

Landmark Patent Judgments in Thailand

Thailand's judicial interpretation of patent law has evolved through a series of landmark decisions that shape how patentability, infringement, and enforcement are assessed under the Patent Act B.E. 2522 (1979). This article summarizes and analyzes the key judgments given by the Supreme Court and the Central Intellectual Property and International Trade Court (IPIT Court) in the past decade (2015 – 2024), offering insights into the application of Thai patent law.

1. Novelty and Prior Art

In *Supreme Court Judgment No. 9213/2557*, the Court invalidated Petty Patent No. 4343 for a “Fruit Wrapping Bag,” ruling that prior disclosures in foreign publications constituted prior art. This case is notable for expanding the interpretation of “novelty” under the Thai Patent Act to include publications, not only prior use within Thailand. Importantly, the Court placed a heavy evidentiary burden on challengers, requiring clear and traceable proof of prior disclosure. The judgment underscores the necessity of global novelty searches during patent prosecution in Thailand.

2. Inventive Step and Obviousness

In *Supreme Court Judgments Nos. 11753–11754/2557*, the Court invalidated a Thai patent on the grounds of lacking inventive step. The invention was deemed an obvious modification of prior art that a skilled person could easily derive. These rulings confirm that Thai courts apply a stringent “obviousness” test in line with international patent standards. They further reaffirm that foreign patents may serve as valid prior art in challenging Thai patent rights, emphasizing the need for genuine inventive advancement rather than superficial modifications.

3. Evidentiary Standards in Patent Infringement

In *Supreme Court Judgment No. 9253/2559*, the Court upheld the validity of a petty patent for a “wood chip shredder vehicle” and found infringement, awarding damages to the patent holder. This decision confirmed that petty patents, despite their narrower scope compared to invention patents, are enforceable when backed by solid documentation and credible evidence. That evidentiary standard was underscored in *Supreme Court Judgment No. 3878/2559*, where plaintiffs alleged infringement of a garbage compact truck patent but relied primarily on catalogs and prototype photographs. The Court dismissed the claim, stressing that indirect evidence is insufficient to establish infringement unless it clearly demonstrates that the accused product embodies the patent inventive features. Together, these rulings signal that while patent rights can be robustly enforced, infringement claims demand precise and persuasive proof. The Court has also clarified who may bring actions to challenge such rights. In *Supreme Court Judgment No. 67/2566*, it dismissed the Department of Land Transport’s petition to revoke two petty patents, ruling that the Department was not an “interested person” under Section 65 *novies* of the Patent

Act. Because it was not directly engaged in the commercial activities covered by the patents, the Department lacked the legal standing to seek revocation. This decision highlights that challenges to patent validity require demonstrable commercial or legal interest.

4. Design Patent Enforcement and Limitations

The protection of design patents has also been clarified through recent rulings. In *Supreme Court Judgment No. 7292/2559*, the Court ruled that the doctrine of equivalents does not extend to design patents. The claim was dismissed because the accused products differed in visual appearance, despite functional similarities. This judgment narrows the enforceability of design patents to visual similarity alone under Section 65 of the Patent Act.

Conversely, in *IPIT Court Judgment No. Tor Por 1/2560*, Honda successfully enforced five design patents for its Wave 100S motorcycle against Zongshen. The Court upheld the validity of Honda's designs and found infringement based on substantial visual resemblance, clarifying that novelty requires distinction from prior art but not global uniqueness. This case also underscores that design infringement in Thailand may attract both civil and criminal liability.

Conclusion

Taken together, these decisions reveal several critical trends in Thai patent and design jurisprudence. Thai courts continue to adopt international standards on novelty and inventive step while maintaining rigorous evidentiary thresholds for infringement actions. At the same time, design protection remains narrowly confined to visual similarity, but where proven, is robustly enforceable. Petty patents, often underestimated, have been affirmed as valuable rights when properly documented and defended. These cases provide important guidance for practitioners, reinforcing the need for thorough prior art searches, strategic prosecution, and careful evidentiary preparation in both patent and design litigation in Thailand.

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