

## Regulations on Patent Agency (2018 revised)

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## Regulations on Patent Agency

(Promulgated by Decree No.76 of the State Council of the People's Republic of China on March 4, 1991, revised and adopted at the 23rd Executive Meeting of the State Council on September 6, 2018)

### Chapter I General Provisions

**Article 1** These Regulations are formulated, in accordance with the Patent Law of the People's Republic of China, to regulate patent agency behaviors, protect the lawful rights and interests of principals, patent agencies and patent agents, ensure the normal order of patent agency activities, and promote the healthy development of the patent agency industry.

**Article 2** For the purpose of these Regulations, the term "patent agency" shall mean the handling by a patent agency, after accepting authorization and within the scope of its delegated authority, of patent application, announcement of invalidation of patent rights, or other patent-related matters in the name of a principal.

**Article 3** Any entity or individual may apply for a patent or handle other patent-related matters domestically by it or himself. It or he may also entrust a patent agency legally incorporated to handle such matters, unless otherwise provided for by law.

A patent agency shall handle patent-related matters as authorized by the principal.

**Article 4** In business practices, patent agencies and patent agents shall abide by the laws and administrative regulations, comply with professional ethics and disciplines, and protect the lawful rights and interests of principals.

The practicing of businesses in accordance with the law by patent agencies and patent agents shall be protected by law.

**Article 5** The patent administration department under the State Council is responsible for the administration of patent agency work throughout the country.

The administrative authorities for patent affairs under the people's governments of provinces, autonomous regions and municipalities directly under the Central Government are responsible for the administration of patent agency work within their respective administrative areas.

**Article 6** Patent agencies and patent agents may establish and join patent agency industry associations in accordance with the law.



Patent agency industry associations shall formulate self-disciplinary norms patent agency industry. The self-disciplinary norms patent agency industry shall not contravene laws and administrative regulations.

The patent administration department under the State Council is responsible for supervising and guiding patent agency industry associations in accordance with the law.

## Chapter II Patent Agencies and Patent Agents

**Article 7** The form of organization of patent agencies shall be partnership enterprises, limited liability companies, etc.

**Article 8** To engage in patent agency businesses, patent agencies in the form of partnership enterprises or limited liability companies shall meet the following requirements:

- (1) having a name in conformity with laws and administrative regulations;
- (2) having a written partnership agreement or articles of association;
- (3) having independent business premises; and
- (4) partners and shareholders being in conformity with relevant regulations of the State.

**Article 9** To engage in patent agency businesses, an application shall, together with the relevant materials, be submitted to the patent administration department under the State Council to obtain the License for Practicing as a Patent Agency. The patent administration department under the State Council shall make a decision whether to issue the License for Practicing as a Patent Agency or not within 20 days from the date of accepting the application.

Where any change is made to the partners, shareholders or legal representative of a patent agency, the formalities of modification shall be gone through.

**Article 10** Chinese citizens who have majored in science or engineering in institutes of higher learning and obtained an associate degree or above therein may take part in the National Qualification Test for Patent Agents, and a Patent Agent Qualification Credential shall be issued to those who have passed the test by the patent administration department under the State Council. The Rules of the National Qualification Test for Patent Agents shall be formulated by the patent administration department under the State Council.

**Article 11** Anyone who intends to practice businesses as a patent agent shall obtain the Patent Agent Qualification Credential, serve as an intern for up to one year in a patent agency, and get employed by a patent agency.



**Article 12** If a patent agent practices businesses for the first time, he shall, within 30 days from the date of practicing of businesses, report for the record to the administrative authority for patent affairs under the people's government of a province, autonomous region, or municipality directly under the Central Government where the patent agency is located.

The administrative authorities for patent affairs under the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall provide convenience for patent agents to report for record through internet access.

### Chapter III Patent Agency Practices

**Article 13** Patent agencies may be entrusted with the handling of patent-related matters, such as patent application, announcement of invalidation of patent rights, assignment of patent application rights or patent rights, and conclusion of license contracts for exploitation of patents. They may also provide patent-related consulting services at the request of the parties concerned.

