PATENT ACT,
B.E. 2522 (1979)

BHUMIBOL ADULYADEJ, REX;
Given on the 11th Day of March B.E. 2522;
Being the 34th Year of the Present Reign

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on patent for the protection of inventions and designs;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly acting in the capacity of the National Assembly, as follows:

Section 1. This Act is called the “Patent Act B.E. 2522”.

Section 2. This Act shall come into force after one hundred and eighty days from the date of its publication in the Government Gazette.

Chapter I
General Provisions

Section 3. In this Act:

1. Translated by Ms. Vipatboon Klaosoontorn under contract for the Office of the Council of State of Thailand’s Law for ASEAN project. Initial version pending review and approval.
2. Published in the Government Gazette Vol. 96, Part 35, Special Issue 1, dated 16 March B.E. 2537.
3. Section 3 was amended by the Patent Act (No.3) B.E. 2542.
“Patent” means a document which is issued to grant protection for an invention or a design as prescribed in Chapter II and Chapter III of this Act;

“Petty patent” means a document which is issued to grant protection for an invention as prescribed in Chapter IIIbis of this Act;

“Invention” means an innovation or an invention which results in the new creation of a product or a process, or any act which improves a product or a process;

“Process” means a method, a procedure or a process of producing, preserving, improving or developing the quality of a product, including the use of such process;

“Design” means a form or composition of lines or colours of a product which gives a product a special characteristic which can be used as a pattern for industrial products including handicrafts;

“Patent owner” includes the transferee of a patent;

“Petty patent owner” includes the transferee of a petty patent;

“Committee” means the Patent Committee;

“Competent official” means the person appointed by the Minister to perform under this Act;

“Director General” means the Director-General of the Department of Intellectual Property and shall include the person entrusted by the Director-General of the Department of Intellectual Property;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 4. The Minister of Commerce shall have charge and control of the execution of this Act and shall have the power to appoint competent officials and issue ministerial regulations to implement this Act.

The Ministerial Regulations shall come into force after their publication in the Government Gazette.
Chapter II
Patents for Inventions

Part I
Application for Patents

**Section 5.** Subject to section 9, an invention eligible for a patent application shall consist of the following characteristics:

1. The invention is new;
2. The invention involves an inventive step and;
3. The invention is industrially applicable.

**Section 6.** A new invention is an invention which is not anticipated by prior art. Prior art shall include the following inventions:

1. An invention which has existed or has been widely used in the Kingdom before the date of filing a patent application;
2. An invention whose substantial part or detailed description has previously been disclosed in a document or printed publication, whether inside or outside the Kingdom, before the date of filing a patent application, and whether the disclosure has been made by documents, printed materials, exhibitions or any other means.
3. An invention which has been granted a patent or a petty patent, whether inside or outside the Kingdom before the date of filing a patent application;
4. An invention whose application for a patent or a petty patent has previously been filed outside the Kingdom for more than 18 months before the date of filing a patent application, however, a patent or a petty patent has not yet been granted;

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4 Section 6 was amended by the Patent Act (No.2) B.E. 2535.
5 Section 6 paragraph two subsection (3) was amended by the Patent Act (No.3) B.E. 2542.
6 Section 6 paragraph two subsection (4) was amended by the Patent Act (No.3) B.E. 2542.

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(5)\textsuperscript{7} an invention whose application for a patent or a petty patent has previously been filed, whether inside or outside the Kingdom, and such application has already been published before the date of filing a patent application in the Kingdom;

A disclosure of a substantial part or details which was due to or made in the consequence of an unlawful act, or a disclosure of a substantial part or details by an inventor, including the displaying of an inventor’s invention at an international exhibition or an official exhibition shall not be deemed a disclosure of a substantial part or details under subsection (2), provided that such disclosure of a substantial part or details was done within twelve months before the filing of the patent application

Section 7. An invention involving an inventive step is an invention which, having regard to the prior art relevant to the patent application claiming the invention, would not have been obvious to a person having ordinary skill in the art.

Section 8. An invention which is industrially applicable is an invention which can be used in the industrial production, including handicrafts, agriculture, and commerce.

Section 9.\textsuperscript{8} The following inventions shall be excluded from patent protection under this Act:

(1) natural micro-organisms and any component of micro-organisms, plants or extracts from animals or plants;
(2) scientific and mathematical methods and theories;
(3) data systems for an operation of a computer (computer programs)
(4) methods of diagnosis, treatment or cure of human diseases or animal diseases;
(5) inventions contrary to public order, good morals, health or welfare.

Section 10. An inventor shall have the right to apply for a patent and the right to be named as such in the patent.\textsuperscript{9}

The right to apply for a patent shall be assignable, and transferable by succession.

\textsuperscript{7} Section 6 paragraph two subsection (5) was amended by the Patent Act (No.3) B.E. 2542.
\textsuperscript{8} Section 9 was amended by the Patent Act (No.2) B.E. 2535.
\textsuperscript{9} Section 10 paragraph one was amended by the Patent Act (No.2) B.E. 2535.
An assignment of the right to apply for a patent shall be made in writing and signed by the assignor and the assignee.

Section 11. The right to apply for a patent for an invention made by an employee in the execution of an employment contract or a contract which is for the purpose of inventing something shall belong to the employer unless otherwise stated in the employment contract.

The provision of paragraph one shall apply in the case where an employee has made any invention by using methods, statistics or reports which can be used or known by the employee through his employment (which are available to the employee through his employment) although the employment contract does not relate to any inventive activity.

Section 12. For the benefit of promoting inventive activity and providing fairness to the employee in the case provided for in section 11 paragraph one, if the employer obtains benefits from the invention or utilises the invention, the employee shall have a right to special remuneration from the employer other than his regular salary.

The employee who has made an invention according to section 11 paragraph two shall have a right to special remuneration.

The right to special remuneration shall not be barred by the employment contract.

A request for special remuneration under paragraph one and paragraph two of this section shall be submitted to the Director General in accordance with rules and procedures prescribed in the Ministerial Regulation, and the Director General shall have the power to determine such special remuneration as he deems appropriate by taking into account of the salary, the value of the invention, the benefits which the employer has obtained or would obtain from the invention and other conditions prescribed in the Ministerial Regulations.

Section 13. For the benefit of promoting inventive activity of government officials or employees of government organisations or public enterprises, an government official or an employee of a government organisation or public enterprise shall have the same right as that of the employee under section 12, unless otherwise prescribed in official regulations or regulations of government organisations or public enterprises.

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Section 14. An applicant for a patent shall have any of the following qualifications:

(1) having a Thai nationality or being a juristic person which has its head office located in Thailand;

(2) having a nationality of a country which is a party to a convention or an international agreement concerning patent protection to which Thailand is a party;

(3) having a nationality of a country which allows a Thai national or a juristic person having its head office located in Thailand to apply for a patent in that country;

(4) having a domicile or having a real and pragmatic industrial or commercial establishment in Thailand or in a country which is a party to a convention or an international agreement concerning patent protection to which Thailand is a party.

Section 15. In the case where there are two or more persons having made an invention jointly, they shall have the right to apply for a patent jointly.

In the case where a joint inventor declines to apply for a patent jointly or cannot be contacted or is not qualified to apply for a patent, the other joint inventors may apply for a patent for an invention jointly made by them in their names.

A joint inventor who did not join in an application for a patent may subsequently make a request to join in the application at any time before the issuance of a patent. On receipt of the request, the competent official shall inform the applicant and the joint applicants of the date of investigation. In this regard, the competent official shall also send a copy of the request to the applicant and the joint applicants.

In the investigation under paragraph three of this section, the competent official may require the applicant and the joint applicants to give an explanation or to submit any document or other objects to him. When the competent official has finished the investigation and the Director General has already made a final decision, the applicant and the joint applicants shall be informed of the final decision.

