

# 香港理工大学专利申请指南

## The Hong Kong Polytechnic University

### Guidelines for Patent Applications

#### 1. 前言 Introduction

- 1.1. 香港理工大学致力于创造、分享和应用知识，以造福香港、国家及全球社会。在此过程中，大学成员常会产出具有价值的知识产权（IP），尤其是发明。为充分发挥这些发明的影响力，港理大支持其发布与商品化，而专利申请正是获得法律保护 and 推动有效技术转移的关键环节。

PolyU is committed to creating, sharing, and applying knowledge for the benefit of Hong Kong, the nation, and the global community. In this process, valuable IP, particularly inventions, is often generated by University Members. To maximise impact, PolyU supports both the publication and commercialisation of such innovations, with patent filing being a key step to secure legal protection and enable effective technology transfer.

- 1.2. 保护大学及其子公司拥有或共同拥有的任何有价值的 IP 也至关重要。若缺乏适当的法律保护，原创构思可能被他人复制，导致研究过程中时间和资源的浪费，并对商品化造成不利影响。而获得专利后，大学和发明人有权阻止他人在未经许可的情况下使用该发明，同时也能为合作或商品化创造更多机会。

It is also crucial to protect any valuable IP that is owned or co-owned by the University and its subsidiaries. Without proper legal protection, original ideas can be replicated by others, leading to wasted time and resources in the research process and posing a disadvantage for commercialisation. Securing a patent gives University and inventors the right to prevent others from using the invention without permission and opens up opportunities for collaboration or commercialisation.

- 1.3. 本指南旨在为管理专利申请过程的工作人员提供操作指导，并为教职员和学生提供有关专利申请过程的实用信息，帮助其为发明进行专利申请。本指南遵循大学知识产权所有权政策（PIP）中明确的原则以及大学知识产权管理条例（RMIP）中明确的规定。

These Guidelines are intended to provide operational guidance to both staff administering the patent application process, as well as practical information on the patent application process for Staff Members and Students on filing patent applications for inventions. These Guidelines follow the principles set out in the University's Policy on Ownership of Intellectual Property (PIP), and the regulations set out in the University's Regulation on the Management of Intellectual Property (RMIP).

1. 4. 根据创造或发明的性质、目的和特点，可采用不同形式的知识产权保护，每种形式提供不同程度的法律保护。典型的保护形式包括针对功能性发明和技术创新的实用新型专利、针对装饰性或美学特征的外观设计专利、针对名称和标识的商标注册，以及针对文字作品、音乐、电影、软件等艺术与文学作品的版权。值得注意的是，大多数形式的知识产权保护，特别是专利，要求公开披露发明。如果发明不适合公开披露，申请专利可能不是最合适的途径。在这种情况下，将发明作为商业秘密或专有技术进行保护可能更为合适。

Different forms of IP protection are available depending on the nature, purpose, and characteristics of the creation or invention, each offering varying degrees of legal protection. Typical forms of protection include utility patents for functional inventions and technological innovations, design patents for ornamental or aesthetic features, trademark registration for names and logos, and copyright for artistic and literary works such as writings, music, films, and software. Notably, most formal IP protections, particularly patents, require public disclosure of the invention. If the invention is not suitable for public disclosure, patenting may not be the most appropriate route. In such cases, the invention may be better maintained as a trade secret or know-how.

## 2. 定义 Definitions

为本指南的目的，下列定义适用：

For the purposes of these guidelines (“Guidelines”), the following definitions shall apply:

“**申请**”是指发明人向知识转移及创业处（KTEO）提交的、用以为发明申请专利的发明披露表(IDF)，以及随后应由 KTEO 填写完成的专利申请表。

“**Application**” means the Invention Disclosure Form (IDF) submitted by the inventor to the Knowledge Transfer and Entrepreneurship Office (KTEO) to file a patent application for the invention, followed by the Patent Application Form, which KTEO should complete.

“**指定高级执行官**”或“**DSE**”是指负责根据本指南进行决策的高级管理执行官，香港理工大学高级副校长（研究及创新）（SVP(RI)）为目前担任的 DSE。

“**Designated Senior Executive**” or “**DSE**” means the senior management executive responsible for decision making under these Guidelines, and the Senior Vice President (Research and Innovation), (“SVP(RI)”) of The Hong Kong Polytechnic University is currently designated as the DSE.

“**DoKTE**”是指港理大知识转移及创业处总监。

“**DoKTE**” means the Director of Knowledge Transfer and Entrepreneurship of PolyU.

“**审查员**”是指国家专利商标局的审查人员，负责对专利申请进行审查并决定是否应授予专利权。

“**Examiner**” means the examiner of a national Patent Trademark Office who examines and determines whether a patent application should be granted.

**“知识产权拥有单位”**是指由大学拥有或控制的任何法律实体，并拥有大学或其子公司的教职员或学生创造的知识产权，包括但不限于香港理工大学、香港理工大学深圳研究院（SZRI）、理大产学研基地（深圳）有限公司（PB）、香港理工大学内地技术创新研究院（MTRIs）或香港理工大学技术创新研究中心（MTRC）。  
**“IP-Ownning Unit”** means any legal entity that is owned or controlled by the University, and owns Intellectual Property created by Staff Members or Students of the University or its subsidiaries, including but not limited to PolyU or The Hong Kong Polytechnic University Shenzhen Research Institute (“SZRI”) [香港理工大學深圳研究院] or PolyU Base (Shenzhen) Limited (“PB”) [理大產學研基地(深圳)有限公司] or PolyU’s Mainland Translational Research Institutes (“MTRIs”) or PolyU’s Mainland Translational Research Centre (“MTRC”).

