



THAILAND

INTELLECTUAL PROPERTY HANDBOOK

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Legislation

Trademarks (No. 3) Act B.E. 2559 (2016) and Trademark Act B.E. 2534 (1991) (as amended up to Trademark Act (No. 3) B.E. 2559 (2016)).

Definition

"Trademark" is defined as a mark used or proposed to be used on or in connection with goods to distinguish those trademarked goods from other trademarked goods. "Mark" is defined as a brand, name, word, letter, photograph, drawing, device, manual, signature, combinations of colors, shape or configuration of an object or any one or combination thereof.

Criteria

A trade mark should contain the following features in order to claim registration:

- A distinctive mark which includes
 - △ a personal name, a surname which is not according to its ordinary signification, a name of juristic person or trade-name represented in a special manner;
 - △ a word or words having no direct reference to the character or quality of the goods and is not a geographical name prescribed by the Minister in the Ministerial Notifications;
 - △ a specially designed combination of colors, stylized letters, numerals or invented word;
 - △ the signature of the applicant or another person who has given his or her permission;
 - △ a representation of the applicant or of another person with his or her permission or of a dead person with the permission of his or her heirs;
 - △ an invented device.
- A mark must not include or consist of, among other things, the royal or official arms and crests, the national flag of Thailand or any other country; picture and signature of including name, word, statement or any mark indicating to the king, queen or heir to throne, emblem of the Red Cross, a mark which is contrary to good public peace or morals, a mark which is identical or confusingly similar to a well known trademark, whether it is registered or not, and geographical indication protected by the relevant law.
- A mark is not identical or confusingly similar to another person's registered mark in the same or related class.

Membership

- ✓ - Paris Convention
- ✓ - Madrid Protocol

Thailand is a member of the Paris Convention from 2008, whereby applications from convention countries will be subject to the same priority date in Thailand. The application for priority has to be made within six months of the first application in a convention country.

Rule of Priority

“First to File” is the rule followed by Thailand in determining priority of trademarks.

Duration and Renewal

A trade mark is valid for a term of 10 years from the date of application filing and will could be renewed every 10 years. An application for renewal must be filed 90 days before the expiration date. A 6-months grace period is allocated after the expiry date for the renewal. Once the expiry date has passed, the trade mark will no longer have the benefit of any rights arising from registration.

Procedures

Application

An application will be file by either the owner or his agent having a fixed place of business or address in Thailand with the Trademark Board.

Examination

The examination of the application by the Trademark examiner will take 6-8 months for completion.

Publication

The mark is published in the Official Trademark Journal if considered to be registrable.

Opposition

The trademark will be granted registration if no opposition is made within 90 days of its publication.

Registration

The applicant will be required to pay a registration fee within 30 days of receipt of notification. The time limit for a trademark registration varies from 12-18 months.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Thailand:-

- Application form.
- Power of Attorney.
- Thirteen (13) clear copy of the mark.
- The full name, nationality and registered address of the applicant.
- A list of goods or services (which closely follow the Nice International Classification).
- Description of claim if colour or a combination of colour or a combination of colours is claimed as Trademark.
- For marks that contain non-English words, a certified transliteration and translation.

Documents To Be Furnished For Filing Trade / Service Mark Application

Basic Requirements		
Documents	Remarks	Time of Filing
Power of Attorney	Notarized	On filing date; or Within 60 days from the date of filing
Image/Representation of the mark	Electronic sample of the mark in black and white or in color-max 5cm x 5 cm	On filing date

Additional Documents for Claiming a Convention Priority		
Documents	Remarks	Time of Filing
Priority documents	Certified copy of the basic application. Documents in any other language has to be provided with its English translation.	On filing date; or Within 60 days from the date of filing
Declaration letter		On filing date; or Within 60 days from the date of filing

Documents for Filing a Request of Recordal of Assignments		
Documents	Remarks	Time of Filing
Power of Attorney from the Assignee	Notarization required	On filing date; or Within 60 days from the date of filing
Original Deed of Assignment	Notarization required	On filing date; or Within 60 days from the date of filing