Section 16. In the case where there are two or more persons who have separately and independently made the same invention, any of them who is the first to file an application for a patent shall be entitled to a patent. If the applications have been filed on

10 Section 14 was amended by the Patent Act (No.3) B.E. 2542.
same date, the applicants shall make an agreement as to whether one of them shall be exclusively entitled to a patent or all of them shall be jointly entitled to a patent. If no agreement has been reached within the period of time prescribed by the Director General, the concerned parties shall bring the case before the court within ninety days from the date of expiration of the period of time prescribed by the Director General. If the case has not been brought before the court within such period, they shall be deemed to have abandoned their applications.

Section 17. The application for a patent shall be in accordance with the rules and procedures prescribed in the Ministerial Regulations.

The application for a patent shall contain the following items:

1. the title of the invention;
2. nature and purposes of the invention;
3. a detailed description of the invention containing a complete, concise and clear statement which will enable any person having ordinary skill in the art or other related technologies to make and carry out the invention and indicating the best mode known to the inventor for carrying out the invention;
4. one or more clear and concise claims;
5. other items as prescribed by the Ministerial Regulations.

In the case where Thailand has become a party to an international agreement or cooperation on patents, if the application for a patent is in accordance with what has been prescribed in such international agreement or cooperation, such application shall be deemed to be a patent application under this Act.\(^1\)

Section 18. Each application for a patent shall be filed for one invention only. A single application for a patent for a group of inventions may be filed only when the inventions are so linked that they may be deemed the same invention.

Section 19.\(^2\) Any person displaying the invention to the public at an exhibition organised or authorised by the government agency in the Kingdom and filing an application for

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\(^1\) Section 17 paragraph three was added by the Patent Act (No.3) B.E. 2542.

\(^2\) Section 19 was amended by the Patent Act (No.2) B.E. 2535.
a patent for such invention within twelve months from the opening date of the exhibition shall be deemed to have filed the application on the opening date of the exhibition.

Section 19bis. A person under section 14 who has filed an application for a patent for an invention outside the Kingdom may claim the date of filing of the first application outside the Kingdom as the date of filing the application in the Kingdom, provided that the patent application for the invention has been filed within twelve months from the date of filing of the first application outside the Kingdom.

Section 20. The applicant may make a request to amend his application for a patent in accordance with the rules and procedures prescribed in the Ministerial Regulations, provided that such amendment shall not be an addition of a substantial part of the invention.

Section 21. The competent officials whose duties involve with patent applications shall be prohibited from disclosing any detailed description of the invention or allowing any person to inspect or make a copy of any detailed description of the invention by any means before the publication of such application under section 28 unless having obtained the consent in writing from the applicant.

Section 22. Any person knowing that the patent application for the invention has already been filed shall be prohibited from disclosing any detailed description of the invention by any means or committing any act which may cause damage to the applicant before the publication of the application under section 28 unless having obtained the consent in writing from the applicant.

Section 23. In the case where the Director General has an opinion that the invention should be kept in confidence for the benefit of national security, the Director General shall have the power to order any substantial part and detailed description of the invention to be kept in confidence until otherwise ordered by him.

Section 19bis was amended by the Patent Act (No.3) B.E. 2542.

Section 21 was amended by the Patent Act (No.3) B.E. 2542.

Section 22 was amended by the Patent Act (No.3) B.E. 2542.
Any person, including the applicant, knowing that the patent application for the invention has been ordered by the Director General to be kept in confidence according to paragraph one shall be prohibited from disclosing any substantial part and detailed description of such invention unless it is authorised by law.

Part II
Grant of Patent

Section 24. In granting a patent for patent protection, the competent official shall make the following examinations:
(1) examine the application whether it complies with section 17;
(2) examine the invention whether it is an invention according to section 5.
Nevertheless, the examination shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulations.

Section 25. For the benefit of the examination of a patent application, the Director General may request any government department, agency or organisation or any foreign or international patent office or organisation to examine the invention with regard to section 5, section 6, section 7, section 8 and section 9 or any detailed description of the invention with regard to section 17(3) in respect of the patent application, and the Director General may deem the execution of such examination as the execution done by the competent official.

Section 26. In examining a patent application, if it appears to the competent official that the patent application involves several inventions which are not so linked as to form a single inventive concept, the competent official shall give a notification to the applicant to divide the application into several divisional applications, each of which relates to a single invention.

If the applicant files any of the divisional applications according to paragraph one within one hundred and twenty days from the date of receipt of the notification from the
competent official, the applicant shall be deemed to have filed such divisional application on the date of filing of his initial application.

The division of the application shall be in accordance with the rules and procedures prescribed in the Ministerial Regulations.

In the case where the applicant does not agree with the order of the competent official, the applicant shall appeal to the Director General within one hundred and twenty days. Once the Director General has made a decision, the decision of the Director General shall be final.

Section 27. In examining a patent application, the competent official may require the applicant to give an explanation or to submit any document or other objects to him.

In the case where the applicant has previously filed a patent application outside the Kingdom, the applicant shall submit the result of the examination of the invention or the detailed description of the invention carried out in respect of such foreign application in accordance with the rules and procedures prescribed in the Ministerial Regulations.

In the case where any document in a foreign language is to be submitted, the applicant shall submit such document accompanied with its translation in Thai.

If the application fails to comply with the order of the competent official under paragraph one or fails to submit the document required under paragraph two within ninety days, the applicant shall be deemed to have abandoned his application for a patent, except in the case of necessity, the Director General may extend such period as he deems appropriate.

Section 28. When the competent official has submitted the examination report to the Director General:

(1) if it appears to the Director General that the patent application fails to comply with section 17, or the invention is excluded from patent protection according to section 9, the Director General shall make an order to reject the patent application and the competent official shall inform the applicant of the rejection order in writing by registered mail with return receipt requested or by any other means prescribed by the Director General within fifteen days from the date on which the Director General made the rejection order;

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Section 28 was amended by the Patent Act (No.3) B.E. 2542.

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(2) if it appears to the Director General that the patent application complies with section 17 and the invention is not excluded from patent protection according to section 9, the Director General shall, in accordance with the rules and procedures prescribed in the Ministerial Regulations, order the application to be published. Before the publication is made, the competent official shall notify the applicant to pay the publication fee by means prescribed by the Director General or by registered mail with return receipt requested. If the applicant fails to pay the publication fee within sixty days from the date on which he was notified or from the date of receipt of such notification by the registered mail with return receipt requested, the competent official shall once again notify the applicant by registered mail with return receipt requested and if the applicant fails to pay the publication fee within sixty days from the date of receipt of such notification, the applicant shall be deemed to have abandoned his application for a patent.

Section 29. After the publication under section 28 has already been made, the applicant shall make a request to require the competent official to examine whether his invention is the invention with respect to section 5 within five years from the date of publication of such application. In the case where there is an opposition or an appeal against the rejection order under section 33 and section 34, the applicant shall make such a request within one year from the date on which the decision was final, depending on which period expires last. If the applicant fails to make such a request within the prescribed period, the applicant shall be deemed to have abandoned the application for a patent.

In the case where the Director General requests any government department, agency or organisation or any foreign or international patent office or organisation to examine the invention according to section 25, and if there is an expense in examining such invention, the applicant shall pay the expense to the competent official within sixty days from the date on which he has been notified by the competent official. If the applicant fails to pay the expense within the prescribed period, the applicant shall be deemed to have abandoned his application for a patent.

Section 30. After the publication under section 28 has already been made, if it appears that the patent application fails to comply with section 5, section 9, section 10, section 11 or section 14, the Director General shall make an order to reject the patent application and the competent official shall inform the applicant as well as the opposing party of the rejection.
order in the case where there is an opposition according to section 31, and shall publish the rejection order in accordance with the rules and procedures prescribed by the Ministerial Regulations.

Section 31. After the publication under section 28 has already been made, any person who sees that he has a better right to be granted a patent than the applicant or sees that the application fails to comply with section 5, section 9, section 10, section 11 or section 14 may file an opposition to the competent official provided that such an opposition shall be filed within ninety days from the date of publication under section 28.17

When the competent official has received an opposition according to paragraph one, the competent official shall send a copy of the opposition to the applicant. The applicant shall file a counterstatement within ninety days from the date of receipt of the copy of the opposition. If the applicant fails to file such counterstatement, the applicant shall be deemed to have abandoned his application for a patent.

