

THAILAND

PCT Becomes Effective in Thailand

IP practitioners in Thailand received an early Christmas gift from the World Intellectual Property Organization (WIPO) that they will be able to enjoy throughout 2010 and beyond – the Patent Cooperation Treaty (PCT) came into force in Thailand on Christmas Eve, December 24, 2009.

This long-awaited present delighted Thai patent owners and practitioners, as it fulfills several important needs. On December 24, 2009, a Thai inventor filed the first PCT application, while Tilleke & Gibbins was the first law firm to file an application on behalf of a client (the third PCT application filed overall).

Thailand's Department of Intellectual Property (DIP) officially opened the PCT Thailand Receiving Office on September 29, 2009, in a ceremony presided over by the Deputy Minister of Commerce, Alongkorn Ponlabout. Three officials have been assigned to be responsible for PCT applications, headed by Verasak Maiwatana. In order to ensure full understanding of the PCT system among all concerned industries, a seminar entitled "The PCT System for Worldwide Filing of Patent Applications," organized by the WIPO in cooperation with the DIP, was arranged in Bangkok on December 14-15, 2009. At this seminar, WIPO representatives provided informative and comprehensive details of the PCT system to the

attendees. In addition, the DIP has completed a ministerial regulation in relation to requesting protection of inventions under the PCT.

Procedures Under the PCT System

It is important to note that the PCT national phase filing will not be retroactive for PCT international applications which were filed before December 24, 2009. Therefore, only PCT applications that have been filed on or after December 24, 2009, can enter into national phase of the PCT in Thailand.

The time limit to enter into the national phase of the PCT in Thailand is 30 months from the earliest priority date. This term applies irrespective of whether a demand for international preliminary examination under Chapter II of the PCT has been filed. The official language for the national phase is Thai.

According to a DIP announcement, Thailand has specified six International Searching and Preliminary Examining Authorities as competent authorities for international applications filed by nationals and residents of Thailand, namely the Australian Patent Office, the European Patent Office, the Japanese Patent Office, the Korean Patent Office, the State Intellectual Property Office of the People's Republic of China, and the United States Patent and Trademark Office.

The Effect of the PCT

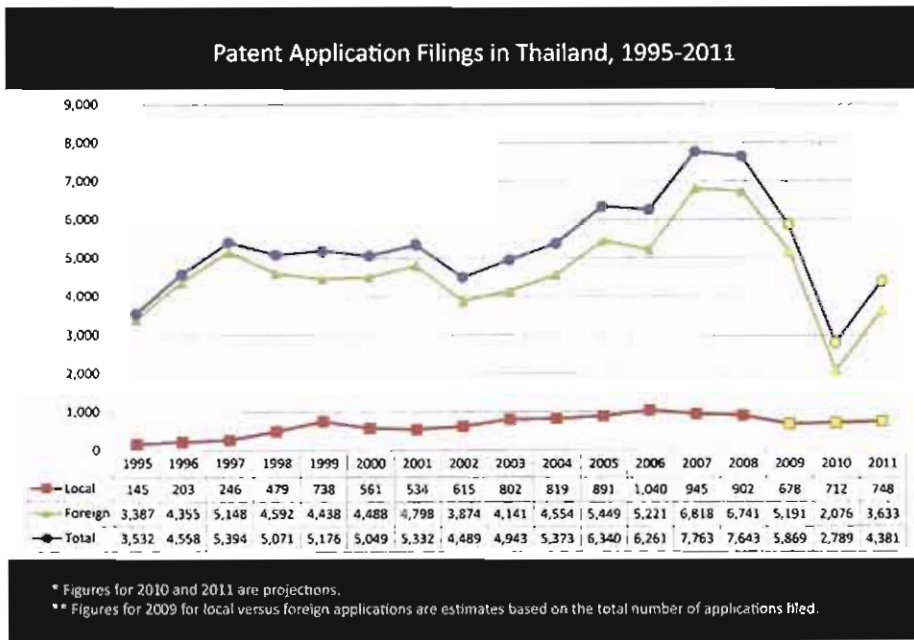
With the PCT now in place, it is worthwhile to examine the expected impact this will have on Thailand by way of comparison with other Asian countries



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that have implemented the PCT, such as India, Indonesia, Malaysia, and the Philippines. In the year after the effectiveness of the PCT in each of these countries, the number of new patent filings dropped by about 54% to 76%. Like these countries, Thailand is a receiving country, meaning that most of the patent applications are filed by foreigners. Therefore, it is expected that the number of new patent filings in Thailand will likely drop at the same rate – about 60% in 2010 and 30% in 2011. This is because patent owners can take advantage of the PCT system's 30-month period for the filing of national phase in Thailand, as compared to the old 12-month priority period. As a result, there will be an 18-month period during which the number of applications filed is substantially reduced. During this period, the DIP will take the opportunity to clear the current backlog of long-standing patent applications. Newly filed petty patents are targeted to be granted within six months from the filing date.

These changes should be good news and a memorable – and extremely useful – Christmas gift for IP practitioners and IP owners.



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