

Overview of the Patent System and Procedure in Sri Lanka



Outline

- **What is intellectual property?**
- **Types of intellectual property**
- **Evolution of the domestic system**
- **International Arena**
- **Why do intellectual property rights matter?**
- **Patent system**
- **Patenting Procedure**
- **Patent Cooperation Treaty**



What is Intellectual Property (IP)?

- **IP is the term used for types of property that result from creations of human mind, the intellect.**
- **IP is an asset and has a monetary value.**
- **IP can be owned, transferred, sold or licensed.**
- **A kind of intangible property and has no physical form.**
- **IP is divided into two general categories**
 - **Industrial Property**
 - **Copyrights**



Types of Intellectual Property

- **Industrial Property – assets created for the advancement of technology, industry and trade.**
 - **Patents**
 - **Trademarks**
 - **Industrial Designs**
 - **Geographical Indications**

- **Copyrights and related rights – original expressions and “work of authorship”**



Evolution of the domestic system

- **The first patent was granted on November 22, 1860 in Sri Lanka under the British Inventor's Ordinance of 1859.**
- **The Patents Ordinance of 1906 (based on the English Patent Law).**
- **The English Law of Trademarks in 1888 under the Ordinance No. 14 of 1888.**
- **The Design Ordinance in 1904.**
- **The Copyright Ordinance No 12 of 1908 is the first copyright law in Sri Lanka.**

Evolution of the domestic system

- **The Code of Intellectual Property Act N0.52 of 1979 – turning point in the evolution of IP law and administration in Sri Lanka.**
- **New regime –**
 - The Intellectual Property Act, N0.36 of 2003 which provides the law relating to IP and for an efficient procedure for registration, control and administration.**



International Arena

Sri Lanka is a party to

- **The Paris Convention for the Protection of Industrial Property (since 1952),**
- **The Madrid Agreement for the Repression of False or Deceptive Indication of Source on goods (since 1952),**
- **The Nairobi Treaty for the Protection of Olympic Symbol (since 1984),**
- **The Patent Co-operation Treaty (since 1982),**
- **The Berne Convention (since 1959),**
- **The Universal Copyright Convention (since 1983),**
- **The Convention establishing the World Intellectual Property Organization (since 1978),**
- **The TRIPS Agreement (since 1995),**
- **The Trademarks Law Treaty (since 1996).**



Why do IP rights matter?

- IP has some benefit as a result of an endeavor.



- Protection to IP gives encouragement and financial return.



HOW DO WE PROTECT INVENTIONS?

Patents



Undisclosed information



Patents

- **Granted for inventions by a government (national or regional IP office) for a limited period of time.**
- **Period of protection is 20 yrs from the date of filing of application.**
- **Exclusive rights to owner.**
- **Renewal of patent yearly by paying fees.**



What is an invention?

- Invention is defined as a new and inventive solution to a technical problem.
- May be entirely new invention or incremental improvement to a known product or process.
- May be an **innovative idea** or in the form of a working model or prototype.
- **Innovation**
Translation of the invention into a marketable product or a process.



What can be patented?

Inventions meet following requirements can be patented.

- **Novelty** – Claimed subject matter should not be disclosed in anywhere in the world by oral disclosure or by written publication. (not in the prior art)
- **Inventive Step** – could not be deduced by a person with an average knowledge of the technical field
- **Industrial Applicability** – must be of practical use
- must be accepted as “patentable” under law
- To be disclosed



What cannot be patented?

- **Discoveries and scientific theories**
- **Aesthetic creations**
- **Schemes, rules and methods for performing mental acts**
- **Mere discoveries of substances as they naturally occur in the world**
- **Inventions that may affect public order, good morals or public health**
- **Diagnostic, therapeutic and surgical methods of treatment for humans and animals**
- **Plants and animals other than microorganisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes, and**
- **Computer programs**



How is a patent granted?

Patent system has two functions:

- **Disclosure** – a patent application must disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the specific technical field.
- The public has the benefit of the inventive technology and the inventor has the benefit of an exclusive monopoly for a limited time.
- Continuous development of technology, technological capability and economic growth



Why you should consider patenting your inventions?

- **Strong market position and competitive advantage.**
- **Higher profit or returns on investment.**
- **Additional income from licensing or assigning the patent.**
- **Access to technology through cross-licensing.**
- **Access to new markets.**
- **Powerful business tool.**



How to get a patent?

