专利国内外申请、专利文献检索

Chinese and international patent application & Patent search

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摘要：刘芳律师主要就专利国内外申请、专利文献检索进行介绍。介绍了知识产权申请策略，从申请的主题、时间和地域三方面详细讲解相应的策略。并对国内外专利申请的程序、审查和注意事项等做了简要介绍，最后讨论了专利检索的目的、工具和专利检索的利用等。

Abstract: Ms. LIU Fang focused on Chinese and international patent application and patent search in her presentation. She elaborated on patent application strategy from the perspectives of subject, time and region. She also talked about the procedure, examination and pinpoint issues in Chinese and international patent application. Later, Ms. LIU discussed about the purpose, tools and utilization of patent search.

提 纲
Outline

1. 专利申请策略 **Strategies of patent application**
2. 中国专利申请 **Chinese patent application**
3. 国外专利申请 **International patent application**
4. 专利检索介绍 **Patent search**

专利申请策略
Strategies of patent application

- 申请的主题 Subject
- 申请的时间 Time
- 申请的地域 Region

专利申请策略——申请的主题
Strategies of patent application---Subject

- 从法律角度 Laws and regulations
  - 技术或产品与可专利的主题不同
  - the subject of patent application is different from the real technology or product
  - 不同的国家法律的具体规定不同
  - Legal provisions differ in different countries
- 从保护角度 Protection
  - 技术秘密的考虑
  - Technology secrets
  - 直接侵权的考虑
  - Direct infringement
- 从产业角度 Industry
  - 上下游产品关系
  - Upstream and downstream products

专利申请策略——申请的时间
Strategies of patent application---Time

- 从研发的角度考虑 R&D
  - 研发过程管理的匹配
  - Management during R&D
  - 不同的国家法律的具体规定不同
  - Legal provisions differ in different countries
- 从审查角度考虑 Examination
  - 各国审查的程序、时间
  - Procedure and time of examination in different countries
- 从产品上市的角度考虑 Launching of products
  - 宣传、推广的需求
  - Publicity and promotion
  - 保护、与维权的需求
  - Protect and safeguard rights

专利申请策略——申请的地域
Strategies of patent application---Region

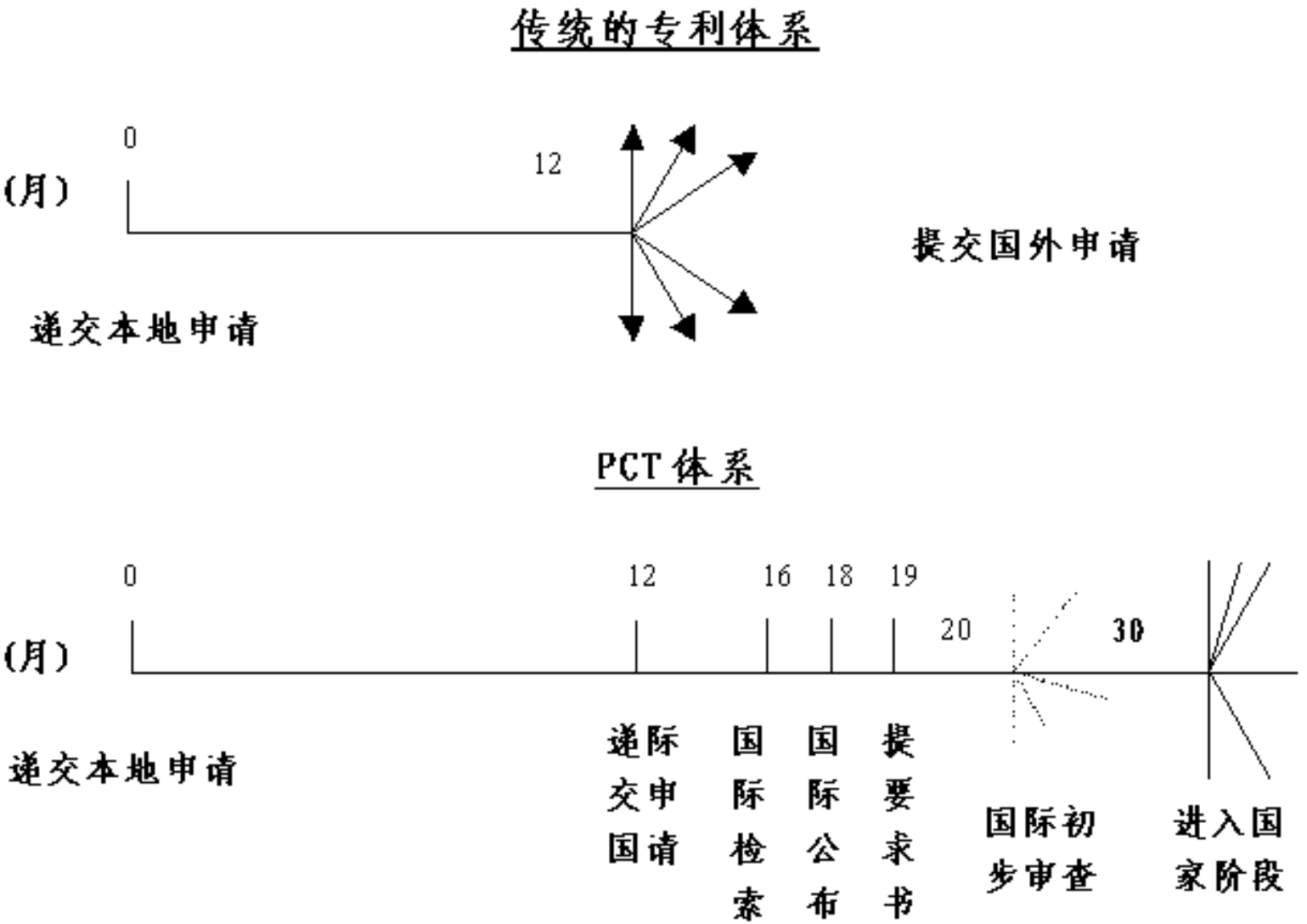
- 从市场的角度考虑 Market
  - 技术输出或者产品销售与制造在哪些地区
  - Regions of technology export or products marketing and manufacturing
- 从合作的角度考虑 Cooperation
  - 技术合作方的知识产权需求
  - IP demand for technology collaborators
- 从提出方式的角度考虑 Application approach
  - 国内先申请 Domestic application
    - 直接提出申请
    - Direct application
  - 国外申请 International application
    - PCT途径：要求优先权申请PCT，覆盖指定的各国家，逐一进入所选定的各国
    - Application through PCT
    - 巴黎公约途径：要求优先权直接在目标国家提出申请
    - Application through Paris Convention