**“知识产权”或“IP”**是指任何发现、创造、发明、设计、包装、商标、诀窍或任何研究成果及其所有相关权利，无论是否可注册，包括专利、版权、商标、设计、实用新型或任何国家的其他此类权利。

**“Intellectual Property” or “IP”** means any discovery, creation, invention, design, get-up, trademark, know-how or any research effort and all rights pertaining thereto whether registrable or not including patents, copyright, trademarks, designs, utility models, or other such rights in any country.

**“发明人”**是指创造知识产权的教职员或学生。

**“Inventor”** means the Staff Member or Student who creates the Intellectual Property.

**“发明”**是指作为专利申请标的的知识产权。

**“Invention”** means the Intellectual Property that is the subject of a patent application.

**“知识产权费用”**是指用于评估、申请、获得、维持、维权或执行相关知识产权所产生的各项费用，包括法律专业人士、专利律师或代理、国家专利商标局或相关登记机构收取的费用。

**“IP expenses”** means the costs of evaluating, filing, obtaining, maintaining, defending, or enforcing the right of the Intellectual Property concerned, including fees charged by legal professionals, patent attorneys, national patent and trademark offices, or related registrars.

**“KTEO”**是指香港理工大学知识转移及创业处。

**“KTEO”** means the Knowledge Transfer and Entrepreneurship Office of PolyU.

**“指南”**是指本专利申请指南。

**“Guidelines”** means the present document, which is these Patent Application Guidelines.

**“港理大”**是指香港理工大学。

**“PolyU”** means The Hong Kong Polytechnic University.

**“PTeC”**是指香港理工大学科技及顾问有限公司。PTeC代表香港理工大学处理大学知识产权的商品化。

“PTeC” means PolyU Technology and Consultancy Company Limited. PTeC acts on behalf of PolyU in relation to the commercialisation of the Intellectual Property of the University.

“教职员工”是指香港理工大学或其子公司雇佣的员工或合同研究员。

“Staff Member” means any employee or contract researcher employed by PolyU or its subsidiaries.

“学生”是指在大学或其子公司注册或就读于全日制或兼职学术课程或研究的任何学生。

“Student” means any full-time or part-time student who is registered or enrolled in an academic course of study or research at the University or its subsidiaries.

“RMIP”是指香港理工大学知识产权管理条例。

“RMIP” means the Regulation on the Management of Intellectual Property of PolyU.

“PIP”是指香港理工大学知识产权所有权政策。

“PIP” means Policy on Ownership of Intellectual Property of PolyU.

“大学”是指香港理工大学。

“University” means The Hong Kong Polytechnic University.

PIP 与 RMIP 中的定义同样适用于本指南。

The definitions used in PIP and RMIP shall also apply.

### 3. 专利介绍 **Introductions to Patent**

- 3.1. 专利权是由国家或地区专利局授予的法律权利，赋予专利权人在特定期限，通常为 20 年，禁止他人对发明进行商业性使用的权利。专利保护解决技术问题的技术方案，例如装置、过程方法或物质组成，但不保护无具体应用场景的抽象概念、理论或发现。要获得专利，发明必须满足以下关键的专利性要求：

A patent is a legal right granted by a national or regional patent office that gives patent owners the right to exclude others from commercially exploiting the invention for a limited period, typically 20 years. Patents protect technical solutions to problems, such as devices, processes, or compositions of matter, but they do not cover abstract ideas, theories, or discoveries without a specific application. To obtain a patent, an invention must satisfy the key requirements for patentability, including the following:

**新颖性：**发明必须是新颖的，从未在公众公开（例如，在先出版物、产品或专利公开）。

**Novelty:** The invention must be new and not previously disclosed to the public (e.g., in prior publications, products, or patents).

**创造性（非显而易见）：**发明必须包含创造性突破，且该突破对于所属技术领域的技术人员而言并非显而易见。

**Inventive Step (Non-Obviousness):** The invention must involve a creative leap that would not be obvious to someone skilled in the relevant field.

**产业实用性：**发明必须具有实际用途或能够在产业或商业目的中被制造或使用，而非仅为理论现象或单纯的有用性描述。

**Industrial Applicability:** The invention must have a practical use or be capable of being made/used for an industrial or business purpose beyond a mere theoretical phenomenon, or to be useful.

- 3.2. 专利权具有地域性，即保护范围仅限于授予该专利的国家或地区。若要在多个国家或地区获得专利保护，则必须在每个希望获得保护的司法管辖区分别提交专利申请。

Patents are territorial rights, meaning protection is limited to the country or region where the patent is granted. To obtain protection in multiple countries, separate patent applications must be filed in each jurisdiction where coverage is desired.

