

Patents Registry

Intellectual Property Department

Hong Kong SAR Government

Patents Examination Guidelines

Section 13: Patent applications

Overview of patent application process

- 13.1. Under the Ordinance, two kinds of patents are granted in the Hong Kong SAR—
- (a) “standard patent” with a maximum protection term of 20 years; and
 - (b) “short-term patent” with a maximum protection term of 8 years.
- 13.2. In respect of standard patent, there are two alternative application routes for grant—
- (a) the “original grant” patent route for “standard patent (O)”; or
 - (b) the “re-registration” route for “standard patent (R)”.
- 13.3. Accordingly, to apply for protection of an invention in the Hong Kong SAR, an applicant may opt to file one of the following types of patent applications with the Registrar—
- (a) a standard patent (O) application;
 - (b) a standard patent (R) application; or
 - (c) a short-term patent application.

Standard patent (O) applications

- 13.4. A standard patent (O) application can be filed in ***Patents form OP1*** with the Registrar directly without filing any previous corresponding patent application elsewhere in support (cf. the precondition for filing a standard patent (R) application in section 13.6 of these Guidelines).

Full name and address of applicant

13.17. The full name and address of the applicant should be furnished in the space provided. If the name of the applicant is not in the Roman alphabet or in Chinese characters, a transliteration of the same in the Roman alphabet should be provided (section 56(2)(c) of the Rules).

Applicant type

13.18. If the applicant is a natural person, or natural persons making an application in joint names, the box “Individual” should be marked.

13.19. If the applicant is a sole proprietorship, an application is usually filed in the name of the sole proprietor trading in the name of the firm (e.g. Chan Tai Man trading as Mr. Chan). The box “Individual” should be marked.

13.20. If the applicant is a partnership, it is common for an application to list the names of the partners followed by the name of the firm (e.g. Chan Siu-ling and Lam Mei-mei trading as Chan & Lam). In this case, the box “Individual” should be marked.

13.21. If the applicant is a corporation (i.e. a company incorporated in the Hong Kong SAR, or any other body corporate incorporated/established in or outside the Hong Kong SAR), the box “Incorporated” should be marked. The applicant may indicate the country / territory / area of incorporation as well as the state of incorporation (if the applicant is incorporated in the US).

13.22. If the applicant is an unincorporated entity which nevertheless has legal capacity to hold property under the law of the place where it is established, the box “Unincorporated” should be marked.

Statement of entitlement to apply

For requests to record

For requests for registration & grant

13.23. For a standard patent (R) application, the applicant should, by default, be:

(a) in the case of a request to record, the person named as the applicant in the designated patent application (sections 12(1)(a) and 15(1) of the Ordinance); or

(b) in the case of a request for registration and grant, the person named in the register as the applicant for a standard patent (R) (section 23(1)&(3)(b) of the Ordinance).

13.24. If that is not the case, the applicant for standard patent (R) should file a statement explaining his entitlement to apply for the grant of a standard patent (R) together with the supporting documents.

(a) In the case of a request to record, the supporting documents are—

- (i) where the statement indicates that the applicant for standard patent (R) is the successor in title to the applicant of the designated patent application—
- (1) copies of such documents establishing the transfer, assignment or mortgage of the rights under the designated patent application in the Hong Kong SAR from the applicant of the designated patent application to the applicant for standard patent (R), such as a copy of the duly executed transfer, assignment or mortgage agreement or the updated official register of the designated patent office or an official communication from the designated patent office confirming the transfer, assignment or mortgage; or
 - (2) *(in the absence of any of the aforesaid supporting document)* a statement signed by the transferor, assignor or mortgagor confirming the fact of the transfer or assignment or mortgage of the rights under the designated patent application;
- (ii) where the statement indicates that the applicant for standard patent (R), not being a successor in title to the designated patent applicant, is the inventor of the invention who is entitled to the property in the invention in the Hong Kong SAR, such documents establishing that entitlement;
- (iii) where the statement indicates that the applicant for standard patent (R) is the successor in title to the person specified in section 13.24(a)(ii) of these Guidelines, the documents specified in that paragraph and, in addition—
- (1) such documents establishing the transfer or assignment or mortgage (whether by a single such transaction or by a number of such transactions) of the property in the invention in the Hong Kong SAR from the inventor of the invention to the applicant; or
 - (2) *(in the absence of any of the aforesaid document)* a statement signed by the transferor, assignor or mortgagor confirming the fact of the transfer, assignment or mortgage of the property in the invention in the Hong Kong SAR.

(section 15(2)(d) of the Ordinance; section 9 of the Rules)

- (b) In the case of a request for registration and grant, the supporting documents are such documents establishing the entitlement to apply for the grant of a standard patent (R), such as a copy of the duly executed transfer, assignment or mortgage agreement ~~or the updated official register of the designated patent office or an official communication from the designated patent office confirming the transfer, assignment or mortgage.~~

(section 23(3)(b) of the Ordinance; section 20 of the Rules)