The opposition and the counterstatement shall be filed, accompanied with evidence.

Section 32. In considering the opposition and the counterstatement, the opposing party or the applicant may introduce any evidence or make any additional statement to support the ground on which they rely on in accordance with the regulations prescribed by the Director General.

When the Director General has already made a final decision and an order under section 33 or section 34, such final decision and such order, together with reasons, shall be informed to the applicant.

Section 33. When the applicant has made a request to require the competent official to examine the invention according to section 29 and the competent official has already carried out the examination under section 24, the competent official shall submit the examination report to the Director General.

When the Director General has already considered the examination report according to paragraph one and sees no reason to reject the grant of a patent, and there has

17 Section 31 paragraph one was amended by the Patent Act (No.2) B.E. 2535.
been no opposition under section 21, or in the case where there has been an opposition under section 31 but the Director General has made a decision that the applicant has a right to be granted a patent, the Director General shall make an order that the invention is to be registered and that a patent is to be granted to the applicant. The competent official shall notify the applicant that the fee must be paid for the grant of a patent within sixty days from the date of receipt of such notification.

When the fee has already been paid in accordance with paragraph two, the invention shall be registered and a patent shall be granted to the application within fifty days from the date of payment of the fee, but not before the expiration of the period prescribed under section 72. If the applicant fails to pay the fee within the period under paragraph two, the applicant shall be deemed to have abandoned his application for a patent.

The patent shall be in the form prescribed by the Ministerial Regulations.

Section 34. In the case where there is an opposition according to section 31 and the Director General has made a decision that the opposing party has a right to be granted a patent, the Director General shall make an order to reject the application for a patent.

In the case where the decision of the Director General rejecting the application is appealed or is not appealed by the applicant and the Committee or the court has already made an order or a final judgment, if the opposing party has filed a patent application for the invention within one hundred and eighty days from the date on which the order by the Director General was made or from the date on which the Committee or the court made the order or the final judgment, as the case may be, the opposing party shall be deemed to have filed his application on the same date as the date of filing of the applicant’s application, and the publication of the applicant’s application for a patent according to section 28 shall be deemed to be the publication of the patent application of the opposing party. In this case, no person may file an opposition against the patent application of the opposing party on the ground that he has a better right to a patent.

In granting a patent to the opposing party, the competent official shall examine the patent application and the invention of the opposing party with regard to section 24, and the provisions under section 29 shall also apply to the opposing party.
Part III
Patent Owners’ rights

Section 35. An invention patent shall have a term of twenty years from the date of filing the patent application in the Kingdom. In the case where there have been court proceedings according to section 16, section 74 or section 77, the term of the patent shall not include the period during which the court proceedings have been taken.

Section 35bis. Any act, contrary to section 36, committed before the date of grant of a patent shall not be deemed an infringement of the patent owner’s rights unless such act is committed against the invention under the patent application already published according to section 28, the person so acting knowing of the filing of the patent application or having been notified in writing that a patent application has already been filed for the invention, in this case the applicant shall be entitled to obtain damages from the infringer. A claim for such damages shall be filed before the court after the patent has already been granted to the applicant.

Section 36. Only the owner of the patent shall have the following rights:

(1) in the case where the patent has been granted in respect of a product, the right to produce, use, sell, have in the possession for sale, offer for sale or import the patented product into the Kingdom;

(2) in the case where the patent has been granted in respect of a process, the right to use the patented process, produce, use, sell, have in the possession for sale, offer for sale or import the product produced by means of the patented process into the Kingdom;

Paragraph one of this section shall not apply to:

(1) any act for the benefit of study, exploration, experimentation or research, provided that such act does not conflict with a normal exploitation of the patent by the patent owner and does not unreasonably prejudice the legitimate interests of the patent owner.

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18 Section 35 was amended by the Patent Act (No.3) B.E. 2542.
19 Section 35bis was added by the Patent Act (No.2) B.E. 2535.
20 Section 36 was amended by the Patent Act (No.2) B.E. 2535.
(2) the production of the patented product or use of the patented process which the producer of the patented product or user of the patented process, in good faith and without knowing or having no reason to have known of the patent registration, has engaged in the production or has acquired the equipments therefor prior to the date of filing the patent application in the Kingdom. Nevertheless, this subsection is not subject to section 19bis.

(3) the compounding of a specific medicine according to a doctor’s prescription by a professional pharmacist or medical practitioner, including any act done to such pharmaceutical product.

(4) any act concerning an application for pharmaceutical registration, the applicant aiming to produce, sell or import the patented pharmaceutical product after the term of the patent has expired.

(5) the use of a device which is an invention granted a patent in relation to the body of a vessel, engine or other devices of a vessel of a country which is a party to a convention or an international agreement concerning patent protection to which Thailand is a party, in the case where the vessel, temporarily or accidentally, enters the waters of the Kingdom and such a device is needed to be used with the vessel.

(6) the use of a device which is an invention granted a patent in relation to a construction, an operation or other devices of an aircraft or vehicle of a country which is a party to a convention or an international agreement concerning patent protection to which Thailand is a party, in the case where the aircraft or vehicle enters, temporarily or accidentally, enters the Kingdom.

(7) the use, sale, having in the possession for sale, offering for sale or importing the patented product into the Kingdom, provided that such product has been produced or sold with the authorisation or consent of the patent owner.\(^{21}\)

Section 36bis.\(^{22}\) The scope of rights of the patent owner under section 36 with regard to a patented invention shall be as indicated in the claims. In determining the scope of the invention in relation to the claims, the characteristics of the invention as indicated in the detailed description of the invention and its drawings shall be taken into account.

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\(^{21}\) Section 36 paragraph two was amended by the Patent Act (No.3) B.E. 2542.

\(^{22}\) Section 36bis was added by the Patent Act (No.2) B.E. 2535.

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The scope of the invention obtaining protection shall include the characteristics of the invention which, although not specifically indicated in the claims, have the same qualifications, functions and effects as those indicated in the claims according to the view of a person having ordinary skill in the art or other technologies related to the invention.

Section 37. The patent owner shall have the right to use the term “Thai Patent” or its abbreviation (Sor Bor Tor) or any foreign abbreviation of the same meaning on the product, its container or package, or in the advertisement of the patented invention.

The use of the term or its abbreviation under paragraph one shall be accompanied by the patent number.

Section 38. The patent owner may grant a licence to any person to exercise the rights conferred to him under section 36 and section 37 or may assign the patent to any other person.

Section 39. In granting a licence under section 38:
(1) the patent owner shall not set out any condition, limitation or royalty in a way which unjustifiably restricts competition.

Conditions, limitations or royalties which unjustifiably restricts competition according to paragraph one shall be as indicated in the Ministerial Regulations.
(2) the patent owner shall not require the licensee to pay the royalties for the use of the patented invention after the patent has been expired according to section 35.

The imposition of conditions, limitations or royalties which are contrary to the provisions of this section are null and void.

Section 40. Subject to section 42, in the case where there are joint owners of a patent, in the absence of any agreement to the contrary, each joint owner shall have the right to exercise the rights conferred to him under section 36 and section 37 without the consent of the other joint owners. Nevertheless, the consent of all joint owners shall be obtained for a licence or assignment of a patent under section 38.

23 Section 39 was amended by the Patent Act (No.2) B.E. 2535.
Section 41. A licence or assignment of a patent under section 38 shall be in writing and registered with the competent official in accordance with the rules, procedures and conditions prescribed by the Ministerial Regulations.

In the case where the Director General sees that any statement in the licensing contract is contrary to the provisions of section 39, the Director General shall submit the licensing contract to the Committee. If the Committee has made a decision that such a contract is contrary to the provisions of section 39, the Director General shall make a order to decline the registration of the contract unless the contracting parties intended the valid part of the contract to be severable from the invalid part thereof. In such a case, the Director General may make an order to allow the registration of the valid part of the contract.

