

# W&B IP Newsletter



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## The Latest of Watson & Band

### Watson & Band: Ranked in 2018-2019 China Top 10 IP Agency Firms / Teams

Recently the two-month evaluation and selection of the award “2018-2019 China Top 10 IP Agency Firms / Teams” drew to an end. Watson & Band, with its long-term outstanding performance in the area of civil actions involving trademark disputes and its good reputation accumulated throughout the years among the clients, was ranked on the list “2018-2019 China Top 10 IP Agency Firms – Trademark Civil Actions”. Meanwhile, Watson & Band’s patent litigation team headed by Partner Mr. Jianguo Huang, also glittered on top of the Top 10 Civil Litigation Teams List.



## Intellectual Property

### Shanghai cracks down on Illegal Activities involving IP Rights: 328 Cases were investigated and punished within the Past Two Months

Shanghai Intellectual Property Administration said on October 8 that since Shanghai launched the “Second China International Import Expo 100-Day IP Protection Action” (the “CIIE 100-Day Action”) on August 1, a total of 328 cases involving infringement of IP rights have been investigated and/or punished in Shanghai, reaching a total value of over 3 billion RMB and involving 285 criminal suspects under arrest.

Shanghai Intellectual Property Joint Conference members took severe measures against and imposed high pressure upon infringement of IP rights. It is said that the Economic Crime Investigation Team of Shanghai Police established a special team for food and drug (intellectual property), which has uncovered 83 criminal cases involving infringement of IP rights that amounted to a total value of over 3 billion RMB since the launch of the CIIE 100-Day Action.

## Intellectual Property

Shanghai Intellectual Property Administration reinforced the actions against trademark infringement on the Internet and focused on promoting integrated online and offline renovation. During the actions, the Administration inspected over 600 market participants and investigated 176 cases involving trademarks, patents or geographical indications. Shanghai Customs carried out the special IP protection action entitled “2019 Long Teng Action”. In addition to initiating protective measures for IP rights, the Customs uncovered cases involving suspected infringement of exhibitors’ IP rights and seized over 1,000 pieces of infringing goods in a total value of 500,000 RMB.

Shanghai Urban Management Bureau dispatched over 30,000 enforcement staff and carried out over 50,000 roads and various locations, wherein they, in order to build up a better environment for the CIIE, cleaned up and rectified problems found in 3,571 locations in 9 batches. Shanghai Cultural and Tourism Bureau’s enforcement team inspected 2,693 enterprises, locations and/or websites, and during the actions they confiscated over 14,000 illegal publications of all types; further, the team docketed 69 cases and imposed penalties thereupon.

(Source: CHINANEWS)

## Patent

### Latest Release: 2019 Guidelines for Patent Examination

National Intellectual Property Administration  
Notice No.328

To adapt to the needs for rapid development of new technologies, to respond to the new requirements proposed by innovators for examination rules and models, and to improve the quality and efficiency of patent examination, the National Intellectual Property Administration decides to revise the Guidelines for Patent Examination, which is thereby released and will be implemented from November 1st, 2019 and on.

Notice is hereby given.

National Intellectual Property Administration  
September 23rd, 2019

<b>GUIDELINES FOR PATENT EXAMINATION</b>	<b>Draft Amendment of GUIDELINES FOR PATENT EXAMINATION</b>	<b>GUIDELINES FOR PATENT EXAMINATION</b>
<b>(Enter into force as of February 1, 2010)</b>	<b>(Draft for Comments) (Released on April 4, 2019)</b>	<b>(Implemented as of November 1, 2019)</b>
<b>Part I Chapter 1</b>	<b>Part I Chapter 1</b>	<b>Part I Chapter 1</b>
<b>5.1.1(3) Submission time of divisional application</b> ...however, with the exception that another divisional application is filed by the applicant according to the Office Action made by the examiner due to a	<b>5.1.1(3) Submission time of divisional application</b> ...however, <del>with the exception that</del> <b>where</b> another divisional application is filed by the applicant according to the Office Action made by the examiner	<b>5.1.1(3) Submission time of divisional application</b> ...however, where the examiner issued a Notification to Make Divisional Application or an Office Action indicating an unity defect in the

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<p>unity defect in the divisional application. Regarding this exception, the applicant, when filing another divisional application, shall submit a copy of the Office Action indicating the unity defect or of the Notification to Make Divisional Application issued by the examiner. Where the copy of the Office Action or of the Notification to Make Divisional Application in conformity with the provisions is not submitted, the application shall not be treated as exception. Where the copy is not in conformity with the provisions, the examiner shall issue the Notification to Make Rectification notifying the applicant to make rectification. Where no rectification is made within the time limit, the examiner shall issue the Notification that Application Deemed to be Withdrawn.</p> <p>Where the copy is still not in conformity with the provisions after rectification, the examiner shall issue the Notification that Divisional Application Deemed Not to Have Been Filed and make a decision to close the case.</p>	<p>due to a unity defect in the divisional application, the submission time of such other divisional application shall be verified according to the divisional application with a unity defect, and such application shall not be approved if it is not in conformity with relevant provisions. Regarding this exception, the The applicant, when filing another divisional application, shall submit a copy of the Office Action indicating the unity defect or the Notification to Make Divisional Application issued by the examiner. <del>Where the copy of the Office Action or of the Notification to Make Divisional Application in conformity with the provisions is not submitted, the application shall not be treated as exception.</del> Where the copy is not in conformity with the provisions, the examiner shall issue the Notification to Make Rectification notifying the applicant to make rectification. Where no rectification is made within the time limit, the examiner shall issue the Notification that Application Deemed to be Withdrawn.</p> <p>Where the copy is still not in conformity with the provisions after rectification, the examiner shall issue the Notification that Divisional Application Deemed Not to Have Been Filed <del>and make a decision to close the case.</del></p>	<p>divisional application, and another divisional application is filed by the applicant according to the observation made by the examiner, the submission time of such other divisional application shall be verified according to the divisional application with a unity defect, and such divisional application shall not be approved if it is not in conformity with relevant provisions, and the examiner shall issue Notification that Divisional Application Deemed Not to Have Been Filed and close the case.</p>
<p><b>5.1.1(4) Applicant and inventor of divisional application</b></p> <p>The applicant of a divisional application shall be the same as that of the initial application. Where this is not the case, a document certifying the change of the applicant shall be submitted. The inventor of a divisional application shall be the inventor or part of the inventors of the initial application. Where there is any inconformity with the provisions, the examiner shall issue the Notification to Make Rectification notifying the applicant to make rectification. Where no rectification is made within the time limit, the examiner shall issue the Notification that Application Deemed to be Withdrawn.</p>	<p><b>5.1.1(4) Applicant and inventor of divisional application</b></p> <p>The applicant of a divisional application shall be the same as that of the initial application <u>when such divisional application is filed.</u> <del>Where this is not the case, a document certifying the change of the applicant shall be submitted.</del> <u>The applicant of another divisional application with respect to the previous divisional application shall be the same as that of such previous divisional application. Where there is any inconformity with the provisions, the examiner shall issue the Notification that Divisional Application Deemed Not to Have Been Filed.</u></p>	<p><b>5.1.1(4) Applicant and inventor of divisional application</b></p> <p>The applicant of a divisional application shall be the same as that of the initial application when such divisional application is filed. The applicant of another divisional application with respect to the previous divisional application shall be the same as that of such previous divisional application. Where there is any inconformity with the provisions, the examiner shall issue the Notification that Divisional Application Deemed Not to Have Been Filed.</p> <p>The inventor of a divisional application shall be the inventor or part of the inventors of the initial application. The</p>

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	<p><u>If the applicant of the initial application needs to assign the right to apply for the patent (or patent right), a divisional application shall be filed after completion and approval of the formalities of changing the bibliographic data of the initial application. If the applicant of a divisional application needs to assign the divisional application right (or patent right), formalities to change the corresponding bibliographic data shall be completed when or after the divisional application is filed.</u></p> <p>The inventor of a divisional application shall be the inventor or part of the inventors of the initial application. <u>The inventor of another divisional application with respect to a previous divisional application</u> shall be the inventor or part of the inventors of such previous divisional application. Where there is any inconformity with the provisions, the examiner shall issue the Notification to Make Rectification notifying the applicant to make rectification. Where no rectification is made within the time limit, the examiner shall issue the Notification that Application Deemed to be Withdrawn.</p>	<p>inventor of another divisional application with respect to a previous divisional application shall be the inventor or part of the inventors of such previous divisional application. Where there is any inconformity with the provisions, the examiner shall issue the Notification to Make Rectification notifying the applicant to make rectification. Where no rectification is made within the time limit, the examiner shall issue the Notification that Application Deemed to be Withdrawn.</p>
<b>Part I Chapter 1</b>	<b>Part I Chapter 1</b>	<b>Part I Chapter 1</b>
<p><b>6.7 Changes in Bibliographic Data</b>  <b>6.7.2.2 Transfer of Right to Apply for a Patent (or Patent Right)</b>  (2) Where the right of the applicant (or patentee) has been transferred because of assignment or gift, and a request for a change in the bibliographic data is submitted, the contract on the assignment or gift shall be submitted. If such a contract is concluded by any entity, the official seal of the entity or the seal specially used for concluding contracts shall be affixed. If the contract is concluded by any individual, it shall be signed or sealed by the person himself. Where there are two or more applicants (or patentees), a document certifying that all the right owners have agreed on the assignment or gift shall be submitted.</p>	<p><b>6.7 Changes in Bibliographic Data</b>  <b>6.7.2.2 Transfer of Right to Apply for a Patent (or Patent Right)</b>  (2) Where the right of the applicant (or patentee) has been transferred because of assignment or gift, and a request for a change in the bibliographic data is submitted, the contract on the assignment or gift signed or sealed by both parties shall be submitted. When necessary, the examiner shall verify qualification of subject of both parties. Such verification is necessary in circumstances such as: where a party has objection to the assignment or gift of the right to apply the patent (or patent right); where a party submits proof documents for several times to complete formalities to transfer the patent application right (or patentright) and such documents</p>	<p><b>6.7 Changes in Bibliographic Data</b>  <b>6.7.2.2 Transfer of Right to Apply for a Patent (or Patent Right)</b>  (2) Where the right of the applicant (or patentee) has been transferred because of assignment or gift, and a request for a change in the bibliographic data is submitted, the contract on the assignment or gift signed or sealed by both parties shall be submitted. When necessary, proof of qualification of subject shall also be submitted. Submission of such qualification is necessary in circumstances such as: where a party has objection to the assignment or gift of the right to apply the patent (or patent right); where a party submits proof documents for several times to complete formalities to transfer the patent application right ( or</p>



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	<p>contradict with each other; where the signature or seal of the applicant or patentee on the assignment or gift agreement is different from that recorded in the present case of changing bibliographic data. If such a contract is concluded by any entity, the official seal of the entity or the seal specially used for concluding contracts shall be affixed. If the contract is concluded by any individual, it shall be signed or sealed by the person himself. Where there are two or more applicants (or patentees), a document certifying that all the right owners have agreed on the assignment or gift shall be submitted.</p>	<p>patent right) and such documents contradict with each other; where the signature or seal of the applicant or patentee on the assignment or gift agreement is different from that recorded in the present case of changing bibliographic data. If such a contract is concluded by any entity, the official seal of the entity or the seal specially used for concluding contracts shall be affixed. If the contract is concluded by any individual, it shall be signed or sealed by the person himself. Where there are two or more applicants (or patentees), a document certifying that all the right owners have agreed on the assignment or gift shall be submitted.</p>
<b>Part I Chapter 3</b>	<b>Part I Chapter 3</b>	<b>Part I Chapter 3</b>
<p><b>4.2 Drawings or Photographs</b> ..... As for a product design that covers a graphical user interface, the overall view of the product design shall be submitted. In case that the graphical user interface is a dynamic pattern, the applicant shall submit the overall view of the product design above in at least one state and the view of only key frames in the rest states. Views submitted shall be uniquely able to identify the change trend of the animation in the dynamical pattern. .....</p>	<p><b>4.2 Drawings or Photographs</b> ..... <del>As for a product design that covers a graphical user interface, the overall view of the product design shall be submitted. In case that the graphical user interface is a dynamic pattern, the applicant shall submit the overall view of the product design above in at least one state and the view of only key frames in the rest states. Views submitted shall be uniquely able to identify the change trend of the animation in the dynamical pattern.</del> .....</p>	<p><b>4.2 Drawings or Photographs</b> ..... <del>As for a product design that covers a graphical user interface, the overall view of the product design shall be submitted. In case that the graphical user interface is a dynamic pattern, the applicant shall submit the overall view of the product design above in at least one state and the view of only key frames in the rest states. Views submitted shall be uniquely able to identify the change trend of the animation in the dynamical pattern.</del> .....</p>
<p><b>4.3 Brief Explanation</b> ..... (7) when a patent application is made for the product design that covers a graphical user interface, the usage of the graphical user interface, the location of the graphical user interface in the product, the human-computer interaction mode and the state of change shall be illustrated when necessary. (The above are amended contents in the Order of the State Intellectual Property Office No.68 issued in 2014)</p>	<p><b>4.3 Brief Explanation</b> ..... <del>(7) when a patent application is made for the product design that covers a graphical user interface, the usage of the graphical user interface, the location of the graphical user interface in the product, the human-computer interaction mode and the state of change shall be illustrated when necessary. (The above are amended contents in the Order of the State Intellectual Property Office No.68 issued in 2014)</del></p>	<p><b>4.3 Brief Explanation</b> ..... <del>(7) when a patent application is made for the product design that covers a graphical user interface, the usage of the graphical user interface, the location of the graphical user interface in the product, the human-computer interaction mode and the state of change shall be illustrated when necessary. (The above are amended contents in the Order of the State Intellectual Property Office No.68 issued in 2014)</del></p>

