



# VIETNAM

## 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 Vietnam, 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. Vietnam's current patent rules make available three types of patent: Patent for inventions, patent for utility solutions; and patent for industrial designs.

### Legislation

Law No. 36/2009/QH12 of June 19, 2009, amending and supplementing a Number of Articles of the Law on Intellectual Property, Law No. 50/2005/QH11 of November 29, 2005, on Intellectual Property and a numbers of government decree, circular, decision and order.

### Patentability Criteria

- A Patent for invention has to satisfy the following criteria to claim protection:
  - △ Novelty
  - △ Inventive Step
  - △ Industrial Applicability
- Non-Patentable Subject Matter:-
  - △ plant or animal varieties;
  - △ method for prevention, diagnosis or treatment of diseases in human being;
  - △ animals or plants;
  - △ topographical design of integrated circuits and computer programs.

### Utility Innovations

Utility Solution is protected on the basis of Patent for Utility Solution. For A Utility Solution it is not required to have an inventive step as in case of Invention.

### Membership

- √ - Paris Convention
- √ - PCT

Vietnam is a member of the Paris Convention from 1949, whereby applications from convention countries will be subject to the same priority date in Vietnam. The application for priority has to be made within six months of the first application in a convention country.

Vietnam is also a member of the PCT since 2006. An applicant who has made an international patent application may file and/or prosecute the patent application during its national phase entry into Vietnam within 31 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 Vietnam in determining priority of patents.

### Duration

The term of protection for a patent is 20 years, petty patent is 6 years. The petty patent owner may renew the petty patent twice, 2 years each time.

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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

A formality examination is conducted within one month of the date of issuance of the filing date. Responses for amendment for an application are made within 2 months from the date of request.

### ▼ Publication

Publications for national applications are made within 19 months of the priority date and 2 months of the acceptance date in case of PCT applications.

### ▼ Substantive Examination

A request for substantive examination has to be made within 42 months of the priority date. The duration of the substantive examination lasts for 12 months from the date of filing the request.

### ▼ Registration

The duration of registration takes a minimum period of 21 months. 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 Vietnam:-**

### Direct National Application:-

- Request for the grant of a patent:-
  - △ the name, address and nationality of the applicant;
  - △ the name, address and nationality of the inventor;
  - △ title of the invention/utility solution; and
  - △ country, application number and filing date of the original foreign application from which priority is claimed (if priority is claimed).
- Appointment of Patent Agent.
- 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 Vietnam

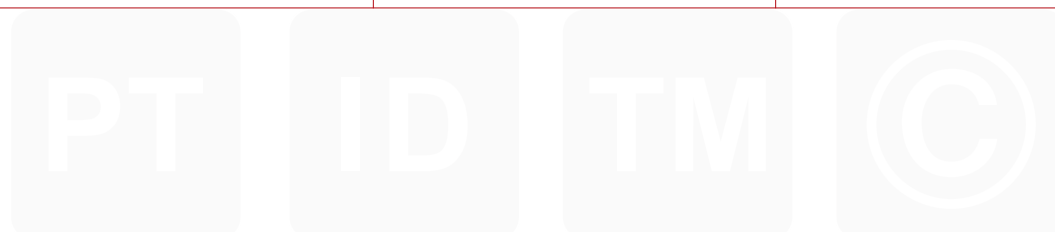
| Basic Requirements                                   |   |                |
|--|---|----------------|
| Documents  | Remarks   | Time of Filing |
| Patent specification, claims and abstract in English | Vietnamese translation of the specification, claims and abstract is also required at filing | On filing date |
| Drawings   | Vietnamese translation of the drawings is also required at filing                           | On filing date |

| Additional Documents for Convention Patent Application |                |  |
|--|----------------|--|
| Documents  | Remarks        | Time of Filing                           |
| Priority documents                                     | Certified copy | Within three months from the filing date |
| Power of Attorney                                      | Notarized      | Within one month from the filing date    |
| Deed of Assignment                                     | Notarized      | On filing date                           |



