



American Intellectual Property Law Association

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Office of the State Intellectual Property Office
China National Intellectual Property Administration (CNIPA)
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Via email: shenchazc@cnipa.gov.cn

RE: AIPLA Response to the Draft Measures for the Administration of Prioritized Examination of Patents (“Draft Measures”)

RE: 美国知识产权法协会 (AIPLA) 对《专利优先审查管理办法修改草案 (征求意见稿)》的回应 (2025年12月27日发布)

Dear Sir or Madam:

尊敬的先生或女士：

The American Intellectual Property Law Association (AIPLA) appreciates the opportunity to offer comments in response to the above-referenced the Draft Measures for the Administration of Prioritized Examination of Patents (“Draft Measures”).

美国知识产权法协会 (AIPLA) 感谢有机会就上述《专利优先审查管理办法修改草案 (征求意见稿)》(以下简称“《管理办法修改草案》”) 提出意见。

Founded in 1897, AIPLA is a national bar association of approximately 6,500 members who are engaged in private or corporate practice, in government service, and in the academic community. AIPLA members represent a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent (utility and design), trademark, copyright, trade secret, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property. Our mission includes helping to establish and maintain fair and effective laws and policies that stimulate and reward invention while also balancing the public’s interest in healthy competition, reasonable costs, and basic fairness.

美国知识产权法协会 (AIPLA) 成立于 1897 年，是一个拥有约 6,500 名会员的全国性律师协会，其成员活跃于私人执业、公司执业、政府服务及学术界等领域。AIPLA 会员涵盖广泛多元的群体，包括直接或间接从事专利（实用新型与外观设计）、商标、著作权、商业秘密及不正当竞争法实务的个人、企业及机构，同时涉及其他影响知识产权的法律领域。本协会成员既代表知识产权所有者，也代表知识产权使用者。我们的使命包括协助建立并

维护公平且行之有效的法律与政策，在激励和回报创新的同时，兼顾公众对健康竞争、合理成本以及基本公平的利益关切。

Overall AIPLA supports the efforts of the CNIPA in these Draft Measures for the Administration of Prioritized Examination of Patents (“Draft Measures”).

总体而言，美国知识产权法协会 (AIPLA) 支持国家知识产权局在《专利优先审查管理办法修改草案（征求意见稿）》（以下简称“《管理办法修改草案》”）中所做的努力。

We provide our comments below:

以下是我们的意见：

Article 5:

第五条

We wish to have more clarity and guidance on what types of applications would be considered “key areas of national support”, “key areas of encouragement by provincial or municipal governments”, and “breakthroughs in key core technologies in key fields”. We note that the existing Measures (see, e.g., existing Article 3), provide specific areas of technology as guidance, such as “energy conservation and environmental protection, a new generation of information technology, biology, high-end equipment manufacturing, new energy, new materials, new energy vehicles, intelligent manufacturing.” We will be grateful for a similar level of detail or guidance of where to find more details in these new Draft Measures.

我们希望国家知识产权局就哪些情形的专利申请或者专利复审案件涉及的专业技术会被视为“国家重点支持的新兴产业和未来产业”、“省级或者设区的市级人民政府重点鼓励的产业”以及“重点领域关键核心技术攻关”获得更明确的说明和指导。我们注意到，现行专利优先审查管理办法（例如现行第 3 条）提供了具体的科技领域作为指导，例如“节能环保、新一代信息技术、生物、高端装备制造、新能源、新材料、新能源汽车、智能制造等被指定为“国家重点发展产业”以及互联网、大数据、云计算被指定为“省级或者设区的市级人民政府重点鼓励的产业”。若《管理办法修改草案》能提供同等详细的描述，或指引我们如何获取更多相关细节，我们将不胜感激。

The current practice at the CNIPA for grant of prioritized examination is based on selective screening at CNIPA’s discretion after applicants have satisfied the formal requirements as set forth in the official Form for Request for Prioritized Examination of Patent Application (专利申请优先审查请求书). It would be beneficial for both domestic and foreign applicants to use the mechanism if the formal requirements are objective, clear, and expressly set forth in the official request Form as identified above.