	<p><b><u>4.4 Product Design Involving A Graphical User Interface</u></b></p> <p><u>A product design that involves a graphical user interface refers to a product design with its key points of design including a graphical user interface.</u></p> <p><b><u>4.4.1 Product Name</u></b></p> <p><u>The name of a product design that covers a graphical user interface shall indicate the main purpose of the graphical user interface and the product to which it is applied, and, in normal cases, shall contain the key words “graphical user interface”. The name of a product that covers a dynamic graphical user interface shall contain the key word “dynamic”. For example, “refrigerator with a temperature control graphical user interface”, “weather forecast dynamic graphical user interface on mobile phones”.</u></p> <p><u>The applicant shall not simply use the name of the “graphical user interface” as the product name, such as “software graphical user interface” and “operation graphical user interface”.</u></p>	<p><b><u>4.4 Product Design Involving A Graphical User Interface</u></b></p> <p><u>A product design that involves a graphical user interface refers to a product design with its key points of design including a graphical user interface.</u></p> <p><b><u>4.4.1 Product Name</u></b></p> <p><u>The name of a product design that covers a graphical user interface shall indicate the main purpose of the graphical user interface and the product to which it is applied, and, in normal cases, shall contain the key words “graphical user interface”. The name of a product that covers a dynamic graphical user interface shall contain the key word “dynamic”. For example, “refrigerator with a temperature control graphical user interface”, “weather forecast dynamic graphical user interface on mobile phones”, and “display panel with a VOD graphical user interface”.</u></p> <p><u>The applicant shall not simply use the name of the “graphical user interface” as the product name, such as “software graphical user interface” and “operation graphical user interface”.</u></p>
	<p><b><u>4.4.2 Drawings or Photographs</u></b></p> <p><u>The product design that covers a graphical user interface shall comply with Section 4.2 of Chapter 3 of this Part. Where the graphical user interface is the only key design point of the product, the applicant may submit an orthographic view of the product involving the surface of the graphical user interface. The view shall clearly show the product category to which the graphical user interface is applied, as well as the design of the graphical user interface and its size, location and proportion in the product.</u></p> <p><u>In case that the graphical user interface is a dynamic pattern, the applicant shall submit the orthographic view of the product involving the surface of the graphical user interface in at least one</u></p>	<p><b><u>4.4.2 Drawings or Photographs</u></b></p> <p><u>The product design that covers a graphical user interface shall comply with Section 4.2 of Chapter 3 of this Part. Where the graphical user interface is the only key design point of the product, the applicant shall submit at least one orthographic view of the display panel containing the graphical user interface.</u></p> <p><u>If it is required that the size, location and proportion of the graphical user interface design in the finished product shall be clearly shown, the applicant shall submit an orthographic view of the finished product containing the surface of the graphical user interface.</u></p> <p><u>In case that the graphical user interface is a dynamic pattern, the applicant shall submit the orthographic view of the</u></p>

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state as the main view, and the views of only key frames of the graphical user interface in the rest states as views of changing states. Views submitted shall be uniquely able to identify the change trend of the animation in the dynamical pattern. The order of the changing state views shall be labelled according to the order of the dynamic change process.

As for a projection equipment product design that covers a graphical user interface, the applicant shall submit clear views of such projection equipment and its graphical user interface.

surface of the graphical user interface in at least one state as the main view, and the views of only key frames of the graphical user interface in the rest states as views of changing states. Views submitted shall be uniquely able to identify the changing process of the animation in the dynamical pattern. The order of the changing state views shall be labelled according to the order of the dynamic change process.

As for a graphical user interface used to operate projection equipment, in addition to the view of such graphical user interface, the applicant shall also submit at least one view which clearly shows such projection equipment.

#### **4.4.3 Brief Explanation**

The purpose of the graphical user interface of a product design shall be clearly illustrated in its brief explanation and such purpose shall correspond to that reflected in the product name. If the applicant has only submitted the orthographical view of the display panel containing the graphical user interface, an exhaustive list of final products to which the graphical user interface display panel is applied shall be provided, such as “the display panel is applied to cellphones and computers”. The location of the graphical user interface in the product, the human-computer interaction mode and the changing process shall be illustrated when necessary.

.....

#### **7.4 Circumstances where a design patent right will not be granted**

.....

(11) Game interfaces and patterns shown on display devices that is unrelated to human-computer interaction, such as electronic screen wallpaper, power-on and power-off screen, graphic and textual layout of webpages and websites that are unrelated to human-computer interaction.



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Part II Chapter 1	Part II Chapter 1	Part II Chapter 1
<p><b>3.1.2 Inventions-Creations Contrary to Social Morality</b></p> <p>.....</p> <p>Where an invention-creation is contrary to social morality, it shall not be granted a patent right. ...., use of human embryos for industrial or commercial purposes, ..... are contrary to social morality and thus shall not be granted patent rights.</p>	<p><b>3.1.2 Inventions-Creations Contrary to Social Morality</b></p> <p>.....</p> <p>Where an invention-creation is contrary to social morality, it shall not be granted a patent right. ...., use of human embryos for industrial or commercial purposes, ... are contrary to social morality and thus shall not be granted patent rights.</p> <p><u>However, if the invention-creation is separation or acquisition of stem cells by using human embryos that have been fertilized for less than 14 days and have not undergone in vivo development, no rejection of granting of patent right on the ground of “social morality violation” is allowed.</u></p>	<p><b>3.1.2 Inventions-Creations Contrary to Social Morality</b></p> <p>.....</p> <p>Where an invention-creation is contrary to social morality, it shall not be granted a patent right. ...., use of human embryos for industrial or commercial purposes, ... are contrary to social morality and thus shall not be granted patent rights.</p> <p><u>However, if the invention-creation is separation or acquisition of stem cells by using human embryos that have been fertilized for less than 14 days and have not undergone in vivo development, no rejection of granting of patent right on the ground of “social morality violation” is allowed.</u></p>
Part II Chapter 4	Part II Chapter 4	Part II Chapter 4
<p><b>3.2.1.1 Approach to Assessment</b></p> <p>Usually the following three steps are followed to determine whether a claimed invention is obvious as compared with the prior art.</p> <p>(1) Determining the closest prior art</p> <p>.....</p> <p>(2) Determining the distinguishing features of the invention and the technical problem actually solved by the invention</p> <p>During examination, the examiner shall objectively analyze and determine the technical problem actually solved by the invention. For this purpose, the examiner shall first determine the distinguishing features of the claimed invention as compared with the closest prior art and then determine the technical problem that is actually solved by the invention on the basis of the technical effect of the distinguishing features. The technical problem actually solved by the invention, in this sense, means the technical task in improving the closest prior art to achieve a better technical effect</p> <p>.....</p>	<p><b>3.2.1.1 Approach to Assessment</b></p> <p>Usually the following three steps are followed to determine whether a claimed invention is obvious as compared with the prior art.</p> <p>(1) Determining the closest prior art</p> <p>.....</p> <p>(2) Determining the distinguishing features of the invention and the technical problem actually solved by the invention</p> <p>During examination, the examiner shall objectively analyze and determine the technical problem actually solved by the invention. For this purpose, the examiner shall first determine the distinguishing features of the claimed invention as compared with the closest prior art and then determine the technical problem that is actually solved by the invention on the basis of the technical effect of the distinguishing features <b>in the claimed invention</b>. The technical problem actually solved by the invention, in this sense, means the technical task in improving the closest prior art to achieve a better technical effect.</p> <p>.....</p>	<p><b>3.2.1.1 Approach to Assessment</b></p> <p>Usually the following three steps are followed to determine whether a claimed invention is obvious as compared with the prior art.</p> <p>(1) Determining the closest prior art</p> <p>.....</p> <p>(2) Determining the distinguishing features of the invention and the technical problem actually solved by the invention</p> <p>During examination, the examiner shall objectively analyze and determine the technical problem actually solved by the invention. For this purpose, the examiner shall first determine the distinguishing features of the claimed invention as compared with the closest prior art and then determine the technical problem that is actually solved by the invention on the basis of the technical effect of the distinguishing features <b>in the claimed invention</b>. The technical problem actually solved by the invention, in this sense, means the technical task in improving the closest prior art to achieve a better technical effect.</p> <p>.....</p>

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<p>The re-determined technical problem may depend on the particular situations of each invention. As a principle, any technical effect of an invention may be used as the basis to re-determine the technical problem, as long as the technical effect could be recognized by a person skilled in the art from the contents set forth in the description.</p> <p>(3) Determining whether or not the claimed invention is obvious to a person skilled in the art .....</p>	<p>The re-determined technical problem may depend on the particular situations of each invention. As a principle, any technical effect of an invention may be used as the basis to re-determine the technical problem, as long as the technical effect could be recognized by a person skilled in the art from the contents set forth in the description. <b><u>As for technical features that support and interact with each other in function, the examiner shall consider the overall technical effect achieved in the claimed invention by such technical features and their relationship.</u></b></p> <p>(3) Determining whether or not the claimed invention is obvious to a person skilled in the art .....</p>	<p>The re-determined technical problem may depend on the particular situations of each invention. As a principle, any technical effect of an invention may be used as the basis to re-determine the technical problem, as long as the technical effect could be recognized by a person skilled in the art from the contents set forth in the description. <b><u>As for technical features that support and interact with each other in function, the examiner shall consider the overall technical effect achieved in the claimed invention by such technical features and their relationship.</u></b></p> <p>(3) Determining whether or not the claimed invention is obvious to a person skilled in the art .....</p>
<b>Part II Chapter 4</b>	<b>Part II Chapter 4</b>	<b>Part II Chapter 4</b>
<p><b>6.4 Examination on the Claimed Invention</b></p> <p>The determination of whether an invention involves an inventive step shall be directed to the claimed invention, and therefore the evaluation of inventive step shall concern the technical solutions as defined in the claims. The technical features by which the invention makes contribution over the prior art, such as the technical features bringing about unexpected technical effects for the invention, or the technical features reflecting how the invention overcomes a technical prejudice, shall be included in the claims; otherwise, they shall not be taken into account in evaluating the inventive step of the invention, even if they have been set forth in the description. Moreover, the evaluation of inventive step shall be directed to the whole of each technical solution defined in the claims, that is, it is the technical solution as a whole, rather than the individual technical features, that shall be evaluated as to whether involving an inventive step.</p>	<p><b>6.4 Examination on the Claimed Invention</b></p> <p>The determination of whether an invention involves an inventive step shall be directed to the claimed invention, and therefore the evaluation of inventive step shall concern the technical solutions as defined in the claims. The technical features by which the invention makes contribution over the prior art, such as the technical features bringing about unexpected technical effects for the invention, or the technical features reflecting how the invention overcomes a technical prejudice, shall be included in the claims; otherwise, they shall not be taken into account in evaluating the inventive step of the invention, even if they have been set forth in the description. Moreover, the evaluation of inventive step shall be directed to the whole of each technical solution defined in the claims, that is, it is the technical solution as a whole, rather than the individual technical features, that shall be evaluated as to whether involving an inventive step. <b><u>However, the technical features in the claims that have no</u></b></p>	<p><b>6.4 Examination on the Claimed Invention</b></p> <p>The determination of whether an invention involves an inventive step shall be directed to the claimed invention, and therefore the evaluation of inventive step shall concern the technical solutions as defined in the claims. The technical features by which the invention makes contribution over the prior art, such as the technical features bringing about unexpected technical effects for the invention, or the technical features reflecting how the invention overcomes a technical prejudice, shall be included in the claims; otherwise, they shall not be taken into account in evaluating the inventive step of the invention, even if they have been set forth in the description. Moreover, the evaluation of inventive step shall be directed to the whole of each technical solution defined in the claims, that is, it is the technical solution as a whole, rather than the individual technical features, that shall be evaluated as to whether involving an inventive step.</p>

