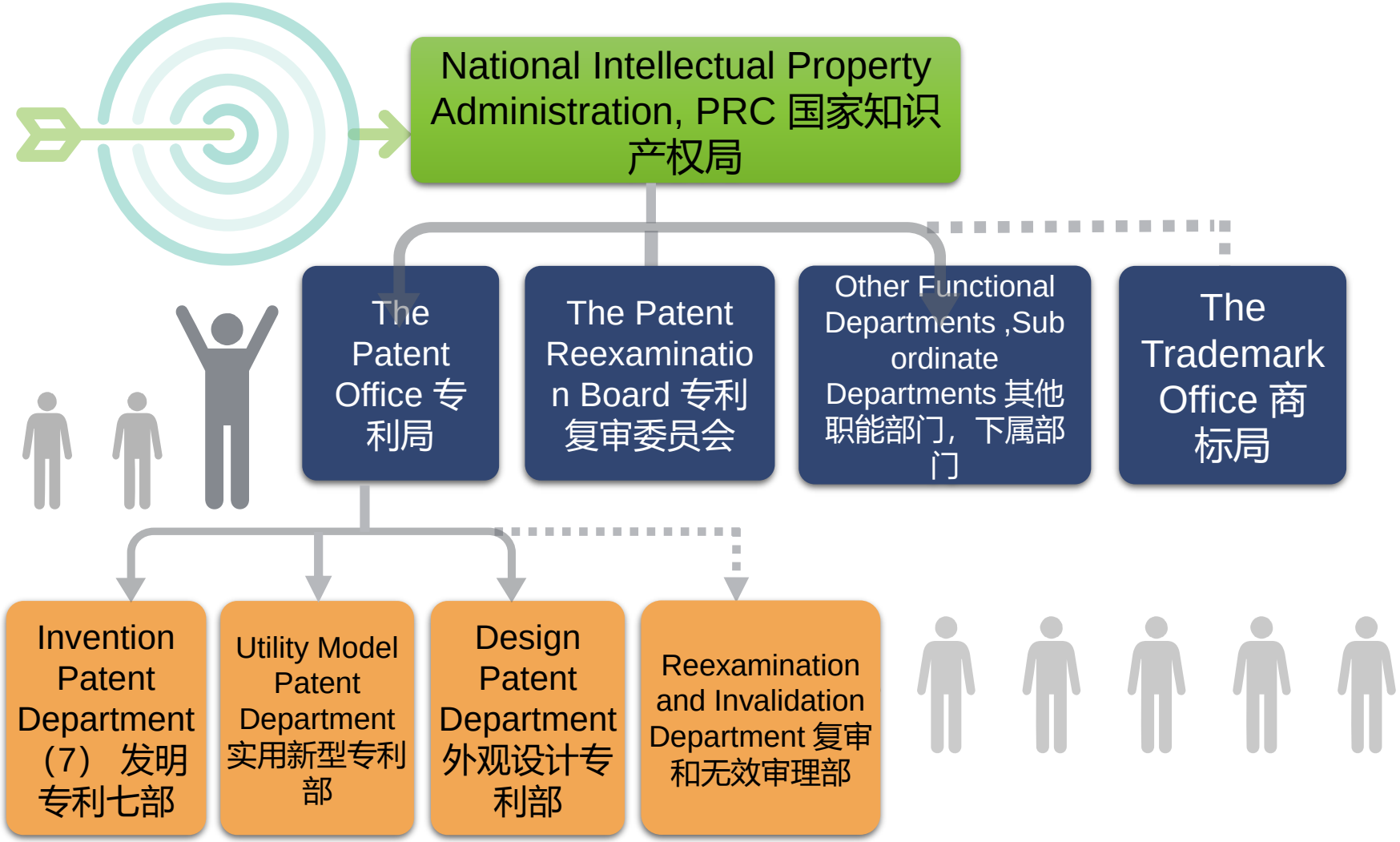
Reexamination and Invalidation Procedure of Design Patent

外观设计专利复审与无效审理程序

国家知识产权局专利局复审和无效审理部
Reexamination and Invalidation Department of the Patent Office, CNIPA

Reexamination and Invalidation Department 复审和无效审理部



Main Responsibilities 主要职责

Reexamination 复审

To examine the requests for reexamination
审查复审请求

Invalidation 无效审理

To examine the requests for invalidation
审查无效请求

Study 研究

To research on right validation and infringement determination of patent
针对专利的权利确认和侵权认定进行研究

