

Petty patent registration in Thailand

Department of Intellectual Property, Thailand

<http://www.ipthailand.go.th/>

Consideration criteria

1. Invention applied for the patent should be characterized as follows;
 - 1.1 The invention shall be a new creation.
 - 1.2 The invention can be used for industrial applicability.
 - 1.3 The following inventions shall not be protected by the Patent Act.
 - (1) Microorganism and any component of the microorganism naturally-existing in animal, plant or extract from animal or plant;
 - (2) Scientific or mathematical principles and theories;
 - (3) Database for computer functions;
 - (4) Method of diagnosis, treatment or care of human and animal diseases;
 - (5) The invention that contradicts public order, morality, health or welfare;
2. To apply for a petty patent, the applicant shall submit supporting documents as follows;
 - (1) Title of the invention
 - (2) Describe features and objectives of the invention
 - (3) Invention details. The invention shall be described in details completely, concisely and clearly, with which an ordinary person specialized in the relevant technical field can create such invention.
 - (4) Claim
 - (5) Other documents stipulated in the Ministerial Regulation

Conditions of application submission

1. To receive a petty patent, the applicant shall submit the form as determined by the Director-General.

The petty patent application shall be accompanied with invention details, claim and summary of invention. If necessary, the applicant shall provide drawing(s) as supporting documents of the application for the better understanding of the invention.

If the invention applied for the patent is involved with a new microorganism, the invention details shall mean the certificate of bio-organism deposit and/or document describing its features or properties issued by an institution for bio-organism deposit. In this regard, the Department of Intellectual Property shall announce the list of institutions from time to time.

2. Authorization

- 2.1 In case the applicant of the petty patent does not reside in the Kingdom of Thailand, he shall authorize the patent agent/patent attorney registered with the Director-General of the Department of Intellectual Property to act on his behalf. In this regard, the power of attorney shall be presented to the Director-General in accordance with the following regulations;
 - (1) If the authorization is done outside the Kingdom of Thailand, the signatures in the authorization letter or power of attorney shall be certified by the authorized official of the Thai embassy or consulate or Director of the office of the Ministry of Commerce located in the country where the principal or power grantor resides, or the person authorized to act on behalf of the said officials or the person authorized to certify the signature according to the law in that country, or
 - (2) In case the authorization is done in the Kingdom of Thailand, the applicant shall submit a copy of passport or temporary residence certificate of the principal or power grantor, or any evidence indicating that at the time the authorization was made, the principal or power grantor was in Thailand.
- 2.2 The Power of Attorney shall be attached with the revenue stamp of 30 Baht/patent agent/patent attorney/application.

Proceeding according to the official's instruction

1. In case that the official finds a correctable defect in the application, the official shall notify the applicant or his patent agent/patent attorney for the correction. The applicant shall finish the correction within 90 days from or since the notification reception date. After such period, without the correction of the applicant shall be deemed to have abandoned the application according to Section 27, except the Director-General extends the period for correction as deemed appropriate due to any necessity.
2. After the applicant corrected the application, the applicant shall submit the corrected application and the fee to the Department of Intellectual Property or the provincial office of the Ministry of Commerce. The corrected application shall enter the consideration and initial inspection processes respectively, similarly to the re-submission of the application.
3. In case of application submission via the website or internet/E-

patent filing system of the Department of Intellectual Property, the inspecting official shall check the completeness of information and details in the patent/petty patent application, request or other applications based on information and details appearing in the e-patent filing system. In this regard, the applicant shall present the application and supporting documents to the Department of Intellectual Property within 15 days of application number reception date and patent/petty patent application filing date via internet. The inspection of application submitted via internet shall be in accordance with the Notification of the Department of Intellectual Property Re: Principles and conditions for submission of patent/petty patent application, requests or other applications via internet.

4. In case the application is correct or the correction is completed, the official shall notify the applicant to pay the registration and publication fees within 60 days from or since the notification date. If the applicant does not pay the fees after the second notification, the applicant shall be deemed to have abandoned the application. As for the publication, the registration application shall be announced in the petty patent publication book.
5. After the publication, any interested person can request the inspection against the petty patent application whether it complies with the laws within 1 year of the publication date. After 1 year the examination shall complete the consideration. If the applied patent does not comply with the laws, it will be revoked.
6. In case of the application revocation, the appeal can be submitted to the official in accordance with the laws.

Notes

1. The working process starts after the inspection of the documents is completed, as specified in the manual of the public service.
2. In case the application or documentary evidence is not correct or incomplete, the official shall record the defect of the document or indicate the required additional documentary evidence (Record of conditions on application reception). The applicant shall correct the document and/or submit the additional document within 90 days of the application filing date. If the applicant fails to submit all additional documents within the specific period of time, the applicant shall be deemed to have abandoned the application for petty patent. The official shall return the application to the applicant and inform the reason of the return and his appeal right.