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	<p><u>contribution to solving the technical problem shall not affect evaluation of the invention step of the technical solution as defined in the claims. For example, if the essence of a camera-related invention is improvement of the shutter of the camera, the solution to its technical problem depends on the shutter structure or exposure time control, meaning that even if the applicant includes other inherent parts of the camera, such as the lenses and viewfinder, in the claims, such technical features are not associated with the technical problem of camera shutter improvement, and therefore belongs to the technical features that have no contribution to the solution to such technical problem.</u></p>	
<b>Part II Chapter 7</b>	<b>Part II Chapter 7</b>	<b>Part II Chapter 7</b>
<p><b>2. Search Documentation Used in Examination</b></p> <p><b>2.1 Patent Documentation Used in Search</b></p> <p>The search in substantive examination procedure for an invention application is mainly conducted in patent documentation. The patent documentation used in search mainly includes the patent documents of various countries in electronic form( either in computer searchable databases or in CD-ROMs), the search files in paper form for use in examination which are arranged according to IPC order, the patent documents of various countries in paper form which are arranged according to serial number, and the patent documents of various countries in microfiche.</p> <p>The patent documentation in electronic form collected in the Patent Office mainly includes: the publication of Chinese invention applications, the publication of Chinese invention patents, the publication of Chinese utility model patents, the publication of European patent applications, the international publication of patent applications under the PCT, the publication of US patents,</p>	<p><b>2. Search <del>Resources</del>Documentation Used in Examination</b></p> <p><b>2.1 Patent Documentation <u>Resources</u> Used in Search</b></p> <p><del>The search in substantive examination procedure for an invention application is mainly conducted in patent documentation. The patent documentation used in search mainly includes the patent documents of various countries in electronic form (either in computer searchable databases or in CD-ROMs), the search files in paper form for use in examination which are arranged according to IPC order, the patent documents of various countries in paper form which are arranged according to serial number, and the patent documents of various countries in microfiche.</del></p> <p><del>The patent documentation in electronic form collected in the Patent Office mainly includes: the publication of Chinese invention applications, the publication of Chinese invention patents, the publication of Chinese utility model patents, the publication of European patent applications, the international publication of patent applications under the PCT, the publication of US patents,</del></p>	<p><b>2.1 Patent Documentation Resources Used in Search</b></p> <p><b>2.1 Patent Documentation Resources</b></p> <p>The examiner shall search the patent documentation in the substantive examination procedure of invention patent applications. Such documentation includes Chinese patent documentation and foreign patent documentation. Examiners mainly use the computer search system for search in the patent documentation databases, which mainly include: the Patent Abstracts Database, the Patent Full-text Database and the Patent Classification Database, etc.</p>

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<p>the publication of Japanese patent applications, the publication of Japanese utility model patents, and patent abstracts of various countries. The patent documentation in paper form collected in the Patent Office mainly includes: the publication of Chinese invention applications, the publication of Chinese invention patents, the publication of Chinese utility model patents, the publication of US patents, the publication of European patent applications, the international publication of patent applications under the PCT, and patent abstracts of various countries.</p>	<p><del>the publication of Japanese patent applications, the publication of Japanese utility model patents, and patent abstracts of various countries. The patent documentation in paper form collected in the Patent Office mainly includes: the publication of Chinese invention applications, the publication of Chinese invention patents, the publication of Chinese utility model patents, the publication of US patents, the publication of European patent applications, the international publication of patent applications under the PCT, and patent abstracts of various countries.</del></p> <p><u>The examiner shall search the patent documentation in the substantive examination procedure of invention patent applications. Such documentation includes Chinese patent documentation and foreign patent documentation.</u></p> <p><u>The patent documentation databases in the patent search and service system (briefly called the S system) used by examiners for search mainly include: the Chinese Patent Abstract database (CNABS) , the world patent abstract database (SIPOABS), the Derwent World Patent Index database (DWPI), the VEN database, the Chinese Patent Full-text Coding database (CNTXT) and the international patent full-text database (WOTXT), etc.</u></p>	
<p><b>2.2 Non-Patent Literature Used in Search</b></p> <p>In addition to searching in patent documentation, the examiner shall also search non-patent literature. The non-patent literature used in search mainly includes foreign and domestic scientific and technological books, periodicals, index tools and manuals in paper form or electronic form.</p>	<p><b>2.2 Non-Patent Literature <u>Resources Used in Search</u></b></p> <p>In addition to searching patent documentation, the examiner shall also search non-patent literature. The non-patent literature <u>accessible in the S system and on the Internet</u><del>used in search</del> mainly includes foreign and domestic scientific and technological books, periodicals, <u>academic dissertations, standards/agreements</u>, index tools and manuals <del>in paper form or electronic form</del>.</p>	<p><b>2.2 Non-Patent Literature Resources</b></p> <p>In addition to searching patent documentation, the examiner shall also search non-patent literature. The non-patent literature accessible in the computer search system and on the Internet mainly includes foreign and domestic scientific and technological books, periodicals, academic dissertations, standards/agreements, index tools and manuals.</p>

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### 5.3 Determining the Technical Fields to be Searched

The examiner shall usually carry out the search in the technical field to which the subject matter of the application pertains. When necessary, the scope of the search shall be extended to the analogous technical fields. The technical field to which the subject matter of the application pertains is determined according to the contents of the claims, especially the specific function and use, as well as the corresponding specific embodiments which are clearly indicated. The classification symbol assigned by an examiner which indicates the invention information is the technical field to which the subject matter of the application pertains. The analogous technical fields are determined according to the essential function or use that the subject matter of the application as revealed in the application documents has to possess, and not only the title of the subject matter of the application, or the specific function expressly indicated in the application documents. For example, a tea mixer and a concrete mixer are in the analogous fields, because mixing is the essential function of the two. Similarly, a brick cutting machine and a biscuit cutting machine also are in the analogous fields. For another example, a cable clamp having certain structural characteristics is defined in an independent claim of an application. If no relevant document can be found in the technical field to which the cable clamp pertains, the search shall be extended to the technical fields of pipe clamps and other similar clamps. These clamps possess the similar essential function with the cable clamp, thus it is quite possible for them to have the structural characteristics as defined in the independent claim. In other words, when an extended search is made, the search shall cover all the documents that may contain contents relevant to all or some of the features of the subject matter of the application.

### 5.3 Determining the Technical Fields to be Searched

The examiner shall usually carry out the search in the technical field to which the subject matter of the application pertains. When necessary, the scope of the search shall be extended to the analogous technical fields in terms of function **or application**. The technical field to which the subject matter of the application pertains is determined according to the contents of the claims, especially the specific function and use, as well as the corresponding specific embodiments which are clearly indicated. The classification symbol assigned by an examiner which indicates the invention information is the technical field to which the subject matter of the application pertains. The analogous technical fields in terms of function **or application** are determined according to the essential function or use that the subject matter of the application as revealed in the application documents has to possess, and not only the title of the subject matter of the application, or the specific function **or application** expressly indicated in the application documents. ~~For example, a tea mixer and a concrete mixer are in the analogous fields, because mixing is the essential function of the two. Similarly, a brick cutting machine and a biscuit cutting machine also are in the analogous fields. For another example, a cable clamp having certain structural characteristics is defined in an independent claim of an application. If no relevant document can be found in the technical field to which the cable clamp pertains, the search shall be extended to the technical fields of pipe clamps and other similar clamps. These clamps possess the similar essential function with the cable clamp, thus it is quite possible for them to have the structural characteristics as defined in the independent claim. In other words, when an extended search is made, the search shall cover all the documents that may contain contents relevant to all or some of the features of the subject~~

### 5.3 Determining the Technical Fields to be Searched

The examiner shall usually carry out the search in the technical field to which the subject matter of the application pertains. When necessary, the scope of the search shall be extended to the analogous technical fields in terms of function **or application**. The technical field to which the subject matter of the application pertains is determined according to the contents of the claims, especially the specific function and use, as well as the corresponding specific embodiments which are clearly indicated. The classification symbol assigned by an examiner which indicates the invention information is the technical field to which the subject matter of the application pertains. The analogous technical fields in terms of function **or application** are determined according to the essential function or use that the subject matter of the application as revealed in the application documents has to possess, and not only the title of the subject matter of the application, or the specific function **or application** expressly indicated in the application documents. ~~For example, a tea mixer and a concrete mixer are in the analogous fields, because mixing is the essential function of the two. Similarly, a brick cutting machine and a biscuit cutting machine also are in the analogous fields. For another example, a cable clamp having certain structural characteristics is defined in an independent claim of an application. If no relevant document can be found in the technical field to which the cable clamp pertains, the search shall be extended to the technical fields of pipe clamps and other similar clamps. These clamps possess the similar essential function with the cable clamp, thus it is quite possible for them to have the structural characteristics as defined in the independent claim. In other words, when an extended search is made, the search shall cover all the documents that may contain contents~~



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	<p>matter of the application:</p>	<p>relevant to all or some of the features of the subject matter of the application:</p>
<p><b>5.4.2 Determining Search Elements</b></p> <p>.....</p> <p>After the basic search elements have been determined, the examiner shall, taking account of the features of the technical fields to be searched, determine the expressing means of each element in a computer search system, such as keywords, classification symbols, and chemical structural formulas. In order to make a complete search, it is normally required to express these search elements as far as possible by various means including keywords and classification symbols, and add the search results obtained from the various means altogether to form the search results of said search elements.</p> <p>In selection of keywords, normally the various synonyms and approximate expressions of the corresponding search element need to be taken into account, and when necessary, the relevant generic term, specific term, other relevant terms, and the various synonyms and approximate expressions thereof, shall also be considered.</p> <p>.....</p>	<p><b>5.4.2 Determining Search Elements</b></p> <p>.....</p> <p>After the basic search elements have been determined, the examiner shall, taking account of the features of the technical fields to be searched, determine the expressing means of each element in a computer search system, <del>such as keywords, classification symbols, and chemical structural formulas.</del> In order to make a complete search, it is normally required to express these search elements as far as possible by various means including keywords and classification symbols, and add the search results obtained from the various means altogether to form the search results of said search elements.</p> <p><del>In selection of keywords, normally the various synonyms and approximate expressions of the corresponding search element need to be taken into account, and when necessary, the relevant generic term, specific term, other relevant terms, and the various synonyms and approximate expressions thereof, shall also be considered.</del></p> <p>.....</p>	<p><b>5.4.2 Determining Search Elements</b></p> <p>.....</p> <p>After the basic search elements have been determined, the examiner shall, taking account of the features of the technical fields to be searched, determine the expressing means of each element in a computer search system, <u>such as keywords, classification symbols, and chemical structural formulas.</u> In order to make a complete search, it is normally required to express these search elements as far as possible by various means including keywords and classification symbols, and add the search results obtained from the various means altogether to form the search results of said search elements.</p> <p><u>In selection of keywords, normally the various synonyms and approximate expressions of the corresponding search element need to be taken into account, and when necessary, the relevant generic term, specific term, other relevant terms, and the various synonyms and approximate expressions thereof, shall also be considered.</u></p> <p>.....</p>
<p><b>6. Search on an Invention Application</b></p> <p><b>6.2 Sequence of Search</b></p> <p><b>6.2.1 Search in Technical Fields to Which the Invention Pertains</b></p> <p>The technical fields to which the invention pertains are the major technical fields of the subject matter of the application. There is the greatest possibility to find the closely relevant documents if the search is conducted in these fields. Therefore, the examiner shall begin the comprehensive search in the patent documents in these fields. For example, if the IPC symbol indicating the invention information is "xxxx7/16.. (7/12 having priority) ", then the search shall be directed to 7/16 first and then to 7/12; after that, the examiner shall search the various subgroups under 7/16</p>	<p><b>6. Search on an Invention Application</b></p> <p><b><u>6.2 Process of Search</u></b></p> <p><u>Normally, the examiner, according to the features of an application, follows the sequence of preliminary search, regular search and extended search, reviewing the search results and evaluating the novelty and inventive step, until the conditions of termination of search as set forth in Section 8 of this Chapter are satisfied.</u></p> <p><b><u>6.2.1 Preliminary Search</u></b></p> <p><u>The examiner shall search for the family application, initial/divisional application and other applications submitted by the applicant or inventor which belong to the same or close technical fields with that of the subject</u></p>	<p><b>6. Search on an Invention Application</b></p> <p><b><u>6.2 Process of Search</u></b></p> <p><u>Normally, the examiner, according to the features of an application, follows the sequence of preliminary search, regular search and extended search, reviewing the search results and evaluating the novelty and inventive step, until the conditions of termination of search as set forth in Section 8 of this Chapter are satisfied.</u></p> <p><b><u>6.2.1 Preliminary Search</u></b></p> <p><u>The examiner shall search for the family application, initial/divisional application and other applications submitted by the applicant or inventor which belong to the same or close technical fields with that of the subject</u></p>