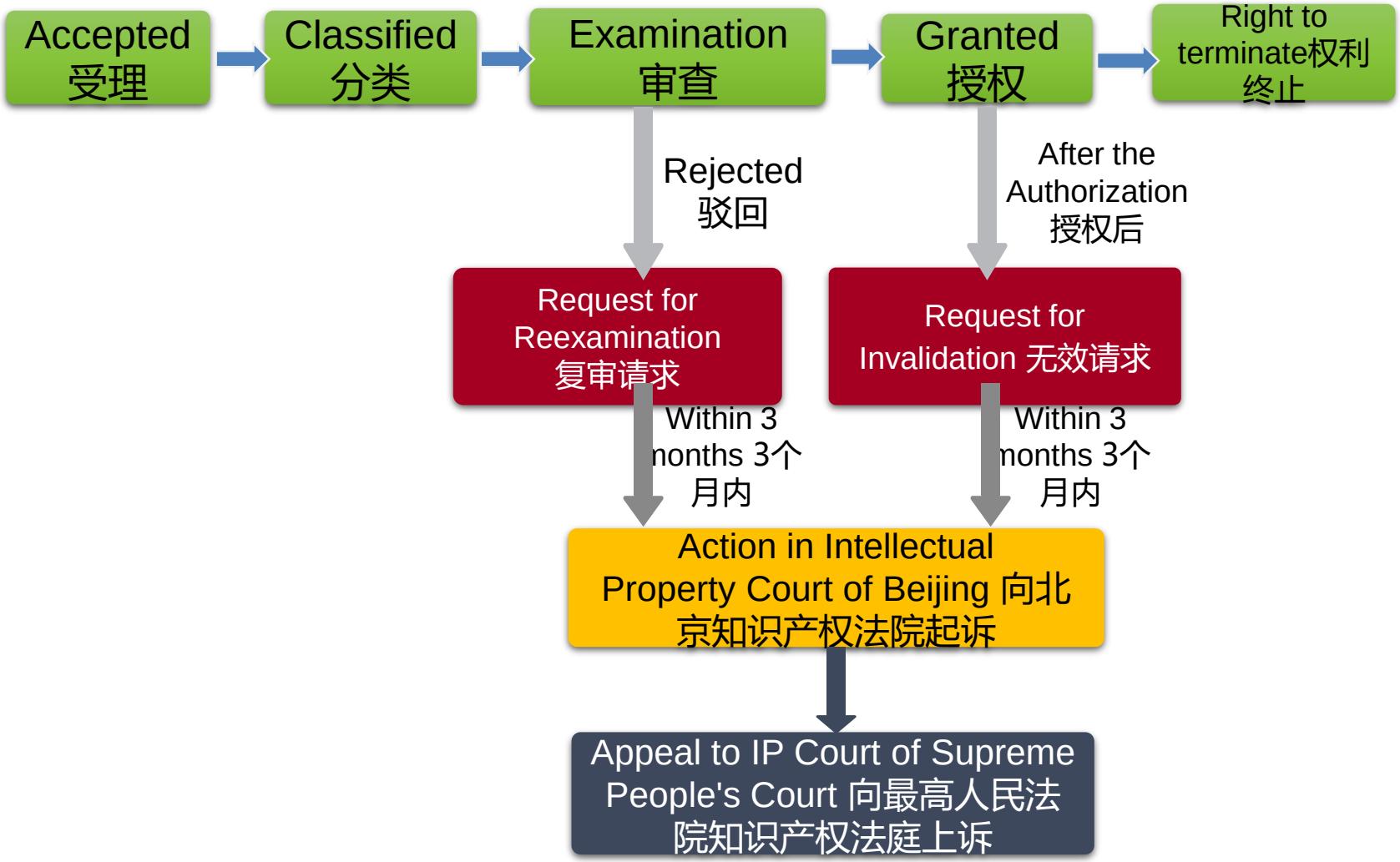
Litigation 诉讼

To appeal in court where PRB is sued against its decisions
当专利复审委员会因其决定而被起诉时，出庭应诉

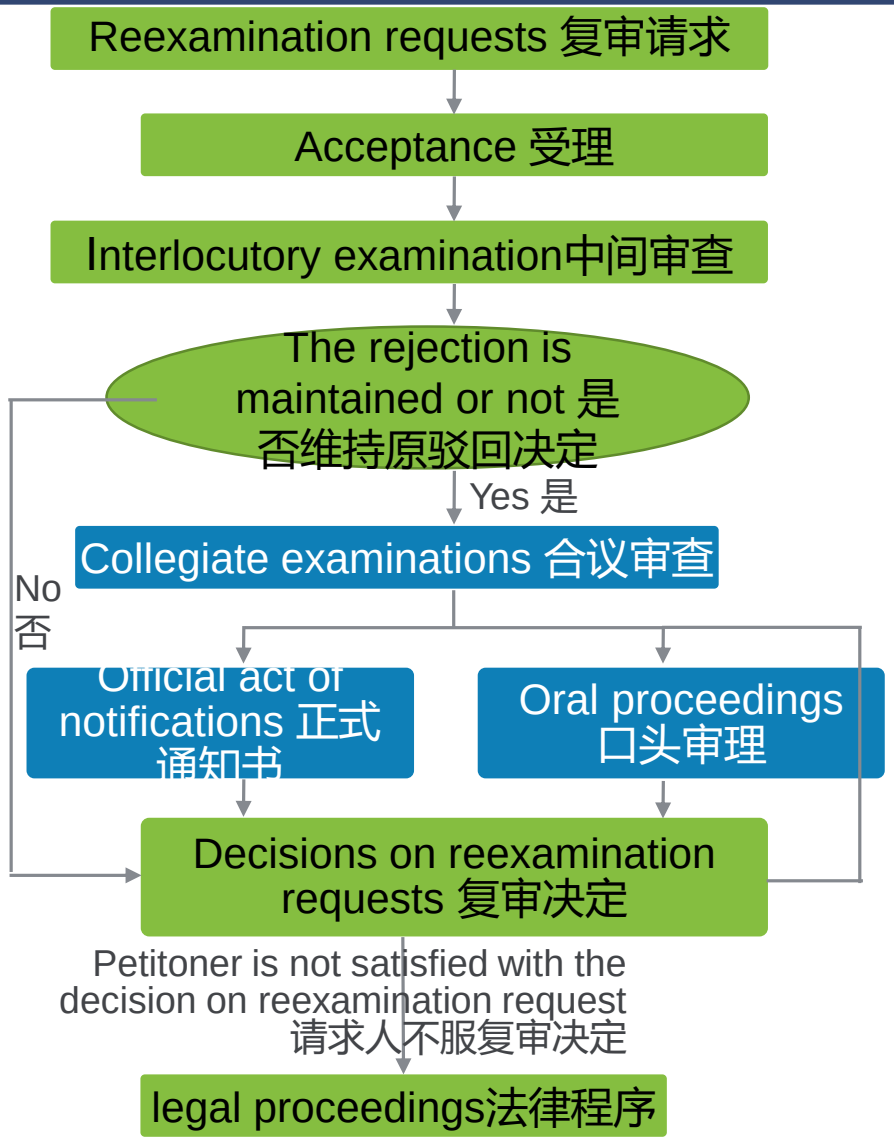
Consultation 咨询

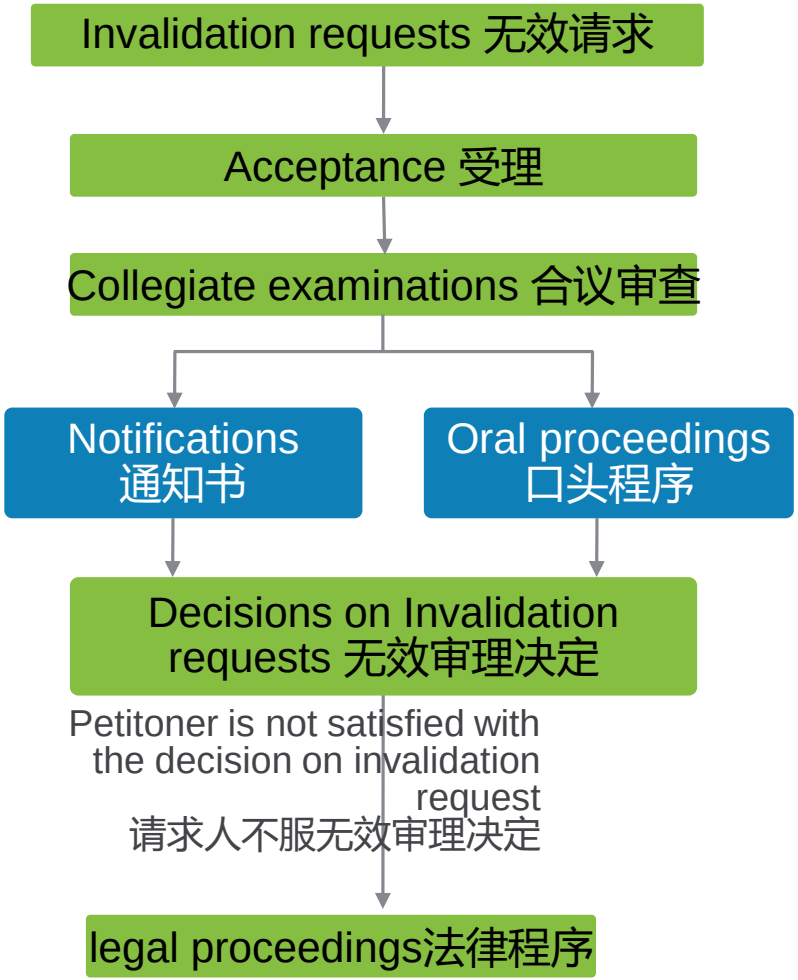
To provide consultation on right validation and infringement determination of patent
就专利的权利确认和侵权认定提供咨询