- **Where should you start?**
 - Perform a prior art search
- **How and where can you conduct a prior art search?**
 - Patent databases available online

Patent Databases in Different Countries

- <https://patentscope.wipo.int/search/en/search.jsf>
(PATENTSCOPE)
- <http://ep.espacenet.com/> (ESPACENET)
- [Google patents](#)
- [USPTO patent database](#)



Importance of Patent Information

- **Extremely useful sources of technological information**
- **Clear viability advantages over other sources of technological information**
- **Provides details of invention**
- **The legal scope of the invention**
- **The inventor and the owner**



PATENT APPLICATION FORM

- Form - P01
- Can be applied under three categories
 - Student - Rs 2300.00
 - Individual - Rs 4025.00
 - Other - Rs 8050.00
- Students should provide a letter issued by Head of the Institute/ school.
- If applicant/s is/are different from inventor/s, a statement to be provided by the applicant/s or inventor/s.

PARTS OF THE PATENT APPLICATIONS

- Description
- Claims
- Abstract
- Drawings

(Please refer the guidelines for applicants)



DESCRIPTION

- ❖ Title of the Invention
- ❖ Technical field
- ❖ Background Art
- ❖ Technical Problem
- ❖ Technical Solution
- ❖ Brief description of drawings
- ❖ Advantageous effects
- ❖ Mode for invention
- ❖ Industrial applicability



CLAIMS

- Mark the boundaries of the patent.
- Written approximation of the abstract inventive concept.
- Define the scope of protection.
- Claims clearly and concisely tell what the patent applicant claims to be his invention.



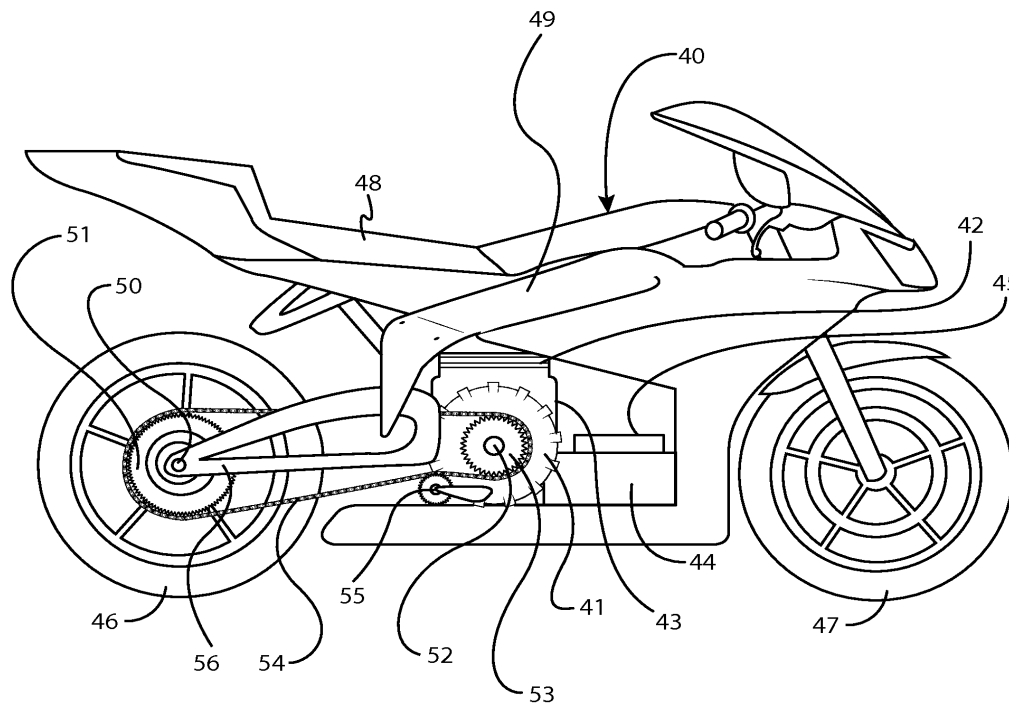
ABSTRACT

- A summary of the disclosure as contained in the description, the claims , and any drawings ; the said summary shall indicate the technical field to which the invention pertains and shall be drafted in a way which allows the clear understanding of the technical problem, the gist of the solution of that problem through the invention, and the principal use or uses of the invention ; (b) where applicable, the chemical formula which, among all the formulae contained in the application, best characterize the invention.
- The abstract shall be as concise as the disclosure permits (preferably 50 to 150 words).
- The abstract shall not contain statements on the alleged merits or value of the invention or on its speculative application.
- Each main technical feature mentioned in the abstract and illustrated by a drawing in the application shall be followed by a reference sign placed between parentheses. The abstract shall be accompanied by the most illustrative of any drawings furnished by the applicant.



