

Lao People's Democratic Republic

DECISION PATENT AND PETTY PATENT

Ministry of Science and Technology No. 1714

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CHAPTER 1 General Provisions

Article 1 Objective

This decision determines the principles and regulations relating to the implementation of patent and petty patent related tasks, such as the application for patent or petty patent rights, procedure after the issuance of patent and petty patent rights, representation, administrative review, and patent and petty patent authority in order to implement the Law on Intellectual Property in relation to patent and petty patent rights nationwide uniformly throughout the country.

Article 2 Patent and Petty Patent

Patent means the official certificate issued by the State organization to protect new inventions, involving a high inventive step, and that can be used for industrial applications. Such inventions use technical methods to create products or a new method of solving a specific problem.

Petty patent means the official certificate issued by the State organization to protect utility innovation which is derived from technical improvements and involves simpler techniques than an invention in order to improve products or a new production method.

Article 3 Definitions

The terms as used in this law have the following meanings:

1. **Applicant** refers to an individual, a legal entity, or an organization that submits an application to register, modify, cancel partially or fully, or eliminate a patent or petty patent, or it refers to a rightful successor of such an applicant;
2. **Application** means a set of documents used to apply for a patent or petty patent application, modification, and partial or full cancellation of a patent or petty patent;
3. **Domestic application form** means an application for a patent or petty patent, opposition, modification, cancellation of a patent or petty patent, partly or wholly, directly filed with the Department of Intellectual Property or an international application filed with the Department of Intellectual Property to operate in Lao PDR;
4. **International application form** means an application for a patent, to oppose, modify, cancel, partly or wholly, eliminate a patent under the Patent Cooperation Treaty before operation in Lao PDR, in accordance with the Patent Cooperation Treaty;

5. **Cancellation** means cancelling the issuance of a patent or petty patent, partly or wholly, by the owner of a patent or petty patent rights or by a third party;
6. **Opposition** means the opposition of a third party against a patent or petty patent application published in the official gazette for registration of industrial property;
7. **Classification** means international classification in compliance with the International Patent Classification for innovations or inventions;
8. **Division of an Application** means the division of one application form in two or more applications which is related to the original application, by the applicant;
9. **Right holder or owner** means individual, legal entity or organization that have legitimate rights to a patent or petty patent, or attorney or the successor of such a holder or owner;
10. **Transfer of Rights** means assigning the rights of a patent or petty patent owner, partly or wholly, to an assignee;
11. **Licensing** means an agreement of the owner of the rights to grant the exclusive rights to use, partly or wholly, the patent or petty patent, including an agreement to not undertake any legal actions against the licensee, if the licensee implements the agreement according to the conditions set out therein;
12. **Licensors** means individual, legal entity or organization that grants the license for use, partly or wholly, the patent or utility patent rights;
13. **Licensee** means individuals, legal entities or organizations who have been granted use, partly or wholly, from the owner of patent or petty patent rights;
14. **Power of Attorney** means a written document given by the owner of patent or utility patent rights, partly or wholly, to one or more individuals to be his/her representative;
15. **Grantor** means the owner of the invention or utility innovation who grants the rights, partly or wholly, to one or more individuals to represent him/her for submitting the application for a patent or utility patent or other activities with the Department of Intellectual Property.
16. **Representative** means a lawyer or representative who is authorized by the owner of the invention or utility innovation for submitting the application for a patent or utility patent or other activities with the Department of Intellectual Property.
17. **Inventor** means individuals or group of people who work together

to discover or create an invention or utility innovation;

18. **Information disclosure** means the presentation of technical information, and if necessary, drawings related to the invention or utility innovation with complete and sufficient details in order to allow other individuals who have knowledge on the technology to take the invention or utility innovation and use it without any additional research or experiment required.

Article 4 Persons Eligible for Protection of a Patent and Petty Patent

Persons identified in Article 26 of the Law on Intellectual Property are eligible for protection, certificates and maintenance of a patent or petty patent protection period. These persons are eligible for administrative remedies or to file a complaint with the Lao People's Court and perform other activities as identified by the Law on Intellectual Property or this Decision.

CHAPTER 2 Application for Patent and Petty Patent

Article 5 Requirements to Obtain a Patent or Petty Patent

Inventions eligible for a patent include the following requirements:

1. Shall be a new invention that has not been created, published to the public through magazine or actual usage, or other forms in the Lao PDR or any place in the world before filing the application for registration or before the priority date of the patent application;
2. Shall have inventive steps than previous inventions;
3. Shall be applicable in areas of industry, handicraft, agriculture, fishery, commerce, services, and etc..

Utility innovations eligible for a petty patent shall have the following requirements:

1. Shall be a new utility innovation which is not previously known or has not been applied in the Lao PDR within one year before the filing date of petty patent application;
2. Shall have technical improvement in which the innovative steps are easier than the inventive steps;
3. Shall be applicable in areas of industry, handicraft, agriculture, fishery, commerce, services, and etc..

Inventions or utility innovations ineligible for a patent or petty patent are specified in Article 21 of the Law on Intellectual Property.

Article 6 Procedures of Filing a Patent and Petty Patent Application

Individuals, legal entities or organizations may file an application with the Department of Intellectual Property based on the application form provided by the Department of Intellectual Property and shall follow the following steps:

1. The application for a patent or petty patent filed with the Department of Intellectual Property shall be completed as specified by Article 31 of the Law on Intellectual Property or shall at least meet the minimum requirements in Article 8 of this Decision;
2. If the application meets the minimum requirements, the Department of Intellectual Property shall accept the application and provide a filing receipt with a reference number and filing date, as well as receipt for payment of official fees and service charges. In case the application does not meet the minimum requirements, the Department of Intellectual Property shall not accept the application;
3. In case the applicant for a patent or petty patent wishes to withdraw its application or the application has been abandoned or refused, the paid

official fee and service charges shall not be refunded;

4. In case the applicant for patent or petty patent claims for priority date as specified in Article 29 of the Law on Intellectual Property, the claim period for priority date for application filed under the Paris Convention for the Protection of Industrial Property is twelve months and the application filed under the Patent Cooperation Treaty is thirty-one months from the starting date of priority period. If the last day of the period is an official holiday or a day that the Department does not accept the application, the Department shall extend the period until the next and first working day.

