



INTELLECTUAL PROPERTY CORPORATION OF MALAYSIA

# **MALAYSIAN PATENT SYSTEM**

## **2019 SEMINAR ON THE IP LANDSCAPE IN NEW SOUTHBOUND COUNTRIES**

ZAITON NORDIN

DIRECTOR, PATENT FORMALITY AND INTERNATIONAL DIVISION

# BACKGROUND

Trade Marks and Patents  
Registration Office - MTI  
(1983)



INTELLECTUAL PROPERTY  
DIVISION  
MINISTRY OF DOMESTIC TRADE  
AND CONSUMER AFFAIRS  
(1990)

INTELLECTUAL PROPERTY  
CORPORATION OF  
MALAYSIA  
3 MARCH 2003



# ORGANIZATION CHART

MINISTRY OF DOMESTIC TRADE, COOPERATIVES AND CONSUMERISM

MEMBERS OF CORPORATION

INTELLECTUAL PROPERTY CORPORATION OF MALAYSIA



# LEGISLATIONS ADMINISTERED



Intellectual Property  
Corporation of  
Malaysia Act 2002



Trade Marks Act  
1976



Patents Act 1983



Copyright Act 1987



Industrial  
Designs Act  
1996



Geographical  
Indications Act  
2000



Layout-Designs  
of Integrated  
Circuits Act  
2000

# PATENT SYSTEM

## Patents Act 1983

- ▶ latest amendment was in 2006, in force Aug. 16, 2006

## Patents Regulations 1986

- ▶ Latest amendment was in 2011, in force Feb. 15, 2011

# ASSESSING PATENTABILITY

- ▶ Novelty [Section 14]
- ▶ Inventive Steps [Section 15]
- ▶ Industrial Applicable [Section 16]

