

Myanmar Customs Rules for Protection of Trademark Rights 2023

On 14th July 2023, the Ministry of Planning and Finance (MOPF) issued its Notification No. 50/2023 on Customs Rules (CR) for Protection of Trademark Rights Pursuant to Section 106 (c) of the Myanmar Trademark Law 2019 (MTL 2019). The CR consists of 3 major parts:

- (1) recordal of registered trademarks with the Customs Department (CD);
- (2) application for suspension order against suspected counterfeit goods (Suspected Goods); and
- (3) suspension of Suspected Goods.

Recordal of Registered Trademarks with CD

The owner of a registered trademark or their representative can file an application for recording it with the CD for protection of their trademark rights under the CR.

The Director-General (DG) of the CD will review the application. If the application meets the CR requirements, the trademark will be recorded with the CD and the DG will inform the applicant accordingly within 15 days from the application filing date.

If the application does not meet the CR requirements, the DG will order the applicant to resubmit the application with all the required information and evidence within 7 days. If the resubmitted application meets all the CR requirements, the DG will record the trademark and inform the applicant accordingly.

The CD recordal of the trademark is valid for 2 years. It can be renewed for a period of 2 years each. A renewal application must be filed within a period of 30 days before the expiry date.

Application for Suspension Order against Suspected Goods

The owner of the registered trademark which has been recorded with the CD or their representative can file an application with the CD for the CD to issue a suspension order against import of the Suspected Goods which have been imported or are being imported or will be imported into Myanmar.

The application can be made in Myanmar or English and submitted by hand or by post. It must cover the following required information:

1. Name, address, registration number, registration date, telephone number and email address, of the trademark owner (applicant);
2. Name, NRC number, passport number, address, job title, telephone number and email address of the Myanmar representative;
3. Company profile of the applicant if the applicant is a legal entity;
4. Detailed description of the Suspected Goods;
5. Registration details of the registered trademark of the applicant: registration number issued by the DIP, registration date, specimen of the trademark, the specifications of the goods and the HS code);
6. Reasons why the CD should issue a suspension order;
7. Name, address and telephone number of the importer and the exporter of the Suspended Goods.

The following supporting documents must also be filed with the application:

1. Copy of the trademark registration certificate issued to the applicant by the DIP;
2. Documents and materials showing evidence of trademark infringement;
3. Detailed description of the suspected counterfeit goods;
4. Power of attorney from the applicant/owner to the representative;
5. Publication of notice for the trademark ownership if possible.

If the CD orders submission of a Myanmar or English translation of any application document, the applicant must prepare, certify and file such translation.

The DG will review the application and the supporting documents and then inform the applicant of the acceptance or rejection of the application within 30 days from the application filing date.

If the application does not meet the CR requirements, the DG will order the applicant to resubmit the application with the full required information and supporting documents within 15 days. If the resubmitted application meets all the CR requirements, the DG will inform the applicant accordingly.

Suspension of Suspected Goods

Upon examination of the Suspected Goods, if the DG finds that a counterfeit trademark is being used with the Suspected Goods, the DG shall suspend (freeze) the Suspected Goods from entering into Myanmar by issuing a suspension order and inform the applicant and the importer to inspect the suspended goods.

The applicant must place a security deposit with the CD. The DG may cancel the suspension order if the applicant fails to place the security deposit with the CD within the period specified by the CD.

If the importer disagrees with the suspension order, the importer can file a petition with the Intellectual Property Court (IPC) within 15 days from the date of the suspension order for the IPC to order the CD to revise or remove the suspension order.

If the IPC issues an order confirming that the suspended goods are counterfeit goods, the importer must pay to the CD the expenses for storage or destruction or release of the suspended goods within 30 days from the date of the IPC's order and the CD may release the security deposit to the applicant. If the importer fails to pay the said expenses to the CD, the applicant must pay them to the CD.

The CD may keep the security deposit until after the IPC issues an order in relation to the petition filed by the importer.



Nilar Win
Senior Associate
nilarwin@lawplusltd.com



Thae Ei Shwe Zin
Senior Associate
thaeishwezine@lawplusltd.com

LawPlus Myanmar Ltd.

Unit No. 520, 5th Floor, Hledan Centre, Corner of Pyay Road and Hledan Road

Kamayut Township, Yangon, Myanmar

Tel. +95 92 6111 7006, +95 92 6098 9752

www.lawplusltd.com

The information provided in our legal brief is general in nature and may not apply to any specific situation. Specific advice should be sought before taking any action based on the information provided. Under no circumstances shall LawPlus Ltd., LawPlus Myanmar Ltd., or any of their directors, partners and lawyers be liable for any direct or indirect, incidental or consequential loss or damage that may result from the use of or the reliance upon the information contained in our legal brief. Copyright © 2023 LawPlus Ltd. and LawPlus Myanmar Ltd.