专利申请策略——其他因素
Strategies for patent application---Other factors

- 从费用的角度考虑 Cost
  - PCT申请的费用管理
  - Charges of PCT application
  - 巴黎公约申请的费用管理
  - Charges of application through Paris Convention

- 从保护的角度考虑 Protection
  - 目标国家的知识产权现状
  - IP status quo of the target country

专利申请策略——其他因素
Strategies for patent application---Other factors



中国专利申请
Chinese patent application

- 申请的提出 Patent Filing
- 授权的后续 Follow-up after licensing
- 专利的现状 Status quo of IP in China

中国专利申请——申请的提出
Chinese patent application---Filing of patent application

- 申请的提出 Filing of patent application
  - 国内申请人——单位、个人直接申请
  - Domestic applicants---Direct application from the organization and the individual
  - 外国申请人——PCT进入中国、巴黎公约申请
  - Foreign applicants---Get in through PCT, or patent application through Paris Convention

- 提示 Notice
  - 在中国本地完成的研发，需通过保密审查后方可在国外提出申请，直接在中国提交pct申请不受此限制
  - R&D accomplished in China should firstly go through confidentiality review before international patent application, while direct pct application in China is not subject to such limitation.

中国专利申请——申请的提出
Chinese patent application---Filing of patent application

申请种类 Types of patent application

发明、实用新型、外观设计
Inventions, utility models, designs

申请程序 Application procedures

发明：申请——初步审查—公开—实质审查—授权/驳回—公告
Inventions: Filing of application---Preliminary examination---Make public---Substantial examination---Grant of patent right/Rejection---Announcement

实用新型/外观设计：申请——审查—授权/驳回—公告
Utility models, designs: Filing of application---Examination---Grant of patent right/Rejection---Announcement

实体审查 Examination of entities

文件撰写存在不同的实体要求
Documentation requirements vary with different entities
与美国的专利审查规则存在一定的区别
Differences between Chinese and American patent examination rules.

中国专利申请——授权的后续
Chinese patent application---Follow-up

- 专利审查 Patent examination
  - 答复审查意见无次数限制
  - No limit on the times of reply to examination opinions
  - 权利要求的修改限制较多
  - Not a few restrictions on the revision of patent right claims
  - 驳回后，可提出复审
  - Reexamination can be requested after the rejection
  - 授权后，随时可提出无效请求
  - After the grant of patent right, request of invalidation can be raised at any time

- 授权后的限制 Limitations after licensing
  - 不得修改专利文件
  - No amendment of the patent documents is allowed
  - 不得提出分案申请
  - Divisional application is not allowed

