

INSTRUCTIONS

FOR FILING PATENT APPLICATION IN TAIWAN

(Including Invention, Utility Model and Design)

Updated: January 1, 2016

1. GENERAL INFORMATION:

- **National Application:** Taiwan is not a member of Patent Cooperation Treaty (PCT), the only way to obtain a patent protection in Taiwan is to file a direct national application.
- **Absolute Novelty:** The content of application cannot be published, publicly used, displayed or disclosed anywhere in the world prior to the filing date or the priority date, if priority is claimed.
If it is disclosed as a result of conducting a test; or disclosed in a publication; or displayed at an exhibition held or recognized by the Government, or disclosed by a third party without the consent of the applicant, a novelty grace period can be claimed within 6 months from the date of disclosure.
- **International Priority Claim:** Taiwan is a member of WTO, WTO's members may claim the priority within the priority term (12 months for invention & utility model and 6 months for design application) to the earlier application(s) first filed in the countries of members of WTO or to the European or PCT applications designating the members of WTO. The priority claimed to a WIPO International Design application or European Community Design application is also accepted.

2. THREE TYPES OF PATENT

1) **Invention Patent**

- Substantial Examination has to be requested by the applicant or any third party within three years from Taiwan filing date.
- Pre-grant publication (Laying-open): after 18 months from Taiwan filing date or priority date, if priority is claimed.
- Post-grant publication: when the application has been substantial examined and is allowed for issuance as a patent, and the required fees have been paid within 3 months.
- Patent Term: 20 years from the filing date.

2) **Utility Model Patent**

- Non-substantial (formality) Examination will be conducted by the IPO when filing is complete.
- Pre-grant publication (Laying-open): not applicable.
- Post-grant publication: when the application has been formality examined and is allowed for issuance as a patent, and the required fees have been paid within 3 months.
- Patent Term: 10 years from the filing date.

3) **Design Patent**

- Substantial Examination will be conducted by the IPO automatically when all formal requirements have been met.
- Pre-grant publication (Laying-open): not applicable.
- Post-grant publication: when the application has been substantial examined and is allowed for issuance as a patent, and the required fees have been paid within 3 months.
- Patent Term: 12 years from the filing date.

3. DOCUMENT/INFORMATION REQUIREMENTS:

[Minimum Documents: *to be filed concurrently with filing to obtain a filing date*] :

1) **Specification & Claims/Drawings:**

For **Invention/Utility Model** Application:

Specification & claims and drawings, if any: in acceptable foreign language (i.e. *Japanese, English, German, French, Korean, Russian, Portuguese, Spanish and Arabic*). The Chinese translation thereof can be submitted later.

For **Design** Application: [Note: one design application can include only one embodiment]

Drawings or photographs covering **six-side** views, i.e. front, rear, left-side, right-side, top and bottom views, and at least **one perspective view** of the article of which the design is claimed.

2) **Information of the applicant:** such as full name, nationality, and address.

3) **Information of the inventor:** such as full name and nationality.

4) **Information of the Priority Application:** such as filing date, application number and the filing country of the priority application.

[Other Documents: *can be filed later*] :

5) **Chinese translation of specification & claims and drawings, if any.** [*It must be submitted within the maximum term of 6 months from the filing date*]

6) **Power of Attorney:** to be signed by the representative of the applicant. [*It must be submitted within the maximum term of 6 months from the filing date*]

(Note: if it is given in general terms, it will be valid for all subsequent applications of the same applicant.)

7) **Certified copy of priority document(s)**, if priority is claimed: to be issued by the Patent Authority of the country with which corresponding application was filed. [*It must be submitted within 16 months (for invention/utility model) or 10 months (for design) from the earliest priority date and no further extension is available.*]

4. BIOLOGICAL MATERIAL -RELATED INVENTION APPLICATION:

In case the biological material employed in the invention is not readily available for a skilled person in the art, the applicant shall, prior to the filing, deposit the biological material to the domestic depository institute designated by the IPO and the certificate of deposit issued by the depository institute has to be submitted to the IPO within four (4) months after the filing (or sixteen (16) months from the earliest priority date, if priority is claimed).

If the deposition has been done with a foreign depository institute recognized by the IPO before filing the application in Taiwan, the deposition with a domestic depository institute may be done after the filing. The certificates of deposit issued by both domestic and foreign depositories have to be submitted to the IPO within four (4) months after the filing (or sixteen (16) months from the earliest priority date, if priority is claimed).

