



Foreign Agricultural Service

**GAIN Report**

Global Agriculture Information Network

Required Report - public distribution

Date: 11/2/2001

GAIN Report #CH1066

# **China, People's Republic of**

## **Food and Agricultural Import Regulations and**

### **Standards**

### **Patent Law**

### **2001**

Approved by:

**Larry M. Senger**

**U.S. Embassy**

Prepared by:

Ralph Gifford, Xiang Qing, Adam Branson

---

#### **Report Highlights:**

**This is an UNOFFICIAL English translation of the People's Republic of China *Patent Law* and should be used as a guide only. Exporters should carefully discuss regulations and their application with Chinese importers to ensure that their interpretation of the regulations is accurate.**

---

Includes PSD changes: No  
Includes Trade Matrix: No  
Annual Report  
Beijing [CH1], CH

This report was prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Beijing, People's Republic of China for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

### **Summary**

China's Patent Law was amended August 8, 2000. Changes were implemented on July 1, 2001. China acceded to the patent cooperation treaty on January 1, 1994, and will perform international patent searches and preliminary examinations of patent applications. Under the patent law, foreign parties must utilize the services of a registered Chinese agent to submit the patent application. Preparation of the application may be done by foreign attorneys or a Chinese agent. Patent right application and approval for a foreigner must be granted by a committee of the State Council.

### **Patent Law**

Adopted at the 4th Meeting of the Standing Committee of the Sixth National People's Congress on March 12, 1984. Amended in accordance with the Decision of the Standing Committee of the Seventh National People's Congress on Amending the Patent law of the People's Republic of China at its 27th Meeting on September 4, 1992. Amended again in accordance with the Decision of the Standing Committee of the Ninth National People's Congress on Amending the Patent Law of the People's Republic of China adopted at its 17th Meeting on August 25, 2000.

#### **Chapter One: General Provisions**

Article 1: This Law is enacted to protect patent rights for inventions-creations, to encourage invention-creation, to foster the extension and application of inventions-creations and to promote the development and innovation of science and technology, for meeting the needs of the construction of socialist modernization.

Article 2: In this Law, "inventions-creations" refers to inventions, utility models, and designs.

Article 3: The Patent Administration Department Under the State Council is responsible for patent work throughout the country. It shall receive and examine patent applications and grant patent rights for inventions-creations in accordance with the law.

The administrative authority for patent affairs under the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for the administrative work concerning patents in their respective administrative areas.

Article 4: Where an invention-creation for patent application relates to the security or other vital interests of the State and is required to be kept secret, the application shall be treated in accordance with the relevant regulations of the State.

Articles 5: No patent right shall be granted for any invention-creation that is contrary to the laws of the State, social morality, or that is detrimental to public interest.

Article 6: An invention-creation, made during the execution of tasks for the entity to which the inventor or creator belongs, or made by the inventor or creator by using material and technical means of the entity is a service invention-creation. For a service invention-creation, the right to apply for a patent belongs to the entity. After the application is approved, the entity shall be the patentee.

For a non-service invention-creation, the right to apply for a patent belongs to the inventor or creator. After the application is approved, the inventor or creator shall be the patentee.

An invention-creation made by a person using the material and technical means of an entity to which the inventor or creator belongs, where the entity and the inventor or creator have entered into a contract when the right to apply for and own a patent is provided for, such a provision shall apply.

Article 7: No entity or individual shall prevent the inventor or creator from filing a patent application for a non-service invention-creation.

Article 8: For an invention-creation jointly made by two or more entities or individuals, or made by an entity or individual in execution of a commission given by another entity or individual, the right to apply for a patent belongs, unless otherwise agreed upon, to the entity or individual that made, or to the entities or individuals that jointly made, the invention-creation. After the application is approved, the entity or individual that applied for it shall be the patentee.

Article 9: Where two or more applicants file patent applications for the identical invention-creation, the patent right shall be granted to the applicant whose application was filed first.

Article 10: The right to apply for a patent and the patent right may be assigned.

Any assignment, by a Chinese entity or individual, of the right to apply for a patent, or of the patent right, to a foreigner must be approved by the appropriate department of the State Council.

Where the right to apply for a patent or the patent right is assigned, the parties shall conclude a written contract and register it with the Patent Administration Department Under the State Council. The Patent Administration Department Under the State Council shall announce the registration. The assignment shall take effect from the date of registration.

