

Rules for Intellectual Property and International Trade Cases, B.E. 2540 (1997)

Translation

By virtue of Section 30 of the Act for the Establishment of and Procedure for Intellectual Property and International Trade Court, B.E. 2539 (1996), the Chief Justice of the Central Intellectual Property and International Trade Court with the approval of the President of the Supreme Court, issues Rules for the proceedings and hearings of evidence applicable in the intellectual property and international trade courts and other courts which are empowered to conduct proceedings on behalf of the intellectual property and international trade courts, as follows:

Rule 1

These Rules shall be called "Rules for Intellectual Property and International Trade, B.E. 2540 (1997)"

Rule 2

These Rules shall come into force from the date following their publication in the Government Gazette.

**TITLE I
CIVIL CASES****Chapter 1
General Provisions****Rectification of Irregular or Erroneous Proceedings****Rule 3**

In order to ensure convenience, expediency and fairness of the proceedings, the Court may order the party who conducted an irregular or erroneous proceeding to rectify the same within the period and upon the conditions the Court deems appropriate, unless the irregular or erroneous proceeding was conducted willfully or negligently and caused disadvantage to the other party.

Proceedings According to Agreed Terms**Rule 4**

The parties may agree to file a motion with the Court asking it to conduct proceedings in accordance with their agreement. The Court may grant the motion if it deems appropriate so as to ensure convenience, expediency and fairness of the proceedings, unless the agreed proceedings are unlawful or contrary to public order or good moral.

Communication between Courts**Rule 5**

In order to ensure convenience, expediency and fairness of the proceedings, communication between the intellectual property and international trade court and another court may, in accordance with the rules and methods set forth by the court, be conveyed via facsimile, electronic mediums or other means of information technology medium, in

substitute for, or in conjunction with delivery by express mail, taking into account necessity, urgency and suitability to the nature of the matter to be communicated, as well as the amount and type of documents or materials involved.

Chapter 2 Proceedings

Plaint

Rule 6

A plaint being capable of showing the nature of the plaintiff's claims, foundations of the claims, and remedies sought shall be deemed to satisfy the requirements of the law.

If the defendant states as his defense that he is unable to comprehend any part of the plaint, the Court may order the plaintiff to rectify the plaint by clarifying the relevant part. The defendant shall thereby be entitled to amend the relevant part of his or her answer.

The provision provided in paragraph two shall apply to answer to counterclaims *mutatis mutandis*.

Annex to Plaint or Answer

Rule 7

In case where a party refers, in his plaint or answer, to a document which he intends to adduce as evidence in the main issues of the case and the document is in his possession, such party shall attach a copy of that document to the plaint or answer. The Court may, however, permit a copy of the document submitted at a later stage, if there is a reasonable cause or the Court views that the copy of the document cannot be attached to the plaint or answer for other reasons.

Such copy of the document may be produced in the form of any material in which the information is stored or which conveys meanings by any means other than in writing or in print. Submission of such material shall be made in accordance with the rules and methods set forth by the Court.

Filing of Pleading with Provincial Court

Rule 8

During the period when a regional intellectual property and international trade court has not been opened in any locality, when a plaintiff files a plaint with the provincial court under Section 47 of the Act for the Establishment of and Procedure for

Intellectual Property and International Trade Court, B.E. 2539, the plaintiff shall also provide the provincial court with a copy of the plaint. The provincial court shall thereafter forward the original plaint to the Central Intellectual Property and International Trade Court without delay for the latter's order. The Court shall then without delay notify the provincial court of such order and send the provincial court a writ of summons for the defendant to respond, if available.

Rule 9

The provincial court shall notify the plaintiff of the order it receives from the Central Intellectual Property and International Trade Court without delay. In the case where the Central Intellectual Property and International Trade Court issues an order accepting the plaint, the plaintiff shall request, within seven days from the receipt of such order, an officer of the provincial court to serve the writ of summons and a copy of the plaint on the defendant.