(Repealed)\(^{24}\)

Section 42. The application to register the transfer of a patent by succession shall be in accordance with the rules and procedures prescribe by the Ministerial Regulations.

Part IV
Payment of Annual Fees

Section 43. The owner of a patent shall pay an annual fee as prescribed in the Ministerial Regulations starting with the fifth year of the term of the patent and the annual fee shall be paid within sixty days from the beginning date of the fifth year of the term of the patent and of every year thereafter.

If a patent is granted after the beginning date of the fifth year of the term of the patent, the payment of the annual fees for the fifth year to the year of grant of the patent shall be paid within sixty days from the date of grant of the patent.

If the owner of the patent fails to pay the annual fee within the period prescribed in paragraph one or paragraph two, the owner of the patent shall be liable to pay a surcharge of thirty percent of the annual fee by paying the annual fee together with the

\(^{24}\) Section 41 paragraph three was repealed by the Patent Act (No.2) B.E. 2535.
surcharge with one hundred and twenty days from the date of expiration of the payment period prescribed in paragraph one or paragraph two.\footnote{25}

When the period prescribe in paragraph three has already expired, if the owner of the patent fails to pay the annual fee and the surcharge, the Director General shall submit a report to the Committee for the invalidation of the patent.\footnote{26}

In the case where the owner of the patent files, within sixty days from the date of receipt the invalidation order, a request to the Committee that the failure to pay the annual fee and the surcharge within the prescribed period in paragraph three was due to a cause of necessity, the Committee may extend the period or withdraw the invalidation order for the patent as they deem appropriate.\footnote{27}

\textbf{Section 44.} The owner of a patent may request to pay all annual fees in advance by paying all of the annual fees in one payment instead of paying annually.

In the case where the owner of the patent has already paid the annual fees in advance, but there is an amendment to the rate of the annual fees, or the owner of the patent has surrendered the patent, or the patent has been invalidated, the owner of the patent shall not pay the surcharge and shall not be entitled to refund the annual fees already paid in advance.

\textbf{Part V}

\textbf{Use of Rights Conferred by Patent}

\textbf{Section 45.} The owner of a patent may make a request to record his consent to grant another person a licence to exercise his rights conferred by the patent, in accordance with the rules and procedures prescribed in the Ministerial Regulations.

\footnote{25}{Section 43 paragraph three was added by the Patent Act (No.3) B.E. 2542.}
\footnote{26}{Section 43 paragraph four was added by the Patent Act (No.3) B.E. 2542.}
\footnote{27}{Section 43 paragraph five was added by the Patent Act (No.3) B.E. 2542.}
\footnote{28}{Section 44 was amended by the Patent Act (No.3) B.E. 2542.}

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When the consent has already been recorded in the patent registration and there is a person requesting the grant of a licence to use the patent, the Director General shall grant a licence to the person requesting the grant of such a license in accordance with conditions, limitations or royalties as agreed upon by the owner of the patent and the requesting party. If the parties cannot reach an agreement within the period prescribed by the Director General, the Director General shall prescribe any condition, limitation and royalty as he deems appropriate.

Any of the parties may appeal the decision of the Director General made under paragraph two to the Committee within thirty days from the date of receipt of such decision. The decision of the Committee shall be final.

The request for a licence and the grant of a licence under paragraph two shall be in accordance with the rules and procedures prescribed in the Ministerial Regulations.

When the consent of the owner of the patent to grant a licence has been recorded according to paragraph one, the annual fees in relation to the patent shall be decreased as prescribed in the Ministerial Regulations, but they shall not be less than one half of the annual fees.

Section 46. After the expiration of a period of three years from the date of grant of a patent or four years from the date of filing a patent application, whichever period expires later, any other person may file a request for the grant of a licence to the Director General if it appears, at the time of filing the request, that there is a circumstance showing that the owner of the patent fails to exercise his legitimate rights as follows:

(1) there has been no production of the patented product or no use of patented process in the Kingdom without any justification or;

(2) there has been no sale of the patented product or the product produced by the use of the patented process, or there has been a sale of such product at unreasonably high price, or a sale of such product does not sufficiently meet the public demand in the Kingdom, without any justification.

Whether it is the case of subsection (1) or (2), the person requesting for the grant of a licence shall show that he has already made an effort to obtain a licence from the owner

29 Section 46 was amended by the Patent Act (No.2) B.E. 2535.
30 Section 46 paragraph one was amended by the Patent Act (No.3) B.E. 2542.
of the patent by having offered conditions and royalties which are reasonably sufficient under such circumstance, but no agreement has been reached within a reasonable period of time.

The request for a licence shall be in accordance with the rules, procedures and conditions prescribed by the Ministerial Regulations.

Section 46bis.  

Section 47.  

If the working of any claim in a patent may constitute an infringement of a claim in any other patent, the owner of the patent desiring to exercise his own patent may file a request to the Director General for the grant of a licence in respect of any other patent under the following criteria:

(1) the invention of the person requesting for the grant of a licence involves an important technical advance which is economically beneficial, compared with the invention of the patent for which the licence is requested;

(2) the owner of the patent shall be entitled to use the rights in respect of the patent of the requesting person on reasonable licensing conditions;

(3) the requesting person shall not assign his licence to any other person unless it is done together with the assignment of his patent.

The requesting person shall show that he has already made an effort to obtain a licence from the owner of the patent by having offered conditions and royalties which are reasonably sufficient under such circumstance, but no agreement has been reached within a reasonable period of time.

The request for a licence shall be in accordance with the rules, procedures and conditions prescribed by the Ministerial Regulations.

Section 47bis.  

If the working of any claim in the patent, having obtained a licence under section 46, may constitute an infringement of a claim in a patent of any other person, the requesting party under section 46 may file a request to the Director General for the grant of a licence in respect of any other patent under the following criteria:

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31 Section 46bis was repealed by the Patent Act (No.3) B.E. 2542.
32 Section 47 was amended by the Patent Act (No.3) B.E. 2542.
33 Section 47bis was added by the Patent Act (No.3) B.E. 2542.

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(1) the invention of the person requesting for the grant of a licence involves an important technical advance which is economically beneficial, compared with the invention of the patent for which the licence is requested;

(2) the requesting person shall not assign his licence to any other person.

The requesting person shall show that he has already made an effort to obtain a licence from the owner of the patent by having offered conditions and royalties which are reasonably sufficient under such circumstance, but no agreement has been reached within a reasonable period of time.

The request for a licence shall be in accordance with the rules, procedures and conditions prescribed by the Ministerial Regulations.

**Section 48.** The owner of a patent shall be entitled to receive royalties for the licence under section 46, section 47 and section 47bis.

The person obtaining an exclusive licence under section 38 shall be entitled to receive royalties for the licence under section 46, section 47 and section 47bis. In this case, the owner of a patent shall not be entitled to receive any royalties.

**Section 49.** In filing a request for the grant of a licence under section 46, section 47 and section 47bis, the requesting person shall propose royalties, patent licensing conditions and limitations on the owner of the patent and the licensee with regard to section 48 paragraph two, accompanied with a request for the grant of a licence. In the request for a licence under section 47, the requesting party shall consent to grant a licence in respect of his own patent to the owner of the patent in return.35

On receipt of a request under section 46, section 47 and section 47bis, the competent official shall inform the requesting party, the owner of the patent and the exclusive licensee under section 48 paragraph two of the date on which the request shall be investigated. In this regard, a copy of the request shall be furnished to the owner of the patent and the exclusive licensee under section 48 paragraph two.36

34 Section 48 was amended by the Patent Act (No.3) B.E. 2542.
35 Section 49 paragraph one was amended by the Patent Act (No.3) B.E. 2542.
36 Section 49 paragraph two was amended by the Patent Act (No.3) B.E. 2542.

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In the investigation of the request according to paragraph two of this section, the competent official may require the requesting party, the owner of the patent or the exclusive licensee under section 48 paragraph two to give an explanation or to submit any document or other objects to him. When the competent official has already investigated the request and the Director General has already made a decision, the decision shall be informed to the requesting party, the owner of the patent and the exclusive licensee under section 48 paragraph two.

