative enforcement faults of enforcement officers

The administrative enforcement faults committed by enforcement officers shall be dealt with in the following manners, depending on severity of the case:

- (1) To criticize and educate, and order to rectify within a given period;
- (2) To order written self-review, and circulate a notice of criticism;
- (3) To reassign away from current position;
- (4) To impose administrative disciplinary action.

##### 7.6.4.3 Forms of manifestation of faults liability

Enforcement officers shall be held accountable in any of the following event:

- (1) To intentionally violate statutory administrative disciplinary procedures, alter the category and scope of administrative disciplines without permission;
- (2) To intentionally violate administrative enforcement procedures, or wrongly apply laws, regulations and rules in administrative enforcement;
- (3) To intercept and split fines or forfeited items;
- (4) Acts of power abuse, corruption/bribery, favoritism and malpractice, or perverting the course of justice;
- (5) To raise or lower fee rates without permission or charge at random rates in violation of fee regulations;
- (6) Failure to perform the statutory obligations and other illegal acts for which he/she should be held accountable.

#### 7.6.4.4 Liabilities of enforcement officers

In the event that an enforcement officer is involved in both faulty and disciplinary acts during one work behavior, his/her liability for fault shall be pursued while the officer being subject to administrative disciplinary actions based on the severity of his/her circumstances.

##### 7.6.4.4.1 Lenient sanctions or exemption from sanctions

Leniency or exemption may be applied to the sanction imposition on an enforcement officers if he/she:

- (1) Actively discovers his/her fault in enforcement and promptly rectifies the same, without severe consequences;
- (2) Has rectified his/her wrongdoing upon re-education whose circumstance of fault is minor.

##### 7.6.4.4.2 No liabilities

Enforcement officers shall not be held accountable for any of the following act:

- (1) The subject of enforcement makes falsified statement or produces false evidence, as a result of which errors occurred in enforcement;
- (2) Administrative omission due to unpreventable objective reasons;
- (3) Faulty administrative actions where his/her objection to such action as shown by written records for the discussion and deliberations prior such action;
- (4) Other circumstances where officer shall held accountable.

##### 7.6.4.4.3 Approval of liability pursuit decisions

Where the pursuit of an administration liability for fault is necessary, enforcement supervisory departments shall make treatment suggestions upon investigation and verification of the facts, and the decision shall be made by the party organization of the entity concerned. Before the decision is made, oral defense of the alleged wrongdoer shall be carefully heard, and on the basis of full solicitation of comments and investigation and verification of the facts, decisions shall be to solve the case or propose to refer the case to judicial authorities where criminal liability shall be pursued.

In the event that approval is given for the pursuit of liability for enforcement defaults, the Decision of Pursuing Administrative Enforcement Liabilities shall be produced and delivered to the wrongdoer.

##### 7.6.4.5 Petition to decisions of pursuing liabilities

In the event that the enforcement officer liable for fault is not satisfied with the decision to pursue his/her liability, the officer may petition to the competent higher supervision authority within 15 days from the receipt of the Decision of Pursuing Administrative Enforcement Liabilities.



## **Annex I Forms for patent infringement cases**

**I. Forms for patent infringement cases  
(for handling by IP Offices)**

## Notice of receipt of request for handling patent infringement disputes

Case No.

Patent number	
Title of patent	
Patentee	
Requester	
Respondent	

\_\_\_\_\_:

Upon examination, the request for handling a patent infringement dispute submitted by the requester on (Day) (Month) (Year) meets the receipt requirements set out in Article 10 of the Measures for Administrative Enforcement of Patents, and therefore the Office has decided to accept the case.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Responsible officer:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Notice of case dismissal for patent infringement dispute

\_\_\_\_\_:

Upon examination, the patent infringement case (Case No.: \_\_\_\_\_) accepted by the Office on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) does not meet the case acceptance requirements set out in Article 10 of the Measures for Administrative Enforcement of Patents. The specific reasons are as follows:

- ☐ The requester is not the patentee concerned or an interested party.
- ☐ The respondent(s) is/are not specific.
- ☐ The claim(s) is/are not specific or the facts and reasons are described in details.
- ☐ The case is not within the scope of case receipt or jurisdiction of the Office.
- ☐ A party to the case initiated a lawsuit at a court.
- ☐ Other reasons (Please specify:).

Upon deliberations, the Office hereby decides to dismiss the Notice of Receipt of Request for Handling Patent Infringement Disputes as issued on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year).

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

### Notice of acceptance denial of request for handling patent infringement disputes

Patent number	
Title of patent	
Patentee	
Requester	
Respondent	

\_\_\_\_\_:

Upon examination, the request for handling a patent infringement dispute submitted by the requester on (Day) (Month) (Year) does not meet the case acceptance requirements set out in Article 10 of the Measures for Administrative Enforcement of Patents, and therefore the Office refuse to accept the request. The specific reasons are as follows:

- ☐The requester is not the patentee concerned or an interested party.
- ☐The respondent(s) is/are not specific.
- ☐The claim(s) is/are not specific or the facts and reasons are described in details.
- ☐The case is not within the scope of case receipt or jurisdiction of the Office.
- ☐A party to the case initiated a lawsuit at a court.
- ☐Other reasons (Please specify:).

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.



## Notice of submission of patent evaluation reports/utility model search reports

Case No.

Patent number	
Title of patent	
Date of patent application	
Patentee	
Requester	

\_\_\_\_\_:

☐ Pursuant to Article 61 of the Patent Law of the People's Republic of China (as amended for the third time on December 27, 2008), the requester shall, within \_\_\_\_ days from receipt of this Notice, furnish the Office with the patent evaluation report issued by State Intellectual Property Office with respect to the patent No. \_\_\_\_\_.

☐ Pursuant to Article 57.2 of the Patent Law of the People's Republic of China (as amended for the second time on August 25, 2000), the requester shall, within \_\_\_\_ days from receipt of this Notice, furnish the Office with the utility model search report issued by State Intellectual Property Office with respect to the patent No. \_\_\_\_\_.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Contact person:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Notice of defense

Case No.

Patent number	
Title of patent	
Patentee	
Requester	
Respondent	

\_\_\_\_\_:

The Office has accepted the request for handling a patent infringement dispute submitted by the requester on (Day) (Month) (Year). Pursuant to Article 14 of the Measures for Administrative Enforcement of Patents, a copy of the Request for Handling Patent Infringement Disputes and its annexes is hereby sent to you. Please note the following issues:

You shall submit the following to the Office within 15 days from receipt of the copy:

Statement of defense and relevant evidence, with the copies thereof in the number of requesters;

Subject qualification certificate (e.g. for a legal person registered with industry and commerce administration, copies of business license affixed with the official seal or other subject qualification certificate; for natural person, copies of both sides of ID card);

Power of attorney, if an agent is authorized.

Failure to submit the aforesaid materials on time will affect the handling of the case by the Office.

If the respondent submits a request for patent invalidation to the Patent Reexamination Board of State Intellectual Property Office, it shall submit the copies of the notice of receipt by the Patent Reexamination Board and the request for patent invalidation to the Office.

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Responsible officer:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Investigation transcript of cases of patent infringement disputes

Case No.

Cause of action						
The investigated person	Name			Sex		
	Place of work/employment			Position		
	Place of domicile			Tel		
Investigator	Name			Sex		
	Place of work/employment			Position		
	Place of domicile			Tel		
Investigator	Name			Sex		
	Place of work/employment			Position		
	Place of domicile			Tel		
Place of investigation						
Time of investigation	Starting time	(Hours) (Month)	(Minutes) (Year)	(Day)	Ending time (Hours) (Day)	(Minutes) (Month) (Year)
Transcript of investigation:						

Transcript of investigation:

The investigated person (signature or seal): \_\_\_\_\_  
\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Investigator (signature or seal): \_\_\_\_\_  
\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Investigator (signature or seal): \_\_\_\_\_  
\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Remarks:

## **Decision of taking of sampled evidence for cases of patent infringement dispute**

Case No.

\_\_\_\_\_:

In order to handle a patent infringement case, the Office has decided to take sampled evidence (see details in the List of Sampled Evidence for Cases of Patent Infringement Dispute) pursuant to Article 39 of the Measures for Administrative Enforcement of Patents.

Attached: List of Sampled Evidence for Cases of Patent Infringement Dispute

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Notes: this decision is made in two copies, one copy to be served on the evidence possessor and the other copy to be filed in the Intellectual Property Office.

## List of sampled evidence for cases of patent infringement dispute

Case No. \_\_\_\_\_

Cause of action						
Evidence possessor	Name			Legal representative (the responsible person)		
	Place of domicile			Tel		
No.	Name of sampled item of evidence	Specification/model	Quantity	Unit price	Place of preservation	Remarks
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> The evidence possessor (signature or seal) _____  _____ (Day) ____ (Month) ____ (Year) </div> <div style="width: 45%;"> The responsible officer (signature or seal): _____  _____ (Day) ____ (Month) ____ (Year) </div> </div>						
Remarks:						

Notes: this list of sampled items of evidence is made in two copies, one copy to be provided to the evidence possessor and the other copy to be filed in the Intellectual Property Office.

## Decision of registered evidence preservation for cases of patent infringement dispute

Case No.

\_\_\_\_\_:

In order to investigate and handle a patent infringement, the Office has decided to put the relevant items under registered preservation (see details in the List of Evidence Subject to Registered Preservation for Cases of Patent Infringement Dispute) as of\_\_\_\_(Hours) \_\_\_\_ (Day) (Month)\_\_\_\_(Year) pursuant to Article 40 of the Measures for Administrative Enforcement of Patents.

During the period of registered preservation, nobody may destroy or transfer any item subject to registered preservation.

Attached: List of Evidence Subject to Registered Preservation for Cases of Patent Infringement Dispute

\_\_\_\_\_Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this decision is made in two copies, one copy to be served on the evidence possessor and the other copy to be filed in the Intellectual Property Office.

**List of evidence subject to registered preservation for cases of patent infringement dispute**

Case No.

Cause of action					
The evidence possessor	Name			Legal representative (the responsible person)	
	Place of domicile			Tel	
No.	Name of item subject to registered preservation	Specification/model	Quantity	Unit price	Place of preservation

The evidence possessor (signature or seal)\_\_\_\_\_      The responsible officer (signature or seal): \_\_\_\_  
 \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)      \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Remarks:

Notes: this list of evidence subject to registered preservation is made in two copies, one copy to be provided to the evidence possessor and the other copy to be filed in the Intellectual Property Office.



**Decision of lifting registered evidence preservation for cases of patent  
infringement dispute**

Case No.

\_\_\_\_\_:

On \_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year), the Office impose the registered preservation on your items pursuant to the Decision of Registered Evidence Preservation for Cases of Patent Infringement Dispute \_\_\_\_\_ (Case No.: ).

The case is closed, and the Office therefore decides to remove the measures of registered preservation on the item(s) of evidence as of \_\_\_\_\_ (Hours) \_\_\_\_ (Day) \_\_\_\_ (Month) (Year). You shall get back your item(s) subject to registered preservation within 3 months of that date.

Attached: List of Evidence Subject to Registered Preservation for Cases of Patent Infringement Dispute

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Notes: this decision is made in two copies, one copy to be served on the evidence possessor and the other copy to be filed in the Intellectual Property Office.

**List of releasing evidence subject to registered preservation for cases of patent infringement dispute**

Case No.

Cause of action						
The evidence possessor	Name				Legal representative (the responsible person)	
	Place of domicile				Tel	
No.	Name of item subject to registered preservation	Specification/model	Quantity	Price	Place of preservation	Whether to remove the measures
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>The evidence possessor (signature or seal): _____</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">_____ (Day) _____ (Month) _____ (Year)</p> </div> <div style="width: 45%;"> <p>The responsible officer (signature or seal): _____</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">_____ (Day) _____ (Month) _____ (Year)</p> </div> </div>						
<p>Remarks:</p>						

Notes: this list of evidence relieved form registered preservation is made in two copies, one copy to be provided to the evidence possessor and the other copy to be filed in the Intellectual Property Office.

## Transcript of site inspection for cases of patent infringement dispute

Case No.

Time of investigation	_____(Hours)____(Minute) on ____ (Day)____(Month)____(Year) to _____(Hours)____(Minute) on ____ (Day)____(Month)____(Year)
Inspection site:	
Investigator	Name: Place of work/employment: Position: Name: Place of work/employment: Position:
The party concerned	Name: Identity paper/ID card number: Place of work/employment: Place of domicile: Tel:
Witness	Name: Identity paper/ID card number: Place of work/employment: Place of domicile: Tel:
Information notification	
Inspection details	
Inspector (seal)	_____(Day)____(Month)____(Year)
The party concerned or the witness (signature or seal)	_____(Day)____(Month)____(Year)

## Notice of handling suspension for cases of patent infringement dispute

Case No.

Patent number	
Title of patent	
Patentee	
Requester	
Respondent	

\_\_\_\_\_:

Considering that the respondent has submitted a request to the Patent Reexamination Board of State Intellectual Property Office for patent invalidation and the request has been received by the Patent Reexamination Board. Pursuant to Article 82 of the Detailed Rules for the Implementation of the Patent Law of the People's Republic of China, the Office has decided to suspend the handling of this case as of\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year). The time of the handling resumption is subject to further notice.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this notice is made in three copies, two copies to be served on each of the parties and the other copy to be filed in the Intellectual Property Office.

## Notice of denial of suspension request for cases of patent infringement dispute

Case No.

Patent number	
Title of patent	
Patentee	
Requester	
Respondent	

\_\_\_\_\_:

Considering that the respondent's reason(s) for the request for handling suspension is obviously not well founded, the Office has decided not to suspend the handling.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Notes: this notice is made in two copies, one copy to be served on the respondent and the other copy to be filed in the Intellectual Property Office.