# TYPE OF PROTECTION

## Patent

**An exclusive right granted by a government to an inventor/assignee**

**Protected twenty (20) years from the date of filing of an application.**

## Utility Innovation

**An exclusive right granted for a "minor" invention**

**Protected 10 + 5 + 5 years from the date of filing subject to use.**

**Subject to payment of annual renewal fees by patentee or owner**

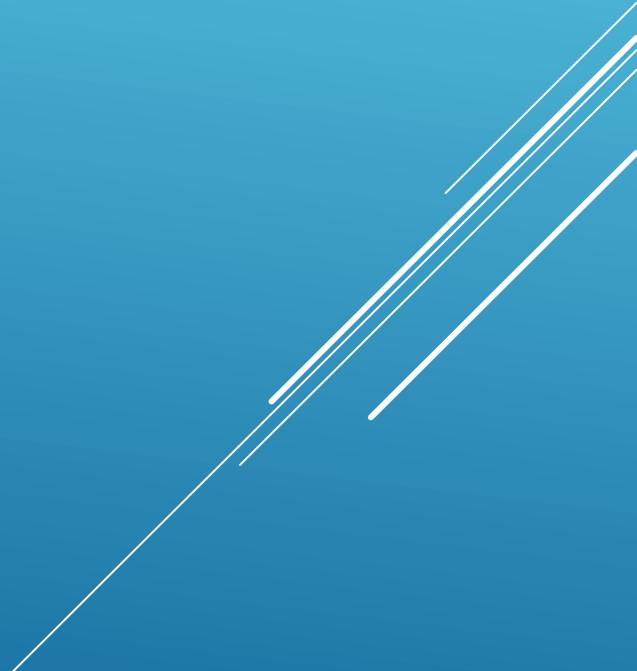
▶ Manual

▶ On-line

\*\*\* English

\*\*\* Bahasa Malaysia

APPLYING FOR A PATENT/UTILITY  
INNOVATION

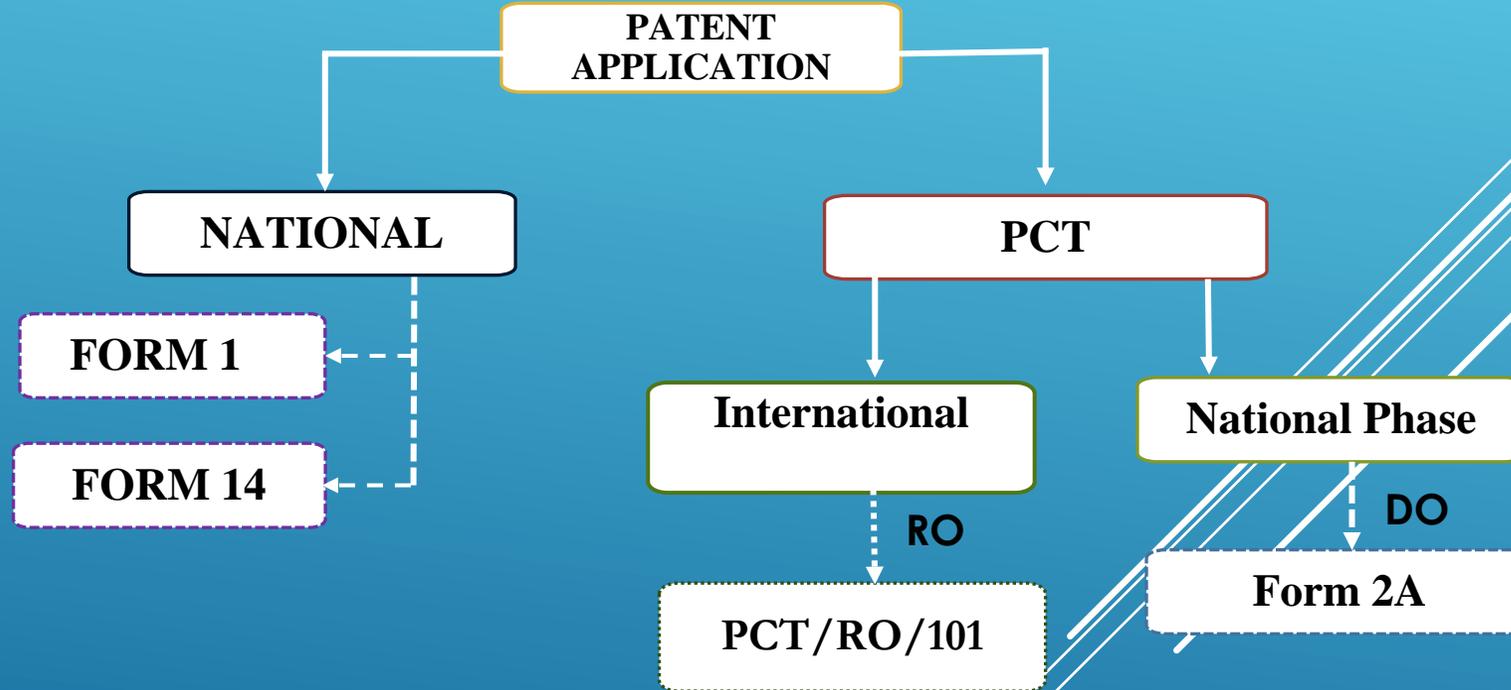
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## PATENT AGENT (S86)

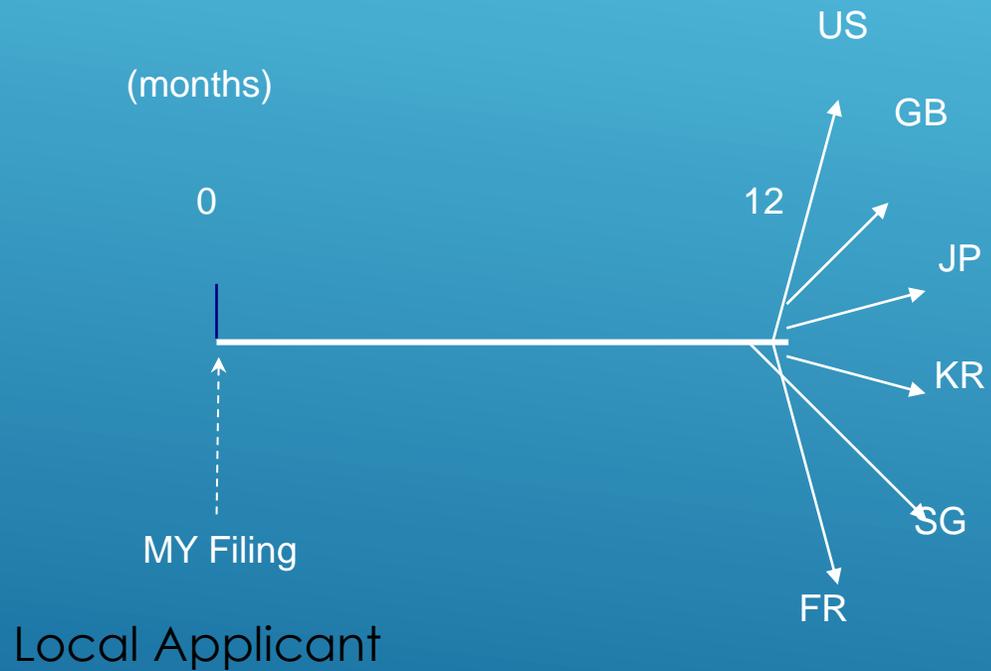


- No person shall carry on business, practise, act, describe himself or permit himself to be described as a patent agent unless he is registered in the **Register of Patents Agents**.
- A person who has neither his domicile nor residence in Malaysia may not proceed before the Registration Office in respect of his patent except through a patent agent.