- 3.3. 大学提交的最常见专利申请类型包括：

The most common patent applications filed by the University are as follows:

#### **临时专利申请**

#### **Provisional Patent Application**

该申请可为发明确立早期申请日并确保优先权，同时为后续研发实验结果或原型数据留出完善空间。其无需包含正式权利要求书以满足同等严格的审查标准，临时专利申请有效期为 12 个月，到期后须转换为正式专利申请或 PCT 国际申请（适用于美国及部分司法管辖区）。

Establishes an early filing date and secures priority for an invention while further experimental results or prototype data are being developed. It does not require formal claims to meet the same rigorous examination standards. It is valid for 12 months, after which it must be converted into a non-provisional or PCT application. *(Applicable in the U.S. and certain jurisdictions.)*

#### **正式（完整）专利申请**

#### **Non-Provisional (Complete) Patent Application**

该申请需包含完整的技术说明书、权利要求书及附图，并接受专利性实质审查。申请人可直接向当地专利局（如中国国家知识产权局、香港知识产权署或美国专利商标局）提交，也可通过 PCT 体系进入国家阶段提交。

Contains the full technical disclosure, claims, and drawings, and undergoes substantive examination for patentability. It may be filed directly in the local patent office (e.g., CNIPA, IPD Hong Kong, or USPTO) or as a national phase entry under the PCT system.

## PCT（专利合作条约）国际申请

### PCT (Patent Cooperation Treaty) International Application

该申请通过提交一份国际申请即可获得 **150** 多个成员国的认可，可提供长达 **30** 至 **31** 个月的时间来决定在哪些国家寻求国家阶段保护。PCT 申请通常适用于具有全球商品化潜力的发明。

Enables a single international filing recognized by 150+ member states, allowing up to 30–31 months to decide where to pursue national protection. PCT filings are generally used for inventions with global commercialisation potential.

KTEO 可根据发明的性质及未来商品化规划，为申请何种专利类型提供指导。

KTEO can provide guidance on which type of patent to apply for, depending on the invention's nature and future commercialisation plans.

- 3.4. 保密审查，又称涉外申请许可，是指针对在特定国家境内完成的发明，若要在境外司法管辖区提交专利申请，必须事先获得的政府强制性许可。该要求的目的是确保向境外披露技术信息不会损害国家安全或战略利益。

Security clearance (Foreign Filing License), also known as a foreign filing license, refers to a government-mandated authorisation that must be obtained before filing a patent application in a foreign jurisdiction for an invention made within a specific country. The purpose of this requirement is to ensure that the disclosure of technical information abroad does not compromise national security or strategic interests.

示例：

对于在中国境内完成的发明，发明人若要向境外提交专利申请，需事先通过国家知识产权局（CNIPA）申请保密审查。

For example:

In the Chinese Mainland, inventors are required to apply for confidentiality examination through the China National Intellectual Property Administration (CNIPA) before filing abroad for inventions completed in the Chinese Mainland.

- 3.5. 专利申请的关键节点如下：

The following is a list of the key milestones for a patent application:

- 3.5.1. 发明人填写并提交 IDF；

Inventor completes and submits the IDF;

- 3.5.2. KTEO 审查已提交的 IDF 并完成专利申请表，寻求 DoKTE 的审批并获得 DSE 的批准，以继续进行专利申请；

KTEO reviews the submitted IDF and completes the Patent Application Form, seeking endorsement from DoKTE and obtaining approval of DSE to proceed with the patent application;

- 3.5.3. 获得必要的批准后，KTEO 委托合适的专利代理撰写专利申请文件；  
Upon obtaining the necessary approval, KTEO engages the appropriate patent agent to draft the patent application documentation;
- 3.5.4. 专利代理与发明人协作准备专利申请文件，发明人确认撰写的专利申请文件后，由专利代理向相应的专利局提交申请；  
The patent agent, in collaboration with the Inventor, prepares the patent application. Once the Inventor confirms the draft of the patent, the patent agent files the application with the appropriate Patent Office;
- 3.5.5. 专利代理管理专利申请的审查，包括答复专利局发出的审查意见通知书(OA)。专利代理与 KTEO 及发明人合作，制定应对审查员意见的策略，并与专利局最终确定专利权利要求的保护范围；  
Patent agent manages the prosecution of the patent application, including responding to Office Actions (“OA”) issued by the Patent Office. The patent agent works with KTEO and the Inventors to formulate a strategy for addressing examiner comments and finalisation of the scope of the patent claims with the Patent Office;
- 3.5.6. 专利局对申请进行评估，并作出是否授予专利的决定。  
The Patent Office evaluates the application and issues a decision regarding the grant of the patent.

#### **4. 递交专利申请请求的受理 Receipt of a Request to file a Patent Application**

- 4.1. 发明人必须根据 RMIP 第 4 条，向大学或其 IP 拥有单位披露其在大学或其 IP 拥有单位雇佣期间或在大学注册为学生期间所产生的任何及所有发明、发现、创造或任何知识产权。  
An Inventor must, in accordance with Article 4 of RMIP, disclose to the University or its IP-Owning Unit any and all inventions, discoveries, creations or any IP, made by him/her while employed by the University or its IP-Owning Unit or while registered with the University as a Student.
- 4.2. 发明人应向 KTEO 提交完整的 IDF，以履行 RMIP 规定的披露义务。  
The Inventor shall submit a completed IDF to KTEO to fulfil the disclosure obligation under the RMIP.
- 4.3. 若发明人希望通过专利方式保护其发明，可在自行评估该发明是否适合申请专利后，为该发明向 KTEO 提交专利申请请求。  
If the Inventor wishes to protect his/her Invention by way of a patent, the Inventor may, upon self-evaluation of the Invention’s suitability to be filed as a patent, submit a request to KTEO to file a patent application for the Invention.