Article 7 Patent or Petty Patent Application Dossier

A patent or petty patent application dossier comprises the following supporting documents:

1. Application template form as provided by the Department of Intellectual Property;
2. Power of attorney, in the event that the submission is made via a representative;
3. A clear and complete description that discloses the invention or utility innovation;
4. A clear description for claim that clearly specifies the subject matter to be protected;
5. Drawings;
6. Abstract;
7. Receipt of official fees and service charges payment.

In case the application and supporting documents are in English, they shall be translated into Lao language according to the Article 37 of the Law on Intellectual Property. If such requirements are not met, the application will not be taken into consideration and be deemed to be abandoned.

The applicant to patent and petty patent rights does not need to translate parts of the application content such as name and address of individuals, legal entity or organization.

Article 8 Minimum Requirements to Obtain the Filing Date of Receipt

The application for a patent or petty patent to obtain a filing date shall meet the following minimum requirements:

1. Name, address, nationality of the applicant;
2. Description that discloses the invention and utility innovation in clear and complete terms;
3. Receipt of official fees and service charges payment.

In addition, if the applicant is represented, it requires a power of attorney by specifying the name and address of the applicant's representative. The application submitted under the minimum requirements must be complete within fifteen days from the date of notification.

Article 9 International Patent Classification

Application for a patent or petty patent shall specify category according to the international patent classification. If the classification cannot be specified, the Department of Intellectual Property can be requested for assistance.

As the international patent classification keeps changing periodically, the application shall, thus, specify the classification based on the international patent classification used at the time of filing the application.

In case the international patent classification has changed during the consideration of the application, the Department of Intellectual Property shall notify the applicant to correct the classification free of charge.

Article 10 Principles on Considering a Patent or Petty Patent

In considering a patent or petty patent, an application shall follow the principles set forth in Article 28 of the Law on Intellectual Property. Where there are several people who file a patent or a petty patent application on the same matter which is about the same or similar invention or utility innovation, the first application filed shall be considered. However, if a later application has priority date, it shall be taken into consideration first.

Where the Department of Intellectual Property has completed its review of the application, the patent or petty patent application that has priority shall be issued first, and a notification of refusal will be given to the applications that have a later priority date. In case the application with later priority date has been completed and the application is entitled to obtain the patent or petty patent, the Department shall suspend the application until the consideration of application with first priority date is complete.

The Department of Intellectual Property will not provide legal consultation and advice on possibility of whether or not the invention or utility innovation complies with the Law on Intellectual Property and this Decision. However, the applicant can request to search for the patent or petty patent in the database of the Department of

Intellectual Property to know if there are any previous applications submitted or if any certificates have been issued on the same subject matter, by paying service charge, or the applicant can search for the information in the database through the Intellectual Property Portal (IP Portal) of the Department of Intellectual Property.

The search result is only a preliminary search for information on a patent or petty patent in the database of the Department of Intellectual Property.

Article 11 Formality Examination

After receiving an application for a patent or petty patent, the Department of Intellectual Property shall complete a formality examination of the application regarding the completeness, accuracy and conformity with requirements as set forth in Article 31 of the Law on Intellectual Property within sixty days.

In case that the application is incomplete, incorrect, or not in accordance with the requirements set forth, the Department of Intellectual Property shall notify the applicant to provide documents or correct the application to meet the requirements within sixty days from the date of notification.

In case that the applicant cannot provide or correct the application within the given time limit, the Department of Intellectual Property shall notify the applicant that the application has not been considered and that the application shall be deemed abandoned.

In case that the application is in conformity with the preliminary examination requirements, the Department of Intellectual Property shall publish the application in the official gazette for registration of industrial property.

Article 12 Publication of Application

The Department of Intellectual Property shall publish the application for a patent or petty patent in its official gazette of the registration of industrial property in the nineteenth month from the date of filing or date of priority. The publication shall consist of the following information:

1. Subject matter of invention or utility innovation;
2. International classification;
3. Number and date of filing application;
4. Name and address of the applicant;
5. Name and address of inventor;
6. Abstract;

7. Drawing.

Article 13 Lodging an Opposition to a Patent or Petty Patent Application

A third party may lodge an opposition to a patent or petty patent application according to Article 39 of the Law on Intellectual Property within ninety days from the publication date in the official gazette for the registration of industrial property. The documents shall be completed according to the form template provided by the Department of Intellectual Property and service charge paid, and the request for opposition to a patent or petty patent application shall comprise the following documents:

1. Request for opposition to a patent or petty patent application;
2. Supporting documents and evidence clarifying the opposition;
3. Payment receipt of service charges.

