



State Intellectual Property Office
of the People's Republic of China

Utility Model System in China

Malaysia
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Outline

I *Background of Utility Model System and Statistics*

II *Introduction of Utility Model System*

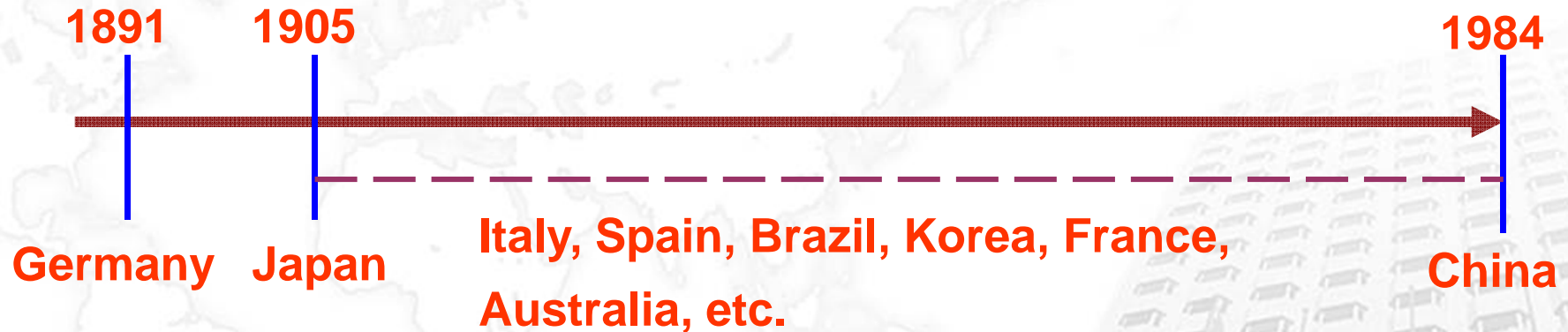
III *Significance of Utility Model System in China*



I Background of Utility Model System and Statistics

1. Background of Establishment

(1) Utility model systems in world before 1984





I Background of Utility Model System and Statistics

1. Background of Establishment

(2) National economic and innovation climate in China in early 1980s

- Reform and Open door policy----Investment and technology from abroad
- Domestic innovators----Limited by financial and human resources for research and development
- Domestic innovation activities----Incremental innovations



