



# PHILIPPINES

## PATENT HANDBOOK

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**Disclaimer:** This IP HANDBOOK is intended to provide general guidelines only and not advice with regard to specific cases. The information given is non-exhaustive. Please also note that the relevant law and its interpretation are subject to change.

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**In Philippines, patent protection is obtainable by way of either entering the national phase of a Patent Cooperation Treaty (PCT) application or filing a direct national application.**

### Legislation

- R.A. 8293: The Intellectual Property Code, as amended by R.A.s 9150, 9502, and 10372,
- R.A. 9502: Universally Accessible Cheaper and Quality Medicines Act (2008)
- The Revised Implementing Rules and Regulations (IRR) for Patents, Utility Models and Industrial Designs Recently amended by Memorandum Circular No. 17-013
- Implementing Rules and Regulations of the Universally Accessible Cheaper and Quality Medicines Act of 2008.

### Patentability Criteria

Any technical solution of a problem in any field of human activity which is new, involves an inventive step and is industrially applicable shall be patentable. It may be, or may relate to, a product, or process, or an improvement of any of the foregoing.

### Non- Patentable Subject Matter

An invention is not patentable if it contains the following:-

- Discoveries, scientific theories and mathematical methods;
- Schemes, rules and methods of performing mental acts, playing games or doing business, and programs for computers;
- Methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practiced on the human or animal body. This provision shall not apply to products and composition for use in any of these methods;
- Plant varieties or animal breeds or essentially biological process for the production of plants or animals. This provision shall not apply to micro-organisms and non-biological and microbiological processes.
- Provisions under this subsection shall not preclude Congress to consider the enactment of a law providing sui generis protection of plant varieties and animal breeds and a system of community intellectual rights protection:
- Aesthetic creations; and
- Anything which is contrary to public order or morality.

### Utility Models

Utility models are registrable in the Philippines. A utility model must fulfill the criteria of new and industrial applicability (but not inventiveness). The term is seven (7) years without renewal.

## Membership

- √ - Paris Convention
- √ - PCT

Philippines is a member of the Paris Convention from 1965, whereby applications from convention countries will be subject to the same priority date in Philippines. The application for priority has to be made within six months of the first application in a convention country.

Philippines is also a member of the PCT since 2001. An applicant who has made an international patent application may file and/or prosecute the patent application during its national phase entry into Philippines within 30 months from the filing date of the international application or from the earliest priority date of the application if a priority is claimed.

## Rule of Priority

"First to file" is the rule followed by Philippines in determining priority of patent.

## Duration and Renewal

### For patents filed under RA 8293 (CURRENT LAW)

- A patent application once registered is valid for 20 years from the date of application.
- Payment of the annual fee may be made 3 months before the due date.
- A grace period of six (6) months shall be granted for the payment of the annual fee, upon payment of the prescribed surcharge for delayed payment.

### For patents filed under RA 165 (old law)

- A patent application once registered is valid for 17 years from the date of application.



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## Procedures

### Application

Every applicant is required to submit an application to the registrar of patents within 12 months of priority date.

### Examination

After the assignment of a filing date the application will be examined. And a search report be submitted to the applicant.

### Publication & Substantive Examination

The application will be published within 18 months from the date of filing. Request for substantive examination has to be made within 6 months from the date of publication. Letters of patent will be granted on completion of substantive examination. The invention will be published in the IPO Gazette together with other relevant information.

### Opposition

Third parties are invited to oppose the applications within the stipulated publication period.

### Registration

Finally on completion of objections and opposition a Certificate of Registration will be issued subject to the payment of a fee. The duration of registration could take a minimum period of 2-3 weeks. The registration is effective from date of application.

## Filing Requirements

**The following information and/or documents are required to file an application for a patent application in Philippines:-**

### Direct National Application:-

- Request for the grant of a patent:-
  - Δ the name, nationality and address of the applicant;
  - Δ the name, nationality and address of the inventor;
  - Δ a specification comprising a description, claims and any necessary drawings; and
  - Δ the country and filing particulars of basic application whose priority is claimed.
- Appointment of Patent Agent.
- If the applicant is not the inventor, a statement explaining how the applicant derives its right to the patent from the inventor, normally by virtue of assignment or employment.
- There is no requirement for the filing of an assignment from inventor to applicant.

### PCT National Phase Application:-

- A copy of the PCT application in English language (i.e. request form PCT/RO/101);
- The details of the PCT application (suitably, the bibliographic page as published by WIPO);
- One copy of the PCT specification as originally filed (in or translated to English);
- One copy of any amendments filed in the international phase (in or translated to English);
- An Appointment of Agent form signed by the applicant; and
- If the applicant is not the inventor, a statement explaining how the applicant derives its right to the patent from the inventor, normally by virtue of assignment or employment.