## Notice of handling resumptionfor cases of patent infringement dispute

Case No.:

Patent No.	
Title of patent	
Patentee	
Requester	
Respondent	

\_\_\_\_\_:

☐ Considering that the Patent Reexamination Board of State Intellectual Property Office has decided to review the request for invalidating the patent concerned, the Office has decided to resume the handling of the case as of \_\_\_\_ (Day) \_\_ (Month) \_\_\_\_ (Year).

☐ Considering that the party concerned has withdrawn the request for invalidating the patent concerned.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Notes: this notice is made in three copies, two copies to be served on each of the parties and the other copy to be filed in the Intellectual Property Office.

## Notice of oral proceedings

Case No.

Patent number	
Title of patent	
Patentee	
Requester	
Respondent	

\_\_\_\_\_:

Pursuant to Article 16 of the Measures for Administrative Enforcement of Patents, the Office has decided to conduct the oral proceedings of the patent infringement case requested by the requester in \_\_\_\_\_ at \_\_\_\_\_ (Hours) on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) (Year).

Each of the parties shall submit its acknowledgment of oral proceedings for appearance within 3 days from receipt of this Notice. In case of refusal to attend the oral proceedings or withdrawal during the oral proceedings without a justified reason, for the requester, he shall be deemed to have withdrawn its request and for the respondent, he shall be deemed to have been absent.

The party who could not participate for good reason, shall file with the Office a 3 day prior application for change of date.

The persons attending the oral proceedings shall take the following materials with them:

1. Subject qualification certificate of the party (e.g. copy of business license affixed with the official seal of a corporation registered with industry and commerce authority; copies of both sides of identity card for natural person).

2. if one or two authorized agents attend the proceedings, they shall provide the power of attorney and the identity certificate of the authorizing party (copies of both sides of identity cards);

3. Originals of relevant evidence materials.

Attached: Acknowledgment of Oral Proceedings

\_\_\_\_\_ Intellectual Property Office (seal)

(Day) (Month) (Year)

Contact person:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Acknowledgment of oral proceedings

Case No.

\_\_\_\_\_ Intellectual Property Office:

☐ I/We will attend the oral proceedings to be held at \_\_\_\_\_ (Hours) on \_\_\_\_ (Day) (Month) \_\_\_\_ (Year).

☐ I/We will not attend the oral proceedings to be held at \_\_\_\_\_ (Hours) on \_\_\_\_ (Day) (Month) \_\_\_\_ (Year) for the following reason:

\_\_\_\_\_.

☐ I am /We are the requester to this case and the person(s) to attend the oral proceedings is/are as below:

☐ I am /We are the respondent to this case and the person(s) to attend the oral proceedings is/are as below:

Name	Place of work/employment	Position	Mobile phone:	Landline phone:

\_\_\_\_\_ (signature or seal)

\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Attached: ☐ \_\_\_\_ page(s) of \_\_\_\_ copy/copies of attendees' identity certificate, \_\_\_\_ pages in total;

☐ \_\_\_\_ page(s) of \_\_\_\_ copy/copies of power of attorney, \_\_\_\_ pages in total;

☐ \_\_\_\_ page(s) of \_\_\_\_ copy/copies of the certificate of the legal representative (the responsible person), \_\_\_\_ pages in total.



## Decision on recusal application

Case No.

Cause of action			
Recusal applicant			
Legal representative/the responsible person			
Place of domicile			
Postal code		Tel	

\_\_\_\_\_:

On \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) you filed a request with the Office to recuse the responsible officer named \_\_\_\_\_. Upon investigation and verification, the Office:

☐ holds that your cause(s) of recusal is/are well founded, and thus approve your recusal application and decides to designate \_\_\_\_\_ as the responsible officer for the case.

☐ holds that your cause(s) of recusal is/are not well founded, and thus disapprove your recusal application.

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Notes: this decision is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Transcript of oral proceedings for cases of patent infringement dispute

Case No.

Cause of action			
Time		Place	
Collegial Panel			Clerk
Requester			
Agent			
Respondent			
Agent			
The following main points of trial are entered:			
(Additional pages are permitted)			

The following main points of trial are entered:

Panel members (seals): \_\_\_\_\_  
(Year) (Day) (Month) (Year) (Day) (Month)

Requester (signature or seal): \_\_\_\_\_  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Requester's agent (signature or seal): \_\_\_\_\_  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Respondent (signature or seal): \_\_\_\_\_  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Respondent's agent (signature or seal): \_\_\_\_\_  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

## Decision of case dismissal for infringement of patent rights

Case No.

Requester:

Legal representative/the responsible person:

Place of domicile:

Agent:

Respondent:

Legal representative/the responsible person:

Place of domicile:

Agent:

Cause of action: " \_\_\_\_\_ " (Patent No.: \_\_\_\_\_) Patent Infringement  
Dispute

The requester, \_\_\_\_\_, has submitted a request to the Office for handling the patent infringement dispute with the respondent \_\_\_\_\_ with respect to the patent titled " \_\_\_\_\_ " (patent No.: \_\_\_\_\_) After the Office accepted the case on (Day)\_\_\_\_(Month)\_\_\_\_(Year), a collegial panel is established according to Article 13 of the Measures for Administrative Enforcement of Patents In the proceedings, on \_\_\_\_\_ (Day)\_\_\_\_(Month)\_\_\_\_(Year), the requester submitted a request to the Office for the withdrawal of the case for the following reason: \_\_\_\_\_. The Office holds that the requester's request for withdrawal is based on its true intention, is not in violation of relevant legal provisions and therefore shall be approved. The Office hereby decides as follows:

The Office approves the request of the requester \_\_\_\_\_ for the withdrawal of the case.

Collegial panel: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Intellectual property Office  
Mediation Agreement for Patent Infringement Disputes

Case No.

Requester:

Legal representative/the responsible person:

Place of domicile:

Agent:

Respondent:

Legal representative/the responsible person:

Place of domicile:

Agent:

Cause of action: " \_\_\_\_\_ " (Patent No.: \_\_\_\_\_) Patent Infringement  
Dispute

The requester, \_\_\_\_\_, has submitted a request to the Office for handling the patent infringement dispute with the respondent \_\_\_\_\_ with respect to the patent titled " \_\_\_\_\_ " (patent No.: \_\_\_\_\_) After the Office accepted the case on (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) \_\_\_\_\_, a collegial panel was established according to Article 13 of the Measures for Administrative Enforcement of Patents. In the proceedings of the case, on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year), the requester and the respondent reached a mediation agreement under the direction of the Office. The contents of the agreement are as follows:

1.....

2.....

.....

This Mediation Agreement shall come into force from the date on which both the requester and the respondent signs or affixes seals thereupon and shall be made in copies, with the requester and the respondent holding one copy each and the Office keeping one copy.

Requester (signature or seal):                      Respondent (signature or seal):  
\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)    \_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Lead panel member: \_\_\_\_\_  
Panel member: \_\_\_\_\_  
Panel member: \_\_\_\_\_

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Clerk: \_\_\_\_\_

### Handling decision on cases of patent infringement dispute

Case No. \_\_\_\_\_

Requester:

Legal representative/the responsible person:

Place of domicile:

Agent:

Respondent:

Legal representative/the responsible person:

Place of domicile:

Agent:

Cause of action: " \_\_\_\_\_ " (Patent No.: \_\_\_\_\_) Patent Infringement Dispute

The requester, \_\_\_\_\_, has submitted a request to the Office for handling the patent infringement dispute with the respondent \_\_\_\_\_ with respect to the patent titled " \_\_\_\_\_ " (patent No.: \_\_\_\_\_). After the Office accepted the case on (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year), a collegial panel is established according to Article 13 of the Measures for Administrative Enforcement of Patents. The oral proceedings were conducted on (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year). The requester \_\_\_\_\_, the requester's agent \_\_\_\_\_ and the respondent \_\_\_\_\_, the respondent's agent \_\_\_\_\_ attended the oral proceedings. Now the case has been concluded.

The requester \_\_\_\_\_ argued that:

The respondent \_\_\_\_\_ contended that:

It's found that:

1.....

2.....

The above facts are corroborated by \_\_\_\_\_ and \_\_\_\_\_, among others.

The Office holds that:

1.....

2.....

.....

To sum up, pursuant to Article \_\_\_\_\_ of the Patent Law of the People's Republic of China, Rule \_\_\_\_\_ of the Detailed Rules for the Implementation of the Patent Law of the People's Republic of China and Article \_\_\_\_\_ of the Measures for Administrative

Enforcement of Patents, the Office has decided as follows:

1.....

2.....

.....

.If the party concerned does not accept this handling decision, it may bring a lawsuit with the People's Court of \_\_\_\_\_ pursuant to Article 60 of the Patent Law of the People's Republic of China within 15days from receipt of this handling decision. If the party concerned neither brings a lawsuit nor perform this handling decision, the Office shall apply to the People's Court for coercive execution.

Lead panel member: \_\_\_\_\_

Panel member: \_\_\_\_\_

Panel member: \_\_\_\_\_

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)



Clerk: \_\_\_\_\_

### Acknowledgment of service

Case No. \_\_\_\_\_

Served from	
Title and total pages of process	
Recipient of process	
Agent and agency	
Address for service	
Manner of service	<input type="checkbox"/> By mail <input type="checkbox"/> Personal service <input type="checkbox"/> Depository service
Signature or seal of recipient	_____(Day)____(Month)____(Year)
Signature or seal of process server	_____(Day)____(Month)____(Year)
Remarks	
Instructions for completion	<p>1. If a person receives the instrument on behalf of the served, it shall sign his/her name or stamp his/her seal in the "Recipient" column and indicate the relationship with the served in the "Remarks" column.</p> <p>2. If the document is served by post, the served or its agent shall fill in this acknowledgment of service and send it back to the Office within 3 days after it receives the instrument.</p> <p>Contact person:</p> <p>Contact phone:</p> <p>Address of the Office:</p> <p>Postal code:</p>

## **Application for coercive execution of handling decisions on patent infringement disputes**

Case No.

\_\_\_\_\_ People's court:

On \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year), the Office made a handling decision on cases of patent infringement dispute. Within 15 days from receipt of the notice, the respondent neither brought a lawsuit with the People's Court nor ceased the patent infringement. Pursuant to Article 60 of the Patent Law of the People's Republic of China, it is hereby to apply for the coercive execution of the decision.

Attached: Copy of the Handling Decision on cases of patent infringement dispute

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this application is made in two copies, one copy to be served on the People's Court and the other copy to be filed in the Intellectual Property Office.

## Notice of amendment/correction for patent infringement disputes

Case No.

\_\_\_\_\_:

It is hereby to correct the following errors in the handling decision on the patent infringement disputes made by the Office on \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year).

.

Attached: Copy of the Corrected Handling Decision on Patent Infringement Disputes

\_\_\_\_\_Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this application is made in three copies, two copies to be served on each of the parties and the other copy to be filed in the Intellectual Property Office.

## **Application for coercive execution of handling decisions on patent infringement disputes**

\_\_\_\_\_ People's court:

The Office has made the handling decision on the No. \_\_\_\_\_ patent infringement dispute on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) and ordered the respondent to cease the infringement. The handling decision has been served on the respondent on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year).

The Office has found that within 15 days from receipt of the handling decision, the respondent neither brought an administrative lawsuit with the People's Court nor ceased the patent infringement as required in the handling decision. Pursuant to Article 60 of the Patent Law of the People's Republic of China, coercive execution of the decision is hereby applied.

Requester (signature or seal): \_\_\_\_\_

\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

## **II. Forms for patent infringement cases (for internal use by IP Offices)**

### Approval form of case acceptance for patent infringement disputes

Case No.

Patent number	
Title of patent	
Patentee	
Requester	
Respondent	
Brief description of case	
Suggestions of responsible officer	Signature: _____(Day)____(Month)____(Year)
Reviews of division/section head	Signature: _____(Day)____(Month)____(Year)
Instructions of Office executive	Signature: _____(Day)____(Month)____(Year)

## Approval form of investigation and evidence collection for patent infringement disputes

Case No.

Patent number	
Title of patent	
Patentee	
Requester	
The investigated party	
Issues under application and reasons for the issues	
Suggestions of responsible officer	Signature: _____(Day)____(Month)____(Year)
Reviews of division/section head	Signature: _____(Day)____(Month)____(Year)
Instructions of Office executive	Signature: _____(Day)____(Month)____(Year)

**Approval form of registered evidence preservation for cases of patent  
infringement dispute**

Case No.

Cause of action	
The evidence possessor	
Issues under application and reasons for the issues	
Suggestions of responsible officer	Signature: _____(Day)____(Month)____(Year)
Reviews of division/section head	Signature: _____(Day)____(Month)____(Year)
Instructions of Office executive	Signature: _____(Day)____(Month)____(Year)



**Transcript of deliberations for cases of patent infringement dispute**

Case No.

Patent number			
Title of patent			
Patentee			
Panel members			
Clerk		Time	
Transcript of deliberations:			

Panel members (signatures): \_\_\_\_\_

(Month) (Year) \_\_\_\_\_

(Day) (Month) (Year)

(Day)

## Letter of engagement for technical appraisal

Case No.

:

The Office needs the technical appraisal of \_\_\_\_\_, and you are hereby engaged to conduct the appraisal in accordance with the following requirements:

1.....

2.....

.....

Please complete the appraisal before \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year), and submit the appraisal conclusion in \_\_\_\_\_ copies to the Office.

It is hereby to engage you.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Contact person:

Contact phone:

Address of the Office:

Postal code:

## Approval form of case closing for patent infringement disputes

Case No.

