

**Submissions in respect of  
Consultation Paper Regarding  
Regulation of Patent Agency  
Services**

PROFESSIONALLY QUALIFIED  
PATENT ATTORNEYS  
CURRENTLY PRACTICING  
IN HONG KONG

**31 May 2013**

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## **A.1 SIGNATORIES OF SUBMISSION**

The Signatories of this submission are the following professionally qualified Patent Attorneys:

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Doctor of Philosophy (Biomedical Engineering), University of New South Wales  
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Asian Patent Attorneys Association, Member,  
Council Member of Hong Kong Institute of Trade Mark Practitioners Council Member,  
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## **A.2 CREDIBILITY AND AUTHORITY OF PRESENT VIEWS SUBMITTED**

The signatories of this submission are all Professionally Qualified Patent Attorneys who practice substantive patent law in Hong Kong on behalf of both Hong Kong and foreign entities.

The signatories of this submission are considered leading Professionally Qualified Patent Attorneys in Hong Kong, and whose views are representative of those having established and reputable substantive patent practices in Hong Kong.

The signatories of these submissions are Professionally Qualified Patent Attorneys who:

- (a) have received their Qualifications and Registrations in jurisdictions having the applicable patent law to that of Hong Kong, that being the common law system
- (b) have practiced substantive patent practice in Hong Kong for a number of years, and have much experience in substantive patent practice in Hong Kong
- (c) practice patent law at the firms in Hong Kong having the long established reputable patent practices in Hong Kong
- (d) practice patent law at the firms in Hong Kong having the greatest entries in the Hong Kong Patents Register as "Address for Service", due to the volume of foreign originating patent applications, due to the recognition of the professional competency of such practitioners
- (e) act on behalf of the majority of Hong Kong universities, government and semi-government research organisations, Hong Kong proprietors and manufactures, and private organisations
- (f) are members of the Hong Kong Chapter of Asian Patent Attorneys Association (APAA), the organisation to which the majority of professionally qualified patent attorneys belong
- (g) are or have been on representative committees of recognised professional institutes and societies including APAA, Hong Kong Institute of Trade Mark Practitioners
- (e) are regularly invited to speak and provide seminars at professional and research organisations in Hong Kong
- (f) practice patent law at the firms on the Open Tender awarded panels of various universities and research organisations in Hong Kong
- (g) practice patent law at the Hong Kong firms which have had Professionally Qualified Patent Attorneys "on staff" in Hong Kong servicing Hong Kong clients for some thirty years

- (h) practice at firms which have for many years been committed to training and education of Hong Kong people as patent practitioners in Hong Kong
- (i) practice at firms who are routinely identified as firms having the leading substantive patent practices in Hong Kong by the Internationally most credible rankings and annual surveys by entities such as “Managing Intellectual Property”, a Euromoney publication.

### **A.3 PROFESSIONAL QUALIFICATIONS & EXPERIENCE OF SIGNATORIES**

The signatories of the present submission are Professionally Qualified and Registered Patent Attorneys who have gained Qualification and Registration as Professional Patent Attorneys and have earned their professional qualification by way of at least:

- (i) mandatory award of a recognised tertiary technical degree from a recognised university, in the technical fields of engineering or science
- (ii) passed written examination (not multiple choice) in relation to national patent law applicable to Hong Kong, in relation to International patent law and in relation to national patent law in major trading jurisdictions
- (ii) passed written examination (not multiple choice) in respect of the paramount skills of “Patent Specification Drafting” and “Validity and Infringement of Patent Specifications”
- (iv) undertaken intensive trainee apprenticeship / articles under the direct supervision of a qualified and Registered Patent Attorney in a jurisdiction having the law applicable to that of Hong Kong for several years prior to their own Registration
- (v) having received requisite recommendation for Registration and entry onto the official Registers in their jurisdictions of registration, by a Qualified and Registered Patent Attorney.

## **PART B - Clarifications of Professional Patent Services**

The following submission complements the submission by professionally qualified Patent Attorneys in Hong Kong of 30 December 2011.

As a basis for addressing the specific queries as recited in the Consultation Paper, the meaning of "Patent Agency Services" should be clarified, as well as professional qualification requirements for practitioners providing such services upon resolution of these issues can the queries of the Consultation Paper be appropriately addressed.

### **B.1 Patent Law and Patent Agency Services**

Appropriate and significant details as to the types of work provided by patent practitioners, in particular Patent Attorneys / Patent Agents was provided by the authors in response to the previous Consultation Paper. For ease of reference, the submission and information is reproduced as attached as **Annexure A**.

The professionally qualified Patent Attorneys who have authored the present paper, are aware there exist some misconceptions (which are included in some submissions):

- as to what a "Patent Attorney / Patent Agent" is,
- what services are provided,
- what qualifications are required, and
- what scope of work is denoted by registration on a relevant register.

The authors have noted that the general misconceptions in this regard have, in the main, been raised by persons who do not practise substantive patent law, are not professionally qualified Patent Attorneys in any jurisdiction, and do not have the requisite technical qualifications in order to practise such area of law.

### **B.2 International Standpoint for Patent Attorney / Patent Agent Practice**

With reference to **Annexure A**, it is noted that these terms and titles may be used interchangeably, however, in each of the major trading jurisdictions of Hong Kong,- ie China, Europe and US,- the following core requirements apply before persons are entered onto respective the national register of Patent Attorneys / Patent Agents:

- (i). must have technical tertiary degree in technical discipline of science or engineering
- (ii). must have undertaken formal examinations in patent attorney / agent practice and patent law.

A common misunderstanding that US Patent Attorneys are lawyers, and US Patent Agents are engineers / scientists. This misconception must be addressed from the outset, to avoid it tainting issues pertaining to formal patent attorney qualification, registration and regulation.

Note, in the US, both US Patent Agents and US Patent Attorneys must:

- (a) hold an appropriate tertiary technical degree from a university in the technical disciplines of science or engineering, pertaining to patentable subject matter;
- (b) have passed the USPTO bar examination in order to be entered onto the National Register of Patent Agents / Patent Attorneys in the US.

However, in addition to an approved technical tertiary degree, a US Attorney also holds a local state bar law registration, whereas a Patent Agent does not.

Irrespective of the difference in title, both types of practitioners must hold a tertiary technical degree before entry onto the USPTO Register. As such, any proposition that lawyers / solicitors are Patent Attorneys and engineers / scientists are patent agents in the US is fundamentally incorrect. Furthermore it neglects the core requirement of a tertiary technical degree for both Patent Attorneys and Patent Agents.

