

THAILAND

Patent Regulations

MINISTERIAL REGULATIONS

- No. 19 (1992) of September 28, 1992
- No. 21 (1999) of September 24, 1999
- No. 22 (1999) of September 24, 1999
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Ministerial Regulation No. 19 (B.E. 2535)

Issued under the Patent Act B.E. 2522

By virtue of the powers vested in the provisions in Section 4 and Section 78 of the Patents Act, 1979, the Minister of Commerce hereby issues a Ministerial Regulation as follows:

Clause 1

The contents in Clause 1 and Clause 2 of Ministerial Regulation No. 10, (1986), Issued Pursuant to the Provisions in the Patents Act, 1979, shall be repealed and replaced by the following:

"Clause 1. In the case where any person's patent or license to use the rights in a patent is lost or materially damaged, if the owner wishes to obtain a replacement patent or a replacement license to use the rights in a patent, he or she shall submit an application on the form prescribed and printed by the Director-General to the competent official or send it by registered mail to the competent official at any of the following places:

- (1) Department of Intellectual Property, Ministry of Commerce,
- (2) Provincial Commercial Office, or other government agency as prescribed by the Director-General.

In the case where the patent or the license to use the rights in a patent is lost, the person submitting the form shall attach the receipt of the report on the loss of the patent or the license to use the rights in a patent from the police station of the locality where the patent or the license to use the rights in a patent was lost together with the application. In the case where the patent or the license to use the rights in a patent is materially damaged, the person submitting the application shall attach the damaged patent or license to use the rights in a patent together with the application.

Clause 2. With regard to the submission of an application in accordance with Clause 1, if the patent holder is not resident in the Kingdom, power of attorney must be assigned to the representative who has been registered with the Director-General as the person to act as proxy, by submitting the letter assigning power of attorney together with the application, in accordance with the following criteria:

- (1) In the case where that assignment of power of attorney was done overseas, the signatures in that letter assigning power of attorney must be certified by the authorized officer of the Royal Thai Embassy or Thai Consulate or the Commercial Attache based in the country in which the person assigning power of attorney is resident, or an officer who has been assigned to

act on behalf of the said persons, or certified by a person who is empowered by the laws of that country to certify signatures, or

(2) In the case where that letter assigning power of attorney was done in Thailand, a photocopy of the passport or a photocopy of a document certifying temporary residence or such other documentary evidence which shows to the Director-General that at the time of assignment of power of attorney that person had really entered Thailand must be submitted. In the case where the patent holder is resident in the Kingdom, with regard to the submission of an application in accordance with Clause 1, if the patent holder wishes to assign power of attorney to another person to act as his or her proxy, power of attorney shall be assigned only to the person who has been registered with the Director-General as being the person to act as his or her proxy, by submitting the letter assigning power of attorney together with the application."

Clause 2

The contents in Clause 5 of Ministerial Regulation No. 10, (1986), Issued Pursuant to the Provisions in the Patents Act, 1979, shall be repealed and replaced by the following:

"Clause 5. With regard to replacement invention patents and replacement product design patents, Form Sor.Por./200-Khor. and Form Sor.Phor./200-Khor. annexed to Ministerial Regulation No. 11, (1992), Issued Pursuant to the Provisions in the Patents Act, 1979, whichever the case may be, shall be used.

With regard to replacement licenses to use the rights in a patent, Form Sor.Por./201-Khor. annexed to Ministerial Regulation No. 14, (1992), Issued Pursuant to the Provisions in the Patents Act, 1979, shall be used.

With regard to the issuance of replacements in accordance with paragraph one and paragraph two, the word "REPLACEMENT" shall appear on the front side, above the Royal Garuda emblem, of the said form."

Given on September 28, 1992

Ministerial Regulations No. 21 (B.E. 2542)

Issued under the Patent Act B.E. 2522

By virtue of the power granted under Sections 4, 17, 20, 33, 59 and 65 of the Patent Act B.E. 2522 and Sections 65quarter, 65quinquies and 65decies of the Patent Act B.E. 2522 as amended by the Patent act (No. 3) B.E. 2542, the Minister of Commerce hereby issues the Ministerial Regulations as follows:

Clause 1

The following shall be repealed:

(1) Ministerial Regulations No. 11 (B.E. 2535) issued under the Patent Act B.E. 2522;

(2) Ministerial Regulations No. 13 (B.E. 2535) issued under the Patent Act B.E. 2522.

PART 1 APPLICATIONS FOR PATENTS FOR INVENTIONS

Clause 2

In applying for a patent for an invention, the applicant shall file the application, in the form prescribed by the Director-General, with the competent officer or send the application by registered mail to the competent officer at any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

The application under the first paragraph shall be filed together with a description of the invention, claims and an abstract. And if it is necessary for the better understanding of the invention, the applicant shall also submit drawings together with the application.

For the purpose of this Clause, in the case where the claimed invention relates to a new microorganism, a description shall mean a certificate of deposit of such microorganism and/or a document describing the nature and characteristics of such microorganism issued by any one of the gene banks announced from time to time by the Department of Intellectual Property.

The applicant shall submit the documents prescribed in the second paragraph in triplicate or in such number as may be prescribed by the Director-General but not exceeding five copies. In the case where the applicant is required to submit any document other than stated above, the applicant shall submit such document in the same number of copies, except it is permitted by the Director-General.

Clause 3

The description shall state the title of the invention as it appears in the application and shall:

- (1) state the nature and purposes of the invention;
- (2) specify the technical field to which the invention relates;
- (3) indicate the related background art which can be regarded as useful for the understanding, searching and examination of the invention and cite the relevant documents, if any;
- (4) disclose the invention in a full, clear and concise manner in terms that will enable a person of ordinary skill in the art to which it pertains to make and use the invention;
- (5) briefly describe the figures in the drawings, if any;
- (6) set forth the best mode contemplated by the inventor for carrying out the invention by providing, where necessary, examples, the related

background art and drawings;

(7) show in what way the invention is applicable in industry, handicrafts, agriculture or commerce if that is not obvious from the nature of the invention.

The manner and order specified in the preceding paragraph shall be followed except when a different order would result in a better understanding but in every case the appropriate heading shall be given.

Clause 4

Claims shall state in clear and concise manner, consistent with the description under Clause 3, those features of the invention for which protection is sought.

If there are drawings, the claim may refer to a technical features of the invention by stating the reference number or symbol indicated in the drawings in the parenthesis following the statement describing such technical feature.

If a single claim cannot adequately cover all the technical features of the invention, two or more independent claims of the same category may be made in a single application.

