

Patent Agency Services

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

All Hong Kong permanent residents holding Chinese citizenship, subject to compliance with certain prescribed conditions, who pass the Qualification Examination for Patent Attorneys can benefit from the opening up of the Mainland patent agency services by way of practising as patent attorneys in the Mainland.

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

The services mainly include:

- (1) handling patent applications on behalf of the applicants;
- (2) accepting appointments to handle matters relating to invalidation of patents;
- (3) handling patent-related matters including transfer of patent applications and patent as well as concluding patent licensing contracts; and
- (4) providing patent-related consultation services.

For details, please refer to section 13 of “Regulations on Patent Commissioning” in the website of the State Intellectual Property Office at http://www.gov.cn/zhengce/content/2018-11/19/content_5341736.htm (Chinese version only).

3. How can I qualify and practise as a patent attorney in the Mainland?

Any person who wishes to qualify as a patent attorney in the Mainland has to pass the Qualification Examination for Patent Attorneys and obtain a Patent Attorney Qualification Certificate. After obtaining the above certificate, he/she has to complete one full year of apprenticeship in an authorised patent agency in the Mainland (or the Hong Kong office of such Mainland patent agency). A successful candidate, after completing one-year apprenticeship, can practise as a patent attorney as long as he/she continues to work in an authorised patent agency in the Mainland (or the Hong Kong office of such Mainland patent agency). A patent attorney should file with a relevant Mainland government department responsible for patent matters, through the Patent Agency Management System, within thirty days starting from the day when he/she goes into practice as a patent attorney as follows:

- (1) A Hong Kong resident practising in an authorised patent agency in the Mainland should file with the relevant authorities responsible for

intellectual property in the province where the agency is located;

- (2) A Hong Kong resident practising in the Hong Kong office of such Mainland patent agency should file with the Beijing Intellectual Property Office.

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

4. How can the information regarding the Qualification Examination for Patent Attorneys be obtained?

Please refer to website of Intellectual Property Department (IPD) at <https://www.ipd.gov.hk/en/mainland-international-cooperation/mainland-cooperation/national/index.html> and website of the State Intellectual Property Office at <http://agent.cnipa.gov.cn:8000/sipo/index.action> (Chinese version only).

5. What are the rules and regulations concerning patent agency services promulgated by the Mainland authorities to implement the commitments under CEPA?

Rules and regulations promulgated by the Mainland authorities relating to the implementation of commitments under CEPA are:

- (1) “Patent Law of the People's Republic of China” (Oct 2020) (in Chinese only)
https://www.cnipa.gov.cn/art/2020/11/23/art_97_155167.html
- (2) “Rules for the Implementation of the Patent Law of the People's Republic of China” (2023 Revision – Dec 2023) (in Chinese only)
https://www.gov.cn/zhengce/content/202312/content_6921633.htm
- (3) “Regulations on Patent Commissioning” (Order of the State Council No. 706 – Nov2018) (in Chinese only)
http://www.gov.cn/zhengce/content/2018-11/19/content_5341736.htm
- (4) “Administrative Measures on Patent Agent” (Order of the State Administration for Market Regulation of the People's Republic of China No. 6 – May 2019) (in Chinese only)
https://www.gov.cn/zhengce/zhengceku/2019-10/21/content_5442904.htm
- (5) “Administrative Measures on Foreign Patent Agency Setting Up Resident Representative Offices in China” (Circular of the China National Intellectual Property Administration No. 1 – Jan 2022) (in Chinese only)
http://www.cnipa.gov.cn/art/2022/1/11/art_75_172715.html