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PATENTS ON DRUG PRODUCTS

COUNTRIES OF THE FAR EAST

Prepared by:

Members of the Far Eastern Law Division

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COMMUNIST CHINA
PATENTS ON DRUG PRODUCTS

Article 23 of the Regulations Governing the Awards for Inventions, issued and effective November 3, 1963, provides that all inventions belong to the State and no individual or organization is allowed to monopolize any invention.

Under this enactment, the inventor may get a monetary award from the government.

Prepared by:
Dr. Tao-tai Hsia
Chief, Far Eastern Law Division
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REPUBLIC OF CHINA
PATENTS ON DRUG PRODUCTS

Article 4 of the Patent Law, promulgated on May 29, 1944, and effective from January 1, 1949, states that the following are not patentable: 1) chemicals; . . . and 3) medicines and their concoctions; . . .

Prepared by:
Dr. Yao-tai Hsia
Chief, Far Eastern Law Division
Law Library
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JAPAN

PATENTS ON DRUG PRODUCTS

The word drugs is defined under Article 2, item (2) of the Pharmaceutical Affairs Law ^{1/} as follows:

Drugs in this Law shall mean the agents as mentioned in the following respective items:

- (2) Agents which are intended for use in diagnosis, medical treatment, or prevention of diseases in man or animal . . .

Under the Patent Law, ^{2/} patents on drug products to be used for human beings are not allowed, but such patents on drug products to be used for animals may be allowed. Article 32 of this Law provides:

A patent shall, notwithstanding the provisions of Article 29, not be granted in regard to the following inventions:

- (2) Any invention of a drug (meaning things to be used for diagnosis, cure, medical treatment or prevention of illness of human beings) or a process to manufacture a drug by compounding two or more drugs.

Under the above Article, it may be assumed that a drug for animal use on which a patent has been granted may be used for human beings. Referring to this situation, Mr. Mitsuishi states that "it may be construed that a person who has no patent on such a drug does not infringe upon another person's patent right even if he manufactures or sells it for the purpose of using it for human beings."³

^{1/} Law No. 145, Aug. 10, 1965.

^{2/} Law No. 121, Apr. 13, 1959, as amended by Law No. 148, 1964.

^{3/} Shirô Mitsuishi, Shin tokkyohô [New Patent Law], Tokyo: Nihon Keizai Shinbunsha, 1959, p. 306.

There exist no provisions allowing a patent on the method of treating patents with a drug or medical compound under the same law.

Prepared by:
Dr. Sung Yoon Cho
Far Eastern Law Division
Law Library
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KOREA

PATENTS ON DRUG PRODUCTS

In Korea neither drug products nor the method of treating patients with drugs is patentable under Article 4, paragraph 1, item (2) of the Patent Law ^{1/} which states:

The following inventions are not patentable:

(2) Drugs and processes for compounding them;

Prepared by:
Dr. Sung Yoon Cho
Far Eastern Law Division
Law Library
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^{1/} Law No. 950, Dec. 31, 1961, as amended by Law No. 1293, Mar. 5, 1963.

SOUTHEAST ASIA
PATENTS ON DRUG PRODUCTS

Burma

By special arrangement, the Indian Patents and Designs Acts of 1911 continue to operate in Burma.

Cambodia and Laos

By virtue of the Patent Decree of 1955 in Cambodia and the law of January 19, 1951, in Laos, the French law of 1844 is still in effect.

According to the law of July 5, 1844, no patent can be issued for drugs or for any method of treatment. The latter was regulated by a special law of August 18, 1810, by which the Government purchases the invention according to its merits.

Indonesia

As from November 1st 1953, applications for Indonesian letters patent may be lodged with the Department of Justice, in anticipation of the promulgation of the proposed new patent law. A Bill tending to the promulgation of a new Indonesian Patent Act was drawn up in 1955; but up till now ^{1/} the same was not yet passed by Parliament.

^{1/} Manual for the Handling of Applications for Patents, Designs and Trade Marks Throughout the World, Amsterdam Octrooibureau Los en Stigter (Indonesia, 1962).

Malaysia

The various States of the Federation have independent powers in respect of specific matters of internal administration. For the time being, the protection of industrial property (patents . . .) is still a matter of state law and no unified federal legislation has been passed with respect to this matter.

Malaya By virtue of the Patents Ordinance of 1951, the registration of United Kingdom patents only is possible.

Sarawak By virtue of the Patent Ordinance of 1922, the registration of United Kingdom patents only is possible.

Sabah By virtue of the Patents Ordinance of 1937, the registration of United Kingdom patents only is possible.

Singapore By virtue of the Patents Ordinance 1937-49, the registration of United Kingdom patents only is possible.

Thailand

There is no patent law in Thailand. Only foreign patents can be registered.

Republic of Vietnam

According to the Patent Law No. 12/57 of August 1, 1957, no patent can be issued for drugs products or for methods of treating a specific illness or symptom with a drug or medical compound.

Prepared by:
Miss Nguyen Nhu Dung and Miss Barbara A. Crowell
Far Eastern Law Division, Law Library
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