

Patent Agency Services (28) - General FAQs and FAQs in relation to CEPA and its Supplements (up to 2006 Liberalization Measures)

1. Who may benefit from the opening up of patent agency services in the Mainland?

All permanent residents who hold Chinese citizenship and meet the prescribed requirements in Question 4 below may benefit from the opening up of the Mainland patent agency services by taking the National Qualification Examination for Patent Agents and, subject to compliance with certain prescribed conditions, practising as patent agents in the Mainland.

2. What types of services do Mainland Patent Agents provide?

The services include:

- (1) providing patent-related consultation services;
- (2) drafting patent application documents and handling patent applications, handling matters relating to request for substantive examination and re-examination of patent applications;
- (3) raising disagreements, handling matters relating to revocation of patents; and
- (4) handling matters relating to transfer and licensing of patents.

3. How can I practise as a patent agent in the Mainland?

Any person who wishes to qualify as a patent agent in the Mainland has to pass the National Qualification Examination for Patent Agents and obtain a Patent Agent Qualification Certificate. After obtaining the above certificate, he has to complete one full year of apprenticeship in an authorised patent agency in the Mainland (or the Hong Kong or Macao office of such Mainland patent agency.) According to *the Measures for the Administration of Patent Agencies* (《專利代理管理辦法》), a successful candidate, after completing one-year apprenticeship, can apply for the Patent Agent Work Permit through the All-China

Patent Agents Association (《中華全國專利代理人協會》), as long as he continues to practise in an authorised patent agency in the Mainland (or the Hong Kong or Macao office of such Mainland patent agency).

Any Hong Kong resident who is permitted to practise in the Mainland may, subject to complying with certain prescribed conditions, become a partner or shareholder of a Mainland patent agency.

4. What are the eligibility requirements for Hong Kong residents taking the Examination?

Hong Kong residents taking the National Qualification Examination for Patent Agents are required to satisfy the following eligibility requirements:

- (1) being permanent residents of the Hong Kong Special Administrative Region holding Chinese citizenship;
- (2) possessing graduate qualifications in the field of science or engineering from tertiary education institutions in the Mainland, Hong Kong or Macao, or equivalent qualifications from other countries or territories approved by the Ministry of Education of the People's Republic of China;
- (3) having attained the age of 18; and
- (4) having two years' working experience in the applied science or legal field.

5. How often will the Examination be held?

The National Qualification Examination for Patent Agents will be held annually on the first weekend of November.

6. Where and when should applicants submit their applications?

Eligible residents of the Hong Kong Special Administrative Region intending to take the National Qualification Examination for Patent Agents 2008 should submit their application forms

together with the relevant documents in person to the Intellectual Property Department of the Hong Kong Special Administrative Region (IPD) located on 24th Floor, Wu Chung House, 213 Queen's Road East, Wan Chai, Hong Kong. The application period is from 13 May to 10 June 2008. Late application will not be accepted. Hong Kong residents must submit their applications through IPD to the processing bodies in the Mainland.

For use of personal data, please see attached.

7. Which organization is responsible for determining the eligibility of applicants?

The State Intellectual Property Office of the People's Republic of China (SIPO) is solely responsible for determining whether Hong Kong applicants comply with the eligibility requirements set out in Question 4.

8. What fee is payable for taking the examination? Should it be paid when the application form is submitted?

Applicants need to pay the expenses for sending the applications and relevant documents to Beijing by speed post, plus 20% of such expenses as the administration fee. The fee should be paid to IPD at the time of collection of their notification of eligibility for examination.

Successful applicants should pay the application fee to SIPO when they report to the examination centre in Guangzhou on 31 October 2008.

9. What documents are required to be submitted by applicants at the time of application?

The following documents and information should be submitted on application:

- (i) copies of identification documents and proof of academic qualifications and working experience which have been attested by a China-appointed attesting officer;
- (ii) if any document in paragraph (i) above is not in Chinese, a copy of its Chinese translation; the

translation may be prepared by the applicant and need not be attested;

- (iii) one completed and signed application form;
- (iv) three recent colour photos of the applicant (without headgear) measuring 1 inch and
- (v) two copies of all the documents and information listed in paragraphs (i), (ii) and (iii) above.

