

What Are the Penalties for Counterfeiting Offenses in Myanmar?

Preserving intellectual property rights plays a pivotal role in stimulating innovation, nurturing creativity, and promoting equitable competition within any economy. Recognizing this significance, Myanmar has implemented rigorous legislation to tackle counterfeiting effectively and protect the rights of intellectual property owners. Within the legal framework of Myanmar, Sections 87 to 92 delineate the consequences for offenses associated with counterfeiting and unauthorized use of protected marks. This article explores the essential provisions of these sections, underscoring the government's unwavering dedication to safeguarding intellectual property rights.

Offenses for commercial purposes

Section 87 of Myanmar's Trademark Law prescribes various offenses committed with a commercial intent and without the consent of the right holder. These offenses comprise: (i) Counterfeiting a Mark; (ii) Using a Counterfeit Mark for Goods or Services; and (iii) Possessing Objects or Equipment Primarily Used for Counterfeiting.

The penalties for these offenses entail imprisonment for a maximum of three years, a fine not exceeding five million kyats, or both. The severity of these consequences underscores the gravity of the offenses, serving as a strong deterrent against counterfeiting practices that pose risks to legitimate businesses and consumers.

Furthermore, the section explicitly addresses trading, distributing, and possessing goods utilizing counterfeit marks for commercial purposes. Offenders involved in such activities may face imprisonment for up to two years, a fine not exceeding five million kyats, or both.

Repeat offenders

Section 88 addresses individuals who commit offenses as described in Section 87 and have a prior conviction for the same offense. The law adopts a stringent approach towards repeat offenders, imposing a minimum prison sentence of three years, extendable up to ten years at maximum. Additionally, offenders may face a fine of up to ten million kyats. This provision aims to deter persistent counterfeiting activities and safeguard the rights of intellectual property holders.

Special protection for flags and symbols

Under Section 89, the unauthorized use of flags or symbols protected under international agreements to promote commercial activities is prohibited. Offenders found guilty of such acts may face imprisonment for up to 03 (three) years, a fine not exceeding 05 (five) million kyats, or both.

Tampering with registered marks

Section 90 addresses the intentional tampering, destruction, alteration, or addition to a registered mark with the intention of harming the owner of the mark. Offenders found guilty of such actions may be imprisoned for up to one year, fined up to 03 (three) million kyats, or both. This provision emphasizes the importance of maintaining the integrity of registered marks and discourages any attempts to undermine their authenticity.

Offenses related to mark registration

This section addresses various offenses related to mark registration, such as issuing counterfeit registration certificates, making false entries in registration records, or violating prohibitions outlined in Section 52. The penalties for these offenses include imprisonment for up to 01 (one) year, a fine not exceeding 02 (two) million kyats, or both. These penalties serve as a deterrent against fraudulent practices that undermine the effectiveness of the mark registration system.

Liability for abetting offenses

Section 92 highlights the accountability of individuals who are part of or abet any of the offenses mentioned in the previous sections. Such individuals shall be subject to the provisions corresponding to the offense committed. This provision ensures that accomplices or facilitators of counterfeiting activities are held equally responsible and subject to appropriate penalties.

Final thoughts

Myanmar's comprehensive legal framework, as outlined in Sections 87 to 92, reflects the nation's dedication to protecting intellectual property rights and curbing counterfeiting practices. By imposing strict penalties, including fines and imprisonment, the government aims to deter potential offenders and foster an environment conducive to innovation, creativity, and fair competition.

At KENFOX, we take pride in our expertise and experience in the field of trademark services, enabling us to guide businesses through the intricacies of trademark registration, enforcement, and protection. Upholding intellectual property rights not only contributes to the growth and success of enterprises but also safeguards consumers from the risks associated with counterfeit products.

As your reliable partner in Myanmar, KENFOX is committed to working alongside businesses to ensure the utmost protection of their trademarks and intellectual property, thereby fostering an atmosphere of trust and security in the marketplace. With our in-depth knowledge of Myanmar's legal framework and dedication to excellence, we stand ready to empower your brand and contribute to your long-term success in this dynamic and thriving economy.

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