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Philippines
Patent Litigation

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Philippines: Patent Litigation

1. What is the forum for the conduct of patent litigation?

Patent rights may be enforced through either judicial or administrative proceedings in the Philippines.

Judicial enforcement is conducted before the Regional Trial Courts (RTCs), particularly branches that are designated as Special Commercial Courts by the Supreme Court. These courts have jurisdiction over intellectual property (IP) rights cases, including those involving patents. Although the judges may not have initially possessed technical backgrounds, training opportunities have increased for the judiciary in recent years, and the court may exercise the authority to appoint assessors with the necessary scientific or technical knowledge.

Alternatively, parties may seek administrative remedies by filing cases with the Bureau of Legal Affairs (BLA) under the Intellectual Property Office of the Philippines (IPOPHL). The BLA is empowered to adjudicate both infringement and cancellation matters. Compared to court litigation, BLA processes are typically faster and less expensive, though the available remedies are restricted to injunctions, fines, and related sanctions.

The BLA exercises jurisdiction over administrative actions involving IP rights where the total damages claimed are less than P200,000.00. Claims for damages exceeding 200,000.00, however, fall outside the BLA's jurisdiction and must be pursued before the regular courts.

2. What is the typical timeline and form of first instance patent litigation proceedings?

Patent infringement and invalidity issues are not typically bifurcated under Philippine rules. These matters are heard together in a single proceeding, whether before the RTC or the BLA.

The 2020 Revised Rules of Procedure for Intellectual Property Rights Cases (the Rules), govern the proceedings involving the enforcement and protection of intellectual property rights, including patents.

Civil actions commence with the filing of a verified complaint with the RTC. Upon the service of summons, the defendant must file an answer within thirty (30) calendar days. Both the complaint and the answer must be accompanied by the judicial affidavits of the parties' respective witnesses, which shall serve as their direct testimony, and other documentary evidence.

A pre-trial conference follows, where settlement may be explored, and the issues are clarified. Trial then proceeds as governed by the Rules.

Criminal proceedings commence with the filing of a verified complaint with the Department of Justice or the Office of the Prosecution which has jurisdiction over the offense charged. The verified complaint must be accompanied by the affidavits of the complainant and their witnesses, as well as other supporting documents to establish probable cause. The investigating prosecutor shall thereafter issue an order directing the respondent to submit his or her counter-affidavit and the affidavits of his or her witnesses and other documentary evidence.

If probable cause is established, an Information is filed with the Court. Upon such finding, a warrant of arrest is issued, followed by an arraignment. A pre-trial conference is thereafter conducted, after which the trial proceeds in accordance with the Rules.

Cases brought before the RTC under the Rules typically take between two and three years to reach judgment, with the timeline influenced by the court's workload, witness count, and case complexity. Proceedings at the BLA are less formal, often advancing to the evidentiary stage within five to seven months, and may be resolved within one to three years.

3. Can interim and final decisions in patent cases be appealed?

Yes. Both interim and final decisions issued in judicial and administrative proceedings may be appealed.

Decisions issued by the RTC can be challenged before the Court of Appeals. Where the dispute concerns solely legal questions, parties may appeal directly to the Supreme Court. Subsequent appeals from the Court of Appeals to the Supreme Court are possible, but acceptance of such petitions is at the Supreme Court's discretion.

For administrative proceedings, decisions of the BLA

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Director may be appealed to the Director General of the Intellectual Property Office of the Philippines. The decision of the Director General may, in turn, be appealed to the Court of Appeals, and subsequently to the Supreme Court.

Appeals do not automatically stay the execution of decisions. In judicial proceedings, a party seeking to stay execution must obtain a court order and post a bond. In the BLA, a prevailing party may seek execution of the decision pending appeal upon motion and filing of the approved bond. The execution, however, may be stayed by filing an approved counter-bond by the losing party.

Appeals are generally resolved within one to three years. The appellate courts are courts of review and generally cannot receive new evidence unless a ground such as lack of jurisdiction, fraud, or deprivation of due process is proven under the Rules.