3. Any person fee paid to the Department of Intellectual Property shall not be refunded in all cases, except
 - (1) The law stipulates that the fee must be refunded, or
 - (2) The applicant double-paid or overpaid the fee, by which the faulty payment resulted from the mistake of the state official, not the payer. In this regard, the Department of Intellectual Property shall consider the refund case by case.
4. In case the applicant is required to submit many additional documentary evidences, the applicant shall submit all additional documentary evidences in the same time.
5. In case the applicant submits the copy of the documentary evidence, the applicant shall certify the copy of the documentary evidence.
6. In case the applicant submits the document in foreign language, the applicant shall submit the document with Thai translation and the correct translation certification of the translator.
7. In case the applicant or the authorized patent agent/patent attorney does not submit the application by himself, and granted power to the other person to submit the application, the application submitter shall present a sub power of attorney or temporary power of attorney, so that he is eligible to submit the application and sign in the record of conditions on application reception. If it appears that the application and the documentary evidence is not correct or incomplete, and the application submitter is not authorized to sign on the said record, the official shall not receive the application.
8. The working period does not include the time period when the applicant follows the official's examination or corrects the application, or the period of temporary suspension of registration.
9. The applicant is entitled to convert application to change the protection category (i.e. from petty patent to patent) prior to the issuance or prior to the publication, as the case may be. In this regard, the date of request for the change is deemed as the first day of the protection period.

Relevant laws

1. The Ministerial Regulation No.21 (B.E. 2542) issued by virtue of the Patent Act B.E. 2522 (Dated 24 September 1999).
2. The Ministerial Regulation No.22 (B.E. 2542) issued by virtue of the Patent Act B.E. 2522 (Dated 24 September 1999).
3. The Patent Act B.E. 2522 as amended by the Patent Act (No. 2) B.E. 2535 and the Patent Act (No. 3) B.E. 2542

Registration of technology transfer arrangements in Philippines

Intellectual Property Office of the Philippines

<https://www.ipophil.gov.ph>

Rule 6. Registration Procedure. The Bureau shall act on requests for registration of technology transfer arrangements based on the following procedure:

6.1. Filing. All requests pertaining to technology transfer arrangements shall be filed with the Bureau and duly stamped "Received" with the date, time, and name of the receiving officer upon receipt.

6.2. Notice of Additional Requirements. Should the Bureau find that the applicant has submitted incomplete or insufficient information and requirements, the Bureau shall issue a Notice of Additional Requirements to the applicant within three (3) working days from the filing of the request requiring the applicant to submit the additional requirements. The applicant shall complete the requirements within fifteen (15) working days from receipt of the Notice of Additional Requirements. Should the applicant not be able to comply with the requirements within the aforesaid period, applicant may request for an extension of another fifteen (15) working days and pay the corresponding fee. Otherwise, the file shall be archived and shall only be retrieved upon submission of the complete requirements and payment of the Document Retrieval Fee. (revised Rule 8)

6.3. Filing Date. Upon receipt of all the requirements as contained in the Notice of Additional Requirements, the Bureau shall issue a Notice of Filing Date within three (3) working days from such receipt. The Filing Date shall be the date when the Bureau has satisfactorily received all the requirements. This date is also the date when evaluation of the request shall commence. (revised Rule 7)

6.4. Decision. The Bureau Director shall decide on the request within twenty (20) working days from the Filing Date. (revised Rules 13, 18, 22, and 24) A favorable Decision shall cause the corresponding Certificates to be issued. Otherwise, appropriate Notices shall be issued to applicant.

6.4.1. Notice of Findings and Notice to Comply. Should any provision of the agreement violate any of the Prohibited Clauses or Mandatory Provisions of the IP Code, the Bureau shall issue a notice to the parties informing them of the violation and requiring them to comply. (revised Rules 20, 22, and 25)

6.5. Issuance of Certificate. Upon the applicant's satisfactory response to the findings and subsequent compliance with the IP Code provisions, and/or after a favorable Decision by the Bureau Director, the Bureau shall issue the appropriate certificate within seven (7) days from receipt of the duly executed and notarized

agreement and payment of the required fees for the following as requested: (revised Rules 14, 19, and 21)

- a. Certificate of Registration - A certification that a technology transfer arrangement has been granted certain exemption/s from the requirements of Sections 87 and/or 88 of the IP Code;
- b. Certificate of Compliance - A certification that the technology transfer arrangement does not violate any of the Prohibited Clauses and conforms to all the Mandatory Provisions of the IP Code;
- c. Certificate of Clearance - A certification that a trademark license agreement covered by Section 150 of the IP Code has been cleared for recordal with the Bureau of Trademarks.

6.6 Entry in the Certificate Registry Book. After the issuance of a certificate, the Bureau shall enter in the Certificate Registry Book the following:

- a. Title of the technology transfer arrangement;
- b. The parties thereto;
- c. Its registration number;
- d. The date of registration; and
- e. The corresponding type of certificate as enumerated in Rule 6.5 above.