**Article 14** If a patent agency accepts entrustment, it shall sign a written entrustment contract with the principal. After accepting entrustment, the patent agency shall not accept entrustment with regard to the same patent application or patent rights matters from any other parties concerned with conflict of interests therein.

A patent agency shall assign a patent agent who practices businesses in this agency to handle patent agency businesses, and the assigned patent agent as well as his close relatives shall not have any conflict of interests with the patent agency businesses handled thereby.

**Article 15** Where a patent agency is dissolved or has its license for practicing canceled or revoked, it shall handle all unfinished patent agency businesses appropriately.

**Article 16** A patent agent shall handle patent agency businesses as assigned by his patent agency, and may not accept entrustment on his own.

A patent agent may not handle patent agency businesses in two or more patent agencies simultaneously.

A patent agent shall hold accountability for all the patent agency businesses that he signed to handle.

**Article 17** All patent agencies and patent agents shall have the obligation to keep confidential the contents of any invention-creation which they learn in



the course of their practicing of businesses, except for those patent applications that have been published or announced.

**Article 18** No patent agency or patent agent shall be allowed to file an application for patent or request announcement of invalidation of patent rights in their own names.

**Article 19** No staff members of the patent administration department under the State Council and the administrative authorities for patent affairs under the local people's governments shall, after having quit their jobs in the office, engage in any patent agency businesses within the time limit as prescribed by the laws and administrative regulations.

No patent agent who used to be a staff member of the patent administration department under the State Council or the administrative authorities for patent affairs under the local people's governments shall act as the patent agent for applications for patents which he has examined, or for patent cases which he has heard or handled.

**Article 20** Fees shall be charged by patent agencies in the principle of freewill, fairness and good faith, while taking economic and social benefits into consideration.

The State encourages patent agencies and patent agents to provide patent agency assistance services to small and micro enterprises as well as inventors and creators with no or few income.

**Article 21** Patent agency industry associations shall enhance self-disciplinary management of their members, organize and carry out business training as well as education on professional ethics and business practice disciplines for patent agents, and impose punishments on members who have violated self-disciplinary norms of the industry.

**Article 22** The patent administration department under the State Council and the administrative authorities for patent affairs under the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall, by way of random check, conduct inspection of and exercise supervision on the business practices of patent agencies and patent agents. Where any violation of these Regulations is found, they shall deal with it in accordance with the law in a timely manner, and the results of inspection and handling of the case shall be made known to the public. No fees shall be charged for inspection.

**Article 23** The patent administration department under the State Council and the administrative authorities for patent affairs under the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall promote the publication of public



information relating to patent agency, and provide inquiry services for the public so as to enable them to acquire the knowledge about the business situations of patent agencies and the business practices of patent agents.

## Chapter IV Legal Liability

**Article 24** Where any License for Practicing as a Patent Agency or Patent Agent Qualification Credential is obtained by concealing facts or practicing fraud, such License or Credential shall be canceled by the patent administration department under the State Council.

Where, after having obtained the License for Practicing as a Patent Agency, the patent agency is found to be no more in conformity with the requirements of these Regulations due to changes of circumstances, the patent administration department under the State Council shall order to make corrections within a specified time limit. Where the patent agency fails to make corrections in due time, or where the patent agency fails to meet the requirements after making corrections, the License for Practicing as a Patent Agency shall be canceled.

**Article 25** Where a patent agency commits any of the following acts, the administrative authority for patent affairs under the people's government of a province, autonomous region, or municipality directly under the Central Government shall order to make corrections within a specified time limit, give it a warning, and may impose a fine of not more than 100,000 yuan; where the circumstances are serious, or where no correction is made in due time, the patent administration department under the State Council shall impose a penalty of ordering the patent agency to stop undertaking new patent agency businesses for a term of 6 to 12 months, or even up to having its License for Practicing as a Patent Agency revoked:

- (1) failing to go through the formalities of modification if any change is made to its partners, shareholders or legal representative;
- (2) accepting entrustment with regard to the same patent application or patent rights matters from any other parties concerned with conflict of interests therein;
- (3) assigning patent agents to handle agency businesses with which he or his close relatives may have conflict of interests;
- (4) disclosing the contents of the invention-creation of principals, or filing applications for patents or requesting announcement of invalidation of patent rights in its own name; or
- (5) neglecting management and resulting in serious consequences.