The defendant shall file his answer and a copy thereof with the provincial court within fifteen days after the service of the writ of summons and the copy of the plaint on him. The provincial court shall, without delay, forward the original answer together with the report for the service of the writ of summons and a copy of the plaint to the Central Intellectual Property and International Trade Court for the latter's order. If the defendant fails to file the answer, the provincial court shall, immediately after the period prescribed for filing the answer has elapsed, notify the Central Intellectual Property and International Trade Court of such failure as well as dispatch the service report to the Court for its order declaring the defendant in default of answer under Rule 11.

When the Central Intellectual Property and International Trade Court issues an order under paragraph two, the matter shall be promptly referred to the Chief Justice of the Court for his decision as to the appropriate time, date and court for trial and adjudication of the case. The Central Intellectual Property and International Trade Court shall then notify the provincial court to inform the parties of the said time, date and court without delay.

Rule 10

If the defendant makes a counterclaim in his answer, Rule 8 and Rule 9 shall apply to the order to the counterclaim and the answer to counterclaim *mutatis mutandis*.

Default of Answer

Rule 11

If the defendant or the plaintiff fails to file an answer or an answer to counterclaim within the prescribed period, the Central Intellectual Property and International Trade Court shall promptly issue an order declaring the defendant or the plaintiff in default of answer.

Provisional Measures of Protection Prior to Instituting an Action

Rule 12

An application for the Court order under Section 65 of the Copyright Act, B.E. 2537, Section 77 bis of the Patent Act, B.E. 2522, Section 116 of the Trademark Act, B.E. 2534 or other intellectual property legislation, shall state the facts establishing a *prima facie* case and the reasons sufficient for the Court to believe that it is appropriate to grant such order. The application shall also include a statement confirming the facts of a person who witnessed the cause of the application, in order to substantiate such application.

Rule 13

In considering the application under Rule 12, the Court shall grant the application if it satisfies that:

- (1) There is reasonable ground for the application and the time the application is filed, as well as sufficient reasons for the Court to grant such application, and
- (2) The nature of the damage incurred by the applicant is such that the damage cannot be restituted by monetary measures or any other form of indemnity or the prospective defendant is not in a position to compensate the applicant for his damage, or it might be difficult to enforce the judgment against the prospective defendant afterwards.

In considering the application, the Court shall take into account the balance of the extent of damage that might be incurred by both parties.

If the Court issues an order dismissing the application, such order shall be final.

Rule 14

In case where the Court grants the application under Rule 13, the Court shall notify the prospective defendant of the order without delay.

The order under paragraph one shall immediately bind the prospective defendant even though the prospective defendant has not been notified of the order.

Rule 15

In case where the Court grants the application under Rule 13, taking into account any damage that the prospective defendant might incur, the Court shall order the applicant to provide security for such damage in the amount within the period and under the conditions which the Court deems appropriate.

Rule 16

In case where the Court grants the application under Rule 13, the prospective defendant may file an application requesting the Court to repeal or modify the provisional measures of protection. The order of the Court repealing or modifying the measures shall be final.

In the case specified in paragraph one, the prospective defendant may make a request in the application to repeal or modify the provisional measures, or file with the Court, within thirty days from the date on which the Court issues an order repealing or modifying the measures, a request for the Court order directing the applicant to compensate him for his damage. If the Court finds, after making an inquiry, that the order granting provisional measures of protection which has been repealed or modified was granted due to the Court's misunderstanding that there is ground for taking an action against the prospective defendant or sufficient reason to grant such provisional measures by the fault or negligence of the applicant, the Court may order the applicant to compensate the prospective defendant in the amount the Court deems appropriate. If the applicant fails to comply with such Court order, the Court may enforce such order as if the applicant is a judgment debtor.

Rule 17

In case where the Court grants the application under Rule 13 but the applicant fails to institute an action relating to the application within fifteen days from the date on which the application was granted or within the period prescribed by the Court, the provisional measures shall lapse at the expiration of the aforesaid period.

In the case specified in paragraph one, the prospective defendant may file with the Court, within thirty days from the date on which the provisional measures is deemed to lapse, a request for the Court order directing the applicant to compensate him for his damage in the amount the Court deems appropriate. If the applicant fails to comply with such order, the Court may enforce such order as if he is a judgment debtor.

