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| <b>Source language</b>   | Chinese  |
| <b>Target language</b>   | English  |
| <b>Original filename</b> | D:\project alignment\finished\5.6 Notification and Decision_CN.doc |

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| 1  | 第六章 通知和决定  | Chapter 6 Notification and Decision   |
| 2  | 1. 通知和决定的产生  | 1. Production of Notification and Decision  |
| 3  | 1.1 通知和决定  | 1.1 Notification and Decision   |
| 4  | 在专利申请的审查程序中以及专利权有效期间, 审查员根据不同情况, 将作出各种通知和决定。   | During the procedures of the examination and approval of a patent application and in the valid term of a patent right, various notifications and decisions shall be made by the examiner under different circumstances.   |
| 5  | 这些通知和决定主要包括: 受理通知书、审查意见通知书、补正通知书、手续合格通知书、视为撤回通知书、恢复权利请求审批决定、期限届满通知书、缴费通知书、费用减缓审批通知书、发明专利申请初步审查合格通知书、发明专利申请公布通知书、发明专利申请进入实质审查程序通知书、授予发明专利权通知书、办理登记手续通知书、授予实用新型专利权及办理登记手续通知书、授予外观设计专利权及办理登记手续通知书、视为放弃取得专利权通知书、专利权终止通知书、驳回决定、复审决定书、无效宣告请求审查决定等。 | These notifications and decisions principally include Notification of Acceptance, Notification of an Office Action, Notification to Make Rectification, Notification of Passing Examination on Formalities, Notification that Application Deemed to be Withdrawn, Notification of Decision on Request for Restoration of Right, Notification of Expiration of Time Limit, Notification to Pay the Fees, Notification of Decision on Reduction of Fees, Notification of Passing Preliminary Examination of the Application for Invention, Notification of Publication of the Application for Invention, Notification of Entering the Substantive Examination Stage of the Application for Invention, Notification to Grant Patent Right for Invention, Notification to Go through Formalities of Registration, Notification to Grant Patent Right for Utility Model and to Go through Formalities of Registration, Notification to Grant Patent Right for Design and to Go through Formalities of Registration, Notification that Entitlement to Patent Deemed Abandoned, Notification of Termination of Patent Right, Decision of Rejection, Reexamination Decision, Examination Decision on Request for Invalidation, etc. |
| 6  | 1.2 通知和决定的撰写   | 1.2 Drafting of Notifications and Decisions   |
| 7  | 撰写通知和决定应当符合专利法及其实施细则和本指南的有关规定。   | The drafting of notifications or decisions shall comply with the relevant provisions of the Patent Law, the Implementing Regulations thereof and the Guidelines.  |
| 8  | 除本指南中其他章节作出专门规定之外, 通知和决定一般应当包括: 收件人信息、著录项目、通知或者决定的内容、署名和/或盖章、发文日期。   | Unless specifically provided for in other Sections or Chapters of these Guidelines, a notification or decision shall generally include the information of addressee, bibliographic data, contents of the notification or decision, signature and/or seal, and date of issuance of the document,   |
| 9  | 其中:  | wherein,  |
| 10 | (1) 收件人信息包括: 收件人地址、邮政编码、收件人姓名。   | (1) the information of addressee includes the address, postal code, and name of the addressee;  |
| 11 | (2) 著录项目包括: 全体申请人(或专利权人)姓名或者名称(如果是无效程序中的通知书, 还应当包括全体请求人)、申请号(或专利号)、发明创造名称。   | (2) the bibliographic data includes the names of all the applicants (or patentees) (the notifications in the procedure of invalidation shall also include those of all the petitioners), application number (or patent number), and title of the invention-creation;  |
| 12 | (3) 通知、决定的内容包括: 通知或者决定的名称及正文。  | (3) contents of the notification or decision includes the title and text of the notification or decision;   |
| 13 | (4) 署名和/或盖章: 通知和决定应当有审查员署名或者盖章; 需要审核的, 还应当由审核人员署名或者盖章; 发出或者存档的通知和决定均应当加盖国家知识产权局或者专利复审委员会审查业务用章。  | (4) signature and/or seal. The notification or decision shall be signed or sealed by the examiner. When it is necessary to be checked, it shall also be signed or sealed by the checking person. The notification or decision issued or kept in files shall be affixed with the examination seal of the State   |

