

Abstract

In the current world's society, although sciences and technologies are swiftly progressing, the trends of bioresource conservation and utilization have doubly jumped. Many people realize the importance of local wisdom as local medicine, which is the body of knowledge generated from the skills, knowledge and experiences in problem learning and solving of local people in communities and succeeded from generation to generation. Plenty benefits of local medicine have attracted developed countries which are full of capitals and technologies but lack bioresources to conduct surveys and collect local wisdoms concerning local medicine of developing countries for industrial purposes and for researches to invent new medicines. Researches and developments based on local wisdoms concerning local medicine will cause developments of new technologies which may be protected by laws on intellectual property.

Currently, developing countries are aware of the importance of local wisdom of local medicine and have tried to seek for approaches to determine legal measures to promote the conservation and protection of this local wisdom and to prevent from this local wisdom snatching and utilization. Also, they are trying to ask for protections from laws on intellectual property, but unfortunately, without the actual realization on the right on ownership.

TRIPS Agreement set down by developed countries on the issues of trade related aspects of intellectual property rights was taken to the GATT negotiation and by WTO, it becomes a part of multilateral agreements under WTO and this leads members of WTO to follow the Agreement.

One objective of TRIPS Agreement is to make progress to industries so it focuses on rights to occupy patents of individual. The content of TRIPS Agreement related to the protection of local wisdom of local medicine is Article 27: Patentable Subject Matter. According to the Article, member countries are to protect invention patents in all technological fields. However, in Article 27.3 (b), members may also exclude from patentability: plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-

biological and microbiological processes. However, Members shall provide for the protection of plant varieties either by patents or by an effective *sui generis* system or by any combination thereof

As for Thailand, although we now have the Constitution of the Kingdom of Thailand B.E. 2550 (A.D. 2007), Laws on Intellectual Property, Protection of Plant Varieties Act B.E.2542 (A.D.1999) and Protection and Enhancement of Thai Traditional Medicine Wisdom Act B.E.2542 (A.D.1999), which are not directly enacted to protect and do not thoroughly cover the local wisdom of local medicine, they can partially be applied for use. Legal measures on local wisdom protections in foreign countries as the People's Republic of China, the Philippines, Brazil, United Arab Emirates and India are to be studied to know how such countries protect and promote their local wisdom of local medicines.

From the study, it is found that the protection on local wisdom of local medicines should be executed both by national and international laws. Although the current laws on intellectual property can protect local wisdoms in some cases but they cannot efficiently protect them due to largely different protection objectives. Enactment of specific laws to protect local wisdoms on local medicines is, then, necessary to be a shield to protect from seizure and utilization of Thai local medicines of developed countries without any remedy or remunerations.