### **B.3 Tertiary Technical Qualifications**

Patents relate to inventions, whereby inventions embrace and utilize new technologies within a technical field. As such, without any formal and thorough education and qualifications in a technical field, a practitioner would not be in a position to adequately and appropriately understand the complexities and subtleties of an invention or application within the relevant technical field.

Note, in the following key trading jurisdictions, a tertiary technical degree is required:

- People's Republic of China - Chinese Patent Attorney
- Europe - European Patent Attorney
- US - Patent Agent / Attorney

It should be noted that in China and Europe, the Patent Attorney profession, as with most of the world, is separate from the legal profession. Furthermore, the law applicable to patents in almost every jurisdiction in the world is not under the Ministry of Law, but under the Departments of Industry / Innovation / Economy / Commerce and the like.

Attached at **Annexure B** are the results of a survey carried out by the professionally qualified Patent Attorney authors of the document. As can be seen from the survey, and similarly, in the Commonwealth common law jurisdictions having the applicable law to Hong Kong, these being the United Kingdom, Australia, New Zealand and Canada, the Patent Attorney profession is separate from the legal practitioner provision. The Patent Attorney profession in most jurisdictions has roots derived significantly different from the legal profession. Furthermore, it is noteworthy that in each of the Commonwealth Common Law jurisdictions, the local Law Society has no jurisdiction or authority over Patent Attorneys as they have their own independent

registration, regulatory and discipline regimes and authorities specifically for a profession of Patent Attorneys.

Whilst some may consider patent law practice as a subset of legal practitioners practice, this is clearly not the case on an international level.

Patent professionals have separate qualifications, professional bodies, and the applicable law falls outside of the auspice of the Ministry of Law.

As such, any representation that Patent Agents / Attorneys are a subset of solicitor / lawyer is not in keeping with the international community.

#### **B.4 Hong Kong Patent Practice**

The authors of the present submission are aware that there are certain people who have stated that because Hong Kong does not as yet have substantive patent examination / OPG, that the profession of a substantive Patent Attorney were (i.e including patent specification drafting) is rudimentary or non-existent in Hong Kong, is not the case.

For many decades, leading firms in Hong Kong have offered professional patent attorney services in Hong Kong to Hong Kong clients, in particular in relation to patent specification drafting. Such services, have been provided to Hong Kong entities by professionally qualified Patent Attorneys from the UK, Australia and New Zealand, and a strong professional presence presently exists in Hong Kong in this regard.

As such, in any development of a patent system, the local experience and knowledge of these professional patent practitioners in respect of Patent Attorney professional registration criteria or regulatory regime should be utilised.

#### **B.5 International Patent Practice**

Patent Attorney practice has an international consistency, due to the international nature of the patent system and patents which are prosecuted in such system. As such, there exists a **global** expectation throughout the world as to the skills and qualifications that a Patent Attorney must have in order to engage in substantive patent practice.

This international nature is markedly different to other aspects of law that solicitors may practise, which may be specific to local legislation, which may be driven by national policy, cultural and historical aspects, as well as complex local regulatory and practice regimes.

By contrast, due to World Trade Organisation (WTO) obligations and TRIPs Treaties, signatories must demonstrate uniformity of law and procedure so as to be WTO and TRIPs compliant.

Additionally, in view of the global nature of inventions, it is necessary that internationally there exists significantly harmonization in relation to validity (for



example novelty and inventive step), for both consistency, as well as WTO and TRIPs compliance. As such, a Patent Attorneys' practice is generally more universal than a local solicitor's practice, and again, guidance should be sought in relation to international norms and expectations in relation to practitioner skills, qualifications and requirements.

Throughout the world, in particular the first world, there exists an expectation that a Patent Attorney must have a tertiary technical degree in order to handle and understand areas of technology and inventions. If there is resistance to use of a particular title locally, such resistance cannot be allowed to override any international standards and expectations, in order that Hong Kong must be considered a true "first world" jurisdiction in respect of patent law.

### **B.6 Commonwealth Common Law Qualified Patent Attorneys**

It must be understood and appreciated that persons qualified in the jurisdictions having law applicable to Hong Kong, that is the UK, Australia, New Zealand and Canada, Patent Attorneys do not become qualified by way of a multiple choice examination, but rather undertake a full professional post-graduate training and education regime, which includes:

- (i) full written higher level patent law and practice examination papers
- (ii) complex written examination papers on the international patent system as well as various national systems
- (iii) importantly, full written papers on the pertinent skills based issues, of validity and infringement and patent specification drafting
- (iv) traineeship over several years under full supervision of a professionally qualified Patent Attorney.

These formal advanced legal educational examinations that Patent Attorneys in these jurisdictions must undertake, in some jurisdictions, are allocated indeed a post-graduate master degree in intellectual property law, such as in Australia. The formal legal education by Patent Attorneys in these jurisdictions exceed the amount of intellectual property education a solicitor typically undertakes in an undergraduate degree. Patent Attorneys from these jurisdictions are specialist intellectual property practitioners whose title is Patent Attorney. Such Patent Attorneys have an independent professional education and registration system as well as discipline distinct from legal practitioners.

### **B.7 Guidance from Relevant Jurisdictions for Professional Accreditation**

In addition to the Hong Kong Government surveying the public on what are the requirements for qualification and registration and regulation of Patent Attorneys in Hong Kong, the authors propose that the government also consults with the professional registration bodies for practitioners of the jurisdictions having law applicable to Hong Kong.

Such Patent Attorney professional bodies in the U.K., Australia, New Zealand and Canada have long established histories in the area of patent law and practice, as well as significant experience in the issues pertaining to the following:-

- Practitioner qualification
- Practitioner registration
- Practitioner title
- Practitioner regulation
- Practitioner disciplinary procedures

It is submitted that persons having true knowledge and experience in substantive patent practice are best placed to model any qualification and/or regulation system of Patent Attorneys, in view of the applicability of the law of these jurisdictions to Hong Kong and in view of the vast experience and knowledge such professional bodies could contribute.

#### **B.8 Substantive and Non-Substantive Practice**

Another misconception of patent practice recites in the difference between substantive and non-substantive practice.

Substantive patent practice is that pertaining to technology and inventions, in particular patent specification drafting, patent analysis, patent prosecution, validity and infringement. Such practices must require a practitioner to have a technical background and formal appropriate Patent Attorney qualification in order to engage in such complex areas of patent law.

#### **B.9 Non-Substantive Practice**

Such practice includes other aspects pertaining to patents, such as assignment, licensing, recordal, re-registration, ownership rights, entitlement and other parameters which do not pertain to the technical nature of patent subject matter.

