

LAO PEOPLE'S DEMOCRATIC REPUBLIC
DECISION on The Administrative Dispute Resolutions Concerning the
Registration of Industrial Property and New Plant varieties

Ministry of Industry and Commerce No. 0441/MOIC

Vientiane, dated 30 March 2023

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Chapter 1 General Provisions

Article 1 Purpose

This decision determines the principles, regulations, and procedures regarding administrative dispute resolution, per the proposal of the registration of industrial property and new plant varieties in order to implement and expand Article 130 of the Law on Intellectual Property to ensure that the registration of industrial property and new plant varieties complies with the laws and regulations and is codified nationwide.

Article 2 Administrative dispute resolution Process regarding the Registration of Industrial Property and New Plant varieties

The administrative dispute resolution process regarding the registration of industrial property and new plant varieties is the process of resolving proposals regarding objection, rejection, cancellation, or elimination of the registration of industrial property and new plant variety by the administrative dispute resolution committee under the procedures outlined in this Decision hereunder.

Article 3 Term Definitions

The terms used in this Decision have the following meanings:

1. **Applicant** means an individual, legal entity, or organization that proposes to engage in the administrative dispute resolution process regarding the disputes involving the registration of industrial property and new plant varieties;
2. **Opposite Party** means an individual, legal entity, or organization that proposes, invalidate or eliminates the registration of industrial property and new plant varieties;
3. **Dispute Parties** mean the applicant and opposite party;
4. **Proposal** means the documentation file proposal for administrative dispute resolution regarding the registration of industrial property and new plant varieties;
5. **Power of Attorney** means a written document in which the applicant or opposite party has given their right to one or more persons to act on their behalf in the administrative dispute resolution process regarding a dispute in the registration of industrial property and new plant varieties;
6. **Representative** means an authorized attorney or representative who has been given the right by the applicant or the opposite party to

submit a proposal letter or letter of defense or taking other actions in relation to the administrative dispute resolution process involving a dispute regarding the registration of industrial property and new plant varieties;

7. **Opposition** means an opposition to applications for patents, petty patents, or applications for registration of industrial designs, trademarks and trade names, integrated circuits designs, origins, and new plant varieties;

8. **Rejection** means rejecting applications for patent, petty patent, or applications of industrial design registration, trademarks and trade names, layout designs of integrated circuits, geographical indications, and new plant varieties that do not comply with the criteria and prohibitions as defined in the Law on Intellectual Property;

9. **Elimination** means the submission of a proposal letter to request the elimination of all patents, petty patents, industrial designs, layout designs of integrated circuits, trademarks, geographical indications and new plant varieties that do not comply with the criteria and prohibitions defined in the Law on Intellectual Property by the rights holder or rights owner or a third party;

10. **Cancellation** means the submission of a proposal letter to request cancellation on the part of a patent, petty patent, industrial design, layout design of an integrated circuit, trademark, geographical indication or new plant variety that does not conform to the criteria defined in the Law on Intellectual Property by the rights holder or rights owner or a third party.

Article 4 Principles of Administrative dispute resolution

Administrative dispute resolution concerning the registration of industrial property and new plant varieties shall follow the principles below:

1. The voluntary participation of the dispute parties;
2. Ensuring justice, promptness, and compliance with the applicable laws;
3. The equality of the dispute parties;
4. Case proceedings in the Lao language;
5. Keeping confidentiality.

Article 5 Scope of Application

This Decision applies to individuals, legal entities, and organizations, both domestically and internationally, who are

involved in administrative dispute resolution in a dispute regarding the registration of industrial property and new plant varieties in the Lao PDR.

Chapter 2 Filing and Receiving the Administrative dispute resolution Proposal

Article 6 Filing the Proposal Letter

Individuals, legal entities, or organizations who intend to propose administrative dispute resolution in a dispute regarding the registration of industrial property and new plant varieties are hereby required to submit a proposal to the Department of Intellectual Property or the Provincial Department of Industry and Commerce at Vientiane Capital on a case- by-case basis as follows:

1. File a proposal letter to the Department of Intellectual Property in order to propose administrative dispute resolution in a dispute regarding the application for a patent, petty patent, or registration of the layout design of an integrated circuit, geographical indication or new plant variety;
2. File a proposal letter at the Provincial Department of Industry and Commerce and/or Vientiane Capital in order to propose administrative dispute resolution in a dispute regarding industrial design registration and trademarks.