I Background of Utility Model System and Statistics

1. Background of Establishment

(3) Patent Law enacted in China in 1984

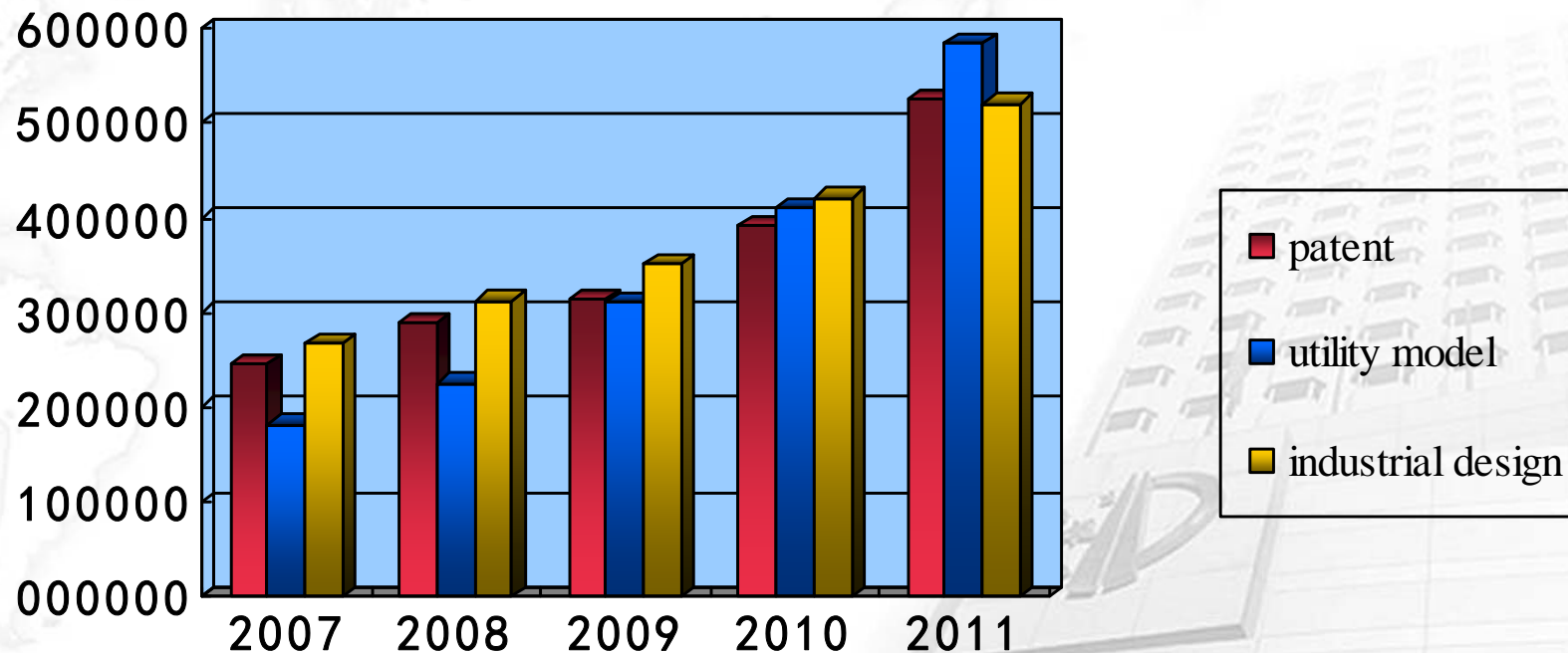
- Invention patent
- Utility Model patent
 - To encourage **domestic IP innovators** and protect **small inventions**
- Industrial Design patent



I Background of Utility Model System and Statistics

2. Statistics of Utility Model

(1) The volume of applications for three kinds of patents (2007~2011)



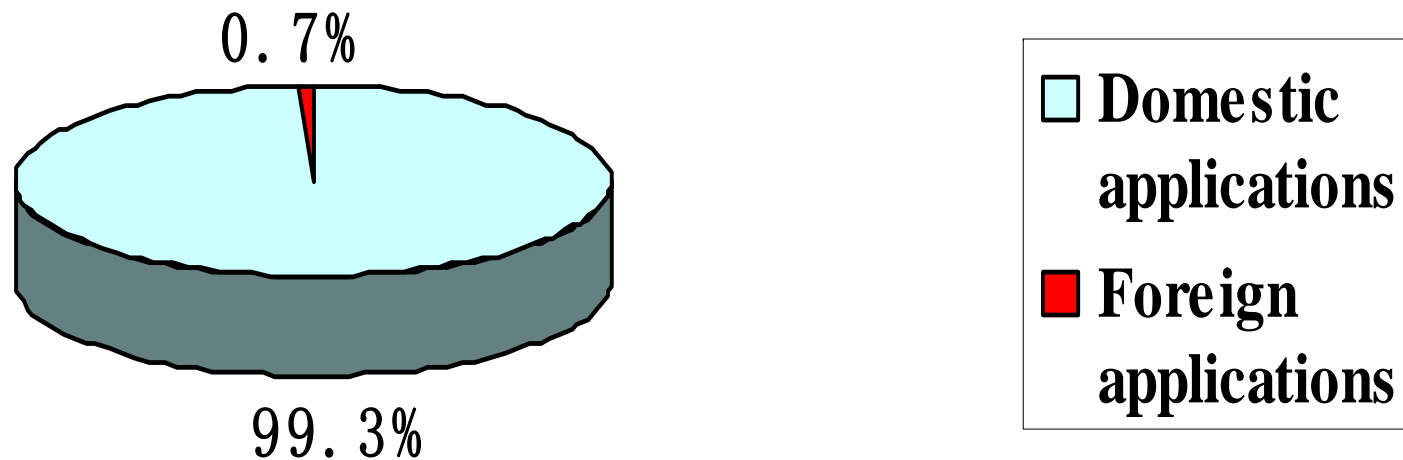
U. M. Applications in 2011: 585,467 (408,110 granted)