Any of the parties may appeal the decision of the Director General made under paragraph three of this section to the Committee within sixty days from the date of receipt of the decision.

**Section 50.** When the Director General has made a decision that a licence shall be granted to the requesting party under section 46, section 47 and section 47bis, the Director General shall prescribe any royalty, patent licensing condition and limitation on the owner of the patent and the exclusive licensee under section 48 paragraph two as agreed upon by both parties. In the case where no agreement has been reached within the period prescribed by the Director General, the Director General shall prescribe any royalty, patent licensing condition and limitation as he deems appropriate under the following criteria:

1. the scope and duration of the licence shall be no more than appeared necessary under the circumstances;
2. the owner of the patent shall be entitled to grant non-exclusive licences to other licensees;
3. the licensee shall not be entitled to assign the licence to any other person unless the licence is assigned only together with the enterprise or commercial goodwill, especially part of which relating to the licence;
4. the licence shall be aimed predominantly to respond to the public demand in the Kingdom;
5. the royalties prescribed shall be sufficient for the circumstances of the case.

When the Director General has already prescribed the royalties, patent licensing conditions and limitations, the Director General shall make an order to grant a licence to the licensee of such patent.

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37 Section 50 was amended by the Patent Act (No.3) B.E. 2542.
Any of the parties may appeal the order of the Director General made under paragraph one to the Committee within sixty days from the date of receipt of the order.

The grant of a licence under paragraph two shall be in accordance with the rules and procedures prescribed by the Ministerial Regulations.

Section 50bis. A licence granted on the ground under section 46 may be terminated if it appears that the ground for granting such a licence has ceased to exist and has been unlikely to recur and such termination does not have an impact upon the rights or interests of the licensee under the licence.

The request for a termination of a licence according to paragraph one shall be in accordance with the rules and procedures prescribed by the Ministerial Regulations. The provisions of section 49 paragraph two and paragraph three and section 50 shall apply mutatis mutandis.

Section 51. For the benefit of carrying out any undertaking in respect of public utility or which is of vital importance to the national defence, or the preservation or acquisition of natural resources or the environment, or to prevent or relieve a severe shortage of food, pharmaceuticals or other consumption goods, or for other public interests, any ministry, bureau, department of the government may, by themselves or through others, exploit any of the rights conferred by a patent with regard to section 36. In exploiting any of such rights, any ministry, bureau, department of the government shall pay royalties to the owner of the patent or the licensee under section 48 paragraph two and shall inform the owner of the patent in writing without delay. Nevertheless, this is not subject to the conditions under section 46, section 47 and section 47bis.

In this regard, the ministry, bureau or department shall submit its offer in relation to royalties and patent licensing conditions to the Director General. The determination of the royalties shall be made in accordance with an agreement between the ministry, bureau or department having desired to exploit the rights conferred by the patent and the owner of the patent or the licensee, and section 50 shall apply mutatis mutandis.

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38 Section 50bis was amended by the Patent Act (No.3) B.E. 2542.
39 Section 51 paragraph one was amended by the Patent Act (No.3) B.E. 2542.
Section 52. In the state of war and emergency, the Prime Minister, with the approval of the Cabinet shall have the power to issue an order to exploit any right conferred by any patent for the national defence and national security by paying equitable royalties to the owner of the patent and shall inform the owner of the patent in writing without delay.

The owner of the patent shall be entitled to appeal the order or the amount of the royalties to the court within sixty days from the date of receipt of the order.

Part VI
Surrender of Patent, Cancellation of Claims and Invalidation of Patent

Section 53. The owner of a patent may surrender the patent or cancel any claim or claims in accordance with the rules and procedures prescribed by the Ministerial Regulations.

If there are joint owners of the patent, the surrender of the patent or cancellation of any claim or claims under paragraph one shall be made with the consent of all joint owners, or if licenses have been granted to any person under section 38, section 45, section 46, section 47 or section 47bis, the surrender of the patent or cancellation of any claim or claims shall be made with the consent of all licensees.  

Section 54. Any patent granted not in compliance with the provisions of section 5, section 9, section 10, section 11 or section 14 shall be deemed invalid.

Any person may claim the invalidity under paragraph one or any interested person or public prosecutor may institute court proceedings for the invalidation of the patent.

Section 55. The Director General may file a request to the Committee for the invalidation of a patent in the following circumstances;

40 Section 52 was amended by the Patent Act (No.3) B.E. 2542.
41 Section 53 paragraph two was amended by the Patent Act (No.3) B.E. 2542.

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(1) in the case where a licence has already been granted under section 50, it appears that after the expiration of a period of two years from the date of grant of the licence, the owner of the patent, the licensee or the holder of the licence fails to produce the patented product or use the patented process in the Kingdom without any justification, or at that time no person sells or import for sale the patented product or the product produced by means of the patented process into the Kingdom, or there has been a sale of such product at unreasonably high price and the Director General sees that there is a reasonable ground to invalidate the patent;

(2) the owner of a patent has granted a licence in violation of section 41.

Before filing a request to the Committee to invalidate a patent, the Director General shall order an investigation of facts to be held and inform the owner of the patent or the licensee of the order so that they may submit the declarations indicating their reasons. The submission of the declarations shall be made within sixty days from the date of receipt of the order. The Director General may require any person to give an explanation or to submit any document or other objects to him.

When the Director General has already made the investigation of facts and sees that there is a reasonable ground to invalidate the patent, the Director General shall submit a report of the investigation to the Committee for the invalidation of the patent.

Part VII

Measures for Pharmaceutical Patents

Section 55bis. (repealed)

Section 55ter. (repealed)

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42 Section 55 paragraph one subsection (1) was amended by the Patent Act (No.3) B.E. 2542.
43 Section 55 paragraph one was amended by the Patent Act (No.2) B.E. 2535.
44 Section 55 paragraph two was amended by the Patent Act (No.2) B.E. 2535.
45 Part VII Measures for Pharmaceutical Patents section 55bis to section 55septies were repealed by the Patent Act (No.3) B.E. 2542.

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Section 55quater. (repealed)

Section 55quinquies. (repealed)

Section 55sexies. (repealed)

Section 55septies. (repealed)

Chapter III
Patents for Designs

Section 56. A design which is patentable under this Act shall be a new design for industry, including handicrafts.

Section 57. The following designs shall not be deemed a new design:
(1) a design which has existed or has been widely used in the Kingdom before the date of filing a patent application;
(2) a design whose image, substantial part or detailed description has previously been disclosed in a document or printed publication, whether inside or outside the Kingdom, before the date of filing a patent application;
(3) a design which has previously been published under section 65 in conjunction with section 28 before the date of filing a patent application;
(4) a design similar to any design mentioned in subsections (1), (2) or (3) which can be seen as an imitation.

Section 58. The following designs are not patentable:
(1) a design which is contrary to public order or good morals;
(2) a design which is prescribed by the Ministerial Regulations.

Section 59. The application for a patent shall be in accordance with the rules and procedures prescribed by the Ministerial Regulations.

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The application for a patent shall contain the following items:
(1) an image of the design;
(2) statements indicating the product for which the design is to be used;
(3) one or more clear and concise claims;
(4) other items as prescribed by the Ministerial Regulations.

Section 60. Each application for a patent shall be particularly made for a design which is to be used with only one product.

The determination of the product according to paragraph one shall be prescribed by the Minister and published in the Government Gazette.

Section 60bis. A person under section 14 who has filed a design patent application outside the Kingdom may request to claim the date of filing of the first design patent application outside the Kingdom as the date of filing the application in the Kingdom, provided that such a person has filed a design patent application in the Kingdom within 6 months from the date of filing of the first design patent application outside the Kingdom.

Section 61. After the publication under section 65 and section 28 has already been made, but before the Director General has ordered the registration of the design and the grant of the patent, if it appears that the application for a patent is not in compliance with section 56, section 58 or section 65 in conjunction with section 10, section 11 and section 14, the Director General shall reject the patent application and the competent official shall notify the applicant and the opposing party of such order according to section 65 in conjunction with section 31, and a copy of the order shall be displayed at the place where the application was filed.