Article 11: After granting patent right for an invention or utility model, except where otherwise provided for in this law, no entity or individual may, without the authorization of the patentee, use the patent, make, use, offer to sell, sell, or import the patented product, or use the patented process, offer to sell, sell, or import the product directly obtained by the patented process, for production or business purposes.

After granting patent right for a design, no entity or individual may, without the authorization of the patentee, use the patent, make, sell, or import the product incorporating the patented design, for production or business purposes.

Article 12: Any entity or individual exploiting the patent of another shall finalize a written license contract for use with the patentee and pay the patentee a fee for the use of the patent. The licensee has no right to authorize any entity or individual, other than that referred to in the contract for use, to use the patent.

Article 13: After publication of the application for a patent for invention, the applicant may require the entity or individual using the invention to pay an appropriate fee.

Article 14: Where any patent for invention, belonging to any state owned enterprise or institution, is of great significance to the interest of the State or to the public interest, the appropriate departments under the State Council and the people's governments of provinces, autonomous regions, or municipalities directly under the Central Government may, after approval by the State Council, decide that the patented invention be extended and applied within the approved limits, and allow designated entities to use the invention. The user shall, in accordance with State regulations, pay the patentee a fee for use.

Any patent for invention belonging to a Chinese individual or an entity under collective ownership, that is of great significance to the interest of the State or to the public interest and is in need of extension and application, may be treated alike by making reference to the provisions of the preceding paragraph.

Article 15: The patentee has the right to affix a patent marking and to indicate the number of the patent on the patented product or on the packaging of the product.

Article 16: The entity that is granted a patent right shall award to the inventor or creator of a service invention-creation a reward and, upon use of the patented invention-creation, shall pay the inventor or creator a reasonable remuneration based on the scope of extension, application, and the earned economic benefits.

Article 17: The inventor or creator has the right to be named as such in the patent document.

Article 18: Where any foreigner, foreign enterprise, or other foreign organization having no habitual residence or business office in China files an application for a patent in China, the application shall be treated under this law in accordance with any agreement concluded between the country to which the applicant belongs and China, or in accordance with any international treaty to which both countries are party, or on the basis of the principle of reciprocity.

Article 19: Where any foreigner, foreign enterprise, or other foreign organization without habitual residence or business office in China applies for a patent, or has patent matters in China, the applicant shall appoint a patent agency designated by the Patent Administration Department Under the State Council to act as an agent.

Where any Chinese entity or individual applies for a patent or has patent matters in the country, the applicant may appoint a patent agency to act as an agent.

The patent agency shall comply with the provisions of laws and administrative regulations, and handle patent applications and other patent matters according to the instructions of its clients. The agency shall bear the responsibility of keeping the contents of the clients' inventions-creations, except for those that have been published or announced, confidential. The administrative regulations governing the patent agency shall be formulated by the State Council.

Article 20: Any Chinese entity or individual that intends to file a patent application in a foreign country for an invention-creation made in China shall file first an application for patent with the Patent Administration Department Under the State Council, appoint a patent agency designated by the appropriate department to act as an agent, and comply with the provisions of Article 4 of this Law.

Any Chinese entity or individual may file an international application for patent in accordance with international treaties that China is a party. The applicant filing an international application for patent shall comply with the provisions of the preceding paragraph.

The Patent Administration Department Under the State Council shall handle any international application for patent in accordance with international treaties that China is a party, this law, and the relevant regulations of the State Council.

Article 21: The Patent Administration Department Under the State Council and its Patent Re-examination Board shall handle any patent application and patent related request in accordance with the law and in conformity with the requirements for being objective, fair, and timely.

Until the publication or announcement of the patent application, staff members of the Patent Administration Department Under the State Council and other persons involved shall keep matters confidential.

## Chapter Two: Requirements for Granting Patent Right

Article 22: Any invention or utility model for patent right to be granted must possess novelty, inventiveness, and practical applicability.

Novelty means that, before the filing date, no identical invention or utility model has been disclosed in publications in the country or abroad, nor has been public or made known to the public by any other means in the country, nor has any other person filed previously with the Patent Administration Department Under the State Council an application that describes the identical invention or utility model, and published after the filing date.

Inventiveness means that, as compared with the technology existing before the filing date, the invention or utility model has substantive features and represents notable progress.

Practical applicability means that the invention or utility model can be made or used and can produce effective results.

