

Lao People's Democratic Republic

PATENT Rule

DECISION PATENT AND PETTY PATENT

Ministry of Industry And Trade No. 0434

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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 used in this Decision have the following meanings:

1. **Applicant** refers to a person, legal entity or organization that has submitted a request to receive a patent or petty patent, maintain the term, change name and/or address, license to use, transfer rights, modify and other proposals regarding the patent or petty patent or the beneficial successor of such person;
2. **Application** refers to a set of documents regarding obtaining a patent or petty patent, maintaining the term, changing the name and/or address, permission to use, transferring rights, modification and other proposals regarding patents and petty patents;
3. **Classification** means international classification in compliance with the International Patent Classification for invention or utility innovation;
4. **Inventor** refers to a person or a group of people who jointly create or discover an invention or utility innovation;
5. **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;

6. **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;

7. **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;

8. **Assignee** refers to the holder of rights or the owner of a patent or petty patent who assigns his rights to one or more persons to act on his behalf;

9. **Representative** means a lawyer or representative authorized by the owner of the patent or petty patent to apply for a patent or petty patent or take other actions before the Department of Intellectual Property;

10. **Priority date** refers to the date on which the applicant applied for registration abroad, at another office or in the Lao PDR, which was previously effective;

11. **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;

Article 4 Scope

This Decision applies to individuals, legal entities and organizations, both domestic and foreign, that are related to patent and petty patent in the Lao PDR.

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

Applicants can apply for a patent or petty patent for registration at the Department of Intellectual Property according to the printed form of the Department of Intellectual Property or electronically by complying with the minimum requirements set forth in Article 7 of this Decision.

1. The application for a patent or petty patent filed with the Department of Intellectual Property shall meet the minimum requirements in Article 8 of this Decision.
2. Applicants for a patent or petty patent must provide additional documents or amendments as set forth in Article 7 of this Decision within sixty days from the date of submission of the application, Otherwise it shall be considered that the application has been waived, and the Department of Intellectual Property will not notify to request the incomplete documents;
3. In the event that the applicant for a patent or petty patent intends to withdraw the application or the application is waived or

rejected, there will be no return of the fees and service charges that have already been paid;

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 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 Applications for patents or petty patents

The application for patents or petty patents includes the following:

1. Application for a patent or petty patent according to the printing form of the Department of Intellectual Property;
2. The original Power of Attorney and/or Deed of Substitution, in the case of submission after the application date, must attach a copy of the certificate of receipt of the application;
3. Certificates regarding the applicant's rights, such as: right transfer letter, (Letter of Assignment Deed of Inventorship) in case the applicant is not the inventor himself, except for the application filed through PCT;
4. Description of disclosure of patents which must include claims, drawings (if any) and summary (Abstract);
5. Receipt of fees and service charges. For a copy or document confirming the date of priority (if any) and the copy of the application for patent or petty patent, and other attachments submitted in English must be translated into Lao (except for the name, address of the person, legal entity or organization and technical terms) within ninety days after submitting the application and must be certified by the translation authority and may provide the translation document in electronic form to the Department of Intellectual Property.

If the conditions are not met, the application will not be taken into Examination and will be considered waived.

Article 8 Minimum Requirements for receiving the application

The application for a patent or petty patent to receive the application date according to the minimum criteria must contain at least the documents as defined in clauses 1, 4 and 5 of article 7 of

this Decision, as well as specifying the categories for which such protection is requested correctly according to the classification of international patents. In this case, the applicant may provide the the document in electronic form to the Department of Intellectual Property.

Article 9 Elements of the description of the patent or petty patent

The description of the the patent or petty patent must contain various information in the following order:

1. The title of the the patent or petty patent;
2. Areas related to the patent or petty patent;
3. The background of the patent or petty patent;
4. Purpose of using the patent or petty patent;
5. Brief summary of the patent or petty patent;
6. Detailed description of the patent or petty patent as defined in Article 10 of this Decision;
7. Claims as defined in Article 11 of this Decision;
8. Drawings as defined in Article 12 of this Decision;
9. Abstract as defined in Article 13 of this Decision;
10. Other relevant documents (if any).

