

## Refiling Trademarks during the Soft Opening Period in Myanmar: What's Next?

On 28<sup>th</sup> August 2020, the Ministry of Commerce of Myanmar ("MOC") issued Order No. 63/2020 to announce the Soft Opening Period ("SOP") starting from 1<sup>st</sup> October 2020 for owners of registered trademarks to refile their trademarks under the Myanmar Trademark Law 2019 ("MTL2019").

As of 31<sup>st</sup> December 2020, around 26,000 registered marks have been refiled. They were refiled via the WIPO Filing System (e-filing). After the MOC established the Intellectual Property Department ("IPD") in Naypyitaw on 24<sup>th</sup> December 2020, the registered trademarks could be refiled directly with the IPD through the WIPO online filing portal.

The IPD issues an application number for each re-filed application through the WIPO online filing portal. The applicant can use such application number when communicating with the DIP about the re-filed application.

### What will happen before the end of the SOP are the followings:

- The IPD will officially open reception counters and accept the re-filing applications from trademark owners in person at IPD in Naypyitaw and at its office in Yangon within one month before end of the SOP in addition to the re-filing online by the trademark owners' representatives (law firms) using the e-filing portal of the IPD.
- The IPD will announce the official filing fees within one month before end of the SOP. The payment of the official filing fees can be made via e-banking or at the DIP.
- The President of the Union of Myanmar will issue a Notification to announce the effective date of the TML2019. The effective date of the TML2019 will be the end of the SOP.

### What will happen after the end of the SOP are the followings:

- The IPD will start the formality checking of the refiled applications.
- If the refiled applications meet the requirements under Section 18 of the TML2019 and the MOC Order No. 63/2020, the IPD will grant the effective date of TML2019 as their filing date.
- If any refiled application fails to meet the refiling requirements mentioned above, the IPD will order the applicant to submit the missing required information or documentation. The application will then be given a filing date after the applicant has submitted all the missing required information. Such filing date will be a date after the effective date of the TML2019.

### **The official fees to be announced by the IPD will be required for following activities:**

- Filing application of trademark (TM 1)
- Re-filing application of trademark (TM 3)
- Filing application for amendment of typing error or some errors (TM 4)
- Filing application to limit the goods and services of Classification (TM 6)
- Filing application to divide the application of trademark (TM 7)
- Filing opposition on registration of trademark (TM 8)
- Filing application to record the registration of the mark (TM 9)
- Filing application to amend the registration of mark (TM 10)
- Filing application to renew the registration term of mark (TM 11)
- Filing application to renew the registration of mark with late filing fees within the specified period (TM 11)
- Filing application for recordal of assignment of rights in trademark (TM 12)
- Filing application for recordal of Licensing of registered trademark (TM 13)
- Filing application to withdraw of recordal of licensing of registered trademark (TM 14)
- Filing application for invalidation of registered trademark (TM 15)
- Filing application for cancellation of registered trademark (TM 16)
- Filing application for changes of representative name (TM 17)
- Filing application for extension of period (TM 18)
- Filing appeal to the IP Agency (TM 19).

### **Withdrawal or Re-filing the Refiled Applications**

During the SOP, the applicant can withdraw the refiled application if it has any error or is missing any required information. Alternatively, the applicant may re-file the re-filed application with the full required information via the WIPO online filing portal.

### **DTO Registrations during the SOP**

During the SOP, registration of trademarks with the Registry Office under the old law can still be filed. After months of the Covid-19 lockdown, the Registry Office has resumed its operation and started to accept the filings of the Declarations of Trademark Ownership on 14<sup>th</sup> January 2021.



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