Rule 18

In case where the Court grants the application under Rule 13 and an action is instituted in relation to the application within fifteen days from the date on which the application was granted or within the period prescribed by the Court, the provisional measures so granted or modified under Rule 16 paragraph one shall continue to be in force, unless the Court issues an order repealing or modifying the measures according to a request of the defendant. In this case, Section 260, Section 261 and Section 263 of the Civil Procedure Code shall apply *mutatis mutandis*.

Rule 19

The provisions on *in camera* proceedings and prohibition of publication under Rule 24 and on hearing of a witness by means of videoconference under Rule 32 shall apply to the proceedings under Rule 13 and Rule 15 to Rule 18 *mutatis mutandis*.

Application for Taking of Evidence in Advance

Rule 20

A petition or motion for a court order directing the evidence to be taken in advance under Section 28 of the Act for the Establishment of and Procedure for the Intellectual property

and International Trade Court, B.E. 2539 shall state the facts showing the necessity for taking of evidence in advance. If an action has not yet been instituted, the facts showing grounds, on which the petitioner may take or may be taken, shall also be stated.

In case of emergency under Section 29 of the Act, the motion shall state the facts showing the emergency situation which, if the other party or the third party involved is notified beforehand, such evidence will be damaged, lost, destroyed or, due to some other reasons, difficult to be adduced at a later stage.

Rule 21

In case where the Court grants an order for attachment or seizure of documents or materials to be adduced as evidence in emergency situation under Rule 20 paragraph two, the Court may order the petitioner to provide security for any damage that might be incurred in the amount within the period and under any condition the Court deems appropriate.

Rule 22

The provisions on *in camera* proceedings and prohibition of publication under Rule 24 and on hearing of a witness by means of videoconference under Rule 32 shall apply to the proceeding under Rule 20 and Rule 21 *mutatis mutandis*.

Documents Done in Foreign Language

Rule 23

If a document submitted to the Court is done in English and the parties agree that all or any part of such document need not be translated into Thai, the Court may permit the parties to submit the document as evidence in the case without translation if it is of the opinion that such document is not an evidence on the main issues of the case.

In camera Proceedings and Prohibition of Publication

Rule 24

In the appropriate case or for the protection of intellectual property rights or the prevention of damage that might be incurred to international business of a party, if a party requests, or if the Court deems inappropriate to disclose in whole or any part of the facts or circumstances in the case, the Court may issue the following order:

- (1) Prohibiting the public from attending in whole or in any part of the hearing, and holding the hearing *in camera*, or
- (2) Prohibiting the publication of such facts or circumstances.

Irrespective of whether the Court has issued such order, the order or judgment of the Court adjudicating the case shall be read in open court, and the publication, either in whole or in part, of the order or judgment or an impartial and accurate summary thereof shall not be deemed unlawful.

Recording of Testimony of Witness

Rule 25

The Court may assign a court officer to record the testimony of a witness and to read out the memorandum of testimony to the witness on its behalf.

Rule 26

In addition to record testimony, which shall be read to and signed by the witness before included in the dossier of the case, the Court may order that the testimony of the witness be recorded by audio or video recording device.

Chapter 3

Evidence

Pre-Trial Conference

Rule 27

Subject to the provisions of Section 183 and Section 183 *bis* of the Civil Procedure Code, before taking of evidence, the Court may call all parties to appear in court in order to set up measures for the proceedings, such as:

- (1) Mediating or arbitrating;
- (2) Fixing the period of time for the whole proceedings;
- (3) Fixing date, time, methods and steps for necessary proceedings, such as number and detail of witnesses who will testify in court, written witness statements to be submitted in lieu of oral testimony, or expert witnesses, documentary evidence and any other evidence that a party intends to request the Court for an order directing the other party or a third party to produce, and taking of evidence out of the Court or the commission of another court to take evidence etc;
- (4) Fixing detail and period of time for technical or scientific experiment proving some facts in some facts in the case;
- (5) Determining a knowledgeable person or an expert under Section 31 of the Act for the Establishment of and Procedure for the Intellectual Property and International Trade Court, B.E. 2539.

Refreshing Memory of Witness

Rule 28

Subject to the provisions of Section 113 of the Civil Procedure Code, when a witness testifies as to any detail of a fact in a case, which he cannot recall, the witness may, with the permission of the Court, refer to his *aide memoir* in giving such testimony.