I Background of Utility Model System and Statistics

2. Statistics of Utility Model

(2) Composition of domestic and foreign applications (2011)

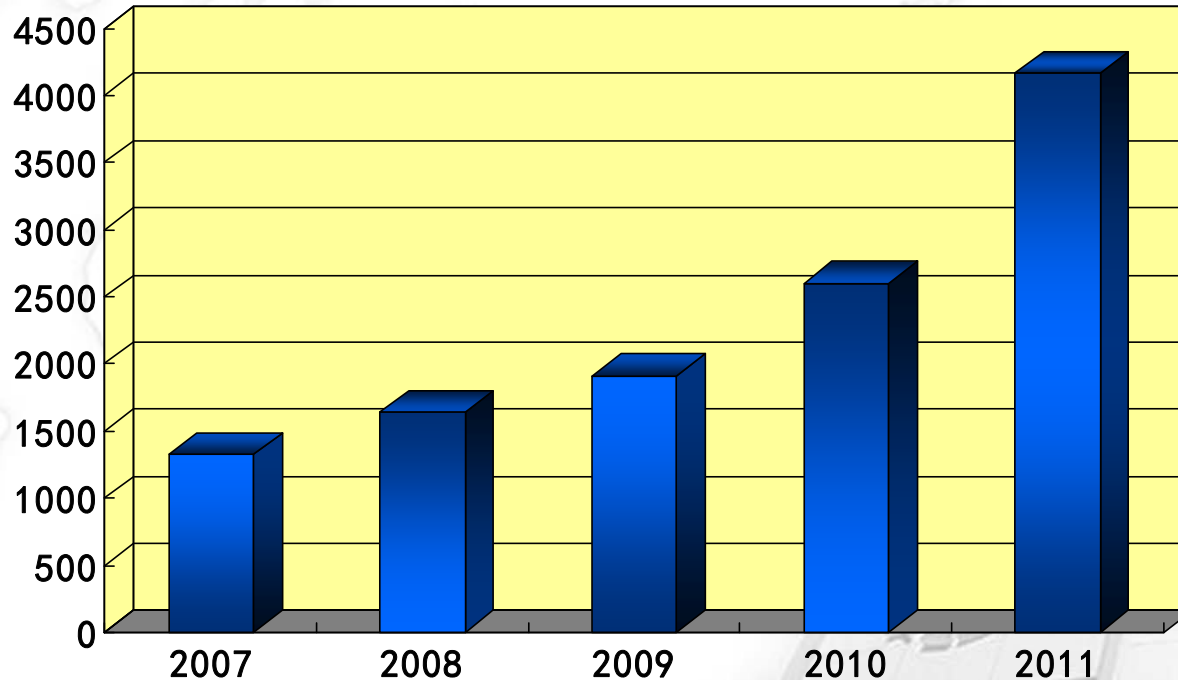




I Background of Utility Model System and Statistics

2. Statistics of Utility Model

(3) Foreign applications for Utility Model (2007~2011)

