

Kingdom of Cambodia
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Ministry of Industry and Handicraft

No.080 MIH / 2018

Phnom Penh, 27 March 2018

PRAKAS (DECLARATION)
ON THE RE-REGISTRATION OF CHINESE PATENT IN CAMBODIA

Senior Minister, Minister of Industry and Handicraft

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Royal Degree No. NS/RKT/0913/903 dated 24 September 2013 on the Appointment of the Royal Government of the Kingdom of Cambodia,
- Having seen Royal Degree No. NS/RKT/1213/1393 dated 21 December 2013 on the Revision and Supplement of the Composition of the Royal Government of Cambodia;
- Having seen Royal Kram No. 02/NS/94 dated 20 July 1994 promulgating the Law on the Organization and Functioning of the Council of the Ministers;
- Having seen Royal Kram No. NS/RKM/1213/018 dated 09 December 2013 promulgating the Law on Establishment of the Ministry of Industry and Handicraft;
- Having seen Royal Kram No. NS/RKM/0103/005 dated 23 January 2003 promulgating the Law on Patents, Utility Model Certificates and Industrial Designs;
- Having seen Royal Kram No. NS/RKM/1117/016 dated 24 November 2017 promulgating the Law Amendment of the Articles 37, 38, 109 and 136 of the Law on Patents, Utility Model Certificates and Industrial Designs;
- Having seen the Sub-Decree No. 575 ANKR.BK dated 24 December 2013 on the Organization and Functioning of the Ministry of Industry and Handicraft;
- Having seen the Memorandum of Understanding on Bilateral Cooperation in Intellectual Property between the Ministry of Industry and Handicrafts of the Kingdom of Cambodia and the State Intellectual Property Office of China dated 21 September 2017;
- Having seen the Prakas No. 451 MIH/2014 dated 28 May 2014 on the Organization and Functioning of the Department of Industry Property;
- Referring to the necessity of the Ministry of Industry and Handicraft.

HEREBY DECIDES

SECTION I

GENERAL PROVISIONS

Article 1._ Objectives

The objective of this declaration is to implement the re-registration of Chinese patents in Cambodia in accordance with the Law on Patents, Utility Model Certificates and Industrial Designs and Memorandum of Understanding on Bilateral Cooperation in Intellectual Property between the Ministry of Industry and Handicrafts of the Kingdom of Cambodia and the State Intellectual Property Office of China.

Article 2._ Purposes

The purposes of this declaration are:

- to determine the procedures for re-registration of Chinese patents in Cambodia;
- to determine the formalities to maintain validation of Chinese patents in Cambodia;
- to determine the mechanism for overseeing and managing Chinese patents re-registered in Cambodia;

Article 3._ Scope

The scope of this declaration covers the patents granted in China and request for re-registration of Chinese patent in Cambodia.

Article 4._ Terms

Terms used in this declaration shall be interpreted are as follows:

- Law on Patents refers to the Law on Patents, Utility Model Certificates and Industrial Designs which was promulgated by Royal Kram No. NS/RKM/0103/005 dated 22 January 2003 and the Law on Amendment on the Articles 37, 38, 109 and 136 of the Law on Patents, Utility Model Certificates and Industrial Designs promulgated by Royal Kram No. NS/RKM/1117/016 dated 24 November 2017.
- Granted of the Chinese patent which re-registration in Cambodia means granted of Chinese patent issued by the State Intellectual Property Office of China (SIPO) and request for re-registration in Cambodia.
- Minister means the Minister of the Ministry of Industry and Handicraft (HIM).
- Registrar means the director of Department of Industrial Property.
- Registration Department means the Department of Industrial Property.

SECTION II

PROCEDURES ON RE-REGISTRATION OF CHINESE PATENTS

Article 5._ Request Form and Re-Registration of Chinese Patent in Cambodia

A request form and re-registration of Chinese patent in Cambodia shall be made to the Department of Industrial Property of the Ministry of Industry and Handicrafts.

Article 6._ Request for Re-Registration of Chinese Patent in Cambodia

A request form for re-registration of Chinese patent in Cambodia shall be made on the form as attached annex 1 (RRCP) and the applicant shall fill in the following information.

- A. An applicant's name, address, nationality, and residence and shall be signed by each applicant;
- B. Where the applicant is represented by local agent, the request shall indicate and state the agent's name and address attached with the original power of attorney.
- C. The request form for re-registration of Chinese patent shall accompanied by:
 1. A copy of certificate of granted of Chinese patent certified by SIPO;
 2. A copy of specification of the granted Chinese patent certified by SIPO shall comprised:
 - Description
 - Claim
 - Abstract
 - Drawing (if available)
 3. Translation into Khmer language of the documents listed in C.2 of this article shall be submitted to the Registrar within six months from the filing date.
- D. The request shall subject to the payment of prescribed fee and transitional fines as determined in the joint Declaration on Public Service Fees between the Ministry of Industry and Handicraft and the Ministry of Economy and Finance.

Article 7._ Conditions for Re-Registration of Chinese Patent in Cambodia

A request shall meet the Article 8 of this Declaration and have the following:

1. Validity when filing the request for re-registration in Cambodia;
2. Filing date on or after 22 January 2003 and shall comply with the Articles 4 and 9 of the Law.

