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Intellectual Property

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How China's fast-track examination for Hong Kong patent applicants can benefit you

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Did you know?

A pilot program providing Hong Kong applicants with the opportunity to expedite their patent applications filed in China has been in place since 1 Jan 2023. The scheme allows Hong Kong permanent residents and entities legally registered in Hong Kong to request prioritized examination for their patent applications before the China National Intellectual Property Administration.

Although a Prioritized Patent Examination policy to expedite the examination of patents in cutting-edge fields such as the internet, big data, and cloud computing, has been in place since 2017, this was practically limited to domestic patent owners as it was difficult for Hong Kong applicants to obtain the necessary sign offs and recommendations for their requests from the State Council or provincial intellectual property offices. The pilot program means that Hong Kong patent applicants can now benefit from the accelerated examination process which can shorten the examination cycle of invention patent applications from 1-3 years to 1 year. However, according to the Guangzhou and Shenzhen Patent Offices, the number of Hong Kong applicants currently applying to participate in the program is very small.

Why does this matter to you?

The program is important as it allows international companies to use their affiliated companies or subsidiaries in Hong Kong as applicants or co-applicants to apply for prioritized examination. Previously, international companies had to file patent applications in the name of their subsidiaries in China in order to benefit from accelerated examination, and then transfer the patents back. This approach was not only expensive and time consuming, but there were also uncertainties and obstacles to the export of sensitive technologies, as it is necessary to pass a technology export clearance review if patents held by a Chinese subsidiary are to be transferred back to an international parent company. However, the transfer of patents from a *Hong Kong company* to an international parent company does *not need* to go through China's technology export clearance procedures.

Businesses can also consider partnering with Hong Kong companies to file patent applications and seek expedited examination as co-applicants. Hong Kong is already a strategic location for businesses setting up in Asia and, for international companies in areas with rapid technology developments and fast product life cycles, such as internet, big data, cloud computing, artificial intelligence, semiconductor, biotechnology, environment protection, high-end technology manufacturing, new materials, and energy conservation, the ability to obtain faster patent protection in China will be significant.

It is also important to note that the patent applications requesting accelerated examination do not need to be the first filings in China. Applications claiming priority from an earlier Hong Kong or overseas priority application under the Paris Convention or under the PCT can also qualify.

Although announced as a pilot, there is no official end date for the program, and greater use of the scheme could result in a more permanent arrangement.

Want to know more?

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