The Application and Authorization of Design Patent 外观设计专利的申请与授权



Examination & Invalidation Procedure
审查与无效程序





Structure 组织架构

Director General 部长

Deputy Directors General 副部长

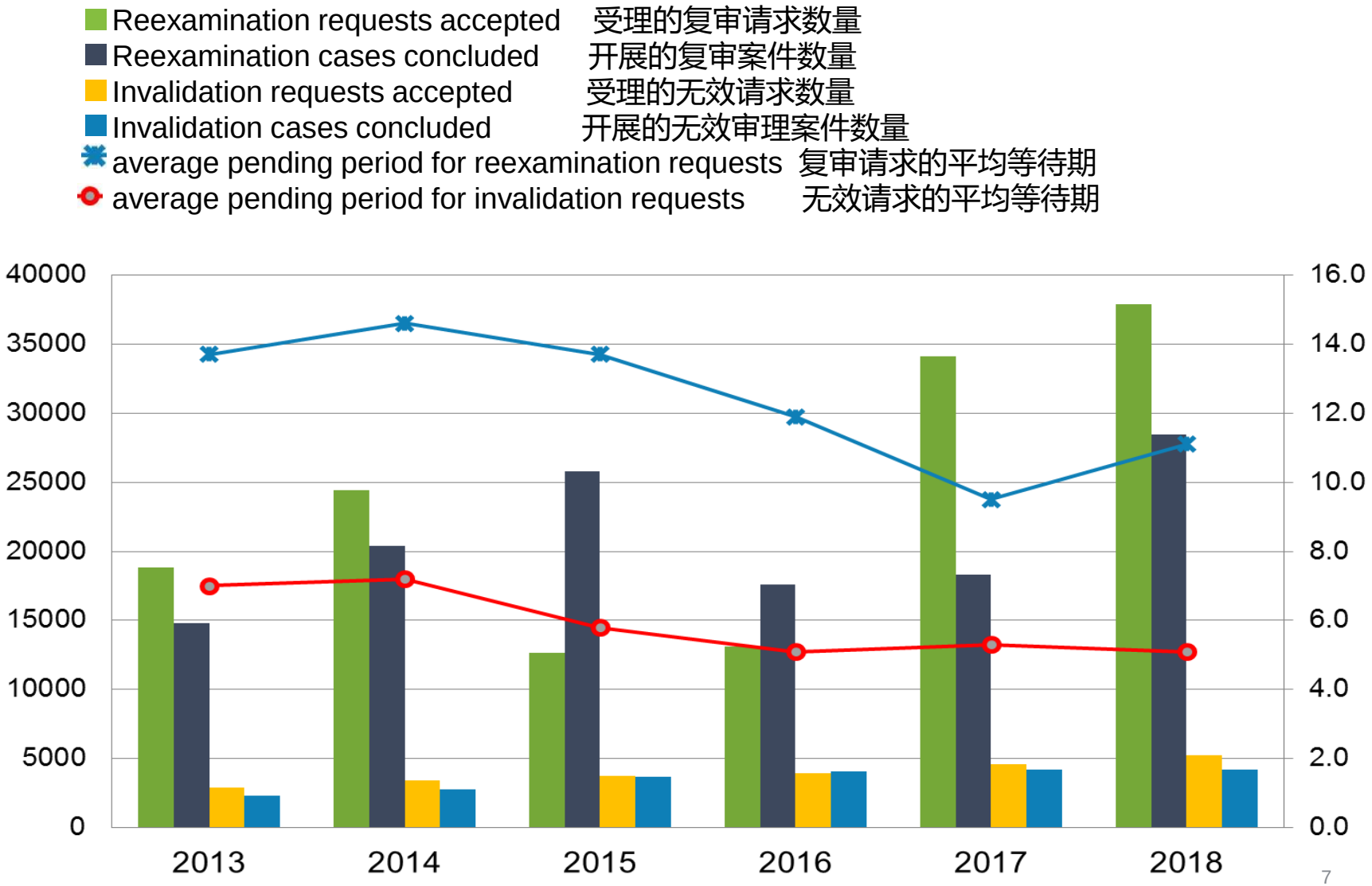
- General Office 综合办公室
- Quality Guarantee Division 质量保证处
- Information Technology Guarantee Division 信息技术保证处
- Examination Coordination Division 审查协调处
- Research Division 研究处

- **Receiving & Procedural Management Division 受理与程序管理处**
- **19 Technical Appeal Divisions 19个技术申诉处**
- **3 Design Appeal Divisions 3个设计申诉处**
- **2 Administrative Litigation Division 2个行政诉讼处**

