

## How is an industrial design application examined in Laos?

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

### *Formality Examination and Publication*

**Within sixty (60) days** since the date of receiving the application for an industrial design, DIP shall conduct a formality examination of the application regarding the completeness, accuracy and conformity with prescribed requirements.

In case that the 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 sixty (60) 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.

In case that the application is in conformity with the preliminary examination requirements, the application will be accepted for substantive examination. DIP shall publish the application in the official gazette for registration of industrial property **within fifteen (15) days** after completing the formality examination of the application.

### *Substantive Examination:*

An application for an industrial design registration that has satisfied formal requirements shall be subject to substantive examination in Laos, without request by the applicant and without the necessity to furnish copies of examination from another office, to determine whether the application meets the requirements for protection set forth in the Intellectual Property Law.

The substantive examination shall be undertaken with a basis on the database of DIP and international database according to Article 40 (*Substantive Examination of Industrial Property Applications*) and Article 41 (*Claim to Carry out Substantive Examination of Industrial Property Applications*) of Lao IP Law to determine whether the industrial design meets the requirements of patentability under Article 15 of the law and do not fall within the ineligible subject matters under Article 22 (*Exclusions from Registration*) of the law.

The procedure of substantive examination shall be taken in accordance with the following conditions:

Substantive examination shall include a search to identify any earlier industrial designs or other disclosures that may create a bar to the grant of an industrial design pursuant to Article 15 of the Intellectual Property Law. Substantive examination for novelty shall be based on a comprehensive search of information that is already known. In determining whether an industrial design is new, DIP shall compare the industrial design that is the subject of the application with available information from industrial design registrations in the Lao PDR and abroad and with other information that is publicly available.

(i) where all the prescribed requirements of the application are fulfilled upon completion of the application's substantive examination, DIP shall register the industrial design, enter the registration in the registrar and publish the registration on the official industrial property gazette.

(ii) where the application file does not meet the requirements for a registration, DIP shall prepare a written report identifying any grounds for refusal of the application, any objections to registration, and any conditions or restrictions thereon. DIP shall promptly provide this report to the applicant, who shall have an opportunity to respond to such objections and, if desired, to amend the application under the law.

The time for responding to any communication from DIP is **60 days** from the issuing date of such communication unless otherwise provided. DIP may extend the deadline for an additional 30 days from the end date of the first notification, upon sufficient justification. If an applicant fails to respond satisfactorily to any requirement or ground for refusal within the stated time for action, DIP will take final action on the application 90 days from the date of the requirement or other communication unless the applicant files an appeal within this period. DIP shall refuse the industrial design registration application as a finality and inform the industrial design registration applicant when it is found that information, documents or the explanation provided do not meet the requirements for registration.

Lao IP Law also retains special discretion to refuse an industrial design application for registration where it is considered that the commercial exploitation of the design patent shall adversely impact on the culture and fine traditions of Lao PDR or where it is necessary for the protection of essential security and peace interests of Lao PDR. A design will be regarded to be contrary to social order and the fine traditions of the nation where it consists of, comprises, or includes material that is scandalous or obscene or otherwise offensive, where it includes disparaging material, or where publication of the design would constitute a violation of the national law.

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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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