Patent number	
Title of patent	
Patentee	
Requester	
Respondent	
Brief description of case	
Opinions of collegial panel	Signature: _____(Day)____(Month)____(Year)
Reviews of division/section head	Signature: _____(Day)____(Month)____(Year)
Instructions of Office executive	Signature: _____(Day)____(Month)____(Year)

### **III. Forms for patent infringement cases (for use by a party concerned)**

### Request for handling patent infringement disputes

Patent number				
Title of patent				
Patentee				
Requester	Name		Legal representative (the responsible person)	
	Place of domicile			
	Postal code		Tel	
	Name of agent		Place of work/employment	
	Place of domicile			
	Postal code		Tel	
	Name of agent		Place of work/employment	
	Place of domicile			
	Postal code		Tel	
Respondent	Name			
	Place of domicile			
	Postal code		Tel	
<div style="text-align: center; margin-bottom: 10px;">Issues to be handled under the request</div>				

Facts and reasons:

Requester (signature or seal):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

### **List of evidential materials submitted by a party**

Number of patent/ patent application:

Submitter (signature or seal): \_\_\_\_\_

No.	Title of evidential material	Facts to be described	Total pages	Remarks

Recipient (signature or seal): \_\_\_\_\_

Date of receipt: \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: the list is made in two copies, one copy to be submitted to the Intellectual Property Office and the other copy to be kept by the submitter.

### **Power of attorney for patent disputes**

Authorizing party (entity or individual):

Legal representative/the responsible person:

Position :

Agent: Name:

Place of work/employment:

Position:

Name:

Place of work/employment:

Position:

The agent is hereby authorized to act on our/my behalf in the case of .

Scope of authorization of the agent \_\_\_\_\_:

Scope of authorization for the agent \_\_\_\_\_:

(Note: Scope of authorization for the agent shall include submission and acceptance of legal instruments, defense, statements, participation in oral proceedings, mediation, request submission, and change or waiver of claims)

Authorizing party (signature or  
seal):

Legal representative/the  
responsible person (signature or seal):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)



## Observations

Case No.

Number of patent/patent application	
Title of patent/patent application	
Patentee/patent applicant	
Observations by	

Observations:

Observations by (signature or seal): \_\_\_\_\_

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

## Application for handling suspension in cases of patent infringement dispute

Case No.

Patent number	
Title of patent	
Patentee	
Requester for the suspension of handling	

\_\_\_\_\_ Intellectual Property Office:

With respect to the request made by the requester \_\_\_\_\_ for the handling a patent infringement dispute, I (We) have submitted the request to the Patent Reexamination Board of State Intellectual Property Office for patent invalidation and the request has been receipted by the Patent Reexamination Board. Pursuant to Rule 82 of the Detailed Rules for the Implementation of the Patent Law of the People's Republic of China, it is hereby to request the Office to suspend the handling of the case.

Requester for the suspension of handling (signature or seal): \_\_\_\_\_

\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

## Request for evidence investigation and collection in patent infringement disputes

Case No.

Name of the investigated party	
Domicile of the investigated party	
Contents of the evidence to be investigated and collected and the facts to be proven	
Place of the storage of evidence	
Reasons for application	
	<p>Requester: _____(signature or seal) _____(Day)____(Month)____(Year)</p>

## **Application for withdrawal of request for handling patent infringement disputes**

\_\_\_\_\_ Intellectual Property Office:

I am (we are) the requester to the case of \_\_\_\_\_ (case No.: \_\_\_\_\_) and hereby request for the withdrawal of the request of handling the case for the following reason:

☐ A mediation or settlement agreement with the party concerned has been reached;

☐ With respect to the dispute, a lawsuit has been filed with the People's Court or a request has been filed with and received by another administrative department of patents;

☐ Other reasons: \_\_\_\_\_.

Your approval is highly appreciated.

Attached: ☐ Mediation or settlement agreement;

☐ Notice of case acceptance by the People's Court or notice of receipt by another administrative department of patents

☐ Other evidential materials.

Requester: \_\_\_\_\_ (signature or seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

## Settlement agreement for patent infringement disputes

Party A (right holder):

Legal representative/the responsible person:

Place of domicile:

Agent and agency

Party B:

Legal representative/the responsible person:

Place of domicile:

Agent and agency

Party A \_\_\_\_\_ has agreed with Party B on the patent infringement dispute over the patent titled "\_\_\_\_\_" (patent number: \_\_\_\_\_), and the parties voluntarily reach the following settlement agreement:

1.....

2.....

.....

This settlement agreement shall come into force from the date on which both parties sign and affix their seals upon and it is made in \_\_\_\_\_ copies, with each party holding one copy and \_\_\_\_\_ Intellectual property Office keeping one copy.

Party A (seal): \_\_\_\_\_  
(seal): \_\_\_\_\_  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)  
(Month)\_\_\_\_(Year)

Party B  
\_\_\_\_\_(Day)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

## **Request for coercive execution of handling decisions on patent infringement disputes**

Case No. \_\_\_\_\_

\_\_\_\_\_ Intellectual Property Office:

On \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year), the Office made the handling decision on the patent infringement dispute with respect to the patent No. \_\_\_\_\_. I (we) have found that, within 15 days from receipt of the notice, the respondent neither brought a lawsuit with the People's Court nor ceased the patent infringement. Pursuant to Article 60 of the Patent Law of the People's Republic of China, it is hereby to request you to apply to the People's Court for the coercive execution of the decision.

Requester (signature or seal): \_\_\_\_\_

\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

**Annex II. Forms for investigation and handling of cases of patent  
passing-offs**

**I. Forms for investigation and handling of cases of patent passing-offs  
(for handling by IP offices)**



## Notice of accepting a case for a patent passing-off

Case No.:

Suspected law breaker	Name		Sex		Age	
	Name				Legal representative (the responsible person)	
	Place of domicile				Tel:	
Place of incident					Time of occurrence	
Involved product					Involved patent number	
Involved illegal act						

\_\_\_\_\_:

Pursuant to Article 84 of the Detailed Rules for the Implementation of the Patent Law of the People's Republic of China, you (this entity) are suspected of patent passing-off for your above act. The Intellectual Property Office has decided to accept this case for investigation. Your statement and defense, if any, shall be submitted to the Intellectual Property Office upon receipt of this Notice.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
 \_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Responsible officer:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

### Notice of not accepting a case for a reported suspected patent passing-off

Time of reporting		Manner of reporting	
Informer		Contact address	
		Contact phone	
		Email:	
Alleged wrongdoer			
Address of alleged wrongdoer			
Complaints			

\_\_\_\_\_:

After the investigation and verification by the Intellectual Property Office, the above suspected patent passing-off reported by you (this entity) does not constitute a patent passing-off under Article 84 of the Detailed Rules for the Implementation of the Patent Law of the People's Republic of China. The reasons are as follows:

1.

2.

.....

Therefore, the Intellectual Property Office has decided not to accept a case for your report. If there is disagreement or a new violation, you may report to the Intellectual Property Office again.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
 \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Responsible officer:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Notice of assistance in investigation

Case No.:

\_\_\_\_\_:

For \_\_\_\_\_ the \_\_\_\_\_ reason \_\_\_\_\_ that  
, you (your person in charge) are requested to be present at \_\_\_\_\_ to assist the investigation at  
(Hour) on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month). Please bring along with you the following  
documents:

1. ID card
2. Copy (sealed with the enterprise's common seal) of the duplicate of the enterprise  
business license or other certificate as to the status of this entity
3. Identity certificate of the legal representative/the responsible person
4. Power of attorney if the person coming is an authorized agent
- 5.....  
.....

If you (your person in charge) is unable to come for a justified reason, you (your person in  
charge) shall apply 3 days in advance for rescheduling.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Contact person:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and  
the other copy to be filed in the Intellectual Property Office.

## Notice of providing evidence and accepting investigation within the specified time

Case No.:

\_\_\_\_\_:

The Intellectual Property Office has filed a case for investigation because you are suspected of . Pursuant to Article 64 of the Patent Law of the People's Republic of China and Article 37 of the Administrative Sanction Law of the People's Republic of China, you are obliged to accept inquiries, assist in the investigation and provide evidence. It is hereby to notify you that you shall come to the Intellectual Property Office to accept inquiries and assist in investigation within 7 days upon receipt of this Notice. You shall bring the following certificates, materials and documents:

1. ID card
2. copy of the duplicate of the business license
3. Identity certificate of the legal representative/the responsible person
4. power of attorney if the person coming is an authorized agent
- 5.....
- .....

If you fail to accept inquiries and assist in investigation within the specified time, you shall bear the relevant legal responsibilities and adverse legal consequences.

The above notice is hereby given.

\_\_\_\_\_Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Contact person:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Transcript of the investigation into a patent passing-off case

Case No.:

Cause of action				
The investigated person	Name		Sex	
	Place of work/employment		Position	
	Place of domicile		Tel	
Investigator	Name		Sex	
	Place of work/employment		Position	
	Place of domicile		Tel	
Investigator	Name		Sex	
	Place of work/employment		Position	
	Place of domicile		Tel	
Place of investigation				
Time of investigation	(Hour) (Hour)	(Minute) on (Minute) on	(Day) (Day)	(Month), (Month), (Year) to (Year)
<p style="text-align: center;">Transcript of investigation:</p>				

Transcript of investigation:

The investigated person (signature or seal):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Investigator (signature or seal):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Investigator (signature or seal):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Remarks:

Case No.:

**Decision on evidence sampling in a patent passing-off case**

Case No.:

\_\_\_\_\_:

In order to investigate and punish a patent passing-off, the Intellectual Property Office has decided to sample relevant items of evidence (see details in the List of Sampled Items of Evidence in a Patent Passing-off Case) pursuant to Article 39 of the Measures for Administrative Enforcement of Patents.

Annex: List of Sampled Items of Evidence in a Patent Passing-off Case

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this decision is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

### List of sampled items of evidence in a patent passing-off case

Case No.:

Cause of action					
Evidence possessor	Name		Legal representative (the responsible person)		
	Place of domicile		Tel		
No.	Name of sampled item of evidence	Specification/model	Quantity	Unit price	Remarks

The party concerned (signature or seal)\_\_\_\_\_

\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

The responsible officer (signature or seal):

\_\_\_\_\_

\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

The responsible officer (signature or seal):

\_\_\_\_\_

\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Remarks:

Notes: this list of sampled items of evidence is made in two copies, one copy to be provided to the evidence possessor and the other copy to be filed in the Intellectual Property Office.



## Notice of evidence registration and preservation in a patent passing-off case

Case No.:

\_\_\_\_\_:

In order to investigate and punish a patent passing-off, the Intellectual Property Office has decided to register the relevant preserved items (see details in the List of Sampled Items of Evidence in a Patent Passing-off Case) from \_\_\_\_\_ (Hour) on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) pursuant to Article 40 of the Measures for Administrative Enforcement of Patents.

The Intellectual Property Office will make the decision on the treatment of the items within 7 days from the above date.

During the period of registered preservation, nobody may destroy or transfer any item subject to registered preservation.

Annex: List of Registered Preserved Items of Evidence in a Patent Passing-off Case

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## List of registered preserved items of evidence in a patent passing-off case

Case No.:

Cause of action					
The evidence possessor	Name		Legal representative (the responsible person)		
	Place of domicile		Tel		
No.	Name of item subject to registered preservation	Specification/model	Quantity	Price	Place of preservation

The party concerned (signature or seal)\_\_\_\_\_      The responsible officer (signature or seal):  
 \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)      \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

The responsible officer (signature or seal): \_\_\_\_\_  
 \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Remarks:

Notes: this list of evidence subject to registered preservation is made in two copies, one copy to be provided to the evidence possessor and the other copy to be filed in the Intellectual Property Office.

**Decision on the lifting of the registered preservation of the items of evidence in a patent passing-off case**

Case No.:

\_\_\_\_\_:

On (Day) (Month), (Year), the Intellectual Property Office carried out the registered preservation your relevant items pursuant to the Decision on the Registered Preservation of the Items of Evidence in a Patent Passing-off Case (Case No.: ).

The case is closed, and the Office therefore decides to remove the measures of registered preservation on the item(s) of evidence as of \_\_\_\_\_(Hours)\_\_\_\_(Day)\_\_\_\_(Month) (Year). You shall get back your item(s) subject to registered preservation within 3 months of that date.

Annex: List of Items of Evidence Released from Registered Preserved in a Patent Passing-off Case

\_\_\_\_\_Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this decision is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

**List of items of evidence released from registered preserved in a patent passing-off case**

Case No.:

Cause of action					
The evidence possessor	Name			Legal representative (the responsible person)	
	Place of domicile			Tel	
No.	Name of item subject to registered preservation	Specification/model	Quantity	Price	Whether to remove the measures
<div style="display: flex; justify-content: space-between;"> <div> <p>The party concerned (signature or seal) _____</p> <p>officer (signature or seal): _____</p> <p>_____ (Day) ____ (Month) ____ (Year)</p> </div> <div> <p>The responsible _____</p> <p>_____ (Day) ____ (Month) ____ (Year)</p> </div> </div> <div style="margin-top: 10px;"> <p style="text-align: center;">The responsible officer (signature or seal): _____</p> <p style="text-align: center;">_____ (Day) ____ (Month) ____ (Year)</p> </div>					
<p style="text-align: center;">Remarks:</p>					

Notes: this list of items of evidence subject to registered preservation is made in two copies, one copy to be provided to the registered preserver and the other copy to be filed in the Intellectual Property Office.

## Seal-up or detention decision

Case No.:

\_\_\_\_\_:

Upon investigation, it is found that you are suspected of . Pursuant to Article 64 of the Patent Law, the Intellectual Property Office has decided to implement the administrative coercive measure (seal-up, detention) against your relevant items (see details in the List of Sealed-up (Detained) Items, Case No.: \_\_\_\_\_) from \_\_\_\_\_ (Hour) on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month), \_\_\_\_\_ (Year) to \_\_\_\_\_ (Hour) on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month), \_\_\_\_\_ (Year).

During the seal-up or detention period, no entity or individual shall conceal, transfer, sell or damage the sealed-up or detained items without the approval of the Intellectual Property Office.

If you refuse to accept this administrative coercive measure, within 60 days upon receipt hereof, you may apply to \_\_\_\_\_ for an administrative reconsideration; or within 3 months upon receipt hereof, you may bring a lawsuit with the People's Court of \_\_\_\_\_.

The execution of this seal-up or detention decision shall not be ceased during an administrative reconsideration or an administrative lawsuit.

