



GUIDELINES ON CERTIFICATION OF INDUSTRIAL PROPERTY (IP)

AGENTS 2025

Ministry of Industry, Commerce and Employment

Department of Media, Creative Industry and Intellectual Property

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1. Background

In exercise of the powers conferred by Section 43.2 of the *Industrial Property Act of the Kingdom of Bhutan 2001*, the following procedures shall be adhered to in the certification of Industrial Property (IP) Agents as an interim measure for a duration of two years. Currently, there are only four registered IP agents in the market, and only two are actively practicing. Moreover, the recruitment of IP agents has been frozen for more than a decade. This insufficient number has led to several critical issues affecting the quality and accessibility of IP services in Bhutan. Therefore, it is a timely intervention to proactively deliver effective and efficient IP services.

These guidelines aspires to curb the following challenges in the IP Market:

- The unavailability of sufficient IP agents hinders the smooth facilitation of IP-related services.
- Preventing new qualified individuals from entering the IP Agent market contradicts the principles of fair competition and restricts opportunities for professional growth.

2. Eligibility Criteria

2.1 Citizenship Requirement

- Must be a citizen of Bhutan.

2.2 Clearances from Relevant Agencies

- Obtained a valid Security Clearance Certificate from the Royal Bhutan Police.
- Any other clearances as deemed necessary and relevant by the IP Office.

2.3 Academic Qualifications/Field Experience

- hold a minimum of a Bachelor's degree in various science and engineering disciplines and laws based on IP office's determination.
- The degree must be from an accredited or recognized institution.

OR

- Possess a minimum relevant work experience of 5 years in the IP office of Bhutan.

3. Pre-selection Workshop

To uphold the highest professional and ethical standards in intellectual property representation, all eligible candidates seeking to practice IP as an agent may first complete a 5-day preparatory program known as Pre-selection Workshop. This

program is administered exclusively by the Department of Media, Creative Industries, and Intellectual Property (the IP Office). It is designed to provide rigorous, practice-oriented training, ensuring candidates are fully prepared for the demands of patent, design, and trademark law practice in Bhutan.

Recognizing the distinct domains of patent/design law and trademark law, the program is structured into two specialized streams:

1. Design & Patent Stream
2. Trademark Stream

3.1 Structure and Delivery

- Duration: 5 consecutive days per stream
- Delivery Mode: Offline (In-person sessions at designated training centers in Thimphu identified by the IP Office) and online materials for remote access.
- Hours per Day: Minimum 6 contact hours per day
- Assessment: Internal assessments may be conducted during the training for formative feedback, but will not affect eligibility
- Certification: A Certificate of Completion will be issued upon full attendance and participation

3.2 Course Streams and Detailed Syllabus

3.2.1 Design and Patent Law

Objective: To equip participants with a solid grasp of substantive and procedural patent and design law, national practices, drafting skills, and regulatory frameworks relevant to practice in Bhutan.

Syllabus Overview:

Day 1: Fundamentals of Patent and Design Law

- Structure and legal basis of the Industrial Property Act of Bhutan (as amended)
- Scope and definition of “inventions” and “designs”
- Rights conferred by patents and design registrations
- Criteria for patentability: novelty, inventive step, and industrial applicability
- Criteria for design protection: novelty and individual character
- Doctrine of independence of patent, equivalence, freedom of designers, informed user, skilled in the art, etc
- Exclusions from patentability (methods, mathematical formula, etc.)
- Duration, renewal, and lapse of rights

Day 2: International Framework and Treaty Systems

- Paris Convention and national treatment principles
- Principle of Exhaustion (First-sale Doctrine)

- Patent Cooperation Treaty (PCT) overview and relevance for Bhutan
- Hague Agreement on Industrial Designs – procedural implications
- Filing priority claims and international classification systems (IPC, CPC, and Locarno)

Day 3: Application Drafting and Filing

- Anatomy of a patent application: title, abstract, claims, specifications, drawings
- Drafting enforceable and clear patent claims
- Design registration application structure
- Use of technical drawings and visual representation requirements
- Common errors and examiner objections
- Online filing system walkthrough and form-filling exercises

Day 4: Examination, Opposition, and Post-Grant Procedures

- Pre-grant formalities and substantive examination stages
- Opposition system (as amended)
- Amendments and voluntary corrections
- Maintenance and annuities
- Invalidation and compulsory licensing

Day 5: Ethics, Representation, and Agent Practice

- Duties to the client and the IP Office
- Confidentiality and conflict of interest management
- Limitations on practice and unauthorized representation
- Mock advisory session and peer-to-peer review

3.2.2 Trademark Law

Objective: To prepare candidates with the legal reasoning, procedural knowledge, and representational skills necessary to serve as trademark agents before the Bhutan IP Office.