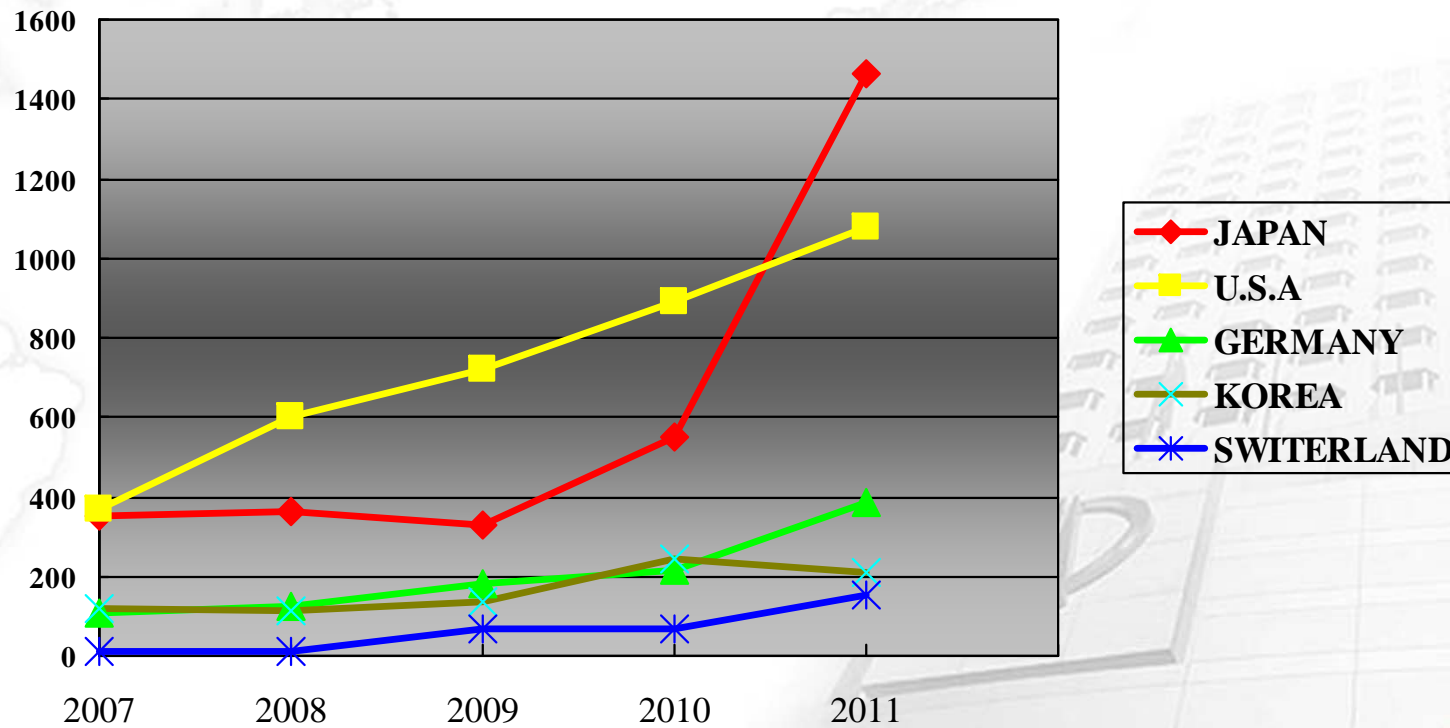




I Background of Utility Model System and Statistics

2. Statistics of Utility Model

(4) Foreign Applications from Major originating Countries (2007~2011)



