

MYANMAR

The new IP department and its extended 'soft-opening' period

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While the timeline for the ongoing 'soft-opening' of Myanmar's new IP department (IPD) lacks clarity, the IPD has maintained continuity in its operations.

The soft-opening period, which began on October 1 2020, was first announced by the Ministry of Commerce in Order No. 63/2020, dated August 28 2020. The order did not mention the closing date of the soft-opening period, but many were counting on the soft-opening period finishing after six months.

This assumption stemmed from the IPD's workshops in 2020 about the upcoming implementation of the new Trademark Law, when officers indicated that the soft-opening period was expected to continue for at least six months, depending on the volume of applications received.

Therefore, it was thought that the soft-opening period would conclude at the end of March 2021. However, this date has come and gone, and trademark owners are increasingly expressing their concerns about when – and whether – the soft-opening period will end.

No announcement appears forthcoming, either. The political volatility that has gripped Myanmar since the military seized power on February 1 2021, has affected virtually all operations in the country, including government operations.

As a result, no official announcements on the end date for the soft-opening period have been issued. However, the IPD has continued accepting applications for trademarks to be refiled, and has been issuing

extensions to applicants who require additional assessment of their trademark portfolio and dossiers.

Aims and procedures

The soft-opening period is a key early stage in the public implementation of Myanmar's Trademark Law 2019. It allows owners of marks that were registered with the Office of the Registration of Deeds (ORD) under the previous (and antiquated) system and/or actually used in Myanmar to refile their marks with the newly formed IPD under a fully modernised IP regime.

In order to do so, trademark owners must have already recorded their trademarks under Myanmar's old trademark recordation system, or they must have actually used the trademark in Myanmar for certain goods or services. Trademark owners who do not meet these conditions must wait until the IPD's 'grand opening' to file their new trademarks.

The IPD has given detailed verbal guidance over the past seven months as they have received applications and advised on how to handle various situations; therefore, it is now very clear what information and documents must be attached to applications:

- Clear specimen of the mark;
- Translation and transliteration of the mark or parts of the mark that are not in the Myanmar or English languages;
- Applicant's full name, address, and company registration number (or passport number/national ID if the applicant is an individual);
- List of goods or services under the International Nice Classification (identical to those already recorded with the ORD);
- Claims to the colours of the mark;
- Disclaimer(s) if applicable;
- Scanned copy or copies of the previous recordation with the ORD, which is necessary for the registered mark to avoid examination delays;
- Credible evidence of use with stamped date of the mark for the

relevant goods or services in Myanmar if the mark has been already used in the country; and

- If the applicant's name or address have changed since recordation with the ORD, scanned copies of any credible documents, such as company extracts or certified copies for the change issued by the concerned authority.

The official fees and required forms relating to trademark matters under the new system have yet to be issued.

Considering the current situation in Myanmar, the grand opening of the IPD is likely to be postponed for a while longer. Whenever that does come, it should be preceded by an official announcement of the commencement date from the IPD.