

## *Business method patents for life insurance*

**I**deas, concepts, processes and solutions for designing new life insurance products are patentable business methods in other countries, so it is surprising that life insurance companies in Thailand can copy newly launched life insurance products.

Business methods are new methods of doing business and are common in many industries — especially in service businesses such as insurance, banking and finance, tax compliance and e-commerce.

Because business methods are invented to increase competitiveness, they are protectable to encourage creativity and promote growth. Patent protection of business methods seems the ideal means of protecting these intangible assets.

In the United States, ideas, concepts, processes or solutions (such as, for instance, underwriting and claim processing) for new life insurance products are considered patentable business methods if they possess novelty; non-obviousness or an inventive step; and industrial applicability. The inventor or group of inventors has the exclusive right to use the patented business method and is entitled to sell or license it for royalties.

For example, the Stewardship Annuity is a reversionary annuity in the US based on Patent #5,754,980 for a business method of providing for a future benefit conditioned on the life expectancies of both an insured individual and a beneficiary.

The inventive step of this method is the new concept of a premium that requires underwriting not only on the insured's life but also on the beneficiary's life.

Business methods are not invention-based tangible products like machines or pharmaceuticals. As a consequence, patent protection for business methods can be difficult in some countries, including Thailand.

Other factors in Thailand also impede patent protection of business methods. Currently, operators in the Thai life insurance industry are not offering innovative products (e.g. single premium, endowment, unit linked, universal life etc.) compared with those in the US and Europe.

Moreover, the Thai life insurance market remains relatively small. This may be partly because life insurance companies and/or professionals cannot identify the value or benefits of inventing ideas, concepts, processes or solutions to enable new types of life insurance product.

Access to details of new life insurance

products is not strictly controlled and life insurance companies in Thailand frequently launch similar products.

Before launch, a life insurance company must apply to register a product with the Office of Insurance Commission (OIC). This application process requires that all information concerning a new life insurance product be revealed. After OIC approval, all these details are publicly available and are accessible by other companies, which explains many of the similarities between products.

Furthermore, while the present Thai Patent Act does not explicitly state that business methods are not considered a patentable subject matter, it does not define business method.

Section 3 of the Act defines process as any method, art or process of producing, maintaining or improving the quality of a product, including the application of such process. Since life insurance ideas, concepts, processes or solutions are not invented to produce, maintain or improve the quality of a product, the issue of their patentability may be subject to debate.

Under current practice, the Patent Registrar and the Board of Patents have yet to develop guidelines for examining business method patents. When business method applications are filed, they are rejected based on Section 3, and the applicants are required to file an appeal against the rejection.

So far, no appeal decisions have been issued. It seems that none at all have been filed by the life insurance industry. Additionally, the Central Intellectual Property & International Trade Court has not yet rendered any judgments about business method patents.

The difficulty in patent protection of business methods in Thailand should be addressed and remedied, because this type of intellectual property protection cannot continue to be ignored.

More importantly, patent protection of business methods will encourage creativity of ideas, concepts, processes and solutions, including technical solutions to problems, and will guard against unfair trade practices among life insurance companies.

To support the growth of the industry, life insurance companies and relevant government agencies — i.e. the OIC and the Thai Patent Office — should work collaboratively on business method patents.

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