

**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

THAILAND

Revision

The present document reproduces the text¹ of the revised version of the English unofficial translation of the Patent Act B.E. 2522 (1979), as amended by Patent Act (N° 2) B.E. 2535 (1992) and Patent Act (N° 3) B.E. 2542 (1999), which replaces the text distributed in document IP/N/1/THA/I/1, as notified by Thailand under Article 63.2 of the Agreement (see document IP/N/1/THA/1).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

THAÏLANDE

Révision

Le présent document contient le texte¹ de la version anglaise non officielle révisée de la Loi B.E. 2522 (1979) sur les brevets, telle que modifiée par la Loi B.E. 2535 (n° 2) (1992) sur les brevets et par la Loi B.E. 2542 (n° 3) (1999) sur les brevets, qui remplace le texte distribué dans le document IP/N/1/THA/I/1, notifié par la Thaïlande au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/THA/1).

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

TAILANDIA

Revisión

En el presente documento se reproduce el texto¹ de la versión revisada de la traducción no oficial al inglés de la Ley B.E. 2522 (1979), de Patentes, modificado por la Ley B.E. 2535 (1992) y la Ley (N° 3) B.E. 2542 (1999), que sustituye el texto distribuido en el documento IP/N/1/THA/I/1, notificado por Tailandia en virtud del párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/THA/1).

¹ In English only. The text in the original language is available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter le texte dans sa langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC el texto en su idioma original.

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

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 has been graciously pleased to proclaim that.

Whereas it is deemed expedient to grant protection for inventions and designs;

BE IT, THEREFORE, ENACTED BY THE KING, by and with the advice and consent of the National Legislative Assembly, acting as the National Parliament, as follows:

Section 1 This Act shall be called the "Patent Act B.E. 2522."

Section 2 This Act shall come into force after the expiration of one hundred and eighty days following the date of its publication in the Government Gazette.⁽¹⁾

CHAPTER I
PRELIMINARY

Section 3⁽²⁾ In this Act:

"patent" means a document issued to grant protection for an invention or a design under the provisions in Chapters 2 and 3 of this Act;

"petty patent" means a document issued to grant protection for an invention under the provisions in Chapter 3 bis of this Act;

"invention" means any innovation or invention which creates a new product or process, or any improvement of a known product or process;

"process" means any method, art or process of producing, maintaining or improving the quality of a product, including the application of such process;

⁽¹⁾ published in the Government Gazette Vol. 96, Part 35 on March 16, 1979

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

“design” means any form or composition of lines or colors which gives a special appearance to a product and can serve as a pattern for a product of industry or handicraft;

“patent owner” includes the transferee of a patent;

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

“Board” means the “Board of Patents”;

“Competent Officer” means a person appointed by the Minister to act under this Act;

“Director-General” means the Director-General of the Department of Intellectual Property, including any person who is designated by him;

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

Section 4 The Minister of Commerce shall have the charge and control of the execution of the Act and shall have power to appoint competent officers and issue Ministerial Regulations prescribing fees not exceeding those fixed in the list attached to this Act, exempting any part or whole fee and prescribing other procedures for the execution of this Act.

The Ministerial Regulations shall become effective upon their publication in the Government Gazette.

CHAPTER II

PATENT FOR INVENTIONS

PART I

APPLICATIONS FOR PATENTS

Section 5 Subject to Section 9, a patent may be granted only for an invention in respect of which the following conditions are satisfied:

- (1) the invention is new;
- (2) it involves an inventive step; and
- (3) it is capable of industrial application.

Section 6⁽¹⁾ An invention is new if it does not form part of the state of the art.

The state of art also includes any of the following inventions:

- (1) an invention which was widely known or used by others in the country before the date of application for the patent;
- (2) an invention the subject matter of which was described in a document or printed publication, displayed or otherwise disclosed to the public, in this or a foreign country before the date of the application for a patent;
- (3) an invention for which a patent or petty patent was granted in this or a foreign country before the date of application;
- (4) an invention for which a patent or petty patent was applied in a foreign country more than eighteen months before the date of the application and a patent or petty patent has not been granted for such invention;
- (5) an invention for which a patent or petty patent was applied for in this or a foreign country and the application was published before the date of application.

A disclosure which was due to, or made in consequence of, the subject matter having been obtained unlawfully, or a disclosure which was made by the inventor, or made in consequence of, the inventor displaying the invention at an international exhibition or an official exhibition if such disclosure was done within twelve months before the filing of an application for the patent, shall not be deemed to be a disclosure under subsection (2) above.

Section 7 An invention shall be taken to involve an inventive step if it is not obvious to a person ordinary skilled in the art.

Section 8 An invention shall be taken to be capable of industrial application if it can be made or used in any kind of industry, including handicrafts, agriculture and commerce.

⁽¹⁾ as revised by the Patent Act (No.2) B.E. 2535 and the Patent Act (No.3) B.E. 2542

Section 9⁽¹⁾ The following inventions are not protected under this Act:

- (1) naturally occurring microorganisms and their components, animals, plants or extracts from animals or plants;
- (2) scientific or mathematical rules or theories;
- (3) computer programs;
- (4) methods of diagnosis, treatment or cure of human and animal diseases;
- (5) inventions contrary to public order, morality, health or welfare.

Section 10⁽²⁾ The inventor shall have the right to apply for a patent and to be named as such in the patent.

The right to apply for a patent may be assigned or transferred by succession.

The assignment of the right to apply for a patent must be in writing and shall require the signatures of the assignor and assignee.

Section 11 The right to apply for a patent for an invention made in the execution of an employment contract or a contract for performing a certain work shall belong to the employer or the person having commissioned the work, unless otherwise provided in the contract.

The provision of the first paragraph shall apply in the circumstance where an employment contract does not require an employee to exercise any inventive activity, but the employee has made the invention using any means, data or report that his employment has put at his disposal.

Section 12 In order to promote inventive activity and to give a fair share to the employee in the circumstances provided for in the first paragraph of Section 11, the employee-inventor shall have a right to remuneration other than his regular salary if the employer benefits from the invention.

⁽¹⁾ as revised by the Patent Act (No.2) B.E. 2535 and the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.2) B.E. 2535

In the circumstances provided for in paragraph 2 of Section 11, the employee-inventor shall have a right to remuneration.

The right to remuneration any not be prevented by any contractual provision.

A request for remuneration under paragraph one and paragraph two of this Section shall be submitted to the Director-General in accordance with the rules and procedures prescribed in the Ministerial Regulations. The Director-General shall have the power to fix such remuneration as he deems fit taking into account his salary, the importance of the invention, benefits derived and expected to be derived from the invention and other circumstances and prescribed by the Ministerial Regulations.