- 4.4. 为进行发明自我评估，发明人应填写并提交“发明人评估表”至 KTEO，该表为 IDF 的组成部分。评估时，发明人需从以下方面对发明进行审查：(i) 专利性/可执行性，包括与相关现有技术进行对比，判断发明的新颖性与非显而易见性；(ii) 科学/技术价值；(iii) 商业/市场潜力；(iv) 发明的其他次要考量因素（若适用）。发明人应对上述每一项评估内容按 1-5 分制提供评估分值。

To self-evaluate the Invention, the Inventor should complete and submit the “Inventor Evaluation Form” which forms part of the IDF to KTEO, where the Inventor should review the Invention in following aspects, including (i) its patentability/enforceability, including a comparison with relevant prior art to determine novelty and non-obviousness, (ii) its scientific/ technical merit, (iii) its business/market potential, and (iv) any secondary considerations of the Invention, if any. The Inventor shall provide an assessment score on a scale of 1-5 to each of the aspects mentioned above.

- 4.5. 发明人提供的自我评估结果及现有技术将作为 KTEO 内部评估的重要参考。尽管这些投入将获充分考虑，但 KTEO 仍可能会综合考虑其他额外因素，以确定发明是否整体适合专利申请。

The self-evaluation results and prior art provided by the Inventor will serve as a valuable reference to support KTEO’s internal assessment. While these inputs will be duly considered, KTEO may also take into account additional factors in determining the overall suitability of the Invention for patent filing.

## 5. 专利/专利申请文件管理 **Documentation of the Patents/ Patent Applications**

- 5.1. 发明人须提供必要信息以协助专利撰写，并与专利律师或代理人协作完成申请准备工作，具体包括：解释发明的技术细节、协助确定可界定保护范围的潜在权利要求，以及确保申请中技术内容的准确性与完整性。

The inventor shall provide the necessary information to assist with patent drafting and collaborate with patent attorneys or agents in preparing the application. This includes explaining the technical aspects of the invention, helping to identify potential claims that define the scope of protection, and ensuring the accuracy and completeness of the technical content in the application.

- 5.2. 对于维持在审专利权利所涉及的重要事项的截止期限包括：12 个月优先权截止期限、30/31 个月进入国家阶段截止期限、答复专利局问询截止期限、请求实质审查截止期限、缴纳官费截止期限以及答复审查员的审查意见截止期限等，必须及时通知发明人。专利代理也应就此类截止期限向 KTEO 及时发出提醒。

Deadlines of important events that require action to maintain pending patent rights, such as the 12-month priority deadline, the 30/31-month national phase entry deadline, deadline to respond to queries from the Patent Office, deadlines to request substantive examination, deadlines to pay fees, deadlines to respond to the



Examiner's correspondence, etc. must be timely notified to the Inventor. The patent agent shall also provide timely reminders to KTEO of such deadlines.

- 5.3. 发明人应及时回复 KTEO 或专利律师的问询，提供有助于推进专利申请过程的意见，其中涵盖但不限于专利权延续及申请司法管辖区选择等相关事宜。

The Inventor(s) shall respond promptly to inquiries from KTEO or patent attorneys to provide input that facilitates the patent application process. This includes, but is not limited to, matters concerning the continuity of patent rights and filing jurisdictions.

- 5.4. KTEO 应及时向发明人通报专利申请过程的进展情况。

KTEO should keep the Inventor updated with the status of the patent application process.

## **6. 申请的内部评估 Internal Assessment of the Application**

### **6.1. 专利所有权 Ownership of the patents**

- 6.1.1. 除大学与其他机构或资助方另有约定外，由大学教职员或学生在受雇于大学或其知识产权拥有单位期间，或注册为大学学生期间所创造的所有发明及知识产权，均应由大学单独所有。关于知识产权所有权的更多指导已在 PIP 中明确。

Unless the University has entered into alternate arrangements with other institutes or sponsors, all Inventions and IP created by Staff Members or Students of the University while employed by the University or its IP-Owning Unit or while registered with the University as a Student shall be solely owned by the University. Further guidance on IP ownership is set out in the PIP.

- 6.1.2. 发明人有义务在发明研发初期及时向 KTEO 告知任何第三方参与情况。在专利申请提交后提出的共有权请求可能会导致不必要的行政工作及额外成本，因此应避免此类情况。

The Inventor has an obligation to promptly inform KTEO of any third-party involvement at the commencement of the Invention's development. Co-ownership requests raised after the patent application is filed may result in unnecessary administrative work and additional costs and should therefore be avoided.

- 6.1.3. 如果专利申请需由第三方与大学共同拥有，则应与该第三方签订发明管理协议（IMA）。该协议至少应涵盖签署方之间的关键条款，包括 IP 所有权比例、商业化权利、专利管理职责以及利润、成本和费用的分摊。

If a patent application is to be co-owned by a third party with the University, an Invention Management Agreement (“IMA”) shall be signed with the third party. The IMA should at least cover key terms among the signing parties, including IP ownership percentages, commercialisation rights, responsibilities for patent administration, and the sharing of profits, costs, and expenses.