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|    |   | Intellectual Property Office or the Patent Reexamination Board;   |
| 14 | (5)发文日期。  | (5) the date of issuance.   |
| 15 | 通知和决定应当通过计算机系统生成。   | The notification or decision shall be produced through computer system.   |
| 16 | 在作出不利于当事人的通知或者决定时，应当说明理由并指明后续法律程序。  | Where a notification or decision is unfavorable to the party concerned, the grounds shall be explained and the follow-up legal procedures shall be indicated.   |
| 17 | 在专利申请的审批程序中，通知和决定一般为一式两份，正副本各一份，副本发出，正本存档。                                  | Any notification or decision in the procedures of examination and approval of the patent application shall be normally in duplicate, one original to be kept on file, and one copy to be sent out.  |
| 18 | 在专利的无效宣告程序中，通知和决定的份数根据参加程序的有关方数来确定。   | In the invalidation procedure of a patent, the number of pieces of a notification or decision shall depend on the number of parties to the procedure.   |
| 19 | 2. 通知和决定的送达   | 2. Delivery of Notification and Decision  |
| 20 | 2.1 送达方式  | 2.1 Manners of Delivery   |
| 21 | 2.1.1 邮寄  | 2.1.1 Delivery by Post  |
| 22 | 邮寄送达文件是指通过邮局把通知和决定送交当事人。  | Delivery by post refers to sending the notification or decision to the party concerned through the post office.   |
| 23 | 除另有规定外，邮寄的文件应当挂号，并应当在计算机中登记挂号的号码、收件人地址和姓名、文件类别、所涉及的专利申请号、发文日期、发文部门。         | Unless otherwise provided, documents shall be sent by registered mail, and the registration number, the address and name of the addressee, the type of document, the application number of the patent application concerned, the date of issuance of the document and the department issuing the document shall be recorded in the computer system. |
| 24 | 邮寄被退回的函件要登记退函日期。  | When a mail is returned, the date of return shall be recorded.  |
| 25 | 2.1.2 直接送交  | 2.1.2 Delivery by Hand  |
| 26 | 经专利局同意，专利代理机构可以在专利局指定的时间和地点，按时接收通知和决定。                                      | Upon the approval of the Patent Office, the patent agency may receive the notification or decision at a place and time as designated by the Patent Office.  |
| 27 | 特殊情况下经专利局同意，当事人本人也可以在专利局指定的时间和地点接收通知和决定。                                    | In special circumstances, upon the approval of the Patent Office, the party concerned may also receive the notification or decision by himself at a place and time as designated by the Patent Office.  |
| 28 | 除受理处窗口当面交付受理通知书和文件回执外，当面交付其他文件时应当办理登记签收手续。                                  | Except for delivery by hand of a Notification of Acceptance or the receipt for documents at the Receiving Office, delivery by hand of all other documents shall go through the formalities of registration and signature.   |
| 29 | 特殊情况下，应当由当事人在通知和决定的正本或者申请案卷上签字或者盖章，并记录当事人身份证件的名称、号码和签发单位。                   | In special circumstances, the party concerned shall be invited to sign or seal on the original copy of the notification or the decision or on the file of the application, and the type, number, and issuing authority of the identity document of the party concerned shall be recorded.   |
| 30 | 2.1.3 电子方式送达  | 2.1.3 Delivery by Electronic Means  |
| 31 | 对于以电子形式提交的专利申请，专利局以电子文件形式向申请人发出各种通知书、决定和其他文件的，申请人应当按照电子专利申请系统用户注册协议规定的方式接收。 | For an application filed in electronic form, where various notifications, decisions and other documents issued by the Patent Office to the applicant are in electronic form, the applicant shall receive them according to the approaches prescribed by the user registration agreement on use of the electronic patent application system.         |
| 32 | 2.1.4 公告送达  | 2.1.4 Delivery by Public Notice   |
| 33 | 专利局发出的通知和决定被退回的，审查员应当与文档核对；如果确定文件因送交地址不清或者存在其他                              | The examiner shall check the records when the notifications or decisions issued by the Patent Office are returned. If it is affirmed that the   |