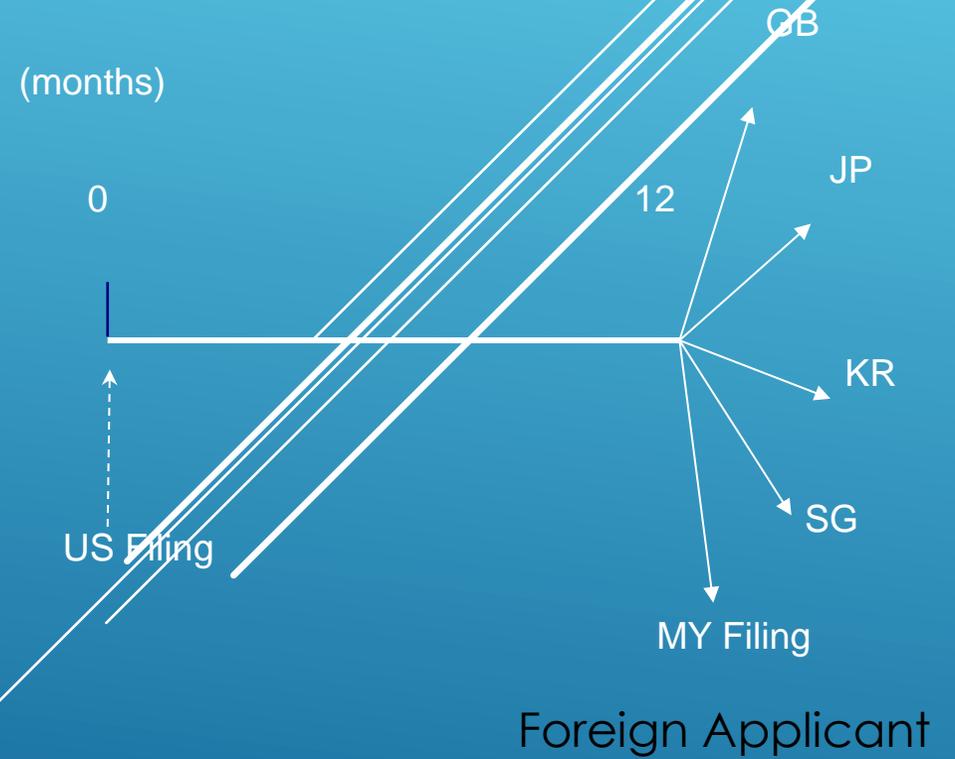
# PATENT APPLICATION



# PATENT APPLICATION USING NATIONAL PATENT SYSTEM

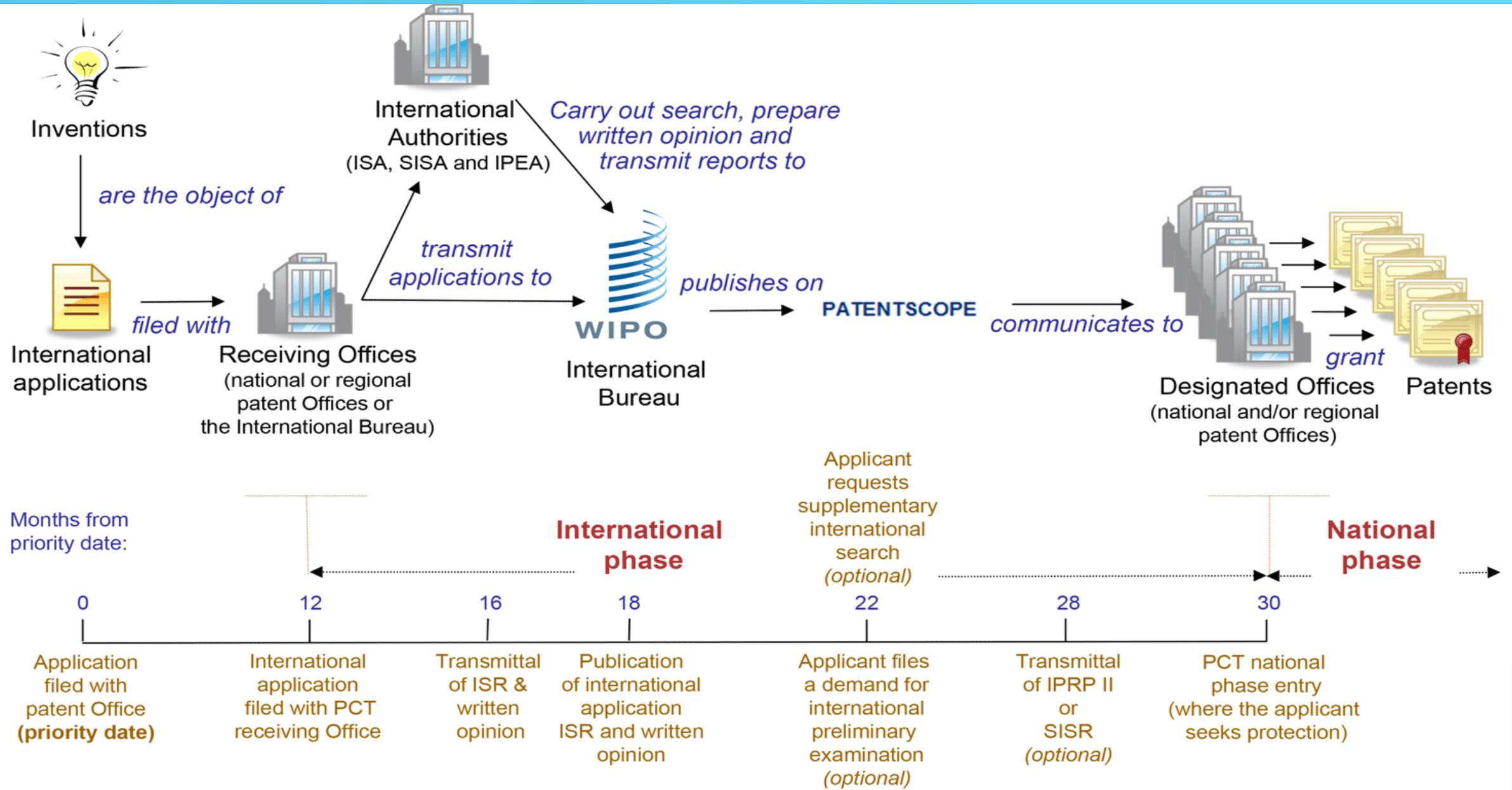


OR



# PCT ENTERING NATIONAL PHASE (Sec.78O)

- To enter the national phase, **before the expiration of 30 months from the priority date,**
  - submit a copy of the IA in the English language
  - Pay the prescribed fee using Form 2A
- Application which entered the national phase shall comply with the requirements of the Malaysian Patents Act