Dependent claims, if desired, shall follow the independent claim and shall state the additional features claimed. References to independent or dependent claims shall be made in the alternative only.

For the purpose of this Clause, an independent claim shall mean a claim which does not refer to features contained in other claims and dependent claims shall mean those which, while including additional features, refer to features contained in independent claims or in other dependent claims.

Clause 5

An application containing claims as described below shall be construed as relating to a single invention:

(1) In addition to an independent claim for a product for which protection is sought, other independent claims setting forth the process for manufacture and use of the product.

(2) In addition to an independent claim for a process for which protection is sought, claims for the means and/or apparatus for carrying out process.

Clause 6

The abstract shall, in accordance with rules prescribed by the Director-General, consist of a summary of the disclosure as contained in the description, claims and any drawings, if any; and the summary shall briefly indicate each main technical feature and shall be drafted in a

way which allows better understanding of the technical problem and its solution through the invention and the use of the invention.

Clause 7

The drawings shall be clear, consistent with the description and in compliance with the principles on drawings.

For the purpose of this Clause, drawings shall also mean plans and charts.

Clause 8

In an application for a patent for an invention the essential features or particulars of which have been disclosed at an international exhibition or official exhibition or at an exhibition in Thailand sponsored or authorized by a government agency, the applicant shall set forth the date of the disclosure, and/or date of the opening of the exhibition. The applicant shall file together with the application a certificate issued by government, service or authority responsible for organizing or authorizing the exhibition, as the case may be, stating the essential features or particulars of the invention were disclosed or that the invention was displayed.

The certificate under the first paragraph shall also state the opening date of the exhibition and the date of disclosure or display.

Clause 9

An application in respect of inventions for which a foreign application for a patent or petty patent has been made shall contain the following information:

- (1) the filing date of the application for a patent or petty patent;
 - (2) the number of the application;
 - (3) the symbol, if any, of the International Patent Classification which has been allocated to the application;
 - (4) the name of the country and receiving office where the application for a patent or petty patent was filed;
 - (5) the date of each request for a search or examination and the name of the country and office where the request was filed;
 - (6) the result of the search or examination in the event a report or result has been received from the office or institution that did the search or examination;
 - (7) the status of the application as required in the application form.
- If a patent or petty patent granted, the number of such patent or petty patent shall also be indicated.

Clause 10

In applying for a patent for an invention for which a patent or petty patent has been applied in a foreign country within twelve months following the first filing date in the foreign country and the applicant desires to claim the first foreign filing date as the filing date in the country under Section 19bis, the applicant shall submit another application in the form prescribed by the Director-General at the time of the application or before the publication of the application which shall be not later than sixteen months following the first foreign filing date. In such a case, the applicant shall also submit a copy of the application for a patent or petty patent filed in the foreign country which indicates the filing date and the details of the application and is certified by the patent office where the application was filed.

Clause 11

An inventor who does not wish his name to be revealed in the publication of an application or in the patent may so notify the Director-General at least thirty days prior to publication of the application or issue of the patent, as the case may be.

Clause 12

All applications and documents submitted with the application shall
(1) contain all the information, accurate, clear and complete, required by the forms;

(2) be printed or typed in Thai including descriptions, claims and abstracts;

In the case where the applicant has filed an application for a patent or petty patent in a foreign country, the applicant may request to submit the description of the invention, claims and abstract in the foreign language of the original application. In such a case, the applicant shall submit the description of the invention, claims and abstract in Thai which is accurate and corresponding to the original application within ninety days following the filing of the application.

If the applicant fails to submit the document in Thai within the prescribed period, he shall be regarded to have filed the application on the date on which the document in Thai is submitted.

(3) be signed by the applicant, opposer, respondent or appellant, as the case may be, or by the registered agent in the event a power of attorney has been granted under Clause 11 or 12.

Clause 13

Where the applicant, opposing party, respondent or appellant is not a resident of Thailand, he shall appoint an agent registered with the Director-General to act for him in the country. The power of attorney shall be filed with the Director-General.

The power of attorney under the preceding paragraph shall be certified by the Thai diplomatic representative, commercial counselor, trade commissioner, commercial attache or consul of such country or be certified by an officer empowered by the law of the country in which the grantor resides to certify signatures.

Clause 14

If an applicant resident in the country wishes to be represented by an agent, he may appoint only an agent registered with the Director-General.

Clause 15

Any power of attorney or certification under Clause 13 paragraph one in a foreign language shall be accompanied by a Thai translation certified by the translator and agent to be accurate translation of such power of attorney and certification.

Clause 16

If the applicant wants to amend his application for a patent which does not enlarge the scope of the invention, he shall make a request before the publication of the application, except it is authorized by the Director-General.

PART 2 APPLICATIONS FOR PATENTS FOR DESIGNS

Clause 17

An application for a design patent shall be filed together with a representation of the design and a claim.

Clause 18

Applications shall be on the forms prescribed by the Director-General and shall:

- (1) state the number of design representations, and
- (2) designate the product for which the industrial design is to be used and its class under the classification published by the Minister.

Clause 19

The representation may consist of photographs or drawings which shall show all the features of the product for which protection is sought. The representation shall be in black and white or if the design is in color, the representation shall also be in color.

Clause 20

A description of the design, not exceeding one hundred words, may be included with the application.

Clause 21

Only one claim shall be made in each application.

Clause 23

Clauses 2 paragraphs one and four, Clause 4 paragraph one, Clauses 7, 9, 11, 12, 13, 14, 15 of Part 1 on Applications for Patents for Inventions shall apply, *mutatis mutandis*, to design applications.

PART 3 APPLICATIONS FOR PETTY PATENTS

Clause 24

Clause 1 to 16 of Part 1 on Applications for Patents for Inventions shall apply, mutatis mutandis, to applications for petty patents.

Clause 25

The number of claims in each application for a petty patent shall not exceed ten claims.

PART 4 FORMS OF PATENTS AND PETTY PATENTS

Clause 26

Patents for inventions shall be in Form PI/200-B attached to the Ministerial Regulations.

Clause 27

Patents for designs shall be in Form PD/200-B attached to the Ministerial Regulations.

Clause 28

Petty patents for designs shall be in Form PP/200-B attached to the Ministerial Regulations.

