

Acceleration of Granting Japanese Patent in Cambodia

Japan Patent Office (“JPO”) has made its great efforts to support the development of intellectual property systems in countries where overseas business development is initiated by Japanese companies. In such efforts, JPO has launched cooperation with the Ministry of Industry & Handicraft of the Kingdom of Cambodia (“MIH”, currently the Ministry of Industry, Science, Technology & Innovation or “MISTI”) for smooth patent granting. We provide below some remarks on the matter for your reference:

No.	Titles	Remarks
1	Signing date	<ul style="list-style-type: none">On 4 May 2016, MIH and JPO signed the Joint Statement of Intent on Cooperation for Facilitating Patent Grant of Cambodia-related patent application (“CPG”).CPG would allow applicants to gain Cambodian patent rights, in an accelerated manner, which correspond to those gained in Japan.MIH adopted Prakas (declaration) No. 181 MIH/2016 dated 25 July 2016 on Acceleration of Patent Grant in Cambodia based on CPG with the Japan Patent Office.
2	Effective date	<ul style="list-style-type: none">CPG came into force on 1 July 2016, would last for three years and would be automatically extended for a further period of three years.
3	Benefits	<ul style="list-style-type: none">A Japanese patent granted in Cambodia will have the same validity as a corresponding Cambodian patent.Procedure for granting a Japanese patent in Cambodia is quite simple and fast (where the patentee of a Japanese valid patent files a request for the acceleration of patent registration, and MISTI will conduct only formality examination and issue a patent certificate based on the examination result of JPO). Using CPG enables applicants who are rights holders of patents registered at JPO to acquire patent rights earlier for their same inventions at MISTI.Such validation may save some kinds of fees and accelerate the grant of a patent in Cambodia.
4	Requirements	<p>The following requirements must be met to grant a Japanese patent in Cambodia:</p> <ul style="list-style-type: none">A Japanese patent application must have been filed with the same earliest date, whether this be a priority date or a filing date, as the Cambodian patent application.The corresponding Japanese patent application has been granted by the JPO.One or more claims in the patent application filed with MISTI shall be the same as the claim(s) in the corresponding JPO patent application.Required documents:<ul style="list-style-type: none">(i) A copy of the patent gazette in the corresponding JPO patent application and its certification issued by the JPO.(ii) Translation of claims and specifications described in the patent gazette in English and Khmer. Translation in Khmer must be submitted within six months from the date on which the request was filed.(iii) A claims correspondence tableThe Japanese patent must meet the Cambodian requirements for the patent

		protected matters.
5	Exclusions	<ul style="list-style-type: none"> Per Article 136 of the Cambodian Law on Patents, Utility Models and Industrial Designs, pharmaceutical products are excluded from patent protection. Cambodia currently benefits from the World Trade Organization waiver that allows Least Developed Countries (LDCs) to avoid granting and enforcing IP rights on pharmaceutical products until the end of 2033. This waiver would also apply to Chinese patents that provide protection for pharmaceutical products, for which validation is sought in Cambodia.
6	Flowchart for validation	<p style="text-align: center;">Filing and Granting Patent before JPO* and MISTI**</p> <p style="text-align: right;"><small>KENFOX IP & Law Office info@kenfoxlaw.com</small></p> <pre> graph TD A[Filing Application in Japan] -- Claiming Priority --> C[Filing Application in Cambodia] B[Japanese Patent Granted] --> D[Requesting Acceleration under CPG***] D --> E[Cambodian Patent Granted] </pre> <p><small>*JPO means Japan Patent Office ** MISTI means the Ministry of Industry, Science, Technology and Innovation (formerly the Ministry of Industry and Handicraft) ***CPG means the Joint Statement of Intent on Cooperation for Facilitating Patent Grant of Cambodia-related patent application</small></p>
7	Others	<ul style="list-style-type: none"> Any person of any nationality who possesses a Japanese patent granted by JPO can file the corresponding patent application with MISTI and request for accelerated granting of a Cambodian patent under CPG. The acceleration under CPG must be based on one of the following scenarios: <ul style="list-style-type: none"> A Cambodian patent application acting as a basis for claiming priority under the Paris Convention of a counterpart JPO application, including PCT applications that entered the national phase; A common PCT international application having no priority claim on which a counterpart JPO application and a Cambodian application are based. A Cambodian patent application based on the same application for priority under the Paris Convention as a counterpart JPO application, including a PCT application that entered the national phase; A Cambodian patent application claiming priority under the Paris Convention based on a counterpart JPO patent application.