Article 23: Any design for which patent right may be granted must not be identical and similar to any design that, before the filing date has been disclosed publicly in publications in the country or abroad or has been used publicly used in the country, and must not be in conflict with any prior right of any other person.

Article 24: An invention-creation for which a patent is applied for does not lose its novelty where, within six months before the filing date, one of the following events occurs:

- (1) where it was first exhibited at an international exhibition sponsored or recognized by the Chinese Government;
- (2) where it was first made public at a prescribed academic or technological meeting;

(3) where it was disclosed by any person without consent of the applicant.

Article 25: No patent right shall be granted for any of the following:

- (1) scientific discoveries;
- (2) rules and methods for mental activities;
- (3) methods for the diagnosis or for the treatment of diseases;
- (4) animal and plant varieties;
- (5) substances obtained by means of nuclear transformation.

Patent right may be granted in accordance with the provisions of this law to the process used in producing items referred to in (4) of the preceding paragraph.

### Chapter Three: Patent Application

Article 26: Where a patent application for a invention or utility model is filed, a request, a description, its abstract, and claims shall be submitted.

The request shall state the title of the invention or utility model, the name of the inventor or creator, the name and the address of the applicant and other related materials.

The description shall set forth the invention or utility model in a clear and complete manner so as to enable a person skilled in the relevant field of technology to replicate the item; drawings are required when necessary. The abstract shall state the main technical points of the invention or utility model.

The claims shall be supported by the description and shall state the extent of the requested patent protection.

Article 27: When a design patent application is filed, drawings or photographs of the design shall be submitted. The product incorporating the design and the class to which that product belongs shall be indicated.

Article 28: The date the Patent Administration Department Under the State Council receives the application shall be the filing date. If the application is sent by mail, the postmark date shall be the filing date.

Article 29: The applicant shall enjoy a right of priority where the applicant for a patent for invention or utility model files a patent application for the same subject matter in China, in accordance with any agreement concluded between the said foreign country and China, or in accordance with any international treaty to which both countries are party, or on the basis of the principle of mutual recognition of the right of priority, within twelve months from the application date filed in a foreign country, or an application for a patent for design filed within six months from the date on which any applicant filed in a foreign country.

The applicant shall enjoy a right of priority where, within twelve months from the date on which any applicant first filed in China a patent application for invention or utility model, the applicant files an application for a patent for the same subject matter with the Patent Administration Department Under the State Council.

Article 30: Any applicant who claims the right of priority shall make a written declaration when the application is filed. An applicant shall submit, within three months, a copy of the patent application document that was filed first. If the applicant fails to make the written declaration or to meet the time limit for submitting the

patent application document, the claim to the right of priority shall be deemed not to have been made.

Article 31: A patent application for an invention or utility model shall be limited to one invention or utility model. Two or more inventions or utility models belonging to a single general invention may be filed as one application.

A patent application for a design shall be limited to one design incorporated in one product. Two or more designs that are incorporated in products belonging to the same class and are sold or used in sets may be filed as one application.

Article 32: An applicant may withdraw an application for a patent at any time before the patent right is granted.

Article 33: An applicant may amend the patent application, but the amendment to the application for a patent for invention or utility model may not go beyond the scope of the disclosure contained in the initial description and claims. The amendment to the application for a patented design may not go beyond the scope of the disclosure as shown in the initial drawings or photographs.

#### Chapter Four: Examination and Approval for Patent Application

Article 34: Where, after receiving an application for an invention patent, the Patent Administration Department Under the State Council, upon preliminary examination, finds the application to be in conformity with the requirements of this law, the administration shall publish the application promptly after the expiration of eighteen months from the filing date. Upon the request of the applicant, the Patent Administration Department Under the State Council may publish the application earlier.

Article 35: Upon the request of the applicant for an invention patent, made anytime within three years from the filing date, the Patent Administration Department Under the State Council will proceed to examine the application as to its substance. If, without any justified reason, the applicant fails to meet the time limit for requesting examination as to substance, the application shall be deemed to have been withdrawn.

The Patent Administration Department Under the State Council may, on its own initiative, proceed to examine any application for an invention patent as to its substance when it deems it necessary.

Article 36: When the applicant for an invention patent requests examination as to substance, the applicant shall furnish pre-filing date reference materials for the invention.

For an application for an invention patent that has been filed already in a foreign country, the Patent Administration Department Under the State Council may ask the applicant to furnish, within a specified time limit, documents for any search made for the purpose of examining the application, or for the results of any examination made, in that country. If, at the expiration of the specified time limit, without any justified reason, the said documents are not furnished, the application shall be deemed to have been withdrawn.