Given on September 24, 1999

Ministerial Regulations No. 22 (B.E. 2542)

Issued under the Patent Act B.E. 2522

By virtue of the power granted under Sections 4, 24, 26, 27, 30 and 65 of the Patent Act B.E. 2522 and Sections 28, 65quarter, 65quinquies and 65decies of the Patent Act B.E. 2522 as amended by the Patent act (No. 3) B.E. 2542 and Section 44 of the Patent Act (No. 3) B.E. 2542, the Minister of Commerce hereby issues the Ministerial Regulations as follows:

Clause 1

The following shall be repealed:

- (1) Ministerial Regulations No. 3 (B.E. 2523) issued under the Patent Act B.E. 2522;
- (2) Ministerial Regulations No. 16 (B.E. 2535) issued under the Patent Act B.E. 2522.

Clause 2

In processing an application for a patent for an invention or a petty patent to submit an examination report to the Director-General under Section 28 or 65quinquies, as the case may be, the competent officer shall examine the application for a patent or petty patent as follows:

- (1) the request form, the description, the claims, the drawings (if any) and the abstract comply with the Ministerial Regulations issued under Section 17 or 65decies and 17, as the case may be;
- (2) the invention is not unpatentable under Section 9 or 65decies and 9, as the case may be;
- (3) the applicant has the right to apply for a patent under Sections 10, 11, 14 or Section 15 paragraph 1 or 2 or the right to apply for a petty patent under Sections 65decies and 10, 11, 14 or Section 15 paragraph one or two, as the case may be;
- (4) the applicant has the right to be granted a patent or petty patent under Section 16 or 65decies and 16, as the case may be;
- (5) the invention for which a patent or petty patent is applied is not the same invention which a patent or petty patent was applied in the country under Section 65ter before the filing date, as the case may be;
- (6) the invention for which a petty patent is applied is so linked as to form a single inventive concept.

Clause 3

In processing an application for a design patent to submit an examination report to the Director-General under Sections 65 and 28, the competent

officer shall examine the application as follows:

- (1) the request form, the claim, the design representations, the description and other items (if any) comply with the Ministerial Regulations issued under Section 59;
- (2) the design is not unpatentable under Section 58;
- (3) the applicant has the right to apply for a patent under Sections 65 and 10, 11, 14 or Section 15 paragraph one or two, as the case may be;
- (4) the applicant has the right to be granted a patent under Sections 65 and 16.

Clause 4

If it is found from the examination of the application for a patent or petty patent, as the case may be, under Clause 2 that the applications are not in compliance with the law or filed by more than one applicant, the competent officer shall proceed as follows:

- (1) if the same invention has been applied or jointly applied for both a patent and a petty patent, the applicant shall be notified that he is deemed to have applied for a petty patent in accordance with Section 77quinquies;
- (2) if the same invention was made by two or more persons separately and independently and it has been applied for a patent by one applicant and applied for a petty patent by another, all applicants shall be notified that the applicant who is the first to file is to be entitled to a patent or petty patent, as the case may be;
- (3) if the same invention was made by two or more persons separately and independently and it has been applied for a patent by one applicant and applied for a petty patent by another on the same date, all applicants shall be notified to reach an agreement within ninety days following the receipt of the notification.

The notification under the first paragraph shall be in writing and sent by acknowledgement mail or any other procedure prescribed by the Director-General.

Clause 5

Where it appears that the application for a patent or petty patent does not comply with Clause 2(1) or 3(1) or the invention is partly unpatentable under Section 9 or Sections 65decies and 9, the competent officer shall submit an examination report to the Director-General for requiring the applicant to amend the application within the prescribed period.

Clause 6

Where it appears that the invention for which a patent or a petty patent is applied as the case may be, is unpatentable under Section 9 or Section 65decies and 9, or the design for which a patent is applied is unpatentable under Section 58, or the application for a patent or petty patent does not comply with Clause 2(3) or 3(3), the competent officer shall submit an examination report to the Director-General for rejecting the application for a patent or petty patent.

Before rejecting the application under the first paragraph, the Director-General may instruct the applicant to answer any question or to amend the application for a patent or petty patent.

Clause 7

Where a request for amendment is made by the applicant pursuant to Clause 5 or 6 paragraph two or under the Ministerial Regulations issued under Section 20 or Sections 65 and 20 or Section 65decies and 20, as the case may be, the competent officer shall examine such amendment whether it complies with the requirement or the Ministerial Regulations.

Clause 8

Where it appears that the application for a petty patent does not comply with Sections 65decies and 18, the competent officer shall instruct the applicant to separate the application into a number of applications by amending the original application to relate to a single invention and filing separate applications for the other inventions.

The applications separated under the first paragraph shall comply with the requirements for a normal application for a petty patent and shall not enlarge the scope of the invention disclosed in the original application. In such a case, the applicant shall not be required to submit additional written evidence showing that he is entitled to apply for a petty patent.

Clause 9

Where the Director-General finds, on the basis of the examination report submitted by the competent officer, the application for a patent or petty patent does not comply with the provisions of the law and rejects the application under Section 28(1), Sections 65 and 28(1), or Section 65quinquies(1), as the case may be, the competent officer shall notify the applicant of such decision and publish it by placing the decision in an open area within the Department Intellectual Property, Ministry of Commerce for at least thirty days.

The publication of the decision referred to in the first paragraph shall

indicate at least the following particulars:

- (1) the number of the application and date of application;
- (2) the name of the applicant and the agent (if any);
- (3) the name of the inventor or creator, and the title of the invention or design;
- (4) the reasons of the rejection.

The notification under the first paragraph shall be in writing and sent by acknowledgement mail or any other method prescribed by the Director-General.

Clause 10

In the case where the Director-General has, on the basis of the examination report submitted by the competent officer, ordered the publication of the application for a patent or the registration of an invention and the grant of a petty patent under Section 28(2), Sections 65 and 28(2) or Section 65quinquies(2), as the case may be, when the applicant has paid the fees within the prescribed period, the competent officer shall publish the application or the registration of the invention and the grant of the petty patent in the Patent Applications Publication Gazette or the Registration of Inventions and Grants of Petty Patents Publication Gazette, as the case may be.

The publication under the first paragraph shall indicate at least the following particulars:

- (1) the number of the application and date of application;
- (2) the name of the applicant and the agent (if any);
- (3) the name of the inventor or creator, and the title of the invention or design;
- (4) the date of publication;
- (5) other particulars as the Director-General deems appropriate.

Clause 11

Where an application has been published in accordance with Section 28(2) or Sections 65 and 28(2) and the applicant has filed a request for examination pursuant to Section 29 or there is an opposition that the invention or design claimed in the application does not comply with the provisions of Section 5 or 56, or where a request for examination of the invention for which a petty patent is applied under Section 65sexies has been filed, the competent officer shall examine the application as to substance as follows:

- (1) whether the subject matter of the invention or design claimed in the application was disclosed or described in any document or printed matter

forming part of the documentation collected for the purpose of examining patent applications;

(2) whether the subject matter of the invention claimed in the application was that was applied for a patent or petty patent in the country and in a foreign country and was published before the application was filed in the country.