Attached: List of Sealed-up (Detained) Items

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Notes: this decision is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

### List of sealed-up (detained) items

Case No.:

Cause of action					
The party subject to seal-up or detention	Name		Legal representative (the responsible person)		
	Place of domicile		Tel		
No.	Name of item sealed or seized	Specification/model	Quantity	Price	Place of seal-up (detention)
<div style="display: flex; justify-content: space-between;"> <div> <p>The party subject to seal-up or detention (signature or seal):</p> <p>_____</p> <p>_____(Day)____(Month)____(Year)</p> </div> <div> <p>The party executing seal-up or detention (signature or seal):</p> <p>_____</p> <p>_____(Day)____(Month)____(Year)</p> </div> </div> <div style="text-align: center; margin-top: 10px;"> <p>The party executing seal-up or detention (signature or seal):</p> <p>_____</p> <p>_____(Day)____(Month)____(Year)</p> </div>					
<p style="text-align: center;">Remarks:</p>					

Note: The List of Sealed-up or Detained Items is made in three copies, one copy to be served to the party subject to seal-up or detention, one copy to be hold by the keeper and the other copy to be filed with the intellectual property office.

## Decision on the lifting of seal-up or detention decision

Case No.:

\_\_\_\_\_:

On \_\_\_\_\_ (Day) \_\_\_\_\_ (Month), \_\_\_\_\_ (Year), The Intellectual Property Office implemented the administrative coercive measure against your relevant items pursuant to the Seal-up or Detention Decision (Case No.: \_\_\_\_\_). Now the Intellectual Property Office decides to lift the seal-up or detention of the sealed-up or detained items

☐ in whole

☐ in part (see details in the List of the Items Released from Seal-up or Detention (Case No.: \_\_\_\_\_))

from \_\_\_\_\_ (Hour) on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month), \_\_\_\_\_ (Year).

You shall collect the returned items within \_\_\_\_\_ months. If the returned items are not collected within the aforesaid period, the items shall be auctioned, sold or otherwise disposed of in accordance with relevant regulations.

Attached: List of the Items Whose Seal-up or Detention Is to Be Lifted

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Contact person:

Contact phone:

Address of the Office:

Postal code:

Notes: this decision is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

### List of the items released from seal-up or detention

Case No.:

Cause of action					
The party subject to seal-up or detention	Name		Legal representative (the responsible person)		
	Place of domicile		Tel		
No.	Name of item sealed or seized	Specification/model	Quantity	Price	Whether to remove the measures
Remarks:					
<div style="margin-bottom: 10px;">_____ Intellectual Property Office (seal)</div> <div>_____ (Day) ____ (Month) ____ (Year)</div>					

Note: The List of the Items Released from Seal-up or Detention is made in three copies, one copy to be served to the party subject to seal-up or detention, one copy to be hold by the keeper and the other copy to be filed with the intellectual property office.



## Notice before sanction

Case No.:

The notified party			
Legal representative/the responsible person			
Place of domicile			
Postal code		Tel	

\_\_\_\_\_:

The Intellectual Property Office has completed the investigation into the case of . Pursuant to Article 31 of the Administrative Sanction Law of the People's Republic of China and Article 32 of the Measures for Administrative Enforcement of Patents, it is hereby to notify you of the facts, reasons and basis for the to-be-imposed administrative sanction.

Your following act:

has constituted a patent passing-off under Article 84 of the Rules for the Implementation of the Patent Law of the People's Republic of China.

Pursuant to Article 63 and Article 64 of the Patent Law of the People's Republic of China, the Intellectual Property Office plans to impose the following administrative sanction on you:

Pursuant to Article 32 of the Administrative Sanction Law of the People's Republic of China and Article 33 of the Measures for Administrative Enforcement of Patents, you have the right to make the statement and defense in respect of the aforesaid to-be-imposed administrative sanction.

Your statement and defense, if any, shall be submitted to the Intellectual Property Office within 5 days upon receipt of this Notice.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Responsible officer:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

### Notice of hearing before sanction

Case No.:

The notified party			
Legal representative/the responsible person			
Place of domicile			
Postal code		Tel	

\_\_\_\_\_:

The Intellectual Property Office has completed the investigation into the case of . Pursuant to Article 31 of the Administrative Sanction Law of the People's Republic of China and Article 32 of the Measures for Administrative Enforcement of Patents, it is hereby to notify you of the facts, reasons and basis for the to-be-imposed administrative sanction.

Your following act:

has constituted a patent passing-off under Article 84 of the Rules for the Implementation of the Patent Law of the People's Republic of China.

Pursuant to Article 63 and Article 64 of the Patent Law of the People's Republic of China, the Intellectual Property Office plans to impose the following administrative sanction on you:

Pursuant to Article 32 and Article 42 of the Administrative Sanction Law of the People's Republic of China and Article 32 and Article 33 of the Measures for Administrative Enforcement of Patents, you have the right to make the statement and defense and request hearing in respect of the aforesaid to-be-imposed administrative sanction.

Your statement and defense, if any, shall be submitted to the Intellectual Property Office within 5 days after you receive this Notice.

Your application for hearing shall be submitted to the Intellectual Property Office within 3 days upon receipt of this Notice. Your failure to apply within the aforesaid time limit shall constitute your waiver of your right to request a hearing.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Responsible officer:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Notice of hearing for a patent passing-off case

Case No.:

The notified party			
Legal representative/the responsible person			
Place of domicile			
Postal code		Tel	

\_\_\_\_\_:

At your request, the Intellectual Property Office has decided to hear the case of  
in  
at \_\_\_\_\_ (Hour) \_\_\_\_\_ (Minute) on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month).

Your receipt of this Notice shall be submitted to the Intellectual Property Office within 3 days upon receipt of this Notice. If you refuse to attend the hearing or does not attend the hearing at the specified time without a justified reason, you shall be deemed to have waived the hearing.

The party who could not participate for good reason, shall file with the Office a 3 day prior application for change of date.

A hearing attendee shall bring the following materials:

1. Subject qualification certificate of the party (e.g. copy of business license affixed with the official seal of a corporation registered with industry and commerce authority; copies of both sides of identity card for natural person).

2. If one or two agents attend the proceedings, they shall provide the power of attorney and the identity certificate of the authorizing party (copies of both sides of identity cards);

3. Relevant evidential materials.

\_\_\_\_\_The Intellectual Property Office  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Contact person:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

### Receipt of the notice of hearing for a patent passing-off case

Case No.:

\_\_\_\_\_ Intellectual Property Office:

☐ I am (we are) unable to attend the hearing held at \_\_\_\_\_ (Hour) \_\_\_\_ (Day) (Month), \_\_\_\_ (Year) for the following reason:

☐ I am (we are) able to attend the hearing held at \_\_\_\_\_ (Hour) \_\_\_\_ (Day) (Month), \_\_\_\_ (Year), and the attendee(s) will be:

Name	Place of work/employment	Position	Mobile phone:	Landline phone:

\_\_\_\_\_ (signature or seal)

\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

**Notice of not accepting the application for the hearing for a patent passing-off case**

Case No.:

Cause of action			
Applicant of hearing			
Legal representative/the responsible person			
Place of domicile			
Postal code		Tel	

\_\_\_\_\_:

After the review of the applicant's request for hearing, the Intellectual Property Office deems that:

- ☐ this case does not fall in the scope of hearing set out in the Administrative Sanction Law of the People's Republic of China.
- ☐ the application is submitted beyond the statutory time limit.

Pursuant to Article 42 of the Administrative Sanction Law of the People's Republic of China, the Intellectual Property Office has decided not to accept your application.

The above notice is hereby given.

\_\_\_\_\_Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

### Decision on recusal application

Case No.

Cause of action			
Recusal applicant			
Legal representative/the responsible person			
Place of domicile			
Postal code		Tel	

•

On \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year) you filed a request with the Office to recuse the responsible officer named \_\_\_\_\_. Upon investigation and verification, the Office:

☐ holds that your cause(s) of recusal is/are well founded, and thus approve your recusal application and decides to designate \_\_\_\_\_ as the responsible officer for the case.

☐ holds that your cause(s) of recusal is/are not well founded, and thus disapprove your recusal application.

\_\_\_\_\_ Intellectual Property Office (seal)  
 \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Notes: this decision is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.



## Transcript of the hearing for a patent passing-off case

Case No.:

Cause of action					
Time of hearing		(Hour) (Year) to	(Minute) on (Hour) (Month),	(Day) (Minute) on (Year)	(Month), (Day)
Place of hearing					
Manner of hearing		<input type="checkbox"/> public <input type="checkbox"/> not public			
Matters for hearing					
Hearing Moderator	Name		Position		
	Place of work/employment				
Hearing official	Name		Position		
	Place of work/employment				
Clerk	Name		Position		
	Place of work/employment				
Case investigator	Name		Position		
	Place of work/employment				
Applicant of hearing	Name		Legal representative (the responsible person)		
	Place of domicile		Tel		
Agent	Name		Institution		
	Place of domicile		Tel		
<p>Transcript of hearing:</p>					

Transcript of hearing:

Hearing Moderator (signature or seal):  
(Month)\_\_\_\_(Year)

Date: \_\_\_\_\_(Day)

Hearing officer (signature or seal):  
(Month)\_\_\_\_(Year)

Date: \_\_\_\_\_(Day)

Case investigator (signature or seal):  
(Month)\_\_\_\_(Year)

Date: \_\_\_\_\_(Day)

Hearing applicant (signature or seal):  
(Month)\_\_\_\_(Year)

Date: \_\_\_\_\_(Day)

Authorized agent (signature or seal):  
(Month)\_\_\_\_(Year)

Date: \_\_\_\_\_(Day)

## Notice of ordered correction

Case No.:

Party to be punished			
Legal representative/the responsible person			
Place of domicile			
Postal code		Tel	

\_\_\_\_\_:

On \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year), the Intellectual Property Office found \_\_\_\_\_ was marked on the product sold by you. According to the investigation, your act of \_\_\_\_\_ has constituted a patent passing-off under Article 84 of the Detailed Rules for the Implementation of the Patent Law of the People's Republic of China. Pursuant to Article 63 of the Patent Law of the People's Republic of China and Article 45 of the Measures for Administrative Enforcement of Patents, it is hereby to order you to \_\_\_\_\_.

If you refuse to accept the ordered correction, within 60 days upon receipt hereof, you may apply to \_\_\_\_\_ for an administrative reconsideration; or within 3 months upon receipt hereof, you may bring a lawsuit with the People's Court of \_\_\_\_\_.

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Responsible officer:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

### Administrative sanction decision

Case No.:

The party to be punished	Name		Legal representative (the responsible person)	
	Postal code		Tel	
	Place of domicile			

Established facts of illegal conduct(s):

The above act has constituted a patent passing-off under Article 84 of the Rules for the Implementation of the Patent Law of the People's Republic of China.

Pursuant to Article 63 and Article 64 of the Patent Law of the People's Republic of China, the Intellectual Property Office has decided to impose the following administrative sanction on you:

Within 15 days upon receipt of this Decision, you shall pay the fine to:

\_\_\_\_\_ Bank

\_\_\_\_\_ Account No.

If you fail to pay the fine within the above time limit, an additional fine at the rate of 3% of the amount of the fine per day shall be imposed on you.

If you refuse to accept this Decision, within 60 days upon receipt hereof, you may apply to for an administrative reconsideration; or within 3 months upon receipt hereof, you may bring a lawsuit with the People's Court of \_\_\_\_\_.

This Decision shall become legally effective once it is served. If the party concerned brings an administrative lawsuit or applies for an administrative reconsideration, the execution of this Decision shall not be affected during the administrative lawsuit or the administrative reconsideration; if the party concerned neither brings an administrative lawsuit or applies for an administrative reconsideration nor acts in compliance with this Decision, the Intellectual Property Office will apply to the People's Court for enforcement.

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

## Notice of case dismissal

Case No.:

Notified party			
Legal representative/the responsible person			
Place of domicile			
Postal code		Tel	

\_\_\_\_\_:

The Intellectual Property Office has completed the investigation into the case of \_\_\_\_\_, and found that the act involved in the case does not constitute a patent passing-off under Article 84 of the Rules for the Implementation of the Patent Law of the People's Republic of China. It is hereby to dismiss the case.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Responsible officer:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Decision on not imposing the administrative sanction

Case No.:

The party Investigated and punished	Name		Legal representative (the responsible person)	
	Postal code		Tel	
	Place of domicile			

Established facts of illegal conduct(s):

The above act has constituted a patent passing-off under Article 84 of the Detailed Rules for the Implementation of the Patent Law of the People's Republic of China, but considering that the illegal act is light, has been timely corrected and has not caused serious consequences, pursuant to Article 38 of the Administrative Sanction Law of the People's Republic of China, Article 63 of the Patent Law of the People's Republic of China and Article 84 of the Detailed Rules for the Implementation of the Patent Law of the People's Republic of China, the Intellectual Property Office has decided not to impose the administrative sanction.

If you refuse to accept this Decision, within 60 days upon receipt hereof, you may apply to for an administrative reconsideration; or within 3 months upon receipt hereof, you may bring a lawsuit with the People's Court of \_\_\_\_\_.

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)



## Fine payment notice

Case No.:

\_\_\_\_\_:

On \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year), the Intellectual Property Office issued the administrative sanction decision for No. \_\_\_\_\_ case, requiring you to pay the fine to the collecting agency by \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year). But you hasn't acted in compliance with the Decision. It is hereby to require you to pay the fine and the amount imposed additionally to the collecting agency immediately upon receipt of this Notice.

If you still fail to pay the fine after the expiry of the time limits for raising an administrative lawsuit and an administrative reconsideration, the Intellectual Property Office will apply to the People's Court for enforcement.

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

### Form of approval of fine payment deference (by installment)

Case No.:

\_\_\_\_\_:

\_\_\_\_\_ On \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year), the Intellectual Property Office issued the administrative sanction decision for No. \_\_\_\_\_ case, imposing the fine of RMB \_\_\_\_\_ yuan on you. Upon your application, pursuant to Article 52 of the Administrative Sanction Law of the People's Republic of China, the Intellectual Property Office approves that you may:

☐ defer the fine payment to \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year).