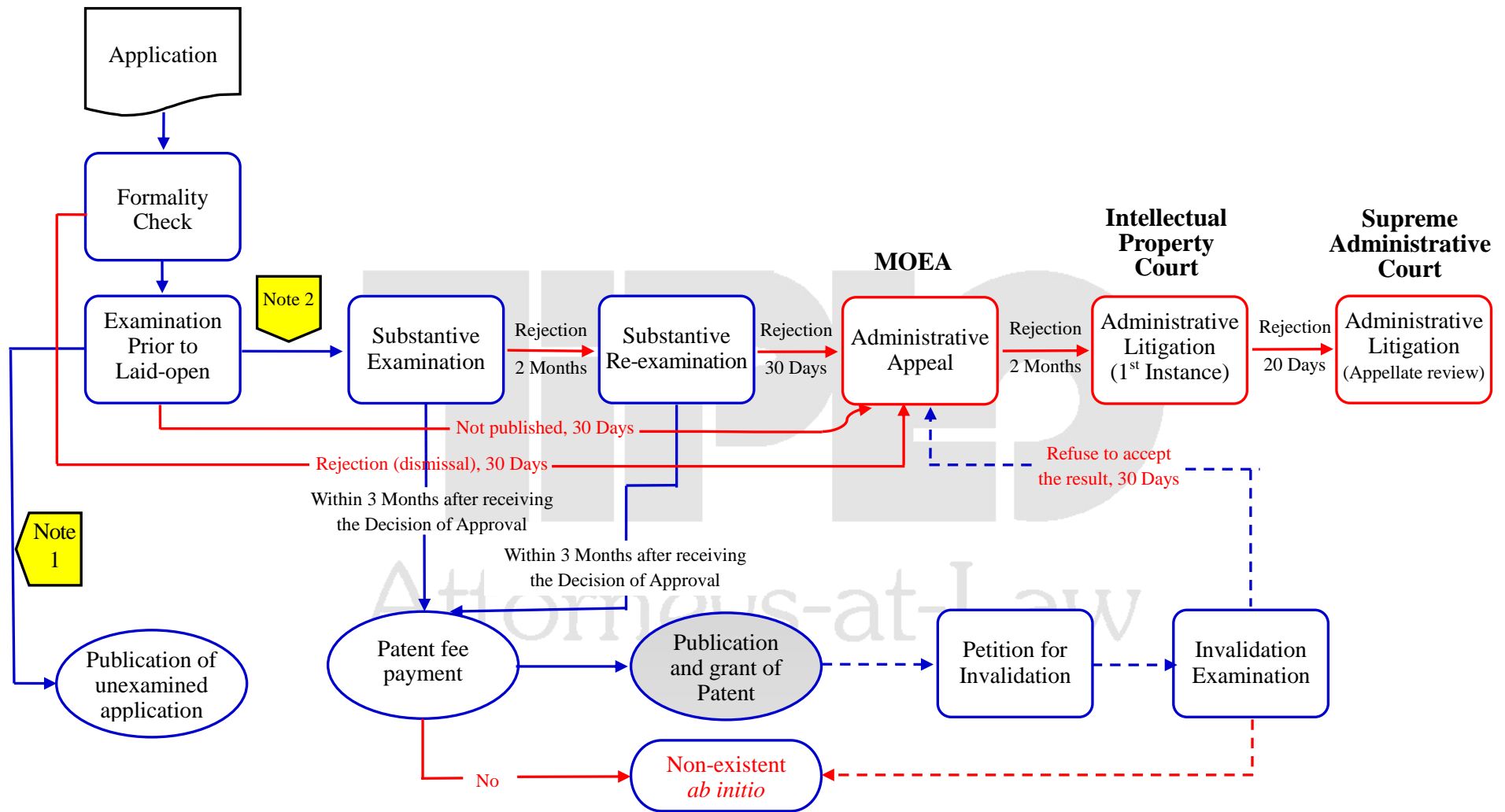
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A Flowchart on Invention Patent Examination and Administrative Remedy