- 6.1.4. IMA 的条款应在签署前获得 DSE 批准，且须在专利申请前由大学与第三方共有人正式签署。

The terms of the IMA should be approved by DSE before execution, and should be duly signed by both the University and the third-party co-owner before the patent application.

- 6.1.5. 专利共有人之间，包括外部与内部各方，如大学及其子公司，均应签署 IMA。

An IMA shall be signed between patent co-owners, including external and internal parties, such as the University and its subsidiaries.

## 6.2. 发明的公开披露 Public Disclosure of the Invention

- 6.2.1. 发明人应避免在提交专利申请前对发明进行任何公开披露，因为此类披露可能被视为现有技术并导致丧失新颖性，而新颖性是专利性的关键要求。

The Inventor should avoid any public disclosure of the Invention prior to filing a patent application, as such disclosure may be considered a prior art and could result in the loss of novelty, a key requirement for patentability.

- 6.2.2. 发明人应在 IDF 中明确声明所有已进行的、或预期未来进行的与发明相关的公开披露及其具体日期。

The Inventor should declare clearly in the IDF for all public disclosures relevant to the Invention made, or anticipated to be made in the future, and the dates thereof.

- 6.2.3. 公开披露是指由发明人或经其授权向公众进行的任何形式的沟通，包括口头或书面形式，其揭示了发明的存在且使本领域技术人员能够复现该发明。公开披露的示例包括但不限于：期刊文章、会议摘要、口头报告、海报展示、向行业内披露、资助提案以及销售要约。

Public disclosure refers to any communications to the public made by the Inventor or with the authorisation of the Inventor which, either aurally or in writing, reveal the existence of the Invention and enable a person skilled in the art to reproduce the Invention. Examples of public disclosures include, but are not limited to, journal articles, conference abstracts, oral presentations, poster presentations, disclosures to industry, grant proposals, and offers to sell.

- 6.2.4. 在欧洲、英国和中国等主要司法管辖区，任何已公开披露的主题将被视为不具备专利性（特殊情况除外）。因此，为避免复杂化，对于因专利性考虑而已先行披露的发明，大学将不支持为其提交专利申请。

In major jurisdictions, including Europe, the UK, and China, any publicly disclosed subject matter shall be deemed non-patentable (except in exceptional circumstances). Accordingly, to avoid complications, the University shall not support filing patent applications for inventions that have been previously disclosed due to patentability concerns.

- 6.2.5. 然而，若有必要，KTEO 应告知发明人，部分司法管辖区（如美国、加拿大、韩国等）存在宽限期制度，允许发明人在自行披露发明后的 6 个月或 12 个月内提交专利申请。

However, if necessary, KTEO shall inform Inventors of the existence of grace periods in certain jurisdictions (i.e. US, Canada, South Korea, etc.), wherein Inventors are allowed to file a patent application within 6 or 12 months after self-disclosure of the Invention.

- 6.2.6. 尽管如此，发明人在专利申请提交之前均不得对发明进行公开披露。

Nevertheless, Inventors shall not publicly disclose the Invention until after a patent application has been filed.

- 6.2.7. 若发明已被先行公开披露，而发明人仍希望为该发明寻求专利保护，发明人则应修改发明以包括至少一项未披露的主题，并将修改后的发明披露表重新提交至 KTEO。

In the event that prior disclosure of the Invention has been made, and the Inventor still wishes to seek patent protection for the Invention, the Inventor should amend the Invention in order to include at least one undisclosed subject matter, and resubmit the revised “Invention Disclosure Form” to KTEO.

### 6.3. 提交专利申请的截止期限 Deadline of Filing a Patent Application

- 6.3.1. 专利申请必须在发明公开披露当日或之前提交。KTEO 应确保将提交截止期限记录在专利案卷系统中。KTEO 还应将该截止期限通知专利代理，要求专利代理在截止期限前完成相关申请文件准备工作。

A patent application must be filed on or before the date of public disclosure of the Invention. KTEO should ensure the filing deadline to be recorded in the patent docketing system. KTEO shall also notify the patent agent of such deadlines and request the patent agent to complete the relevant documentation prior to the deadline.

- 6.3.2. KTEO 应及时完成内部评估过程，为指定的专利代理预留充足时间撰写专利申请文件并准备专利申请的提交文件。

KTEO should carry out the internal assessment process in a timely manner to allow sufficient time for the appointed Patent agent to draft the patent specification and prepare the filing documents for the patent application.

#### 6.4. 发明是否适合提交专利申请的评估 Assessment of the Invention's Suitability to be filed as a Patent Application

##### 6.4.1. KTEO 应根据 RMIP 第 6.2 段明确的标准，审查发明是否适合于提交专利：

KTEO should review the Invention's suitability to be filed as a patent, based on the criteria set out in paragraph 6.2 of RMIP:

- 发明是否真正新颖、有用且不显而易见；  
whether the Invention is genuinely new, useful and not obvious;
- 发明是否具有合理的现行商业价值或重大的知识产权价值；  
whether the Invention has reasonable prevailing commercial value or substantial intellectual value;
- 发明是否可转让；  
whether the Invention is viable to be transferred;
- 发明是否尚未公开披露；  
whether the Invention has not been publicly divulged;
- 专利侵权是否可检测和可执行；  
whether patent infringement is detectable and enforceable;
- 专利保护范围是否能证明商品化投入和专利成本的合理性；  
whether the scope of patent protection would justify investment in commercialisation and cost of patenting;
- 在不同司法管辖区提交的专利申请是否能成为实现发明价值的必要条件；  
whether patent filing in different jurisdictions is necessary to derive value from the invention;
- 专利申请是否是项目的交付成果之一。  
whether patent filing is one of the project deliverables.

