

# China’s National Intellectual Property Administration to Allow Third-Party Challenges to Pharmaceutical Patent Term Extensions

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On December 21, 2023, [China's National Intellectual Property Administration](#) (CNIPA) announced [\(????????????????????????????????????560?\)](#) it would allow third parties to challenge the grant of patent term extension (PTE) for Chinese pharmaceutical patents effective January 20, 2024. PTE extends the life of a patent due to a potentially lengthy regulatory review process. Per the recently released [Implementing Regulations of the Patent Law](#) PTE 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. The announcement also allows for a patentee to challenge annuity fee reduction decisions when registering for open licensing.

## 关于专利权期限补偿和专利开放许可相关行政复议事项的公告（第560号）

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### 国家知识产权局公告 第五六零号

为保障修改后专利法及其实施细则新增的专利权期限补偿、专利开放许可等重要制度顺利实施，现就专利权期限补偿和专利开放许可有关行政复议事项公告如下，并自2024年1月20日起施行：

- 一、专利权人、因相关专利存在侵权纠纷或者已经提出相关药品注册申请的利害关系人对国家知识产权局依照专利法第四十二条第二、三款作出的关于是否给予专利权期限补偿的决定不服的，可以向国家知识产权局申请行政复议。
- 二、专利权人对国家知识产权局依照专利法第五十一条第二款作出的关于专利开放许可实施期间是否予以年费减缴的决定不服的，可以向国家知识产权局申请行政复议；国家知识产权局作出的关于是否予以公告专利开放许可声明的决定不属于行政复议范围。

特此公告。

国家知识产权局

2023年12月21日

A translation of the announcement follows:

I. Where a patentee or any interested party, that is involved in a dispute over infringement upon the relevant patent or has filed an application for drug registration, refuses to accept the decision made by the CNIPA according to paragraphs 2 and 3 of Article 42 of the Patent Law on whether to grant compensation for the duration of the patent right, it/he may apply to the CNIPA for administrative reconsideration.

II. Where a patentee is dissatisfied with the decision made by the CNIPA in accordance with paragraph 2, Article 51 of the Patent Law on whether to reduce the annual fee during the exploitation period of the patent opening license, he/it may apply to the CNIPA for administrative reconsideration. The decision made by the CNIPA on whether to announce the declaration of patent opening license does not fall within the scope of administrative reconsideration.

The full text of the announcement is available [here](#) (Chinese only).

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