A Brief Introduction of Amendment to Chinese Guidelines for Patent Examination, Effective 1 January 2026

On 13 November 2025, the China National Intellectual Property Administration (CNIPA) published the Amendment to the Guidelines for Patent Examination ("the Amended Guidelines"), which will come into effect on **1 January 2026**. The Amended Guidelines focus on adapting the examination standards to the development of new fields and new business models, responding to the reasonable demands of innovation entities with respect to patent granting and confirmation, and continuously improving examination quality and efficiency. In this newsletter, we summarise the main contents of the Amended Guidelines and provide some reflections and suggestions in response to the amendments for your reference, which we hope can contribute to your easy grasp of the key changes brought by the Amended Guidelines.

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I. Examination of Patent Application Procedure

1. Inventors' identify information

The Amended Guidelines clearly state in Part I, Chapter 1, Section 4.1.2 that **"The inventor must be an individual (i.e., a natural person). The identity information of all inventors must be provided in the request form, and the information provided must be authentic."**

This modification further increases and strengthens requirements related to inventor information, and states expressly that the inventor must be a natural person, not AI.

Recommendations

We advise that applicants when filing new applications should provide accurate information of all inventors, including their full names, nationality/region, and ID numbers (for inventors of Chinese nationality). Our firm will also verify the completeness of this information before submitting the applications. If finding any deficiencies, we will communicate promptly and assist in addressing the issues.

2. Application fee involving nucleotide and/or amino acid sequence listing

The Amended Guidelines cancel the provisions "(3) if the nucleotide and/or amino acid sequence listing as a separate part of the specification exceeds 400 pages, the sequence listing shall be calculated as 400 pages" in Chapter 1, Section 7.3 "Other Special Fees" under Part III "Examination of International Applications Entering the National Phase", and add the provisions **"If the sequence listing in a computer-readable form is submitted in accordance with the prescribed form, the number of pages shall not be calculated."** after "The additional fee for filing an application refers to the fee that will be incurred where the description (including drawings and sequence listing) of the

application documents contains more than 30 pages or the number of claims exceeds 10. Such fee shall be calculated according to the number of pages or the number of claims." in Chapter 2, Section 1 "Time Limit for Payment of Fees" under Part V "Processing of Patent Application and Procedural Matters". However, for non-PCT applications submitted in paper form, the additional fee will still be charged on the basis of number of pages of the sequence listing.

This is a very advantageous amendment for applicants in terms of substantially reducing the application fee. For both PCT applications entering the national phase and electronically filed non-PCT applications, if a computer-readable nucleotide and/or amino acid sequence listing is submitted in the prescribed format, number of pages of the nucleotide and/or amino acid sequence listing will not be calculated and no additional fee will be charged. In practice, most of the applications are submitted electronically, meaning that if the amended provision is implemented, the additional fee previously incurred by the sequence listing will be saved and patent application cost significantly reduced.

3. Patent Term Adjustment

The Amended Guidelines expand the scope of what constitutes reasonable delays in the grant procedure by adding an applicable situation for "reasonable delays" in Part V, Chapter 9, Section 2.2.1 "Reasonable Delays in Grant Procedure": **"reexamination procedure in which the decision on rejection is revoked on the basis of new grounds or new evidence submitted by the reexamination requester"**.

This modification clarifies that even if no amendments are made to the patent application documents in reexamination proceedings, where the reexamination decision of revoking a rejection is based on new grounds or new evidence submitted by the requester, such circumstance falls under "reasonable delays" in Rule 78 of the Implementing Regulations of the Patent Law. According to said Rule, the actual number of days of reasonable delay caused by such circumstance will not be taken into account in the calculation of the compensation period.

The "new grounds or new evidence" refers to the grounds or evidence that is not submitted during the substantive examination proceedings, that is, the grounds or evidence is not asserted prior to the issuance of the rejection decision, and the reexamination decision of revoking the rejection is made on the basis of new grounds or new evidence submitted by the applicant during the reexamination stage.

This amendment expands the scope of what constitutes reasonable delays in the grant procedure. Even if no amendments are made to the patent application documents during reexamination proceedings, as long as the applicant presents new grounds or new evidence, the delay caused by the overall reexamination proceedings will be regarded as a reasonable delay in the grant procedure and will not be taken into consideration in the calculation of the compensation period, thus resulting in shorter or even no compensable patent protection term.

Recommendations

Given that delays caused by reexamination proceedings are generally not compensable, we advise that the applicant may consider amending the claims earlier in the substantive examination procedure to avoid the time loss caused by the rejection-reexamination cycle, especially in the field where the substantive patent term is more important and the scope of patent protection only needs to have an accurate covering (rather than an excessive scope of protection). If a rejection decision is received, however, the applicant is advised to consider filing the necessary amendments at the time of submitting the reexamination request in order to seek to have the rejection revoked in the interlocutory examination stage and maximally shorten the reexamination process.