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<p>and 7/12, in which the subject matter of the application are not obviously excluded. Finally, the examiner shall search the subgroup at the immediate higher level up to the main group which covers the subject matter of the application. If there are more than one IPC symbols indicating the invention information, in the same way, the examiner shall search the patent documents in the technical fields defined by other IPC symbols.</p> <p>As to other subject matters of the application to which the search shall be directed, the search shall be carried out in a similar way in the technical fields to which it pertains and in the relevant technical fields.</p>	<p><u>matter of the application to be searched, by using information such as the applicant, the inventor and the priority right. The examiner may also conduct semantic search in view of finding reference documents that may affect the novelty and inventiveness of the subject matter of the application in a fast manner.</u></p>	<p><u>matter of the application to be searched, by using information such as the applicant, the inventor and the priority right. The examiner may also conduct semantic search in view of finding reference documents that may affect the novelty and inventiveness of the subject matter of the application in a fast manner.</u></p>
<p><b>6.2.2 Search in Technical Fields of Similar Function</b></p> <p>Based on the search results obtained by carrying out the search according to what is described in Section 6. 2. 1 of this Chapter, the examiner shall consider whether it is necessary to extend the search to the analogous technical fields. If it is, the search shall be carried out in these technical fields which have analogous function in the way as described in Section 6.2. 1 of this Chapter.</p>	<p><b><u>6.2.2 Regular Search</u></b></p> <p><u>Regular search is a search conducted in the technical fields to which the subject matter of the application pertains, which are the main technical fields where the subject matter of the application is involved. There is the greatest possibility to find the closely relevant documents if the search is conducted in these fields. Therefore, the examiner shall begin the search among the patent documents in these fields.</u></p> <p><u>As to other subject matters of the application to which the search shall be directed, the search shall be carried out in a similar way in the technical fields to which it pertains and in the relevant technical fields.</u></p> <p><u>If a search conducted according to this Section finds that the determined technical fields are incorrect, the examiner shall re-determine the technical fields and search in the re-determined technical fields.</u></p>	<p><b><u>6.2.2 Regular Search</u></b></p> <p><u>Regular search is a search conducted in the technical fields to which the subject matter of the application pertains, which are the main technical fields where the subject matter of the application is involved. There is the greatest possibility to find the closely relevant documents if the search is conducted in these fields. Therefore, the examiner shall begin the search among the patent documents in these fields.</u></p> <p><u>As to other subject matters of the application to which the search shall be directed, the search shall be carried out in a similar way in the technical fields to which it pertains and in the relevant technical fields.</u></p> <p><u>If a search conducted according to this Section finds that the determined technical fields are incorrect, the examiner shall re-determine the technical fields and search in the re-determined technical fields.</u></p>
<p><b>6.2.3 Search after Redetermination of Technical Fields</b></p> <p>If no reference documents are found after the search described in Sections 6.2. 1 and 6.2.2 of this Chapter, it is possible that the technical fields have not been correctly determined. Then, the examiner</p>	<p><b><u>6.2.3 Extended Search</u></b></p> <p><u>Extended search is a search conducted in analogous technical fields in terms of function or application.</u></p> <p><u>For example, the independent claim of an application has defined a type of hydraulic pressure printer using</u></p>	<p><b><u>6.2.3 Extended Search</u></b></p> <p><u>Extended search is a search conducted in analogous technical fields in terms of function or application.</u></p> <p><u>For example, the independent claim of an application has defined a type of hydraulic pressure printer using</u></p>

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<p>to redetermine the technical fields and carry out the search in those fields.</p> <p>In carrying out the search as described in Sections 6.2. 1,6.2.2 and 6.2.3 of this Chapter, the chronological order of the search, i. e. , the sequence of the disclosure date of the search materials to be consulted, shall be, in general, from latest to previous as compared with the filing date of the application.</p> <p><b>6.2.4 Search in Other Materials</b></p> <p>Where necessary, the examiner shall carry out search in the non-patent literature for search (see Section 2.2 of this Chapter).</p> <p>Besides, the examiner may consult the documents cited in the reference documents obtained in the above-mentioned Sections 6. 2. 1- 6.2.3, and the relevant documents listed as "reference cited" of the publication of invention applications or publication of invention patents obtained from the search.</p>	<p><u>silicon-based hydraulic fluid to solve the corrosion problem of the moving parts. If no reference document is found in the technical field to which the hydraulic pressure printer pertains, the search shall be extended to the technical fields of similar function, such as the field of a general hydraulic pressure system with the problem of moving part corruption, or to the technical fields of similar application, such as the specific technical fields to which a hydraulic system is applied.</u></p>	<p><u>silicon-based hydraulic fluid to solve the corrosion problem of the moving parts. If no reference document is found in the technical field to which the hydraulic pressure printer pertains, the search shall be extended to the technical fields of similar function, such as the field of a general hydraulic pressure system with the problem of moving part corruption, or to the technical fields of similar application, such as the specific technical fields to which a hydraulic system is applied.</u></p>
<p><b>6.3 Detailed Steps</b></p> <p><b>6.3.1 Manner of Computer Search</b></p> <p>When conducting a computer search, in order to make a complete search, the examiner shall express each search element by various means, such as by keywords, classification symbols and chemical structural formulas. For example, for a claim including two basic search elements A and B, the basic search strategy may be as follows:</p> <p>making an "OR" combination of the search result from classification symbols with that from keywords of search element A as the search result for search element A; making an "OR" combination of the search result from classification symbols with that from keywords of search element B as the search result for search element B; and then making an "AND" combination of the above search result for search element A with that for B as the search result for the claim.</p> <p>In practical search, the examiner may conduct the search by means of different</p>	<p><b><u>6.3 Search Strategy</u></b></p> <p><u>Formulating of the search strategy normally includes selecting the search system or database, expressing basic search elements, constructing the search strategy and adjusting the search strategy.</u></p> <p><u>During the searching process, the examiner may at any time use a relevant document to trace the citing documents, cited documents, inventors, or applicants in order to find further relevant documents.</u></p> <p><b><u>6.3.1 Selecting Search System or Database</u></b></p> <p><u>When selecting the system/database for search, the examiner needs to consider the following factors:</u></p> <p><u>(1) The technical field to which the subject matter of the application pertains;</u></p> <p><u>(2) The country and year of the document to be searched;</u></p>	<p><b><u>6.3 Search Strategy</u></b></p> <p><u>Formulating of the search strategy normally includes selecting the search system or database, expressing basic search elements, constructing the search strategy and adjusting the search strategy.</u></p> <p><u>During the searching process, the examiner may at any time use a relevant document to trace the citing documents, cited documents, inventors, or applicants in order to find further relevant documents.</u></p> <p><b><u>6.3.1 Selecting Search System or Database</u></b></p> <p><u>When selecting the system/database for search, the examiner needs to consider the following factors:</u></p> <p><u>(1) The technical field to which the subject matter of the application pertains;</u></p> <p><u>(2) The country and year of the document to be searched;</u></p>

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combinations according to the specific circumstance of the application. For example, the examiner may:

- (1) make an "AND" combination of the search result from classification symbols of element A with the search result from keywords of element B;
- (2) make an "AND" combination of the search result from classification symbols of element A with the search result from classification symbols of element B;
- (3) make an "AND" combination of the search result from keywords of element A with the search result from keywords of element B;
- (4) make an "AND" combination of the search result from keywords of element A with the search result from classification symbols of element B; or
- (5) make an "OR" combination of the search result from classification symbols with that from keywords of element A, and then make an "AND" combination of the above result with the search result from keywords or classification symbols of the element B.

If no relevant reference document is found by one means of search, the examiner shall consider whether there may be any document possibly missed by this means. For example, in the above search means( 1 ) , possibly missed documents include: those documents having the keywords relevant with at least one of A and B but not assigned any of the classification symbols of A; and those documents assigned a classification symbol that is the same as at least one of the classification symbols of A and B, but not having any of the keywords relevant with B. For those possibly missed documents, the examiner shall adjust the means of search to conduct a targeted search. Where no reference document capable of affecting the novelty or inventive step of the technical solution is found by search directed to the combination of search elements A and B, in general, the examiner shall consider the results from conducting search respectively directed to the individual search elements A or B.

(3) The fields to be adopted in the search and functions available in the search system/database;

(4) Features of the applicant or the inventor.

### **6.3.2 Expressing Basic Search Elements**

The means to express basic search elements mainly include classification symbols, key words, etc. In general, priority shall be given to classification symbols when expressing the basic elements reflecting the subject matter of an application.

When using classification symbols as the expression means, the examiner normally needs to select a proper classification system according to the features of the subject matter and the classification systems. After a classification system is determined, the examiner shall firstly use the most accurate and specific classification symbol for search, but if there are several classification symbols that are highly related, the examiner may also use them for search.

When using key words as the expression means, in normal cases, the examiner firstly uses the most basic and accurate key words before improving key word expression in the three aspects of form, meaning and perspective. In terms of form, the examiner shall fully consider all forms of expression of the key words, such as different properties of English words, singular and plural forms, commonly misspelled forms, etc.; in terms of meaning, the examiner shall fully consider all synonyms, antonyms, generic terms and specific terms etc. of the key words; in terms of perspective, the examiner shall fully consider the technical problem to be solved, the technical effect, etc. recorded in the description.

### **6.3.3 Constructing the Search Strategy**

The examiner may form combinations of different expression means of the

(3) The fields to be adopted in the search and functions available in the search system/database;

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### **6.3.2 Expressing Basic Search Elements**

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When using key words as the expression means, in normal cases, the examiner firstly uses the most basic and accurate key words before improving key word expression in the three aspects of form, meaning and perspective. In terms of form, the examiner shall fully consider all forms of expression of the key words, such as different properties of English words, singular and plural forms, commonly misspelled forms, etc.; in terms of meaning, the examiner shall fully consider all synonyms, antonyms, generic terms and specific terms etc. of the key words; in terms of perspective, the examiner shall fully consider the technical problem to be solved, the technical effect, etc. recorded in the description.

### **6.3.3 Constructing the Search Strategy**

The examiner may form combinations of different expression means of the

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If the technical solution involves a plurality of basic search elements, e. g. , basic search elements A, B and C, where no reference document capable of affecting the novelty or inventive step of the technical solution is found, in general, the examiner shall consider conducting search directed to the combinations of the basic search elements, e. g. , the combinations of A+B, A + C and B + C; if necessary, the individual search elements A, B or C shall also be considered.

Furthermore, in the process of computer search, the examiner may also at any time use a relevant document to trace the citing documents, cited documents, inventors, or applicants in order to find further relevant documents.

