



MYANMAR

INTELLECTUAL PROPERTY HANDBOOK

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Legislation

Myanmar has no promulgated law for trademarks, but registration can be obtained under Section 18(F) of Registration Act. Remedies against passing-off can be applied for under Section 478 of the Penal Code, and against infringement under Section 54 of the Specific Relief Act and the Myanmar Merchandise Marks Act.

Definition

“Mark” includes a device, brand, heading, label, ticket, name, signature, word, letter or numeral or any combination thereof.

“Trade Mark” means a mark used or proposed to be used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark whether with or without any indication of the identity of that person.

Criteria

In Myanmar, there is no Trade Mark Act up to the present moment. Myanmar Penal Code, Section 478 however provides that –

"A mark use for denoting that goods are the manufacture or merchandise of a particular person is called a Trade Mark".

"The mark must be " distinctive" in the sense of being adapted to distinguish the goods of the proprietor of the TRADE MARK from those other persons.

Membership

X - Paris Convention
X - Madrid Protocol

Eligibility

Applicant must be a proprietor of the mark. Proprietorship of a trademark is acquired by means of registration or use or both. A foreign applicant is required to nominate a trademark attorney in the company he wishes to declare the mark.

Rule of Priority

“First to Use” is the rule followed by Myanmar in determining priority of trademarks.

Duration and Renewal

In Myanmar, the law does not enact the validity period of Trademark registration. According to the established practice, renewal of registration is usually done once in every three-year by one of the following ways:-

- Renewal by re-registration in the form of Declaration
- Renewal by re-publication in the local daily newspapers or weekly journals
- Renewal by both re-registration and re-publication

Procedures

Application

Every applicant is required to submit an application with the Myanmar Trade-mark Office.

Examination

On submission of the application, the Trademarks office will examine the application for statutory compliances. Such examinations could lead to office actions. Applicants will be informed and also given an opportunity to reply to such office actions.

Publication

A trademark which passes through examination be published in the government gazette subject to the satisfaction of the registrar.

Opposition

Third parties can oppose the application within three months of publication.

Registration

On completion of objections and opposition a Certificate of Registration will be issued by the trademarks office. A trademark once registered is valid for a term of 3 years and can be renewed every 3 years.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Myanmar:-

- Application form.
- Power of Attorney.
- Declaration of ownership of Trademark.
- One (1) clear copy of the mark.
- The full name, nationality and registered address of the applicant.
- A list of goods or services (which closely follow the Nice International Classification).
- Description of claim if colour or a combination of colour or a combination of colours is claimed as Trademark.
- For marks that contain non-English words, a certified transliteration and translation.
- If convention priority is claimed, a certified copy of the priority.

Documents To Be Furnished For Filing Trade / Service Mark Application in Myanmar

Basic Requirements		
Documents	Remarks	Time of Filing
Declaration of Ownership of the Trademark	Signed, notarized & legalized	Within 4 months from the date of execution of the Declaration
Power of Attorney	Signed, notarized and the signature and seal of the Notary in turn must be attested by Myanmar Embassy in the country concerned	Within 4 months from the date of execution of the Declaration

Priority Claim

Myanmar is not a member to any of convention. It is therefore not possible to claim convention priority for filing a trademark application in Myanmar .

Documents for Filing a Request of Records of Assignments and Changes		
Documents	Remarks	Time of Filing
Deed of Assignment signed by the Assignor and the Assignee.	Signed, notarized and the signature and seal of the Notary in turn must be attested by Myanmar Embassy in the country concerned	Within 4 months from the date of execution of the Declaration
Power of Attorney in the name of the Assignor.	Signed and Notarized	Within 4 months from the date of execution of the Declaration
Power of Attorney in the name of the Assignee.	Signed and Notarized	

Documents for Filing an Opposition

Unlike other countries, no opposition practice is available with the Registry Office in Myanmar. The registration is between the applicant and the Registrar. In case of oppositions, one can maintain a law suit before the court.

In Myanmar, an owner of trademark in respect of particulars commodity has no right to prohibit or prevent other persons from use of such mark in connection with goods of a totally different character and class.

The Burma Patents and Designs (Emergency Provisions) Act 1946 came into force in 1993 in the country, but has been repealed, and therefore currently Myanmar does not have any standard through which Patents can be applied and enforced. Thus, it is currently not possible to apply for patents in Myanmar.

On 15th February 2018, the Upper House of the Myanmar Parliament passed four IP laws, i.e. the Trademark Law, the Patent Law, the Industrial Design Law and the Copyright Law. They will soon be further submitted for review and approval of the Lower House of the Myanmar Parliament and the Assembly of the Union of Myanmar respectively. Once they have been approved by the Assembly of the Union, they will be sent to the President for his signature and they will become effective on the day of publication in the Official Gazette, expected within this year.

