

## Enforcing Patent Rights: A Guide to IPR Courts in Myanmar

*When it comes to safeguarding patent rights and addressing potential infringements, the Intellectual Property Rights Courts in Myanmar play a vital role. This guide sheds light on the procedures and actions that can be pursued through these courts to uphold patent rights within the legal framework.*

### 1. Initiating Provisional Measures

If you, as a patent right holder, believe that your rights are being infringed upon, you have the option to seek provisional measures through the Intellectual Property Rights Court. These measures are designed to offer swift and temporary relief while the full legal process is underway.

**(i) Application for Miscellaneous Suit for Provisional Measures:** To initiate this process, you can apply for a miscellaneous suit within the stipulations of sections 97 and 98. This allows you to request the court to issue provisional measures orders to address the infringement.

**(ii) Civil Action Application:** Additionally, you can also pursue a civil action through the Intellectual Property Rights Courts to seek appropriate remedies for the infringement.

### 2. Provisional Measures Orders

**(i) Addressing Alleged Infringement:** In cases where patent rights infringement is alleged, the Intellectual Property Rights Court can issue provisional measures orders based on your application (subsection (a) of section 96). These orders may include:

- a. An order to prevent further infringement, even for imported goods with customs duties paid, from entering the Union's commercial area.
- b. An order to preserve evidence related to the alleged infringing products.

**(ii) Requirements for Provisional Measures:** The court may request the following from you when considering provisional measures:

- a. Adequate evidence to establish your status as the right holder and the infringement upon, or potential infringement upon, your rights.
- b. Adequate security to prevent misuse of the provisional measures process.

**(iii) Additional Information:** In certain cases, the court might request further information from you to better identify the alleged infringing goods and proceed with the provisional measures.

**(iv) Withdrawal or Termination of Provisional Measures:** Upon the request of the respondent and in accordance with section 98, the court may withdraw or terminate the provisional measures if civil litigation is not initiated within a reasonable period.

**(v) Compensation for Withdrawal:** If the provisional measures are withdrawn due to certain circumstances, the court may order you to compensate the respondent for any damages suffered.

### 3. Provisional Measures in Absentia

The Intellectual Property Rights Court can issue provisional measures orders even in the absence of the respondent. This is applicable under conditions such as:

- (i) A delay that could cause irreparable harm to your rights.
- (ii) An actual threat of evidence destruction or loss.

The court will take the following steps when executing provisional measures in absentia:

- (i) Promptly notify the respondent after implementing the measures.
- (ii) Complete the measures if the respondent fails to comply within the specified period.
- (iii) Consider requests from both sides to amend, revoke, or confirm the provisional measures.

### 4. Enforcing Patent Rights

In cases of patent rights infringement, the Intellectual Property Rights Court can issue various orders to address the situation, including:

- (i) An order to prevent further infringement, including imported goods violating patent rights.
- (ii) An order for the infringer to compensate you for damages suffered due to the infringement.
- (ii) An order to reimburse reasonable expenses incurred by you, including court fees and attorney fees.

## 5. Final Decisions and Remedies

Upon your application, the Intellectual Property Rights Court may make the following decisions in cases of infringement:

**(a) Destruction or Prohibition:** The court can order the destruction of infringing goods or prohibit their entry into trade routes. It can also prohibit the entry of materials used to produce infringing goods.

**(b) Considerations for Discretion:** The court will consider various factors, such as the effects of the prevention order, the proportionality between destruction and infringement, environmental impact, and the interests of others.

## 6. Compensation for False Allegations

If you falsely allege infringement without good faith, the court may order you to compensate the defendant, including court fees and expenses.

## 7. Production Process Infringement

In cases involving patent rights related to production processes, the court may demand the respondent prove the use of a different production process for identical goods.

## 8. Submission of Evidence

The Intellectual Property Rights Court can order the other party to submit evidence in certain cases, protecting confidential information. This is contingent on sufficient evidence being provided by you and the presence of relevant evidence in the possession of the other party.

## 9. Utilizing Existing Laws

In cases where specific provisions are absent, the Intellectual Property Rights Court can utilize relevant sections of the Evidence Act, Civil Procedure Code, and other related laws to issue orders regarding patent rights infringement.

This guide aims to provide a comprehensive understanding of how the Intellectual Property Rights Courts in Myanmar address patent rights infringements and enforce the protection of intellectual property. By following the legal procedures outlined here, patent holders can ensure the safeguarding of their innovative creations and uphold their rights within the nation's legal landscape.

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