

The Madrid Protocol Has Become Effective in Thailand

The Madrid Protocol has come into force for Thailand since 7th November 2017. Since then, an international trademark application under the Madrid System is allowed to be filed with the Trademark Office in Thailand (“**TMO**”) under the current law and trademark owners in other member states may designate Thailand in their international applications to seek protection in Thailand. Thailand enacted the Trademark Act (No. 3) B.E. 2559 (A.D. 2016) (“**Amended TMA**”) effective from 28th July 2016 to allow the country accede to the Madrid Protocol.

For the implementation of the Madrid System, the Department of Intellectual Property (“**DIP**”) has prepared a draft Ministerial Regulation Regarding the International Trademark Registration under the Madrid System (“**Ministerial Regulation**”). It is pending the signature of the Minister of Commerce (expected by the end of this month) and it will then be published in the Royal Gazette before it becomes effective. The Ministerial Regulation will have retroactive effect from 7th November 2017.

According to the Ministerial Regulation, an international trademark application under the Madrid System to be filed with the TMO must be based on either a trademark registration in Thailand (basic registration) or a pending trademark application filed with the TMO. Importantly, the international application must cover only goods or services listed in the basic application or registration. After receiving the international application, the DIP will certify the information in the application before forwarding it to the WIPO.

Although Thailand has adopted 11th edition of the Nice Classification, the TMO has not strictly followed the Nice Classification and the DIP has its own guideline for classifications and specifications of goods and services. Incoming designations to Thailand from other countries will be examined according to current examination guidelines, which may require amendments to the list of goods or services for compliance with the local practice.

Under the Declaration of Accession, the individual fee for designating or subsequently designating Thailand is THB14,400 per class whereas the individual fee for renewal of such international registration in Thailand is THB18,000 per class.

Thailand has opted for the 18 months timeframe for notification of refusal in Thailand and beyond for an opposition where the DIP may notify the WIPO of a notification of refusal after the expiry of the 18-month time limit.

An international trademark application under the Madrid System must be filed online only. No hard copy of an application form is accepted by the TMO. The DIP has already implemented its e-filing system for international trademark applications under the Madrid System. An applicant or its agent who would like to file an international application must create an account with the DIP and verify the identity and his/her e-signature before using the e-filing system.

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