

## Draft Amendment to the Patent Act Open for Public Hearing

Thailand's Department of Intellectual Property (“**DIP**”) recently published the latest draft of the bill to amendment to the Patent Act B.E. 2522 (the “**Bill**”) for public hearing and public consultation during 19<sup>th</sup> May 2017 to 1<sup>st</sup> June 2017 before the DIP revises the Bill and proposes it to the Cabinet.

The Bill as published by the DIP will add the provisions in relation to genetic resources (“**GRs**”) and traditional knowledge (“**TK**”) and impose disclosure requirement on an applicant who used GRs or TK in developing the innovation claimed in a patent application. An application is required to identify and disclose the source or origin of the GRs or TK used in the invention and submit evidence of prior informed consent and benefit-sharing when these GRs are used in developing the innovation claimed in a patent application.

Under the Bill, the scope of prior art for considering and examining the novelty requirement for a claimed invention in a patent application will be slightly but importantly changed. Currently, an invention which was widely known or used by others before the date of application for the patent is considered the prior art only when it was widely known or used by others in Thailand. In other words, Thailand has adopted the approach of “national novelty” for the prior use art. The Bill will amend the scope of prior use considered as prior art to be an invention which was widely known or used by others in Thailand or in a foreign country. This will change the prior use art to be under the approach of worldwide novelty.

The Bill will also address the problem of patent backlog and streamline the application and registration process. Under the Bill, the time period to file a request for a substantive examination after an application is published will be reduced from five years from the publication date to three years from the filing date.

The published Bill is not its final version to be purposed to the Cabinet for their approval. Once the Bill is approved by the Cabinet, we will update readers on its development in future issues of our newsletters.

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