The Director-General may, where he deems appropriate, require the competent officer to examine whether the claimed invention satisfies the conditions set forth in Section 5, 56 or 65bis other than those specified in (1) and (2).

Clause 12

After the publication of the application under Clause 10, the competent officer shall examine whether or not the application is seeking protection for several inventions or designs, which does not comply with the provisions of Section 18 or 60. In this case, the provisions of Clause 8 shall apply mutatis mutandis.

Clause 13

In the case where the applicant has applied for a patent for the claimed invention in a foreign country, the applicant, when he has received the examination report or any document showing the result of the examination, shall submit such report or document together with its translation in Thai within ninety days from the date of receipt of such report or document. If the applicant has applied for patent in two foreign countries or more, he shall submit the examination report or document issued by the first country he filed his application or the country prescribed by the Director-General.

The examination report or document showing the result of the examination shall indicate the office or organization issuing such report or document, the name of the applicant, the filing date of the application, the symbol of the International Patent Classification which has been allocated to the application, the field of art in which the application has been examined and relevant documents showing the prior art and which should be considered, and shall also specify whether the claimed invention satisfies the requirements prescribed by the law of that country or not, whether the description complies with the law of that country or not, whether protection under the law of that country should be granted to the claims or not, and state the reasons of the decision.

The documents under the first and second paragraphs shall be filed with

or sent by registered mail to the competent officer at any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

Where the examination report or document showing the result of the examination does not comply with paragraph 3 of this Clause, the Director-General may, if requested by the applicant, allow the applicant to submit such a report or document.

Clause 14

Where the applicant wants to convert his application from an application for a patent to an application for a petty patent or from an application for a petty patent to an application for a patent, as the case may be, the applicant shall submit an application for such conversion in the form as prescribed by the Director-General to the competent officer or send the application by registered mail to the competent officer at any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

The application for conversion under the first paragraph shall consist of the documents forming the application for a patent or petty patent prescribed by the Ministerial Regulations issued under Section 17 or Sections 65decies and 17, as the case may be.

The applicant for conversion under the first paragraph shall not be entitled to refund an excess amount of the fees already paid.

Clause 15

The application for invention patents filed before the entry into force of these Ministerial Regulations upon which the Director-General has not made his order under Section 33 or 34 shall be processed in accordance with these Ministerial Regulations.

Clause 16

The applications for invention patents filed before the entry into force of the Patent Act (No. 3) B.E. 2542 proposed to be converted to the other type of application shall comply with Clause 10 of these Ministerial Regulations.

Given on September 24, 1999

Ministerial Regulations No. 23 (B.E. 2542)**Issued under the Patent Act B.E. 2522**

By virtue of Section 4 of the Patent Act B.E. 2522 and Section 42 of the Patent Act (No. 3) B.E. 2542, the Minister of Commerce hereby issues the Ministerial Regulations as follows:

Clause 1

The Ministerial Regulations No. 12 (B.E. 2535) issued under the Patent Act B.E. 2522 shall be repealed.

Clause 2

The fees shall be as follows:

| | | Baht |
|----------------|--|---------|
| (1) | An application for a patent for an invention | 1,000 |
| (2) | An application for a patent for a design | 500 |
| | An application for a petty patent | 500 |
| (3) | Applications for design patents for the same design which are filed at the same time in a number of ten or more applications | 4,500 |
| (4) | Publication of a patent application | 500 |
| (5) | A request for patent examination | 500 |
| (6) | An opposition to a patent application | 500 |
| (7) | A patent or petty patent | 1,000 |
| (8) | Annual fees for invention patents: | |
| | fifth year | 2,000 |
| | sixth year | 2,400 |
| | seventh year | 3,200 |
| | eighth year | 4,400 |
| | ninth year | 6,000 |
| | tenth year | 8,000 |
| | eleventh year | 10,400 |
| | twelfth year | 13,200 |
| | thirteenth year | 16,400 |
| | fourteenth year | 20,000 |
| | fifteenth year | 24,000 |
| | sixteenth year | 28,400 |
| | seventeenth year | 33,200 |
| | eighteenth year | 38,400 |
| | nineteenth year | 44,000 |
| twentieth year | 50,000 | |
| | or payment of all annual fees in one payment | 280,000 |
| (9) | Annual fees for design patents: | |
| | fifth year | 1,000 |
| | sixth year | 1,300 |
| | seventh year | 1,900 |
| | eighth year | 2,800 |
| | ninth year | 4,000 |
| | tenth year | 5,500 |

| | | |
|------|---|--------|
| | or payment of all annual fees in one payment | 15,000 |
| (10) | Annual fees for petty patents: | |
| | fifth year | 1,500 |
| | sixth year | 3,000 |
| | or payment of all annual fees in one payment | 4,000 |
| (11) | Fees for the extension of the term of petty patents: | |
| | first extension | 12,000 |
| | second extension | 18,000 |
| (12) | An application for the registration of a license | 500 |
| (13) | An application to record the assignment of a patent or petty patent | 500 |
| (14) | An application for conversion of a patent or petty patent | 200 |
| (15) | A licensing certificate | 1,000 |
| (16) | A substitute of a patent, petty patent or licensing certificate | 100 |
| (17) | An appeal against an order or decision of the Director-General | 1,000 |
| (18) | Certifying copies of documents | |
| | of more than ten pages, each document | 100 |
| | of not more than ten pages, each page | 10 |
| (19) | Any other application | 100 |

For the purpose of this Clause, "applications for design patents for the same design which are filed at the same time in a number of ten or more applications" refer to applications for design patents for designs with identical main features and different minor features.

Main features refer to design features with apparently distinctive characteristics.

Minor features refer to design features without apparently distinctive characteristics.

Clause 3

The annual fees prescribed in these Ministerial Regulations shall be applicable to the patents granted before the entry into force of the Patent Act (No. 3) B.E. 2542 until the expiration of the terms of such patents.

Given on September 24, 1999

Ministerial Regulations No. 24 (B.E. 2542)

Issued under the Patent Act B.E. 2522

By virtue of the power granted under Sections 4, 12, 13 and 65 of the Patent Act B.E. 2522 and Section 65decies of the Patent Act B.E. 2522 as amended by the Patent Act (No. 3) B.E. 2542, the Minister of Commerce issues the Ministerial Regulations as follows:

Clause 1

The following shall be repealed:

- (1) Ministerial Regulations No. 5 (B.E. 2524) issued under the Patent Act B.E. 2522;
- (2) Ministerial Regulations No. 17 (B.E. 2535) issued under the Patent Act B.E. 2522.