Section 13 In order to promote inventive activity among government officials and employees of the government organization or enterprises, an government official or an employee of a government organization or enterprise shall have the same right as that of the employee under Section 12, unless otherwise provided by the Rules or Regulations of such department of the government or organization or enterprise.

Section 14⁽¹⁾ An applicant for a patent shall possess one of the following qualifications:

- (1) being a Thai national or a juristic person having its headquarters located in Thailand;
- (2) being a national of a country party to a convention or an international agreement on patent protection to which Thailand is also a party;
- (3) being a national of a country which allows Thai nationals or juristic persons having their headquarters to apply for patents in that country;
- (4) being domiciled or having a real and effective industrial or commercial establishment in Thailand or a country party to a convention or an international agreement on patent protection to which Thailand is also a party.

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

Section 15 When an invention is made by two or more persons jointly, they shall apply for a patent jointly.

If a joint inventor refuses to join in an application for a patent or cannot be found or reached or is not entitled to make an application for a patent, the application may be made by the other inventor on behalf of himself.

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 a patent is granted. Upon receipt of such request, the competent officer shall notify the applicant and the joint inventor of the date on which an investigation will take place. The applicant and each of the joint applicants shall be furnished with a copy of the request.

In the investigation under the preceding paragraph, the competent officer may require the applicant and joint applicants to appear before him and answer any question or hand any document or other items to him. After such investigation and when the Director-General has made his decision, the applicant and the joint inventor shall be notified of such decision.

Section 16 If two or more persons have separately and independently made the same invention and each of them has made an application for a patent, the applicant who is the first to file shall be entitled to a patent. If the application have been filed on the same date, the applicants shall agree whether a patent should be granted to one of them or all of them jointly. If no agreement has been reached within the period prescribed by the Director-General, they shall bring the case to the Court within ninety days after the expiration of the prescribed period. If they fail to do so within such period, they shall be deemed to have abandoned their applications.

Section 17⁽¹⁾ The application for the patent shall comply with the rules and procedures as prescribe in the Ministerial Regulations.

The application for a patent shall contain:

- (1) the title of the invention;

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

(2) brief statement of its nature and purposes;

(3) a detailed description of the invention in such full, concise and clear and exact terms as to enable any person ordinarily skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention and setting forth the best mode contemplated by the inventor to carry out his invention;

(4) one or more clear and concise claims;

(5) other items prescribed in the Ministerial Regulations

In cases where Thailand acceded to an international agreement or cooperation on patents, the patent application which is in compliance with the requirements of such international agreement or cooperation shall be deemed to be a patent application under this Act.

Section 18 The application for patent shall relate to only one invention or to a group of inventions which are so linked as to form a single inventive concept.

Section 19⁽¹⁾ A person who has exhibited his invention in an exhibition which has been sponsored or authorized and held in Thailand by the government and applies for a patent for such invention within twelve months following the opening date of that exhibition shall be deemed to have filed his application on the opening date of the exhibition.

Section 19 bis⁽²⁾ A person under Section 14 who has filed a patent application for an invention in a foreign country may claim the first foreign filing date as the filing date in the country if the application is filed in the country within twelve months following the first filing date in the foreign country.

⁽¹⁾ as revised by the Patent Act (No.2) B.E. 2535

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

Section 20 The applicant may amend his application for a patent in accordance with the rules and procedures prescribed in the Ministerial Regulations, provided that such amendment does not enlarge the scope of the invention.

Section 21⁽¹⁾ All officers whose duties are connected with patent applications shall refrain from disclosing any detailed description of the invention or permitting any person to inspect to make a copy of the detailed description of invention by any means before the publication of such application under Section 28, unless it is authorized in writing by the applicant.

Section 22⁽²⁾ Before the publication of a patent application under Section 28, all persons who know that the application has been filed shall refrain from disclosing any information contained in the detailed description of the invention or committing any act which is likely to cause damage to the applicant, unless it is authorized in writing by the applicant.

Section 23 When secrecy is required for inventions which in the opinion of the Director-General are of interest to the national security, the Director-General shall order the applications for patents therefore to be kept in confidence until it is otherwise ordered by him.

All persons, including the applicant, who know that the application has been ordered by the Director-General to be kept in confidence under the preceding paragraph, shall refrain from disclosing the subject matter or the detailed description of the invention to any other person, unless it is authorized by law.

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

PART II
GRANT OF PATENT

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Section 24 Before granting a patent to the applicant, the competent officer shall:

- (1) examine the application as to its conformity with Section 17; and
- (2) examine the application as to its conformity with Section 5, in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulations.

Section 25 In order to facilitate the examination of a patent application, the Director-General may request any government department, unit or organization or any foreign or international patent office of organization, to examine the application as to its conformity with Section 5, 6, 7, 8, and 9, or the detailed description of the invention as to its conformity with Section 17 (3). The Director-General may treat such examination as having been done by the competent officer.

Section 26 In the examination of an application if it appears that the application relates to several distinct inventions which are not so linked as to form a single inventive concept, the competent officer shall give a notice to the applicant requiring him to separate the application into a number of applications, each of which relates to a single invention.

If the applicant files any of the separated applications within one hundred and eighty days following the receipt of such notice under the preceding paragraph, he shall be deemed to have filed that application on the filing date of his first application.

The application shall be separated in accordance with the rules and procedures provided by the Ministerial Regulations.

If the applicant does not agree with the requirement to separate the application, he shall appeal to the Director-General within one hundred and twenty days. The decision of the Director-General shall be final.

Section 27 In the course of examination of an application, the competent officer may instruct the applicant to appear before him in order to answer any question, or to hand over to him any document or item.

If the applicant has filed an application for a patent in any foreign country, he shall submit a report of the examination of the application in accordance with the rules and procedures prescribed by the Ministerial Regulations.

If any document to be filed is in a foreign language, the applicant shall file such document accompanied by translation in Thai.

If the applicant fails to comply with the instruction of the competent officer under the preceding paragraph, or fails to submit the examination report within ninety days in accordance with the second paragraph of this Section, he shall be deemed to have abandoned his application. In case of necessity, the Director-General may extend such period as he deems appropriate.

Section 28⁽¹⁾ Where the competent officer has submitted the examination report to the Director-General,

(1) If it appears to the Director-General that the provisions of Section 17 have not been complied with, or the invention is not patentable under Section 9, the Director-General shall reject the application and the competent officer shall notify the applicant of the rejection by a return registered mail or by any other method prescribed by the Director-General within fifteen days from the date of rejection by the Director-General; or

(2) If it appears to the Director-General that the provisions of Section 17 have been complied with and it is not an unpatentable invention under Section 9, the Director-General shall, in accordance with the rules and procedures in the Ministerial Regulations, order the application to be published. Before the publication is made, the competent officer shall, by any method prescribed by the Director-General or by a return registered mail, notify the applicant to pay the publication fee. If the applicant fails to pay the fee within sixty days from the date of receipt of the notice, the competent officer shall once again notify the applicant by a return registered mail. If the applicant

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

fails to pay the publication fee within sixty days from the date of receipt of such notice, he shall be deemed to have abandoned his application.