It is not submitted that in order to carry out non-substantive practice that a person requires a tertiary technical degree. Rather, such works may be engaged in by persons who are not professionally qualified Patent Attorneys, but rather have professional training in non-substantive aspects of patent law and procedure accordingly.

#### **B.10 Register Comments - Interim Measures**

In the first instance, the use of title Patent Attorney/Patent Agent, Solicitor and Registered Foreign Lawyer must be controlled from a public policy standpoint. No one should call themselves a Patent Attorney if they have not undergone qualification and training and do not have a technical degree.

The title Patent Attorney/Patent Agent, Solicitor and Registered Foreign Lawyer and should only be used by those who have such a formal qualification, along with the jurisdiction in which such qualification was registered.

The criteria for a formal qualification being introduced should be that as recommended by the Patents Review Committee for Patent Attorney, due to numerous reasons as recited,

Initially formal examinations for qualification by examining authorities having law applicable to Hong Kong, such as UK, AU, NZ and CA could be utilised. Then, exams could be later held locally.

Initially foreign qualifications of high reputation and having law applicable to Hong Kong, such as UK, Australia and New Zealand, could be relied upon for accreditation, prior to establishing local qualification examination.

### **SAMPLE HONG KONG REGISTER OF PATENT PRACTITIONERS**

<b>Name</b>	<b>Patent Attorney/Agent, Solicitor</b>	<b>Jurisdiction of Qualification</b>	<b>Technical Qualification and Competency</b>	<b>Professional Body Membership</b>	<b>Practicing in Hong Kong since</b>
Matthew Smith	Solicitor	Hong Kong, UK	N/A	Hong Kong Law Society	2007
Bobby K Wong	Patent Agent	United States	Bachelor of Engineering (Elect)	Member of Institute of US Patent Attorneys	2010
Jenny Kwan	Solicitor Patent Agent	HK and California United States	MA (biology)	N/A	2008
John Lee	Chartered Patent Attorney	UK	PhD – Biochemistry	Chartered Institute	2006
WONG, Chi Chi	Solicitor	Hong Kong, UK, Wales	N/A	Hong Kong Law Society	2009

All practitioners as listed on the Hong Kong Register of Patent Practitioners:

- is a qualified and registered patent attorney in a foreign jurisdiction, or is a qualified HK solicitor
- has practiced in HK for at least 2 years, is a Hong Kong resident and is currently practicing in HK
- carries professional indemnity insurance for works performed

## PART C - GOVERNMENT QUESTIONS

Note, full detail of reasoning will be obtained from **Annexure A**, in particular for definitions of Patent Attorney/Agent, qualifications, jurisdiction.

### (A) Possible Interim Measures

The interim measures should have regard to the early building and recognition of a regulated patent agency profession through increasing the awareness of users of the relevant qualifications and experience of Patent Agents. In this connection -

- (i) *Should we draw up and publish a list or register of Patent Agents with their qualifications for public information as a first step?*

Yes there should be.

However any list must be in order to protect the public from persons holding out to be patent attorneys or patent agents who do not possess the full requirements of registration, such as tertiary degree in technical discipline, passed written exams in patent drafting, and be on a Register in a suitable jurisdiction.

Until Hong Kong has a proper and credible registration system and register, this is the only way the public may be suitably protected from unqualified persons and maintain a credible international reputation.

- (ii) *If so what are the criteria for inclusion in the proposed list or register and what specific information should be provided? Should the provision of information be entirely voluntary?*

The requirements would be that as for Patent Attorneys having relevant technical and formal qualifications in jurisdictions having the patent law authority applicable to Hong Kong, such as UK, Australia, New Zealand and Canada

- (iii) *Which party should administer the list or register? What could be the means of publication? Should this be an administrative arrangement or backed up by the law?*

The relevant Hong Kong government ministry responsible for the Patents Ordinance, the Ministry of Commerce, Industry and Tourism. This is consistent with all other major trade jurisdictions, whereby it is similar such Ministries which provides administration, not the Ministry of law.

However, it would be appropriate that the Hong Kong IPD hosted any register or list.

**(B) The Implementation Measures may also take the form of controlling the use of titles**

- (i) *Should we in the first instance seek to control the use of titles, or should this be implemented in the next stage after putting in place the list or register in sub paragraph (a) above?*

The use of titles **MUST** be protected. This is paramount from a public policy standpoint.

The titles must be in keeping with well understood and accepted in the international context of intellectual property.

Thus, only qualified Patent Attorneys and Patent Agents would be entitled to use their earned titles.

- (ii) *What specific titles should be controlled?*

“Patent Attorney” and “Patent Agent” must be protected.

They have international meaning, and foreign firms and clients expect their “Patent Attorney” and “Patent Agent” to hold the above mentioned formal technical and professional qualifications.

Allowing those who do not possess such technical and formal qualifications onto any government sanctioned register or list may be perceived as a fraud on either the local public and potential international community.

NOTE: All persons on the China (PRC) register have the following requirements:

- compulsory technical education
- passed the government patent attorney exams
- have minimum 2 years professional training and experience

Hong Kong cannot have lesser requirements than China.

- (iii) *What are the criteria to be adopted in determining qualified persons or firms? For example, should qualifications (foreign or local), passing accredited examinations, or taking accredited courses be adopted as the criteria?*

Firstly “firms” cannot be qualified - only persons can be qualified. A Patent Attorney is a person, and the presence of a person in a firm does not give authority of a whole firm or persons not under the direct supervision of a Patent Attorney to engage in patent practice

Secondly, in order for keeping with the international standards and at least those of the major trading jurisdictions (i.e. US, China and Europe), a qualified person must at least:

- have a tertiary technical degree in science or engineering. NOTE: this CANNOT be a simple top-up part time diploma type course, but at least a real substantial undergraduate degree as required by major and applicable jurisdiction. It is quite common that Patent Attorneys have a PhD qualification, and this is required to understand complex technologies. UK and European patent attorneys very frequently have PhD's.
  - Passes in written exam papers on both substantive patent law and patent practice (not by way of multiple choice exam).
  - Completion of an appropriate period of practiced training under the supervision of a fully qualified Patent Agent / Patent Attorney (probably for a minimum of 2 years).
  - no criminal record and of good fame, and not currently bankrupt or insolvent.
  - be ordinarily resident in Hong Kong.
  - carry suitable and appropriate professional indemnity insurance
- (iv) *Should we rely on foreign qualifications and accreditation, or should we establish an indigenous system?*

Prior to implementation of an indigenous accreditation system in Hong Kong, it will be necessary to rely on foreign qualifications.