Article 14 Review of the Opposition Filing

The opposition request to a patent or petty patent application shall be taken into consideration as follows:

1. The Department of Intellectual Property shall promptly notify the applicant for a patent or petty patent of the opposition upon the receipt of the opposition request;
2. The applicant shall submit his/her explanation along with information and evidence supporting its invention or utility innovation with the Department of Intellectual Property within sixty days from the date of the notification regarding the opposition request;
3. The Department of Intellectual Property shall also make a copy of the notification to the proposer of the objection;
4. The Department of Intellectual Property shall consider the explanation, information and evidence submitted;
5. In the event that the information and evidence of the proposer of the opposition or the applicant for patent or petty patent rights are not complete or unclear, the Department of Intellectual Property shall invite both parties to clarify or show additional evidence or information;
6. The Department of Intellectual Property shall examine the opposition request based on evidence in hand, if the applicant for patent or petty patent rights or the proposer of the opposition does not come to clarify or show their evidence or give more information within sixty days from the date of the invitation;
7. The Department of Intellectual Property shall notify the applicant

for patent or petty patent rights or the proposer of the opposition the result of examination along with the reasons;

8. The Department of Intellectual Property shall reject the application for patent or petty patent rights if it is considered that the objection request is reasonable and has sufficient supporting evidence;

9. The Department of Intellectual Property shall continue to consider the application for patent or petty patent rights if it is considered that the opposition request is not reasonable and does not have sufficient supporting evidence;

10. In the event that any party does not satisfy the consideration, he/she can make request to the Committee of the Department of Intellectual Property of Final Consideration within sixty days from the date of notification.

Article 15 Substantive examination

The Department of Intellectual Property shall conduct a substantive examination based on the request of the applicant for patent or petty patent rights. The applicant can request the Department of Intellectual Property to examine the substance of the application at any time from the filing date; however, it shall not exceed twenty-four months for inventions and six months for utility innovation. The applicant means to provide the examination report of the foreign patent organization or international organization on patent examination and shall submit the report within three months from the date the examination has been completed.

The substantive examination shall be undertaken according to Article 41 of the Law on Intellectual Property. The substantive examination shall be based on the database of the Department of Intellectual Property and international database to determine whether it meets the requirements of patentability in conformity with Article 13 and 14 of the Law on Intellectual Property and are not eligible for patent or petty patent rights according to Article 21 of the Law on Intellectual Property.

Substantive examination report from foreign patent organization or international organizations on patent examination according to Article 41 of the Law on Intellectual Property shall provide the following information:

- Be relevant to the invention or the utility innovation filed in Lao PDR;
- Specify complete information on the search and examination;
- Specify information on approval or refusal of claims, partly or

wholly, and which aspects meet or do not meet the requirements of patentability.

In the event that the applicant for patent or petty patent rights provide patent examination report that has been approved and issued with a certificate by the foreign patent examination organization or international organization on patent examination, the copy of communication and modification (if any) that the applicant received during the examination as well as the final decision along with reasons shall be attached.

In the event that there is a modification of the rights claimed, it shall not exceed the scope of the rights claimed specified in the application. If the modification exceeds the scope of the rights claimed, the applicant for a patent or petty patent shall provide additional information on the search and examination based on the rights claimed that exceed the scope of rights claimed, or request the Department of Intellectual Property for an examination as set forth in Article 41 of the Law on Intellectual Property.

The Department of Intellectual Property shall issue a notification by specifying the reasons for refusal of the application if it is found that the application does not meet the requirements of patentability according to the Law on Intellectual Property and this Decision. The applicant is entitled to modify the application according to Article 24 and 27 of this Decision within sixty days from the date of notification. If the applicant is unable to provide information or response within the given time limit, the application shall be deemed to be abandoned.

In the event that the applicant for patent or petty patent rights has provided information and responded, yet the Department of Intellectual Property has considered that the informative document or explanation provided do not meet the requirements of patentability, the Department of Intellectual Property shall make final rejection to the application and notify the applicant.

The Department of Intellectual Property can provide an extension of thirty days, from the end date of the first notification if there sufficient justification.

Article 16 Components of Description on Invention or Utility Innovation

Descriptions of invention or utility innovation shall include the following information, respectively:

1. Subject matter of invention or utility innovation;

2. Areas related to the invention or utility innovation;
3. Background of the invention or utility innovation;
4. Objective of the application of the invention or utility innovation;
5. Brief summary of the invention or utility innovation;
6. Detailed description of the invention or utility innovation as set forth in Article 17 herein;
7. Rights claimed as set forth in Article 18 of this Decision;
8. Abstract as set forth in Article 19 of this Decision;
9. Drawings as set forth in Article 20 of this Decision;
10. Other related documents, if any.

Subject matter of an invention or an utility innovation shall specify the type of invention or utility innovation, such as chemical components, machines, chemical products or process or combination of various types. Subject matter of invention or utility innovation shall be short, concise and descriptive.

Background of the invention or utility innovation shall describe technical problems to be solved or improved, and what currently exists, along with explanation about related technology and research that cannot be solved. Such a description shall be in conformity with the existing technology. In case the description refers to an invention or utility innovation or a patent or petty patent that has already been disclosed to the public, the information shall be specified.

Brief summary of an invention or a utility innovation shall briefly describe the type of invention or utility innovation, areas of technology and technical problems to be solved or improved.

Article 17 Detailed Description of an Invention or an Utility Innovation

Generally, descriptions, drawings and claims to patent or petty patent rights has technical features. These components are significant for the understanding of invention or utility innovation and legal scope of rights of the patent or petty patent. In case of negligence or faults, which cannot be solved, the application shall be resubmitted. In some cases, this can lead to the loss of rights of a patent or petty patent.

Description in the application for a patent or petty patent shall be in writing to describe the invention or utility innovation or creativity including the methodology and the process of the creation or the application of the invention or utility innovation. The terms

used in the description shall be detailed, concise and correct in order to allow individuals who have general knowledge of the related area technology to create and use the invention or the utility innovation, and it should be applicable without any additional test. Related area of technology is an area relating to the invention or utility innovation, or similar area thereof.

The description shall clearly identify the scope of invention or utility innovation. The description shall provide complete explanation of the process, machines, production, elemental components or improvement that have been discovered, such as forms or principles of work relating to the invention or utility innovation.