Documents for Filing a Request of Recordal of Change of Address

Documents	Remarks	Time of Filing
Power of Attorney showing the new address	Notarization required	On filing date; or Within 60 days from the date of filing

Documents for Filing a Request of Recordal of Change of Name

Documents	Remarks	Time of Filing
Power of Attorney showing the new name	Notarization required	On filing date; or Within 60 days from the date of filing
Original extract attesting the change issued by the company registry or any other competent authority	Notarization required	On filing date; or Within 60 days from the date of filing

Documents for Filing an Opposition of Counter-Opposition

(Deadline for Applying is during 3 Months Publication Period of the Trade Mark Application to be Opposed)

Documents	Remarks	Time of Filing
Power of Attorney	Notarization required	On filing date; or Within 60 days from the date of filing
Any evidences to be supported the case such as copies of Certificate of Registration of the trademarks in many countries, Magazines, brochures and advertisement showing the use of trademark; copies of the invoices; history of the company and etc.		On filing date; or Within 60 days from the date of filing

In Thailand, patent protection is obtainable by way of filing a direct national application.

Legislation

Patent Act No. 1, B.E. 2522 (1979) and Patent Act No. 2, B.E. 2535 (1992) as amended by Patent Act No.3, B.E. 2542 (1999), the latter effective 27 September 1999.

Patentability Criteria

- An invention is patentable if:
 - △ it is new
 - △ it involves an inventive step
 - △ it is industrially applicable
- The following inventions shall not be protected by the Patent Act.
 - △ Natural microorganisms and any components of microorganisms, plants, animals or extracts from plants or animals;
 - △ Scientific and mathematical principles and theories;
 - △ Data system for an operation of a computer (computer programs);
 - △ Method of diagnosis, treatment or cure of human diseases or animal diseases;
 - △ Inventions contrary to public order, morality, health or welfare;

Utility Innovations

Thailand has both patents and “petty patents” (utility model patents). Petty patents are granted to “inventions” that are new and industrially applicable, but lack an inventive step.

Membership

- √ - Paris Convention
- √ - PCT

Thailand is a member of the Paris Convention from 2008, whereby applications from convention countries will be subject to the same priority date in Thailand. The application for priority has to be made within six months of the first application in a convention country.

Rule of Priority

“First to file” is the rule followed by Thailand in determining priority of patents.

Duration

The term of protection for a patent is 20 years, petty patent is 6 years. The petty patent owner may renew the petty patent twice, 2 years each time.

Procedures

▼ Application

Every applicant is required to submit an application to the registrar of patents within 12 months of priority date.

▼ Preliminary Examination

A formality examination of the application is done to test the compliance of legal requirements. The applicants may also be required to produce additional documents or materials within 90 days.

▼ Publication

If the examination is completed and the invention appears patentable it will be published in the Gazette.

▼ Opposition & Substantive Examination

Interested parties are required to submit their oppositions within 90 days of the publication being made. Whereas request for substantive examination must be filed within 5 years from the date of publication.

▼ Registration

In case there is no opposition and Examiner finds no mistake in the patent or product design patent, the Examiner shall order the applicant to pay the registration fee. After payment is received, the Registrar shall grant the Certificate of Registration accordingly.

Filing Requirements

The following information and/or documents are required to file an application for a patent application in Thailand:-

Direct National Application:-

- Request for the grant of a patent:-
 - Δ the name and address of the applicant;
 - Δ the name and address of the inventor;
 - Δ a specification comprising a description, claims and any necessary drawings; and
 - Δ the country and filing particulars (including the serial number and filing date) of basic application whose priority is claimed.

- Appointment of Patent Agent.

- Filing of an assignment from inventor to applicant.

PCT National Phase Application:-

- A copy of the PCT application in English language (i.e. request form PCT/RO/101);
- The details of the PCT application (suitably, the bibliographic page as published by WIPO);
- One copy of the PCT specification as originally filed (in or translated to English);
- One copy of any amendments filed in the international phase (in or translated to English);
- An Appointment of Agent form signed by the applicant; and
- If the applicant is not the inventor, a statement explaining how the applicant derives its right to the patent from the inventor, normally by virtue of assignment or employment.