4. Which acts constitute direct patent infringement?

The Intellectual Property Code of the Philippines (Intellectual Property Code) defines direct infringement as any unauthorized activity involving a patented product, such as manufacturing, utilization, marketing, sale, or importation, as well as the use of a patented process including transactions involving products derived from such processes.

The patent owner may enforce the exclusive rights conferred by the patent against any unauthorized party who carries out these acts in the Philippines.

5. Do the concepts of indirect patent infringement or contributory infringement exist? If so, what are the elements of such forms of infringement?

Yes. The Intellectual Property Code recognizes contributory infringement. Any person who "actively induces the infringement of a patent, or provides a component of a patented invention, knowing it to be specially made or adapted for use in infringement and not suitable for substantial non-infringing use" shall be liable as a contributory infringer.

Contributory infringers are jointly and severally liable with the direct infringer.

6. How is the scope of protection of patent claims construed?

The scope of protection is primarily defined by the claims, but the statute requires that equivalents be considered. The Intellectual Property Code provides that for the purpose of determining the extent of protection conferred by a patent, due account shall be taken of elements that are equivalent to the elements expressed in the claims.

We are not aware of a standing doctrine of prosecution history estoppel in Philippine practice. The courts rely on statutory interpretation and general principles of claim construction.

7. What are the key defences to patent infringement?

In addition to non-infringement and invalidity, a defendant may raise the following defences available under the Intellectual Property Code:

a) prescription: infringement actions must be brought within four years from the commission of the infringing act;

b) the existence of a valid license;

c) lack of actual knowledge or written notice in cases involving published applications (where the acts complained of occurred after publication but before grant); and

d) fair use in limited situations involving experimentation, teaching, or research.

8. What are the key grounds of patent invalidity?

Grounds for challenging the validity of a patent include absence of novelty or inventive merit, failure to meet industrial applicability, inclusion of non-patentable subject matter, inadequate disclosure, violation of public order or morality, unauthorized amendments introducing new content, and improper issuance to an individual lacking entitlement.

9. How is prior art considered in the context of an invalidity action?

Prior art includes all information that was made available to the public anywhere in the world before the filing or priority date. Combinations of prior art references are permitted in assessing inventive step (obviousness).

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There is no express statutory rule distinguishing the use of prior art between novelty and obviousness objections; the same references may be used to support both grounds if relevant.

10. Can a patentee seek to amend a patent that is in the midst of patent litigation?

Yes. A patentee may file a request for amendment before the Bureau of Patents. Amendments may also be allowed during inter partes cancellation proceedings before the BLA.

However, amendments are limited to narrowing the scope of protection; correcting obvious or clerical errors; and correcting good-faith errors.

Broadening amendments are permitted only within two (2) years from grant and may not affect the rights of third parties who relied on the patent as published. In all cases, amendments may not introduce subject matter beyond the original application.

11. Is some form of patent term extension available?

No. Philippine patents have a fixed term of twenty (20) years from the filing date, or the international filing date in the case of national phase applications under the Patent Cooperation Treaty (PCT). There is no provision for patent term extension, regardless of delays in regulatory approval or examination.

12. How are technical matters considered in patent litigation proceedings?

Technical issues are usually addressed through expert evidence. In RTC proceedings, the court may appoint one (1) expert or order the creation of a committee of three (3) experts, to provide advice on the technical aspects of the patent in dispute, including the construction of claims. The court may also request the IPOPHL to provide equipment, technical facilities, and personnel to assist on the trial of highly technical evidence or matters. Parties may also present their own expert witnesses through judicial affidavits. Experts may be cross-examined in court.

In the BLA, expert evidence is also admissible, although the procedures are more informal. The assessors or hearing officers do not necessarily have technical training, so clarity of expert explanation is critical. In highly technical cancellation cases, however, a party may move that the petition be heard by a committee composed of the BLA Director and two (2) members with expertise in the relevant field of technology.