### 6.3.2 Manner of Manual Search

In the process of manual search, the examiner may consult the patent documents in the following steps.

Step 1: in the search files of the technical fields to be searched, quickly skim through the abstract and figure on the first page of the patent documents and the contents of the independent claims in the claims, the patent abstracts of Japan, Russia ( including the former USSR), Germany (including the former Federal Republic of Germany), UK, France, Switzerland, etc. , bibliographic data of the Chinese and foreign periodicals and thesis, and pick out those documents which are considered to be relevant to the subject matter of the application after a preliminary judgment. If the application to be searched has drawings showing various detailed structures, the examiner may compare the drawings of the application with those of the documents in the search files one by one, and pick out those documents with the same or similar structures as those in the application.

Step 2: carefully read the abstracts, drawings, and claims of the patent documents selected in Step 1, and the documents corresponding to the

same basic search element and construct search strategies by integrating the combinations by using logical operators with reference to the features of the subject matter of the application and search results. The forms of combination include all-element search, partial elements search and single element search.

### 6.3.4 Adjusting Search Strategy

Generally, the examiner needs to adjust the search strategy according to the search result and the expectation of evaluation of novelty and inventiveness.

#### (1) Adjust basic search elements

The examiner needs to change, add or remove basic search elements according to the prior art already known by him/her and his/her further understanding of the invention.

#### (2) Adjust the search system/database

If no reference document is found in a search system/database, the examiner shall re-select a search system/database according to available search fields and functions as well as expected features of the reference documents.

#### (3) Adjust the expression of basic search elements

The examiner shall adjust the expression of basic search elements at times according to the search results. For example, when adjusting the expression of classification symbols, the examiner shall firstly use the most accurate specific terms before gradually moving to generic terms, the main group and even the sub-category. The examiner may also identify new and proper classification symbols according to the search result or by using relevance within or among the classification tables; when adjusting the expression of key words, the examiner shall firstly use the most basic and accurate key words before adjusting the expression in the three aspects of form, meaning and perspective.

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#### (3) Adjust the expression of basic search elements

The examiner shall adjust the expression of basic search elements at times according to the search results. For example, when adjusting the expression of classification symbols, the examiner shall firstly use the most accurate specific terms before gradually moving to generic terms, the main group and even the sub-category. The examiner may also identify new and proper classification symbols according to the search result or by using relevance within or among the classification tables; when adjusting the expression of key words, the examiner shall firstly use the most basic and accurate key words before adjusting the expression in the three aspects of form, meaning and perspective.



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abstracts and bibliographic data selected in Step 1, and pick out those documents which are rather relevant to the application.

Step 3: carefully read, analyze and study the descriptions of the documents selected in Step 2, and finally determine the reference documents to be used in the search report and in the Office Action.

### **6.2 Sequence of Search**

#### **6.2.1 Search in Technical Fields to Which the Invention Pertains**

The technical fields to which the invention pertains are the major technical fields of the subject matter of the application. There is the greatest possibility to find the closely relevant documents if the search is conducted in these fields. Therefore, the examiner shall begin the comprehensive search in the patent documents in these fields. For example, if the IPC symbol indicating the invention information is "xxxx7/16.-(7/12 having priority)", then the search shall be directed to 7/16 first and then to 7/12; after that, the examiner shall search the various subgroups under 7/16 and 7/12, in which the subject matter of the application are not obviously excluded. Finally, the examiner shall search the subgroup at the immediate higher level up to the main group which covers the subject matter of the application. If there are more than one IPC symbols indicating the invention information, in the same way, the examiner shall search the patent documents in the technical fields defined by other IPC symbols.

As to other subject matters of the application to which the search shall be directed, the search shall be carried out in a similar way in the technical fields to which it pertains and in the relevant technical fields.

#### **6.2.2 Search in Technical Fields of Similar Function**

Based on the search results obtained by carrying out the search according to what is described in Section 6.2.1 of this Chapter, the examiner shall consider whether it is necessary to extend the search to the analogous technical fields. If it is, the search shall be carried out in these technical fields which have analogous function in the way as described in Section 6.2.1 of this Chapter.

### **6.2 Sequence of Search**

#### **6.2.1 Search in Technical Fields to Which the Invention Pertains**

The technical fields to which the invention pertains are the major technical fields of the subject matter of the application. There is the greatest possibility to find the closely relevant documents if the search is conducted in these fields. Therefore, the examiner shall begin the comprehensive search in the patent documents in these fields. For example, if the IPC symbol indicating the invention information is "xxxx7/16.-(7/12 having priority)", then the search shall be directed to 7/16 first and then to 7/12; after that, the examiner shall search the various subgroups under 7/16 and 7/12, in which the subject matter of the application are not obviously excluded. Finally, the examiner shall search the subgroup at the immediate higher level up to the main group which covers the subject matter of the application. If there are more than one IPC symbols indicating the invention information, in the same way, the examiner shall search the patent documents in the technical fields defined by other IPC symbols.

As to other subject matters of the application to which the search shall be directed, the search shall be carried out in a similar way in the technical fields to which it pertains and in the relevant technical fields.

#### **6.2.2 Search in Technical Fields of Similar Function**

Based on the search results obtained by carrying out the search according to what is described in Section 6.2.1 of this Chapter, the examiner shall consider whether it is necessary to extend the search to the analogous technical fields. If it is, the search shall be carried out in these technical fields which have analogous function in the way as described in Section 6.2.1 of this Chapter.

	<p><b>6.2.3 Search after Redetermination of Technical Fields</b></p> <p><del>If no reference documents are found after the search described in Sections 6.2. 1 and 6.2.2 of this Chapter, it is possible that the technical fields have not been correctly determined. Then, the examiner has to redetermine the technical fields and carry out the search in those fields:</del></p> <p><del>In carrying out the search as described in Sections 6.2. 1,6.2.2 and 6.2.3 of this Chapter, the chronological order of the search, i. e. , the sequence of the disclosure date of the search materials to be consulted, shall be, in general, from latest to previous as compared with the filing date of the application.</del></p> <p><b>6.2.4 Search in Other Materials</b></p> <p><del>Where necessary, the examiner shall carry out search in the non-patent literature for search (see Section 2.2 of this Chapter):</del></p> <p><del>Besides, the examiner may consult the documents cited in the reference documents obtained in the above-mentioned Sections 6. 2. 1- 6.2.3; and the relevant documents listed as "reference cited" of the publication of invention applications or publication of invention patents obtained from the search:</del></p> <p><b>6.3 Detailed Steps</b></p> <p><b>6.3.1 Manner of Computer Search</b></p> <p><del>When conducting a computer search, in order to make a complete search, the examiner shall express each search element by various means, such as by keywords, classification symbols and chemical structural formulas. For example, for a claim including two basic search elements A and B, the basic search strategy may be as follows:making an "OR" combination of the search result from classification symbols with that from keywords of search element A as the search result for search element A; making an "OR" combination of the search result from</del></p>	<p><b>6.2.3 Search after Redetermination of Technical Fields</b></p> <p><del>If no reference documents are found after the search described in Sections 6.2. 1 and 6.2.2 of this Chapter, it is possible that the technical fields have not been correctly determined. Then, the examiner has to redetermine the technical fields and carry out the search in those fields:</del></p> <p><del>In carrying out the search as described in Sections 6.2. 1,6.2.2 and 6.2.3 of this Chapter, the chronological order of the search, i. e. , the sequence of the disclosure date of the search materials to be consulted, shall be, in general, from latest to previous as compared with the filing date of the application.</del></p> <p><b>6.2.4 Search in Other Materials</b></p> <p><del>Where necessary, the examiner shall carry out search in the non-patent literature for search (see Section 2.2 of this Chapter):</del></p> <p><del>Besides, the examiner may consult the documents cited in the reference documents obtained in the above-mentioned Sections 6. 2. 1- 6.2.3; and the relevant documents listed as "reference cited" of the publication of invention applications or publication of invention patents obtained from the search:</del></p> <p><b>6.3 Detailed Steps</b></p> <p><b>6.3.1 Manner of Computer Search</b></p> <p><del>When conducting a computer search, in order to make a complete search, the examiner shall express each search element by various means, such as by keywords, classification symbols and chemical structural formulas. For example, for a claim including two basic search elements A and B, the basic search strategy may be as follows: making an "OR" combination of the search result from classification symbols with that from keywords of search element A as the search result for search element A; making an "OR" combination of the search result from</del></p>
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	<p>classification symbols with that from keywords of search element B as the search result for search element B; and then making an "AND" combination of the above search result for search element A with that for B as the search result for the claim.</p> <p>In practical search, the examiner may conduct the search by means of different combinations according to the specific circumstance of the application. For example, the examiner may:</p> <p>(1) make an "AND" combination of the search result from classification symbols of element A with the search result from keywords of element B;</p> <p>(2) make an "AND" combination of the search result from classification symbols of element A with the search result from classification symbols of element B;</p> <p>(3) make an "AND" combination of the search result from keywords of element A with the search result from keywords of element B;</p> <p>(4) make an "AND" combination of the search result from keywords of element A with the search result from classification symbols of element B; or</p> <p>(5) make an "OR" combination of the search result from classification symbols with that from keywords of element A, and then make an "AND" combination of the above result with the search result from keywords or classification symbols of the element B.</p> <p>If no relevant reference document is found by one means of search, the examiner shall consider whether there may be any document possibly missed by this means. For example, in the above search means (1), possibly missed documents include: those documents having the keywords relevant with at least one of A and B but not assigned any of the classification symbols of A; and those documents assigned a classification symbol that is the same as at least one of the classification symbols of A and B, but not having any of the keywords relevant with B. For those possibly missed documents, the examiner shall adjust the means</p>	<p>classification symbols with that from keywords of search element B as the search result for search element B; and then making an "AND" combination of the above search result for search element A with that for B as the search result for the claim.</p> <p>In practical search, the examiner may conduct the search by means of different combinations according to the specific circumstance of the application. For example, the examiner may:</p> <p>(1) make an "AND" combination of the search result from classification symbols of element A with the search result from keywords of element B;</p> <p>(2) make an "AND" combination of the search result from classification symbols of element A with the search result from classification symbols of element B;</p> <p>(3) make an "AND" combination of the search result from keywords of element A with the search result from keywords of element B;</p> <p>(4) make an "AND" combination of the search result from keywords of element A with the search result from classification symbols of element B; or</p> <p>(5) make an "OR" combination of the search result from classification symbols with that from keywords of element A, and then make an "AND" combination of the above result with the search result from keywords or classification symbols of the element B.</p> <p>If no relevant reference document is found by one means of search, the examiner shall consider whether there may be any document possibly missed by this means. For example, in the above search means (1), possibly missed documents include: those documents having the keywords relevant with at least one of A and B but not assigned any of the classification symbols of A; and those documents assigned a classification symbol that is the same as at least one of the classification symbols of A and B, but not having any of the keywords relevant with B. For those possibly missed</p>
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~~of search to conduct a targeted search. Where no reference document capable of affecting the novelty or inventive step of the technical solution is found by search directed to the combination of search elements A and B, in general, the examiner shall consider the results from conducting search respectively directed to the individual search elements A or B. If the technical solution involves a plurality of basic search elements, e. g., basic search elements A, B and C, where no reference document capable of affecting the novelty or inventive step of the technical solution is found, in general, the examiner shall consider conducting search directed to the combinations of the basic search elements, e. g., the combinations of A+B, A + C and B + C; if necessary, the individual search elements A, B or C shall also be considered.~~

~~Furthermore, in the process of computer search, the examiner may also at any time use a relevant document to trace the citing documents, cited documents, inventors, or applicants in order to find further relevant documents.~~

### **6.3.2 Manner of Manual Search**

~~In the process of manual search, the examiner may consult the patent documents in the following steps:~~

~~Step 1: in the search files of the technical fields to be searched, quickly skim through the abstract and figure on the first page of the patent documents and the contents of the independent claims in the claims, the patent abstracts of Japan, Russia (including the former USSR), Germany (including the former Federal Republic of Germany), UK, France, Switzerland, etc., bibliographic data of the Chinese and foreign periodicals and thesis, and pick out those documents which are considered to be relevant to the subject matter of the application after a preliminary judgment. If the application to be searched has drawings showing various detailed~~

