



国家知识产权局  
**专利复审委员会**  
PATENT REEXAMINATION BOARD OF SIPO



# **無効審判における訂正** **Amendment to Patent Documents in** **the Invalidity Procedure**

### 专利法实施细则69:

在无效宣告请求的审查过程中，发明或者实用新型专利的专利权人可以修改其权利要求书，但是不得扩大原专利的保护范围。

发明或者实用新型专利的专利权人不得修改专利说明书和附图，外观设计专利的专利权人不得修改图片、照片和简要说明。

### IMPLEMENTING REGULATIONS OF THE PATENT LAW

Rule 69: In the course of the examination of the request for invalidation, the patentee for the patent for invention or utility model concerned may amend its or his claims, but may not broaden the scope of patent protection.

The patentee for the patent for invention or utility model concerned may not amend its or his description or drawings. The patentee for the patent for design concerned may not amend its or his drawings, photographs or the brief explanation of the design.

审查指南

第四部分 复审与无效请求的审查

第三章 无效宣告请求的审查

第4.6节 无效宣告程序中专利文件的修改

## GUIDELINES FOR PATENT EXAMINATION

Part IV Examination of Requests for Reexamination and  
for Invalidation

Chapter 3 Examination of Requests for Invalidation

4.6 Amendment to Patent Documents in the Invalidation  
Procedure

## **权利要求书的修改原则/ Principles of Amendment**

**1.不得改变原权利要求的主题名称。**

**The title of the subject matter of a claim can not be changed;**

**2. 与授权的权利要求相比，不得扩大原专利的保护范围。**

**The extent of protection can not be extended as compared with that in the granted patent;**

**3. 不得超出原说明书和权利要求书记载的范围。**

**The amendment shall not go beyond the scope of disclosure contained in the initial description and claims:**

**4. 一般不得增加未包含在授权的权利要求书中的技术特征。**

**Addition of technical features not included in the claims as granted is generally not allowed.**

# 修改方式/ Manners of Amendment<sup>3</sup>

**1. 权利要求的删除**  
**Deletion of a claim**

**2. 权利要求的合并**  
**Combination of claims**

**3. 技术方案的删除**  
**Deletion of a technical solution**

# 修改方式/ Manners of Amendment<sup>3</sup>

## 1. 权利要求的删除 Deletion of a claim

权利要求的删除是指从权利要求书中去掉某项或者某些项权利要求，例如独立权利要求或者从属权利要求。

Deletion of a claim means one (or more) claim, such as an independent claim or a dependent claim, is removed from the claims.

# 修改方式/ Manners of Amendment<sup>3</sup>

## 2. 权利要求的合并 Combination of claims

指两项或者两项以上相互无从属关系但在授权公告文本中从属于同一独立权利要求的权利要求的合并。Combination of claims means that two or more claims dependent on a same independent claim and having no relation of dependency are combined together. Under this circumstance, all the technical features of the combined dependent claims constitute a new claim. The new claim shall contain all the technical features of each of the dependent claims thus combined. The dependent claims subordinated to a same independent claim shall not be combined together unless the independent claim is amended.

# 修改方式/ Manners of Amendment<sup>3</sup>

## 3. 技术方案的删除 Deletion of a technical solution

技术方案的删除是指从同一权利要求中并列的两种以上技术方案中删除一种或者一种以上技术方案。

Deletion of a technical solution means to remove one or more technical solutions from several parallel technical solutions defined in the same claim.



## 修改方式举例/Example for Manners of Amendment

原权利要求书/original claims:

1. 一种xx, 包括A、B, 其特征在于: C。

A xx, including A、B, comprising: C.

**(A+B+C)**

2. 如权利要求1所述的xx, 其特征在于: 还包括D。

The XX of claim 1, futher comprising: D.

**(A+B+C+D)**

3. 如权利要求1所述的xx, 其特征在于: 还包括E。

The XX of claim 1, futher comprising: E.

**( A+B+C+E)**

4. 如权利要求1所述的xx, 其特征在于: 还包括F或G。

The XX of claim 1, futher comprising: F or G.

**(A+B+C+F) 、 (A+B+C+G)**

## 修改方式举例/Example for Manners of Amendment

### 修改后的权利要求/Amended claims:

1. 一种xx, 包括A、B, 其特征在于: C、D。

A xx, including A、B, comprising: C,D.

**(A+B+C+D)**

2. 如权利要求1所述的xx, 其特征在于: 还包括E。

The XX of claim 1, futher comprising: E.

**(A+B+C+D+E)**

3. 如权利要求1所述的xx, 其特征在于: 还包括F。

The XX of claim 1, futher comprising: F.

**(A+B+C+D+F)**

## 修改方式举例/Example for Manners of Amendment

### 实际的修改方式/Manners of Amendment

- 新权1—删除原权1，原权2为新权1

New claim 1—delete the original claim 1 ,make the original claim 2 the new claim 1

- 新权2—合并原权2和权3

➤ New claim 2—combine the original claim 2 and claim 3

- 新权3—合并原权2和权4，并删除具有特征G的方案

➤ New claim 3—combine the original claim 2 and claim 4, then remove the technical solution with G from in the same claim

## 修改方式的限制/ Restrictions to Manners of Amendment

### 1、审查决定之前可删除权利要求或技术方案

Before the decision is made, the patentee may either delete a claim or delete a technical solution contained in a claim.

### 2、合并方式修改权利要求书的三种情形：

The patentee may amend the claims by the way of combination within the time limit for response only in one of the following circumstances:

#### (1) 针对无效宣告请求书。

In response to the request for invalidation;

#### (2) 针对请求人增加的无效宣告理由或者补充的证据。

In response to causes for invalidation or evidence added by the petitioner;

#### (3) 针对专利复审委员会引入的请求人未提及的无效宣告理由或者证据。

In response to causes for invalidation or evidence not mentioned by the petitioner but introduced by the Patent Reexamination Board.

**谢谢!**  
**Thank you!**