II. Examination of Identical Inventions-Creations

The Amended Guidelines revise the last paragraph of Section 6.2.2 in Chapter 3 of Part II as follows:

> *"For the same applicant filing applications for both a utility model patent and an invention patent for the same invention-creation on the same day (referring to filing date only), according to Rule 47 of the Implementing Regulations of the Patent Law, the applicant should specify in respective applications that another application has been filed for the same invention; in the absence of such specification, the application will be processed in accordance with Article 9, Paragraph 1 of the Patent Law, which states that only one patent right may be granted for the same invention; where specification is made, and no grounds for rejection are found upon examination of the invention patent application, the applicant should be notified to declare the* ***abandonment*** *of the utility model patent right within a prescribed period. If the applicant declares abandonment, a decision of granting the invention patent right should be made, and the applicant's declaration of abandonment of the utility model patent right should be announced together with the announcement of the grant of the invention patent right. In case the applicant does not agree to the abandonment, the invention patent application shall be rejected; where the applicant has not responded upon expiry of the time limit, the invention patent application shall be deemed having been withdrawn.*
>
> *The applicant who abandons a granted utility model patent right shall attach a written statement of abandonment when responding to examination opinions. Following this, a notice of grant shall be issued for the invention patent application that meets the grant conditions and has yet to be granted, and the written statement of abandonment of the said utility model patent right shall be forwarded to the relevant examination department, to be registered and announced by the Patent Office, with the disclosure that the utility model patent right shall terminate from the date of grant of the invention patent right."*

This amendment directly cites Rule 47 of the Implementing Regulations of the Patent Law, clarifying that if the same applicant files applications for both a utility model patent and an invention patent for the same invention on the same day (referring to filing date only) ("same-day applications") and has specified in respective applications that another patent application ("specification") has been filed for the same invention, the applicant can obtain the grant of the invention patent application that meets the grant conditions only by way of abandoning the utility model patent right; otherwise, the invention patent application will be rejected or deemed having been withdrawn. In other words, for same-day applications with specification, applicants will no longer be able to obtain invention patent grant by amending their invention patent application as in current practice. Instead, they will have to obtain a grant by choosing between the utility model application and the invention application submitted.

As stated in the official explanatory notes accompanying the draft amendments for consultation, this amendment aims at minimising subsequent patent right maintenance and implementation issues arising from simultaneous granting of the invention and utility model patents of the same-day applications, and is beneficial to optimising examination resources, reducing applicants' burdens, and allowing the public to have informed expectations about examination results of same-day applications.

Recommendations

Current practice regarding same-day applications offer three advantages to the applicants: 1. Obtain utility model patent protection in a shorter time; 2. If the invention patent application is the same as the utility model patent in the scope of protection upon examination findings that it meets the

conditions for grant, the applicant can obtain the invention patent right by abandoning the utility model patent right; 3. If the invention patent application is different from the utility model patent in the scope of protection upon examination findings that it meets the conditions for grant, the applicant can obtain both the utility model patent right and the invention patent right simultaneously.

After the amendment, regardless of whether the applicant has made the specification at filing the respective applications, he will no longer be able to benefit from the above three advantages simultaneously.

Specifically, after the implementation of the said amendment, if specification has been made for the same-day applications, the applicant can still benefit from advantages 1 and 2, while advantage 3 will no longer be available. Regardless of whether the scope of protection is the same, the applicant may only obtain either the utility model patent right or the invention patent right. It should also be noted that this amendment does not address the following two current practices: (1) delayed examination of the invention patent application of same-day applications (although not expressly stated, this is usually the case in practice), and (2) patent term adjustment is not applicable to invention patent application of same-day applications.

On the other hand, where no specification is given in same-day applications, advantage 2 will no longer be available. As for whether advantage 3 can be obtained, i.e. whether it is possible to preserve the option to secure both a utility model patent and an invention patent with different protection scopes through post-filing amendments, there remains uncertainty. According to the information from recent official briefings, the CNIPA may adopt a strict approach in this regard. Regarding this point, it is necessary to continuously monitor changes in future examination practice. To minimise potential risks, it is prudent to differentiate claims between the invention application and the utility model application at the time of filing.

In brief, this amendment makes it more difficult for applicants to decide on a justifiable filing strategy. Applicants will need to comprehensively consider factors such as significance of the invention, their inclination towards timing of obtaining rights against stability of rights, and the cost input plans. In these matters, our attorneys are prepared to provide pragmatic suggestions tailoring to applicants' specific circumstances.