Article 37: Where the Patent Administration Department Under the State Council, after it has made the examination as to substance of the application for an invention patent finds that the application is not in conformity with the provisions of this law, it shall notify the applicant and request the applicant to submit, within a specified time limit, observations or to amend the application. If, without any justified reason, the time

limit for response is not met, the application shall be deemed to have been withdrawn.

Article 38: Where, after the applicant has made the observations or amendments, the Patent Administration Department Under the State Council finds that the application for a patent for invention is still not in conformity with the provisions of this law, the application shall be rejected.

Article 39: Where it is found after examination as to substance that there is no cause for rejection of the application for a patent for invention, the Patent Administration Department Under the State Council shall make a decision to grant the patent right for invention, issue the certificate of patent for invention, and register and publish the announcement. The patent right for invention shall take effect as of the date of the announcement.

Article 40: Where it is found after preliminary examination that there is no cause for rejection of the application for a patent for a utility model or design, the Patent Administration Department Under the State Council shall make a decision to grant the patent right for the utility model or the patent right for design and issue the relevant patent certificate, register the patent, and announce the patent. The patent right for utility model or design shall take effect as of the date of the announcement.

Article 41: The Patent Administration Department Under the State Council shall set up a Patent Reexamination Board. Where an applicant for patent is not satisfied with the decision of the said department rejecting the application, the applicant may, within three months from the date of notification receipt, request the Patent Reexamination Board to make a reexamination. The Patent Reexamination Board shall, after reexamination, render a decision and notify the patent applicant.

Where the applicant for patent is not satisfied with the decision of the Patent Reexamination Board, the applicant may, within three months from the date of notification receipt, institute legal proceedings in the people's court.

#### Chapter Five: Duration, Cessation, and Invalidation of Patent Right

Article 42: The duration of patent right for inventions shall be twenty years. The duration of patent right for utility models and patent right for designs shall be ten years. The duration shall be counted from the filing date.

Article 43: The patentee shall pay an annual fee beginning with the year the patent right was granted.

Article 44: In any of the following cases, the patent right shall cease before the expiration of its duration:

- (1) where an annual fee is not paid as demanded;
- (2) where the patentee abandons the patent right through written declaration.

Any cessation of the patent right shall be registered and announced by the Patent Administration Department Under the State Council.

Article 45: Where, starting from the announcement date of the patent right grant by the Patent Administration Department Under the State Council, any entity or individual considers that the grant of the said patent right is not in conformity with the relevant provisions of this law, the individual may request the Patent Reexamination Board to declare the patent right invalid.

Article 46: The Patent Reexamination Board shall examine the request for invalidation of the patent right, render a decision, and notify the person who made the request and the patentee. The decision declaring the patent right invalid shall be registered and announced by the Patent Administration Department Under the State Council.

Where the patentee or the person who made the request for invalidation is not satisfied with the decision of the Patent Reexamination Board declaring the patent right invalid or upholding the patent right, such party may, within three months from notification receipt of the decision, institute legal proceedings in the people's court. The people's court shall notify the parties of the invalidation procedure and to appear as a third party in the legal proceedings.

Article 47: Any patent right that has been declared invalid shall be deemed non-existent from the beginning.

The decision declaring the patent right invalid shall have no retroactive effect on any judgement or ruling of patent infringement that has been pronounced and enforced by the people's court; on any decision concerning the handling of a dispute over patent infringement that has been complied with or compulsorily executed; or on any contract of patent license or of patent right assignment that has been performed prior to the invalidation declaration of the patent right; however, the damage caused to other persons in bad faith on the part of the patentee shall be compensated.

If, pursuant to the provisions of the preceding paragraph, the patentee or the assignor of the patent right makes no repayment to the licensee or the assignee of the patent right of the fee for using the patent or of the price for the assignment of the patent right, that is obviously contrary to the principle of equity, the patentee or the assignor of the patent right shall repay all or part of the fee for the using the patent or of the price for the assignment of the patent right to the licensee or the assignee of the patent right.

#### Chapter Six: Compulsory License for Use of the Patent

Article 48: Where any entity that is qualified to use the invention or utility model has made requests for authorization from the patentee of an invention or utility model to use the patent on reasonable terms and conditions and such efforts have not been successful within a reasonable period of time, the Patent Administration Department Under the State Council may, upon the request of that entity, grant a compulsory license to use the Patent for invention or utility model.