~~documents, the examiner shall adjust the means of search to conduct a targeted search. Where no reference document capable of affecting the novelty or inventive step of the technical solution is found by search directed to the combination of search elements A and B, in general, the examiner shall consider the results from conducting search respectively directed to the individual search elements A or B. If the technical solution involves a plurality of basic search elements, e. g., basic search elements A, B and C, where no reference document capable of affecting the novelty or inventive step of the technical solution is found, in general, the examiner shall consider conducting search directed to the combinations of the basic search elements, e. g., the combinations of A+B, A + C and B + C; if necessary, the individual search elements A, B or C shall also be considered.~~

~~Furthermore, in the process of computer search, the examiner may also at any time use a relevant document to trace the citing documents, cited documents, inventors, or applicants in order to find further relevant documents.~~

### **6.3.2 Manner of Manual Search**

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	<p>structures, the examiner may compare the drawings of the application with those of the documents in the search files one by one, and pick out those documents with the same or similar structures as those in the application. Step 2: carefully read the abstracts, drawings, and claims of the patent documents selected in Step 1, and the documents corresponding to the abstracts and bibliographic data selected in Step 1, and pick out those documents which are rather relevant to the application. Step 3: carefully read, analyze and study the descriptions of the documents selected in Step 2, and finally determine the reference documents to be used in the search report and in the Office Action.</p>	<p>the examiner may compare the drawings of the application with those of the documents in the search files one by one, and pick out those documents with the same or similar structures as those in the application. Step 2: carefully read the abstracts, drawings, and claims of the patent documents selected in Step 1, and the documents corresponding to the abstracts and bibliographic data selected in Step 1, and pick out those documents which are rather relevant to the application. Step 3: carefully read, analyze and study the descriptions of the documents selected in Step 2, and finally determine the reference documents to be used in the search report and in the Office Action.</p>
<p><b>8. Termination of Search</b> <b>8.1 Limit of Search</b> ..... to be considered are the balance of time, energy and cost spent on the search and the expected results.</p>	<p><b>8. Termination of Search</b> <b>8.1 Limit of Search</b> ..... to be considered are the balance of time, energy and cost spent on the search and the expected results.</p> <p><u>Under this principle, where the examiner decides to terminate the search without obtaining any reference document, he/she shall have already conducted search in at least the minimum database. In normal cases, the minimum database shall include CNABS, VEN, CNTXT, the English Full-text Database and the Chinese Journal Full-text Database. For applications in certain special fields, it shall also include the special databases in such fields (e.g. the Chemical Structure Database). When necessary, the examiner may adjust the scope of the English Full-text Database or add other non-patent literature database according to the features of the fields.</u></p>	<p><b>8. Termination of Search</b> <b>8.1 Limit of Search</b> ..... to be considered are the balance of time, energy and cost spent on the search and the expected results.</p> <p><u>Under this principle, where the examiner decides to terminate the search without obtaining any reference document, he/she shall have already conducted search in at least the minimum database. In normal cases, the minimum database shall include CNABS, VEN, CNTXT, the English Full-text Database and the Chinese Journal Full-text Database. For applications in certain special fields, it shall also include the special databases in such fields (e.g. the Chemical Structure Database). When necessary, the examiner may adjust the scope of the English Full-text Database or add other non-patent literature database according to the features of the fields.</u></p>
<b>Part II Chapter 7</b>	<b>Part II Chapter 7</b>	<b>Part II Chapter 7</b>
<p><b>10. Subject Matters for Which Search is Not Required</b> ..... (4) the description and claims fails to set forth clearly and completely the</p>	<p><b>10. Subject Matters for Which Search is Not Required</b> ..... (4) the description and claims fails to set forth clearly and completely the</p>	<p><b>10. Subject Matters for Which Search is Not Required</b> ..... (4) the description and claims fails to set forth clearly and completely the</p>

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<p>subject matters of the application so that a person skilled in the art cannot carry it out.</p>	<p>subject matters of the application so that a person skilled in the art cannot carry it out.</p> <p><u>It needs to be noted that, as to whether all subject matters of an application belong to the above circumstance, the examiner still needs to understand the relevant background art by appropriate means if necessary so as to make a judgment in the position of a skilled person in the art.</u></p>	<p><del>subject matters of the application so that a person skilled in the art cannot carry it out.</del></p> <p><del>It needs to be noted that, as to whether all subject matters of an application belong to the above circumstance, the examiner still needs to understand the relevant background art by appropriate means if necessary so as to make a judgment in the position of a skilled person in the art.</del></p>
<p><b>12. Search Report</b></p> <p>The search report is used to record the results of the search, especially the documents which constitute the relevant prior art. The search report shall use the form prescribed by the Patent Office, and it shall clearly record the technical fields and databases to be searched, the basic search elements used and their expressions ( e. g. , keywords, etc. ), and the reference documents obtained by the search with symbols showing the level of relevance of the reference documents with the subject matter of the application. The examiner shall fill in all other items as required in the form of search report.</p>	<p><b>12. Search Report</b></p> <p>The search report is used to record the results of the search, especially the documents which constitute the relevant prior art, <u>as well as search record information in relation to the searching process.</u> The search report shall use the form prescribed by the Patent Office, and it shall clearly record <u>the main search strategy through which the closest prior art is found, including the database searched and the search expressions implemented in the database (including the expressions of basic search elements and logical operators), the technical fields and databases to be searched, the basic search elements used and their expressions ( e. g. , keywords, etc.), and shall accurately set forth</u> the reference documents obtained by the search with symbols showing the level of relevance of the reference documents with the subject matter of the application. The examiner shall fill in all other items as required in the form of search report.</p>	<p><b>12. Search Report</b></p> <p>The search report is used to record the results of the search, especially the documents which constitute the relevant prior art, <u>as well as search record information in relation to the searching process.</u> The search report shall use the form prescribed by the Patent Office, and it shall clearly record <u>the main search strategy through which the closest prior art is found, including the database searched and the search expressions implemented in the database (including the expressions of basic search elements and logical operators), the technical fields and databases to be searched, the basic search elements used and their expressions ( e. g. , keywords, etc.), and shall accurately set forth</u> the reference documents obtained by the search with symbols showing the level of relevance of the reference documents with the subject matter of the application. The examiner shall fill in all other items as required in the form of search report.</p>
<p><b>Part II Chapter 8</b></p>	<p><b>Part II Chapter 8</b></p>	<p><b>Part II Chapter 8</b></p>
<p><b>3.4 Order of Examination</b></p> <p><b>3.4.1 General Principles</b></p> <p>Except for the special circumstances described in Section 3. 4. 2 of this Chapter, the examination shall be performed according to the order of receipt for all the invention applications that are received. However, the applications belonging to the same category received successively may be</p>	<p><del><b>3.4 Order of Examination</b></del></p> <p><del><b>3.4.1 General Principles</b></del></p> <p><del>Except for the special circumstances described in Section 3. 4. 2 of this Chapter, the examination shall be performed according to the order of receipt for all the invention applications that are received. However, the applications belonging to the same category received successively may be</del></p>	<p><del><b>3.4 Order of Examination</b></del></p> <p><del><b>3.4.1 General Principles</b></del></p> <p><del>Except for the special circumstances described in Section 3. 4. 2 of this Chapter, the examination shall be performed according to the order of receipt for all the invention applications that are received. However, the applications belonging to the same category received successively may be</del></p>

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<p>handled together.</p> <p>After the applicant responds to the first Office Action, the examiner shall continue the examination in the order of the time of receiving the responses.</p> <p><b>3.4.2 Special Treatment</b></p> <p>There may be special treatment in the following circumstances:</p> <p>(1) for applications having great significance to the interest of the State or to the public interest, upon the request of the applicant or the competent authorities concerned and with the approval of the Commissioner of the Patent Office, examination may be conducted first and handled with priority in the later examination proceedings;</p> <p>(2) for applications of which the substantive examination is started on the initiative of the Patent Office, examination may be conducted with priority; and</p> <p>(3) for divisional applications of which the original dates of filing are retained, examination may be conducted together with that of the original application.</p>	<p><del>handled together.</del></p> <p><del>After the applicant responds to the first Office Action, the examiner shall continue the examination in the order of the time of receiving the responses.</del></p> <p><del>3.4.2 Special Treatment</del></p> <p><del>There may be special treatment in the following circumstances:</del></p> <p><del>—(1) for applications having great significance to the interest of the State or to the public interest, upon the request of the applicant or the competent authorities concerned and with the approval of the Commissioner of the Patent Office, examination may be conducted first and handled with priority in the later examination proceedings;</del></p> <p><del>—(2) for applications of which the substantive examination is started on the initiative of the Patent Office, examination may be conducted with priority; and</del></p> <p><del>—(3) for divisional applications of which the original dates of filing are retained, examination may be conducted together with that of the original application.</del></p>	<p>handled together.</p> <p>After the applicant responds to the first Office Action, the examiner shall continue the examination in the order of the time of receiving the responses.</p> <p><b>3.4.2 Special Treatment</b></p> <p>There may be special treatment in the following circumstances:</p> <p>(1) for applications having great significance to the interest of the State or to the public interest, upon the request of the applicant or the competent authorities concerned and with the approval of the Commissioner of the Patent Office, examination may be conducted first and handled with priority in the later examination proceedings;</p> <p>(2) for applications of which the substantive examination is started on the initiative of the Patent Office, examination may be conducted with priority; and</p> <p>(3) for divisional applications of which the original dates of filing are retained, examination may be conducted together with that of the original application.</p>
<b>Part II Chapter 8</b>	<b>Part II Chapter 8</b>	<b>Part II Chapter 8</b>
<p><b>4.2 Reading of Application Documents and Understanding of Invention</b></p> <p>After the substantive examination is started, the examiner shall read the application documents carefully first, and try to understand the invention accurately. The examiner shall put emphasis on understanding the technical problem to be solved and the technical solution for solving said technical problem, figuring out all the essential technical features of the technical solution, especially those which are different from that of the background art, and understanding the technical effect produced by said technical solution. Necessary notes may be taken when reading and figuring out the invention so as to facilitate further examination.</p>	<p><b>4.2 Reading of Application Documents and Understanding of Invention</b></p> <p>After the substantive examination is started, the examiner shall read the application documents carefully first, and <del>get full and comprehensive knowledge of the background art to try to</del> understand the invention accurately. The examiner shall put emphasis on understanding the technical problem to be solved <del>and</del>, the technical solution for solving the said technical problem, <del>and the technical effect produced by the technical solution</del>, figuring out all the essential technical features of the technical solution, especially those which are different from that of the background art, and <del>thus identifying the improvement made by the invention in comparison with the background</del>.</p>	<p><b>4.2 Reading of Application Documents and Understanding of Invention</b></p> <p>After the substantive examination is started, the examiner shall read the application documents carefully first, and <u>get full and comprehensive knowledge of the background art to try to</u> understand the invention accurately. The examiner shall put emphasis on understanding the technical problem to be solved <u>and</u>, the technical solution for solving the said technical problem, and the technical effect produced by the technical solution, figuring out all the essential technical features of the technical solution, especially those which are different from that of the background art, and <u>thus identifying the improvement made by the invention in comparison with the background</u>.</p>