The title of the the patent or petty patent must specify the type of the patent or petty patent, such as chemical composition, mechanical device, chemical product or process or a combination of various types. The title of the the patent or petty patent must be short, concise and briefly describe the nature of the the patent or petty patent.

The background of the the patent or petty patent must explain the technical problem that will be solved or improve the existing one along with the description of the related technology and other research that cannot be solved. The explanation must be in line with the current technology. In case the description refers to the patent or petty patent that have been published to the public must be indicated in relation to such information.

Brief summary of the patent or petty patent must briefly describe the type of patent or petty patent, the field of technology and the technical problem to be solved or improved.

Article 10 Detailed description of patent or petty patent

A detailed description of patent or petty patent must describes what was created, including the method and process of creating or using that patent or petty patent. The description must have complete,

detailed, oriented and accurate content so that people with general knowledge in the field of technology related to the patent or petty patent or similar fields can create and use the patent or petty patent without further research or experimentation.

The description must clearly define the scope of the patent or petty patent and fully describe the process, machine, production, composition of matter or improvement that has been discovered, such as the form or principle of work related to the patent or petty patent.

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 patent or petty patent.

Article 11 Claims

Claims are the definition of the applicant's legal rights to the patent or petty patent, which must indicate in detail, complete and clear the issue that the applicant considers to be his patent or petty patent.

In case of incomplete or wrong claim, it cannot be corrected, then it may lose the right to obtain a patent or petty patent in whole or in part.

The words used in the claims must be included in the description to be able to refer to the meaning of the words.

Claims can be specified as one or more clauses, each of which must be as distinct as possible.

If there are many items, enter the number in order. In the event that the claim has several elements or steps, each element or step must be separated into lines by a comma.

Generally, one application for a patent or petty patent can have three independent claims and fifteen dependent claim.

In the case of an independent claim, the claim must not be related to other claims as follows:

1. The prefix indicates that it is the subject of the claim. In case the patent or petty patent relates to an improvement, the prefix can contain an overall description that makes it easy to understand all

the elements or steps in the claim;

2. Terms used to present the components of patent or petty patent.

For patent or petty patent related to improvements, claims can include words such as "which the improvements consist of";

3. Description of components of machines or electric appliances, process steps or components of chemical compounds or biological materials as well as explaining the nature of the relationship between these components. In the case that the patent or petty patent is related to the improvement, the claim shall specify the component, steps and relation with the claim that the applicant considers as part of the patent or petty patent that is new or shall be improved.

In the case of claims that are not independent, must refer to other claims in the same application which defines the scope of all related claims.

In the event that there is more than one claim, the claim with the smallest scope must be the claim of the first order or the first claim and must arrange the claims that are not independent into a group together.

Writing a claim must have the characteristics of a claim, such as "I claim..." or "The claimed patent or petty patent is as follows...".

Article 12 Drawings

Applicants for patents or petty patents must provide to Department of Intellectual Property drawings that are necessary to make understand the patent or petty patent. In addition to drawings of patent or petty patent, there must be pictures of any parts included to help understand the patent or petty patent, such as circuit diagrams of electrical inventions, drawings of chemical structures of chemical components, various graphic images of results or metrics in the operation of patent or petty patent. Drawings must be drawn according to the principles of drawing used in each field, such as chemistry, electronics, mechanics or biological technology.

The selection of drawings must be based on the various details of the patent or petty patent and must contain as many angles as necessary to show the details of the patent or petty patent as follows:

1. Angles in enlarged form that show the relationship or sequence of various parts, some of which must be enlarged to show the details of the whole, which includes the enlarged image of the various parts and indicate the position of that part;

2. Cross-sectional and longitudinal views must indicate the nature of the various components of the patent or petty patent. In the case of multiple drawings, in each corner of the drawing must be brief description and a number must be given to each point to explain in detail about the patent or petty patent. The drawing must show the improvement and the relationship between the improvement of the existing technology in case the content of the application relates to the improvement of the patent or petty patent.

Article 13 Abstract

Abstract is a summary which must include technical information with the purpose of allowing the Department of Intellectual Property and the public to understand the inventor's ideas from the disclosure of technical information but is not considered as part of the disclosure of information or as defining the scope of rights to be protected.

