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Cambodia's Swift Accession to the Madrid Protocol

The Madrid System for the international registration of marks, governed by the Madrid Protocol, is gaining popularity across Southeast Asia. Several countries in the region are preparing to implement Madrid as part of their commitments toward regional integration via the ASEAN Economic Community, which will be created at the end of 2015.

In the most recent development, Cambodia has surpassed the expectations of many observers by joining the Madrid Protocol on March 5, 2015, with the system set to enter into force on June 5, 2015. Cambodia moved quickly and is now the fourth ASEAN country to join the Madrid Protocol—following in the footsteps of Vietnam, Singapore, and the Philippines, and bypassing regional neighbors like Thailand and Indonesia, which are both in the process of preparing for accession.

As the Madrid Protocol will soon come into effect in the country, we will answer some of the key questions about how Cambodia is preparing to adopt the Madrid System.

How Are the Cambodian IP Authorities Preparing for the New System?

Online Registration of Marks

Article 1 of Prakas No. 206 on the Organization and Functioning of the Department of Intellectual Property, dated July 24, 2014 (Prakas No. 206), provides that the Department of Intellectual Property Rights in Cambodia (DIPR) will establish and manage a website of intellectual property rights to promote public awareness of IP laws and regulations, as well as to clarify registered IP rights.

On March 28, 2015, Mr. Sim Sokheng, Director of the DIPR, confirmed that the DIPR is preparing a website for the public to register and search online for national and international marks. By late August 2015, it will be possible to file for both national and international registration of marks online on the DIPR's website.

The Law Concerning Marks, Trade Names, and Acts of Unfair Competition

Mr. Sim has said that no amendments will be made to the Law Concerning Marks, Trade Names, and Acts of Unfair Competition, in order to comply with the Madrid Protocol. If any provisions of the law conflict with the Madrid Protocol, the Madrid Protocol will take precedence over the preexisting law.

Regulations on the Madrid System's Registration Procedure

The DIPR is also preparing a draft regulation (referred to as a *Prakas* in Khmer) on the Procedures for Registration with the Madrid System, which will detail new procedures. This will come into force no later than June 6, 2015.

Will the IP Office Be Restructured?

According to a source at the Division of the Registration of Marks and Article 3 of Prakas No. 206, two separate divisions will be responsible for the national registration of marks and the international registration of marks. The new *Prakas* will provide further details about any organizational restructuring and the impact on examiners and registrars.

How Will International Applications Be Handled?

Under Article 5 of Prakas No. 206, the Division of International Registration of Marks will be established with the duties to:

- ▶ establish procedures for the international registration of marks;
- ▶ prepare and implement such procedures;
- ▶ manage official fees for the international registration of marks and collaborate with the Administration and IT Division, Accounting Division, and the Financial Department of the Ministry of Commerce;
- ▶ provide certificates of internationally-registered marks, as requested;
- ▶ remind applicants of the use or non-use of marks;
- ▶ fulfill duties to register and protect international marks to comply with the Madrid Protocol and other regulations on behalf of the Office of Origin and the Office of the Contracting Party; and
- ▶ other duties assigned by the top management.

What Kind of Training Will Be Offered?

Article 1 of Prakas No. 206 provides that the DIPR will collaborate with the Training and Research Center of the Ministry of Commerce and related ministries to increase public awareness of intellectual property laws and regulations and to educate officers in the relevant government departments.

Mr. Sim has stated that the DIPR will conduct public training in the near future, and that a schedule will later be confirmed by the DIPR. One DIPR officer has said that, within this year, the DIPR will initially provide training to intellectual property agents.

What Trademark Search Mechanisms Will Be Available?

The DIPR will establish a website where people can conduct trademark searches for national and international marks.

How Will Trademark Owners Benefit?

Trademark owners will benefit greatly from using this tool for the international registration of marks. The Madrid System will provide a means of trademark protection in Cambodia that is faster and more effective than the DIPR's current system of trademark protection, and so we can expect to see a growth in confidence among brand owners with interests in the country. 🏠