# PATENT & CERTIFICATE FOR UTILITY INNOVATION GRANTING PROCEDURE

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FORM 1 (Patent) /14  
(Utility Inn.),  
SPECIFICATION  
(*Description, Claim,  
Abstract*)

## APPLICATION REQUEST

Application examined to determine  
filing date

## PRELIMINARY EXAMINATION

Administrative staff report on formality  
requirements

## PUBLIC INSPECTION

Inspection under Section 34

After 18 months from the priority,  
an application is made available  
for public inspection

FORM 5 (Substantive) >> within  
18 months from  
date of filing

## SUBSTANTIVE EXAMINATION REQUEST



Upon grant, the patentee or certificate  
owner has the right to institute court-  
proceedings against any person using  
the invention or utility innovation  
without his permission

## GRANT OR REFUSAL

Granted patent or utility innovation  
published



# PATENT APPLICATION PROCESSING



## RECEIVED APPLICATION

- FILING DATE



## PRELIMINARY EXAMINATION

- FORMALITY REQUIREMENTS



## SUBSTANTIVE EXAMINATION

- COMPLY TO THE ACT



## PATENT GRANT

- RENEWAL

# REQUEST FOR EXAMINATION

## Substantive Examination

- Submit Form 5 with prescribed fees

## Modified Examination

- Submit Form 5A with prescribed fees

## Expedited Examination

- Form 5/5A have been submitted
- Submit Form 5H with prescribed fees

# REQUEST FOR MODIFIED EXAMINATION

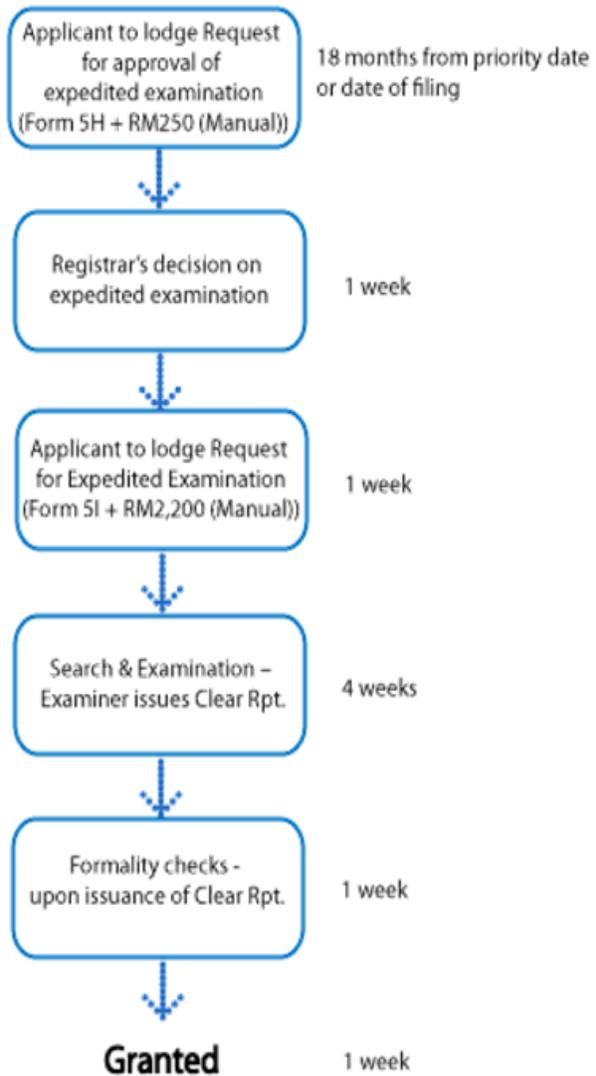
Certified true copy of the patent granted of prescribe countries :

EP, JP, KR, GB, US and AU

amendments required into conformity with the granted patent

# EXPEDITED EXAMINATION

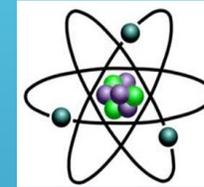
- Request for Subst. Exam. (F5/F5A) has been made.
- After 18 months from priority date - Request for Approval for Expedited Exam. ( F5H).
- Criteria :
  - i. national /public interest ;
  - ii. Infringement proceeding ;
  - iii. commercialized the invention ;
  - iv. to obtain monetary benefits from Government ;
  - v. green technologies ; or
  - vi. other reasonable grounds
- A statutory declaration.
- Filed F5I within 5 days from the Registrar's decision.



