



Patent rights in Viet Nam

ASEAN Intellectual Property Association (ASEAN IPA)

<http://www.aseanipa.org>

Compulsory license

The right to use an invention shall, without permission of the patentee, be granted to another entity or individual upon decision of the State competent authority if (i) the use of the invention is intended for the public interest, non-commercial purposes, national defense, security, prevention and treatment of disease, for people's nutrition, or meeting other urgent needs of society; (ii) the patentee fails to fulfill the obligation of using the invention after the expiration of four years from the date of filing of the patent application and three years from the granting date of the patent for invention; (iii) the person who wants to use the invention fails, within a reasonable period of time for negotiation on reasonable considerations and commercial conditions, to reach an agreement with the patentee on a license to use such an invention; or (iv) the patentee is regarded as performing an act of anti-competition prohibited under the competition law and regulations.

The right to use the invention under the compulsory license granted by a decision of a State competent authority shall meet the following conditions:

- a. The right to use shall be non-exclusive;
- b. The right to use shall only be limited to such a scope and duration sufficient to attain the purpose for which the compulsory license was granted, and predominantly for the supply of the domestic market;
- c. The licensee of the compulsory license shall not assign the right to use the patented invention to another person, except where the assignment is made together with his/her business establishment and sub-license others to use the patented invention;
- d. The licensee of the compulsory license shall pay the patentee/licensor adequate remuneration, taking into account the economic value of the allowed use, in compliance with the remuneration frame provided for by the Government;
- e. The patentee of the dominant invention shall also be entitled to grant a license to use the dependent invention on reasonable terms and conditions; and
- f. The licensee of compulsory license to use the dominant invention shall not be entitled to assign such right, except with the assignment of the entire right to the dependent invention.

Other cases

The following shall be exempted from patent infringement:

1. Use of the invention or industrial design for personal needs or non-commercial purposes, or for the purposes of evaluations, analysis, research, teaching, testing, pilot production or for collecting data to carry out procedures to obtain a production license, import or product marketing permit;
2. Use of the invention or industrial design only for the purpose of maintaining the operation of a foreign vehicle in transit or only temporarily entering into the territory of Vietnam.

Who may file and where to file patent applications

The right to file a patent application for invention or industrial design generally belongs to inventors who have created the invention or industrial design by his/her own efforts and expenses. In case an invention or industrial design is created by the inventors during the course of employment or hire, the entitlement to file patent applications for such invention or design shall belong to the entities or individuals who have invested finance and material facilities to the inventors through employing or hiring, unless otherwise agreed by the parties (the employee invention). In this case, the employees shall enjoy some moral rights over the invented technology in addition to some remuneration. Moral rights of employee-inventor(s) are to be named as inventor in relevant patent letters as well as in any documents in which the invented technology is published or introduced. The remuneration for the employees is stipulated as 10% of benefits obtained from using the invention, and 15% of the sum amounted from each royalty for granting a license to use the invention, unless otherwise agreed by the parties. In addition, persons entitled to file an application may assign that right to other organizations or individuals through written contract or inheritance in accordance with the law.

The right to file patent applications for inventions/industrial designs made by using the State budget belongs to the State.

All applications must be lodged with the National Office of Intellectual Property (NOIP), which has been entrusted to be the State administrative authority under the jurisdiction of the Ministry of Science and Technology. Vietnamese entities and individuals, foreign individuals permanently residing in Vietnam, and foreign entities having an industrial or commercial establishment in Vietnam may file patent applications directly or through an IP agency licensed to practice before the NOIP.

Managing and enforcing patents in Singapore



Intellectual Property Office of Singapore (IPOS)

<https://www.ipos.gov.sg>

Term and renewal

The term of a patent is 20 years from the Date of Filing of the patent application, subject to the payment of annual renewal fees. To maintain your patent, you will need to pay an annual renewal fee, starting from the end of the 4th year from the Date of Filing, and every year thereafter, until the patent expires.

In the event that grant was issued after 45 months from date of filing, all renewals due will only be payable within 3 months after the date of grant. You can renew your patent by submitting Patents Form 15 together with renewal fees. If you have made an entry in the register for License of Right (LOR), you can renew your patent at half price, using Patents Form 53.

Applying for a LOR

If you are interested in licensing your patent to a third party, you may wish to endorse your patent with a LOR after the patent is granted. This can be done by applying for an LOR entry to be made in the Patents Register. An LOR may help you attract licensees, and your patent renewal fees that are payable after the LOR entry is made would also be halved. However, this means that you cannot refuse to license the invention. The terms of the LOR are to be negotiated between you and the licensee. If both parties are not able to reach an agreement on the terms of the LOR, either party may request the Registrar to settle the terms of the LOR.

Cancelling a LOR

If you wish to cancel an LOR entry in the Patents Register, you will need to complete and submit Patents Form 28 (S\$40). If the Registrar is satisfied that there is no existing license under the patent or that all licensees under the patent consent to the application, and the balance of all renewal fees which would have been payable if the entry had not been made have been paid, the Registrar may cancel the entry.

Obtaining a license to a patent

If you are interested in obtaining a license to someone's patent but do not know where to start, you may start by looking at our Patents Register for patents that are endorsed with a **LOR** entry. To facilitate the search process, IPOS has consolidated a list of Singapore patents with such endorsements. The LOR list contains details of all live granted patents with a LOR status extracted from the Patents Register. However as the LOR status of a patent can change (e.g. if a LOR endorsement is cancelled), you should check the Patents Register before relying on the information in this list.

Infringement of registered patent

If you discover that a person, without your consent:

- (in the case where the invention is a product) makes, disposes of, offers to dispose of, uses or imports the product or keeps it whether for disposal or otherwise
- (in the case where the invention is a process) uses the process or he offers it for use in Singapore when he knows, or it is obvious to a reasonable person in the circumstances, that its use without the consent of the proprietor would be an infringement of the patent or
- (in the case where the invention is a process) disposes of, offers to dispose of, uses or imports any product obtained directly by means of that process or keeps any such product whether for disposal or otherwise

You can exercise your rights under the Patents Act by taking legal action against the infringing party, including seeking relief in the form of an injunction to stop the infringing action, demanding for the profits gained by the infringing party at his expense and/or, seeking damages for the loss suffered.

Revocation of patent

Even though your patent has been granted, anyone can revoke the patent by applying to the Registrar. Revocation proceedings can take place on the grounds that:

- The invention is not a patentable invention.
- The patent was granted to a person who is not entitled to the grant.
- The specification does not disclose the invention clearly and completely for it to be performed by a person skilled in the art.
- The matter disclosed in the specification extends beyond that disclosed in the patent application as filed.
- The amendment or correction to patent application or patent should not have been allowed.
- The non-disclosure/inaccurate disclosure of prescribed material information.
- The patent was obtained on any misrepresentation.
- The patent is one of two or more patents for the same invention having the same priority date and filed by the same party or his successor in title.