目前，国家知识产权局（CNIPA）关于授予优先审查的实践是：在申请人满足《专利申请优先审查请求书》中规定的正式要求后，由国家知识产权局酌情进行择优筛选。如果上述专利优先审查请求的正式要求客观、明确，并在官方优先审查请求书中明确列出，那么无论对国内还是国外的申请人来说，使用该机制都将大有裨益。

Article 6:

第六条

With respect to the prioritized review of invalidation cases, we will be grateful for clarification on whether the types of eligible cases for prioritized review include invalidation cases associated with co-pending patent term extension (PTE) applications. Patents with PTE applications typically cover medicines that directly affect everyone's physical health and safety and therefore earlier understanding of such patent's validity is particularly important to the patentee. Determining the validity of a patent early also helps streamline processes and reduce waste, especially at other State Departments handling co-pending cases relating to such patent (e.g., PTE application, regulatory filings, and more).

关于无效案件的优先审查，若能澄清符合优先审查条件的案件类型是否包括与正在审理中的专利期限延长（PTE）申请相关的无效案件，我们将不胜感激。涉及 PTE 申请的专利通常涵盖直接关系每个人的身体健康和生命安全的药品，因此尽早了解此类专利的有效性对专利权人尤为重要。尽早确定专利的有效性也有助于简化流程并减少资源浪费，特别是在处理与该专利相关的其他并行案件（例如专利期限延长申请、监管备案等）的其他地方政府部门。

Article 11:

第十一条

Article 11 requires all patent applications not filed in China first under item (4) of Article 5 to “bear a recommendation opinion issued by the relevant competent department of the State Council or the provincial-level intellectual property administration.”

第 11 条规定，凡未根据第 5 条第(4)项规定在中国先行提交的专利申请，均须由“国务院有关主管部门或者省级知识产权局签署推荐意见”。

Most patent applications filed overseas first would be those of foreign applicants. These foreign applicants will likely face challenges obtaining a recommendation opinion from the State or provincial departments mentioned above if they do not have a domestic presence.

首先在海外提交专利申请的大多是外国申请人。如果这些外国申请人在国内没有运营实体机构，那么在向上述直辖市或省级知识产权局获取推荐意见时，很可能会遇到困难。

We suggest providing ways for foreign applicants who do not file first in China to enjoy all the rights of prioritized examination equally with domestic companies in compliance with TRIPs. For example, CNIPA could provide a more streamlined way for foreign applicants to apply directly with the CNIPA for the recommendation opinion, or the Draft Measures could provide certain objective requirements that foreign applicants could meet in order to waive the need for a recommendation opinion. Providing such steps in a clear and useful manner would benefit China, as it would incentivize foreign companies involved in industries that are important to China to enter China sooner if they can obtain accelerated patent grants.

我们建议，应为未在中国优先申请的外国申请人提供途径，使其能够依照《与贸易有关的知识产权协定》（TRIPS）的规定，与国内企业一样平等地享有优先审查的全部权利。例如，国家知识产权局（CNIPA）可以为外国申请人提供更简便的途径，使其能够直接向该局申请推荐意见；或者，《管理办法修改草案》可以规定某些客观要求，只要外国申请人满足这些要求，即可免除提交推荐意见的必要。以清晰且切实可行的方式提供此类措施将使中国受益，因为这将激励那些从事对中国至关重要行业的外国企业，使其能够通过获得加速专利授权而更早地进入中国市场。

Article 12:

第十二条

We welcome CNIPA's commitment to not charging additional fees, making this procedure more widely available.

我们欢迎国家知识产权局承诺不收取额外费用，这使得该程序能够惠及更广泛的专利申请人。

Sincerely,

此致敬礼，



Salvatore Anastasi

President

总裁

American Intellectual Property Law Association

美国知识产权法协会