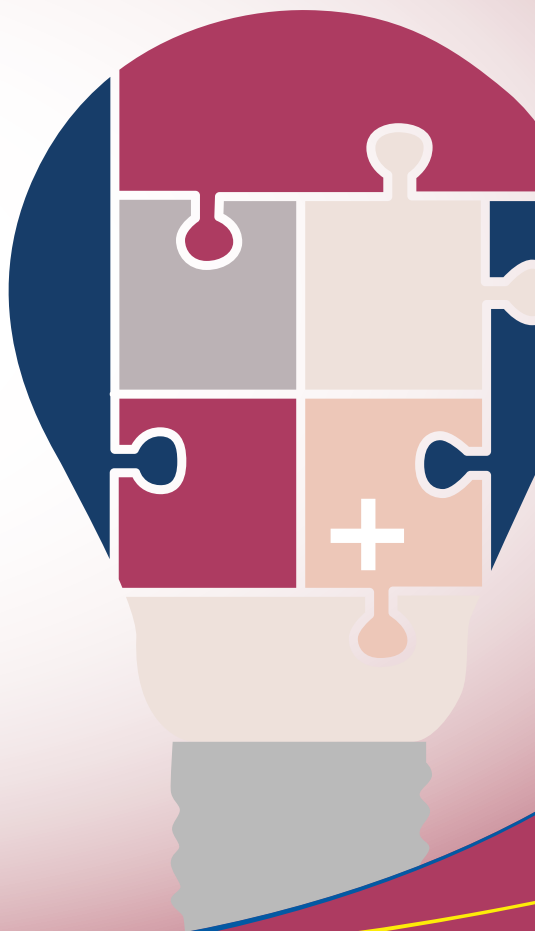


# BUSINESS GUIDE TO IP INSTITUTIONS, LAWS AND FILING PROCESSES IN AANZFTA PARTIES



ASEAN-Australia-New Zealand Free Trade Area (AANZFTA)  
Economic Cooperation Support Programme (AECSP)



# **BUSINESS GUIDE TO IP INSTITUTIONS, LAWS AND FILING PROCESSES IN AANZFTA PARTIES**

The ASEAN Secretariat  
Jakarta

The Association of Southeast Asian Nations (ASEAN) was established on 8 August 1967. The Member States of the Association are Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. The ASEAN Secretariat is based in Jakarta, Indonesia.

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Entered into force on 1 January 2010, AANZFTA provides a platform for more liberal, facilitative and transparent market access and investment regimes among the twelve Parties to the Agreement. More information about the AANZFTA and AECSP can be found at the AANZFTA website: <https://aanzfta.asean.org/>

## SELECTED ACRONYMS

ARIPO	African Regional Intellectual Property Organization
CBD	Convention on Biological Diversity
EC	European Commission
EPO	European Patent Office
EU	European Union
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
JV	Joint Venture
IPRs	Intellectual Property Rights
IP	Intellectual Property
OAPI	Organisation Africaine de la Propriété Intellectuelle
PCT	Patent Cooperation Treaty
R&D	Research & Development
RTA	Regional Trade Agreement
SME	Small and Medium Enterprise
TRIPS	Agreement on Trade Related Aspects of Intellectual Property
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

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# A. INTRODUCTION

## 1. About this Guide and why it is useful to you

- ▶ Are you conducting a business in one of the ASEAN countries or in Australia or New Zealand?
- ▶ Would you like to expand your business into one of these countries?
- ▶ You realise that you have to protect your IP rights in other ASEAN countries or in Australia or New Zealand, and you do not know how to proceed?
- ▶ Are you interested in contacting the IP offices of Australia or New Zealand or ASEAN countries?
- ▶ Would you like to learn more about the IP legislative framework in these countries?

If the answer to any of the above question is positive, then this Guide is the tool you are looking for.

This Guide is designed to assist business people, representatives of companies and SMEs, with practical and concise information in a user-friendly manner, on how to effectively protect their IP rights in the 10 ASEAN countries, in Australia and in New Zealand.

The first Chapter of this Guide will walk you through the key concepts relating to Intellectual Property and the main types of IP rights, including the characteristics of their legal requirements.

The second Chapter will provide you with a brief overview of the two modalities that you can utilise to obtain protection in all AANZFTA Parties.

The third Chapter contains detailed country profiles providing information, country by country, on:

- ▶ The domestic institution/s in charge of granting and administering the various IP rights (in some countries there is one single IP office responsible for all IP rights; in many other countries there are different institutions in charge of the various IP rights).
- ▶ The IP treaties and international conventions to which the country is party.
- ▶ Legal requirements and duration of each IP right.
- ▶ A short description of the legislative framework related to patents, trademarks, industrial designs and copyright (including link to the English Law/s' texts).
- ▶ A narrative and visual description of the filing process to obtain protection for the various IP rights in each AANZFTA party.

## 2. New business opportunities linked to AANZFTA

The Agreement establishing ASEAN Australia New Zealand Free Trade Area (AANZFTA) was signed on 27 February 2009 in Hua Hin, Thailand and entered into force on 1 January 2010. The AANZFTA aims for sustainable economic growth in the region by providing a more liberal, facilitative and transparent market and investment regimes in line with the ASEAN Community Vision 2025. It is one of the most comprehensive Free Trade Agreements (FTA) that ASEAN has concluded covering goods, services, investment, intellectual property, e-commerce, temporary movement and economic cooperation. It binds ASEAN tariffs and contains substantial tariff elimination commitments and WTO-plus commitments in other areas that will strengthen commercial ties of the Parties in the region.

Through the AANZFTA, the parties are able to obtain various advantages such as:

- (i). **Tariffs** which will be progressively reduced from the entry into force of the agreement and eliminated for at least 90% of all tariff lines within specified timelines;
- (ii). **Movement of goods** will be facilitated by more modern and flexible rules of origin, simplified customs procedures and more transparent mechanisms;
- (iii). **Barriers to trade in services** will be progressively reduced allowing for greater market access to service suppliers in the region;
- (iv). **Movement of business persons**, travel for those engaged in trade and investment activities will be more facilitated;
- (v). Selected **investments** will be accorded a range of protection, including the possibility of dealing with disputes through an investor-state dispute settlement mechanism, and;
- (vi). A substantial **economic cooperation** component to assist countries with the implementation of AANZFTA and to further economic integration. Additionally, the AANZFTA allows for **greater certainty and transparency** for those trading and investing in the region.

AANZFTA is a 'living agreement' which has been designed to be forward-looking and aims to expand and deepen the commitments of its parties over time. In order to respond to concerns from the businesses, the First Protocol to amend AANZFTA was signed on 16 August 2014 to resolve implementation problems associated with Certificates of Origin and Rules of Origin. In 2016, the Ministers endorsed the Terms of Reference for Conducting a General Review of the AANZFTA and agreed to begin the review in 2017. As a consequence, the Ministers endorsed the recommendation to guide negotiation to upgrade the AANZFTA including in the areas of rules of origin, customs, services, investment, e-commerce, competition and government procurement.

The Intellectual Property of the AANZFTA is placed under Chapter 13 of the Agreement. It is mainly to provide comprehensive support for the development of a sound and balanced IP system and capacity for IP enforcement in the region. The AANZFTA IP Chapter reinforces Parties' rights and obligations under TRIPS with an effort to update IP protection through its cooperation provision.

With regard to the protection of Intellectual Property under the AANZFTA, nationals of Parties shall be accorded National Treatment (i.e. will not be treated any less favorably than a Party's own nationals). In addition, the AANZFTA IP Chapter also contains specific obligations to protect IP, copyright, trademarks, geographical indications, government use of software and to provide for greater transparency. Parties are obliged to ensure that all laws and regulations of general application that pertain to the availability, scope, acquisition, enforcement and prevention of the abuse of IP rights are made publicly available in at least the national language or in English. Parties are also required to make public information on judicial decisions and administrative rulings pertaining to IP protection and where possible to make information available on the internet. Finally, Parties are obliged to make available an internet database of all pending and registered trademark rights in their jurisdictions.

The AANZFTA IP Chapter contains detailed provisions for cooperation between the Parties to assist in the implementation of the Chapter. The cooperation is intended to support Parties' accession to and implementation of international IP Agreements, such as: Singapore Treaty on the Law of Trademarks (2006), WIPO Copyright Treaty (1996), and WIPO Performances and Phonograms Treaty (1996). The cooperation provisions also include the establishment of a Committee on Intellectual Property to support implementation, information exchange on IP infringements, promotion of IP education and awareness, promotion of efficiency and transparency in IP administration and registration systems, and the facilitation of responses to

requests by Parties for technical assistance to enhance their respective national IP frameworks. The AANZFTA IP Committee continues to develop capacity building programs to support IP protection and cooperation in the region.

In order to implement the AANZFTA Chapter on economic cooperation, an AANZFTA Economic Support Programme (AECSP) was established in 2009 and it is comprised of two components: the Economic Cooperation Work Programme (ECWP) and the AANZFTA Support Unit (ASU) in the ASEAN Secretariat.

The ECWP consists of annual program outlining the objectives and assistance provided to Parties across eight components linked to key chapters of the AANZFTA, namely: Rules of Origin, Customs Procedures; Sanitary and Phytosanitary Measures; Standards, Technical Regulations and Conformity Assessment; Services; Investment; Intellectual Property; and Competition. There is also the FTA Joint Committee which is responsible for reviewing the implementation and operation of the AANZFTA Agreement.

To support development of strong IP regimes in ASEAN, a comprehensive programme of support is continuously put into place to assist ASEAN Parties to: (i) Improve capacity to develop sound and balanced IP frameworks and systems; (ii) Facilitate business use of IP systems through the region for the purpose of economic integration; (iii) Improve capacity to enforce IP rights; and (iv) Improve public and business awareness of the benefits of sound and balanced IP regimes.

### 3. Main Intellectual Property Rights (IPRs)

Intellectual Property (IP) can be defined, in very simple terms, as a set of exclusive rights granted<sup>1</sup> by State authorities to creators of new ideas.

Under the general notion of IP, there are different types of exclusive rights, which are suitable for different types of creations. By way of example:

- ▶ **PATENTS:** are used to protect new inventions, i.e. new products or processes that represent technical solutions to existing technical problems. Smaller and less revolutionary inventions are protected as [Utility Models](#).
- ▶ **TRADEMARKS:** are used to protect signs that distinguish the products/services of a company or a physical person from those of competitors. They can take the form of one or more words, a logo, an image or a mixture of all these elements.
- ▶ **INDUSTRIAL DESIGNS:** are used to obtain exclusive rights over the ornamental shape of utilitarian products and are particularly useful to protect efforts to improve the visual appearance of products.
- ▶ **COPYRIGHT:** protects original creations in the artistic and literary field. These include any written materials such as companies' brochures, advertisements, reports, software programs, etc. In short, anything written or drawn with a pen or a computer are automatically protected by copyright. On the other hand, the exclusive rights of persons and companies that contribute to the spreading of copyrighted words (such as Performers, Phonograms Producers and Broadcasting Organisations) are protected by [Neighbouring \(or Related\) Rights](#).
- ▶ **GEOGRAPHICAL INDICATIONS:** protect signs that indicate that a product originates in a given geographical area and its qualities, reputation, or other characteristics are essentially due to its geographical origin.
- ▶ **TRADE SECRETS:** protect any confidential business information that provides a company with a competitive advantage, precisely because it is kept secret. By way of example, more

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<sup>1</sup> Or "recognised" in the case of copyright (in view of the principle of automatic protection)



effective after-sales or marketing strategies, list of customers with their contact details and commercial preferences, etc. qualify for protection as trade secrets.

- ▶ **DOMAIN NAMES:** protect the core part of internet addresses. Often, but not always, domain names encompass the company's (main) mark.

Each IP right above provides its owners with **EXCLUSIVE RIGHTS** over the outcome of their innovation. In other words:

- ☑ Their innovation will be protected from their competitors in the market; Their innovation remains theirs, and no one else can use it; and
- ☑ Anyone wishing to utilise their protected IPRs will have to obtain their prior authorisation (and of course they will be able to determine the corresponding economic conditions).
- ☑ These exclusive rights are their compensation and reward for their innovative endeavours, which almost systematically involve not only creativity, but also significant costs.

However, it is crucial to remember that IP rights are territorial in nature. This principle, known as **the principle of TERRITORIALITY**, implies that IP owners are protected only in those countries where their IP rights have been duly filed and registered. As a consequence, if they plan to export to a new country, they have to make sure to protect their relevant IPRs there before commencing commercialisation. Otherwise they will not be protected in the new country and anyone would be able to copy their innovative products or services.

## 4. IPRs Legal Requirements

Each country provides in its domestic legislation a set of legal requirements for the validity of each type of IP right. The good news is that, in view of their widespread membership in IP international treaties and conventions, such requirements are more or less the same in all AANZFTA parties.

Chapter C provides, in a table format, the precise list of all legislative requirements for each type of IP right and in each country. Their explanation is provided in the following paragraphs.

### TRADEMARKS

In order to be valid in ASEAN countries, Australia and New Zealand, a trademark must comply with the following legal requirements:

#### ☑ **DISTINCTIVE CHARACTER**

Trademarks should be capable of distinguishing the goods and/or services of a certain company (or individual/s) from those of other companies (or individuals). The notion of “distinctiveness” is therefore at the core of the notion of trademarks. However, often this concept is not defined in domestic trademark laws, which instead indicate that, in order to be valid, trademarks should not be, *inter alia*, “merely descriptive” or “generic”.

These notions are based on the famous “principle of SPECIFICITY” (or “speciality”) whereby marks are considered distinctive, descriptive or generic depending on the specific goods and/or services for which the marks are protected. This principle is therefore based on the strong link between the mark and the goods/services that it covers. For information, all goods and services are classified in accordance with an international treaty called “International Classification of Goods and Services for the Purposes of the Registration of Marks under the Nice Agreement” (in short: “Nice Classification”). It consists of 45 classes: 34 for products and 9 for services. For more information, please see: <http://www.wipo.int/classifications/nice/en/>

Real life examples might help with understanding the difference between a “distinctive mark” (which means that the mark is valid, strong), a “descriptive mark” (meaning that the mark is non-valid or at least weak) and a “generic mark” (which is obviously non-valid).

By way of example, the invented mark PEAR (with a logo representing a pear) would be:

- Distinctive if used for ... electronic appliances;
- Generic is used to sell ... pears;
- Descriptive for fruit juices.

Similarly, imagining for a moment that trademark CAMEL® is not well-known, the mark would be:

- Distinctive for cigarettes;
- Generic if used to trade camels;
- Descriptive if used to sell camel-related products (e.g. camel milk, camel leather).

Obviously, trademarks that have no meaning (such as KODAK®) cannot be descriptive or generic.

The analysis as to whether a proposed mark is distinctive or not has to be carried out using as a reference point the **average consumer** of that particular product in the country concerned. If the average consumer knows the meaning of the mark and he/she esteems that there is a direct relationship between the meaning/message of the mark and the goods/services covered by the mark, then the proposed mark is descriptive.

However, not all descriptive marks are unlawful. Only marks that are essentially or merely descriptive should be considered as such. Other circumstances may render a partially descriptive mark more distinctive and therefore stronger and valid. By way of example:

- A non-descriptive logo may be added to the word mark;
- The mark may be filed and used in a special script (and not in standard capital letters) or in a special colour (and not in black and white)

Finally, it should be recalled that the level of distinctiveness of a mark is not constant over time. It may increase or decrease, depending on a number of occurrences including the type and frequency of utilisation of the mark. In other words, a partially descriptive mark may become more distinctive if used for years in a consistent manner. This phenomenon is called “**secondary meaning**” or “**acquired distinctiveness**”. On the other hand, the distinctive level of a mark may also decrease and disappear. This is the so-called “vulgarisation” or “genericization” of the mark.

#### **NOT DESCRIPTIVE**

As already explained in the point above, a mark should not merely describe the qualities, characteristics, the origin, the intended purposes, etc. of the products or services covered by the mark itself. By way of example, the following terms might be problematic as almost systematically descriptive:

- Adjectives (such as: cheap, faster, beautiful, future, etc.);
- Laudatory expressions (such as: the best, number one, super, the king of ... etc.);
- Geographical terms (the name of a town, village, or place, as this would describe the origin of the products in question).

Adopting as a trademark the generic term used by the public for a given product (e.g. “phone” to provide telephone services) accompanied by one of the above terms would certainly not make the situation any better.

However, as already mentioned, not all the terms above would automatically render a mark null and void. If coupled with other highly distinctive terms or logos, the mark may be valid (though not necessarily very strong).

**NOT MISLEADING**

A mark cannot mislead the relevant public as to the qualities, characteristics, or origin of the products or services covered by mark itself. In other words, a trademark cannot convey a message that is not true.



By way of example, a geographical term (such as “Mandalay”) might lead consumers to believe that the products come from that place, and if this is not the case, the mark will be misleading as to the origin of the products. Similarly, the same would apply to a mark that hints to the “freshness” of the milk contained in the packaging, while the product consists of powdered milk.

**NOT GENERIC**

As already mentioned above, a generic mark is a sign that corresponds to the ordinary term used by the relevant public to name a particular product. No intellectual property law or institution would ever accept to grant exclusive rights to a single company or individual over a generic name, as this would amount to excluding everybody else from using it. By way of example, a producer of shoes could never obtain a trademark on the word “shoes” per se.

**NOT CONTRARY TO PUBLIC ORDER, MORALITY**

Trademarks cannot offend the sensitivity of people, their values, their morality, their religion, and cannot be against any domestic legislative text.

By way of example, names of drugs and of weapons, names linked to terrorist organisations and organised crime, words or imagines that are sexually explicit or vulgar may be rejected as trademarks, even if applied for products that are completely lawful if the country concerned (e.g. COCAINE for garments)

**NOT IDENTICAL TO A NATIONAL FLAG AND OTHER STATE EMBLEMS**

Nobody should use for commercial purposes as a trademark the name of a country, its flag, or other national emblems, etc. Only the State can decide who is entitled to use such symbols and under what circumstances.



**NOT IN CONFLICT WITH PRIOR RIGHTS**

A trademark should not infringe the exclusive rights of owners of prior marks or of other IP rights. This is the so-called “relative grounds” for the refusal of a mark (as opposed to the previous legal requirements that are referred to as “absolute requirements”). In order to find out if a proposed mark is available (i.e. it is “new”) a trademark search should be conducted by using a reliable databank such as:

- **ASEAN TMView**, available at: <http://www.asean-tmview.org/tmview/welcome.html>. This database is very useful to verify if a proposed mark is available for registration in any of the ASEAN countries (with the exception of Myanmar).
- **TMView**, available at <https://www.tmdn.org/tmview/welcome>. This search tool is useful to check the availability of a mark in all EU countries and in numerous other partner offices (please see full list of participating countries at the above internet address).
- **WIPO Global Brands database**, covering trademarks registered in a wide number of countries parties to WIPO, and available at: <https://www.wipo.int/branddb/en/index.jsp>.

A trademark is not considered as new/available if in the same country:

- There are prior identical or similar signs,
- For identical or similar goods and/or services.

The notion of “identical” signs is pretty straightforward, and it does not require much explanation for identical goods/services. On the contrary, some explanations are needed in the case of “similarity” between signs or between goods/services. In particular, two signs/trademarks may be similar from a:

- **VISUAL** point of view, i.e. when the two marks look alike, because of a number of elements, like colours, shapes, letters, etc.;
- **PHONETICAL** point of view, i.e. when the two marks sound similar;
- **CONCEPTUAL** point of view, i.e. when the meaning of the two marks is the same (e.g. the English word “house” and the Khmer term “ptea” have the same meaning and therefore if used as marks, they would be conceptually similar).

On the other hand, two products (or services) can be considered similar if they have the same purpose or the same public; the same channels of distribution or they are inherently linked (like a wheel of a bicycle and a bicycle). They can also be deemed as similar if one can replace the other, should the first not be available. It is important to remember that while similar products/services often fall within the same class of the Nice Classification, this may not always be the case. There are in fact similar products that belong to different classes and different products may fall under the same class.

## PATENTS

In order to be validly registered as a patent, an invention must:

- ☑ **Refer to a patentable subject matter:** many countries provide that, for example, discoveries, mathematical and scientific methods, methods for doing business, games, plants and animals are forbidden from patentability. It is therefore advisable to check the precise list of non-patentable subject matters contained in the patent law of the countries where the invention has to be protected.
- ☑ **Be new:** this means that invention cannot be “anticipated by the prior art”. This technical expression in reality simply means that the invention is not new if it was already disclosed to the public anywhere in the world by way of written or oral disclosures. For example, a patent will not be granted because of the lack of novelty if the invention:
  - is already covered by another earlier patent (registered or applied for), or
  - was described in detail in a conference, a study, an assessment, or
  - was simply used by someone somewhere around the world.

In order to find out if an invention is new a “novelty research” should be carried out by a technical specialist. Only if the proposed invention is completely new worldwide, you will be able to obtain a patent in your own country and possibly elsewhere. If, instead, the invention already exists and it is registered in your country, then you can neither register it nor use it (without authorisation from the legitimate owner). Finally, if it is registered in other countries, but not in yours, then feel free to use it without any need to ask for permissions or paying money to anybody. Asking an expert to check for you patents’ databases in your area of technology, could be an excellent way to find out what already exists around the world and what you can use free of charge.

- ☑ **Have industrial applicability:** this means that the invention must be useful and capable of being reproduced on a large scale (by any industry, agriculture or fishery).
- ☑ **Have an inventive step:** an invention possesses an inventive step if it cannot be considered as obvious for the “man skilled in the art”. In other words, standing in the

shoes of somebody who holds some level of expertise in the relevant technical field, only inventions that represent a real technological advance as compared to what already exists will qualify for patent protection.

- ☑ **Be fully disclosed:** a patent must describe in detail the invention, failing which the patent will not be granted or it can be canceled at any time.

## INDUSTRIAL DESIGNS

Most countries provide that the legal requirements for an industrial design, whether 2-D or 3-D, are:

1. **Be New:** a particular shape is new if it has not been disclosed to the public, anywhere around the world, by publication, display or simply used in any other way, before the filing date. If you want to find out if a particular design is new or not, you have to carry out an availability search by using tools such as **DesignView** available at: <https://www.tmdn.org/tmdsview-web/welcome> (and **ASEAN DesignView**, available at <http://www.asean-designview.org/designview/welcome>).
2. **Not dictated essentially by technical or functional considerations:** merely functional or technical shapes do not enjoy protection as industrial designs, but if anything, as patents or utility models.
3. **Not contrary to public order or morality:** the particular 2-D or 3-D shape cannot be vulgar, offend people, values and beliefs.

## COPYRIGHT

The only legal criterion for protection under copyright is ORIGINALITY. A given creation will therefore qualify for copyright protection if it is the original expression of its author. In other words, there will be no originality if the author has copied somebody else's work.

## B. HOW TO PROTECT IPRS (SHORT ANALYSIS)

### 1. Introduction

Trademarks, patents, and industrial designs, as the main IP rights, are intangible by definition. As such, they are extremely easy to copy. The only way in which creators of IPRs may prevent this from happening (or are able to fight against this phenomenon) is by protecting their trademarks, patents, and industrial designs, through registration with their domestic IP offices.

The registration of IP rights can be obtained following a procedure that starts with the filing of an IPR with the national IP office. The procedure is slightly different in each country. However, if the outcome is positive a certificate of registration will be issued by the IP office. This implies that nobody can copy the protected IP right and only its legitimate owner can decide who can use the IP right in question, and under what conditions. In addition, once protected, IPRs can be enforced against people who violate the exclusive rights of their owners.

While registration is compulsory for securing protection of patents, trademarks and industrial designs, in the case of copyright, registration is optional. Copyright works are automatically protected, and their registration (or more precisely: “deposit”) with your national Copyright Office is only advisable in order to facilitate the burden of proof of ownership.

Filing an IP right for registration is not extremely difficult, and at times national IP offices offer free advice and support to applicants. However, particularly in the case of filing patents and industrial designs, the process is quite technical. In all cases, it would be **highly advisable to appoint an experienced IP professional** with solid experience and with the capacity to assist applicants throughout the process.

The sections below provide a short description of how trademarks, patents and industrial designs can be protected at home (through the so-called “national route”) and abroad (through the “international route”). Chapter C provides details of the filing procedures for the above IPRs rights in all ten ASEAN countries, Australia and New Zealand.

### 2. National Route

As already mentioned, in order to protect IP rights at national level, they should be filed and registered with the national Intellectual Property Office of the country concerned. The first step should be to check the website of the national IP office, as it systematically contains detailed information about what to do to file patents, trademarks and industrial designs at domestic level. Most IP offices nowadays provide facilities for online registration.

Whether online or in paper form, the applicant will have to fill in a form, providing basic information about itself as IP owner, and about the IP right for which protection is sought. The procedure will vary depending on whether a mark, an invention or a design is being registered.

- ▶ In the case of **TRADEMARKS**, a sample of the mark will have to be provided, together with the list of the products and/or services for which the mark will be used (classified in accordance with the Nice Classification). In order to properly classify goods and services covered by a proposed trademark, there are some precious tools that should be used:
  - **ASEAN TMClass**, available at <http://www.asean-tmclass.org/ec2/>
  - **TMClass**, available at: <http://tmclass.tmdn.org/ec2/> referring to the EUIPO, the offices of the EU Member States and of numerous other partners.

In order to discover if your proposed mark is available and does not infringe any prior registered marks, you should conduct an “availability” search as described above.

- ▶ In the case of **INDUSTRIAL DESIGNS**, in addition to information relating to the applicant, drawings, photographs or other adequate graphic representations of the industrial design will have to be provided, as well as the indication of the kind of products for which the industrial design will be used, classified in accordance with the Locarno Classification. In this context, the following tools should be used:
  - **EUROLOCARNO**, available at: <https://oami.europa.eu/eurolocarno/> to easily identify the relevant class/es of the Locarno Classification in which products embodying the design which is being registered are classified, and
  - **DesignView** available at: <https://www.tmdn.org/tmdsview-web/welcome> (and **ASEAN DesignView**, available at <http://www.asean-designview.org/designview/welcome>) to assess if the proposed design is new or not.
- ▶ In the case of **PATENTS**, the application has to include one or more “claims” (that define the scope of protection sought for the invention), a description of the invention, drawings if appropriate, and an abstract. Also in this case, the relevant class of the Strasbourg Classification (available at: <https://www.wipo.int/classifications/ipc/en/>) in which the invention falls will have to be indicated.
- ▶ The (non-compulsory) deposit for **COPYRIGHT** is normally a very simple and straightforward procedure. Information is available on the site of national Copyright offices.

For more precise information about the filing processes of patents, trademarks and industrial designs in the various ASEAN countries, in Australia and New Zealand, please refer to Chapter C below.

The national route is available to anybody. However, it is only advisable in two cases:

- ▶ Either a business is limited to its home country and does not operate in other countries; or
- ▶ The countries where the business plans to operate and would like to obtain protection do not belong to the international system described below.

Should this be the case, the national route remains the only option to obtain the same protection in other countries. A local expert will have to be appointed in each country to file a national application, complying with the requirements of the various domestic laws, and paying fees in the local currency. The process is time-consuming, cumbersome and certainly more expensive than utilising the “international route” (see below).

### 3. International Route

As already mentioned, IP rights are territorial in nature. This means that if they are filed and registered in a particular country, they are not protected in other countries. This is in line with the famous Principle of Territoriality. Therefore, business people wishing to expand their operations to other countries will have to get their IPRs duly filed and protected also in those countries before embarking on export or other commercial activities.

In short, all IPRs should be protected in ALL relevant countries where business will take place.

As already mentioned, the national route is definitely not the best option to protect your IPRs in other countries if they are members to the international registration systems administered by WIPO:

- ▶ The Madrid system for the international registration of marks,
- ▶ The Hague system for the international registration of industrial designs, and
- ▶ The Patent Cooperation Treaty (PCT) for international registration of patents.

These systems enable IPR owners to obtain protection in any country party to the relevant international treaty, by **simply filing one application, in one language (including English), with one set of fees and in one currency** (Swiss francs). Similar advantages exist when the registration has to be renewed or is assigned to a third party or when other changes, such as in name and/or address, have to be recorded.

In other words, these systems offer a simple, economical and effective procedure that provides for:

- ▶ A centralised system for trademark, designs and patents filing and management in export markets;
- ▶ A single set of simple formalities;
- ▶ Lower registration fees (including a reduction of fees for SMEs from LDCs);
- ▶ No need to translate the application into several languages;
- ▶ The effects of an international registration equivalent to those of a national registration.

However, it is important to remember that:

1. The Madrid, The Hague and the PCT systems are merely PROCEDURAL mechanisms to facilitate the filing process (i.e. they only cover the FORMAL requirements that have to be complied with when filing an IPR). The domestic legislations of the designated Contracting Parties set the SUBSTANTIVE conditions for the actual granting of the protection of the various rights.
2. These systems are only available to individuals and companies that possess a link with one of the countries party to the system/s. This link can take the form of: the nationality (or country of incorporation in case of companies), the residence (or domicile), or a serious and effective commercial establishment.

In general, it is highly recommended to seek professional advice before filing an application through one of the WIPO-administered international registration systems. For more information about the international route and the three registration systems administered by WIPO, please see: <https://www.wipo.int/services/en/>.



## C. COUNTRY PROFILES



### Australia

#### IP OFFICES

Industrial Property (Patents, Trade Marks and Industrial Designs)	
Competent Authority	<b>IP Australia</b>
Web site address	<a href="http://www.ipaustralia.gov.au">http://www.ipaustralia.gov.au</a>
Address	Mailing address: PO Box 200, Woden ACT 2606
Telephone	(61 2) 62832999
E-mail	<a href="mailto:eservices@ipaustralia.gov.au">eservices@ipaustralia.gov.au</a>

Copyright	
Competent Authority	<b>Content &amp; Copyright Branch, Department of Communications and the Arts</b>
Web site address	<a href="https://www.communications.gov.au/what-we-do/copyright">https://www.communications.gov.au/what-we-do/copyright</a>
Address	2 Phillip Law Street Canberra ACT 2601
Telephone	(61 2) 6271 1000
Telefax	(61 2) 6271 1901
E-mail address	<a href="mailto:copyright@communications.gov.au">copyright@communications.gov.au</a>

#### MAIN INTERNATIONAL IP CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S.No.	Instrument	InForce Since
1.	Berne Convention	April 14, 1928
2.	Brussels Convention	October 26, 1990
3.	Budapest Treaty	July 7, 1987
4.	Madrid Protocol	July 11, 2001
5.	Marrakesh VIP Treaty	September 30, 2016
6.	Nice Agreement	April 8, 1961
7.	Paris Convention	October 10, 1925
8.	Patent Cooperation Treaty	March 31, 1980
9.	Patent Law Treaty	March 16, 2009
10.	Phonograms Convention	June 22, 1974
11.	Rome Convention	September 30, 1992
12.	Singapore Treaty	March 16, 2009
13.	Strasbourg Agreement	November 12, 1975
14.	Trademark Law Treaty	January 21, 1998
15.	UPOV Convention	March 1, 1989
16.	WIPO Convention	August 10, 1972
17.	WIPO Copyright Treaty	July 26, 2007
18.	WIPO Performances and Phonograms Treaty	July 26, 2007

For More Information, please refer to: [https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=10C](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=10C)

IP Rights	Legal Requirements	Duration	Responsible Authority
<b>Copyright</b>	<ul style="list-style-type: none"> <li>• Originality</li> <li>• In material form</li> <li>• No copyright registration process in Australia</li> </ul>	<p>Life of author + 70 years</p> <p>Life of author + 70 years for literary, dramatic, artistic and musical works.</p> <p>70 years after creation or 70 years after first publication (if it is within 50 years of creation) - for sound recordings and cinematograph films.</p> <p>50 years after the year of the broadcast - for broadcasts.</p> <p>50 years after creation - for works made or published by the Commonwealth or a State or Territory ("Crown copyright").</p> <p>25 years after the year of publishing - for published editions.</p>	Department of Communications and the Arts
<b>Trade Marks</b>	<ul style="list-style-type: none"> <li>• Distinctiveness</li> <li>• Not in conflict with prior signs/ marks</li> <li>• Not generic</li> <li>• Not descriptive</li> <li>• Not contrary to Public Order/ Morality</li> </ul>	10 years renewable	The Registrar of Trade Marks, IP Australia
<b>Standard Patents &amp; Innovation</b>	<p>For Standard Patents:</p> <ul style="list-style-type: none"> <li>• Novelty</li> <li>• Industrial applicability</li> </ul>	<p>20 Years from the date of Patent in case of Standard Patent</p> <p>8 Years from the date of Patent for</p>	The Commissioner of Patents, IP
<b>Patents</b>	<ul style="list-style-type: none"> <li>• Inventive step</li> <li>• Disclosure</li> </ul> <p>For Innovation Patent:</p> <ul style="list-style-type: none"> <li>• Improvement over an existing technology</li> <li>• New &amp; Useful</li> </ul>	<p>Innovation Patent</p> <p>Extension of Patent term is allowed on certain grounds for Pharmaceutical Patents (Sect. 70)</p>	Australia
<b>Industrial Designs</b>	<ul style="list-style-type: none"> <li>• New</li> <li>• Distinctive</li> </ul>	5 Years (Renewable for further 5 years, for a total of 10 years)	The Registrar of Designs, IP Australia

PATENT SYSTEM	
National Law	<p><i>Patents Act 1990</i> (consolidated as of August 25, 2018, and lately revised as February 24, 2019)</p> <p><a href="https://wipolex.wipo.int/en/legislation/details/18976">https://wipolex.wipo.int/en/legislation/details/18976</a></p>
Requirement of Agent for Foreigners	Yes

Language in which request may be filed	English
Non-Patentable Subjects	<ul style="list-style-type: none"> <li>• Discoveries with no means of putting them into effect;</li> <li>• Mere ideas; schemes or plans;</li> <li>• Scientific theories; and</li> <li>• Mathematical algorithms</li> <li>• Human beings, and the biological processes for their generation</li> </ul>
Substantive Examination	Mandatory for Standard Patent. Optional for Innovation Patent
Opposition	Yes (Sect. 59).
PCT international application through the national office of the country as a receiving office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_au.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_au.pdf</a>
PCT international application to the national office of the country as a designated office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/au.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/au.pdf</a>

#### INDUSTRIAL DESIGN SYSTEM

National Law	<i>Designs Act 2003</i> (consolidated as of August 25, 2018) <a href="https://wipolex.wipo.int/en/legislation/details/18974">https://wipolex.wipo.int/en/legislation/details/18974</a>
Language	English
Non-Registrable Subjects	<ul style="list-style-type: none"> <li>• Designs that are not new and not distinctive</li> <li>• Medals</li> <li>• Layout for an integrated circuit</li> <li>• The Olympic rings symbol, the Olympic motto or the torch and flames design, prescribed under the Olympic Insignia Protection Act 1987</li> <li>• The word 'Anzac'</li> <li>• Information or graphics which might reasonably be regarded as scandalous</li> <li>• Currency notes of a kind prohibited by subsection 19(1) of the Crimes (Currency) Act 1981</li> <li>• The coat of arms, flags or seal of the Commonwealth or any State of the Commonwealth</li> <li>• The coat of arms or emblems of any city or town in the Commonwealth or any State, Territory, public authority or public institution in Australia</li> <li>• Armorial bearings, flags, State emblems or signs of any country other than the Commonwealth.</li> </ul>
Substantive Examination	No
Designs for a set of products	It is possible to file a single design application for more than one design of multiple products if each product belongs to the same Locarno class. (Section 22)
International application through and to the national office of the country under the Hague System	Australia is not a party to the Hague Agreement.

TRADE MARK SYSTEM	
National Law	The Trade Marks Act 1995 <a href="https://wipolex.wipo.int/en/legislation/details/18978">https://wipolex.wipo.int/en/legislation/details/18978</a>
Subjects of Protection	<ul style="list-style-type: none"> <li>• Distinctive Marks</li> <li>• Non-Traditional trademarks like sounds, scents, shapes, colour or aspects of packaging. However, these should be accompanied by a concise and accurate description.</li> <li>• Certification Marks</li> <li>• Collective Marks</li> </ul>
Language	English
Non-Registrable Subjects	<ul style="list-style-type: none"> <li>• Descriptive Mark (Sect. 41)</li> <li>• Mark that is scandalous or contrary to Law (Sect. 42)</li> <li>• Mark that is likely to deceive or cause confusion (Sect. 43)</li> <li>• Trade marks that are identical or similar to previously registered signs (Sect. 44)</li> </ul>
Substantive Examination	Yes (Sect. 31).
Opposition System	Yes (Sect. 54).
International application through the national office of the country as an office of origin under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9122&amp;datafields=9584,9583,9582">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9122&amp;datafields=9584,9583,9582</a>
International application to the national office of the country as a designated office of designated country under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9122&amp;datafields=9580,9577,9581,9579,9578,9582,9583,9584,9639,9640,9637,9633,9634,9635,9636,9631,9629,9630,9638,9601,9596,9600,9602,9597,9604,9599,9603,9598,9605,9628,9587,9586,9592,9589,9593,9590,9585,9588,9591,9594,9595,9623,9625,9626,9627,9622,9624,9614,9618,9611,9613,9619,9617,9615,9606,9608,9621,9610,9612,9607,9609,9620,9616">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9122&amp;datafields=9580,9577,9581,9579,9578,9582,9583,9584,9639,9640,9637,9633,9634,9635,9636,9631,9629,9630,9638,9601,9596,9600,9602,9597,9604,9599,9603,9598,9605,9628,9587,9586,9592,9589,9593,9590,9585,9588,9591,9594,9595,9623,9625,9626,9627,9622,9624,9614,9618,9611,9613,9619,9617,9615,9606,9608,9621,9610,9612,9607,9609,9620,9616</a>

COPYRIGHT SYSTEM	
National Law	Copyright Act 1968 <a href="https://wipolex.wipo.int/en/legislation/details/18588">https://wipolex.wipo.int/en/legislation/details/18588</a>
Subjects of Protection	<ul style="list-style-type: none"> <li>• Literary works</li> <li>• Dramatic works</li> <li>• Musical works</li> <li>• Artistic works</li> <li>• Films</li> <li>• Sound Recordings</li> <li>• Broadcasts</li> <li>• Published Editions</li> </ul> <p>There is no copyright registration process in Australia.</p>
Foreign Copyright Holders	Australia is a party to Berne Convention, hence works of foreign copyright holders whose countries are members of the Berne Convention are automatically protected.

Moral Rights	Moral Rights in Australia consists of: <ul style="list-style-type: none"> <li>• Right to Attribution</li> <li>• Right not to have authorship falsely attributed</li> <li>• Rights to integrity</li> </ul>
Economic Rights	The copyright conferred by the Copyright Act is a bundle of exclusive rights in relation to the work or material in question. They include the right: <ul style="list-style-type: none"> <li>• To reproduce the work;</li> <li>• To communicate to the public;</li> <li>• To make an adaptation of it;</li> <li>• To publish it;</li> <li>• To perform it in public; and</li> <li>• To broadcast it to the public</li> </ul>
Limitation to Author's Rights	The Copyright Act provides certain exceptions to copyright infringement. These include a number of so-called statutory licenses, under which copyright acts that would otherwise be infringing are permitted, usually subject to payment or some remuneration.
Fair Dealing	The Copyright Act provides for certain circumstances where one can use Copyrighted material without seeking the owner's permission. Fair dealing exceptions to copyright infringement are provide for various activities, including: <ul style="list-style-type: none"> <li>• Criticism or review;</li> <li>• Parody or satire;</li> <li>• Reporting news;</li> <li>• Research or study;</li> <li>• Taking professional legal advice; and</li> </ul> For access by persons with a disability. (Sections 40-43, 103A- 104, 113E)

### TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY

While there is no official national technology transfer office, most research organisations have established dedicated units or companies to facilitate technology transfer. For more information, please visit: <https://www.alrc.gov.au/publications/17-technology-transfer/technology-transfer-offices>

### ATTORNEYS IN THE COUNTRY

Information in this regard is available at: <https://www.ipaustralia.gov.au/about-us/doing-business-us/ip-professionals-and-other-sites>

### FILING PROCEDURES

#### Patents

#### **Procedures for obtaining a Patent in Australia under the National Law**

1. An application for the grant of a patent has to be filed in accordance with Section 29 of the Act. An application can be filed with provisional or complete specifications.
2. The filing date of the patent shall be as provided in the regulations (Sect. 30).
3. Once a complete application is filed, the Commissioner may conduct a preliminary search and issues an opinion with regard to the patent request (Sect. 43A).
4. After filing of a complete application, the applicant may request for the examination of the application within the prescribed period, or the Commissioner may, on some prescribed grounds, direct the applicant to request an examination, or, in case the patent request and

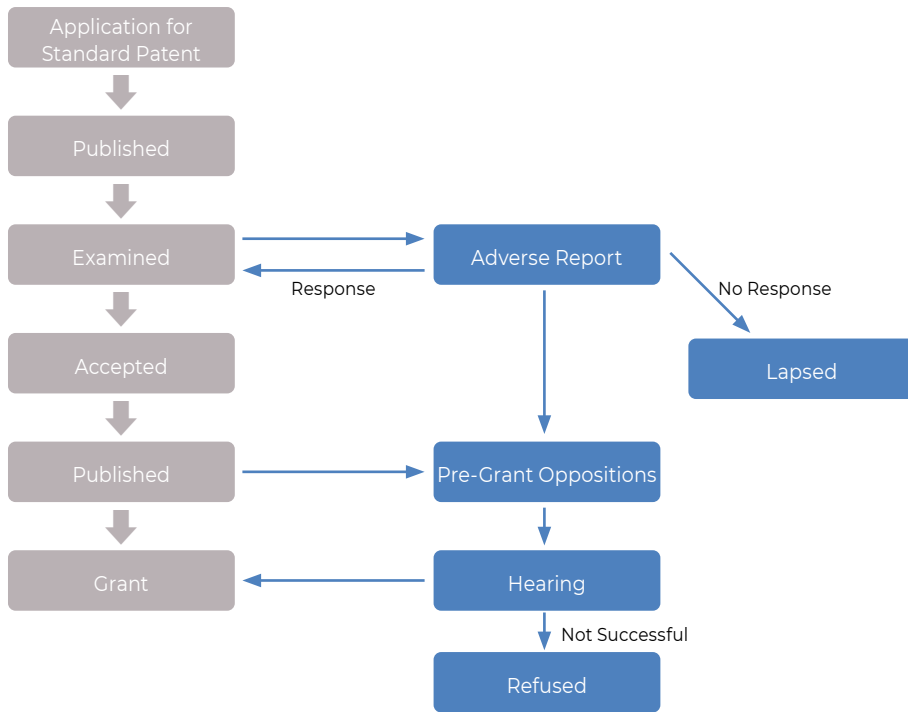
specification relating to a complete application for a standard patent are open to public inspection, a person may ask the Commissioner to direct the applicant to request for examination (Sect. 44).

5. Following the request for examination, the application undergoes a detailed examination. During the examination stage, an application is either accepted or an adverse examination report may be issued, with an opportunity for the applicant to respond with amendments to the application (Sect. 45).
6. If the Commissioner accepts the patent application, he/she will notify the acceptance and publish a notice of acceptance in the official journal (Sect. 49). The Commissioner may also refuse the application (Sect. 49, 50).
7. The Minister or any other person may oppose the patent application based on the grounds mentioned under Section 59. In case any opposition is received, the Commissioner conducts a hearing and accordingly decides the matter.

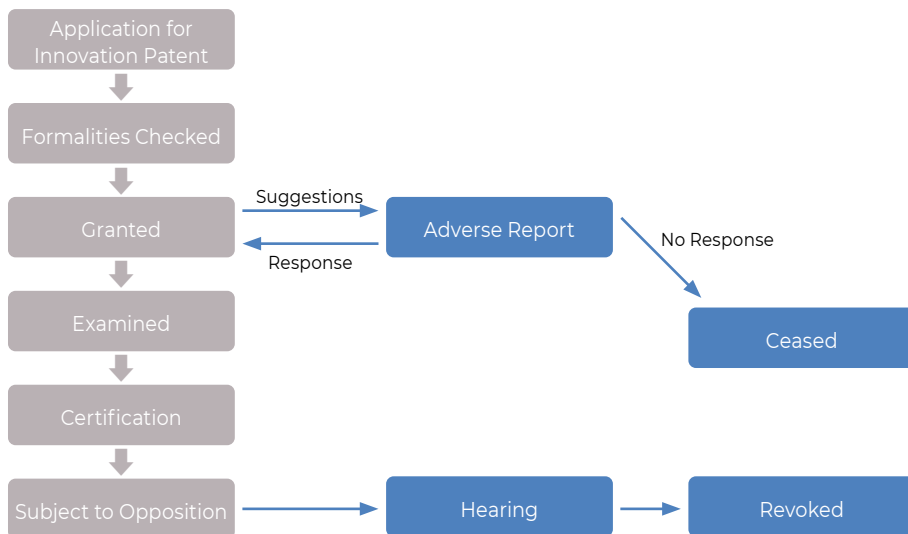
**Additional information relating to the Procedures for obtaining a Patent in Australia through PCT**

- ▶ The time limit for entering the Australian national phase of a PCT application is 31 months from the priority date.
- ▶ Special Requirement of Australian IP Office for the entry into National Phase:
  - Name of the inventor if it has not been furnished in the "Request" part of the international application;
  - Statement or notice as to the applicant's entitlement to apply for and be granted a patent;
  - Statement or notice as to the applicant's entitlement to claim priority of the earlier application;
  - Address for service in Australia;
  - Verification of translation, if any

**Flow Chart of Filing Procedure for Standard Patents in Australia**



**Flow Chart of Filing Procedure for Innovation Patents in Australia**

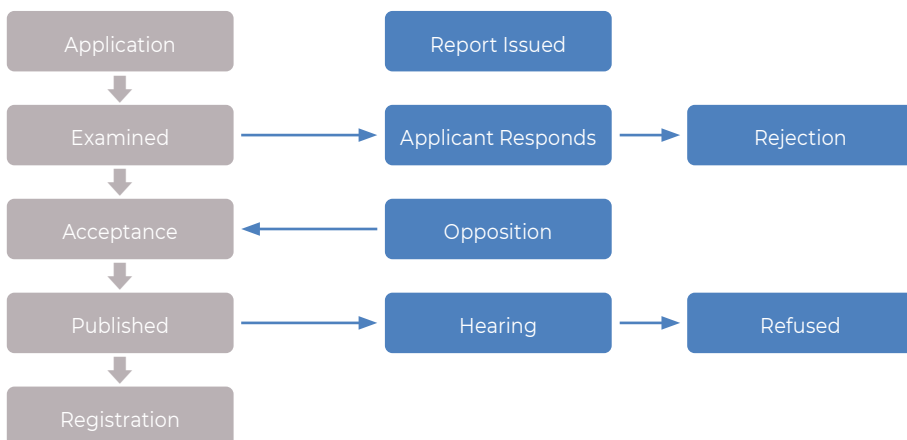


## Trade Marks

### Procedures for obtaining a Trademark in Australia under the National Law

1. An application for the registration of trademark can be made by a person in accordance with Section 27. In this regard, an applicant shall provide:
  - a. Full name and address;
  - b. A clear representation of the trademark (preferably in electronic format in case of device or logo);
  - c. The classes in which the application is to be filed;
  - d. A description of the goods and/or services; and
  - e. Details of any convention priority claim.
2. The Registrar conducts detailed examination of the application to assess both formal and substantive requirements provided by the Act (Sect. 31).
3. In case an adverse report is issued by the Registrar, the applicant is given an opportunity to respond.
4. The Registrar may reconsider the application, and before rejecting the application the Registrar has to give the applicant an opportunity for a hearing.
5. Once the application is accepted, a notice of acceptance is sent to the applicant and an advertisement of acceptance is published in the Australian Official Journal of Trademarks.
6. In the event that the application is opposed by third parties, the applicant is provided with an opportunity to defend his/her application by furnishing additional documents and justifications.
7. In case of opposition, a hearing is conducted by the Deputy Registrar or a Hearing Officer under delegation from the Registrar. Subsequently, the delegate of the Registrar adjudicates the opposition by either registering or refusing registration of the mark in question.
8. In case no opposition is received, the Registrar registers the trademark.
9. A trade mark may be renewed at ten year intervals dating from the original filing date of the application for registration. A person files a request for renewal and pays a fee. There is no limit upon the number of times a registration may be renewed. If the registration of a trade mark is not renewed, then it ceases to have effect after the expiry date.

### Flow Chart of Filing Procedures for Trademarks



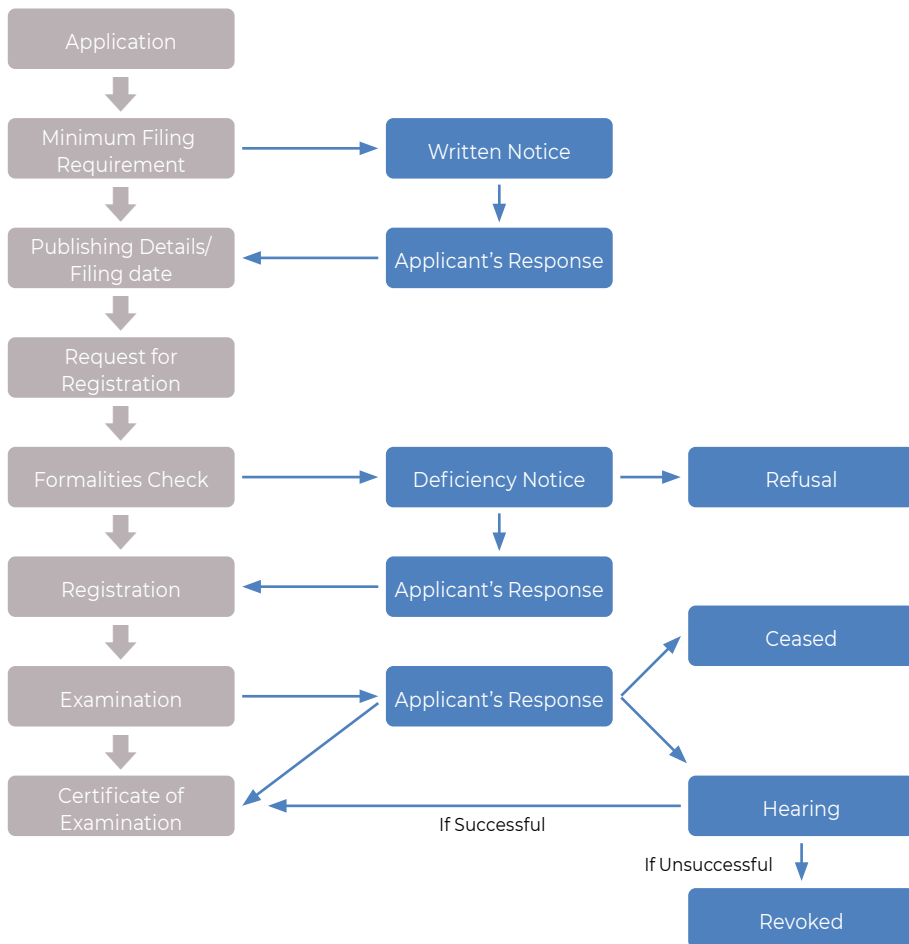


## Industrial Designs

### **Procedures for obtaining an Industrial Design in Australia**

1. An application for obtaining an industrial design in Australia can be made to the Registrar of Designs (Sect. 21). As provided by Section 22, a single design application may consist of:
  - a. One design in relation to one product
  - b. One design that is a common design in relation to more than one product
  - c. More than one design in relation to one product
  - d. More than one design in relation to more than one product, only if each product belongs to the same class of the Locarno Classification.
2. If the design application meets the minimum filing requirements, the design application receives a priority date (Sect. 27, but also 24 – 26).
3. The applicant may, within the prescribed period, request registration or publication of all or any of the designs disclosed in the application. An applicant must request either registration of each design in the application at filing, or do so within six (6) months from the priority date of the application, otherwise the application will lapse.
4. After a request is made, the design application undergoes a 'formality check'. The applicant is subsequently notified in writing of any deficiency in their application in a "deficiency notice" and the application has to be amended within two months of the first notice.
5. Where the objections in the deficiency notices have been overcome, the design is registered and published in the Australian Official Journal of Designs.
6. Once a design is registered and subject to an additional fee for the examination request, it can then be examined for certification. The examination will determine whether the design is new and distinctive when compared with the prior art base. It will result in either:
  - A certified design right (a certificate confirming a design right is enforceable), or
  - An adverse report which provides an opportunity for amendments to be made to the Register to overcome grounds of revocation raised.
7. The registered owner may respond to the report by either making amendments to the Register to remove the grounds of revocation or providing arguments contesting the examination report.
8. If the Registrar is satisfied that a ground for revocation has not been made out, or would be removed if proposed amendments are made and allowable, then the examination is complete.

### Flow Chart for Filing Procedures for Industrial Designs





## Brunei Darussalam

### IP OFFICES

Intellectual Property (Patents, Trademarks, Industrial Designs, Copyright and Plant Varieties Protection)	
Competent Authority	Brunei Darussalam Intellectual Property Office (BruIPO) Attorney General's Chambers (AGC)
Web site address	<a href="http://www.bruipo.gov.bn">http://www.bruipo.gov.bn</a>
Address	Knowledge Hub (Khub) Simpang 32-37, Anggerek Desa Technology Park Jalan Berakas BB3713, Brunei Darussalam
Telephone	(673) 238 0965
E-mail	<a href="mailto:enquiries@bruipo.gov.bn">enquiries@bruipo.gov.bn</a>

### MAIN IP INTERNATIONAL CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S.No.	Signature	In Force Since
1.	Berne Convention	August 30, 2006
2.	Budapest Treaty	July 24, 2012
3.	Hague Agreement	December 24, 2013
4.	Madrid Protocol	January 6, 2017
5.	Paris Convention	February 17, 2012
6.	Patent Cooperation Treaty	July 24, 2012
7.	WIPO Convention	April 21, 1994
8.	WIPO Copyright Treaty	May 2, 2017
9.	WIPO Performances and Phonograms Treaty	May 2, 2017

For more information please refer to: [https://www.wipo.int/directory/en/contact.jsp?country\\_id=21](https://www.wipo.int/directory/en/contact.jsp?country_id=21)

IP Rights	Legal Requirements	Duration	Responsible Authority
<b>Copyright</b>	<ul style="list-style-type: none"> <li>Originality</li> </ul>	Life of author + 50 years	Brunei Darussalam Intellectual Property Office (BruIPO)
<b>Trademarks</b>	<ul style="list-style-type: none"> <li>Distinctiveness</li> <li>Not in conflict with prior signs</li> <li>Not generic</li> <li>Not descriptive</li> <li>Not contrary to Public Order/Morality</li> </ul>	10 years renewable indefinitely every 10 years	Brunei Darussalam Intellectual Property Office (BruIPO)
<b>Patents</b>	<ul style="list-style-type: none"> <li>Novelty</li> <li>Inventive step</li> <li>Industrial Applicability</li> </ul>	20 Years Renewable starting the 5 <sup>th</sup> year.	Brunei Darussalam Intellectual Property Office (BruIPO)

<b>Industrial Designs</b>	<ul style="list-style-type: none"> <li>• Novelty</li> <li>• Industrial Applicability</li> </ul>	5 Years renewable for two periods of 5 years each, for a total of 15 years	Brunei Darussalam Intellectual Property Office (BruiPO)
<b>Plant Varieties Protection</b>	<ul style="list-style-type: none"> <li>• Novelty</li> <li>• Distinctiveness</li> <li>• Uniform in its relevant characteristics</li> <li>• Stable (remain unchanged after repeated propagation)</li> </ul>	25 years	Brunei Darussalam Intellectual Property Office (BruiPO)

PATENT SYSTEM	
National Law	The Patents Order, 2011
Requirement of Agent by receiving office for foreigner	Yes
Language in which request may be filed	English
Non-Patentable Subjects	<ul style="list-style-type: none"> <li>• An invention the publication or exploitation of which would be generally expected to encourage offensive, immoral or anti-social behaviour is not a patentable invention.</li> <li>• Behavior shall not be regarded as offensive, immoral or anti-social only because it is prohibited by any law in force in Brunei Darussalam.</li> <li>• In the case of an invention consisting of a substance or composition for use in a method of treatment of the human or animal body by surgery or therapy or of diagnosis practised on the human or animal body, the fact that the substance or composition forms part of the state of the art shall not prevent the invention from being taken to be new if the use of the substance or composition in any such method does not form part of the state of the art. [Section 13 (2) &amp; (3); Section 14 (7)]</li> </ul>
Substantive Examination	Yes (Section 29)
PCT international application through the national office of the country as a receiving office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_bn.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_bn.pdf</a>
PCT international application to the national office of the country as a designated office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/bn.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/bn.pdf</a>

INDUSTRIAL DESIGN SYSTEM	
National Law	The Emergency (Industrial Designs) Order, 1999 (1st May 2000)
Language	English

Non-Registrable Subjects	<ul style="list-style-type: none"> <li>• Design should not be contrary to public order or morality (Section 10).</li> <li>• A design in an article is not registrable if aesthetic considerations are not normally considered to a material extent by persons acquiring or using articles (Section 11).</li> </ul>
Substantive Examination	No (Section 25).
International application through and to the national office of the country under the Hague System: no information. Please refer also the following website.	<a href="https://www.wipo.int/hague/memberprofiles/#/result?countries=10178&amp;datafields=9579,9580,9578,9577,9581,9590,9587,9591,9593,9588,9585,9592,9589,9586,9582,9583,9584,9645">https://www.wipo.int/hague/memberprofiles/#/result?countries=10178&amp;datafields=9579,9580,9578,9577,9581,9590,9587,9591,9593,9588,9585,9592,9589,9586,9582,9583,9584,9645</a>

TRADEMARK SYSTEM	
National Law	The Trade Marks Act (Chapter 98, Revised Edition 2000)
Subjects of Protection	Words (including personal names), Designs, Letters, Numerals, Shape of Goods and Packaging. (Section 4)
Language	English
Non-Registrable Subjects	<p>Absolute and relative grounds listed in Sections 6, 7 and 8 including:</p> <ul style="list-style-type: none"> <li>• Trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, time of production of goods or of rendering of services, or other characteristics of goods or services.</li> <li>• Trade marks which consist exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade.</li> <li>• Trade marks contrary public policy or to accepted principles of morality;</li> <li>• Deceptive marks.</li> </ul>
Substantive Examination	Yes
Opposition System	Yes. Opposition against a trademark application can be filed within 3 months after its publication in the official Journal.
International application through the national office of the country as an office of origin under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9132&amp;datafields=9579,9580,9581,9577,9578">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9132&amp;datafields=9579,9580,9581,9577,9578</a>
International application to the national office of the country as a designated office of designated country under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9132&amp;datafields=9579,9577,9581,9578,9580,9584,9582,9583,9624,9622,9625,9623,9626,9627,9638,9593,9587,9591,9594,9588,9589,9585,9590,9586,9592,9600,9603,9604,9596,9597,9602,9599,9601,9605,9598,9637,9634,9633,9635,9636,9639,9640,9607,9609,9611,9610,9612,9621,9613,9615,9620,9616,9606,9618,9608,9617,9614,9619,9628,9630,9629,9631,9595">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9132&amp;datafields=9579,9577,9581,9578,9580,9584,9582,9583,9624,9622,9625,9623,9626,9627,9638,9593,9587,9591,9594,9588,9589,9585,9590,9586,9592,9600,9603,9604,9596,9597,9602,9599,9601,9605,9598,9637,9634,9633,9635,9636,9639,9640,9607,9609,9611,9610,9612,9621,9613,9615,9620,9616,9606,9618,9608,9617,9614,9619,9628,9630,9629,9631,9595</a>

<b>COPYRIGHT SYSTEM</b>	
National Law	The Copyright Order, 1999
Subjects of Protection	<ul style="list-style-type: none"> <li>• Literary works, Dramatic and Musical Work</li> <li>• Artistic works</li> <li>• Sound Recordings and Films</li> <li>• Broadcasts</li> <li>• Cable Programs</li> <li>• Published Editions</li> </ul> (Sections 5 – 10)
Foreign Copyright Holders	Brunei is a party to Berne Convention hence works of foreign copyright holders are automatically protected.
Moral Rights	Moral Rights consists of: <ul style="list-style-type: none"> <li>• Paternity Right (the right to be identified as author or director).</li> <li>• Integrity Right (the right to object to a derogatory treatment of work).</li> <li>• False Attribution Right (the right not to have work falsely attribute).</li> <li>• Privacy Right (the right of privacy to certain photographs and films)</li> </ul> (Sections 80 – 92)
Economic Rights	They include: <ul style="list-style-type: none"> <li>• Rights of reproduction,</li> <li>• Rights of communication to public,</li> <li>• Rights to perform, showing or playing to the public,</li> <li>• Rights of distribution and rights of commercial rental.</li> </ul> (Sections 18 – 25)

<b>PLANT VARIETIES PROTECTION SYSTEM</b>	
National Law	Plant Varieties Protection Order, 2015
Language	English
Non-Registrable Subjects	<ul style="list-style-type: none"> <li>• The plant Variety is not new or distinct within the meaning of section 21 at the time of the grant of the protection.</li> <li>• The grant of protection was essentially based upon information and documents furnished by the breeder.</li> <li>• The grant of protection has been made to a person who is not entitled to it, unless it is transferred to the person who is entitled.</li> </ul>
Substantive Examination	No

<b>TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY</b>	
The Office of AVC (IE) is responsible for transforming UBD into a university of innovation and enterprise. The office functions include Education on IP, Entrepreneurship, Patents Application, Innovation Wharf, Prototype Development Unit, Industry Outreach, Marketing and Licensing, Business development, Start- ups, Consultancies, and UBD focal point of contact with Industry. <a href="https://innovation.ubd.edu.bn/">https://innovation.ubd.edu.bn/</a>	

## ATTORNEYS IN THE COUNTRY

While there is no official list, information regarding Intellectual Property Law Firms in Brunei can be found at: <https://www.hg.org/law-firms/intellectual-property/brunei.html>

## FILING PROCEDURES

### Patents

#### **Procedures for obtaining a Patent in Brunei under the National Law**

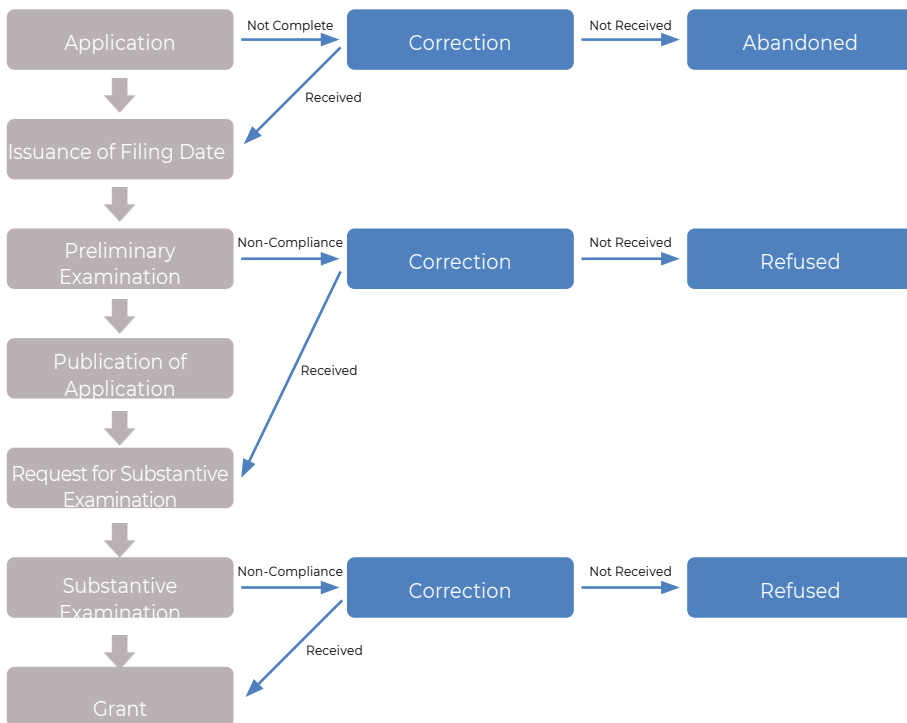
1. Every application for the grant of patent has to be filed with the registry in the manner prescribed in this regard under Section 25.
2. Once a complete application is filed with the Brunei Patent Office, a filing date is issued and the application is processed for preliminary examination (Section 26). In case of any irregularity, the Registrar informs the applicant.
3. After a filing date is issued, the Registrar of patents publishes the application, unless the same is withdrawn (Section 27).
4. The Registrar of Patents carries out a detailed formal examination of the application once the application is filed in compliance with Section 25 and fees are paid.
5. If the application passes this preliminary examination, a detailed search and substantive examination of the same is conducted (Section 28).
6. In case of any irregularities, the Registrar may ask the applicant to modify the application within a prescribed time (Section 28 (4)). In case the applicant does not comply with the directions of the Registrar, the application is refused (Section 28 (5)).
7. If the application complies with all the conditions of formal examination, the Registrar sends a notification to the applicant to request for search and examination report and pay the fees prescribed in this regard (Section 29 (2)).
8. After the request is made and the prescribed fees paid, the Registrar causes the examiners to conduct a substantive examination of the application. After the search and examination is concluded, the Registrar sends the search and examination report to the applicant (Section 29).
9. During the substantive examination, if the application is accepted, the applicant assesses if he/ she would proceed to obtain a grant of a patent.
10. If granted, a certificate of grant is issued, and this fact and date of grant is published in the Patents Journal (Section 30).

#### **Additional information relating to the Procedures for obtaining a Patent in Brunei through PCT**

- ▶ The time limit for entering the Brunei National Phase of a PCT application is 30 months from the priority date.
- ▶ Special Requirement of Brunei IP Office for entry into National Phase:
  - Name and address of the inventor if they have not been furnished in the "Request" part of the international application.
  - Statement justifying the applicant's right to the patent where the applicant is not the inventor.
  - Evidence of entitlement to claim priority where the applicant is not the applicant who filed the earlier application.
  - Document evidencing a change of name of the applicant if the change occurred after the international filing date and has not been reflected in a notification from the International Bureau.
  - Appointment of an agent if the applicant is not resident in Brunei.
  - Furnishing, where applicable, of a nucleotide and/or amino acid sequence listing in electronic form.

- ▶ An application has to be filed in the national phase, along with its translation and prescribed fees. The Applicant has to provide a proof of service in Brunei and appoint an agent in this regard.
- ▶ The applicant has to request for substantive examination within 42 months from the date of International Filing. The application has to be in English. The applicant can, at any point of time before the grant of the patent, request for the amendment of the patent application.

#### **Flow Chart for obtaining a Patent in Brunei**



### **Trademarks**

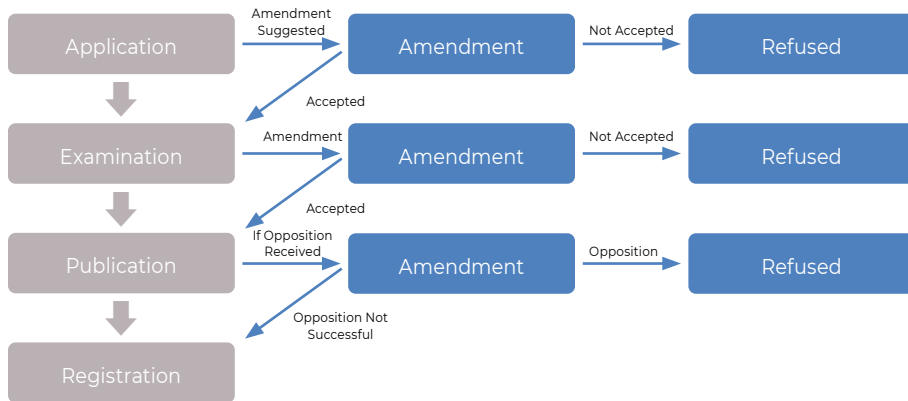
#### **Procedure for obtaining a Trademark in Brunei under the National Law**

1. An application has to be filed in a prescribed manner (see Rule 13), accompanied by the payment of the prescribed fees. In case the Registrar is of the opinion that the mark is not properly represented, he can ask the applicant to file another representation (Rule 14).
2. Once the application is properly filed with the Trademark office, it undergoes examination. In the course of the examination, if the Registrar finds any irregularity, it gives a notice to the applicant to correct the application within 2 months (Rule 24).
3. If the Registrar accepts the trademark application, he sends a notice to the applicant. On receipt of such notice, the applicant must comply with the requirements sent in the notice within 2 months of receipt of such notice (Rule 25).
4. After acceptance of the application, it is published in official Journal (Rule 26).
5. Possible oppositions be filed within three months from the official publication (Rule 29).
6. The Registrar decides on the opposition (Rule 31).



7. If the registration is finally accepted, a certificate of registration is issued to the applicant (Rule 34).

**Flow Chart for obtaining a Trademark in Brunei**

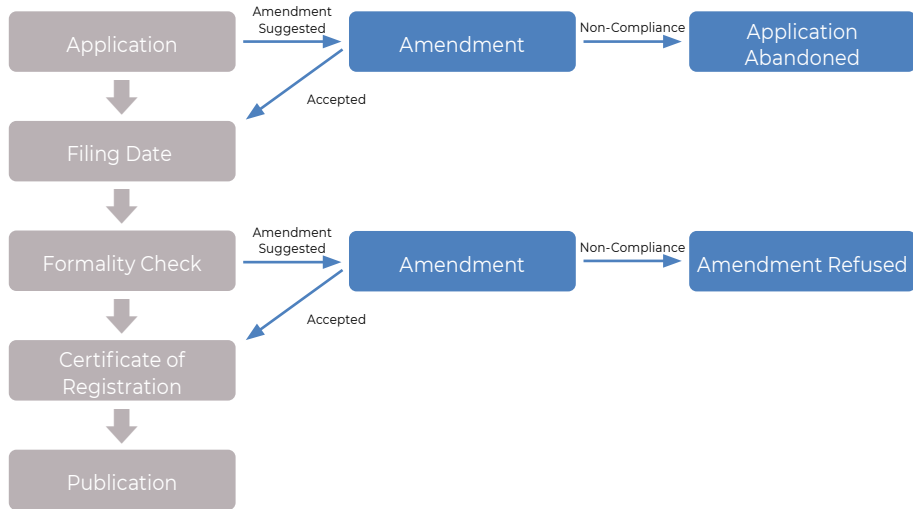


**Industrial Designs**

**Procedure for obtaining an Industrial Design in Brunei**

1. Applications for the grant of a design must be filed with the Registrar in the manner prescribed under Section 15.
2. Once a complete application is filed, it passes through the preliminary examination. (Section 15 (5)).
3. If the application passes the preliminary examination stage, a filing date is issued (Section 16).
4. Once the filing date is accorded to an application, the Registrar examines the application if the application complies with the formal requirements of the law (Section 25).
5. On satisfaction that the application complies with the formal requirements, the Registrar registers the industrial design, issues the certificate of registration and advertises the registration in the official Journal (Section 26).
6. If the Registrar is not satisfied after examination under section 25, he may refuse the application (Section 27).

### Flow Chart for obtaining an Industrial Design in Brunei





## Royal Kingdom of Cambodia

### IP OFFICES

<b>Industrial Property (Patents and Industrial Designs)</b>	
Competent Authority	Department of Industrial Property, Ministry of Industry and Handicraft
Web site address	<a href="http://www.mih.gov.kh/Events.aspx?DepartmentId=10">http://www.mih.gov.kh/Events.aspx?DepartmentId=10</a>
Address	45 Preah Norodom Boulevard Khan Daun Penh, Phnom Penh
Telephone	(855) 12 982 382 (855) 12 696 260
E-mail	<a href="mailto:adm_dip@yahoo.co.com">adm_dip@yahoo.co.com</a> <a href="mailto:rein_bbu@yahoo.com">rein_bbu@yahoo.com</a> <a href="mailto:oddomheng@yahoo.com">oddomheng@yahoo.com</a>

<b>Trademarks</b>	
Competent Authority	Department of Intellectual Property, Ministry of Commerce
Web site address	<a href="http://www.cambodiaip.gov.kh/default.aspx?lang=en">http://www.cambodiaip.gov.kh/default.aspx?lang=en</a>
Address	Lot 19-61, MOC Road (113B Road), Phum Teuk Thla Sangkat Toeuk Thla, Khan Sen Sok, Phnom Penh
Telephone	(855 23) 866 115 (855 11) 888 969 (855 12) 807 346 (855 12) 775 681
E-mail	<a href="mailto:cambodiaip.dip@gmail.com">cambodiaip.dip@gmail.com</a> <a href="mailto:oprady@yahoo.com">oprady@yahoo.com</a> <a href="mailto:reasey_pp34@yahoo.com">reasey_pp34@yahoo.com</a> <a href="mailto:hengsombo@gmail.com">hengsombo@gmail.com</a>

<b>Copyright</b>	
Competent Authority	Department of Copyright and Related Rights, the Ministry of Culture and Fine Arts
Web site address	<a href="http://www.mcfa.gov.kh/">http://www.mcfa.gov.kh/</a>
Address	227 Norodom Blvd. Phnom Penh
Telephone	(855) 16 830 323 (855) 23 72 57 47 (855) 23 21 76 45
Telefax	(61 2) 6271 1901

E-mail address	<a href="mailto:info@mcfa.gov.kh">info@mcfa.gov.kh</a> <a href="mailto:mcfa@cambodia.gov.kh">mcfa@cambodia.gov.kh</a> <a href="mailto:sim.satta2007@gmail.com">sim.satta2007@gmail.com</a> <a href="mailto:kangsamoen@yahoo.com">kangsamoen@yahoo.com</a>
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### MAIN INTERNATIONAL IP CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S.No.	Instrument	In Force Since
1.	Beijing Treaty on Audio-visual Performances	March 27, 2019
2.	Hague Agreement	February 25, 2017
3.	Madrid Protocol	June 5, 2015
4.	Marrakesh VIP Treaty	N/A
5.	Paris Convention	September 22, 1998
6.	Patent Cooperation Treaty	December 8, 2016
7.	Rome Convention	N/A
8.	WIPO Convention	July 25, 1995

For More Information, please refer to: [https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=90C](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=90C)

IP Rights	Legal Requirements	Duration	Responsible Authority
<b>Copyright</b>	- Originality	Life of author + 50 years	Department of Copyright and Related Rights
<b>Trademarks</b>	Distinctiveness Not in conflict with prior signs Not generic Not descriptive Not contrary to public order/ morality See full list in art. 4	10 years renewable	Department of Intellectual Property (DIP) of the Ministry of Commerce
<b>Patents &amp; Utility Models</b>	Novelty Industrial applicability Inventive step (not for utility models) Disclosure	20 years (7 years for U.M.)	Department of Industrial Property, Ministry of Industry and Handicrafts
<b>Industrial Designs</b>	- Novelty	15 years	Department of Industrial Property, Ministry of Industry and Handicrafts

### PATENT SYSTEM

National Law	Law on Patents, Utility Models and Industrial Designs. Adopted on January 22, 2003 Supplemented on June 29, 2006 by Prakas (Decree) No. 706 on Procedure granting Patent and Utility Model Certificates. <a href="https://wipolex.wipo.int/en/legislation/details/5781">https://wipolex.wipo.int/en/legislation/details/5781</a>
Requirement of Agent for Foreigners	Where applicants' residence or principal place of business are outside the country, they shall be represented by agents residing and practicing in the country (Art. 116)
Language in which request may be filed	Khmer or English

Non-Patentable Subjects	<ul style="list-style-type: none"> <li>• Discoveries, scientific theories and mathematical methods</li> <li>• Schemes, rules or methods for doing business, performing purely mental acts or playing games</li> <li>• Methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practiced on the human or animal body</li> <li>• Plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals</li> <li>• Plants varieties</li> </ul> (Art. 4)
Substantive Examination	Yes. (Art 35 & 36)
PCT international application through the national office of the country as a receiving office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_kh.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_kh.pdf</a>
PCT international application to the national office of the country as a designated office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/kh.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/kh.pdf</a>

### INDUSTRIAL DESIGN SYSTEM

National Law	Law on Patents, Utility Models and Industrial Designs. Adopted on January 22, 2003 Supplemented on June 29, 2006 by Prakas (Decree) No. 706 on Procedure granting Patent and Utility Model Certificates. <a href="https://wipolex.wipo.int/en/legislation/details/5781">https://wipolex.wipo.int/en/legislation/details/5781</a>
Requirement of Agent for Foreigners	Where applicants' residence or principal place of business are outside the country, they shall be represented by agents residing and practicing in the country (Art. 116)
Language	Khmer or English
Non-Registrable Subjects	<ul style="list-style-type: none"> <li>• Anything in an industrial design which serves solely to obtain a technical result and to the extent that it leaves no freedom as regards arbitrary features of appearance (Art. 90).</li> <li>• Industrial designs that are contrary to public order or morality (Art. 93).</li> </ul>
Substantive Examination	No (Art. 102)
International application through and to the national office of the country under the Hague System: no information. Please refer also the following website	Information not available

TRADEMARK SYSTEM	
National Law	<p>Law Concerning Marks, Trade Names and Acts of Unfair Competition (Adapted on February 7, 2002)  <a href="https://wipo.int/en/legislation/details/5780">https://wipo.int/en/legislation/details/5780</a>            Law on Geographical Indication (Adopted on January 20, 2014)  <a href="http://cambodiaip.gov.kh/TemplateTwo.aspx?parentId=43&amp;menuid=160&amp;childMasterMenuId=160&amp;lang=en">http://cambodiaip.gov.kh/TemplateTwo.aspx?parentId=43&amp;menuid=160&amp;childMasterMenuId=160&amp;lang=en</a></p>
Subjects of Protection	<p>Trademarks, Service marks, Collective marks            Certification marks (protected by a separate Ministerial Declaration (Prakas)/regulation)            Geographical Indication (Law on Geographical Indication and Ministerial Declaration (Prakas))</p>
Requirement of Agent for Foreigners	<p>Where applicants' residence or principal place of business are outside the country, they shall be represented by agents residing and practicing in the country (Art. 58 and 59 of Law concerning Mark, Trade Name and Act of Unfair Competition)</p>
Language	<p>Khmer or English</p>
Non-Registrable Subjects	<ul style="list-style-type: none"> <li>• Incapable of distinguishing the goods or services of one enterprise from those of other enterprises</li> <li>• Contrary to public order or morality or good custom</li> <li>• Likely to mislead the public or trade circles, in particular as regarding the geographical origin of the goods or services concerned or their nature or characteristics (Misleading marks)</li> <li>• Identical with, or is an imitation of or contains as an element, an armorial bearing, flag and other emblem, a name or abbreviation or initials of the name of, or official sign or hallmark adopted by, any State, intergovernmental organisation or organisation created by an international convention, unless authorised by the competent authority of that State or organisation</li> <li>• Identical with, or confusingly similar to, or constitutes a translation of, a mark or trade name which is well known in the country for identical or similar goods or services of another enterprise</li> <li>• Identical with, or confusingly similar to, or constitutes a translation of a mark or trade name which is well-known and registered in the kingdom of Cambodia for goods or services which are not identical or similar to those in respect of which registration is applied for, provided that use of the mark in relation to those goods or services would indicate a connection between those goods or services and the owner of the well-known mark that the interests of the owner of the well-known mark are likely to be damaged by such use</li> </ul>

	<ul style="list-style-type: none"> <li>Identical with a mark belonging to a different proprietor and already on the register or with an earlier filing or priority date, in respect of the same goods or services or closely related goods or services, or if it so nearly resembles such a mark as to be likely to deceive or cause confusion.</li> </ul> <p>(Art. 4 of Law concerning Mark, Trade Name and Act of Unfair Competition)</p>
Substantive Examination	Yes (Art. 8 of Law concerning Mark, Trade Name and Act of Unfair Competition))
Publication of Registrations	Registrations are published after examination (Art.10(a) of Law concerning Mark Trade Name and Act of Unfair Competition))
Opposition System	Any interested person may file an opposition with the Registrar against the registration of a mark on the grounds that one or more of the requirements under the national law is not complied with (Art. 10 (c) of Law concerning Mark, Trade Name and Act of Unfair Competition))
International application through the national office of the country as an office of origin under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9134&amp;datafields=9582,9584,9583">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9134&amp;datafields=9582,9584,9583</a>
International application to the national office of the country as a designated office of designated country under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9134&amp;datafields=9638,9599,9602,9601,9605,9600,9603,9598,9604,9596,9597,9625,9622,9626,9623,9624,9627,9628,9621,9610,9607,9609,9615,9608,9611,9614,9613,9620,9612,9606,9618,9619,9617,9616,9639,9640,9631,9630,9629,9632,9589,9592,9588,9590,9594,9593,9586,9591,9585,9587,9637,9633,9635,9636,9634,9595">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9134&amp;datafields=9638,9599,9602,9601,9605,9600,9603,9598,9604,9596,9597,9625,9622,9626,9623,9624,9627,9628,9621,9610,9607,9609,9615,9608,9611,9614,9613,9620,9612,9606,9618,9619,9617,9616,9639,9640,9631,9630,9629,9632,9589,9592,9588,9590,9594,9593,9586,9591,9585,9587,9637,9633,9635,9636,9634,9595</a>

### COPYRIGHT SYSTEM

National Law	Law on Copyright and related rights. (Adopted on January 21, 2003) <a href="https://wipolex.wipo.int/en/legislation/details/5782">https://wipolex.wipo.int/en/legislation/details/5782</a>
Subjects of Protection	<p>Work is defined as a product in which thoughts or sentiment are expressed in creative way, and which falls within the literary, scientific, artistic or musical domain (Art. 2). The following subject matters are protected under copyright (art.7):</p> <ul style="list-style-type: none"> <li>All kinds of reading books or other literary, artistic, scientific, and educational documents</li> <li>Lectures, speeches, sermons, oral or written pleadings and other works of the same characteristics</li> <li>Dramatic works or musical dramas</li> <li>Choreographic works, either modern or adapted from traditional works or folklore</li> <li>Circus performances and pantomimes</li> <li>Musical compositions, with or without words</li> <li>Audio-visual works</li> <li>Works of painting, engraving, sculpture, or other works of collages, or applied arts</li> </ul>

	<ul style="list-style-type: none"> <li>• Photographic works, or those realised with the aid of techniques similar to photography</li> <li>• Architectural works</li> <li>• Maps plans, sketches or works pertaining to geography, topography, or other sciences</li> <li>• Computer program and the design encyclopedia documentation relevant to those programs</li> <li>• Products of collage work in handicraft, hand-made textile products or other clothing fashions</li> </ul> <p>The following works are not copyrightable (Art. 10):</p> <ul style="list-style-type: none"> <li>• Constitution, Law, Royal Decree, Sub-Decree, and other Regulations</li> <li>• Proclamation (Prakas), decision, certificate, other instructed circulars issued by state organisations, and their translations</li> <li>• Court decisions or other court warrants, and their translations;</li> <li>• Idea, formality, method of operation, concept, principle, discovery or mere data, even if expressed, described, explained or embodied in any work.</li> </ul>
Foreign Copyright Holders	Cambodia is not a member of Berne Convention. However, being member of the WTO, and the TRIPS agreement, there is an obligation that copyright protection should be automatically extended to foreign works.
Moral Rights	<p>The moral rights of the author are perpetual, inalienable and imprescriptible (art. 19). They include the following rights (art. 20):</p> <ul style="list-style-type: none"> <li>• The right to decide the manner and timing of disclosure of the work</li> <li>• The right to be named as author for the purpose of communication to the public</li> <li>• The right to oppose all forms of distortion, mutilation or modification of the content of their work, which would be prejudicial to their honor or reputation.</li> </ul>
Economic Rights	<p>Economic rights: authors enjoy exclusive rights to exploit their own work through their reproduction, communication to the public, and creation of derivative work, etc. (art. 21). Authors have exclusive rights to act by themselves or to authorise someone to do the following:</p> <ul style="list-style-type: none"> <li>• Translation into foreign language</li> <li>• Adaptation and simplification or any modification of the work</li> <li>• Rental or public lending of the original or a copy of an audiovisual work, or a work embodied in a phonogram, a computer program, a database or a musical work in the form of musical notation</li> <li>• Public distribution by sale, rental of the original or a copy of the work</li> <li>• Importation into the country, reproduction of copies of their works</li> <li>• Reproduction of the work</li> <li>• Public performance of the work</li> <li>• Public display of the work</li> </ul>



	<ul style="list-style-type: none"> <li>• Broadcasting of the work</li> <li>• Other means of communication of the work to the public.</li> </ul>
Limitation to Author's Rights	The major limitations and exceptions to copyright are listed in Art. 23 to Art. 29.

#### TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY

No available information

#### ATTORNEYS IN THE COUNTRY

Information in this regard is available at: [http://cambodiaip.gov.kh/DocResources/53d9892c-6de0-46e3-8cd4-32a7ca9b0f8a\\_e9e18593-8994-4a44-818e-1c9f313dbe17-kh.pdf](http://cambodiaip.gov.kh/DocResources/53d9892c-6de0-46e3-8cd4-32a7ca9b0f8a_e9e18593-8994-4a44-818e-1c9f313dbe17-kh.pdf)

#### FILING PROCEDURES

##### Patents

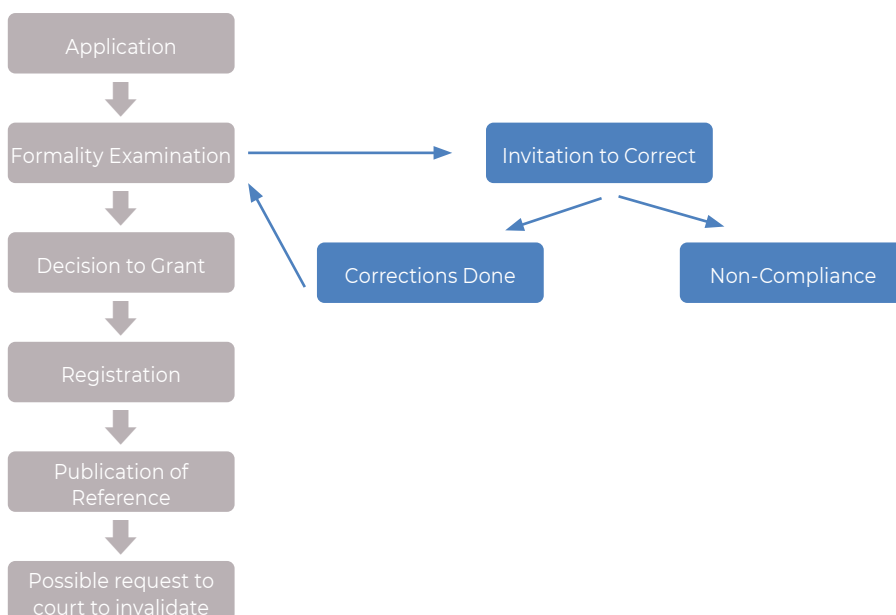
##### **Procedures for obtaining a Patent in Cambodia under the National Law**

1. A national application is filed with the Ministry of Industry and Handicraft (Department of Intellectual Property (DIP)), containing one or more claims defining the scope of protection of the patent, a description of the invention, drawings, if appropriate, and an abstract.
2. DIP carries out a formality examination. If the application does not comply the requirements under the law, the Registrar invites the applicant to amend the application within 2 months.
3. DIP carries out a substantive examination. If the application does not comply the requirements under the law, the Registrar invites the applicant to amend or divide the application within 5 months.
4. The Registrar notifies the applicant of the decision to grant or to refuse to grant a patent.
5. In case of a decision to grant the patent, the Registrar requests the applicant to pay the grant fees within 3 months.
6. The Registrar then publishes a reference to the grant of the patent in the official gazette.

##### **Additional information relating to the Procedures for obtaining a Patent in Cambodia through PCT**

- ▶ PCT international applications designating the country should be translated into Khmer and enter the national phase within 30 months from the priority date. Filing fee should be paid at this stage.
- ▶ DIP carries out a substantive examination. If the application does not comply the requirements under the law, the Registrar invites the applicant to amend or divide the application within 5 months.
- ▶ The Registrar notifies the applicant of the decision to grant or to refuse to grant the patent. In case of a decision to grant the patent, the Registrar requests the applicant to pay the grant fees within 3 months.
- ▶ Then the Registrar publishes a reference to the grant of the patent.

### **Flow Chart of Filing Procedure for Patents in Cambodia**



### **Trademarks**

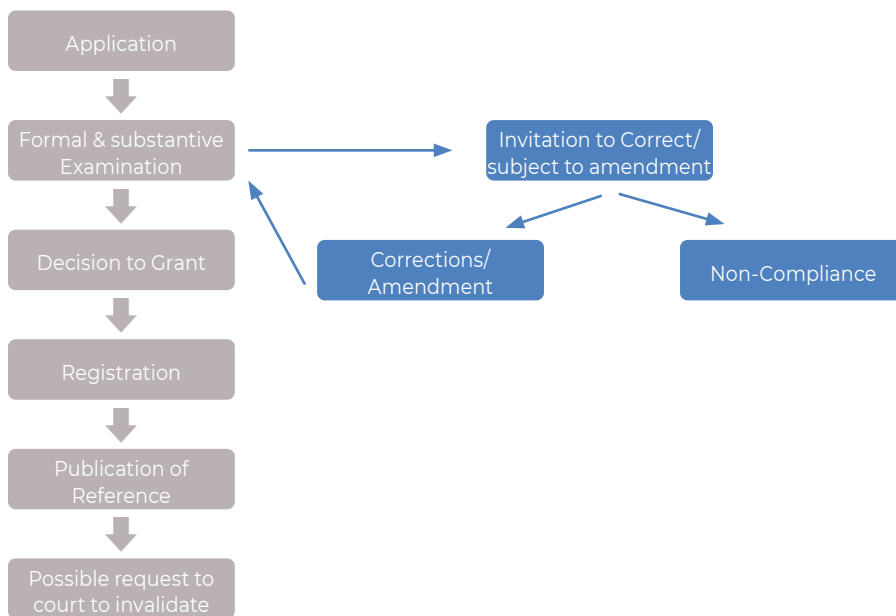
#### **Procedures for obtaining a Trademark in Cambodia under the National Law**

1. A national application is filed with the Ministry of Commerce (Department of Industrial Property (DIP)).
2. A standard application form (provided by DIP or available online at <http://www.cambodiaip.gov.kh/TemplateTwo.aspx?menuid=248&lang=en>). 15 specimens of the mark must be attached. A translation and a transliteration of non-English marks must be provided.
3. A list of the goods or services for which the mark will be used. Please note that even though not a signatory, Cambodia applies the Nice Classification of goods and services. One application may cover several classes of goods or services.
4. DIP carries out a formality and substantive examination. If the application does not comply the requirements under the law, the Registrar invites the applicant to amend the application within 45 days. In case the application may be acceptable subject to amendments, disclaimers, limitations or other conditions, and the applicant objects them, the applicant can apply for a hearing or submit observations within 60 days to Registrar.
5. The applicant may appeal against the Registrar's decision to refuse the application to the Appeal Board of the Ministry of Commerce or to the competent court within 3 months.
6. Interested parties may appeal against the decision to the competent court within 3 months.
7. If the application complies the requirements under the law, the Registrar shall register the mark and publish a reference to the grant of the trademark.
8. Any interested party may, within 90 days, file an opposition with the Registrar against the registration of the mark based on alleged violation of the requirements under the law.

### **Additional information relating to the Procedures for obtaining a trademark in Cambodia through the Madrid System**

- ▶ DIP carries out an examination within 18 months from the receiving the request for extension of protection from WIPO. If the application does not comply the requirements under the law, the Registrar invites the applicant to responses to the provisional refusal from DIP within 60 days.
- ▶ The rest of the procedure is identical to the one described above the marks filed with DIP.

### **Flow Chart of Filing Procedures for Trademarks**

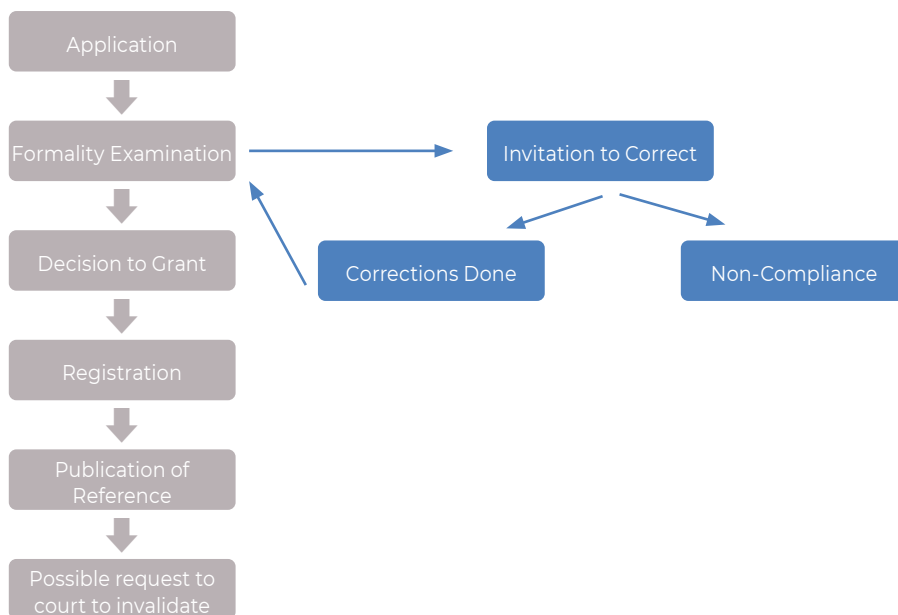


## **Industrial Designs**

### **Procedures for Obtaining an Industrial Design in Cambodia**

1. A national application is filed with the Ministry of Industry and Handicraft (Department of Industrial Property (DIP)), accompanied by drawings, photographs or other adequate graphic representations of the industrial design.
2. DIP carries out a formality examination.
3. If the application does not comply the requirements under the law, the Registrar invites the applicant to amend the application within 2 months.
4. If the application complies the requirements under the law, the Registrar registers the industrial design.
5. Then the Registrar publishes a reference to the registration.

### Flow Chart of Filing Procedures for Designs in Cambodia





## Republic of Indonesia

### IP OFFICES

Industrial Property (Patents, Trademarks, Industrial Designs and Copyright)	
Competent Authority	Directorate General of Intellectual Property (DGIP), Ministry of Law and Human Rights
Web site address	<a href="http://www.dgip.go.id">http://www.dgip.go.id</a>
Address	H.R. Rasuna Said Kav. 8-9, Jakarta Selatan 12940
Telephone	62 21) 5790 5613 (TM) 62 21) 5790 5606 (DG) 62 21) 5790 5611 (Patents) 62 21) 5790 5619 (Sec) 62 21) 5790 5609 (CR)
E-mail	<a href="mailto:dirgen@dgip.go.id">dirgen@dgip.go.id</a> <a href="mailto:docopyright@dgip.go.id">docopyright@dgip.go.id</a> <a href="mailto:freddy.harris@dgip.go.id">freddy.harris@dgip.go.id</a> <a href="mailto:domark@dgip.go.id">domark@dgip.go.id</a> <a href="mailto:patent.administration@gmail.com">patent.administration@gmail.com</a>

### MAIN INTERNATIONAL IP CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S.No.	Instrument	In Force Since
1.	Beijing Treaty on audiovisual Performances	[Only signatory]
2.	Berne Convention	September 5, 1997
3.	Madrid Protocol	January 2, 2018
4.	Nairobi Treaty	[Only signatory]
5.	Paris Convention	December 24, 1950
6.	Patent Cooperation Treaty	September 5, 1997
7.	Trademark Law Treaty	September 5, 1997
8.	WIPO Convention	December 18, 1979
9.	WIPO Copyright Treaty	March 6, 2002
10.	WIPO Performances and Phonograms Treaty	February 15, 2005

For More Information, please refer to: [https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=77C](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=77C)

IP Rights	Legal Requirements	Duration	Responsible Authority
<b>Copyright</b>	- Originality	Life of author + 70 years	DGIP
<b>Trademarks</b>	Distinctiveness Not in conflict with prior signs Not generic Not descriptive Not contrary to public order/ morality - Not contrary to art 6ter	10 years renewable	DGIP

<b>Patents &amp; Utility Models</b>	Novelty Industrial applicability Inventive step (not for utility models) Disclosure	20 years (10 years for utility models)	DGIP
<b>Industrial Designs</b>	- Novelty	10 years	DGIP

PATENT SYSTEM	
National Law	Law of the Republic of Indonesia, No. 13 of August 26, 2016 regarding Patents. (Adopted on August 26, 2016) <a href="https://wipolex.wipo.int/en/legislation/details/16392">https://wipolex.wipo.int/en/legislation/details/16392</a>
Requirement of Agent for Foreigners	An application which is filed by an inventor or an applicant who does not reside or does not have domicile in the territory of the Republic of Indonesia must be filed through a local agent (art. 28).
Language in which request may be filed	Indonesian Language (art. 24). In case the claims and the description of the invention are in English, they shall be submitted with their translation in Indonesian Language which must be lodged at the latest 30 days from the filing date (art. 34).
Grace Period	<ul style="list-style-type: none"> <li>• 6 months before the filing date: if the invention was exhibited in an officially recognised international exhibition in Indonesia or abroad, or in an officially recognised national exhibition in Indonesia; or if the invention was exploited in Indonesia by its inventor in the context of experimentation, research and development</li> <li>• 12 months before the filing date: in case of breach of an obligation to preserve the confidentiality of the relevant invention. (Art. 6)</li> </ul>
Non-Patentable Subjects	<ul style="list-style-type: none"> <li>• Discoveries</li> <li>• Discovery of scientific rules and theories</li> <li>• Mathematics, business plans, regulations or methods, mental treatments or gambles</li> <li>• Human and animal treatment</li> <li>• Microorganisms and any components of natural microorganisms</li> <li>• Extracts from animals or plants</li> <li>• The invention and devices contrary to state peace and social order, health, environments, rules and laws, and national good traditional cultures (Art 9)</li> </ul>
Substantive Examination	Yes. (art. 51 - 56)
Publication	18 months after the filing date or priority date (art. 46 - 48).
Opposition System	Yes. (Art. 49)
PCT international application through the national office of the country as a receiving office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_id.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_id.pdf</a>
PCT international application to the national office of the country as a designated office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/id.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/id.pdf</a>

<b>INDUSTRIAL DESIGN SYSTEM</b>	
National Law	Law of the Republic of Indonesia, No. 31 of December 20, 2000 Regarding Industrial Designs (Adopted on December 20, 2000) <a href="https://wipolex.wipo.int/en/legislation/details/2260">https://wipolex.wipo.int/en/legislation/details/2260</a>
Requirement of Agent for Foreigners	An applicant who resides outside the country must file an application through a consultant on intellectual property rights who is registered at the DGIP (art. 1).
Language	Indonesian Bahasa (art. 11(1))
Non-Registrable Subjects	Designs contrary to the prevailing laws and regulation, public order, religion or morality (art. 4).
Substantive Examination	Yes
Designs for a set of Articles	Where there is an objection against an application, the examiner shall conduct a substantive examination (art. 26).
International application through and to the national office of the country under the Hague System: no information. Please refer also the following website.	Indonesia is not a party yet to the Hague Agreement

<b>TRADEMARK SYSTEM</b>	
National Law	Law of the Republic of Indonesia Number 20 of 2016 Regarding Marks and Geographical Indications (Adopted on November 25, 2016) <a href="https://wipolex.wipo.int/en/legislation/details/2263">https://wipolex.wipo.int/en/legislation/details/2263</a>
Subjects of Protection	Trademarks, Service Marks, Collective Marks, Geographical Indications, Sources of Origin.
Requirement of Agent for Foreigners	An applicant who resides outside the country must file an application through a consultant of intellectual property rights and able of being represented graphically (registered at the DGIP) (art. 5 and 7)
Language	Indonesian Bahasa
Non-Registrable Subjects	(i) Application by an applicant in bad faith (ii) Contrary to prevailing rules and regulation, morality, religion, or public order (iii) Not having distinctive character (both generic and descriptive) (iv) Having become public property (v) Constituting information or related to the goods or services for which registration is required (vi) Similar in its essential parts or in its entirety with a mark owned by another party which has previously been registered for the same or similar kind of goods and/or services (vii) Similar in its essential parts or in its entirety with a known geographical indication. (Art. 20 and 21)
Substantive Examination	Yes (Art. 23)
Publication of Application	Yes, 15 (fifteen) days as from the filing date (art. 14 and 15)

Opposition system	Yes, during the 2 months following publication (art. 16).
International application through the national office of the country as an office of origin under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=10000&amp;datafields=9583,9582,9584">https://www.wipo.int/madrid/memberprofiles/#/result?countries=10000&amp;datafields=9583,9582,9584</a>
International application to the national office of the country as a designated office of designated country under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=10000&amp;datafields=9634,9633,9636,9637,9635,9606,9617,9615,9621,9616,9619,9620,9607,9611,9618,9612,9610,9609,9608,9614,9613,9622,9627,9623,9624,9625,9626,9597,9599,9596,9598,9601,9603,9604,9602,9605,9600,9639,9640,9628,9631,9632,9629,9630,9638,9595,9587,9589,9591,9594,9588,9593,9586,9592,9585,9590">https://www.wipo.int/madrid/memberprofiles/#/result?countries=10000&amp;datafields=9634,9633,9636,9637,9635,9606,9617,9615,9621,9616,9619,9620,9607,9611,9618,9612,9610,9609,9608,9614,9613,9622,9627,9623,9624,9625,9626,9597,9599,9596,9598,9601,9603,9604,9602,9605,9600,9639,9640,9628,9631,9632,9629,9630,9638,9595,9587,9589,9591,9594,9588,9593,9586,9592,9585,9590</a>

COPYRIGHT SYSTEM	
National Law	Law Number 28 of 2014 on Copyright (Adopted on October 16, 2014) <a href="https://wipolex.wipo.int/en/legislation/details/15600">https://wipolex.wipo.int/en/legislation/details/15600</a>
Subjects of Protection	“Work” protected under copyright is defined as result of works of an author, which shows originality in the field of science, arts and literature (art. 1 and 2). Author: a person or several persons who individually or jointly produce works that are unique and personal (art. 1).
Moral Rights	<ul style="list-style-type: none"> <li>• Right to be named as author of the work.</li> <li>• Right to oppose changes to a work. (Art. 5)</li> </ul>
Economic Rights	<ul style="list-style-type: none"> <li>• Demonstrating the works in public</li> <li>• Publicizing the works or authorising other persons to publicise such works</li> </ul>
	<ul style="list-style-type: none"> <li>• Reproduction or adaptation of works</li> <li>• Dissemination of the original works or copies of the works to public</li> <li>• Communication of works to public by wire or wireless communication systems through electronic data network or other technical systems</li> <li>• Creating derivative works</li> <li>• Renting the original or copies of cinematographic works or computer programs</li> <li>• Giving benefits to other person from his own copyright, such as assigning his own copyright to other person for research. (Art 8 - 12)</li> </ul>



Limitation to Author's Rights	<p>Provided that sources are fully cited; the following shall not be deemed as Copyright infringement (art. 43 - 49)</p> <ul style="list-style-type: none"> <li>• The use of a work of another party for the purpose of education, research, scientific thesis, report writing, criticising or reviewing an issue, provided that it does not prejudice the normal interest of the author.</li> <li>• The excerpt of a work another party for the purpose of advocacy within or outside the court.</li> <li>• The excerpt of a work of another party for the purposes of lecturers of which the purpose is solely for education and science or free-of-charge exhibitions or performances, provided that they do not prejudice the normal interests of the author.</li> <li>• Reproduction of a scientific, artistic and literary work in Braille for the purposes of the blind, unless such reproduction is of a commercial purpose.</li> <li>• Limited reproduction of a work other than computer program limitedly, by using any means whatsoever or by employing a similar process by a public library, scientific or educational institution and documentation center of non- commercial nature, solely for the purpose of conducting their activities.</li> <li>• Modification of any architectural works, such as building construction, based on considerations of technical nature.</li> <li>• Making of a back-up copy of a computer program by the owner of the computer solely for his own use.</li> </ul>
Duration of Copyright	<ul style="list-style-type: none"> <li>• Copyright shall be valid for the life of the Author and 70 years after death (art. 58).</li> <li>• The copyright on computer programs, cinematographic works, photographic works, databases and works resulting from adaptations, arrangements of a published work shall be valid for 50 years as of the first publication of the work. (art. 59).</li> <li>• The copyright owned or held by a legal entity shall be valid for 50 years as of from the first publication (art. 58).</li> </ul>

#### TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY

While there is no official national technology transfer office, however, most research organisations have established dedicated units or companies to facilitate technology transfer.

#### ATTORNEYS IN THE COUNTRY

Intellectual Property Attorneys in Indonesia have established an association called AKHKI with a total of currently registered member of 964.

Detail Information:

Web site address : <https://www.akhki.or.id>

Address : Menara Imperium, 12th Floor, Suite D, Jl. H.R.Rasuna Said Kav. 1, Metropolitan Superblock, Jakarta 12980, Indonesia

Telephone : (62-21) 8354052

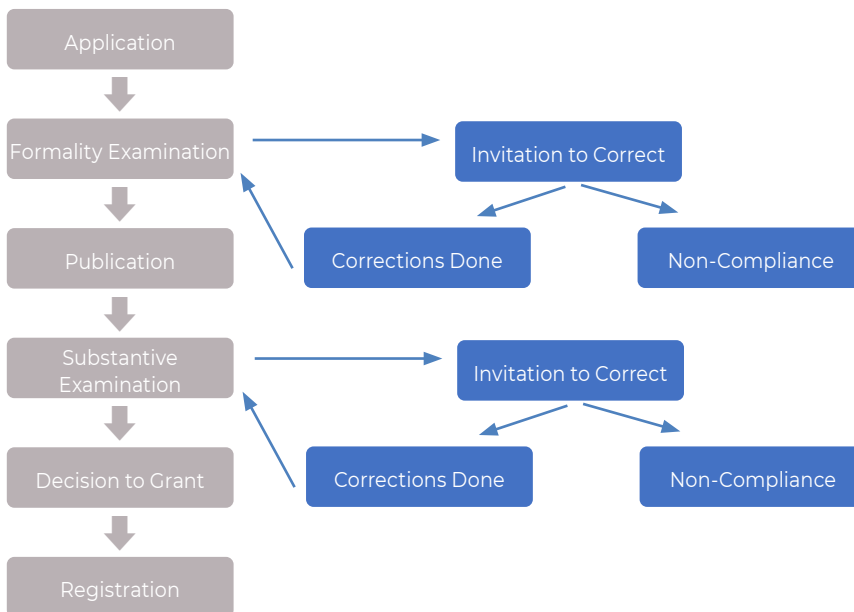
## FILING PROCEDURES

### Patents

#### **Procedures for Obtaining a Patent in Indonesia**

1. A national application is filed with the Directorate General of Intellectual Property (DGIP), Ministry of Law and Human Rights, including a description, claims and drawings.
2. DGIP carries out a formality examination. If the application does not comply the requirements under the law, DGIP invites the applicant to amend the application within 3 months.
3. DGIP publishes the patent application 18 months after filing date or priority date. Third parties may file the comments and/or objections to the patent application within 6 months.
4. Applicants should request for substantive examination within 30 months from the filing date. Otherwise, the application is deemed withdrawn.
5. DGIP carries out a substantive examination. If the application does not comply the requirements under the law, DGIP invites the applicant to amend the application.
6. DGIP notifies the applicant of the decision to grant or to refuse to grant a patent within 36 months from the request for examination.
7. In case of a decision to refuse the application, the applicant may file an appeal petition to the Patent Appeal Commission.
8. In case of a decision to grant the patent, third parties may file a lawsuit for revocation of the patent to the Commercial Court. In case of decision to refuse the patent, the applicant may file an appeal petition to Patent Appeal Commission.

#### **Flow Chart of Filing Procedure for Patents in Indonesia**



#### Additional information relating to the Procedures for obtaining a Patent in Indonesia through the PCT

- ▶ PCT international applications designating the country should be translated into Indonesian and enter the national phase within 31 months from the priority date. Filing fees should be paid at this stage.

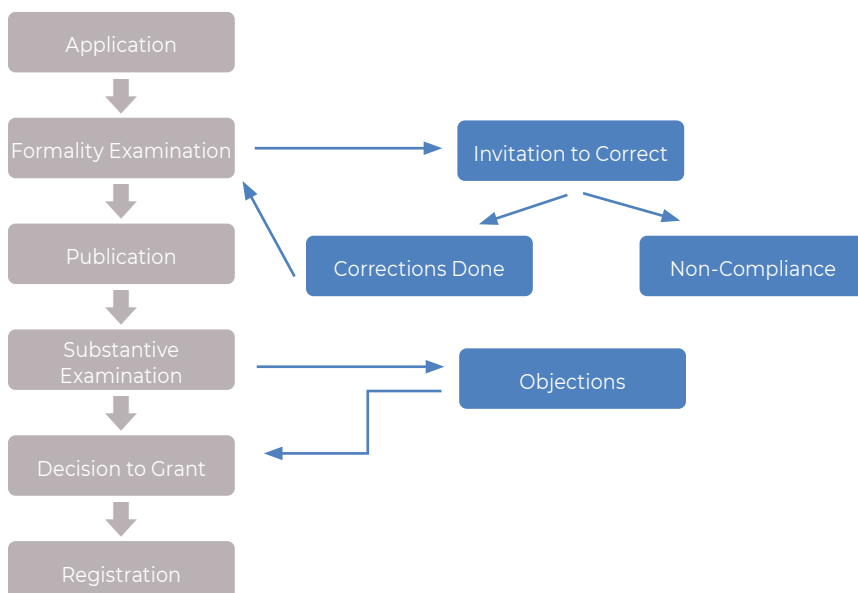
- ▶ Applicants should request for substantive examination within 31 months from the international filing date. Otherwise, the application is deemed withdrawn.
- ▶ The rest of the procedures is in line with what described above for patent applications filed with DGIP.

## Trademarks

### **Procedures for Obtaining a Trademark in Indonesia**

1. A national application is filed with the Directorate General of Intellectual Property (DGIP), Ministry of Law and Human Rights.
2. DGIP carries out a formality examination. If the application does not comply the requirements under the law, DGIP invites the applicant to amend the application within 2 months.
3. DGIP publishes the applications in the Mark Gazette not later than 15 (fifteen) days as from the filing date. The publication of application in the Mark Gazette lasts for 2 (two) months (Art. 14).
4. Within the period of publication, any party may file an opposition against the application (Art. 16).
5. DGIP commences a substantive examination in the event that there is no opposition within a period of not later than 30 (thirty) days as from the expiration date of publication (Art. 23).
6. DGIP notifies the applicant of the decision to grant or to refuse the mark within 150 (a hundred and fifty) days (Art.23) after the commencement of substantive examination.
7. In case of a decision to refuse the application, the applicant may file an appeal with the Trademark Appeal Commission.
8. In case of a decision to grant the patent, third parties may file a lawsuit for cancellation to the Commercial Court within 5 years from the date of registration.

### **Flow Chart of Filing Procedures for Trademarks in Indonesia**



### **Additional information relating to the Procedures for obtaining a trademark in Indonesia through the Madrid System**

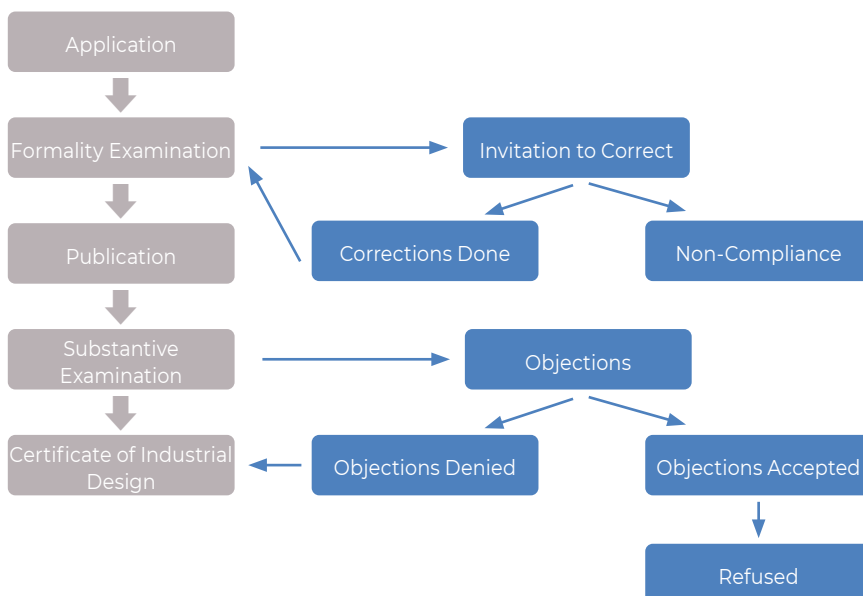
- ▶ DIP carries out a substantive examination within 18 months from the receiving the request for extension of protection from WIPO. If the application does not comply the requirements under the law, the Registrar issues a provisional refusal and invites the applicant to response to DIP within 30 days.
- ▶ The rest of the procedure is in line with what described above in the case of trademark application filed directly with DGIP.

## **Industrial Designs**

### **Procedures for Obtaining an Industrial Design in Indonesia**

1. A national application is filed with the Directorate General of Intellectual Property (DGIP), Ministry of Law and Human Rights, including drawings, photographs or other adequate graphic representations of the industrial design, a description of the design for which protection is sought, and an indication of the kinds of products for which the industrial design will be used.
2. DGIP carries out a formality examination. If the application does not comply the requirements under the law, DGIP invites the applicant to amend the application within 3 months.
3. DGIP publishes the design application within 3 months from the filing date.
4. Third parties may file objections to the application during 3 months from the publication date.
5. DGIP carries out a substantive examination when it receives objections to the application from the third parties. DGIP shall produce a decision whether to approve or to refuse the objection.
6. In case of a decision to refuse the application, the applicant may file a lawsuit with the Commercial Court within the period of 3 months from the notification of refusal.
7. Where there is no objection, DGIP shall grant a Certificate of Industrial Design.

### **Flow Chart of Filing Procedures for Designs**





## Lao PDR

### IP OFFICES

<b>Industrial Property (Patents, Trademarks, Industrial Designs and Copyright)</b>	
Competent Authority	Department of Intellectual Property (DIP), Ministry of Science and Technology
Web site address	www.dip.gov.la
Address	P.O. Box: 2279 , Sidamduan Road, Vientiane, Lao PDR
Telephone	IP Service center (856) 21 218 710 Policy and International Affairs Division (856) 21 3 470 (Ext 154)
E-mail	dip.laopdr@gmail.com

### MAIN INTERNATIONAL IP CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S.No.	Instrument	In Force Since
1.	Berne Convention	March 14, 2012
2.	Madrid Protocol	March 07, 2016
3.	Paris Convention	October 8, 1998
4.	Patent Cooperation Treaty	June 14, 2006
5.	WIPO Convention	January 17, 1995

For More Information, please refer to: [https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=10C](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=10C)

IP Rights	Legal Requirements	Duration	Responsible Authority
<b>Copyright</b>	Originality (art. 92)	Life of author + 50 years	Department of Intellectual Property
<b>Trademarks</b>	Distinctiveness Not in conflict with prior signs Not generic Not descriptive Not contrary to public order/ morality Not contrary to art 6ter	10 years renewable	Department Intellectual of Property
<b>Patents &amp; Petty Patents (Utility Models)</b>	Novelty Industrial applicability Inventive step (not for utility models) Disclosure (art. 13, 14 and 21)	20 years (10 years for petty patents)	Department Intellectual of Property
<b>Industrial Designs</b>	Novelty Ornamental (not dictated by the function) (art. 15 and 22)	15 years	Department of Intellectual Property

<b>PATENT SYSTEM</b>	
National Law	Law No. 38/NA of November 15, 2017, on Intellectual Property (applicable to all IP rights) <a href="https://wipolex.wipo.int/en/legislation/details/18024">https://wipolex.wipo.int/en/legislation/details/18024</a>
Requirement of Agent for Foreigners	Persons and organisations located in foreign country must appoint an eligible representative in Lao PDR (art. 27).
Language in which request may be filed	Lao and English. The application or documents in English must be translated into Lao within 90 days from the application filing date (art. 37).
Non-Patentable Subjects	<ul style="list-style-type: none"> <li>• Discovery of invention already existed</li> <li>• Diagnostic, therapeutic and surgical methods for the treatment of humans or animals</li> <li>• Microorganisms and any components of natural microorganisms</li> <li>• Plants and animals other than micro-organisms, and essentially biological processes The invention and devices contrary to state peace and social order, health, environments, rules and laws, and national good traditional cultures</li> <li>• living organisms or parts of living organisms that exist in nature</li> <li>• scientific principles or theories</li> <li>• mathematical algorithms</li> <li>• set of rules for doing business or playing games</li> <li>• Contrary to culture and fine traditions of the nation, social orders and morale,</li> <li>• Damage human, animal or plant life or health or cause serious prejudice to the environment;</li> <li>• Contrary to security and peace of the Lao PDR. (Art 21)</li> </ul>
Substantive Examination	Yes. The applicants can request for substantive examination within 32 months for the invention from the application date or the priority date (art. 40 and 41).
PCT international application through the national office of the country as a receiving office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_ib.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_ib.pdf</a>
PCT international application to the national office of the country as a designated office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/la.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/la.pdf</a>

<b>INDUSTRIAL DESIGN SYSTEM</b>	
National Law	Law No. 38/NA of November 15, 2017, on Intellectual Property (applicable to all IP rights) <a href="https://wipolex.wipo.int/en/legislation/details/18024">https://wipolex.wipo.int/en/legislation/details/18024</a>
Requirement of Agent for Foreigners	Persons and organisations located in foreign country must appoint an eligible representative in Lao PDR (art. 27).
Language	Lao and English. The application or documents in English must be translated into Lao within 90 days from the application filing date (art. 37).

Non-Registrable Subjects	<ul style="list-style-type: none"> <li>• Outer appearance of an industrial design deriving from its technical nature</li> <li>• Industrial designs contrary to social order and fine traditions of the nation (Art 22)</li> </ul>
Substantive Examination	Yes (art. 40)
Designs for a set of Articles	Yes. Each application for industrial design registration shall cover a single industrial design or a series of related designs provided they relate to the same class of the international classification of Locarno (Art. 32).
International application through and to the national office of the country under the Hague System: no information. Please refer also the following website.	Lao PDR is not a party yet to the Hague Agreement

### TRADEMARK SYSTEM

National Law	Law No. 38/NA of November 15, 2017, on Intellectual Property (applicable to all IP rights) <a href="https://wipolex.wipo.int/en/legislation/details/18024">https://wipolex.wipo.int/en/legislation/details/18024</a>
Subjects of Protection	Trademarks for the goods and services, collective marks, certification marks (art. 3)
Requirement of Agent for Foreigners	Persons and organisations located in foreign country must appoint an eligible representative in Lao PDR (art. 27).
Language	Lao and English. The application or documents in English must be translated into Lao within 90 days from the application filing date (art.37).

Non-Registrable Subjects	<ul style="list-style-type: none"> <li>• Any mark not being distinctive, incapable of distinguishing products, goods or services of any person or organisation from other persons or organisations.</li> <li>• Marks misleading or deceiving the public as to the source of origin, characteristics or quality including prices or other characteristics of products, goods or services.</li> <li>• Any imitation or counterfeit of a mark causing confusion to consumers or users.</li> <li>• Armorial bearings, flags, or other national emblems, and official signs, hallmarks, abbreviations or full names of towns, municipalities, provinces or capital of the Lao PDR or foreign countries.</li> <li>• Emblems of an international organisation or symbols created by international conventions, official seals or symbols of state or international organisations.</li> <li>• Marks that consist of or contain, without authorisation, the name, image of a living person.</li> <li>• Marks that consist of or contain, without authorisation images of cultural symbols or historical monuments, or the name, image, or likeness of a national hero or a leader, or the mark would be offensive or contrary to the fine traditions of the nation.</li> <li>• Any mark identical with or similar to prior registered trademark for identical or similar products, goods or services.</li> <li>• Any mark contrary to national security, social order, culture and the fine traditions of the nation. (see full list in Art 23)</li> </ul>
Well known marks	Art. 16.4 contain a list of criteria to establish if a mark is well known or not.
Substantive Examination	Yes (Art 40).
Publication of Application	After granting the registration, DIP shall publish the registration in the industrial property journal (art. 39).
International application through the national office of the country as an office of origin under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9166&amp;datafields=9583,9584,9582">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9166&amp;datafields=9583,9584,9582</a>
International application to the national office of the country as a designated office of designated country under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9166&amp;datafields=9633,9635,9637,9636,9634,9626,9623,9622,9625,9624,9627,9628,9599,9604,9605,9602,9603,9596,9597,9600,9598,9601,9638,9640,9639,9595,9630,9629,9631,9588,9590,9586,9594,9589,9593,9591,9587,9592,9585,9618,9609,9614,9616,9620,9610,9606,9615,9619,9621,9613,9611,9612,9607,9608,961">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9166&amp;datafields=9633,9635,9637,9636,9634,9626,9623,9622,9625,9624,9627,9628,9599,9604,9605,9602,9603,9596,9597,9600,9598,9601,9638,9640,9639,9595,9630,9629,9631,9588,9590,9586,9594,9589,9593,9591,9587,9592,9585,9618,9609,9614,9616,9620,9610,9606,9615,9619,9621,9613,9611,9612,9607,9608,961</a>



COPYRIGHT SYSTEM	
National Law	Law No. 38/NA of November 15, 2017, on Intellectual Property (applicable to all IP rights) <a href="https://wipolex.wipo.int/en/legislation/details/18024">https://wipolex.wipo.int/en/legislation/details/18024</a>
Subjects of Protection	Copyright means the right of individuals, legal entities or organisations to their creative works in the domains of art, literature, or science. "Work" means a creative work by an individual legal entities or organisation in the domains of art, literature and science shown in any form or method (art. 3). The full list of works covered by copyright is provided in art. 92 and 93. The following items are not copyrightable (art. 94): 1. news of the day or miscellaneous facts having the character of mere items of press information; 2. ideas, procedures, methods of operation or mathematical concepts as such; 3. official texts of a legislative, administrative and legal nature, and official translations of such texts.
Moral Rights	<ul style="list-style-type: none"> <li>• Right to first publish or disclose to the public.</li> <li>• Right of attribution (claiming authorship and have its name on the work)</li> <li>• Right to oppose modifications that may bring prejudice to the honor and reputation of the copyright's owner</li> </ul> See full list in art. 101.
Economic Rights	<ul style="list-style-type: none"> <li>• Reproducing such work in any manner or form including distribution of copies of such works;</li> <li>• Making the translation of such works;</li> <li>• Broadcasting such works;</li> <li>• Communicating such works to the public by any wire or wireless diffusion or by rebroadcasting;</li> <li>• Communicating the broadcast of the work to the public by loudspeaker or any other analogous instrument transmitting by signs, sounds or images;</li> <li>• Etc.</li> </ul> See full list in art. 102
Limitation to Author's Rights	Utilisation of Copyrighted works without permission of the owner: <ul style="list-style-type: none"> <li>• Reproduction of a work for scientific and research purposes;</li> <li>• Making quotations of a work provided they are compatible with fair use, and their extent does not exceed that justified by the purpose;</li> <li>• For the purpose of reporting current events;</li> <li>• Translation of works into Braille characters or other characters for sight disabled persons;</li> </ul> See full list and precise wording in art. 115

TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY
None at the moment. However a Law on Technology Transfer (No.33/NA) was enacted on 8 November 2017 under Ministry of Science and Technology and technology transfer offices may be established in the future.

## ATTORNEYS IN THE COUNTRY

The list will be soon available on DIP official website: [dip.gov.la](http://dip.gov.la)

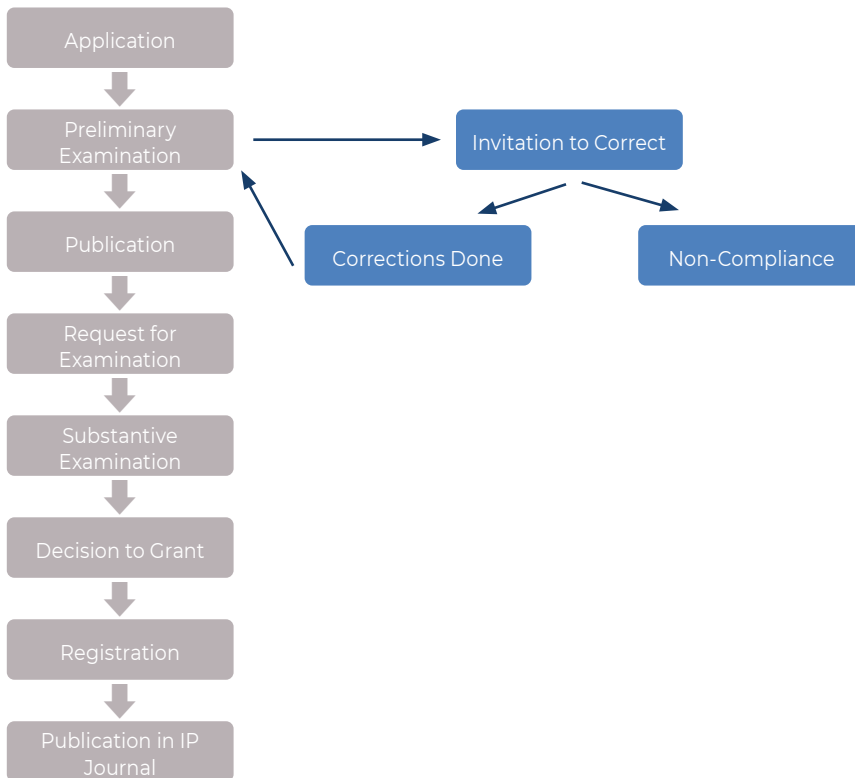
## FILING PROCEDURES

### Patents

#### Procedures for Obtaining a Patent in Lao PDR

1. A national application is filed with the Ministry of Science and Technology - Department of Intellectual Property (DIP) in line with the requirements of art. 31.
2. DIP carries out a preliminary examination on the formal requirements in line with art. 38. If the application does not comply the requirements under the law, the DIP invites the applicant to amend the application within 60 days.
3. In line with art. 39, DIP publishes the application in the official industrial property gazette on the 19th month from the application date or the priority date.
4. DIP carries out a substantive examination in conformity with art. 40 and 41. If the application complies with the requirements under the law, DIP issues a registration certificate, records it in the registry, and publishes the registration in the official industrial property gazette, as provided by art. 44.

#### Flow Chart of Filing Procedure for Patents in Lao PDR



Additional information relating to the Procedures for obtaining a Patent in Lao PDR through PCT

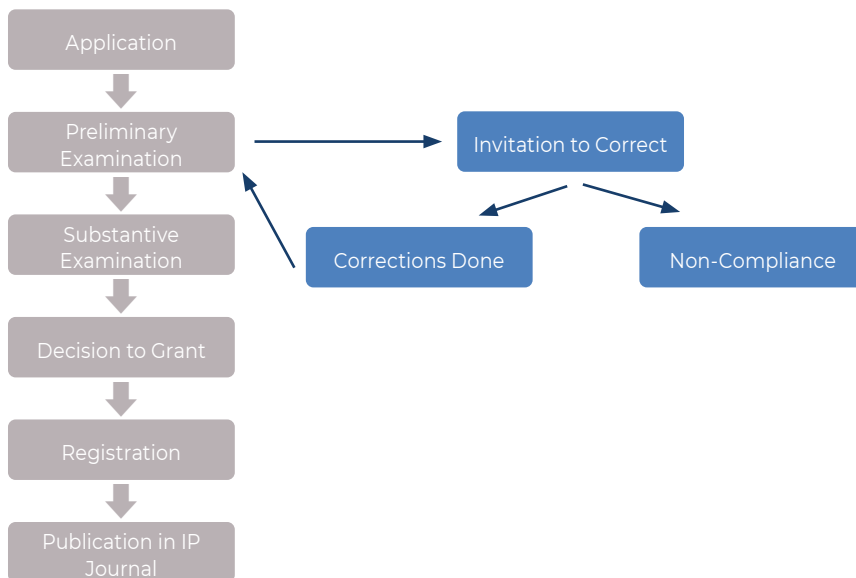
- ▶ The time limit for entering the national phase of a PCT application is 31 months from the priority date.
- ▶ Special Requirement for the entry into National Phase:
  - Name of the inventor if it has not been furnished in the “Request” part of the international application;
  - Statement or notice as to the applicant’s entitlement to apply for and be granted a patent;
  - Statement or notice as to the applicant’s entitlement to claim priority of the earlier application;
  - Address for service in Lao PDR;
  - Verification of translation, if any.

**Trademarks**

**Procedures for Obtaining a Trademark in Lao PDR**

1. A national application is filed with the Ministry of Science and Technology - Department of Intellectual Property (DIP), in line with the requirements of art. 33.
2. DIP carries out a preliminary examination on the formal requirements in line with art. 38. If the application does not comply the requirements under the law, DIP invites the applicant to amend the application within 60 days.
3. In line with art. 39, DIP publishes the application in the official industrial property gazette after the completion of the formality examination for possible oppositions.
4. After the preliminary examination, DIP carries out a substantive examination in conformity with art. 40. If the application complies with the requirements under the law, DIP issues the registration certificate, records it in the registry, and publishes the registration in the official industrial property gazette, as provided by art. 44.

**Flow Chart of Filing Procedures for Trademarks in Lao PDR**

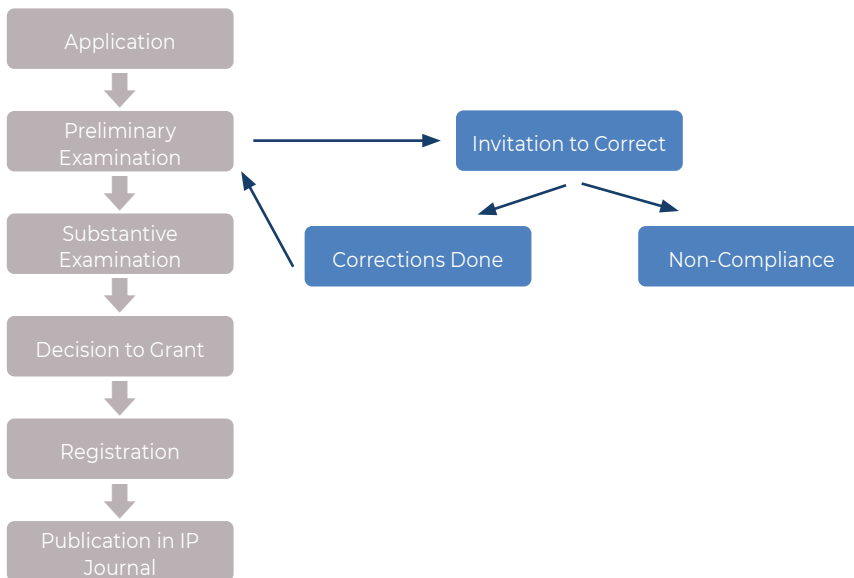


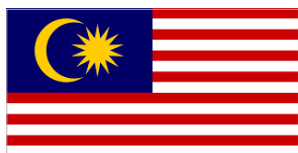
## Industrial Designs

### **Procedures for Obtaining an Industrial Design in Lao PDR**

1. A national application is filed with the Ministry of Science and Technology - Department of Intellectual Property (DIP), in line with the requirements of art. 32.
2. DIP carries out a preliminary examination on the formal requirements in line with art. 38. If the application does not comply the requirements under the law, DIP invites the applicant to amend the application within 60 days.
3. In line with art. 39, DIP publishes the application in the official industrial property gazette after the completion of the formality examination for possible oppositions.
4. After the preliminary examination, DIP carries out a substantive examination in conformity with art. 40. If the application complies with the requirements under the law, DIP issues the registration certificate, records it in the registry, and publishes the registration in the official industrial property gazette, as provided by art. 44.

### **Flow Chart of Filing Procedures for Designs in Lao PDR**





## Malaysia

### IP OFFICE

<b>Industrial Property (Patents, Trademarks, Industrial Designs and Copyright)</b>	
Competent Authority	Intellectual Property Corporation of Malaysia (MyIPO)
Web site address	<a href="http://www.myipo.gov.my">http://www.myipo.gov.my</a>
Address	Unit 1-7, Ground Floor Tower B, Menara UOA Bangsar No. 5, Jalan Bangsar Utama 1 59000 Kuala Lumpur
Telephone	(603) 22 99 8400 (603) 22 99 8989 (Fax)
E-mail	<a href="mailto:ipmalaysia@myipo.gov.my">ipmalaysia@myipo.gov.my</a>

### MAIN IP INTERNATIONAL CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S.No.	Signature	In Force Since
1.	Berne Convention	October 1, 1990
2.	Nice Agreement	September 28, 2007
3.	Paris Convention	January 1, 1989
4.	Patent Cooperation Treaty	August 16, 2006
5.	Vienna Agreement	September 28, 2007
6.	WIPO Convention	January 1, 1989
7.	WIPO Copyright Treaty	December 27, 2012
8.	WIPO Performances and Phonograms Treaty	December 27, 2012
9.	WIPO Madrid Protocol	December 27, 2019

For more information please refer to: [https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=134](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=134)

IP Rights	Legal Requirements	Duration	Responsible Authority
Copyright	<ul style="list-style-type: none"> <li>Originality</li> <li>In material form</li> <li>No copyright registration process in Malaysia however we provide voluntary notification procedure</li> </ul>	<p>Life of author + 50 years for literary, musical &amp; artistic work.</p> <p>50 years after first publication or if it is not published, 50 years after creation - for sound recordings.</p> <p>50 years after the first broadcast was made - for broadcasts.</p> <p>50 years after the film was first published - for film.</p> <p>50 years after the first edition was published - for published edition.</p>	Intellectual Property Corporation of Malaysia (MyIPO)

		50 years after first publication - for works made by or for the Government, Government organisations and international bodies.	
Trademarks	<ul style="list-style-type: none"> <li>• Distinctiveness</li> <li>• Not in conflict with prior signs</li> <li>• Not generic</li> <li>• Not descriptive</li> <li>• Not contrary to Public Order/Morality</li> </ul>	10 years renewable	Intellectual Property Corporation of Malaysia (MyIPO)
Patents	<ul style="list-style-type: none"> <li>• Falls within the meaning of invention (Sec. 12)</li> <li>• Novelty</li> <li>• Inventive step</li> <li>• Industrial Applicability</li> <li>• Excluded from Non-patentable invention</li> </ul>	20 Years	Intellectual Property Corporation of Malaysia (MyIPO)
Utility Innovations	<ul style="list-style-type: none"> <li>• Falls within the meaning of invention (Sec. 12)</li> <li>• Novelty</li> <li>• Inventive step is <b>NOT</b> a requirement</li> <li>• Industrial Applicability</li> <li>• Excluded from non-patentable invention</li> </ul>	10 Years (extendable for additional 5 years + 5 years - maximum 20 years)	Intellectual Property Corporation of Malaysia (MyIPO)
Industrial Designs	<ul style="list-style-type: none"> <li>• Fulfill the notion of Industrial Design (Sec. 3(1))</li> <li>• New in Malaysia or elsewhere</li> <li>• Not contrary to public order or morality</li> </ul>	5 Years (Renewable for 4 consecutive terms for a maximum 25 years)	Intellectual Property Corporation of Malaysia (MyIPO)

PATENT SYSTEM	
National Law	The Patents Act 1983 <a href="https://wipolex.wipo.int/en/legislation/details/7545">https://wipolex.wipo.int/en/legislation/details/7545</a>
Requirement of Agent for foreigners	Yes
Language in which request may be filed	English or National Language [Section 78O (a)]
Non-Patentable Subjects	<ul style="list-style-type: none"> <li>• Discoveries, scientific theories and mathematical methods;</li> <li>• Plant or animal varieties or essentially biological processes for the production of plants or animals, other than man-made living micro-organisms, micro-biological processes and the products of such micro-organism processes;</li> <li>• Schemes, rules or methods for doing business, performing purely mental acts or playing games;</li> <li>• Methods for the treatment of human or animal body by surgery or therapy, and diagnostic methods practiced on the human or animal body.</li> </ul> (Sect. 13)

Substantive Examination	Yes (Sect. 29, 29A & 30)
PCT international application through the national office of the country as a receiving office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_my.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_my.pdf</a>
PCT international application to the national office of the country as a designated office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/my.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/my.pdf</a>

### INDUSTRIAL DESIGN SYSTEM

National Law	The Industrial Design Act, 1996 <a href="https://wipolex.wipo.int/en/legislation/details/16605">https://wipolex.wipo.int/en/legislation/details/16605</a>
Language	English
Non-Registrable Subjects	<ul style="list-style-type: none"> <li>• A method or principle of construction</li> <li>• The designs of articles that depend upon the appearance of another article which forms an integral part of the article.</li> <li>• It differs only in immaterial details or features from previous designs.</li> <li>• The features of the article are dictated solely by function.</li> </ul>
Substantive Examination	Yes. An examination of novelty is carried out by MyIPO.
International application through and to the national office of the country under the Hague System: no information. Please refer also the following website.	Malaysia is not a party to the Hague system yet.

### TRADEMARK SYSTEM

National Law	The Trade Marks Act 2019 (Into force as of 27 December 2019) Refer <a href="http://www.myipo.gov.my">www.myipo.gov.my</a> (Please go to Trademark Section)
Subjects of Protection	Any letter, word, name, signature, numera, device, brand, heading, label, ticket, shape of goods or their packaging, colour, sound, scent, hologram, positioning, sequence of motion or any combination thereof; (Sect. 2)
Language	English
Term of Trademark Protection	10 years renewable (Sect. 39)

Non-Registrable Subjects	<p>Absolute grounds (Sect. 23):-</p> <ul style="list-style-type: none"> <li>• Non-distinctive marks;</li> <li>• Descriptive marks;</li> <li>• Trademarks that consist of signs or indications that are customarily used in trade;</li> <li>• Trademarks consisting exclusively of the name of a country;</li> <li>• Trademarks that contain or consist of recognised geographical indications.</li> <li>• Trademarks that are deceptive or confusing;</li> <li>• Trademarks that are contrary to law;</li> <li>• Etc. (See the rest of the grounds in Sec. 23)</li> </ul> <p>Relative grounds (Sect. 24):-</p> <ul style="list-style-type: none"> <li>• Trademarks identical or similar to earlier trademarks</li> <li>• Trademarks identical or similar to well-known trademarks</li> <li>• See the details in Sec. 24.</li> </ul>
Substantive Examination	Yes
Opposition System	Yes. Opposition against a trademark application in Malaysia can be filed after its publication in the official gazette. (Sect. 34 & 35)
International application through the national office of the country as an office of origin under the Madrid System	The Madrid system is in force in Malaysia as of 27 December 2019.
International application to the national office of the country as a designated office of designated country under the Madrid System	The Madrid system is in force in Malaysia as of 27 December 2019.

### COPYRIGHT SYSTEM

National Law	The Copyright Act 1987 <a href="https://wipolex.wipo.int/en/legislation/details/7603">https://wipolex.wipo.int/en/legislation/details/7603</a>
Subjects of Protection	<ul style="list-style-type: none"> <li>• Literary works;</li> <li>• Musical works;</li> <li>• Artistic works;</li> <li>• Films;</li> <li>• Sound Recordings;</li> <li>• Broadcasts;</li> <li>• Derivative work; and</li> <li>• Performances</li> </ul>
Foreign Copyright Holders	Malaysia is a party to Berne Convention, hence work of foreign copyright holders are automatically protected.
Moral Rights	<p>Moral Rights consists of:</p> <ul style="list-style-type: none"> <li>• Paternity Rights: Allows the author to claim the originality rights of his or her creation.</li> <li>• Integrity Right: Authorises the author to prevent any users from distortion, mutilation or other modifications of his or her work.</li> </ul> <p>(Sect. 25 and 25 A)</p>



Economic Rights	<p>The copyright conferred by the Copyright Act is a bundle of exclusive rights in relation to the work or material in question. They include:</p> <ul style="list-style-type: none"> <li>• Rights of reproduction,</li> <li>• Rights of communication to public,</li> <li>• Rights to perform, showing or playing to the public,</li> <li>• Rights of distribution and rights of commercial rental.</li> </ul> <p>(See the full list in Sect. 13)</p>
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### TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY

- Platcom Ventures Sdn. Bhd is a technology transfer office wholly owned by National Innovation Agency Malaysia (AIM). Platcom provides end to end commercialisation facilitation to businesses i.e. from ideation to commercialisation, which includes funding, consultation, IP filing and etc. (For more details, see platcomventures.com)
- SIRIM Tech Venture Sdn Bhd (STV) is a technology transfer office, wholly-owned subsidiary of SIRIM Berhad. STV is the commercialisation arm of SIRIM Berhad and anticipates accelerating the commercialisation of research and innovation into the marketplace. (For more details, see sirimteventure.my).
- Malaysia Technology Development Corporation (MTDC) has been involved in technology commercialisation in Malaysia and promoting the adoption of technologies by local companies in the past 25 years. MTDC is involved in the business of Fund Management, Incubation, Advisory, and Nurturing Services. (For more details, see mtdc.com.my)
- Technology Park Malaysia Corporation Sdn Bhd (TPM) is an innovation facilitator and technology enabler in Malaysia. It operates under the auspices of the Ministry of Energy, Science, Technology, Environment and Climate Change (MESTECC). (For more details, see tpm.com.my)
- Some notable public institutions also that have their own technology transfer office (TTO):-
  - Universiti Putra Malaysia – TTO: Putra Science Park (PSP)
  - University Malaya – TTO: University of Malaya Centre of Innovation & Commercialisation (UMCIC)
  - Universiti Teknologi Malaysia – TTO: Innovation and Commercialisation Centre (ICC)
  - Universiti Kebangsaan Malaysia – TTO: Centre for Collaborative Innovation (PIK)
  - Universiti Sains Malaysia – TTO: Innovation Office (ICO)
  - Malaysia Palm Oil Board (MPOB)
  - Forest Research Institute of Malaysia (FRIM)
  - Etc. Most public research organisations have established dedicated units or companies to facilitate technology transfer.

Innovation and Technology Managers Association (ITMA) was established by a group of technology transfer managers from public universities, government agencies related to technology commercialisation and IP services and consultancy agency. (Refer itma.my for details)

### ATTORNEYS IN THE COUNTRY

Please see official list at:

- For Registered Patent Agents: <http://www.myipo.gov.my/en/patent-agent/?lang=en>
  - For Registered Trademark Agents: <http://www.myipo.gov.my/en/managing-your-trademark/?lang=en%2F#trademark-agent>
- For Registered Industrial Design Agents: <http://www.myipo.gov.my/en/industrial-design-agent/?lang=en>

## FILING PROCEDURES

### Patents

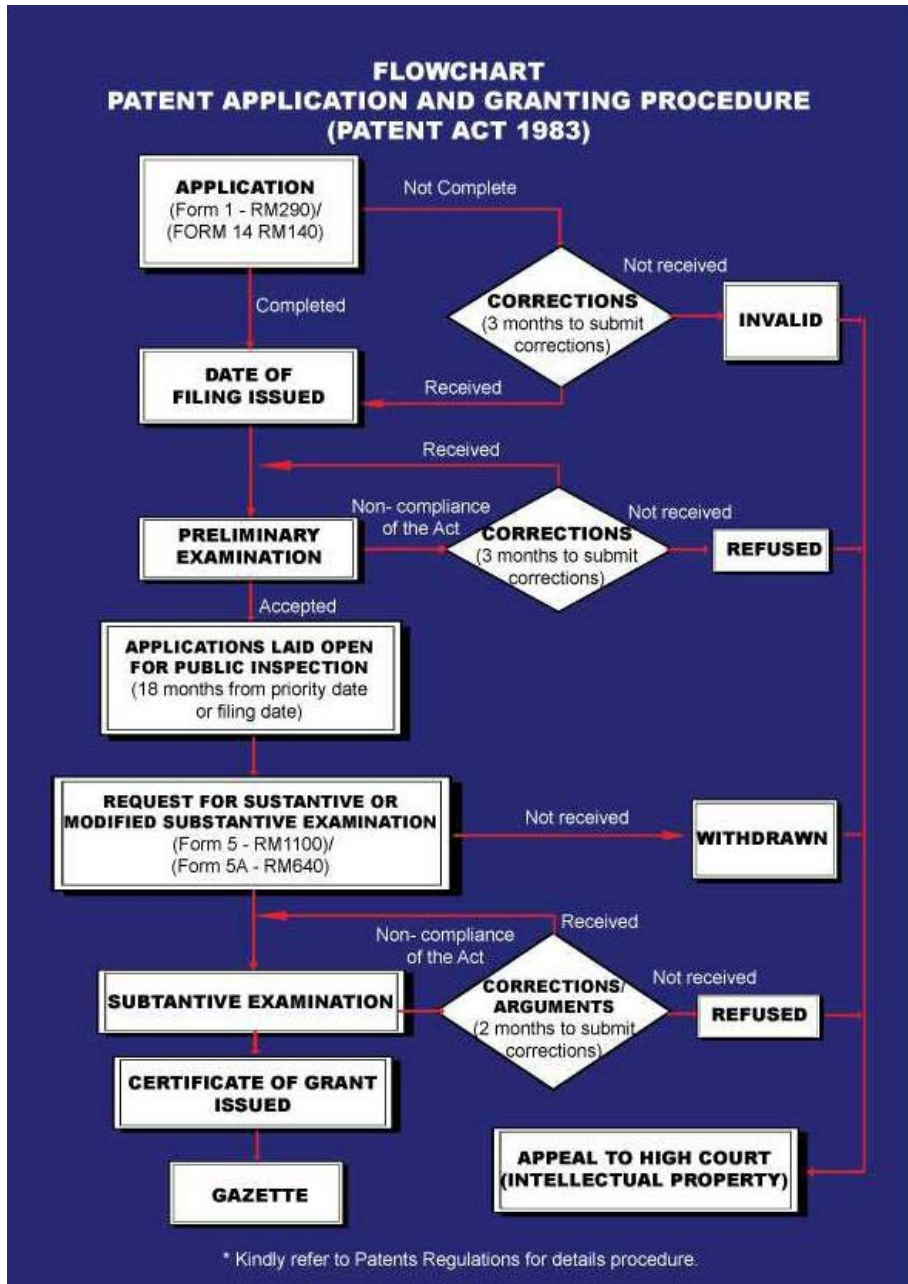
#### **Procedures for obtaining a Patent in Malaysia under the National Law**

1. Once a complete application is filed with the Intellectual Property Corporation of Malaysia (MyIPO), a filing date is issued and the application is processed for preliminary examination.
2. During the preliminary examination, if the application is accepted, it will be open for public inspection after 18 months from the filing date.
3. If the application is not accepted in the preliminary examination, the patent office suggests corrections, which are to be submitted by the applicant within 3 months. Post submission of corrections, if an application is accepted, it will be open for public inspection after 18 months from the filing date (see above).
4. The applicant would need to request for substantive or modified substantive examination before the end of 18 months from the filing date of the application.
5. During the substantive examination, if the application is accepted, a patent grant certificate is issued and the bibliographic data together with the abstract of the invention will be published in official gazette.
6. In case the Patent Office requires corrections or amendments, these are to be provided within a time frame of 2 months.
7. In case, the corrections are not received within the due date, the application is refused.

#### **Additional information relating to the Procedures for obtaining a Patent in Malaysia through PCT**

- ▶ The time limit for entering the Malaysia national phase of a PCT application is 30 months from the priority date.
- ▶ Special Requirement of Intellectual Property Corporation of Malaysia (MyIPO) for entry into National Phase:
  - Name and address of the inventor if they have not been furnished in the "Request" part of the international application.
  - Statement justifying the applicant's right to the patent where the applicant is not the inventor.
  - Evidence of entitlement to claim priority where the applicant is not the applicant who filed the earlier application.
  - Appointment of an agent if the applicant is not resident in Malaysia.
  - Furnishing, where applicable, of a nucleotide and/or amino acid sequence listing in electronic form

**Flow Chart for obtaining a Patent in Malaysia**



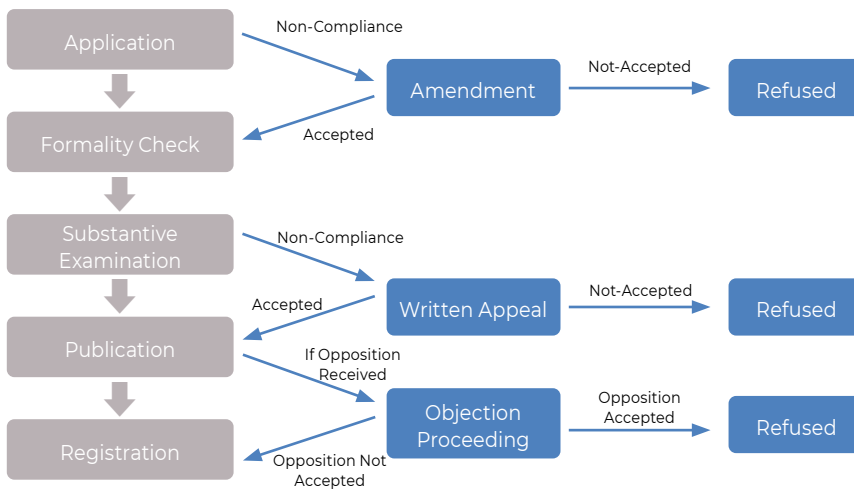
## Trademarks

### Procedure for obtaining a Trademark in Malaysia under the National Law

**NB: as of October 20, 2019 the Trademarks Regulation is in the process of being drafted by the trademark and legal team. It will be finalised before 27 Dec 2019. The procedure below may therefore be amended. Please refer to MyIPO's web site for updates.**

1. Once an application for the registration of trademark is filed with MyIPO, it undergoes a formality check. In case some Trademark Office is of the opinion that some amendments are required, the applicant has to submit the amended application within 8 - 10 months' time.
2. Once the application passes the stage of formal examination, it undergoes the substantive examination. If an application is accepted during the substantive examination, it is published in the official gazette for two months to allow for possible objections from the public.
3. If no objection is received, the applicant is granted a certificate of registration. In case of objections, inter-parte hearings are conducted. If the opposition is accepted, the application for registration is refused. If the opposition is refused, the application is accepted and applicant is granted a certificate of registration.
4. If the trademark application is refused during the substantive examination stage, the applicant is allowed to file a written appeal. If successful the application is published in the official gazette for two months to allow for possible objections from the public.

### Flow Chart for obtaining a Trademark in Malaysia

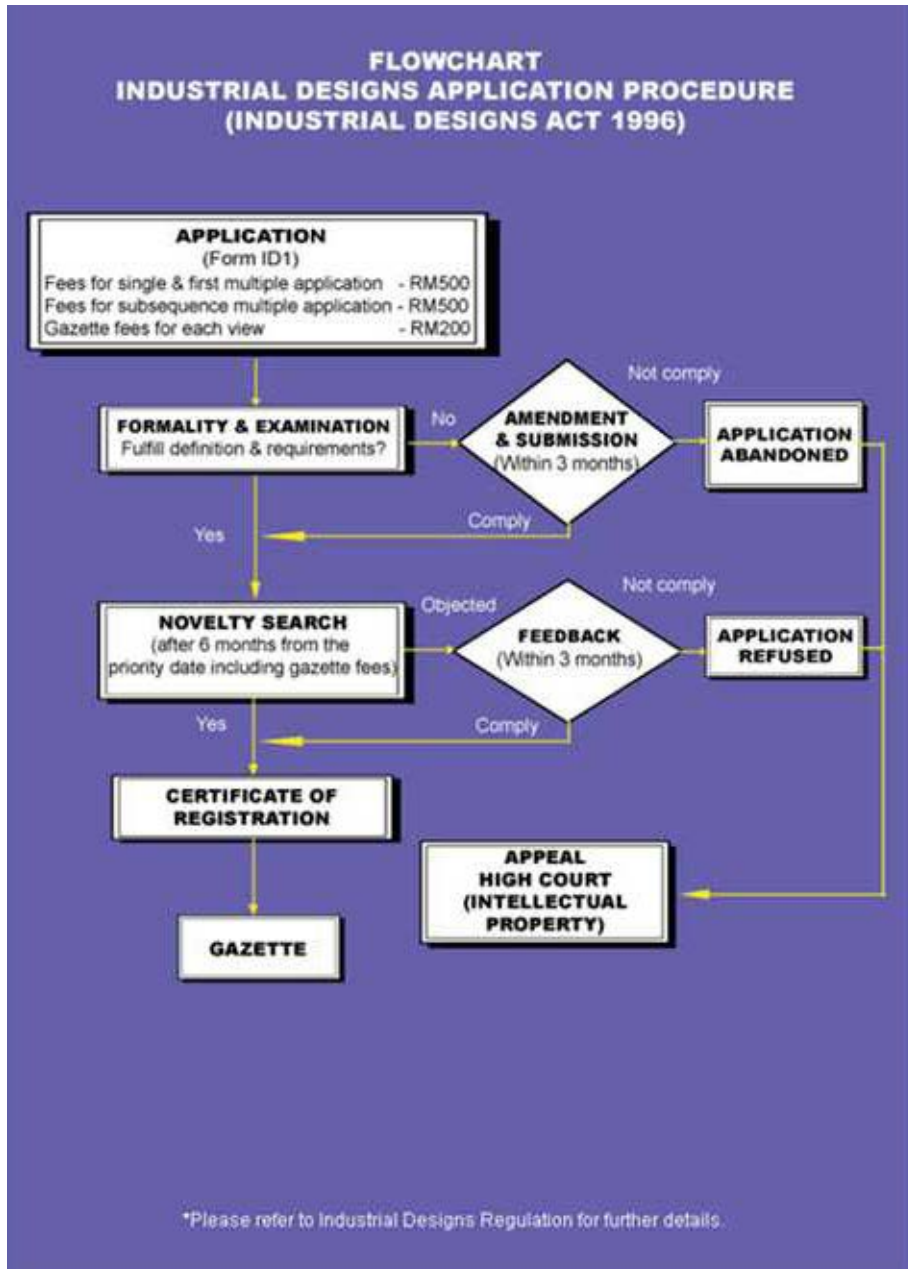


## Industrial Designs

### Procedures for obtaining an Industrial Design in Malaysia under the national law

1. An application for registration for a design must be filed with MyIPO.
2. It undergoes a formality examination.
3. In case objections are raised by the Design Officer, the applicant will have to amend and submit a modified application within 3 months, after which the application undergoes novelty examination.
4. If an application passes the novelty examination, a certificate of design registration is issued.
5. In case the application is objected during this stage, the applicant will have to submit its response within 3 months. If the response is accepted, a certificate of design registration is issued and the registration is published in official gazette.

Flow Chart for obtaining an Industrial Design in Malaysia





## Myanmar

### IP OFFICE

<b>Industrial Property (Patents, Trademarks, Industrial Designs and Copyright)</b>	
Competent Authority	Intellectual Property Department
Web site address	A new website for the IP Department under the Ministry of Commerce will be created soon.
Address	Ministry of Commerce, Nay Pyi Taw, Republic of the Union of Myanmar
Telephone	(+95) 673 404507
E-mail	ipsectionmost@gmail.com (temporary valid until establishment of new email address under the Ministry of Commerce)

### MAIN IP INTERNATIONAL CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S.No.	Signature	In Force Since
1.	WIPO Convention	February 15, 2001

For more information please refer to: [https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=116C](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=116C)

IP Rights	Legal Requirements	Duration	Responsible Authority
<b>Copyright</b>	- Originality	Life of author + 50 years	IP Department (Ministry of Commerce)
<b>Trademarks</b>	<ul style="list-style-type: none"> <li>• Distinctiveness</li> <li>• Not in conflict with prior signs</li> <li>• Not generic</li> <li>• Not descriptive</li> <li>• Not contrary to public order, morality, faith and conscience, or venerated cherished culture of the Union and seared customs of the natives of the country (sect. 13 and 14)</li> </ul>	10 years renewable (sect. 34 & 35)	IP Department (Ministry of Commerce)
<b>Patents</b>	<ul style="list-style-type: none"> <li>• Novelty</li> <li>• Inventive step</li> <li>• Industrial Applicability</li> </ul> These concepts are explained in Sect. 13	20 Years	IP Department (Ministry of Commerce)
<b>Utility Models</b>	<ul style="list-style-type: none"> <li>• Granted for a "minor" invention which does not require to satisfy the test of inventiveness as required for patents.</li> </ul>	10 Years	IP Department (Ministry of Commerce)

<b>Industrial Designs</b>	• New in Myanmar or elsewhere (sect. 13-15)	5 Years (Renewable for 2 consecutive terms for a maximum 15 years)	IP Department (Ministry of Commerce)
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PATENT SYSTEM	
National Law	Patent Law No 7 of March 11, 2019
Requirement of Agent for foreigners	Yes
Language in which request may be filed	English or Myanmar
Non-Patentable Subjects	<ol style="list-style-type: none"> <li>(1) Discoveries, scientific theories and mathematical methods;</li> <li>(2) schemes, rules or methods for doing business, performing purely mental acts or playing games;</li> <li>(3) computer programs as such;</li> <li>(4) essentially biological processes for the production of plants or animals other than non-biological and microbiological processes;</li> <li>(5) plants and animals, including animal races and plant varieties and including the whole or part of natural living beings and biological materials found in nature other than artificially created microorganisms, DNA (including complementary DNA sequences), cells, cell lines, cell cultures and seeds;</li> <li>(6) methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practiced on the human or animal body;</li> <li>(7) inventions in relation to the natural substances, known substances including new uses and new forms of known substances or chemical products in accordance with the implementing regulations;</li> <li>(8) Inventions, where they are necessary to prevent the commercial exploitation of the invention within the State by any existing Law in order to protect public order or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment (Section 14).</li> </ol>
Substantive Examination	Yes, in case an opposition is accepted or if the applicant requests it.
Opposition System	Yes. Opposition against patent application in Myanmar can be filed within 90 days from the date of Publication (sect. 33).
PCT international application through the national office of the country as a receiving office under the PCT	Myanmar is not yet party to the PCT.
PCT international application to the national office of the country as a designated office under the PCT	Myanmar is not yet party to the PCT.

<b>INDUSTRIAL DESIGN SYSTEM</b>	
National Law	Industrial Design Law No 2 of January 30, 2019
Subject of Protection	The appearance of the whole or a part of any industrial or handicraft product resulting from the features of, in particular, the lines, contours, colours, shapes, textures or materials of the said product itself and/or its ornamentation.
Language	English or Myanmar
Non-Registrable Subjects	(a) A design dictated essentially by technical or functional considerations; (b) A design contrary to public order, morality, faith or cherished culture of the Union. (Sect. 16)
Substantive Examination	When an opposition against an industrial design application is filed with the IP Office, a substantive examination is carried out (Sect. 33).
Multiple designs in a single application	Yes (Sect 21).
International application through and to the national office of the country under the Hague System: no information. Please refer also the following website.	Myanmar is not a party to the Hague system yet

<b>TRADEMARK SYSTEM</b>	
National Law	Trade Mark Law No. 3, of January 30, 2019
Subjects of Protection	A mark includes trade marks, service marks, collective marks, certification marks, and it can take the form of words including personal names, letters, numerals, figurative elements and combinations of colors as well as any combinations of such signs. (Sect. 2)
Language	English or Myanmar
Term of Trademark Protection	10 years renewable (Sect. 34-35)
Non-Registrable Subjects	See list above and contained in sect. 13 and 14.
Substantive Examination	Yes, the application undergoes a formality examination and absolute grounds examination (sect. 23), but relative grounds are not checked unless an opposition is filed.
Opposition System	Yes. Opposition against a trademark application in Myanmar can be filed within 60 days from its publication in the official publication. (Sect. 26)
International application through the national office of the country as an office of origin under the Madrid System	Myanmar is not a party to the Madrid system yet



International application to the national office of the country as a designated office of designated country under the Madrid System	Myanmar is not a party to the Madrid system yet
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COPYRIGHT SYSTEM	
National Law	Copyright Law, Law No. 15/2019 of 24 May 2019
Subjects of Protection	<p><b>Copyright Matters</b></p> <ul style="list-style-type: none"> <li>• Literary works;</li> <li>• Musical works;</li> <li>• Artistic works;</li> <li>• Films and Audiovisual works;</li> <li>• Derivative work</li> </ul> <p><b>Related Right Matters</b></p> <ul style="list-style-type: none"> <li>• Sound Recordings;</li> <li>• Broadcasts; and</li> <li>• Performances</li> </ul>
Foreign Copyright Holders	Myanmar is not yet party to Berne Convention hence work of foreign copyright holders are not automatically protected. However, the situation will change in the near future.
Moral Rights	<p>Moral Rights consists of:</p> <ul style="list-style-type: none"> <li>• Paternity Rights: Allows the author to claim the originality rights of his or her creation.</li> <li>• Integrity Right: Authorises the author to prevent any users from distortion, mutilation or other modifications of his or her work. (Sect. 20)</li> </ul>
Economic Rights	<p>They include the rights:</p> <ul style="list-style-type: none"> <li>• Rights of reproduction,</li> <li>• Rights of communication to public,</li> <li>• Rights to perform, showing or playing to the public, Rights of distribution and rights of commercial rental,</li> <li>• Right of Translation, Adaption, Arrangement, or other Alteration or Modification. (Sect. 18)</li> </ul>

TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY
There is no official national technology transfer office.

ATTORNEYS IN THE COUNTRY
While there is no official list, information regarding Intellectual Property Law Firms in Myanmar can be found at: <a href="https://www.hg.org/law-firms/intellectual-property/myanmar.html">https://www.hg.org/law-firms/intellectual-property/myanmar.html</a>

## FILING PROCEDURES

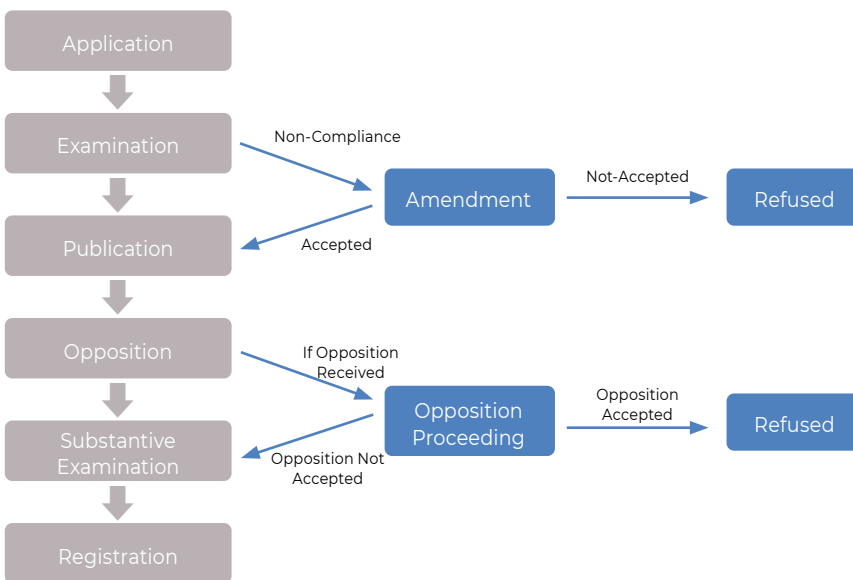
### Patents

#### **Procedures for obtaining a Patent in Myanmar under the National Law**

- ▶ An application for the registration of a patent must be filed with the IP Department, in compliance with the formal requirements provided under sections 19 and 20.
- ▶ It undergoes a formality examination to verify compliance with the above sections.
- ▶ In case the Department is of the opinion that some amendments are required, it informs the applicant who has to submit the amended application within 60 days from the notification (sect. 30.b).

- ▶ Provided the application complies with the formality requirements, it will be published for 90 days to allow for possible oppositions from the public after 18 months from the date of filing or date of priority.
- ▶ In case oppositions are filed by third parties, the Registrar shall notify to the applicant who will be entitled to file a counter-statement within a time limit.
- ▶ The applicant shall submit the Substantive Examination Request within 36 months from the filing date or the priority date. If there is no such request submitted by the applicant, the application shall be deemed abandoned.
- ▶ With respect to the request for substantive examination of a patent application, the examiner shall examine the application against the patentability criteria.
- ▶ If the application is rejected, the application for registration is refused. And if the application is accepted, the applicant is granted and a certificate of patent is issued.
- ▶ If no oppositions are received, or if the opposition is unsuccessful, the application is accepted, and the applicant is granted a certificate of registration (sect. 40 and 41).

**Flow Chart for obtaining a Patent in Myanmar**

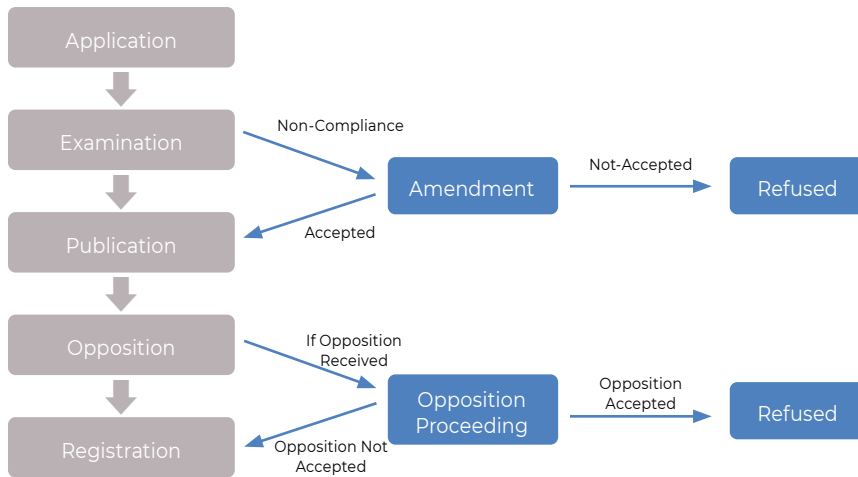


**Trademarks**

**Procedure for obtaining a Trademark in Myanmar under the National Law**

- ▶ An application for the registration of trademark must be filed with the IP Department, in compliance with the formal requirements provided under section 17.
- ▶ It undergoes a formality and absolute ground examination to verify compliance with sections 13 and 17.
- ▶ In case the Department is of the opinion that some amendments are required, it informs the applicant who has to submit the amended application within 30 days from the notification (sect. 23.b).
- ▶ Once the application successfully passes the examination stage, it is published in the official publication for sixty days to allow for possible oppositions from the public.
- ▶ If the opposition is accepted, the application for registration is refused.
- ▶ If no oppositions are received, or if the opposition is unsuccessful, the application is accepted and applicant is granted a certificate of registration (sect. 26-27).

### Flow Chart for obtaining a Trademark in Myanmar

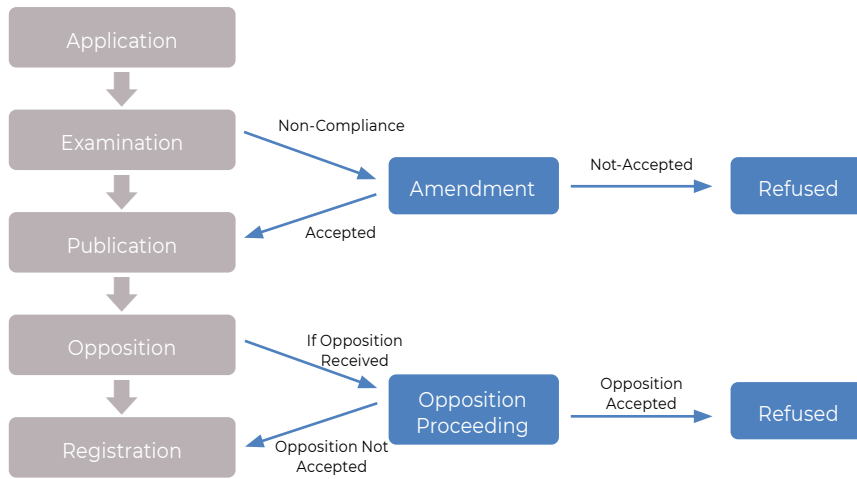


### Industrial Designs

#### Procedures for obtaining an Industrial Design in Myanmar under the national law

- ▶ An application for the registration of an industrial design must be filed with the IP Department, in compliance with the formal requirements provided under sections 21 and 22.
- ▶ It undergoes a formality examination to verify compliance with the above sections, and to examine if the proposed design complies with the definition of Industrial Design and whether the proposed industrial design is contrary to public order, morality, faith or cherished culture of the Union.
- ▶ In case the Department is of the opinion that some amendments are required, it informs the applicant who has to submit the amended application within 30 days from the notification (sect. 28.b).
- ▶ Once the application successfully passes the examination stage, it is published in the official publication for sixty days to allow for possible oppositions / objections from the public (Sect. 31).
- ▶ If the opposition is accepted, the application for registration is refused.
- ▶ If no oppositions are received, or if the opposition is unsuccessful, the application is accepted, and the applicant is granted a certificate of registration (sect. 33).

**Flow Chart for obtaining an Industrial Design in Myanmar**





## New Zealand

### IP OFFICES

Intellectual Property (Patents, Trade marks and Industrial Designs and Copyright)	
Competent Authorities	<p><b>Patents, trade marks and industrial designs</b> Intellectual Property Office of New Zealand (IPONZ) Ministry of Business, Innovation and Employment</p> <p><b>Copyright</b> Corporate Governance and Intellectual Property Policy Team Ministry of Business, Innovation and Employment</p>
Web site addresses	<p><a href="http://www.iponz.govt.nz">http://www.iponz.govt.nz</a> <a href="https://www.mbie.govt.nz/business-and-employment/business/intellectual-property/">https://www.mbie.govt.nz/business-and-employment/business/intellectual-property/</a></p>
Address	15 Stout Street, Wellington 6011, New Zealand
Telephone	(64 3) 962 2607
E-mail	<p><b>Patents, trade marks and industrial designs</b> <a href="mailto:info@iponz.govt.nz">info@iponz.govt.nz</a></p> <p><b>Copyright</b> <a href="mailto:ip.policy@mbie.govt.nz">ip.policy@mbie.govt.nz</a></p>

### MAIN IP INTERNATIONAL CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S.No.	Signature	In Force Since
1	Marrakesh VIP Treaty	January 4, 2020
2	Berne Convention (Paris Act)	March 17, 2019
3	Budapest Treaty	March 17, 2019
4	Madrid Agreement (Indications of Source) (London Act)	May 17, 1947
5	Madrid Protocol	December 10, 2012
6	Nairobi Treaty	N/A
7	Nice Agreement	October 16, 2013
8	Paris Convention (Stockholm Act)	June 20, 1984
9	Patent Cooperation Treaty	December 1, 1992
10	Phonograms Convention	August 13, 1976
11	Singapore Treaty	December 10, 2012
12	UPOV Convention (1978)	November 8, 1981
13	WIPO Convention	June 20, 1984
14	WIPO Copyright Treaty	March 17, 2019
15	WIPO Performances and Phonograms Treaty	March 17, 2019

For more information please refer to: [https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=134](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=134)

IP Rights	Legal Requirements	Duration	Responsible Authority
<b>Copyright</b>	- Originality	Life of author + 50 years	Corporate Governance and Intellectual Property Policy Team, Ministry of Business, Innovation and Employment
<b>Trade marks</b>	<ul style="list-style-type: none"> <li>• Distinctiveness</li> <li>• Not in conflict with prior trade marks</li> <li>• Not descriptive</li> <li>• Not contrary to law/offensive</li> </ul>	10 years renewable	Intellectual Property Office of New Zealand, Ministry of Business, Innovation and Employment, New Zealand
<b>Patents</b>	<ul style="list-style-type: none"> <li>• Manner of manufacture</li> <li>• Novelty</li> <li>• Inventive step</li> <li>• Useful (i.e. has a specific, credible and substantial utility)</li> </ul>	20 Years	Intellectual Property Office of New Zealand, Ministry of Business, Innovation and Employment, New Zealand
<b>Industrial Designs</b>	- New or original	5 Years (Further Renewable for 10 years)	Intellectual Property Office of New Zealand, Ministry of Business, Innovation and Employment, New Zealand

PATENT SYSTEM	
National Law	The Patents Act 2013 <a href="https://wipolex.wipo.int/en/legislation/details/17836">https://wipolex.wipo.int/en/legislation/details/17836</a>
Requirement of Agent by receiving office for foreigner	No, but an Australian or New Zealand address for service must be provided
Language	English
Non-Patentable Subjects	<ul style="list-style-type: none"> <li>• Invention is contrary to the public order or morality</li> <li>• Human being and biological processes for their generation</li> <li>• Methods of treatment of human being by surgery or therapy</li> <li>• Methods of diagnosis practiced on human beings</li> <li>• Plant varieties</li> <li>• Computer programs as such are not patentable. (Sect. 11, 15 &amp; 16)</li> </ul>
Substantive Examination	Yes (Sect. 65)
PCT international application through the national office of the country as a receiving office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_nz.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_nz.pdf</a>
PCT international application to the national office of the country as a designated office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/nz.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/nz.pdf</a>

<b>INDUSTRIAL DESIGN SYSTEM</b>	
National Law	The Design Act 1953 <a href="https://wipolex.wipo.int/en/legislation/details/16142">https://wipolex.wipo.int/en/legislation/details/16142</a>
Language	English
Non-Registrable Subjects	A Design will only protect appearance of an article manufactured by an industrial process (Sect. 2). Solely functional designs cannot be protected.
Substantive Examination	Yes
International application through and to the national office of the country under the Hague System: See WIPO member list as of 4 March 2019 <a href="https://www.wipo.int/export/sites/www/treaties/en/documents/pdf/hague.pdf">https://www.wipo.int/export/sites/www/treaties/en/documents/pdf/hague.pdf</a>	No

<b>TRADE MARK SYSTEM</b>	
National Law	The Trade Marks Act 2002 <a href="https://wipolex.wipo.int/en/legislation/details/17349">https://wipolex.wipo.int/en/legislation/details/17349</a>
Subjects of Protection	<ul style="list-style-type: none"> <li>• Trade Marks</li> <li>• Certification Marks</li> <li>• Collective Marks</li> </ul>
Language	English
Term of Trade mark Protection	10 years, renewable for further periods of 10 years indefinitely
Non-Registrable Subjects	<ul style="list-style-type: none"> <li>• Marks that are deceptive or confusing (sect. 17)</li> <li>• Marks that are contrary to law (sect 17)</li> <li>• Marks that are likely to offend a significant section of the community (sect 17)</li> <li>• Applications made in bad faith (sect 17)</li> <li>• Non-distinctive marks (Sect. 18)</li> <li>• Mark that consists only of signs or indications that may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, time of production of goods or of rendering of services, or other characteristics of the goods or services. (Sect. 18)</li> <li>• Mark that consists of signs or indications that are customarily used in trade (Sect. 18)</li> <li>• Mark containing a name or visual representation clearly depicting a real person (sect 20)</li> <li>• Geographical indications, subject to conditions. (Sect. 20)</li> <li>• Marks that contains representations of the Royal Family (Sect. 24)</li> <li>• Any identical or similar marks (Sect. 25)</li> <li>• Marks that contains a flag or insignia of any entity (sect 27)</li> <li>• Marks that contains flag, State emblems, armorial bearings, official sign or hallmarks of convention country (Sect. 28)</li> <li>• Marks that contains armorial bearings of certain international organisations (Sect. 29)</li> </ul>

Substantive Examination	Yes
Opposition System	Yes. Both pre-registration and post-registration regimes. Pre- registration oppositions must be filed within three months from the publication of acceptance date (Sect. 47).
International application through the national office of the country as an office of origin under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9179&amp;datafields=9583,9584,9582">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9179&amp;datafields=9583,9584,9582</a>
International application to the national office of the country as a designated office of designated country under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9179&amp;datafields=9579,9580,9577,9578,9581,9583,9582,9584,9628,9638,9639,9640,9604,9597,9603,9599,9598,9600,9602,9596,9601,9605,9623,9624,9622,9627,9625,9626,9635,9636,9637,9634,9633,9595,9585,9588,9593,9594,9587,9591,9592,9586,9589,9590,9607,9619,9620,9611,9621,9608,9617,9613,9615,9606,9616,9614,9612,9609,9610,9618,9629,9631,9630">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9179&amp;datafields=9579,9580,9577,9578,9581,9583,9582,9584,9628,9638,9639,9640,9604,9597,9603,9599,9598,9600,9602,9596,9601,9605,9623,9624,9622,9627,9625,9626,9635,9636,9637,9634,9633,9595,9585,9588,9593,9594,9587,9591,9592,9586,9589,9590,9607,9619,9620,9611,9621,9608,9617,9613,9615,9606,9616,9614,9612,9609,9610,9618,9629,9631,9630</a>

### COPYRIGHT SYSTEM

National Law	The Copyright Act 1994 <a href="https://wipolex.wipo.int/en/legislation/details/17350">https://wipolex.wipo.int/en/legislation/details/17350</a>
Subjects of Protection	<ul style="list-style-type: none"> <li>• Literary works, including tables, compilations and computer programs</li> <li>• Dramatic works</li> <li>• Musical works</li> <li>• Artistic works</li> <li>• Films</li> <li>• Sound Recordings</li> <li>• Communication works such as broadcasts and cable programmes</li> <li>• Typographical arrangements of published editions</li> </ul>
Foreign Copyright Holders	New Zealand is a Party to Berne Convention (1971) and the WTO TRIPS Agreement; hence works of foreign copyright holders are automatically protected.
Moral Rights	<p>Moral rights are available for authors, directors and performers and include:</p> <ul style="list-style-type: none"> <li>• a right of attribution</li> <li>• a right to object to derogatory treatment of a work</li> <li>• a right not to have authorship falsely attributed.</li> </ul> <p>A right to privacy is also provided to persons commissioning certain photographs and films.</p>
Economic Rights	<p>The copyright conferred by the Copyright Act is a bundle of exclusive rights in relation to the work or material in question.</p> <p>They include the right to:</p> <ul style="list-style-type: none"> <li>• copy the work</li> <li>• issue copies to the public</li> <li>• perform the work in public</li> <li>• show the work in public</li> <li>• communicate the work to the public</li> <li>• make adaptations of the work</li> <li>• authorise another person to do any of the above acts.</li> </ul>



	<p>Copyright may be transferred or assigned to another person.</p> <p>A performer's consent required for the recording of their performances as well as for the live communication of their performances to the public.</p> <p>Performer's consent also required in relation to sound recordings of their performances for:</p> <ul style="list-style-type: none"> <li>• communicating sound recordings available to the public</li> <li>• copying of the sound recordings</li> <li>• issuing copies of the sound recording to the public.</li> </ul>
Limitation to Author's Rights	The Copyright Act provides for a range of exceptions and limitations to copyright protection (Part 3)

### TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY

Although there is no national technology transfer office, most research organisations and universities have established dedicated units to facilitate technology transfer.

### ATTORNEYS IN THE COUNTRY

Information in this regard is available at: <https://www.ttipattorney.gov.au>

### FILING PROCEDURES

#### Patents

#### **Procedures for obtaining a Patent in New Zealand under the National Law**

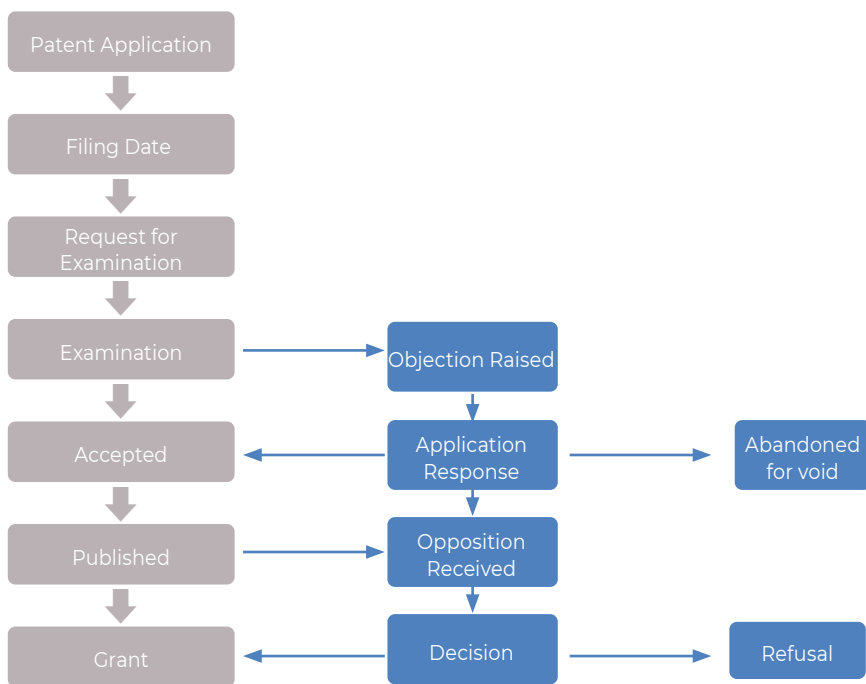
1. An application for the grant of a Patent can be filed by any person alone or jointly (Sect. 31) in a manner prescribed under the Patent Act (Sect. 32) along with the fees prescribed in this regard. The application can be filed with provisional or complete specifications (Sect. 36). The latter option includes PCT requests to enter national phase in New Zealand, convention applications, and complete specification in first instance types of applications. Most NZ patent applications are PCT requests.
2. If a patent application is filed with provisional specifications, a complete application must be filed within 12 months. This period may be extended in certain cases (Sect 37).
3. When a complete specification is received by IPONZ it is given a filing date. The applicant may file priority data and dates for one or more corresponding earlier overseas applications. Priority is determined as per the procedure laid down under the Sub-part 5 of the Act.
4. After filing a complete application, an applicant may request for the examination of the application within the prescribed period, or, the Commissioner may, on some prescribed grounds, direct the applicant to request for examination, or, in case the patent request and specification relating to a complete application for a standard patent are open to public inspection, a person may ask the Commissioner to direct the applicant to request for examination (Sect. 64). If examination is not timely requested the application is deemed abandoned.
5. Following the request for examination, the application undergoes a detailed examination. During the examination stage, the Commissioner may raise any lawful objection, and the applicant may amend the application or specification, or argue that an objection is incorrect. There may be several exchanges between Commissioner and applicant. The application is deemed abandoned or void if the applicant fails to overcome objections or fails to file a Notice of Entitlement within time prescribed (Sects. 65-73). This is subject to the applicant timely requesting a hearing on outstanding matters (Sect. 208).
6. After the examination, the Commissioner must accept the patent application if satisfied it complies with all legal requirements. (Sect.74).

7. If the Commissioner accepts the patent application, he/she publishes a notice of acceptance in the official journal (Sect. 76).
8. Any person may object to the grant of a patent application based on the grounds mentioned under Sect. 92. The person may request a hearing and the Commissioner accordingly decides on the matter (Sect. 93).
9. The Commissioner grants the patent to the applicant after 3 months after the publication of the complete specifications, if there is no opposition to the grant, or despite opposition, the Commissioner decides in favour of the applicant (Sect. 101).
10. Where an application becomes abandoned or void as noted above (or for failure to timely request entry into national phase, or to pay prescribed annual maintenance fees) it may be restored subject to prescribed conditions (Sects. 125-128).

**Procedures for obtaining a Patent in New Zealand through PCT**

- ▶ The time limit for entering the New Zealand national phase of a PCT application is 31 months from the earliest priority date.
- ▶ Special Requirements for entry into National Phase:
  - Name of the inventor if it has not been furnished in the “Request” part of the international application
  - An electronic communication address by all persons communicating with the Office is not mandatory for requesting entry per se but is strongly recommended as it is mandatory for subsequent communications via the Office online case management facility (Sect. 229 and Regs. 13-17)
  - Address for service in New Zealand
  - Verification of translation, if any.

**Flow Chart for obtaining a Patent in New Zealand**

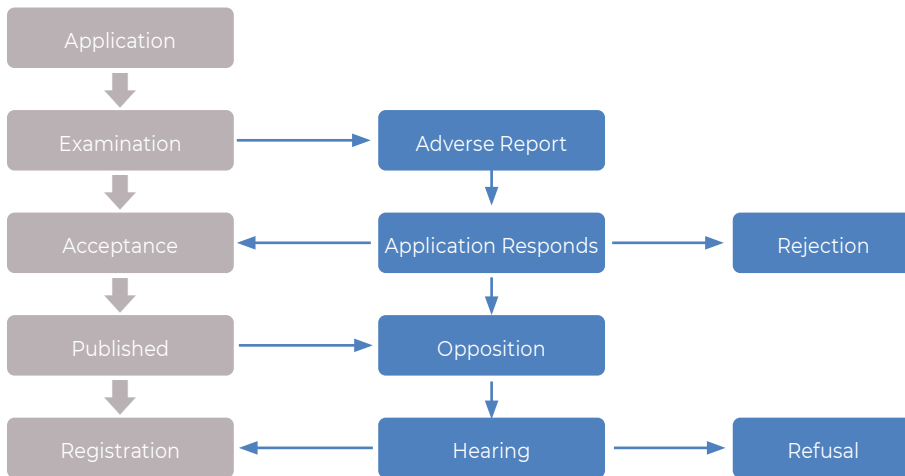


## Trademarks

### **Procedure for obtaining a Trademark in New Zealand under the National Law**

1. An application for the registration of a trade mark can be made by a person or a company in accordance with the procedure described in Sect. 32.
2. The Commissioner conducts a detailed examination of the application to access if the application complies with the requirements of Section 39 of this Act. If the Commissioner finds the application to be satisfactory, he/she accepts the application. In case an adverse report is issued by the Commissioner, the applicant is given an opportunity to respond to it (Sect. 40 & 41).
3. Once the application is accepted, a notice of acceptance is sent to the applicant and the acceptance is advertised in the official journal of Trade marks (Sect. 46).
4. In case an application is objected by any third party, the applicant is provided with an opportunity to defend his/her application by providing additional documents and justifications (Sect. 47 & 48).
5. In case of opposition, a hearing is conducted by the Commissioner. Subsequently, the Commissioner may register the mark or refuse its registration. In case no opposition is received, the Commissioner may register the trade mark (Sect. 49).

### **Flow Chart of Procedures in case of Trademarks**

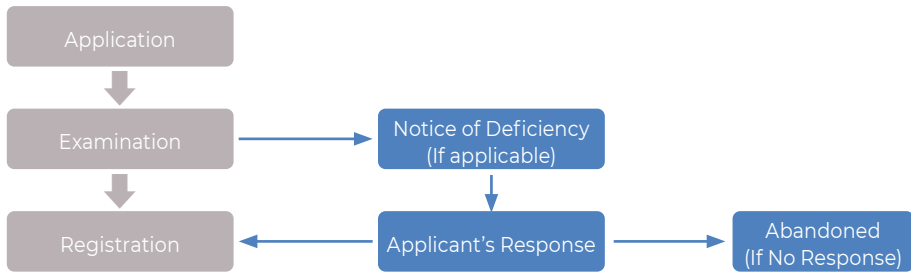


## Industrial Designs

### **Procedures for obtaining an Industrial Design in New Zealand**

1. An application for the registration of a design is made in the prescribed form and is filed with the Commissioner in the prescribed manner (Sect. 7).
2. After filing of the application, the Commissioner decides whether the design is new or original (Sect. 7).
3. The Commissioner may register the application with or without requesting modifications, within the prescribed time, or refuse it (Sect. 7).
4. In case the Commissioner requests the applicant to modify the application and the applicant fails to provide the requested modifications, the application is deemed to be abandoned (Sect.7).
5. The abandoned application may be restored subject to prescribed conditions (Sect. 41A-J).

**Flow Chart of Procedures in case of Design**





## The Republic of the Philippines

### IP OFFICE

Intellectual Property (Patent, Trademarks, Industrial Designs, Copyright)	
Competent Authority	Intellectual Property Office of the Philippines
Web site address	<a href="http://www.ipophil.gov.ph/">http://www.ipophil.gov.ph/</a>
Address	IP Center 28 Upper McKinley Road McKinley Hill Town Center, Fort Bonifacio Taguig City 1634 Philippines
Telephone	(632) 7238-6300
E-mail	mail@ipophil.gov.ph

#### MAIN IP INTERNATIONAL CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S. No.	Signature	In Force Since
1.	Berne Convention	August 1, 1951
2.	Budapest Treaty	October 21, 1981
3.	Madrid Protocol	July 25, 2012
4.	Marrakesh VIP Treaty	March 18, 2019
5.	Paris Convention	September 27, 1965
6.	Patent Cooperation Treaty	August 17, 2001
7.	Rome Convention	September 25, 1984
8.	WIPO Convention	July 14, 1980
9.	WIPO Copyright Treaty	October 4, 2002
10.	WIPO Performances and Phonograms Treaty	October 4, 2002

For more information, please refer to: [https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=139C](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=139C)

IP Rights	Legal Requirements	Duration	Responsible Authority
<b>Copyright</b>	- Originality	Life of author + 50 years However, different rules regarding specific terms may apply in certain cases.	Intellectual Property Office of the Philippines National Library of the Philippines
<b>Trademarks</b>		10 years Renewable every 10 years subject to submission of 3 <sup>rd</sup> , 5 <sup>th</sup> , anniversary and Renewal Declaration of Actual Use (DAU)	Intellectual Property Office of the Philippines

<b>Patents</b>	A. Novelty B. Inventive step C. Industrial applicability D. Not covered by list of non-patentable subject matters E. Complies with disclosure and enablement requirement	20 Years Not subject to renewal	Intellectual Property Office of the Philippines
<b>Utility Model</b>	<ul style="list-style-type: none"> <li>• Novelty</li> <li>• Industrially applicability</li> <li>• Not included in the non-patentable subject matter</li> </ul>	7 Years from date of filing with no possibility of renewal	Intellectual Property Office of the Philippines
<b>Industrial Designs</b>	<ul style="list-style-type: none"> <li>• Novelty or Ornamental character</li> <li>• Industrial Applicability</li> </ul>	5 Years Extendable for two (2) consecutive periods of 5 years each, for a total of 15 years	Intellectual Property Office of the Philippines

PATENT SYSTEM	
National Law	The Intellectual Property Code of the Philippines (Republic Act No. 8293, 2015, as amended). Part II deals with Patents <a href="https://wipolex.wipo.int/en/legislation/details/18399">https://wipolex.wipo.int/en/legislation/details/18399</a>
Requirement of Agent by receiving office for foreigner	Yes, for foreign applicants (Sect. 33)
Language in which request may be filed	Filipino or English (Sect. 32)
Non-Patentable Subjects	<ul style="list-style-type: none"> <li>• Discoveries, Scientific theories, and mathematical methods.</li> <li>• In case of drugs and medicines, mere discoveries of new forms, or new property of a known substance which does not result in the enhancement of the known efficacy of that substance, or the mere discovery of any new property or new use for a known substance, or the mere use of a known process unless such known process results in a new product that employs at least one new reactant.</li> <li>• Schemes, rules and methods of performing mental acts, playing games or doing business, and programs for computers.</li> <li>• Methods of treatment of human/animal body by surgery or therapy or diagnostic methods practiced on the human or animal body;</li> <li>• Plant Varieties or Animal Breeds, or essentially biological processes for production of plants or animals.</li> <li>• Aesthetic creations.</li> <li>• Anything contrary to public order or morality.</li> </ul> (Sect. 22)
Substantive Examination	Yes (Section 48)
PCT international application through the national office of the country as a receiving office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvoll/annexes/annexc/ax_c_ph.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvoll/annexes/annexc/ax_c_ph.pdf</a>

PCT international application to the national office of the country as a designated office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/ph.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/ph.pdf</a>
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<b>INDUSTRIAL DESIGN SYSTEM</b>	
National Law	The Intellectual Property Code of the Philippines (Republic Act No. 8293, 2015 as amended). Chapter XIII deals with Industrial Designs <a href="https://wipolex.wipo.int/en/legislation/details/18399">https://wipolex.wipo.int/en/legislation/details/18399</a>
Language	Filipino or English
Non-Registrable Industrial Designs	<ul style="list-style-type: none"> <li>Industrial designs that are dictated essentially by technical or functional considerations to obtain a technical result.</li> <li>Designs contrary to public order, health or morals. (Sect. 113.2)</li> </ul>
Substantive Examination	Yes (Sect.116.4)
Designs for a set of Articles	Yes (Sect.115)
International application through and to the national office of the country under the Hague System: no information. Please refer also the following website.	Philippines is not a party to the Hague system yet.

<b>TRADEMARK SYSTEM</b>	
National Law	The Intellectual Property Code of the Philippines (Republic Act No. 8293, 2015 as amended). Part III deals with Trademarks <a href="https://wipolex.wipo.int/en/legislation/details/18399">https://wipolex.wipo.int/en/legislation/details/18399</a>
Subjects of Protection	Visual signs capable of distinguishing goods or services of enterprises from others. These signs may include words, figurative signs, letters, numerals, any other visible elements, or any combination thereof (Sect. 121.1)
Language	Filipino or English (Sect. 146.2)
Term of Trademark Protection	10 years. The registration shall remain in force for ten (10) years provided that the registrant files the required DAU as follows: Third (3 <sup>rd</sup> ) year DAU (Sect. 124.2) Fifth (5 <sup>th</sup> ) year DAU (Sect. 145) Renewal DAU (Rule 204, Trademark Regulations) A trademark registration is renewable every 10 years upon payment of prescribed fees and upon filing of request.
Non-Registrable Subjects	See full list in Section 123.1
Substantive Examination	Yes. (Sect. 133)
Opposition System	Yes. Opposition against a trademark application in the Philippines may be filed within 30 days after publication (Sect. 134). This may be extended three (3) times for periods of 30 days each. The request for extension may be filed before the expiration period.

International application through the national office of the country as an office of origin under the Madrid System	Please see Madrid Member Profile for the Philippines using the link below for details such as requirements and procedure: <a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9182&amp;datafields=9579,9578,9580,9581,9577,9582,9584,9583,9629,9630,9631,9628,9638,9585,9589,9587,9588,9593,9594,9590,9586,9591,9592,9635,9633,9637,9636,9634,9625,9623,9622,9624,9627,9626,9640,9639,9604,9596,9605,9602,9598,9599,9597,9600,9601,9603,9595,9612,9617,9618,9610,9608,9606,9607,9621,9619,9614,9620,9609,9615,9611,9616,9613">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9182&amp;datafields=9579,9578,9580,9581,9577,9582,9584,9583,9629,9630,9631,9628,9638,9585,9589,9587,9588,9593,9594,9590,9586,9591,9592,9635,9633,9637,9636,9634,9625,9623,9622,9624,9627,9626,9640,9639,9604,9596,9605,9602,9598,9599,9597,9600,9601,9603,9595,9612,9617,9618,9610,9608,9606,9607,9621,9619,9614,9620,9609,9615,9611,9616,9613</a>
International application to the national office of the country as a designated country under the Madrid System	Please see Madrid Member Profile for the Philippines using the link below for details such as requirements and procedure: <a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9182&amp;datafields=9579,9578,9580,9581,9577,9582,9584,9583,9629,9630,9631,9628,9638,9585,9589,9587,9588,9593,9594,9590,9586,9591,9592,9635,9633,9637,9636,9634,9625,9623,9622,9624,9627,9626,9640,9639,9604,9596,9605,9602,9598,9599,9597,9600,9601,9603,9595,9612,9617,9618,9610,9608,9606,9607,9621,9619,9614,9620,9609,9615,9611,9616,9613">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9182&amp;datafields=9579,9578,9580,9581,9577,9582,9584,9583,9629,9630,9631,9628,9638,9585,9589,9587,9588,9593,9594,9590,9586,9591,9592,9635,9633,9637,9636,9634,9625,9623,9622,9624,9627,9626,9640,9639,9604,9596,9605,9602,9598,9599,9597,9600,9601,9603,9595,9612,9617,9618,9610,9608,9606,9607,9621,9619,9614,9620,9609,9615,9611,9616,9613</a>

<b>COPYRIGHT SYSTEM</b>	
National Law	The Intellectual Property Code of the Philippines (Republic Act No. 8293, 2015 as amended). Part IV deals with Copyright <a href="https://wipolex.wipo.int/en/legislation/details/18399">https://wipolex.wipo.int/en/legislation/details/18399</a>
Subjects of Protection	<ul style="list-style-type: none"> <li>• Original Literary and Artistic Works. Scope of Original Literary and artistic work is provided under Section 172.</li> <li>• Derivative Works. Scope of Derivative work is provided under Sect 173.</li> </ul>
Foreign Copyright Holders	The Philippines is a party to the Berne Convention hence work of foreign copyright holders are automatically protected.
Moral Rights	Moral Rights consists of: <ul style="list-style-type: none"> <li>• Paternity Right. The right to be attributed as author.</li> <li>• To make any alteration to his work prior to the publication, or to withhold it from publication.</li> <li>• Integrity Right. The right to object to a derogatory treatment of work and to object to any distortion, mutilation of work or other modification which would be prejudicial to his honor or reputation.</li> <li>• False Attribution. The right not to have a work falsely attributed.</li> </ul> (Sect. 193)



Economic Rights	<p>The Economic Rights consists of:</p> <ul style="list-style-type: none"> <li>• Reproduction of work or substantial part of it;</li> <li>• Dramatisation, translation, adaptation, abridgement, arrangement or other transformation of work;</li> <li>• First public distribution;</li> <li>• Rental Rights;</li> <li>• Public Display of Original Works or a copy of the work;</li> <li>• Public Performance of Works;</li> <li>• Other Communication to the public of the Works; (Sect. 177)</li> </ul>
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### TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY

The Philippines has a thriving network of Innovation and Technology Support Offices (ITSOs), the local version of WIPO's Technology Innovation Support Centers. Other bodies provide for the technology transfer facilitation, and many research organisations have established dedicated units or companies to facilitate technology transfer. More information about TISCs is available at: [https://www.wipo.int/tisc/en/search/search\\_result.jsp?country\\_code=PH](https://www.wipo.int/tisc/en/search/search_result.jsp?country_code=PH)

### ATTORNEYS IN THE COUNTRY

There are currently 143 professional patent agents in the Philippines. Some of them are members of the Association of PAQE Passers (APP). While some of these 143 agents are lawyers, many others are engineers and scientists. Of these patent agents, some are with law firms, others are with research agencies, and most are with the Philippine ITSOs. For information, please refer to IPOPHL, APP and individual ITSOs.

### FILING PROCEDURES

#### Patents

#### **Procedures for obtaining a Patent in the Philippines under the National Law**

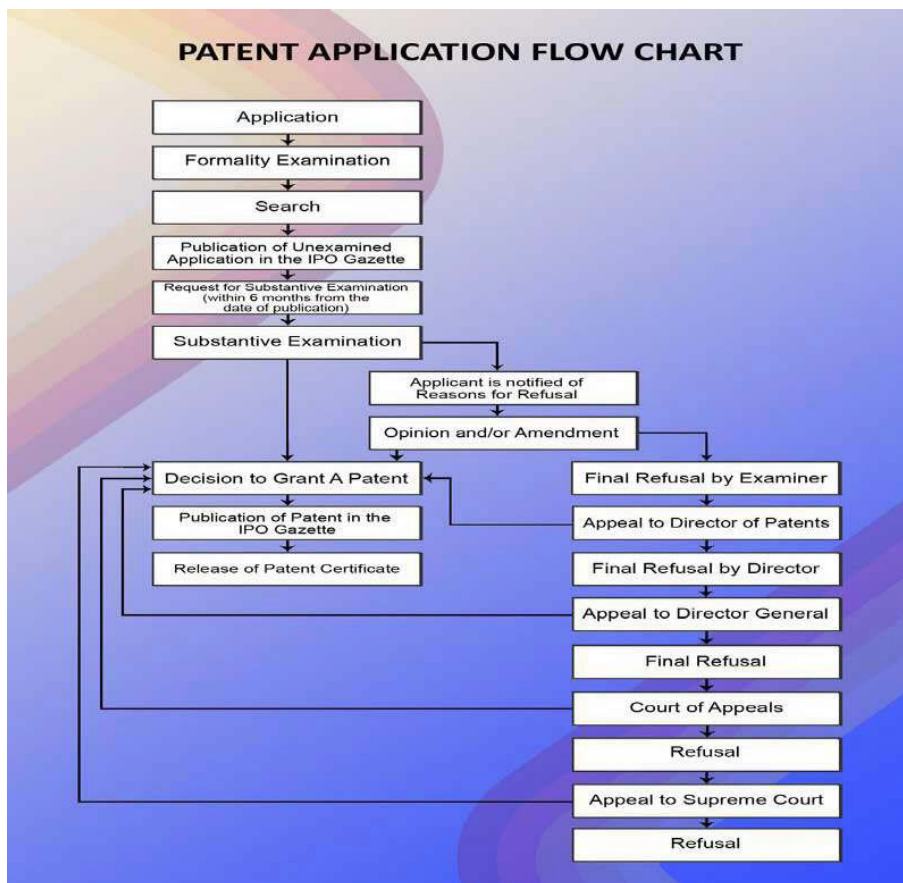
1. Every application for the grant of a patent has to be filed with the registry in the manner prescribed under Section 32. The application must contain:
  - b. A request for grant of Patent;
  - c. A description of the invention;
  - d. Drawing necessary for understanding the invention;
  - e. One or more claims; and
  - f. Abstract.
2. Once a complete application is filed, a filing date is issued and the application is processed for preliminary examination (Sect.41).
3. If the date of filing cannot be accorded, the applicant shall be given an opportunity to correct the deficiencies in accordance with the implementing Regulations. If the application does not contain all the elements indicated in Section 40, the filing date should be that date when all the elements are received. If the deficiencies are not remedied within the prescribed time limit, the application shall be considered withdrawn. (Sec. 41)
4. After a filing date is accorded, a detailed formal examination of the application is carried out. The applicant is required to comply with the conditions prescribed under Section 32 above. If this is not the case, the application shall be considered as withdrawn (Sect. 42).
5. An application that has passed the formality examination, shall be classified and become part of the prior art (Sect. 43).
6. After completion of 18 months from the filing date, the application is published in the IPO Gazette (Sect. 44).

7. After the publication, any person may submit observations in writing in this regard. Such observations shall be communicated to the patentee, who can respond accordingly (Sect. 47).
8. The patentee shall, within 6 months from the publication of the application, request for a substantive examination. If such request is not made, application shall be deemed to be withdrawn (Sect. 48).
9. An applicant may amend the patent application during the examination. However, such amendment should not introduce any new matter which is outside the scope of present application (Sect. 49).
10. If the application passes the substantive examination, it is accepted. The office grants a patent to patentee and the invention is published in the official gazette (Sect. 50 & 52 respectively).
11. In case the patent application is refused, an appeal may be lodged with the Director of Bureau of Patents (Sect. 51).

**Additional information relating to the Procedures for obtaining a Patent in the Philippines through the PCT**

- ▶ The time limit for entering the National Phase of a PCT application is 30 months from the priority date.
- ▶ Special Requirements for entry into National Phase include:
  - Appointment of an agent if the applicant is not a resident of the Philippines.
  - Copy or translation of the international application to be furnished in duplicate.
  - Name and address of the inventor if they have not been furnished in the "Request" part of the international application.
  - Instrument of assignment of the international application if the applicant is not the inventor.
  - Instrument of assignment of the priority application where the applicants are not identical.
  - Document evidencing a change of name or person of the applicant if the change occurred after the international filing date and has not been reflected in the PCT pamphlet or in a notification from the International Bureau (Form PCT/IB/306).
  - Furnishing, where applicable, of a nucleotide and/or amino sequence listing in electronic form.

**Flow Chart for obtaining a Patent in the Philippines<sup>2</sup>**



**Trademarks**

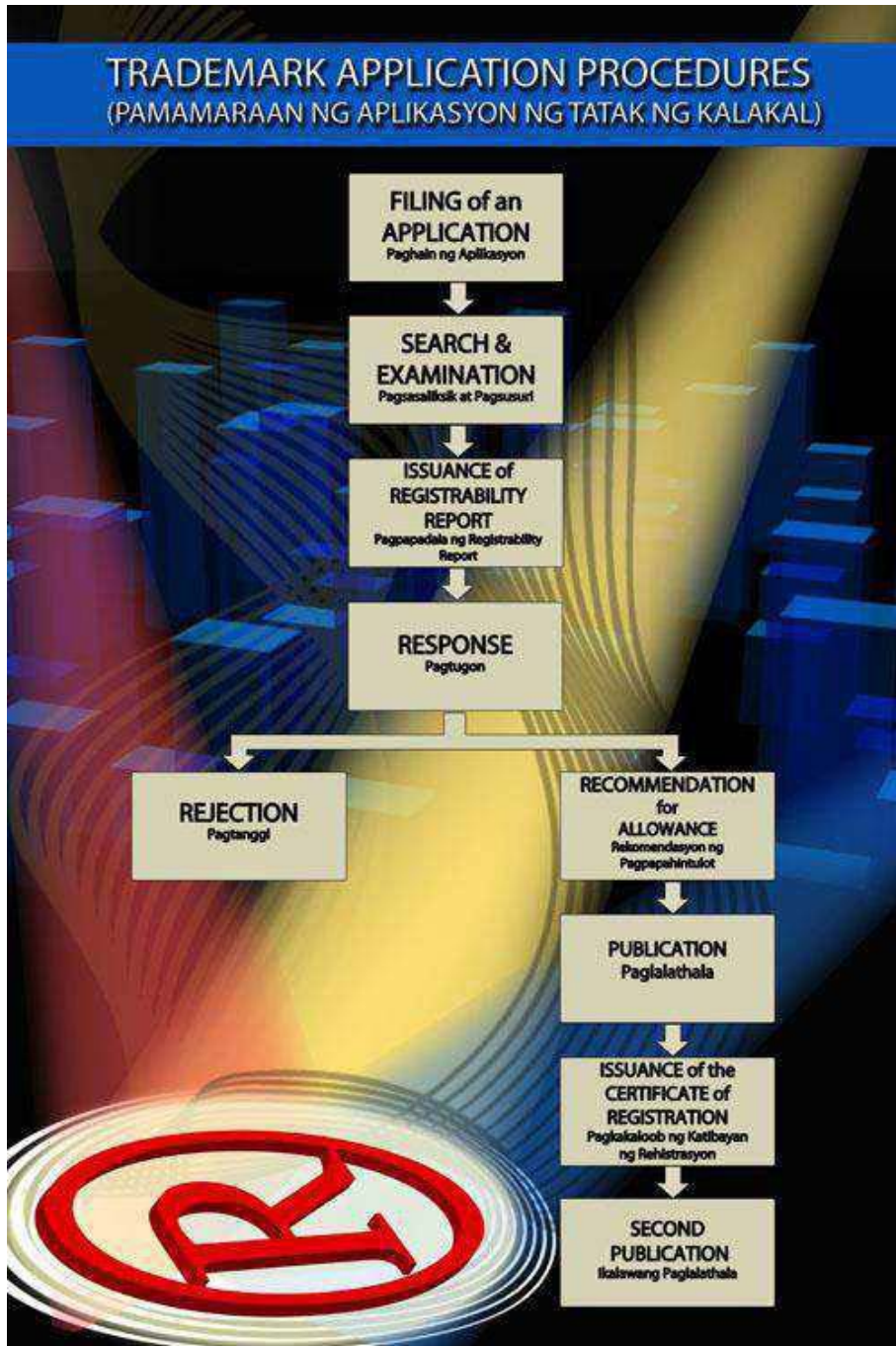
**Procedure for obtaining a Trademark in the Philippines under the National Law**

1. An application for trademark shall be in Filipino or English and shall contain the following: (Sec. 124.1)
  - (a) A request for registration;
  - (b) The name and address of the applicant;
  - (c) The name of a State of which the applicant is a national or where he has domicile; and the name of a State in which the applicant has a real and effective industrial or commercial establishment, if any;
  - (d) Where the applicant is a juridical entity, the law under which it is organised and existing;
  - (e) The appointment of an agent or representative, if the applicant is not domiciled in the Philippines;
  - (f) Where the applicant claims the priority of an earlier application, an indication of:
    - (i) The name of the State with whose national office the earlier application was filed or it was filed with an office other than a national office, the name of that office,
    - (ii) The date on which the earlier application was filed, and
    - (iii) Where available, the application number of the earlier application;

<sup>2</sup> Image provided by the Intellectual Property Office of the Philippines.

- (g) Where the applicant claims color as a distinctive feature of the mark, a statement to that effect as well as the name or names of the color or colors claimed and an indication, in respect of each color, of the principal parts of the mark which are in that color;
  - (h) Where the mark is a three-dimensional mark, a statement to that effect;
  - (i) One or more reproductions of the mark, as prescribed in the Regulations;
  - (j) A transliteration or translation of the mark or of some parts of the mark, as prescribed in the Regulations;
  - (k) The names of the goods or services for which the registration is sought, grouped according to the classes of the Nice Classification, together with the number of the class of the said Classification to which each group of goods or services belongs; and
  - (l) A signature by, or other self-identification of, the applicant or his representative.
2. A filing date and an application number is accorded when the Office receives all the indications below (Sect. 127) and the filing fee (Sect. 127.2) is paid.
    - a.) An express or implicit indication that the registration of the mark is sought;
    - b.) The identity of the applicant;
    - c.) Indications sufficient to contact the applicant or his representative, if any;
    - d.) A reproduction of the mark whose registration is sought; and
    - e.) The list of goods or services for which the registration is sought
  3. Once the application meets all the filing requirements as indicated in the preceding number, it undergoes examination. In the course of the examination, if the Office finds any reason not to permit registration, the applicant is advised thereof through an official action. The applicant is given a period two (2) months to reply to the office action with a possibility to request a one-time extension of another two (2) months. (Sect. 133.3).
  4. If the Office finds that the trademark application complies with all the requirements under Section 124 and is registrable under section 123, it shall publish the application for opposition purposes upon payment of the required fees. (Sect. 133.2).
  5. Opposition to the application may be filed within 30 days from the date of official publication (Sect. 134).
  6. If an opposition is filed, the Office shall serve the notice of the filing to the applicant and the date of hearing thereof upon the applicant and the opponent and all other persons having any right in the mark. (Sect. 135).
  7. If no opposition is filed, or the same is denied, the Office shall issue a certificate of registration upon payment of the prescribed fees. A registration notice shall be published in the IPO Gazette. (Sect. 136)

Flow Chart for obtaining a Trademark in the Philippines<sup>3</sup>



3 Image provided by the Intellectual Property Office of the Philippines.

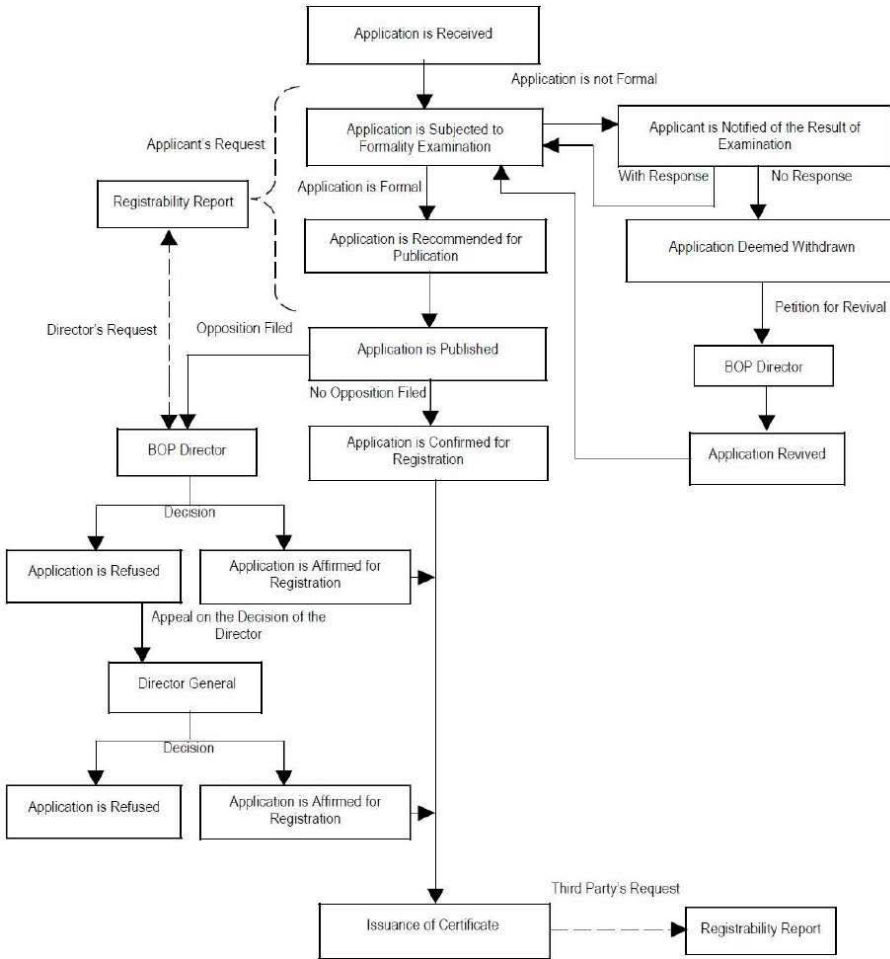
## Industrial Designs

### **Procedures for obtaining an Industrial Design in the Philippines**

1. Applications for the grant of an industrial design have to be filed in the manner prescribed under Section 114, along with the prescribed fees. The application shall contain a request for examination, information identifying the applicant, an indication of the kind of article/s of manufacture or handicrafts to which the industrial design shall be applied, a representation of the article of manufacture or handicrafts by way of drawings, photographs or other adequate graphic representation of the industrial design as applied to the article of manufacture or handicrafts which clearly and fully discloses those features for which protection is claimed, the name and address of the creator, or where the applicant is not the creator, a statement indicating the origin of the right to the industrial design.
2. Once a complete application is filed as per Section 114, a filing date is accorded.
3. In case the application does not meet the requirements of Section 114, the filing date should be that date when all the elements specified in said Section are filed or the mistakes corrected in the prescribed period, the application shall be considered withdrawn (Sect. 116.1 & 116.2 respectively).
4. Once the filing date is accorded, the office examines the application to see if the substantive conditions are complied with (Sect.116.4).
5. Should this be the case, the office shall register the industrial design and issue the certificate of registration to the applicant (Sect.117).

**Flow Chart for obtaining an Industrial Design and Utility Model in the Philippines<sup>4</sup>**

**UTILITY MODEL AND INDUSTRIAL DESIGN REGISTRATION PROCEDURE**



4 Image provided by the Intellectual Property Office of the Philippines.



## Singapore

### IP OFFICE

Industrial Property (Patents, Trademarks, Industrial Designs and Copyright)	
Competent Authority	Intellectual Property Office of Singapore (IPOS)
Web site address	<a href="http://www.ipos.gov.sg">http://www.ipos.gov.sg</a>
Address	1 Paya Lebar Link #11-03 PLQ 1, Paya Lebar Quarter Singapore 408533
Telephone	(65) 6339 8616
E-mail	<a href="mailto:IPOS_enquiry@ipos.gov.sg">IPOS_enquiry@ipos.gov.sg</a>

#### MAIN IP INTERNATIONAL CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S.No.	Signature	In Force Since
1.	Berne Convention	December 21, 1998
2.	Brussels Convention	April 27, 2005
3.	Budapest Convention	February 23, 1995
4.	Hague Agreement	April 17, 2005
5.	Madrid Protocol	October 31, 2000
6.	Marrakesh VIP Treaty	September 30, 2015
7.	Nice Agreement	March 18, 1999
8.	Paris Convention	February 23, 1995
9.	Patent Cooperation Treaty	February 23, 1995
10.	Singapore Treaty	March 16, 2009
11.	UPOV Convention	July 30, 2004
12.	WIPO Convention	December 10, 1990
13.	WIPO Copyright Treaty	April 17, 2005
14.	WIPO Performances and Phonograms Treaty	April 17, 2005

For more information please refer to:

[https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=154C](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=154C)

IP Rights	Main Legal Requirements	Duration	Responsible Authority
<b>Copyright</b>	- Originality	Life of author + 70 years	IPOS
<b>Trademarks</b>	<ul style="list-style-type: none"> <li>• Distinctive</li> <li>• Not in conflict with prior signs</li> <li>• Not generic</li> <li>• Not descriptive</li> <li>• Not contrary to Public Order/ Morality</li> <li>• Not identical to state symbols</li> </ul>	10 years renewable	IPOS
<b>Patents</b>	<ul style="list-style-type: none"> <li>• Novelty</li> <li>• Inventive step</li> <li>• Industrial Applicability</li> </ul>	20 Years (But see grounds for possible extension: sect, 36A)	IPOS
<b>Industrial Designs</b>	- New worldwide	15 Years	IPOS



PATENT SYSTEM	
National Law	Patents Act (Chapter 221) <a href="https://www.ipos.gov.sg/resources/ip-legislation">https://www.ipos.gov.sg/resources/ip-legislation</a>
Requirement of Agent for foreigners	Yes, if no address for service in Singapore
Language in which request may be filed	English
Non-Patentable Subjects	Offensive, immoral or anti-social inventions are not patentable (sect. 13.2) (a) a discovery, scientific theory or mathematical method; (b) a literary, dramatic, musical or artistic work or any other aesthetic creation whatsoever; (c) a scheme, rule or method for performing a mental act, playing a game or doing business, or a program for a computer; or (d) the presentation of information. (Part 8 of the Examination Guidelines for Patent Applications at IPOS)
Substantive Examination	Yes (Sect. 29)
Opposition System	There are grounds for revocation of a patent.
PCT international application through the national office of the country as a receiving office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_sg.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_sg.pdf</a>
PCT international application to the national office of the country as a designated office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/sg.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/sg.pdf</a>

INDUSTRIAL DESIGN SYSTEM	
National Law	Registered Designs Act (Chapter 266) <a href="https://www.ipos.gov.sg/resources/ip-legislation">https://www.ipos.gov.sg/resources/ip-legislation</a>
Language	English
Non-Registrable Subjects	Designs that are not new (sect. 5) or that are contrary to public order and morality (sect. 6), computer programs (sect. 7)
Substantive Examination	No, only formality examination (sect. 19)
Opposition System	There are grounds for revocation of a registered design.
Designs for a set of designs	Yes (sect. 11.4). However, only if the various items encompassing the design fall under the same class of the Locarno Classification.
International application through and to the national office of the country under the Hague System: Please refer also the following website.	<a href="https://www.wipo.int/hague/memberprofiles/#/result?countries=10262&amp;datafields=9581,9579,9578,9580,9577,9586,9588,9590,9589,9592,9587,9585,9591,9593,9584,9583,9582,9645">https://www.wipo.int/hague/memberprofiles/#/result?countries=10262&amp;datafields=9581,9579,9578,9580,9577,9586,9588,9590,9589,9592,9587,9585,9591,9593,9584,9583,9582,9645</a>

TRADEMARK SYSTEM	
National Law	Trade Marks Act (Chapter 332) <a href="https://www.ipos.gov.sg/resources/ip-legislation">https://www.ipos.gov.sg/resources/ip-legislation</a>
Subjects of Protection	Trademarks and services marks, certification marks, collective marks, (sect. 2 and 60 and 61)
Language	English
Term of Trademark Protection	10 years renewable (sect. 18 and 19)
Non-Registrable Subjects	<ul style="list-style-type: none"> <li>• Absolute grounds (sect. 7)               <ul style="list-style-type: none"> <li>▸ Generic marks (sect 7,1.d)</li> <li>▸ Exclusively descriptive marks (sect. 7.1.c)</li> <li>▸ Contrary to public order /morality (sect. 7.4.a)</li> <li>▸ Misleading (sect. 7.4.b)</li> <li>▸ Registration in bad faith (sect. 7.6)</li> </ul> </li> <li>• Relative grounds (sect. 8)               <ul style="list-style-type: none"> <li>▸ Signs identical or similar to earlier signs</li> </ul> </li> <li>• See other cases in sect. 7 and 8.</li> </ul>
Substantive Examination	Yes (sect. 12)
Opposition System	Yes (sect. 13) There are grounds for revocation of a trade mark.
International application through the national office of the country as an office of origin under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9194&amp;datafields=9583,9582,9584">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9194&amp;datafields=9583,9582,9584</a>
International application to the national office of the country as a designated office of designated country under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9194&amp;datafields=9584,9582,9583,9628,9595,9612,9619,9616,9618,9607,9610,9606,9621,9609,9615,9613,9611,9608,9617,9614,9620,9605,9601,9603,9600,9598,9596,9604,9602,9597,9599,9636,9633,9634,9637,9635,9640,9639,9631,9629,9630,9638,9627,9623,9626,9625,9624,9622,9593,9585,9594,9586,9589,9587,9591,9592,9588,9590">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9194&amp;datafields=9584,9582,9583,9628,9595,9612,9619,9616,9618,9607,9610,9606,9621,9609,9615,9613,9611,9608,9617,9614,9620,9605,9601,9603,9600,9598,9596,9604,9602,9597,9599,9636,9633,9634,9637,9635,9640,9639,9631,9629,9630,9638,9627,9623,9626,9625,9624,9622,9593,9585,9594,9586,9589,9587,9591,9592,9588,9590</a>

COPYRIGHT SYSTEM	
National Law	Copyright Act (Chapter 63) <a href="https://www.ipos.gov.sg/resources/ip-legislation">https://www.ipos.gov.sg/resources/ip-legislation</a>
Subjects of Protection	Original literary, dramatic, musical and artistic works See full list in sect. 4 (definitions)
Subjects not protected by copyright	Mere ideas are not protected by . Expression of Idea in the original work is protected as per section 27.
Foreign Copyright Holders	Singapore is a party to Berne Convention, hence works of foreign copyright holders are automatically protected.
Moral Rights	Moral Rights are protected. Protection covers: <ul style="list-style-type: none"> <li>• Not to falsely attribute the authorship of a work or the identity of a performer of a performance;</li> <li>• Not to falsely represent altered work or a recording of a performance as unaltered; and</li> <li>• Not to falsely attribute the authorship of a reproduction of an artistic work.</li> </ul> (Sect. 188, 189 & 190)

Economic Rights	<p>a) In the case of a literary, dramatic or musical work: to reproduce the work in a material form; (ii) to publish the work if the work is unpublished; (iii) to perform the work in public; (iv) to communicate the work to the public; (v) to make an adaptation of the work; (vi) to do, in relation to a work that is an adaptation of the first-mentioned work, any of the acts specified in relation to the first-mentioned work.</p> <p>b) In the case of an artistic work: (i) to reproduce the work in a material form; (ii) to publish the work in Singapore or any country in relation to which this Act applies, if the work is unpublished; (iii) to communicate the work to the public; and (c) in the case of a computer program, to enter into a commercial rental arrangement in respect of the program unless the program is not the essential object of the rental</p> <p>See full list in Sect. 26</p>
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### TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY

Some of the main Singapore Public Institutions with Technology Transfer Activities:

- A\*STAR (Agency for Science, Technology & Research)
  - (i) BMRC (BioMedical Research Council)
    - GIS (Genome Institute of Singapore)
    - IMCB (Institute of Molecular and Cell Biology)
  - (ii) SERC (Science and Engineering Research Council)
    - DSI (Data Storage Institute)
    - ICES (Institute of Chemical and Engineering Sciences)
- IHL (Institute of Higher Learning)
  - (i) NUS (National University of Singapore)
  - (ii) NTU (Nanyang Technological University)
  - (iii) SMU (Singapore Management University)
  - (iv) Polytechnics

### ATTORNEYS IN THE COUNTRY

Please see official list at:

[https://www.ipos.gov.sg/docs/default-source/default-document-library/1-april-2019-official-register-of-patents-agents\\_updc5d01a77c2d0635fa1cddf0000abd271.pdf](https://www.ipos.gov.sg/docs/default-source/default-document-library/1-april-2019-official-register-of-patents-agents_updc5d01a77c2d0635fa1cddf0000abd271.pdf)

### FILING PROCEDURES

#### Patents

#### **Procedures for obtaining a Patent in Singapore under the National Law**

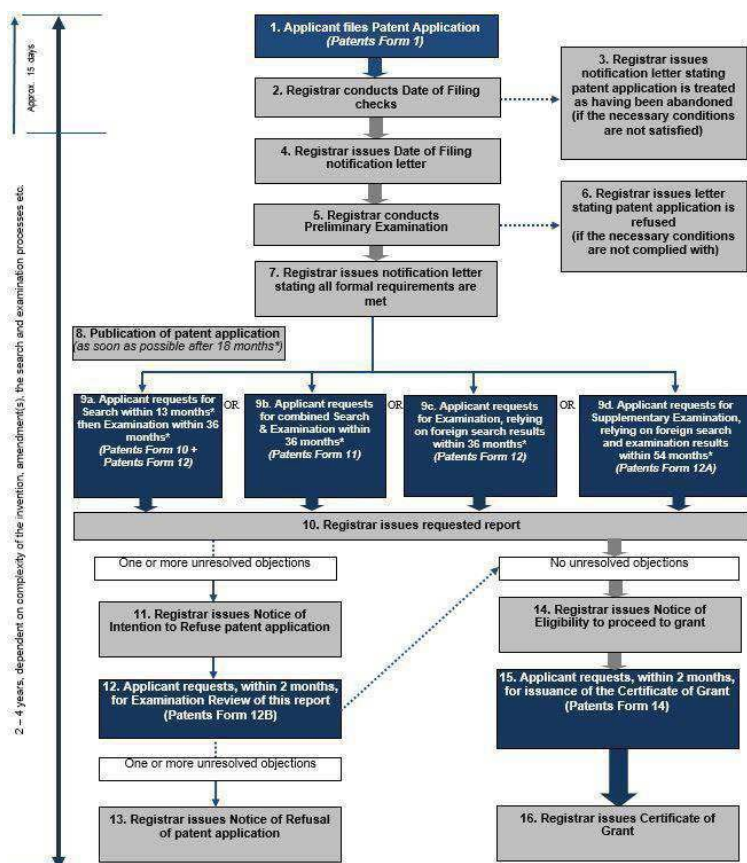
1. A complete application (respecting all requirements provided by sect. 25) is filed with IPOS.
2. If the application complies with the legal requirements a filing date is issued (sect. 26).
3. The application is published on the journal (sect. 27).
4. The application is subject to the preliminary examination (sect. 28).
5. In case of deficiencies, IPOS will indicate the reason(s) and provide time (two months) for addressing the issue(s).
6. If there are no deficiencies, or if these are amended/ corrected, the applicant can then request that the application is subjected to search and/or examination (or supplementary examination).

7. The Registrar will communicate to the applicant the findings of the examiner and indicates if there are objections (in which case it provides in writing the reasons and the timeframe for addressing the issues).
8. If there are no objections or they are resolved, the Registrar issues a notice of eligibility to proceed to the grant of a patent (sect. 29.A).
9. Once the application complies with all requirements and received a notice of eligibility for a grant of a patent, a request for issuance of grant of patent can be made. A granted patent will have a certificate issued and will be published in the Journal (sect. 35).

**Additional information relating to the Procedures for obtaining a Patent in Singapore through the PCT**

- ▶ The time limit for entering the Singapore national phase of a PCT application is 30 months from the priority date.
- ▶ Special Requirements of IPOS for entry into National Phase: Sect. 85-88)
  - Verification of translation of international application
  - Name and address of the inventor if they have not been furnished in the “Request” part of the international application
  - Address for service in Singapore.

**Flow Chart for obtaining a Patent in Singapore**



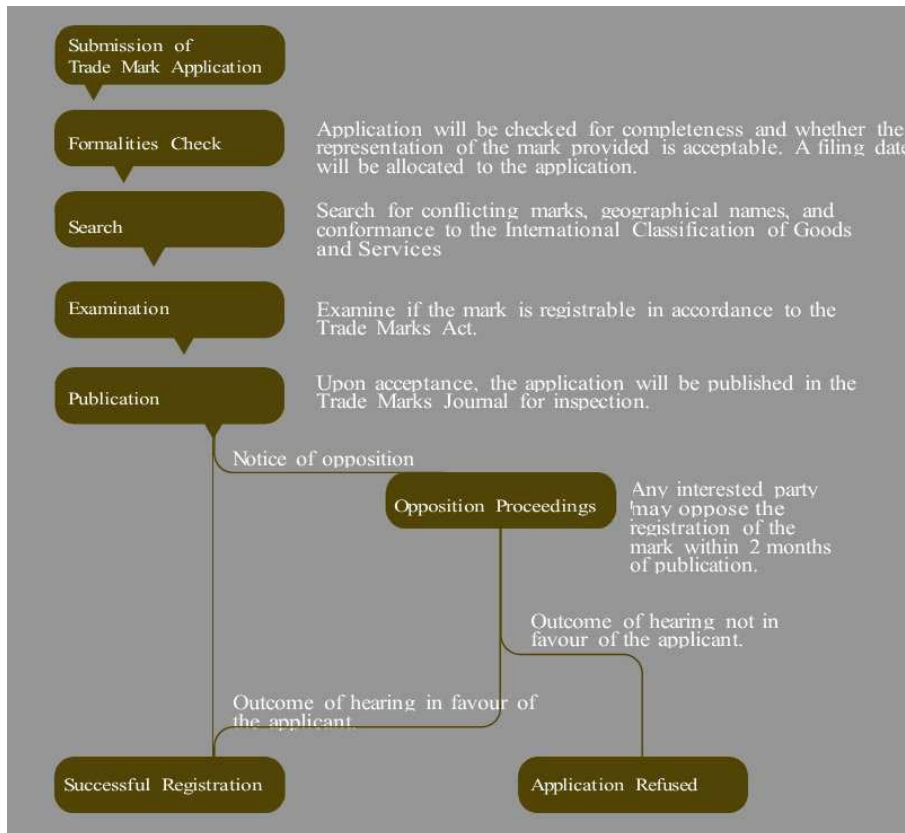
Flow chart provided by the Intellectual Property Office of Singapore.

## Trademarks

### **Procedure for obtaining a Trademark in Singapore under the National Law**

- ▶ A complete application (respecting all requirements provided by sect. 5) is filed with IPOS.
- ▶ If the application complies at least with the requirements, a filing date is issued.
- ▶ The application is processed for formality and substantive examination (sect. 12).
- ▶ In case of deficiencies or objections, IPOS will indicate the reasons and providing time (4 months) for addressing the issues.
- ▶ If there are no deficiencies or objections, or if these are amended/corrected, the application is published (sect. 13) for two months in the official gazette to allow third parties to file oppositions against its registration.
- ▶ If no oppositions are filed, or if they are unsuccessful, IPOS issues a certificate of registration (sect. 15).

### **Flow Chart for obtaining a Trademark in Singapore**



Flow chart provided by the Intellectual Property Office of Singapore.

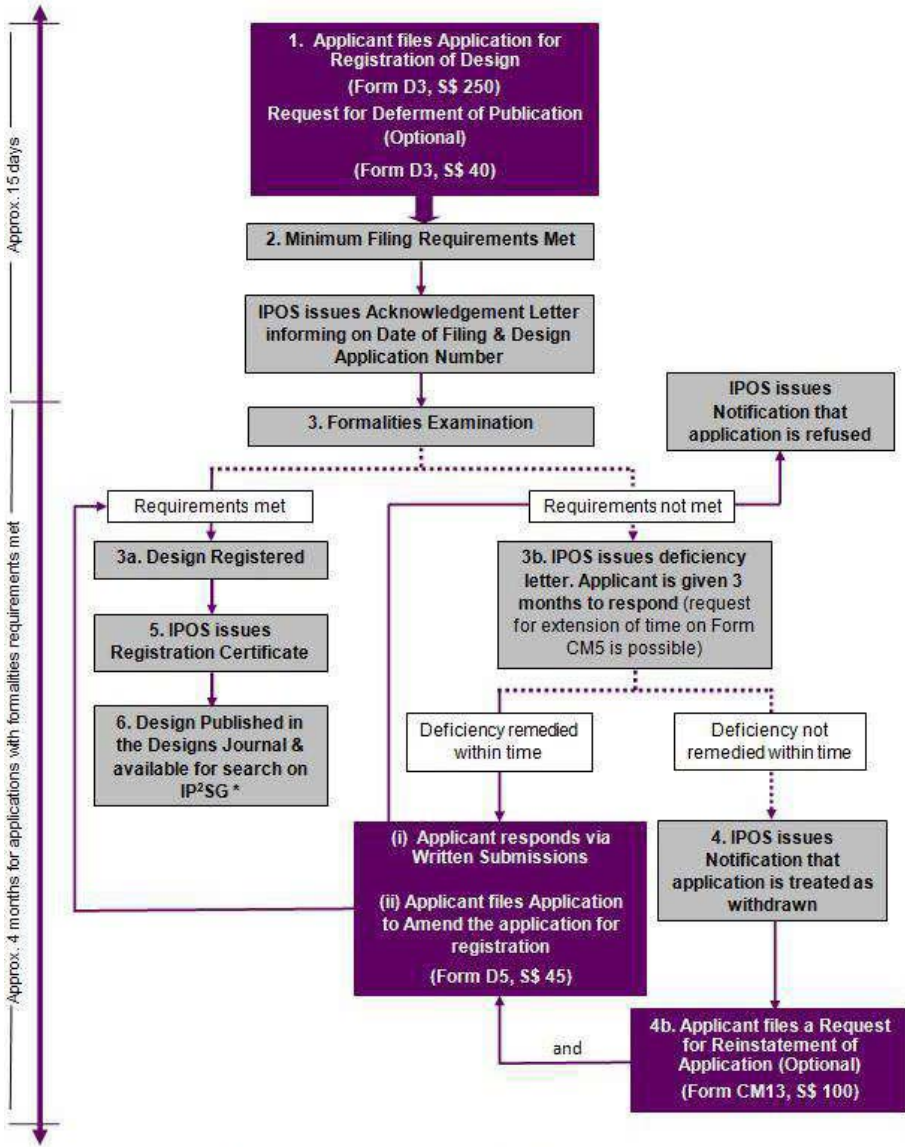
## Industrial Designs

### **Procedures for obtaining a Registered Design in Singapore under the National Law**

- ▶ An application (respecting all requirements provided by sect. 11) is filed with IPOS.
- ▶ The application is processed for formal examination (sect. 17).
- ▶ In case of deficiencies, IPOS will indicate the reason(s) and provide time (three months) for addressing the issue(s).

- ▶ If there are no deficiencies, or if these are amended/corrected, the registration is granted, the certificate is issued and the registration is published in the Journal (sect. 18).

### Flow Chart for obtaining an Industrial Design in Singapore



\* If there is a request to defer the publication, the design will be published and available for search after the expiry of the 18-month deferment period.

Flow chart provided by the Intellectual Property Office of Singapore.



## Thailand

### IP OFFICES

Industrial Property (Patents, Trademarks, Industrial Designs and Copyright)	
Competent Authority	Department of Intellectual Property (DIP), Ministry of Commerce
Web site address	<a href="http://www.ipthailand.go.th/en/">http://www.ipthailand.go.th/en/</a>
Address	563 Nonthaburi road Bangkrasor district, Meung Nonthaburi, Nonthaburi 11000
Telephone	(+66) 2 547 4652
E-mail	ippromotion.dip@gmail.com

MAIN INTERNATIONAL IP CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S.No.	Instrument	In Force Since
1.	Berne Convention	July 17, 1931
2.	Madrid Protocol	November 7, 2017
3.	Marrakesh VIP Treaty	April 28, 2019
4.	Paris Convention	August 2, 2008
5.	Patent Cooperation Treaty	December 24, 2009
6.	WIPO Convention	December 25, 1989

For More Information, please refer to: [https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=168](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=168)

IP Rights	Legal Requirements	Duration	Responsible Authority
Copyright	Originality	Life of author + 50 years	DIP
Trademarks	Distinctiveness Not in conflict with prior signs Not generic Not descriptive Not contrary to public order/ morality Not contrary to Art. 6ter	10 years renewable	DIP
Patents & Utility Models	Novelty Industrial applicability (not for Utility Models) Inventive step	20 years 10 years for Utility Models (initial 6 years and two possible renewals of 2 years each)	DIP
Industrial Designs	Novelty	10 years	DIP

PATENT SYSTEM	
National Law	Patent Act B.E. 2522 (1979) (Adopted on March 11, 1979), as amended by Patent Act No 2, B.E. 2535 (1992) and patent Act No 3, B.E. 2542 (1999) <a href="https://wipolex.wipo.int/en/legislation/details/3807">https://wipolex.wipo.int/en/legislation/details/3807</a>
Requirement of Agent for Foreigners	Where the applicant, opposing party, respondent or appellant is not a resident of the country, they shall appoint an agent registered with DIP to act for them in the country. (Ministerial Regulations No.21 (B.E.2542)).
Language in which request may be filed	Thai. If any document has to be filed in a foreign language, the applicant shall file such document accompanied by translation in Thai. (Art. 27).
Grace Period	12 months before the filing date, in case of a disclosure: <ul style="list-style-type: none"> <li>• made in consequence of an unlawful act,</li> <li>• made by the inventor,</li> <li>• made by the inventor displaying the invention at an international exhibition or an official exhibition or an exhibition sponsored or authorised by the government and held in the country (art. 6 and 19).</li> </ul>
Non-Patentable Subjects	<ul style="list-style-type: none"> <li>• Naturally occurring microorganisms and their components, animals, plants or extracts from animals or plants</li> <li>• Scientific or mathematical rules or theories</li> <li>• Computer programs</li> <li>• Methods of diagnosis, treatment or cure of human and animal diseases</li> <li>• Inventions contrary to public order, morality, health or welfare.</li> </ul> (Art 9)
Substantive Examination	Yes. (Art. 24)
Request for Examination	Either within 5 years after the publication of the application or, in case where there is an opposition and an appeal, within one year after the final decision has been made, depending on which period expires last (Art. 29).
Publication	Once formalities requirements are complied with (art. 28).
Opposition System	With DIP within 90 days following the publication of the applications (art. 31).
PCT international application through the national office of the country as a receiving office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_th.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_th.pdf</a>
PCT international application to the national office of the country as a designated office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/th.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/th.pdf</a>



INDUSTRIAL DESIGN SYSTEM	
National Law	Patent Act B.E. 2522 (1979) (Adopted on March 11, 1979), as amended by Patent Act No 2, B.E. 2535 (1992) and patent Act No 3, B.E. 2542 (1999) <a href="https://wipolex.wipo.int/en/legislation/details/3807">https://wipolex.wipo.int/en/legislation/details/3807</a>
Requirement of Agent for Foreigners	Where the applicant, opposing party, respondent or appellant is not a resident of the country, they shall appoint an agent registered with DIP to act for them in the country. (Ministerial Regulations No.21 (B.E.2542)).
Language	Thai. If any document has to be filed in a foreign language, the applicant shall file such document accompanied by translation in Thai (Art. 27).
Non-Registrable Subjects	Designs that are contrary to the public order or morality (art. 58).
Substantive Examination	Yes (art 61).
Publication	Yes, once formality requirements are complied with (art. 28 and 65).
Opposition System	With DIP within 90 days following the publication of the applications. (art. 31 and 65).
International application through and to the national office of the country under the Hague System: no information. Please refer also the following website.	As of August 2019, Thailand is under the process of revising its Patent Act to be complied with the obligations under the Hague Agreement and will accede once ready.

TRADEMARK SYSTEM	
National Law	Trademark Act B.E. 2534 (1991) (as amended by Trademark Act No 2, B.E. 2543 (2000) and Trade Mark Act No. 3 B.E. 2559 (2016) (Adopted on October 28, 1992) <a href="https://wipolex.wipo.int/en/legislation/details/17164">https://wipolex.wipo.int/en/legislation/details/17164</a>
Subjects of Protection	Trademarks, Service Marks, Certification Marks, Collective Marks.
Requirement of Agent for Foreigners	The applicant or his agent shall have an office or address for communication by the Registrar in Thailand (Art. 10).
Language	Thai (Art.12).
Non-Registrable Subjects	<ul style="list-style-type: none"> <li>State arms or crests, royal and official seals, emblems and insignia of the royal orders and decorations, seals of office, seals of ministries, bureaus, departments or provinces, national flags of Thailand, royal standard flags or official flags, royal names royal monograms, abbreviations of royal names or royal monograms, representations of the King, Queen or Heir to the throne. National emblems and flags of foreign states, emblems and flags of international organisations, emblems of head of foreign states or international organisations, unless permission is given by the competent officer of the foreign state or international organisation. Official emblems and emblems of the Red Cross or appellations "Red Cross" or "Geneva Cross".</li> </ul>

	<ul style="list-style-type: none"> <li>• Any mark contrary to public order, morality or public policy.</li> <li>• A mark registered or not, which is identical with a well-known mark as prescribed by the Ministerial Notifications, or so similar thereto that the public might be confused as to the owner or origin of the goods.</li> <li>• Trademarks similar to signs protected under GIs. (Art. 4, 5, and 6)</li> </ul>
Substantive Examination	Yes (art. 13 and 14)
Well Known Marks	Yes. Protection is provided in the Trade Mark Act.
Publication of Application	Yes, once formality requirements are complied with (art. 29).
Opposition system	Yes, with DIP Registrar within 60 days from the date of publication (art. 35).
International application through the national office of the country as an office of origin under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=10040&amp;datafields=9584,9582,9583">https://www.wipo.int/madrid/memberprofiles/#/result?countries=10040&amp;datafields=9584,9582,9583</a>
International application to the national office of the country as a designated office of designated country under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=10040&amp;datafields=9638,9607,9616,9617,9606,9608,9618,9609,9610,9611,9619,9613,9615,9620,9612,9621,9614,9634,9635,9633,9637,9636,9605,9601,9604,9597,9602,9603,9599,9596,9598,9600,9622,9626,9627,9623,9624,9625,9628,9639,9640,9587,9585,9588,9589,9592,9591,9594,9590,9593,9586,9629,9632,9630,9631,9595">https://www.wipo.int/madrid/memberprofiles/#/result?countries=10040&amp;datafields=9638,9607,9616,9617,9606,9608,9618,9609,9610,9611,9619,9613,9615,9620,9612,9621,9614,9634,9635,9633,9637,9636,9605,9601,9604,9597,9602,9603,9599,9596,9598,9600,9622,9626,9627,9623,9624,9625,9628,9639,9640,9587,9585,9588,9589,9592,9591,9594,9590,9593,9586,9629,9632,9630,9631,9595</a>

COPYRIGHT SYSTEM	
National Law	Copyright Act, B.E. 2537 (1994) (Adopted on December 9, 1994), as amended by Copyright Act No 2 and 3 B.E. 2558 (2015) and B.E. 2561 (2018) <a href="https://wipolex.wipo.int/en/legislation/details/3801">https://wipolex.wipo.int/en/legislation/details/3801</a>
Subjects of Protection	Works of authorship in the form of a literary, dramatic, artistic, musical, audiovisual, cinematographic, sound recording, sound and video broadcasting work or any other work in the literary, scientific or artistic field whatever the mode or form of its expression (art. 6).
Authorship	A person who makes or creates any work protected under Copyright Act (art. 4).

Limitation to Author's Rights	<p>Copyright protection shall not extend to ideas or procedures, processes or systems or methods of use or operation or concepts, principles, discoveries or scientific or mathematical theories (Art. 6). In addition, the following shall not be deemed copyrighted works (Art. 7):</p> <ul style="list-style-type: none"> <li>• News of the day, facts having the character of mere information, not being works in the literary, scientific or artistic fields;</li> <li>• The constitution and legislation;</li> <li>• Laws, regulations, notifications, orders, explanations and official correspondence of the ministries, Departments or any other government of local units;</li> <li>• Judicial decisions, orders, decisions and official reports;</li> <li>• Translations and collections of the materials referred to in the above items, made by the ministries, departments or any other government or local units.</li> </ul>
Exception to Copyright	<p>Only if the use of copyrighted works does not conflict with normal exploitation of the work by the owner and does not unreasonably prejudice the legitimate rights of the owner of copyright (Act. 32). These include:</p> <ul style="list-style-type: none"> <li>• Researches or studies of the work for not profit reasons.</li> <li>• Use for personal benefit or for the benefit of the user and his family members or close relatives.</li> <li>• Comment, criticism, or introduction of the work with an acknowledgment of the ownership of copyright in such work.</li> <li>• Reporting of news through mass media with an acknowledgement of the ownership of copyright in such work.</li> <li>• Reproduction, adaptation, exhibition or display for the benefit of judicial proceedings or administrative proceedings by authorised officials or for reporting the result of such proceedings.</li> <li>• Reproduction, adaptation, exhibition or display by a teacher for the benefit of his teaching provided that the act is not for profit.</li> <li>• Reproduction, adaptation in part of a work or abridgment or making a summary by a teacher or an educational institution so as to distribute or sell to students in a class or in an educational institution provided that the act is not for profit.</li> <li>• Use of the work as part of questions and answers in an examination.</li> <li>• A reasonable citation, quotation, copy, emulation or reference in part and from a copyright work with acknowledgement of the ownership of copyright in such work (Act.33).</li> </ul>
Duration	Lifetime of the author and for 50 years after his death (art. 19).

## TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY

The technology transfer consortium helps in the transfer of Technology. In addition, many research organisations have established dedicated units or companies to facilitate technology transfer. For example: National Science and Technology Development Agency have their own technology licence office. Details at: <https://www.sciencepark.or.th/index.php/en/technology-licensing-office-tlo/> More details about Technology Transfer Consortium can be found at: [https://www.wipo.int/edocs/mdocs/aspac/en/wipo\\_ip\\_han\\_11/wipo\\_ip\\_han\\_11\\_ref\\_29.pdf](https://www.wipo.int/edocs/mdocs/aspac/en/wipo_ip_han_11/wipo_ip_han_11_ref_29.pdf)

Additional information on licensing (including on IP) can be found at: [www.licensingthailand.com](http://www.licensingthailand.com)

## ATTORNEYS IN THE COUNTRY

While there is no official list, information may be found at [www.ipat.org.th](http://www.ipat.org.th) or by contacting DIP.

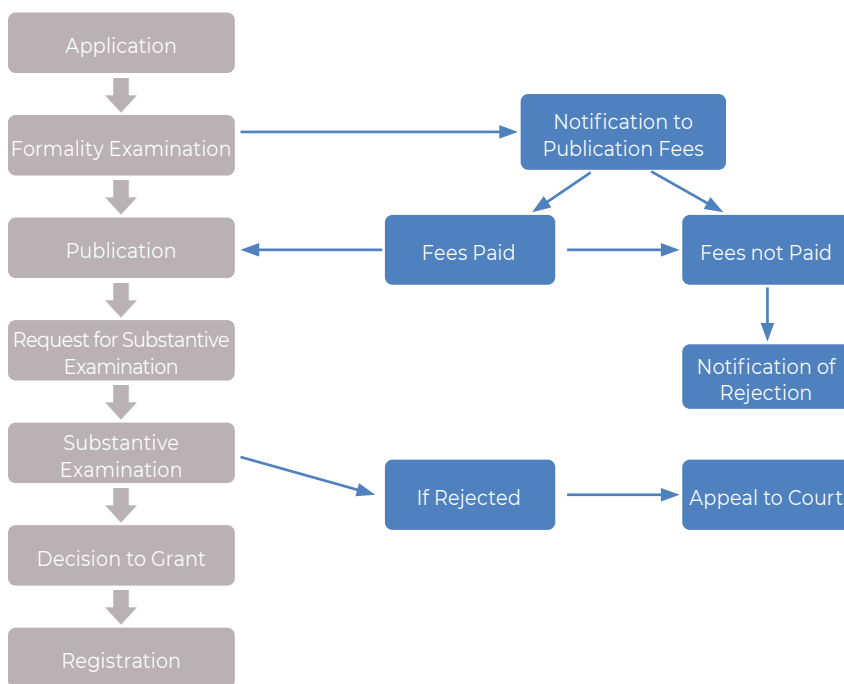
## FILING PROCEDURES

### Patents

#### **Procedures for Obtaining a Patent in Thailand**

1. A national application is filed with the Department of Intellectual Property (DIP).
2. DIP carries out a formality examination. If the application does not comply the requirements under the law, DIP sends notification of rejection to the applicant asking for amendments. If the application complies with the requirements under the law, DIP sends a notification to pay the publication fee within 60 days.
3. DIP publishes the patent application after payment of the publication fee.
4. Third parties may file the oppositions to the patent application within 90 days after the publication.
5. Applicants can request for substantive examination either within 5 years after the publication or within 1 year after the final decision has been made in case there is an opposition and an appeal, depending on which period expires last.
6. DIP carries out a substantive examination. The applicant or third parties may file an appeal to the Board of Patents within 60 days after the receipt of DIP decision.
7. The applicant or third parties may file an appeal to the Court within 60 days after the receipt of the decision of the Board of Patents.

### **Flow Chart of Filing Procedure for Patents in Thailand**



### **Additional information relating to the Procedures for obtaining a Patent in Thailand through the PCT**

- ▶ PCT international applications designating Thailand should be translated into Thai and enter the national phase within 30 months from the priority date. Filing fees should be paid at this stage.
- ▶ The rest of the procedures follows what describe above for patent applications filed at national level.
- ▶ Other special requirements in this regard are:
  - Name and address of the inventor if they have not been furnished in the “Request” part of the international application
  - Document evidencing a change of name of the applicant’ Statement justifying the applicant’s right to the invention
  - Appointment of an agent if the applicant is not resident in Thailand
  - Power of attorney if an agent is appointed

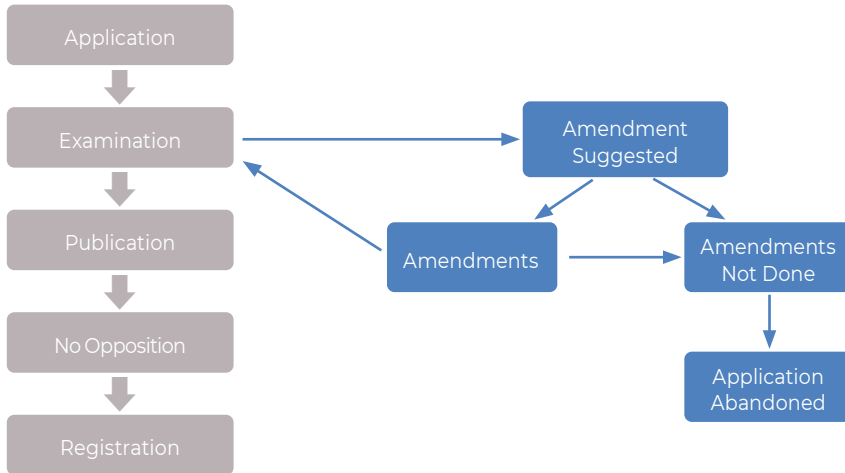
## **Trademarks**

### **Procedures for Obtaining a Trademark in Thailand**

1. A national application is filed with DIP.
2. DIP carries out the examination. If the application does not comply with the requirements provided by law, DIP sends the order to amend the application. If the application complies with the requirements Registrar will issue order for publication.
3. The trademark application will be published for 60 days. During such period, third parties may file oppositions against the trademark application.

- If there is no opposition from third parties, the trademark will be registered. On the contrary, if a third party files an opposition, the application will be subjected to the opposition procedure. The party who is not satisfied with the Registrar's order, is entitled to appeal to the Trademark Board and the Court respectively.

#### **Flow Chart of Filing Procedures for Trademarks**



#### **Procedures for Obtaining a Trademark in Thailand through the Madrid System**

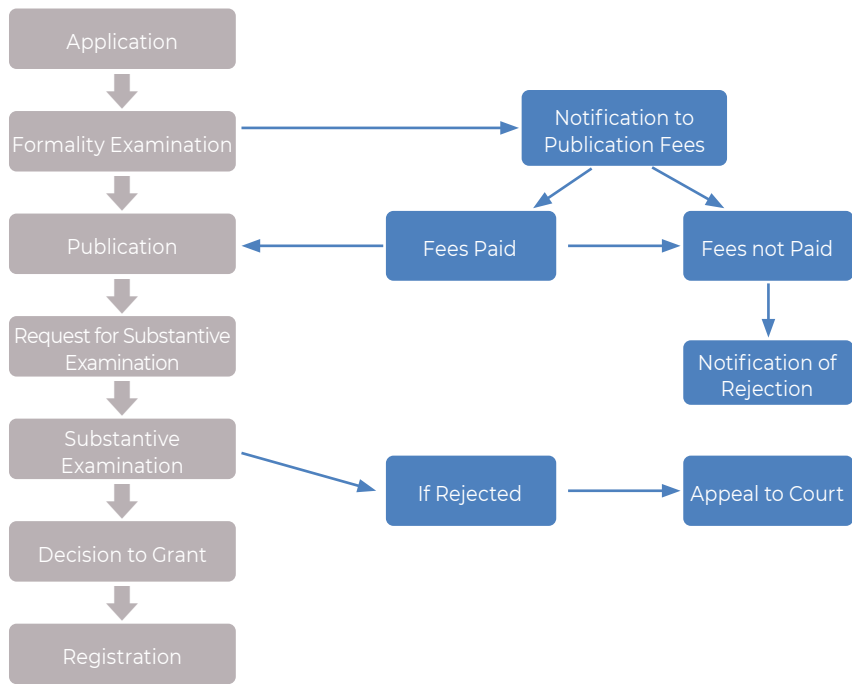
- DIP carries out a substantive examination within 18 months from the receiving the request for extension of protection from WIPO. If the application does not comply the substantive requirements under the law, DIP issues a provisional refusal and invites the applicant to response within 90 days.
- DIP republishes the international registration for opposition purpose.
- The rest of the procedure of the procedures follows what describe above for trademark applications filed at national level.

### **Industrial Designs**

#### **Procedures for Obtaining an Industrial Design in Thailand**

- A national application is filed with DIP.
- DIP carries out a formality examination. If the application does not comply the requirements under the law, DIP sends a notification of rejection to the applicant requesting to correct the irregularities. If the application complies the requirements under the law, DIP sends notification to pay the publication fee within 60 days.
- DIP publishes the design application after payment of the publication fee. Third parties may file the oppositions against the design application within 90 days after the publication.
- DIP carries out a substantive examination. The applicant or the third parties may file an appeal to the Board of Patents within 60 days after the receipt of DIP decision.
- The applicant or third parties may file an appeal to the Court within 60 days after the receipt of the decision of the Board of Patents.

**Flow Chart of Filing Procedures for Designs in Thailand**





## Viet Nam

### IP OFFICES

Industrial Property Rights (Patents, Trademarks and Industrial Designs)	
Competent Authority	Intellectual Property Office of Viet Nam (IP Viet Nam)
Web site address	<a href="http://ipvietnam.gov.vn/en/web/english/home">http://ipvietnam.gov.vn/en/web/english/home</a>
Address	384-386, Nguyen Trai Street, Thanh Xuan District, Ha Noi
Telephone	(8424) 3558 8217 (8424) 3858 3069
E-mail	vietnamipo@noip.gov.vn

Copyright and Related Rights	
Competent Authority	Copyright Office of Viet Nam
Web site address	<a href="http://www.cov.gov.vn">www.cov.gov.vn</a>
Address	33, Lane 294/2 Kim Ma Street, Ba Dinh District, Ha Noi
Telephone	(8424) 382 36 908 (8424) 384 70 485
E-mail	<a href="mailto:cbqtg@hn.vnn.vn">cbqtg@hn.vnn.vn</a>

### MAIN IP INTERNATIONAL CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S. No.	Signature In	Force Since
1.	Berne Convention	October 26, 2004
2.	Brussels Convention	January 12, 2006
3.	Paris Convention	March 8, 1949
4.	Patent Cooperation Treaty	March 10, 1993
5.	The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)	January 11, 2007
6.	WIPO Convention	July 2, 1976
7.	Rome Convention	March 1, 2007
8.	Geneva Convention	July 6, 2005
9.	Madrid Agreement and Protocol	March 8, 1949 and July 11, 2006
10.	The Hague Agreement	December 30, 2019

For more information please refer to:

[https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=185C](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=185C)

IP Rights	Legal Requirements	Duration	Responsible Authority
<b>Copyright</b>	- Originality	Life of author + 50 years (75 years in case of specific creations)	Copyright Office of Viet Nam (COV)



<b>Trademarks</b>	<ul style="list-style-type: none"> <li>Visible</li> <li>Being capable of distinguishing (art. 72)</li> </ul>	10 years renewable	Intellectual Property Office of Viet Nam (IP Viet Nam)
<b>Patents</b>	<ul style="list-style-type: none"> <li>Novelty</li> <li>Inventive step</li> <li>Industrial applicability</li> </ul>	20 Years (from filing date – protection starts from grant date)	IP Viet Nam
<b>Utility Models</b>	- Granted for a “minor” invention which does not require to satisfy the test of inventiveness as required for patents	10 Years (from filing date – protection starts from grant date)	IP Viet Nam
<b>Industrial Designs</b>	<ul style="list-style-type: none"> <li>New worldwide</li> <li>Creative (art. 66)</li> <li>Susceptible of industrial application (art. 67)</li> </ul>	5 Years (Renewable for 2 additional terms for a maximum 15 years)	IP Viet Nam

PATENT SYSTEM	
National Law	Law No. 50/2005/QH11 of November 29, 2005, on Intellectual Property, as amended. <sup>5</sup> <a href="https://wipolex.wipo.int/en/legislation/details/12011">https://wipolex.wipo.int/en/legislation/details/12011</a>
Requirement of Agent for Foreigners	Yes
Language in which request may be filed	Vietnamese
Non-Patentable Subjects	<ol style="list-style-type: none"> <li>1. Scientific discoveries or theories, mathematical methods;</li> <li>2. Schemes, plans, rules and methods for performing mental acts, training domestic animals, playing games, doing business; computer programs;</li> <li>3. Presentations of information;</li> <li>4. Solutions of aesthetical characteristics only;</li> <li>5. Plant varieties, animal breeds;</li> <li>6. Processes of plant or animal production which are principally of biological nature other than microbiological ones;</li> <li>7. Human and animal disease prevention, diagnostic and treatment methods (art. 59)</li> </ol>
Substantive Examination	Yes (art. 114)
Opposition System	Yes. Third parties' opinions against a patent application in Viet Nam can be filed after its publication in the official gazette. (art. 112)
PCT international application through the national office of the country as a receiving office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_vn.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_vn.pdf</a>

<sup>5</sup> Law No. 50/2005/QH11 of November 29, 2005 on Intellectual Property which took effect on July 1, 2006, as subsequently amended by Law No. 36/2009/QH12 of June 19, 2009 which took effect on January 1, 2010 and Law No. 42/2019/QH14 of June 14, 2019 which took effect on November 1, 2019.

PCT international application to the national office of the country as a designated office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/vn.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/vn.pdf</a>
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<b>INDUSTRIAL DESIGN SYSTEM</b>	
National Law	Law No. 50/2005/QH11 of November 29, 2005, on Intellectual Property, as amended. <a href="https://wipolex.wipo.int/en/legislation/details/12011">https://wipolex.wipo.int/en/legislation/details/12011</a>
Language	Vietnamese
Non-Registrable Subjects	1. Appearance of a product, which is dictated by the technical features of the product; 2. Appearance of a civil or an industrial construction work; 3. Shape of a product, which is invisible during the use of the product. (art. 64)
Substantive Examination	Yes (art. 114)
Opposition System	Yes. Third parties' opinions against a design application in Viet Nam can be filed after its publication in the official gazette. (art. 112)
Designs for a set of articles	Yes (art. 101.3). However, only if various items express a single common inventive idea and used together or for a common purpose; or an industrial design is accompanied by one or more variants.
International application through and to the national office of the country under the Hague System. Please refer also the following website (in due course).	As of December 30, 2019 the Hague Agreement is in force in Viet Nam. Relevant information will be published on WIPO's website in due course.

TRADEMARK SYSTEM	
National Law	Law No. 50/2005/QH11 of November 29, 2005, on Intellectual Property, as amended. <a href="https://wipolex.wipo.int/en/legislation/details/12011">https://wipolex.wipo.int/en/legislation/details/12011</a>
Subjects of Protection	Trademarks and services marks, certification marks, collective marks, integrated marks (art. 4.16-18)
Language	Vietnamese
Term of Trademark Protection	10 years renewable (art. 93)
Non-Registrable Subjects	<ol style="list-style-type: none"> <li>1. Generic marks (art. 74.2.b)</li> <li>2. Descriptive marks (art. 74.2.c-e)</li> <li>3. Signs identical or similar to earlier signs – marks, GIs, trade names (art. 74.2. f-m)</li> <li>4. See other cases in art. 74.</li> <li>5.1. flags or national emblems;</li> <li>5.2. Emblems, flags, armorial bearings, abbreviated names or full names of Vietnamese state agencies, political organisations, socio-political organisations, socio-political-professional organisations, social organisations or socio-professional organisations or international organisations;</li> <li>5.3. Real names, alias, pseudonyms or images of leaders, national heroes or famous personalities of Viet Nam or foreign countries;</li> <li>5.4. Certification seals, check seals or warranty seals of international organisations;</li> <li>5.5. Signs which cause misleading or confusion or deceive consumers as to the origin, properties, intended utilities, quality, value or other characteristics of goods or services (art. 73)</li> </ol>
Substantive Examination	Yes (art. 114)
Opposition System	Yes. Third parties' opinions against a trademark application in Viet Nam can be filed after its publication in the official gazette. (art. 112)
Criteria for well-known marks and consequences	<ol style="list-style-type: none"> <li>1. The number of involved consumers who have been aware of the mark through purchase or use of goods or services bearing the mark or through advertising;</li> <li>2. Territorial area in which goods or services bearing the mark are circulated;</li> <li>3. Turnover of the sale of goods or provision of services bearing the mark or the quantity of goods sold or services provided;</li> <li>4. Duration of continuous use of the mark;</li> <li>5. Wide reputation of goods or services bearing the mark;</li> <li>6. Number of countries protecting the mark;</li> <li>7. Number of countries recognising the mark as a well-known mark;</li> <li>8. Assignment price, licensing price, or investment capital contribution value of the mark. (art. 75)</li> </ol>
International application through the national office of the country as an office of origin under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9214&amp;datafields=9582,9583,9584">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9214&amp;datafields=9582,9583,9584</a>

International application to the national office of the country as a designated office of designated country under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9214&amp;datafields=9583,9584,9582,9596,9601,9603,9605,9599,9604,9600,9602,9598,9597,9634,9636,9637,9635,9633,9628,9639,9640,9595,9631,9630,9629,9638,9615,9617,9614,9620,9616,9609,9606,9610,9612,9611,9613,9608,9618,9621,9607,9619,9587,9591,9594,9585,9588,9589,9592,9593,9590,9586,9627,9625,9622,9626,9623,9624">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9214&amp;datafields=9583,9584,9582,9596,9601,9603,9605,9599,9604,9600,9602,9598,9597,9634,9636,9637,9635,9633,9628,9639,9640,9595,9631,9630,9629,9638,9615,9617,9614,9620,9616,9609,9606,9610,9612,9611,9613,9608,9618,9621,9607,9619,9587,9591,9594,9585,9588,9589,9592,9593,9590,9586,9627,9625,9622,9626,9623,9624</a>
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COPYRIGHT SYSTEM	
National Law	Law No. 50/2005/QH11 of November 29, 2005, on Intellectual Property, as amended. <a href="https://wipolex.wipo.int/en/legislation/details/12011">https://wipolex.wipo.int/en/legislation/details/12011</a>
Subjects of Protection	a/ Literary and scientific works, textbooks, teaching courses and other works expressed in written languages or other characters; b/ Lectures, addresses and other sermons; c/ Press works; d/ Musical works; e/ Dramatic works; f/ Cinematographic works and works created by a process analogous to cinematography (hereinafter referred to collectively as cinematographic works); g/ Plastic-art works and works of applied art; h/ Photographic works; i/ Architectural works; j/ Sketches, plans, maps and drawings related to topography or scientific works; k/ Folklore and folk art works of folk culture; l/ Computer programs. Derivative works (art. 14)
Subjects Not Protected by Copyright	1. News of the day as mere items of press information. 2. Legal documents, administrative documents and other documents in the judicial domain and official translations of these documents. 3. Processes, systems, operation methods, concepts, principles and data (art. 15)
Foreign Copyright Holders	Viet Nam is a party to Berne Convention hence work of foreign copyright holders are automatically protected.
Moral Rights	Moral Rights consists of the right: 1. To title their works; 2. To attach their real names or pseudonyms to their works; to have their real names or pseudonyms acknowledged when their works are published or used; 3. To publish their works or authorise other persons to publish their works; 4. To protect the integrity of their works, and to prevent other persons from modifying, mutilating or distorting their works in whatever form prejudicial to their honor and reputation (art. 19)

Economic Rights	a/ To make derivative works; b/ To display their works to the public; c/ To reproduce their works; d/ To distribute or import original works or copies thereof; e/ To communicate their works to the public by wire or wireless means, electronic information networks or any other technical means; f/ To lease original cinematographic works and computer programs or copies thereof (art. 20)
Copyright on Folklore	Special copyright provisions relating to folklore (Folk tales, lyrics and riddles, Folk songs and melodies, Folk dances, plays, rites and games, Folk art products) are contained in art. 23.
Collecting Management Organizations (CMOs)	1. Viet Nam Centre for Protection of Music Copyright (VCPMC) 2. Recording Industry Association of Viet Nam (RIAV) 3. Viet Nam Association for Rights Protection of Music Performing Artists (APPA) 4. Viet Nam Reproduction Right Organization (VIETRO) 5. Viet Nam Literary Copyright Centre (VLCC)

#### TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY

There are numerous centres and offices that engage in technology transfer. Information on TISCs is available at: [https://www.wipo.int/tisc/en/search/search\\_result.jsp?country\\_code=VN](https://www.wipo.int/tisc/en/search/search_result.jsp?country_code=VN)

#### ATTORNEYS IN THE COUNTRY

Information regarding Intellectual Property Law Firms in Viet Nam can be found at: <https://www.ipvietnam.gov.vn/web/english/ip-representation-services>

#### FILING PROCEDURES

##### Patents

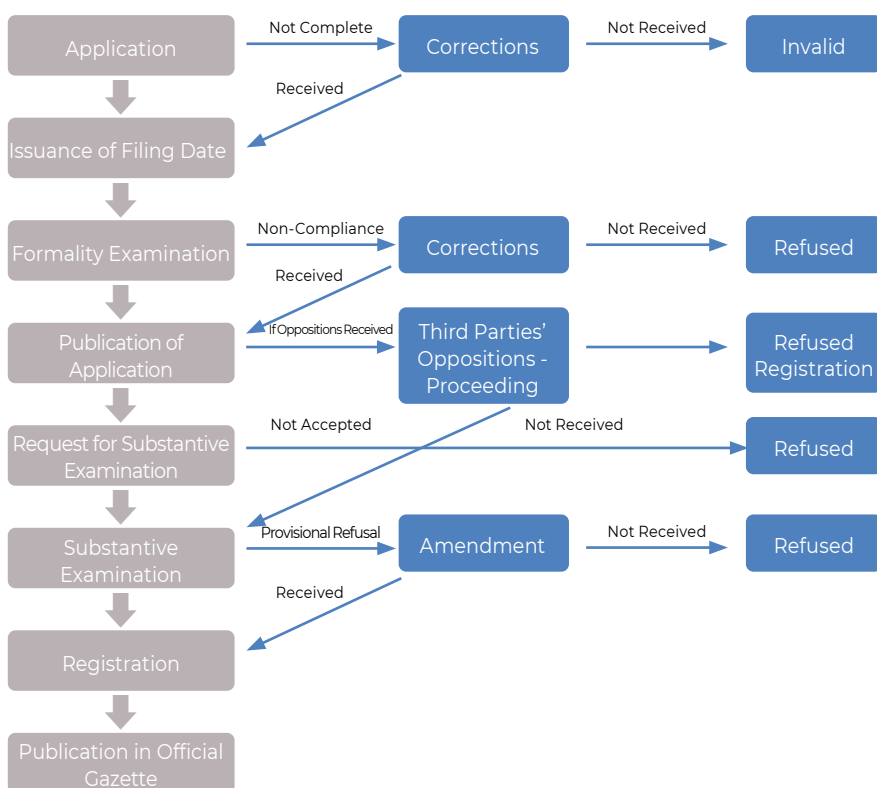
#### **Procedures for obtaining a Patent in Viet Nam under the National Law**

1. A complete application (respecting all requirements provided by art. 102) is filed with the IP Viet Nam.
2. If the application complies at least with the requirements of art. 108, a filing date is issued.
3. The application is processed for formal examination (art. 109).
4. In case of irregularities, the application is refused by the IP Viet Nam indicating the reasons and providing two (02) months from the date of notification for addressing the issues.
5. In case there are no irregularities, or if these are corrected, the application is published (art. 110) on the official gazette to allow third parties to file oppositions against its granting (art. 112). Time for the third party's oppositions is as from the date of publication in the official gazette till prior to the date of decision.
6. Within 42 months after the filing/priority date, the applicant has to request for substantive examination of the application (art. 113).
7. During the substantive examination (art. 114), if the application is accepted, a patent grant certificate is issued and the patent is published in official gazette.
8. In case the IP Viet Nam issues a provisional refusal (art. 119), it must indicate the reasons in writing and provide three (03) months from the date of notification for addressing the issues.
9. Decisions on grant of protection titles for industrial property rights are published by the IP Viet Nam in the Official Gazette of Industrial Property within two months as from the date of issuance.

### Procedures for obtaining a Patent in Viet Nam through PCT

- ▶ The time limit for entering the Viet Nam national phase of a PCT application is 31 months from the international filing date or the priority date.
- ▶ The applicant may amend and supplement documents of the application in the national phase. Right at the time of entry into the national phase, the applicant may also amend and supplement the description.
- ▶ After entering the national phase, an international application shall be put to formality examination and substantive examination according to the procedures applicable to ordinary applications.
- ▶ If the applicant requests in writing earlier examination and pay the prescribed charge, the international application shall be examined earlier.
- ▶ Special Requirements of the IP Viet Nam for entry into National Phase<sup>6</sup>:
  - Instrument of assignment where the applicant is not the inventor
  - Appointment of an agent if the applicant is not resident in Viet Nam
  - Translation of the international application to be furnished in three copies.

### Flow Chart for obtaining a Patent in Viet Nam



<sup>6</sup> As mentioned in the Viet Nam PCT guide available at WIPO  
 Website: <https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/vn.pdf>

## Trademarks

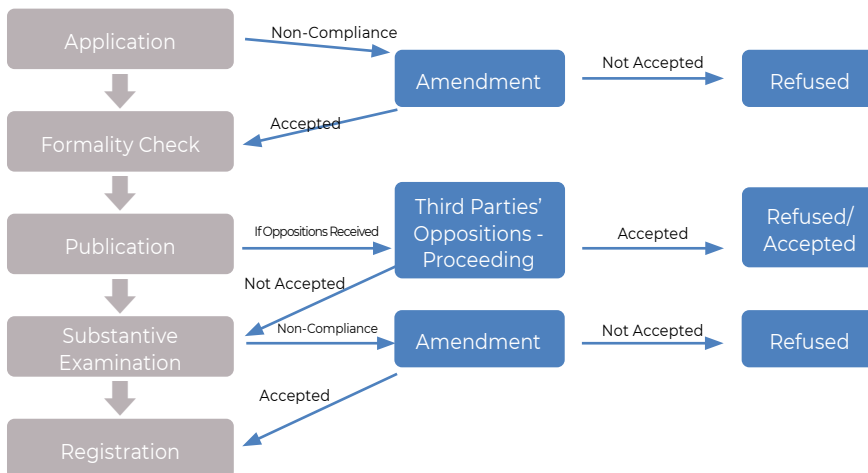
### **Procedure for obtaining a Trademark in Viet Nam under the National Law**

- ▶ A complete application (respecting all requirements provided by art. 105) is filed with the IP Viet Nam.
- ▶ If the application complies at least with the requirements of art. 108, a filing date is issued.
- ▶ The application is processed for formal examination (art. 109).
- ▶ In case of irregularities, the application is refused by the IP Viet Nam indicating the reasons and providing two (02) months from the date of notification for addressing the issues.
- ▶ In case there are no irregularities, or if these are corrected, the application is published (art. 110) in the official gazette, within 2 months from its acceptance, to allow third parties to file oppositions against its granting (art. 112). Time for possible third party's oppositions is as from the date of publication in the Official Gazette of Industrial Property until prior to the date of a decision on the grant.
- ▶ The application undergoes a substantive examination right after it has been accepted as being valid (art. 114).
- ▶ During the substantive examination, if the application is accepted, a trademark certificate is issued and the trademark is published in official gazette.
- ▶ In case the IP Viet Nam issues a provisional refusal (art. 119), it must indicate the reasons in writing and provide three (03) months from the date of notification for addressing the issues.
- ▶ Decisions on grant of protection titles for industrial property rights are published by the IP Viet Nam in the Official Gazette of Industrial Property within two months as from the date of issuance.

### **Procedures for obtaining a Trademark in Viet Nam through the Madrid system**

- ▶ Within 12 months after the International Bureau issues the notice on a mark international registration application designating Viet Nam, the IP Viet Nam office shall make a conclusion on protectability of the mark.
- ▶ In case of irregularities, IP Viet Nam will issue a provisional refusal in which indicates the reasons and provides three (03) months from the date of notification for addressing the issues.
- ▶ The IP Viet Nam office shall, upon the request of the mark proprietor, grant a certificate of protection in Viet Nam of internationally registered mark, if the requester pays the prescribed fee.

### **Flow Chart for obtaining a Trademark in Viet Nam**

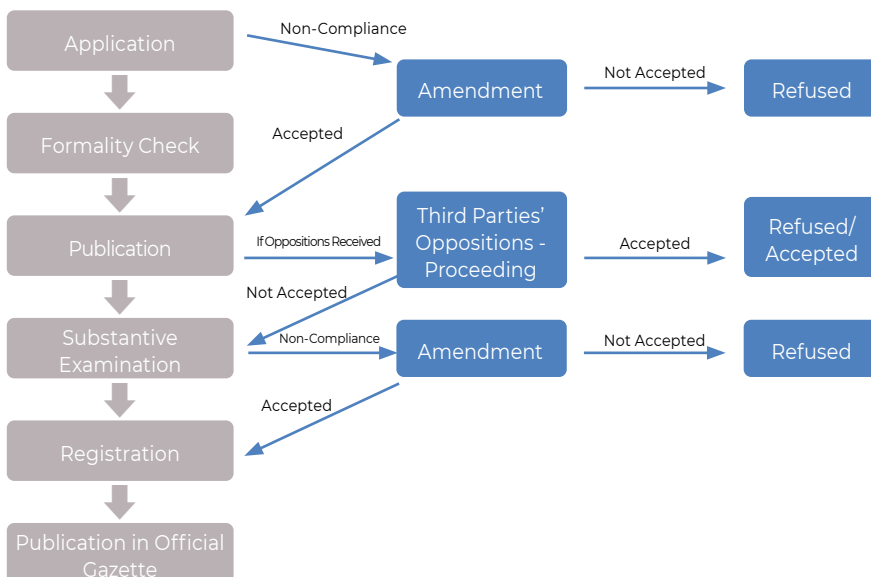


## Industrial Designs

### **Procedures for obtaining an Industrial Design in Viet Nam under the national law**

- ▶ A complete application (respecting all requirements provided by art. 103) is filed with the IP Viet Nam.
- ▶ If the application complies at least with the requirements of art. 108, a filing date is issued.
- ▶ The application is processed for formal examination (art. 109).
- ▶ In case of irregularities, the application is refused by the IP Viet Nam indicating the reasons and providing two (02) months from the date of notification for addressing the issues.
- ▶ In case there are no irregularities, or if these are corrected, the application is published (art. 110) in the official gazette, within 2 months from its acceptance, to allow third parties to file oppositions against its granting (art. 112). Time for possible third party's oppositions is as from the date of publication in the Official Gazette of Industrial Property until prior to the date of a decision on the grant.
- ▶ The application undergoes a substantive examination right after it has been accepted as being valid (art. 114).
- ▶ During the substantive examination, if the application is accepted, a design certificate is issued and the design is published in official gazette.
- ▶ In case the IP Viet Nam issues a provisional refusal (art. 119), it must indicate the reasons in writing and provide three (03) months from the date of notification for addressing the issues.
- ▶ Decisions on grant of protection titles for industrial property rights are published by the IP Viet Nam in the Official Gazette of Industrial Property within 60 days as from the date of issuance.

### **Flow Chart for obtaining an Industrial Design in Viet Nam**







**Australian  
Aid** 

  
**NEW ZEALAND  
FOREIGN AFFAIRS & TRADE**  
Manatū Aorere

For more information about AANZFTA, please visit <https://aanzfta.asean.org/>