Other information needed by the agency for statistical purposes may likewise be recorded, in accordance with the provisions of the law. (revised Rule 15)

6.7. Publication. The Bureau shall publish in the IPO Gazette all agreements that are granted exemption, registered, or cancelled. The publication shall contain the names of the parties, title, and subject of the agreement, the specific exemption/s granted, if any, and the date of cancellation, if such was the case. (revised Rule 33)

Rule 7. General Provisions

7.1. Applicants. Any party to a technology transfer arrangement or his duly authorized representative may file with the Bureau an application for Certificate of Registration, Certificate of Compliance, or Certificate of Clearance (as distinguished under Rule 6.5). Parties may also jointly file such Applications. (revised Rules 5 and 21)

7.2. Requirements. The basic requirements for any request to be filed with the Bureau pertaining to a technology transfer arrangement shall be as follows:

- a. Letter request;
- b. Copies of the technology transfer arrangement;

- c. The duly filled-out sworn application form which shall include a verified statement from the applicant that the agreement is not subject of any judicial, administrative, or other proceeding; and
- d. Requisite Fees.

Requests for Exemption shall also be accompanied with specifics on the exemption/s being requested and the justification for the exemption/so

In case of Requests for Preliminary Review, the applicant may submit either a draft or a duly executed and notarized agreement.

Other documents may be required by the Bureau to support and establish the merits of a request. (revised Rules 4 and 21)

7.3. Amendments. Minor changes on a technology transfer arrangement, such as addition or deletion of products, increase or decrease in royalty rates and other commercial terms, etc. which do not violate the requirements of Sections 87 and 88 of the IP Code, will not affect the findings of the Bureau and will not necessitate another round of review. Such requests for annotation shall be acted upon by the Bureau within three (3) working days from receipt of all the requirements which may include the surrender of a previously issued certificate covering the technology transfer arrangement. (revised Rule 35(b))

7.4. Issuance and Validity of the Certificates. There will not be issued any perpetual certificates and in no case shall any of these certificates exceed the life of the Technology Transfer Arrangement.

Technology Transfer Arrangements which had expired shall not be issued certifications anew unless aforesaid technology transfer arrangement had been renewed or extended in due course.

Only one (1) original Certificate shall be issued to the applicant and the Bureau will maintain only one (1) original duplicate for file. Requests for additional original copies will not be granted.

However, an applicant may request for certified true copies of the original duplicate on file.

a. Maximum Validity of the Certificate of Registration and Certificate of Compliance. The Certificates of Registration and Certificate of Compliance to be issued by the Bureau, as the case may be, may carry a maximum validity of ten (10) years from the date of effectivity of the technology transfer arrangement or from the date of issuance of the certificate, whichever is earlier.

b. Maximum Validity of the Certificate of Clearance. The Certificate of Clearance to be issued by the Bureau on account of Trademark License Agreements for recordal with the Bureau of Trademarks, may carry a maximum validity of ten (10) years but may not exceed the expiration of the Trademark registration itself, as appearing in the Trademark Registration certificate.

7.5. Cancellation of Registration. Automatic cancellation of registration shall be made upon receipt by the Bureau of a duplicate original or certified true copy of the registered technology transfer arrangement containing amendments or modifications that violate the Prohibited Clauses and Mandatory Provisions of the IP Code without approval of the Bureau. (Rule 16)

The Bureau may also cancel the registration of the technology transfer arrangement if, after evaluation, the Bureau has established that the justification for the grant of an exemption submitted by the applicant does not exist or has ceased to exist.

Such action will be made only after the parties in whose names the certificate of registration was issued are given an opportunity to be heard. (Rule 16)

In both cases, the parties shall be required to surrender the certificate provided that the surrender of the certificate shall not be a pre-requisite to the cancellation of the registration. (Rule 16)

(Source: IPOPHL Memorandum Circular No. 2020-002, Revised Rules and Regulations on Voluntary Licensing)

Medicines Patent Pool

The Medicines Patent Pool (MPP) is a United Nations-backed public health organization working to increase access to, and facilitate the development of, life-saving medicines for low- and middle-income countries. Through its innovative business model, MPP partners with civil society, governments, international organizations, industry, patient groups and other stakeholders, to prioritize and license needed medicines and pool intellectual property to encourage generic manufacture and the development of new formulations.

MPP's mandate is to accelerate access to affordable quality treatments for people living with HIV, hepatitis C and tuberculosis, as well as HIV-associated co-morbidities. Since 2018, MPP has expanded its mandate to other patented essential medicines on the World Health Organization (WHO)'s Model List of Essential Medicines (EML) as well as medicines with strong potential for future inclusion on the EML.

To date, MPP has signed agreements with ten patent holders for thirteen HIV antiretrovirals, one HIV technology platform, three hepatitis C direct-acting antivirals and a tuberculosis treatment. MPP was founded by Unitaid, which continues to be MPP's main funder. MPP's work on access to essential medicines is also funded by the Swiss Agency for Development and Cooperation (SDC).

For more information, access:

<https://medicinespatentpool.org/>