☐ pay the fine by installment Pay the fine of RMB \_\_\_\_\_ yuan as the No. \_\_\_\_\_ installment by \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year). By then, there is outstanding fine of RMB \_\_\_\_\_ yuan to be paid by \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year).

The collecting agency shall complete the collection procedures based on this Form of Approval.

If you fail to pay the fine on time, the fine shall increase by three percent of the fine amount for each day pursuant to Article 51.1 of the Administrative Sanction Law of the People's Republic of China. The additionally imposed fine shall be directly paid to the collecting agency.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Notice of ordered correction of the non-normative patent marking

Case No.:

The party to make corrections		Legal representative/the responsible person	
Place of domicile			
Postal code		Tel	
Type of suspected non-normative patent marking	<input type="checkbox"/> 1. without indicating the patent right category in Chinese; <input type="checkbox"/> 2. without indicating the patent number granted by the State Intellectual Property Office; <input type="checkbox"/> 3. the additional text, graphics and marking methods are misleading to the public; <input type="checkbox"/> 4. printing the patent mark on the products directly obtained from the patented method, on the packages of such products or in the manuals of such products, but not indicating in Chinese that the products are obtained from the patented method; <input type="checkbox"/> 5. printing the patent mark on products, on the packages of such products or in the manuals of such products before the patent is granted, but without indicating the patent application category and the patent application number in Chinese, or without indicating "patent application, not granted yet".		

\_\_\_\_\_:

On \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) and in \_\_\_\_\_, the Intellectual Property Office found that you \_\_\_\_\_. After the investigation and verification, your above act is in violation of Article \_\_\_\_\_ of the Regulations on Patent Marking, and it is hereby to order you to \_\_\_\_\_.

If you refuse to accept the ordered correction, within 60 days upon receipt hereof, you may apply to \_\_\_\_\_ for an administrative reconsideration; or within 3 months upon receipt hereof, you may bring a lawsuit with the People's Court of \_\_\_\_\_.

\_\_\_\_\_ Intellectual Property Office (seal)  
 \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Responsible officer:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Acknowledgment of service

Case No. \_\_\_\_\_

Served from	
Title and total pages of process	
Recipient of process	
Agent and agency	
Address for service	
Manner of service	<input type="checkbox"/> By mail <input type="checkbox"/> Personal service <input type="checkbox"/> Depository service
Signature or seal of recipient	_____(Day)____(Month)____(Year)
Signature or seal of process server	_____(Day)____(Month)____(Year)
Remarks	
Instructions for completion	<p>1. If a person receives the instrument on behalf of the served, it shall sign his/her name or stamp his/her seal in the "Recipient" column and indicate the relationship with the served in the "Remarks" column.</p> <p>2. If the document is served by post, the served or its agent shall fill in this acknowledgment of service and send it back to the Office within 3 days after it receives the instrument.</p> <p style="margin-left: 40px;">Contact person:</p> <p style="margin-left: 40px;">Contact phone:</p> <p style="margin-left: 40px;">Address of the Office:</p> <p style="margin-left: 40px;">Postal code:</p>

**II. Forms for investigation and handling of cases of patent passing-offs  
(for internal use by IP Offices)**

### Form of registration of reported suspected patent passing-off

Time of reporting		Manner of reporting	
Informer		Contact address	
		Contact phone	
		Email:	
Alleged wrongdoer			
Address of alleged wrongdoer			
Complaints			

Remarks: The reported contents shall include the product names, the marked patent numbers, the place of suspected patent passing-off, the place of sale, the producer, the seller, the address, the postal code and the phone number.

### List of items of evidence in a patent passing-off case

Patent No.

Case No.:

[illegible]

## Form of approval of accepting a suspected patent passing-off case

Case No.:

Suspected wrong doer	Name		Sex		Age	
	Name				Legal representative (the responsible person)	
	Place of domicile				Tel:	
	Business license No.				Organization code	
Case source					Complainant and contact phone	
Place of incident					Time of occurrence	
Name of product					Patent No.	
Brief description of case						
Suggestions of responsible officer		<p>Pursuant to Article 84 of the Detailed Rules for the Implementation of the Patent Law of the People's Republic of China, it is suggested to / not to accept the case for investigation and prosecution.</p> <p style="text-align: right;">Signature: _____(Day)____(Month)____(Year)</p>				
Reviews of division/section head		<p style="text-align: right;">Signature: _____(Day)____(Month)____(Year)</p>				
Instructions of Office executive		<p style="text-align: right;">Signature: _____(Day)____(Month)____(Year)</p>				



## Case reference form

Case No.:

Cause of action		
The party concerned		
Matters transferred		
List of referred issues/items		
Transferring entity: <div style="border: 1px solid black; height: 100px; margin-top: 10px;"></div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <span>_____ Intellectual Property Office (seal)</span> <span>_____ (seal)</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <span>_____ (Day) ____ (Month) ____ (Year)</span> <span>_____ (Day) ____ (Month) ____ (Year)</span> </div>		Accepting authority: <div style="border: 1px solid black; height: 100px; margin-top: 10px;"></div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <span>_____ (seal)</span> <span>_____ (seal)</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <span>_____ (Day) ____ (Month) ____ (Year)</span> <span>_____ (Day) ____ (Month) ____ (Year)</span> </div>

**Form of entrusted custody of the items subject to the administrative coercive  
measure**

Case No.:

\_\_\_\_\_:

It is hereby to entrust you to hold in custody the following items (see details in the List of Sealed-up or Detained Items, Case No.: \_\_\_\_\_) subject to the administrative coercive measure taken by the Intellectual Property Office in accordance with the \_\_\_\_\_).

During the custody period, no entity or individual shall conceal, transfer, sell or damage the sealed-up or detained items without the approval of the Intellectual Property Office.

Annex: List of Sealed-up (Detained) Items

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this form of custody is made in two copies, one copy to be served on the custodian and the other copy to be filed in the Intellectual Property Office.

## Letter of engagement for technical appraisal

Case No.

\_\_\_\_\_:

The Office needs the technical appraisal of \_\_\_\_\_, and you are hereby engaged to conduct the appraisal in accordance with the following requirements:

1. ...

2. ...

.....

Please complete the appraisal before \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year), and submit the appraisal conclusion in \_\_\_\_\_ copies to the Office.

It is hereby to engage you.

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Contact person:

Contact phone:

Address of the Office:

Postal code:

## Transcript of the discussion of a patent passing-off case

Case No.:

Cause of action			
Suspected wrongdoer		Legal representative (the responsible person)	
responsible officer:			
Clerk		Time	
Brief description of case			
Details of discussions			
Opinions of resolution			
Responsible official (signature)	<div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%; text-align: center;">             _____               _____           </div> <div style="width: 50%; text-align: right;">             _____(Day)____(Month)____(Year)               _____(Day)____(Month)____(Year)           </div> </div>		

## Transcription of the collective discussion of a major patent passing-off case

Case No.:

Cause of action			
The party concerned		Legal representative (the responsible person)	
Participant:			
Clerk		Time	
Brief description of case			
Details of discussions			
Opinions of resolution			
Attendees (signature):	<div style="display: flex; justify-content: space-between; margin-bottom: 5px;"> <div style="width: 40%; border-bottom: 1px solid black;"></div> <div style="width: 55%; text-align: right;">_____(Day)____(Month)____(Year)</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 5px;"> <div style="width: 40%; border-bottom: 1px solid black;"></div> <div style="width: 55%; text-align: right;">_____(Day)____(Month)____(Year)</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 5px;"> <div style="width: 40%; border-bottom: 1px solid black;"></div> <div style="width: 55%; text-align: right;">_____(Day)____(Month)____(Year)</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 5px;"> <div style="width: 40%; border-bottom: 1px solid black;"></div> <div style="width: 55%; text-align: right;">_____(Day)____(Month)____(Year)</div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 40%; border-bottom: 1px solid black;"></div> <div style="width: 55%; text-align: right;">_____(Day)____(Month)____(Year)</div> </div>		

### Report on the hearing for a patent passing-off case

Case No.:

Cause of action			
Applicant of hearing		Legal representative (the responsible person)	
Hearing Moderator			
Hearing official			
Clerk			
Case investigator			
Manner of hearing	<input type="checkbox"/> public <input type="checkbox"/> not public		
Matters for hearing			
Description of hearing:			

Description of hearing:

Hearing Moderator (signature or seal): \_\_\_\_\_ (Day) (Month) (Year)

Hearing officers (signature or seal): \_\_\_\_\_ (Day) (Month) (Year)

\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

## Approval form of case closing of a patent passing-off case

Case No.:

Cause of action	
Suspected wrongdoer	
responsible officer:	
Brief description of case	
Suggestions of responsible officer	<p style="text-align: right;">Signature: _____</p> <p style="text-align: right;">_____ (Day) ____ (Month) ____ (Year)</p> <p style="text-align: right;">_____ (Day) ____ (Month) ____ (Year)</p>
Reviews of division/section head	<p style="text-align: right;">Signature:</p> <p style="text-align: right;">_____ (Day) ____ (Month) ____ (Year)</p>
Instructions of Office executive	<p style="text-align: right;">Signature:</p> <p style="text-align: right;">_____ (Day) ____ (Month) ____ (Year)</p>



## Report on the closing of a patent passing-off case

Case No.:

Cause of action			
Party to be punished		Legal representative (the responsible person)	
Place of domicile			
Brief description of case			
Results of resolution			
Suggestions of responsible officer	<div style="text-align: right; margin-right: 50px;">Signature: _____</div> <div style="text-align: right; margin-right: 50px;">_____(Day)____(Month)____(Year)</div> <div style="text-align: right; margin-right: 50px;">_____(Day)____(Month)____(Year)</div>		
Reviews of division/section head	<div style="text-align: right; margin-right: 50px;">Signature: _____</div> <div style="text-align: right; margin-right: 50px;">_____(Day)____(Month)____(Year)</div>		
Instructions of Office executive	<div style="text-align: right; margin-right: 50px;">Signature: _____</div> <div style="text-align: right; margin-right: 50px;">_____(Day)____(Month)____(Year)</div>		

## Letter of entrustment for administrative enforcement of patents

Case No.:

The entrusted party	_____ Intellectual Property Office:		
Contact address		Postal code	
Tel			
Cause of action			
Brief description of case			
Entrusted issues			
Requirements for handling	Completion deadline: _____(Day)____(Month)____(Year)		
Attached materials	1. ... 2. ... .....		
The entrusting party (seal)	_____ Intellectual Property Office: _____(Day)____(Month)____(Year)		
Contact person of the entrusting party:		Tel:	
Contact address		Postal code	
Remarks			

## Notice of results of entrusted law enforcement

Case No.:

\_\_\_\_\_ Intellectual Property Office:

On \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year), you entrusted us to \_\_\_\_\_,  
and we have completed it on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year). It is hereby to notify you  
of the handling process and the handling result:

Handling information: \_\_\_\_\_

\_\_\_\_\_

Handling result: \_\_\_\_\_

\_\_\_\_\_

The relevant legal instruments are annexed hereto.

The Notice is hereby issued.

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Attachments: 1. ...

2. ...

Responsible official for the entrusted Items:

Contact phone

Address of the Office:

Postal code:

**Form of approval of accepting a case for suspected non-normative patent marking**

The party concerned		Legal representative (the responsible)	
Place of domicile			
Name of product			
Type of suspected non-normative patent mark	<p>( ) 1. Fail to indicate the patent right category in Chinese;</p> <p>( ) 2. Fail to indicate the patent number granted by the State Intellectual Property Office;</p> <p>( ) 3. The additional text, graphics and marking methods are misleading to the public;</p> <p>( ) 4. Printing the patent mark on the products directly obtained from the patented method, on the packages of such products or in the manuals of such products, but not indicating in Chinese that the products are obtained from the patented method;</p> <p>( ) 5. Printing the patent mark on products, on the packages of such products or in the manuals of such products before the patent is granted, but without indicating the patent application category and the patent application number in Chinese, or without indicating “patent application, not granted yet”.</p>		
Suggestions of responsible officer	<p style="text-align: right;">Signature:</p> <p style="text-align: right;">(Day)      (Month)      (Year)</p>		
Reviews of division/section head	<p style="text-align: right;">Signature:</p> <p style="text-align: right;">(Day)      (Month)      (Year)</p>		
Instructions of Office executive	<p style="text-align: right;">Signature:</p> <p style="text-align: right;">(Day)      (Month)      (Year)</p>		

## Form of approval of the closing of a non-normative patent marking case

Case No.:

The party concerned		Legal representative (the responsible person)	
Place of domicile			
Name of product			
Brief description of case			
Results of resolution			
Suggestions of responsible officer	<div style="text-align: right; margin-bottom: 5px;">Signature: _____</div> <div style="text-align: center;">             _____(Day)____(Month)____(Year)    _____(Day)____(Month)____(Year)         </div>		
Reviews of division/section head	<div style="text-align: right; margin-bottom: 5px;">Signature:</div> <div style="text-align: center;">             _____(Day)____(Month)____(Year)         </div>		
Instructions of Office executive	<div style="text-align: right; margin-bottom: 5px;">Signature:</div> <div style="text-align: center;">             _____(Day)____(Month)____(Year)         </div>		

## Form of application for the enforcement of an administrative sanction

Case No.

\_\_\_\_\_ People's court:

The Administrative Sanction Decision for the case of \_\_\_\_\_ has been sent to the punished party \_\_\_\_\_ on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_ (Year). Upon receipt of the Administrative Sanction Decision, the punished party has neither applied for an administrative reconsideration within 60 days, nor brought an administrative lawsuit within 3 months nor executed the administrative sanction decision. Pursuant to Article 51 of the Administrative Sanction Law of the People's Republic of China, the Intellectual Property Office hereby applies for enforcement.