Those qualifications relied upon for professional patent attorneys should be from jurisdictions having the law applicable to Hong Kong, these being UK, Australia, New Zealand and Canada.

**(C) If we were to establish an indigenous system to oversee the use of titles, qualifications and other professional matters (which may be seen as a pre-requisite to implementing the ultimate goal of permitting only qualified persons or firms to provide patent-related services), we need to think through the various implications.**

- (i) *How to administer the conferral of qualifications and accreditation of examinations and courses, and put in place the necessary education programmes?*

Again, "firms" cannot be qualified - only persons can be qualified. A Patent Attorney is a person, and the presence of a person in a firm does not give authority of a whole firm or persons not under the direct supervision of a Patent Attorney to engage in patent practice

Regarding education, outsourcing of education of foundation papers may be available from other jurisdictions, or in conjunction with local Hong Kong universities.

However, professional skills based subjects such as Patent Specification Drafting and Validity and Infringement, this would need to be taught by professional patent attorneys.

- (ii) *What mechanism is required to uphold service quality and professional discipline (for example, under what conditions should a patent practitioner be disqualified from using the title)?*

A governmental Disciplinary Board, administered by the Ministry of Commerce, Industry and Tourism, who could strike of a practitioner

Furthermore, a professional body (i.e. institute or guild) could have disciplinary provisions.

- (iii) *What party or parties should be entrusted to oversee the profession and all these qualification, service and title matters?*

A Professional Standards Board under the auspice of the Ministry of Commerce, Industry and Tourism is appropriate.

**(D) The interim measures should also have regard to the existing patent agency services.**

- (i) *Should there be any grandfathering arrangement for existing service providers to facilitate their transition to the new regulatory regime? Are there any other alternatives to grandfathering?*

For Patent Attorneys yes, but only those who would qualify by way of the requirements of (b) (i).

NOTE: It is paramount that grandfathering does NOT allow persons who do not satisfy the professional registration requirements for Patent Attorneys and utilise such a title.

Hong Kong should take note of difficulties raised by persons having experience in the Singapore system that their view is that including "grandfathering" provisions for patent attorneys on their register has been seen as creating confusion, complication and a great deal of uncertainty for the public.

- (ii) *Regarding the grandfathering arrangement, what are the criteria to be adopted, such as working experience, qualifications and training?*

No special dispensations - must meet qualification/registration requirements, or otherwise such provisions then make such qualification/registration requirements meaningless.

- (iii) *Should the parties benefiting from the grandfathering arrangement be allowed to use the same or different titles as qualified persons or firms, or to provide a full or limited range of the regulated services?*

Yes, but again must satisfy full qualification/registration requirements.

- (iv) *Should the grandfathering arrangement be provided only for a finite period to encourage the beneficiaries to obtain the necessary qualifications under the new regime? If so, how long should the period be?*

A finite period should exist, but as beneficiaries would have to meet the proper qualification/registration requirements, there seems no advantage.

NOTE: It is in the interest in protecting the public both locally and internationally, grandfathering must NOT result in a Register having the details of persons who do not meet the qualification/registration requirement.

#### **Implementation timetable**

- (E) **Considerable time is needed to build up the local patent agency profession, nurture the human resources and expertise required and, if needed, establish an indigenous system overseeing the profession. But this should not hold back the introduction of an OGP system.**

- (i) *Of the possible interim measures identified above, which of them can be introduced before the OGP system? Can a list or register of Patent Agents with their qualifications be drawn up at an earlier stage?*

YES. A Register of Patent Practitioners should be drawn up before implementation of OPG.

PG and regulation are completely separate issues, and should not be linked or hinged upon each other.

- (ii) *Should the control of the use of particular titles be introduced before the OGP system? Would it be different if we go for the establishment of an indigenous system to oversee the use of titles?*



- (iii) *As for the ultimate goal of regulating the provision of services, should this be only considered until there is sufficient experience in the operations and requirements of the new OGP system?*

OPG and regulation are completely separate issues, and should not be linked or hinged upon each other.

# **ANNEXURE A**

# CHAPTER 3

## Regulation of Patent Agency Services in Hong Kong

### 3.1 Introduction – Patent Law and Patent Agency Services

The patent attorney profession is one of the longer established professional services professions, having origins and professional registration requirements outside of the legal practitioners profession.

It must be understood and appreciated that Patent Law is “international” and that the law of each country must be compliant with the requirements under TRIPS and WTO.

A crucial aspect of patent practice for “Patent Attorneys” or “Patent Agents” is establishment of clients’ rights in jurisdictions of commercial relevance to the client, not just one’s own jurisdiction.

Thus, as must be appreciated and be understood, unlike most aspects of law, patent law being “international” requires that “Patent Attorneys” or “Patent Agents” to have knowledge and experience in conducting patent matters in other jurisdictions, not only their own.

As such, the law which “Patent Attorneys” or “Patent Agents” practice has many international aspects and appropriate qualifications, knowledge, education and experience are paramount for “Patent Attorney” or “Patent Agent” practice.

The term “Patent Attorney” and the term “Patent Agent” are terms used throughout the world often interchangeably due to different practices in different countries.

Also, it must be understood that some aspects of Patent Agency Services are not “substantive” (i.e. requiring the skills and knowledge of Professionally Qualified Patent Attorneys), whilst other aspects are “substantive”.

Thus, for any consideration of “regulation” of patent agency services, the following must be considered and understood:

- (i) what are patent agency services?
- (ii) what aspects of patent agency services are “substantive” and what aspects are not substantive?
- (iii) what is the law applicable to Hong Kong in respect of patent practice?
- (iv) what qualifications are required in order to act in substantive aspects of patent practice in jurisdictions having the same law applicable to Hong Kong?
- (v) what is the regulatory regime in jurisdictions having the same law applicable to Hong Kong?
- (vi) are there limitations on types of patent agency work in jurisdictions having the same law applicable to Hong Kong?

- (vii) what is the international understanding of the title “patent attorney” or “patent agent”?
- (viii) are there restrictions on such titles?
- (ix) how much training is required in other jurisdictions for those providing patent agency services?

Accordingly, and in view of differing opinions by various groups in respect of Patent Attorney and Patent Agency Services, a comprehensive survey / questionnaire was prepared and forwarded to experienced and credible patent attorneys/agents providing patent agency services in numerous jurisdictions.

The survey was designed to extract information from professionals in various jurisdictions such that valid authoritative results could be procured and contrasted between the various jurisdictions.