Section 29 After the publication of the application under Section 28, the applicant may request the competent officer to proceed with the examination as to its conformity with Section 5 either within five years after the publication of such application or, in cases where there is an opposition and an appeal is taken, within one year after the final decision has been made, depending on which period expires last. If the applicant fails to make such a request within said period, he shall be deemed to have abandoned his application.

If the Director-General requests any governmental department, unit or organization or any foreign or international patent office or organization to examine the application under Section 25, and there is some expense derived from such examination, such expense shall be paid by the applicant within sixty days after he has been notified by the competent officer. If the applicant fails to pay the expense within the said period, he shall be deemed to have abandoned his application.

Section 30 Where an application for a patent has been published under Section 28, if it appears that it does not comply with the provisions of Section 5, 9, 10, 11 or 14, the Director-General shall refuse the grant of a patent. The Director-General shall refuse the grant of a patent. The applicant as well as the other party to the opposition proceedings under Section 31 shall be notified of such decision. The decision of the Director-General shall be published in accordance with the rules and procedures prescribed by the Ministerial Regulations.

Section 31⁽¹⁾ Where an application for a patent has been published under Section 28, any person who thinks that he, not the applicant, is entitled to a patent, or that the application does not comply with the provisions of Section 5, 9, 10, 11 or 14 may

⁽¹⁾ as revised by the Patent Act (No.2) B.E. 2535

give notice to the competent officer of opposition to such application within ninety days following the publication of the application under Section 28.

Where an opposition has been made in accordance with the preceding paragraph, the competent officer shall send a copy of such notice to the applicant. The applicant shall file with the competent officer a counterstatement within ninety days following the receipt of the copy of the notice. If the applicant fails to file such counterstatement within said period, he shall be deemed to have abandoned his application.

A notice of opposition and counterstatement shall be supported by buttressing evidence.

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

Where the Director-General has made his decision under Section 33 or Section 34, the applicant and the opposing party shall be notified of the decision with the reasons on which it is based.

Section 33 Where a request for examination is made under Section 29 by the applicant for an examination and the competent officer has made examination under Section 24, the competent officer shall submit his examination report to the Director-General.

When the Director-General has considered the examination report and sees no reason to refuse the grant of a patent, and there has been no opposition under Section 31 or there has been an opposition but the Director-General has decided that the invention belongs to the applicant, the Director-General shall order that the invention is to be registered and granted to the applicant. The competent officer shall notify the applicant that the fee must be paid for the grant of a patent within sixty days from the receipt of such notice.

When the fee has been paid in accordance with the preceding paragraph, the invention shall be registered and a patent granted to the applicant within fifteen days

following the payment of the fee, but not before the expiration of period prescribed in Section 32. If the fee is not paid within the period prescribed in the preceding paragraph, the applicant shall be deemed to have abandoned his application. The patent shall be in the form prescribed by the Ministerial Regulations.

Section 34 Where there is an opposition and the Director-General has decided that the invention belongs to the opposing party, the Director-General shall reject the application.

Where the decision of the Director-General rejecting the application is not appealed by the applicant or is appealed and the Board or the Court has made a final decision, if the opposing party has filed an application for a patent within one hundred and eighty days after the rejection by the Director-General or from the date on which the final decision is made, as the case may be, he shall be deemed to have filed his application on the filing date of the applicant, and the publication of the application for a patent of the applicant made under Section 28 shall be deemed to be the publication of the application of the opposing party. In the latter case, no person may oppose the application of the opposing party on the ground that he has better rights in the invention than the opposing party.

Before granting a patent to the opposing party, the competent officer shall examine the application in accordance with Section 24. The provisions of Section 29 are also applicable to the application of the opposing party.

PART III
RIGHTS CONFERRED BY THE PATENT

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Section 35⁽¹⁾ An invention patent shall have a term of twenty years from the date of filing of the application in the country. The term of a patent shall not include the period during which court proceedings are taken under Section 16, 74 or 77 sexies.

Section 35 bis⁽²⁾ Any act in violation of Section 36 committed before the grant of a patent shall not be deemed to be an infringement of the patentee's rights unless the act is in respect of the invention under the pending application already published under Section 28, the person so acting knowing of the filing of the patent application or having been informed in writing that a patent application has been filed for the invention, in which case the applicant shall be entitled to damages from the infringer. A complaint for such damages shall be filed with the court after the patent is granted.

Section 36⁽³⁾ No other person except the patentee shall have following rights:

(1) where the subject matter of a patent is a product, the right to produce, use, sell, have in the possession for sale, offer for sale or import the patented product;

(2) where the subject matter of a patent is a process, the right to use the patented process, to produce, use, sell, have in the possession for sale, offer for sale or import the product produced by the patented process.

The preceding paragraph shall not apply to:

(1) any act for the purpose of study, research, experimentation or analysis, provided that it does not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner;

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.2) B.E. 2535

⁽³⁾ as revised by the Patent Act (No.3) B.E. 2542

(2) the production of the patented product or use of the patented process, provided that the producer or user, in good faith and without knowing or having no reasonable cause to know about the patent application, has engaged in the production or has acquired the equipment therefore prior to the date of filing of the patent application in Thailand, Section 19 bis not applicable hereto;

(3) the compounding of a drug specifically to fill 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 drug registration, the applicant intending to produce, distribute or import the patented pharmaceutical product after the expiration of the patent term;

(5) the use of a device forming the subject of a patent in the body of a vessel or other accessories of a vessel of a country party to an international convention or agreement on patent protection to which Thailand is also party, when such a vessel temporarily or accidentally enters the waters of Thailand, provided that such a device is used there exclusively for the needs of the vessel;

(6) the use of a device forming the subject of a patent in the construction or other accessories of an aircraft or a land vehicle of a country party to an international convention or agreement on patent protection to which Thailand is also party, when such aircraft or land vehicle temporarily or accidentally enters Thailand;

(7) the use, sale, having in possession for sale, offering for sale or importation of a patented product when it has been produced or sold with the authorization or consent of the patentee.

Section 36 bis⁽¹⁾ The scope of the rights of the patentee under Section 36 in respect of a patented invention shall be determined by the claims. In determining the scope of the claimed invention, the characteristics of the invention as indicated in the description and the drawings shall be taken into account.

⁽¹⁾ as revised by the Patent Act (No.2) B.E. 2535

The scope of protection for a patented invention shall extend to the characteristics of the invention which, although not specifically stated in the claims, in the view of a person of ordinary skill in the pertinent art, have substantially the same properties, functions and effects as those stated in the claims.

