

Criminal Procedures For Trademark Infringement In Laos

Trademark infringement cases in Laos involve a multi-stage process with specific procedures and timelines. In this article, KENFOX IP & Law Office provides a step-by-step guide to the process, outlining the roles of the police, prosecutors, and the courts, from the initial complaint to the final judgment and potential reopening of the case

1. Initiation of the Case [Police]

Proceedings can be initiated through a formal complaint, the offender's surrender, or an investigative body's discovery of the offense. Complaints can be submitted in writing or orally, with the latter requiring meticulous documentation by the receiving officer [Article 86, 87 of the Law on Criminal Procedure - LCP].

2. Investigation-Interrogation [Police]

- Receive complaints or reports of [trademark infringement](#) [Article 86 LCP].
- Record the complaint and inform the complainant of potential legal liabilities for false accusations [Article 87 LCP].
- Consider the claim or complaint within a time limit of not over **05 days** from the date of receipt, which can be extended to 10 days in complex cases [Article 90 LCP].
- Issue an order to open an investigation-interrogation if there is strong evidence proving that an individual has committed a criminal offense [Article 84 LCP].
- Indicate each kind of offense and the relevant articles of the Penal Law [Article 84 LCP].
- Report the offense to the prosecutor's office within 24 hours [Article 95].
- If urgent, the head of the investigation-interrogation organization can issue an order to open an investigation and report to the prosecutor's office within 24 hours [Article 95].
- The public prosecutor must decide whether they agree or disagree with the order within 48 hours of receiving the copy [Article 84 LCP].
- Conduct the investigation, including gathering evidence, taking testimonies, and conducting searches [Article 43 LCP].
- Issue summons for suspects and witnesses to appear for questioning [Article 113 LCP].
- If necessary, detain the suspect for up to 44 hours [Article 138 LCP].
- Apply for an arrest warrant from the prosecutor's office if necessary [Article 139 LCP].
- Complete the investigation and submit the case file to the prosecutor's office within 2 months for minor offenses and **3 months** for major offenses (IP infringement in Laos is categorized as a major offence under Article 13 LCP because the imprisonment is within 1-3 years), which can be extended by the public prosecutor [Article 110 LCP].
- During the investigation-interrogation, the accused person has the right to be informed of the accusations, give testimony, present evidence, request bail, see and copy documents in the case file, meet with a lawyer or other protector, request recusal of persons involved in the proceedings, lodge complaints against incorrect acts or orders, and submit appeals [Article 65 LCP].

Timeline: Initial consideration of complaint: 5-10 days. Investigation: 3 months for major offenses.

3. Prosecution [Prosecutor]

Review and Supervision Stage

- Monitor the lawfulness of the investigation conducted by public security organs [Article 49 LCP].
- After the investigation-interrogation is completed, the case file and exhibits are sent to the public prosecutor [Article 150 LCP].
- The public prosecutor shall examine the case file **within 15 days** of receipt and issue an order, for example, to send the case file back for additional investigation, to suspend the case proceedings, to dismiss the case, to modify preventive measures, or to prosecute the accused person to the court [Article 152 LCP].
- The accused person, the injured party, the civil plaintiff, and the civil liable person shall have the right to see the case file and read the order of the public prosecutor [Article 152 LCP].
- The public prosecutor must send the order of prosecution and the case file to the court within three official days of issuing the order [Article 152 LCP].
- Order additional investigation if necessary [Article 153 LCP].
- Issue an order to prosecute the accused to the court if there is sufficient evidence [Article 154 LCP].

Timeline: Examination of case file: 15 days.