After the witness completes his testimony, the other party may request the Court to examine the *aide memoir* of such witness. If the Court deems appropriate, it may include that *aide memoir* in the dossier of the case.

Submission of Written Witness Statement

Rule 29

In case where one party or both parties make a request and the Court deems appropriate in the interest of justice, the Court may permit the party or parties to submit a written witness statement confirming facts or opinions of the witness in lieu of examination-in-chief, in whole or in part, in Court.

The party intending to submit a written witness statement in lieu of examination-in-chief under paragraph one shall file with the Court a request specifying the intention and the reason prior to the hearing date of such witness. The Court shall then determine the period of time for the party to submit the written witness statement to the Court and to send a copy thereof to the other party. Once a written witness statement has been submitted to the Court, the party so submitting may not withdraw the statement and such statement shall be deemed as evidence in the case.

The declarant shall appear in court to be cross-examined and re-examined by the parties. If the declarant fails to appear in court, the Court shall refuse to admit his statement as

evidence in the case, provided, however, that, if the Court deems appropriate in the interest of justice, the Court may admit the written witness statement as evidence corroborating other evidence.

In case where the parties agree that the declarant need not appear in court or the other party waives his right to cross-examine the declarant, the Court shall admit the written witness statement as evidence in the case.

Rule 30

A written witness statement under Rule 29 shall contain the following particulars:

- (1) Name of the Court and the case number;
- (2) Date, month, year in which and the place where the written witness statement was made;
- (3) Name and family name of the parties;
- (4) The declarant's name, family name, age, address, occupation and relationship with the parties;
- (5) Description of facts and/ or opinions of the declarant;
- (6) Signature of the declarant.

A written witness statement submitted to the Court may not be amended unless the amendment is made to the particulars in (1) to (3) or to rectify minor error or irregularity.

Written witness statement in lieu of Hearing of Declarant Residing in Foreign Country

Rule 31

In case where one party or both parties request and the Court deems appropriate in the interest of justice, the Court may permit the submission of a written witness statement of a declarant residing in a foreign country to confirm certain facts or opinions in lieu of bringing the declarant to testify, in whole or in part, in court. The written witness statement shall be in compliance with Rule 30 here above or the law of the country where it was made.

Hearing of Witness by Means of Videoconference

Rule 32

In case where one party or both parties make a request and the Court deems appropriate in the interest of justice, the Court may permit the hearing of a witness being outside the Court be conducted by means of videoconference. In such case, the party adducing the witness shall bear the costs thereof. Such costs shall not be deemed a cost under Section 161 of the Civil Procedure Code for which the Court may order the other party to reimburse.

The hearing conducted under paragraph one shall be deemed proceedings conducted in a courtroom.

Admission of Computer Record

Rule 33

The Court may admit data recorded in or processed by a computer as evidence in a case, if

- (1) The data recording or processing was done in the ordinary course of business of the user of the computer, and

- (2) The data recording or processing was result from proper operation of the computer according to its due procedure and, even though the computer is out of order, the accuracy of the data contained therein is not affected.

The use of a computer in ordinary course of business as stated in (1) and the accuracy of the data recording or processing as stated in (2) shall be affirmed by the person involved in the recording or processing, or the person recording or processing the data.

Rule 34

The party intending to adduce any computer record as evidence shall specify such record in the list of witnesses and evidence in accordance with Section 88 of the Civil Procedure Code, and shall file with the Court a statement specifying the intention together with the affirmation required by Rule 33 paragraph two and sufficient copies of materials containing the record for other parties to obtain from court officers, unless

- (1) The medium keeping the record is in possession of the other party or of a third party; the party intending to adduce such evidence shall file a request for the Court permission not to submit the affirmation required by Rule 33 paragraph two and copies of materials containing the record, and for the court order directing the possessor of the medium to produce the record; the requesting party is, however, under the duty to bring such medium to the Court on a hearing date or on any other date as the Court deems appropriate;
- (2) If the production of copies of the medium keeping the record is likely to delay court proceedings or cause damage to the party intending to adduce such record, or there is sufficient reason showing that the party is unable to submit the copies to the Court within the prescribes period, the party may file a request for the Court permission not to submit the copies and to submit such medium to the Court on the hearing date or on any other day as the Court deems appropriate.