III. Examination of Inventive Step

The Amended Guidelines have revised Section 6.4 in Chapter 4 of Part II as follows:

> *"Whether an invention involves inventive step is assessed by reference to the claimed invention. Therefore, the inventive step assessment of an invention should target at the technical solution defined by a claim. In assessing inventive step, the focus should be on the technical solution defined by the claim as a whole, that is, to assess whether the technical solution, instead of whether a single technical feature, involves an inventive step.*
>
> *Technical features constituting a contribution over the prior art, such as those producing unexpected technical effects or embodying the invention's overcoming of technical prejudice, should be recited in the claim; otherwise, they will not be considered in the assessment of the invention's inventive step, even if depicted in the description. Features that do not contribute to solving the technical problem, even if included in the claims, generally have no influence on the inventive step of the technical solution."*

An example to illustrate the above-said examination approach has been added in the Amended Guidelines. In the example, the "technical problem" is described as "how to achieve more flexible

control of the shutter", while the "features such as the shape of the camera housing, the size of the display screen, and the location of the battery compartment" are deemed non-contributory to the solution of the technical problem. The analysis and conclusion for the example are: "No explanation about the relevance between the newly added features in the claims and the solution of the technical problem is recited in the description. These newly added features are either conventional components implied in the subject matter of the claims themselves, or obtainable by a person skilled in the art based on their ordinary technical knowledge and conventional experimental methods. Also, the applicant failed to provide evidence or sufficient reasons to support that these technical features can bring further technical effects to the claimed technical solution. Therefore, the mentioned technical features do not contribute to resolving the technical problem and do not bring inventive step to the claimed technical solution."

The focus of this amendment is on the second paragraph (the first paragraph is already included in current Guidelines for Patent Examination, and the Amended Guidelines only adjust its position). This paragraph stresses that technical features bringing inventive step to the invention should be those that can bring contribution to resolving the technical problem. As stated in the official explanatory notes accompanying the draft amendments for consultation, this amendment has not changed the method and approach of inventive step assessment. The analysis of the newly added example, however, seems to suggest that examination practices in future may attach greater importance to the relevance of the technical features to the technical problem and the definiteness of technical effects. While the technical effects can be illustrated in the form of evidence or sufficient reasoning during the examination process, it is more ideal if they can be embodied in the description of the patent application.

Recommendations

Applicants should consider strengthening the depiction of the aforementioned relevance of the technical features to the technical problem and definiteness of technical effects in the description when drafting the application documents, which can be used as internal evidence to support inventive step arguments during the examination of Chinese patent applications.

If, considering the practices in different jurisdictions, it is inconvenient to state the above facet(s) in the summary of the invention section, depiction through specific embodiments can be considered. At least, evidence and necessary explanations related to important technical features' technical effects and their relevance to the technical problem should be properly preserved during drafting and after filing, so that they may serve as evidence or sufficient reasoning to support corresponding inventive step arguments when necessary during the examination process.

A further point to note is, when responding to inventive-step related office actions, it will become more difficult to convince the examiners by piling up trivial technical features. Applicants need to underscore the real contribution of the invention over the prior art, i.e., the "inventive points", in their arguments or claims amendment.

IV. Examination of Invention Patent Applications Involving Artificial Intelligence (AI) and Bitstreams

The revision in Chapter 9 of Part II of the Amended Guidelines focuses on examination of invention patent applications in the fields of AI, big data, and streaming media.

1. Examination of invention patent applications involving AI

1.1 Overview

The Amended Guidelines bring more comprehensive provisions on the examination of AI-related inventions:

- **Examination basis:** further clarify that "contents of the description should be examined if necessary"
- **Ethics and compliance examination:** clarify the contents of examination and include two examination examples for illustration (see Section 1.2)
- **Inventive step examination:** provide two examples of inventive step examination involving changes in application scenarios (see Section 1.3)
- **Examination of the description:** further clarify the full-disclosure requirements for drafting the description with the inclusion of two examination examples for illustration (see Section 1.4)

1.2 Ethics and compliance examination

1.2.1 Examination contents

Subject matters: data collection, labelling management, rule setting, recommendation decision-making, etc., in invention patent applications involving algorithm features or business rules and methods

Examination basis: Article 5, Paragraph 1 of the Patent Law - "Patent rights shall not be granted for invention-creations that violate the law or social ethics, or harm public interests."