# REQUEST FOR EXPEDITED EXAMINATION

# NON-PATENTABLE INVENTIONS (S13)

(a) discoveries, scientific theories and mathematical methods ;



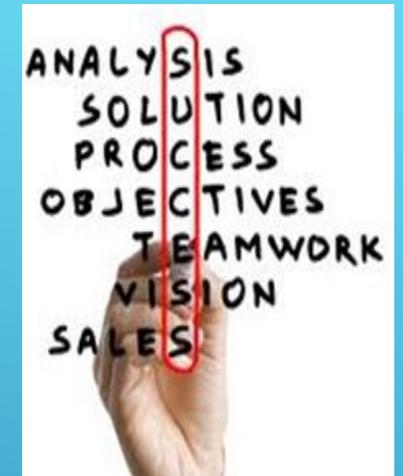
$$\int_{-\infty}^{\infty} \sqrt{\frac{\sqrt{x^n} + 1}{\alpha + \beta^y}} dx$$

(b) plant or animal varieties or essentially biological processes for the production of plants or animals, other than man-made living organisms, micro-biological processes and the products of s micro-organism processes ;





(c) schemes, rules or methods for doing business, performing purely mental acts or playing games ;

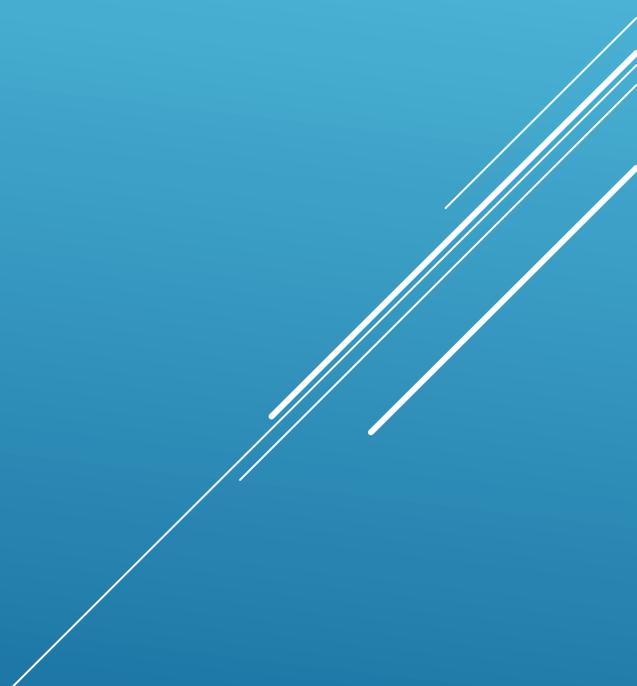


(d) methods for the treatment of human or animal body by surgery or therapy, and diagnostic methods practiced on the human or animal body :

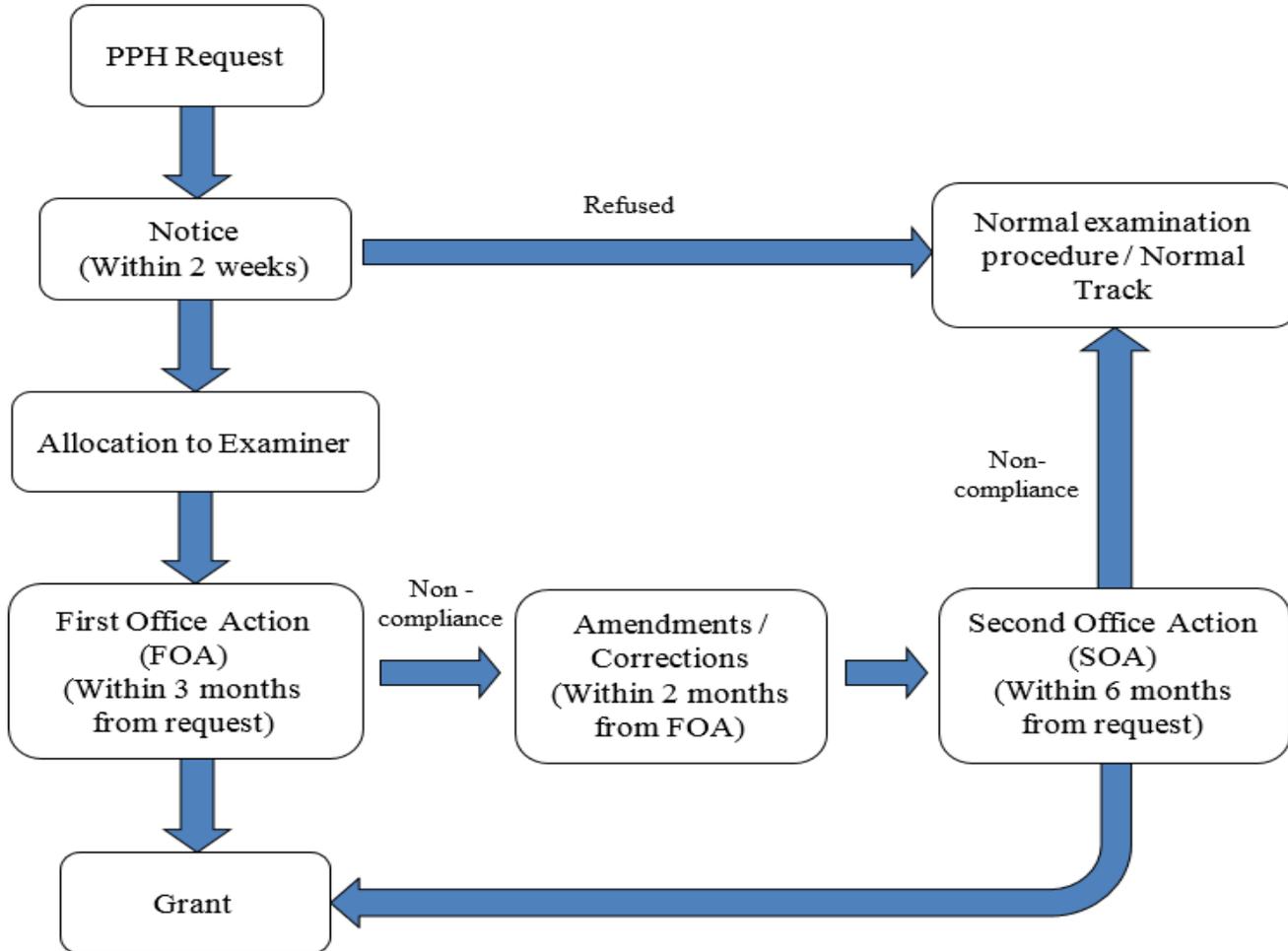
provided that this shall not apply to products used in any such methods.