The foreign applicant who does not have a business operations premises in the Lao PDR to be the formal office for communications or who is non-resident in the Lao PDR shall thereby appoint their representative in the Lao PDR following the applicable laws to proceed with administrative dispute resolution on their behalf.

Article 7 Filing of the Proposal Letter

The drafting and filing of the proposal letter, in terms of opposition, Rejection, cancellation or elimination of the application for registration of industrial property and new plant varieties, must be executed in the Lao language and consist of the following documents:

1. Opposition

- (1) Proposal letter form as defined by the Department of Intellectual Property;
- (2) Power of attorney, in the case where the opposition is filed by a representative;
- (3) Information and/or data, evidence or letter of defense ;
- (4) Receipts of fees and service charges.

2. Rejection

- (1) Proposal letter form as defined by the Department of Intellectual Property;

- (2) Power of attorney, in the case where the Rejection is filed by a representative;
- (3) A copy of the Rejection notice of the application for a patent, petty patent, and registration of industrial property or new plant variety;
- (4) A copy of the registration of industrial property or new plant variety, domestic or foreign, or a copy of evidence of ownership of the industrial property or new plant variety;
- (5) New information and/or new evidence or new clarifications.

3. Cancellation or Elimination

- (1) Proposal letter form as defined by the Department of Intellectual Property;
- (2) Power of attorney, in the case the cancellation or elimination is filed by a representative;
- (3) Copies of patents, petty patents, and the certificate of industrial property registration, domestic or foreign, or a copy of evidence of the ownership of industrial property or new plant variety;
- (4) Information and other evidence.
- (5) Receipt of fees and service charges.

In case the proposal letter is made in the English language, the applicant must provide a Lao translation of the document within thirty (30) days. If the timeframe exceeds the deadline, the Department of Intellectual Property will not consider the proposal, and it shall be deemed as waived.

Article 8 Proposal Letter Receipt

The proposal letter receipt shall be implemented on a case-by-case basis as below:

1. In the case of filing a proposal letter with the Department of Intellectual Property, the Department must accept the proposal if the proposal is complete and correct, as stipulated in Article 7 of this Decision;
2. In the case of filing a proposal through the Provincial Department of Industry and Commerce and/or Vientiane Capital, the Department thereof shall receive the proposal if the proposal is complete and correct as defined in Article 7 of this Decision and shall deliver the file to the Department of Intellectual Property within three (3) working days for consideration proceedings.

Chapter 3 Consideration of Proposal Letter for resolution

Article 9 Information Research and Data Collection

After receiving a proposal letter seeking the administrative dispute resolution concerning the registration of industrial property or new plant varieties, the Department of Intellectual Property shall act as follows:

1. Research of the file of the proposal letter to be completed within seven (7) days from the date of receipt of the proposal letter;
2. Notification to the applicant in writing to clarify or provide additional information. In case, the proposal information is incomplete or unclear, it is required to be completed within fifteen (15) days. However, if the applicant does not respond with their clarifications or does not provide information within the deadline, such proposal requesting the administrative dispute resolution will not be considered;
3. Notification to the opposite party of the Invalidation, cancelation or elimination in writing with an attached copy of the proposal file, so that the opposite party, appellant, canceller, or elimination party can provide documents, information, evidence, clarifications or a letter of defense to the Department of Intellectual Property within sixty (60) days from the date of issuance of the notification. If the aforementioned person does not provide the documents, information, evidence, clarifications or letter of defense as per the deadline, they shall be deemed to have waived their rights after considering the available documents, information, and evidence accordingly;
4. Summarize the file of the proposal letter, including documents, information, evidence, clarifications, or contradictions from the dispute parties, and issue an agreement to appoint a committee to oversee administrative dispute resolution and to consider and resolve the file of the proposal thereof.

Article 10 Consideration of the Dispute resolution by the Administration Dispute resolution Committee

The Administrative dispute resolution Committee must open a meeting to consider and resolve the proposal within fifteen (15) days from the date of appointment onwards. If necessary, the dispute parties could be invited to clarify or provide any additional information required.