10. In relation to Question 9, what identification documents are applicants required to submit to prove that they are Hong Kong permanent residents holding Chinese citizenship?

Applicants should submit the following identification documents:

- (i) a copy of their Hong Kong permanent identity card; and
- (ii) a copy of their Hong Kong Special Administrative Region Passport or Home Visit Permit for Hong Kong and Macao Residents.

As stated in Question 9, these identification documents should be attested by a China-appointed attesting officer and verified to correspond with the original documents.

11. How can applicants obtain information about China-appointed attesting officers?

The relevant information can be obtained from the website of the Association of China-Appointed Attesting Officers Limited at <http://www.caa.org.hk/>.

12. For applicants who have applied for the National Qualification Examination for Patent Agents in 2004, 2006 or 2007, will they be exempted from submitting the original attesting certificates as required by SIPO?

Hong Kong candidates applying for the National Qualification Examination for Patent Agents 2008 will be exempted from the requirement of submitting the original attesting certificates if they meet the following criteria:

- (1) Having taken the National Qualification Examination for

- Patent Agents in 2004, 2006 or 2007;
- (2) Being able to provide the copy of the examination pass or its number for the National Qualification Examination for Patent Agents taken in 2004, 2006 or 2007; and
 - (3) Having no change regarding the identification documents. In case of changes (for example, replacement with smart identity cards), copies of the new identification documents which have been attested by a China-appointed attesting officer should be submitted together with the original attesting certificates.

Candidates who meet the above criteria only need to submit the following documents and information on application:

- (i) copies of identification documents and proof of academic qualifications and working experience which have been attested by a China-appointed attesting officer;
- (ii) if any document in paragraph (i) above is not in Chinese, a copy of its Chinese translation; the translation may be prepared by the applicant and need not be attested;
- (iii) one completed and signed application form;
- (iv) three recent colour photos of the applicant (without headgear) measuring 1 inch and
- (v) two copies of all the documents and information listed in paragraphs (i), (ii) and (iii) above.

Candidates who do not meet the above criteria are still required to submit the original attesting certificates issued by a China-appointed attesting officer for attesting copies of their identification documents and proof of academic qualifications and working experience.

13. What subjects are covered by the fields of “science and engineering”?

According to the information compiled by the Ministry of Education of the People’s Republic of China, the subjects listed in the Appendix are covered under the fields of “science and engineering” (<http://www.sipo.gov.cn/sipo/zldl/doc/lgkdzb.doc>).

As regards other subjects or combined programmes that are related to science or engineering but are not listed in the Appendix, SIPO

will consider them on a case-by-case basis. Applicants may refer to Question 16 regarding the arrangements for approval of academic qualifications.

14. Are all degrees, diplomas or associate degrees in the field of science or engineering that are awarded by Hong Kong tertiary education institutions accepted for the purpose of the Examination?

Generally speaking, degrees in the field of science or engineering awarded by all Hong Kong universities would be accepted for the purpose of the Examination. Diplomas or associate degrees in the field of science or engineering awarded by other tertiary educational institutions are required to be approved by the Ministry of Education of the People's Republic of China on a case-by-case basis. Applicants may refer to Question 16 regarding the arrangements for approval of academic qualifications.

15. Will overseas academic qualifications be accepted?

Academic qualifications in the field of science or engineering from tertiary education institutions of other countries or territories would also be accepted if they are approved by the Ministry of Education of the People's Republic of China. Applicants may refer to Question 16 regarding the arrangements for approval of academic qualifications.

16. What should applicants do if they need to seek approval of their academic qualifications?

It is not necessary for applicants to approach SIPO or the Ministry of Education of the People's Republic of China directly to obtain approval of their academic qualifications. They are only required to submit the documents and information listed in Question 9 at the time of application. Upon receipt of the relevant documents, SIPO will forward their academic qualifications to the Ministry of Education for processing.