In case the invention or utility innovation is an improvement, the description shall point out specifically the parts related to the improvement and shall specifically limit the improvement and parts that are beneficial and understandable.

In case there is more than one method of invention or utility innovation, they shall disclose and specify the best method to create or use the invention or utility innovation.

The description shall refer to the drawings that are useful for the description of the invention or utility innovation.

The disclosed information can be modified to be in accordance with the provisions that are relevant to the presentation of the new technical information.

Disclosure of information shall contain the written description, drawings and claims contained in the application.

If the description or drawings, wholly or partly, have been inadvertently forgotten to be attached with the application, if there is a priority date or date of filing that is effective based on the application submitted before, the application shall be considered and modified by including the forgotten information in the application. The applicant for patent or utility patent rights shall provide the information within the time given by the Department of Intellectual Property.

Article 18 Claim

Each application for patent or petty patent rights shall have one or more claims by specifying in detail and clear terms the subject that the applicant considered that it is his/her invention or utility innovation.

Claims will identify the legal scope of rights of the applicant

towards the patent or petty patent. Therefore, claims shall be carefully drafted to specifically identify only components of invention or utility innovation.

Claims shall be in line with the invention or utility innovation as specified in the description, terms and wordings used in the claim application shall be included in the description in order to be able to refer to the definitions of the terms and wordings in the claim and description.

Claims can be made for more than one subject matter, in which each subject matter must be different as much as possible, and adding incorrect subject matter is not allowed. The related fees, if any, have to be paid, and if the claim has more than one subject matter, the serial number is required. In the event that the claim has many components or procedures, it shall separate each component or procedure into rows by indenting to make it easy for application examination.

A claim with one or more subject matter can be made in independent way or by referring to other claim in the same application. The independent claim means the scope of all rights of the related claims in an independent way.

In case more than one claim is made, the claim with the least scope limit shall be the first claim and shall sort independent claims into the same class.

The claim shall be presented in a more polite or request manner, such as "I would like to make a claim" or "invention or utility innovation that are claimed are as follows:" The terms used shall not be deemed as part of the claim.

Basic form for independent claim is a claim that is not related to other claim as described below:

1. Preface presents the subject matter that is claimed. In case the invention or utility innovation is related to improvement, the preface may contain the overall explanation that make it easy to understand all the components or procedures in the claim;
2. Terms used to present the components of invention or utility innovation. For invention or utility innovation that is related to improvement, the claim may include the terms, such as "the improvement consist of";
3. Description of components of machines or electric appliances, steps in the process or chemical ingredients or bio-mass materials, as well as the description of relation between components. In case that the invention or utility innovation is related to improvement,

the claim shall specify the component, steps and relation with the claim that the applicant considers as part of the invention or utility innovation that is new or shall be improved.

Generally, one application for a patent or petty patent can have three independent claims and fifteen dependent claim. In the event the improvement or modification of the application causes additional claims which are more than the number of claim specified in the original application, the applicant shall pay the related fees for the additional claims as set forth in the Presidential Ordinance on Fees and Service Charges.

The applicant for a patent or petty patent can modify the claim at any time during the application is under the consideration process. The modification shall not be beyond the scope of information disclosure specified in the description. The claim in the original application is deemed to be a part of the information disclosure.

Article 19 Abstract

The abstract shall contain technical information, but it shall not be deemed to be a part of the information disclosure or be a scope of rights to protect. Generally, the abstract relates to the claim and is for the Department of Intellectual Property and the public to understand the concept of the inventor by way of disclosure of technical information.

Article 20 Drawings

The applicant for a patent or petty patent shall provide drawings when necessary to create an understanding about the invention or utility innovation. The drawings shall not have only a picture of the invention or utility innovation, or part of it, but it shall have other pictures to help the understanding of the invention or utility innovation, such as an electric design of the invention, a drawing of the chemical structure of the chemical components, graphics, or measurement of operation of the invention or utility innovation. The drawing shall draw after the principles of drawing to be used in each area.

The applicant for a patent or utility patent shall choose the drawing based on the detail of the invention or utility patent, but he/she shall provide different angles as necessary to show the detail of the invention or utility innovation. The general angles that are accepted are as follows:

1. Expanded view angle showing the relationship or order of the

parts;

2. For some areas, zooming is required to show greater details with an angle evidencing the overall design, and other angles indicating position of each part;

3. Sectional views, together with an indication of the plane view, which illustrates the characteristic of the component seen in a cross section.

In event that the application has many drawings, it shall briefly explain about the different angles of the drawings.

The detailed description of the invention or utility innovations shall be based on the different angles of the drawing by indicating the number at each point.

Generally, it shall follow the principles of drawing for each area of technology, such as symbols and components of drawing in line with common principles applied in various sectors such as chemical, electronic, mechanical and bio-technological principles.

In the event that the substance of the application relates to an improvement of the invention or utility innovation, the drawing shall show the improvement and relationship between the improvement and the existing technology.

Article 21 Novelty Assessment of Invention or Utility Innovation

Novelty assessment shall be conducted based on whether or not the information on the invention or utility innovation has been previously disclosed to other individuals or the public and needs to be based on each claim in the application.

Information disclosure will no longer make the invention or utility innovation new according to Article 13 or 14 of the Law on Intellectual Property, especially the same information as mentioned in the claim, which discloses any information of all components in the claim. Any information disclosure is not only necessary to be included in the claim, but it can be disclosed in the description of the invention or utility innovation. However, a similar disclosure as specified in the claim is sufficient for making the invention or utility innovation no longer new.

If the information disclosure has been made at a certain place in the world before the filing date of application, or before priority date, or the date providing temporary protection or the filing date of application based on resubmission of the application, it shall be deemed that it is already disclosed according to Article 13 or 14 of the Law on Intellectual Property.