If the party intending to adduce such computer record cannot submit the medium to the Court within the period of time prescribed in paragraph one, the Court, taking the nature of the record into consideration, may order an examination of the record be conducted at the time and place and under any condition the Court deems appropriate.

If the party intending to adduce such computer record fails to comply with the provisions of paragraph one or two, the record is inadmissible as evidence in the case. However, if the Court deems appropriate in the interest of justice, it may admit the record as evidence corroborating other evidence.

Rule 35

The party against whom the computer record is adduced may file a statement with the Court opposing the admission of such record on the ground that the record does not satisfy the requirements under Rule 33, or the medium containing the record is falsified, or the copies of the record is entirely or partially inaccurate. The party may file the statement before the other party completes the adduction of such computer record, unless the party can show to the satisfaction of the Court that the party does not know the cause for opposing the record before the time. In the latter case, the party may file a request for the Court permission to oppose the admission of the record, the medium or the copies at any time before the judgment is rendered. If the Court finds that the party unable to oppose before the completion of adduction of the record and the ground rose in the request is reasonable, the Court shall grant such request. In this case, Section 126 of the Civil Procedure Code shall apply *mutatis mutandis*.

If the party intending to oppose the adduction of a computer record fails to do so prior to the completion of the adduction or the Court does not permit the opposition be done at a later stage, the party may no longer oppose the admission of such computer record as evidence in the case. However, if the Court deems appropriate in the interest of justice, the Court may make an inquiry [inquiry] into and decide upon the conditions for admission of the computer record set forth in Rule 33 or the authentication or accuracy of the medium containing the record or the copies thereof.

Rule 36

The provisions under Rule 33 to Rule 35 shall apply *mutatis mutandis* to the admissibility of any data recorded in or taken from microfilms, electronic medium or any other means of information technology medium.

Admission of Hearsay Evidence

Rule 37

The Court may admit hearsay evidence as evidence corroborating other evidence in a case, if the Court is of the opinion that:

- (1) Given the nature, characteristic, source of the evidence and other circumstantial facts surrounding it, the evidence has probative value in proving some facts in the case; or
- (2) There is a cause preventing the person who directly saw or heard the adduced matters or having first-hand knowledge of such matter from testifying in the Court and it is appropriate in the interest of justice to admit such hearsay evidence.

An informed statement to which a witness testifies in court or is recorded in a document or material adduced as evidence in court shall be deemed hearsay evidence if it is proffered to prove the truth of the matter asserted.

Considering and Weighing of Evidence

Rule 38

In considering whether the written statement of a person who does not appear in court under Rule 29 paragraph three or four, the written statement submitted under Rule 31 or the hearsay evidence proffered under Rule 37 has a probative value and, if so, to what extent, the Court shall do so with due care, taking into account the nature, characteristic and source of the written witness statement or hearsay evidence.

Additional Taking of Evidence

Rule 39

If the Court deems necessary in the interest of justice for additional evidence relating to any issue in a case, including documents or materials possessed or under the care of a party, the Court shall, without the request of any party, continue with the taking of evidence, which may include calling any witness already adduced to testify again.

TITLE II CRIMINAL CASES

Chapter 1 General Provisions

Provision of Interpreter

Rule 40

In the proceedings for deferment of a charge, obtaining a warrant of detention, the preliminary examination in which the accused makes an appearance or at the trial itself,

the Court shall provide an interpreter or a sign language interpreter for the suspect or accused who cannot speak or understand Thai language, or who cannot speak, hear or communicate, as the case may be. The interpreter appointed by the Court shall be entitled to remuneration in accordance with the Ministerial Regulation of Remuneration for Interpreter and sign language Interpreter provided by the Court under the Criminal Procedure Code.

Provisional Release

Rule 41

The suspect or accused shall be entitled to provisional release, unless there is a necessity to remand him in custody or detain him.