17. How can applicants prove their work experience in the applied science or legal field?

Applicants should furnish documentary evidence provided by the relevant employer(s) setting out information on their period of employment, their rank, the nature and areas of their work. As stated in Question 9, such documentary evidence should be attested by a China-appointed attesting officer. If any of the above-mentioned documents is not in Chinese, applicants should prepare and submit corresponding Chinese translation. The translation copy of the documents need not be attested.

18. Is overseas working experience taken into account?

Yes.

19. How would applicants be notified of the results of their applications?

SIPO is responsible for determining whether the applicants have satisfied the eligibility requirements of the Examination. Applicants who satisfy the eligibility requirements will receive notification letters containing details which include the examination venue, the time and procedures for reporting at the examination centre, and the arrangements for collecting the examination passes, etc.

20. What subjects will be examined?

The Examination consists of three subjects as follows:

- (1) Knowledge on Patent Laws; (Full marks:150)
- (2) Related Legal Knowledge; and (Full marks:100)
- (3) Work Practices of Patent Agents. (Full marks:150)

21. What form will the Examination take?

All examinations will be closed book examinations. The examination of Knowledge on Patent Laws and Related Legal Knowledge will be in the form of multiple-choice questions, while essay-type questions will be found in the examination paper of Work Practices of Patent Agents.

22. How can applicants obtain revision materials for the Examination?

Applicants may base their revision and presentation on “The Guidebook on National Qualification Examination for Patent agents 2008”. The content of “The Guidebook on National Qualification Examination for Patent Agents 2008” and “The Guidebook on National Qualification Examination for Patent Agents 2007” are the same. Applicants who have “The Guidebook on National Qualification Examination for Patent Agents 2007” do not have to make a new purchase.

23. Is the Examination going to be conducted in Chinese?

The examination papers are written in simplified Chinese characters. Answers should be provided in Chinese. However, Hong Kong candidates may use traditional Chinese characters in answering the questions.

24. Will the Examination papers and results be published?

After the examination, SIPO will release the examination papers on the subjects of Knowledge on Patent Laws and Related Legal Knowledge with draft model answers and invite comments from the public within a specified period.

After issuing the Patent Agent Qualification Certificates, SIPO will release the examination paper of the subject Work Practices of Patent Agents with model answers.

25. How to determine the passing rate of the examination?

The admission rate of National Qualification Examination for Patent Agents 2008 will be determined according to the actual demand for patent agents and the principle of admitting candidates with the best performance in terms of total examination scores and scores for the single subject of work practices of patent agents. The admission rate will be determined by the Patent Agent Examination Board (專利代理人考核委員會) after deliberation. The members of the Examination Board include the

representatives from SIPO, Ministries and Commissions under the State Council, All-China Patent Agents Association and patent agencies.

26. How can the application form be obtained?

The application form can be downloaded from the websites of IPD (http://www.ipd.gov.hk/chi/mainland_networking/exam_patent_agent_08/attachment.pdf) or SIPO (<http://www.sipo.gov.cn/sipo/ztxx/2008zldlrks/200802/P020080214336701066900.doc>) respectively.

27. How can persons interested in the Examination obtain further information?

For further information about the Examination, please visit the website of SIPO at (<http://www.sipo.gov.cn>). Enquiries may also be directed to SIPO by way of e-mail to wangaiqing@sipo.gov.cn. SIPO may answer these enquiries directly by means of e-mails or may do so by posting replies to questions that are commonly raised on their official website. Moreover, individuals intending to take the Examination may direct their enquiries by way of e-mail to IPD (Email: enquiry@ipd.gov.hk). IPD will forward enquiries from Hong Kong residents to SIPO for their reply.

28. Is there any pre-examination training course?

Various parties including the China Intellectual Property Training Centre, local intellectual property office and the All-China Agents Association may arrange pre-examination training courses for the National Qualification Examination for Patent Agents 2008. Candidates can enrol in the pre-examination training courses organised in the Mainland. Should IPD receive relevant information relating to the pre-examination training courses, it will be announced in the IPD website.