## OTHER INITIATIVES

- ▶ Patent Prosecution Highway (PPH)
  - ▶ JPO
  - ▶ EPO
  - ▶ CNIPA
  - ▶ Asean Patent Examination Co-operation (ASPEC)
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# PATENT PROSECUTION HIGHWAY (PPH) PROCEDURE



# ASEAN PATENT EXAMINATION CO-OPERATION (ASPEC)

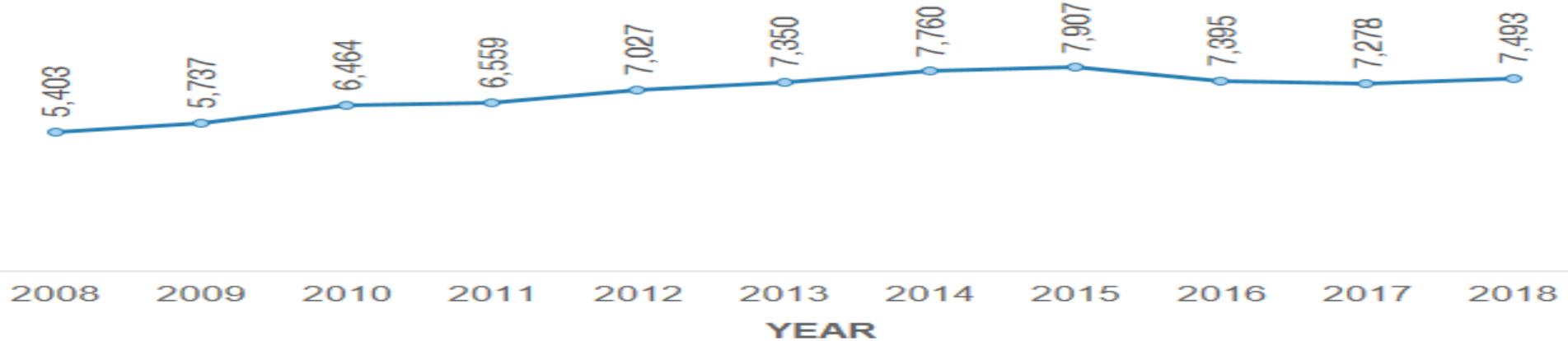
- ▶ The purpose of this program is to share search and examination results between the participating offices to allow applicants in participating countries to obtain corresponding patents faster and more efficiently; will potentially reduce duplication on the search and examination work done, thereby saving time and effort. Additionally, search and examination work done on a corresponding application
- ▶ serves as a useful reference in producing quality reports.



# APPLICATION AND GRANTED PATENTS AND UTILITY INNOVATIONS FROM 2008 – 2019

| YEARS         | APPLICATION |         |       | GRANTED  |         |       |
|---------------|-------------|---------|-------|----------|---------|-------|
|               | Malaysia    | Foreign | Total | Malaysia | Foreign | Total |
| <b>2008</b>   | 864         | 4,539   | 5,403 | 198      | 2,044   | 2,242 |
| <b>2009</b>   | 1,234       | 4,503   | 5,737 | 270      | 3,198   | 3,468 |
| <b>2010</b>   | 1,275       | 5,189   | 6,464 | 204      | 1,973   | 2,177 |
| <b>2011</b>   | 1,136       | 5,423   | 6,559 | 335      | 2,057   | 2,392 |
| <b>2012</b>   | 1,160       | 5,867   | 7,027 | 308      | 2,193   | 2,501 |
| <b>2013</b>   | 1,269       | 6,081   | 7,350 | 305      | 2,386   | 2,691 |
| <b>2014</b>   | 1,439       | 6,321   | 7,760 | 381      | 2,381   | 2,762 |
| <b>2015</b>   | 1,375       | 6,532   | 7,907 | 360      | 2,548   | 2,908 |
| <b>2016</b>   | 1,219       | 6,176   | 7,395 | 373      | 2,980   | 3,353 |
| <b>2017</b>   | 1,300       | 5,978   | 7,278 | 474      | 4,653   | 5,127 |
| <b>2018</b>   | 1,248       | 6,245   | 7,493 | 527      | 3,855   | 4,382 |
| <b>Jun-19</b> | 450         | 3,226   | 3,676 | 196      | 911     | 1,107 |

