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## Intellectual Property Rights Enforcement in Laos

Intellectual property (IP) protection and the awareness of intellectual property rights (IPRs) in Laos have been increasing recently due to the support of the Lao government, which expressly recognizes the importance of IP to the country's ambitions for modernization, industrialization, and developing the country's regional and global status. Such attitudes are reflected in policy statements and strategic planning goals, and local authorities are growing more supportive toward the enforcement of IPRs in Laos.

The main legislation regarding IP in Laos is the Law on Intellectual Property, as amended, which was approved by the National Assembly of Laos on November 15, 2017 (Lao IP Law). In addition, the Penal Code No.26/NA was adopted by the National Assembly of Laos on May 17, 2019; this regulates the criminal charges for infringers and the punishments and fines relating to IP infringement. There are several provisions in the legislation protecting IPRs and suppressing IPR infringement. The government of Laos has also launched supporting regulations regarding the importance of protecting IPRs and guaranteeing IP protection for foreign investors through legislation, such as the Law on Drugs and Medical Devices of 2011, the Law on Business Competition of 2015, and the Law on Investment Promotion of 2016.

### IP Enforcement in Laos Concerning Trademarks

In Laos, trademarks are one of the most infringed areas of IP, causing severe injury in both monetary and non-monetary terms. To prevent such infringement, a trademark owner can prevent third parties from using identical or similar marks for goods or services that are identical, similar, or related to those for which a trademark is registered in accordance with article 58 of the Lao IP Law. Moreover, article 125 of the Lao IP Law also prohibits the counterfeiting of goods bearing registered trademarks. This article further stipulates that goods bearing an identical trademark to a validly registered mark for the same goods or services, without authorization, is prohibited.

The Lao IP Law provides sanctions against infringers, which include fines, warnings, and withdrawal of business licenses for repeat offenders. The legislation not only covers civil measures for protecting IPRs, but also extends protection under criminal legislation, such as article 246 of the Penal Code, which can be used to sanction IP infringers. Violations of IP, forgery, fraud, and unfair competition practices relating to intellectual property can cause damage to another person, and violators are subject to penalties, such as 1–3 years' imprisonment, or re-education without deprivation of liberty, and fines ranging from LAK 5 million (approx. USD 568) to LAK 20 million (approx. USD 2,272).

Furthermore, article 288 of the Penal Code provides criminal sanctions for manufacturing and trading counterfeit goods, including imprisonment from three months to two years, and fines ranging from LAK 5 million (approx. USD 568) to LAK 10 million (approx. USD 1,136). If the offense is committed repeatedly as part of an organized group, or if it causes substantial damage, the offender can be punished with imprisonment of one to three years and a fine ranging from LAK 10 million (approx. USD 1,136) to LAK 50 million (approx. USD 5,680).

*Continued on page 11*



*The raid actions described in the case study (see page 11)*

### Online Trademark Enforcement

Currently, the Lao IP Law does not differentiate between offline and online infringement, and the law can be applied to both areas. In practice, high-profile online IP enforcement cases have yet to be reported, but it is expected that they will become more common in the near future. The policies of the government to protect IPRs will enhance the confidence of the private sector and encourage investors to invest further in Laos. Consequently, it seems likely that enforcement actions against online IP infringement are as conceivable as enforcement of offline infringement with regard to the Lao IP Law.

### Key Factors in Processing IP Enforcement

There are currently no legal guidelines on practical enforcement measures, such as raid actions, and strong evidence is required in order to proceed with any enforcement action. To trigger such an action, the IPR owner must submit a formal complaint to the relevant authorities—the Ministry of Industry and Commerce or the Lao Economic Police under the Ministry of Public Security—depending on the nature of the infringement of each specific IPR.

Conducting a market survey or investigation into specific shops is necessary in order to collect evidence to file with the complaint. Such complaints must also include a number of documents, such as a report, photos of the infringing goods, and guidelines for distinguishing authentic goods from counterfeit products.

Initial consideration of the submitted documents may take up to one month. Once the authorities approve a raid action, it should not take more than 10 working days before execution. Discussions with the authorities may be required to devise a cooperative strategy before a raid action.

### Case Study: Raid Action with Cooperation between Tilleke & Gibbins and the Authorities in Laos

In 2019, Tilleke & Gibbins' IP Department and the relevant officers from Laos' Department of Intellectual Property, the Department of Industry and Commerce, the Lao People's Court, and the Economic Police, enforced the IPRs of an infringed brand owner by conducting raid actions against and seizures from shops selling counterfeit products. The trademark owners, both clients of Tilleke & Gibbins, are both well-known manufacturers of spare parts, engine oil and engines; one for agricultural machinery, and one for motorcycles and other automotive products.

Laos is a significant consumer of both of these brand owners' products, and there are therefore many counterfeit products and imitations bearing unauthorized trademarks and having identical product designs to the authentic products.

During raid actions in the province of Khammouane and the city of Vientiane, we seized more than 43,000 counterfeit products bearing unauthorized trademarks from 45 shops—14,139 from 38 shops in Khammouane Province, comprising both spare parts and engine oil, and 29,474 items (again spare parts and engine oil) from seven shops in Vientiane. These counterfeit products caused a great deal of damage and loss of reputation to the brand owners.

This case study is an example of the continuing progress of IP enforcement in Laos and highlights that IP awareness and protection in Laos are increasing progressively. Therefore, brand owners who own valuable IP, and who have business interests in Laos, will feel more secure in the authorities' ability and willingness to take increasingly rigorous legal actions against IP infringement in order to support IP owners and help them maintain their IPRs within the territory.

Tilleke & Gibbins continues to organize training sessions to enhance Lao officers' skills in identifying and distinguishing between authentic and counterfeit products, which has resulted in greater cooperation during raid actions and increased effectiveness in the prevention and suppression of infringing and counterfeiting activities in Laos. 