Application of Provisions in Title I to Criminal Cases

Rule 42

Unless otherwise provided in this Title, the provisions for civil cases in Title I on method of communication between courts under Rule 5, provisional measures of protection prior to instituting an action under Rule 12 to Rule 19, application for taking of evidence in advance under Rule 20 to Rule 22, documents done in foreign language under Rule 23, *in camera* proceeding and prohibition of publication under Rule 24, memoranda of testimony of witnesses under Rule 25 and Rule 26, refreshing memory of a witness under Rule 28, hearing of witness by means of videoconference under Rule 32, admission of computer record under Rule 33 to Rule 36, admission of hearsay evidence under Rule 37, considering and weighing of evidence under Rule 38 and additional taking of evidence under Rule 39 shall apply to criminal cases *mutatis mutandis*.

Chapter 2 Proceedings

Filing Application for Search Warrant, Deferment of a Charge and Warrant of Detention with Provincial Court

Rule 43

During the period when the regional intellectual property and international trade court has not been established in any locality, when the inquiry official or the public plaintiff files an application for search warrant, deferment of a charge or warrant of detention with a provincial court under Section 47 supplemented by Section 26 of the Act for the Establishment of and Procedure for Intellectual Property and International trade Court B.E. 2539, the provincial court shall proceed with the matter and issue an order in accordance with the Criminal Procedure Code, the Act for the Establishment of and Criminal Procedure Code, the Act for the Establishment of and Criminal Procedure for Kwaeng Court B.E. 2499, or the Act for the Establishment of and Criminal Procedure for Kwaeng Court B.E. 2499 as applied by virtue of the Act for the Application of Criminal Procedure for Kwaeng Court in Provincial Court B.E. 2520, as the case may be.

Entry of Charge in Provincial Court

Rule 44

During the period when the regional intellectual property and international trade court has not been established in any locality, when a plaintiff enters a charge with a provincial court under Section 47 of the Act for the Establishment of and Procedure for Intellectual Property

and International Trade Court, B.E. 2539, the plaintiff shall also provide the provincial court with a copy of the charge. If the charge conforms to the requirements of the law, the provincial court shall act as follows:

- (1) In the case where a private person is the plaintiff, the provincial court shall dispatch the original charge to the Central Intellectual Property and International Trade Court without delay, in order for the Chief Justice of the Central Intellectual Property and International Trade Court to determine the date and time on which, and the court in which, the preliminary examination will be conducted. The Central Intellectual Property and International Trade Court shall, without delay, notify the provincial court to inform the plaintiff of the date and time on which, and the court in which the preliminary examination will be conducted, and order the plaintiff to serve the writ of summons and a copy of the charge on the accused. If the public plaintiff has also instituted a criminal prosecution with the same charge, (2) shall apply.
- (2) In the case entered by the public plaintiff, the provincial court shall serve on each accused a copy of the charge, read out and explain the charge to the accused, then ask whether the accused wants to make any statement in his defense, and dispatch the original charge as well as the accuser's statement in defense, if any, to the Central Intellectual Property and International Trade Court without delay. The Court shall then order a preliminary examination be conducted or the charge be accepted for trial. The matter shall thereafter be referred to the Chief Justice of the Central Intellectual Property and International Trade Court for his determination on the appropriate date and time on which, or the court in which the preliminary examination or the trial will be conducted. The Central Intellectual Property and International Trade Court shall, without delay, notify the provincial court to inform the parties of the date, time and court for preliminary examination or trial, so that the accused can be brought before the court on that date.

In the case specified in (2), if the accused pleads guilty as charged and it is the case where the court may render judgment without taking evidence, without prejudice to the accused's rights to obtain provisional release, the provincial court and the Central Intellectual Property and International Trade Court shall utilize to the utmost the methods of communication provided in Rule 5, so that the judgment can be rendered on the day the accused pleads guilty, or on the following working day.

Submission of List of Witnesses and Documentary Evidence

Rule 45

In the preliminary examination or trial process, the plaintiff shall file with the Court, at least seven days prior to the preliminary examination or the date on which evidence is actually taken, the list of witnesses and evidence specifying names and addresses of persons or experts to be adduced as well as the types and characteristics of the documents or materials to be adduced or places to be examined by the Court or an expert witness, as the case may be. The plaintiff shall also provide copies of such list in the number sufficient for each accused to obtain from the Court.