Where a patent agency discloses the contents of the invention-creation of principals in the course of practicing of its businesses, or involves disclosure of State secrets, infringement of trade secrets, or such activities as bribing the staff members of relevant administrative and judicial organs or providing false



evidences, it shall bear legal liabilities in accordance with the relevant laws and administrative regulations; and the patent administration department under the State Council shall revoke its License for Practicing as a Patent Agency.

**Article 26** Where a patent agent commits any of the following acts, the administrative authority for patent affairs under the people's government of a province, autonomous region, or municipality directly under the Central Government shall order to make corrections within a specified time limit, give him a warning, and may impose a fine of not more than 50,000 yuan; where the circumstances are serious, or where no correction is made in due time, the patent administration department under the State Council shall impose a penalty of ordering the patent agent to stop undertaking new patent agency businesses for a term of 6 to 12 months, or even up to having his Patent Agent Qualification Credential revoked:

- (1) failing to report for the record in accordance with the provisions of these Regulations;
- (2) accepting entrustment to handle patent agency businesses on his own;
- (3) engaging in patent agency businesses in two or more patent agencies simultaneously;
- (4) in violation of the provisions of these Regulations, acting as the patent agent for applications for patents which he has examined, or for patent cases which he has heard or handled;
- (5) disclosing the contents of the invention-creation of principals, or filing applications for patents or requesting announcement of invalidation of patent rights in his own name.

Where a patent agent discloses the contents of the invention-creation of principals in the course of practicing of his businesses, or involves disclosure of State secrets, infringement of trade secrets, or such activities as bribing the staff members of relevant administrative and judicial organs or providing false evidences, he shall bear legal liabilities in accordance with the relevant laws and administrative regulations; and the patent administration department under the State Council shall revoke his Patent Agent Qualification Credential.

**Article 27** Where any patent agency business is carried out in violation of the provisions of these Regulations, the illegal act shall be ordered to stop by the administrative authority for patent affairs under the people's government of a province, autonomous region, or municipality directly under the Central Government, the illegal income shall be confiscated, and a fine of not less than one time but not more than five times the illegal income shall be imposed.

**Article 28** Where, in violation of the provisions of these Regulations, the staff members of the patent administration department under the State Council and the administrative authorities for patent affairs under the people's



governments of provinces, autonomous regions and municipalities directly under the Central Government abuse their power, neglect their duties, or engage in malpractices for personal gains, they shall be given sanctions in accordance with the law; where a crime is constituted, criminal liability shall be investigated for in accordance with the law.

## Chapter V Supplementary Provisions

**Article 29** The establishment of any permanent representative office within the territory of the People's Republic of China by foreign patent agencies shall be subject to the approval of the patent administration department under the State Council.

**Article 30** A law firm may conduct patent-related businesses in accordance with the laws and administrative regulations such as the Law of the People's Republic of China on Lawyers and the Civil Procedure Law of the People's Republic of China, whereas the provisions of these Regulations shall be observed when engaging in the businesses of filing applications for patents and requesting for announcement of invalidation of patents, and the specific measures therefor shall be formulated separately by the patent administration department under the State Council after consulting with the judicial administration department under the State Council.

**Article 31** The measures for administration of patent agencies and patent agents acting for national defense patent matters shall be separately formulated by the patent administration department under the State Council after consulting with the competent national defense patent authority of the State.

**Article 32** These Regulations shall be effective as of March 1, 2019.

The patent agencies established in accordance with the law and the patent agents who practice businesses in accordance with the law before these Regulations take effect may continue their patent agency businesses in the name of patent agencies and patent agents after these Regulations take effect.

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***The English version is for reference only. In case of any discrepancy or ambiguity of meaning between this English translation and the Chinese version, the latter shall prevail.***