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	<p><del>art</del>understanding the technical effect produced by said technical solution. Necessary notes may be taken when reading and figuring out the invention so as to facilitate further examination.</p>	<p><del>art</del>understanding the technical effect produced by said technical solution. Necessary notes may be taken when reading and figuring out the invention so as to facilitate further examination.</p>
<p><b>4.10.2.2 Text of Office Action</b></p> <p>The text of the Office Action may be drafted in the following ways according to circumstances and the result of the search of the application.</p> <p>.....</p> <p>(4) Where it is impossible to grant the patent right to an application because of the lack of novelty or inventive step, the examiner shall provide his objection on novelty and inventive step to each claim in the text of the Office Action, first to the independent claim, and then to the dependent claims one by one. However, if there are too many claims or the reason of objection is the same, the dependent claims can be evaluated in group. It shall be pointed out in the end that there is no substantive content to be granted the patent right even in the description.</p> <p>.....</p> <p>The common knowledge of the art cited in the Office Action by the examiner shall be accurate. Where the applicant has objections to the common knowledge cited by the examiner, the examiner shall state the reasons or provide corresponding evidence for proof.</p>	<p><b>4.10.2.2 Text of Office Action</b></p> <p>The text of the Office Action may be drafted in the following ways according to circumstances and the result of the search of the application.</p> <p>.....</p> <p>(4) Where it is impossible to grant the patent right to an application because of the lack of novelty or inventive step, the examiner shall provide his objection on novelty and inventive step to each claim in the text of the Office Action, first to the independent claim, and then to the dependent claims one by one. However, if there are too many claims or the reason of objection is the same, the dependent claims can be evaluated in group. It shall be pointed out in the end that there is no substantive content to be granted the patent right even in the description.</p> <p>.....</p> <p>The common knowledge of the art cited in the Office Action by the examiner shall be accurate. Where the applicant has objections to the common knowledge cited by the examiner, the examiner shall <u>provide corresponding evidence for proof or</u> state the reasons <del>or provide corresponding evidence for proof.</del> <u>In normal cases, if, in the Office Action, the examiner identifies the technical features that have contribution to solving the technical problem in the claims as common knowledge, he/she shall provide corresponding evidence for proof.</u></p>	<p><b>4.10.2.2 Text of Office Action</b></p> <p>The text of the Office Action may be drafted in the following ways according to circumstances and the result of the search of the application.</p> <p>.....</p> <p>(4) Where it is impossible to grant the patent right to an application because of the lack of novelty or inventive step, the examiner shall provide his objection on novelty and inventive step to each claim in the text of the Office Action, first to the independent claim, and then to the dependent claims one by one. However, if there are too many claims or the reason of objection is the same, the dependent claims can be evaluated in group. It shall be pointed out in the end that there is no substantive content to be granted the patent right even in the description.</p> <p>.....</p> <p>The common knowledge of the art cited in the Office Action by the examiner shall be accurate. Where the applicant has objections to the common knowledge cited by the examiner, the examiner shall <u>provide corresponding evidence for proof or</u> state the reasons <del>or provide corresponding evidence for proof.</del> <u>In normal cases, if, in the Office Action, the examiner identifies the technical features that have contribution to solving the technical problem in the claims as common knowledge, he/she shall provide corresponding evidence for proof.</u></p>
<b>Part II Chapter 8</b>	<b>Part II Chapter 8</b>	<b>Part II Chapter 8</b>
<p><b>4.11.1 Handling of Application after Continuation of Examination</b></p> <p>After the continuation of the examination, the examiner may handle the application in the following ways</p>	<p><b>4.11.1 Handling of Application after Continuation of Examination</b></p> <p>After the continuation of the examination, the examiner may handle the application in the following ways</p>	<p><b>4.11.1 Handling of Application after Continuation of Examination</b></p> <p>After the continuation of the examination, the examiner may handle the application in the following ways</p>



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<p>according to the circumstances:          (1) where the applicant has made amendments according to the observations of the examiner, eliminated the defect which may lead to rejection of the application so that the patent right may be granted to the revised application, if there are still some defects in the application, the examiner shall invite the applicant again to eliminate these defects. Where necessary, the examiner may accelerate the examination by an interview with the applicant (see Section 4. 12 of this Chapter). If possible, the examiner may have discussion with the applicant by telephone in the way as described in Section 4. 13 of this Chapter. However, no matter in what form the amendment is proposed, the basis for the examination shall be the written amendments formally submitted by the applicant except that the examiner makes amendments to the obvious mistakes ex officio ( see Sections 5.2.4. 2 and 6.2.2 of this Chapter)</p>	<p>according to the circumstances:          (1) where the applicant has made amendments according to the observations of the examiner, eliminated the defect which may lead to rejection of the application so that the patent right may be granted to the revised application, if there are still some defects in the application, the examiner shall invite the applicant again to eliminate these defects. Where necessary, the examiner may accelerate the examination by an interview <u>or a phone discussion</u> with the applicant <u>or other means</u> (see Sections 4. 12 and 4.13 of this Chapter). <del>If possible, the examiner may have discussion with the applicant by telephone in the way as described in Section 4. 13 of this Chapter.</del> However, no matter in what form the amendment is proposed, the basis for the examination shall be the written amendments formally submitted by the applicant except that the examiner makes amendments to the obvious mistakes ex officio (see Sections 5.2.4. 2 and 6.2.2 of this Chapter)</p>	<p>according to the circumstances:          (1) where the applicant has made amendments according to the observations of the examiner, eliminated the defect which may lead to rejection of the application so that the patent right may be granted to the revised application, if there are still some defects in the application, the examiner shall invite the applicant again to eliminate these defects. Where necessary, the examiner may accelerate the examination by an interview or a phone discussion with the applicant or other means (see Sections 4. 12 and 4.13 of this Chapter). However, no matter in what form the amendment is proposed, the basis for the examination shall be the written amendments formally submitted by the applicant except that the examiner makes amendments to the obvious mistakes ex officio (see Sections 5.2.4. 2 and 6.2.2 of this Chapter)</p>
<p><b>4.12 Interview</b>          Under some circumstances, such as the circumstances described in Section 4. 1 1. 1 ( 1) of this Chapter, the examiner may invite the applicant to have an interview so as to accelerate the examination procedure. The applicant may also request for an interview. In this situation, if the examiner believes that a useful purpose will be served by such an interview, the request shall be granted; otherwise, the request may be refused.</p>	<p><b>4.12 Interview</b>  <u>During the substantive examination</u>  <del>Under some circumstances, such as the circumstances described in Section 4. 1 1. 1 (1) of this Chapter,</del> the examiner may invite the applicant to have an interview so as to accelerate the examination procedure. The applicant may also request an interview. In this situation, <u>as long as if the examiner believes that such an interview will serve</u> a useful purpose <u>will be served by such an interview and be helpful to clarify problems, settle disagreement and facilitate mutual understanding,</u> the request shall be granted;<u>the examiner may reject the request for an interview in some circumstances, for example, where opinions of the two parties have been fully expressed and relevant facts have been clearly identified by means such as written communication and</u></p>	<p><b>4.12 Interview</b>  <u>During the substantive examination</u>  <del>Under some circumstances, such as the circumstances described in Section 4. 1 1. 1 (1) of this Chapter,</del> the examiner may invite the applicant to have an interview so as to accelerate the examination procedure. The applicant may also request an interview. In this situation, <u>as long as if the examiner believes that such an interview will serve</u> a useful purpose <u>will be served by such an interview and be helpful to clarify problems, settle disagreement and facilitate mutual understanding,</u> the request shall be granted;<u>the examiner may reject the request for an interview in some circumstances, for example, where opinions of the two parties have been fully expressed and relevant facts have been clearly identified by means such as written communication and</u></p>

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	<p><del>phone discussion otherwise, the request may be refused.</del></p>	<p><del>phone discussion otherwise, the request may be refused.</del></p>
<p><b>4.12.1 Conditions of Holding Interview</b>          The conditions for holding an interview are as follows:          ( 1) the examiner has issued the first Office Action; and          (2) at the time of or after submitting the response to the Office Action, the applicant files a request for interview; or when the examiner thinks it necessary to invite the applicant to have an interview. No matter invited by the examiner or requested by the applicant, the interview shall be arranged in advance by issuing Notification of Interview or by telephone. The duplicate copy of the Notification of Interview or the Minutes of Telephone Communication Concerning Appointment of Interview shall be included in the application file. It shall be indicated clearly in said notification or the minutes the contents, time and place of the interview confirmed by the examiner. If a new document is to be put forward in the interview by the examiner or by the applicant, it shall be submitted to the other party before the interview.          .....</p>	<p><b>4.12.1 <del>Conditions of Holding</del>Initiating an Interview</b>  <u>The conditions for holding an interview are as follows:</u>  <u>(1) the examiner has issued the first Office Action; and</u>  <u>(2) at the time of or after submitting the response to the Office Action, the applicant files a request for interview; or when the examiner thinks it necessary to invite the applicant to have an interview.</u>          No matter invited by the examiner or requested by the applicant, the interview shall be arranged in advance by issuing Notification of Interview or by telephone. The duplicate copy of the Notification of Interview or the Minutes of Telephone Communication Concerning Appointment of Interview shall be included in the application file. It shall be indicated clearly in said notification or the minutes the contents, time and place of the interview confirmed by the examiner. If a new document is to be put forward in the interview by the examiner or by the applicant, it shall be submitted to the other party before the interview.          .....</p>	<p><b>4.12.1 <del>Conditions of Holding</del>Initiating an Interview</b>  <u>The conditions for holding an interview are as follows:</u>  <u>(1) the examiner has issued the first Office Action; and</u>  <u>(2) at the time of or after submitting the response to the Office Action, the applicant files a request for interview; or when the examiner thinks it necessary to invite the applicant to have an interview.</u>          No matter invited by the examiner or requested by the applicant, the interview shall be arranged in advance by issuing Notification of Interview or by telephone. The duplicate copy of the Notification of Interview or the Minutes of Telephone Communication Concerning Appointment of Interview shall be included in the application file. It shall be indicated clearly in said notification or the minutes the contents, time and place of the interview confirmed by the examiner. If a new document is to be put forward in the interview by the examiner or by the applicant, it shall be submitted to the other party before the interview.          .....</p>
<p><b>4.13 Communication by Telephone</b>          The examiner may discuss the problems in the application documents with the applicant by telephone. However, the communication by telephone shall apply only to minor issues and non-misleading issues concerning the formal defects. The examiner shall record the matters discussed and keep it in the application file. For the amendments agreed by the examiner in the telephone conversation, the applicant shall usually submit the formal revised documents in written form. The examiner shall make conclusion according to such written documents.          Where the contents of the amendments</p>	<p><b>4.13 Communication by Telephone and <del>Other Means</del></b>  <u>In the process of substantive examination, t</u>The examiner may discuss <u>issues such as understanding of the invention and the prior art and</u> the problems in the application documents with the applicant by telephone. <del>However, the communication by telephone shall apply only to minor issues and non-misleading issues concerning the formal defects.</del> <u>The discussion may also be conducted with the applicant by other means such as a video conference or e-mail. When necessary, t</u>The examiner shall record the matters discussed and keep it in the</p>	<p><b>4.13 Communication by Telephone and <del>Other Means</del></b>  <u>In the process of substantive examination, t</u>The examiner may discuss <u>issues such as understanding of the invention and the prior art and</u> the problems in the application documents with the applicant by telephone. <del>However, the communication by telephone shall apply only to minor issues and non-misleading issues concerning the formal defects.</del> <u>The discussion may also be conducted with the applicant by other means such as a video conference or e-mail. When necessary, t</u>The examiner shall</p>

