

Ministerial Regulations No. 27 (B.E. 2542)

Issued under the Patent Act B.E. 2522

By virtue of the power granted under Section 4, Section 53 paragraph one and Section 65 of the Patent Act B.E. 2522 and Section 65 decies of the Patent Act B.E. 2522 as amended by the Patent Act (No. 3) B.E. 2542, the Minister of Commerce issues the Ministerial Regulations as follows:

Clause 1

The following shall be repealed:

- (1) Ministerial Regulations No. 8 (B.E. 2529) issued under the Patent Act B.E. 2522;
- (2) Ministerial Regulations No. 18 (B.E. 2535) issued under the Patent Act B.E. 2522.

Clause 2

In applying for the surrender of a patent or any claim or claims, the patentee or the owner of the petty patent shall file an application in the form prescribed by the Director-General with the competent officer at the Department of Intellectual Property, Ministry of Commerce or send the application by a registered mail to the competent officer at any of the following places:

- (1) the Department of Intellectual Property, Ministry of Commerce;
- (2) any provincial commercial office or governmental office prescribed by the Director-General.

In filing the application under the first paragraph, if the patentee or the owner of the patent is not resident in Thailand, he shall appoint an agent registered with the Director-General to act for him by filing the power of attorney with the application in accordance with the following:

- (1) In the case where the appointment of the agent is done in a foreign country, the power of attorney shall be certified by an officer of the Thai embassy or consular office or head of the office attached to the Thai Ministry of Commerce in the country in which the person appointing the agent resides or any officer designated to act on behalf of the said officer, or certified by any person authorized by the law of the said country to certify signatures; or
- (2) In the case where the appointment is done in Thailand, a copy of the passport or certificate of temporary residence or other evidence to prove to the Director-General of the entry to Thailand at the time of the appointment of the agent shall be submitted.

Clause 3

In filing the application under Clause 2, if the patent or petty patent is jointly owned, the applicant shall file evidence showing the consent of all joint owners. If the patent has been licensed under Section 38, 45, 46, 47 or 47bis or the design patent under Sections 65 and 38 or the petty patent under Sections 65decies and 38, 45, 46, 47 or 47bis, the evidence showing the consent of the parties concerned shall be filed together with the application.

Clause 4

The application for the surrender of a patent or any claim or claims shall not be made in the following circumstances:

- (1) there is a lawsuit alleging that the patent or petty patent which is or of which a claim is proposed to be surrendered infringes a patent or petty patent of another person pending in the court;
- (2) there is a lawsuit requesting for the cancellation of the said patent or petty patent under Section 54, 64 or 65novies pending in the court.

Clause 5

In the course of examination of the application for the surrender of a patent, petty patent or claims, the competent officer may instruct the patentee, the owner of a petty patent, the joint owner of the patent or petty patent or his representative or any other person who has an interest to appear before him to answer any question or hand over to him any document or item within the prescribed period.

Clause 6

When the competent officer has examined the application filed under Clause 2, including the evidence filed or statements of the persons instructed to appear before him under Clause 5, if any, he shall submit his opinion to the Director-General.

Clause 7

When the application under Clause 2 has been approved by the Director-General, the competent officer shall record the said surrender in the register of patents or petty patents and notify the patentee or the owner of the petty patent of the decision, and shall publish the surrender of the patent, petty patent or claims in an open area at the Department of Intellectual Property, Ministry of Commerce for at least thirty days. If the application under Clause 2 is rejected by the Director-General, the competent officer shall notify the patentee of the rejection without delay.

Clause 8

Any document required to be submitted under these Regulations which is in a foreign language shall be accompanied by a Thai translation certified by the translator to be true.

Clause 9

The applications for the surrender of patents or claims filed before the entry into force of these Regulations shall be executed in accordance with these Regulations.

Given on September 24, 1999