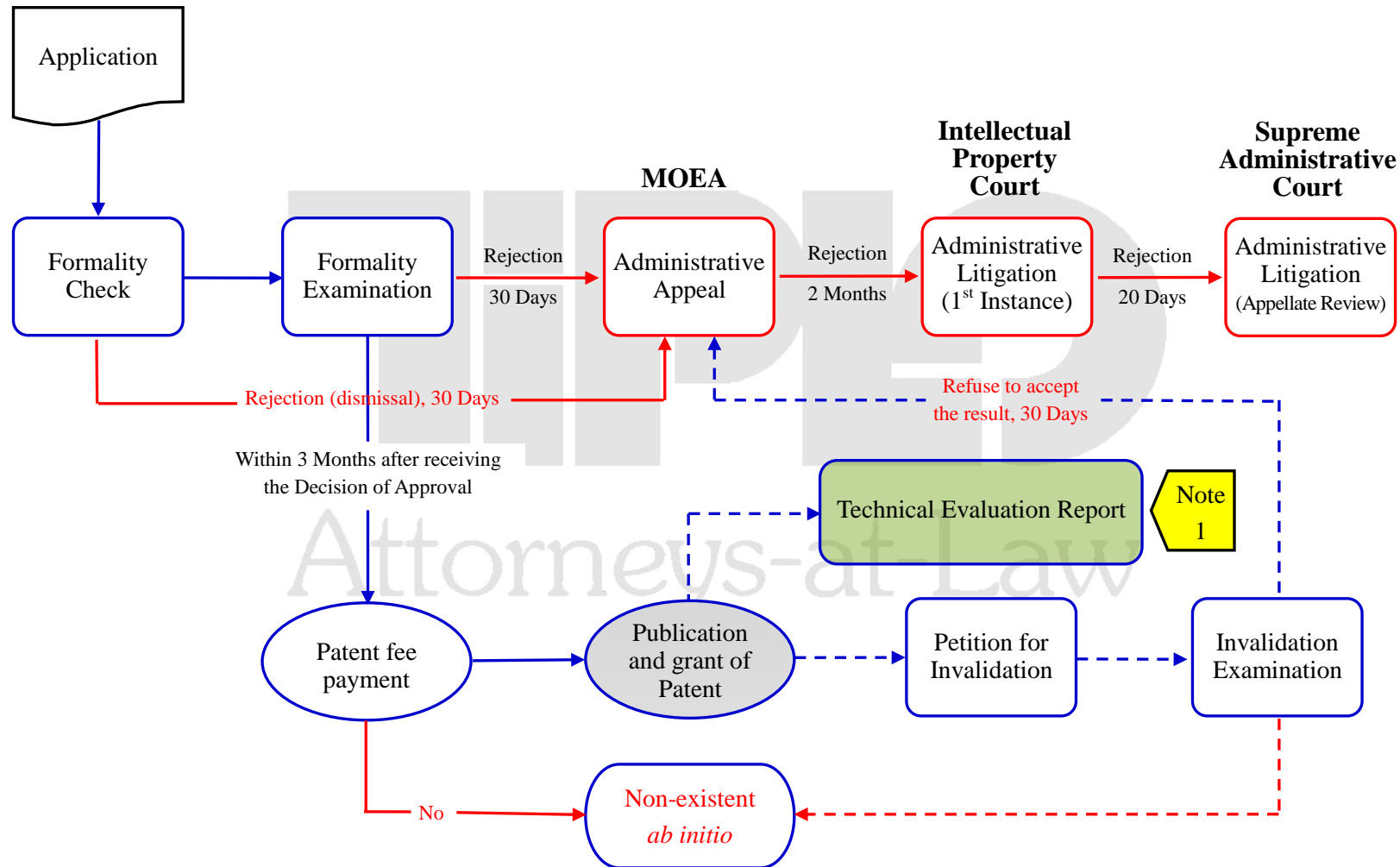
Note 1 : An application of invention patent, complying with stipulated formality check and containing no elements that may be deemed unsuitable for laying open through examination, shall be laid open 18 months after the filing date (or the earliest priority date).

Note 2 : Substantive examination will only be proceeded upon a request filed with the TIPO by any person within 3 years from the filing date of the invention patent application.

