WIPO-ASEAN SUB-REGIONAL FORUM ON PROMOTION OF INNOVATION

Current Status and Future Prospects on Patent of the Kingdom of Cambodia

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1. Current status of Patent

1.1. National Patent System

Law on Patent, Utility Model Certificates and Industrial Designs.
- Technical Assistance in drafting the Law by WIPO
- Adopted by National Assembly on November 28, 2003
- Ratified by Senate on January 22, 2004
- Promulgated by the King on January 22, 2004
- 9 Chapters, 137 Articles

### 1.1 National Patent System (cont.)

#### Aim of the Law (Art. 1)

Provides protection for the patented invention and certificated utility model and for registered industrial designs in the Kingdom of Cambodia.

#### Objective of the Law (Art. 2)

- to encourage innovation, scientific and technological research and development,
- to stimulate and promote internal and external commerce and investment,
- to promote the transfer of technology to the country in order to facilitate industrial activity and the development of the economy.
- to provide protection for industrial property rights and to combat the infringement thereof, as well as illegal business practices.

### 1.1 National Patent System (cont.)

#### What’s Patent and utility model mean? (Art. 3)

*Patent* and *utility model* means the title granted to protect an invention.

#### What’s invention means?

*Invention* means an idea of an inventor, which permits in practice the solution to a specific problem in the field of technology.

An invention maybe, or may relate to, a *product* or *process*. 
An invention is patentable if it: (Art. 5)
- is new
- involves an inventive step; and
- is industrially applicable

An utility model is certificated (granted) if it: (Art. 69)
- is new
- is industrially applicable
Exclusion from patent protection
The following inventions, shall be excluded from patent protection. (Art. 4)
- discoveries, scientific theories and mathematical methods;
- Schemes, rules or method for doing business, performing purely mental acts or playing games;
- Methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practiced on the human or animal body. This provision shall not apply to products for use in any of those methods.
- Pharmaceutical products. (Art. 136)
- Plants and animals other than microorganisms, and essentially biological processes for the protection of plants or animals.
- Plants varieties.

Pharmaceutical product is not patented. (Art. 136)
The pharmaceutical products mentioned in Art. 4 shall be excluded from patent protection until January 01, 2016, according to the Declaration on Agreement on Trade Related Aspects of Intellectual Property Rights and Public Health of the Ministerial Conference of World Trade Organization dated on November 14, 2001 in Doha of Qatar.
Exclusion from patent protection (Art. 9)

The inventions, the commercial exploitation in the Kingdom of Cambodia of which would be contrary to public order or morality, or would not be protected human, animal or plant life or health, or would cause serious prejudice to the environment, or prohibited by Law.

Duration of protection for patent: (Art. 45)

A patent shall be valid for a period of 20 years after the filling date of the application.

Duration of protection for utility model: (Art. 73)

A utility model certificate shall valid, without any possible of renewal, in the period of the 7 years from the date of filling of the application.
1.2. Implementation of the Law

The grant procedure for Patent and Utility Model

- Filling Application
- Formality check
- Searching examination
  - Notification of amendment
    - Amendment
    - No amendment
    - Decision of refusal
- Publication or grant
- Substantive examination
- Decision to Grant
- Grant Patent/Utility Model
- Publication

1.2. Implementation of the Law (cont.)

Patent Application

A- Statistic of Patent application

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<tr>
<th>Year</th>
<th>Foreign application</th>
<th>Domestic application</th>
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<td>2008</td>
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<tr>
<td>2009</td>
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<table>
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<th>Chemistry</th>
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<td>27</td>
<td>44</td>
</tr>
<tr>
<td>8 (pharmaceutical)</td>
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</table>
1.2. Implementation of the Law (cont.)

Examination

1- Application with priory claims
   - Countries are members of Paris convention or WTO
   - Search report from priority countries

2- Application with no priority claim
   - Applicant has to request for examination
   - Patent Office doesn’t examine, the application send to WIPO for examination

1.2. Dissemination of patent system and patent information (cont.)

- Department of Industrial Property hold seminar on Industrial Property and Management of New Creativity and Innovative Center on May 5-6, 2009
- Seminar on Patent Information on July 30, 2010
- Seminar on Important of Using Industrial Property System for Promoting development of SMEs on June 7, 2010
- Seminar on Patent Information on May 27, 2010
1.3. Challenges

- Knowledge of Examiners are still limited
- No Patent Attorney in order to assist inventor in drafting patent applications
- Dissemination of patent system still limited

2. Future prospects on Patent

- Staff need to be trained
- Examiner need to be trained on administration and examination
- Promotion of dissemination the patent system to the public
- Train layers for becoming a patent attorney
- Promotion of dissemination the patent information to the public
- Patent Office will do examination of application itself
- Patent application will be increased
Thank you for attention!