Section 37⁽¹⁾ The patentee shall have the right to use the word "Thai Patent," its abbreviation or any foreign word of the same meaning on the product, the container or package of the product, or in the advertisement of the product.

The indication under the first paragraph shall be accompanied by the patent number.

Section 38 The patentee may authorize any other person, by granting a license, to exercise the rights conferred to him under Section 36 and 37, and may assign his patent to any other person.

Section 39 In granting a license under Section 38,

(1) the patentee shall not impose upon the licensee any condition, restriction or any royalty term which is unjustifiably anti-competitive.

Conditions, restrictions or terms which is unjustifiably anti-competitive shall be prescribed in the Ministerial Regulations;

(2) the patentee shall not require the licensee to pay royalties for the use of the patented invention after the patent has expired in accordance with Section 35.

Conditions, restrictions or terms concerning royalties which are contrary to the provisions of this Section are null and void.

Section 40 Subject to Section 42, in the absence of any provision to the contrary between the parties, a joint owner of a patent may, separately, exercise the rights conferred under Section 36 and 37 without the consent of the other joint owner,

⁽¹⁾ as revised by the Patent Act (No.2) B.E. 2535

but he may grant a license or assign the patent only when it is consented to all joint owners.

Section 41⁽¹⁾ The license contract and the assignment of a patent under Section 38 shall be in writing and registered in compliance with the requirements and procedures prescribed by the Ministerial Regulations.

If it appears to the Director-General that a clause in a license contract is contrary to the provisions of Section 39, the Director-General shall submit such contract to the Board. If it is held by the Board that the contract is contrary to the provisions of Section 39, the Director-General shall refuse the registration of such contract, unless it may be assumed under the circumstances of the case that the parties intended the valid part of the contract to be severable from the invalid part. In the latter circumstances, the Director-General may order the registration of the valid part of the contract.

Section 42 The transfer of a patent by succession shall be in compliance with the rules and procedures prescribed by the Ministerial Regulations.

PART IV

ANNUAL FEES

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Section 43⁽²⁾ A patentee shall pay annual fees as prescribed by the Ministerial Regulations beginning the fifth year of the term of the patent. The payment of the fees shall be made within sixty days following the beginning of the fifth year of the term of the patent and of every year thereafter.

If a patent is granted after the beginning of the fifth year of the term of the patent, the first annual fee shall be paid within sixty days following the grant of the patent.

If the patentee does not pay the annual fees within the period as prescribed in the first or second paragraph, the patentee shall be liable to pay a surcharge of thirty

⁽¹⁾ as revised by the Patent Act (No.2) B.E. 2535

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

percent of the unpaid annual fee by paying the annual fee together with the surcharge within one hundred and twenty days following the expiration of the payment period prescribed in the first or second paragraph.

If the patentee fails to pay the annual fee and the surcharge within the period prescribed in the third paragraph, the Director-General shall prepare a report to the Board for canceling the patent.

If the patentee files within sixty days from the date of receipt of the cancellation order, a request to the Board that the failure to pay the annual fee within the period prescribed in the third paragraph and the surcharge was due to a cause of necessity, the Board may extend the payment period or cancel the patent as they deem appropriate.

Section 44⁽¹⁾ The patentee may request to pay all annual fees in advance by paying all of the annual fees in one payment instead of paying annually. In cases where all of the annual fees have been paid in advance by the patentee, and subsequently the list of the annual fees is revised or the patent is surrendered or cancelled, the patentee shall not be obliged to pay for any increase in the annual fees or shall not be entitled to refund the fees already paid by him.

PART V

LICENSES OF RIGHT COMPULSORY LICENSES AND GOVERNMENT USE

Section 45 Any patentee may, in accordance with the rules and procedures as prescribed in the Ministerial Regulations, apply to the Director-General for an entry to be made in the register to the effect that any other person may obtain a license.

At any time after an entry has been made, the Director-General shall grant a license under the patent to any person who applies for such a license on such conditions, restrictions and royalty terms as agreed upon by the patentee and the applicant. If the patentee and the applicant cannot agree within the period as

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

prescribed by the Director-General, the Director-General shall grant a license on such conditions, restrictions and royalty terms as he deems appropriate.

Any of the parties may appeal the decision of the Director-General made under the preceding paragraph to the Board within thirty days from the receipt of the decision. The decision of the Board shall be final.

The application for and grant of a license under the second paragraph shall comply with the rules and procedures as described by the Ministerial Regulations.

Where an entry is made pursuant to the first paragraph, the annual fees in respect of the patent after the date of the entry shall be reduced as prescribed by a Ministerial Regulations, by at least one half of the annual fees which would be payable if the entry had not been made.

Section 46⁽¹⁾ At any time after the expiration of three years from the grant of a patent or four years from the date of application, whichever is later, any person may apply to the Director-General for a license if it appears, at the time when such application is filed, that the patentee unjustifiably fails to exercise his legitimate rights as follows:

(1) that the patented product has not been produced or the patented process has not been applied in the country, without any legitimate reason; or

(2) that no product produced under the patent is sold in any domestic market, or that such a product is sold but at unreasonably high prices or does not meet the public demand, without any legitimate reason.

Whether it is an application under (1) or (2), the applicant for a license must show that he has made an effort to obtain a license from the patentee having proposed conditions and remuneration reasonably sufficient under the circumstances but unable to reach an agreement within a reasonable period.

The application for a license shall comply with the rules and procedures prescribed in the Ministerial Regulations.

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

Section 47⁽¹⁾ If the working of any claim in a patent is likely to constitute an infringement of a claim in a patent of any other person, the patentee, desiring to exploit his own patent, may apply to the Director-General for a license under the patent of the other person under the following criteria:

- (1) the invention of the applicant involves an important technical advance of considerable economic significance in relation to the invention for which the license is applied;
- (2) the patentee shall be entitled to a cross-license on reasonable terms;
- (3) the applicant shall not assign his right in the license to other persons except with the assignment of his patent.

The applicant for a license must show that he has made an effort to obtain a license from the patentee having proposed conditions and remuneration reasonably sufficient under the circumstances but unable to reach an agreement within a reasonable period.

The application for a license shall comply with the rules and procedures prescribed by the Ministerial Regulations.

Section 47 bis⁽²⁾ If the working of any claim in the patent having obtained a license under Section 46 is likely to constitute an infringement of a claim in a patent of any other person, the applicant for a license under Section 46 may apply to the Director-General for a license under the patent of the other person under the following criteria:

- (1) the invention of the applicant involves an important technical advance of considerable economic significance in relation to the invention for which the license is applied;
- (2) the applicant shall not assign his right in the license to other persons.