Article 14 International classification About the patent And petty Patent

The application for a patent or petty patent must specify the category according to the international patent classification that is in use at the time of filing the application. In the case of international classification, if there is a change during the examination of the application, the Department of Intellectual Property must notify the applicant to modify the application by specifying the correct category.

CHAPTER 3 Examination of patent or Petty Patent applications

Article 15 Principles for examination of patent or Petty Patent applications

Examination of patent or petty patent applications must follow the principles set forth in Article 28 of the Law on Intellectual Property. In the event that there are multiple applications for patents or petty patents within the same period for the same or similar patent or petty patent, the application with the first priority date will be considered. In the event that the Department of Intellectual Property has proceeded according to the process of Examination of the application, it should register the application that received the priority date earlier, as well as issue a notice rejecting the application that received the priority date later. In the event that the request of Examination received after the priority date is completed first and the request is eligible for registration, the Department of Intellectual Property must suspend the request of Examination until the request of Examination of the first priority date is completed.

The Department of Intellectual Property will not give legal advice and will not give advice on the possibility that the patent or petty patent is in accordance with the Law on Intellectual Property and this Decision, but the applicant for a patent or petty patent can search for a patent or petty patent in the database of the Department of Intellectual Property in order to know whether the patent or petty patent requested has been registered or not. The result of patent or petty patent search is only an initial search of information about the patent or petty patent in the database of the Department of Intellectual Property, but it does not mean that the patent or petty patent will be able to be registered because there is still a need to check the content further.

Article 16 Formality Examination

After receiving an application for a patent or petty patent, the Department of Intellectual Property must conduct a Formality Examination on the validity and consistency of the application as set forth in Article 31 of the Law on Intellectual Property and Articles 5, 7, 9 to 14 of this Decision. The Formality Examination must be completed within ten business days from the date of receipt of the complete application.

In the event that the application is incorrect or inconsistent with

the conditions set forth in Articles 9 to 15 of this Decision, the Department of Intellectual Property must notify the applicant for a patent or petty patent to provide documents or amendments to meet the conditions within ten business days from the date of receipt of the application. Applicants for a patent or petty patent must provide documents or amendments to comply with the said conditions within fifteen business days from the date of notification.

In the event that the applicant for a patent or petty patent fails to act within the time limit, the Department of Intellectual Property must notify the applicant in writing or electronically that the application will not be considered and will be deemed waived. In the event that the application is accordance with the formality examination criteria, the Department of Intellectual Property must publish the application in the official gazette on intellectual property.

Article 17 Publication of Application and objections

The Department of Intellectual Property must publish the application for a patent or petty patent in the official gazette on intellectual property in the nineteenth month from the date of submission of the application or the priority date. The publication of the applications for patents or petty patent must include the following information:

1. Title of patent or petty patent;
2. International classification;
3. Application number and date;
4. Name and address of the applicant;
5. Name and address of the inventor;
6. Abstract;
7. Drawings.

A third party can submit an objection for the application to the Department of Intellectual Property as set forth in Article 39 of the Law on Intellectual Property within ninety days from the date of publication in the official gazette on intellectual property by filling in the printed form of the Department of Intellectual Property or electronically as well as paying the fee.

Article 18 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 to the Department of

Intellectual Property to conduct a substantive examination of the application at any time from the date of submission of the application but not exceeding 24 months for patent and 6 months for petty patent.

Applicants for patents or petty patents that intend to provide a report on the examination results from foreign patent offices or international organizations regarding patent examination must provide such reports within 3 months from the date of completion of the examination results.

Substantive Examination must be conducted as set forth in Article 40 of the Law on Intellectual Property. The Department of Intellectual Property must proceed substantive examination of the application for a patent or petty patent according to the database of the Department of Intellectual Property to consider whether the application can be granted a patent or petty patent in accordance with Article 13, Article 14 and cannot be granted a patent or petty patent as set forth in Article 21 of the Law on Intellectual Property.

The examination report from the foreign patent office or international organization regarding the patent examination as defined in Article 41 of the Law on Intellectual Property must contain the following information:

- involve patent or petty patent that filed in the Lao PDR;
- specify information on 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 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 within twelve months from the date of application.

