

[Taiwan Positive Patent Examination Pilot Program for Startup Companies]

To promote the government's policy for startup industries, the Taiwan Intellectual Property Office (TIPO) began a pilot program in 2021 for conducting positive examination on patent applications filed by startup companies that were established for less than five years. This program is applicable to both domestic and foreign Applicants, and aims to encourage innovations by startups for obtaining patent protection. The program was then amended in 2022 to extend the trial period for one year and amend the establishment period of new startups from five years to eight years. After evaluating the implementation effectiveness of this program in the past two years, TIPO recently decided to further extend the program for another year and relaxed the qualification of applicants. In order to have more startups file Taiwan patent applications, it is not necessary for the Applicant to be a startup company when initially filing a patent application. However, the startup company must be (or has become) the Applicant (the application right owner) when requesting the positive patent examination via this program. The revised program shall take effect on January 1, 2024, and the key points are as follows:

- The Applicant who files the request should be a start-up company established less than eight years, counting from the date of its establishment to the filing date of said request. The start-up company must be a domestic or foreign Applicant of patent application at the time when filing the request. It is not necessary for a domestic startup to submit a supporting document as TIPO can check the company's registration at the government's website. But a foreign startup must submit a document showing the company's establishment date, accompanied by Chinese translation (plus an affidavit if a non-original copy of supporting document is submitted).
- This program is applicable to an invention patent application with a recorded patent agent; a request for substantive examination should have been filed and the patent application has not received a first examination letter (office action) from TIPO.
- The request must be submitted via TIPO e-filing system and no official fee is required after the fees for patent application and substantive examination are paid.
- TIPO has set a quota of 6 positive examination cases each month, and a maximum of 5 cases per year from each startup company.

For a patent application entering the positive examination process, the average processing time by TIPO is four months (see the table below), and the actual time will depend on the technical field of each case. In principle, if an invention patent application under the examination by this program is found to be in violation of the requirements such as novelty and/or inventive step, TIPO will provide advice on the amendments of patent application via positive interviews. For the application that meets patent requirements, TIPO may also, without an interview procedure, issue the Notice of Acceptance with Search Report directly.

Processing time	Procedure of positive patent examination for new startups
1st month	TIPO issues an interview material with search report, informing the reasons that the patent application may not meet the patent requirements.
2nd month	TIPO holds a proactive interview with the Applicant to explain the detailed reasons why said application is not patentable and suggest positive amendments on the patent application.
3rd month	The Applicant submits an amendment or response. If it is submitted after the deadline, the application will be transferred to the normal examination procedure.
4th month	TIPO issues the examination result by Notice of Acceptance or Examination Opinion Letter.

TIPO also indicates that the amendments suggested by the Examiner may not always meet the patent scope required by the Applicant. Under some circumstances, the Examiner may not give advice on the amendments and inform the Applicant to withdraw the patent application. Therefore, the Applicant should make the decision by taking into consideration their own commercial needs or patent portfolio. In case the Applicant cannot comply with the Examiner to attend the positive interview or make the suggested amendments, TIPO will notify the Applicant and let the patent application be handled by the normal examination procedure. ※