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1	第五章 保密	Chapter 5 Keeping Secret of Patent Applications
2	1.保密的范围	1. Scope of Contents to Be Kept Secret
3	专利法第四条规定的保密范围是：涉及国家安全或者国家重大利益两个方面的发明创造。	The scope of patent applications to be kept in secret as provided for in Article 4 covers both inventions-creations relating to national security and those relating to vital interests of the State.
4	根据专利法实施细则第八条第一款的规定，专利局受理的涉及国防方面的国家秘密需要保密的发明专利申请，应当移交国防专利机构审查。	According to Rule 8.1, where the Patent Office receives a patent application for invention that involves State secret in national defense and therefore needs to be kept in secret, the Patent Office shall forward the application to the national defense patent examination authority for examination.
5	根据专利法实施细则第八条第二款的规定，专利局受理发明专利申请后，应当将需要进行保密审查的申请转送国务院有关主管部门审查。	According to Rule 8.2, after receiving a patent application for invention, the Patent Office shall transfer the application that is required to be examined for the purpose of security to the relevant competent department under the State Council for examination.
6	专利局进行保密审查的范围仅限于涉及国家重大利益的发明专利申请。	Patent applications that are to be examined by the Patent Office for the purpose of security cover only patent applications for invention relating to vital interests of the State.
7	2.保密的基准	2. Criteria for Keeping Secret of Patent Application
8	保密的基准按照国家有关部门的规定执行。	For the criteria to be observed for an application to be kept secret, the relevant provisions provided for by the competent agencies of the State shall apply.
9	3.保密的程序	3. Procedures for Keeping Secret of Patent Application
10	3.1 保密请求的提出	3.1 Request for Keeping Secret of Patent Application
11	(1) 由申请人提出	(1) By the applicant
12	发明专利申请的申请人认为其发明涉及国家重大利益，需要保密的，应当在提出专利申请的同时，在请求书上作出要求保密的表示，也可以在提出专利申请之后，专利局准备公布该申请之前（即自申请日或者优先权日起十五个月内）提出保密请求。	Where the applicant of a patent application for invention considers that his invention concerns the vital interests of the State and needs to be kept secret, he shall indicate in the Request to keep the application secret when filing the application, or make a request for keeping the application secret after filing but before the preparation for publication of the application by the Patent Office (i.e., within 15 months from the date of filing or the priority date).
13	(2) 由专利局提出	(2) By the Patent Office
14	审查员在进行分类时，将发明内容可能涉及国家安全或者国家重大利益的发明专利申请挑选出来。	When conducting classification of the applications, the examiner shall pick out the patent applications for invention that may relate to national security or vital interests of the State.
15	3.2 保密的确定	3.2 Determination of Keeping Secret of Patent Application
16	保密审查员根据保密基准对已经提出保密请求的专利申请进行审查，并根据不同情况按照以下程序确定是否需要保密。	The examiner responsible for examining secret patent applications, in accordance with the criteria concerning secrecy, conducts the examination on the application with the request for keeping secret, and determines whether or not it is necessary to keep the application secret depending on the different circumstances according to the following procedures:
17	(1) 发明内容涉及国家安全的，根据专利法实施细则	(1) where the contents of the invention relate to

	第八条第一款规定移交国防专利局进行审批，并通知申请人。	national security, the application shall be transferred to the national defense patent examination authority according to Rule 8.1 for examination and the applicant shall be notified accordingly;
18	(2) 明显不需要保密的，审查员应当向申请人发出不予保密通知书。	(2) where it is obviously unnecessary to keep the invention secret, the examiner shall send the Notification that Application Not Kept Secret to the applicant.
19	申请人陈述意见后，保密审查员仍认为不需要予以保密处理的，应当发出不予保密决定书。	If, after the applicant makes observations, the examiner responsible for examining secret patent applications still believes that it is not necessary to keep the invention secret, he shall issue a decision of not keeping secret;
20	(3) 除明显不需要保密的情形外，保密审查员应当把申请文件复印件（包括请求书、说明书、说明书附图、权利要求书和摘要）送交国务院有关主管部门审查；有关主管部门应当在收到该申请文件复印件之日起四个月内，将审查结果通知专利局，专利局应当将审查结果及时通知申请人。	(3) except where the invention is obviously unnecessary to be kept secret, the examiner responsible for examining secret patent applications shall send a copy of the application documents (including the request, description, drawings, claims and abstract) to the competent authority under the State Council for examination. The authority shall, within four months from receipt of the copy of the application documents, notify the Patent Office of the result of the examination, which shall be promptly notified to the applicant by the Patent Office.
21	国务院有关主管部门在规定时间内未答复的，保密审查员应当发出不予保密决定书，通知申请人该申请按照一般专利申请处理。	Where there is no response from the competent authority under the State Council within the specified time limit, the examiner responsible for examining secret patent applications shall make a decision of not keeping the invention secret and notify the applicant that the application shall be treated as a regular patent application.
22	对于申请人未提出保密请求，专利局认为可能需要保密的专利申请，应当参照上述第（1）、（3）项的规定处理。	Where the Patent Office considers that the patent application might need to be kept secret, while the applicant does not make a request for keeping secret, the application shall be handled in accordance with the provisions set forth in preceding paragraph (1) and (3).
23	3.3 保密专利申请的审批程序	3.3 Procedures of Examination for Patent Application Kept Secret
24	(1) 涉及国防方面的国家秘密需要保密的发明专利申请，由国防专利局进行审查，由专利局根据国防专利局的审查意见作出决定，并委托国防专利局颁发国防专利证书，同时在专利公报上公告国防专利的申请日、授权日和专利号。	(1) Where a patent application for invention relates to the secrets of the State concerning national defense and therefore is required to be kept secret, the examination of such patent application is made by the national defense patent examination authority. The Patent Office shall make a decision on the basis of the examination observations made by the national defense patent examination authority, entrust the national defense patent examination authority to issue the national defense patent certificate, and announce the filing date, the date of granting the patent right and the patent number of the national defense patent in the Patent Gazette.
25	国防专利复审委员会作出宣告国防专利权无效决定的，专利局应当在专利公报上公告专利号、授权公告日、无效宣告决定号和无效宣告决定日。	Where the Patent Reexamination Board of National Defense makes a decision of declaring the invalidation of the national defense patent, the Patent Office shall announce the patent number, the date of granting the patent right, the number and the date of the decision on the request for invalidation in the Patent Gazette.
26	(2) 专利局对涉及国家重大利益需要保密的发明专利申请按照以下程序进行审查和管理。	(2) Where a patent application for invention relates to vital interests of the State and therefore requires to be kept secret, it is examined and administrated by the Patent Office according to the following procedures.