The following actions shall be considered as information disclosure according to Article 13 or 14 of the Law on Intellectual Property:

1.1. Approval of a patent or petty patent related to the invention or utility innovation at any place around the world;

1.2. Publishing or disclosing the invention or utility innovation at any place around the world;

1.3. Publication in a magazine, publication or internet at any place around the world;

1.4. Commercial exploitation of the invention or utility innovation at any place around the world;

1.5. Any disclosure in other forms, such as oral or written disclosure at any place around the world are considered as information disclosure.

Communicating or sending information related to the invention or utility innovation shall not be deemed as a public disclosure if such a communication is made under binding of confidentiality or under condition unintentionally made that leads to the disclosure of the information to the public, unless such a communication leads to the public disclosure.

Communication specified in this Article are as follows:

2.1. Under a confidentiality agreement in writing;

2.2. Within an organization or an enterprise of a the right holder;

2.3. Within a family, relatives, or appointed acquaintances;

2.4. To an attorney or a representative;

2.5. To a third party for the purpose of assignment of rights to receive supportive funds for development of the invention or utility innovation that has not been yet commercially used.

Filing an application for a patent or petty patent shall not be considered as information disclosure until the application is published, reviewed or received patent or petty patent.

Article 22 Assessment of Inventive Step

For requirements of the invention or utility innovation whether or not has an inventive step, it is required to conduct assessment based on the information in the application and on basis of database or pre-existing knowledge. Technical solution shall not be considered as lack of inventive step because the said solution has a general characteristic or characteristic similar to the solution of a problem that is already known.

The applicant for a patent or petty patent shall consider that combining the existing technological component to request for

protection of the invention or utility innovation cannot guarantee that the invention or utility innovation is possible or not possible.

The assessment of an inventive process will consider the following points:

1. Knowledge of the related technology at the time of producing invention or utility innovation based on the disclosed information according to Article 21 of this Decision. If the disclosed component in the description of the invention or utility innovation is not specified in the claim, the component will not be considered as having an inventive step.
2. The solution to a problem has included existing component of technology that can accomplish altogether and is compatible because it is a step or method that is required to coordination work, if any step is missing it will be considered as not fulfilling the inventive step;
3. Individuals with common knowledge of technology understand that the solution is invalid or impossible or incompatible with the knowledge in technological area; however, it actually has an inventive step;
4. The solution has indicated longstanding problems or a key problem related to cost, safety or goal of production which actually is an inventive step.

Article 23 Assessment of the Ability to Industrial Applications

The invention or utility innovation will be deemed to be useable in the industry when only it can be used or reused in the industrial or commercial areas including industries of agriculture, extraction, handicraft, fishery and services, as well as activities of recreation and health, and all products or products derived from nature or the manufacturing process.

Article 24 Application Modification

The applicant for a patent or petty patent can modify the application at any time during the period where the application is reviewed; however, it shall be done before approval, abandonment, final refusal or termination of the consideration of the application according to Article 42 of the Law on Intellectual Property without paying fees or service charges. The modification shall not present new technical information not provided in the original application that has been submitted according to Article 26 of this Decision.

Article 25 Division of Application

Any application for a patent or petty patent can be divided into two or more applications at any time by submitting a request before registration, abandonment, final refusal, or before the end of the considerations of the application and shall mention in the request letter that the application is divided from the original application.

Each divided application shall refer to the original application by identifying the number and filing date of the original application. The original application shall be modified but not beyond the scope of substantive disclosure before the division. The divided application shall be submitted along with the modified original application in accordance with Article 7 of this decision. Each divided application is entitled to obtain the date of filing based on the original application and shall pay the relevant official fees and service charges.

Divided application can be modified from the application for a patent to the application for a petty patent or vice versa. The application that has modified the type of protection is entitled to obtain the date of filing or priority date (if any). In the event that the application has been changed from a patent to petty patent, the paid fees and service charges will not be refundable. For changing from application for a petty patent to the application for a patent shall have to pay additional fees and service charges the same as the fees and service charges of a general application for a patent.

Article 26 New Technical Information

New technical information is the presentation of information that has not yet been disclosed in the original application for a patent or petty patent submitted. The information may consist of adding, scope setting or substantive modification of the description, claims or drawings that are presented in the application.

Article 27 Information that can be Used for Amending the Application

The information that can be used for amending the application is the information which directly relates to the technical information disclosed in the application. The information may not be mentioned in the application, but it is specific information that cannot be separated from the component referred to in the original application

submitted. Generally, chemical and physic characteristics are acknowledged by individuals who have knowledge of related technology and are understandable without specifying details in the application.

The applicable information for modifying the application is well-known information in the technological area that is used for describing the invention or utility innovation or the identification of the scope of the claim.

Article 28 Requesting Additional Information

In the event that the Department of Intellectual Property has any questions about the integrity of the information or attached documents, the Department shall notify the applicant to provide evidence to certify the integrity of the information or documents within ninety days from the date of notification.

Article 29 Confidentiality and Access to Document Files

Document files and documents related to the application that is under the process of the Department of Intellectual Property and has not yet been published shall remain confidential. Any individual except the applicant or inventor as named in the application cannot access the document files or information in the document.

General people can access or copy the document files, documents related to the application for a patent or utility patent that has been already published with the DIP and shall pay relevant service charges. Changes, destruction or movement of the document file from the Department of Intellectual Property is not allowed. The Department of Intellectual Property has the right to prohibit individuals that violate or do not follow the requirements in this article from access to the document files anymore.

Article 30 Grant of Patent or Petty Patent Rights

If the application is in conformity with the requirements for receiving patent or petty patent as set forth in the Law on Intellectual Property and this Decision, the Department of Intellectual Property shall notify the applicant about the granting of patent or petty patent, as well as notify the applicant to pay fees as per regulations. After the applicant has paid all the fees, the Department of Intellectual Property shall grant the patent or utility patent, and document the related information in the register and database of the Department of Intellectual Property.