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<p>agreed by the examiner in the telephone conversation fall into the scope as described in Sections 5.2.4.2 and 6.2.2 of this Chapter, the examiner may correct the obvious mistakes ex officio.</p>	<p>application file.</p> <p>For the amendments agreed by the examiner in the <del>telephone</del> conversation, <u>where the contents of the amendments fall into the scope as described in Sections 5.2.4.2 and 6.2.2 of this Chapter, the examiner may correct the obvious mistakes ex officio;</u> <del>other than the contents amended by the examiner ex officio,</del> the applicant <u>needs to</u> <del>shall usually</del> submit the formal revised documents in written form. The examiner shall make conclusion according to such written documents.</p> <p><del>Where the contents of the amendments agreed by the examiner in the telephone conversation fall into the scope as described in Sections 5.2.4.2 and 6.2.2 of this Chapter, the examiner may correct the obvious mistakes ex officio.</del></p>	<p>record the matters discussed and keep it in the application file.</p> <p>For the amendments agreed by the examiner in the <del>telephone</del> conversation, <u>where the contents of the amendments fall into the scope as described in Sections 5.2.4.2 and 6.2.2 of this Chapter, the examiner may correct the obvious mistakes ex officio;</u> <del>other than the contents amended by the examiner ex officio,</del> the applicant <u>needs to</u> <del>shall usually</del> submit the formal revised documents in written form. The examiner shall make conclusion according to such written documents.</p> <p><del>Where the contents of the amendments agreed by the examiner in the telephone conversation fall into the scope as described in Sections 5.2.4.2 and 6.2.2 of this Chapter, the examiner may correct the obvious mistakes ex officio.</del></p>
<b>Part II Chapter 10</b>	<b>Part II Chapter 10</b>	<b>Part II Chapter 10</b>
<p><b>9.1.1.1 Embryonic Stem Cell of Human Beings</b></p> <p>Both an embryonic stem cell of human beings and a preparing method thereof shall not be granted the patent right in accordance with the provisions of Article 5. 1.</p> <p><b>9.1.1.2 Human Body at the Various Stages of Its Formation and Development</b></p> <p>The human body, at the various stages of its formation and development, including a germ cell, an oosperm, an embryo and an entire human body shall not be granted the patent right in accordance with the provisions of Article 5. 1.</p> <p><b>9.1.1.3 Inventions-Creations Mentioned in Article 5.2</b></p>	<p><del><b>9.1.1.1 Embryonic Stem Cell of Human Beings</b></del></p> <p><del>Both an embryonic stem cell of human beings and a preparing method thereof shall not be granted the patent right in accordance with the provisions of Article 5.1.</del></p> <p><b>9.1.1.1<del>2</del> Human Body at the Various Stages of Its Formation and Development</b></p> <p>The human body, at the various stages of its formation and development, including a germ cell, an oosperm, an embryo and an entire human body shall not be granted the patent right in accordance with the provisions of Article 5.1 of the Patent Law. <u>The embryonic stem cell of human beings does not belong to human body at the various stages of its formation and development.</u></p> <p><b>9.1.1.3<del>2</del> Inventions-Creations Mentioned in Article 5.2</b></p>	<p><del><b>9.1.1.1 Embryonic Stem Cell of Human Beings</b></del></p> <p><del>Both an embryonic stem cell of human beings and a preparing method thereof shall not be granted the patent right in accordance with the provisions of Article 5.1.</del></p> <p><b>9.1.1.1<del>2</del> Human Body at the Various Stages of Its Formation and Development</b></p> <p>The human body, at the various stages of its formation and development, including a germ cell, an oosperm, an embryo and an entire human body shall not be granted the patent right in accordance with the provisions of Article 5.1 of the Patent Law. <u>The embryonic stem cell of human beings does not belong to human body at the various stages of its formation and development.</u></p> <p><b>9.1.1.3<del>2</del> Inventions-Creations Mentioned in Article 5.2</b></p>

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Part IV Chapter 3	Part IV Chapter 3	Part IV Chapter 3
<p><b>3.3 Scope, Causes and Evidence of a Request for Invalidation</b></p> <p>.....</p> <p>(5) The petitioner shall explain the causes for invalidation concretely, making reference to all the evidence if applicable. For an invention or utility model patent, if a comparison of technical solutions is required, a specific description shall be given to the relevant technical solutions in the patent concerned and the reference documents, comparative analysis shall be made in that regard. For a design patent, if a comparison is required, a specific description shall be given to the product designs as shown in the drawings or photographs of the patent concerned and the reference documents, comparative analysis shall be made in that regard. For example, where the request for invalidation is based on Article 22.3 and more than one reference document is submitted, the petitioner shall indicate which one is the closest to the patent to be requested for invalidation, state whether the reference documents are used separately or in combination, give a specific description to the technical solutions in the patent concerned and the reference documents, and make comparative analysis. If they are used in combination and there exist two or more possibilities of combination, the specific manner of combination shall be indicated. For different independent claims, the respective closest reference document may be indicated separately.</p> <p>.....</p>	<p><b>3.3 Scope, Causes and Evidence of a Request for Invalidation</b></p> <p>.....</p> <p>(5) The petitioner shall explain the causes for invalidation concretely, making reference to all the evidence if applicable. For an invention or utility model patent, if a comparison of technical solutions is required, a specific description shall be given to the relevant technical solutions in the patent concerned and the reference documents, comparative analysis shall be made in that regard. For a design patent, if a comparison is required, a specific description shall be given to the product designs as shown in the drawings or photographs of the patent concerned and the reference documents, comparative analysis shall be made in that regard. For example, where the request for invalidation is based on Article 22.3 and more than one reference document is submitted, the petitioner shall indicate which one is the closest to the patent to be requested for invalidation, state whether the reference documents are used separately or in combination, give a specific description to the technical solutions in the patent concerned and the reference documents, and make comparative analysis. If they are used in combination and there exists two or more possibilities of combination, <u>comparison analysis shall be done with regard to the principal manner of combination. Where the principal manner of combination is not defined, the combination manner of the first group of reference documents shall be identified as the principal combination manner by default. the specific manner of combination shall be indicated.</u> For different independent claims, the respective closest reference document may be indicated separately.</p> <p>.....</p>	<p><b>3.3 Scope, Causes and Evidence of a Request for Invalidation</b></p> <p>.....</p> <p>(5) The petitioner shall explain the causes for invalidation concretely, making reference to all the evidence if applicable. For an invention or utility model patent, if a comparison of technical solutions is required, a specific description shall be given to the relevant technical solutions in the patent concerned and the reference documents, comparative analysis shall be made in that regard. For a design patent, if a comparison is required, a specific description shall be given to the product designs as shown in the drawings or photographs of the patent concerned and the reference documents, comparative analysis shall be made in that regard. For example, where the request for invalidation is based on Article 22.3 and more than one reference document is submitted, the petitioner shall indicate which one is the closest to the patent to be requested for invalidation, state whether the reference documents are used separately or in combination, give a specific description to the technical solutions in the patent concerned and the reference documents, and make comparative analysis. If they are used in combination and there exists two or more possibilities of combination, <u>comparison analysis shall be done with regard to the principal manner of combination. Where the principal manner of combination is not defined, the combination manner of the first group of reference documents shall be identified as the principal combination manner by default. the specific manner of combination shall be indicated.</u> For different independent claims, the respective closest reference document may be indicated separately.</p>

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Part V Chapter 2	Part V Chapter 2	Part V Chapter 2
<p><b>7. Supplemental Information for Payment</b></p> <p>Where the fees are paid by postal or bank remittance without the required information of payment, the party concerned can provide the complete information by fax or email on the day of remittance, and the date of remittance shall be the date of payment. Where the supplement is incomplete on the day of remittance, the party concerned can provide the complete information once more, and the day on which the complete information is provided shall be the date of payment.</p> <p>Where the information for payment is supplemental, the party concerned shall provide the copy of money order of the bank or a voucher of the postal remittance, the application number ( or patent number), the title and the amount of each fee. In addition, the following information of the person that receives the receipts shall be provided: the title or name, address, and postal code etc. If the party concerned cannot provide the duplicate copy of the bank money order or the voucher of the postal remittance, it or he shall provide the date of remittance, the title or name of remitter, the amount of the fee and money order number, etc.</p>	<p><b>7. Supplemental Information for Payment</b></p> <p>Where the fees are paid by postal or bank remittance without the required information of payment, the party concerned <del>can</del> <u>shall</u> provide the complete information by <u>means provided and as required by the Patent Office fax or email</u> on the day of remittance, <u>and the date of remittance shall be the date of payment.</u> Where the supplement is incomplete on the day of remittance, the party concerned can provide the complete information once more, and the day on which the complete information is provided shall be the date of payment.</p> <p><del>Where the information for payment is supplemental, the party concerned shall provide the copy of money order of the bank or a voucher of the postal remittance, the application number ( or patent number), the title and the amount of each fee. In addition, the following information of the person that receives the receipts shall be provided: the title or name, address, and postal code etc. If the party concerned cannot provide the duplicate copy of the bank money order or the voucher of the postal remittance, it or he shall provide the date of remittance, the title or name of remitter, the amount of the fee and money order number, etc.</del></p>	<p><b>7. Supplemental Information for Payment</b></p> <p>Where the fees are paid by postal or bank remittance without the required information of payment, the party concerned <del>can</del> <u>shall</u> provide the complete information by <u>means provided and as required by the Patent Office fax or email</u> on the day of remittance, <u>and the date of remittance shall be the date of payment.</u> Where the supplement is incomplete on the day of remittance, the party concerned can provide the complete information once more, and the day on which the complete information is provided shall be the date of payment.</p> <p><del>Where the information for payment is supplemental, the party concerned shall provide the copy of money order of the bank or a voucher of the postal remittance, the application number ( or patent number), the title and the amount of each fee. In addition, the following information of the person that receives the receipts shall be provided: the title or name, address, and postal code etc. If the party concerned cannot provide the duplicate copy of the bank money order or the voucher of the postal remittance, it or he shall provide the date of remittance, the title or name of remitter, the amount of the fee and money order number, etc.</del></p>
<p><b>Part V Chapter 7</b></p> <p><b>Time Limit, Restoration of Right and Suspension of Procedure</b></p>	<p><b>Part V Chapter 7</b></p> <p><b>Time Limit, Restoration of Right, <del>and</del> <u>Sequence of Examination</u> <del>and</del> <u>Sequence of Examination</u></b></p>	<p><b>Part V Chapter 7</b></p> <p><b>Time Limit, Restoration of Right, Suspension of Procedure and <u>Sequence of Examination</u></b></p>
	<p><b><u>8. Sequence of Examination</u></b></p> <p><b><u>8.1 General Principle</u></b></p> <p><u>In general, preliminary examination on the application for invention, utility model and design patent shall be initiated according to the sequence of application filing; with respect to invention patent application, substantial examination shall be initiated according</u></p>	<p><b>8. Sequence of Examination</b></p> <p><b>8.1 General Principle</b></p> <p><u>In general, preliminary examination on the application for invention, utility model and design patent shall be initiated according to the sequence of application filing and payment for the substantial examination fee; with respect to invention patent application, provided</u></p>



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	<p><u>to the filing sequence for substantial examination request, unless otherwise provided.</u></p>	<p><u>that other requirements for initiating the substantial examination procedure has been satisfied, substantial examination shall be initiated according to the filing sequence for substantial examination request, unless otherwise provided.</u></p>
	<p><b><u>8.2 Examination with Priority</u></b>  <u>The application which is of great significance to the national or public interest may, upon the request of the applicant or its administrative authority, be examined with priority upon approval and be handled with priority in later examination proceedings. Where the same applicant files applications for both utility model patent and invention patent on the same day (the filing date) for the same invention-creation, no priority examination is available to the invention patent application thereof.</u></p> <p><b><u>8.3 Postponement of Examination</u></b>  <u>The applicant may request postponed examination. The request for postponed examination for invention patent shall be submitted by the applicant at the time of filing the request for substantial examination but will become effective from the effective date of the substantial examination request; the request for postponed examination for utility model and design patent shall be submitted at the time of filing of the utility model or design application. The term of postponement is 1, 2 or 3 years from the effective date of the postponed examination request. Upon the expiration of this term, the application will be awaiting examination in sequence. If necessary, the Patent Office may initiate the examination procedure at its own discretion and the postponed examination request of the applicant will be deemed as not having been made.</u></p>	<p><b><u>8.2 Examination with Priority</u></b>  <u>The application which involves an industry given importance by the national or local government for development or encouragement, which is of great significance to the national or public interest, or is demanded to some extent in market activities may, upon the request of the applicant, be examined with priority upon approval and be handled with priority in later examination proceedings. Where a request for prioritized examination is raised by other relevant subjects according to applicable provisions, the request shall be handled according to such applicable provisions. The specific circumstances applicable for prioritized examination are set forth in the Administrative Measures for Prioritized Patent Examination. Where the same applicant files applications for both utility model patent and invention patent on the same day (the filing date) for the same invention-creation, no priority examination is available to the invention patent application thereof.</u></p> <p><b><u>8.3 Postponement of Examination</u></b>  <u>The applicant may request postponed examination for invention and design patent applications. The request for postponed examination for an invention patent application shall be submitted by the applicant at the time of filing the request for substantial examination but will become effective from the effective date of the substantial examination request; the request for postponed examination for a design patent application shall be submitted at the time of filing of the design application. The term of postponement is 1, 2 or</u></p>



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	<p><b><u>8.4 Initiation of Examination by the Patent Office</u></b>  <u>The patent application against which the substantial examination is initiated by the Patent Office may be handled with priority.</u></p>	<p><u>3 years from the effective date of the postponed examination request. Upon the expiration of this term, the application will be awaiting examination in sequence. If necessary, the Patent Office may initiate the examination procedure at its own discretion and send notification to the applicant, and the term of postponed examination requested by the applicant will terminate.</u></p> <p><b><u>8.4 Initiation of Examination by the Patent Office</u></b>  <u>The patent application against which the substantial examination is initiated by the Patent Office may be handled with priority.</u></p>
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