Name of the punished entity:

Full address

Legal representative:

Tel:

Postal code:

Name of the punished person:

Sex

Age

Workplace or residential address:

Contact phone

Postal code:

Matters for enforcement under the application:

Annex: Administrative Sanction Decision

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

**III. Forms for investigation and handling of cases of patent passing-offs  
(for use by aparty concerned)**

### Form of registration of reported or complained suspected patent passing-off

Time of reporting		Manner of reporting	
Informer		Contact address	
		Contact phone	
		Email:	
Alleged wrongdoer			
Address of alleged wrongdoer			
Content of the report or complaint			

Remarks: The reported contents shall include the product names, the marked patent numbers, the place of suspected patent passing-off, the producer, the seller, the address, the postal code and the phone number.



### Power of attorney for a patent passing-off case

Authorizing party (entity or individual):

Legal representative/the responsible person:

Title:

Agent:

Name:

Place of work/employment:

Position:

Name:

Place of work/employment:

Position:

The agent is hereby authorized to act on our/my behalf in the case of

Scope of authorization for the agent \_\_\_\_\_: ☐ submission and acceptance of legal instruments

☐ making the statements and defense on behalf

☐ cross-examination on behalf

☐ attending the hearing

☐ \_\_\_\_\_

Scope of authorization for the agent \_\_\_\_\_: ☐ submission and acceptance of legal instruments

☐ making the statements and defense on behalf

☐ cross-examination on behalf

☐ attending the hearing

☐ \_\_\_\_\_

The authorizing party (signature or seal):

Legal representative (person in charge) (signature or seal):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

**Form of application for the hearing for a patent passing-off case**

Case No.:

Applicant		Legal representative (the responsible person)	
Place of domicile			
Postal code		Tel	
Name of agent		Place of work/employment	
Place of domicile			
Postal code		Tel	

\_\_\_\_\_ Intellectual Property Office:

I (we) have an objection to the to-be-imposed administrative sanction mentioned in the Notice of Hearing before Sanction (Case No. \_\_\_\_\_) issued by you on (Day) (Month) (Year) and request hearing. The reasons are as follows:

Applicant (signature or seal): \_\_\_\_\_

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

### **AnnexIII: Forms for mediation of patent disputes**

**I. Forms for cases of patent disputes mediation (for handling by IP offices)**

## Notice of observations for mediation of patent disputes

Case No.

Number of patent/patent application	
Title of invention-creation	
Patentee/patent applicant	
Requester	
Respondent	
Cause of action	

\_\_\_\_\_:

According to the provisions of Rule 85 of the Detailed Rules for the Implementation of the Patent Law of the People's Republic of China and Articles 23 and 24 of the Measures for Administrative Enforcement of Patents, the said requester filed an request for mediation of patent dispute with the Office and the copy of the request is hereby delivered to the respondent. You shall, within 15 days after receipt of the copy of request, submit observations to the Office and copies of the same shall be in the number of the requesters.

The respondent shall indicate in the observations whether or not it agrees with mediation by the Office. In the case of failure to submit the observations within the time limit, or refusal to mediation indicated in the observations, the Office will not accept the request for mediation of the patent dispute.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Contact person:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Notice of case acceptance for mediation of patent disputes

Case No.

Number of patent/patent application	
Title of invention-creation	
Patentee/patent applicant	
Requester	
Respondent	
Cause of action	

\_\_\_\_\_:

The Office accepts the request for mediation of patent disputes filed by the requester on (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) in accordance with the provisions of Article 24 of the Measures for Administrative Enforcement of Patents.

Anyone who requests mediation of the dispute on the ownership of patent application right or patent right, may request the State Intellectual Property Office to suspend any procedures related to the patent application or patent rights by presenting this Notice.

The above notice is hereby given.

responsible officer:

\_\_\_\_\_The Intellectual Property Office  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Notice of acceptance denial of request for mediation of patent disputes

Case No.

Number of patent/patent application	
Title of invention-creation	
Patentee/patent applicant	
Requester	
Respondent	
Cause of action	

\_\_\_\_\_:

The Office refuses to accept the request for handling the patent dispute filed by the requester on \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year) in accordance with provisions of Article 24 of the Measures for Administrative Enforcement of Patents for the reasons that:

☐The respondent fails to submit the observations within the specified time limit.

☐The respondent does not accept mediation.

The above notice is hereby given.

\_\_\_\_\_Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

### List of evidential materials submitted by a party

Number of patent/ patent application:

Submitter (signature or seal): \_\_\_\_\_

No.	Title of evidential material	Facts to be described	Total pages	Remarks

Recipient (signature or seal): \_\_\_\_\_

Date of receipt: \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: the list is made in two copies, one copy to be submitted to the Intellectual Property Office and the other copy to be kept by the submitter.



## Notice of mediation of patent dispute

Case No.

Application No./Patent No.	
Title of invention-creation	
Applicant/patentee	
Requester	
Respondent	
Cause of action	

\_\_\_\_\_:

The Office decides to mediate the patent dispute at the place of \_\_\_\_\_ at the time of (Hours)\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year) and both parties are required to attend.

Both parties shall, within 3 days after receipt of the Notice, return the Acknowledge of Mediation to the Office. The party who could not participate for good reason, shall file with the Office a 3 day prior application for change of date.

Any participant shall take the following materials with them:

1. Subject qualification certificate of the party (e.g. copy of business license affixed with the official seal of a corporation registered with industry and commerce authority; copies of both sides of identity card for natural person).

2. Power of attorney and identity certificate (copies of both sides of the ID card) of the entrusted agent for entrusted agents (1 to 2).

3. Relevant evidential materials.

\_\_\_\_\_The Intellectual Property Office  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Contact person:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Acknowledgment of mediation for patent disputes

Case No.

\_\_\_\_\_ Intellectual Property Office:

☐ I/We will attend the mediation of patent dispute to be held at \_\_\_\_\_(Hours)\_\_\_\_(Day)  
(Month)\_\_\_\_(Year).

☐ I/We will not attend the mediation of patent dispute to be held at \_\_\_\_\_(Hours)  
(Day) \_\_\_\_\_(Month) \_\_\_\_\_(Year) for the reason that:  
.

☐ I am /We are the requester to this case and the person(s) to participate in the mediation of  
patent dispute is/are as below:

☐ I/We am the respondent to this case and the person(s) to participate in the mediation of  
patent dispute is/are as below:

Name	Place of work/employment	Position	Mobile phone:	Landline phone:

\_\_\_\_\_(signature or seal)

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

### Decision on recusal application

Case No.

Cause of action			
Recusal applicant			
Legal representative/the responsible person			
Place of domicile			
Postal code		Tel	

\_\_\_\_\_:

On\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year) you filed a request with the Office to recuse the responsible officer named \_\_\_\_\_. Upon investigation and verification, the Office:

☐holds that your cause(s) of recusal is/are well founded, and thus approve your recusal application and decides to designate \_\_\_\_\_as the responsible officer for the case.

☐holds that your cause(s) of recusal is/are not well founded, and thus disapprove your recusal application.

\_\_\_\_\_Intellectual Property Office (seal)

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this decision is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Mediation form of patent disputes

Case No.

Requester:

Legal representative/the responsible person:

Place of domicile:

Agent and his/her agency:

Respondent:

Legal representative/the responsible person:

Place of domicile:

Agent and his/her agency:

Cause of action: " \_\_\_\_\_ " (Patent No.: \_\_\_\_\_) Patent Dispute

The requester, \_\_\_\_\_, based on his patent " \_\_\_\_\_ " (patent No. \_\_\_\_\_) related dispute of \_\_\_\_\_ with the respondent \_\_\_\_\_, filed a mediation request with Office. The Office accepted the case filing on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (year) and both the requester and the respondent entered into a mediation agreement under the mediation of the Office as below:

1. ...

2. ...

The Mediation Form shall come into force from the date on which both the requester and the respondent signs or affixes seals thereupon and is made in copies, with the requester and the respondent holding one copy each and the Office keeping one copy.

Requester (signature or seal):                      Respondent (signature or seal):  
\_\_\_\_\_(Day)\_\_\_\_\_(Month)\_\_\_\_\_(Year)                      \_\_\_\_\_(Day)  
(Month)\_\_\_\_\_(Year)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(Day)\_\_\_\_\_(Month)\_\_\_\_\_(Year)

Responsible officer:

## Notice of mediation termination for cases of patent dispute mediation

Case No.

Number of patent/patent application	
Title of invention-creation	
Patentee/patent applicant	
Requester	
Respondent	
Cause of action	

\_\_\_\_\_:

For the following reasons, the Office decides to terminate the mediation of patent disputes:

- ☐The requester withdraws the mediation request.
- ☐Both parties fails to reach an agreement upon mediation.
- ☐The respondent does not agree to continue the mediation.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Acknowledgment of service

Case No.

Served from	
Title and total pages of process	
Recipient of process	
Agent and agency	
Address for service	
Manner of service	<input type="checkbox"/> By mail <input type="checkbox"/> Personal service <input type="checkbox"/> Depository service
Signature or seal of recipient	<div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="text-align: right;">_____(Day)____(Month)____(Year)</div>
Signature or seal of process server	<div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="text-align: right;">_____(Day)____(Month)____(Year)</div>
Remarks	
Instructions for completion	<p>1. If a person receives the instrument on behalf of the served, it shall sign his/her name or stamp his/her seal in the "Recipient" column and indicate the relationship with the served in the "Remarks" column.</p> <p>2. If the document is served by post, the served or its agent shall fill in this acknowledgment of service and send it back to the Office within 3 days after it receives the instrument.</p> <p style="margin-left: 40px;">Contact person:</p> <p style="margin-left: 40px;">Contact phone:</p> <p style="margin-left: 40px;">Address of the Office:</p> <p style="margin-left: 40px;">Postal code:</p>

## **II. Forms for mediation of patent disputes (for internal use by the IP Offices)**



## Approval form for case acceptance of patent dispute mediation

Case No.

Number of patent/patent application	
Title of invention-creation	
Patentee/patent applicant	
Requester	
Respondent	
Types of dispute	<input type="checkbox"/> Disputes on the ownership of the right of patent application and patent rights <input type="checkbox"/> Disputes on the qualification as an inventor or designer <input type="checkbox"/> Disputes on the reward or remuneration to an inventor or designer of a service invention <input type="checkbox"/> Disputes on the use of an invention by failing to pay proper fees after the application for an invention patent has been published but before the patent right is granted <input type="checkbox"/> Other patent disputes
Brief description of case	
Suggestions of responsible officer	<div style="text-align: right;">Signature:</div> <div style="text-align: right;">_____ (Day) ____ (Month) ____ (Year)</div>
Reviews of division/section head	<div style="text-align: right;">Signature:</div> <div style="text-align: right;">_____ (Day) ____ (Month) ____ (Year)</div>
Instructions of Office executive	<div style="text-align: right;">Signature:</div> <div style="text-align: right;">_____ (Day) ____ (Month) ____ (Year)</div>

### **III. Forms for mediation of patent disputes (for use by aparty concerned)**

## Request for mediation of patent dispute

Number of patent/patent application				
Title of invention-creation				
Patentee/patent applicant				
Mediation requester	Name		Legal representative (the responsible person)	
	Place of domicile			
	Postal code		Tel	
	Name of agent		Place of work/employment	
	Place of domicile			
	Postal code		Tel	
	Name of agent		Place of work/employment	
	Place of domicile			
	Postal code		Tel	
Respondent	Name		Legal representative (the responsible person)	
	Place of domicile			
	Postal code		Tel	
Issues for mediation				
Facts and reasons:				

Cause of action and reasons:

Signature or seal of the Requester:

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

### List of evidential materials submitted by a party to patent dispute

Number of patent/ patent application:

Case No.

☐Requester    ☐ Respondent    Submitter (signature or seal):\_\_\_\_\_

No.	Title of document/item of evidence	Facts to be described by the item of evidence	Total pages	Remarks

Recipient (signature or seal):\_\_\_\_\_

Date of receipt: \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: the list is made in two copies, one copy to be submitted to the Intellectual Property Office and the other copy to be kept by the submitter.

## Observations

Case No.

Number of patent/patent application	
Title of patent/patent application	
Patentee/patent applicant	
Observations by	
<p>Observations:</p>                    <div style="text-align: right;">           Observations by (signature or seal):             _____(Day)____(Month)____(Year)         </div>	

### Power of attorney for patent disputes cases

Authorizing party (entity or individual):

Legal representative/the responsible person:

Title:

Agent: Name:

Place of work/employment:

Position:

Name:

Place of work/employment:

Position:

The agent is hereby authorized to act on our/my behalf in the case of

Scope of authorization of the agent \_\_\_\_\_:

☐ To submit and receive legal instruments on behalf

☐ To respond and represent opinions on behalf

☐ To attend oral proceedings

☐ To attend mediations

☐ To make, change, or waive request on behalf

☐ \_\_\_\_\_

Scope of authorization of the agent \_\_\_\_\_:

☐ To submit and receive legal instruments on behalf

☐ To respond and represent opinions on behalf

☐ To attend oral proceedings

☐ To attend mediations

☐ To make, change, or waive request on behalf

☐ \_\_\_\_\_

Authorizing party (signature or seal):

Legal representative/the responsible person (signature or seal):

\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

## Settlement agreement for patent disputes

Party A:

Legal representative/the responsible person:

Place of domicile:

Agent and his/her agency:

Party B:

Legal representative/the responsible person:

Place of domicile:

Agent and his/her agency:

Party A has agreed with Party B on the patent infringement dispute over the patent titled " " (patent number: ), and the parties voluntarily reach the following settlement agreement:

1. ...

2. ...

.....

This settlement agreement shall come into force from the date on which both parties sign and affix their seals upon and it's made in copies, with each party holding one copy and IP Office keeping one copy.

