

ASEAN PATENT EXAMINATION CO-OPERATION (ASPEC) PROGRAM IN VIETNAM

Overview

The ASEAN Patent Examination Co-operation (ASPEC) is the first regional patent work-sharing program among ASEAN IP Offices, with objective of reducing duplication of the patent search and examination (S&E) work, thereby saving time and improving the quality of S&E results.

Currently, almost all the ASEAN member states (AMS) are part of this program includes:

1. Brunei Darussalam,
2. Cambodia,
3. Indonesia,
4. Lao PDR,
5. Malaysia,
6. Philippines,
7. Singapore,
8. Thailand and
9. Vietnam.

With ASPEC, one application claims priority from another or both applications claim priority to the same basis application. Although the S&E results carried out by one Office is not binding on other Offices, it is of persuasive value. In other words, the S&E results of another AMS IP Office serves as a useful reference in producing quality reports.

In addition, ASPEC operates in the English language on all participating AMS IP Offices, so it is time-saving and resources. Besides, there is free-of-charge to the applicant at any participating AMS IP Offices. However, local search and examination fees at AMS IP Offices will still apply.

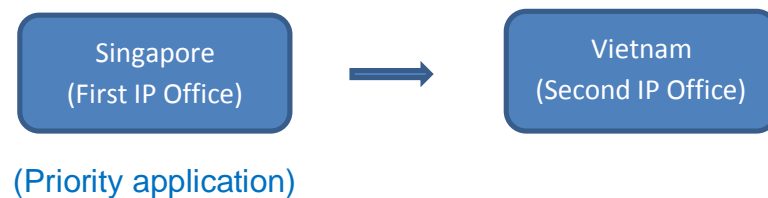
Some of AMS IP Offices allow the ASPEC request be filed when responding to an adverse report and, in accordance with the National Office of Intellectual Property (NOIP), even any time before a final determination of grant or refusal in Vietnam.

Eligibility

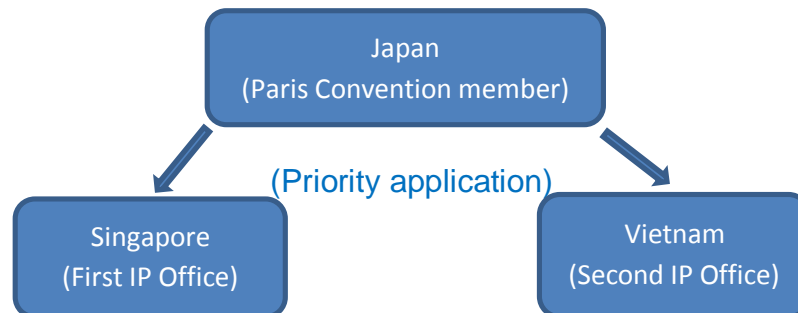
All patent applicants are allowed to participate in the ASPEC program, if they satisfy any one of the requirements under the ASPEC system works. For the purposes of illustration, below is a graphical representation of ASPECs scenarios. And it represents a Corresponding Application with respect to a Vietnam Application, if the ASPEC Request Form is filed with the NOIP:

Paris Convention Priority Link

Scenario 1:

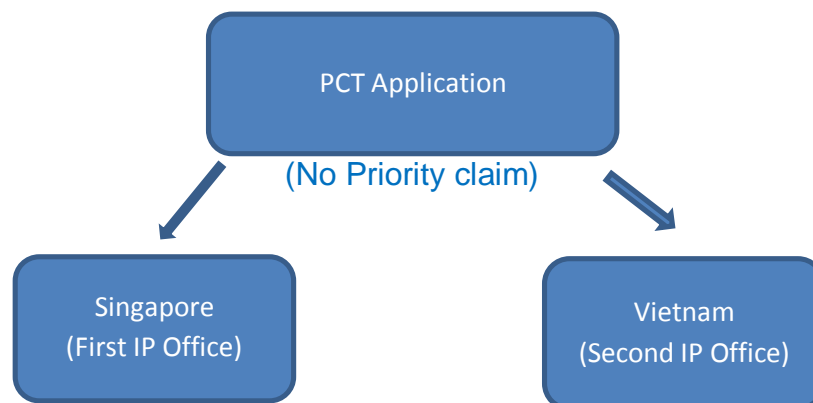


Scenario 2

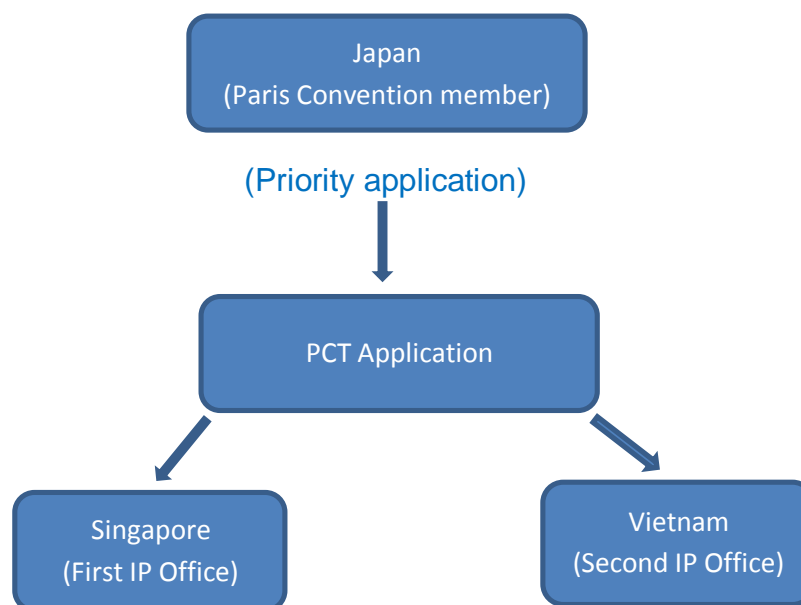


PCT Link

Scenario 3:



