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Unlocking Innovation: Expedite Your Thai Patent Approval for Competitive Advantage

Innovation is the fundamental pillar of achievement in the rapidly evolving business landscape. It is essential for both emerging entrepreneurs and established industry players to safeguard their intellectual property to sustain a competitive advantage. However, the patent application process in Thailand, like many other countries, involves a variety of examination and review phases. Although its purpose is to verify the validity and integrity of patents, this procedure can be lengthy and cumbersome. Time is unfortunately of the essence in the fast-paced business environment of today. Delayed patent approvals may result in missed opportunities, thereby enabling competitors to seize advantages of similar ideas or technologies. The examination and issuance of a Thai patent typically take up to ten years, commencing from the date of filing until the patent is finally granted. The Department of Intellectual Property Thailand (DIP) received around 13,000 patent applications by 2022, comprising both domestic and foreign submissions. This volume of applications results in a backlog of patent applications that are yet to be examined in Thailand.

Fortunately, there are ways to expedite the examination and grant of a Thai patent, allowing inventors to enjoy the benefits of their invention sooner. In this article, we will explore the steps to expedite the patent application process in Thailand.

In order to expedite the examination and issuance of a Thai patent, applicants may utilize a variety of mechanisms and strategies. Steps for expediting the approval of a Thai patent are as follows:

1) Submitting a letter requesting for expedited examination of a patent application directly to the DIP

Directly addressing the DIP with a letter requesting for expedited examination of a patent application speeds up the approval process in a straightforward and direct manner. By employing this approach, applicants can formally convey their desire for expedited evaluation and furnish rationales for why their application merits priority review.

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2) Adjustment of the existing Thai specification and claims to align with the corresponding foreign patent

Applicants may submit copies of letters patent, search reports, and substantive examination reports from corresponding foreign patents (e.g., those from the United States, European Patent Organization, United Kingdom, Australia, Japan, and China) to expedite a Thai patent application. This procedure entails adjusting the existing specifications and claims of the Thai patent to align with the chosen foreign jurisdictions. Applicants can utilize the examination results and legal standards that have already been established in these nations to expedite the approval process in Thailand. Implementing this approach not only expedites the evaluation procedure but also improves the likelihood of obtaining patent approval by ensuring compliance with internationally recognized patent standards

3) Requesting for the external examination with Thai Patent Office

Applicants may request an accelerated examination procedure from external entities, such as the Australian Patent Office, specialized agencies, or agreed Thai University for a novelty search at the applicant's expense. This method may expedite the issuance of exclusive rights to an invention beyond the timeframe permitted by standard procedure. In order to justify the acceleration, the request typically involves providing compelling reasons, such as impending commercialization or potential market competition. Furthermore, it may be necessary for the petitioner to furnish extensive documentation and evidence that substantiates the invention's novelty and inventiveness. Upon approval, the external examination process proceeds swiftly, potentially reducing the time typically required for patent approval and enabling the inventor to bring their innovation to market more quickly.

4) Patent Acceleration Programs

Patent acceleration programs are strategic endeavors implemented by patent offices and affiliated organizations with the aim of accelerating the examination of patent applications.

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The primary objectives of these programs are to promote innovation, reduce redundancy, improve the efficacy of the patent system, and decrease the backlog of pending patent applications.

i) ASEAN Patent Examination Cooperation (ASPEC)

The ASPEC program was launched on 15 June 2009. The ASPEC is the first regional patent work-sharing initiative comprised of the IP Offices of nine ASEAN Member States (AMS): Vietnam, Brunei, Cambodia, Indonesia, Lao, Malaysia, Philippines, Singapore, and Thailand.

This program aims to facilitate the expeditious and more efficient acquisition of corresponding patents by applicants residing in participating countries by exchanging search and examination results among participating offices. By eliminating redundant tasks during the search and examination process, the program has the potential to reduce work and accelerate turnaround time.

Request for the ASPEC program is provided with no cost to the applicant. However, local search and examination fees will continue to apply at the AMS IP office.