Clause 2

In these Regulations:

"employee" means a private employee, a government official or an employee of a government organization or enterprise under Section 12 or 13 as the case may be;

"employer" means a private employer, a government agency, a government organization or enterprise under Section 12 or 13 as the case may be.

Clause 3

A request for remuneration may be made only after the patent for an invention or a design or the petty patent has been granted and in such a case, it shall be made within one year after he learned of the grant of the patent or petty patent. In cases where the employee has a legitimate reason that he did not know that the patent or petty patent was granted, he may file the request any time before the expiry of the patent or petty patent. In making a request under the first paragraph, the employee shall submit the request in the form prescribed by the Director-General in triplicate and shall give reasons as well as buttressing evidence, if any, and also specify the amount of remuneration that he thinks should be awarded to him to the competent officer at any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

Clause 4

Where an invention is made by two or more employees jointly, the request

for remuneration may be made jointly or separately.

Clause 5

The competent officer shall, within thirty days following the receipt of the request, publish the request in an open area within the Department of Intellectual Property, Ministry of Commerce, for at least thirty days, and shall notify in writing and send a copy of the request to the employer and other employees who jointly invented or created with the employee who filed the request, if any.

Clause 6

If the employer thinks that the employee is not entitled to such remuneration or the amount of remuneration specified in the request is not appropriate or has any other argument, he shall notify in writing and file evidence in support his case, if any, with the competent officer within ninety days following the receipt of the notification from the competent officer under Clause 5.

Within thirty days following the receipt of the notification of the employer under the first paragraph, the competent officer shall notify in writing and also send a copy of the notification of the employer and the submitted evidence (if any) to the employee. If the employee disagrees with the employer, he shall submit the explanation and supporting evidence (if any) within ninety days following the receipt of the notification. When the employee has submitted his explanation within the said period, the competent officer shall record such in the request and submit the Director-General for consideration.

Clause 7

In cases where any act is not done within the period specified in Clause 5 or 6 due to a cause of necessity, the Director-General may extend the said period for no more than twice which shall not exceed thirty days for each extension, and shall specify the reasons for such extensions in his order.

Clause 8

In fixing the amount of remuneration under Section 12, paragraph 4 of the Patent Act B.E. 2522, the Director-General shall also take the following matters in account:

- (1) the nature of the employee's duties;
- (2) the diligence and skill which the employee has devoted to making his invention or design;

(3) the diligence and skill which any other person has devoted to making the invention or design jointly with the employee concerned, and the advice and other assistance contributed by any other employee who is not a joint inventor or joint creator;

(4) the assistance contributed by the employer to the making of the invention or the creation of the design by the provision of property, advice, facilities, preparatory work or management in acquiring resources or services for the experimenting, developing or working of the invention or design;

(5) the benefits derived or expected to be derived by the employee from authorizing others to exploit the invention or design, including the assignment of the patent to others;

(6) the total number of the employees who jointly made the invention or created the design.

Clause 9

In order to facilitate the fixing of the amount of remuneration, the Director-General may instruct the employee who filed the request or the employer to appear before him in order to answer any question, or to hand over to him any document or evidence.

Clause 10

The requests for remuneration filed before the entry into force of these Ministerial Regulations shall be executed in accordance with these Ministerial Regulations.

Given on September 24, 1999

Ministerial Regulations No. 25 (B.E. 2542)

Issued under the Patent Act B.E. 2522

By virtue of the power granted under Sections 4, 39(1), 41 paragraph one, 42, and 65 of the Patent Act B.E. 2522 and Section 39(1) paragraph two of the Patent Act B.E. 2522 as amended by the Patent Act (No. 2) B.E. 2535 and Section 65decies of the Patent Act B.E. 2522 as amended by the Patent Act (No. 3) B.E. 2542, the Minister of Commerce issues the Ministerial Regulations as follows:

Clause 1

The Ministerial Regulations No. 15 (B.E. 2535) issued under the Patent Act B.E. 2522 shall be repealed.

Clause 2

In these Regulations,

"Patent license" means an agreement whereby the patentee licenses under Section 38 or Sections 65 and 38 a license to exercise the rights under Sections 36 and 37 or Section 65 and 37, as the case may be, for a fixed period of time whether or not remuneration or provisions relating to other matters are included,

"Petty Patent License" means an agreement whereby the owner of a petty patent licenses under Sections 65decies and 38 a license to exercise the rights under Sections 65decies and 36 and 37 for a fixed period of time whether or not remuneration or provisions relating to other matters are included,

"Licensee" means a person who has been licensed to exercise rights under a patent license or a petty patent license,

"Law on competition" means the law on pricing of goods and services, competition or anti-monopoly law or the prevention of unfair competition.

Clause 3

Whether or not a condition, restriction or remuneration in a patent license or a petty patent license is unjustifiably anti-competitive shall be considered on each individual case of such a license by examining the purpose or intent of the parties whether they intend to cause unfair competition and the consequences derived or may derive from such a condition, restriction or remuneration and taking into account the judicial decisions, decisions of the Board of Patents and decisions of the committees appointed under the law on competition.

Where it appears to the Director-General that any patent license or petty

patent license contains any of the following conditions, restrictions or remuneration, he shall consider whether or not such condition, restriction or remuneration is unjustifiably anti-competitive pursuant to Section 39(1), Sections 65 and 39(1) or Sections 65decies and 39(1), as the case may be, by applying the criteria prescribed in the first paragraph:

(1) a requirement that the licensee shall obtain all or part of the material to be used in production from the patentee, the owner of a petty patent or from the distributor, designated or licensed by the patentee or the owner of a petty patent, whether or not such materials are obtained for value, unless it is proved that the requirement is necessary for the effective working of the patent and the calculated value is no higher than the price of materials of comparable quality obtainable from other sources;

(2) a prohibition against the licensee obtaining all or part of the materials to be used in production from sellers designated by the patentee or the owner of a petty patent, as the case may be, unless it is proved that except for such prohibition the working of the patent or petty patent would be ineffective or the materials cannot be obtained from other sources;

(3) a condition or restriction on the licensee concerning the employment of persons for manufacturing in which the licensed invention or design is used unless it is proved such requirement is necessary for the effective working of the patent or petty patent;

(4) a requirement that the licensee shall sell or distribute more than half his production to the patentee or persons designated by the patentee or the owner of the petty patent;