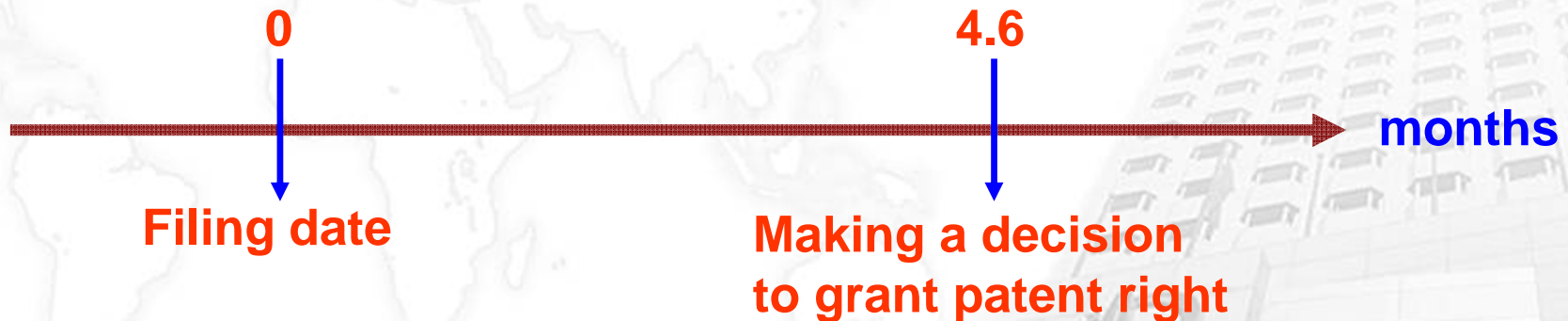


I Background of Utility Model System and Statistics

2. Statistics of Utility Model

(5) Utility model application examination period

- Average examination period in 2011





II Introduction of Utility Model System

Contents

1 *Subject Matter*

2 *Preliminary Examination*

3 *Evaluation Report of Patent*

4 *Main Differences with Invention System*



II Introduction of Utility Model System

1. Subject Matter

(1) Definition of utility model in CPL(A2.3)

"Utility model" means any new technical solution^③ relating to the shape, the structure, or their combination,^② of a product,^① which is fit for practical use.

All the processes are not the subject matter

Three elements in the definition



II Introduction of Utility Model System

(1) Definition of utility model in CPL

Three elements

① Only products can be granted patent for utility model

② Utility Model shall include the improvement relating to the shape, structure, or their combination of a product

③ The technical solution are adopted to solve a technical problem in observance of the laws of nature



II Introduction of Utility Model System

❖ *Shape of a product*

Certain space-shape, can be observed from the outside

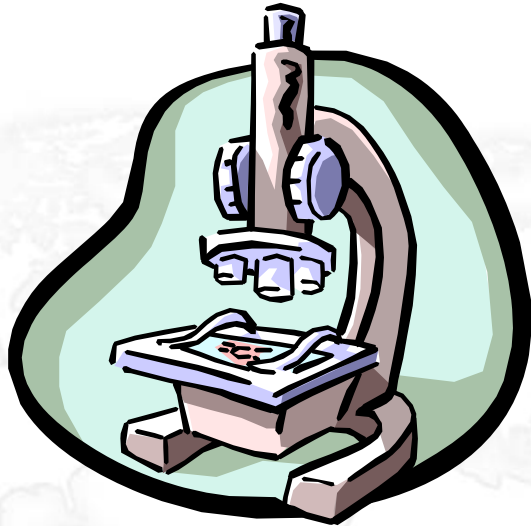


Non-fixed shape possessed by a product:
Materials in powder state, liquid state, etc.





II Introduction of Utility Model System



❖ *Structure of a product*

The arrangement, organization and correlation of each part of a product

Molecular structure, component of a substance, etc.





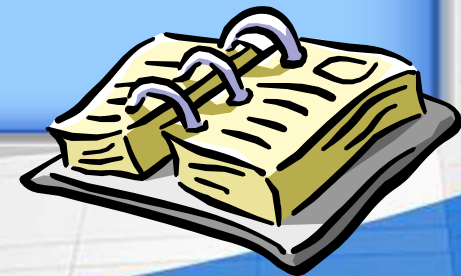
II Introduction of Utility Model System

1. Subject Matter

(2) Unpatentable subject matter according to A5

Any invention that is:

- ◆ contrary to the laws
- ◆ contrary to social morality
- ◆ detrimental to public interest





II Introduction of Utility Model System

1. Subject Matter

(3) Unpatentable subject matter according to A25

- ◆ Scientific discoveries;
- ◆ Rules and methods for mental activities;
- ◆ Methods for the diagnosis or for the treatment of diseases;
- ◆ Animal and plant varieties;
- ◆ Substance obtained by means of nuclear transformation;
- ◆ Designs of two-dimensional printing goods,.....

