

What is the Process of Customs Recordal for Trademarks in Myanmar?

The Ministry of Planning and Finance of Myanmar issued Notification No. 50/2023, outlining the rules, requirements, and procedures for registered trademark owners to safeguard their intellectual property rights through customs recordation. This notification provides a framework for trademark owners to avail customs protection against counterfeiting and protect their brands in cross-border trade.

Customs recordal or customs watch (*customs supervision*) is of paramount importance as an IPR enforcement strategy for IPR holders in Myanmar. The customs authority in Myanmar serves as a gatekeeper, playing a crucial role in preventing the entry of trademarked counterfeits into the country. By prioritizing customs recordal or customs watch, intellectual property rights holders can effectively safeguard their trademarks and combat the influx of counterfeit goods in Myanmar.

1. Process and timeline for customs recordal in Myanmar

(i) Trademark Registration under the Trademark Law 2019: Before proceeding with customs recordation, the trademark owner must first ensure that their trademark is registered under the Trademark Law 2019 in Myanmar. This initial registration is essential to establish legal rights over the mark in the country.

(ii) Application for Customs Recordation: Once the trademark is registered, the owner (*or their legal representative*) can apply for customs recordation to protect their registered marks against cross-border trade in counterfeit goods. The application can be submitted directly to the Customs Department or through a legal representative.

(iii) Application Form and Documentary Evidence: The applicant must complete the specified form provided by the Customs Department for recordation. Along with the form, they should attach all required documentary evidence supporting the registration of their trademark. The Customs Department may also request additional documents as deemed necessary.

(iv) Review and Acceptance: Upon receiving the application, the Customs Department will review the submission to ensure that all necessary information and documentation are provided correctly. If the application meets the requirements, it will be accepted for customs recordation.

(v) Registration Number Issuance: Within 15 days of accepting the application, the Customs Department will provide the applicant with a registration number. This number serves as proof that the trademark is now recorded with the Customs Department for protection against counterfeit goods in cross-border trade.

(vi) Recordation Validity and Renewal: The customs recordation is initially valid for 02 (two) years from the acceptance date of the application. Before the expiration date, the trademark owner can apply for renewal of the recordation. The renewal application should be submitted at least 30 days before the expiration date to maintain the protection for an additional two-year period.

(vii) Notification and Documentation Update: Trademark owners with marks recorded by the Customs Department are responsible for keeping the department informed about any changes or amendments related to the mark. In case of any modifications to the registered trademark information at the Intellectual Property Department (IPD), the owner must notify the Customs Department within three working days. The owner should also provide any necessary documentation to support the changes made.

2. Customs Suspension of Shipment for Trademark Infringement: Process and Requirements

(i) Eligibility and Grounds for Application: Trademark owners who have registered their trademarks under the Trademark Law 2019 have the right to apply for a suspension order. To be eligible, the applicant must present sufficient grounds for believing that counterfeit goods are either being imported or are about to be imported into the country. These grounds may include evidence of trademark infringement, counterfeit products, or information regarding suspicious shipments.

(ii) Language Options for Applications: Applicants have the flexibility to submit their customs suspension applications in either English or the Myanmar language. This allows trademark owners to communicate their concerns effectively and efficiently, regardless of their preferred language.

(iii) Translation Requirements: In some cases, the Customs Department may request a translation of the application. Therefore, if the application is initially submitted in the Myanmar language, an English translation

might be required, and vice versa. Providing translated versions ensures that the Customs Department can fully understand and process the application without delays.

(iv) Submission Methods: There are three accepted methods for submitting customs suspension applications:

- In-Person: Applicants can physically submit their applications at designated Customs Department offices.
- By Post: Applications can be sent through postal services to the relevant Customs Department address.
- Electronically: Trademark owners may choose to utilize electronic submission channels, such as online platforms, to expedite the application process.

(v) Notification and Review Timeline: Upon receiving the customs suspension application, the Customs Department will review it thoroughly. Within 30 days of receiving the application, the Department will notify the applicant of the outcome. If the application is accepted, the Customs Department will issue a suspension order.

(vi) Security Payment: Once the suspension order is issued, the applicant must comply with the Customs Department's instructions regarding the security payment. The specific amount of the security is not yet specified and is subject to the Customs Department's discretion. The applicant must make the security payment within five working days from the date of the suspension order.

(vii) Rejection of Application: Failure to pay the security within the specified timeframe will result in the rejection of the application. In such cases, the Customs Department will not proceed with the suspension, and the goods in question may be released into free circulation.

3. Outcomes of Recordation or Suspension

Upon inspection by the Customs Department, either through customs recordation or following the acceptance of a suspension order, if there is compelling evidence that the imported goods are suspected of using counterfeit marks, the Customs Department will take action to suspend the circulation of these goods within Myanmar. The handling of the suspended goods will be carried out in accordance with the decision of the Customs Department's director general or as directed by the Intellectual Property Department (IPD).

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