

## Intellectual Property Rights in Myanmar

At present, Myanmar does not have adequate intellectual property rights (IP). Patent, trademark and copyrights regulations are antiquated and insufficient. Moreover, there is no IP governing body and judicial court specifically dealing with intellectual property rights. However, although there are no substantive laws on intellectual property rights, these rights are domestically protected by the following existing laws in Myanmar.

Type of IP	Substantive Law	Related Law
1. Trademark	N/A	Myanmar Penal Code (1861) The Specific Relief Act (1877) The Sea Customs Act (1878) The Registration Act (1909)
2. Copyright	Myanmar Copyright Act (1914)	The Specific Relief Act (1877) The Television and Video Law
3. Patent	N/A	Patents and Design (Emergency Provisions) Act (1946) Specific Relief Act

The Ministry of Science and Technology drafted a new intellectual property law on trademark, copyright, patent, and industrial design to improve the Myanmar business climate. The draft trademark and industrial designs laws were submitted to Parliament in June 2015, whereas the draft copyright and patent laws are still being considered within the government. If the laws are approved, the new Myanmar intellectual property rights law will be more efficient in protecting the rights of IP owners.

### 1. Trademark

Although trademark registration is possible, Myanmar does not have a trademark law. In terms of trademark, the only option for a company or brand owner is to file a 'Declaration of Ownership' with the Deeds Registration office. Once the Declaration of 'registered' is done, a Cautionary Notice is published in one of the highly circulated newspapers to make people aware of the owner's rights. As a result, if the brand owners want to enforce their rights, the Declaration of Ownership and Cautionary Notice are the primary forms of evidence used to establish use of the trademark in Myanmar.

With the upcoming trademark law, there has been an increasing number of trademark registrations in the current system. In addition, there will soon be a new system of filing trademark registrations if the new trademark law is enforced. Thus, in order for companies to prevent the loss of their trademark or service mark, they should register their trademark under the current system and be prepared to file the trademark into the new system once the law comes into effect, otherwise they may lose their trademark rights to trademark pirates. Under the current system, the renewal of trademark registration is once every three years.

### 2. Copyright

Myanmar does not have a registration procedure for copyright. However, Myanmar has enforced the Copyright Act (1914) which is drawn from the United Kingdom Copyright Act. Therefore, at present, the

protection of original literary, artistic, musical, and dramatic works are legislated under the Copyright Act (1914). The current existing law does not protect the copyright of foreign countries, as Myanmar has neither signed the Paris Convention for the Protection of Industrial Property, nor the Berne Convention for the Protection of Literary and Artistic Works.

Myanmar has drafted a new Copyright Act which will be effective soon. However, there is uncertainty on what provisions will be included. Since the draft law is developed with the assistance of the World Intellectual Property Organization (WIPO), it is expected to contain the provision on protecting copyright created outside of Myanmar and sophisticated copyright laws and practice of other countries.

### **3. Patent**

There are currently no patent rights in Myanmar. As a result, products (for commercial uses and trade) are possible without permission from the people/companies which may hold patent rights outside Myanmar. However, companies can register their patent under the present Acts, which is called Patent and Design (Emergency Provision) Acts, to protect illegal action related to their business.

The drafting of the new regulation on patents was implemented by the Attorney General's Office in cooperation with the Ministry of Science and Technology. The draft patent law states that a patent must be genuine, have an inventive element and be utilized in industry. The age of a patent is 20 years which will start from the date of registration. The annuity fees must be paid for the prescribed period to maintain the patent registration.

In brief, Myanmar is moving forward in the development of intellectual property rights. The draft law will hopefully be open to public opinion and further revisions to ensure that Myanmar's intellectual property rights law and related regulations will be more efficient and structured for local and foreign IP owners. However, for foreign IP owners, it is advised to apply for registration of their trademark, patent, and copyright as soon as possible in order to prevent the loss of their ownership.

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