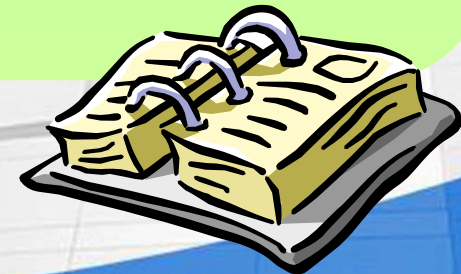


II Introduction of Utility Model System

2. Preliminary Examination

(1) *Preliminary examination*

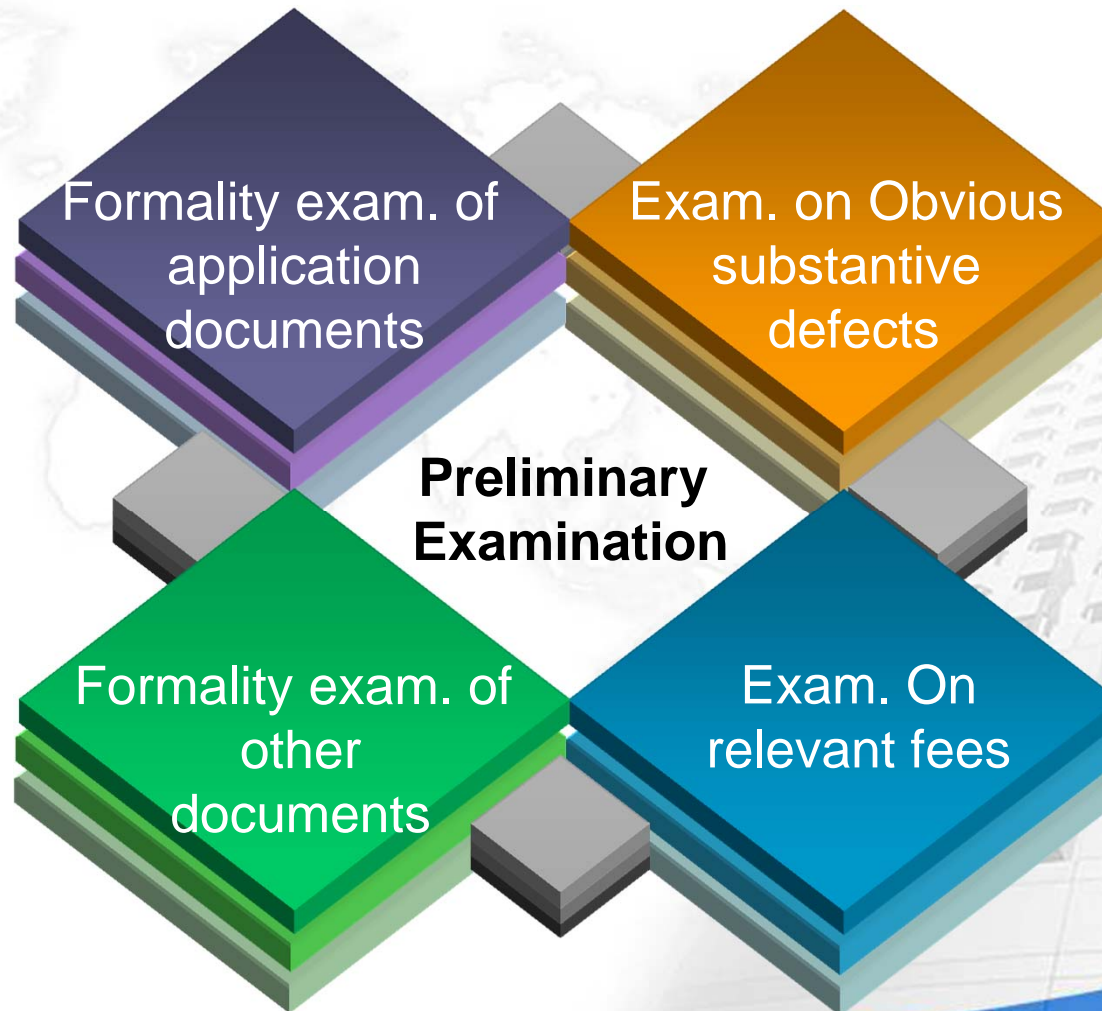
Where it is found after preliminary examination that there is no cause for rejection of the application for a utility model,shall make a decision to grant the patent right for utility model.....





