

# Registration of licensing agreement in Thailand

Department of Intellectual Property, Thailand

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

## Consideration criteria

Licensing Agreement to use the patent is the contract, with which the patent/petty patent owners grants the specific right to the licensee. The permission shall not exceed the protection period as prescribed by law.

- The protection period of invention patent lasts 20 years.
- The protection period of petty patent lasts 6 years, or upon the petty patent renewal application according to Article 65 paragraph 2 of the laws.

## Conditions of application submission

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

## Proceeding according to the official's instruction

1. In case that the official finds a correctable defect in the application, the official shall notify the applicant or his patent agent/patent attorney for the correction. The applicant shall finish the correction within 90 days of the notification reception date. After such period, without the correction, the applicant shall be deemed to have abandoned the application, except the Director-General extends the period for correction as deemed appropriate due to any necessity.
2. After the applicant corrected the application, the applicant shall submit the correction application and the fee to the Department of Intellectual Property or the provincial office of the Ministry of Commerce. The corrected application shall enter the consideration and initial inspection processes respectively, similarly to the re-submission of the application.
3. In case of application submission via the website of the Department of Intellectual Property, the inspecting official shall check the completeness of information and details in the patent/petty patent application, request or other applications based on information and details appearing in the e-patent filing system. In this regard, the applicant shall present the application and supporting documents to the Department of Intellectual Property within 15 days of application number reception date and patent/petty patent application filing date via internet. The inspection of application submitted via internet shall be in accordance with the Notification of the Department of Intellectual Property Re: Principles and conditions for submission of patent/petty patent application, requests or other applications via internet.

## Notes

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

- have abandoned the application. The official shall return the application to the applicant and inform the reason of the return and his appeal right.
3. Any person fee paid to the Department of Intellectual Property shall not be refunded in all cases, except
    - (1) The law stipulates that the fee must be refunded, or
    - (2) The applicant double-paid or overpaid the fee, by which the faulty payment resulted from the mistake of the state official, not the payer. In this regard, the Department of Intellectual Property shall consider the refund case by case.
  4. In case the applicant is required to submit many additional documentary evidences, the applicant shall submit all additional documentary evidences in the same time.
  5. In case the applicant submits the copy of the documentary evidence, the applicant shall certify the copy of the documentary evidence.
  6. In case the applicant submits the document in foreign language, the applicant shall submit the document with Thai translation and the correct translation certification of the translator.
  7. In case the applicant or the authorized patent agent/patent attorney does not submit the application by himself, and granted power to the other person to submit the application, the application submitter shall present a sub power of attorney or temporary power of attorney, so that he is eligible to submit the application and sign in the record of conditions on application reception. If it appears that the application and the documentary evidence is not correct or incomplete, and the application submitter is not authorized to sign on the said record, the official shall not receive the application.
  8. The working period does not include the time period when the applicant follows the official's instruction or corrects the application, or the period of temporary suspension of registration.

### Relevant laws

The Ministerial Regulation No.25 (B.E. 2542) issued by virtue of the Patent Act B.E. 2522 (Dated 24 September 1999).

The Patent Act B.E. 2522 as amended by the Patent Act (No. 2) B.E. 2535 and the Patent Act (No. 3) B.E. 2542

### Artificial Intelligence-Based Image Search Tool for Brands

The World Intellectual Property Organization (WIPO) has launched a new artificial intelligence (AI)-powered image search technology that makes it faster and easier to establish the distinctiveness of a trademark in a target market. The new search functionality covers the national collections of 45 trademark offices already participating in the project - even if they have not been using a classification system for figurative elements. This represents a total number of almost 38 million trademarks to date. WIPO periodically adds new collections from around the world to the database.

Earlier-generation image search tools primarily determine trademark image similarity by identifying shapes and colors in marks. WIPO's new AI-based technology improves on this technology by using deep machine learning to identify combinations of concepts – such as an apple, an eagle, a tree, a crown, a car, a star – within an image to find similar marks that have previously been registered.