After the meeting, the Administrative dispute resolution Committee shall thereafter note and/or record the Minutes of the meeting to be completed immediately or no later than one working day from the date of such meeting's completion.

Article 11 Contents of the Minutes of the Results of the Dispute resolution

The Minutes of the results of the dispute resolution are required to record the content as follows:

1. Name and surname, age, occupation, nationality, and current address of the dispute parties or the representatives;
2. Name and surname of the Administrative dispute resolution Committee and recorder, and address of the venue;
3. The date and receipt number of the file of the proposal letter;
4. Proposal Letter to engage in the administrative dispute resolution;
5. Deadline for implementation of the Minutes of the administration dispute resolution ;
6. The results of the administrative dispute resolution;
7. Time and date, month, and year for termination of the administrative dispute resolution;
8. Signatures of the dispute parties or their representatives, Administrative dispute resolution Committee, and recorder, as certified by the Department of Intellectual Property.

Article 12 Notification of the Results of the Dispute resolution

The Department of Intellectual Property must notify the results of the dispute resolution to the dispute parties and related sectors in writing within five (5) working days from the date of completion of the results of the dispute resolution.

Article 13: Proposing for Reconsideration of the Result of the Dispute resolution

Any party of the dispute parties shall have the right to request reconsideration of the results of the dispute resolution within thirty (30) days from the date of issuing the notification of the result of the dispute resolution, in case there is new information/data, new evidence, or new clarifications.

If the proposal is reasonable and has sufficient evidence, the Department of Intellectual Property must thereafter appoint a new administrative dispute resolution committee to reconsider the

Proposal of the result of the dispute resolution to be completed within fifteen (15) days from the date of the appointment the committee onwards.

Chapter 4 Administrative dispute resolution Committee and Specialist

Article 14 Administrative dispute resolution Committee

The Department of Intellectual Property must appoint an odd number of Administrative dispute resolution Committees with at least three but no more than five committee members consisting of the President, Vice President, and Committee. Persons to be appointed to the Administrative dispute resolution Committee are required to meet the criteria outlined in Article 15 of this Decision.

Article 15 Standards and Criteria of the Administrative dispute resolution Committee

The Administrative dispute resolution Committee must qualify according to the standards and criteria as follows:

1. Have revolutionary moral qualities, justice, integrity, ethics, and ethical background of a professional;
2. Have knowledge, capacity, and expertise in intellectual property in a specific field;
3. Have knowledge of intellectual property law and other applicable laws;
4. Have working experience in the field of intellectual property for at least five (5) years or more;
5. Never have been disciplined;
6. Have good health.

Article 16 Rights and Duties of the Administrative dispute resolution Committee

The Administrative dispute resolution Committee has the rights and duties as follows:

1. Organize a meeting to consider proposals to settle administrative disputes regarding the registration of industrial property or new plant varieties in order to decide the issues of the dispute parties in a fair, prompt, and transparent manner;
2. Examine the information/data and evidence collection for relevance and necessity;
3. Use the rights granted and perform other duties as defined in the regulations and applicable laws.
4. To create Minutes to record the results of the administrative dispute resolution;
5. Do not disclose information, evidence, or documents to outsiders, except for information that is required to be provided to the

relevant sectors according to the applicable laws;

6. Appoint a specialist to advise, instruct, and provide technical assistance in the process of considering and settling disputes;

7. Summarize and report the results of the meeting in writing.

Article 17 Specialist

A specialist is a person who has knowledge, expertise, and experience in a major subject field of intellectual property that is recognized and certified by the relevant institutions or organizations.

The Administrative dispute resolution Committee shall be able to appoint specialists to provide advice, instructions, and technical assistance in the process of inspection and when considering proposal corrections that are highly technical and complex.

