

MYANMAR

Myanmar's trademark law journey continues

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Almost a year and a half after Myanmar enacted the Trademark Law 2019 on January 30 2019, the same question still lingers in the minds of many brand owners and attorneys: “When will the Trademark Law come into force?”

Despite rumours and speculation, the government has yet to fix a date for the law's implementation.

Ministry mandate

Since the law's passage in 2019, the Ministry of Commerce, which is tasked to administer the new IP laws in Myanmar, has organised workshops and briefing sessions across the country to educate interested parties on the changes under the Trademark Law. The new law is expected to completely overhaul the trademark framework in Myanmar by establishing a comprehensive trademark registration and protection system, which will replace the existing recordation practice of the Office of Registration of Deeds (ORD), an agency under the Ministry of Agriculture, Livestock, and Irrigation.

In addition to internal capacity building and talent development efforts, the government has also been working to establish administrative bodies and finalise subsidiary regulations to support the new system. Two draft versions of the Trademark Rules have been issued to seek comments from relevant stakeholders and selected IP professionals in the past year, and the new online filing system is said to be ready for implementation.

Potential impact of COVID-19

Unsurprisingly, the law's implemen-

tation will likely be affected by the COVID-19 pandemic as the government recalibrates its focus to deal with public health concerns. Government offices nationwide are now operating with only 50% of their staff on site, and parliament, which will have to approve the draft Trademark Rules mentioned above, is currently not in session.

Nevertheless, the government officially formed the IP Central Committee under the Trademark Law on March 6 2020, with the relevant notification appearing in the Myanmar Gazette on May 8 2020, marking an important development for the implementation of the law.

Preparing for implementation

Brand owners are encouraged to commence preparations for refiling their trademarks under the new system, as the Trademark Law 2019 requires existing trademarks recorded with the ORD to be refiled and re-registered to be accorded protection under the new law.

Trademark owners who wish to seek trademark protection in Myanmar should now do the following:

- review their trademark portfolio to identify existing protection gaps and to determine the trademarks to be refiled under the new system;
- urgently file applications for important marks not yet recorded in Myanmar at the ORD, in order to make use of the special “soft opening” period reserved for existing registrants when the new IP office begins operations;
- locate existing copies of Declarations of Ownership recorded with the ORD, as well as cautionary notices previously published in local newspapers, to support the refiling process;
- collate clear and dated evidence of existing use of the trademarks in Myanmar, including advertisements, invoices, catalogues, and office stationery, to enable the utility of the new IP office's soft-opening period, particularly if no existing recordation with the ORD is available;

- audit current trademark licensing arrangements for Myanmar;
- maintain existing trademark registrations at the ORD, and continue publishing trademark notices in local newspapers, in case the need to enforce the rights arises before the new law enters into force.

The ORD is still accepting trademark applications and renewals via Declarations of Ownership, and many brand owners continue to publish cautionary notices of their marks in major newspapers. The ORD is also planning to roll out its first public search facility in the meantime. Local law enforcement agencies also remain supportive in dealing with trademark-related matters. Until there is an official announcement otherwise, it appears that the status quo will remain unchanged in Myanmar.