

The grant procedure for a patent

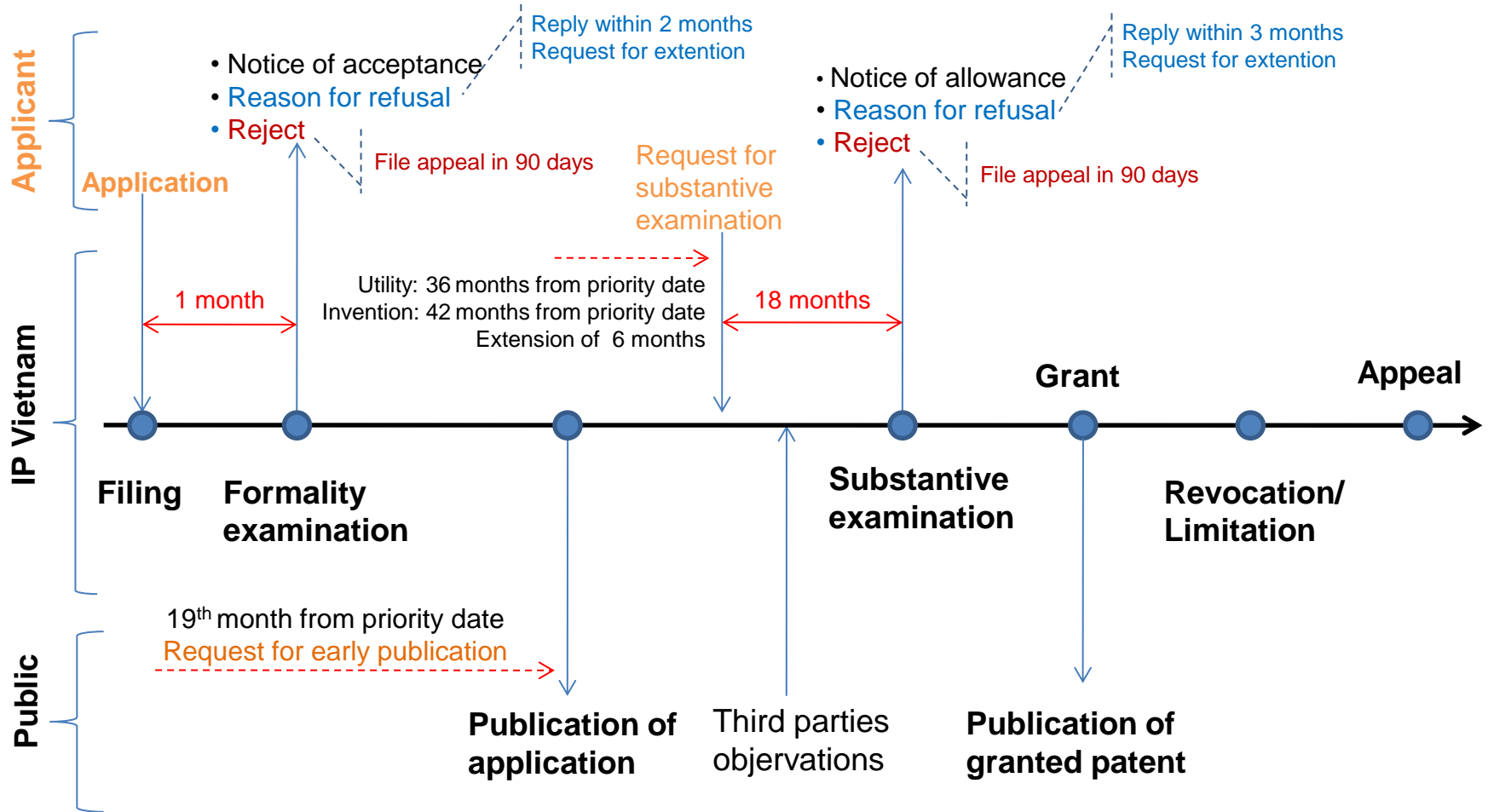
PHAN THANH HAI

National Office of Intellectual Property of Vietnam

Outline

- Timeline of the procedure
- Conversion, division of application
- Fee: filing, examination, annual ...
- PCT, Conventional application
- Document requirements
- Accelerated examination