13. Is some form of discovery/disclosure and/or court-mandated evidence seizure/protection (e.g. saisie-contrefaçon) available, either before the commencement of or during patent litigation proceedings?

Yes. Under the Rules of Court, as amended, a party may obtain an order for interrogatories, request for admission, production or inspection, which may include copying or photographing, of documents or property relevant to the action. This applies both before and during litigation, provided the requesting party shows good cause. The mechanism of inspection orders and subpoenas may also be used to secure and preserve evidence.

Court mandated seizure of evidence is also available. Under A.M. No. 02-1-06-SC or the Rule on Search and Seizure in Civil Action for Infringement of Intellectual Property Rights, which the Rules expressly adopt, a right holder may apply ex parte for a writ of search and seizure, whether before or after the filing of the infringement action, to search for and seize infringing goods and the documents and devices relating to the infringement. The applicant must show, among others, that it is the right holder, that there is probable cause of actual or imminent infringement, and that the damage is irreparable, and must post a bond.

14. Are there procedures available which would assist a patentee to determine infringement of a process patent?

Yes. The Intellectual Property Code provides for a presumption of infringement in process patent cases. If a patented process results in a new product, any similar product produced by a third party is presumed to have been made using the patented process, and the burden shifts to that third party to prove otherwise.

A court or the BLA may order a the disclosure of the process used, the production of documents, or inspection of premises, subject to confidentiality protections.

15. Are there established mechanisms to protect confidential information required to be disclosed/exchanged in the course of patent

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litigation (e.g. confidentiality clubs)?

There is no formal system of confidentiality clubs in the Philippines. However, parties may request protective measures from the court to safeguard confidential or commercially sensitive information disclosed during the proceedings. Depending on the circumstances, such measures may include restricting access to confidential materials, closed door hearings, in-camera examination, sealing of records, or redactions of sensitive information.

16. Is there a system of post-grant opposition proceedings? If so, how does this system interact with the patent litigation system?

There is no post-grant opposition system in the Philippines. Any person may, however, file written observations on patentability after publication of the application. Any interested person may also file a petition to cancel a patent before the BLA. This is independent of infringement litigation.

There is no statutory rule requiring an infringement action to be stayed during the pendency of a patent cancellation petition. Philippine courts are not precluded from ruling on validity as a defence in infringement proceedings. However, in some instances, courts may take judicial notice of a pending cancellation case and consider whether to suspend the proceedings on equitable grounds.

17. To what extent are decisions from other fora/jurisdictions relevant or influential, and if so, are there any particularly influential fora/jurisdictions?

Foreign decisions are not binding in the Philippines They are considered persuasive, especially in the absence of domestic precedent on a specific issue in the patent dispute (*Kolin Electronics Co., Inc. v. Kolin Philippines International, Inc.* [2021], G.R. No. 228165). Philippine courts take guidance from jurisdictions such as the United States, the United Kingdom, and European Union member states. For instance, in *Phillips Seafood Philippines Corporation v. Tuna Processors, Inc*. [2023], G.R. No. 214148, the Supreme Court applied for the first time in this jurisdiction the "all elements test" developed by the United State Supreme Court in *Warner-Jenkinsin Co. v. Hilton Davis Chemical Co*., under which the doctrine of equivalents is applied to the individual elements of the claim and not to the invention as a whole.

18. How does a court determine whether it has jurisdiction to hear a patent action? And in what circumstances will a court anti-suit to preserve its jurisdiction.

Philippine courts only have jurisdiction over Philippine patents. They do not adjudicate issues relating to foreign patents. There is no recognized practice of issuing anti-suit injunctions in IP cases, and the rules provide no express guidance.

19. What are the options for alternative dispute resolution (ADR) in patent cases? Are they commonly used? Are there any mandatory ADR provisions in patent cases?

Mediation is encouraged in all instances and mandatory for some proceedings, including in pre-trial proceedings before the RTC. The IPOPHL also offers ADR services, including mediation, even outside of a formal adversarial proceeding. Arbitration is available but is not often seen in patent disputes or matters that are not part of a larger commercial dispute, due to the necessary inclusion of issues that may only be determined by regulatory authorities such as the IPOPHL.