##### 6.4.2. 必需时，KTEO 可寻求大学学术人员、外部专家或顾问，以就相关发明的专利性、可执行性、科学和技术价值及商业潜力提供建议。

If necessary, KTEO may also seek advice from academics of the University or external experts or advisors on the patentability, enforceability, scientific & technical merit, and the commercial potential of the Invention concerned.

##### 6.4.3. 若经内部评估认定发明不适合提交专利申请，KTEO 应及时将决定及理由告知发明人，如果发明人提出请求，应为其修改并重新提交申请提供建议和帮助。

If, after internal assessment, the Invention is deemed unsuitable for a patent filing, KTEO shall promptly notify the Inventor of its decision, explain the reasons, and, if requested, provide advice and assistance to revise for resubmission.

## 6.5. 申请司法管辖区考虑因素 Filing Jurisdiction Considerations

- 6.5.1. 在确定提交专利申请的司法管辖区时，KTEO 应基于发明的性质、商业潜力及战略相关性进行审查。专利权具有地域性，因此须在预期存在市场机遇、研发合作或制造活动的各个司法管辖区分别寻求保护。

When determining where to file a patent application, KTEO shall review the filing jurisdictions based on the invention's nature, commercial potential, and strategic relevance. Patent rights are territorial; therefore, protection must be sought separately in each jurisdiction where market opportunities, research collaboration, or manufacturing activities are expected.

- 6.5.2. 在推荐合适的申请司法管辖区时，应重点考虑以下关键因素：

The following key factors should be considered in recommending appropriate filing jurisdictions:

### **商业潜力与市场规模：**

#### **Commercial Potential and Market Size:**

应优先选择潜在客户、用户或产业应用集中，或预计存在显著市场需求的国家或地区。

Preference shall be given to jurisdictions where potential customers, users, or industrial applications are concentrated, or where significant market demand for the invention is anticipated.

### **潜在被许可方或产业合作伙伴所在地：**

#### **Location of Potential Licensees or Industry Partners:**

应在潜在被许可方、企业合作伙伴或投资者所在的国家或地区寻求专利保护，以促进技术转移、许可及未来合作机遇。

Patent protection should be sought in regions where prospective licensees, corporate partners, or investors are based, to facilitate technology transfer, licensing, and future collaboration opportunities.

### **资金与合作义务：**

#### **Funding and Collaboration Obligations:**

对于依特定计划资助的项目或合作开发的项目，专利申请须遵守相关资金条款、联盟协议或合作义务。

For projects funded or co-developed under specific schemes, patent filings shall comply with the relevant funding terms, consortium agreements, or partnership obligations.

### **制造与供应链所在地：**

#### **Manufacturing and Supply Chain Location:**

若发明可能在某特定地区进行制造、测试或供应，应考虑在该地区寻求相应专利保护，以保障生产与出口权利。

If the invention is likely to be manufactured, tested, or supplied in particular regions, corresponding patent protection should be considered to safeguard production and export rights.

**专利执行与成本效益：**

**Patent Enforcement and Cost Efficiency:**

应优先选择具备有效专利执行体系且申请与维持成本合理的司法管辖区，以确保投资价值。

Jurisdictions with effective patent enforcement systems and reasonable filing and maintenance costs shall be prioritised to ensure value for investment.

**专利申请与维护成本：**

**Patent Filing and Maintenance Costs:**

应综合考虑各司法管辖区的申请、翻译、审查及维持总成本，确保所寻求的保护在可用资金来源范围内具备财务合理性及可持续性。

The total costs of filing, translation, examination, and maintenance in each jurisdiction shall be considered to ensure that the protection sought is financially justified and sustainable within available funding sources.

**战略或防御价值：**

**Strategic or Defensive Value:**

在适当时，可在关键竞争对手所在的司法管辖区提交专利申请，以防止仿制、增强谈判筹码或支持交叉许可安排。

Where appropriate, patents may be filed in jurisdictions of key competitors to prevent imitation, strengthen negotiation leverage, or support cross-licensing arrangements.

## 6.6. 知识产权费用来源 Sources for IP Expenses

- 6.6.1. 一般而言，专利申请的费用来源应按以下优先顺序选择：（i）项目资金；（ii）部门资金；（iii）大学中央基金；及（iv）发明人个人资金。

Generally, the source of expenses for a patent application shall be selected in the following order of priority: (i) project funding; (ii) departmental funding; (iii) University central funding; and (iv) the Inventor's personal funds.

- 6.6.2. 若在专利申请过程中，项目资金或部门资金已完全耗尽，且发明人需大学中央基金支持以继续推进专利申请或维持专利权，KTEO 应制定 IP 费用预算方案，由大学中央基金予以支持。该预算方案在实施前须经 DoKTE 审批并获得 DSE 批准。

If, however, during the course of patent application, the project funding or the department funding has been fully consumed, if the Inventor requires

support from the University central funding to proceed with the patent application or to maintain patent rights, KTEO shall prepare a proposed budget of IP expenses, which is to be supported by the University central funding. The proposed budget plan shall be endorsed by DoKTE and approved by DSE before proceeding.