Once these new IP laws come into force, they will substantially change the current process of IP registration and protection in Myanmar.

Legislation

The Myanmar Patent and Design Act was issued in 1995 but never came into effect. The law was subsequently repealed. The 1946 Patents and Designs (Emergencies Provisions) Act (Emergencies Act) remains on Myanmar's statute books, although it is essentially defunct as its main purpose was to apply Indian Patents and Designs Act of 1911. Since the India Act was never listed in the Myanmar Codes, there is effectively no patent and design law in Myanmar. Meanwhile, the Attorney General Office under the assignment of the Government has already drafted the new Patent Law and Industrial Design Law in Compliance with the TRIPS Agreement due to the fact that Myanmar is a member of WTO, ASEAN and at the least, WIPO in 2001. In this interim period, patent/design may be registered under section 18 (f) of the Registration Act.

Membership

- √ - WTO
- √ - Paris Convention
- √ - PCT

Rule of Priority

Priority claim is not yet available in Myanmar Registration system.

Duration and Renewal

In Myanmar, the law does not enact the validity period of a patent registration. According to the established practice, renewal of registration is usually done once in every three-year by one of the following ways:-

- Renewal by re-registration in the form of Declaration.
- Renewal by re-publication in the local daily newspaper or weekly journals.
- Renewal by both re-registration and re-publication.

Procedures

▼ Application

A design owner is required to submit a declaration containing solemn statement of facts to the Registry of Deeds and Assurances.

▼ Registration

A design is registered on submission of the declaration by the owner.

▼ Publication

Publication of cautionary notices in designated local newspapers serve to avoid possible infringements and passing off actions.

▼ Protection

There exists no procedure for the protection of designs per se.

Filing Requirements

The following information and/or documents are required to file an application for an industrial design application in Myanmar:-

Direct National Application

- Application form:-
 - (a) the name, address and nationality of the applicant;
 - (b) the name, address and nationality of the inventor;
 - (c) a specification comprising a description, claims and any necessary drawings; and
 - (d) the country and filing particulars of basic application whose priority is claimed.
- Appointment of Patent Agent.
- If the applicant is not the inventor, a statement explaining how the applicant derives its right to the patent from the inventor, normally by virtue of assignment or employment.
- There is no requirement for the filing of an assignment from inventor to applicant.

Documents To Be Furnished For Filing An Industrial Design Application in Myanmar

Basic Requirements		
Documents	Remarks	Time of Filing
Declaration of Ownership of Design	<p>Signed and Notarized</p> <p>If it has already been registered elsewhere (i.e. US Patent Application No.), its registration number and the country, the detailed background of the invention must be attached with Declaration.</p>	On filing date

Additional Documents for Convention Design Application		
Documents	Remarks	Time of Filing
Power of Attorney	<p>Signed and Notarized</p> <p>The signature and seal of the Notary in turn must be attested by Myanmar Embassy in the country concerned</p>	On filing date

**MALAYSIA
OFFICE**

Kuala Lumpur / Corporate Office

Pintas Consulting Group Sdn Bhd (461057-W)

Adds: Suite 2B-21-1, Level 21, Block 2B, Plaze Sentral,
Jalan Stesen Sentral 5, KL Sentral, 50470 Kuala Lumpur,
Malaysia.

Selangor / Correspondence Operation Office

Adds: No.19, Jalan SS 1/36, 47300 Petaling Jaya, Selangor.

Tel: +603-7876 5050

Fax: +603-7876 2678

H/P: +6012-797 5077

Email: marketing@pintas-ip.com

**SINGAPORE
OFFICE**

Pintas Pte Ltd (20010467111)

Adds: Suite 12-14, Manhattan House, 151 Chin Swee Road,
Singapore 169876.

Tel: +65-6250 2070

Fax: +65-6737 1805

H/P: +65-9747 2579

Email: pintas.sg@pintas-ip.com

**CHINA
OFFICE**

Pintas Inc (Customer Service Office)

Adds: Room1811, 18th Floor, Far East Tower,
No. 1101 Pudong Road (s) Pudong, Shanghai,
200120, China.

Tel: +86-21 32180770

Fax: +86-13 022176477

Email: pintas.china@pintas-ip.com

**USA
OFFICE**

Pintas LLC (Customer Service Office)

Adds: P.O. Box 190943, Boise, Idaho
83719-0943, United States of
America.

Tel / Fax: +1 208 899 8528

Email: pintas.usa@pintas-ip.com

**BRUNEI
OFFICE**

Pintas Consulting Group (Customer Service Office)

Adds: P.O.Box 18, Anggerek Desa Complex,
BB3780 Brunei Darussalam.

Tel: +673-873 8478

Fax: +673-245 2112

Email: pintas.brunel@pintas-ip.com

E: marketing@pintas-ip.com

www.pintas-ip.com