中国专利申请——专利的现状
Chinese patent application---Status quo

- 中国申请人在本国和国外的专利
- Domestic and international patents of Chinese applicants
  - 申请的数量和质量与科技成果相比存在数量和质量差距
  - Gap between the quantity and quality of patent application and those of scienfic anc technological achievements.
    - 重视程度不够，市场环境?
    - Inadequate attention, market environment?
  - 向国外提出的专利申请数量和质量非常有限
  - Quantity and quality of international application are limited
    - 程序不熟悉
    - Unfamiliar with the procedures

中国专利申请——专利的现状
Chinese patent application---Status quo

- 国外申请人在中国的专利 Patent application in China from foreign applicants
  - 在中国申请的数量相对本国少很多，与市场需求
  - Patent application in China from foreign applicants is considerably less than that in their own countries.
    - 大学与研究机构申请量较低
    - Relative small number of patent application on the part of universities and research institutions.
  - 质量存在本体化不能很好地符合中国的法律规定
    - 在中国的授权、稳定性有待提高
    - Licensing in China, stability needs to be improved
- 清洁能源领域 Clean energy
  - 清洁煤、节能建筑申请量较低
  - Few applications in clean coal and buidling efficiency
  - 合作研发？ Collaborative R&D ?

国外专利申请
International patent application

- 向美国专利商标局提出
- To U.S. Patent& Trademark Agency
- 向欧盟或欧洲各国专利商标局提出
- To European Union or Patent& Trademark Agencies of european countries
- 向澳大利亚专利商标局提出
- To Australian Patent& Trademark Agency
- 向日本专利局提出
- To Japanese Patent Office

国外专利申请——向美国提出
International patent application---to the United States

- 提出申请程序 Application procedures
  - 基于PCT提出申请
  - Application based on PCT
  - 基于巴黎公约提出申请
  - Application based on Paris Convention

- 不同于中国专利申请的一些程序 Differences between Chinese and American application procedures
  - CA程序、RCE程序、等
  - CA procedures, RCE procedures etc.
  - IDS提交、申请人权利让渡书提交等
  - Submit IDS, submit the letter of transferring patentee right etc.

- 费用管理 Charges
  - 不同的程序、作业的过程导致不同的费用发生
  - Different procedures and operation mechanisms lead to different charges.

国外专利申请——向欧洲国家提出
International patent application---to European countries

- 提出目标 Indentify the target
  - 欧洲专利局，授权后，在目标国家办理授权登记
  - European Patent Office, authorization registration in the target country after the grant of patent right
  - 直接针对目标欧洲国家
  - Targeted directly at European countries

- 提出申请程序 Application procedures
  - 基于PCT提出申请
  - Application based on PCT
    - 基于PCT的申请，法国等不受理而仅只接受欧专局审查结果
    - Some European countries such as France does not accept PCT patent application but only accept examination results from European Patent Office
  - 基于巴黎公约提出申请
  - Application based on Paris Convention

国外专利申请——向欧洲国家提出
International patent application---to European countries

- 不同于中国专利申请的一些提示 Differences between Chinese and European application procedures
  - 欧洲检索报告
  - European search report
  - 加快审查申请
  - Accelerate examination application

- 费用管理 Charges
  - 没有得到授权前，需要缴纳维持费，且每年增高
  - Before the grant of patent right, maintenance fee is required and the fee keeps increasing each year.

国外专利申请——向澳大利亚提出
International patent application---to Australia

- 提出申请程序 Application procedures
  - 基于PCT提出申请
  - Application based on PCT
  - 基于巴黎公约提出申请
  - Application based on Paris Convention

- 不同于中国专利申请的一些提示Differences between Chinese and Australian application procedures
  - 革新专利
  - Innovation patent

- 费用管理 Charges
  - 类型不同，费用不同
  - Different charges for different types

国外专利申请——向日本提出
International patent application---to Japan

- 提出申请程序 Application procedures
  - 基于PCT提出申请
  - Application based on PCT
  - 基于巴黎公约提出申请
  - Application based on Paris Convention

- 不同于中国专利申请的一些提示 Differences between Chinese and Japanese patent application
  - 基于PCT申请，在提出时，可先提交中文
  - Application based on PCT can submit application in Chinese at first.

- 费用管理 Charges
  - 类型不同，费用不同
  - Different charges for different types

专利检索介绍
Patent search

- 检索的目的 Purpose
- 检索的工具 Tools
- 检索的利用 Utilization

专利检索利用——检索的目的
Patent search---Purpose

- 研发前的检索 Seach before R&D
  - 立项时收集相关文献信息，借鉴已有知识
  - Patent search for Literature review when setting up a project to learn from existing knowledge
  - 排查潜在的侵权冲突
  - Clearance of potential infringement conflicts

- 合作前的检索 Search before cooperation
  - 了解合作方专利信息
  - Get to know patent information of collaborators
  - 设立合作前、中、后的权属界定
  - Identify ownership before, during and after cooperation.