1.2.2 Newly added examples

Example 1	**Claims:** A big data-based auxiliary system for sales of mattresses in shopping malls, ... the information collection module includes **a camera module and a facial recognition module, for collecting customers' facial feature information**, ..., thereby **obtaining customers' identity information**; ... the analysis assistance system, based on the customers' identity information, uses data collected by the mattress display implement to analyse and obtain customer preferences, and feeds back the analysis results to the management centre.	**Relevant laws:** **Article 26 of the Personal Information Protection Law stipulates that "**Image collection and personal identification equipment **in public places shall be installed only when it is necessary for the purpose of maintaining public security**, and shall be installed in compliance with the relevant provisions of the state and with prominent reminders. The personal images and identification information	**Analysis:** Using image collection and facial recognition for **targeted marketing** of mattresses in shopping malls and other business premises is not needed for maintaining public safety. The collection of customers' facial information and the acquisition of their identity information obviously were carried out **without the customers' awareness**, and there is **no indication in the patent application** that the data acquisition or

		collected **can only be used for the purpose of maintaining public security** and, **unless the individuals' separate consents are obtained**, shall not be used for any other purpose."	information collection comply with applicable laws and regulations. **Conclusion:** This invention violates the law and, according to Article 5, Paragraph 1 of the Patent Law, cannot be granted a patent.
Example 2	**Claims:** A method for establishing an emergency decision-making model for autonomous vehicles, ... the historical obstacle data **include gender and age of pedestrians**; using the vehicle's historical driving trajectory when it is unable to avoid an obstacle as the output data of the decision-making model, and the said decision-making model is trained on the basis of historical data, ... when the autonomous vehicle encounters a situation where it **cannot avoid an obstacle**, the trained decision-making model is used to determine the driving trajectory of the autonomous vehicle.	**Ethics and morality:** All lives are equal, regardless of age and sex.	**Analysis:** Selecting who should be protected and who should be hit based on a pedestrian's gender and age contradicts the ethical and moral belief of the general public that all lives are equal. This decision-making method reinforces existing gender and age biases in society, as well as raises public concerns about public transportation safety, and undermines public trust in technology and social order. **Conclusion:** This invention contains contents that violate social ethics and cannot be granted a patent according to Article 5, Paragraph 1 of the Patent Law.

1.2.3 Recommendations

In the age of AI, Article 5, Paragraph 1 of the Patent Law serves both boundary defining and guiding functions, steering AI-related inventions towards the trajectory of moral goodness. In respect of the above amendments, we have the following recommendations:

During invention conceiving stage - preliminary ethics, compliance, and risk assessment

- **data acquisition** should comply with relevant laws regarding data security, personal information protection, and cybersecurity, adhering to the principle of "data minimisation" (collecting only those data that are directly relevant and necessary to the actualisation of the product or service) and disclosing the purpose of data acquisition;
- **data utilisation** should incorporate fairness constraints, paying attention to the desensitisation of sensitive data, and reasonably utilising data processing technologies (such as synthetic data, federated learning, and differential privacy) to eliminate privacy risks.

At algorithm level, ensure:

- **non-discrimination and unbiasedness**, for instance, avoid identifying people according to age or gender as shown in Example 2 in Section 1.2.2;
- **security**, especially for high-risk systems, which should be equipped with failure protection mechanisms, human oversight, takeover interfaces, etc.;
- **non-inducing**, e.g. algorithms should avoid recommending inappropriate contents to minors;
- **transparency and explainability.**

During patent drafting stage – defensive depiction in the description and appropriate definition for a legitimate scope in the claims

In the description:

- **indicate** the measures addressing above-mentioned ethics and compliance issues;
- **emphasise legitimacy of purposes**, such as explaining in the summary of invention section the legal and beneficial technical problem the invention aims to solve and its positive social benefits;
- **set utilisation boundaries**, in case of inventions that are technologically neutral but can become illegal in misuse, clearly state the areas where the invention is not intended for use;
- **avoid sensitive information**, which includes:
  socially sensitive information: military, religious, and political matters; sovereignty, ethnicity, race, human rights, national territory, social hot topics, and disputed regions, etc.;
- financially sensitive information: money laundering, virtual currency, lotteries, etc.;
- legally sensitive information: personal surveillance, terrorism, etc.

In the claims:

- positively describe the technical solution, such as "a diagnostic method based on the facial features of a specific ethnic minority" can be broadly summarised as "a diagnostic method based on the phenotypic characteristics of a biological population";

- when necessary, limit the scope of use, for example, avoid writing "a method for personnel monitoring" and instead write "a method for fall detection and automatic alarm for children/seniors"; and avoid writing "a method for web data scraping" and instead write "a method for capturing data from public information sources".

1.3 Inventive step examination

1.3.1 Newly added examples

Example 1	"A method for identifying the number of ships."	Compared to the reference, the change in application scenario brought by the invention only involves a change in the object being recognised by the model. The claims do not embody any changes made to the training method or model hierarchy during deep learning and model training due to the difference in the object being recognised. Therefore, the claimed invention does not possess inventive step.
Example 2	"A method for establishing a neural network model for grading scrap steel."	The solution in the invention patent application differs from that in reference 1 in the training data and extracted features, as well as in the number and hierarchy setting of the convolutional and pooling layers. The algorithm features and technical features functionally support each other and interact, improving the accuracy of scrap steel grading; such contribution of the said algorithm features to the technical solution should be taken into consideration. Overall, there is no inspiration in the prior art for improvement over said reference 1 to obtain the technical solution of the invention patent application; hence, the claimed invention possesses inventive step.