Article 49: Where a national emergency or any extraordinary state of affairs occurs, or where the public interest so requires, the Patent Administration Department Under the State Council may grant a compulsory license to use the patent for invention or utility model.

Article 50: Where the invention or utility model for which the patent right has been granted involves important technical advances of considerable economic significance in relation to another invention or utility model for which a patent right has been granted earlier and the use of the later invention or utility model depends on the use of the earlier invention or utility model, the Patent Administration Department Under the State Council may, upon the request of the later patentee, grant a compulsory license to use the earlier invention or utility model.

Where, according to the preceding paragraph a compulsory license is granted, the Patent Administration Department Under the State Council may, upon the request of the earlier patentee, also grant a compulsory

license to use the later invention or utility model.

Article 51: The entity or individual requesting, in accordance with the provisions of this law, a compulsory license for use of patent shall furnish proof that parties have not been able to conclude a contract license for use on reasonable terms and conditions with the patentee.

Article 52: The decision made, granting a compulsory license for use, by the Patent Administration Department Under the State Council shall notify the patentee concerned and shall register and announce the decision.

The decision granting the compulsory license for use, the scope, and the duration of use shall be specified on the basis of the reasons justifying the grant. If and when the circumstances that led to such compulsory license cease to exist and are unlikely to reoccur, the Patent Administration Department Under the State Council may, after review upon the request of the patentee, terminate the compulsory license.

Article 53: Any entity or individual that is granted a compulsory license for use shall not have exclusive right of use and shall not have the right to authorize use by any other.

Article 54: The entity or individual that is granted a compulsory license for use shall pay the patentee a reasonable use fee, the amount shall be fixed by both parties in consultations. Where the parties fail to reach agreement, the Patent Administration Department Under the State Council shall adjudicate.

Article 55: Where the patentee is not satisfied with the decision of the Patent Administration Department Under the State Council granting a compulsory license for use, or where the patentee or the entity or individual that is granted the compulsory license for use is not satisfied with the ruling made by the Patent Administration Department Under the State Council regarding the fee payable for use, the party may, within three months from the date of notification receipt, institute legal proceedings in the people's court.

#### Chapter Seven: Protection of Patent Right

Article 56: The extent of protection of the patent right for invention or utility model shall be determined by the terms of the claims. The description and the appended drawings may be used to interpret the claims.

The extent of protection of the patent right for design shall be determined by the product incorporating the patented design as shown in the drawings or photographs.

Article 57: Where a dispute arises as a result of the exploitation of a patent without the authorization of the patentee, that is, the infringement of the patent right of the patentee, it shall be settled through consultation by the parties. Where the parties are not willing to consult with each other or where the consultation fails, the patentee or any interested party may institute legal proceedings in the people's court, or request the administrative authority for patent affairs to handle the matter. When the administrative authority for patent affairs handling the matter considers infringement to be established, it may order the infringer to stop the infringing act immediately. If the infringer is not satisfied with the order, the infringer may, within 15 days from the date of notification receipt of the order, institute legal proceedings in the people's court in accordance with the Administrative Procedure Law of the People's Republic of China. If, within the time limit, such proceedings are not instituted and the order is not complied with, the administrative authority for patent affairs may approach the people's court for compulsory execution. The said authority handling the matter may, upon

the request of the parties, mediate in the amount of compensation for the damage caused by the infringement of the patent right. If mediation fails, the parties may institute legal proceedings in the people's court in accordance with the Civil Procedure Law of the People's Republic of China.

Where any infringement dispute relates to a patent for invention for a process for the manufacture of a new product, any entity or individual manufacturing the identical product shall furnish proof to show that the process used in the manufacturing of the product is different from the patented process. Where the infringement relates to a patent for utility model, the people's court or the administrative authority for patent affairs may ask the patentee to furnish a search report made by the Patent Administration Department Under the State Council.

Article 58: Where any person passes off the patent of another, the person shall, in addition to bearing civil liability in accordance with the law, be ordered by the administrative authority for patent affairs to amend the act. The order shall be announced. Illegal earnings shall be confiscated and the violator may be imposed a fine of no more than three times illegal earnings. If there are no illegal earnings, the violator may be imposed a fine of no more than RMB 50,000 yuan. Where the infringement constitutes a crime, the violator shall be prosecuted for criminal liability.