DRAWINGS

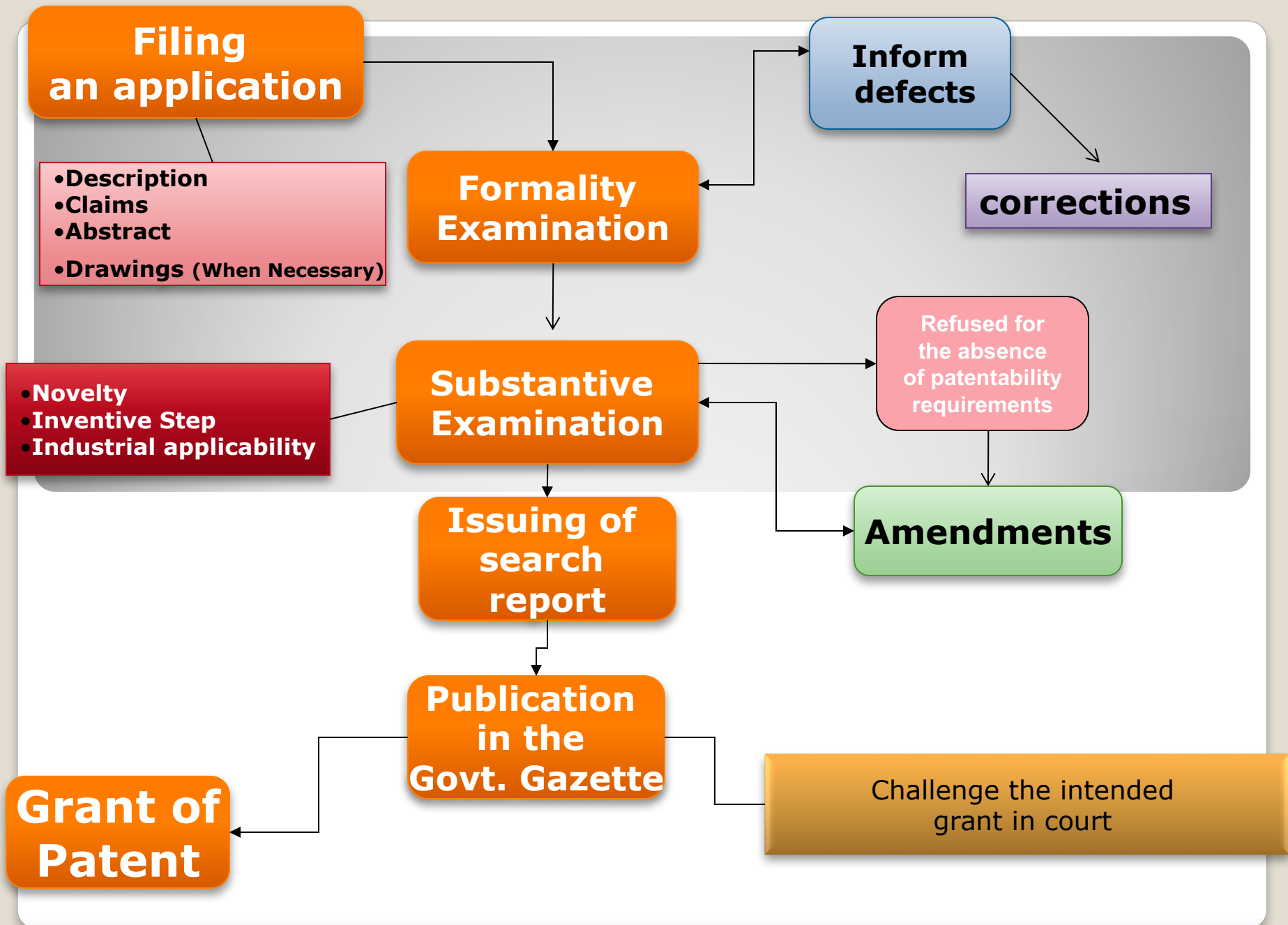
- Example – Patent Appl. No. US2013168171



Processing of patent application

- **Filing of Patent Application**
- **Formal Examination**
- **Search and Substantive Examination**
- **Grant and Publication**
- **Opposition Proceedings**





Registration Process

LIMITATIONS OF RIGHTS

- To acts done only for the purpose of scientific research.
- Do not preclude person having the rights or a license.
- Do not extend to the presence of use of products on foreign vessels, aircraft, spacecraft or land vehicles which temporarily or accidentally enter the waters, airspace or territory of Sri Lanka.



How can a patent be obtained worldwide?

