

# INSTRUCTIONS

## FOR FILING PATENT APPLICATION IN TAIWAN

(Including Invention, Utility Model and Design)

### 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 worldwide novelty is required, i.e. if the content of an invention/creation has been published, used or made public anywhere prior to the filing date or the priority date (if priority is claimed), it will be a bar to obtain a patent protection for said invention/creation in Taiwan. Nevertheless, an applicant may file a patent application and **claim a grace period** within 12 months for invention & utility model and 6 months for design application after the date of the disclosure if the invention/creation was disclosed either intentionally or unintentionally by an applicant. However, it is NOT applicable if the publication in a Gazette is made in this or a foreign country in accordance with the laws as the consequence of filing a patent application.
- **International Priority Claim:** Taiwan is a member of WTO, applicants from WTO's member states may claim the priority within the priority term (12 months for invention & utility model and 6 months for design application) to an earlier application first filed in one of the member states of WTO or to the European or PCT applications designating one member state 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 (3) 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 & issuance of a Patent Certificate: when the application has been substantial examined and is allowed for issuance as a patent, and the required Patent Certificate issue fee and the 1st annuity have been paid within 3 months upon receipt of the Allowance Decision of Examination.
- Patent Term: 20 years from the filing date.

#### 2) **Utility Model Patent**

- Non-substantial (formality) Examination will be conducted by Taiwan Intellectual Property Office (the TIPO) when filing is complete.
- Pre-grant publication (Laying-open): not applicable.
- Post-grant publication & issuance of a Patent Certificate: when the application has been formality examined and is allowed for issuance as a patent, and the required Patent Certificate issue fee and the 1st annuity have been paid within 3 months upon receipt of the Allowance Decision.
- Patent Term: 10 years from the filing date.

#### 3) **Design Patent**

- Substantial Examination will be conducted by the TIPO automatically when all formal requirements have been met.
- Pre-grant publication (Laying-open): not applicable.
- Post-grant publication & issuance of a Patent Certificate: when the application has been substantial examined and is allowed for issuance as a patent, and the required Patent Certificate issue fee and the 1st annuity have been paid within 3 months upon receipt of the Allowance Decision of Examination.
- Patent Term: 15 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. Some of the six-side views can be omitted if they are exactly the same as or are mirror images of some other views. Partial design patent applications are acceptable.

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 has to 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 has to 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. *[It has to 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.]* Acceptable formats include certified paper copy or compact disk issued by, or electronic copy downloaded from, the Patent Authority of the priority application, or electronic copy scanned directly from the original certified paper copy issued by the Patent Authority. Also, the "Priority Document Exchange" (PDX) program has been implemented for Japan and Korea. For Japanese priority application, only an "access code" issued by the JPO is required, and for Korean priority application, only a request of "utilizing PDX program" is required to be indicated on the application form at the time of filing the application.

### **4. BIOLOGICAL MATERIAL –RELATED INVENTION APPLICATION:**

When a patent application involved a biological material or utilization of a biological, unless said material can be easily obtained by a person ordinarily skilled in the art, the applicant shall, prior to the filing, deposit the biological material to the domestic depository institute designated by the TIPO and the certificate of deposit issued by said institute has to be submitted to the TIPO within 4 months after the Taiwan filing date (or 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 TIPO before filing the application in Taiwan, the domestic deposition may be done after the filing. The certificates of deposit issued by both domestic and foreign depositories have to be submitted within the aforesaid time period.

If the applicant has deposited the biological material in a depository designated by a foreign country in its territory with which the TIPO recognizes the effects of deposits based on reciprocity, and if the applicant has submitted the certificate(s) of deposit issued by the said foreign depository within the aforesaid time period, the applicant is exempted from making a deposit in Taiwan. So far, Taiwan has a mutual recognition of deposit of biological materials with Japan, United Kingdom and Korea respectively.