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|    | 原因无法再次邮寄的，应当在专利公报上通过公告方式通知当事人。  | documents can not be sent by post again for the reason of ambiguity of the postal address or for other reasons, the party concerned shall be notified by public notice in the Patent Gazette.  |
| 34 | 自公告之日起满一个月，该文件视为已经送达。   | At the expiration of one month from the date of the public notice, the document shall be deemed to have been delivered.  |
| 35 | 2.2 收件人   | 2.2 Addressee  |
| 36 | 2.2.1 当事人未委托专利代理机构  | 2.2.1 Where No Patent Agency Being Appointed by the Party Concerned  |
| 37 | 当事人未委托专利代理机构的，收件人为请求书中填写的联系人。   | Where no patent agency is appointed by the party concerned, the addressee shall be the contact person filled in the request.   |
| 38 | 若请求书中未填写联系人的，收件人为当事人；当事人有两个以上时，请求书中另有声明指定非第一署名当事人为代表人的，收件人为该当事人；除此之外，收件人为请求书中第一署名当事人。 | Where no contact person is filled in the request, the addressee shall be the party concerned. Where there are two or more parties concerned, if a party concerned who is not signed first in the request is declared to be a representative, the addressee shall be the representative; otherwise, the addressee shall be the party concerned signed first in the request. |
| 39 | 在当事人是个人并确保能收到专利局信函时，可以不填写联系人。   | Where the party concerned is an individual and guarantees to receive documents from the Patent Office, he may not fill in the contact person.  |
| 40 | 一般情况下，当事人是单位的，其填写的联系人应当是本单位的工作人员；当事人是个人的，填写的联系人应当是便于收到专利局信函并可迅速交给当事人本人的人。             | Usually, where the party concerned is an entity, the contact person filled shall be a staff member of the entity. Where the party concerned is an individual, the contact person filled shall be one who can conveniently receive documents from the Patent Office and can promptly deliver them to the party concerned.   |
| 41 | 当事人只能填写一名联系人。   | The party concerned can fill only one contact person.  |
| 42 | 2.2.2 当事人已委托专利代理机构  | 2.2.2 Where the Party Concerned Having Appointed a Patent Agency   |
| 43 | 当事人委托了专利代理机构的，通知和决定的收件人为该专利代理机构指定的专利代理人。  | Where a patent agency is appointed by the party concerned, the addressee of notifications or decisions shall be the patent agent designated by the said patent agency.   |
| 44 | 专利代理人有两个的，收件人为该两名专利代理人。   | Where two patent agents are designated, the addressees shall be the two patent agents.   |
| 45 | 2.2.3 其他情况  | 2.2.3 Other Circumstances  |
| 46 | 当事人无民事行为能力的，在专利局已被告知情况下，通知和决定的收件人是法定监护人或者法定代理人。                                       | Where the party concerned is of civil disability, on condition that the Patent Office is so notified, the addressee of the notification and decision shall be the legal guardian or legal agent.   |
| 47 | 2.3 送达日   | 2.3 Date of Delivery   |
| 48 | 2.3.1 邮寄  | 2.3.1 Delivery by Post   |
| 49 | 通过邮寄的通知和决定，自发文日起满十五日推定为当事人收到通知和决定之日。  | Where a notification or decision is delivered by post, the fifteenth day from the date of mailing shall be presumed to be the date on which the party concerned receives the notification or decision.   |
| 50 | 当事人提供证据，证明实际收到日在推定收到日之后的，以实际收到日为送达日。  | Where the party concerned submits evidence proving that the actual date of receipt is later than the presumed date of receipt, the actual date of receipt shall be the date of delivery.   |
| 51 | 2.3.2 直接送交  | 2.3.2 Delivery by Hand   |
| 52 | 直接送交的通知和决定，以通知或者决定上注明的发文日为交付日，自交付日起满十五日推定为收到通知和决定之日。                                  | Where the notification or decision is delivered by hand, the date of issuance of the document indicated in the notification or decision shall be the date of delivery. The date on which the notification or decision is received shall be presumed to be the  |

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|    |  | fifteenth day from the date of delivery.  |
| 53 | 2.3.3 公告   | 2.3.3 Delivery by Public Notice   |
| 54 | 通知和决定是通过在专利公报上公告方式通知当事人的，以公告之日起满一个月推定为送达日。   | Where a notification or decision is delivered to the party concerned by public notice in the Patent Gazette, the date of expiration of one month from the date of publication of the notice shall be taken as the date on which the notification or decision is received.   |
