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China National Intellectual Property Administration
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Via Email: shenchazc@cnipa.gov.cn

Re: IPO's Comments on the "Draft Amendments to the Measures for the Administration of Patent Priority Examination" published on February 26, 2026

Dear China National Intellectual Property Administration:

The Intellectual Property Owners Association ("IPO") respectfully submits comments to the China National Intellectual Property Administration ("CNIPA") on the "Draft Amendments to the Measures for the Administration of Patent Priority Examination" ("Draft Measures").

IPO is an international trade association representing a wide array of stakeholders in all industries and fields of technology that own, or are interested in, intellectual property (IP) rights. IPO membership includes over 125 companies and spans over 30 countries.

IPO would like to commend CNIPA for the attention it is giving to updating its guidelines for the prioritized examination of patents. IPO makes the following comments that it hopes will be helpful during the process of finalizing the Draft Measures.

Articles 3 & 13

Newly added Draft Articles 3 and 13 stipulate that provincial-level intellectual property offices and State Council departments are responsible for selecting and recommending cases for priority status.

IPO respectfully suggests that, instead, CNIPA have a centralized, transparent application window specifically for foreign applicants.

IPO is concerned that foreign companies often lack the localized recognition that domestic firms enjoy with provincial bureaus. This creates a procedural disadvantage where foreign applications may be less likely to reach the CNIPA for audit. TRIPS

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[Article 3.1](#)¹ requires that foreign nationals should receive treatment "no less favorable" than domestic nationals regarding the acquisition of IP rights. This reliance on local recommendations may fail the National Treatment test if the administrative burden to secure such a recommendation is significantly higher for foreign entities. Whereas, if foreign applicants could submit prioritized examination applications directly to CNIPA centrally, CNIPA could ensure that all applicants receive standardized treatment.

Article 5

Draft Article 5 amends current Article 3 and states that prioritized patent applications must conform to certain circumstances, such as involving emerging industries supported by the state or industries encouraged as priorities by provincial or city governments. This language replaces Article 3's objective recitation of subject matter eligible for prioritized examination.

IPO is concerned that this could be interpreted as a local manufacturing requirement. Patent rights should be available without discrimination as to whether products are locally produced or imported.²

Therefore, IPO requests clarification that "industrialization implementation" includes global product launches or service deployments, regardless of where the physical infrastructure or manufacturing is located. IPO further suggests reverting to objective language specified in current Article 3 or ensuring that future technology areas are published by the state.

Article 7

New Draft Article 7 requires that patent agencies providing services for prioritized examination maintain good credit standing, possess high professional standards, and consciously fulfill their obligations of industry self-regulation.

While IPO also desires that high standards be maintained by agencies, priority examination should focus on the merit of the innovation, not the administrative status of the representative. Because patent agencies are already regulated under existing credit evaluation measures, new Article 7 is duplicative and introduces procedural uncertainty and risks penalizing legitimate applicants for factors beyond their control.

¹ See Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (<https://ipr.mofcom.gov.cn/zhuanti/law/conventions/wto/trips.html> (Chinese) and https://www.wto.org/english/docs_e/legal_e/27-trips.pdf (English)) at Article 3.1.

² See TRIPS Article 27 (https://www.wto.org/english/docs_e/legal_e/27-trips_04c_e.htm).

IPO respectfully suggests removing the new Article 7. Relying on established oversight frameworks for patent agencies would better ensure transparency and fairness for applicants.

Article 8

New Draft Article 8 provides that priority examination will generally not be granted if an invention application has a corresponding utility model filed on the same day.

IPO proposes an exception where the applicant agrees to abandon the utility model once the invention patent is granted, allowing it to utilize priority examination for the invention track.

To explain, foreign applicants often use "double-filing" (Invention + Utility Model) to gain immediate protection while waiting for the more robust invention patent. The proposed rule would force a choice between immediate protection via a Utility Model and accelerated long-term protection via prioritized examination.

IPO makes its suggestion to ensure that the legitimate interests of the patent owner will be protected.³

Article 11

Draft Article 11 amends current Article 8 regarding the submission of prior art or prior design information materials. Whereas the current rule requires the applicant to submit these materials alongside the request, Draft Article 11 makes their submission optional, stating the applicant "may submit" them to help expedite the examination process.

IPO supports this change, as it would reduce the procedural burden on applicants who may still be refining their global search results at the time of the Chinese filing.

Article 12

New Draft Article 12 establishes that CNIPA shall not charge additional fees for patent applications or cases for which prioritized examination is requested, except for fees required to be paid pursuant to the Patent Law and the Detailed Implementation Rules for the Patent Law.

IPO strongly supports the new Draft Article 12. Limiting costs to prescribed statutory fees enhances procedural transparency and ensures expedited status is granted based on merit. This provision protects applicants from unauthorized charges and reinforces the integrity and impartiality of the priority examination system.

³ See *TRIPS Article 30* (https://www.wto.org/english/docs_e/legal_e/27-trips_04c_e.htm).

Article 16

Draft Article 16 amends current Article 11 to reduce the current two-month response deadline for Office Actions to one month for invention patents and, pursuant to Article 17 (amending Article 12), failure to meet this deadline results in the "termination" of the priority procedure.

While appreciating the goal of accelerating examination, IPO respectfully suggests maintaining the two-month deadline in draft Article 16.

IPO submits that, for applicants, one month is insufficient to manage technical review, legal strategy formulation, and filing. IPO believes that this deadline, thus, would not be reasonable.⁴ In contrast, a uniform two-month deadline standard would ensure procedural consistency and allow for the high-quality responses necessary for granting stable patent rights.

Articles 17 & 18

Draft Articles 17(3) and 18(5) (amending current Articles 12 and 13) introduce new provisions stating that CNIPA may terminate the prioritized examination procedure if the applicant or party "submits false materials or otherwise violates the principle of good faith."

While IPO supports maintaining the integrity of the patent system, the phrase "violates the principle of good faith" as a ground for termination is highly subjective and lacks a defined standard. Without specific guidelines, this vague language introduces significant procedural uncertainty. It risks inconsistent application across different examiners and could inadvertently penalize foreign applicants for administrative misunderstandings or differing procedural interpretations, rather than actual malicious intent.

IPO respectfully requests clarification and transparency regarding what constitutes a violation under these articles. IPO recommends, preferably, replacing the phrase "violates the principle of good faith" with an enumerated, exhaustive list of specific behaviors that warrant termination, or, alternatively, publishing clear guidelines and examples of such violations to ensure predictable and uniform enforcement.

Article 22

New Draft Article 22 dictates that applicants or agencies violating "good faith" will be barred from priority examination for one year. IPO again notes that the definition of

⁴ See TRIPS Article 62.2 (requiring that procedures for the acquisition of rights be "reasonable").

"violating good faith" remains vague in the draft and requests a clear, enumerated list of behaviors that constitute a violation.

IPO thanks CNIPA for its attention to IPO's comments and welcomes further dialogue and the opportunity to provide additional comments.

Sincerely,

A handwritten signature in cursive script that reads "John Cheek".

John Cheek
President

Enclosure