Article 18 Rights and Duties of the Specialist

The Specialist shall have the rights and duties as follows:

1. Claim any information and additional evidence to ensure that verification is correct and precise;

2. Provide clarification on the outcome of the verification;

3. Add and modify the information to be verified, as well as the evidence if there is new information during the verification process;

4. Receive legal protection;

5. Prove information and evidence and give the correct opinions under the specialized fields;

6. Summarize the report of the outcome of providing information and evidence to the Administrative dispute resolution Committee;

7. Give clarity to the Administrative dispute resolution Committee;

8. Be responsible for the outcome of the evidence proved and do not disclose the outcome of the verification to the public;

9. Use rights granted and perform other duties as assigned by the Administrative dispute resolution Committee.

Chapter 5 Prohibitions

Article 19 Prohibitions of Dispute Parties

It is forbidden for the dispute parties to conduct the following behaviors:

1. Falsify documents, information, evidence, clarifications or arguments related to the dispute;
2. Force, menace, use violence, persuade, or mislead the Administrative dispute resolution Committee or specialists or experts;
3. Give bribes or other benefits to the Administrative dispute resolution Committee or specialists or experts;
4. Engage in other behaviors that violate the applicable regulations and laws.

Article 20 Prohibition for Officials or Civil Servants, Administrative dispute resolution Committees and Specialists

It is forbidden for officials or civil servants, Administrative dispute resolution Committees, and Specialists to engage in the following behaviors:

1. Ignore responsibilities and neglect the duties assigned in the Decision on the appointment of the Administrative dispute resolution Committee;
2. Perform duties in the dispute resolution process without fairness, or with prejudice to individuals, legal entities, or organizations;
3. Disclosing documents, information, evidence, clarifications, or contradictory opinions related to the administrative dispute resolution process concerning a dispute involving the registration of industrial property and new plant varieties without the permission of the owner;
4. Use the information they have learned to gain benefits for themselves or to destroy the rights and interests of others;
5. Participate in administrative correction decisions related to the interests of themselves, their spouses or close relatives;
6. Unlawfully receive, demand money or other benefits from the dispute parties;
7. Hinder, obstruct, coerce, menace, and create difficulties for dispute resolution;
8. Have other behaviors that breach the applicable regulations and laws.

Chapter 6 Management of Administrative dispute resolution

Article 21 Management

The Management implementation of Administrative dispute resolution concerning the registration of industrial property and new plant varieties consists of two levels as below:

1. The central level is the Department of Intellectual Property;
2. The provincial level is the Provincial Department of Industry and Commerce, Vientiane Capital.

Article 22 Rights and Duties of the Department of Intellectual Property

The Department of Intellectual Property has the rights and duties as follows:

1. Research and propose to the Ministry to create and improve legislation for administrative dispute resolution regarding the registration of industrial property and new plant varieties;
2. Disseminate, and recommend legislation on administrative dispute resolution concerning the registration of industrial property and new plant varieties for widespread public awareness;
3. Receive and check the accuracy and completeness of the proposal letter to engage the administrative dispute resolution process regarding patent, petty patent or registration of layout designs of integrated circuits, geographical indications, and new plant varieties;
4. Consider, research and resolve the proposal concerning the registration of industrial property and new plant varieties;
5. Appoint an Administrative dispute resolution Committee regarding the registration of industrial property and new plant varieties;
6. Record and keep the results of the administrative dispute resolution concerning the registration of industrial property and new plant varieties;
7. Encourage and promote administrative dispute resolution regarding the registration of industrial property and new plant varieties;
8. Summarize and report on the implementation of the administrative dispute resolution proposals to the upper level of authorities from time to time;
9. Use rights granted and perform other duties as required by the applicable regulations and laws.

Article 23 Rights and Duties of Provincial Department of Industry and Commerce at Vientiane Capital

The Provincial Department of Industry and Commerce at Vientiane Capital have the rights and duties as follows:

1. Disseminate and recommend legislation on administrative dispute resolution regarding the registration of industrial property and new plant varieties for widespread awareness of society within the province or capital;
2. Receive and verify the accuracy and completeness of the proposal for administrative dispute resolution concerning the registration of industrial designs and trademarks;
3. Submit the files of proposals, fees, and service charges to the Department of Intellectual Property to process dispute resolution;
4. Summarize and report on the implementation of administrative dispute resolution proposals to the Department of Intellectual Property for each period from time to time;
5. Use rights granted and perform other duties as required the applicable regulations and laws.

Chapter 7 Final Provisions

Article 24 Implementation

Responsibility assigned to the Department of Intellectual Property is to coordinate with the Provincial Department of Industry and Commerce at Vientiane Capital and the relevant sectors to disseminate the recommendations and implement this Decision to obtain the best outcomes.

Article 25 Effectiveness

This Decision enters into force forty-five (45) days after signature and publication in the Official Gazette.