The applicant for a license must show that he has made an effort to obtain a license from the patentee having purposed conditions and remuneration reasonably

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

sufficient under the circumstances but unable to reach an agreement within a reasonable period.

The application for a license shall comply with the rules and procedure prescribed by the Ministerial Regulations.

Section 48⁽¹⁾ Where a compulsory license is granted under Section 46, 47 or 47 bis , the patentee shall be entitled to remuneration.

The licensee under Section 38 shall be entitled to remuneration where a compulsory license is granted under 46, 47 or 47 bis, provided that he has the exclusive right to grant licenses to other persons. In such circumstances, the patentee shall not be entitled to such remuneration.

Section 49⁽²⁾ In an application for a license made under Section 46, 47 or 47 bis, the applicant shall set forth the amount of remuneration, the conditions for the exploitation of the patent and the restrictions on the rights of the patentee and the exclusive licensee under paragraph 2 of Section 48, and a request for a license. In the application for a license under Section 47, the applicant shall also offer a license under his patent to the other party.

Where an application for a license is filed pursuant to Section 46, 47 or 47 bis, the competent officer shall notify the applicant the patentee and the exclusive licensee under paragraph 2 of Section 48 of the date on which the application shall be considered. The patentee and the exclusive licensee shall be furnished with a copy of the application.

In the consideration of an application for a license under the preceding paragraph, the competent officer may require the applicant, the patentee or the exclusive licensee under paragraph 2 of Section 48 to appear before him to give any statement, or to hand over to him any document or any other item. When the application has been considered by the competent officer and the Director-General has made his

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

decision, the applicant, the patentee and the exclusive licensee shall be notified of the decision.

The decision of the Director-General made under the preceding paragraph is appealable to the Board within sixty days of receipt of the notice.

Section 50⁽¹⁾ Where it is decided by the Director-General that a license shall be granted to the applicant under Section 46, 46 bis or 47, the Director-General shall set forth the royalty and the conditions for the exploitation of the patent and the restrictions on the rights of the patentee and the exclusive licensee under Section 48 paragraph 2 as agreed upon by the patentee and the applicant. If no agreement has been reached by the parties within the period prescribed by the Director-General, the Director-General shall fix the royalty and prescribed the conditions and restriction as he deems appropriate subject to the following requirements:

- (1) the scope and duration of the license shall not be more than necessary under the circumstances;
- (2) the patentee shall be entitled to further license others;
- (3) the license shall not be entitled to assign the license to others, except with that part of the enterprise or goodwill particularly of the part under the license;
- (4) the licensing shall be aimed predominantly for the supply of the domestic market;
- (5) the remuneration fixed shall be adequate for the circumstances of the case.

The decision of the Director-General made under the first paragraph of the Section is appealable to the Board within sixty days from the date on which such decision is received.

The issuance of a licensing certificate shall comply with the form, rules and procedures prescribed in the Ministerial Regulations.

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

Section 50 bis⁽¹⁾ A license issued under Section 46 may be terminated if and when the circumstances which led to it cease to exist and are unlikely to recur provided that the termination does not affect the rights or interests of the licensee under the license.

The application for termination of a license under the first paragraph shall be in accordance with the forms, rules and procedures prescribed in the Ministerial Regulations, the provisions of Section 49 paragraphs two and three and Section 50 applying mutatis mutandis.

Section 51⁽²⁾ In order to carry out any service for public consumption or which is of vital importance to the defense of the country or for the preservation or realization of natural resources or the environment or to prevent or relieve a severe shortage of food, drugs or other consumption items or for any other public service, any ministry, bureau or department of the Government may, by themselves or through others, exercise any right under Section 36 by paying a royalty to the patentee or his exclusive licensee under paragraph 2 of Section 48 and shall notify the patentee in writing without delay, notwithstanding the provisions of Section 46, 46 bis and 47.

In the circumstances under the above paragraph, the ministry or bureau or department shall submit its offer setting forth the amount of remuneration and conditions for the exploitation to the Director-General. The royalty rate shall be as agreed upon by the ministry or bureau or department and the patentee or his licensee, and the provisions of Section 50 shall apply mutatis mutandis.

Section 52⁽³⁾ During a state of war or emergency, the Prime Minister, with the approval of the Cabinet, shall have the power to issue an order to exercise any right under any patent necessary for the defense and security of the country by paying a fair remuneration to the patentee and shall notify the patentee in writing without delay.

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽³⁾ as revised by the Patent Act (No.3) B.E. 2542

The patentee may appeal the order or the amount of remuneration to the court within sixty days from the receipt of the order.

PART VI
SURRENDER OF PATENT OR CLAIMS AND CANCELLATION
OF PATENT
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Section 53⁽¹⁾ Any patentee may surrender his patent or any claim or claims there of in accordance with the rules and procedures prescribed in the Ministerial Regulations.

In order to surrender a patent or any claims under the preceding paragraph, if the patent is jointly owned by two or more persons, the surrender shall be made with the consent of all patentees. If licenses have been granted under Section 38, 45, 46, 47 or 47 bis such surrender shall be made with the consent of all licensees.

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

The invalidity of a patent may be challenged by any person. A petition to cancel an invalid patent may be submitted to the Court by any interested person or the public prosecutor.

Section 55⁽²⁾ The Director-General may request the Board to cancel a patent in any of the following circumstances:

(1) when a license has been issued under Section 50 and a period of two years has lapsed from the date of issuance of the license, the patentee, the licensee of the patentee or the holder of the license fails to produce the patented product or use the patented process without any legitimate reason, or no patented product or product derived from the patented process is sold or imported into the country or such a product

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.2) B.E. 2535 and the Patent Act (No.3) B.E. 2542

is hold at unreasonably high price, and the Director-General thinks that there is a good cause to cancel the patent;

(2) the patentee has licensed another person to use the rights contrary to the provisions of Section 41.

Before requesting the Board to cancel a patent, the Director-General shall order an investigation to be held, and notify the patentee and licensees of the order so that they may be given an opportunity to submit their statements. The submission of the statements shall be made within sixty days from the receipt of the order. The Director-General may require any person to appear before him to answer any question or to hand over any document or any other item to him.

After the investigation and where it appears that there is good ground to cancel the patent, the Director-General shall submit his report of the investigation to the Board to cancel the patent.

CHAPTER III PATENTS FOR DESIGNS

Section 56 A patent may be granted under this Act for a new design for industry, including handicrafts.

Section 57 The following designs are not new:-

(1) a design which was widely known or used by others in this country before the filing of the application for a patent;

(2) a design which was disclosed or described in a document or a printed publication in this or a foreign country before the filing of the application for a patent;

(3) a design which was published under Section 65 and Section 28 before the filing of the application for a patent;

(4) any design so nearly resembling any of the designs prescribed in (1), (2) or (3) as to be an imitation.

