

Trademark Registration in Myanmar: Understanding First-to-File and Right of Priority

Myanmar's burgeoning market presents a wealth of opportunities for businesses looking to expand their brands and protect their intellectual property. Among the crucial steps in this process is trademark registration, a vital measure to safeguard brand identity and reputation. Understanding the provisions under Section 19 of the Trademark Law of Myanmar is essential for any entity seeking to secure trademark rights in this dynamic landscape. This article is to delve into the significance of the "first-to-file" principle and the concept of the "right of priority" in Myanmar's trademark registration process.

Section 19 of the Trademark Law of Myanmar addresses the scenario where multiple applications for identical or similar marks are submitted on different dates. In such cases, the Registrar is liable to determine which applicant should be granted the registration of the mark. The key principle underlying this section is the concept of "first-to-file", which means that the first applicant to submit a valid and compliant application is given priority for registration.

A more in-depth analysis of the two main scenarios covered by Section 19 is provided below.

1. Multiple Applications for Identical or Similar Marks on Different Dates:

When multiple applicants file applications for trademarks that are either identical or similar to each other, the Registrar will review each application to ensure they meet the stipulated requirements for registration. The essential considerations during this process include:

- *First-to-File Principle:* As per the first-to-file principle, the Registrar will allow only the first applicant whose application meets all the necessary stipulations to register the mark. This means that the applicant who submits the application first and complies with all the necessary legal requirements is granted priority for registration.
- *Compliance with Requirements:* All applicants must ensure that their applications are complete, accurate, and meet the necessary criteria specified in the Trademark Law. If an application fails to fulfill any of the essential requirements, it may be rejected or considered withdrawn.
- *Priority Examination:* The Registrar examines each application to determine the date of receipt and whether it fulfills all the necessary conditions. The examination process is crucial to identifying the first applicant whose application meets the requirements.

2. Conflicting Right of Priority Claims:

In situations where applicants assert a right of priority based on previous trademark applications filed in other countries, the Registrar must resolve any conflicting claims. Key points to consider are as follows:

- *Right of Priority:* The right of priority allows applicants to claim priority based on a previous application in another country. This means that if an applicant has already applied for the same mark in a member state of the Paris Convention or the World Trade Organization, they may subsequently apply for the registration of the identical mark in Myanmar within six months from the date of the initial application. The date of the initial application is then considered the date of application for the mark in Myanmar, and the applicant is granted the right of priority from that date.
- *Conflicting Claims:* In cases where more than one applicant asserts a right of priority for the same mark, the Registrar must carefully review the evidence and determine which applicant has the earliest right of priority date that meets all the requirements.
- *Priority Examination:* The Registrar examines the right of priority claims and checks the dates of the initial applications in other countries. The applicant with the earliest date, meeting all the necessary stipulations, will be granted the right to register the mark in Myanmar.

In conclusion, Section 19 of the Myanmar Trademark Law emphasizes the importance of prompt and accurate filing of trademark applications. It follows the principle of "first-to-file," allowing the first compliant applicant to

secure the registration of identical or similar marks. Additionally, it provides a mechanism to resolve conflicting right of priority claims by giving priority to the applicant with the earliest right of priority date who meets all the required conditions. This approach encourages swift and decisive action in trademark applications, ensuring a fair and efficient registration process in Myanmar.

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