Article 31 Publication of the Granted Patent or Petty Patent

The Department of Intellectual Property shall publish the granting of the patent or petty patent rights in its official gazette on the registration of industrial property as set forth in Article 44 of the Law on Intellectual Property.

In the event that the publication contains incorrect information from the applicant or the Department of Intellectual Property, the applicant can request the DIP to publish the revised information. The request shall be made within sixty days from the first date of publication and be free of service charges. If beyond the period, the Department of Intellectual Property will not take it into consideration.

CHAPTER 3 Post-Procedures of the Grant of Patent or Petty Patent Rights

Article 32 Amending an information after the Patent or Petty Patent is granted

The owner of the patent or utility patent can file an application with Department of Intellectual Property to change information related to name, address or the applicant's name and address according to the template form provided by the Department of Intellectual Property, as well as paying service charges.

The Department of Intellectual Property shall record all changes in the database, document the registration and publish in the official gazette for the registration of industrial property.

Article 33 Requesting a Duplicate of the Patent or Utility Patent Certificate

The owners of the patent or utility patent can request a duplicate of the certificate for their evidence for legal proceedings in the court, the application for the patent or petty patent abroad and to use the duplicate instead of the original certificate. In the event the original certificate is damaged or lost, the owner of the patent or petty patent can submit a request with the Department of Intellectual Property for a duplicate of the certificate according to the template provided by the Department of Intellectual Property, and pay the service charges.

Article 34 Cancellation of the Patent or Petty Patent due to False or Misleading Information.

In the event the Department of Intellectual Property has considered that existing or provided information by a third party evidence that the patent or petty patent information is false or misleading, conceals information or shows any actions that violate or contradict the law during the application review, if the information is confirmed the Department of Intellectual Property shall undertake administrative cancellation of the patent or utility patent.

The Department of Intellectual Property shall notify the applicant for a patent or utility patent, the assignee of a patent or utility patent, immediately about the cancellation procedure. If the applicant disagrees with the cancellation of the Department of Intellectual Property, the applicant can submit a request to the Committee of Final Consideration for final administrative

consideration as set forth in Article 49 of this decision, or the applicant can submit a request to the Lao People's Court. The Department of Intellectual Property will not provide any recommendations on the possibility that any application will be cancelled or on any other procedure and the Department of Intellectual Property will not give any legal advice to the applicant for reason or certain evidence to support the application.

Article 35 Cancellation or Elimination of Patent or Petty Patent

A third party can submit a request for cancellation or elimination with the Department of Intellectual Property within five years from the date of publication in the official gazette on the registration of industrial property according to Article 44 of the Law on Intellectual Property. Submitting the request for cancellation or elimination of the patent or petty patent shall follow the template of the Department of Intellectual Property and the service charges must be paid.

After five years from the date of publication, the third party can submit a request for cancellation or demolition with the People's Court to proceed with the request.

The Department of Intellectual Property shall notify the owner of a patent or petty patent when it has received the request for cancellation or demolition from the third party.

The owner of a patent or petty patent can submit clarification to the Department of Intellectual Property within sixty days from the date of notification of the Department.

The Department of Intellectual Property shall issue a patent or petty patent cancellation or demolition certificate and shall notify the owner of the patent or petty patent. In event the owner has no clarifications, it is considered that the owner consents to the cancellation or demolition of his/her patent or petty patent. The Department of Intellectual Property shall cancel or demolish the patent or petty patent if the third party files a lawsuit with the Lao People's Court and the court makes a final judgment to cancel or demolish the patent or petty patent as set forth in Article 139 of the Law on Intellectual Property.

The Department of Intellectual Property shall notify the owner and the requesting person the cancellation or demolition certificate of the patent or petty patent.

The Department of Intellectual Property shall record it in its database and publish the cancellation or elimination in the official

gazette for the registration of industrial property.

Article 36 Term of Protection and Maintenance of the Protection Period

A patent has a protection period of twenty years from the filing date of the application.

To maintain the protection period of the patent, the owner of the patent shall pay annual advance fees and service charges. Fee for maintaining the protection period of the patent for the first four years is included in the fee and service charge when filing an application. The owner shall pay official fee and service charge for maintaining the protection period from the fifth year onward.

A petty patent has a protection period of ten years from the filing date of application.

To maintain the protection period of the petty patent, the owner of the petty patent shall pay annual advance fees and service charges. Fee for maintaining the protection period of the petty patent for the first year is included in the fee and service charge when filing an application. The owner shall pay fee and service charge for maintaining the protection period from the second year onward.

Before expiry date each year, the owner of the patent or petty patent can pay official fee and service charges for maintaining the advance protection period within six months. The Department of Intellectual Property will not issue the notification to the owner to pay the official fee and service charge. The Department will only notify the owner that the patent or petty patent is expired as no advance official fee and service charge has been paid.

In the event the owner does not pay official fee and service charge within the given time, the Department of Intellectual Property can extend the time for six months from the expiry date of the protection period, but the owner has to pay fines for the delay.

Article 37 Right transfer and Record of Right Transfer

The owner of a patent or petty patent can transfer his/her rights, partly or wholly, to individuals, legal entity or organization through entering agreement, inheritance or as gift.

In the event the patent or petty patent right is assigned, the assignor or the assignee shall notify the assignment to the Department of Intellectual Property according to the template form of the Department, publish in the Official Gazette for the registration of industrial property and issue the certificate of

transfer to the assignee. If the assignee is a person who notifies the assignment, he/she shall send the document to the assignor. Information on right transfer to publish in the Official Gazette for the registration of industrial property are as follows:

- Name and address of the assignee;
- Number of the certificate of transfer;
- Number of the Application for a Patent or Petty Patent;
- Date of the assignment.

