Patent registration in Laos – 6 critical considerations

Introduction

Recently, the Department of Intellectual Property of Laos (**DIP**) granted the patent application titled "Printing apparatus and method thereof" filed by the Thai patent holder under the advice and representation of KENFOX IP & Law Office, with the following details:

Patent: Printing device and method thereof
Application date: February 5, 2016
Application No.: 23
Registration: August 1, 2022
Holder: MR. SUWATCHAI PROMBUT
Address: 36 Soi Nakniwat 21 Yak 2-1, Nakniwat Road, Ladprao, Ladprao, Bangkok, Thailand.

Six critical considerations when registering a patent in Laos

1. Rights and interests for patent owners in Laos

A monopoly granted by a patent is a territorial right, which means that an invention is only protected inside the territory of the country or region where it was registered and protected. In other words, if you did not receive a valid patent in Laos, your invention is not protected in this country. Therefore, your invention can be manufactured, used, imported, and sold by anybody in Laos.

Patents in Laos allow their owners the potential to recoup their investment by granting them the exclusive right to use and commercialize their invention in order to gain a significant competitive advantage. In addition, patent registration in Laos enables your company to transfer the right to utilize the invention to Lao enterprises, establish contacts with human resource suppliers, and get market access through collaborations with other businesses.

Consumers frequently view patented products to have greater use and functionality than unpatented products. Consequently, the unique technical solution is an essential instrument for establishing the business's image in the minds of present and prospective clients and for assessing its market position. When a dispute arises in Laos, you can utilize the Patent granted by the Intellectual Property Office of Laos to request administrative, civil, or criminal intervention from the Lao authorities (Article 148 of Lao IP Law No. 38/NA).

In a broader sense, registering your patents abroad will allow your business to enjoy exclusive rights to the patents protected in those countries.

2. It is necessary to determine the protection mechanism in accordance with the patent law in Laos

In Laos, there exist two types of Patents, (i) **Patents** and (ii) **Petty Patents**. Patents are granted for inventions while Petty Patents are granted for utility innovation. A patent is an official certificate issued by Laos DIP to protect new, innovative and industrially applicable inventions, while a Petty Patent is the official Certificate issued by Laos DIP to protect a utility innovation derived from technical improvements and involves simpler techniques than an invention in order to improve products or a new production method.

The biggest difference between **Invention** and **Utility innovation** in Laos is the condition of protection. Protection conditions for innovation are set at a higher and stricter level than for utility innovation. The most prominent is related to the requirement of “novelty”. An invention meets the novelty requirement if it has not been created, has not been made publicly released in any way, anywhere in the world prior to filing. Meanwhile, as long as it has not been known or applied in Laos for 1 year before the application is filed, a utility innovation can already meet the novelty requirement to be protected as a “Petty Patent”. In addition, the criteria for evaluating the inventiveness of an invention are also set higher than that of a utility innovation, specifically, if the technical solution is more advanced and complex, it will be considered for protection under the name of an invention, whereas if it is simpler, it will be considered for protection under the name of a utility innovation.

The protection term is the second distinction you must take note of. When an invention/utility innovation satisfies the conditions of protection in Laos and is granted a protection title in Laos, it is protected for 20 years for the invention and 10 years for the utility innovation from the date of application, provided that the renewal fee and maintenance fee are paid on time and no petition for termination or invalidation has been granted.

3. Distinct content examination mechanism in Laos

After filing a patent application in Laos, the application's formality and substance will be examined. Laos has two systems for conducting substantive examinations of inventions.

The first mechanism requires you to present the results of a search/substantive examination conducted by a foreign IP office and make a request with the Laos DIP that it not conduct any additional searches.

The second mechanism is to request that Laos DIP perform the substantive examination on its own. In accordance with the second mechanism, upon receipt of your request, the Laos DIP will coordinate with a foreign intellectual property office or an international organization to conduct a substnative examination within 32 months for inventions and 12 months for utility innovations from the filing date or priority date, respectively. You are responsible for covering all examination-related expenses.

4. Accelerating patent examination to grant patents in Laos

In Laos, obtaining a patent after filing a patent application, undergoing formality and substantive inspection, and receiving notice of fee payment is a lengthy process. Thus, the proprietor will have to wait a considerable amount of time, and it is difficult to obtain patent protection in Laos and reap its benefits.
Laos has not established a systematic procedure to expedite the examination of patent applications. However, the following three solutions help expedite the patent review process in Laos:

<i> Solution1: Submit a report on search results/substantive examination from foreign patent offices.

<ii> Solution 2: Use the patent examination results from the ASEAN Patent Examination Cooperation Program (ASPEC), thus, the patent examination results from the members participating in the Patent Examination Cooperation Program institutions, of which Laos is also a member, including (Brunei, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam) can be submitted to Laos DIP to accelerate the patent examination.

The ASEAN Patent Examination Cooperation Program (ASPEC) is a patent examination work-sharing program including nine of the ten offices in the ASEAN region (excluding Myanmar). ASPEC aims to minimize complexity, save time, and enhance the search and examination processes. The examination results of a foreign IP office can help the examiner of a member state better comprehend the patent, decrease search time, and establish a more thorough examination approach. For example, once the substantive examination results are available, a patent application filed in Malaysia can be submitted to the Laos DIP to expedite the substantive examination and grant of patents in Laos.

<iii> Solution 3: Accelerated examination through the intellectual property cooperation mechanism: This mechanism is only applicable to patent applicants from **China**, **Singapore**, and **Japan**, as these nations have concluded patent agreements with Laos.

5. Translation of the invention specification n into Lao language

The patent application must be translated into Lao before it can be registered for patent protection in Laos. Numerous patent applications have been rejected for this reason, as the translation of the specification does not meet the standards of Lao law. The patent specification is considered the most crucial document of a patent application because the applicant's specification determines the scope of protection for the invention. In the event of a dispute, inaccurate or insufficient translation of an invention specification may render the patent unenforceable against infringement.

Currently, when Laos DIP grants a patent, the English and Laotian specifications are not returned to the patent owner. This can make it hard to determine whether a Lao or English specification will serve as the official document for reviewing patent disputes in Laos. The Lao IP Law and other Lao IP-related legislation do not provide regulations on this issue.

6. It is recommended to use a professional patent protection service provider in Laos

Preparing a patent application and pursuing it until it is granted is a challenging task. Each nation establishes its own patent protection regulations. In addition to well-prepared documents for filing a patent application, patent registration requires interaction with the Laos DIP, particularly during the substantive examination of patent applications, and the submission of any necessary amendments to the patent application at the request of the Laos DIP. Therefore, you should use a professional Laos patent protection service provider in order to

protect your invention efficiently in Laos. Intellectual property attorneys in Laos that are familiar with patent regulations will assist you in ensuring that your application satisfies all regulatory standards so that it undergoes the examination process without issue. In the event that your patent rights are violated, intellectual property attorneys in Laos will assist you in analyzing the infringements, guiding and advising you on strategies and approaches to resolve and handle such violations through out-of-court measures in a timely, efficient, and cost-effective manner.

***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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