(5) a requirement that the licensee shall appoint the patentee, the owner of the petty patent or persons designated by the patentee or the owner of the petty patent as the seller or distributor of all or part of his production;

(6) a restriction on the quantity of production, sale or distribution of the licensee's products;

(7) a prohibition on the export of the licensed products for sale or distribution in another country or a requirement that the licensee shall seek an authorization from the patentee or the owner of the petty patent before the export of the licensed product for sale or distribution in another country unless the patentee or the owner of the petty patent is also the patentee or the owner of the petty patent in such country and has exclusively licensed another person to sell or distribute the patented products in such country prior to the entering of the license agreement with the licensee;

(8) a condition or restriction on the licensee concerning study, research, experimentation, analysis or development of the invention or industrial design;

(9) a condition or restriction on the licensee on the use of inventions or industrial designs of others apart from the licensed invention or industrial design;

(10) a requirement that the patentee or the owner of the petty patent shall have authority in fixing the selling price or marketing of the products manufactured;

(11) an exclusion or limitation of the liability of the patentee or the owner of the petty patent for defects in the licensed invention or product design not easily checked at the time of entering the license agreement;

(12) fixing the remuneration for the license which is excessive or unfair when compared with the rates prescribed in the patentee's license agreements with other licensees;

(13) other conditions in violation of the law on competition.

Clause 4

The following condition, restriction or remuneration shall be regarded as being unjustifiably anti-competitive regardless of the criteria prescribed in Clause 3:

(1) a requirement that the licensee shall use other invention or design of the patentee or the owner of the petty patent with remuneration for such use, unless it is proved that the requirement is necessary for the effective working of the patent or petty patent or the invention or design cannot be obtained from any other source in the country and the remuneration is suitable with the benefits from such invention or design;

(2) a prohibition that the licensee shall not challenge or raise a defense that the patent is invalid pursuant to Section 54 or 64 or the petty patent is invalid pursuant to Section 65novies or Section 77octies;

(3) a requirement that the licensee shall disclose to the licensor any improvement of the licensed invention or design or allow the patentee to exclusively exploit such improved invention or design without providing for appropriate compensation for such exploitation;

(4) a requirement that the licensee shall pay remuneration for the use of the licensed invention or design after the expiry of the patent or petty patent;

(5) a requirement that the licensee shall be subject to such a condition, restriction or remuneration regarded as being unjustifiably anti-competitive by the court, the Board of Patents or the committees appointed under the law on competition.

Clause 5

In applying for the registration of a patent license or a petty patent license, the patentee or the owner of the petty patent shall submit an application in the form prescribed by the Director-General together with the license to the competent officer or send by a registered mail to any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

In filing the application under the first paragraph, the patentee or the owner of the petty patent who does not reside in the country shall appoint an agent registered with the Director-General to act on his behalf by submitting a power of attorney with the application as follows:

- (1) In the case where the appointment is done in a foreign country, the power of attorney shall be certified by a competent officer of the Thai embassy or consular office or head of the office attached to the Thai Ministry of Commerce in such country or any officer designated to act on behalf of the officer or certified by a person empowered by the law of such country to certify signatures; or
- (2) In the case where the appointment is done in Thailand, a copy of the passport or certificate of temporary residence or other evidence to prove to the Director-General that the applicant is actually in Thailand when such appointment is done shall be submitted.

In the case where the patentee or the owner of the petty patent resident of Thailand wants to appoint another person to file the application on his behalf may appoint an agent registered with the Director-General by submitting his power of attorney with the application.

Clause 6

In applying for the registration of the assignment of a patent or a petty patent, the assignee shall submit an application in the form prescribed by the Director-General together with the assignment agreement to the competent officer or send by a registered mail to the competent officer at any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

In applying for the registration of the transfer of a patent or petty patent by succession, the heir of the patentee or the owner of the petty patent shall submit an application in the form prescribed by the

Director-General together with the evidence of inheritance prescribed in the notifications of the Department of Intellectual Property to the competent officer or send by a registered mail to the competent officer at any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

In filing the application under paragraph one or two and the applicant wants to appoint another person to act on his behalf, the provisions of Clause 5 paragraph two or three shall apply mutatis mutandis.

Clause 7

In considering the application for recordal under Clause 5 or 6, if the competent officer finds an application is not in order or the evidence is not complete, he shall notify the applicant to amend the application or submit additional document or things or may summon the applicant or agent to give additional statements.

If the applicant fails to comply with the order of the competent officer under the first paragraph within ninety days following the receipt of such order, he shall be deemed to have abandoned the application. In case of necessity, the Director-General may extend such period as he deems appropriate.

When the competent officer has examined the application and thinks it completely complies with Clause 5 or 6, he shall submit his report to the Director-General.

Clause 8

If the Director-General finds that the application for recordal of a patent license or petty patent license and supporting evidence is in order and complete under Clause 5 and the term of license agreement are not contrary to the provisions of Section 39, Sections 65 and 39, Section 65decies and 39 or other law, he shall direct that it shall be recorded. If the Director-General finds that the application or evidence is not in order or is not complete, he shall give an order refusing recordal.

In the event the Director-General finds that any provision of a patent license or petty patent license is contrary to the provisions of Section 39, Sections 65 and 39, Section 65decies and 39 or other law, the matter shall be referred to the Board for consideration under Section 41 paragraph two, Sections 65 and 41 paragraph two or Section 65decies and 41 paragraph two, as the case may be.

If the Director-General finds that an application to record an assignment

or inheritance of a patent or petty patent and supporting evidence is in order and complete under Clause 6, he shall direct that it to be recorded. If the Director-General finds that the application or supporting evidence is incomplete, he shall give an order to refuse such recordation. The competent officer shall, without delay, inform the applicant of the Director-General's order to record or not to record.

Clause 9

If the documents submitted under these Ministerial Regulations are in a foreign language, they shall be accompanied by a translation into Thai certified correct by the translator.

Given on September 24, 1999

Ministerial Regulations No. 26 (B.E. 2542)

Issued under the Patent Act B.E. 2522

By virtue of the power granted under Sections 4 and 45 of the Patent Act B.E. 2522, Section 46 paragraph three of the Patent Act B.E. 2522 as amended by the Patent Act (No. 2) B.E. 2535 and Section 47, 47bis, 50, 50bis and 65decies of the Patent Act B.E. 2522 as amended by the Patent Act (No. 3) B.E. 2542, the Minister of Commerce issues the Ministerial Regulations as follows:

Clause 1

The Ministerial Regulations No. 14 (B.E. 2535) issued under the Patent Act B.E. 2522 shall be repealed.

