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Cambodia's Trademark Registration Procedures

The Madrid Protocol entered into force in Cambodia on June 5, 2015. Consequently, trademark protection can now be obtained through national and international channels. While the Department of Intellectual Property Rights (DIPR) plans to issue new regulations on the Madrid System's registration procedures—and so the procedures may be subject to change—there has been no official announcement to date. Therefore, this article discusses Cambodia's current trademark registration procedures to help foreign applicants effectively manage their trademark portfolios.

Formal Examination

After a trademark application is filed, the World Intellectual Property Organization will conduct a formal examination to assess whether all of the necessary documents have been included in the application. For national applications, an examination will normally be conducted within 30 days from the filing date. For international applications designated for Cambodia, however, an examination will not be carried out.

Documents that are often incomplete or missing include the original notarized power of attorney and the certified copy of a trademark application in another country in the case that a priority registration under the Paris Convention is claimed. If documents are incomplete or missing, the DIPR's registrar usually makes an informal request for the complete or missing documents to be submitted through local agents without specifying a deadline.

If the request is not complied with and the attempts of the DIPR's registrar to follow up with the local agents are unsuccessful, the registrar issues a Notice of Formal Examination with a compliance deadline of 45 days from the date of receipt. A failure to comply by the deadline or request an extension for a further 45 days from the granting date will cause the application to be deemed as withdrawn. An Acknowledgement of Filing Instruction will be issued when the documents are complete.

Substantive Examination

A substantive examination of the trademark application will then be conducted on absolute and relative grounds, and either a conditional acceptance or rejection may be issued. In the case of conditional acceptance, the registrar usually requests a disclaimer for nondistinctive elements. The applicant can either submit the disclaimer or a modification of the disclaimer by deleting any nondistinctive elements to allow the applied-for trademark to become registrable.

Rejections are normally based on absolute rather than relative grounds. Use and registrations of the same mark in Cambodia and/or other countries are considered to determine whether a trademark is registrable. Modifying a mark by adding a distinctive element is helpful to overcome rejection.

The rejection or conditional acceptance that results from the substantive examination stage must be complied with or contended within 60 days from the receiving date. An extension of 60 days from the granting date is available. In Cambodia, an extension may be requested several times without providing a reason.

If a mark is registrable, a Notice of Acceptance of Mark Registration will be issued. A registration fee must be paid within 60 days from the issuing date—otherwise, the mark will be rejected. A Certificate of Registration will be issued after the payment of the registration fee. It is usually issued within six to ten months after the filing date. The protection lasts for ten years from the filing date and is renewable for an additional ten years each time. An application to renew a mark's registration can be made within six months before the registration expires and a grace period of six months is allowed.

Publication

Trademark registrations are published by the DIPR. A Notice of Opposition accompanied by supporting evidence can be filed within 90 days from the date of publication. To rebut the opposition, the registrant needs to file a counter-statement accompanied by supporting evidence within 90 days from the receiving date of the Notice of Opposition. Opposition proceedings in Cambodia are uncommon in part because it is difficult for the public to obtain the country's *Trademark Journal*. However, the *Trademark Journal* can now be obtained from the DIPR's website, and so this may change.



a new software program has been created by the IPR Center to shift filing recordations of trademarks to the DIP. The database will provide the most up-to-date contact details for trademark owners or their representatives, as well as information about the trademarks registered with the DIP



Renewal

To renew a registration, an affidavit of use/non-use must be filed every fifth to sixth year from the registration or renewal date. The Division of International Registration of Marks of Cambodia has the duty to remind applicants of the use or non-use of marks, and this process will still apply to international trademark registrations after the new regulations come into effect. If an affidavit of use/non-use is not filed, the registered mark will be removed from the register. In practice, however, Cambodia's registrars have never removed a registered mark from the register.

Under the new regulations, filing will be mandatory at the time of renewal if a mark is not recorded at the fifth to sixth year. Even so, it is highly recommended to file an affidavit of non-use in time, as this can eliminate the risk of facing a non-use cancellation action. Owners of national and international registrations should closely observe the deadline to secure their marks. 