Documents To Be Furnished For Filing A Patent Application in Thailand

Basic Requirements		
Documents	Remarks	Time of Filing
Patent specification (description, claims and abstract)		On filing date
Thai translation of the specification (description, claims, abstract)		Within 90 days from filing date
Drawings	(If Any)	On filing date

Additional Documents for Convention Patent Application		
Documents	Remarks	Time of Filing
Priority documents	Certified copy from the respective Patent Office required	Within 16 months from the priority date or before publication
Power of Attorney	Duly signed and notarized	On filing date
Deed of Assignment (if applicant(s) is not inventor(s)/designer(s))	Signed by all inventor(s)/designer(s) and applicant(s)/ Original required; No notarization required	On filing date
Statement of Applicant's Right (if applicant(s) is inventor(s)/designer(s))	Signed by all inventor(s)/designer(s) and applicant(s)/ Original required; No notarization required	On filing date

Basic Requirements		
Documents	Remarks	Time of Filing
Foreign examination report/ granted patent of the corresponding patent from one of the major patent office	Submission can speed up the examination	Date of request of substantive examination or anytime during examination

Legislation

Patent Act No. 1, B.E. 2522 (1979) and Patent Act No. 2, B.E. 2535 (1992) as amended by Patent Act No.3, B.E. 2542 (1999), the latter effective 27 September 1999.

Definition

“Design” means any form or composition of lines or colors which gives a special appearance to a product and can serve as a pattern for a product or handicraft.

Criteria

A patent may be granted under this Act for a new design for industry, including handicrafts.

The following designs are not new:-

- a design which was widely known or used by others in this country before the filing of the application for a patent;
- a design which was disclosed or described in a document or a printed publication in this or a foreign country before the filing of the application for a patent;
- a design which was published under section 65 and section 28 before the filing of the application for a patent;
- any design so nearly resembling any of the designs prescribed in (1), (2) or (3) as to be an imitation.

Rule of Priority

An Industrial Design Application must be filed within 6 months from its priority date.

Duration and Renewal

A Registered Design can last for an initial period of 10 years from the date of filing of the application in Thailand. Annuity fees must be paid from the 5th year onward until the 10th year.

Procedures

▼ Application

Every design application has to be filed. A person who has filed an application for a design in a foreign country may claim the first foreign filing date as the filing date in the country if the application is filed in the country within 6 months following the first filing date in the foreign country.

▼ Preliminary Examination

A preliminary examination of the application is done to test the compliance of legal requirements. The applicants may also be required to produce additional documents or materials within 90 days.

▼ Publication

If the examination is completed and the invention appears patentable it will be published in the Gazette.

▼ Opposition

A substantive examination will be conducted by the examiner if no opposition has been expressed within 90 days of publication.

▼ Substantive Examination

No request for substantive examination is made for the registration of designs.

▼ Registration

A certificate will be issued upon payment of the issuance fee.

Filing Requirements

The following information and/or documents are required to file an application for an industrial design application in Thailand:-

- Application form:-
 - Δ Name and address of the applicant;
 - Δ Name and address of the designer (If different from applicant);
 - Δ Country and filing particulars of application whose priority is claimed; and
 - Δ Deed of Assignment is required when the applicant is not the designer.
- Power of Attorney.
- Drawings.
- Priority documents and certified English translation (if necessary) of the priority document.

Documents To Be Furnished For Filing An Industrial Design Application in Thailand

Basic Requirements		
Documents	Remarks	Time of Filing
Power of Attorney	Signed by applicant and notarized by the Notary Public	On filing date
Deed of Assignment	(if applicable) Signed by applicant and notarized by the Notary Public	On filing date
Drawing / Photographs	7-view orthographic drawings or photographs (must exhibit white background and be in grayscale) - front, back, left, right, top, bottom and perspective view.	On filing date

Additional Documents for Claiming Convention Priority		
Documents	Remarks	Time of Filing
Priority documents	Certified	2 months from filing

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