1.3.2 Recommendations

To determine whether an AI invention possesses inventiveness, in addition to the algorithm and model employed, it is also crucial to consider the impact of the specific application scenario and object being processed on inventiveness, taking a holistic view of the algorithm, model, and application scenario.

If the AI algorithm or model in the solution of an invention is a prior art, and the improvement lies in applying the algorithm or model to the application scenario of the invention or transferring it from a prior art scenario to the scenario of the invention, inventiveness assessment will focus on motivations of applying the algorithm or model to the scenario of the present invention, the technical problem specific to the scenario of the present invention, the technical challenges to be overcome (such as adjustment or improvement to training methods, parameters, model structures, algorithmic steps, etc.), and the unexpected technical effects brought by the adjustment or improvement. Thus it is

advisable to enhance the following aspects of the invention application for the relevant scenario-specific AI:

- Definition or detailed depiction of the specific application scenario: focus on reciting the technical problems or challenges specific to the application scenario, the differences between this specific application scenario and general application scenarios, or whether there exists any technical prejudice;
- Scenario-based technical problem analysis: avoid unduly generalising into a universal technical solution, for example, avoid elevating a method for identifying ships in images to a universal method for identifying objects in images;
- Anticipated problems in direct application of the model or algorithm
  - take Example 1 above, considerations may be given to the unique challenges in identifying ships, such as sea conditions and waves, identification of ships in the night, and the varying sizes and distances of ships, and adjustments made to the algorithm accordingly;
- Data Specificity
  - training data: Consider whether the training data have been specifically processed for the specific application scenario or technical problem, such as by means of unique data cleaning and labelling;
  - intermediate data: How is data processing in the model's intermediate layers (hidden layers) different (e.g. in the selection of hidden feature vectors) after inputting the data? For instance, as RGB feature vectors as well as texture and light reflection feature vectors can be extracted from scrap steel images, consider how to select these feature vectors on the basis of specific application scenarios.
- Strong correlation between adjustment or improvement to the model or algorithm (including adjustment or improvement to training methods, parameters, model structures, algorithmic steps, etc.) and the scenario and the problem specific to the scenario
  - inventive step considerations: improvement to the algorithm or model itself; integration of the algorithm or model with specific application scenario, and adaptive improvement to the algorithm's model structure or training and reasoning to address technical problem specific to the scenario.
- Demonstration of the correlation between model or algorithm improvements and technical effects. Where improvements involve multiple technical means, demonstrate their synergistic effects, and if necessary, provide experimental data, such as control group data.

1.4 Examination of the description

1.4.1 Requirements on description drafting

The Amended Guidelines set forth requirements on drafting of the description concerning different aspects of AI:

Aspects involved	**Requirements on the description**
Construction of AI model	the necessary modules, layers, or connective relationships in the model
Training of AI model	specific steps and parameters required for training
Application of AI model or algorithm in specific field or scenario	• how the model or algorithm is integrated with a specific field or scenario

	• how the input and output data of the algorithm or model are set to indicate their inherent correlation

1.4.2 Newly added examples

Example 1	**Technical Problem:** To improve the accuracy of facial image generation results. **Technical Means:** A spatial transformer network that can be integrated into the first convolutional neural network to determine the feature regions of the facial image. **Description:** There is no recitation of the specific location of this spatial transformer network in the first convolutional neural network.	**Analysis:** Those skilled in the art understand that the spatial transformation network as a whole can be inserted into any position within the first convolutional neural network to form a nested structure of convolutional neural networks, and the position does not affect its ability to recognise feature regions of an image. **Conclusion:** The model used in the invention patent application has clear hierarchy, and the inputs and outputs in respective layers and the relationships between them are clear. Both the convolutional neural network and the spatial transformation network therein are publicly known algorithms. Disclosure of the description is sufficient.
Example 2	**Technical Problem:** How to improve the accuracy of prediction for malignant tumour. **Technical Means:** Use a trained enhanced malignant tumour screening model, taking complete blood count, blood biochemistry indicators, and facial image features as inputs to the screening model, to obtain a predicted value for malignant tumour incidence. **Description:** Complete blood count and blood biochemistry, both being common biochemical tests, respectively contain dozens of indicators. The description neither specifies which of these indicators are key indicators related to	**Analysis:** Those skilled in the art are unable to determine which indicators can be used to diagnose malignant tumours; on the basis of present-day scientific research, except for a few types of tumours such as facial skin cancer, it is uncertain whether there is any relevance between facial features and malignant tumour incidence. **Conclusion:** Those skilled in the art are unable to determine whether the solution of this application can solve the technical problem it aims to address, solely on the basis of the contents disclosed in the description. Therefore, the disclosure of the description is insufficient.

	tumour prediction accuracy, nor whether all indicators are considered and weighted differently for the prediction. The description also does not recite or prove a causal relationship between the factors as basis for estimation and the estimation results, nor does it provide any validation data to prove that the solution of the invention is more accurate in identifying multiple malignant tumours than that using tumour markers, or significantly more accurate than randomly estimating the probability of malignant tumour incidence.	