Syllabus Overview:

Day 1: Trademark Law Fundamentals

- Overview of the Trade Marks chapter of the Industrial Property Act (as amended)
- Definition and types of marks: word, device, collective, certification, GI
- Absolute and relative grounds for refusal
- Doctrine of the average consumer
- Acquisition of rights and distinctiveness thresholds

- Duration, renewal, and revocation

Day 2: International Instruments and Best Practices

- Madrid Protocol: filing, central attack, and international registration system
- Paris Convention as it applies to trademarks
- Geographical Indications: definition, distinction from trademarks, protection regime
- Well-known and famous marks protection

Day 3: Filing, Examination, and Procedural Aspects

- Mark clearance and conducting similarity searches
- Preparing and submitting applications
- Specification of goods and services (Nice Classification)
- Examiner reports and response drafting
- Form-filling exercises using the national filing system

Day 4: Opposition, Cancellation, and Enforcement

- Opposing third-party marks
- Revocation and invalidation procedures
- Use requirements and non-use cancellation (as amended)
- Recording of assignments, licenses, and name changes
- Border enforcement mechanisms (as amended)

Day 5: Ethical Representation and Practical Simulation

- Client-attorney ethical guidelines and malpractice avoidance
- Professional standards and misrepresentation risks
- Representation authority and agent conduct
- Practice session: draft opposition notice and legal opinion simulation

4. Certification Procedure

4.1 Registration

All the interested Bhutanese nationals meeting the eligibility criteria (laid down under Section 3 of this guideline) shall register for IP agent licensing using the Registration Form, provided in the Annexure I of this document. The IP Office shall inform the candidates in writing whether their registration has been accepted. In cases of refusal, a reasoned decision shall be provided.

4.2 Selection

The enrolled candidates shall attend the pre-selection workshop for a duration of 5 days, as detailed out in section 3 of this guideline. The workshop aims to ensure

candidates are fully prepared for the demands of patent, design, and trademark law practice in Bhutan.

Subsequently, the candidates shall sit for a Quiz to assess knowledge of IP law and procedure. The date and time for appearing a Quiz shall be informed in writing. The Quiz shall be assessed out of 100 marks and the candidates must pass with a minimum score of 65% in order to be licensed as an IP Agent.

4.2 Licensing and Accreditation

Candidates who successfully pass the quiz shall be awarded a certificate by the IP Office authorizing them to act as registered IP Agents for 2 years and further practice shall be subject to renewal contingent on compliance to the code of conduct.

Certified Agents shall be formally listed in the official Register of IP Agents maintained by the IP Office. A certification agreement shall be drawn between the IP Office and the IP Agent.

5. Code of Conduct

The conduct of certified IP Agents shall be governed by a binding “Code of Conduct” as per Annexure II.

6. Oversight and Institutional Mechanisms

The IP Office shall serve as the competent authority for the administration of the Guideline for Certification of IP Agent. Its responsibilities shall include designing and updating training curriculum, maintaining the official registry of certified IP Agents, coordinating with external partners for offering capacity building programs, and enforcing ethical compliance.

ANNEXURE I:

IP AGENT REGISTRATION FORM

Personal Information

Name: CID No.:

Gender: Phone Number:

..... Email ID:

Address of residence:

Applicant Detail

Qualification:

College/University:

Valid Security Clearance No.:

No. of years served in the IP Office (If relevant):

Application Details

Date of Application:

Documents required:

1. Degree Transcripts
2. Concern letter from the employer (If relevant)
3. Relevant Certificates and other documents

ANNEXURE II: Code of Conduct

1. Preamble

This Code of Conduct establishes the ethical and professional standards governing all certified Industrial Property (IP) Agents in Bhutan. It aims to:

- Safeguard the integrity of the IP system;
- Protect the interests of clients and the public;
- Uphold the dignity, independence, and competence of the IP profession; and
- Promote trust, accountability, and good governance within Bhutan's IP ecosystem.