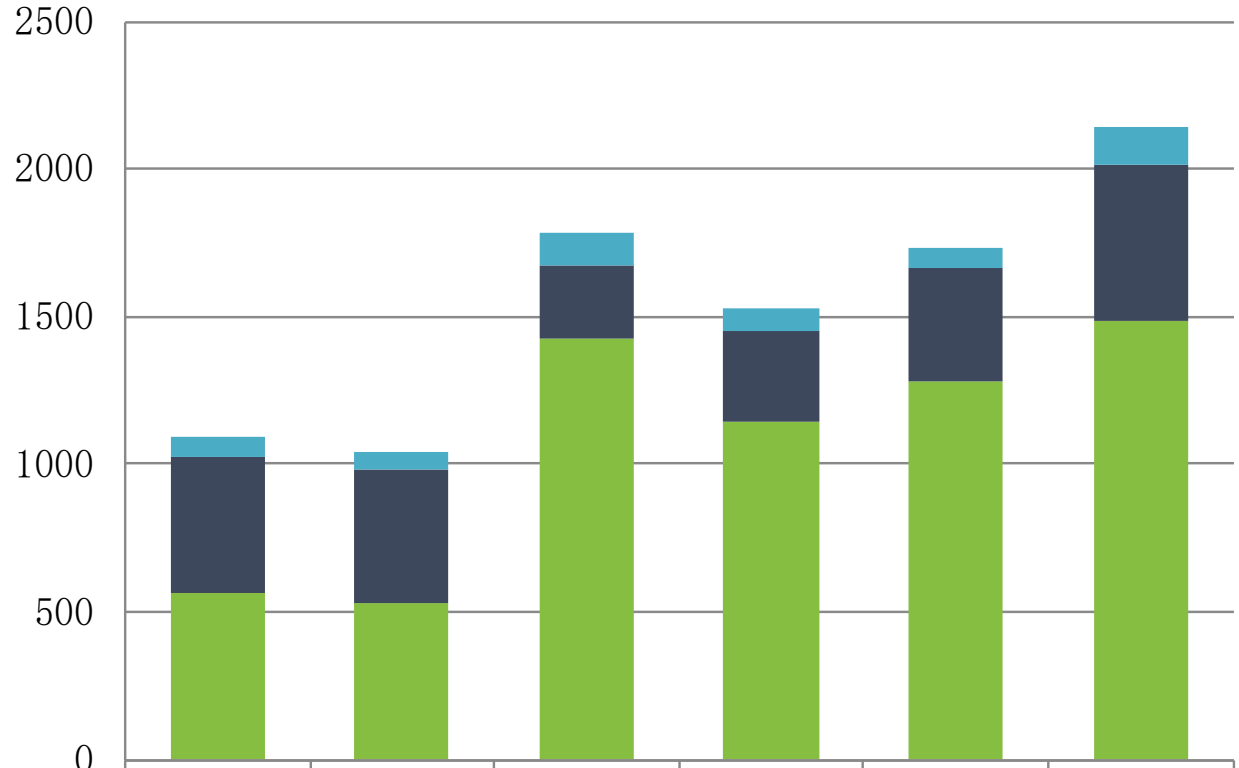
There are 311 staff in Reexamination and Invalidation Department，30 of them are in Design Division.