Article 8._ Numbering the Request for Re-Registration of Chinese Patent in Cambodia

The Registrar shall mark, on each document of the request, the actual date of receipt and application number consisting the letters "KH", slant "/", the letter "RRCP", slant "/", four-digit numbers of the year in which the request is received, slant "/" and five-digit numbers allotted in the sequential order in which the request form is received.

Article 9._ Examination on the Request Form

The examination shall be executed as following:

1. The Registrar shall examine whether the request fulfills the requirements or not;
2. Where any corrections are required, the Registrar shall invite the applicant to file the required corrections within two months from the date of notification.
3. Where the Registrar finds that the conditions are fulfilled, the Registrar shall register and grant the patent certificate to the applicant.
4. The registration number of Chinese patent shall consist letters "KH", slant "/", letters "GRRCP", slant "/", four-digit numbers of the year in which the documents are received, slant "/" and five-digit numbers allotted in the sequential order in which the patent is registered.

Article 10._ Filing Date of Re-Registration of Chinese Patent in Cambodia

The filing date and date of re-registration shall be executed as following:

1. The filing date of Chinese patent in Cambodia is the date in which the Registrar received all documents as indicated in C.1 and C.2 of the Article 6 and payment of prescribed fees as indicated in D of the Article 6.
2. The date of registration of Chinese patent in Cambodia is the same as registration date of Chinese patent in China.
3. The date of re-registration of Chinese patent in Cambodia is the date of patent certificate is granted in Cambodia.

Article 11._ Re-Registration of Chinese Patent in Cambodia

The Chinese patent re-registered in Cambodia shall be executed as following:

1. A granted Chinese patent which is re-registration in Cambodia shall comply the same patent granted by the Registrar in accordance with the Article 38 of Patent Law.
2. Date of re-registered of Chinese patent in Cambodia is the same date

Article 12._ Registration and Annual Fees

Registration and annual fees for Chinese patent in Cambodia shall be executed as following:

1. Filing fee of re-registration of Chinese patent in Cambodia shall be paid in accordance with the joint Declaration on Public Service Fees between the Ministry of Industry and Handicraft and the Ministry of Economy and Finance.
2. Annual fee for Chinese patent which is granted in Cambodia shall be paid in continual counts from the date of registration on the basis of the filing date of that patent.
3. Registration fee and annual fee for Chinese patent granted in Cambodia shall be paid within three months from the date of the request for payment.

Article 13._ Rights of Earlier Use of Chinese Patent in Cambodia

Rights of earlier use of the Chinese patent shall include:

1. The right to obtain from China's patent registration in Cambodia shall not apply to acts performed by any person who in good faith, was using the invention or was making effective and serious preparation for such use, having business before the filing date on which the patent is granted in the Kingdom of Cambodia in accordance with the Article 44 (D) of the Law.
2. Any person who was using the invention in good faith or was making effective and serious preparation for such use, having business in the Kingdom of Cambodia before the filing date of Chinese patent shall continue those activities, or wherever possible or to act, despite the registration of patent in the Kingdom of Cambodia in accordance with the Article 44(D) of the Law.
3. According to Article 13, user rights can be transferred or handled only with an enterprise or company, or part of an enterprise or company that has already used or has used the invention.

Article 14._ Termination of Patent Rights

1. Where the termination of Chinese patent due to the unpaid fees, the Chinese patent in Cambodia has no effect.
2. The termination of patent right shall enforce after receiving a notification from SIPO to the MIH about the expiration of Chinese patent after legal settlements were terminated.

3. Where any changes to the patent documents, including description, claim and abstract of the Chinese patent, SIPO shall notify the MIH.
4. Where any disputes, the legality of the Chinese patent registered in Cambodia must be the same as the Chinese patent after the legal settlement procedure is completed.

SECTION III

DISPUTE SETTLEMENT AND COOPERATION

Article 15._ Dispute Settlement

The Department of Industrial Property, General Department of Industry of the Ministry of Industry and Handicraft shall have competence to coordinate and settle any issues related to re-registration of Chinese patents in Cambodia. If the issues are not settled, a party can go to the competent court.

Article 16._ Cooperation

The Department of Industrial Property, General Department of Industry of the Ministry of Industry and Handicraft shall cooperate with the State Intellectual Property Office of China and concerned institutions for promoting the protection of Chinese patents in Cambodia.

SECTION IV

FINAL PROVISIONS

Article 17._ Abrogation

Any provisions which is contrary to this Declaration shall be abrogated.

Article 18._ Implementing Authorities

Chief of cabinet, general director, general inspector, director of institutions, director of center, director of the department of industry property, director of department of accounting and finance and all units under the Ministry of Industry and Handicraft and legal and natural persons shall implement this Declaration.

Article 19._ Entering into Force

This Declaration enters into force from the date of signing.

Senior Minister
Minister of the Ministry of Industry and Handicraft

[Seal and Signature]

Cham Prasidh

CC:

Translation by Abacus IP

- Cabinet of Prime Minister
- Council of Ministers
- Ministry of Economy and Finance
- Ministry of Commerce
- All ministries and concerned institutions
- Municipality- provincial
- As the Article
- Document - Achieve