

TAIWAN NEWSLETTER

UNION PATENT SERVICE CENTER

NO. 20191216-E1
December 16, 2019

Upmanship Professionalism Sincerity Credibility

New Patent System in Hong Kong will be implemented on December 19, 2019

The existing patent system in Hong Kong includes standard patent and short-term patent. Regarding the standard patent application, it is based on registration of a granted patent by "designated patent office" in China, United Kingdom, and Europe (in respect of a patent designating the United Kingdom). Short-term patent application can be filed directly with the Patents Registry in Hong Kong, such application is generally granted after formality examination.

The Hong Kong Government recently announced that the Patents (Amendment) Ordinance 2016 and Patents (General (Amendment) Rules 2019 will take effect on December 19, 2019. The new patent system introduces the "standard patent (O)" (original grant patent) system and optimizes the short-term patent system (including filing 2 independent claims and introducing a substantive examination mechanism after the grant of patent). That is, in addition to the existing patent application route, applicants can choose to file standard patent (O) application directly with the Patents Registry in Hong Kong under the new system, no longer limited by the current "re-registration" system requiring corresponding patent application shall be submitted in advance in designated patent offices outside Hong Kong. This is not only for cost saving, but also for obtaining patent protection in a short time. Further, in line with the new patent system, new official fees will be implemented on the same day including reduction in electronic filing fee and adjustment in annual fee.

According to the new patent system in Hong Kong, it will cover three types of patents including standard patent (O), standard patent (R), and short-term patent. Please refer to the table below for details. For an application for standard patent (O), the applicant can use specification, claims, and drawings in Chinese or English, but shall provide the invention title and abstract in Chinese and English, and shall file a request of substantive examination within 3 years from the filing date or the earliest priority date of the patent application, and will obtain patent protection after substantive examination if the requirements of novelty, inventive step, and industrial applicability have been met.

Patent type	Standard patent (O)	Standard patent (R)	Short-term patent
Term of protection	20 years	20 years	8 years
Case basis	No	Yes (patent granted by designated patent office above as basis)	No (a search report of a search undertaken by a prescribed searching authority in relation to the invention shall be submitted)
Filing fee (HK\$)	\$480 (paper filing) \$345 (e-filing) plus advertisement fee \$68	\$380 (paper filing) \$275 (e-filing) plus advertisement fee \$68	\$755 (paper filing) \$545 (e-filing) plus advertisement fee \$68
Request of substantive examination (HK\$)	\$4000 (requested within 3 years from the filing date or the earliest priority date of the patent application, otherwise the application is	No (grant of patent based on the corresponding case of a patent granted by designated patent office, thus no substantive	\$4000 (requested by proprietor or third party after the grant of patent for exercising right or confirming the validity of

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	deemed withdrawn)	examination)	right)
Maintenance fee (HK\$)	Not applicable	\$270/year*	Not applicable
Renewal fee (HK\$)	4 th – 10 th year: \$450/year 11 th – 15 th year: \$620/year 16 th – 20 th year: \$850/year (not applicable for the first 3 years)	4 th – 10 th year: \$450/year 11 th – 15 th year: \$620/year 16 th – 20 th year: \$850/year (not applicable for the first 3 years)	\$1080 (shall be paid before the expiry of the 4 th year)

* Application of standard patent (R) is implemented into two stages according to the existing system: the first stage is a request to record, and the second stage is a request for registration and grant. If the standard patent (R) application is not able to enter the second stage, the applicant shall pay maintenance fee, HK\$270, to maintain the standard patent (R) application, before the expiry of the 5th or any succeeding year from the anniversary of the date of filing the corresponding designated patent application first occurring after the date of publishing the request to record. Otherwise, the application is deemed withdrawn by the Patents Registry.

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