复审和无效审理部共有311名工作人员，其中外观设计处31名。

Reexamination & Invalidation
复审与无效

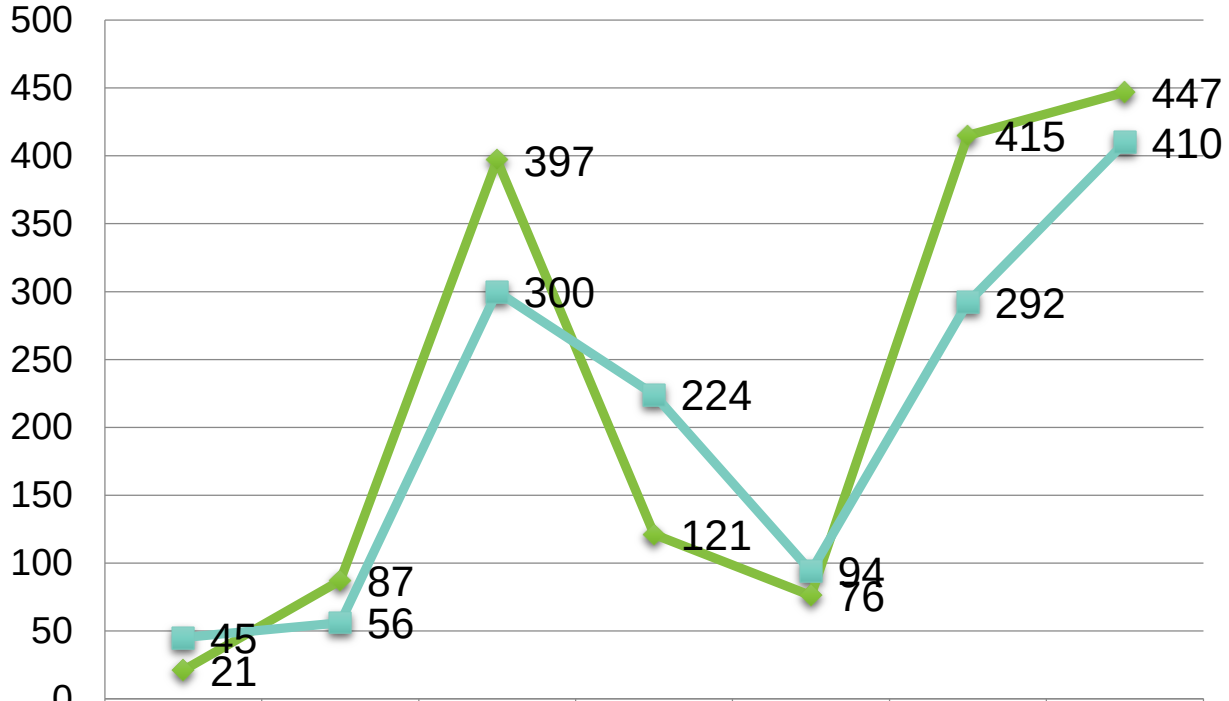


Patent Administrative Litigation
专利行政诉讼



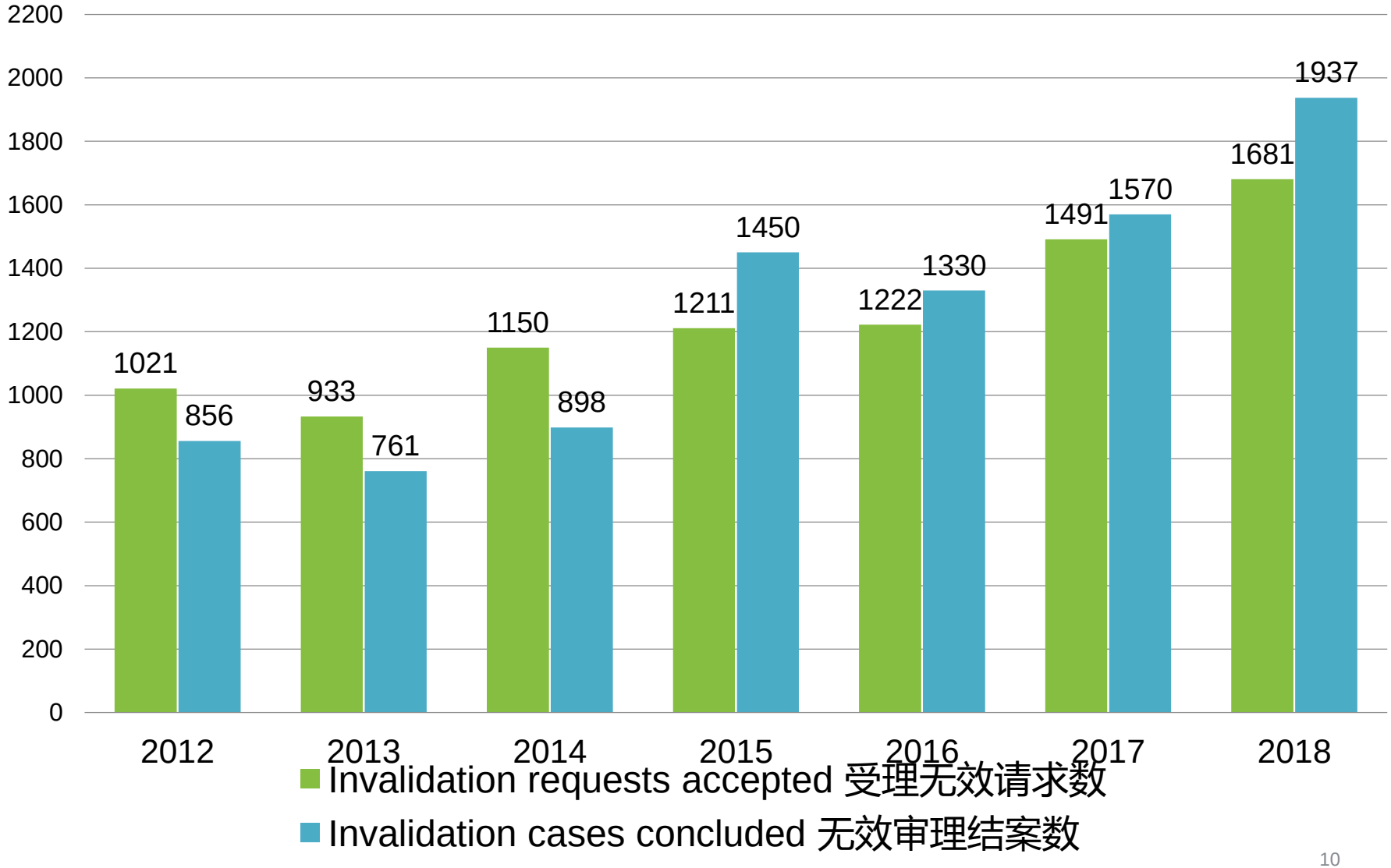
	2013	2014	2015	2016	2017	2018
retrial 重审	72	61	111	72	64	126
second trial 二审	456	458	249	313	380	528
first trial 一审	569	527	1427	1142	1285	1486

Reexamination Requests & Concluded of Design Patent 外观设计专利的复审请求与结案情况



	2012	2013	2014	2015	2016	2017	2018
Reexamination requests accepted 受理复审请求数	21	87	397	121	76	415	447
Reexamination cases concluded 复审结案数	45	56	300	224	94	292	410

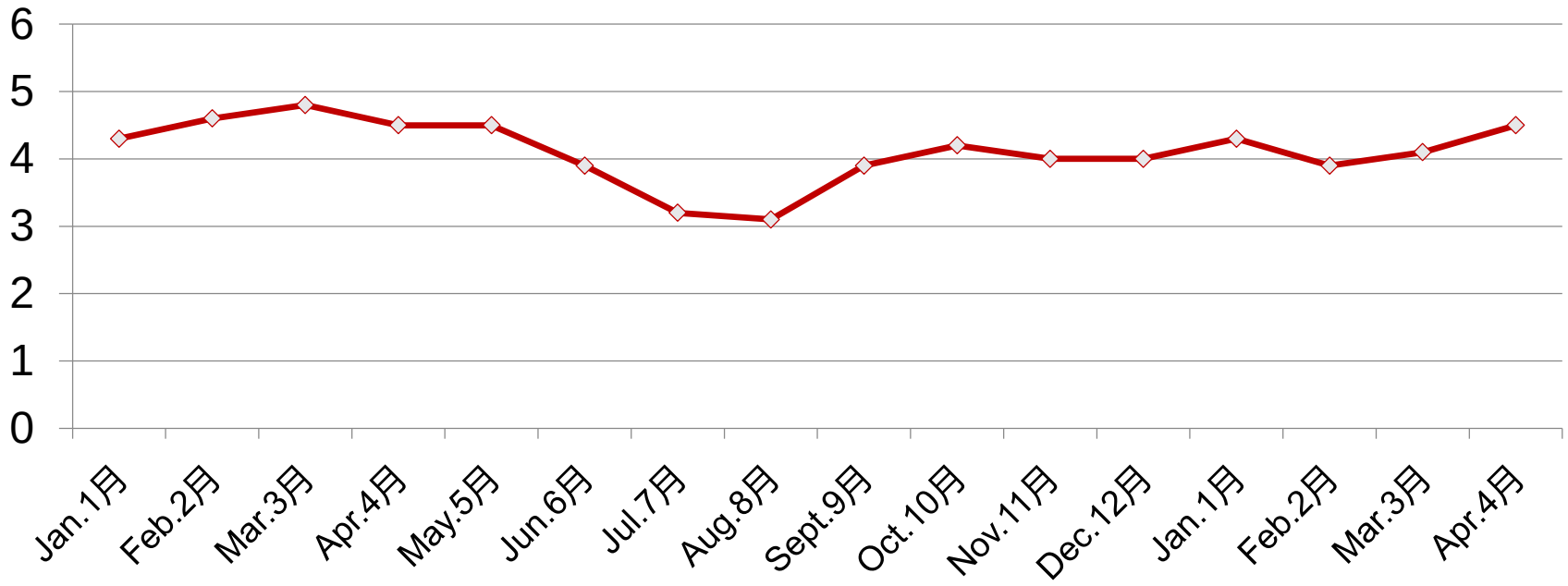
Invalidation Requests & Concluded of Design Patent 外观设计专利的无效请求与结案情况



Period of Invalidation Examination of Design Patent 外观设计专利的无效审查期

Period of Invalidation Examination of Design Patent (2018-2019.4)