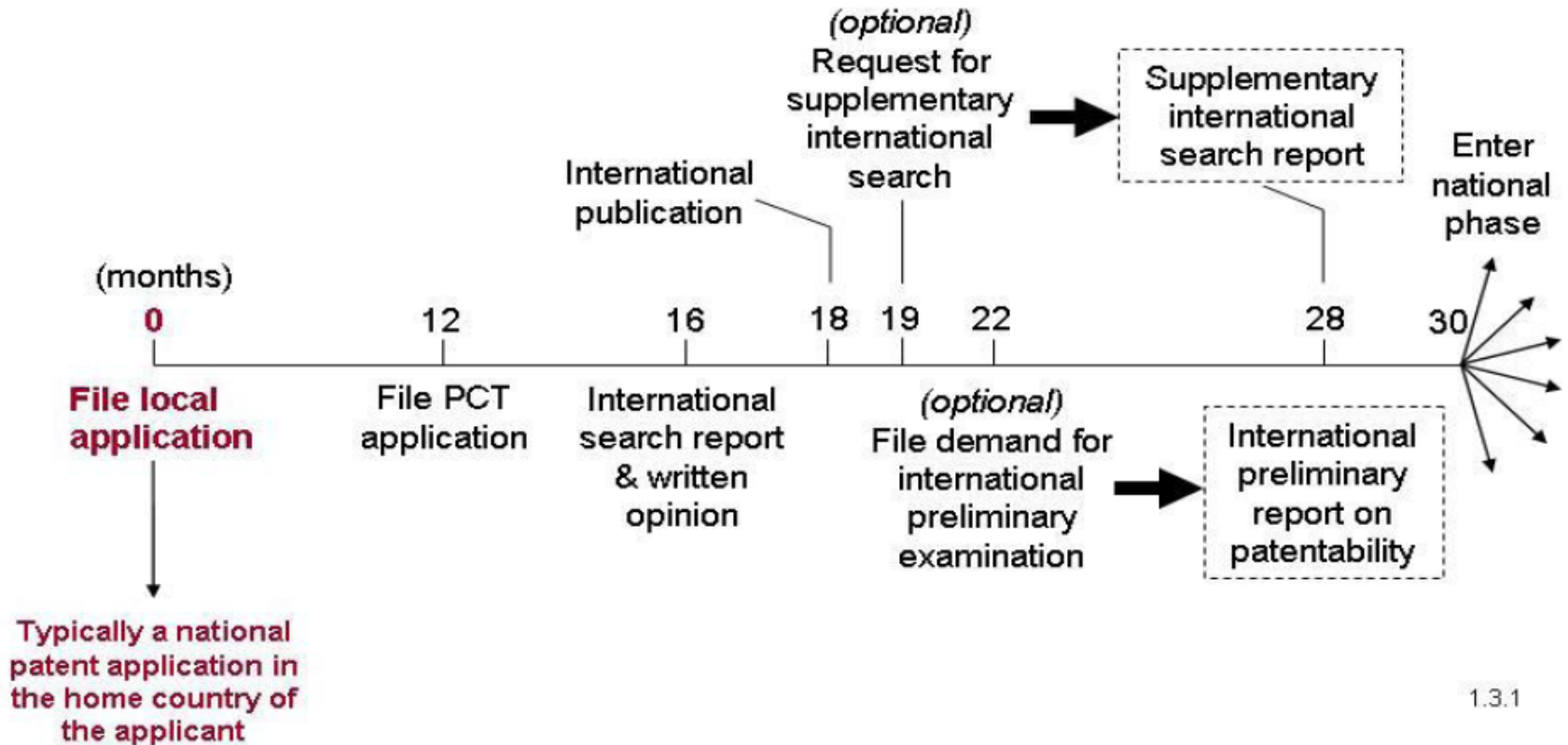
- Patent rights are territorial.
- At present, no “world patents” or “international patents” exist.
- The European Patent Office (EPO) and the African Regional Intellectual Property Organization (ARIPO) accept regional patent applications, or grants patents.
- Any resident or national of a Contracting State of the Patent Cooperation Treaty (PCT) may file an international application under the PCT.

Patent Co-operation Treaty

- **Administered by WIPO**
- **System for filing patent applications**
- **Simplifies the procedure for obtaining patents**
- **Signed in June 1970**
- **152 contracting states**



PCT- Overview of the Process



1.3.1

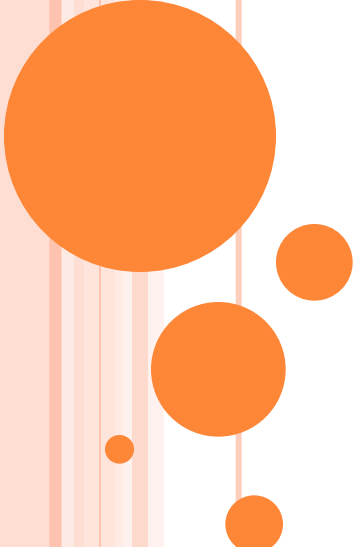


PATENT STATISTICS

Year	Applications			Registrations		
	Resident	Non Resident	Total	Resident	Non Resident	Total
2011	194	235	429	45	227	272
2012	242	297	539	37	89	126
2013	328	188	516	71	165	236
2014	314	222	536	43	220	263
2015	218	263	481	38	224	262
2016	278	294	572	41	83	124
2017 (Jan-Apr)	77	76	153	8	28	36



THANK YOU



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