As of 27 August 2019, two initiatives under the ASPEC have been introduced:

a) ASPEC Acceleration for Industry 4.0 Infrastructure and Manufacturing (ASPEC-AIM)

This initiative operates within the framework of the ASPEC program. Its primary objective is to facilitate the advancement of Industry 4.0 technologies in the ASEAN region by prioritizing Industry 4.0 patent applications. These encompass progressions in sectors such as hardware, software and connectivity. The ASPEC-AIM endeavors to accelerate the commercialization of groundbreaking Industry 4.0 solutions and foster economic expansion in the ASEAN region by supporting innovators to receive a patent more quickly and reduce Time to Market (TTM) with a committed turnaround time of 6 months to receive the first office action.

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Application submitted under this program will be evaluated based on search and examination results report issued by another participating AMS IP Office on the corresponding application. This program has a capacity of 50 applicants per year.

b) Patent Cooperation Treaty-ASEAN Patent Examination Cooperation (PCT-ASPEC)

This collaborative program between the World Intellectual Property Organization (WIPO) and AMS has combined the benefits of the PCT and the ASPEC program.

Under the PCT-ASPEC program, patent applicants may register a single international patent application through the PCT system. The application will be evaluated by using a PCT reports/written opinions established by ASEAN International Searching Authority or International Preliminary Examination Authority (ISA/IPEA). These reports subsequently facilitate the examination process in other AMS IP offices. Through the utilization of the ASPEC program's collaboration among ASEAN patent offices and the PCT system's international filing process, the PCT-ASPEC framework serves to optimize operations, diminish administrative obstacles, and elevate the standard of patent evaluation throughout the ASEAN area. This platform offers a streamlined and economical method for enterprises and inventors to pursue patent protection in numerous ASEAN nations, thus promoting economic expansion and facilitating innovation in the area. The program has a capacity of up to 100 applications per year.

Both programs have been extended for an additional 2-3 years until 26 August 2025.

ii) JPO-DIP Patent Prosecution Highway (PPH)

The JPO-DIP PPH is the cooperation program between the DIP and the Japanese Patent Office (JPO) to speed up the patent application by requesting urgent patent inspection.

The objective of the PPH Pilot Program is to optimize the efficacy of patent applicants in both nations and streamline the patent examination procedure.

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Patent applicants who receive a patent inspection result of the first patent office (DIP/JPO) are eligible to request expedited examination of their corresponding patent applications submitted at the second patent office (DIP/JPO). This enables applicants to potentially accelerate the overall patent grant process by using examination results obtained in one jurisdiction to streamline the examination process in the other. As a result, duplication of efforts is reduced. The PPH program promotes international cooperation in the preservation of intellectual property rights while enhancing the quality and efficiency of patent examination through the facilitation of information exchange and the utilization of each other's examination results. The pilot program functions as a significant mechanism for enhancing the bilateral relationship between Japan and Thailand with regards to intellectual property, while also promoting economic growth and innovation in both nations.

PPH program is projected to end in December 31, 2025 with possible extension.

iii) Target Patent Fast-Track

In order to address burgeoning public health and food security concerns that have reached unprecedented magnitudes, the DIP has launched Target Patent Fast-Track: Medical Sciences, Public Health since 2022, and newly added Target Patent Fast-Track: Future Food since 2024. This fast-track program aims to expedite patent and petty patent application relating to Medical Sciences, Public Health and Future Food. Applications will be selected by the DIP for the participation in the program. Selected application will receive urgent patent examination and announce the results within 12 months for patent and 6 months for petty patent after the commencement date of participation in the program.

In conclusion, the examination and issuance of a Thai patent can be accelerated in a number of ways, including by utilizing the results of foreign examinations, submitting convincing justifications, and participating in patent acceleration programs. By exploring these alternatives and maneuvering the patent application process strategically, applicants can expedite the endorsement of their patents and gain a competitive advantage in the market.

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This article was authored by Mr. Panudeth Juengwiwattanakitti, a Patent Specialist at ILCT. It is recommended that you seek professional advice regarding this issue before taking any action. For specific legal advice on this matter, please contact us at ipgroup@ilct.co.th.