Section 58 The following are unpatentable:-

- (1) designs that are contrary to public order or morality;
- (2) designs prescribed by a Royal Decree.

Section 59 The application for a patent shall comply with the requirements and procedures as prescribed by the Ministerial Regulations.

Every application for a patent shall contain:-

- (1) a representation of the design;
- (2) an indication of the product for which the design is to be used;
- (3) a clear and concise claim;
- (4) other items prescribed in the Ministerial Regulations.

Section 60 An application for a patent shall relate to a design to be used with only one product.

A list of products shall be prescribed by the Ministerial and published in the Government Gazette.

Section 60 bis⁽¹⁾ A person under Section 14 who has filed a patent application for a design in a foreign country may claim the first foreign filing date as the filing date in the country if the application is filed in the country within six months following the first filing date in the foreign country.

Section 61 When an application is published under Section 65 and 28, but before the registration of and grant of a patent for the design, if it appears that the application does not comply with the provisions of Section 56, 57 or Section 65 and 10, 11 and 14, the Director-General shall reject the application. The competent officer shall notify the applicant and the opposing party under Section 65 and 31 of that decision, and a copy of the decision shall be displayed at the place where the application is filed.

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

Where the Director-General rejects an application and the application is opposed under Section 65 and Section 31, the Director-General shall proceed to consider the opposition in accordance with section 65 and Section 32.

Section 62⁽¹⁾ A design patent shall have a term of ten years from the date of filing of the application in the country.

The term of a patent shall not include the period during which the court proceedings are taken under Section 65 and Section 16 or 74.

Section 62 bis⁽²⁾ Any act in violation of Section 63 committed before a grant of a patent shall not be deemed to be an infringement of the patentee's rights unless the act is in respect of the design under the pending application already published under Section 65 and Section 28, the person so acting knowing of the filing of the patent application or having been informed in writing that a patent application has been filed for the design, in which case the applicant shall be entitled to damages from the infringer. A complaint for such damages shall be filed with the court after the patent is granted.

Section 63⁽³⁾ No other person except the patentee shall have the right to use the patented design in the manufacture of a product or to sell, have in possession for sale, offer for sale or import a product, embodying the patented design, except the use of the design for the purpose of study or research.

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

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽³⁾ as revised by the Patent Act (No.3) B.E. 2542

The validity of a patent may be challenged by any person. A petition to cancel an invalid patent may be submitted to the Court by any person who has an interest in the patent or by the public prosecutor:

Section 65 The provisions of Sections 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 27, 28, 29, 31, 32, 33, 34, 37, 38, 39, 40, 41, 42, 43, 44, and 53 in Chapter II concerning patents for inventions shall apply, *mutatis mutandis*, to patents for designs in Chapter III.

CHAPTER III BIS PETTY PATENTS

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Section 65 bis A petty patent may be granted for an invention in respect of which the following conditions are satisfied:

- (1) the invention is new;
- (2) it is capable of industrial application.

Section 65 ter No person shall apply for both a petty patent and a patent for the same invention.

Section 65 quarter The applicant for a petty patent or the applicant for an invention patent may request to convert his application for a petty patent to an application for an invention patent or an application for an invention patent to an application for a petty patent before the registration of the invention and the grant of the petty patent or before the publication of the application under Section 28, as the case may be. The applicant may claim the date of filing of the original application to be the filing date of the converted application in accordance with the rules and procedures prescribed in the Ministerial Regulations.

Section 65 quinquies Before the registration of an invention and grant of a petty patent, the competent officer shall examine the application for a petty patent as to its

conformity with Section 65 decies and 17 and examine that the claimed invention is protectible under Section 65 decies and 9 and submit a report to the Director-General.

(1) If it is seen by Director-General that the application for a petty patent does not comply with Sections 65 decies and 17 or the claimed invention is not protectible under Section 65 decies and 9, the Director-General shall refuse the grant of a petty patent. The competent officer shall notify the applicant of such decision, by an acknowledgement registered mail or by any other method prescribed by the Director-General, within fifteen days from the date of the decision.

(2) If it is seen by the Director-General that the application for a petty patent is in compliance with Sections 65 decies and 17 and the claimed invention is protectible under Section 65 decies and 9, the Director-General shall order that the invention is to be registered and a petty patent granted to the applicant. The competent officer shall notify the applicant to pay for the fees for the grant of a petty patent and for the publication in accordance with the procedures and period of time prescribed in Sections 65 decies and 28 (2).

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

Section 65 sexies Within one year from the publication of the registration of the invention and the grant of a petty patent, any interested person may request the competent officer to examine whether or not the invention for which a petty patent has been granted satisfies the conditions under Section 65 bis.

After the receipt of the request under the first paragraph, the competent officer shall examine the application as to substance and submit the examination report to the Director-General.

When the Director-General has considered the examination report and thinks that the invention satisfies the conditions under Section 65 bis, he shall so inform the person requesting for the examination and the owner of the petty patent within fifteen days from the date of such decision.

In cases where the Director-General thinks that the invention does not satisfy the conditions under Section 65 bis, he shall order an examination of the case and notify the owner of the petty patent to submit a statement supporting his application within sixty

days from the date of receipt of the order. The Director-General may summon any person to answer any question or to hand over to him any document or item. After the examination of the case if the Director-General thinks that the invention does not satisfy the conditions under Section 65 bis, he shall submit his report to the Board to cancel the petty patent and shall notify the person requesting for the examination and the owner of the petty patent within fifteen days from the date on which the order is made by the Board.

Section 65 septies A petty patent shall have a term of six years from the date of filing of the application in the country. The term shall not include the period during which the court proceedings are taken under Sections 65 decies and 16, 74 or 77 sexies.

The owner of a petty patent may request that the term of his petty patent be extended for two periods, each period shall be valid for two years, by submitting a request to the competent officer within ninety days before the expiry date. If the request is submitted within the said period, the petty patent shall be regarded as validly registered until it is otherwise ordered by the competent officer.

The request for extension of the term of a petty patent shall be in accordance with the rules and procedures prescribed by the Director-General.

Section 65 octies The owner of a petty patent shall have the right to use the word "Thai Petty Patent", its abbreviation or any foreign word of the same meaning on the product, the container or package of the product, or in the advertisement of the product.

The indication under the first paragraph shall be accompanied by the number of the petty patent.

Section 65 novies Any petty patent granted not in compliance with the provisions of Section 65 bis, 65 decies and Section 9, 10, 11 or 14, shall be invalid.

The invalidity of a petty patent under the first paragraph may be challenged by any person. A petition to cancel an invalid patent may be submitted to the court by any interested person or the public prosecutor.

Section 65 decies The provisions of Sections 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 19 bis, 20, 21, 22, 23, 25, 26, 27, 28, 35 bis, 36, 36 bis, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 47 bis, 48, 49, 50, 50 bis, 51, 52, 53, and 55 in Chapter II concerning patents for inventions shall apply, mutatis mutandis, to Chapter III bis concerning petty patents.