In the event there is a transfer of ownership of a legal entity or an organization related to the patent or petty patent, it shall comply with the requirements set forth in the transfer document. If not otherwise specified, the transfer of such an ownership of a legal entity or an organization is considered a transfer of a total right of such a patent and petty patent of such a legal entity or organization.

Where there is a need for clarification or a doubt, the Department of Intellectual Property may notify the person, the legal entity or the organization that notifies an assignment to provide additional information and documents.

An assignment will not take effects against the parties unless the parties have notified a transfer of such a right and such a right has been registered with the Department of Intellectual Property.

Article 38 Authorization to Use the Patent and Petty Patent

The owner of the patent or petty patent can authorize individual, legal entity or organization to use his/her patent or petty patent to seek benefits from the right, partly or wholly. The authorization can be made by entering into a license agreement, however, said contract shall not be considered as agreeing on the transfer of ownership of the patent or petty patent according to Article 47 of the Law on Intellectual Property.

In the event the legal entity or organization has received the authorization to use the patent or petty patent from another person; however, there has also been a transfer of ownership of the legal entity or the organization, it shall be considered that the authorization to use the patent and petty patent is transferred along with the ownership of the legal entity or the organization unless otherwise specified in the license agreement, or ownership transfer document.

In the event a legal entity or an organization is granted the patent or petty patent from another person but a transfer of ownership of

the legal entity or the organization occurred, the license agreement to use the patent or petty patent will not be considered null unless otherwise specified in the license agreement.

Article 39 Authorization to Use without approval from the Owner of a Patent or Petty Patent

Authorizing to use without approval from the owner of a patent or petty patent shall follow Article 64 of the Law on Intellectual Property. In this Decision, there is some additional meaning to those specified in the above article 64 of the law, such as:

1. In a national state of emergency or state of emergency or a most urgent and serious situation shall be considered arising if only declared by the Prime Minister as the common practice allows it in the Lao PDR;

2. In the event the Government allows, based on use with no commercial purpose, compensation and payment process shall follow the regulations on compensation claim with the Government;

3. Authorization of use, based on the failure to use the invention or utility innovation to reasonably meet the demand in the Lao PDR, shall have to show evidence as follows:

3.1. Shall identify the reasonable amount needed to use the patent or petty patent in the Lao PDR;

3.2. Shall set the scope that can respond to the current demand, evaluate the demand scope to be responded.

The evaluation of the responding scope shall include the response to the demand based on domestic production and import.

CHAPTER 4 Representative to Apply for a Patent and Petty Patent and other Activities

Article 40 Persons eligible for Patent or Petty Patent Registration and/or Other Operation

Individuals who are eligible for protection as set forth in Article 26 of the Law on Intellectual Property for a patent or petty patent and other activities shall meet the following criteria:

1. In the event that there is a single application with multiple joint owners, a person amongst the joint owners must be appointed as the representative to file the application;
2. An attorney-at-Law who is licensed to engage in legal activities in Lao PDR;
3. An intellectual property agent;
4. A representative or a staff member of a legal entity or an organization;
5. Any individual hired by a registration applicant.

For foreign applicant of a patent or petty patent, they shall only file an application through intellectual property agent or a lawyer authorized to conduct legal activities in Lao PDR.

Individuals eligible to be a representative shall have knowledge on intellectual property, have residence in Lao PDR, and shall be approved by the Department of Intellectual Property.

Article 41 Appointment of a Representative

The representative shall be an individual who has been appointed according to the power of attorney signed by the applicant of the patent or petty patent, or the grantor.

In the event that there are many joint applicants for a patent or petty patent, the power of attorney shall have signatures of everyone, except a those who are deceased.

As specified in Article 42 of this Decision and other requirements in this Chapter, the applicant for a patent or petty patent can appoint many representatives provided that all appointed people are in the same address.

Article 42 Power of Attorney

Authorization means the authorization that the owner of the right grants to a person or several people to rightfully act on his/her behalf.

Power of Attorney shall specify:

1. Requirements and scope of representation;
2. Power that has been assigned to conduct a procedure with the Department of Intellectual Property
3. Duration (if any);
4. The grantor may terminate any time without affecting the rights of a representative to receive a compensation for services and incurred costs during the interactions with the Department of Intellectual Property.

The Department of Intellectual Property will acknowledge the requirements specified in the power of attorney, unless the requirements of power of attorney contradicts the law or the regulations.

The Department of Intellectual Property will consider that one power of attorney applies specifically to one application only. Where a power of attorney does not indicate the scope and period of an authorization of a representation or other related operations, the validity of the power of attorney will be considered expired when the proceedings related to the application, or other procedures, are completed.

The power of attorney must be made in writing and include the signature of the grantor(s). In the event that the person issuing the power of attorney is a legal entity or an organization, the power of attorney must have the signature of the authorized person of the legal entity or of the organization.

Article 43 Termination of Representation

The representation will end in the event that the power of attorney is canceled by the grantor, or the representative withdraws itself from being the representative. In the event that the representative withdraws itself from being the representative, the Department of Intellectual Property and the grantor must be notified.

CHAPTER 5 Review and Solution to Administrative Dispute on Granting a Patent or Petty Patent

Article 44 Review and Correction

The Department of Intellectual Property has the right to review the granting of a patent or petty patent by conducting administrative action as necessary to protect and correct the error.