1.4.3 Recommendations

In light of the above requirements on description drafting, the following aspects are advised to be recited in detail in drafting the description, especially where it relates to the inventive point.

Data	State the content, type, and processing method of input data and output data; State the processing and transformation, transmission path, role of the data in the model; How the input and output data of the algorithm or model are set to indicate their inherent correlation.
Correlation	Indicate the correlation between input data and output data; Indicate the correlation between respective sub-models.
Model structure	General model: state the name, hierarchical configuration, function, and interrelationship of sub-models; Non-general model: sufficient depiction using mathematical formula, flowchart, module chart, among others, to fully illustrate algorithms and structures of models.
Model training	Specify the contents and processing method of the training data; Specify the training process; Specify the parameter configuration and adjustment, testing methods, and layout methods.
Model application	How to integrate with specific application scenario (see Section 1.3.2 for more details).
Technical effect	Demonstrate model's functions, the relationship between the improvement to the model or algorithm, etc., and the technical effect, providing experimental data if necessary; Describe the specific effect relevant to specific application scenario; For technical effect that improves user experience, describe how technical feature and algorithm feature interact to jointly bring such improvement.

2. Examination of invention patent applications involving bitstreams

2.1 Overview

The Amended Guidelines add Section 7 "Examination of Invention Patent Applications Involving Bitstreams" to Chapter 9 of Part II, the key contents of which are:

- Examination of the claimed subject matter (see Section 2.2)
- Drafting the description (see Section 2.3)
- Drafting the claims (see Section 2.4)

2.2 Examination of the claimed subject matter

Subject matters **not eligible** for patent protection (according to Article 25, Paragraph 1, Item (2) of the Patent Law)	• subject matter of the claims relates only to a simple bitstream • the entire contents of the claims, except for its preamble, relate only to a simple bitstream
Subject matters **eligible** for patent protection (according to Article 2, Paragraph 2 of the Patent Law)	• method for storing a bitstream, as defined by specific video coding method • method for transmitting a bitstream, as defined by specific video coding method • computer-readable storage media for storing a bitstream, as defined by specific video coding method

2.3 Drafting the description

- If the invention includes a bitstream generated by a specific video coding method, the description should clearly and completely describe that specific video coding method;
- If the claimed subject matter relates to a method for storing or transmitting a bitstream and a computer-readable storage medium for storing a bitstream, the description should provide a corresponding depiction.

2.4 Drafting the claims

- Subject matters include:
  - method for storing a bitstream
  - method for transmitting a bitstream
  - computer-readable storage medium for storing a bitstream
- General drafting methods include:
  - refer to a specific video coding method claim
  - include all features of the specific video coding method
- Drafting examples:

1. A video encoding method, characterised by comprising the following steps: Frame partitioning step, ... Entropy coding step, ...	2. A video encoding apparatus, characterised in that it comprises the following units: Frame partitioning unit, ... Entropy coding unit, ...
3. A video decoding method, characterised by comprising the following steps: Entropy decoding step, ...	4. A video decoding apparatus, characterised in that it comprises the following units: Entropy decoding unit, ...

… Frame output step, ...	… Frame output unit, ...
5. A method for storing a bitstream, characterised by performing the video encoding method of claim 1 to generate a bitstream; and storing the bitstream.	
6. A method for transmitting a bitstream, characterised by performing the video encoding method of claim 1 to generate a bitstream; and transmitting the bitstream.	
7. A computer-readable storage medium storing thereon a computer programme/instruction and a bitstream, characterised in that the computer program/instruction, when executed by a processor, implements the video encoding method of claim 1 to generate the bitstream.	

2.5 Recommendations

The Amended Guidelines provide unified formats for drafting subject matters and methods for inventions involving bitstreams within the existing patent practice framework in China. Moreover, patent pool licensing is the prevalent approach in the video codec field. These drafting guidelines meet the requirements for inclusion in the mainstream video codec patent pools and are user-friendly for patentees seeking inclusion in these pools for their inventions.