In case where the Court conducts an regarding a request for the return of a property being an exhibit in a case, the parties involved shall file with the Court, at least seven days prior to the inquiry date, the list of witnesses and evidence together with copies thereof in the number sufficient for all parties for all parties concerned to obtain from the Court.

Although the period provided in paragraph one or two has already elapsed, the Court may permit the plaintiff or any party involved to submit the list of witnesses and evidence or an additional list, if it deems appropriate in the interest of justice.

Rule 46

If the plaintiff intends to adduce documents in his possession as evidence in the case, the plaintiff shall submit to the Court, at least seven days prior to the preliminary examination or the date on which the evidence is actually taken, copies of such documents in the number sufficient for the accused to obtain from the Court.

In the case where the Court permits the submission of a list of witnesses and evidence or an additional list under Rule 45 paragraph three, the plaintiff or other party concerned shall submit the copies of such documentary evidence together with the list or the additional list, as the case may be. However, the Court may permit the submission of copies of the documentary evidence at a later stage under appropriate causes.

Rule 47

Witnesses or evidence not included in the list of witness and evidence in accordance with Rules 45 and 46 are inadmissible, unless the Court deems in the interest of justice necessary to admit such witnesses or evidence.

Testimony of the Accused

Rule 48

In case where the accused testifies for him and such testimony or any part thereof is self-incriminating, the Court may, based on the testimony in corroboration with other evidence proffered by the plaintiff, infer guilt to the accused.

Written witness statement in lieu of Oral Testimony

Rule 49

If a party files a motion and the Court deems appropriate in the interest of justice, the Court may permit the submission of a written witness statement of a declarant confirming facts or opinions on the issues not directly proving guilt of the accused in lieu of bringing the declarant to testify; and the provisions for civil cases in Title I on the submission of a written witness statement lieu of an oral testimony under Rules 29 to 31 shall apply *mutatis mutandis*.

Written Opinion of Knowledgeable Person or Expert

Rule 50

A knowledgeable person or an expert whom the Court requests to give his opinion may submit a written opinion to the court without oral testifying about the opinion, unless the court otherwise orders.

The Court shall send each party a copy of such written opinion. In case where the knowledgeable person or expert has to testify about his opinion, the Court shall send each party a copy of such written opinion at least seven days prior to the testifying date.

TITLE III FORMS

Rule 51

An appointment of a person to receive pleadings or documents on behalf of a party under Section 33 of the Act for the Establishment of and Procedure for Intellectual Property and

International Trade Court, B.E. 2539 shall be made in writing in accordance with form "Sor. Por. Kor. 1" attached herewith.

Rule 52

An invitation letter to a knowledgeable person or expert whom the Court requests to give an opinion and a summons for a knowledgeable person or expert whom a party requests to give an opinion under Section 31 of the Act for the Establishment of and Procedure for Intellectual Property and International Trade Court, B.E. 2539 shall be made in accordance with form "Sor. Por. Kor. 2" and "Sor. Por. Kor. 3" respectively attached herewith.

Rule 53

In filing or submitting pleadings or other documents, other than those otherwise provided in these Rules, the Court, court officers, parties or other persons concerned shall use the forms which have the same format, size and contents as those prescribed by the Ministry of Justice, unless the Chief Justice of the Central Intellectual Property and International Trade Court otherwise provides.

An appeal filed under Section 38 of the Act for the Establishment of and Procedure for Intellectual Property and International Trade Court, B.E. 2539 shall be in the Form for Appeal no. (32) and the Annexed to Form for Appeal no. (33). The answer to an appeal shall be in the Form Answer to an Appeal no. (34) and the Form Annexed to Answer to an Appeal no. (35).

Given on the 28th day of November B.E. 2540

Disclaimer

This translation is intended to help Thais or foreigners to understand Thailand laws and regulations only, not to use as references, because it is only the original Thai version of legislation that carries legal effect. www.ThaiLaws.com, therefore, shall not be held responsible in any way for any damage or otherwise the user may incur as a result of or in connection with any use of this publication for any purposes. It's the responsibility of the user to obtain the correct meaning or interpretation of this publication or any part thereof from Thai version or by making a formal request to the appropriate or related authorities.