**Notice Concerning Handling of Deposited Micro-Organisms by the Chinese Patent Office**

To Patent Agencies and Depositary Institutions,

In implementing Rule 25 of the Implementing Regulations of the Patent law  requiring that deposits of micro-organisms be made for the purposes of patent procedures, some questions have been raised by both domestic and foreign applicants over the past few years. Based on the principle of not going against the provisions of the Patent Law, in order to further carry out the policy of opening up in patent work, align our requirements for the deposit of micro-organisms with international practices as far as it can be, and to clarify the meaning of the relevant provisions for the convenience of our domestic and foreign applicants, we hereby give the following notice:

1. Where any micro-organism which is commercially available to the public, it  is not required to be deposited.

2. Where any micro-organism, deposited with a depositary institution designated by the patent offices of various countries or the international patent organizations for the purpose of patent procedures, is published in the patent Gazette or granted patent right before the priority date or the filing date of the patent application concerning the same micro-organism in China, it is not required to be deposited.

3. Apart from the two provisions mentioned above, any micro-organism which is possessed by individuals or entities, deposited with a depositary institution for the purposes other than the patent procedures, not to be supplied to the public or not available to the public before the filing date (or the priority date), such as micro-organisms obtained by ways of selection, mutation or DNA recombination etc., shall be deposited.

According to these provisions, where no deposit has been made in filing a patent application involving micro-organisms,  the applicant shall submit the catalogue of commodities concerning the micro-organisms or the certificate (or its copy) proving the date of publication or grant of patent relating the micro-organism in the foreign Patent Gazette. Where no foreign certificate can be submitted, the applicant is required to deposit the micro-organism concerned.

This notice shall enter into force from the date of its issuance. For any other provision contradicting with this notice,  the provisions of this notice shall prevail.

For pending application involving micro-organisms filed before the issuance of this notice, deposits may be made  according to this notice.  After the payment of the prescribed fees, and where the required formalities have been gone through., the application may retain its original filing date. For patent applications involving micro-organisms filed after the date of the issuance of this notice, deposits of micro organisms shall be handled in accordance with the relevant provisions of the Patent Law and its Implementing Regulations, no amendment is allowed so far as formalities for deposit of micro-organisms are concerned..

Issuance Date: June 6th, 1990.

2013-07-17