Article 45 Administrative Review

Individuals, legal entity or organization can request the Department of Intellectual Property to review the process related to the grant of his/her patent or petty patent that has errors or does not follow the requirements as set forth in the law and regulations within ninety days after the date of notification, case by case as follows:

1. Request for correcting the error arising from the Department of Intellectual Property without paying fees or service charges; or
2. Request for correcting the error arising from the applicant for a patent or petty patent and pay service charges; or
3. Request for a review by supporting information as follows:
 - 3.1. Requirements or agreements for review;
 - 3.2. Facts and legal background;
 - 3.3. Measures requesting the Department of Intellectual Property to consider.

The request may include the clarification or explanation that the requester considers will be support for the review or request for final administrative review without paying service charge.

Article 46 Request for a Temporary Suspension

The request for administrative review as set forth in Article 45 herein may include a request for temporary termination of the consideration process of the Department of Intellectual Property that is subject to review or subject to final administrative review for justice by taking the benefits of the third party into consideration.

Article 47 Reconsideration

The Department of Intellectual Property shall accept the request for review of the granting of a patent or petty patent, while the requester shall have sufficient reasons to support the request for reviewing the consideration result that he/she considers do not comply with this Decision.

In case the requester is not satisfied with the review result, he/she can request for final administrative review to the Committee of Final Consideration of the Department of Intellectual Property within thirty days from the date of notification of the Department of Intellectual Property related to the review result. If the requester does not act within the given time, it is deemed to be waived.

Article 48 Final Administration Consideration Procedure

An Individual, legal entity or an organization applying for a patent or petty patent with the Department of Intellectual Property has the right to request the Committee of Final Consideration for final administration consideration review by paying the service charge. Technical officers of the Department of Intellectual Property involved in the approval, verification, refusal, or consideration causing the request for final administration consideration shall provide clarification related to legal principles and facts to provide information to the Committee of Final Consideration.

The Committee of Final Consideration may invite experts to provide recommendations. The Committee of Final Consideration shall conduct the final consideration procedure according to this Article and shall make a memorandum of its decision in writing by identifying the related legal principles and facts. Such a memorandum shall be sent to the person that triggered the final consideration procedure. This final consideration is an administrative procedure that shall be void when the proposer is unable to provide necessary information according to item 3 of Article 45 of this Decision.

The Committee shall send the request for final administration consideration along with the memorandum to the Department of Intellectual Property for issuing the notification on the decision of the Committee to the proposer, which will be considered a finality of an administration consideration procedure.

Article 49 Committee of Final Consideration

Department of Intellectual Property shall establish the Committee of Final Consideration to conduct the final administration consideration related to the approval, certification, refusal or consideration result regarding the granting of a patent or petty patent.

The Committee shall be independent and not belong to any division within the Department of Intellectual Property. The Committee can be

established permanently or temporarily.

Individuals involved in the approval, certification, rejection or setting of requirements or agreement that causes the request for final administrative review cannot be a member of the Committee.

CHAPTER 6 Creation of Duplicates

Article 50 Duplicate of Damaged or Lost Document

In the event that the application or other documents related to the granting of a patent or petty patent is damaged or lost, the Department of Intellectual Property shall create duplicate of said documents.

Article 51 Duplication of Documentation

The Department of Intellectual Property shall duplicate a dossier or other documents that have been damaged or lost. If such a dossier or other documents related to an application or other procedures have been damaged or lost, the Department shall propose to the applicant or the owner of the dossier to send a copy of the relevant documents or records of correspondences with the Department of Intellectual Property as well as to verify the accuracy and completeness of such copies, including the documents or dossier related to correspondence with the Department of Intellectual Property that has not been recorded but of which the patent and petty patent registration applicant or a dossier owner is aware.

CHAPTER 7 Patent and Petty Patent Protection Organization

Article 52 Supervisory Agency

The Department of Intellectual Property, Ministry of Science and Technology, is responsible for reviewing the application for a patent and petty patent and issuing the patent or petty patent according to the requirements of the Law on Intellectual Property and this Decision.

Article 53 Rights and Duty of the Department of Intellectual Property

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

1. Publish the Decision, issue the instruction, notification on a patent or petty patent;
2. Publish the decisions, issue recommendations, and issue notifications related to a patent and petty patent;
3. Research and propose to the Ministry legislation and regulations for the administration and protection of a patent and petty patent;
4. Receive and consider applications for registration, renewal, and records of change of name or address, and the authorization of use, transfer of rights or other proposals related to a patent and petty patent;
5. Record and retain patent and petty patent information;
6. Provide patent and petty patent search services from the database of the Department of Intellectual Property;
7. Register, refuse, cancel or eliminate, and others, which are related to patent and petty patent registration;
8. Research and consider requests for opposition to applications for patent and petty patent registration;
9. Research and consider requests for administrative review in relation to patent and petty patent registration;
10. Research and consider requests for appeal in relation to a patent and petty patent;
11. Encourage and promote operations about the registration of a patent and petty patent;
12. Implement other rights and obligations as assigned by the Ministry of Science and Technology.

**Article 54 Rights and Duties of the Provincial and Vientiane Capital
Department of Science and Technology**

The Department of Science and Technology of provinces, Vientiane Capital, shall have the following rights and duties:

1. Manage, monitor, inspect and promote the owner of a patent and petty patent;
2. Coordinate with the related departments;
3. Perform other rights and duties as assigned by the Department of Intellectual Property.

CHAPTER 8 Final Provisions

Article 55 Implementation

The Department of Intellectual Property, Provincial and Vientiane Capital Department of Science and Technology, is assigned to collaborate with the relevant sectors to strictly implement this Decision.

Article 56 Effectiveness

This Decision is effective after it is signed and 15 days after the publication in the Official Gazette.

This Decision substitutes the Decision of the Minister of Science and Technology No. 752/MOST, dated September 20, 2012, regarding the implementation of the Law on Intellectual Property related to a patent and petty patent.

Any requirements and decisions that contradict this Decision is void.