Party A (signature or seal):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Party B (signature or seal):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

\_\_\_\_\_  
Intellectual Property Office (seal)

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)



**Annex IV: Forms for law enforcement in relation to exhibitions or  
e-commerce**

## Request for complaints of patent infringement disputes

The th exhibition , Phase  
Exhibition Area:

Title of patent				Patent No.		Category	<input type="checkbox"/> Invention <input type="checkbox"/> Utility model <input type="checkbox"/> Design
Patentee		Name				Legal representative	
		Addresses				Tel	
Complaint agent		Name		Place of work/employment			
		Addresses				Tel	
Right holder Info	China mainland	Nature	<input type="checkbox"/> individual <input type="checkbox"/> State-owned enterprise <input type="checkbox"/> Private enterprise <input type="checkbox"/> Sino-foreign equity joint venture, Sino-foreign cooperative enterprise or wholly foreign-owned enterprise				
		Enterprise size	<input type="checkbox"/> Small <input type="checkbox"/> Medium <input type="checkbox"/> Large				
	Overseas	Country	<input type="checkbox"/> Japan <input type="checkbox"/> South Korea <input type="checkbox"/> France <input type="checkbox"/> UK <input type="checkbox"/> Germany <input type="checkbox"/> USA <input type="checkbox"/> Others (Please specify: )				
		Enterprise size	<input type="checkbox"/> Small <input type="checkbox"/> Medium <input type="checkbox"/> Large <input type="checkbox"/> Transnational				
	China Hong Kong, Macao or Taiwan	Nature	<input type="checkbox"/> individual <input type="checkbox"/> Private enterprise <input type="checkbox"/> Joint-venture enterprise				
		Enterprise size	<input type="checkbox"/> Small <input type="checkbox"/> Medium <input type="checkbox"/> Large <input type="checkbox"/> Transnational				
	Industry	<input type="checkbox"/> Electronics & Household electrical appliances <input type="checkbox"/> Vehicles and their parts <input type="checkbox"/> Medicine & Health <input type="checkbox"/> Chemical engineering <input type="checkbox"/> Building materials <input type="checkbox"/> Machinery <input type="checkbox"/> Tools & Hardware <input type="checkbox"/> Consumer goods <input type="checkbox"/> Gifts <input type="checkbox"/> Textiles <input type="checkbox"/> Lighting products <input type="checkbox"/> Home decorations <input type="checkbox"/> Cases and Bags <input type="checkbox"/> Others (Please specify )					
Information of the Complainee	No.	Name of enterprise	Booth No.	Name and displaying position of suspected infringing products		Remarks	
	1						
	2						
	3						
	4						
	5						

	6				
	7				
	8				
	9				
	10				
<p>I hereby undertakes and acknowledges to resolution of the aforesaid complaint in accordance with the Guangdong Province's Measures on Exhibition Patent Protection and relevant provisions of the Exhibition/Conference regarding IP rights complaint and its handling, and agrees to pay any and all the costs and expenses incurred by any entity involved for handling the complaint and to indemnify the complaine for any and all losses and damages arising from any improper complaint filed by me.</p> <p>Signature of the Complainant (Seal):</p> <p>Date:                      (Month)        (Day)        (Year)</p>					

## Notice of handling of suspected patent infringements

To: XXX(name of company):

The Exhibition/Conference holds that your displayed on the        th Exhibition/Conference of        is suspected of infringement of other person's rights to the patent of        (Patent No.:        ). The exhibit above is handled according to the rules and regulations of the Exhibition/Conference.

Handling method: Removed by the exhibitor, seized temporarily, or forfeited

Quantity:

Handled by:

Owner of exhibit:

Identity certificate number of the exhibitor:

(Month)      (Day)      (Year)

.....

---

### Registration form of petition for suspected infringements

Case No.:

<b>Petitioning entity</b>	<b>Name of company:</b>		
	<b>Address:</b>		
	<b>Person lodging the appeal:</b>		<b>Nationality:</b>
	<b>Tel:</b>		<b>Fax:</b>
	<b>E-mail:</b>		<b>Booth No.:</b>
<b>Information of the complainant:</b>	<b>Description of the complained product:</b>		
	<b>Patent certificate No.:</b>		
	<b>Registration date:</b>		
<b>Petition grounds and evidence:</b>	<div style="text-align: right;"> <b>Signature of the petitioner:</b>  <b>Time:</b> </div>		
<b>Opinions of resolution</b>	<div style="text-align: right;"> <b>Seal of the Complaint Reception Center:</b>  <b>(Month)    (Day)    (Year)</b> </div>		
<b>The person of the Complaint Reception Center handling the case</b>			

## Investigation form for patent complaints

Case No.:

Patent No.		Product suspected of infringements	Photos or pictures Brochure	pages in total (attached) copies in total; page
<p>Summary of the investigation:</p> <p><b>Technical features in the claims of the invention (utility model)</b></p> <p>1. _____ 2. _____ 3. _____</p> <p>4. _____ 5. _____ 6. _____</p> <p>7. _____</p> <p><b>Technical features of the complained product:</b></p> <p>1. _____ 2. _____ 3. _____</p> <p>4. _____ 5. _____ 6. _____</p> <p>7. _____</p> <p>Preliminary conclusions: _____</p> <p><b>Comparison of the design patent and the complained product</b></p> <p>Similarities: 1. _____ 2. _____ 3. _____</p> <p>4. _____ 5. _____ 6. _____</p> <p>Differences: 1. _____ 2. _____ 3. _____</p> <p>4. _____ 5. _____ 6. _____</p> <p>Preliminary conclusions: _____</p>				

The person in charge of the handling of the case: \_\_\_\_\_ Participant: \_\_\_\_\_ Participant: \_\_\_\_\_

Time: \_\_\_\_\_

Registration No.: \_\_\_\_\_

**Registration form for filing patent infringement disputes of e-commerce platform**

Filing entity	Name of company			
	Address			
	Contact person		Tel:	
	E-mail		Fax	
Matters filed				
List of materials submitted				
Date of receipt				
Opinions of registration				
Handled by				

**Submission form for filing cases of patent infringement disputes of e-commerce platform**

Name of case			
Title of patent		Patent No.	
Complainant		Complainee	
Person filing the case	(Seal)	Tel	
Matters filed			
Date of filing			
List of materials submitted:			
Remarks:			



## **Annex V: Forms for administrative reconsideration cases**

**I. Forms for administrative reconsideration cases  
(for the use by IPOffice for reconsiderationcase)**

## Notice of the receipt of the application for an administrative reconsideration

Case No.:

Applicant	
Respondent	
Matters for reconsideration	
Claims of administrative reconsideration	

\_\_\_\_\_:

After review, the Intellectual Property Office deems that your application for administrative reconsideration submitted on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) meets the requirements for acceptance under Article 17 of the Administrative Reconsideration Law of the People's Republic of China, and therefore has decided to receive your application.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Responsible officer:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Notice of denial of the application for an administrative reconsideration

Case No.:

Applicant	
Respondent	
Matters for reconsideration	
Claims of administrative reconsideration	

\_\_\_\_\_:

After review, the Intellectual Property Office has decided not to receive your application for administrative reconsideration submitted on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) for the following reason:

☐ the application does not meet the requirements under Article 6 of the Administrative Reconsideration Law of the People's Republic of China.

☐ the application is not within the scope of receipt by the Intellectual Property Office, and you shall apply to \_\_\_\_\_ for administrative reconsideration.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Notice of written response to an administrative reconsideration

Case No.:

Applicant	
Respondent	
Matters for reconsideration	
Claims of administrative reconsideration	

\_\_\_\_\_:

The applicant submitted the application for administrative reconsideration to the Intellectual Property Office on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) because it refuses to accept the made by you on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year). The Intellectual Property Office has received your application. It is hereby to send the copy of the application for administrative reconsideration to you, and within 10 days upon receipt of the aforesaid copy, you shall submit the written response to the Intellectual Property Office and submit the evidence, basis and other relevant materials for the aforesaid specific administrative act. If you fail to submit the above materials within the specified time limit, it shall be deemed that there is no evidence or basis for the specific administrative act.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Attachment: Copy of the Application for Administrative Reconsideration

Responsible officer:

Contact phone:

Address of the Office:

Postal code:

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Decision on recusal application

Case No.

Cause of action			
Recusal applicant			
Legal representative/the responsible person			
Place of domicile			
Postal code		Tel	

\_\_\_\_\_:

On\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year) you filed a request with the Office to recuse the responsible officer named \_\_\_\_\_. Upon investigation and verification, the Office:

☐ holds that your cause(s) of recusal is/are well founded, and thus approve your recusal application and decides to designate \_\_\_\_\_ as the responsible officer for the case.

☐ holds that your cause(s) of recusal is/are not well founded, and thus disapprove your recusal application.

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this decision is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Notice of the cease of execution during the administrative reconsideration

Case No.:

Applicant	
Respondent	
Matters for reconsideration	
Claims of administrative reconsideration	

\_\_\_\_\_:

The Intellectual Property Office is reconsidering the \_\_\_\_\_ made by you on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year). For the following reason, the Intellectual Property Office has decided to suspend the execution of the specific administrative act during the administrative reconsideration:

☐ the Intellectual Property Office deems it necessary to suspend the execution.

☐ the applicant applies to the Intellectual Property Office for the suspension of the execution and after review, the Intellectual Property Office deems that the application is reasonable.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

## Transcript of the investigation into a case of administrative reconsideration

Case No.:

Matters for reconsideration under the application					
The investigated person	Name			Sex	
	Place of work/employment			Position	
	Place of domicile			Tel	
Investigator	Name			Sex	
	Place of work/employment			Position	
	Place of domicile			Tel	
Investigator	Name			Sex	
	Place of work/employment			Position	
	Place of domicile			Tel	
Place of investigation					
Time of investigation	(Hour) (Hour)	(Minute) on (Minute) on	(Date) (Date)	(Month), (Month),	(Year) to (Year)
Transcript of investigation:					



Transcript of investigation:

The investigated person (signature or seal):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Investigator (signature or seal):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Investigator (signature or seal):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Remarks:

**Notice of approval to withdraw the application for administrative reconsideration**

Case No.:

Applicant	
Respondent	
Matters for reconsideration	
Claims of administrative reconsideration	

\_\_\_\_\_:

On \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year), the applicant submitted the application to the Intellectual Property Office for withdrawing the application for administrative reconsideration. After review, the Intellectual Property Office has approved the withdrawal of the application for administrative reconsideration. The administrative reconsideration is hereby terminated.

The applicant shall not apply for administrative reconsideration of the same case for the same reason, unless the applicant is able to prove that its withdrawal of the application for administrative reconsideration is against its true intention.

The above notice is hereby given.

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this notice is made in two copies, one copy to be served on the party concerned and the other copy to be filed in the Intellectual Property Office.

### Mediation form in administrative reconsideration

Case No.:

Applicant	
Respondent	
Time of acceptance	
Matters for reconsideration	
Claims of administrative reconsideration	
Main facts and reasons for the application for administrative reconsideration	
Mediation result	
Reconsideration authority (seal)	_____(Day)____(Month)____(Year)
Applicant (signature or stamp):	_____(Day)____(Month)____(Year)
Respondent (signature or stamp):	_____(Day)____(Month)____(Year)

This mediation form shall become legally effective upon signature by the applicant and the respondent.

**Intellectual Property Office**  
**Administrative Reconsideration Decision**

Case No.:

Applicant

Legal representative/the responsible person:

Place of domicile:

Agent:

Respondent

Legal representative/the responsible person:

Place of domicile:

The applicant refuses to accept the \_\_\_\_\_ made by the respondent on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) and therefore applied to the Intellectual Property Office for administrative reconsideration. The Intellectual Property Office accepted the application on \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) and served the Copy of the Application for Administrative Reconsideration and the Notice of Written Reply to the respondent. On \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year), the respondent submitted the written reply and the evidence and the basis for the aforesaid specific administrative act. The Intellectual Property Office has reconsidered the specific administrative act and has settled the case.

Applicant \_\_\_\_\_ claimed that ...

Respondent \_\_\_\_\_ defended that ...

It's found that:

1. ...

2. ...

.....

The above facts are corroborated by \_\_\_\_\_ and \_\_\_\_\_, among others.

The Intellectual Property Office deems that the specific administrative act made by the respondent is \_\_\_\_\_. Pursuant to \_\_\_\_\_, the Intellectual Property Office has decided as follows:

1. ...

2. ...

.....

This Decision shall become legally effective once it is served on the parties concerned.

If the applicant does not accept this decision, it shall bring a lawsuit with the People's Court of \_\_\_\_\_ pursuant to Article 19 of the Administrative Reconsideration Law of the People's Republic of China within 15 days upon the receipt of this decision. If the

applicant neither brings a lawsuit nor executes the administrative reconsideration decision within the aforesaid time limit, \_\_\_\_\_ will enforce the decision in accordance with the law or apply to the People's Court for enforcement.

Responsible officer:

\_\_\_\_\_ Intellectual Property Office (seal)  
\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

## Acknowledgment of service

Case No.