The detailed queries included numerous questions in relation to the following aspects of law, regulation and system:

- (1) Law/Legislation
- (2) Patent Protection and Examination
- (3) Law, Profession, Restrictions of Scope of Practice
- (4) Patent Practitioner, Professional Body and Scope of Work
- (5) Patent Practitioner Registration Requirements

Text of the survey conducted is shown in **Annexure B**, and a summary of the results of the survey are shown in **Annexure C**, which is referred to within the following comments.

### **3.2 International Understanding of Patent Attorney / Agent Professional**

Regardless of terms used to describe qualified patent practitioners, Professionally Qualified and Registered Patent Attorneys/ Agent, industry and public throughout the world, in particular in the more economically advanced countries, the terms “Patent Attorney” and “Patent Agent” are generally understood by the public to connote at least the following:

- a) a person who is professionally competent to prepare patent specifications and secure patent rights;
- b) a person who has undertaken extensive training and supervision for qualification into the profession;
- c) a person who has qualifications to manage prosecution of patent applications in foreign jurisdictions;
- d) a person who has knowledge of foreign patent law and practice;

- e) a person who can advice on aspects of patent practice, in particularly patent filing strategies, enforcement issues
- f) a person who is formally qualified to perform the scope of work for which they practice
- g) a person who is technically competent and professionally qualified in the areas of science or engineering
- h) a person who has satisfied the Registration requirements so as to be licensed to practice patent law within there area of professional and technical competency
- i) a person who is entered onto the relevant Register of Patent Attorneys/Agents
- j) a person who is a member or eligible for membership of the relevant Professional body of Patent Attorneys/Agents
- k) a person who is eligible to act on behalf of clients before the National patents office in the jurisdiction in which qualification and registration has been obtained.

Whilst the scope of work performed by Patent Attorneys/Agents is determined by their professional and qualification standing, and may vary to an extent dependent upon which jurisdiction, due to the international aspect of patent practice by Patent Attorneys/Agents in comparison with generally local domestic practice conducted by solicitors, there are several key common skills and areas of professional competency held by professionally qualified Patent Attorneys/Agents in the large jurisdictions having the most established and advanced patent laws and practice.

### **3.3 Use of Term “Patent Attorneys” and “Patent Agents”**

In many jurisdictions, the terms “Patent Attorney” and “Patent Agent” are reserved terms, and only those with professional qualifications and associated practicing certificates, may use such titles, and criminal penalties may be applied to mis-used and mis-representation.

Although in some jurisdiction, the term “Patent Attorney” or “Patent Agent” is not an excluded term *per se* under the local patents legislation, and in some jurisdictions the use of such titles by solicitors who are not on a Register of “Patent Attorneys” or “Patent Agents” is excluded from being a contravention of the legislation, this does not necessarily connote:

- (A) that such persons are qualified in respect of matters (a) – (k) at item 3.2 above,
- (B) that such persons can competently engage in work typical of Qualified Patent Attorneys/Agents

- (C) that such persons legal practicing certificate and insurance pertaining thereto, would cover such works.

In order to mitigate the confusion caused to the public by use of the titles "patent attorney" and "patent agent" by persons whose usage is not a contravention of the legislation yet who do not qualify for entry onto the Registers Patent Attorneys or Patent Agents, Patent Agents, local professional registration bodies in leading and established jurisdictions have adopted titles including the following:

- (a) Chartered [*jurisdiction*] Patent Attorney
- (b) Chartered [*jurisdiction*] Patent Agent
- (c) Registered [*jurisdiction*] Patent Attorney
- (d) Registered [*jurisdiction*] Patent Agent

The above mitigates any confusion as to whether a practitioner is indeed a person suitably qualified to be entered onto the local Register.

However, depending upon the jurisdiction of qualification, there may be:

- (I) limitations on the scope of work by patent attorneys/agents,
- (II) variations in professional registration requirements, and
- (III) variations in professional competency.

### **3.4 Professional Patent Attorney Mandatory Skills**

A patent is a statutory right, a patent specification being comprised of a document which is both a legal document as well as a technical document.

In order for patent rights to be obtained, it is necessary that a patent specification is prepared which is suitable for subsequent filing in numerous jurisdictions throughout the world in which patent rights are required to be pursued.

Different jurisdictions have different thresholds of particular aspects and content of a patent specification, such as a level of support and basis required in support of ranges of integers of inventions, such as concentrations, as well as limitations on manner in which a patent specification and claim structure is prepared.

Furthermore, different jurisdictions have limitations on allowable subject matter, either by way of being "excluded" subject matter or matter which is considered "unpatentable". Technologies applicable to such limitations are often those in the medical/pharmaceutical and medical treatment areas, as well as computer based and internet based/software type applications.

Thus, it is paramount that a "first filing" patent specification is prepared by a patent attorney or patent agent with at least the following skills and knowledge:-

- (i) knowledge as to allowable or excluded subject matter;

- (ii) thorough technical professional knowledge and understanding of the technology for which patent rights are to be pursued;
- (iii) knowledge of prevailing practices in claim drafting style from practical experience;
- (iv) knowledge of patent specification "support" and "enablement and sufficiency" requirements for subsequent prosecution in multiple jurisdictions;
- (v) knowledge of applicable patent claim drafting requirements and style with knowledge of (a) requirements in other jurisdictions, (b) knowledge of interpretation techniques and law in foreign jurisdictions and (c) knowledge and experience in applicable language and terminology utilized in foreign patent offices.

Further, a qualified patent attorney or patent agent must also be in a position to advise on foreign filing strategy, which includes knowledge of allowable subject matter in different jurisdictions, relevant deadlines for effecting filing in different jurisdictions, knowledge of grace periods and translation deadlines, knowledge of types of patents in different jurisdictions, knowledge of examination criteria and prevailing practice in examination criteria for foreign jurisdictions, knowledge as to how to progress patents to grant using accelerated examination methodology where required, foreign legal requirements such as ownership, entitlement, assignment, certification of documents, legalization, notarization and apostillization where necessary, and be aware of deadlines required for furnishing of such documents.

Other fundamental skills that are expected of qualified patent attorneys or patent agents, preparation and prosecution of arguments suitable for prosecution in foreign jurisdictions, including the requirements for such arguments in the relevant foreign jurisdictions.

Patent attorneys are expected to have technical qualification and knowledge of the technology at hand, so that professional prior art analysis and inventive step arguments and submissions may be conducted, in view of the prior art cited and objections raised by Examiners in foreign jurisdictions during substantive examination.