# PATENT APPLICATIONS



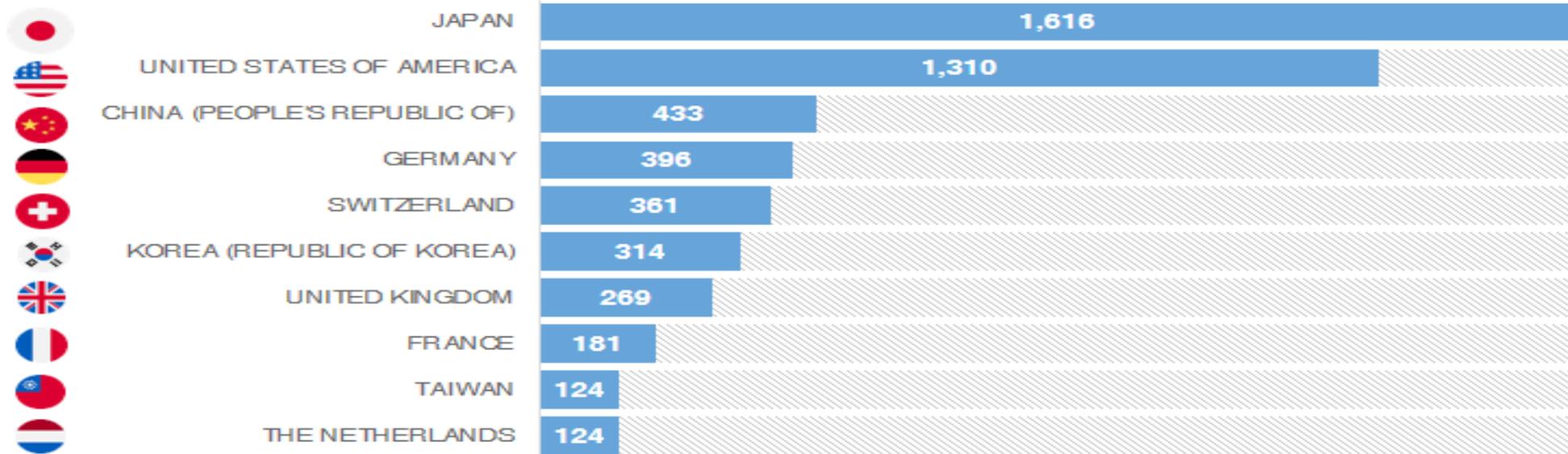
**17%**  
Local  
1,248

**83%**  
Foreign  
6,245

- Patent applications comprised 83% applications filed by foreign applicants and the remaining 17% by local.
- From 2008 to 2018, an average of 18% patent applications were filed by local applicants.

# PATENT APPLICATION 2018

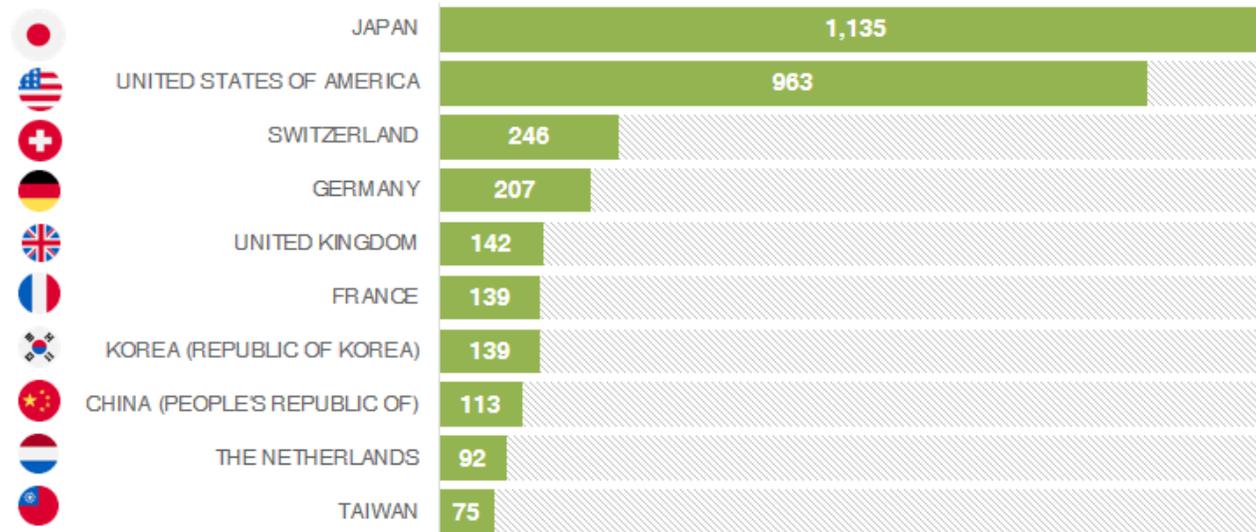
## TOP TEN FOREIGN COUNTRIES



- Japan filed the largest number of patent applications with 1,616 applications, followed by United States of America (USA) with 1,310 applications.
- The top ten countries accounted for more than 68% of the patent applications in Malaysia.