CHAPTER IV BOARD OF PATENTS

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Section 66⁽¹⁾ There shall be a "Board of patents" composed of the Under-Secretary of State for Commerce as Chairman, and not more than twelve qualified members in the fields of science, engineering, industry, industrial design, agriculture, pharmacy, economics and law appointed by the Cabinet. At least six qualified members shall be from the private sector.

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

Section 67 The members of the Board appointed by the Cabinet shall hold office for a term of two years.

When a member of the Board vacated his offices before the expiration in the term of office or more members are appointed by the Cabinet where the term of office of the existing appointed members has not expired, the newly appointed members shall remain in office only for the term of office of the incumbent.

A member whose term of office has expired may be reappointed by the Cabinet.

Section 68 A member appointed by the Cabinet vacates his office upon:-

- (1) death;
- (2) resignation;

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

- (3) being discharged by the Cabinet;
- (4) becoming bankrupt;
- (5) becoming an incompetent or a quasi-incompetent person; or
- (6) being imprisoned under a final judgement, except for a petty offense or an offense committed through negligence.

Section 69 At every meeting of the Board, there must be in attendance of not less than one half of the total number in order to constitute a quorum. If the chairman is absent from any meeting, the Board shall elect one of its members to preside over the meeting.

Any decision of the meeting shall be taken by a majority of votes.

In voting, each member shall have one vote. In case of equality of votes, the presiding chairman shall have one additional vote as the casting vote.

Section 70⁽¹⁾ The Board shall have the following powers and duties:-

- (1) to give advice or consultation to the Minister in issuing the Royal Decrees and Ministerial Regulations under this Act;
- (2) to decide any appeal made against any order or decision of the Director-General on patents or petty patents under sections 41, 45, 49, 50, 55, 65 sexies or Section 65 decies and Section 72;
- (3) to act on other matters as stipulated in this Act;
- (4) to consider any other matter on patents or petty patents as assigned by the Minister.

Section 71 The Board shall have the power to appoint subcommittees to consider and advise the Board. The provisions of Section 69 shall apply, mutatis mutandis, to the meeting of subcommittees.

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

Section 72⁽¹⁾ Where an order or a decision is made by the Director-General under Sections 12, 15, 28, 30, 34, 49, 50 or Section 61, or Section 65 and Sections 12, 15, 28, 33, or 34 and Section 65 quinquies or 65 sexies or 65 decies and Section 12, 15, 49 or 50, any interested person under the said Section may make an appeal to the Board within sixty days following the receipt of such order or decision. If he fails to do so within such period, the order or decision of the Director-General shall be final.

An appeal under the preceding paragraph must be submitted to the competent officer. If there are two parties, a copy of the appeal must be sent to the other party.

Section 73⁽²⁾ In considering an appeal against the order or decision of the Director-General or a report of the Director-General made under Section 55 or 65 sexies or a report of the Director-General under Section 43 or 65 decies and Section 43 suggesting a cancellation of patent or a petty patent, the Board may require the opposing party, the applicant, the patentee, the owner of a petty patent, the applicant for examination of a petty patent, or the licensee, as the case may be, to submit any evidence or additional statement in accordance with the rules prescribed by the Board.

Section 74⁽³⁾ Where a decision or an order is made by the Board under Section 41, 43, 49, 50, 55 or 65 sexies, 65 decies and Section 41, 43, 49, 50, 55 or 72, the appellant and the other party, the patentee, the owner of a petty patent or the licensee, as the case may be, shall be notified of such decision or order. Any party dissatisfied with the decision or order may appeal to the Court within sixty days from the receipt of such notification. If he fails to do so, the decision of the Board shall be final.

In considering or giving a judgement under this Act, the Court shall not order the Board or the Director-General to pay for any fee on behalf of the other party.

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽³⁾ as revised by the Patent Act (No.3) B.E. 2542

CHAPTER V

MISCELLANEOUS

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Section 75⁽¹⁾ No person without the rights under this Act shall use the words “Thai Patent”, “Thai Petty Patent” or its abbreviation or foreign words of the same meaning on any product, container or package of a product or in advertising any invention or design.

Section 76⁽²⁾ No person except a person who has filed an application for a patent or a petty patent that is pending, shall use the words “Patent Pending”, “Petty Patent Pending” or any other word of a same meaning on any product, container or package of a product or in advertising any invention or design.

Section 77⁽³⁾ In a civil case in respect of the infringement of the rights of the owner of the owner of a patent or petty patent where the subject matter of the patent or petty patent is a process for obtaining a product, if the owner of the patent or petty patent can prove that the defendant's product is identical or similar to the product obtained by the process under the patent or petty patent, it shall be presumed that the defendant has used the process under the patent or petty patent unless the defendant can prove otherwise.

Section 77 bis⁽⁴⁾ In case there is clear evidence that any person is committing or about to commit any act in infringement of the rights of the owner of a patent or petty patent under Section 36, 63 or Sections 65 decies and 36, the owner of the patent or petty patent may request the court to order the person to stop or refrain from committing

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽³⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽⁴⁾ as revised by the Patent Act (No.3) B.E. 2542

such infringement. The order of the court shall not deprive the owner of the patent or petty patent to claim damages under Section 77 ter.

Section 77 ter⁽¹⁾ In case of an infringement of the rights of the owner of a patent or petty patent under Section 36, 63 or Sections 65 decies and 36, the court shall have the power to order the infringer to pay the owner of the patent or petty patent damages in an amount deemed appropriate by the court, taking into consideration the gravity of the injury including the loss of benefits and expenses necessary to enforce the rights of the owner of the patent or petty patent.

Section 77 quarter⁽²⁾ All goods in the possession of the infringer which infringe the rights of the owner of a patent or petty patent under Section 36, 63 or Sections 65 decies and 36 shall be confiscated. If the court thinks fit, it may order the destruction of the goods or other measures to prevent further distribution of the goods.

Section 77 quinquies⁽³⁾ Any person who applies and jointly applies for both a patent and a petty patent for the same invention not in compliance with Section 65 ter shall be deemed to have applied for a petty patent.

Section 77 sexies⁽⁴⁾ If two or more persons have separately or independently made the same invention and one of them has made an application for a patent while the other person has applied for a petty patent:

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

(2) if the applications for a patent and petty patent have been filed on the same date, the competent officer shall notify the applicants to agree whether the grant should be made to one of them or all of them jointly and whether it should be an application for

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽³⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽⁴⁾ as revised by the Patent Act (No.3) B.E. 2542

a patent or petty patent. If no agreement is reached within the period prescribed by the Director-General, they may bring the case to the Court within ninety days to do so within such period, they shall be deemed to have abandoned their applications.