II Introduction of Utility Model System

(2) Scope of Preliminary Examination





II Introduction of Utility Model System

- *Examination on obvious substantive defects*

Description

Drawings

Claims

- Clarity, completeness, and enablement

- Drawings of the shape and/or the structure of the product

- Subject matter
- Clarity, conciseness
- Unity
- Support

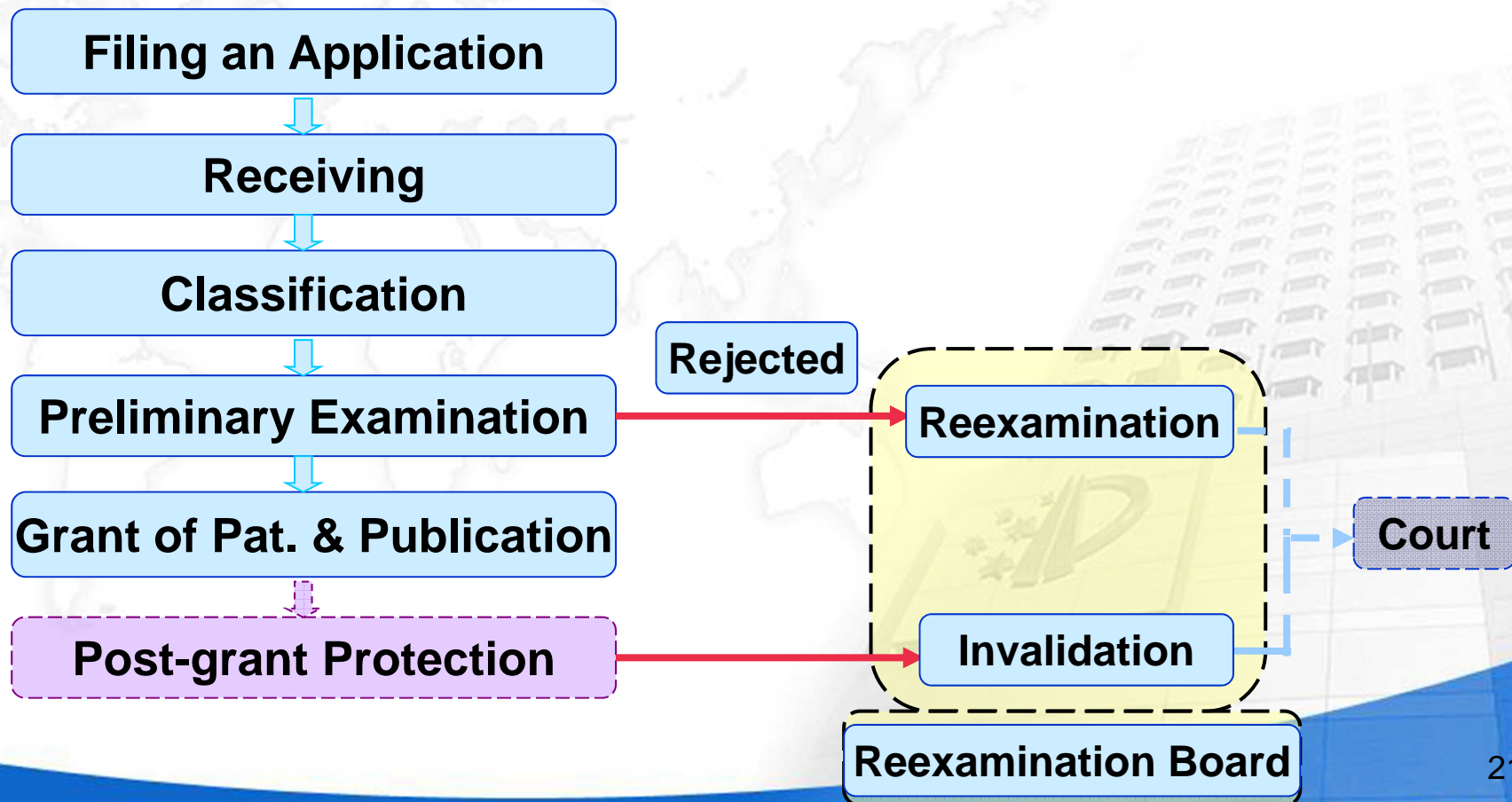
- Practical applicability
- Amendment
- Divisional application