Claims for most mainstream video codec patent pools include bitstream ones. When laying out bitstream claims, requirements of the target patent pool need to be comprehensively considered. For example:

- For some video codec patent pools, the product categories that royalty rates are based on comprise video content on digital media storage. Thus inventions involving bitstreams may consider utilising **method for storing bitstreams and computer-readable storage media storing bitstreams** (as claims 5 and 7 in Section 2.4 Drafting examples above);
- For some video codec patent pools, the licensed scope encompasses streaming equipment for transmitting content as part of a video streaming service. Thus inventions involving bitstreams may consider utilising **method for transmitting bitstreams** (as claim 6 in Section 2.4 Drafting examples above).

General points to note in drafting the description:

- Reflecting a complete "encoding/decoding-storage/transmission" technology chain
  - bitstream: describe the storage and transmission methods for a bitstream on the basis of the bitstream's generation (coding) method;
  - encoding and decoding: describe both encoding embodiments and decoding embodiments;
  - software and hardware: describe embodiments of both software encoding/ decoding and software plus hardware encoding/decoding;
- The technical effect of "optimised allocation of storage or transmission resources" may be described in the description.

V. Examination of Plant Varieties

In the Amended Guidelines, the definition for "**plant variety**" is added in Part II, Chapter 1, Section 4.4, the definition of "plant" is moved to Part II, Chapter 10, Section 9, and in said Section 9 the principles for determining whether "plants and propagating materials" fall under "scientific

discoveries" or "plant varieties" are clarified. Specifically,

(1) it is defined that **"a plant variety as referred to in the Patent Law means a plant population that is artificially bred, or discovered and subsequently modified, with uniform morphological and biological characteristics, and relatively stable genetic traits."**
(2) it is clarified that **"wild plants naturally existing in nature, found by humans without technical intervention, constitute a scientific discovery as stipulated in Article 25.1(1) of the Patent Law and shall not be granted a patent right. However, if a wild plant is artificially bred or modified, and has industrial applicability, the plant itself shall not fall within the scope of scientific discoveries."**
(3) it is clarified that **"plants and their propagating materials obtained through artificial breeding or modification of discovered wild plants shall not be deemed as a 'plant variety' if the population thereof lacks uniform morphological and biological characteristics or relatively stable genetic traits. Therefore, such subject matter shall not fall within the scope of Article 25.1(4) of the Patent Law."**

By defining "plant variety", the Amended Guidelines aim to expand the scope of patentable subject matters with the incorporation of innovative intermediate breeding materials into the scope of patent protection, so as to attain reasonable and effective alignment with the new plant variety system and enhance IP protection for the plant breeding sector. The definition of plant variety provided in the Amended Guidelines is consistent with that in the Seed Law of the People's Republic of China and the Regulations of the People's Republic of China on the Protection of New Varieties of Plants. It emphasises that a "plant variety" should possess uniformity and stability, while explicitly clarifying that uniformity pertains to both morphological and biological characteristics, and stability refers to genetic traits.

Summary of relevant legal provisions
Article 90.2 of the Seed Law of the People's Republic of China defines "variety" as "a plant population that is artificially bred, or discovered and subsequently modified, with uniform morphological and biological characteristics, and relatively stable genetic traits".

Articles 17 and 18 of the Regulations of the People's Republic of China on the Protection of New Plant Varieties define "uniformity" and "stability" respectively:

> "Uniformity" means that, except for expected natural variations, the relevant characteristics or traits of individual plants within the variety are consistent.
> "Stability" means that the essential traits of the variety remain unchanged after repeated propagation or at the end of a specific propagation cycle.

Article 30 of the Regulations of the People's Republic of China on the Protection of New Plant Varieties stipulates that the substantive examination of distinctness, uniformity, and stability (DUS) for variety rights applications shall be conducted by the competent authorities of agriculture and rural affairs, forestry, and grassland under the State Council.

Recommendations
When drafting a patent specification, it should be clearly stated that the plant was obtained through artificial technical intervention, such as genetic engineering, tissue culture, cell fusion, mutagenesis breeding, or other methods highly dependent on laboratory artificial environments and technical operations. Detailed experimental data should also be provided to support the feasibility of the artificial technical method and the technical effects of the obtained plants. Moreover, it is best to avoid directly describing the uniformity and stability of the obtained plant population to prevent it from being considered as a "plant variety," which would render it ineligible for patent protection.

VI. Examination of Invalidation Requests

1. Examination on eligibility as a petitioner for invalidation

The Amended Guidelines add a circumstance where an invalidation request will not be accepted to Part IV, Chapter 3, Section 3.2 "Eligibility as a Petitioner for Invalidation":

> **"(2) where the submission of a request for invalidation does not represent the genuine intention of the petitioner."**

This amendment aims at regulating the circumstance where the filing of an invalidation request does not represent the petitioner's genuine intent, such as in the case of fraudulent use of another's name or falsification of written request or power of attorney. The Amended Guidelines provide the basis for non-acceptance of such request, by expressly stating that a request for invalidation will not be accepted if it is not a representation of the genuine intent of the petitioner, so as to regulate malicious filing of invalidation requests and maintain the fairness and credibility of the patent invalidation proceedings.

