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Editorial

The patent application for antiviral medicine, Favipiravir, used to treat Covid-19 has been rejected in Thailand. On July 17, 2020, this application regarding a granulated powder tablet containing 6-fluoro-3-hydroxy-2-pyrazinecarboxamide was filed by Fujifilm Toyama Chemical. On May 5, 2021, it was rejected by Department of Intellectual Property (DIP) due to lack of inventive step according of Section 5(2) and 7 of Patent Act B.E. 2522 (1979). The DIP confirmed that the Applicant filed appeal of this Application number 1101001988 to the Patent Board on July 1, 2021. As a result, currently there is no monopolization on Favipiravir in Thailand and any producers could freely produce this medicine. However, this rejection order may not protect against future potential infringement action.

With the spiking record of approximately 20,000 new Covid-19 cases per day, demand for Favipiravir has increased with fears of shortage. The Government Pharmaceutical Organization (GPO) can produce only two to four million pills monthly, far short of the estimated 30 million needed. Therefore, under Thai Patent Act and TRIPS Agreement, the Public Health Ministry may issue a compulsory license on the drug to prevent a shortage and grant some royalty to the patent owner in return. This option might be the balanced solution for both patent owner and the public.

Amid the pandemic situation, an alternative drug to cope with the rising demand of Favipiravir is taking Thai traditional herb called “Fah Talai Jone”. The study found that the medicinal herb has high in andrographolide that can kill and inhibit the coronavirus disease. The further research and development on Thai traditional remedies, not only for “Fah Talai Jone” but including other herbs should be stimulated to benefit people and reduce dependence imports from foreign countries in the long run.

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1. First GI shop to open in July

(From Bangkok Post, Thailand, April 20, 2021)

Bangkok – The first geographical indication (GI) shop is scheduled to open in Bangkok this July to help sellers improve sales amid a sluggish downturn. The Intellectual Property Department is preparing to sign a memorandum of understanding (MoU) with MBK mall to set up the first GI shop. Last month, the department registered two more GI products and added them to a list of 136 products from 76 provinces. It reported Thailand has generated 36 billion baht in value since the government began promoting GI products. Thai products with GI labels are certified in more than 30 countries. The country also signed an MoU with China to protect intellectual property rights of GI products in both countries in a move to urge Beijing to register Thai GI products.

2. TCC urges govt to support local antiviral drug production

(From Bangkok Post, Thailand, April 29, 2021)

Bangkok – The Thailand Consumers Council (TCC) called on the government to support the Government Pharmaceutical Organization (GPO) make its own favipiravir – the antiviral medicine used as a treatment for Covid-19. But the Japanese pharmaceutical company Fujifilm Toyama Chemical recently filed to patent a preparation of the drug with the Department of Intellectual Property. As the patent contains no new innovation, the request should not be granted, the TCC said. Thailand has been importing favipiravir, mostly from Japan, since last year, at a cost of 125 baht per tablet. A Covid-19 patient will take between 40-70 tablet throughout the treatment cycle. GPO's managing director said they are producing favipiravir and conducting safety and efficacy trials. They also import two million tablets so there will be no shortages of medicines.

3. Time limit put on drug patent

(From Bangkok Post, Thailand, May 1, 2021)

Bangkok – Vuttikrai Leewiraphan, director-general of the Department of Intellectual Property, said the department can reject a Japanese firm's bid to patent favipiravir – the antiviral medicine, if it fails to provide information on its new innovation by August. Fujifilm Toyama Chemical filed to patent two preparations of the drug, in tablet and powder forms, which make the drug easier to consume. No patent claim was ever filed for favipiravir in Thailand, and the Government Pharmaceutical Organization (GPO) is developing its own favipiravir to boost the kingdom's supply amid rising demand for Covid-19 treatment and

reduce import dependence. If the drug is approved by the FDA, the GPO will proceed with production and it has purchased materials from China and India for mass production.

4. State hurries GI registration

(From Bangkok Post, Thailand, May 3, 2021)

Bangkok – Thailand is speeding up registration of geographical indication (GI) products in four countries to prevent foreign sellers from claiming they make the products and helping to increase Thai exports. Those applications have been sent to China, Japan, Vietnam and Malaysia. “Exports of Thai GI products are expected to increase by 5-10%, up from 1 billion baht last year,” said Prayoth Benyasut, deputy chief of the Intellectual Property Department. Sales of GI products are increasing and well known among customers. This has led the government to encourage many communities to develop product quality to increase their value. There are 137 indigenous products with GI registration in 76 provinces. The department plans for registration cover all 77 provinces this year.