Whilst patent attorneys and patent agents may have some varying scope of work depending upon the jurisdiction in which they are qualified and upon the type of practising certificate they may hold, a properly qualified professional patent attorney or patent agent must be competent, experienced and qualified in at least the following:-

- (a) professional preparation of patent specifications for establishing priority and subsequent prosecution in multiple jurisdictions in accordance with foreign law,
- (b) have technical skills and knowledge required to analyse prior art for subsequent prosecution of patent applications in foreign jurisdictions,

- (c) be competent and qualified to conduct validity and infringement analysis and opinion in one's jurisdiction of registration or in jurisdictions of applicable law/jurisprudence.
- (d) provide advice on types of patents and requirements for such patents in multiple jurisdiction filing programmes.

Above all, the requirement of "technical competency" is paramount for preparation of patent specifications suitable for establishment of priority and subsequent prosecution so as to pursue patent rights in foreign jurisdictions.

It is expected that a practitioner engaging in patent specification drafting, is suitably skilled, educated, qualified and experienced in this practice, such that applicants' rights will be best pursued from both commercial and intellectual property standpoints.

It is also expected that a person who holds themselves out as being a "Patent Attorney" or a "Patent Agent" is:-

- (i) suitably qualified and experienced
- (ii) undertaken professional training by a qualified patent attorney or patent agent
- (iii) be a member of a professional body to which membership is only admitted to qualified practitioners.

Thus, membership to a professional body of patent attorneys or patent agents must be viewed as connoting that a member is suitably qualified and experienced in the area of patent attorney practice, in particular patent specification drafting and preparation.

Thus, all members of such professional bodies or association must be suitably qualified and experienced so as to maintain the integrity and reputation of the patent attorney or patent agent profession in the jurisdiction accordingly.

### **3.5 Jurisdictions Having Patent Law Applicable To Hong Kong**

Based upon the Hong Kong patents law, the origin of the Hong Kong Patents Ordinance and the applicable jurisprudence, jurisdictions having the patent legislation based upon the UK patents legislation and patent system, have the most applicable law and practice pertaining to Hong Kong patent law.

From above, as will be understood, Patent Attorneys and Patent Agents interpreting claim scope and claim features for Hong Kong patents must be suitably qualified in jurisdictions having the requisite legal principles of claim constructions as to traditional UK patent law.

Furthermore, Patent Attorneys and Patent Agents providing advice in respect of interpretation of the Hong Kong patents legislation (Hong Kong Patents Ordinance)



must be suitably trained and have backgrounds and experience in applicable jurisdictions.

Many sections of the Hong Kong Patents Ordinance are very similar to the 1977 UK Patent Act, the principle and provisions of which are by and large within the legislation of the major common law jurisdictions, having ultimately codified upon many years of (often) UK case law.

Accordingly, the interpretation of patent claims in Hong Kong is strongly influenced by that in the UK, and as discussed previously, upon such principles in Australia, New Zealand and Canada upon departure from traditional UK principles or position.

Furthermore, as the development of the patent system of the United Kingdom was essentially implemented in the major colonies or commonwealth members over the years, much case law is common, and thus the style of patent drafting and the interpretation of patent claims can also be said to have adopted a British approach.

Still further, as well as the administration of the patent professional body, many of the first generation patent agents (and subsequent migrants) in Australia, New Zealand and Canada were originally from the Chartered Patent Attorney Association in the United Kingdom, much of the professional training and practical principles were implemented. Indeed, there are many UK qualified patent agents today practising in Australia, New Zealand and Canada.

Patent attorneys of these relevant jurisdictions of UK, Australia, New Zealand and Canada practicing substantive law are generally required to hold tertiary technical qualifications, similarly as is required in Hong Kong's major trading jurisdictions including China, US and Europe.

In particular, jurisdictions having precedent based upon traditional UK case law, such as interpretation and validity and the relevant cases thereto, are those to which Hong Kong is considered likely to look to upon the UK position departing from its traditional and established position and to also look to for judicial guidance in relation to patent matters.

Furthermore, such jurisdictions have codified patent legislations originally based upon the UK patents acts and as such, provisions and mechanisms as codified are applicable to the relevant sections of the Hong Kong Patents Ordinance.

Key jurisdictions having such codified patent law and case law are typically those which are or were formally British colonies or Commonwealth Countries, having both a patent system and general legal system based upon the British common law, similarly as the origins of the Hong Kong patent law system and legal system.

Such major countries having applicable legal backgrounds, patents legislation and jurisprudence are the United Kingdom, Australia, New Zealand and Canada.

### **3.6 Background of Patent Attorney /Agency Practice in Hong Kong**

Patent agency practice is not new to or absent from Hong Kong. Indeed, there are a substantial number of professionally qualified patent attorneys providing professional patent attorney/agency services in Hong Kong, and firms in which such patent attorneys practice have provided such services for several decades in Hong Kong.

Historically, several firms in Hong Kong have been the main providers of substantive patent services to both local and foreign clients, in particular substantive patent practice including patent specification drafting, prosecution of patent applications in numerous foreign jurisdictions on behalf of local Hong Kong clients, and providing professional patent attorney services pertaining to validity and infringement, freedom-to-operate opinions and strategic foreign patent filing and prosecution works.

In the main, such firms have retained on staff and located in Hong Kong, registered and qualified patent attorneys from jurisdictions having long-term established patent systems and law being based upon the Commonwealth common law patent system and practice, as in Hong Kong. Such patent attorneys include those from United Kingdom, Australia and New Zealand.

Whilst several firms in Hong Kong have held out to have patent attorneys, many in fact do not have such patent attorneys located and domiciled in Hong Kong, and rather act in a consultant capacity or as an outsourced arrangement. As such, such firms cannot be considered to have an established patent attorney practice in Hong Kong acting on behalf of Hong Kong clients.

Firms which have engaged in professional patent attorney services in Hong Kong and have had qualified patent attorneys on staff for several decades include Marks & Clerk/Lloyd Wise, Deacons , Wilkinson and Grist and Sit Fung Kwong Shum, Ella Cheong and historically Johnson Stokes & Master.

Such firms have, over an extended period of time, acted on behalf of local industry, local Hong Kong universities and government organizations to provide substantive patent services, in particular patent specification drafting in Hong Kong.

It may be said that firms with long established substantive patent practices having registered and qualified patent attorneys, suitably trained and skilled in the art of patent specification drafting, have been the corner stone of the Hong Kong patent profession as it is today.

