

Industrial design Process in Myanmar: Examination, Opposition, and Registration

In the realm of industrial design protection within Myanmar, the journey towards securing your design rights involves a series of meticulous steps. From initial application scrutiny to potential objections and eventual registration, understanding the process is key to successfully navigating the intricacies of industrial design protection.

1. Application Evaluation by Examiner: Ensuring Conformity with Regulations

When submitting an application for industrial design registration, a diligent Examiner plays a pivotal role in ensuring its compliance with the stipulated provisions. Here's a glimpse into the examiner's responsibilities:

(a) **Examination and Submission:** The Examiner carefully evaluates the applications to verify their alignment with the conditions outlined in Section 22 and the provisions of Section 21. Applications meeting these criteria are submitted, along with the Examiner's observations, to the Registrar.

(b) **Amendment Notification:** For applications that do not adhere to stipulations, the Examiner, following a thorough examination based on Sections 21 and 22, may, with the Registrar's approval, request applicants to amend their submissions. Should an applicant fail to make necessary amendments within 30 days of receiving the notification, the application is deemed withdrawn.

(c) **Amendment Review:** If the applicant does respond and makes the required amendments as per subsection (b), the Examiner re-evaluates the application and presents it, along with their remarks, to the Registrar.

(d) **Refusal Determination:** In cases where the industrial design does not fit within the definition stated in subsection (j) of section 2 or is ineligible for protection as per subsection (b) of section 16, the Examiner is obligated to submit the application, along with their grounds for refusal, to the Registrar.

2. Ensuring Rights Amid Challenges: The Process of Restoration

Should an applicant find themselves at a crossroads due to missed deadlines or non-compliance, there exists a path to reclaim lost rights related to the industrial design registration application. Here's how:

(a) **Restoration Application:** An applicant, whose rights may have been compromised due to non-compliance within the designated timeframe, has the opportunity to reapply for industrial design rights registration under specific conditions. This entails submitting a claim within 60 days of withdrawal due to non-compliance, along with detailed explanations, necessary information, and supporting documentation. The applicant must provide sound reasons for the lapse in compliance, accompanied by the requisite fees.

(b) **Appeal Suspension:** It's important to note that if a restoration claim is lodged during an ongoing appeal process, the Registrar will suspend the appeal proceedings until the restoration matter is resolved.

3. Registrar's Role: From Examination to Public Announcement

The Registrar, as a crucial figure in the industrial design registration process, plays a multifaceted role in guiding the journey towards protection:

(a) **Rights Restoration Decision:** The Registrar carefully examines restoration claims made under subsection (a) of section 29, with the authority to allow or deny the restoration of rights related to the industrial design application.

(b) **Public Announcement and Objections:** Upon ensuring that applications comply with Sections 21 and 22, the Registrar initiates a public announcement through prescribed means. This announcement serves to inform the public and invites objections to be raised against the pending applications.

(c) **Deferral Option:** If an applicant opts for a deferral of the public announcement as per section 36, the Registrar refrains from making the announcement before the specified deferral period.

4. Filing an opposition to an industrial design application in Myanmar

Maintaining a vigilant design protection environment necessitates an avenue for objections (opposition) to be raised.

4.1. Grounds for Objections: Those desiring to voice objections have the opportunity to do so by paying the prescribed fee and submitting a formal objection to the Registrar. Objections may be based on:

- Non-conformance of the industrial design as defined under the Myanmar Industrial Design Law.
- Lack of originality in the design.
- Ineligibility for protection under section 16.
- Evidence suggesting the applicant's ineligibility for registration.

4.2. Applicant Notification: The Registrar promptly informs the applicant of the objection, allowing them a designated period to present arguments or counterpoints against the raised objection.

4.3. Registrar's Verdict: Balancing Acceptance and Refusal

The Registrar's role culminates in determining the fate of the applications:

(a) **Objection/Opposition Submission Period Closure:** If no objections (opposition) are submitted within 60 days of the public announcement date, the Registrar may grant permission for the registration of the industrial design.

(b) **Objection Review:** In cases where an objection is filed, the Registrar diligently reviews the objection's merit and decides whether to accept or refuse the registration.

(c) **Record and Announcement:** The Registrar records the outcome of the application – whether it is accepted or refused – in the registration records. Furthermore, the Registrar makes a public announcement, following prescribed procedures, to communicate the decision on acceptance or refusal.

(d) **Registration Certificate:** In the event of successful registration, the Registrar issues a certificate for the registration of the industrial design to the rightful applicant.

5. Preserving Rights and Ensuring Accuracy: The Owner's Responsibilities

As the process unfolds, industrial design owners have an important role to play:

(a) **Certified Copy Issuance:** Owners may seek the issuance of a certified copy of the industrial design registration certificate if the original is lost or damaged.

(b) **Request for Revision:** Owners can approach the Registrar to rectify errors in registration records, such as writing errors, nationality, and address, upon payment of the prescribed fee.

6. Registrar's Duality: Facilitating Issuance and Amendments

The Registrar's dual role encompasses providing requested documentation and effecting necessary changes:

(a) **Certified Copy Issuance:** Following an examination of the request, the Registrar issues a certified copy of the industrial design registration.

(b) **Amendment Approval:** Upon careful consideration, the Registrar may permit amendments in accordance with the provisions specified in subsection (b) of section 34.

In this intricate journey of industrial design protection, the interplay between examiners, applicants, objectors, and the Registrar ensures a balanced and thorough assessment of each design's eligibility and compliance. By delving into the nuances of examination, objections, and registration, aspiring design rights holders can confidently traverse the path towards securing their creative endeavors within the dynamic landscape of Myanmar's industrial design framework.

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