- 6.6.3. 若发明人没有项目资金或部门资金，可在提交申请时请求大学中央基金承担 IP 费用。KTEO 应据此制定 IP 费用预算方案，并在实施前寻求 DoKTE 审批并获得 DSE 批准。

Alternatively, if the Inventor has no project or departmental funding, the Inventor may request University central funding for the IP expenses at the time of submitting the Application. KTEO shall then prepare a proposed budget for the IP expenses and seek endorsement from DoKTE and approval from DSE before proceeding.

- 6.6.4. 若专利申请未获批准，发明人可选择终止申请或自费继续提交专利申请。

If the Patent Application is not approved, the Inventor may either discontinue the Application or proceed with a patent filing at the Inventor's own expense.

## 6.7. 填写专利申请表 Completing the Patent Application Form

- 6.7.1. KTEO 应负责填写专利申请表，该表作为申请内部评估的书面记录。

KTEO should be responsible for completing the "Patent Application Form", which serves as a written record of the internal assessment of the Application.

- 6.7.2. 专利申请表包含专利申请的基本信息，包括发明名称、发明人姓名、申请截止日期、申请国家等。

The "Patent Application Form" includes basic information of the patent application, including the title of the Invention, names of inventors, filing deadlines, filing countries, etc.

- 6.7.3. KTEO 应根据具体案件情况，包括但不限于案件处理连续性、专业能力、语言熟练度及专利律师服务费用，从核准的服务提供商中选择合适的专利代理处理专利申请。

Based on the merits of each case, including, but not limited to, continuity of case handling, expertise, language proficiency, and the cost of patent attorney services, KTEO shall select a suitable patent agent from the approved service providers to handle the patent application.

- 6.7.4. 不建议选用未列入香港理工大学或其子公司已核准服务提供商名单的专利代理。

Patent agents not included among PolyU's or its subsidiaries' approved service providers are not recommended for use.

- 6.7.5. KTEO 也应在专利申请表中就发明是否适合提交专利提供意见，说明支持该申请的理由。

KTEO shall also provide comments on the Invention's suitability to be filed as a patent on the "Patent Application Form" to justify the reasons for supporting the Application.

## 6.8. 专利申请的审批与批准 Endorsement and Approval of Patent Application

- 6.8.1. 完成内部评估后，KTEO 应将专利申请提交至 DoKTE 进行审批。DoKTE 应审查该申请，若认可，审批后并将申请表转交 DSE 进行最终批准。

After completing the internal assessment, KTEO shall submit the Patent Application Form to the DoKTE for endorsement. DoKTE shall review the Application and, if satisfied, endorse and forward it to DSE for approval.

- 6.8.2. 若 DoKTE 或 DSE 不支持该申请，须提供具体理由并将案件退回 KTEO 进行修改。KTEO 可与发明人沟通以回应相关意见，并重新提交修改后的申请以供进一步考量。

If the DoKTE or DSE does not support the Application, reasons shall be provided and the case returned to KTEO for revision. KTEO may consult the Inventor to address the comments and resubmit the revised Application for further consideration.

## 7. 指示专利代理提交专利申请 Instructing Patent Agents to File a Patent Application

- 7.1. KTEO 应指示指定的专利代理为发明撰写专利申请文件。

KTEO shall instruct the appointed patent agent to draft a patent specification with respect to the Invention.

- 7.2. 必需时，KTEO 应安排与发明人进行面对面会晤或电话会晤，讨论发明的技术细节。随后，KTEO 应确保将所有与发明相关的基本信息告知专利代理，以便其撰写专利申请文件。

If necessary, KTEO shall arrange a face-to-face meeting or a telephone interview with the Inventor to discuss the technical details of the invention. KTEO should then ensure that all essential information regarding the Invention is transmitted to the patent agent for drafting the patent specification.

- 7.3. 必需时，可由 KTEO 代表发明人与专利代理进行沟通。此类沟通内容应抄送发明人，以便其了解专利申请的最新进展。



If necessary, communications with patent agents can be handled by KTEO on behalf of the Inventor. The Inventor shall be copied in such communications so that he/she can stay updated on the progress of the patent application.

- 7.4. KTEO 将审查撰写的专利申请文件，以确保其为发明提供了充分保护并已做好提交准备。在提交至专利局之前，应将撰写的专利申请文件发送给发明人确认。发明人必须核实该专利申请文件准确反映了发明内容，且未遗漏任何必要特征。

KTEO will review the draft patent specification to ensure it provides adequate protection for the invention and is ready for filing. The draft shall be sent to the Inventor for confirmation before submission to the Patent Office. The Inventor must verify that the specification accurately reflects the invention and that no essential features are omitted.

- 7.5. KTEO 将确保在申请截止日期当日或之前向相关专利局提交专利申请，并指示专利代理采取所有必要措施以维持专利权，除非另有指示。

KTEO will ensure that the patent application is filed with the relevant Patent Office on or before the filing deadline and instruct the patent agent to take all necessary actions to maintain the patent rights unless otherwise directed.