20. What are the key procedural steps that must be satisfied before a patent action can be commenced? Are there any limitation periods for commencing an action?

There is no express requirement to exhaust administrative remedies in the IPOPHL or undergo mandatory pre-action procedures before initiating a patent infringement action. Proceedings may be commenced by filing a verified complaint before either the RTC or the BLA, accompanied by payment of the required fees.

In the RTC, after the complaint is found to be sufficient in form, the case proceeds with the issuance of summons, the filing of an Answer or Motion to Dismiss by the defendant, and then pre-trial.

In the BLA, while the case likewise begins with the issuance of summons and the filing of an Answer, the parties are required to undergo mandatory mediation before the case is raffled for hearing.

As regards limitation periods, the Intellectual Property Code provides that damages cannot be recovered for acts of infringement committed more than four (4) years

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before the institution of the infringement action. Furthermore, any criminal action against a repeat infringer, or by anyone acting in connivance with the infringer, after the judgment against the infringer has become final, may be pursued only within three (3) years from the commission of the offense or, if the commission of the offense is not known at that time, from its discovery.

21. Which parties have standing to bring a patent infringement action? Under which circumstances will a patent licensee have standing to bring an action?

Under Section 2, Rule 3 of the Rules, the patentee and any person possessing an exclusive right, title, or interest in the patent including assignees and exclusive licensees whose right may have been violated may file an infringement case.

Since the right of action must be clearly established in the licensing agreement or through assignment documents, non-exclusive licensees do not have independent standing to sue for infringement.

22. Who has standing to bring an invalidity action against a patent? Is any particular connection to the patentee or patent required?

Any interested person may file a petition to cancel a patent. There is no requirement for a contractual, competitive or legal relationship with the patentee, but the petitioner must have a demonstrable interest in the subject matter. This interest may be commercial, professional, or economic.

23. Are interim injunctions available in patent litigation proceedings?

Yes. Interim or preliminary injunctions are available both in the RTC and the BLA.

The RTC may grant a preliminary injunction upon verified application and notice, where the applicant establishes that: (i) it is entitled to the relief sought; (ii) the conduct of the opposing party during litigation may render the judgement ineffectual; or (iii) the applicant would suffer injustice without immediate relief.

A bond is generally required as a condition for the issuance of an interim injunction. Philippine rules do not allow preliminary injunctions to be granted on an ex-parte basis.

Preliminary injunctions that subsist until final judgment are not routinely granted and are typically issued only after a full hearing on the merits of the application.

Before the BLA, applications for preliminary injunction must be verified, supported by evidence of a clear and unmistakable right, and accompanied by a bond.

24. What final remedies, both monetary and non-monetary, are available for patent infringement? Of these, which are most commonly sought and which are typically ordered?

Available remedies encompass permanent injunctions, compensation for losses including special damages, reimbursement of legal expenses, and orders for the destruction or confiscation of infringing items. In administrative cases before the BLA, additional sanctions such as fines may be imposed.

If the applicant-patentee succeeds, permanent injunctions are typically granted and infringing goods may be destroyed when appropriate, including criminal convictions for repeat infringement.

25. On what basis are damages for patent infringement calculated? Is it possible to obtain additional or exemplary damages?

Damages are calculated based on actual loss, which may include lost profits or reasonable royalties. If no actual damages can be proven, the court may award nominal damages.

Under Article 2232 of the Civil Code, special damages such as exemplary damages may be awarded if bad faith, fraud, or malice is proven. These are intended to serve a deterrent purpose and require specific pleading and proof.

26. How readily are final injunctions granted in patent litigation proceedings?

If the patentee is successful on the merits, final injunctions are also typically granted as seen in Godines v. Court of Appeals [1993]. The court will likely consider whether the patent is valid and enforceable, whether infringement has occurred, and whether an injunction is necessary to prevent continued violation.

