

## Fast-Tracking Patent Examination in Vietnam: Utilizing Foreign Examination Results

*Fast-tracking Vietnamese patents is a common goal for applicants, especially considering Vietnam's status as a hotbed for foreign investment and the typically long patent prosecution timelines. The standard patent examination process in Vietnam can take 3-5 years or even longer. This delay can significantly impact a company's ability to exploit its invention and gain a competitive edge. The extended prosecution time eats into the effective life of a patent, leaving less time for companies to recoup their R&D investment and generate returns after the patent is granted. Therefore, expediting patent grants is a pressing need for many patent owners in Vietnam.*

**KENFOX IP & Law Office** provides insights on one of the recent provisions on patent acceleration in Vietnam. In a significant development for IP protection, Circular 23/2023/TT-BKHCHN, issued by the Ministry of Science and Technology (MOST) on November 30, 2023, has officially **codified** the use of foreign examination results to facilitate the expedited examination of inventions in Vietnam by using foreign examination results. Under Article 16.9, the Vietnam Intellectual Property Office (VNIPO) may now consider search reports and examination results from corresponding overseas patent applications during the substantive examination process of a [Vietnamese patent application](#).

### What Are The Benefits Of Using Foreign Examination Results?

This new regulation provides applicants a valuable opportunity to expedite the patent examination process in Vietnam. By submitting examination results from recognized foreign intellectual property offices, applicants can:

- Significantly reduce the time required for the Vietnamese patent office to examine the application.
- Decrease costs associated with the Vietnamese patent office conducting its own search and examination.
- Enable earlier market entry and [commercialization of the invention](#).

### What Are Specific Requirements For Expedited Examination?

To benefit from this fast-track mechanism, applicants must meet several critical conditions:

- **Recognized Patent Office:** The foreign examination result must originate from a recognized patent office. While the circular doesn't explicitly list specific offices, it's likely to include major offices like the European Patent Office (EPO), the United States Patent and Trademark Office (USPTO), the Japan Patent Office (JPO), Korean Intellectual Property Office (KIPO), and the China National Intellectual Property Administration (CNIPA).
- **Pending Application:** The Vietnamese patent application must not have received a substantive examination result yet.
- **Patentable Claims:** At least one claim in the foreign examination result must be considered patentable.
- **Identical Claims:** The claims in the Vietnamese application (either initially or after amendment) must be identical to the patentable claims in the foreign examination result.

### Is The Procedure For Submitting A Patent Expedited Examination Request Complicated?

Applicants can submit a request to use the foreign examination result, along with the necessary documentation, to the VNIPO. The required documents include:

- A request for utilization of examination results of a foreign patent office;
- A copy of examination results and its translation (*if required*);
- Claims requested for protection evaluated by the foreign patent office as satisfying protection conditions and [translations thereof](#) (*if required*);
- Any documents referenced in the foreign examination results (*if required*).
- If the specification has been modified, a [revised specification](#) and a detailed explanation of the modifications.

The VNIPO will review the request and, if accepted, use the foreign examination result as a reference during the examination process. This will lead to a faster examination process and potentially lead to faster patent grants.

## Which Patent Office's Examination Results Are Considered Important?

While the Circular allows for the utilization of examination results from various patent offices, it's important to recognize that the VNIPO may give different weight to results from different offices. The VNIPO often relies on the work of other patent offices to streamline its patent examination process, particularly those known for their rigorous examination procedures.

Patent offices such as the EPO, USPTO, and JPO have a strong reputation for high-quality examination, and a granted patent from these offices signals that the invention has undergone thorough scrutiny. Consequently, the VNIPO tends to place more trust in the examination results from these offices.

## Can Chinese Patents Be Used To Expedite Patent Examination In Vietnam?

Chinese patents can also be used as a reference for expediting patent examination in Vietnam. There is no legal requirement to exclusively use [European patents](#). Submitting a granted Chinese patent to the VNIPO can serve as supporting evidence during the examination process, demonstrating that the invention has been deemed patentable in another major jurisdiction.

If the granted [Chinese patent](#) has been amended compared to the Vietnamese application, applicants can consider amending the Vietnamese claims to match those of the granted Chinese patent. However, it is crucial to ensure that any subject matter not patentable under Vietnamese patent law is removed, to increase the likelihood of the Vietnamese patent being quickly granted.

## Final thoughts

Circular 23/2023/TT-BKHCN provides a valuable opportunity for patent applicants to expedite the examination process in Vietnam by using foreign examination results. By strategically using foreign examination results and complying with the procedural requirements, applicants can significantly reduce the time required to secure patent protection, ensuring their innovations can be commercialized and protected without unnecessary delays.

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