## **8. 专利审查过程 Patent Prosecution Process**

- 8.1. KTEO 应监控专利审查过程并提供专业的建议，必需时，可就如何答复专利局的问询或审查员发出的任何其他信函向发明人提供专业建议。

KTEO shall monitor the patent prosecution process and provide professional advice, if necessary, to the Inventor on replying to queries from the Patent Office or any other communications issued by the Examiner.

- 8.2. 发明人也应支持专利律师处理专利局在审查过程中提出的问询或异议，并澄清需要进一步解释的技术细节。

The Inventor should also support the patent attorney in addressing queries or objections raised by the patent office during the examination process and clarify technical aspects requiring further explanation.

- 8.3. 如果发明人希望撤回或放弃专利申请（例如，技术已过时或权利要求范围过窄无法形成有效保护），必须及时通知 KTEO。KTEO 将审查案件以决定是否继续。如果建议撤回，KTEO 须获得 DoKTE 的审批和 DSE 的批准，然后指示专利代理撤回或放弃申请，并在专利案卷管理系统中结案。

If the Inventor wants to withdraw or abandon the patent application (e.g., the technology is obsolete or the claim scope is too narrow to become effective protection), they must promptly notify KTEO. KTEO will review the case to decide whether to continue. If withdrawal is recommended, KTEO shall obtain endorsement from DoKTE and approval from DSE, then instruct the patent agent

to withdraw or abandon the application and close the case in the patent docketing system.

## **9. 专利授权 Grant of a Patent**

- 9.1. 一旦专利申请在专利审查过程后获得授权，KTEO 应推进专利授权相关事宜，包括缴纳相关费用。

Once a patent application is allowed, following the patent prosecution process, KTEO shall proceed to facilitate the grant of the patent application, including payment of relevant fees.

- 9.2. KTEO 应将专利授权通知以及相应的年费缴纳期限通知发明人。

KTEO should notify the Inventor of the grant of the patent and the corresponding renewal deadline.

## **10. 专利驳回 Rejection of a Patent**

- 10.1. 如果专利申请被审查员驳回，KTEO 应寻求发明人确认其是否仍希望继续该专利申请。

If the patent application is rejected by the Examiner, KTEO shall seek confirmation from the Inventor on whether he/she still wishes to pursue the patent application.

- 10.2. 如果发明人希望继续该专利申请，KTEO 可建议发明人考虑通过复审和/或恢复等程序，维持专利申请的在审状态。

If the Inventor prefers to continue with the patent application, KTEO may recommend the Inventor to consider procedures such as re-examination and/or restoration in order to keep the patent application pending.

- 10.3. 同时，KTEO 将再次审查该申请，并向发明人提供关于推翻驳回决定的可能性以及该专利申请是否仍具推进价值的专业建议。KTEO 还将寻求专利代理的建议，以制定应对相关专利局驳回通知的策略。

In the meantime, KTEO will review the Application again and provide professional advice to the Inventor on the chances of overturning the rejection(s) and whether the patent application is still worth pursuing. KTEO will also seek advice from the patent agent on developing a strategy in response to the notice of rejection from the relevant Patent Office.

- 10.4. 如果 KTEO 与发明人双方同意终止该专利申请，请参照第 8.3 条款。

If there is mutual agreement between KTEO and the Inventor to discontinue pursuing the patent application, please refer to Clause 8.3.

## 11. 专利年费缴纳 **Renewal of a Patent**

- 11.1. 专利授权后，必须根据专利申请所属的司法管辖区的规定，按特定时间间隔缴纳年费，以维持专利权有效。在一些司法管辖区（包括欧洲），在专利授权前必须每年缴纳维持费，以维持专利申请的在审状态。

Once a patent is granted, a renewal fee must be paid after certain time intervals, depending on the jurisdiction in which the patent is filed, to maintain the patent rights. In some jurisdictions, including Europe, a maintenance fee must be paid annually before a patent is granted to keep the patent application pending.

- 11.2. 除非另有指示，KTEO 应默认使用与专利申请阶段相同的经费来源缴纳专利年费，直至专利有效期届满或专利权因撤回、放弃或驳回而终止。如果经费来源发生变更，KTEO 应相应寻求 DoKTE 的审批和 DSE 的批准。

Unless otherwise instructed, KTEO shall, by default, pay the patent renewal fees using the same funding source as the patent application until the patent expires or the patent rights are terminated by withdrawal, abandonment, or refusal. If the funding source changes, KTEO shall seek endorsement from DoKTE and approval from DSE accordingly.

## 12. 专利失效 **Expiry of Patents**

- 12.1. 如果在专利有效期内按时缴纳年费，该专利将在专利保护期限届满后失效。一般来说，标准专利自申请日起 20 年后失效。不同类型的专利申请具有不同的保护期限，专利的确切保护期限取决于申请类型及其申请所属的司法管辖区。

Provided that renewal fees of the patent are paid on time throughout the duration of the patent, the patent will expire after the patent duration. Generally, a standard patent will expire 20 years from the date of filing. Different types of patent applications will have different durations, and the exact duration of a patent varies depending on the type of application and the jurisdiction in which it is filed.

- 12.2. KTEO 应向发明人报告专利的到期情况，并在专利案卷管理系统中结案。KTEO should report to the Inventor the expiry of the patent, and close the file in the patent docketing system.