Such firms have provided supervised training by qualified patent attorneys for Hong Kong people and assisted such people in undertaking applicable foreign patent attorney/agent examinations in jurisdictions applicable to the law in Hong Kong, for example, Hong Kong people who have gained the qualification as a UK patent agent who passing the requisite written substantive examinations as well as undertaking the requisite professional training and mentoring over several years as is required for registration as a Chartered Patent Agent.

### 3.7 Leading Firms Having Substantive Patent Practice in Hong Kong

Several Hong Kong firms have invested in retaining qualified patent attorneys on staff in Hong Kong and those which have invested in professional substantive patent services over a long period of time notably have a greater number of such patent attorneys on staff.

Firms having registered patent attorneys include Marks & Clerk having 8 patent attorneys with qualifications from UK, Europe, New Zealand and Australia, Deacons having 5 patent attorneys with qualifications from Australia, New Zealand and Canada, Wilkinson & Grist - having 2 patent attorneys, including qualifications from Australia.

Other firms in Hong Kong having qualified patent attorneys on staff and have done so for an extended period of time include Sit Fung Kwong Shum and Ella Cheong, and historically Johnson Stokes Masters.

The publicly available records of the Hong Kong IPD clearly show that the firms having the greater number of registered patent attorneys and substantive patent practices, and those having historically invested in patent practices, also dominate in use of the Hong Kong patent system.

The vast majority of Hong Kong patent filings for standard patents are from foreign originating patents and as such, Hong Kong firms with substantive patent attorney practices are shown as being those with the greatest foreign firm recognition.

**Annexure D** shows the number of patent filings for the years 2007, 2008, 2009 and 2010, which shows a clear correlation between the firms who have:

- (i) invested in patent attorney / agency services for a long period of time, and
- (ii) professionally qualified patent attorneys "on staff".

### 3.8 Observations from Survey / Questionnaire

The following observations are directly obtained from the detailed survey / questionnaire, and as summarised at **Annexure C**:

#### A. JURISDICTIONS HAVING LAW APPLICABLE TO HONG KONG PATENT LAW

The jurisdictions having applicable law and jurisprudence to Hong Kong, that is the Commonwealth common law body of law, are the United Kingdom, Australia, New Zealand and Canada.

- (I) these jurisdictions all have the requirement of all registered Patent Attorneys / Agents to sit and pass full written patent specification drafting exams, a skill of paramount importance in patent attorney/agent practice
- (II) these jurisdictions also have codified a requirement of two or three years minimum apprenticeship/training, or such training is practically required in order for candidates to pass such onerous examination

- (III) the ministry responsible for administration of the legislation and guidance in regulation is not a Ministry of Law, but rather Ministries of Business and Innovation; Industry, Science and Research, Economic Development; and Industry
- (IV) each of these jurisdictions have well established and reputable professional bodies and internationally respected reputations of practitioners
- (V) each of these jurisdictions requires a technical qualification, either codified or in practical terms
- (VI) in each of these jurisdictions, the Patent Attorney/Agent profession is separate from solicitors

#### B. MAJOR TRADING JURISDICTIONS WITH HONG KONG

The major trading jurisdictions with Hong Kong are China (PRC), Europe and US

- (I) each of these jurisdictions requires patent attorneys/agents to have an appropriate technical degree
- (II) China has a minimum trainee internship of 1 year and Europe has a 3 year traineeship which must be under the direct supervision of a qualified European Patent Attorney. A traineeship is not codified in the US, however in practical terms reputable and competent US patent attorneys have undergone several years of training
- (III) Patent Attorneys and agents undergo formal examination for registration, and in China and the United states some aspects of the examination are multi-guess in addition to some written component
- (IV) in each of these jurisdictions, the Patent Attorney/Agent profession is separate from solicitors, except for in the US where a US Patent Attorneys also must hold a state bar solicitor's practicing certificate, in addition to the US Patent Agent requirement of having passed the US Patent and Trade Mark Office Bar.
- (V) the ministry responsible for administration of the legislation and guidance in regulation is not a Ministry of Law, but rather Ministries of Business and Innovation; Industry, Science and Research or the like

#### C. OTHER MAJOR JURISDICTIONS

Other major jurisdictions include India, Japan, Singapore and Korea:

- (I) In India it is currently a requirement that a technical degree is held, however some of the older attorneys may not.

In Japan and Korea a requirement of a technical degree is not codified however it is expected and those without practice trade marks.

In Singapore a technical degree is a codified requirement unless "grandfathered", however on the Register it is noted who is transitional and

who actually holds a technical degree and in any event practically all substantive practice is performed by those holding technical qualifications. In fact, there are suggestions that those without a technical qualification should be barred from performing substantive work in Singapore.

- (II) In each of these jurisdictions, the Patent Attorney/Agent profession is separate from solicitors
- (III) The ministry responsible for administration of the legislation and guidance in regulation is not a Ministry of Law except Singapore, but rather Ministries of Business and Innovation; Industry, Science and Research or the like

#### D. OTHER ASIAN JURISDICTIONS

Other neighbouring jurisdictions include Philippines, Vietnam, Taiwan, Malaysia, Thailand and Indonesia:

- (I) in each of these jurisdictions, the Patent Attorney/Agent profession is separate from solicitors
- (II) these jurisdictions vary in qualification requirements from a technical standpoint and a training standpoint
- (III) the ministry responsible for administration of the legislation and guidance in regulation is not a Ministry of Law except Indonesia, but rather Ministries of Business and Innovation; Industry, Science and Research or the like.

### 3.9 Substantive and Non-Substantive Patent Agency Services - Comments

It must be understood and acknowledged that Patent Agency services may be considered to generally and broadly fall within the two categories of:

- (a) SUBSTANTIVE
- (b) NON-SUBSTANTIVE

Examples of substantive works include patent specification drafting, providing validity and infringement opinions, patent application prosecution, multinational filing strategies and multi-jurisdictional patent portfolio management and prosecution, prior art analysis.

Examples of non-substantive works include re-registration recordal of patent applications, Assignment recordal, renewal portfolio management, licensing related issues and the like.

## **CLOSING COMMENTS**

Patent law and the patent system are international in nature, and any patent system must be in keeping with international patent treaties including WTO and TRIPS, and a local patent system must correctly interface with the locally applicable jurisprudence which supports the patent system, as well as interface with the international patent system and prevailing trends from a global standpoint.

Many comments by those who advocate changes to patents legislation and regulation of patent agency services in Hong Kong which have been made publicly prior to this submission do not consider the true international nature of patent systems, and in the main have been of a myopic nature and focussed on narrow aspects of patent systems and patent practice.