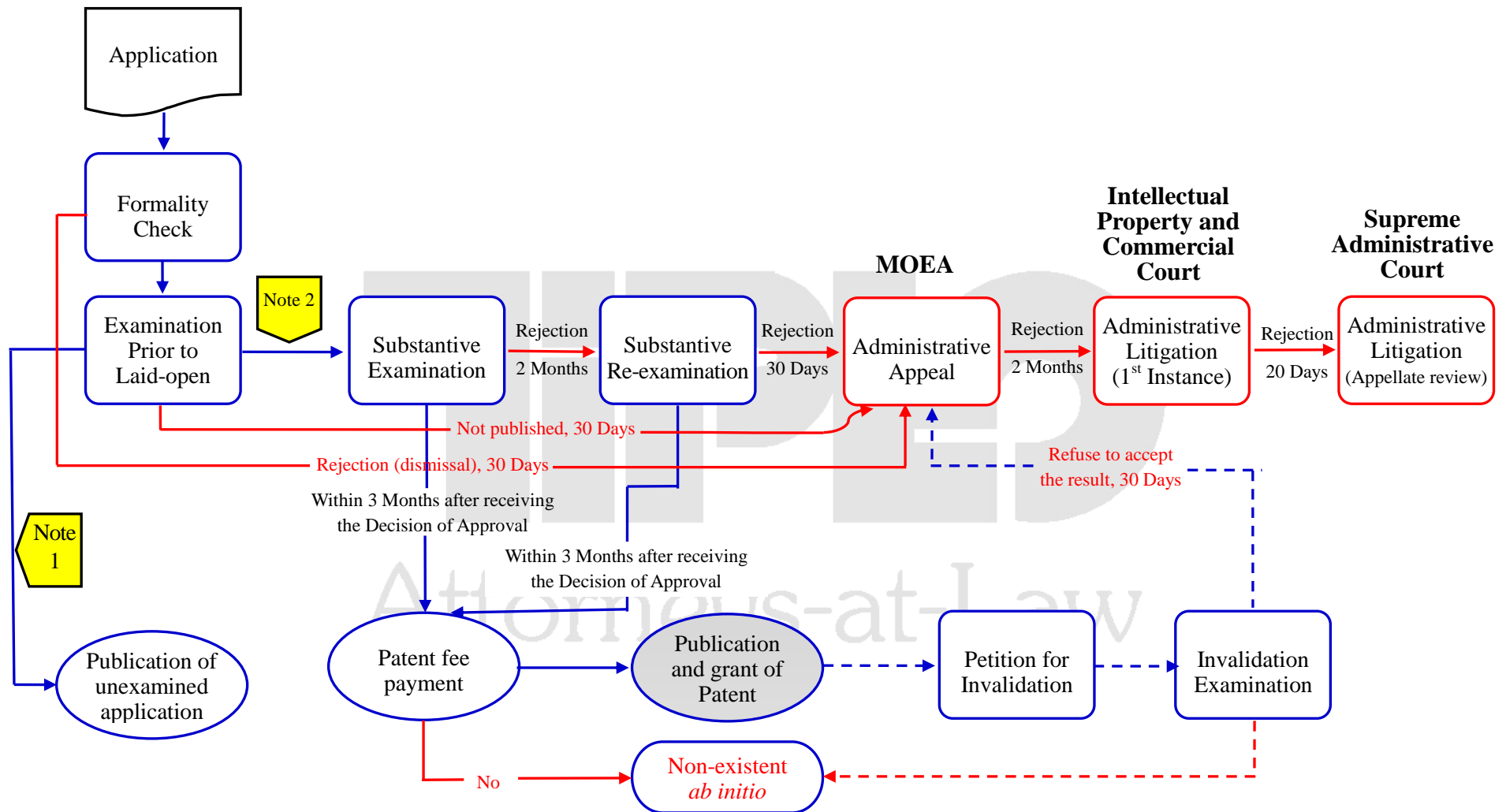
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#### **Taiwan International Patent & Law Office**

7th Floor, No. 125 Nanking East Road, Sec. 2, Taipei 104, Taiwan  
Tel: 886-2-2507-2811 Fax: 886-2-2508-3711; 886-2-2506-6971

Website: [www.tiplo.com.tw](http://www.tiplo.com.tw) E-mail: [tiplo@tiplo.com.tw](mailto:tiplo@tiplo.com.tw) [patent8@tiplo.com.tw](mailto:patent8@tiplo.com.tw)