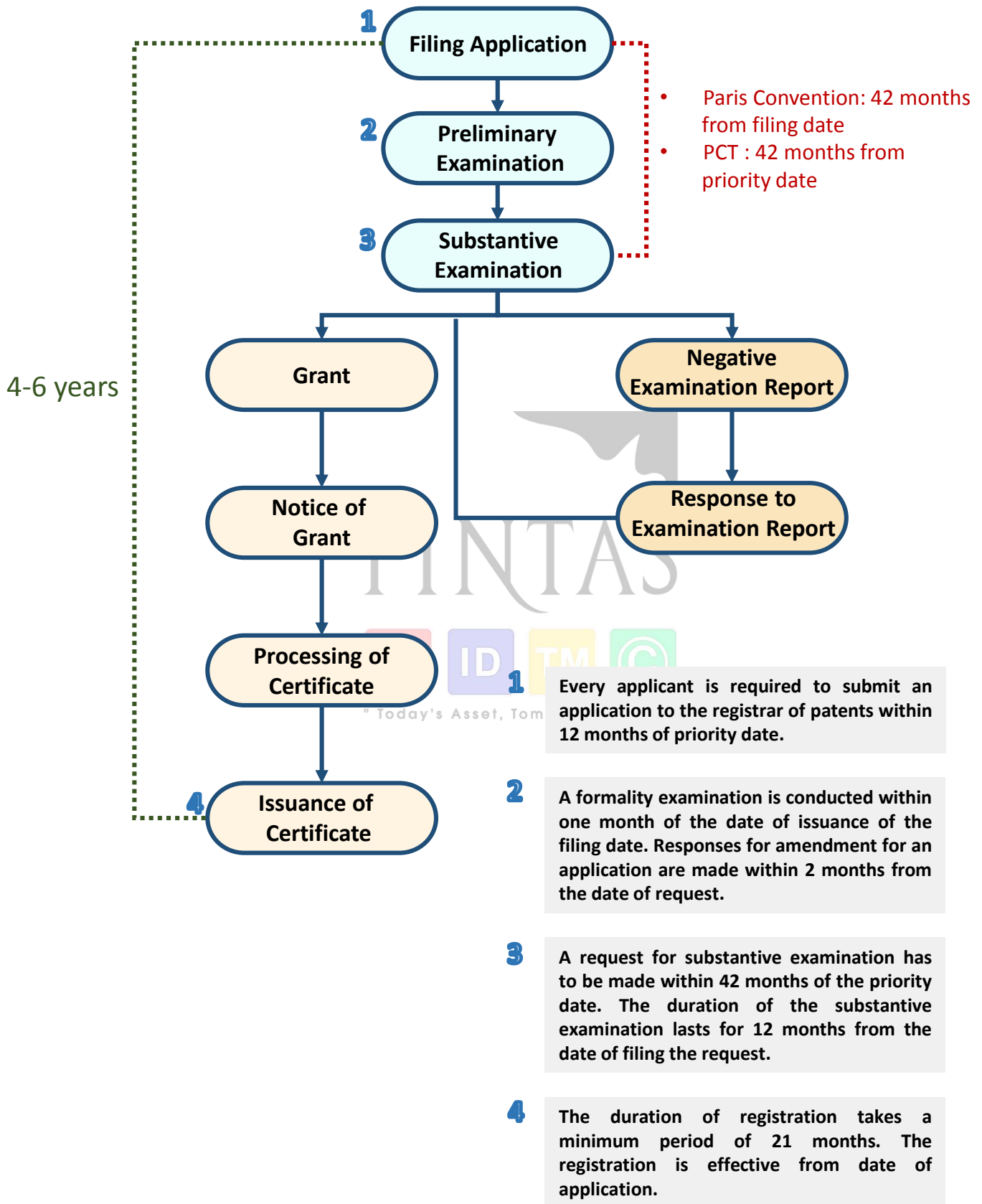
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| Additional Documents for Convention Patent Application |   |   |
|--|---|---|
| Documents  | Remarks   | Time of Filing                          |
| Copy of the PCT request form                           | Certified copy  | On filing date or later                 |
| International preliminary examination report           | According to the Vietnam patent law and regulations, the Vietnamese translation of the International preliminary examination report should be filed to the NOIP at the time of filing the Request for Examination | On filing date                          |
| Notification of Recording of a Change                  |   | On filing date                          |
| International Search Report                            |   | On filing date                          |
| PCT specification as originally files                  | Vietnamese translation of the PCT specification is also required at filing  | On filing date                          |
| Amendments file in the international phase             | Vietnamese translation of the amendment is also required at filing  | On filing date                          |
| Power of Attorney                                      | Notarized   | Within 34 months from the priority date |



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# Utility Model Patent Application Process In Vietnam (Substantive Examination Regime)



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