## Documents To Be Furnished For Filing A Patent Application in Philippines

Basic Requirements		
Documents	Remarks	Time of Filing
Patent specification, claims and abstract in English	No legalization	On filing date or within two months from the date of entry
Drawings	(If Any)	On filing date

**Note:**

- The set of drawings must be signed by the applicant or by his attorney or agent;
- The set of drawings must be made in a Bristol board or in a paper that is flexible, strong, white, smooth, non-shiny and durable;
- The set of drawings must be made in a pen or by photolithographic which give the satisfactory reproduction characteristics; shading and lines were not present in the sectional view;
- The sectional view of the set of drawings must be indicated on the general view by a broken or dotted line;
- The space in the heading must be reserved at the right and the signature placed on the left, one figure must be placed upon another or within the outline of another.
- The drawing must show every feature of the utility model or industrial design covered by the claim(s), and the figures should be consecutively numbered.

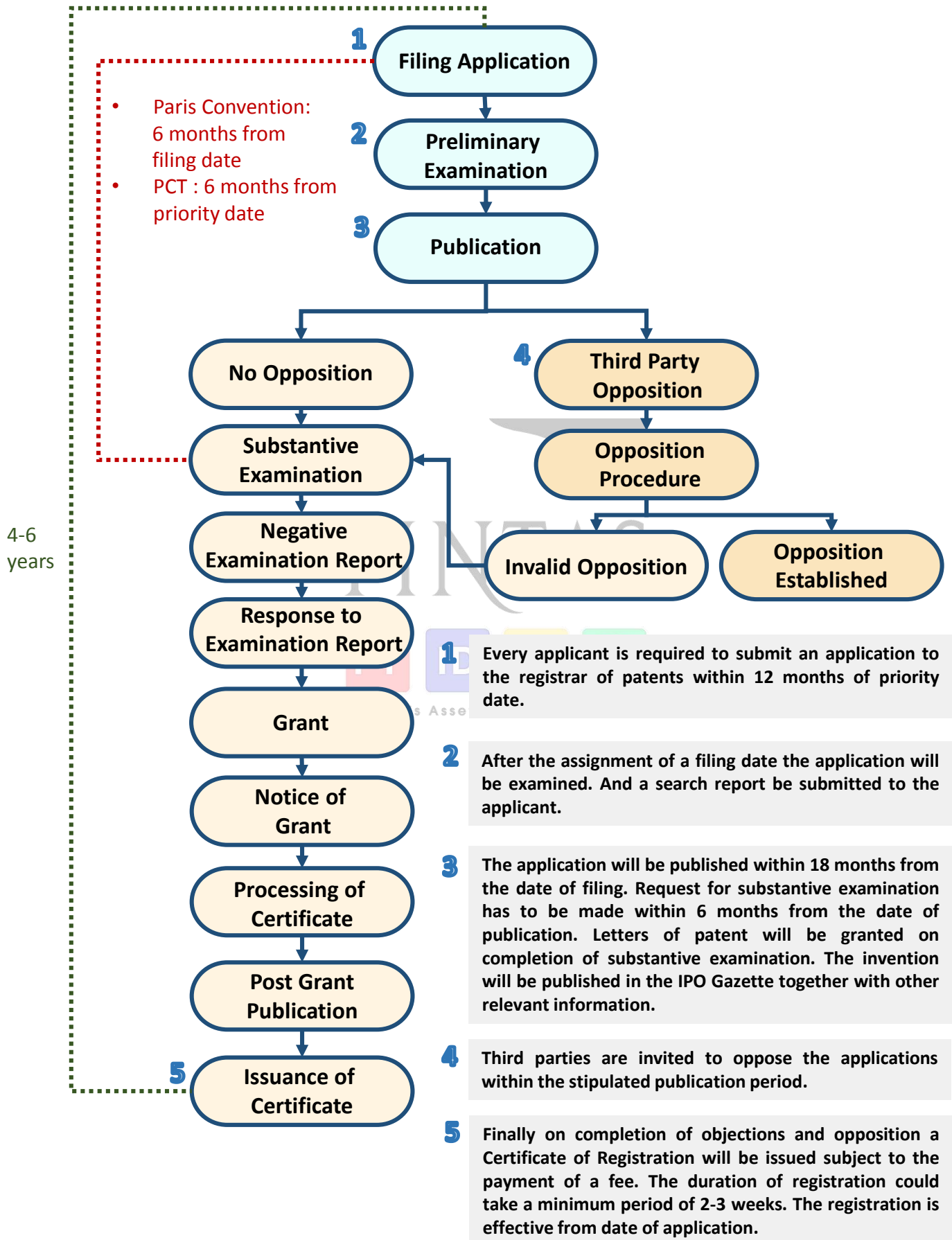
Additional Documents for Convention Patent Application		
Documents	Remarks	Time of Filing
Priority documents	Certified copy of the basic patent application	On filing date or 6 months from the date of entry
Power of Attorney	Certified copy of the basic patent application	On filing date or within 2 months from the date of entry