Clause 2

Any patentee or owner of a petty patent who has not granted an exclusive license to any other person may request for an entry to be made in the register of patents or petty patents indicating his consent to the effect that any other person may obtain a license. The request together with a statement specifying that he shall not withdraw such consent in the form prescribed by the Director-General shall be submitted to the competent officer or sent by a registered mail to the competent officer at any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

Clause 3

When the patentee or the owner of a petty patent has filed the request under Clause 2 or the entry has been made in the register, the patentee shall not grant any exclusive license to any other person.

Clause 4

Where a request has been received, the competent officer shall examine the documents and evidence submitted to support the request. Where it does not appear that the request sets any conditions for the granting of licenses or the patentee or the owner of the petty patent has granted any exclusive license, the competent officer shall submit his report to the Director-General.

In case where there are joint owners of the patent or petty patent and all joint owners have indicated their consents to grant licenses to any

other person, the competent officer shall record such consents in the request before submitting his report to the Director-General.

Clause 5

When the Director-General has approved an entry into the register to the effect that any other person may obtain a license, the competent officer shall make such an entry in the patent register or the petty patent register and notify the patentee of the decision and also publish the entry in an open area within the Department of Intellectual Property, Ministry of Commerce, for at least thirty days.

Clause 6

Any person who wishes to obtain a license under any patent or petty patent in respect of which an entry is made shall file an application in the form prescribed by the Director-General to the competent officer or send by a registered mail to the competent officer at any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

The application for a license under the first paragraph shall set forth the proposed conditions, the restrictions on the rights and the amount of remuneration.

Clause 7

Within thirty days following the receipt of the application for a license, the competent officer shall notify the patentee or the owner of a petty patent of such application in writing and also send to him a copy of the application, and instruct him to respond in writing whether or not he agrees to the conditions, restrictions and amount of remuneration proposed by the applicant within ninety days following the receipt of the notification.

Clause 8

In cases where the patentee or the owner of a petty patent agrees to the conditions, restrictions and amount of remuneration proposed by the applicant, the Director-General shall grant a license under such conditions, restrictions and amount of royalty, and the competent officer shall notify the applicant and the patentee or the owner of a petty patent of the decision.

Clause 9

If no agreement is reached by the patentee or the owner of a petty patent and the applicant, either because the patentee or the owner of a petty patent disagrees to the conditions, restrictions and amount of remuneration proposed by the applicant or it appears that the patentee or the owner of a petty patent has received the notification from the competent officer but fails to respond within the period prescribed in Clause 7, the Director-General shall instruct the patentee or the owner of a petty patent and the applicant to reach an agreement within the period prescribed by the Director-General. In cases where both sides fail to reach an agreement within the prescribed period, the Director-General shall grant a license to the applicant and fix the conditions, restrictions and amount of remuneration as he deems appropriate, taking into account the following matters:

- (1) the importance of the invention;
- (2) the status and nature of business of the applicant;
- (3) the conditions, restrictions and amount of remuneration fixed for other licenses;
- (4) the benefits to be derived by the licensee from the invention;
- (5) the benefits derived or expected to be derived by the patentee from the invention;
- (6) the conditions, restrictions and remuneration as fixed by the Board of Patents in its decisions.

Clause 10

Where an entry is made to the patent register or the petty patent register to the effect that any person may obtain license, the annual fees in respect of the patent or the petty patent register after the date of entry shall be reduced by one-half.

Clause 11

Any person who wishes to obtain a license pursuant to Section 46 or Sections 65decies and 46 shall file an application in the form prescribed by the Director-General with the competent officer or send by a registered mail to the competent officer at any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

In applying for a license under the first paragraph, the applicant shall:

- (1) file evidence to show that, within three years following the grant of the patent or petty patent, the patented product has not been produced

or the patented process has not been applied in the country without any legitimate reason, or no product produced under the patent or petty patent is sold in any domestic market or that such a product is sold but at unreasonably high prices or does not meet the public demand, without any legitimate reason;

(2) file evidence to show that the applicant has made an effort to obtain a license from the patentee or the owner of a petty patent, as the case may be, having proposed conditions and remuneration reasonably sufficient under the circumstances but unable to reach an agreement within a reasonable period;

(3) set forth the proposed scope and duration for the exploitation of the patent or petty patent, as the case may be, with the evidence to show that it is appropriate under the circumstances;

(4) set forth the proposed remuneration, conditions for the exploitation of the patent or petty patent and restrictions on the rights of the patentee or the owner of petty patent and his exclusive licensee under Section 48 paragraph two or Sections 65decies and 48 paragraph two, as the case may be, and provide relevant information as to remuneration for the exploitation of the invention for which a license is applied or comparable inventions of others;

(5) provide relevant facts to show that the proposed licensing shall be aimed predominately for the supply of the domestic market;

(6) file evidence showing the proposed plans for the manufacture, distribution or importation of the products covered by the patent or petty patent.

Clause 12

Any patentee or owner of a petty patent who wishes to obtain a license under the patent of another person pursuant to Section 47 or petty patent of another person under Sections 65decies and 47 shall file an application in the form prescribed by the Director-General with the competent officer or send by a registered mail to the competent officer at any of the following places:

(1) the Department of Intellectual Property, Ministry of Commerce;

(2) any provincial commercial office or governmental office prescribed by the Director-General.

In applying for a license under the first paragraph, the applicant shall:

(1) show by the evidence that:

(a) the invention of the applicant involves an important technical advance of considerable economic significance in relation to the invention for which the license is applied;

(b) the patentee or the owner of a petty patent shall be entitled to a cross-license on reasonable terms;

(c) the applicant shall not assign his right in the license to other persons except with the assignment of his patent or petty patent;

(2) propose remuneration, conditions for the exploitation of the patent or petty patent and restrictions on the rights of the patentee or the owner of a petty patent and his exclusive licensee under Section 48 paragraph two or Section 65decies and 48 paragraph two, as the case may be;

(3) agree to cross-license his patent or petty patent to the patentee or the owner of a petty patent;

(4) show by the evidence that he has made an effort to obtain a license from the patentee or the owner of a petty patent, having proposed remuneration and conditions reasonably sufficient under the circumstances but it was unable to reach an agreement in a reasonable period.

Clause 13

Any patentee or owner of a petty patent who wishes to obtain a license under a patent of another person under Section 47bis or petty patent of another person under Sections 65decies and 47bis, as the case may be, shall file an application in the form prescribed by the Director-General with the competent officer or send by a registered mail to the competent officer at any of the following places:

(1) the Department of Intellectual Property, Ministry of Commerce;

(2) any provincial commercial office or governmental office prescribed by the Director-General.