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Public interest considerations may arise in limited circumstances, such as when the patent concerns life-saving medicines. The Intellectual Property Code provides for specific exceptions in such cases.

If a final injunction is denied, the court may award damages in lieu of injunctive relief. Royalty-based compensation may also be ordered by the court.

27. Are there provisions for obtaining declaratory relief, and if so, what are the legal and procedural requirements for obtaining such relief?

While a specific action for declaratory relief is available under the Rules of Court, this is not typically used in patent matters. To pursue declaratory relief, the petitioner must show, among others, that the matter involves a justiciable controversy and that an actual threat of litigation or legal uncertainty exists. There should also be no adequate relief available through other means or proceedings.

The Intellectual Property Code does not provide for declarations of non-infringement, and we are not aware of any precedent or regulatory guidance in the Philippines on whether such relief may be sought.

28. What are the costs typically incurred by each party to patent litigation proceedings at first instance? What are the typical costs of an appeal at each appellate level?

Patent litigation before the RTC typically costs between USD35,000 to USD70,000 and would include costs such as filing fees, legal or professional fees, witness preparation, and related litigation expenses.

For administrative actions such as infringement, and cancellation or invalidation actions before the BLA, the total cost usually ranges from approximately USD20,000 to USD30,000.

Appeals to the Director General of the IPOPHL and the appellate courts may incur additional costs between USD15,000 to USD35,000, depending on the scope and complexity of the issues raised and the nature of the proceedings at each level.

29. Can the successful party to a patent litigation action recover its costs?

Yes. The prevailing party may recover attorney's fees and other litigation expenses. However, Philippine courts typically award only partial recovery, and the amounts granted are modest compared to actual costs incurred.

There is no formal rule for settlement offers to influence cost awards. Security for costs may be required in certain circumstances, particularly when the party is a non-resident foreign corporation.

30. What are the biggest patent litigation growth areas in your jurisdiction in terms of industry sector?

Patent litigation is most common in pharmaceuticals and crop science, with future growth expected in healthcare technology, fintech, telecommunications, and artificial intelligence platforms. Meanwhile, IPOPHL's April 2026 report identifies pharmaceuticals, digital communication, and biotechnology as leading fields in 2025 patent filings, suggesting potential for future disputes in these sectors.

31. What do you predict will be the most contentious patent litigation issues in your jurisdiction over the next twelve months?

In the coming period, stakeholders may continue to face the challenge of enforcing pharmaceutical patents while balancing public interest considerations and the application of compulsory licensing. Disputes may also arise in relation to process patents and the criteria for patent eligibility and the definition of inventorship, considering the rapid advancement of emerging technologies such as artificial intelligence.

These emerging technology issues are also receiving greater institutional attention. In January 2026, IPOPHL and the Department of Information and Communications Technology signed an agreement to strengthen the technical capacity of examiners and other personnel to assess and manage innovations in artificial intelligence (AI), blockchain, the Internet of Things, big data, and other emerging ICT fields, signifying greater institutional focus on the IP challenges posed by these technologies.

32. What are the biggest challenges and opportunities confronting the international patent system?

Global patent practice increasingly involves a need to harmonize standards for patentability and enforcement as the number of cross-border portfolios we are asked to manage increases, and for regulators to balance

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innovation incentives with access to essential technologies. We understand that many jurisdictions now address challenges posed by artificial intelligence in inventorship and disclosure. These issues offer opportunities for international cooperation, especially in streamlining cross-border enforcement and recognizing digital-era innovation.

Reducing the cost of patent protection presents another opportunity to broaden participation in innovation. IPOPHL Memorandum Circular ("MC") No. 2026-001 extends its PCT Filing Assistance Program, waiving international search and preliminary examination fees for up to 100 eligible applications. IPOPHL MC Nos. 2025-026 and 2026-009 likewise extend fee waivers and priority examination for qualifying green technology applications and women-led MSMEs, respectively, subject to program eligibility requirements and application limits. These measures ultimately help eligible innovators protect and develop their inventions.

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