27	保密审查员应当对确定需要保密的专利申请案卷作出保密标记,建立保密案卷位置状态卡,在计算机系统中作出处理,在对该专利申请作出解密决定之前,对其进行管理。	The examiner responsible for examining secret patent applications shall put the label of "secret" on the file of the patent application that has been decided to be kept secret, establish the card of location and status for the file of the secret application, and make a corresponding treatment in the computer system to keep it under management until the decision on declassification is made.
28	保密专利申请的初步审查和实质审查均由专利局指定的审查员进行。	Both the preliminary examination and the substantive examination on the secret patent application shall be conducted by examiners designated by the Patent Office.
29	初步审查按照与一般发明专利申请相同的基准进行。	The preliminary examination shall be conducted in accordance with the criteria identical with those for regular patent applications for invention.
30	初步审查合格的保密专利申请不予公布,已有实质审查请求并缴纳实质审查费的,直接进入实质审查程序。	After passing through the preliminary examination, the secret patent application shall not be published, and shall directly enter into the substantive examination stage if the request for substantive examination has been filed and the relevant fees have been paid.
31	实质审查按照与一般发明专利申请相同的基准进行。	The substantive examination shall be conducted in accordance with the criteria identical with those for the regular patent applications for invention.
32	经实质审查没有发现驳回理由的,作出授予专利权通知,并由保密审查员发出授予发明专利权通知书和办理登记手续通知书。	If no ground for rejection is found after substantive examination, a Notification to Grant Patent Right shall be made. The examiner responsible for examining secret patent applications shall send the Notification to Grant Patent Right and the Notification to Go through Formalities of Registration.
33	保密专利申请的授权公告仅公布专利号、专利申请日和授权公告日。	The announcement of grant of patent right to secret patent application shall include only the patent number, the filing date, and the date of the announcement.
34	4.解密的程序	4. Procedures of Declassification
35	4.1 解密请求的提出	4.1 Request for Declassification
36	(1) 由申请人(或专利权人)提出	(1) By the applicant (or patentee)
37	保密专利申请的申请人或者保密专利的专利权人可以书面提出解密请求。	The applicant of a secret patent application or the patentee of a secret patent may request in writing for declassification.
38	(2) 由专利局提出	(2) By the Patent Office
39	专利局每两年对保密专利进行一次复查,经复查认为不需要继续保密的,可以提出解密。	The Patent Office shall conduct a review on the secret patents every two years and request to declassify the patents which are considered no longer necessary to be kept secret.
40	4.2 解密的确定	4.2 Determination of Declassification
41	解密的决定应当在征求原认为需要保密的部门的意见之后由专利局作出。	The decision of declassification shall be made by the Patent Office after consulting with the competent authority that considered it necessary to keep the relevant patent secret.
42	申请人(或专利权人)提出解密请求,应当附具原认为需要保密的国务院主管部门同意解密的证明文件;未附具证明文件的,仍予以保密。	The applicant (or patentee) requesting for declassification shall provide a certifying document of approval from the competent authority under the State Council that originally held it necessary to keep the application (or patent) secret. If he fails to do so, the application (or patent) shall continue to be kept secret.
43	专利局应当将是否同意解密的审查意见通知申请人(或专利权人)。	The applicant (or patentee) shall be notified of the result of examination relating to his request of declassification by the Patent Office.
44	专利局经复查认为不需要继续保密的,应当向原认为需要保密的国务院主管部门征求意见,再确定是否需	Where, after review, the Patent Office considers it no longer necessary to keep the application or

	要解密：决定解密的，保密审查员应当发出解密通知书。	patent secret, it shall decided whether or not to declassify after consulting with the competent authority under the State Council that originally considered it necessary. When the Patent Office decides to declassify, the examiner responsible for examining secret patent applications shall issue a Notification of Declassification.
45	4.3 解密专利申请（或专利）的程序	4.3 Procedures for Declassification of Patent Application (or Patent)
46	保密审查员应当对已经解密的专利申请（或专利）作出解密标记。	The examiner responsible for examining secret patent applications shall make a label of declassification for the application (or patent) declassified.
47	发明专利申请解密后，按照一般专利申请进行审批程序和管理。	A patent application for invention, after declassification, shall be examined and administered as a regular patent application.
48	发明专利解密后，在专利公报的解密栏中予以公告、出版说明书单行本，并按照一般专利进行管理。	After a secret patent is declassified, the declassification shall be announced in the declassification column of the Patent Gazette, and a pamphlet of the description shall be published separately, and the patent shall be administered as a regular patent.