The new technology results in a narrower and more precise group of potentially similar marks, facilitating greater certainty in strategic planning for brand expansion into new markets. With fewer results to scrutinize, this also translates into labor-cost savings for trademark examiners, attorneys and paralegals, industry practitioners and researchers.

WIPO's new AI search technology leverages deep neural networks and figurative elements classification data from the Madrid System for the International Registration of Marks and from large trademark offices. All users can access the AI search technology for free through WIPO's Global Brand Database, where it has been fully integrated into the database search engine.

For more information, contact:

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# Exploitation of intellectual property in Malaysia

## Ministry of Energy, Science, Technology, Environment and Climate Change (MESTECC), Malaysia

<https://mastic.mestecc.gov.my>

The provisions pertaining to the exploitation of intellectual property in Malaysia are the following.

### 8.0 exploitation of intellectual property

8.1. Where an Inventor or creator creates Intellectual Property he shall notify the Innovation and Commercialisation Centre in writing.

8.2. The Innovation and Commercialisation Centre shall determine the party in whom the Intellectual Property should vest in accordance with this Policy.

8.3. If the Innovation and Commercialisation Centre determines that the Intellectual Property ownership belongs to the Relevant Body, it shall be responsible for any

### Intellectual property commercialisation policy

Commercialisation of the Intellectual Property, including, but not limited to, one or more of the following:

- a) taking the appropriate measures to protect the Intellectual Property and the Relevant Body;
- b) obtaining an independent valuation of the Intellectual Property;
- c) identifying potential licensee(s);
- d) assigning the rights to a third party(s); and
- e) determining an appropriate vehicle to exploit the Intellectual Property.

8.4. In the event the Innovation and Commercialisation Centre decides to commercialise the Intellectual Property, the Inventor(s) shall provide all reasonable assistance in furtherance of this goal, for example, by providing information promptly on request, attending meetings with potential licensee(s) and providing technical advice regarding further development.

8.5. Should the Innovation and Commercialisation Centre not be interested in seeking Patent protection or to commercialise the Intellectual Property, it shall inform the Inventor in writing. The Inventor may then make a written request to the Innovation and Commercialisation Centre for the Intellectual Property to be assigned to him.

The Centre shall write to the funding Agency to obtain leave. If leave is granted, the Innovation and Commercialisation Centre will retain a non-exclusive, non-transferable, irrevocable, royalty-free, worldwide Licence on the Intellectual Property for research and educational purposes. In the event the Inventor does not commercialise the Intellectual Property within five years without any reasonable grounds, the Innovation and Commercialisation Centre may exercise any Commercialisation rights in relation to the Intellectual Property.

8.6. The Innovation and Commercialisation Centre may retain the ownership of the Invention but grant a Licence to the Inventor to exploit the Intellectual Property, if it considers it advantageous to do so.

8.7. In the event the Innovation and Commercialisation Centre determines that the Intellectual Property does not belong to a Relevant Body, it shall inform the Inventor in writing of its decision, whereupon the Inventor shall be free to exploit it in any way he chooses.

8.8. In all cases where the Intellectual Property is to be jointly owned, the parties shall ensure that any rights to commercialise the Intellectual Property and share in the profits is pre-determined by written contract among themselves.

*Source: Intellectual Property Commercialisation Policy for Research & Development (R&D) Projects funded by the Government of Malaysia, Ministry of Science, Technology and Innovation, Malaysia (MOSTI), June 2009*

### UNCTAD Virtual Institute

The Virtual Institute (Vi) is UNCTAD's programme of support to academia. Vi helps developing countries design evidence-based policies that result in inclusive and sustainable development. To this end, the Vi enables academic institutions to prepare qualified decision-makers and provide analyses to underpin the formulation of economic policies in their countries.

For more information, access:

<https://vi.unctad.org>