

## Myanmar's Intellectual Property Milestone: The Trademark Law in Action

*In a momentous stride towards intellectual property protection, Myanmar enacted its landmark Trademark Law in 2019, setting the stage for a new era of brand safeguarding in the country. On April 26, 2023 which coincides with the World IP Day, the Myanmar Intellectual Property Department (IPD) celebrated this significant milestone with a special "grand opening" event. Since the commencement of this event, the IPD has been receiving new trademark applications.*

The new Trademark Law of Myanmar represents a pivotal step forward, marking the dawn of a comprehensive legal framework to protect trademarks in Myanmar. However, it is essential to acknowledge that Myanmar's intellectual property legislation is still in its nascent stages and could be perceived as relatively basic compared to more established legal frameworks in other jurisdictions. This early stage of development may present certain challenges and uncertainties for businesses seeking trademark protection in Myanmar. However, it also represents an opportunity for the country to shape its intellectual property landscape and create a conducive environment for innovation and brand protection.

While the new Trademark Law sets the foundation for safeguarding brands, further clarification or the creation of sub-law documents may be needed to effectively guide its implementation. One notable aspect that requires attention is the absence of a specific timeline for examining trademark applications under the new law. Unlike more established legal systems, Myanmar's Trademark Law does not explicitly specify the duration within which applicants can expect a response from the IPD regarding the substantive examination of their trademark applications. This aspect may give rise to some uncertainties in the registration process for brand owners and businesses alike.

Under the current local practice, the process for a new trademark application in Myanmar typically involves the following steps:

### Step 1: Filing of Application

The trademark application process in Myanmar begins with the submission of the application to the IPD. The applicant must provide all required information and documentation, including the proposed trademark, details of the applicant, and the goods or services the trademark will cover. It's crucial to ensure that the application is complete and accurate to avoid unnecessary delays in the process.

### Step 2: Formalities Check

Upon receiving the trademark application, the IPD conducts a formalities check to ensure that all necessary documents have been provided and that the application meets the basic requirements. This includes verifying whether the application fee has been paid and whether the necessary information is included. If any deficiencies are found, the applicant may be given a certain period to rectify them; otherwise, the application may be rejected.

### Step 3: Absolute Ground Examination

In this step, the IPD examines the trademark application to determine if it meets the absolute grounds for registration. These grounds include ensuring that the proposed trademark is distinctive, not descriptive of the goods or services, and does not conflict with any existing registered trademarks. If the IPD finds any issues with the proposed trademark, the applicant may be required to amend the application or provide additional evidence to support its registrability.

### Step 4: Publication for a period of (60) days

After passing the absolute ground examination, the trademark application is published in the Myanmar Gazette for a period of 60 days. This publication allows third parties to review the application and file oppositions if they believe the trademark registration would infringe upon their existing rights. If no oppositions are filed during this period, the application proceeds to the next step.

### Step 5: Substantive Examination (conducted after the opposition period)

Following the publication period and the resolution of any oppositions, if applicable, the IPD conducts a substantive examination of the trademark application. This examination involves a more in-depth review of the application's compliance with all legal requirements and assesses potential conflicts with other registered or pending trademarks. The IPD may also assess the distinctiveness and protectability of the trademark in this stage.

### **Step 6: Registration**

If the trademark application successfully passes all the above steps and there are no further objections or issues, the IPD will proceed with the registration of the trademark. A registration certificate is issued to the applicant, granting them exclusive rights to use the trademark for the specified goods or services in Myanmar.

### **Timeline**

Regarding the timeline, it is anticipated that in a straightforward case, it may take approximately 15-18 months from the filing date to receive notices from the IPD regarding the substantive examination of the trademark application. However, the actual processing time can vary depending on factors such as the workload of the IPD, the complexity of the application, and any potential opposition or objections filed by third parties.

### **A bottom line**

Myanmar's new Trademark Law ushers in a promising chapter for intellectual property protection. While certain aspects of the legislation remain in their early stages, this is precisely the moment for businesses to seize the opportunity and lay the groundwork for lasting brand protection. To position your business at the forefront of brand protection in Myanmar, it is crucial to stay updated with the guidance and sub-laws issued by the IPD. By being responsive to any changes or clarifications, you can navigate the trademark registration process with confidence and ensure your brands are well-protected under robust legal safeguards.

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