| 55 | 当事人见到公告后可以向专利局提供详细地址，要求重新邮寄有关文件，但仍以自公告之日起满一个月为送达日。   | The party concerned may provide a detailed address and request for a second delivery by post after noting the notice, but the date on which the notification or decision is received shall remain to be the date of expiration of one month from the date of publication of the notice.   |
| 56 | 3.退件的处理和文件的查询  | 3. Handling of Returned Documents and Inquiry of Documents  |
| 57 | 3.1 退件的处理  | 3.1 Handling of Returned Documents  |
| 58 | 邮寄退回的通知和决定由发文部门作计算机登录，再转送作出该通知和决定的部门进行处理。  | The notifications or decisions that are delivered by post and returned shall be recorded in computer by the department in charge of issuance of documents and then be transferred to the department that made the notifications or decisions to be handled.   |
| 59 | 处理退件首先应当根据申请文档中申请人、专利代理机构提供的各种文件进行分析，查清退件的原因。  | In handling the returned documents, the examiner shall first analyze and identify the reason of the post being returned on the basis of the various documents submitted by the applicant and his patent agency in the application file.   |
| 60 | 能够重新确定正确地址和收件人的，更正后重新发出。   | Where the address and addressee can be redetermined, the documents shall be resent with the address or addressee corrected.   |
| 61 | 退件经过处理仍无法邮寄或者再次被退回时，根据通知和决定的性质，必要时采用公告的方式送达当事人。  | If, after the handling, the documents that are returned can not be sent by post again or are returned again, where necessary, the documents shall be delivered by public notice depending on the nature of the notification and decision.   |
| 62 | 退件（连同信封）由审查员存档。  | The documents that are returned (together with the envelope) shall be put into the file by the examiner.  |
| 63 | 3.2 文件的查询  | 3.2 Inquiry of Documents  |
| 64 | 当事人陈述未收到专利局的某一通知和决定的，应当由作出该通知和决定的部门进行查询。   | Where the party concerned states that he has not received certain notification or decision from the Patent Office, the department that made the notification or decision shall make an inquiry of it.   |
| 65 | 查询首先在专利局发文部门进行，查询结果（包括通知和决定的发文日期、挂号号码和收件人）应当由作出该通知或者决定的部门通知当事人。  | Such inquiry shall begin with the department in charge of the issuance of documents in the Patent Office, and the party concerned shall be notified of the result of the inquiry (including date of issuance, registered number and addressee of the notification or decision) by the department which made the said notification or decision.  |
| 66 | 当事人需要进一步了解送达情况的，应当办理查询手续，由发文部门通过当地邮局查询收件人所在邮政部门。   | Where the party concerned requires to further inquire the delivery of the document, he shall go through the formalities of inquiry. The department in charge of the issuance of documents shall, via the local post office, consult the post office located in the place where the addressee lives.   |
| 67 | 查询结果表明未送达的责任在专利局或者邮局的，应当按照新的发文日重新发出有关通知和决定；查询结果表明未送达的责任在收件人所在单位收发部门或者收件人本人及其有关人员的，专利局可以根据当事人的请求重新发出有关通知和决定的复印件，但不得变更发文日。 | Where the result of the inquiry reveals that the responsibility of nondelivery of the document rests on the Patent Office or the Post Office, the notification or decision shall be sent again with a new date of issuance of the document. Where the result of the inquiry reveals that the responsibility of nondelivery of the document rests on the mail service department of the entity to which the addressee belongs or on the addressee himself or |

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|    |                   | on a person connected to him, the Patent Office may redeliver the duplicate copy of the relevant notification or decision upon the request of the party concerned, while the date of issuance of the document shall remain unchanged. |
| 68 | 查询时效为十个月，自发文日起计算。 | The time limit for inquiry is ten months calculated from the date of issuance of the document.  |

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