Section 77 septies⁽¹⁾ Within ninety days following the date of publication under Section 28 or the date of publication of the registration of an invention and the grant of a petty patent for any invention, the applicant for a petty patent, the owner of a petty patent, the applicant for a patent or the patentee who thinks that the registration of the invention and the grant of the patent or petty patent may not be in conformity with the provisions of Section 65 ter for the reason that the invention is the same invention belonging to him and he has applied for a petty patent or a patent on the same date on which such application for a patent or a petty patent was filed may request the competent officer to examine whether or not such application for a patent or a petty patent is in compliance with the provisions of Section 65 ter.

After the receipt of the request under the first paragraph, the competent officer shall make the examination and submit his examination report to the Director-general.

When the Director-General has considered the examination report under the second paragraph and sees that the registration of the invention and the grant of a patent or a petty patent is not in compliance with the provisions of Section 65 ter due to the fact that it is the same invention and the application for a patent or a petty patent was filed on the same date with the date of application of the person requesting for the examination, the Director-General shall notify the applicant for a patent or the owner of the petty patent and the person requesting for the examination to agree on the person who would solely have the rights in the invention or they would jointly hold the rights. If no agreement is reached within the period prescribed by the Director-General, they shall be regarded as jointly holding the rights in the invention.

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

Section 77 octies⁽¹⁾ Any patent or petty patent granted not in compliance with the provisions of Section 65 ter shall be invalid.

The invalidity under the first paragraph may be challenged by any person.

If the registration of an invention and the grant of a patent or petty patent is not in compliance with the provisions of Section 65 ter and the application for a patent and a petty patent for the invention were filed on the same date, the patentee, the owner of the petty patent, any other interested person or the public prosecutor may request the Director-General to notify the patentee and the owner of the petty patent to agree that the invention is to be the subject of either a patent or a petty patent. If no agreement is reached within the period prescribed by the Director-General, the patentee and the owner of the petty patent shall be regarded as the joint owners and the invention is the subject of a petty patent.

Section 78⁽²⁾ The owner of a patent, a petty patent or a licensing certificate may apply for a substitute thereof in accordance with the requirements and procedures as prescribed in the Ministerial Regulations if the patent, petty patent or certificate is lost or substantially damaged.

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

Section 80⁽³⁾ A fee as prescribed by the Ministerial Regulations shall be paid for each application for a patent, an application for a petty patent, the publication of an application for a patent, request for examination of patent, opposition to the grant of a patent, patent, application for the registration of a license contract, application for the assignment of a patent, or petty patent, application for conversion of a patent or a petty

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽³⁾ as revised by the Patent Act (No.3) B.E. 2542

patent, application for the extension of the term of a petty patent, application for an entry to be made in a patent or petty patent that any person may apply for a license under the patent or petty patent, application for a license, a licensing certificate, appeal against an order or a decision of the Director-General, duplicate of a patent or a patent or a licensing certificate, any other request or application and the making or a copy of any document and certification of any document.

CHAPTER VI OFFENSES

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Section 81⁽¹⁾ Any official who violates Section 21 or Section 23 paragraph two or Section 65 and 21 or Sections 65 decies and 21 or 23 paragraph two of this Act shall be punished with imprisonment not exceeding two years or a fine not exceeding two hundred thousand baht or both.

Section 82⁽²⁾ Any person who violates Section 22 or Sections 65 and 27 or Sections 65 decies and 22 punished with imprisonment not exceeding six months or a fine not exceeding twenty thousand baht or both.

Section 83⁽³⁾ Any person who violates Section 23 paragraph two or Section 65 decies and 23 paragraph two of this act shall be punished with imprisonment not exceeding one year or a fine not exceeding fifty thousand baht or both.

Section 84 Any person who violates Section 75 or Section 76 of this Act shall be punished with imprisonment not exceeding one year or a fine not exceeding two hundred thousand baht or both.

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽³⁾ as revised by the Patent Act (No.3) B.E. 2542

Section 85⁽¹⁾ Any person who commits any act under Section 36 or 63 without the permission of the patentee shall be punished with imprisonment not exceeding two years or a fine not exceeding four hundred thousand baht or both.

Section 86⁽²⁾ Any person who commits any Act under Sections 65 decies and 36 without the permission of the owner of a petty patent shall be punished with imprisonment not exceeding one year or a fine not exceeding two hundred thousand baht or both.

Section 87⁽³⁾ Any person, in order to obtain a patent, applies for a patent for an invention or design or a petty patent, presents or gives a false statement shall be punished with imprisonment not exceeding six months or a fine not exceeding five thousand baht or both.

Section 88 Where an offender punishable under this Act is a juristic person, the persons in charge or representatives of the juristic person, except those who can prove that such offense was committed without their knowledge or consent, shall also be liable to the penalties prescribed by law for the offence.

⁽¹⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽²⁾ as revised by the Patent Act (No.3) B.E. 2542

⁽³⁾ as revised by the Patent Act (No.3) B.E. 2542

LIST OF THE MAXIMUM FEES

	Baht
(1) An application for a patent	1,000
(2) Applications for design patents for the same design which are filed at the same time in a number of ten or more applications	10,000
(3) Publication of a patent application	500
(4) A request for patent examination	500
(5) An opposition to a patent application	1,000
(6) A patent or petty patent	1,000
(7) Annual fees for invention patents:	
fifth year	2,000
sixth year	4,000
seventh year	6,000
eighth year	8,000
ninth year	10,000
tenth year	12,000
eleventh year	14,000
twelfth year	16,000
thirteenth year	18,000
fourteenth year	20,000
fifteenth year	30,000
sixteenth year	40,000
seventeenth year	50,000
eighteenth year	60,000
nineteenth year	70,000
twentieth year	80,000
or payment of all annual fees in one payment	400,000
(8) Annual fees for design patents:	

fifth year	1,000
sixth year	2,000
seventh year	3,000
eighth year	4,000
ninth year	5,000
tenth year	6,000
or payment of all annual fees in one payment	20,000
(9) Annual fees for petty patents:	
fifth year	2,000
sixth year	4,000
or payment of all annual fees in one payment	6,000
(10) Fees for the extension of the term of petty patents:	
first extension	14,000
second extension	22,000
(11) An application for the registration of a license	
	500
(12) An application to record the assignment of a patent or petty patent	
	500
(13) An application for conversion of a patent or petty patent	
	500
(14) A licensing certificate	1,000
(15) A substitute of a patent, petty patent or licensing certificate	
	100
(16) An appeal against an order or decision of the Director-General	
	1,000
(17) Copies of documents, each page	10
(18) Certifying copies of documents	
of more than ten pages, each page	100
of not more than ten pages, each page	10
(19) Any other application	100