Served from	
Title and total pages of process	
Recipient of process	
Agent and agency	
Address for service	
Manner of service	<input type="checkbox"/> By mail <input type="checkbox"/> Personal service <input type="checkbox"/> Depository service
Signature or seal of recipient	<div style="border-bottom: 1px solid black; width: 100%;"></div> _____(Day)____(Month)____(Year)
Signature or seal of process server	<div style="border-bottom: 1px solid black; width: 100%;"></div> _____(Day)____(Month)____(Year)
Remarks	
Instructions for completion	<p>1. If a person receives the instrument on behalf of the served, it shall sign his/her name or stamp his/her seal in the "Recipient" column and indicate the relationship with the served in the "Remarks" column.</p> <p>2. If the document is served by post, the served or its agent shall fill in this acknowledgment of service and send it back to the Office within 3 days after it receives the instrument.</p> <p style="margin-left: 40px;">Contact person:</p> <p style="margin-left: 40px;">Contact phone:</p> <p style="margin-left: 40px;">Address of the Office:</p> <p style="margin-left: 40px;">Postal code:</p>

**II. Forms for administrative reconsideration cases  
(for the internal use by the IP Office for reconsideration)**

## Report on case acceptance for administrative reconsideration

Case No.:

Applicant	
Respondent	
Date of receipt of the application	
Claims of administrative reconsideration	
Main facts and reasons for the application for administrative reconsideration	
Suggestions of responsible officer	Signature: _____(Day)____(Month)____(Year)
Reviews of division/section head	Signature: _____(Day)____(Month)____(Year)
Instructions of Office executive	Signature: _____(Day)____(Month)____(Year)



## Transcript of the discussion in the administrative reconsideration case

Case No.:

Applicant			
Respondent			
Matters for reconsideration			
Claims of administrative reconsideration			
responsible officer:			
Clerk		Time	
Brief introduction to the main facts and reasons for the application for administrative reconsideration			
Details of discussions			
Opinions of resolution			
Signatures of the participants of the discussion	<div style="display: flex; justify-content: space-between; margin-bottom: 10px;"> <div style="width: 45%; text-align: center;">_____</div> <div style="width: 55%; text-align: right;">_____(Day)____(Month)____(Year)</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 10px;"> <div style="width: 45%; text-align: center;">_____</div> <div style="width: 55%; text-align: right;">_____(Day)____(Month)____(Year)</div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%; text-align: center;">_____</div> <div style="width: 55%; text-align: right;">_____(Day)____(Month)____(Year)</div> </div>		

## Letter of engagement for technical appraisal

Case No.

\_\_\_\_\_:

The Office needs the technical appraisal of \_\_\_\_\_, and you are hereby engaged to conduct the appraisal in accordance with the following requirements:

1. ...

2. ...

.....

Please complete the appraisal before \_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year), and submit the appraisal conclusion in \_\_\_\_\_ copies to the Office.

It is hereby to engage you.

\_\_\_\_\_ Intellectual Property Office (seal)

\_\_\_\_\_ (Day) \_\_\_\_\_ (Month) \_\_\_\_\_ (Year)

Contact person:

Contact phone:

Address of the Office:

Postal code:

## Report on the closing of an administrative reconsideration case

Case No.:

Applicant	
Respondent	
Matters for reconsideration	
Claims of administrative reconsideration	
Brief introduction to the main facts and reasons for the application for administrative reconsideration	
Results of resolution	
Suggestions of responsible officer	Signature: _____ _____(Day)____(Month)____(Year)    _____(Day)____(Month)____(Year)
Reviews of division/section head	Signature: _____(Day)____(Month)____(Year)
Instructions of Office executive	Signature: _____(Day)____(Month)____(Year)

**III. Forms for administrative reconsideration cases  
(for the use by a party concerned)**

## Application for administrative reconsideration

Applicant	Name		Legal representative (the responsible person)	
	Place of domicile			
	Postal code		Tel	
	Name of agent		Place of work/employment	
	Place of domicile			
	Postal code		Tel	
	Name of agent		Place of work/employment	
	Place of domicile			
	Postal code		Tel	
Respondent	Name			
	Place of domicile			
	Postal code		Tel	
Issues to be administratively reconsidered under the application:				
Claims of administrative reconsideration				
Facts and reasons:				

Facts and reasons:

Applicant (signature or stamp):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

**List of documents/evidence to be submitted in an administrative reconsideration case**

Case No.:

☐ Applicant

☐ Respondent

Submitter (seal): \_\_\_\_\_

No.	Title of document/item of evidence	Facts to be described by the item of evidence	Total pages	Remarks

Recipient (signature or seal): \_\_\_\_\_

Date of receipt: \_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Notes: the list of documents/evidence is made in two copies, one copy to be submitted to the reconsideration authority and the other copy to be kept by the submitter.

### **Power of attorney for an administrative reconsideration case**

Authorizing party (entity or individual):

Legal representative/the responsible person:

Title:

Agent: Name:

Place of work/employment:

Position:

Name:

Place of work/employment:

Position:

The agent is hereby authorized to act on our/my behalf in the case of \_\_\_\_\_

Scope of authorization for the agent \_\_\_\_\_: ☐ submission and acceptance of legal instruments

☐ making the statements and defense on behalf

☐

Scope of authorization for the agent \_\_\_\_\_: ☐ submission and acceptance of legal instruments

☐ making the statements and defense on behalf

☐

Authorizing party (signature or seal):

Legal representative/the responsible

person (signature or seal):

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)



**Annex VI: Forms for cross-territory collaborations of patent  
administrative enforcement**

**List of received handling materials for cross-territory disputes of patent infringement**

Patent number	
Title of patent	
Patentee	
Requester	
Respondent	
List of received materials	
<p>Receiving entity:</p> <div style="border: 1px solid black; height: 150px; margin-top: 10px;"></div> <div style="text-align: right; margin-top: 10px;">             (seal)              _____(Day)____(Month)____(Year)           </div>	

Notes: this list of received materials is made in two copies, one copy to be provided to the requester and the other copy to be filed in the Intellectual Property Office.

# **List of transferred handling materials for cross-territory disputes of patent infringement**

Case No.

Patent number			
Title of patent			
Patentee			
Requester			
Requester's contact person:		Contact phone	
Contact address		Postal code	
Respondent			
Matters transferred	<p>_____ Intellectual Property Office:</p> <p>_____ On ____ (Day)____(Month)____(Year), the requester requested the Office for handling a cross-territory dispute of patent infringement. Pursuant to the provisions of the Guidelines for Administrative Enforcement of Patents (model text) (for trial implementation) on the handling of cross-territory disputes of patent infringement, the materials are hereby transferred to you for handling.</p>		
List of transferred materials			



# Acknowledgment of transferred handling materials for cross-territory disputes of patent infringement

Case No.

Names of transferred materials			
Transferee			
Transferee's address		Postal code	
Transfer method			
Transferor			
Contact person		Tel:	

\_\_\_\_\_ Intellectual Property Office:

The Intellectual Property Office has received the List of Transferred Materials for Cross-territory Disputes of Patent infringement and the attached relevant materials.

(seal)

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

## Notice of acceptance denial for cross-territory disputes of patent infringement

Case No. \_\_\_\_\_

Patent number			
Title of patent			
Patentee			
Requester			
Requester's contact person:		Contact phone	
Contact address		Postal code	
Respondent			

\_\_\_\_\_:

Upon examination, the request for handling dispute of patent infringements as transferred by you to the Office, does not meet the requirements for case acceptance set forth in Article 10 of the Measures for Administrative Enforcement of Patents, so the Office has decided not to accept the case. The specific reasons are as follows:

- ☐ The requester is not the patentee concerned or an interested party.
- ☐ The respondent(s) is/are not specific.
- ☐ Not within the jurisdiction of the Office.
- ☐ Others (Please specify): \_\_\_\_\_.

(seal)

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this notice is made in two copies, one copy to be served on the Transferor and the other copy to be filed in the Intellectual Property Office.

Contact person:

Contact phone:

Contact address:

Postal code:

Fax:

Email:

## Notice of case closing for cross-territory disputes of patent infringement

Case No.

Cause of action			
Requester		Contact address	
		Contact phone	
Respondent		Contact address	
		Contact phone	

\_\_\_\_\_:

The cross-territory dispute of patent infringements as transferred by you to the Office has been closed by the Office on \_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year), and the result is attached.

(seal)  
 \_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Notes: this notice is made in three copies, one copy to be served on the Transferor entity, on copy to be filed in the Patent Affairs Administration Department of the State Intellectual Property Office and the other copy to be filed in the Intellectual Property Office.

Contact person:

Contact phone:

Contact address:

Postal code:

### List of received mediation materials for cross-territory patent disputes

Patent number			
Title of patent			
Patentee			
Requester			
Contact person		Tel:	
Contact address		Postal code	
Respondent			
List of received materials			
<p>Receiving entity:</p> <div style="text-align: right; margin-top: 100px;">             (seal)              _____(Day)____(Month)____(Year)           </div>			

Notes: this list of received materials is made in two copies, one copy to be provided to the requester and the other copy to be filed in the Intellectual Property Office.



## List of transferred mediation materials for cross-territory patent disputes

Case No.

Patent number			
Title of patent			
Patentee			
Requester			
Requester's contact person:		Contact phone	
Contact address		Postal code	
Respondent			
Matters transferred	<p>_____ Intellectual Property Office:</p> <p>_____ On _____ (Date) __ (Month) __ (Year), the requester requested the Office to transfer a patent dispute for mediation. Pursuant to the provisions of the Guidelines for the Administrative Enforcement of Patents (model text) (for trial implementation) on the mediation of a cross-territory patent dispute, the materials are hereby transferred to you for handling.</p>		
List of transferred materials			

<p>Transferring entity:</p> <div style="text-align: right; margin-top: 100px;">             (seal)              _____(Day)____(Month)____(Year)           </div>	

Notes: this transfer list is made in two copies, one copy to be served on the transferee entity and the other copy to be filed in the Intellectual Property Office.

Contact person:

Contact phone:

Contact address:

Postal code:

Fax:

Email:

## Acknowledgment of transferred mediation materials for cross-territory patent disputes

Case No.

Names of transferred materials			
Transferee			
Transferee's address		Postal code	
Transfer method			
Transferor			
Contact person		Tel:	

\_\_\_\_\_ Intellectual Property Office:

The Office has received the List of Transferred Mediation Materials for Cross-territory Patent Disputes and the attached relevant materials.

(seal)  
 \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

## Notice of case closing through mediation for cross-territory patent disputes

Case No.

Cause of action			
Requester		Contact address	
		Contact phone	
Respondent		Contact address	
		Contact phone	

\_\_\_\_\_:

The mediation case of patent dispute transferred by you to the Office for mediation has been closed on  
 (Day) (Month) (Year) through mediation. The mediation result is as below:

(seal)  
 \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this notice is made in three copies, one copy to be served on the Transferor entity, on copy to be filed in the Patent Affairs Administration Department of the State Intellectual Property Office and the other copy to be filed in the Intellectual Property Office.

Contact person:

Contact phone:

Contact address:

Postal code:

**List of transferred materials for cross-territory investigation and handling of patent passing-offs**

Case No.

Patent number			
Title of patent			
Patentee			
Informer			
Informer's contact person:		Tel:	
Contact address		Postal code	
Alleged wrongdoer			
Informed issues			
Matters transferred	<p>_____ Intellectual Property Office:          _____ On _____ (Date) ____ (Month) ____ (Year), the Informer, _____, requested the Office to investigate a patent passing-off case. Pursuant to the provisions of the Guidelines for the Administrative Enforcement of Patents (model text) (for trial implementation) on the investigation and handling of patent passing-offs, the materials are hereby transferred to you.</p>		
List of transferred materials			



# Acknowledgment of transferred materials for cross-territory investigation and handling of patent passing-offs

Case No.

Names of transferred materials			
Transferee			
Transferee's address		Postal code	
Transfer method			
Transferor			
Contact person		Tel:	

\_\_\_\_\_ Intellectual Property Office:

The Office has received the List of Transferred Materials for Cross-territory Investigation and Handling of Patent Passing-offs and the attached relevant materials.

(seal)

\_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

## Notice of case closing for cross-territory investigation and handling of patent passing-offs

Case No.

Cause of action			
Informer		Contact address	
		Contact phone	
Alleged wrongdoer		Contact address	
		Contact phone	

\_\_\_\_\_ Intellectual Property Office:

The patent passing-off case transferred by you to the Office has been closed on \_\_\_\_\_(Day)\_\_\_\_\_(Month) (Year) upon case acceptance and investigation. The result is as below:

(seal)

\_\_\_\_\_(Day)\_\_\_\_\_(Month)\_\_\_\_\_(Year)

Notes: this notice is made in three copies, one copy to be served on the Transferor entity, on copy to be filed in the Patent Affairs Administration Department of the State Intellectual Property Office and the other copy to be filed in the Intellectual Property Office.

Contact person:

Contact phone:

Contact address:

Postal code:



### Entrustment for investigation and evidence collection for cross-territory dispute cases

Cause of action	
Brief description of the case	
<p>_____Intellectual Property Office:</p> <p>According to the case need and in accordance with the requirements for cross-territory investigation and evidence collection as set forth in the Guidelines for the Administrative Enforcement of Patents (model text) (for trial implementation), the Office entrusts you to assist investigation and evidence collection. Thank you for your support. Entrusted matters are as follows:</p>	
<p>Entrusting entity:</p> <p style="text-align: right;">(seal)</p> <p style="text-align: right;">_____(Day)____(Month)____(Year)</p>	

Notes: this entrustment is made in two copies, one copy to be served on the entrusted entity and the other copy to be filed in the Intellectual Property Office.

Contact person:

Contact phone:

Contact address:

Postal code:

**Acknowledgment of assistance of investigation and evidence collection for  
cross-territory dispute cases**

Cause of action			
Entrusting entity			
Entrusted entity			
Recipient		Time of receipt	
Time of taking of evidence			
Contact person		Tel:	

\_\_\_\_\_ Intellectual Property Office:

The Intellectual Property Office has decided to provide assistance in the investigation and evidence collection as entrusted by you.

\_\_\_\_\_ (seal)  
 \_\_\_\_\_ (Day) \_\_\_\_ (Month) \_\_\_\_ (Year)

Notes: this Acknowledgment of investigation and evidence collection is made in two copies, one copy to be served on the entrusting entity and the other copy to be filed in the Intellectual Property Office.

Contact person:

Contact phone:

Contact address:

Postal code:

Fax:

Email:

## Notice of results of investigation and evidence collection for cross-territory patent cases

Cause of action			
Entrusting entity			
Entrusted entity			
Recipient		Time of receipt	
Time of taking of evidence			
Contact person		Tel:	

\_\_\_\_\_ Intellectual Property Office:

On \_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year), the Office has completed the assistance in investigation and evidence collection as entrusted by you. The results are as follows:

(seal)

\_\_\_\_\_(Day)\_\_\_\_(Month)\_\_\_\_(Year)

Notes: this notice is made in two copies, one copy to be served on the entrusting entity and the other copy to be filed in the Intellectual Property Office.

Contact person:

Contact phone:

Contact address:

Postal code:

Fax:

Email: