



# PATENTS

## INFOPACK



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# 1. INTRODUCTION AND FUNDAMENTALS

## 1.1 Introduction

Intellectual Property (IP) refers to the product of your mind or intellect. IP can be an invention or innovation, special names and images used in trade, original designs or an expression of an idea. In Singapore, laws exist to protect such IP. This may be through a registration process such as patent grants for inventions, trade mark registration for signs used in trade, industrial design registration for designs applied to articles or non-physical products and grants of protection for plant varieties. Other forms of IP, that need not be registered, but may be protected nonetheless, include copyright works, geographical indications, layout designs of integrated circuits, confidential information and trade secrets.

## 1.2 About Patents

A Patent is a monopoly right given by the Government to the owner of an invention to enable him to prevent others from using, copying or making the invention without his consent in the country in which he has obtained patent protection.

Whilst it is not mandatory to apply for patent protection in Singapore first before seeking patent protection overseas, any person resident in Singapore is required to obtain written authorisation from the Registrar of Patents for an invention, before he files or causes to be filed outside Singapore an application for a patent for that invention.

As an alternative to seeking written authorization, a person resident in Singapore may file a patent application for an invention first in Singapore. If no direction prohibiting or restricting the publication or communication of information contained in the patent application has been issued by the Registrar of Patents within two months from that filing, he may then proceed to file or cause to file overseas a patent application for that invention.

**>> More information on “Seeking Registrar's Written Authority” can be found on page 31 of this Infopack.**

Deciding which country to file your patent applications in depends very much on where you wish to seek patent protection. It is ultimately a commercial decision that has to be taken. Further,

patent requirements differ from country to country and costs including translation and professional fees have to be taken into account.

To obtain a patent in Singapore, an applicant must submit a patent application to IPOS. The patent application should contain particulars including a full written explanation or disclosure of the invention and the mechanics by which the invention works.

A patentable invention can be a product or a process that gives a new technical solution to a problem. It can be a new method of doing things, the composition of a new product, or a technical improvement on how certain objects work.

A patent once granted, may be challenged by any one, on the ground that the invention is not patentable.

### 1.3 Rights Conferred by a Patent

For a patent granted in Singapore, the rights conferred by a patent extend throughout Singapore. It confers on the owner the right to prevent others from exploiting the invention without his consent during the term of the patent, which is 20 years from the date of filing the patent application, subject to the payment of annual renewal fees.

A patent is a form of property and it can be assigned, licensed or mortgaged.

### 1.4 Legislation Governing Patents

The Patents Act came into force on 23 February 1995 and provided Singapore with its own patent system. The Patents Act (Cap. 221) and its subsidiary legislation, which consists of the Patents Rules, the Patents (Patent Agents) Rules, and the Patents (Composition of Offences) Regulations, form the legislation governing patent law in Singapore.

>> **View the Patents Legislation online at the AGC website <https://sso.agc.gov.sg>.**

### 1.5 Benefits of Patents

Apart from using the patent to prevent others from exploiting the invention, the patent proprietor can exploit his patent in many ways. He can use his patent to raise funds for his business, license it to third parties for commercial returns or sell the patented invention for a sum of money.

## 1.6 When to File

The patent system in Singapore operates on a first-to-file basis. In other words, the first person to file an application will, in general, have priority over others for the same invention. One looks at the Date of Filing accorded to the patent application when deciding as to who was the first to file the patent application.

>> **More information on “Date of Filing” can be found on page 13 of this Infopack.**

## 1.7 Patentable Inventions

For an invention to be patentable, it must, in general, satisfy three key criteria.

### **New**

The invention should not have been made known to the public in any way, anywhere in the world. Owners of inventions should be careful to keep the invention secret, until a patent application has been successfully made.

An invention could be considered as not new if it has already been made available to the public by word of mouth, or it has been commercially exploited, or it has been featured in an article or advertised in the press, or it has been demonstrated. Such disclosure may be novelty destroying and forms one of the grounds for the revocation of a patent.

In certain cases, it may be necessary to disclose the invention before the application for a patent is made, e.g. disclosure to a marketing consultant. Care must be taken to ensure that the disclosure is made in confidence so that such disclosure will not be fatal to the subsequent patenting of the invention.

Once a Date of Filing has been obtained for the patent application, the invention can claim a "Patent Pending" status and the applicant can proceed to disclose the invention as indicated in the patent application to interested parties. As part of the application process, the patent application will be published as soon as possible after 18 months and if the statutory requirements are met. Once published, details of the invention will be made available for public inspection.

### **Inventive Step**

The invention must be something that represents an improvement over any existing product or process that is already available. The improvement must be non-obvious to a person who is skilled in the art in that technological field of the invention. If an invention is new yet obvious to a person skilled in the art, the invention would not fulfill the inventive step requirement.

### **Industrial Application**

The invention must be useful and have some form of practical application. It should be capable of being made or used, or achieving a concrete end result in any industry.

## **1.8 Non-patentable Inventions**

An invention of a method of treatment of the human or animal body by surgery or therapy or of diagnosis practised on the human or animal body shall not be taken to be capable of industrial application, and hence, is not patentable.

Also, an invention that is generally expected to encourage offensive, immoral or anti-social behaviour will not be published or patentable even if it satisfies the three key criteria.

## **1.9 Patent Information Search**

It is important to know the state-of-the-art before filing for a patent. With such knowledge, an inventor would not have to re-invent the wheel and would also avoid infringing other patents filed or granted. There are resources available to help search for existing patents and published patent applications.

IPOS provides basic search tools via IPOS Digital Hub and the IPOS Go mobile application. As any disclosure made known to the public in any way, anywhere in the world could destroy the novelty of an invention, more in-depth searches should be conducted with the assistance of patent professionals using commercial search tools.

## **IPOS Digital Hub**

This is a one-stop solution designed to facilitate online IP related searches and transactions in Singapore. IPOS Digital Hub services include:

- search, view basic bibliographic information for any patent application or patent filed in Singapore;
- download of register for any patent application or patent that has been published in Singapore;
- download of specification for any patent application or patent that has been published (where applicable) in Singapore;
- view and download recent copies of the Patents Journal;
- file a patent application;
- file a statement of inventorship and of right to the grant of a patent;
- request for a search report or supplementary search report;
- request for a search and examination report;
- request for an examination report;
- amend a patent application before grant;
- request for the issuance of certificate of grant;
- annual renewal of the patent;
- request for the furnishing of or access to miscellaneous information relating to any patent application or patent that has been published in Singapore; and
- alter the name or address of applicants/inventors, address for service, address of agent or correct an error.

For a complete list of services offered by IPOS Digital Hub, please visit the IPOS Digital Hub website at <https://digitalhub.ipos.gov.sg/>.



## 2. OWNERSHIP AND RIGHTS

### 2.1 Entitlement to a Patent

The right to the grant of a patent belongs primarily to the inventor or inventors.

However, should the invention be developed in the course of work, under Singapore law, the rights to the invention may then vest with the employer. The Patents Act lays down the circumstances in which inventions by the employee belong to the employer and those in which they remain with the employee.

The owner of the invention may also assign his rights to another person or entity and the rights would pass over to the assignee.

Any person or corporation claiming to be the owner of an invention can apply for a patent in Singapore.

There are no restrictions or discrimination as to nationality or residency. However, an applicant who is not a resident in Singapore must provide the Registrar with an address for service in Singapore to which all correspondences will be sent. If a patent agent is hired to act on the applicant's behalf, this address for service should be the practice address of the patent agent.

**>> More information on “patent agents” can be found on page 17 of this Infopack.**

### 2.2 Enforcement of Patent Rights

As soon as a patent is granted, the patent owner can take civil legal action against an infringing party, seeking relief in the form of an injunction to stop the infringing action, demand for the profits gained by the infringing party at his expense and/or, seek damages for the loss suffered.

**>> It should be borne in mind that a patent once granted, may be challenged by any one on the grounds for revocation e.g. that the invention is not a patentable invention. More information on “Revocation” can be found on page 28 of this Infopack.**

## 2.3 Patent Infringement

Patent infringement occurs, when a person, without the consent of the patent owner:

(in the case where the invention is a product) makes, disposes of, offers to dispose of, uses or imports the product or keeps it whether for disposal or otherwise; or

(in the case where the invention is a process) uses the process or he offers it for use in Singapore when he knows, or it is obvious to a reasonable person in the circumstances, that its use without the consent of the proprietor would be an infringement of the patent; or

(in the case where the invention is a process) disposes of, offers to dispose of, uses or imports any product obtained directly by means of that process or keeps any such product whether for disposal or otherwise.

## 2.4 Making Unauthorised Patent Claims

It is a criminal offence to make unauthorised claims about patent rights or patents applied for. If a party falsely claims his product is "patented" or "patent pending" or he claims to have applied for a patent for his product without actually doing so, he may be subjected to legal proceedings.

## 2.5 Groundless Threats

Further, where a person groundlessly threatens another person with patent infringement proceedings, the person aggrieved by the threats may bring civil proceedings in court against the person making the threats.



## 3. APPLYING FOR A PATENT IN SINGAPORE

### 3.1 Requirements for a National Application

#### 3.1.1 Filing a National Application

A complete patent application in Singapore shall contain the following:

- Patents Form 1;
- A description of the invention – the description should describe at least one way of carrying out the invention claimed, with examples, where appropriate, and with reference to the drawings, if any;
- One or more claims – the claims define the scope of protection sought for the invention and should be supported by the description;
- Drawing(s) referred to in the description or any claim(s), if any; and
- Sequence listing, forming part of the specification or for reference only, if any.

In Singapore, claims are not required to be furnished at the time of filing a patent application in order to obtain a Date of Filing. This is similar in concept to a provisional patent application which is available in some countries. However, claims are essential as they define the scope of protection sought. One or more claims for the purposes of the patent application should be furnished generally within 12 months\* to complete the patent application. Failure to do so would result in the patent application being treated as having been abandoned.

An abstract of the invention which is a summary of the invention and is used in the publication of the patent application is also not required to be furnished at the time of filing a patent application in order to obtain a Date of Filing.

\*12 months from the declared priority date or 2 months from the Date of Filing of the patent application (whichever expires later), or where there is no declared priority date, 12 months from the Date of Filing of the patent application.

### 3.1.2 Priority Claim

Singapore, like many countries, allows priority claims to be made in a patent application. If an applicant has an application filed earlier in a Paris Convention country or a World Trade Organization member country, he may claim this earlier filed application as priority in his subsequent Singapore patent application, provided that the Singapore application is made within 12 months from the Date of Filing of the earlier filed application.

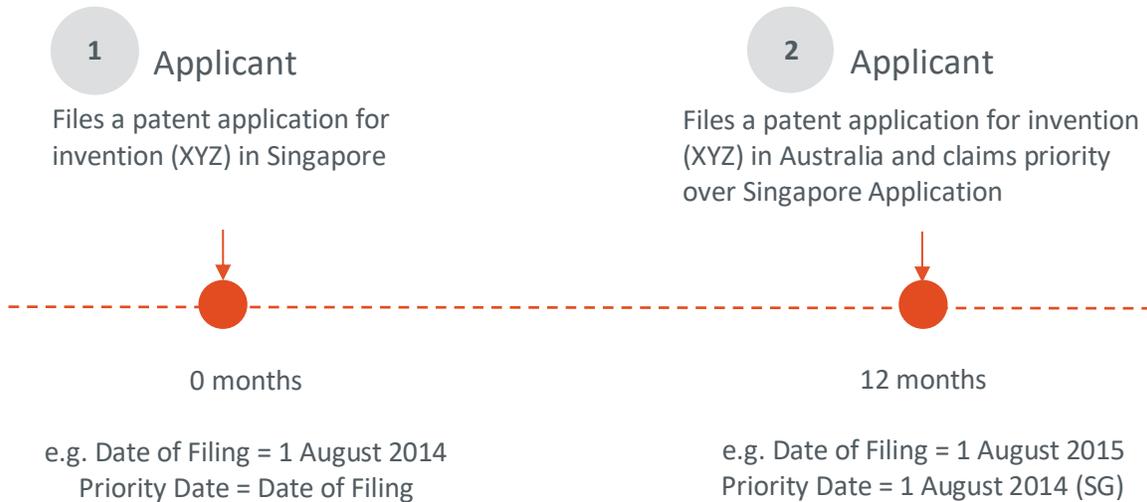
#### (a) Priority date

If there are no earlier filings, the priority date of an invention to which an application for a patent relates is the Date of Filing the patent application made in a Paris Convention country or a World Trade Organization member country.



Similarly, an application which is first-filed in Singapore can be used as the basis of a priority claim in a subsequent patent application filed in a Paris Convention country or a World Trade Organization member country, provided that the subsequent patent application is filed within 12 months from the date of the first-filed Singapore application.

Patent filing of invention XYZ in Australia claiming priority over an earlier filed patent application in Singapore 12 months ago



It should be noted that the subsequent filing of an application claiming priority of the first filing is independent of whether the search and examination report is already established in the first filing.

### **(b) Declaration of priority**

If the applicant wishes to claim priority of an earlier patent filing, he must do so by making a declaration of priority at the time of filing the subsequent application.

Simply put, to benefit from this priority requirement, there are 2 important points to note:-

- a) subsequent patent applications must be filed within the required 12 month priority period to claim priority of the earlier first patent filing of the same invention.
- b) the applicant must on the same day of filing a subsequent application within the required 12 month priority period, make a declaration of priority claiming priority of the earlier first patent filing of the same invention.

### **(c) Restoration of right of priority**

Applicants may apply to restore a declaration of priority of an earlier relevant application even though they had failed to file a subsequent patent application within 12 months from the date of the earlier application. They may also apply to add a claim of priority where they had failed to make a declaration of priority in a subsequent application which was filed within 12 months from the date of the earlier application.

To benefit from this feature,

- a) for restoration of a declaration of priority, the subsequent patent application should be filed within 14 months from the date of the earlier relevant application.
- b) for addition of a declaration of priority (in an application which was filed within 12 months from the date of the earlier relevant application but which omitted a declaration of priority), the application for addition of a declaration of priority has to be filed within 16 months from the date of the earlier relevant application.

**>> For the list of parties to the Paris Convention and members of the World Trade Organisation, please refer to the WIPO website [www.wipo.int](http://www.wipo.int) and the WTO website [www.wto.org](http://www.wto.org).**

### **3.1.3 Naming of Inventors**

An applicant who is not the inventor must identify the inventor or inventors of the invention and state how he derived the right to the invention, e.g. by assignment or by contract of employment.

### **3.1.4 Address for Service**

An address for service in Singapore must be provided in all patent applications. Where there is a change in the address for service, the applicant will have to notify the Registrar.

## **3.2 Estimated Patent Processing Time**

The time for processing a patent application typically ranges from two to four years. This is dependent on factors such as complexity of the invention, amendments to the application and the search and the examination process.

To help applicants speed up the patent processing time, IPOS launched the SG IP FAST

programme. Applications on the programme can be granted in as fast as 6 months (straightforward applications) or 9 months (non-straightforward applications). This accelerated grant can then be used to expedite patent applications elsewhere through the various acceleration networks and programmes that Singapore has established globally. Applicants can also rely on work sharing programmes such as Patent Prosecution Highway (PPH) and ASEAN Patent Examination Co-operation (ASPEC) to accelerate the patenting process in Singapore and any of the other participating IP Offices.

**>> More information on the patent acceleration programmes can be found on the IPOS website under [Acceleration Programmes](#).**

It should be borne in mind that a patent once granted, it may be challenged by any one on the grounds for revocation e.g. that the invention is not a patentable invention. Patent applicants are, therefore, encouraged to work within the time frame provided under the patent legislation and maximise the time given e.g. by making allowable amendments to the patent specification, to ensure that their patent application is in order before they ask for the grant of the patent.

**>> More information on “Revocation” can be found on page 28 of this Infopack.**

### 3.3 Engaging a Patent Professional

Although not a requirement in Singapore, an applicant should consider seeking the services of a practicing registered patent agent or a practicing advocate and solicitor (lawyer) to assist him in the prosecution of his patent application.

Patent applications contain technical and legal documents. Hence, it is very important for the patent application to be carefully drafted in order for it to be granted the intended scope of protection. In addition, the patent process involves several steps to be undertaken and failure to comply or failure to comply within the stipulated time periods may result in negative consequences.

Services provided by a registered patent agent or lawyer include giving advice on the making of any pre-application disclosure and on the patentability of an invention, conducting searches on existing inventions, drafting of the patent specification and prosecuting the patent application before the Registrar.

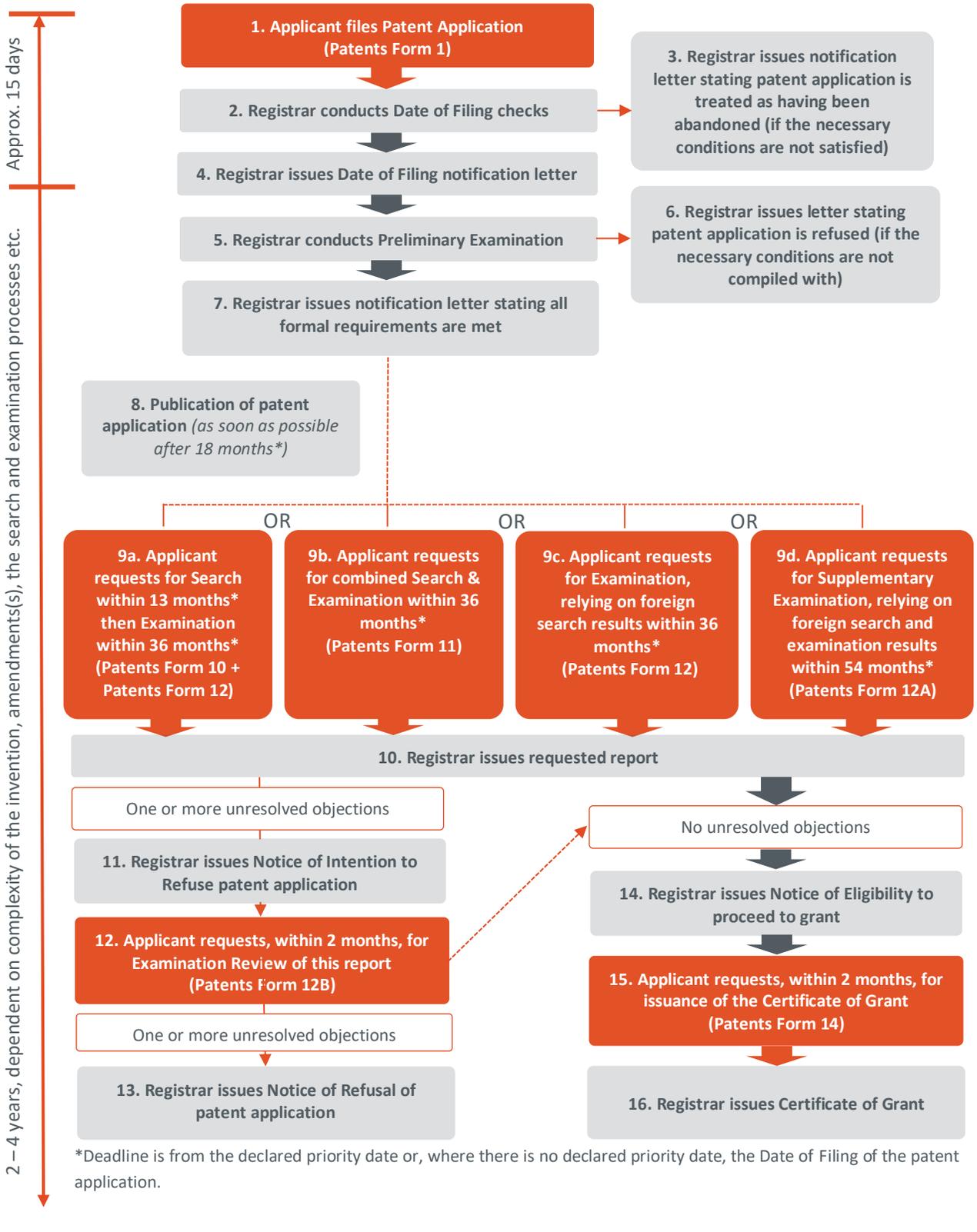
## 3.4 Payment and Submission of Documents

The filing of patent applications can be done electronically via IPOS Digital Hub.

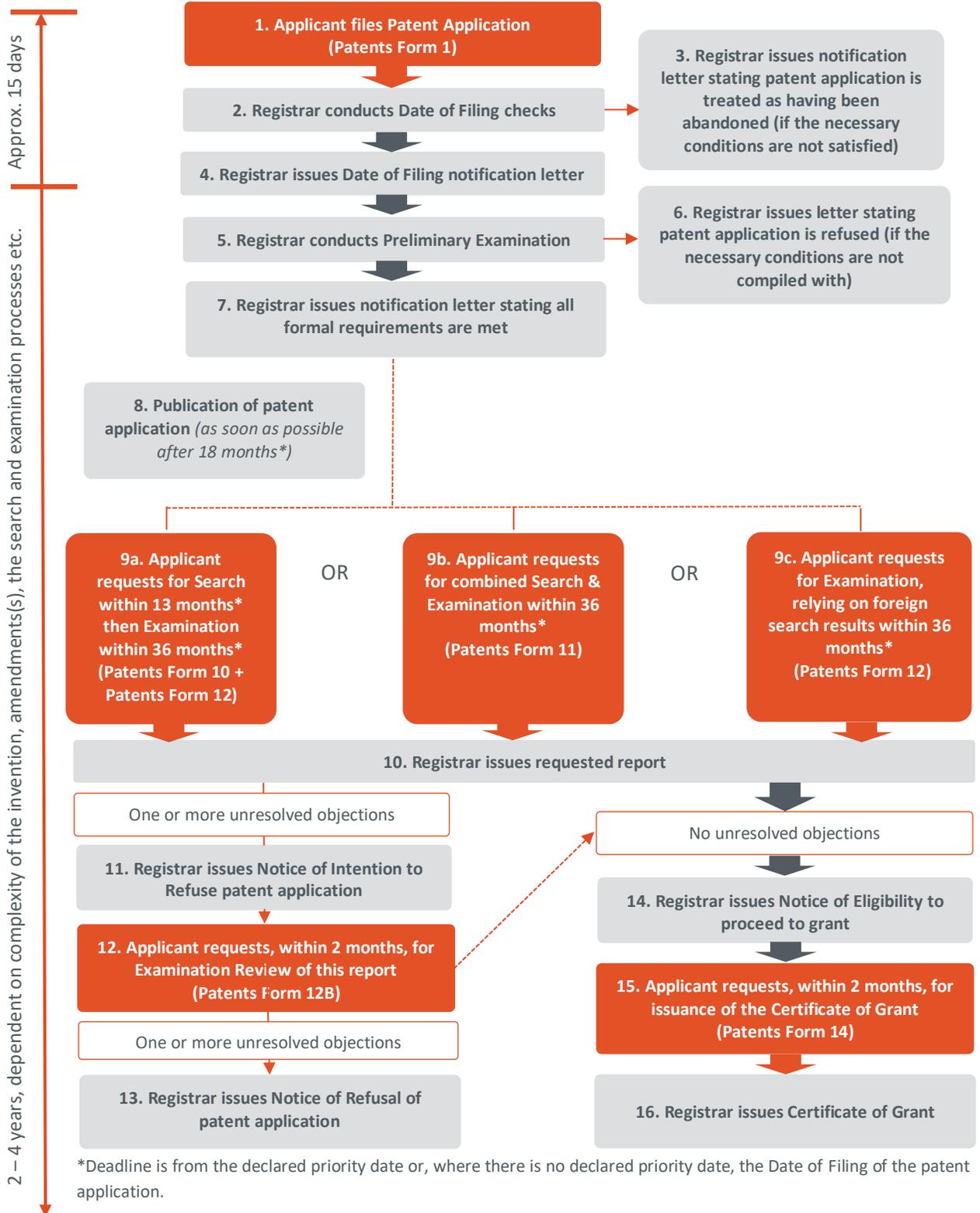
>> Please also refer to the [IPOS Digital Hub Practice Direction No. 1 of 2022](#) on electronic online system (EOS) and alternative filing modes at [www.ipos.gov.sg](http://www.ipos.gov.sg).

### 3.5 Overview of Patent Application Process

For applications with date of filing on or after 14 February 2014, up till 31 December 2019



For applications with date of filing on or after 1 January 2020



### 3.5.1 Date of Filing Check

In general, the Date of Filing of a patent application is the earliest date on which the documents filed at IPOS to initiate the patent application satisfy the following conditions:

- these documents indicate that a patent is sought;
- these documents identify the applicant for the patent; and
- these documents contain a description, or what appears to be a description, of the invention for which the patent is sought.

The applicant may obtain a Date of Filing for his patent application even if the description of the invention for which the patent is sought is not contained in the documents filed to initiate the patent application, provided the applicant makes a declaration of priority in or in connection with the patent application containing:

- a reference to an earlier relevant patent application as specified in the declaration;
- the date of filing of the earlier relevant patent application and the country in or for which the earlier relevant patent application was made; and
- a statement that the description of the invention for which the patent is sought is incorporated by reference to and is completely contained in the earlier relevant patent application as filed.

If the Registrar determines that any of the necessary conditions have not been satisfied, the Registrar will notify the applicant accordingly by letter. The applicant has to ensure the necessary conditions are satisfied within two months from the date of the Registrar's notification, failing which the patent application shall be treated as having been abandoned.

### 3.5.2 Preliminary Examination

If the patent application has a Date of Filing, has not been withdrawn or treated as abandoned, and the applicant has paid the prescribed filing fee and satisfied all other necessary conditions, the Registrar shall conduct a Preliminary Examination of the patent application to determine whether:

- any declaration of priority specifies a date of filing for an earlier relevant patent

application which is more than 12 months before the Date of Filing of the Singapore patent application;

- any drawing or part of the description of the invention for which the patent is sought is missing from the patent application; and
- the patent application complies with all formal requirements.

If during Preliminary Examination the Registrar determines that all formal requirements have been complied with, the Registrar will issue a Formalities Clear Report.

If not all formal requirements have been complied with, the Registrar will issue a Formalities Examination Adverse Report and the applicant will have three months (for applications with date of filing on or after 14 February 2014, the applicant will have two months) to make observations or to amend the application via Patents Form 13, failing which the application may be refused.

### 3.5.3 Publication of the Patent Application

If the application has been accorded a Date of Filing and is still pending, it will be published in the Patents Journal as soon as possible after 18 months from the declared priority date or where there is no declared priority date, the Date of Filing of the application.

One significant effect of publication is that the patent application becomes open for public inspection. Hence, if the applicant wishes to keep his invention a secret, he should withdraw his application via Form CM9 earlier than one month before expiry of the 18 months.

In general, the applicant will have, as from the publication and until the grant of the patent, the same right as he would have had, if the patent had been granted on the date of the publication of the application, to bring proceedings in the court or before the Registrar for damages in respect of any act which would have infringed the patent. A request for early publication can be made on Patents Form 9.

**>> The Patents Journal is published on IPOS Digital Hub at <https://digitalhub.ipos.gov.sg/> and is available for download at no cost.**

### 3.5.4 Search and Examination

Where the application has complied with all the formal requirements, the applicant may proceed to the search and examination process. An applicant may select from three approaches to the search and examination process namely:

- **“All-local approach”**

In the all-local approach, an applicant may request to undergo either a search-then-examination process or a combined search-and-examination process.

- **“All-foreign approach”**

In the all-foreign approach, the applicant furnishes the Registrar the final search and examination results of a corresponding or corresponding international application. Under this approach, the applicant does not need to file a further search and examination request with the Registrar in respect of the same invention. With the introduction of the positive grant system, for applications with date of filing on or after 14 February 2014 up to 31 December 2019, a supplementary examination is conducted based on the foreign search and examination results. This approach is not available for patent applications with date of filing on or after 1 January 2020.

- **“Combination approach”**

In the combination approach, the applicant files an examination request with the Registrar relying on the search results of a corresponding or corresponding international application.

Different approaches may be selected depending on the applicants' needs. Applicants should seek the advice of their patent agents on the option that is most suitable for them.

The search process is essentially a search conducted for all materials and information which are relevant to the subject of the invention. The results of the search are reflected in a search report.

The examination process involves the consideration by an Examiner as to whether the invention qualifies as new, involves an inventive step and is capable of industrial application, among other requirements.

If during the examination, the Examiner is of the opinion that the application does not meet the legal requirements, he will issue a written opinion giving the applicant a five months non-extendable period to respond. For simple amendments, the Examiner may issue an invitation to

amend giving the applicants a two months non-extendable period to amend. For supplementary examination request, the time period to respond to a written opinion will be three months (non-extendable) instead. There is no option of invitation to amend for a supplementary examination request. A response to the written opinion must be made on Patents Form 13A and can be in the form of written submissions on the Examiner's opinion, an amendment of the specification or both. The results of the examination are reflected in an examination report.

For a published application, third party observations can be made in writing, stating reasons for the observations with respect to the patentability of the invention and preferably with supporting documents. The Examiner will take the observations into consideration during search and examination process.

For applications with date of filing on or after 14 February 2014, if the Examiner is of the opinion that the application does not meet the legal requirements and issues a negative examination report, the applicant can request for a review of the negative examination report. The request must be made on Patents Form 12B within two months from the Notice of Intention to Refuse patent application. Amendments can be made and filed using the request for Examination Review (Patents Form 12B).

The following table provides an overview of the deadlines.

Requests/Notice	Deadlines on or after 14 February 2014 from date of Filing or declared priority date
Search Request	13 months
Exam Request	36 months
Combined Search & Exam Request	36 months
Notice of Reliance on a) Foreign final Search & Exam Results or b) International Search Report (ISR) & International Preliminary Report on Patentability (IPRP) of PCT applications c) Supplementary Examination (With the introduction of the positive grant system, for applications with date of filing on or after 14 February 2014, a supplementary examination is conducted based on the foreign search and examination results.)	54 months*
Examination Review	2 months from Notice of Intention to Refuse
Request for the Grant Certificate	2 months from Notice of Eligibility

\*This option is not applicable for patent applications with date of filing on or after 1 January 2020.

### 3.5.5 Examples of Patent Application Processes

#### EXAMPLE 1

#### First Patent filing in Singapore

Who	Applicant	Registry of Patents (Registry)	Registry	Applicant	Registry	Applicant	Applicant
What	(1) Files a patent application.	(2) Conducts a check on Date of Filing (DOF) and accords DOF if requirements are met.	(3) Conducts a preliminary examination to see if formalities requirements are met.	(4) Files a request for search.	(5) Publishes the patent application if requirements are met.	(6) Files a request for examination.  Or files a request for combined search & exam.	(7) Files request for grant of patent.
When	0 months	Within 1 – 2 months from (1).	Within 1 – 2 months from DOF.	Within 13 months from DOF	Soon after 18 months from DOF.	Within 36 months for applications with date of filing on or after 14 February 2014.	Within 2 months from Notice of Eligibility for applications with date of filing on or after 14 February 2014.

**EXAMPLE 2**

**Patent filing in Singapore claiming priority of an earlier filed patent application in eg. Australia 12 months ago**

Who	Applicant	Applicant	Registry	Registry	Registry	Applicant	Applicant
What	(1) Files a patent application for invention XYZ in Australia.	(2) Files a patent application for invention XYZ in Singapore on 1 August 2019 and claims priority of Australian application.	(3) Conducts a check on Date of Filing (DOF) and accords DOF if requirements are met.	(4) Conducts a preliminary examination to see if formalities requirements are met.	(5) Publishes the patent application if requirements are met.	(6) Relies on foreign search & examination results.*	(7) Files request for grant of patent
When	E.g. 1 August 2018	Within 12 months of 1 August 2018 which is the priority date (PD).	Within 1 – 2 months of (2).  DOF will be 1 August 2019 if requirements are met.	Within 1 – 2 months from DOF.	Soon after 18 months from PD.	Within 54 months request for supplementary examination for applications with date of filing on or after 14 February 2014.	Within 2 months from Notice of Eligibility for applications with date of filing on or after 14 February 2014.

\*This option is not applicable for patent applications with date of filing on or after 1 January 2020.

### 3.5.6 Request for Extension of Time

There are prescribed periods within the patent process. If the applicant is unable to meet one or more of these periods, an extension of time for that specific period may be requested.

It is to be noted that not all the prescribed periods in the patent process can be extended and for those that can be extended, there are requirements to be met and fees are payable.

### 3.5.7 Grant of Patent

After completion of the search and examination process, the applicant may proceed to request for grant of a patent if he receives a Notice of Eligibility. He would then submit a request for the issuance of the Certificate of Grant (*Patents Form 14*) within two months from the Notice of Eligibility.

Upon grant, the term of the patent is 20 years from the Date of Filing, subject to the payment of annual renewal fees.

## 3.6 Patent Term and Renewal of Patent

To maintain the patent, the applicant will need to pay an annual renewal fee, starting from the end of the 4th year from the Date of Filing, and every year thereafter, until the patent expires. The renewal is payable within three months before the anniversary of the Date of Filing.

In the event that grant was issued after 45 months from date of filing, all renewals due will only be payable within three months after the date of grant.

The applicant can renew the patent by submitting Patents Form 15 together with renewal fees. If the applicant has made an entry in the register for Licence of Right, the patent can be renewed at half price, using Patents Form 15.

## 3.7 Patent Term Extension

For Patents granted on applications with date of filing on or after 1 July 2004, a request can be made to the Registrar to extend the term of a patent beyond 20 years from its Date of Filing using Patents Form 54. The grounds on which such extensions may be granted on can be summarised as follows:

- there was an unreasonable delay by the Registrar in granting the patent;

- there was an unreasonable delay caused by a foreign patent office in the issuance of the patent relating to a corresponding application and the foreign patent office has extended the term of the corresponding patent on the basis of such delay;
- there was unreasonable curtailment of the opportunity to exploit the patent caused by the process of obtaining marketing approval for a pharmaceutical product, being the first pharmaceutical product to obtain marketing approval which uses a substance (which is included as part of the patent) as an active ingredient; and the term of the patent has not previously been extended on this ground.

### 3.8 Patent Revocation

Any party, on application to the Registrar, may seek to revoke a patent on grounds including the following:

- the invention is not a patentable invention;
- the patent was granted to a person who is not entitled to the grant;
- the specification does not disclose the invention clearly and completely for it to be performed by a person skilled in the art;
- the matter disclosed in the specification extends beyond that disclosed in the patent application as filed;
- the amendment or correction to patent application or patent should not have been allowed;
- the non-disclosure/inaccurate disclosure of prescribed material information;
- the patent was obtained on any misrepresentation;
- the patent was obtained fraudulently; and
- the patent is one of two or more patents for the same invention having the same priority date and filed by the same party or his successor in title.

### 3.9 Post Grant Re-examination

Re-examination after grant is a process in which a request can be made to re-examine a granted patent.

Any party may request for a patent to be re-examined, with accompanying reasons and documents submitted through Patents Form 36. If the Registrar finds that an alleged ground is made out and not resolved by the patentee, the patent may be revoked.



## 4. APPLYING FOR A PATENT OUTSIDE SINGAPORE

### 4.1 Filing Overseas

Patent protection is territorial in nature. Separate applications will have to be made in each of the country/region where patent protection is desired. To obtain protection overseas, it is necessary to file applications in the countries concerned either individually or through the Patent Co-operation Treaty which facilitates the filing of International Applications.

Deciding which country to file your patent applications in depends very much on where you wish to seek patent protection in. It is ultimately a commercial decision that has to be taken. Further, patent requirements differ from country to country and costs including translation and professional fees have to be taken into account.

### 4.2 Written Authority (Section 34 of Patents Act)

#### *Person resident in Singapore*

Whilst it is not mandatory to apply for patent protection in Singapore first before seeking patent protection overseas, any person resident in Singapore is required to obtain written authorisation from the Registrar of Patents for an invention, before he files or causes to be filed outside Singapore an application for a patent for that invention.

Alternative to seeking written authorisation is for the person resident in Singapore to file a patent application for an invention first in Singapore. If no direction prohibiting or restricting the publication or communication of information contained in the patent application has been issued by the Registrar within two months from that filing, he may then proceed to file or cause to file overseas a patent application for that invention.

Contravention of Section 34 is a criminal offence.

### 4.3 Seeking Registrar's Written Authority

Persons seeking Registrar's written authority under Section 34 of the Patents Act should apply directly to the Registrar. It can be done electronically via IPOS Digital Hub. A brief summary of the invention and the drawings, if any, should accompany the application for written authority. Upon receipt of the request, the Registry would respond within 5 working days from the date of receipt for straightforward request. For urgent cases, an expedited request could be made. However, please allow the Registrar at least 1 working day from the date of the expedited request to provide a response.

### 4.4 The Patent Co-operation Treaty (PCT)

The PCT is an international treaty to facilitate the filing of patent applications in different countries concurrently. The PCT system produces the same effect as if a national patent application has been filed with the national patent office in each country designated by the applicant. It facilitates the applicant in seeking patent protection for his invention in several countries simultaneously by filing an international application with a single office, in one language and a single set of forms and fees.

The PCT system for filing of an international application is administered by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) based in Geneva, Switzerland. An international application may be initiated by a resident or national of a PCT contracting country wanting to seek protection in other PCT Contracting States. To apply, an applicant would file an international application with the patent office in his home country or the IB of WIPO in Geneva. The filing of a PCT request constitutes the automatic designation of all Contracting States that are bound by the PCT on the international filing date.

>> **The list of PCT contracting countries and PCT Applicant's Guide are available at the WIPO website <http://www.wipo.int/pct/en/>.**

### 4.5 Advantages of using PCT

- a) The PCT system offers convenience should the applicant wish to seek patent protection in more than one PCT contracting region or country. Being a file-once-apply-all system, the applicant does not need to file separate applications in each of the designated countries.
- b) An international application benefits from the longer time period offered by the international phase of the PCT. This is the period from the time of filing to the time for entering the regional or national phase. During this period, the applicant can re-assess the commercial viability of the invention before incurring further costs associated with the national phases at the designated regions or countries. In the national phase, there may be expenses such as translation costs, agent fees and national fees that can amount to a considerable sum of money.

## 4.6 Overview of the PCT International Application Process

### EXAMPLE 3

Month	Phase	Stage	Action
0	International Phase	Chapter I/RO	Applicant files PCT Application with competent PCT Receiving Office
			International Filing Date accorded
		Chapter I/ISA	International Search Report (ISR) & an International Preliminary Report on Patentability Chapter I (IPRP (I)) issued
18			Publication of International Application with ISR
22		Chapter II/IPEA (optional)	Applicant files a demand with a competent International Preliminary Examination Authority (IPEA)
		SISA (optional)	Applicant files a request for supplementary international search
28			International Preliminary Report on Patentability Chapter II (IPRP (II)) issued
30	National Phase		Applicant enters national phase e.g. in Singapore

Upon submission, the international application undergoes the international phase and where an applicant decides to do so subsequently, the regional or national phase.

The international phase consists of two chapters: Chapter I & Chapter II. The applicant has the option of entering the national phase upon completion of Chapter I, and optionally Chapter II. On entering the national phase, each designated office would evaluate the application and decide on grant or refuse the patent application according to its national laws.

In Chapter I of the PCT, the international application will be subject to a search by an International Searching Authority (ISA).

A written opinion will also be issued by the ISA according to the international search procedure. Details of the international application and the International Search Report will be published by the International Bureau. This concludes Chapter I of the PCT. If the applicant chooses to enter the national phase at this juncture, the written opinion by the ISA will be converted by the International Bureau into the International Preliminary Report on Patentability (Chapter I) (IPRP (Chapter I)).

An applicant may also request for a supplementary international search (SIS) – an optional search service intended to complement searches conducted under Chapter I. A supplementary search may be particularly relevant where the Authority conducting it has language specialisation that is not available in the Authority conducting the search in Chapter I.

Where the applicant decides to proceed with the international phase, he will file a demand for an international preliminary examination under Chapter II of the PCT.

The examination gives the applicant a preliminary and non-binding opinion on the patentability of the invention. For the purposes of the examination, the written opinion issued in Chapter I of the international phase may be used. Upon completion of the examination, an International Preliminary Report on Patentability (Chapter II) (IPRP (Chapter II)) will be established. This concludes Chapter II of the PCT.

**>> As Singapore is a PCT Contracting State, an international application may be filed by a resident or national of Singapore with IPOS in Singapore as the receiving Office. PCT Forms and fees at available at <http://www.wipo.int/pct/en/>.**

## 4.7 Filing an International Application in Singapore as a PCT Receiving Office

An applicant, who is a resident or national of Singapore, may file an international application under the PCT directly with the IPOS or the IB at WIPO in Geneva, Switzerland. (See Example 3)

Where applicable, the necessary Section 34 National Security Clearances should be obtained.

In Singapore, IPOS accepts international applications in a type-written format; or through ePCT – a new e-filing server service that is hosted by the International Bureau. New ePCT users have to create an [ePCT](#) account and upload an electronic identification to the account. For more information on how to register and get started on ePCT, please refer to WIPO's [FAQs](#), [Getting Started Page](#) and [User Guide](#).

## 4.8 Selecting Singapore as an International Authority

An applicant may select any of the following six Authorities as an ISA/IPEA – Singapore, Australia, Austria, European Patent Office, Japan and Korea.

### 4.8.1 Procedures relating to an International Searching Authority

An applicant can file a PCT international application (IA) via either ePCT or a request form (PCT/RO/101).

The time limit for establishing the ISR also known as PCT/ISA/210 shall be three months from the receipt of the search copy by the ISA or nine months from the priority date, whichever time limit expires later.

The ISA shall, at the same time as it establishes the ISR, establish a written opinion using ISA/237. There is no response to written opinion in this phase of the PCT international application.

If the Examiner determined that the IA contains not-to-search subject matter, or if there is no searchable subject matter to which the claims might reasonably be expected to be directed, the Examiner should declare that no ISR will be established using PCT/ISA/203.

### 4.8.2 Procedures relating to an International Preliminary Examining Authority

An applicant may request for an international preliminary examination under Chapter II of the PCT to obtain a preliminary and non-binding opinion on the questions whether the claimed invention appears to be novel, to involve an inventive step, and to be industrially applicable.

The demand for international preliminary examination shall be made separately, from the request for a PCT international application, by filing a demand using ePCT or using the demand form (PCT/IPEA/401). Similar to the request, the demand shall contain the prescribed particulars and shall be filed in English. The demand shall be submitted to the competent IPEA. At the time of filing the demand, applicant should enclose any amendments filed or to be filed such as Article 19 or Article 34.

Applicant may file a demand any time prior to the expiration of whichever of the following periods expires later:

- 3 months from the date of transmittal to the applicant of the ISR or the declaration of non-establishment of ISR, and of the written opinion; or
- 22 months from the priority date.

A written opinion will be established using PCT/IPEA/408 and applicant will be invited to respond to the written opinion.

The time limit for establishing the IPER using PCT/IPEA/409 shall be whichever of the following periods

expires later:

- 28 months from the priority date; or
- 6 months from the start of the international preliminary examination.

### 4.8.3 Procedures relating to a Supplementary International Searching Authority

An applicant can request a SIS from any Authority which offers the service (except the Authority conducting the search as the International Searching Authority) at any time before 22 months from the priority date. More than one SIS may be requested from different Authorities offering the service. The request for SIS is to be submitted to the IB.

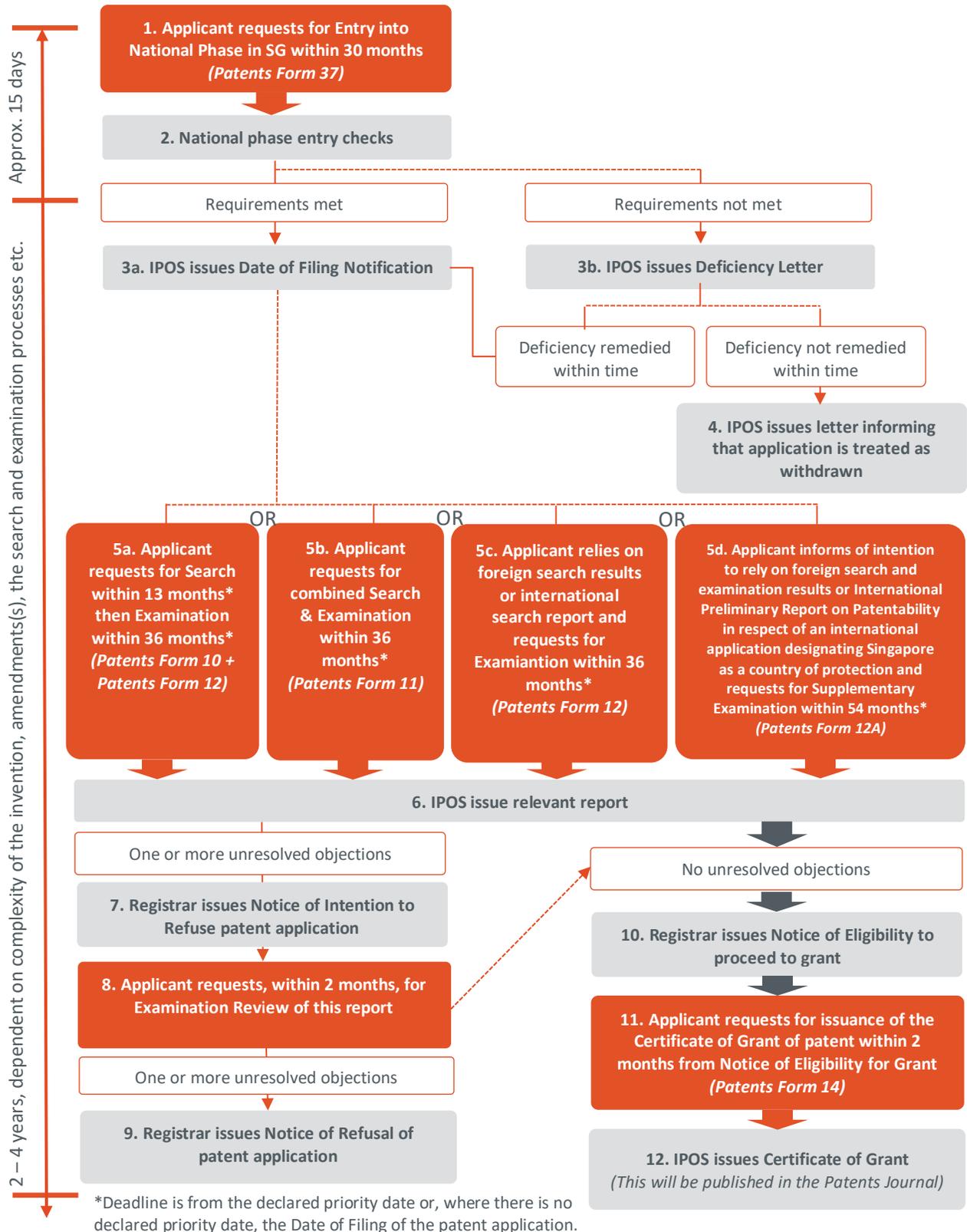
By requesting supplementary searches, the applicant can expand the linguistic and/or technical scope of the documentation searched so that it will reduce the likelihood of new prior art being found in the national phase.

The Supplementary International search report (SISR) is established using PCT/SISA/501 by 28 months from the priority date. If the authority determines in accordance that no SISR will be established for the IA; a declaration that no SISR will be established using PCT/SISA/502 within 28 months from the priority date.

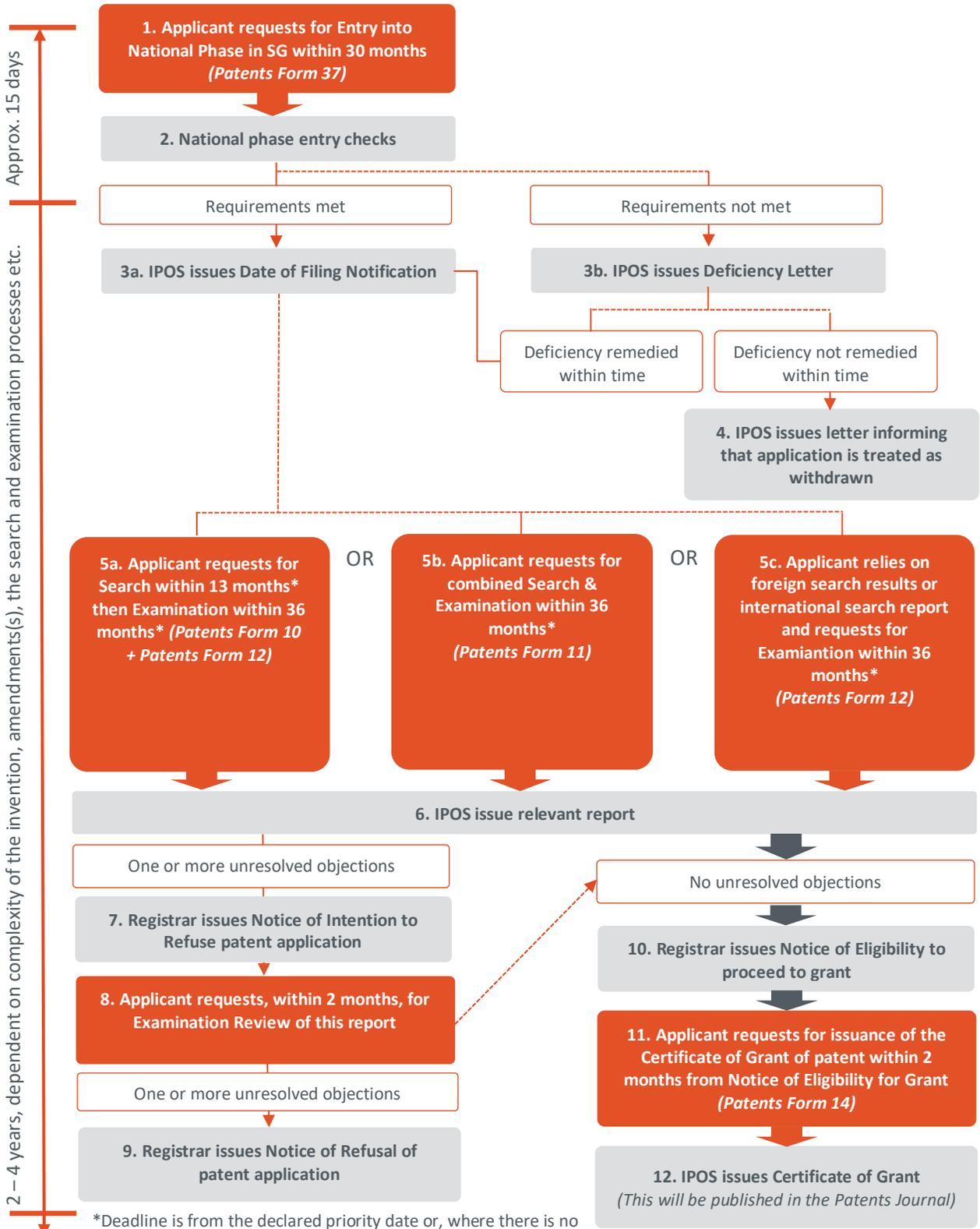
>> **More information on PCT international application procedures is available at <http://www.wipo.int/pct/en/>.**

## 4.9 Overview of Patent Application Process for International Application entering National Phase in Singapore

For applications with date of filing on or after 14 February 2014, up till 31 December 2019



For applications with date of filing on or after 1 January 2020



### 4.9.1 Applicant Requests for Entry into National Phase in Singapore

Singapore has acceded to both Chapter I and Chapter II of the PCT. An applicant, in his international application with respect to Singapore, has a choice whether to enter the national phase in Singapore under Chapter I or Chapter II.

Patents Form 37 is used for payment of the fee for entering the national phase. While optional, applicants are strongly encouraged to use this form.

If the international application was not filed or published in English at the PCT, a translation of the international application into English must be enclosed.

### 4.9.2 National Phase Entry Checks

In general, upon receiving the request for national phase entry the Registrar will check that

- Singapore has been designated in the international application; and
- The fee for national phase entry is paid, and all required documents (including any necessary English translation of the international application) are filed within the prescribed period of 30 months.

If all national phase requirements have been complied with, the Registrar will issue a Date of Filing Notification.

If the Registrar determines that any of the national phase requirements have not been complied with, a deficiency letter will be issued and the applicant will have two months to remedy the deficiencies, failing which the application will be treated as withdrawn.

### 4.9.3 Search & Examination

*Please refer to the SG national procedures on page 23 of this Infopack.*

### 4.9.4 Grant of patent

*Please refer to the SG national procedures on page 27 of this Infopack.*

## 4.10 Patent Term and Renewal of Patent

*Please refer to the SG national procedures on page 27 of this Infopack.*

## 4.11 Patent Term Extension

*Please refer to the SG national procedures on page 27 of this Infopack.*

## 4.12 Patent Revocation

*Please refer to the SG national procedures on page 28 of this Infopack*



## 5. FREQUENTLY USED PATENT TERMINOLOGY

<b>Abstract</b>	The abstract is a summary of the invention. It does not form part of the specification, but is used in the publication of the patent application.
<b>Claim(s)</b>	The claim(s) define the scope of protection sought by the applicant. They should be supported by the description, be well crafted, clear and concise as they set out the protection limits and boundaries under the patent.
<b>Description</b>	The description shall describe at least one way for carrying out the invention claimed, with examples where appropriate, and with reference to the drawings, if any.
<b>Drawing(s)</b>	Drawing(s) illustrate the invention and provide support for the description and claim(s).
<b>Date of Filing</b>	The date issued by the Registrar upon receipt of documents that (1) indicate that a patent is sought; (2) identify the applicant(s) and (3) contain a description of the invention.
<b>Examination</b>	The process where the invention is examined to determine if it is new, involves an inventive step and is capable of industrial application.
<b>Supplementary Examination</b>	With the introduction of the positive grant system, for applications with date of filing on or after 14 February 2014, a supplementary examination is conducted based on the foreign search and examination results. This process is mandatory for all-foreign approach and is put in place to ensure the compliance of the positive grant requirements. This approach is not available for patent applications with date of filing on or after 1 January 2020.
<b>Examination Review</b>	The applicant is given one final opportunity to respond to a negative examination report. This process is applicable to both local and supplementary examination reports.

<b>First to File</b>	The applicant who is the first to file for a patent will have priority over others for the same invention.
<b>Inventive Step</b>	An improvement that is non-obvious to a person who is skilled in the art in the technological field of the invention.
<b>Inventor</b>	The person who is the actual deviser of the invention.
<b>Industrial Application</b>	Having practical application in any industrial field.
<b>New/Novel</b>	Not known to anyone in any form, anywhere in the world.
<b>Patent Professional</b>	<p>A person who provides professional advice on the measures to take in making any pre-application disclosures, advises on searches on existing inventions, on the patentability of an invention, attends to the drafting of the patent application and the prosecution of the patent application before the Registrar of Patents.</p> <p>This patent professional may be a practising registered patent agent or a practising advocate and solicitor (lawyer). If he describes himself as such, he must also be registered as a patent agent with IPOS and have a practising certificate issued by IPOS.</p>
<b>Preliminary examination</b>	Preliminary examination is the stage where the Registrar determines (a) whether the declaration of priority specifies a Date of Filing of an earlier relevant application which is more than 12 months before the Date of Filing of the Singapore patent application (b) whether the application complies with all the formal requirements; and (c) whether any drawing or part of the description of the invention is missing from the application.
<b>Priority Date</b>	Simply put, if there are no earlier filings, the priority date of an invention to which an application for a patent relates, is the Date of Filing the patent application made in a Paris Convention country or a World Trade Organization member country.
<b>Search</b>	The process of searching for any relevant information and materials related to the invention.
<b>Specification</b>	The specification contains a description of the invention, a claim(s) and any drawing(s) referred to in the description or any claim(s). It shall disclose the invention in a manner which is clear and complete for the invention to be performed by a person skilled in the art.



IPOS is the national authority that registers and is responsible for the administration of IP rights in Singapore. IPOS helps businesses use intangible assets (IA) and IP to grow and is committed to building Singapore into an international IA/IP hub.

Find out more at [ipos.gov.sg](https://www.ipos.gov.sg).