The signatories have not heard any public policy or national policy related comments from such advocates, and have concerns that such advocates' opinions are not representative of the true nature of patent practice both locally and internationally.

Interesting, more important topics of patent law discussed on a global scale by experienced and qualified patent practitioners such as Bolar provisions, Supplementary Protection Certificates, parallel imports, protection for "business methods" type of inventions, off-shore contributory infringement and extra-territorial infringement to mention a few, have not received any comment or interest by such advocates.

Furthermore, it is noted that generally advocates for changes to patents legislation and regulation of patent agency services in Hong Kong:

- (a) are not professionally qualified patent attorneys in keeping with the requirements with other major and legally relevant jurisdictions,
- (b) do not represent the views of local Hong Kong entities who indeed use the local and international patent systems,
- (c) do not represent the views of foreign entities who currently utilise the Hong Kong patent system, and
- (d) have not demonstrated knowledge or awareness of "big picture" issues in respect of international patent practice.

By clear and stark contrast, the signatories in conjunction with APAA Hong Kong, have much experience and knowledge in relation to regulatory regimes both internationally and from requirements in their own home jurisdictions. Furthermore, the signatories have substantial experience in the training of Hong Kong people to be substantive patent practitioners. Accordingly, the signatories would be happy to provide any further professional input and comments in relation to any of the above three Chapters.

In any event, for any changes to the Hong Kong patent system and introduction of a regulatory regime for patent services,

- (i) the system must be in keeping with the body of law appropriate for Hong Kong and in keeping with international practice
- (ii) substantive examination issues must be considered in view of internationally prevailing practice and trends
- (iii) the system must not result in a patent with a lesser presumption of validity as afforded by the present re-registration system
- (iv) the system must be appropriate and credible on both local and international levels
- (v) regulation and qualification of practitioners must be in keeping with requirements in jurisdictionally appropriate and major trading jurisdictions, in that at least the following are required:
  - (a) strong tertiary technical qualifications,
  - (b) professional training over several years , and
  - (c) thorough written examination in respect of skills based aspects of patent practice such as patent specification drafting.

It is of paramount importance that all of the above are considered such that should any changes to the patent system in Hong Kong or a regulatory regime be implanted, that Hong Kong does not lose its fine international reputation and standard in relation to the quality of its patent system.

# **ANNEXURE B**



**Patent Attorney Qualifications and Practice in Relevant, Major Trading and Asia Jurisdictions**

Jurisdiction	Common Wealth/Common Law	Ministry	Separate Patent Attorney Profession From Solicitors	Restriction On Substantive Work	Qualification By Examination For Skills/Drafting	Technical Degree	Minimum Apprentice Ship / Articles	Residency Requirement	Title
JURISDICTIONS WITH PATENT LAW APPLICABLE TO HONG KONG									
United Kingdom	Yes		Yes	unrestricted	full written exams	not codified, but required to sit examinations - in practical terms yes	not codified, but in practical terms yes in order to pass exams		Chartered Patent Agent/Attc
Australia	Yes	Dept innovation, industry, science and research	Yes	unrestricted	full written exams	yes	yes, two years supervised directly by qualified attorney	yes	Registerec Patent Attorney
New Zealand	Yes		Yes	unrestricted	full written exams	undergoing codification	yes, three years supervised directly by qualified attorney	yes	Registerec Patent Attorney

Canada	Yes	Dept industry	Yes	unrestricted	full written exams	not codified, but need "technical background"	not codified, but in practical terms yes in order to pass exams	yes	Registered Patent Agent
<b>Jurisdiction MAJOR TRADING JURISDICTIONS</b>	<b>Common Wealth/Common Law</b>	<b>Ministry</b>	<b>Separate Patent Attorney Profession From Solicitors</b>	<b>Restriction On Substantive Work</b>	<b>Qualification By Examination For Skills/Drafting</b>	<b>Technical Degree</b>	<b>Minimum Apprenticeship / Articles</b>	<b>Residency Requirement</b>	<b>Title</b>
China	No	N/A SIPO	yes		multi-guess and some written	yes	1 year supervised internship	yes	Patent Agent
Europe	No	N/A - intergovernmental	yes	unrestricted	full written exams	yes	yes, three years supervised directly by qualified EPA	yes	European Patent Attorney / Agent
United States	To a large extent	Department of Commerce	yes, dual attorney and agent	patent agents cannot do validity or non-infringement, only attorneys	multi-guess and some written, no drafting	yes	not codified, but practically yes	yes	Patent agent patent attorney
Singapore	Yes	Ministry of law	yes	unrestricted	full written exams	yes, unless grandfathered, which causes problems	1 year fully supervised under qualified patent attorney	yes	Patent Agent

India	Yes	Ministry of Commerce and Trade	yes	unrestricted	full written exams and viva-voice	yes, but older ones may not	not codified, but practically yes	citizen	Patent agent patent attorney
Japan	No	Ministry of Economy, Trade and Industry	yes		multi-guess, written and oral	no, but generally expected	under 7 year qualified attorney	yes	Patent Attorney

Jurisdiction	Common Wealth/Common Law	Ministry	Separate Patent Attorney Profession From Solicitors	Restriction On Substantive Work	Qualification By Examination For Skills/Drafting	Technical Degree	Minimum Apprenticeship / Articles	Residency Requirement	Title
<b>JURISDICTIONS IN ASIA REGION</b>									
Korea	No	Ministry of Knowledge and Economy	yes	unrestricted	multi-guess and written	not codified, but those without do Trade Marks	yes	yes	patent Attc
Philippines	No	Department of Trade and Industry	yes	unrestricted	written exam	no, but if don't, then assisted	60hrs or 4 years as examiner	yes	patent attorney patent age patent consultant
Vietnam	No	Ministry of Science and Technology	yes, dual agent and attorney	unrestricted	usually written	yes, must have	5 years	yes	patent agen patent attor
Thailand	No, but based on UK patents Act 1977	Department of Property, Ministry of Commerce	yes	unrestricted	Multi-guess and written	Not codified, there are some who do not	no	yes	patent attor or patent ac
Taiwan	No	Ministry of Economic Affairs Ministry of Domestic Trade, Co-operatives and Consumerism	yes	unrestricted	multi-guess and written	no	no	no	patent attor or patent ac
Malaysia	yes		yes	unrestricted	written exam	yes, must have	no	yes	patent agen

Indonesia	No	Ministry of Law and Human Rights	yes	unrestricted	multi-guess and written	not codified, but most have	4-5 months	yes	IP Consulta
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