4. Trial [Court]

- Receive the case file and prosecution order from the prosecutor's office [*Article 164 LCP*].
- Assign a judge to examine the case file [*Article 167 LCP*].
- Send the case file back to the prosecutor's office for additional investigation or prosecution if necessary [*Article 168 LCP*].
- Issue an order to take the case for consideration at the court session [*Article 169 LCP*].
- Conduct the trial, including hearing testimonies, examining evidence, and hearing arguments [*Article 192 LCP*].
- Issue a decision on the case, including penalties if the accused is found guilty [*Article 205 LCP*].
- The court shall consider and decide on the case **within 30 days** of receiving the order of prosecution from the public prosecutor [*Article 165 LCP*].
- The trial shall be conducted in the Lao language and in open court, unless it concerns state secrets or sensitive issues such as family relationships, in which case it shall be conducted in closed session [*Article 20 LCP*].
- The defendant has the right to be informed of the accusations, give testimony, present evidence, see and copy documents in the case file, meet with a lawyer or other protector, request recusal of persons involved in the proceedings, give clarifications and answer questions, give their opinion at the court session, receive the decision of the court, and submit appeals [*Article 66 LCP*].
- The court has the right to use investigation-interrogation methods and preventive measures during the proceedings [*Article 166 LCP*].

5. Judgment

- The court shall issue a decision on the case, which may include punishment, such as deprivation of liberty, fine, seizure of assets, or other penalties, or release from accusation [*Article 208 LCP*].
- The decision shall be pronounced in open court and notified to the defendant and other parties [*Article 206 LCP*].
- The defendant, the lawyer, or other protector of the defendant shall have the right to appeal the decision of the court [*Article 212 LCP*].
- The public prosecutor also has the right to request an objection to the decision of the court if it is deemed to be unfounded or inconsistent with [the laws](#) [*Article 213 LCP*].

6. Appeal

- The court of appeal level shall consider and adjudicate the case within 45 days of receiving the case file [*Article 216 LCP*].
- The court of appeal level has the right to confirm, amend, or nullify the decision of the court of first instance [*Article 222 LCP*].
- The defendant, civil plaintiff, civil liable person, lawyer, other protector, or the public prosecutor has the right to request cassation or objection to the judgment of the court of appeal level [*Article 226 LCP*].

7. Cassation

- The court of cassation level must consider and make a judgment on the case within 30 days of receiving the case file [*Article 228 LCP*].
- The court of cassation level has the right to not accept the application for cassation or request for objection, to terminate the application for cassation or request for objection and confirm the judgment of the court of appeal level, to nullify the judgment of the court of appeal level and release the defendant from accusation, or to nullify the judgment of the court of appeal level and send the case file back to the court of appeal level for reconsideration [*Article 231 LCP*].

8. Enforcement of Court's Decision

- The presiding judge of the judicial tribunal that considered the case at first instance shall issue an order to enforce the decision or judgment of the court [*Article 236 LCP*].
- The order shall be sent to the organization in charge of the enforcement of court decisions, the prisoner, and the public prosecutor [*Article 236 LCP*].

- The organizations in charge of the enforcement of court decisions include prisons, the Office of Enforcement of Military Court Decisions, village administrative organizations, and the Office of Enforcement of Court Decisions of the Department of Justice [*Article 237 LCP*].

9. Re-opening of a Case

- A final decision or judgment of the court may be re-opened if new information or evidence is discovered [*Article 259 LCP*].
- Only the People's Supreme Court has the right to consider a case at the re-opening level [*Article 259 LCP*].
- The re-opening of a case shall take place upon a request of the litigants or the Chief of Office of the Supreme People's Prosecutor [*Article 259 LCP*].

10. Special Provisions

- During criminal proceedings, individuals related to trademark infringement may be detained, arrested, or remanded. The time period for temporary remand shall not exceed two months for minor offenses and three months for major offenses, which can be extended by the public prosecutor [*Article 111 LCP*].
- The court may also order the seizure or sequestration of assets to ensure compensation for damages, payment of fines, and court fees [*Article 128 LCP*].

Final thoughts

Laos has a robust legal framework in place to address trademark infringement. The [criminal penalties and procedures serve](#) as a strong deterrent to potential infringers and provide a pathway for trademark owners to seek justice and protect their valuable intellectual property.

At KENFOX IP & Law Office, we understand the complexities of trademark infringement cases in Laos. We are committed to providing our clients with the knowledge and resources they need to navigate the legal landscape and safeguard their intellectual property. Contact us to learn more about trademark protection in Laos.

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