

分案申请的条件

Requirements for Divisional Applications

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提交分案的期间:

Periods for filing a divisional

1.在第一次审查意见(OA)之前;

Before the first office action,

2.在答复OA的期间内;以及

Within the period for responding to an office action, and

3. 在宽限期或第一次驳回决定之后且在复审请求之前。

After an allowance or a first decision of rejection and before an appeal.

若在母案申请的宽限期之后
提交分案申请，则分案必须得
到母案中最接近描述的支持。

Must be supported by the latest description of the
parent,

if, the divisional application is filed after an
allowance of the parent application.

在以下情况下分案将终止于第一次OA:

The first OA of a divisional application becomes final if:

1. 母案在审查前收到OA, 要求提交分案; 和

The parent application received an OA before examination was requested for the divisional application, and

2. 在分案中未克服母案OA中的缺陷。

The OA of the parent application was not cured in the divisional.

在最终OA之后，修改必须：

After a final OA, amendment must be:

1. 删除权利要求；
 2. 限定权利要求中存在的单元；
 3. 修正错误；或者
 4. 澄清审查员指出的表述。
1. deleting claims,
 2. limiting existing elements of claims,
 3. correcting errors, or
 4. clarifying expressions pointed out by the examiner.

建议

Suggestion

- 在请求审查分案时研究母案OA。
- 若审查员可能认为未克服母案OA中的缺陷时，在收到OA之前通过申请解释分案的可专利性。
- Review the parent OA when requesting examination for the divisional.
- Explain patentability of the divisional by petition before receiving an OA, if the examiner might consider the parent OA not cured.