



WINCO

VIETNAM - INTERNATIONAL PATENT, TRADEMARK & COPYRIGHT LAW FIRM

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A GUIDE TO FILING A PATENT/UTILITY SOLUTION APPLICATION IN VIETNAM

A. PCT APPLICATION

Filing deadline

1. The deadline for a PCT application to enter Vietnam National Phase is **31 months** from the earliest priority date (or the international filing date if the international application does not claim priority right).
2. A grace period for nationalizing a PCT application in Vietnam is not obtainable unless the late filing is caused by force majeure (wars, natural disasters, accidents...).

Required information

1. Full name(s), address(es) and nationality(ies) of the applicant(s);
2. Full name(s), address(es) and nationality(ies) of the inventor(s);
3. Country(ies), application number(s) and filing date(s) of the priority application(s);
4. PCT application/publication number.

Required documents

1. An English version of the specification (preferably in Word format)
A Vietnamese translation of the specification must be filed at the time of filing the application. It is **impossible** to request for late filing the Vietnamese specification. Thus, please provide us with an English version of the specification in good time before the filing deadline to allow us have sufficient time for translation.
2. Power of Attorney (POA) (notarization/legalization is not required).
 - The deadline for submitting the original POA is **34 months** from the earliest priority date (or the international filing date if the international application claims no priority). This deadline is **non-extendable**.
 - If it is submitted within this period, no extra fee will be incurred. If it is not submitted by the deadline, a Decision on refusal of the application will be issued. Thus, please send us the original POA via **courier** in good time before the deadline for submission.
 - In case we already have a general POA in the name of the same applicant, we can use its copy for filing new applications, and thus no additional original POA is required.
3. Notification of the Recording of a Change (PCT/IB/306), Amendments under Article 19, Amendments under Article 34, if any.

Note: Priority document(s) is/are NOT required



B. PARIS CONVENTION APPLICATION

Filing deadline

1. The deadline for filing an application claiming priority under the Paris convention is **12 months** from the priority date.
2. There is **no grace period** for claiming priority right, unless the late filing is caused by force majeure (wars, natural disasters, accidents...).

Required information

1. Full name(s), address(es) and nationality(ies) of the applicant(s);
2. Full name(s), address(es) and nationality(ies) of the inventor(s);
3. Country(ies), application number(s) and filing date(s) of the priority application(s);
4. International Patent Classification (IPC) of the invention. If this information is not provided, fees for classifying the invention will be charged.

Required documents

1. An English version of the specification (preferably in Word format)
A Vietnamese translation of the specification must be filed at the time of filing the application. It is **impossible** to request for late filing the Vietnamese specification. Thus, please provide us with an English version of the specification in good time before the filing deadline to allow us have sufficient time for translation.
2. Power of Attorney (POA) (notarization/legalization is NOT required)
 - The deadline for submitting the original POA is **01 month** from the filing date. This deadline is **non-extendable**.
 - If it is submitted within this period, no extra fee will be incurred. If it is not submitted by the deadline, a Decision on refusal of the application will be issued. Thus, please send us the original POA via **courier** in good time before the deadline for submission.
 - In case we already have a general POA in the name of the same applicant, we can use its copy for filing new applications, and thus no additional original POA is required.
3. Priority document(s)
 - The deadline for submitting the priority document(s) is **3 months** from the filing date. This deadline is **non-extendable**.
 - If it is submitted within this period, no extra fee will be incurred. If it is not submitted within this period, the priority right will be lost, and the application will be considered a regular application. Thus, please send us the **original** priority document(s) via **courier** in good time before the deadline for submission.
 - If the priority document is in a language other than English, please also send us an English translation of its bibliographic page(s) for our translation into Vietnamese.



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C. REGULAR APPLICATION

Required information

1. Full name(s), address(es) and nationality(ies) of the applicant(s);
2. Full name(s), address(es) and nationality(ies) of the inventor(s);
3. International Patent Classification (IPC) if the invention. If this information is not provided, fees for classifying the invention will be charged.

Required documents

1. An English version of the specification (preferably in Word format)
 - A Vietnamese translation of the specification must be filed at the time of filing the application. Thus, please provide us with an English version of the specification for our translation.
2. Power of Attorney (POA) (notarization/legalization is NOT required)
 - The deadline for submitting the original POA is **01 month** from the filing date. This deadline is **non-extendable**.
 - If it is submitted within this period, no extra fee will be incurred. If it is not submitted by the deadline, a Decision on refusal of the application will be issued. Thus, please send us the original POA via **courier** in good time before the deadline for submission.
 - In case we already have a general POA in the name of the same applicant, we can use its copy for filing new applications, and thus no additional original POA is required.



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PROCEDURES

Patent/utility solution applications will be formally examined, then published, and then substantively examined.

Formality examination

- For non-PCT application, formality examination period is **01 month** from either (i) the filing date (if all required documents have been submitted), or (ii) the date on which the NOIP receives all required documents, whichever is later.
- The time to start formally examining a national phase application of a PCT application is the first day of the **32nd** month from the earliest priority date. Formality examination period is **01 month** from either (i) the start date (if all required documents have been submitted), or (ii) the date on which the NOIP receives all required documents, whichever is later. If the applicant wishes to have the application examined earlier, a Request for early formality examination should be filed, and fees (totally **60.00 USD**) for filing such Request will be charged.
- In practice, this period is often delayed due to the NOIP's backlog. If the examination results are positive, the NOIP will issue a Decision on acceptance of the application. On the contrary, the NOIP will issue a formality Office action.

Publication

- A valid patent/utility solution application is published in the **19th month** from either (i) the earliest priority date or the filing date (if no priority is claimed), or (ii) within **02 months** from the date of official acceptance of valid application, whichever is later.
- Substantive examination process only starts after the application is published. If the applicant wishes to have the application published earlier, and thus the application will be substantively examined earlier, a Request for early publication should be filed, and fees (totally **60.00 USD**) for filing such request will be incurred.

Substantive examination

- For patent applications, a request for substantive examination together with examination fees must be filed within **42 months** from the earliest priority date;
- For utility solution applications, a request for substantive examination together with examination fees must be filed within **36 months** from the earliest priority date;
- It is **impossible** to extend the deadline unless the delay is caused by force majeure (wars, natural disasters, accidents...).
- Under the regulations, the substantive examination period is **18 months** from either (i) the publication date (if the request for substantive examination is filed before the publication date), or (ii) the request date (if the request is filed after the publication date). However, this period is often delayed in reality.
- Vietnamese examiners often rely on the examination outcomes of large patent offices, such as the USPTO, EPO, JPO, KIPO, SIPO, etc., of the equivalent applications when examining Vietnamese applications. Thus, to accelerate the examination process, you are advised to inform us of equivalent patents once they are granted.



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Annuities

- The validity term of an Invention Patent is **20 years** and of a Utility Solution Patent is **10 years** from the regular filing date;
- Annuity is required to be paid only after a Patent is granted;
- The first annuity is paid together with granting fees. Next annuities are due on the anniversary of the granting date;
- A grace period of **6 months** is available with a surcharge of 10% of the fees for each month late;
- Unless otherwise instructed, we will send reminders for payment of annuities around 2 months prior to the deadlines.