Scenario 4:



Required Document

Patent Applicants shall be met just one common form – the ASPEC Request Form, without the need to pay any fee. The following English documents may be requested and furnished together with the said form:

- A copy of the search report (if required);
- A copy of the examination report;
- A copy of claims referred to in the examination report; and
- A claim correspondence table (optional).

Where the above-listed documents are not filed in English language, patent applicant may file a verified or, where required, a certified English translation of the documents with the relevant patent office.

In Vietnam, the NOIP requires patent applicants to file a verified English translation only in cases “when there are contradiction(s) or doubts or the likes in the content of the ASPEC documents”.

PCT, PPH & ASPEC – Comparison in examination

	PCT	PPH*	ASPEC
S&E Report	S&E by examiners at the NOIP; ISA; IPEA	S&E Report from the Office of first filing (bilateral agreement)	S&E Report(s) from any participating IP Office (multi-agreement)
Quality of S&E Report	A lot of limited and shortcomings	Improved quality since the references help examiners to develop their search criteria or strategy more quickly, reducing searching and/or assist they to understand the claimed invention faster	Improved quality since the references help examiners to develop their search criteria or strategy more quickly, reducing searching and/or assist they to understand the claimed invention faster
Expedited Examination	Up to 18 months	Expedited examination of PPH applications – advanced out of turn	Expedited S&E work as an IP Office can refer to the S&E work of another participating IP Office – advanced out of turn until grant
First Office Action (OA)	1.5 – 2 years	6 months	6 months

Grant Certificate	3 – 4 years	Grant certificate will be processed and issued faster than normal	Grant certificate will be processed and issued in shortened within the normal timeframe
Examination request term	Examination request shall be submitted within 42 months counted from the filing date or the date of priority	PPH request is required to be filed at a specific point in time	ASPEC request can be filed at any time before a final determination of grant or refusal
Language	Vietnamese	English	English

*The PPH between the JPO and the NOIP is on a trial basis and is expected to come into effect on April 1, 2016

If you need any further information or assistance, please feel free to ask us.

We thank you for your kind attention and remains.

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ASPEC Q&A

WHAT

ASPEC stands for the ASEAN Patent Examination Cooperation – a multilateral agreement for work-sharing program of patent search and examination (S&E) results.

WHICH countries participating?

At this moment, there are 9 countries participating in the ASPEC program, includes: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Philippines, Singapore, Thailand, and Vietnam.

HOW do two patent applications qualify as corresponding?

On basis, it can be corresponding patent applications in two or more ASEAN states. Two applications are considered corresponding if one application claim priority from another one, or if both application claims priority from the same basic application.

WHAT language is used?

ASPEC operates in the English language in all participating ASEAN Member States (AMS) IP Offices and not need to be verified unless requested for by the Office.

In Vietnam, the National Office of Intellectual Property (NOIP) requires to file a verified English translation only in cases “when there are contradiction(s) or doubts or the likes in the content of the ASPEC documents”.

WHEN a request can be filed

Differently among AMS, the request for the ASPEC program shall be filed depending upon the national requirement, in particular as following:

- In Indonesia and the Philippines, the request is filed at any time before requesting the search and/or S&E.
- In Brunei Darussalam, Cambodia, Lao PDR, Malaysia, Singapore and Thailand, the request is filed at the time of: (i) requesting the S&E with the Second IP Office; or (ii) response to the adverse examination report/written opinion.
- In Vietnam, the request can be filed at any time before issuance of patent grant.

WHAT is the procedure?

Firstly, the ASPEC request has to be filed by a patent applicant in the First IP Office, i.e. Vietnam. The Vietnam patent application must claim priority from an application filed with an ASPEC member (the Second IP Office) or share the same priority as the application filed in the other participating AMS.

Then, the S&E results issued by the Second IP Office would be made available to the First IP Office.

WHAT documents required?

When requesting examination, an applicant is to submit:

- An ASPEC Request Form;
- A copy of the S&E opinion issued by another participating AMS IP Office;
- A copy if the claims that have been searched and examined on.

DOES the ASPEC replace national search and examination?

No, the S&E of another participating AMS IP Office only serves as a guide and a useful reference. The concerned office would have to conclude its own search and examination and grant a

patent in accordance with its national laws.

HOW much does it cost?

Patent applicants at any participating AMS IP Office are not required to pay any fee for ASPEC program. However, local search and examination fees at AMS IP Office will still apply.

HOW benefit will you get from using ASPEC program?

With ASPEC, reference to earlier work done by another AMS IP Office could help an examiner to develop his search criteria or strategy more quickly, reducing searching and/ or assist the examiner to understand the claimed invention faster.

Hence, ASPEC program reduce S&E duplication, thereby saving time and resources. Simultaneously, the S&E results provide the examiner with value information in order to produce quality reports.

Obviously, participation in the ASPEC program is relatively simple, straightforward, and yet time and cost effective.