Resource: Taiwan Intellectual Property Office at: <http://www.tipo.gov.tw/public/Data/4910820171.pdf>

※ If you have any further questions or need more detailed information, please contact with us via email at: tiplo@tiplo.com.tw

A Flowchart on Utility Model Patent Examination and Administrative Remedy

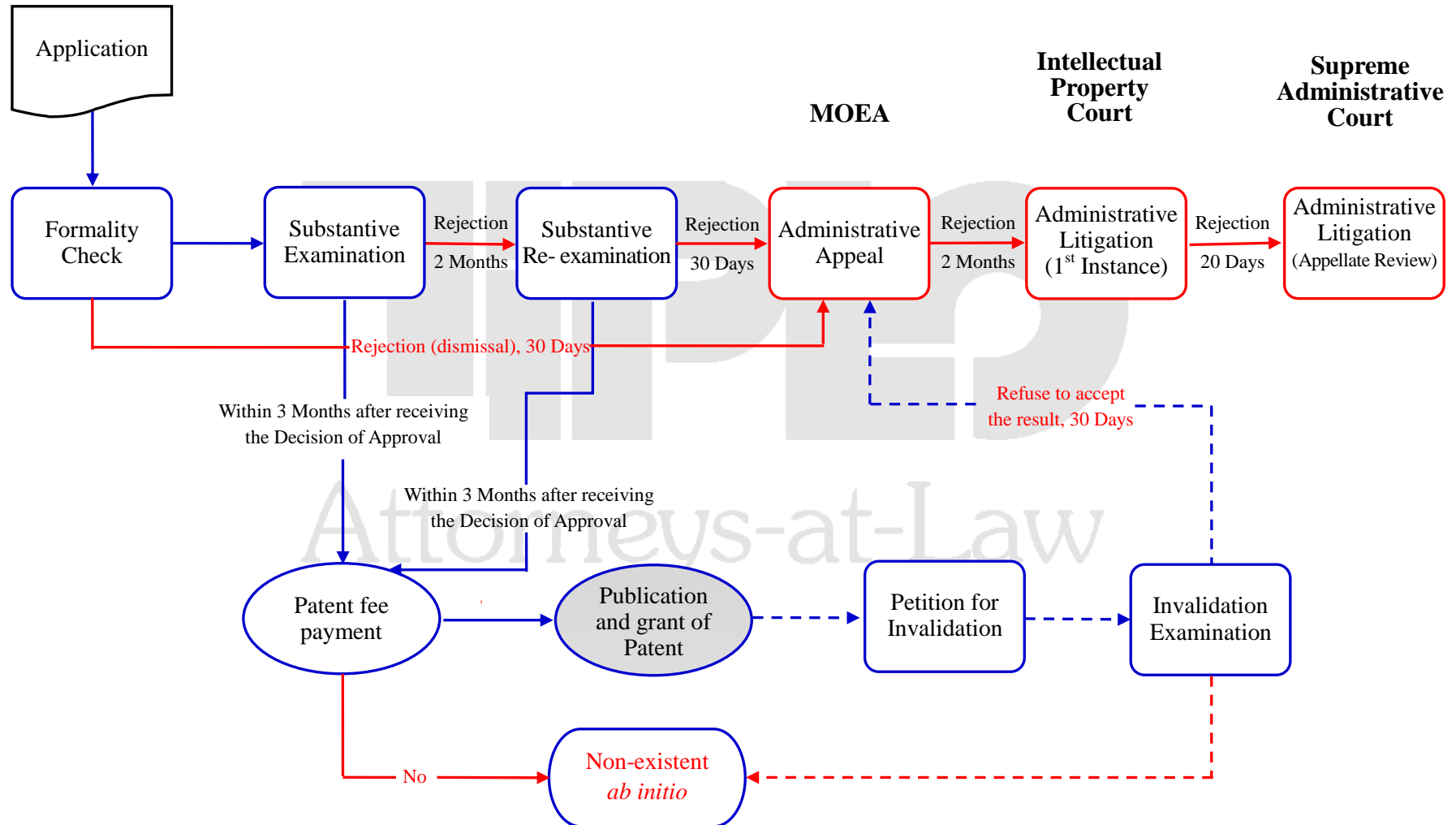


Note 1 : After a utility model application is published, any person may apply for the technical evaluation report.

Resource: Taiwan Intellectual Property Office at: <http://www.tipo.gov.tw/public/Data/4910820171.pdf>

※ If you have any further questions or need more detailed information, please contact with us via email at: tiplo@tiplo.com.tw

A Flowchart on Design Patent Examination and Administrative Remedy



Resource: Taiwan Intellectual Property Office at: <http://www.tipo.gov.tw/public/Data/4910820171.pdf>
 ※ If you have any further questions or need more detailed information, please contact with us via email at: tiplo@tiplo.com.tw