专利检索利用——检索的目的
Patent search---Purpose

- 申请前的检索 Search before application
  - 针对拟提出的专利申请，进行新颖性初步排查
  - Preliminary clearance on the novelty of proposed patent application

- 上市前的检索 Search before launching
  - 针对拟将对上市的技术或产品，进行潜在的侵权排查
  - Clearance on the potential infringement of technology or product

专利检索利用——检索的工具
Patent search---Tools

- 各国专利数据库 Patent databases
  - 国家知识产权局专利数据库，www.sipo.gov.cn
  - 美国专利商标局专利数据库，www.uspto.gov
  - 欧洲专利局专利数据库 http://ep.espacenet.com/numberSearch?locale=en_EP

- 互联网与专业数据库 Internet and specialized databases
  - 互联网公共服务，Google、Soopat等
  - Databases of Google, Soopat etc.
  - 专业公司提供的数据服务等
  - Databases service provided by professional companies

- 企业定制专利数据库 Tailor-made patent database
  - 定制检索工具、定制定向数据
  - tailored search tools, directed data

专利检索利用——检索的工具
Patent search---Tools

检索途径 approaches

技术关键词、目标企业关键词、发明人关键词
key words: technology, target enterprises, inventors
IPC分类号、布尔逻辑
IPC classification codes, Boolean logic

中国专利文献的发展趋势
Development trend of Chinese patent literature:
中国专利申请量2011年总量世界第一；发明申请量第二
中国专利文献数量正在大幅提升，越来越多被引证来评价专利性
Chinese patent application in 2011 ranked the first in the world; invention application the second; Quantity of Chinese patent literature is increasing greatly and is increasingly cited to evaluate patentability.

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专利检索

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专利检索

☐发明专利 ☐实用新型专利 ☐外观设计专利

申请(专利)号：		名　称：	
摘　要：		申 请 日：	
公开(公告)日：		公开(公告)号：	
分 类 号：		主分类号：	
申请(专利权)人：		发明(设计)人：	
地　址：		国际公布：	

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申请 审查 授权

前 中 后

利检索

申请(专利)号

搜索 高级搜索

他检索

集成电路布图设计检索

国外及港澳台专利检索

专利检索

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- 发明专利 (101)条
- 实用新型专利 (114)条

序号	申请号	专利名称
1	01120195.9	一种全立面采光窗户及智能化全天候太阳能建筑
2	91106402.8	印塑仿面砖技术
3	94113889.5	"绿色"节能建筑构件
4	96112672.8	节能建筑物料混和成浆机
5	99106200.0	真空隔热保温型材的构造及制造
6	98124688.5	粉煤灰泡沫混凝土复合砌块及其制作方法
7	01125348.7	T型多功能小型砌块及其生产成型方法
8	02112866.9	轻质砂浆及其加工方法
9	01145330.3	膨化状硅酸盐建筑材料及其制造方法
10	200710025669.6	一种节能保温砌筑砂浆及其制备方法

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1	85107906	煤的除灰方法
2	200410091177.3	煤、电厂废气配入氢气联产清洁煤气发电制取清洁燃料工艺
3	200610127338.9	用煤气发生炉直接加热蒸发生产氯化钙的方法
4	86208229	助推可调回转式压缩机
5	201020684648.2	环缝洗涤塔的给水精除尘系统
6	200710018787.4	捷燃清洁煤粉及其生产方法
7	200810240180.5	一种煤基能源化工产品多联产系统及方法
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- Specifications
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Ina

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(54) **SET-TOP BOX WITH OUT-OF BAND MODEM AND CABLE MODEM**

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(73) Assignees: **Sony Corporation**, Tokyo (JP); **Sony Electronics Inc.**, Park Ridge, NJ (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1036 days.

(21) Appl. No.: **09/815,100**

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(51) **Int. Cl.**
H04N 7/173 (2006.01)

(52) **U.S. Cl.** **725/131**; 725/151

(58) **Field of Classification Search** 725/111, 725/110, 131, 151
See application file for complete search history.

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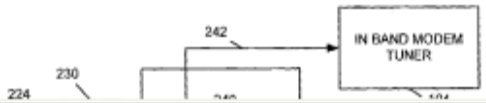
(57) **ABSTRACT**

A circuit arrangement for combining signals in a cable set-top box or television receiver. An out-of-band upstream amplifier and a cable modem upstream amplifier have their outputs combined at a combiner before being passed to the cable through a diplexer. The output of the diplexer provides incoming signals for an in-band tuner, a cable modem tuner and an out-of-band tuner that can be passed through a low noise amplifier before passing through a three-way splitter to divide the signals to each of the tuners.

18 Claims, 3 Drawing Sheets



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