### Additional Documents for Entry of PCT National Phase in Philippines

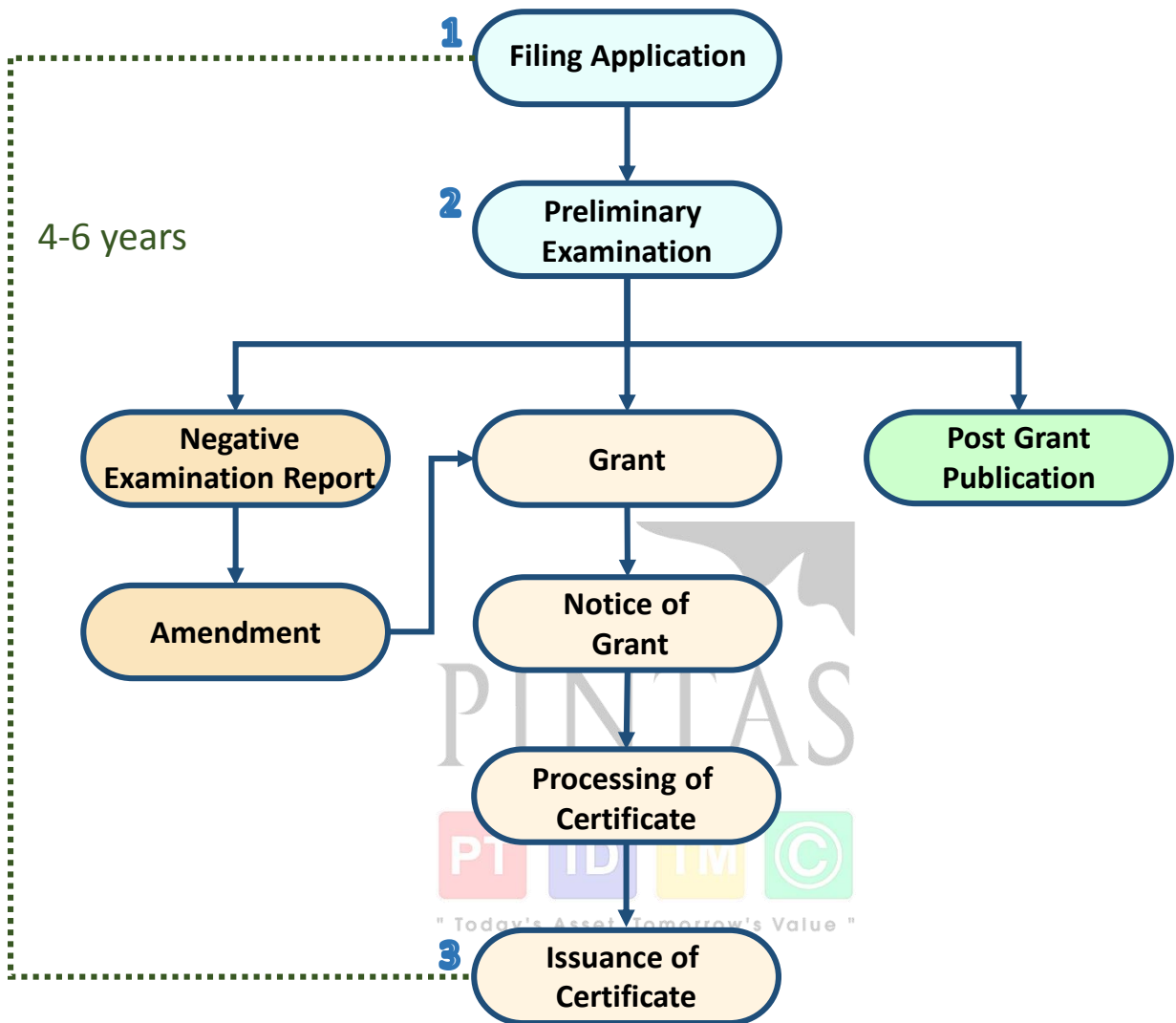
Documents	Time of Filing
English translation of the international application (if it is filed in a language other than English)	On filing date
A copy of the International Search Report (form PCT/ISA/210)	On filing date or within 2 months from the date of entry
A copy of Notification Concerning Submission or Transmittal of Priority Document (form PCT/IB/304)	On filing date or within 2 months from the date of entry
Details of the PCT application (suitably, the bibliographic page as published by WIPO).	On filing date
International preliminary examination report international search report (chapter 2).	On filing date (if available) or anytime during the pendency of the examination or anytime while the examination is active
Notification of Recording of a Change: Inventor, Name and Applicant	On filing date (if available) or anytime during pendency of the application
One copy of the PCT specification as originally filed (in or translated to English).	On filing date
One copy of any amendments filed in the international phase (in or translated to English).	On filing date or anytime while the application is active

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# Patent Application Process In Philippines (Substantive Examination Regime)



# Utility Model Patent Application Process In Philippines (Formality Examination Regime)



**1** Every applicant is required to submit an application to the registrar of patents within 12 months of priority date.

**2** After the assignment of a filing date the application will be examined. And a search report be submitted to the applicant.

**3** Finally on completion of objections and opposition a Certificate of Registration will be issued subject to the payment of a fee. The duration of registration could take a minimum period of 2-3 weeks. The registration is effective from date of application.



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