Timeline



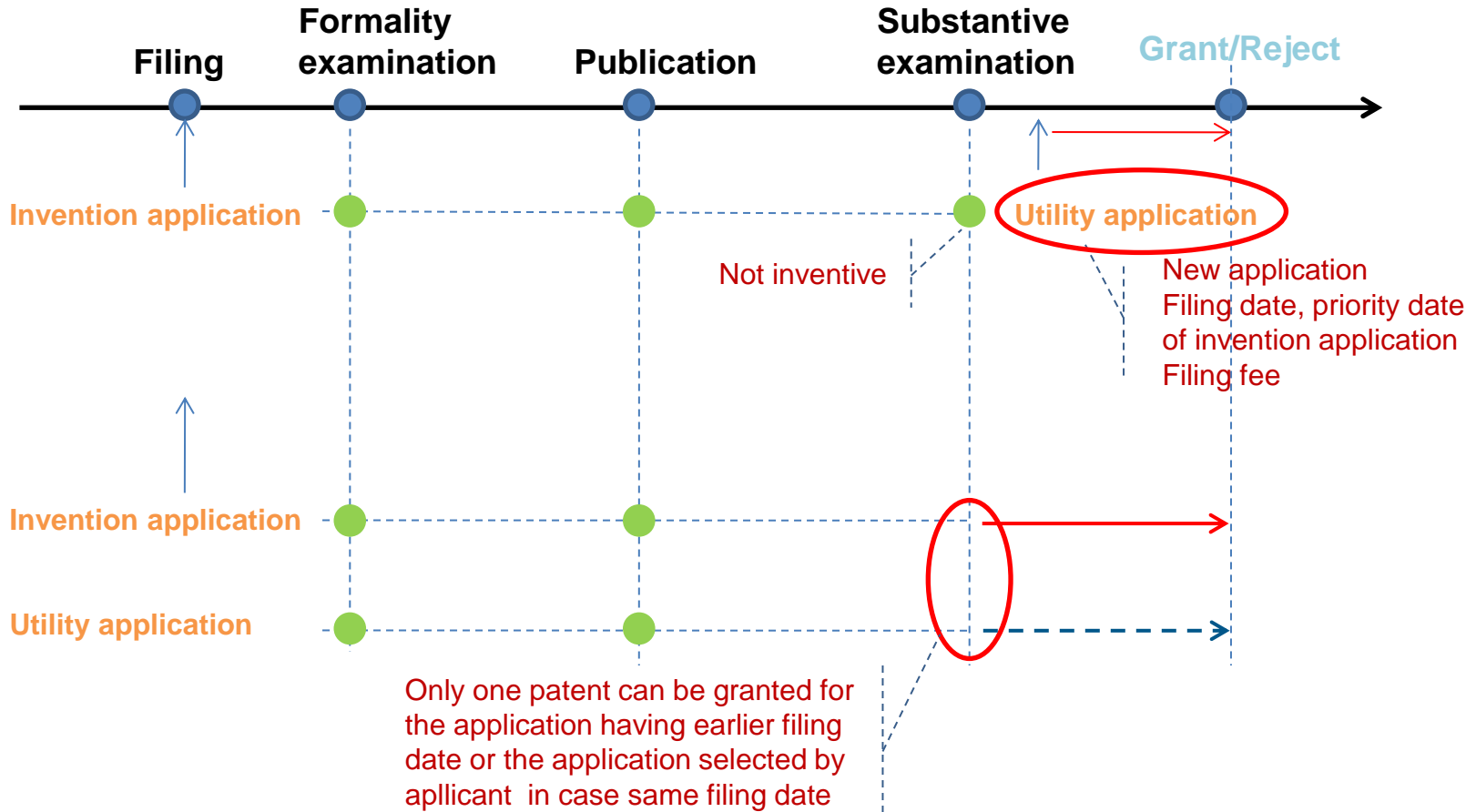
Types of patent

- IP Law, Article 58

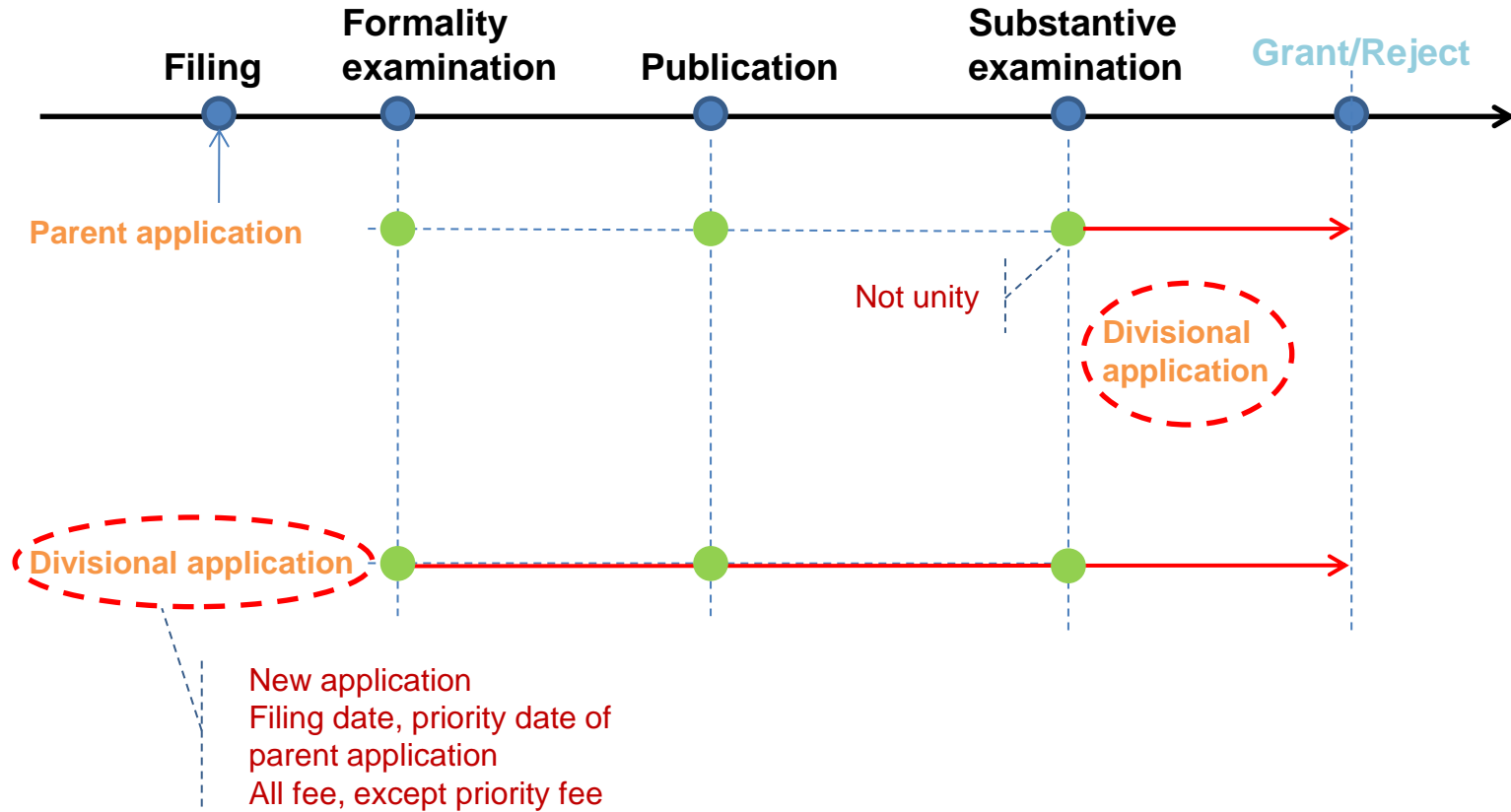
Invention patent	Utility solution patent
<ul style="list-style-type: none">• Being novel• Involving an inventive step• Having industrial applicability	<ul style="list-style-type: none">• Being novel• Having industrial applicability
Term of protection: 20 years from the filing date	Term of protection: 10 years from the filing date

- In conformity with CPTPP requirement, novelty grace period has been expanded from 6 months to 12 months