5. U.S. will back proposal to waive intellectual property rights and boost Covid-19 vaccine production

www.statnews.com/pharmalot/2021/05/05/biden-covid19-vaccine-patent-rights/

May 5, 2021)

U.S. – The U.S. government agreed to support a controversial proposal to temporarily waive intellectual property rights for vaccines to increase global supplies. The proposal was introduced before the World Trade Organization by South Africa and India, would cover patents, industrial designs, copyrights, and trade secrets. A waiver would make it easier for countries that permit compulsory licensing to allow a manufacturer to export vaccines. More than 100 low-and middle-income countries pushed to find ways to expand and speed vaccine production. But existing exemptions in international trade law do not permit countries to easily reproduce vaccines or distribute them to other low-income countries that lack manufacturing capabilities.

6. DIP rejects bid to patent Covid treatment

(From Bangkok Post, Thailand, May 6, 2021)

Bangkok – The Department of Intellectual Property (DIP) has rejected a request to patent the anti-viral drug Favipiravir by a manufacturer. To patent the drug in its tablet form did not constitute an advanced invention under the 1979 Patent Act, the department said. “Nobody could claim exclusive rights to produce or sell Favipiravir in Thailand and both the Government Pharmaceutical Organization and any private company in Thailand were free to

produce it”, it added. The applicant can appeal the department’s decision within 60 days and if none is forthcoming the ruling will legally stand as final. Fujifilm Toyama Chemical recently filed to patent a preparation of the drug after a previous patent expired in 2019.

7. Biden backs IP job protection waiver

(From Bangkok Post, Thailand, May 7, 2021)

Bangkok – United States support for a proposal to waive intellectual property protections for Covid-19 vaccines. It will take part in negotiations for the text of waiver of the rights at the World Trade Organization and encourage other countries to back it. The move sent stocks involved in vaccine production in Asia lower and plunged in markets. Shares of Moderna, BioN-Tech and Novavax fell on the IP rights news. International Federation of Pharmaceutical Manufacturers and Manufacturers and Associations condemned the move as “disappointing.” “Waiving patents of Covid-19 vaccines will not increase production nor provide practical solutions needed to battle this global health crisis,” it added.

8. GPO cleared to make its own Favipiravir tablets

(From Bangkok Post, Thailand, May 7, 2021)

Thailand – The Department of Intellectual Property ruled that a manufacturer should not be allowed to patent the drug in its tablet form because it did not constitute an advanced invention under the 1979 Patent Act. This has cleared for the Government Pharmaceutical Organization (GPO) to produce one million tablets to boost the kingdom’s supply and reduce dependence on imports. More than 300,000 tablets made by the GPO have been used in trials which are expected to be completed in July before the formula can be registered with the Food and Drug Administration (FDA). The GPO has ordered the ingredients from four suppliers in India and China. It also working with the National Science and Technology Development Agency (NSTDA) and the national oil and gas conglomerate TPP in a research and development project to make the Favipiravir ingredients.

9. USTR puts Thailand on Watch List for IP protection, but praises govt efforts

(From <https://www.nationthailand.com/in-focus/40000667>, May 8, 2021)

Bangkok – The Office of the United States Trade Representative (USTR) published its annual report on the adequacy and effectiveness of US trading partners’ protection and enforcement of intellectual property rights. Thailand is among 23 countries on its Watch List, or countries that merit bilateral attention to address underlying IP problem. “USTR admired the Thai government for continued effort in protection of intellectual property and transparent communication between the government and the private sector overseas,” said the

Department of Intellectual Property of Thailand. Thailand also plans to enter the Hague Agreement Concerning the International Registration of Industrial designs and the World Intellectual Property Organization Copyright Treaty to improve the country's intellectual property system to an international level.

10. Value of FDI applications surges despite pandemic

(From Bangkok Post, Thailand, May 14, 2021)

Thailand – The Board of Investment (BoI) said net applications filed for FDI in the first quarter totaled 191 projects, down 17% from 231 year-on-year. However, investment value increased by 143% to 62 billion baht from 25.6 billion in the first quarter last year. FDI applications accounted for 48% of total investment application projects in the first quarter, while FDI investment value contributed 50% of total investment applications valued at 123 billion baht in the quarter. FDI applications were mainly in the electrical and electronics industry, making up 52 projects and 27% of total FDI applications, followed by metal products with 45 projects, and machinery and transport equipment at 24%. South Korean companies topped FDI applications with 10.5 billion baht for eight projects.