外观设计专利的无效审查期（2018-2019年4月）

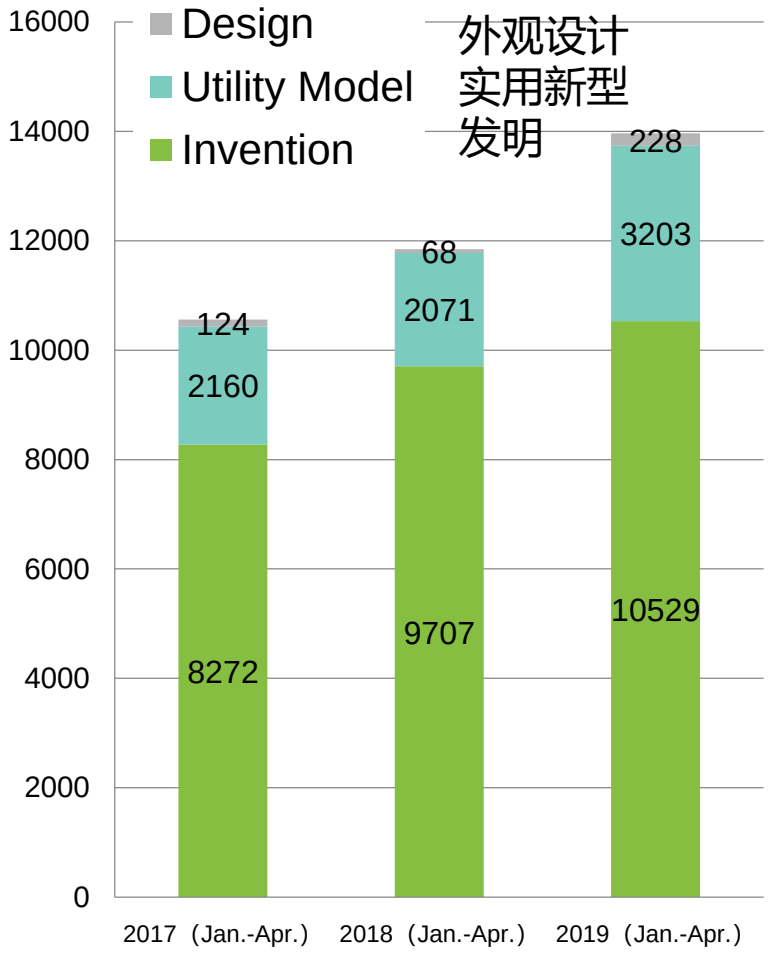


The average period of the invalidation examination of design patent is 4.3 months in 2018.

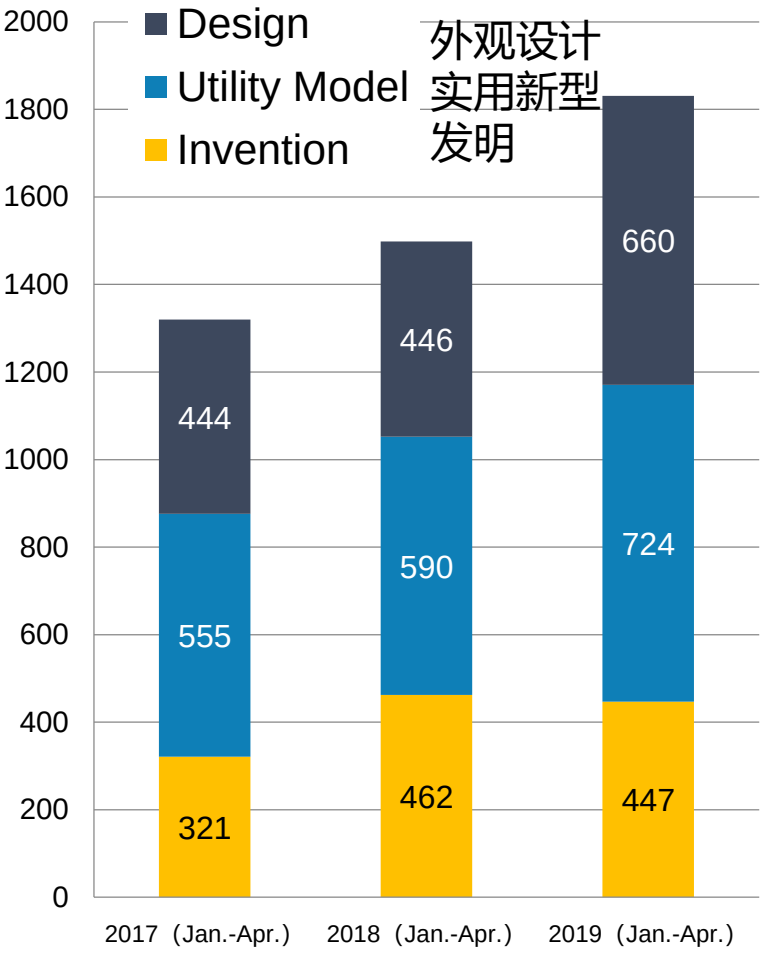
2018年外观设计专利的平均无效审查期为4.3个月。

Requests Received of Reexamination & Invalidation 收到的复审与无效请求数量

Reexamination 复审

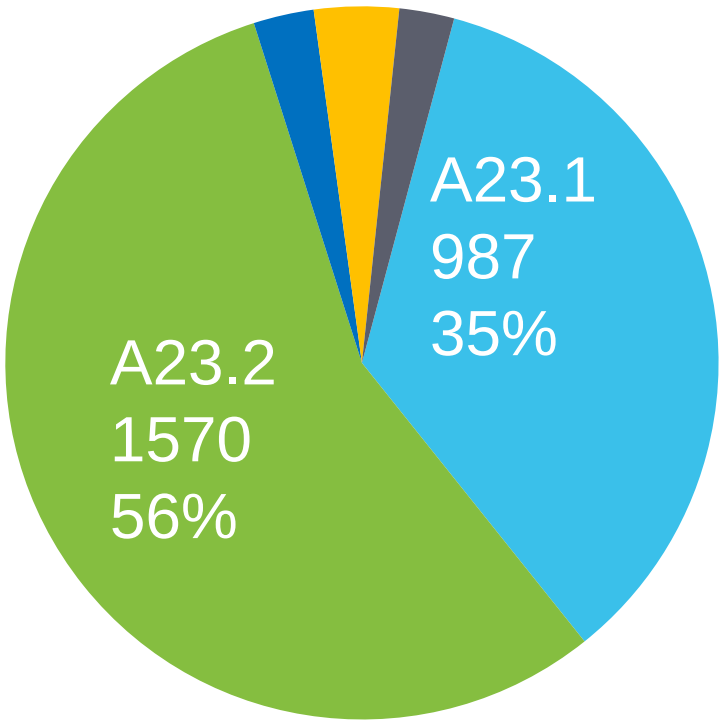


Invalidation 无效



Grounds for the request of Invalidation of Design Patent 外观设计专利无效请求理由

(2016-2018)