The Department of Intellectual Property shall issue a notification by specifying the reasons for refusal of the application if the application does not meet the requirements of patentability according to the Law on Intellectual Property and this Decision. The applicant for patent or petty patent must provide documents, information, evidence, clarification or the argument to the Department of Intellectual Property within sixty day from the date

of issuing the initial rejection notice.

In case the applicant for patent or petty patent notify the Department of Intellectual Property reasonable reasons in writing, The Department of Intellectual Property can be extended further thirty day from the end date of the initial rejection notice; Otherwise, it shall be deemed to be waived.

In the event that the applicant for patent or petty patent 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.

Article 19 Assessment of novelty

The Department of Intellectual Property must compare the patent or petty patent application with the information that is available in Lao PDR and Foreign Registration as well as other information.

If there is a disclosure of any information about the claims of the application the date of the disclosure will be considered.

The following action of the world shall be considered as information disclosure.

1. Issue of patents or petty patents;
2. Published the patent or petty patent;
3. Published in magazines, advertising media, marketing or articles;
4. Practical commercial benefits from patents or petty patent.

Communicating or sending information related to the patent or petty patent shall not be deemed as a public disclosure if such a communication is made under contract 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.

The communication as below will not be considered public disclosure:

1. Under the Confidentiality Agreement which is written ;
2. Within the organization or Enterprise who is the right holder ;
3. Within a family, relatives, or appointed acquaintances;
4. To an attorney or a representative;
5. To those who will be entitled to the patent or petty Patent which has not yet been used commercially.

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

In case the Department of Intellectual Property has any doubts about the newness of the invention or invention, it can notify the patent or patent applicant to provide an explanation to explain any disclosures or interactions.

Article 20 Evaluation of Inventive Step

The evaluation of Inventive Step will consider as following:

1. Knowledge of the relevant technology field when making patent or petty patent based on the disclosed information as specified in Article 29 of this Decision. If the elements disclosed in the description of the patent or petty patent are not specified in the claim, the Department of Intellectual Property must not bring such elements into consideration as having a higher level of innovation;
2. The solution to a problem has included elements of existing technology and newly discovered technology both of which can work together because it is a step or a method which must work together, if any steps are missing it will be considered as not fulfilling the higher level of innovation;
3. The solution to a problem must identify the problems of the current technology as production cost, safety or Production volume which is a higher level of innovation is able to solve the problem;
4. Higher innovation must be a technology that a person with general knowledge in a field of the technology never recognized before.

Combination of several technical solutions that have common characteristics or similar solution of the problem known before must not be considered as lacking a higher level of innovation.

Article 21 Evaluation of the ability to use in the industry

The patent or petty patent 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 22 Amendment of the application

The applicant for a patent or petty patent can be amended 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 amendment shall not present new technical information in the original application that has been submitted according to Article 24 of this Decision.

In the case there is an amendment or modification of the application, if it results in additional claims which are more than the amount specified in the original application, the applicant for a patent or petty patent must pay the related fee for the excess claim as set forth in the Presidential Decree on Fees and Service Charges.

The applicant for a patent or petty patent can modify the claim throughout the period that the application is in the process of examination, which modification must not exceed the scope of the disclosure of information in the description. Claims in the original application are considered part of the disclosure.

In the case there is a modification of the claim that exceeds the scope of disclosure of information in the description, the applicant for a patent or petty patent must provide additional information about the search and examination based on the claim that exceeds the said scope or propose to ask the Department of Intellectual Property to conduct an examination as set forth in Article 41 of the Law on Intellectual Property.

Article 23 Division of Application

An application for a patent or a petty patent can be divided into two or more copies by filing a separate application form before the approval, waiver, rejection or termination of the consideration of the said application.

Divisional applications must have a reference to the original application to know from which application it was divided and used as a priority date by specifying the number and date of the initial application in each divisional application. For that initial application, there must be an amendment without exceeding the extent of disclosure of the content before dividing the application. The divisional application shall be submitted along with the modified initial application in accordance with Article 6 of this decision. Each divisional application is entitled to obtain the date of filing based on the initial application and shall pay the relevant official fees and service charges.

Other applications or divisional applications can be changed from a patent application to a petty patent application or changed from a petty patent application to a patent application. The application

that has been changed to a protection form is entitled to the filing date or priority date (if any). In the case of changing the patent application to a petty patent application, the fees and service charges already paid will not be returned. For changing the petty patent application to a patent application, additional fees and service charges must be paid equal to the normal patent application fees and service charges.