# A Flowchart on Invention Patent Examination and Administrative Remedy



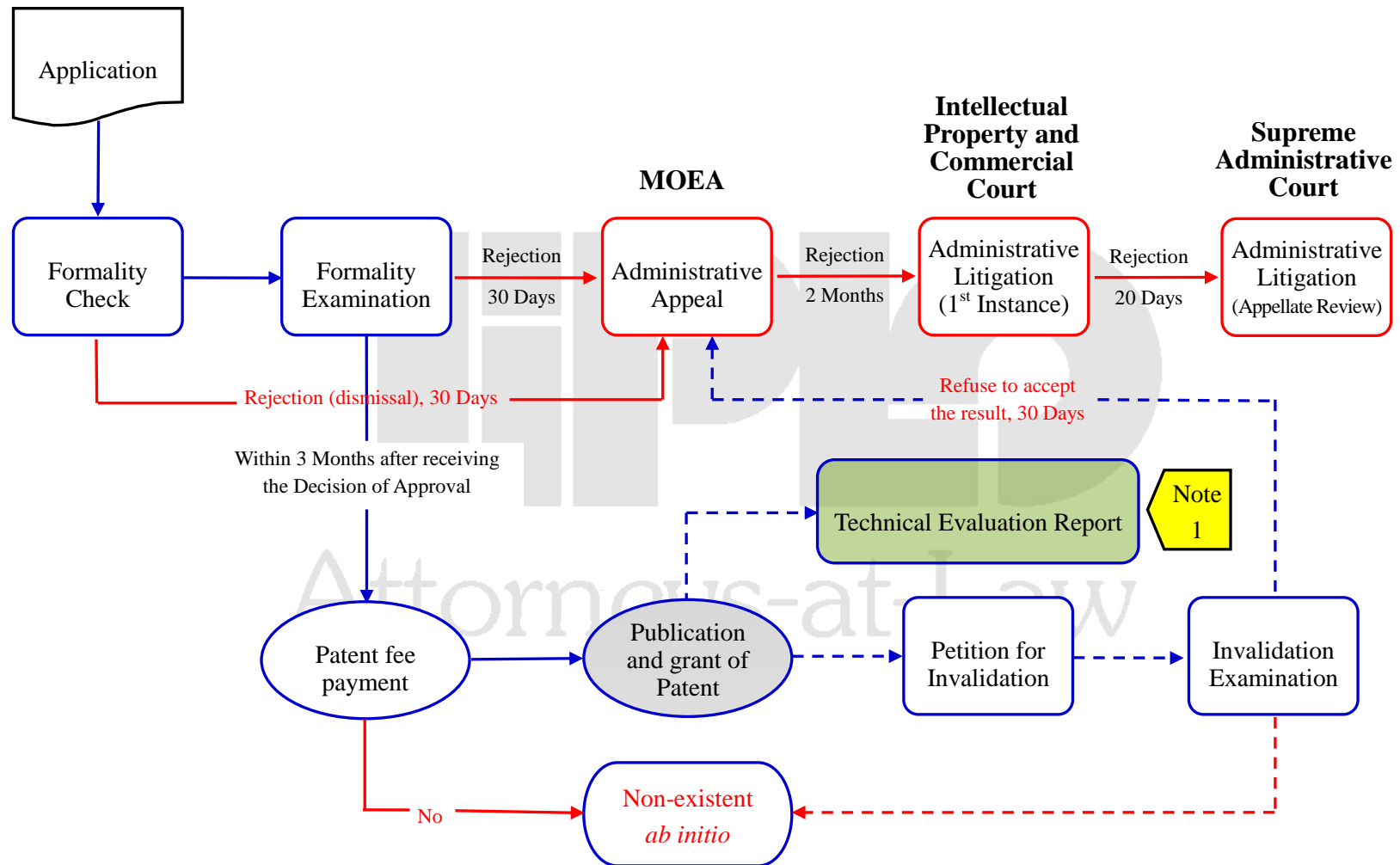
**Note 1 :** An application of invention patent, complying with stipulated formality check and containing no elements that may be deemed unsuitable for laying open through examination, shall be laid open 18 months after the filing date (or the earliest priority date).