Conversion, parallel filing



Division

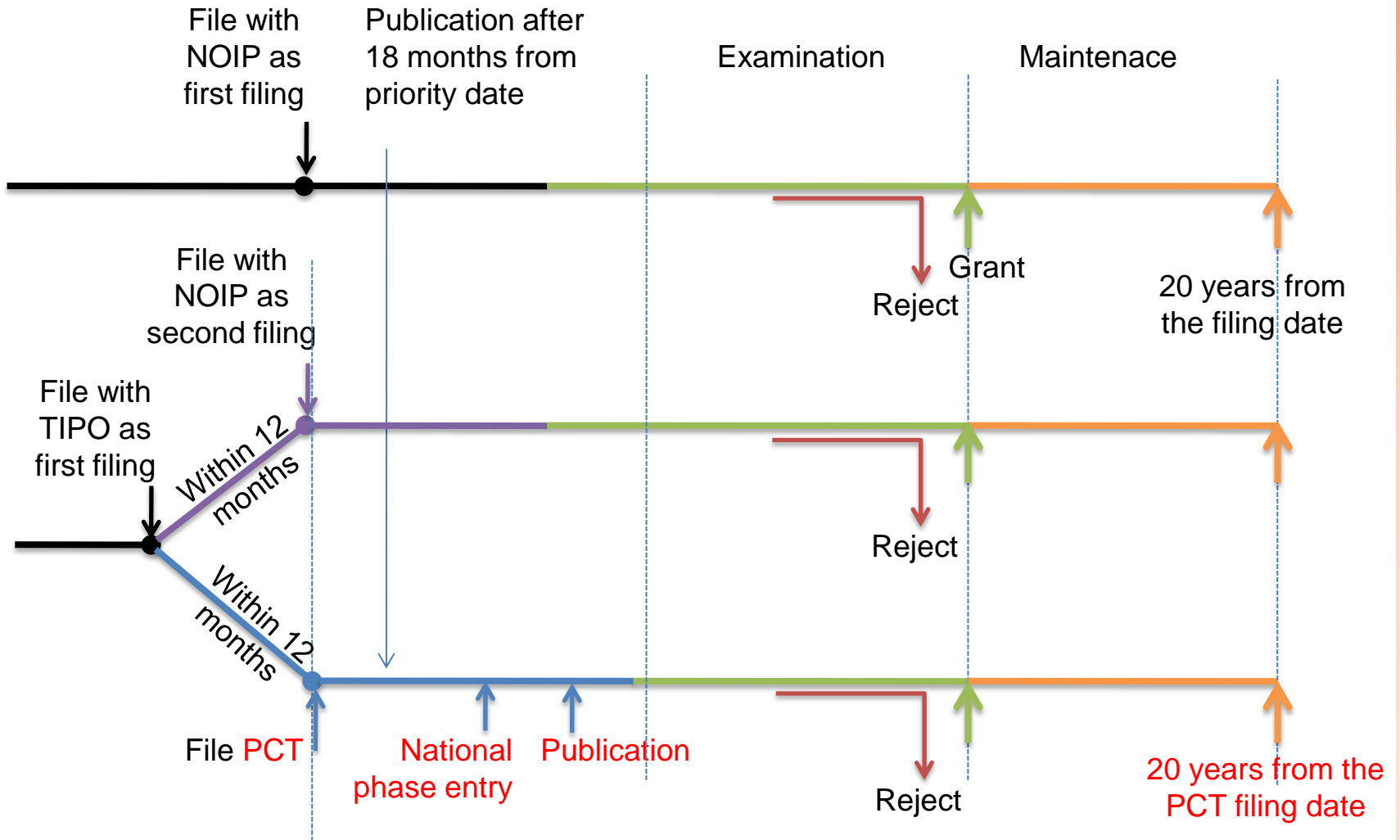


Fee

Fee item	Invention/Utility
Filing (conversion, division)	150,000
Extra pages (per page beyond 6)	40,000
Priority claiming (per priority application)	600,000
Publication	120,000
Search (per independent claim)	600,000
Examination (per independent claim)	900,000
Minimum amount: 1,770,000 VND (about 80 USD)	

Annual fee (per independent claim, per year)							
1 st , 2 nd	3 rd , 4 th	5 th , 6 th	7 th , 8 th	9 th , 10 th	11 th -13 th	14 th -16 th	17 th -20 th
400,000	600,000	900,000	1,300,000	1,900,000	2,600,000	3,400,000	4,200,000
Fee up to 16th year: 28,200,000 VND (about 1200 USD)							

PCT, Conventional application



Document requirements

- **All documents of the application have to be made in Vietnamese.**
 - *Power of attorney, documents certifying the right of registration, documents evidencing the grounds for priority claiming may be made in other languages but must be translated into Vietnamese.*
 - *Copies of the priority applications must be translated into Vietnamese on the request of the Office.*
- **POA can be submitted**
 - *Within 1 month from filing date for Conventional filing*
 - *Within 34 months from priority date for PCT filing*
- **Not require to submit the copy of the priority application in case of PCT**

Unpatentable subject matters

- IP Law, Article 59: Excluded subject matters
 1. Scientific discoveries or theories, mathematical methods;
 2. Schemes, plans, rules and methods for performing mental acts, training domestic animals, playing games, doing business; computer programs;
 3. Presentations of information;
 4. Solutions of aesthetical characteristics only;
 5. Plant varieties, animal breeds;
 6. Processes of plant or animal production which are principally of biological nature other than microbiological ones;
 7. Human and animal disease prevention, diagnostic and treatment methods.
- IP Law, Article 8:

... not protect intellectual property objects which are contrary to national laws, social morality and public order or harmful to national defence and security.

- **Use claim is not allowed**

- *not interpreted as product or process.*

- **Software related invention**

- *Article 5.8.2.5 Patent examination guideline: Computer software implemented invention is not excluded from patentability if it has a technical character.*

The interpretation of technical character is that the computer program, when carried out has to provide a “further technical effect”. The normal technical effects like flow of electrical current are not sufficient.

Accelerated examination

- ASPEC with ASEAN patent offices, conventional PPH with JPO (200 cases/year) and KIPO (100 cases/year)
- **Requirements:**
 - A “Request for Substantive Examination” must have been filed either at the time of the PPH request or previously
 - No substantial office action has been issued
 - Copies of all office actions which were issued for the corresponding application and copies of all claims determined to be patentable/allowable
 - All claims on file, as originally filed or as amended must sufficiently correspond to one or more claims indicated as allowable in the corresponding application
 - Claim correspondence table
- **First office action in 9 months**

For more information:

<http://www.noip.gov.vn> (Office website)

<http://iplib.noip.gov.vn> (Full text granted patent database)

THANK YOU