In some past practices, some entities would use another person's name (i.e., a straw man) to file invalidation requests for the purpose of concealing their identity or business intentions. After the implementation of the Amended Guidelines, in such circumstances, the CNIPA may require the petitioner to provide supporting materials to prove that the invalidation request is a representation of genuine intent. Otherwise, the CNIPA will not accept the request.

In an invalidation decision issued on 15 November 2025, the collegiate panel determined that the petitioner's signature was highly probable a forged one, and that the invalidation request made on the basis of the forged legal document was accordingly an invalid legal act, lacking the petitioner's genuine intent, and therefore was non-acceptable and should be rejected. However, considering that an oral hearing of the case had already been held and the grounds for invalidation and related evidence had been fully examined, in order to ensure the stability of patent right and in adherence to the principle of fair enforcement while also taking administrative efficiency into account, the panel did not terminate the examination procedure, but instead examined the substantive issues and made an examination decision. This invalidation decision was the first invalidation decision made on the "straw man" issue after CNIPA's publishing of the Amended Guidelines on 13 November 2025.

Therefore, under the Amended Guidelines, when filing the invalidation request, attention should be paid to ensure the authenticity of the petitioner's identity and the request being a voluntary action with genuine intent, and authentic, valid relevant documents should be furnished as requested, to avoid legal risks such as non-acceptance or rejection.

2. Provisions on causes and evidence of invalidation requests

The Amended Guidelines modify the current provisions "if the causes and evidence are **the same**" to "if the causes and evidence are **the same or substantially the same**" in Section 2.1 "Principle of Res Judicata" and Section 3.3 "Scope, Causes and Evidence of a Request for Invalidation" under Chapter 3 of Part IV.

This modification further clarifies that under the Principle of Res Judicata of the same cause, an invalidation request involving substantially the same causes and evidence will also be subject to non-acceptance. For example, an invalidation request involving only simple, formal modification while having substantially the same legal facts still falls under the 'res judicata' principle. The Amended Guidelines safeguard the petitioners' rights of filing legally valid and reasonable invalidation requests while protecting patentees from unnecessary litigation burdens.

By incorporating the "substantially the same" element into the Principle of Res Judicata, the Patent Reexamination and Invalidation Department of the CNIPA can directly reject substantially the same invalidation requests, thereby upholding the impartiality of the invalidation proceedings. This will have practical implications for both parties in the invalidation proceedings. Therefore, the petitioner needs to rigorously screen for substantially the same causes to avoid rejection of the request, and the patentee, when faced with substantially the same invalidation grounds, may make a valid defence according to the Amended Guidelines.

3. Provisions on claims amendment filed by the patentee in invalidation proceedings

The Amended Guidelines add Section 4.6.4 "Submission of Amended Texts" to Part IV, Chapter 3, Section 4.6 "Amendment to Patent Documents in the Invalidation Proceedings" as the following:

> **"When amending the claims, the patentee must submit full replacement sheets and comparison pages of the amendments.**
>
> **In the same invalidation request proceedings, if the patentee submits multiple amended texts that all conform to the provisions in Section 4.6.3, the last submitted text will prevail, and the other texts will not serve as the basis of examination."**

These new provisions aim at providing clear expectations for both parties regarding the text to be used for examination and to avoid undermining patentees' rights due to formal or procedural issues with the amended texts. Under the Amended Guidelines, only the last submitted amendment is the valid text, and the collegial panel only carries out examination on the basis of the last submitted text. This motivates patentees to make careful decision on the option of amendments to claims in invalidation proceedings, thus avoiding frequent modifications and changes of mind as to the amendment options.

This further regulation on the manner of deciding the claim amendment text to serve as the basis of examination addresses the confusion and chaos that could arise from multiple claim amendments in the invalidation proceedings. It is advisable for the patentees to preconceive a comprehensive plan of claim amendments in the invalidation proceedings. Where the patentee is inclined to take multiple claim amendments as a strategy, it is preferable to contemplate in advance reasonable submission order of amendments, to avoid falling into a disadvantageous position in the invalidation proceedings with using the non-final version of amendment text as the last submission of the claim amendments.

In sum, the Amended Guidelines cover a number of hot issues, and it is crucial for applicants to quickly familiarise themselves with the amendments involved and adjust their application strategies in a timely manner. Due to space limitations, the above is only a brief summary of the amendments. If you need to have further discussions, please feel free to contact us.