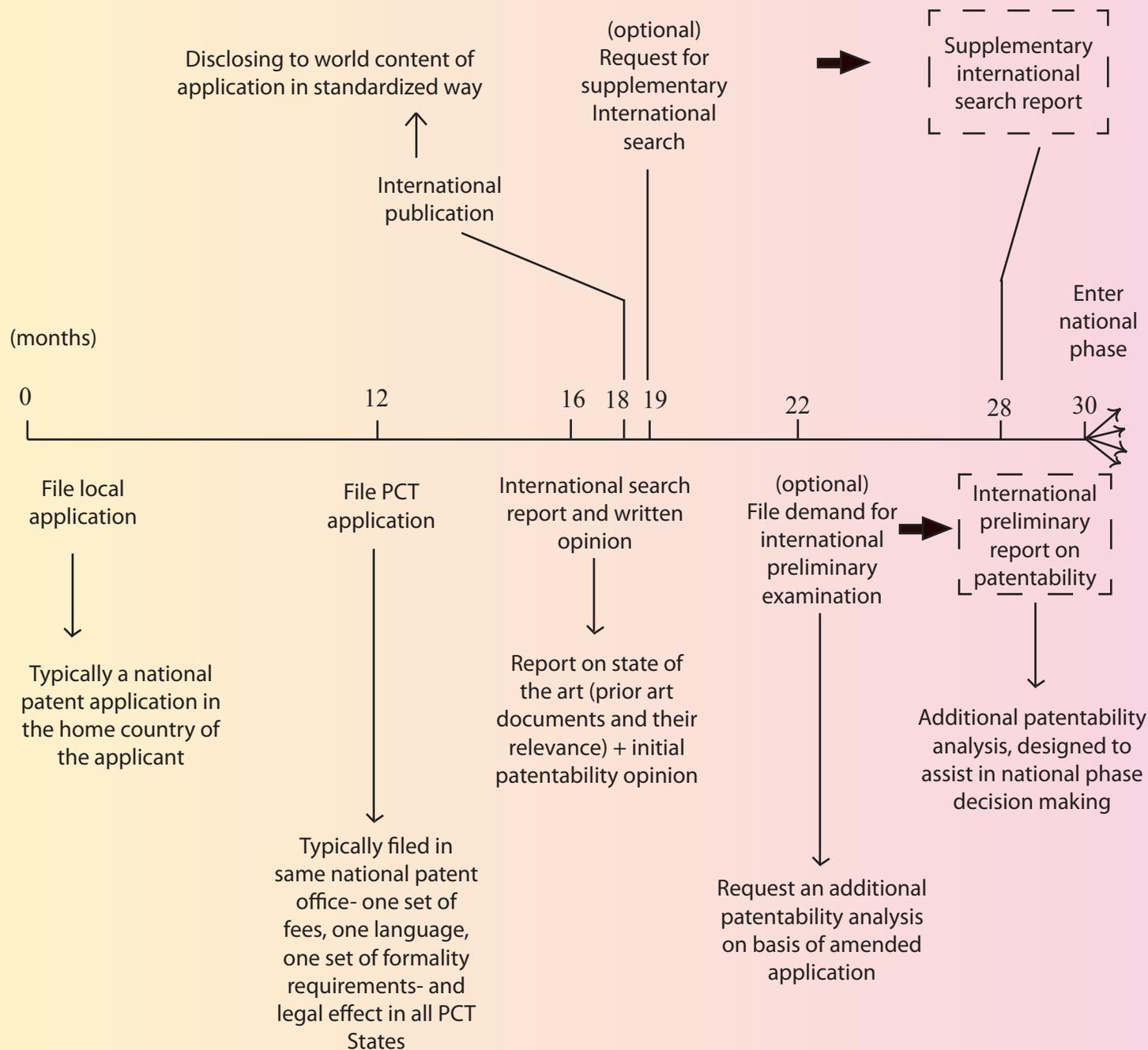


## PCT APPLICATION PROCEDURE



## Background

The most common form of Intellectual Property (IP) is Patents.

A patent is a legal document granting its holder the exclusive right to control the use of an invention, as set forth in the patent's claims. The right of the holder exists within a limited area and time. The exclusive right of the holder stops others from making, using or selling the invention without authorization.

Patent rights must be expressly granted by, and registered with, a government authority before they can be recognized and enforced. In theory, anyone can draft a patent application but in practice, professionals including lawyers (patent attorneys) and technical professionals called "patent agents" or "patent engineers" write patent applications and file them with government authorities because these applications can be technically and procedurally complex.

The objective of this leaflet is to give an idea to the reader to get a general understanding of the skills needed for drafting a patent application, filing it and working with patent authorities to have it issued as a patent. The reader must understand that as mentioned above, drafting a patent application is really a complex procedure and this task can be done by only a technically skilled person for same purpose. In many countries there are patent

drafters, patent agents and patent attorneys who provide kind of services to inventors at a fee and generally these fees are very high.

### **More about patents**

In order to grant a patent the invention must have the following three features. First is it must be new. Novelty in other words means, the invention must not be in public use or known by others. Secondly, it should involve an inventive step. This is called non-obviousness. The invention must not have been obvious to one of ordinary skill "in the art". Basically, obviousness means that something cannot be patentable when any person of average skill in the relevant scientific/technical field could put together different pieces of known information and from them arrive at the same result. Thirdly, the invention must be useful. In patent language this is called "utility" or "industrial application".

The term of a patent is generally twenty years from the filing date of the patent application. A patent gives its owner the right to exclude others from making, using, offering for sale or selling the invention or importing the patented invention into the country where the patent has been granted. Anyone who is not the patent owner or who is not licensed by the patent owner and who manufactures, uses, imports, offers for sale or sells the patented invention is called an "infringer". An infringer can be sued in court to force him to stop the infringement and to pay the owner damages.

Patents are "territorial"; they have effect only in countries where they have been applied for and

granted. Each country has the sovereign right to grant or refuse to grant patent applications. In a few instances such as the European Patent Office (EPO), groups of nations have agreed by treaty to provide for common examination of patent applications. Some countries have also agreed by treaty to accept patents granted by other nations<sup>3</sup>. For example, some former British colonies will accept patents approved by the UK Patent Office and/or the EPO when the UK is a designated country in the EPO application.

A patent application must be filed before publicly disclosing any important research results that may lead to a valuable product or technology.

### **Filing patent applications**

Filing of patent applications can be done locally or abroad (foreign filings) under the Paris Convention or Patent Cooperation Treaty. The first filing of a patent application establishes the priority date for the family of patent applications on the invention that may be filed worldwide. Priority date represents the date beyond which prior art will not apply. Provided the inventor has filed the priority application in a country that is a Paris Convention member and provided that the foreign countries of interest to the inventor are also Paris Convention members, he will have 12 months after filing the priority application in which to file counterpart foreign applications in those Paris Convention member countries of interest or to file a PCT application. However, there are many other aspects that the inventor should look into concerning national laws and fees involving patenting. Hence, filing a patent application requires expert opinion.



“What an inventor should know about patents & patenting procedure”



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