

China's State Council Releases Amended Implementing Regulations of the Patent Law

Article By:

Aaron Wininger

On December 21, 2023, China's State Council released the Amended Implementing Regulations of the Patent Law ([????????????????????????????????????](#)). The Implementing Regulations explain how several provisions of [China's amended Patent Law of 2021](#) will be implemented and will become effective January 20, 2024.

Highlights include:

- elimination of the 15-day mail delay in calculating most deadlines;
- restoration of priority rights;
- up to 6 months for a secrecy review decision (similar to the US foreign filing license requirement);
- good faith requirement for patent application filings including a maximum 100,000 RMB fine for violating the requirement;
- a combination of dotted and solid lines may be used for partial designs;
- applicants can claim domestic priority for a design from an invention or utility model application;
- similarly, invention patent applications can domestic priority from a utility model and vice versa;
- applicants may request delayed examination of patent applications;
- evaluation reports for utility models and designs will be public;
- patent term adjustment must be requested within 3 months from grant and is calculated as follows:
 - a. after 4 years from application date; and
 - b. after 3 years from the date of filing the request for examination; and
 - c. minus the following unreasonable delay from the applicant
 - Failure to respond to a Notice (e.g., office action) within the specified time limit.
 - Delay for examination has been requested;
 - Incorporation by reference has been invoked;
 - other unreasonable delays by the applicant;
- patent term extension for pharmaceutical patents is calculated by deducting 5 years from the interval between the date of filing of the patent application and date of licensing of the drug;
- required inventor remuneration can include equity, options, dividends, etc.;

- minimum inventor remuneration is raised to 4,000 RMB for invention patent and 1,500 RMB for design and utility model.

The full text of amendments and implementing regulations is available [here](#) (Chinese only).

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