II Introduction of Utility Model System

(3) Examination Procedure

● General flow chart

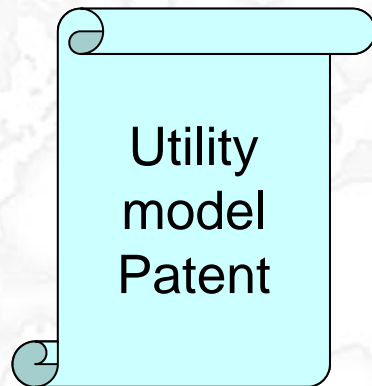




II Introduction of Utility Model System

(3) Examination Procedure

● Invalidation procedure



Anyone doubts
the patentability



Re-examination board

Time: After the date of the publication of the grant of the patent right

Petitioner: Any entity or individual



II Introduction of Utility Model System

3. Evaluation Report of Patent

(1) Introduction of the evaluation report



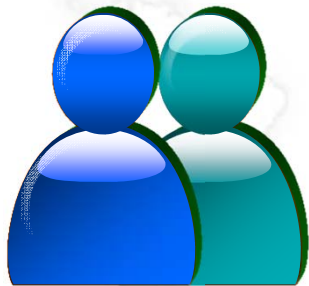


II Introduction of Utility Model System

3. Evaluation Report of Patent

(2) Time and Petitioner

Time: After the announcement of the decision to grant a patent for utility model



Petitioner: Patentee or interested party



II Introduction of Utility Model System

3. Evaluation Report of Patent

(3) Contents

Search report	Evaluation report
<ul style="list-style-type: none">• Novelty• Inventiveness	<ul style="list-style-type: none">• Subject matter• Novelty• Inventiveness• Practical applicability• Support• Clarity of claims• Clarity, completeness, enablement of description• Double patented• Amendment



II Introduction of Utility Model System

3. Evaluation Report of Patent

(4) The legal nature of an evaluation report

An **evidence** for hearing or handling the patent infringement dispute

(5) The Purpose of the evaluation report

- Avoiding abuse of the patent right
- Encouraging public inspection



II Introduction of Utility Model System

4. Main Differences with Invention System

(1) Subject matter, Exam. system and Duration

	Invention	Utility Model
Subject matter	Product and process	Product only
Exam. system	Early publication and delayed substantive examination	Preliminary examination
Protection term	20 years	10 years



II Introduction of Utility Model System

4. Main Differences with Invention System

(2) Novelty, Inventiveness and Practical applicability

	Invention	Utility Model
Novelty	Absolute novelty principle	Absolute novelty principle
Inventiveness standard	Has prominent substantive Features, Represents a notable progress	Has substantive features, Represents progress
Practical applicability	Can be made or used, can produce effective results	Can be made or used, can produce effective results



III Comparison with Utility Model Systems in DE,JP,KR,AU

● Subject Matter

China	Germany	Japan	Korea	Australia
Shape, structure or their combination of products	Any inventions except for inventions relating to process and biotechnological inventions	Shape, construction, or their combination of devices	Shape, structure, or their combination of devices	Any inventions except for human beings, animals, plants and process of their generation



III Significance of Utility Model System in China

1. Protect the Invention-Creations

- Be a complementary patent system to invention
- Provide protection to small innovations



IV Significance of Utility Model System in China

2. Provide Fast and Low Cost Protection

- Rapid granting and fast protection due to preliminary examination
- Low cost due to cheaper patent fees



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Thank you!

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