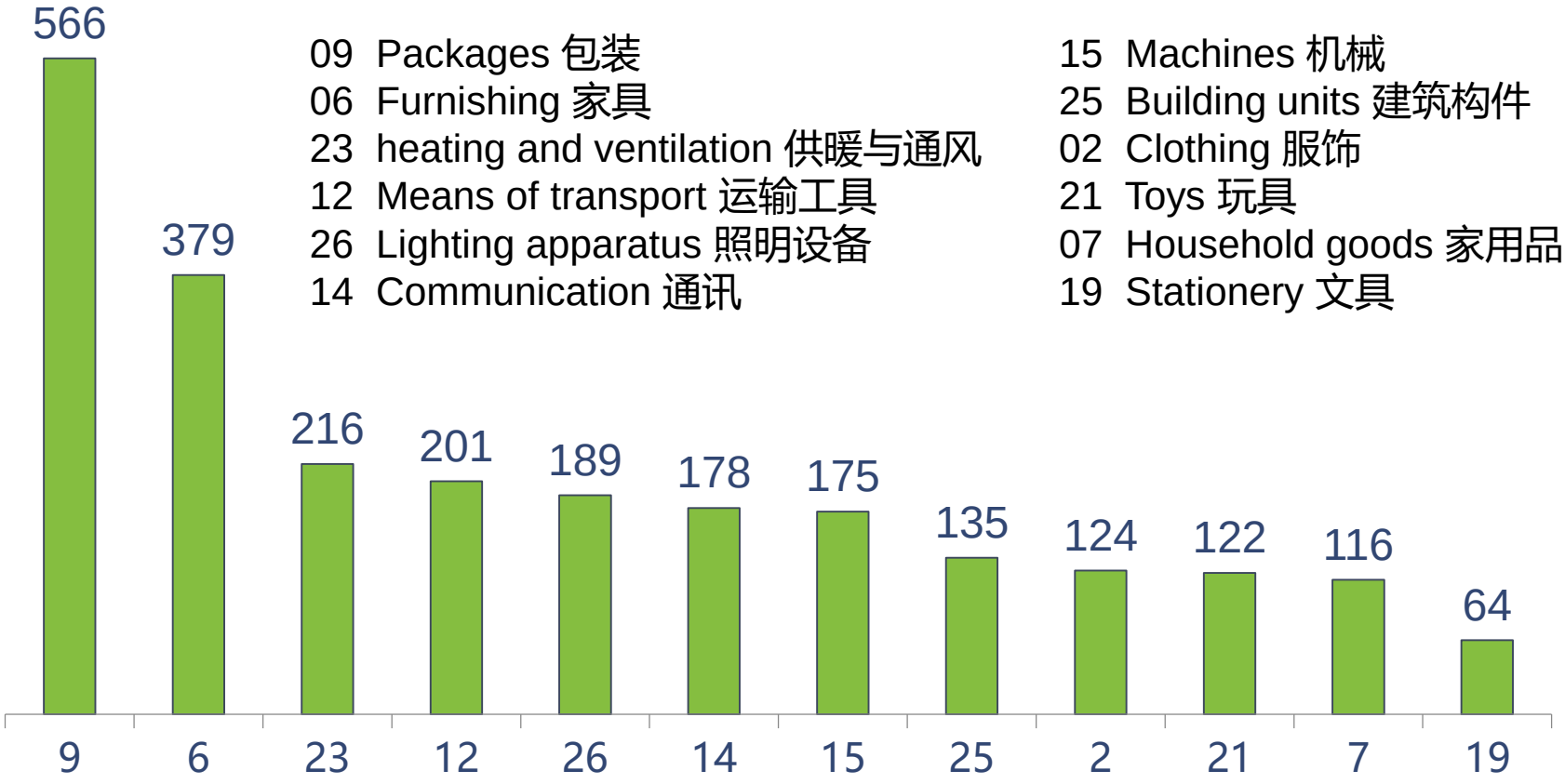
Articles 条款号	Number 数量	Ratio 比例
A23.1	987	35%
A23.2	1570	56%
A23.3	77	3%
A27.2	108	4%
A9	70	2%

Classification of Design Patent in Invalidation Examination 无效审查外观设计专利的分类

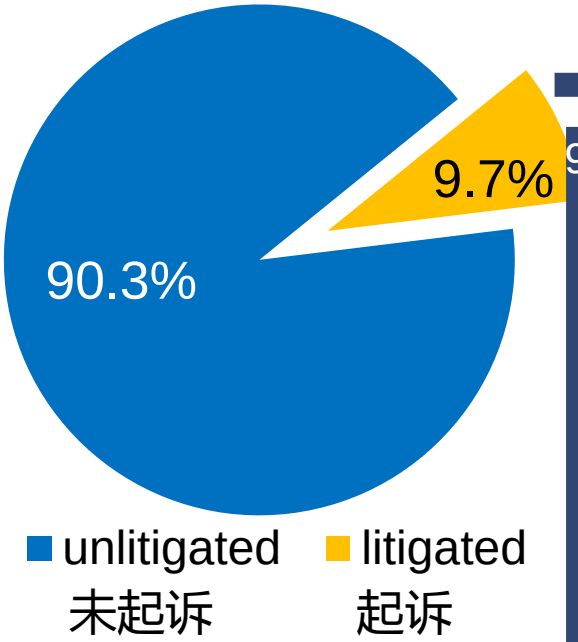
Top Ten Invalidation Cases Concluded in Different Classification（2016-2018）