Article 24 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 25 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 patent or petty patent or the identification of the scope of the claim.

Article 26 Request for 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 27 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 28 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 within forty five day. After the applicant has paid all the fees, the Department of Intellectual Property shall grant the patent or petty patent, and document the related information including applications that have gone through the objection process or final consideration that are not effective. If the applicant does not pay the fees and service charges on time, it shall be deemed to have waived the right.

Article 29 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.

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.

Third party can offer to cancel or eliminate the issuance of a patent or petty Patent within five year from the date of publication official gazette on the registration of industrial property.

CHAPTER 4 Post-Procedures of the Grant of Patent or Petty Patent Rights

Article 30 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 31 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 32 Cancellation of the Patent or Petty Patent due to False or Misleading Information.

In the event the Department of Intellectual Property has considered 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 petty patent.

The Department of Intellectual Property shall notify the applicant for a patent or petty patent, the assignee of a patent or petty 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 Department of Intellectual Property or the applicant can submit a request to the Lao People's Court.

Article 33 Duration of protection

A patent has a protection period of twenty years from the date of application. To maintain the term of protection, the patent owner must pay fees and service charges in advance each year.

A petty patent has a protection period of ten years from the date of application. To maintain the patent protection period, the patent owner must pay annual fees and service charges in advance each year.

Article 34 Maintenance of protection period

Fee for maintaining the protection period of the patent for the first four years is included in the application fee and service fee. The patent owner must pay fees and service charges, to maintain the protection period from the fifth year and so on.

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 and so on. Before the expiration date of each year, the owner of the patent or petty patent can pay fees and service charges to maintain the 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 35 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.

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 36 Authorization to Use

The owner of the right of the patent or petty patent can allow other people use the patent or petty patent to seek benefits from such rights partially or wholly which can be done the by entering into a license agreement but not considered a transfer of the right of the patent or petty patent as defined in Article 47 Clause 2 and Article 4 of the law of intellectual property.

The permission to use or License to use must notify the Department of Intellectual Property According to the procedure as described in article 35 of this Decision.

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.

CHAPTER 5 Representative to Apply for a Patent and Petty Patent and other Activities

Article 37 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 38 Assigning Right to Representative

Authorization means 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 but not exceeding five year from the date of signing.

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.

CHAPTER 6 Creation of Duplicates

Article 39 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 40 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 Management of Patent and petty Patent

Article 41 Patent and petty Patent Works

Managing Patent and petty Patent Works include two levels:

1. Central is Department of Intellectual Property;
2. The provincial level is the provincial and capitalism department and trade departments.

Article 42 Rights and Duties of the Department of Intellectual Property

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

1. Research and create and improve legislation Regarding the management of Patent and petty Patent Works to Presented to the upper level for Examination ;
2. Disseminate the introduction of this Decision And Legislation related to Patent and petty Patent Works ;
3. Receive And Consider Number of patent and petty patent applications, keep the term , change Name or Address for permission to use, transfer rights and another proposal about the patent and petty patent;
4. Record and store information about patent and petty patent;
5. Approve, reject, cancel or eliminate and others regarding the issuance of a patent and petty patent;
6. Provide services search for patent and petty patent in the intellectual property database system of the Department of Intellectual Property;
7. Research And Consider Clarifications on rejection notices Regarding the issuance of a patent and petty patent;
8. Encourage and Promote patent and petty patent work;
9. Summary and Report on the implementation of patent and petty patent work and inform the superiors regularly;
10. Use the right And Perform other duties as defined in the law And Regulations .

Article 43 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. Spread the word Implementation of this Decision and Legislation about patent and petty patent work;

2. Manage, monitor, inspect and Encourage promotion patent and petty patent owner;
3. Delegate responsibility to the industrial office And Trade District, city according to appropriateness;
4. Coordinate with relevant departments;
5. Summary And Report on the implementation of patent and petty patent work to the Department of Intellectual Property;
6. Use the right and Perform other duties as assigned by the Department of Intellectual Property .

CHAPTER 8 Final Provisions

Article 44 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 45 Effective

This Decision will be effective forty-five days after the signature and printed in the way letter.