

The contribution of Trademark Registration in Cambodia to Business Development

1. [Trademark registration in Cambodia](#) is very important because a trademark is considered to be an image of a company. It allows customers to distinguish between a product of one establishment from another, thus giving a business the possibility to better market its product or service in comparison with its competitors. A trademark doesn't just help a client to identify goods or services but will attach itself to the quality and reputation of the merchandise or service using that trademark. Therefore, if customers are pleased with the quality of a product or service bearing a trademark, they will continue to buy that product or use that service based on quality expectations. In this case reputation may help to maintain and improve the quality, because a business cannot afford to lose its customers' confidence in its marks due to a decline in quality.

2. [Trademark protection in Cambodia](#) is carried out under the [Law on Marks](#), Trade Names and Acts of Unfair Competition which was promulgated on February 7, 2002. Under this Law, protection will be granted for a period of 10 years with a possibility of indefinite renewal. However, failure to use a trademark for more than five years without valid reason (the Registrar can be informed by submitting an affidavit of use or non-use) could lead to nullification of the protection. For obtaining legitimate protection, an application has to be submitted to the [Intellectual Property](#) Department of the Ministry of Commerce. Under [Cambodia trademark law](#), actual use of a mark was not a condition for filing an application for registration. Since Cambodia has been a member of the Paris Convention, priority is given to any person who first files or claims priority to the mark. This priority right to a mark filed earlier in any country which is a member of the Paris Convention could be claimed within a period of six months following the first filing by showing proper valid evidence of that filing to the Registrar in Cambodia. By law, trademark rights can be transferred or licensed to a third party and the rights owner has an exclusive right to request the competent authority to take measures against infringement of its legitimate rights and is also eligible for payment of compensation. As a member of the Paris Convention, Cambodia also acknowledges the protection of well-known marks without the requirement of registration. Trademark law in Cambodia is fully compliant with the requirements of the TRIPS Agreement since it provides a registration process and remedies for the protection of marks, ensuring effective enforcement of rights concerning marks and trade names and preventing acts of unfair competition. In this regard, the trademark laws of Cambodia allow for the implementation of provisional measures including administrative and border measures to tackle [trademark infringement](#).

3. To promote awareness of the implementation of this Law, the Government has organized several awareness programs for the private and public sectors, especially small and medium-sized enterprises at national and provincial levels aiming at encouraging them to make full use of the benefits of trademark registration in Cambodia. The series of seminars/workshops showed both an increase in the number of attendees and the duration of the seminars to reflect the importance of trademark utilization as a tool for business development. During the second half of 2005, Cambodia has conducted and will conduct several activities to raise public awareness of IP and to improve the capacity of Cambodian IP officials in this particular field. The following activities have been and will be carried out with the cooperation of foreign and local partners such as NGOs, international organizations and universities.

4. For the acknowledgement of trademark contributions to business development in Cambodia, we have to observe a contribution based on the following characteristics: (1) either a company has successfully marketed its brand name though brand development on the same product or has used the brand name for diversified products or services in different classes. (2) has registered or licensed its brand name to other companies, and (3) whether its brand name is known for the true quality of its products or through marketing techniques which are only acquired for a limited period of time. Even though Government policy doesn't offer guidelines or encouragement to manage IP as an asset for development or even consider it as a key strategy for economic development, the IP policy of Cambodia does recognize the need to have an effective IPR protection scheme in order to create confidence in the business environment among foreign investors and to encourage technology transfer through this foreign direct investment.

5. The recent increase in trademark registration and trademark renewal for goods and services, especially for garments/textiles, processed agricultural products, foodstuffs and pharmaceutical products; beauty salons, restaurants and hotels and professional services such as accounting firms, law firms, construction companies etc, shows the intention for continued use and also helps to confirm the contribution of these trademarks to the development of these businesses. A concrete example of this fact is the recognition of the "Made in Cambodia" concept in the field of textiles/garments for export, the acceptance of the well-known taste of Cambodian organic rice under the brand name "Sen Pidor", the high demand for Cambodian palm wine, "Cofirel", and the fabrics made from Cambodian silk under the names "Phnom Srok" or "Prek Changkran" in European or U.S. markets. In the domestic market we have the well-known Soya milk "So! Soya" from the Hagar-Soya company and rice crackers "Rabbit & Device" from LyLy Food Manufacturing.

6. In Cambodia, businesses using trademarks as a tool for business development often conduct market research to find out why customers decide to buy products with a certain brand name by comparing the product with its competitors. Based on this research they are able to develop a name and a look for their products. Developing a package that reflects customer desire and market forces will convey the correct image of the company. Registering a trademark to protect and increase its value and then publicizing this trademark through a good marketing strategy as well as developing a business plan in order to structure the product development with the intention of enlarging its market share is vital. To simplify recognition and to inspire customer confidence, trademarks in Cambodian businesses always appear as a short and simple easy-to-read word or character easy to recognize and which normally refers to the aspiration of quality and service. Businesses here always reflected on how best to position their trademark or brand name in the media and how to repeat this placement in order to obtain fast recognition by making the product easy to identify. This placement must reflect the best features of a product because customers always rely on a brand name to ensure the quality of goods or services they are going to buy and to reduce costs associated with searching the market for the quality products they want. In summary, we have seen trademarks or brand names contribute to business development as an asset which can be sold, licensed or franchised. They help to promote a business image by emphasizing a particular quality standard for a products or service and also provide a means to identify strong business ownership through trademark registration. Finally, they will provide a strong marketing tool for building a company's position in its desired markets.

7. The impact of the above-mentioned awareness and promotion program has been shown by the increase of the number of marks assigned and the acquisition of trademark rights on products and services in the form of exclusive distribution and importation possibilities for the products or services into Cambodia through private agreements between trademark owners and local importers. Since under Cambodia trademark law, the term 'exhausted of right' is only applied in a national sense, the commercialization of IP rights is mostly implemented under this form of granting exclusive rights and assignment of use of a mark for a certain limited market.

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