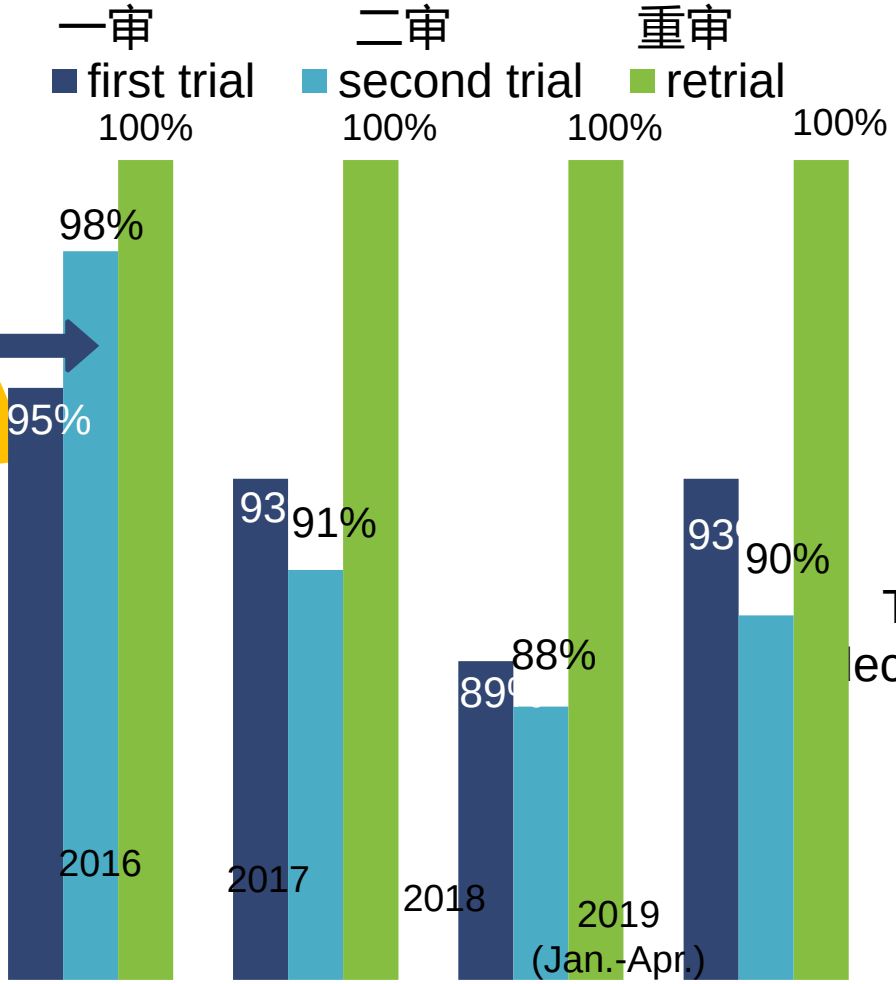
按无效审查结案数量排名的前十类外观设计专利（2016-2018）

09 Packages 包装
06 Furnishing 家具
23 heating and ventilation 供暖与通风
12 Means of transport 运输工具
26 Lighting apparatus 照明设备
14 Communication 通讯
15 Machines 机械
25 Building units 建筑构件
02 Clothing 服饰
21 Toys 玩具
07 Household goods 家用品
19 Stationery 文具



Affirmation Rate of the Decisions of Design Patent 外观设计专利决定确认率





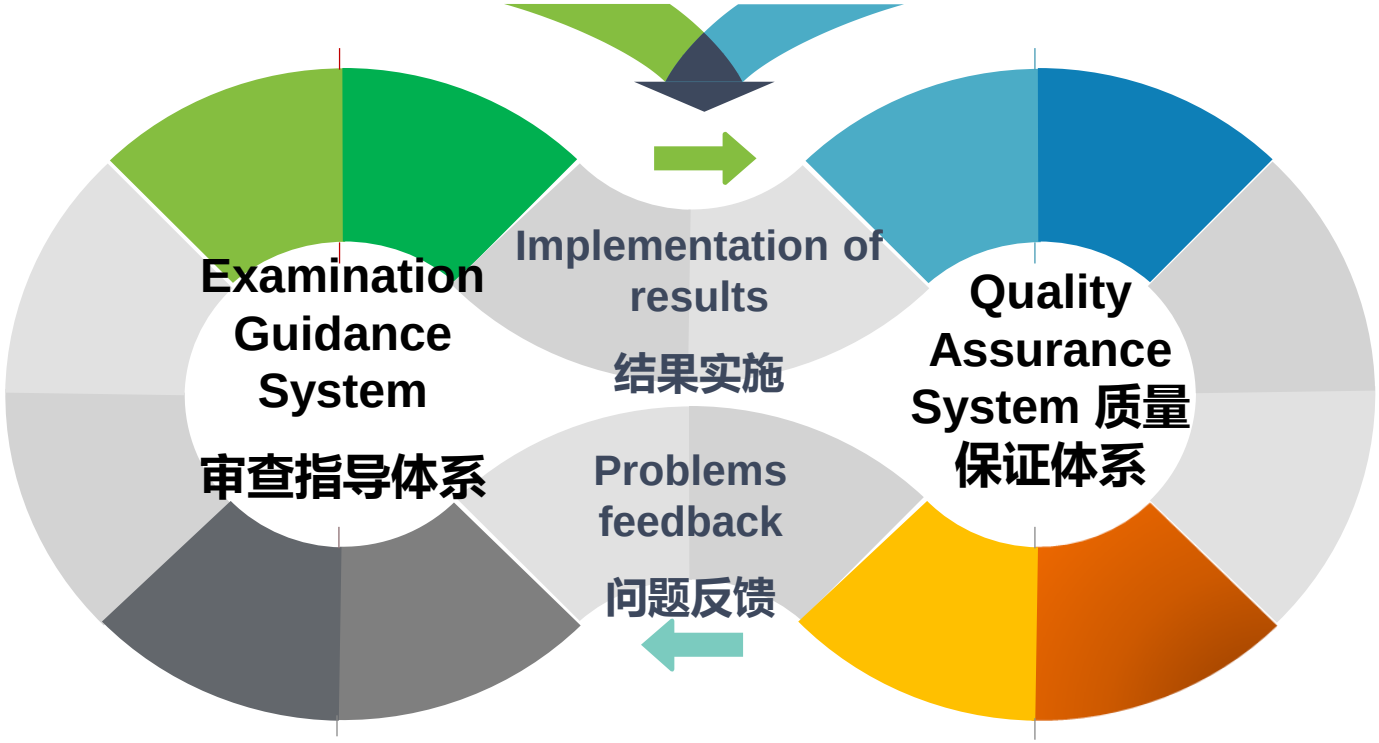
The rate of the decisions coming into effect accounts for **99%**.

决定生效率 99%

Permanent Expert Body & Independency Quality Assurance Agency 常设专家机构&独立质量保证机构

Expert Body 专家机构

Quality Assurance Agency 质量保证机构



Quality Management System
质量管理体系

QC in divisions
处级质控

The directors take responsibility for examination quality in their respective divisions.
处长对各处的审查质量负责。

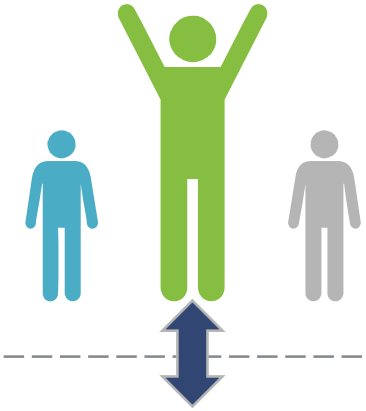
Quality Assessment
质量评估

A QC team consisted by 6 experienced examiners was established to assess the overall examination quality of PRB.
一支由6名经验丰富的审查员组成的质控小组，负责评估专利复审委员会的整体审查质量。

QC in divisions
处级质控

The QC team should pay close attention to the decision revoked by the Court.
质控团队应密切关注法院撤销的审查决定。

Guidance of Examination 审查指导



Expert group
专家小组

Quality Management System 质量管理体系

Examiners
审查员

Expert group (9 members): 专家小组（9名成员）

Answer the question about the examination standard
回答有关审查标准的问题；

Select representative cases to clarify the examination standard
选择代表性案例，来解释审查标准；

Provide examiners with cases studies
向审查员提供案例研究。

Thank You
谢谢

国家知识产权局专利局复审和无效审理部
Reexamination and Invalidation Department of the Patent Office, CNIPA