

Client Alert

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Registration of previously registered trade marks to start in January 2020

Critical changes are imminent in Myanmar as it begins to implement the country's first ever Trade Mark Law. With this new law, existing registered marks must be registered under a new trade mark registration system.

A "soft launch" of the registration system is anticipated to commence in January 2020. Clients are strongly advised to expedite the transition of their Myanmar trade mark portfolios so as to avail themselves of trade mark protection under the new law.

Types of marks that are accepted during the "soft launch" are as follows:

1. Marks protected by way of a registered Declaration of Ownership or a published Cautionary Notice; and
2. Marks which have been used in Myanmar. Please note that evidence of use is required to be submitted in this case, and the type and volume of evidence required to be produced have yet to be announced.

New marks which have not been protected in Myanmar by either method addressed above, will not be accepted during the soft launch. We recommend obtaining Declarations of Ownerships to facilitate a seamless transition into the new registration system.

Overview

The Myanmar Intellectual Property Department ("**MIPD**") recently announced that trade mark registrations under Myanmar's new Trade Mark Law may start as early as January 2020 on a "soft launch" basis to accommodate the surge of trade mark registration applications that is expected to be filed in the country. The exact date when the application process will start is still unconfirmed.

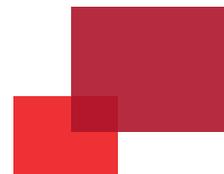
As background, the Trade Mark Law, a first in the country's history, was officially passed as law on January 2019 but is not yet officially in effect. Recent developments now suggest that trade mark applications may be accepted and processed in January 2020 as part of the "soft launch" of the new trade mark registration system. It is unclear if the law will also be officially made effective at this time.

Under the Trade Mark Law, existing trade marks must be registered under the new law. This means that all trade marks previously registered will have to be re-registered under the new trade mark registration system.

Timeline

The trade mark application process is planned to start sometime in January 2020. The exact date of implementation is still uncertain.

Applications for industrial designs and voluntary registrations of copyrights are planned to be launched about six (6) months after the trade mark application system is implemented, and application for patents and geographical indications



are planned one (1) year after the launch of the trade mark system. The exact timeline for implementing these proposed developments has yet to be confirmed.

Online Trade Mark Applications

Applications will be lodged through an online trade mark application system, and filed by designated trade mark filing agents.

Applications may be drafted in English. Translations may be required by the trade mark examiners as the application progresses.

Transition Period

The launch of the system will mark the start of a six (6) - month "transition period" during which applicants can file their trade mark applications. Applications filed during this period will not be given a filing date as of the time of application.

Instead, all applications filed during the transition period will be given a common filing date, which is the date when the 6-month transition period will end. The specific dates when the transition period will start and end has yet to be confirmed.

Fees

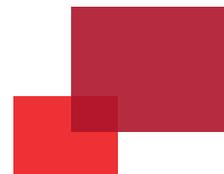
The official fees for trade mark applications have yet to be confirmed.

Applications filed during the transition period will not be assessed for official fees. The MIPD intends to announce the applicable fees five (5) months after the start of the transition period, and applicants are expected to pay the filing fees to complete the filing. Payments are expected to be processed online, through an online payment system.

The official costs for each application will be assessed on a per-class basis. The exact official fees have yet to be confirmed.

Information Required

Trade mark	<ul style="list-style-type: none">• Representation of Mark• Type• Translation (not required, but may be requested by examiner)• Disclaimer (if any)• Colour description (if any)
Specification of Goods/Services	<ul style="list-style-type: none">• Nice Class• Description of Goods/Service (fees to be assessed per class) <p><i>Note: Multi-class applications will be acceptable</i></p>



Applicant	<ul style="list-style-type: none">• Type (Individual/Organisation)• Name• Address (Street, City, State, Postal/Zip Code)• Country/Nationality• Phone• Email
Supporting Documents	<ul style="list-style-type: none">• Existing Declaration of Ownership• Power of Attorney

Existing Declarations of Ownership and Cautionary Notices

Existing and previously registered Declarations of Ownership and published Cautionary Notices can be submitted as part of the application.

Scanned copies of the Declaration of Ownership and the Cautionary Notice will be sufficient for the online submission, but we recommend keeping originals in case they are required for presentation.

Power of Attorney

A Power of Attorney ("**POA**") will be required for each application. The POA is not required to be submitted at the time of application, and can be submitted within three (3) months from filing.

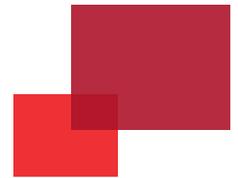
Existing POAs will be acceptable as long as they are still valid (i.e. not revoked and within the period of validity). That said, we recommend clients to execute a new and more robust POA to cover new actions that will be introduced in the new trade mark registration system. These include the authority for us to respond to office actions, file oppositions and cancellations, and other actions related to trade mark prosecution. You can [click here](#) to download a template POA. Please allow us to review the POA prior to execution.

Although yet to be confirmed, POAs will likely be required to be notarised and legalised at a Myanmar Embassy in the jurisdiction of execution. That said, we understand that the Myanmar authorities are also presently considering if the legalisation requirement can be excused.

Preparations

Clients can prepare for the transition as follows:

1. Conduct an audit to verify the adequacy of the trade mark portfolio to be registered in Myanmar.
2. For existing trade marks, prepare all original Declarations of Ownership and Cautionary Notices covering the marks to be registered.
3. For marks not yet registered in Myanmar, we recommend completing registrations before the start of the soft launch period. Please send instructions for application by **15 December 2019** to allow us time to process applications under the current trade mark system before the end of the year. We recommend doing the same for registered trade marks that are not in the name of the current owner - for example, the



Declarations of Ownership of assigned marks may still be in the name of the previous owner.

4. Transition Service for Myanmar trade marks.

For clients with a sizeable portfolio, we recommend setting up a dedicated virtual data room where clients can upload files or verify information about their Myanmar trade mark portfolio in preparation for the transition. You can [click here](#) to register.

5. Prepare legalised and notarised POA in preparation for filing. Please allow us to review the POA prior to execution.

Legalisation from a Myanmar Embassy may be difficult, or simply not possible, in certain jurisdictions. Please inform us if you anticipate issues regarding this so we can assist.

Please contact the Baker McKenzie team handling your trade mark portfolio for further information and assistance with this transition.