

A Guide to Patent Surrender and Revocation in Myanmar

The realm of intellectual property is a crucial aspect of modern economies, providing inventors and creators with protection and incentives to continue their innovative endeavors. Patents, in particular, grant inventors exclusive rights to their creations for a specified period, enabling them to control and profit from their innovations. However, there are instances when patentees may choose to surrender their patents voluntarily, or when circumstances arise that necessitate the revocation of a patent. In Myanmar, the legal framework governing the surrender and revocation of patents is outlined in a series of provisions.

1. Voluntary Surrender of Patent Rights

Patentees in Myanmar hold the authority to voluntarily surrender their patents to the Registrar, reflecting their independent decision-making. This option allows patent holders to release their patent rights if they deem it suitable for their circumstances.

a. Surrender by Individual Patentees: An individual patentee can choose to surrender their patent at their own discretion.

b. Surrender by Joint Patentees: In instances where a patent is jointly owned by multiple parties, and an agreement is not reached through alternative means, the joint patentees can unanimously opt to surrender the patent to the Registrar.

2. Registrar Examination and Public Announcement

Once the decision for patent surrender is made, the Registrar is responsible for conducting a thorough examination of the surrender application. Upon successful examination, the surrender is officially recorded in the registration records. Additionally, the Registrar makes a public announcement according to established procedures.

3. Grounds for Patent Revocation

Under specific circumstances outlined in the Myanmar patent law, an individual or legally formed organization has the right to request the revocation of all or part of a patent. Such circumstances include:

a. Non-Fulfillment of Patent Eligibility Requirements: If it is determined that the invention does not meet the patent eligibility criteria as defined in sections 13 (Inventions Eligible for Protection) and 14 (Inventions Ineligible for Protection), an application for revocation may be submitted to the Registrar.

b. Evidence of Ineligibility: In cases where sufficient evidence emerges indicating that the patentee is ineligible to acquire a patent, a relevant individual or legally formed organization can apply for patent revocation.

c. Amendments Beyond Original Application: If amendments made to the patent application exceed the scope of the originally requested descriptions, which have been publicly disclosed, the patent may be subject to revocation.

d. Obtained through Fraud or Misrepresentation: If it is established that the patent was secured through fraudulent means, misrepresentation, or omission of essential information, an application for revocation can be pursued.

e. Clandestine Use Before Priority Date: Revocation can be sought if it is uncovered that the invention was secretly utilized in the patent request before the rightful priority date.

f. Failure to Comply with Registrar's Information Requests: When a patent applicant fails to provide required information or inaccurately describes information to the Registrar, the patent may be at risk of revocation.

g. Court Decision for Revocation: The receipt of a final decision or judgment from the Intellectual Property Rights Court regarding an application to revoke the patent is a valid ground for initiating the revocation process.

4. Patent Cancellation from Registration Records

The Registrar possesses the authority to cancel a patent or patent application from the registration records if any of the following conditions are met:

a. Violation of Confidentiality Order or International Filings: If an applicant breaches the confidentiality order stipulated in subsection (a) of section 42 or submits a patent application in another country in violation of subsection (c) of section 42, the patent or application may be canceled.

b. Failure to Pay Annual Fees: Non-payment of annual fees, as outlined in subsection (b) of section 49, can lead to the nullification of the patent.

c. Non-Compliance with Gene and Biological Resource Descriptions: Inventions involving genes, biological resources, or traditional knowledge must adhere to the description requirements specified in item (7) of subsection (b) of section 20. Failure to do so accurately may result in patent cancellation.

5. Registrar's Record and Public Announcement

Following the revocation of patents, the Registrar is mandated to document these actions in the registration records. Furthermore, the relevant patentee is informed of the revocation, and the public is notified through an announcement made in accordance with established procedures.

Final thoughts

Myanmar's provisions on the surrender and revocation of patents form a critical part of its intellectual property framework. These provisions empower patentees to make informed decisions about their intellectual property rights and ensure that the patent system maintains its integrity. By allowing for voluntary surrender and providing mechanisms for revocation under specific circumstances, Myanmar's patent laws strike a balance between encouraging innovation and safeguarding against abuse. As the realm of technology and innovation continues to evolve, the careful implementation of these provisions will play a pivotal role in shaping the country's intellectual property landscape.

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