In applying for a license under the first paragraph, the applicant shall:

(1) show by the evidence that:

(a) the invention of the applicant involves an important technical advance of considerable economic significance in relation to the invention for which the license is applied;

(b) the applicant shall not assign his right in the license to other persons except with the assignment of his patent or petty patent;

(2) propose remuneration, conditions for the exploitation of the patent or petty patent and restrictions on the rights of the patentee or the owner of a petty patent and his exclusive licensee under Section 48 paragraph two or Section 65decies and 48 paragraph two, as the case may be;

(3) show by the evidence that he has made an effort to obtain a license from the patentee or the owner of a petty patent, having proposed remuneration and conditions reasonably sufficient under the circumstances but it was unable to reach an agreement in a reasonable period.

Clause 14

Where the Director-General has ordered that a license be granted and the applicant has paid the fees, the competent officer shall issue a licensing certificate to the applicant and record the details of such license in the register of patents or petty patents.

In the case where an appeal against the decision of the Director-General to the Board of Patents is made by any party, when the Board has made a decision and granted a license to the applicant and the fees paid by the applicant, the competent officer shall issue a licensing certificate to the applicant and record the details of such license in the register of patents or petty patents.

In the case where an appeal against the decision of the Board to the court is made by any party, when the court has rendered a judgement granting a license to the applicant and he has paid the relevant fees, the competent officer shall issue a licensing certificate to the applicant and record the details of such license in the register of patents or petty patents.

Clause 15

The licensing certificate shall be in Form PI/201-B and PP/201-B annexed to these Ministerial Regulations.

Clause 16

The patentee, the owner of a petty patent, the exclusive licensee under Section 48 paragraph two or Sections 65decies and 48 paragraph two, as the case may be, may submit a request for the termination of the license granted by the reasons under Section 46 or Section 65decies and 46 in the form prescribed by the Director-General to the competent officer or by a registered mail to the competent officer at any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

In submitting the request under the first paragraph, the applicant shall show by evidence the following:

- (1) the circumstances that led to the grant of the license has ceased to exist and are unlikely to recur; and
- (2) the termination of the license would not affect the rights and interests of the licensee under the license.

Clause 17

When the Director-General has ordered the termination of a licensing

certificate, the competent officer shall, without delay, notify the patentee, the owner of a petty patent, the licensee under Section 38 or Section 65decies and 38.

Clause 18

In the case where an appeal is not made by any party or where an appeal is made but the Board has given a final decision or the court has rendered a final judgement to terminate the licensing certificate, the competent officer shall record such termination in the register of patents or petty patents.

Clause 19

The request for the recordation of consent to the effect that any person may obtain a license, the application for and grant of licensing certificate under Section 45, 46, 46bis, 47 or 50 approved or issued before the entry into force of the Patent Act (No. 3) B.E. 2542 shall comply with the procedures, rules and conditions set forth in the Ministerial Regulations No. 14 (B.E. 2535) issued under the Patent Act B.E. 2522.

Given on September 24, 1999

Ministerial Regulations No. 27 (B.E. 2542)

Issued under the Patent Act B.E. 2522

By virtue of the power granted under Section 4, Section 53 paragraph one and Section 65 of the Patent Act B.E. 2522 and Section 65decies of the Patent Act B.E. 2522 as amended by the Patent Act (No. 3) B.E. 2542, the Minister of Commerce issues the Ministerial Regulations as follows:

Clause 1

The following shall be repealed:

- (1) Ministerial Regulations No. 8 (B.E. 2529) issued under the Patent Act B.E. 2522;
- (2) Ministerial Regulations No. 18 (B.E. 2535) issued under the Patent Act B.E. 2522.

Clause 2

In applying for the surrender of a patent or any claim or claims, the patentee or the owner of the petty patent shall file an application in the form prescribed by the Director-General with the competent officer at the Department of Intellectual Property, Ministry of Commerce or send the application by a registered mail to the competent officer at any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

In filing the application under the first paragraph, if the patentee or the owner of the patent is not resident in Thailand, he shall appoint an agent registered with the Director-General to act for him by filing the power of attorney with the application in accordance with the following:

- (1) In the case where the appointment of the agent is done in a foreign country, the power of attorney shall be certified by an officer of the Thai embassy or consular office or head of the office attached to the Thai Ministry of Commerce in the country in which the person appointing the agent resides or any officer designated to act on behalf of the said officer, or certified by any person authorized by the law of the said country to certify signatures; or
- (2) In the case where the appointment is done in Thailand, a copy of the passport or certificate of temporary residence or other evidence to prove to the Director-General of the entry to Thailand at the time of the appointment of the agent shall be submitted.

Clause 3

In filing the application under Clause 2, if the patent or petty patent is jointly owned, the applicant shall file evidence showing the consent of all joint owners.

If the patent has been licensed under Section 38, 45, 46, 47 or 47bis or the design patent under Sections 65 and 38 or the petty patent under Sections 65decies and 38, 45, 46, 47 or 47bis, the evidence showing the consent of the parties concerned shall be filed together with the application.

Clause 4

The application for the surrender of a patent or any claim or claims shall not be made in the following circumstances:

- (1) there is a lawsuit alleging that the patent or petty patent which is or of which a claim is proposed to be surrendered infringes a patent or petty patent of another person pending in the court;
- (2) there is a lawsuit requesting for the cancellation of the said patent or petty patent under Section 54, 64 or 65novies pending in the court.

Clause 5

In the course of examination of the application for the surrender of a patent, petty patent or claims, the competent officer may instruct the patentee, the owner of a petty patent, the joint owner of the patent or petty patent or his representative or any other person who has an interest to appear before him to answer any question or hand over to him any document or item within the prescribed period.

Clause 6

When the competent officer has examined the application filed under Clause 2, including the evidence filed or statements of the persons instructed to appear before him under Clause 5, if any, he shall submit his opinion to the Director-General.

Clause 7

When the application under Clause 2 has been approved by the Director-General, the competent officer shall record the said surrender in the register of patents or petty patents and notify the patentee or the owner of the petty patent of the decision, and shall publish the surrender of the patent, petty patent or claims in an open area at the Department of Intellectual Property, Ministry of Commerce for at least thirty days. If the application under Clause 2 is rejected by the Director-General,

the competent officer shall notify the patentee of the rejection without delay.

Clause 8

Any document required to be submitted under these Regulations which is in a foreign language shall be accompanied by a Thai translation certified by the translator to be true.

Clause 9

The applications for the surrender of patents or claims filed before the entry into force of these Regulations shall be executed in accordance with these Regulations.

Given on September 24, 1999