

## Examination Of A Patent Application In Laos

An application for a patent or petit patent filed with DIP shall be subject to 2 phases of examination, i.e. formality and substantive examination.

### 1. Formality Examination of Patent Application In Laos /Formality Office Action:

It takes 60 (sixty) days for the Department of Intellectual Property of Laos (DIP) to complete a formality examination of a patent application in Laos. In the course of formality examination, DIP's examiner shall examine the completeness, accuracy and conformity with requirements as set forth in Article 31 of the Law on Intellectual Property. In case that the patent application is in conformity with the preliminary examination requirements, DIP shall publish the application in the official gazette for registration of industrial property, meaning that, no Notice of Formality Acceptance is issued. Per Article 12 of Decision No. 1714/MOST, the publication of a patent application in Laos will be made in the 19<sup>th</sup> (nineteenth) month from the date of filing or date of priority.

If the patent application is incomplete, incorrect, or not in accordance with the requirements set forth, DIP shall notify the applicant to provide documents or correct the application to meet the requirements within 60 (sixty) days from the date of notification. In case that the applicant cannot provide or correct the application within the given time limit, DIP shall notify the applicant that the application has not been considered and that the application shall be deemed abandoned.

### 2. Substantive Examination of Patent Application In Laos /Substantive Office Action:

After the formality examination, DIP will conduct a substantive examination of the patent application to determine whether it meets the requirements for patentability. The substantive examination for patents and petty patents is based on a search of existing technical knowledge.

In the case where the patent application had previously been subject to a search or examination by another authority (*in another country*), the applicant can submit a copy of that report and request that it be accepted in lieu of conducting a search in Laos.

If there are no previous examination reports (*or the applicant is otherwise unable to provide such report*), the applicant must request DIP to examine the application as to its substance. Notably, MOST is required by law to undertake this examination within 32 months for an invention (*patent*) and 12 months for a utility innovation (*petty patent*) from the filing date of the application or the priority date (*if priority is claimed*). All of DIP's expenses to examine the invention or utility innovation are charged to the applicant.

After consideration and examination of the registration for a patent and/or petty patent application in Laos, if it is considered to meet the requirements provided by the Lao's IP Law, DIP will issue a patent and/or petty patent.

Substantive examination report from foreign patent office or international IP Office on patent examination shall provide the following information:

- ✓ Be relevant to the invention or the utility innovation filed in Laos;
- ✓ Specify complete information on the search and examination;
- ✓ Specify information on approval or refusal of claims, partly or wholly, and which aspects meet or do not meet the requirements of patentability.

In the event that the applicant for patent or petty patent rights provide patent examination report that has been approved and issued with a certificate by the foreign patent office or international IP Office on patent examination, he must submit the copy of communication and modification (*if any*) that he received during the examination as well as the final decision along with reasons.

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

DIP shall issue a notification by specifying the reasons for refusal of the application if it is found that the application does not meet the requirements of patentability. The applicant is entitled to modify the application according to Article 24 and 27 of Decision No. 1714/MOST within 60 (sixty) days from the date of notification. If the applicant is unable to provide information or response within the given time limit, the application shall be deemed to be abandoned.

In the event that the applicant for patent or petty patent rights has provided information and responded, yet DIP has considered that the informative document or explanation provided does not meet the requirements of patentability, it shall make final rejection to the application and notify the applicant. DIP can provide an extension of thirty days, from the expiry date of the first notification if there is sufficient justification.

### 3. Amending A Patent Application in Laos

It is statutorily possible to modify a patent application in Laos at any time during the period where the patent application is examined; however, it shall be done before approval, abandonment, final refusal or termination of the consideration of the application.

The modification must not present new technical information that has not been provided in the original application. New technical information is defined as "*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.

### 4. Dividing A Patent Application in Laos

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

Each divided application shall refer to the original application by identifying the number and filing date of the original application.

The original application shall be modified but not beyond the scope of substantive disclosure before the division. The divided application shall be submitted along with the modified original application. Each divided application is entitled to obtain the date of filing based on the original application and shall pay the relevant official fees and service charges.

Divided application can be modified from the application for a patent to the application for a petty patent or vice versa. The application that has modified the type of protection is entitled to obtain the date of filing or priority date (*if any*). In the event that the application has been changed from a patent to petty patent.

The paid fees and service charges will not be refundable. For changing from application for a petty patent to the application for a patent shall have to pay additional fees and service charges the same as the fees and service charges of a general application for a patent.

**KENFOX IP & LAW OFFICE**, one of the professional IP service providers with the strongest and fastest growth in patent services, offers a comprehensive range of IP services in Vietnam, Laos, Cambodia, Myanmar, and other Asian nations. KENFOX entered the list of the top ten patent filing companies at IP Vietnam in 2019. In 2020 and 2021, KENFOX ranked among Vietnam's top 20 patent filing firms. KENFOX is proud to be consistently voted "Boutique Trademark Law Firm of the Year in Vietnam" by major international organizations in 2021-2022 by Global Law Experts and "Laos IP Firm of the Year for the 2021 Asia IP Awards" by Asia IP.

Contact KENFOX IP & Law Office immediately if you need a professional intellectual property services firm to assist you in developing your business in the proper direction.

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