**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: <https://www.tipo.gov.tw/en/cp-823-873216-da40d-2.html>

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

# A Flowchart on Utility Model Patent Examination and Administrative Remedy

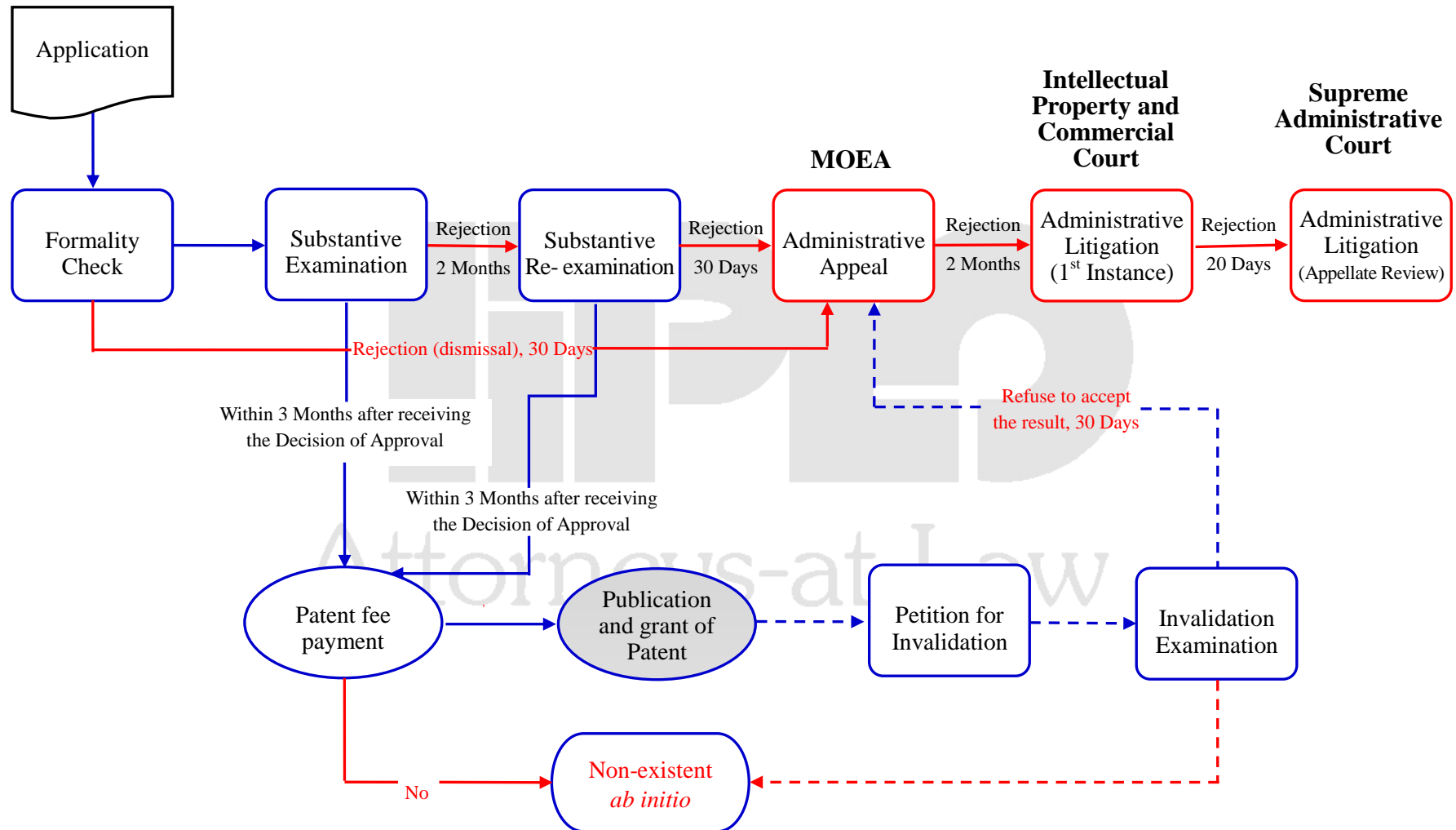


**Note 1 :** After a utility model application is published, any person may apply for the technical evaluation report.

Resource: Taiwan Intellectual Property Office at: <https://www.tipo.gov.tw/en/cp-823-873216-da40d-2.html>

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

# A Flowchart on Design Patent Examination and Administrative Remedy



Resource: Taiwan Intellectual Property Office at: <https://www.tipo.gov.tw/en/cp-823-873216-da40d-2.html>

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