

英文講義

第一回

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英文講義（專利考試）第一回

英文專利用語

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英 文

專 利 用 語

A

abandonment of a patent 放棄專利權

指專利權人不願繼續享受他的專利權而自願將它放棄的行為。例如，在專利有效期間，由於第三者對專利的有效性產生異議，或專利受到強制許可的威脅，從而使專利權人感到專利的存在可能對他不利時，在這種情況下，專利權人往往不願繼續享有他的發明專利權，而會以書面形式向專利局提出聲明，或者採取停繳續展費(年費)的辦法來放棄他的專利權。

abandonment of a patent application 放棄專利申請

因專利申請人的不作為而使專利申請失效，叫放棄專利申請。專利申請人不作為的情況主要有以下幾種：一、未在規定時間內按專利局的要求對申請案中存在的差錯作必要的更正；二、未按專利局的要求提交應交的證明文件(如轉讓證明，優先權文件等)；三、未在規定期限內，繳納應交的申請費用。在實行延遲審查制的國家裡，不作為還包括未在規定期限內向專利局提出進行實質性審查的請求。不作為有自願的和非自願的之分。自願的指申請人明知應在規定時間內作出一定的行為，而聽任時間過去。自願放棄的原因，一般是申請人意識到申請專利的這項發明已失去或將會失去其經濟價值，或者已經出現了比這更有價值的發明。非自願的指由於申請人(或代理人)的疾病、死亡或代理人工作失誤，以及所交文件在郵途中失落等原因所造成的遲延。有的國家規定，在此種情況下，當造成放棄專利申請的原因消失後(例如，補交了有關文件、費用或改正了申請案中的差錯)，專利申請可以重新有效。通常一項專利申請被視為放棄後，專利局應書面通知申請人，並在專利局的登記簿中登記入冊。在法律規定需要公佈專利申請的國家中，如果是在公佈之後放棄申請的話，專利局還須將該申請放棄的情況在專利公報上予以公佈。一項專利申請被放棄後，申請程序即告終止。

abridgment 文 摘

即abstract。參看該條。

abstract 文摘 (摘要)

對發明的技術內容所作的簡要文字敘述，是申請人申請專利時，必須向專利局提交的基本文件之一。內容包括發明的名稱、發明所屬的技術領域，以及要解決的技術問題等。文摘必須簡短明瞭，有時也可附有代表性的插圖。文摘通常由申請人撰寫，但在審查過程中，專利局也可對它進行修改。許多國家在專利局公開申請案時，也將文摘作為申請案的一部份一起公佈。由於文摘短小精悍，能使讀者對發明的主要內容一目了然，故是一種十分有效的粗檢工具。不少國家還把其他國家出版的文摘譯成本國文字，供不懂外文的讀者查閱使用。

abuse of patent 濫用專利權

授予專利權的目的一般來說並不僅是為鼓勵發明創造，而且也為了使新的發明能夠在本國得到充分的利用，這樣才更符合國家和本國人民的利益。所謂濫用專利權，是指沒有按照法律規定在國內盡可能地利用專利發明，以致遏制了本國工商業的發展。例如：一、沒有實施專利發明；二、從國外進口專利產品因而對本國的製造造成不利；三、由於條件苛刻等原因不能滿足市場需要；四、拒絕發放許可證，對本國企業的利益帶來損害；五、對使用或實施專利產品或方法的單位提出不合理的條件；六、由於專利方法的實施使此專利方法所用的材料，在製造、使用或銷售方面受到影響等等。濫用專利權會使國家和人民的利益受到損害，所以在許多國家是被禁止的。大多數國家都在專利法中規定了防止濫用專利的條款。防止濫用專利權的辦法常見的有實行強制許可和撤銷專利權等。

action for infringement of a patent 專利侵權訴訟

指因侵犯專利權而發生爭議時，由專利權人向法院提起的訴訟。所謂侵犯專利權，是指未經專利權人許可就使用了專利發明。它包括：仿造、假冒、剽竊等。提起專利侵權訴訟的專利權人稱為原告人。被原告人提起訴訟的侵權人稱為被告人。侵權行為若對專利權人造成了損害，則侵權人應賠償由此產生的損失，或承擔其他應負的法律責任。

action of a patent 專利訴訟

一方為了取得或保護一項專利權，或糾正一種錯誤，或制止一個侵權行為而向法院控告另一方時，雙方通過法定的訴訟程序進行爭辯的全部活動，就叫專利訴訟，也就是通常所說的打專利官司。常見的專利訴訟主要有：一、要求批准專利的訴訟（專利申請人控告專利局）；

二、要求撤銷專利或宣告專利無效的訴訟（第三者控告專利權人或專利局）；三、侵權訴訟（專利權人控告侵權人）。訴訟當事人如果對法院的判決不服，一般來說，還可向上一級的法院提出上訴。

address for service 文件送達地址

專利局按法定方式將文件（如通知、信件等）送交給申請人或代理人，稱為送達文件。文件送達地址即由申請人在申請案中寫明的送交文件的地址。它可以是申請人的親友或專利代理人的地址，當然也可以是申請人自己的實際地址。所有這些地址都具有同等的法律效力。

affidavit 誓書

指立誓人所寫的書面誓言。在誓書上，立誓人應寫明自己的姓名和要發誓的陳述。一份誓書只有當立誓人在執行誓言的人面前發誓簽名，有權接受誓言的人也簽上自己的名字後，才成為合法的誓書。

allowance 准許

在審查制國家裡，當審查員對專利申請進行實質性審查後，如果認為該專利申請符合取得專利的條件，可以授予專利，那麼他就將在申請案上簽名並寫上同意授予專利的意見，這就是所謂的准許。准許是審查制國家的專利局審批專利申請一個步驟。在審查制國家中，專利申請被審查員准許後，一般就能夠獲得專利局的批准，取得專利權。

amendment 修改

專利申請向專利局提出後，申請人對其內容一般是不能改動的。但如遇有誤寫、誤算、表達不清或權項太寬等情況，可以自動或在專利局的要求下，對申請案文件進行修改。經修改後的申請案內容不得超過原申請案的範圍；例如，修改權項時，修改後的權項範圍不得大於原來來的權項。修改申請案通常應由申請人本人或其代理人進行，但在有些情況下，審查員也可以未經申請人的同意，對某些文字、數據、編號的誤寫或其他類似的明顯錯誤作細微的修改。由於專利申請案文件的正確與否和發明的公開和專利權的授予有密切關係，因此對專利申請案中的不正確或不完善之處，作恰當的修改，具有十分重要的意義。專利申請被批准為專利後，如果發現專利文件中有不影響專利有效性的錯誤，專利權人也可以要求對它進行修改。但一般來說在對專利申請不進行實質性審查的登記制國家裡，專利批准後是不允許專利權人主動要求修改專利文件的。