In the case where the Director General has issued an order to reject the patent application under paragraph one, and there is an opposition filed under section 65 in conjunction with section 31, the Director General shall continue considering such opposition of the opposing party according to section 65 in conjunction with section 32.

46 Section 60bis was amended by the Patent Act (No.3) B.E. 2542.
Section 62. A design patent shall have a term of ten years from the date of filing the patent application in the Kingdom. In the case where there have been court proceedings according to section 65 in conjunction with section 16, or section 74, the term of the design patent shall not include the period during which the court proceedings have been taken.

Section 62bis. Any act in violation of section 63 committed before the date of grant of a patent shall not be deemed an infringement of the patent owner’s rights unless such act is committed against the design under the design patent application already published according to section 65 in conjunction with section 28, the person so acting knowing of the filing of the patent application or having been notified in writing that a patent application has already been filed for the design, in this case the applicant shall be entitled to obtain damages from the infringer. A claim for such damages shall be filed before the court after the patent has already been granted to the applicant.

Section 63. Only the patent owner shall be entitled to use the patented design with a product, or sell, or have in possession for sale, or offer for sale or import a product embodying the patented design into the Kingdom, except for the use of the design for the benefit of study or research.

Section 64. Any patent granted not in compliance with the provisions of section 56, section 58 or section 65 in conjunction with section 10, section 11 and section 14, shall be deemed invalid.

Any person may claim the invalidity under paragraph one or any interested person or public prosecutor may institute court proceedings for the invalidation of the patent.

Section 65. Section 10, section 11, section 12, section 13, section 14, section 15, section 16, section 19, section 20, section 21, section 22, section 27, section 28, section 29, section 31, section 32, section 33, section 34, section 37, section 38, section 39, section 40,

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47 Section 62 was amended by the Patent Act (No.3) B.E. 2542.
48 Section 62bis was added by the Patent Act (No.2) B.E. 2535.
49 Section 63 was amended by the Patent Act (No.2) B.E. 2535.
section 41, section 42, section 43, section 44 and section 53 in Chapter II regarding Patents for Inventions shall apply \textit{mutatis mutandis} to Patents for Designs in Chapter III.

\textbf{Chapter IIIbis \newline Petty Patents$^{50}$}

\textbf{Section 65bis.} An invention eligible for an application for a petty patent shall consist of the following characteristics:

(1) the invention is new;
(2) the invention is industrially applicable.

\textbf{Section 65ter.} Any person shall not apply for both a petty patent and a patent for the same invention.

\textbf{Section 63quater.} The applicant for a petty patent or the applicant for a patent shall be entitled to request to convert the type of rights for which he has applied from a petty patent to a patent or from a patent to a petty patent before the registration of the invention and the grant of the petty patent or before the publication of the patent application under section 28, as the case may be, and the applicant shall be entitled to claim the date of filing of the original application as the date of filing the converted application in accordance with the rules and procedures prescribed by the Ministerial Regulations.

\textbf{Section 65quinquies.} In registering the invention and granting a petty patent, the competent official shall examine the application for a petty patent whether or not it complies with section 65\textit{decies} in conjunction with section 17, and examine the invention whether or not it is under protection according to section 65\textit{decies} in conjunction with section 9, and submit the examination report to the Director General:

$^{50}$ Chapter IIIbis Petty Patents section 65bis to section 65\textit{decies} were added by the Patent Act (No.3) B.E. 2542.

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(1) If the Director General sees that the application for the petty patent does not comply with section 65decies in conjunction with section 17 or the invention is not under protection according to section 65decies in conjunction with section 9, the Director General shall make an order to reject the application for the petty patent, and the competent official shall inform the applicant of the rejection order in writing by registered mail with return receipt requested or by any other means prescribed by the Director General within fifteen days from the date on which the Director General made the rejection order;

(2) If the Director General sees that the application for the petty patent complies with section 65decies in conjunction with section 17 or the invention is under protection according to section 65decies in conjunction with section 9, the Director General shall order the registration of the invention and the grant of the petty patent, and before the registration of the invention and the grant of the petty patent, the competent official shall notify the applicant to pay the fee for the grant of the patent and the fee for the publication in accordance with the procedures and period of time prescribed in section 65decies and section 28(2).

The petty patent shall be in the form prescribed by the Ministerial Regulations.

Section 65sexies. Within one year from the date of publication of the registration of the invention and the grant of a petty patent, an interested person may request the competent official to examine whether or not the invention for which a petty patent has been granted has the characteristics as prescribed in section 65bis.

On receipt of the request to examine the invention with regard to paragraph one, the competent official shall examine the invention and submit the examination report to the Director General.

When the Director General has already considered the examination report under paragraph two and sees that the invention has the characteristics as prescribed in section 65bis, the Director General shall notify the person making the request for such examination and the owner of the petty patent of such decision within fifteen days from the date on which the Director General made the decision.

In the case where the Director General sees that the invention has no characteristic as prescribed in section 65bis, the Director General shall order an investigation of facts to be held and inform the owner of the petty patent to submit the declarations indicating his reasons within sixty days from the date of receipt of the order, and the Director General may
require any person to give an explanation or to submit any document or other objects to him. When the investigation of facts has already been done, if the Director General sees that the invention has no characteristic as prescribed in section 65bis, the Director General shall submit the report of the investigation to the Committee for the invalidation of the petty patent and inform the person making the request for such examination and the owner of the petty patent of the order within fifteen days from the date on which the Committee made the order.

Section 65septies. A petty patent shall have a term of six years from the date of filing the application for a petty patent in the Kingdom. In the case where there have been court proceedings according to section 65decies in conjunction with section 16, section 74 or section 77sexies, the term of a petty patent shall not include the period during which the court proceedings have been taken.

The owner of a petty patent may request to renew the term of a petty patent for two periods, each period shall be valid for two years. The owner of the petty patent shall submit a renewal application to the competent official within ninety days prior to its expiration date. When the renewal application has already been submitted within the said period, such petty patent shall be deemed to remain registered until the Competent Official orders otherwise.

A renewal of the term of a petty patent shall be in accordance with the rules and procedures prescribed in the Ministerial Regulations.

Section 65octies. The owner of a petty patent have the right to use the term “Thai Petty Patent” or its abbreviation (Aor Sor Bor Tor) or any foreign abbreviation of the same meaning on the product, its container or package, or in the advertisement of the invention under the petty patent.

The use of the term or its abbreviation under paragraph one shall be accompanied by the petty patent number.

Section 65nonies. Any petty patent granted not in compliance with the provisions of section 65bis, section 65decies in conjunction with section 9, section 10, section 11 or section 14 shall be deemed invalid.
Any person may claim the invalidity under paragraph one or any interested person or public prosecutor may institute court proceedings for the invalidation of the petty patent.

Section 65 `<s>secies</s>`. Section 6, section 8, section 9, section 10, section 11, section 12, section 13, section 14, section 15, section 16, section 17, section 18, section 19, section 19bis, section 20, section 21, section 22, section 23, section 25, section 26, section 27, section 28, section 35bis, section 36, section 36bis, section 38, section 39, section 40, section 41, section 42, section 43, section 44, section 45, section 46, section 47, section 47bis, section 48, section 49, section50, section 50bis, section 51, section 52, section 53 and section 55 in Chapter II regarding Patents for Inventions shall apply mutatis mutandis to Petty Patents in Chapter IIIbis.

Part IV
The Patent Committee

Section 66. There shall be a committee called “the Patent Committee”, consisting of the Permanent Secretary of the Ministry of Commerce as Chairperson of the Committee and not more than twelve qualified members in the field of science, engineering, industry, industrial design, agriculture, pharmacy, economics and law appointed by the Council of Ministers. At least six qualified members of the Committee shall be appointed from the private sector.\(^{51}\)

The Committee may appoint any person to act as Secretary and as Assistant Secretary.