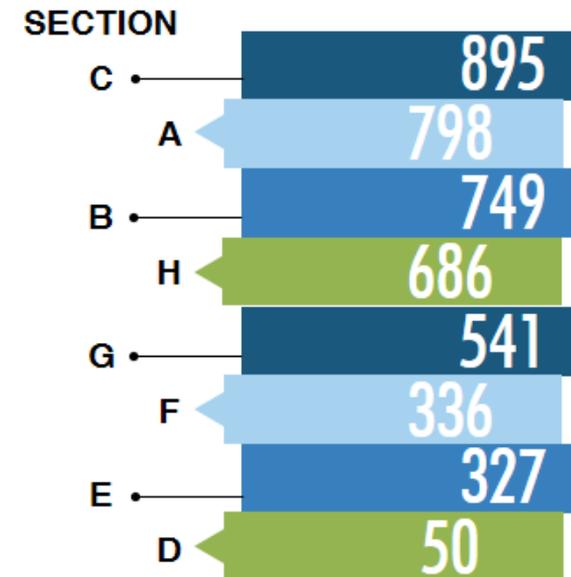
# TOP TEN PATENT GRANTS 2018

## FOREIGN COUNTRY



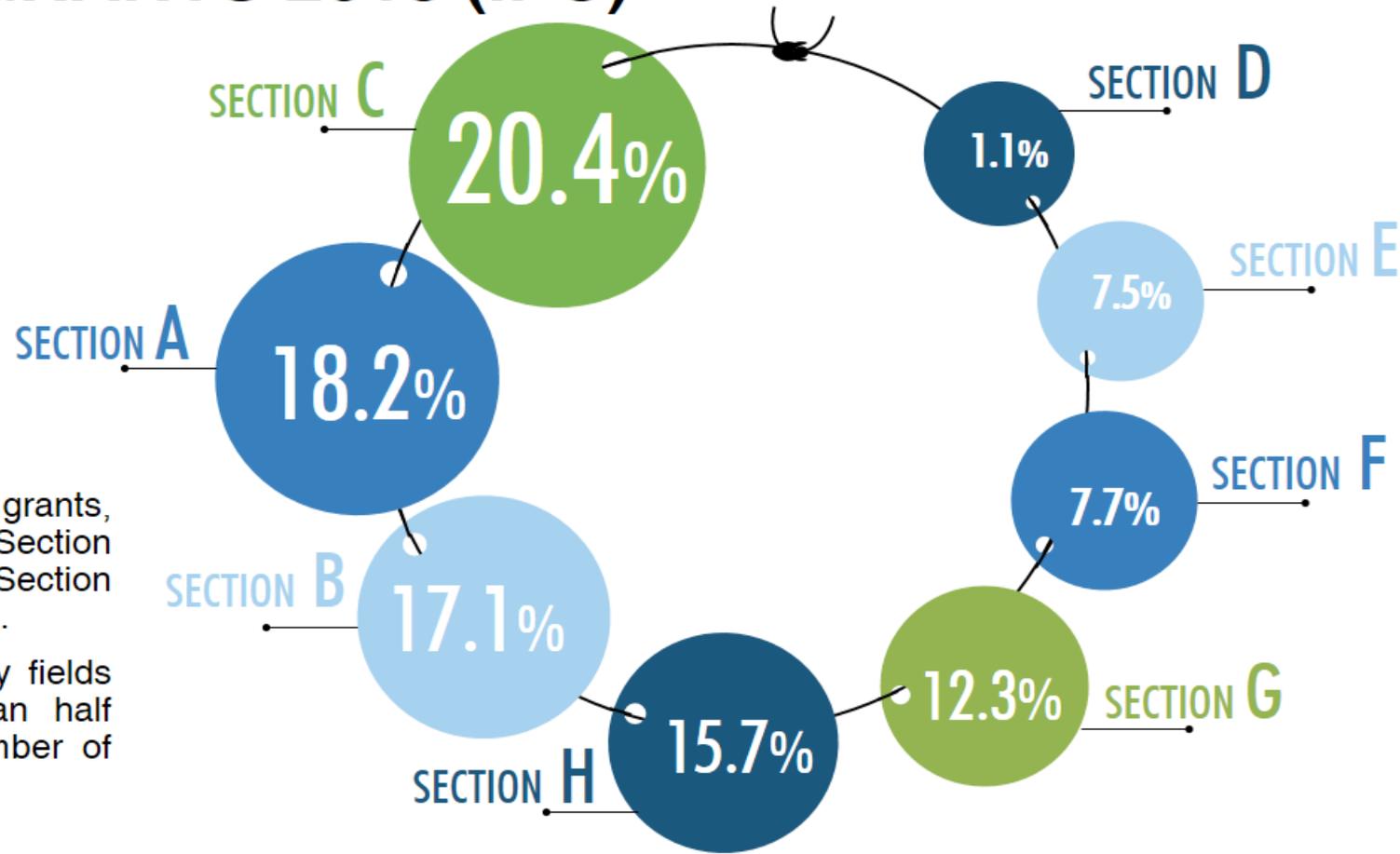
- USA and Japan accounted for most of the patent grants, with 1,135 and 963 grants, respectively.
- The top ten foreign countries shared 74.2% of the total granted patents.

## INTERNATIONAL PATENT CLASSIFICATION (IPC)



- Out of eight sections according to IPC, Section C (Chemistry ; Metallurgy) remained as the highest patent grants with 895 grants.

# PATENT GRANTS 2018 (IPC)



- Out of 4,382 patent grants, 20.4% were patents in Section C, followed by 18.2% in Section A and 17.1% in Section B.
- The top three technology fields accounted for more than half (55.7%) of the total number of patent grants.

# THANK YOU



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