

## US Patent Holders are Benefiting from Cambodia's Patent Acceleration Program

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In March of 2022, the first patent filed under Cambodia – United-States-Accelerated-Grant-of-Patent-Applications program was granted, according to Cambodia's Ministry of Industry, Science, Technology & Innovation ("**MISTI**"). This successful registration is an encouraging development that should serve as a reminder to US patent holders to utilize this recently implemented patent re-registration program.

Over the past several years, MISTI has established a number of bilateral programs designed to expedite the issuance of patents and to promote patent filings in Cambodia. These initiatives include a program allowing for the expedited registration of patents granted by the Intellectual Property Office of Singapore and the China National Intellectual Property Administration, a mechanism for validating European patents according to an agreement with the European Patent Office, and a procedure for recognizing the examination results of corresponding patents granted by the Japan Patent Office and the Korean Intellectual Property Office.

The latest program, focusing on the acceleration of Cambodian patent applications based on granted US patents, was established through the signing of a Memorandum of Understanding between the United States Patent and Trademark Office ("**USPTO**") and MISTI, on October 21, 2020. Subsequently, in March of 2021, a *Prakas* (internal guideline) was issued to implement the program. According to the *Prakas*, three criteria must be fulfilled in order for a Cambodian patent application to be eligible for acceleration under this scheme, namely:

- There must be a US patent application that has the same earliest date (whether a priority date or a filing date) as the patent application that has been filed with MISTI;
- The corresponding US patent application must have been granted by the USPTO; and
- The claims in the Cambodian patent application must be the same as one or more claims in the corresponding US patent.

It is also important to note that the subject matter of the patent must be in accordance with the Cambodian Law on Patents, Utility Model Certificates and Industrial Designs and subsequent amendments thereof ("**Patent Law**"). Significantly, the Patent Law does not currently provide patent protection for pharmaceutical products. However, under what is known as the "mailbox system," a pharmaceutical invention patentee can submit an application for a pharmaceutical product patent now, and the application will be considered at the expiry of the Least Developed Countries (LDC) transition period under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In the case of Cambodia, such period is currently set until January 1, 2033.

Cambodian patent registration is still in its infancy, but is rapidly growing. It is expected that foreign patent holders will increasingly take advantage of Cambodia's various patent re-registration and examination programs in order to obtain patent protection in Cambodia.

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