Section 67. The qualified members of the Committee shall hold office for a term of two years.

In the case where a member vacates office or in the case where the Council of Ministers appoints additional members while the appointed qualified members, the member appointed to replace the vacated member or the additional member shall serve for the remaining term of office of the qualified members already appointed.

\(^{51}\) Section 66 paragraph one was amended by the Patent Act (No.3) B.E. 2542.

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A member who vacates office may be re-appointed.

Section 68. A qualified member appointed by the Council of Ministers shall vacate office before the expiration of the term of office upon:

1. death;
2. resignation;
3. discharge by the Council of Ministers;
4. becoming bankrupt;
5. becoming an incompetent or quasi-incompetent person or;
6. having been sentenced to imprisonment by a final judgment unless it was a sentence for an offence committed by negligence or for a petty offence.

Section 69. The quorum of the meeting of the Committee shall be not less than one half of the total number of the members. In the case where the Chairperson is absent from the meeting or is not able to perform his duty, the members present in the meeting shall elect one of the members to preside over the meeting.

Decisions of the meeting shall be based on a simple majority.

Each member has one vote. In the event of equal votes, the Chairperson shall have an additional casting vote.

Section 70. The Committee shall have the following powers and duties:

1. to give advice or consultation to the Minister with regard to the issuance of Ministerial Regulations under this Act;
2. to decide any appeal made against any order or decision of the Director General concerning patents or petty patents under section 41, section 45, section 49, section 50, section 55, section 65sexies or section 65decies in conjunction with section 45, section 49, section 50 or section 72;
3. to perform other acts prescribed in this Act;
4. to consider other matters as assigned by the Minister.

Section 70 was amended by the Patent Act (No.3) B.E. 2542.
Section 71. The Committee shall have the power to appoint a subcommittee to submit their opinions to the Committee and section 69 shall apply *mutatis mutandis* to meetings of the Subcommittee.

Section 72. In the case where an order or a decision has been made by the Director General under section 12, section 15, section 28, section 30, section 33, section 34, section 49, section 50 or section 61, or section 65 in conjunction with section 12, section 15, section 28, section 33 or section 34, or section 65*quinquies* or section 65*sexies* or section 65*decies* in conjunction with section 12, section 15, section 49 or section 50, any interested person under the said sections shall be entitled to make an appeal to the Committee within sixty days from the date of receipt of the order or decision of the Director General. If the interested person fails to make an appeal within such period, the order or decision of the Director General shall be deemed final.\(^{53}\)

An appeal under paragraph one shall be submitted to the competent official. If there are two parties, the competent official shall send a copy of the appeal to the other party.

Section 73.\(^ {54}\) In considering an appeal against an order or decision of the Director General or an investigation report of the Director General under section 55 or section 65*sexies* or a report of the Director General under section 43 or section 65*decies* in conjunction with section 43 for the invalidation of a patent or a petty patent. The Committee may require the opposing party or the applicant or the owner of a patent or the owner of a petty patent or the person making the request for an examination of a petty patent or the licensee of a patent or a petty patent, as the case may be, submit any evidence or additional statement in accordance with the regulations prescribed by the Committee.

Section 74. When the Committee has already made a decision or order under section 41, section 43, section 49, section 50, section 55 or section 65*sexies* or section 65*decies* in conjunction with section 41, section 43, section 49, section 50 or section 55 or section 72, the appellant and the other party, or the owner of a patent, or the owner of a petty patent, or the licensee of a patent or a petty patent shall be notified of the decision or order together with

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\(^{53}\) Section 72 paragraph one was amended by the Patent Act (No.3) B.E. 2542.

\(^ {54}\) Section 73 was amended by the Patent Act (No.3) B.E. 2542.

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reasons. Any party disagreeing with the decision or order shall be entitled to make an appeal to the court within sixty days from the date of receipt of such notification. If he fails to do so within the said period, the decision or order of the Committee shall be deemed final.\textsuperscript{55}

In considering or giving a judgment under this Act, the court shall be prohibited from ordering the Committee or the Director General to pay any fee on behalf of the other party.

\textbf{Chapter V}
\textit{Miscellaneous}

\textbf{Section 75.}\textsuperscript{56} Any person without the rights under this Act shall be prohibited from using the terms “Thai Patent”, “Thai Petty Patent” or the abbreviations (\textit{Sor Bor Tor}, \textit{Aor Sor Bor Tor}) or any foreign abbreviation or term of the same meaning on the product, its container or package, or in the advertisement of any invention or design.

\textbf{Section 76.}\textsuperscript{57} Any person shall be prohibited from using the terms “Patent Pending” or “Petty Patent Pending” or any other term of the same meaning on the product, its container or package, or in the advertisement of any invention or design, unless such person is the applicant for a patent or a petty patent and his application is pending.

\textbf{Section 77.}\textsuperscript{58} In the case where the owner of a patent or the owner of a petty patent where the subject matter of the patent or petty patent is a process for the production of a product files a civil action against the person infringing his rights under the patent or the petty patent. If the owner of the patent or the owner of the petty patent can prove that the product produced by the defendant is identical or similar to the product produced by means of

\textsuperscript{55} Section 74 paragraph one was amended by the Patent Act (No.3) B.E. 2542.
\textsuperscript{56} Section 75 was amended by the Patent Act (No.3) B.E. 2542.
\textsuperscript{57} Section 76 was amended by the Patent Act (No.3) B.E. 2542.
\textsuperscript{58} Section 77 was amended by the Patent Act (No.3) B.E. 2542.

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the process of the owner of the patent or the owner of the petty patent, it shall be presumed that the defendant has used such process unless the defendant can prove otherwise.

**Section 77bis.** In the case where there is clear evidence that any person is committing or about to commit any act which constitutes an infringement of the rights of the owner of a patent or the owner of a petty patent under section 36 or section 63 or section 65decies in conjunction with section 36, the owner of the patent or the owner of the petty patent may request the court to order the person to stop or refrain from committing the infringing act. The order of the court shall not deprive the owner of the patent or the owner of the petty patent of the right to claim damages under section 77ter.

**Section 77ter.** In the case where there is an infringement of the rights of the owner of a patent or the owner of the petty patent according to section 36 or section 63 or section 65decies in conjunction with section 36, the court shall have the power to order the infringer to pay the owner of the patent or the owner of the petty patent the amount of damages as the court deems appropriate, by taking into account of the gravity of the damage including the loss of benefits and expenses necessary to enforce the rights of the owner of the patent or the owner of the petty patent.

**Section 77quater.** All goods in the possession of the infringer under section 36 or section 63 or section 65decies and section 36 shall be confiscated. In the case where the court thinks fit, the court may order the destruction of the goods or other measures to prevent further distribution of the goods.

**Section 77quinquies.** Any person filing or jointly filing an application for both a patent or a petty patent for the same invention not in compliance with section 65ter, such a person shall be deemed to have filed the application for a petty patent for the invention.

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59 Section 77bis was amended by the Patent Act (No.3) B.E. 2542.
60 Section 77ter was amended by the Patent Act (No.3) B.E. 2542.
61 Section 77quater was amended by the Patent Act (No.3) B.E. 2542.
62 Section 77quinquies was added by the Patent Act (No.3) B.E. 2542.

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Section 77sexies. In the case where there are two or more persons who have separately and independently made the same invention and one of them has filed an application for a patent while the other person has filed an application for a petty patent

(1) the applicant who is the first to file the application for a patent or petty patent shall be entitled to a patent or petty patent for the invention;

(2) If the application for a patent and the application for a petty have been filed on the same date, the competent official shall notify the applicants to make an agreement as to whether the grant shall be made to one of them exclusively or all of them jointly and whether the application for a patent or the application for a petty patent should be the only application for the invention. If no agreement has been reached within the period of time prescribed by the Director General, the concerned parties shall bring the case before the court within ninety days from the date of expiration of the period of time prescribed by the Director General. If the case has not been brought before the court within such period, they shall be deemed to have abandoned their applications for a patent or petty patent.

