

How to use US patents to expedite Cambodian patent examination: A step-by-step guide

The process of patent examination can be complex, time-consuming, and often leads to unpredictable outcomes. In order to provide greater predictability and streamline the process, Cambodia has implemented programs to expedite the examination of patent applications. These programs are the result of bilateral agreements between Cambodia and foreign countries, including the latest agreement with the United States on October 23, 2020. Under this agreement, Cambodian patent applications can be accelerated by relying on US patents during examination. Similar agreements with [China](#), [Singapore](#), [Korea](#), [Japan](#), and [Europe](#) have also allowed foreign patent owners to efficiently extend their patent rights to Cambodia.

This move highlights Cambodia's commitment to promoting innovation and attracting foreign investment by creating a more favorable environment for intellectual property protection.

What is the legal framework for accelerating patent examination in Cambodia based on US granted patents?

The legal basis for the acceleration of patent grant in Cambodia under the program with the United States Patent and Trademark Office ([USPTO](#)) is outlined in the "[Prakas \(Declaration\) on the Acceleration of Patent Grant in Cambodia](#)" document. This Declaration/Prakas was issued on March 29, 2021, and provides a framework for the process by which Cambodian patent applications may be accelerated based on granted US patents.

What are the requirements for a Cambodian patent application to qualify for acceleration based on a granted US patent?

If a Cambodian patent application meets one of the following conditions, the holder may request an expedited decision based on a granted US patent:

- The patent application validly claiming priority under the [Paris Convention](#) based on the corresponding US patent application;
- The patent application serves as the basis for validly claiming priority under the Paris Convention for the corresponding US patent application, including a PCT patent application that entered the national phase; or
- The patent application is based on the same patent application for claiming priority under the Paris Convention as the corresponding US patent application, including a PCT patent application that entered the national phase.

Does the patent still need to meet the subject matter criteria for Cambodian patents, even if it has been granted a US patent?

Although a US patent has been granted, the Cambodian patent still needs to meet the subject matter criteria for patentability under Cambodian law. This is because the criteria for patentability in Cambodia differs from that of the US. Therefore, even if a US patent has been granted, the Cambodian patent must still meet the requirements for patentability in Cambodia to be eligible for grant.

Furthermore, it is worth mentioning that Cambodia does not currently provide patent protection for pharmaceutical products. This means that even if a pharmaceutical product has been granted a US patent, it would not be eligible for patent grant in Cambodia under the acceleration program or any other means. This limitation should be considered by patent applicants who wish to take advantage of the patent acceleration program between the US and Cambodia.

What is the earliest filing date that US patents can take advantage of the acceleration program?

The acceleration program is only available for patents with filing dates after January 22, 2003, and cannot be applied retroactively to patents filed before this date. Additionally, it's worth mentioning that while US patents can take advantage of the acceleration program, the Cambodian Patent Office will still conduct its own examination to ensure that the patent meets the requirements for patentability under

Cambodian law. Therefore, the earliest filing date is only one factor to consider in determining eligibility for the acceleration program.

What requirements must be met to request acceleration?

In addition to the requirements mentioned, to request acceleration, the request for acceleration must also be made in writing and submitted to the Cambodian IP Office. The request should include a copy of the granted US patent, a certified translation of the claims of the US patent, and an indication of which claims of the Cambodian patent correspond to the claims of the US patent. The request must also be made before the examination of the Cambodian patent application has begun.

The applicant must have a granted US registration with an earliest filing date the same as the Cambodian patent and a granted US patent. Additionally, there must be claims in the Cambodian patent that are the same as one or more of the US patent.

What are required documents for the request for acceleration?

The request for acceleration must include the following:

- A copy of the patent gazette in the corresponding US patent application, and its certification by the USPTO;
- Translation of claims and specification described in the patent gazette in Khmer. The applicant shall provide the translation of the specification within one month from the date on which the request was filed;
- Claims correspondence table between all the claims in the Cambodian application and those in the US patent that were deemed patentable.

According to the implementing declaration, the request for acceleration is not subject to any additional fees.

The bottom line

In conclusion, the bilateral agreement between Cambodia and the United States to accelerate the examination of patents filed in Cambodia based on US granted patents marks a significant step towards streamlining the patent application process and providing greater predictability for applicants. This agreement opens up new avenues for patent applicants seeking to extend their patent rights to Cambodia and also enhances bilateral cooperation in intellectual property rights between the two countries. By leveraging US patents as a basis for examination, Cambodia has taken a major step towards enhancing its intellectual property regime and attracting more foreign investment in Cambodia.

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