2. General Principles

All certified IP Agents shall:

1. Act with honesty, integrity, and independence.
2. Exercise their functions with competence, diligence, and fairness.
3. Maintain confidentiality and client trust at all times.
4. Avoid any conflict of interest or misuse of confidential information.
5. Uphold respect for law, clients, the IP Office, and fellow professionals.
6. Contribute to the advancement of Bhutan's IP ecosystem through education, mentorship, and capacity-building.

3. Professional Competence and Diligence

3.1 An IP Agent shall provide competent representation, applying adequate legal, technical, and procedural knowledge necessary for the task.

3.2 An IP Agent shall not accept any professional engagement beyond their competence unless:

- They obtain necessary assistance or expertise; or
- They disclose limitations to the client and the IP Office, with informed consent.

3.3 An IP Agent shall act promptly, avoid undue delays, and ensure all filings and communications comply with statutory timelines and procedural requirements.

3.4 An Agent shall keep abreast of developments in IP law, technology, and policy.

4. Integrity and Honesty

4.1 Agents shall not engage in any conduct involving dishonesty, fraud, misrepresentation, or deceit.

4.2 No Agent shall falsify documents, conceal material facts, or make misleading statements before the IP Office or any tribunal.

4.3 Agents must not manipulate official records, misstate fees, or misappropriate client funds or documents.

5. Confidentiality of Information

5.1 All information obtained in the course of representation shall be kept strictly confidential and used only for legitimate professional purposes.

5.2 Disclosure is permissible only with:

- The client's informed written consent, or
- A lawful order from a competent authority.

5.3 Agents shall ensure the confidentiality of both tangible and digital data, adopting secure communication and storage methods.

6. Conflict of Interest

6.1 An IP Agent shall not represent clients whose interests are directly adverse without obtaining informed written consent from all affected parties.

6.2 Agents shall disclose any personal, financial, or professional interest that could impair objectivity.

6.3 In cases of unavoidable conflict, the Agent shall immediately withdraw and assist in transferring representation to another qualified Agent.

7. Client Relations

7.1 Agents shall:

- Provide clients with clear, written engagement terms that include fees and the scope of services.
- Keep clients informed of significant developments in their cases.
- Respond promptly to reasonable client inquiries.

7.2 Agents shall avoid charging unreasonable or deceptive fees.

7.3 Client funds received for filing, registration, or renewal shall be held in trust accounts and used solely for intended purposes.

8. Relations with the IP Office

8.1 Agents shall act with utmost respect, transparency, and courtesy toward officials of the IP Office.

8.2 They shall not attempt to influence, coerce, or improperly induce decisions of examiners or administrative staff.

8.3 Agents shall comply strictly with all Standard Operating Procedures (SOPs), prescribed templates, and submission protocols.

8.4 Agents shall immediately notify the IP Office of any material error, false statement, or omission in their filings.

9. Professional Independence

9.1 Agents shall act in the best interests of their clients without improper influence from third parties, employers, or political authorities.

9.2 No Agent shall act as both examiner and representative in any matter or hold dual roles that compromise neutrality.

9.3 Agents must refuse instructions that would require them to violate the law, professional standards, or the Code.

10. Fair Competition and Professional Courtesy

10.1 Agents shall compete fairly, refraining from defamation, false comparison, or solicitation through deceptive advertising.

10.2 Collaboration, mentorship, and mutual respect among Agents are encouraged to strengthen Bhutan's professional community.

10.3 Agents shall respect the proprietary rights and confidentiality of colleagues' materials, drafts, or client lists.

11. Public Representation and Use of Titles

11.1 Only duly certified individuals may use the titles "IP Agent" in Bhutan.

11.2 Agents shall not misrepresent their qualifications, official affiliation, or areas of expertise.

11.3 Use of the national emblem, ministry seals, or government logos in private practice materials without authorization is prohibited.

12. Misconduct

12.1 Misconduct includes, but is not limited to:

- Breach of confidentiality or conflict-of-interest provisions;
- Dishonest conduct or falsification of documents;
- Negligence or abandonment of client matters;
- Bribery, corruption, or unethical solicitation;
- Misuse of licensing titles or client funds.

13. Enforcement and Appeal

13.1 The IP Office shall ensure consistent application of this Code and may issue practice directives or interpretative guidelines.

15. Entry into Force

This Code shall take effect upon its adoption by the Department of Media, Creative Industries, and Intellectual Property. All previously issued ethical guidelines inconsistent herewith shall stand repealed.