Section 77septies. Within ninety days from the date of publication under section 28 or the date of publication of the registration of an invention or the grant of a petty patent for any invention, the applicant for a petty patent or the owner of a petty patent or the applicant for a patent or the owner of a patent, who thinks that the registration of the invention or the grant of the patent or petty patent may not be in compliance with section 65ter since such an invention is identical to his invention and he has already filed the application for a petty patent or patent on the same date on which such application for a patent or petty patent was filed, may request the competent official to examine whether or not such application for a patent or petty patent is not in compliance with section 65ter.

On receipt of the request to examine the invention with regard to paragraph one, the competent official shall examine the invention and submit the examination report to the Director General.

When the Director General has already considered the examination report under paragraph two and sees that the registration of the invention and the grant of the patent or petty patent are not in compliance with section 65ter since the inventions are the same and

63 Section 77sexies was added by the Patent Act (No.3) B.E. 2542.
64 Section 77septies was added by the Patent Act (No.3) B.E. 2542.

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the date of filing the application for the patent or petty patent is the same as the date of filing the application for the patent or petty patent of the person requesting for the examination, the Director General shall notify the applicant for the patent or petty patent and the person requesting for the examination to make an agreement as to whether the grant shall be made to one of them exclusively or all of them jointly. If no agreement has been reached within the period of time prescribed by the Director General, they shall be deemed to jointly hold the rights in the invention.

Section 77octies. Any patent or petty patent granted not in compliance with section 65ter shall be deemed invalid.

The invalidity under paragraph one may be challenged by any person.

If the registration of an invention or the grant of a patent or petty patent is not in compliance with section 65ter and the application for a patent and a petty patent for the invention has been filed on the same date, the owner of the patent and the owner of the petty patent or any other interested person the public prosecutor may request the Director General to require the owner of the patent and the owner of the petty patent to make an agreement as to whether the grant shall be made to one of them exclusively or all of them jointly and whether the invention is to be the subject matter of either a patent or a petty patent. If no agreement has been reached within the period of time prescribed by the Director General, the owner of the patent and the owner of the petty patent shall be deemed to jointly hold the rights in the invention.

Section 78. If a patent or petty patent or a licence has been lost or substantially damaged, the owner shall apply for a substitute for the patent or petty patent or licence in accordance with the rules and procedures prescribed by the Ministerial Regulations.

Section 79. All applications, oppositions, counterstatements and appeals made under this Act shall be in the forms and in the required number of copies as prescribed by the Director General.

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65 Section 77octies was added by the Patent Act (No.3) B.E. 2542.
66 Section 78 was amended by the Patent Act (No.3) B.E. 2542.

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Section 80. A fee prescribed by the Ministerial Regulations shall be paid for an application for a patent, an application for a petty patent, a publication of an application for a patent, a request for an examination of an invention, an opposition against an application for a patent, an application for a registration of a licensing contract in relation to a patent or petty patent, an application for a registration of an assignment of a patent or petty patent, an application for a conversion of a patent or petty patent, an application for a renewal of a term of a patent, an application for a recordation of a consent to license any other person to exploit the rights conferred by a patent or petty patent, an appeal against an order or decision of the Director General, a substitute for a patent or petty patent, a substitute for a licence, any other application, a making of a copy and certification of a copy of any document.

Chapter VI
Offences and Penalties

Section 81. Any competent official who violates section 21 or section 23 paragraph two, or section 65 in conjunction with section 21, or section 65decies in conjunction with section 21 or section 23 paragraph two shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding two hundred thousand baht, or to both.

Section 82. Any person who violates section 22, or section 65 in conjunction with section 22, or section 65decies in conjunction with section 22 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding twenty thousand baht, or to both.

67 Section 80 was amended by the Patent Act (No.3) B.E. 2542.
68 Section 81 was amended by the Patent Act (No.3) B.E. 2542.
69 Section 82 was amended by the Patent Act (No.3) B.E. 2542.

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Section 83. Any person who violates section 23 paragraph two, or section 65decies in conjunction with section 23 paragraph two shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding fifty thousand baht, or to both.

Section 83bis. (repealed)

Section 83ter. (repealed)

Section 83quater. (repealed)

Section 84. Any person who violates section 75 or section 76 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred thousand baht, or to both.

Section 85. Any person who commits any act under section 36 or section 63 without the authorisation of the owner of the patent shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding four hundred thousand baht, or to both.

Section 86. Any person who commits any act under section 65decies in conjunction with section 36 without the authorisation of the owner of the patent shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred thousand baht, or to both.

Section 87. Any person who files an application for an invention patent or design patent or petty patent by presenting a false statement to the competent official in order

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70 Section 83 was amended by the Patent Act (No.3) B.E. 2542.
71 Section 83bis was repealed by the Patent Act (No.3) B.E. 2542.
72 Section 83ter was repealed by the Patent Act (No.3) B.E. 2542.
73 Section 83quater was repealed by the Patent Act (No.3) B.E. 2542.
74 Section 85 was amended by the Patent Act (No.2) B.E. 2535.
75 Section 86 was added by the Patent Act (No.3) B.E. 2542.
76 Section 87 was amended by the Patent Act (No.3) B.E. 2542.

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to obtain a patent or petty patent shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand baht, or to both.

Section 88. In the case where an offender liable to any penalty under this Act is a juristic person, the person in charge or representative of such juristic person shall be liable to any penalty prescribed by law for such offence unless such person can prove that he can prove that the offence has been committed by the juristic person without his knowledge or consent.

Countersigned by
S. Hotrakitya
Deputy Prime Minister
List of the Fees

1. An application for a patent 1,000 baht per application
2. Applications for a design patent for the same designs which are filed at the same time in a number of ten or more applications 10,000 baht
3. A publication of an application for a patent 500 baht
4. A request for an examination of an invention 500 baht per request
5. An opposition against an application for a patent 1,000 baht per opposition
6. A patent or petty patent 1,000 baht each
7. Annual fees for invention patents
   Fifth year 2,000 baht
   Sixth year 4,000 baht
   Seventh year 6,000 baht
   Eighth year 8,000 baht
   Ninth year 10,000 baht
   Tenth year 12,000 baht
   Eleventh year 14,000 baht
   Twelfth year 16,000 baht
   Thirteenth year 18,000 baht
   Fourteenth year 20,000 baht
   Fifteenth year 30,000 baht
   Sixteenth year 40,000 baht
   Seventeenth year 50,000 baht
   Eighteenth year 60,000 baht
   Nineteenth year 70,000 baht
   Twentieth year 80,000 baht
   or payment of all annual fees in one payment 400,000 baht
8. Annual fees for design patents
   Fifth year 1,000 baht

77 The list of the fees was amended by the Patent Act (No.3) B.E. 2542.
Sixth year  |  2,000 baht  
Seventh year |  3,000 baht  
Eighth year  |  4,000 baht  
Ninth year   |  5,000 baht  
Tenth year   |  6,000 baht  
| or payment of all annual fees in one payment |  20,000 baht  

9. Annual fees for petty patents
   Fifth year |  2,000 baht  
   Sixth year |  4,000 baht  
   | or payment of all annual fees in one payment |  6,000 baht  

10. Annual fees for a renewal of a term of petty patent
    First renewal |  14,000 baht  
    Second renewal |  22,000 baht  

11. An application for a registration of a licensing contract
    in relation to a patent or a petty patent |  500 baht per application  

12. An application for a registration of an assignment of
    a patent or petty patent |  500 baht per application  

13. An application for a conversion of a patent or petty patent |  500 baht per application  

14. A licence in relation to a patent or petty patent |  1,000 baht per licence  

15. A substitute for a patent or petty patent or
    a substitute for a licence |  100 baht each  

16. An appeal against an order or decision of the Director General |  1,000 baht appeal  

17. Making a copy of any document |  10 baht per page  

18. Certifying a copy of any document
    More than ten pages |  100 baht per copy  
    Not more than ten pages |  10 baht per copy  

19. Any other application |  100 baht per application  

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