Article 59: Where any person passes any non-patented product off as a patented product or passes any non-patented process off as a patented process, the violator shall be ordered by the administrative authority for patent affairs to amend the act. The order shall be announced. The violator may be imposed a fine of no more than RMB 50,000 yuan.

Article 60: The amount of compensation for the damage caused by the patent right infringement shall be assessed on the basis of the losses suffered by the patentee or the profits the infringer earned through infringement. If it is difficult to determine the losses the patentee suffered or the profits the infringer earned, the amount may be assessed by reference to the appropriate multiple of the amount of the exploitation fee of the patent under contractual license.

Article 61: Where any patentee or interested party has evidence proving that another person is infringing or will soon infringe on patent right and if such infringement is not checked or prevented from occurring in time, and it is likely to cause irreparable harm to the patentee or patent right, the patentee may, before any legal proceedings are instituted, request the people's court to adopt measures ordering the suspension of relevant actions and the preservation of property.

The people's court, when dealing with the request mentioned in the preceding paragraph, shall apply provisions of Article 93 through Article 96 and Article 99 of the Civil Procedure Law of the People's Republic of China.

Article 62: Directions for instituting legal proceedings concerning the infringement of patent right is two years counted from the date on which the patentee or any interested party obtains or should have obtained knowledge of the infringement.

Where no appropriate fee for use of the invention, subject to an application for an invention patent, is paid during the period between the patent application publication to the grant of the patent right, directions for instituting legal proceedings by the patentee to demand the said fee is two years from the date on which the patentee obtains or should have obtained knowledge of the use of his invention by another person. However, where the patentee has already obtained or should have obtained knowledge before the grant date of the patent

right, the time period shall be counted from the date of the grant.

Article 63: None of the following shall be deemed an infringement of the patent right:

- (1) Where, after the sale of a patented product that was made or imported by the patentee or with the authorization of the patentee, or of a product that was directly obtained by using the patented process, any other person uses, offers to sell, or sells that product;
- (2) Where, before the date of filing the patent application, any person who has already made an identical product, used the identical process, or made necessary preparations for production or use, continues to produce or use it within the original scope;
- (3) Where any foreign means of transport temporarily passes through the territory, territorial waters, or territorial airspace of China uses the patent concerned for its own needs, in its devices and installations, in accordance with an agreement concluded between the country to which the foreign means of transport belongs and China, or in accordance with any international treaty that both countries are party, or on the basis of the principle of reciprocity;
- (4) Where any person uses the patent solely for the purposes of scientific research and experimentation.

Any person who, for production and business purposes, uses or sells a patented product or a product that was directly obtained by using a patented process, without knowing that it was made and sold without the authorization of the patentee, shall not be liable for compensatory damages to the patentee if it can be proven that the product was obtained from a legitimate source.

Article 64: Where any person, in violation of the provisions of Article 20 of this Law, files a patent application in a foreign country that divulges an important State secret, the person shall be subject to disciplinary sanction by the appropriate entity or by the appropriate authority at a higher level. Where a crime is committed, the person shall be prosecuted for criminal liability in accordance with the law.

Article 65: Where any person encroaches the right of an inventor or creator to apply for a patent for a non-service invention-creation, or encroaches any other right or interest of an inventor or creator, as detailed by this Law, the person shall be subject to disciplinary sanction by the appropriate entity or by the appropriate authority at the higher level.

Article 66: The administrative authority for patent affairs may not take part in recommending any patented product for sale to the public or in any other commercial activities.

Where the administrative authority for patent affairs violates the provisions of the preceding paragraph, the administrative authority shall be ordered by the authority at the next higher level or the supervisory authority to amend mistakes and any negative results. Any illegal earnings shall be confiscated. Where circumstances are serious, individuals who are in-charge and other individuals who are responsible shall be given disciplinary sanction in accordance with the law.

Article 67: If the action of a State official working for the patent administration or any other State official that neglects the duty of the office, abuses power, or engages in malpractice for personal gain, and the act constitutes a crime, the official shall be prosecuted for criminal liability in accordance with the law. If the case does not constitute a crime, the individual shall be given disciplinary sanction in accordance with the law.

Chapter Eight: Supplementary Provisions

Article 68: Any application for a patent filed with, and any other proceedings before, the Patent Administration Department Under the State Council shall be subject to a prescribed fee payment.

Article 69: This Law shall be effective from April 1, 1985.