

Form of Applications

Certain rules need to be respected when drafting applications for software inventions:

- **Defining the Components**

A product claim should spell out each component of an apparatus, the connections between the components, and how each function of the computer program is performed by a corresponding component or group of components.

If it is not practicable to define the components by their physical structures, it is not necessary to do so. The components can then be defined in means-plus-function language. If means-plus-function language is used for a product claim, it is important to ensure strict one-to-one correspondence between recited means and steps recited in the corresponding method claim.

- **Drafting the Description**

The description of Chinese patent applications also needs to be carefully crafted. Chinese examiners are often reluctant to allow claim amendments unless there is almost verbatim support in the specification.

The description needs to clearly and completely describe the solution as a whole, as well as the design and technical features involved in the computer programs that are necessary to achieve the desired technical effects.

Normally at least a main flow chart should be included in the description of a software invention, with separate flow charts depicting specific functions or branches where necessary.

If particular steps are not essential, it is important that the description explicitly says so. Otherwise, the applicant may be forced to include corresponding steps and means in the independent claims.

Where the execution of computer programs involves changes to the hardware of a computer, a diagram showing the structure of the computer should be included, and the description should describe the relevant hardware components and connections there between in a way clear and sufficient for a skilled reader to implement the invention.

The above is only a brief discussion of the particulars that one needs to be aware of if you wish to patent a software invention in China. For more detailed information, please contact Handong Ran - see contact details below.

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