

Client Update: Thailand

2023 JANUARY

Intellectual Property

New Trademarks Law Anticipated in Myanmar in March 2023

Introduction

On 12 January 2023, the Department of Intellectual Property of Myanmar ("**DIPM**") under the Ministry of Commerce ("**MOC**") issued a notice stating that the new Trade Mark Law (2019) is anticipated to come into force in March 2023. This Update highlights what parties should be aware of regarding the Trade Mark Law (2019) and the applicable procedures and requirements.

Background

The Trade Mark Law (2019) was passed in Myanmar on 30 January 2019. Among other changes, the new law sought to introduce a formal trademark examination process and a new electronic trademark system. While the Trade Mark Law (2019) has yet to fully come into force, the MOC had announced a 'soft opening period' for the partial implementation of the new law starting from 1 October 2020. During this period, the DIPM started accepting applications for re-registration of trademarks which had been previously registered via Declarations of Ownership filed with the Office of Registration of Deeds, and assigned the application numbers for each re-registration application. This provided a great advantage for all trademark owners under the previous trademark registration system, allowing potential continuity in the protection of their marks after the transitional period.

However, the actual examination of the registrability of the marks filed during this 'soft opening period' will only take place upon the full implementation of the Trade Mark Law (2019), the projected date of which had not been made known.

What's New

After a long wait, on 12 January 2023, the DIPM issued a notice stating that the Trade Mark Law (2019) is anticipated to come into force in March 2023. This is a significant development in the implementation of the new trademark registration system. The notice follows an earlier announcement of the DIPM Order no 44/2022 dated 1 July 2022 concerning the trademark application form and other forms to be used by the public for various applications under the Trade Mark Law (2019).

Next Steps

It is anticipated that, before the kick-off date in March 2023, additional rules regarding the Trade Mark Law (2019) will be announced by the DIPM, including the official fees and formal requirements for filing a new trademark application in Myanmar.



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For earlier applications filed during the 'soft opening period', it is expected that the relevant Office Action (OA) will be rendered and served on the applicant's agents following the full implementation of the Trade Mark Law (2019).

Our Recommendations

Pending the Trade Mark Law (2019) coming into force in March 2023, filing a Declaration of Ownership under the previous trademark registration system is still acceptable. As such, for any trademark owners who wish to seek the advantage of an earlier filing date, it is important for them to look into their portfolio and take the necessary steps towards application while the soft opening period is still ongoing:

- (a) For trademark owners who have already obtained the registered Declaration of Ownership but have not yet applied for re-registration of the mark, please work with your lawyers to file applications for re-registration of the mark with the DIPM;
- (b) For trademark owners who want to use a new marks or are already using a mark but have not registered a Declaration of Ownership with the Office of Registration of Deeds, it is advisable to take urgent action to apply for a Declaration of Ownership and apply for re-registration of the mark with the DIPM. As it usually takes about two to three weeks for the registration of a Declaration of Ownership and about one week for applying for re-registration, it will benefit trademark owners to make a swift decision on the mark to be protected in Myanmar so as to secure an earlier filing date.

Rajah & Tann Asia is a network of legal practitioners based in Asia, with presence in nine countries in Southeast Asia including Myanmar and Thailand. Lawyers in our network work closely to deliver the best service to you. Should you have further queries on the new trademark law in Myanmar and trademark protection in Myanmar, please feel free to contact our team in Thailand or Myanmar set out below, who are able to assist regardless of where you are located.

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Intellectual Property

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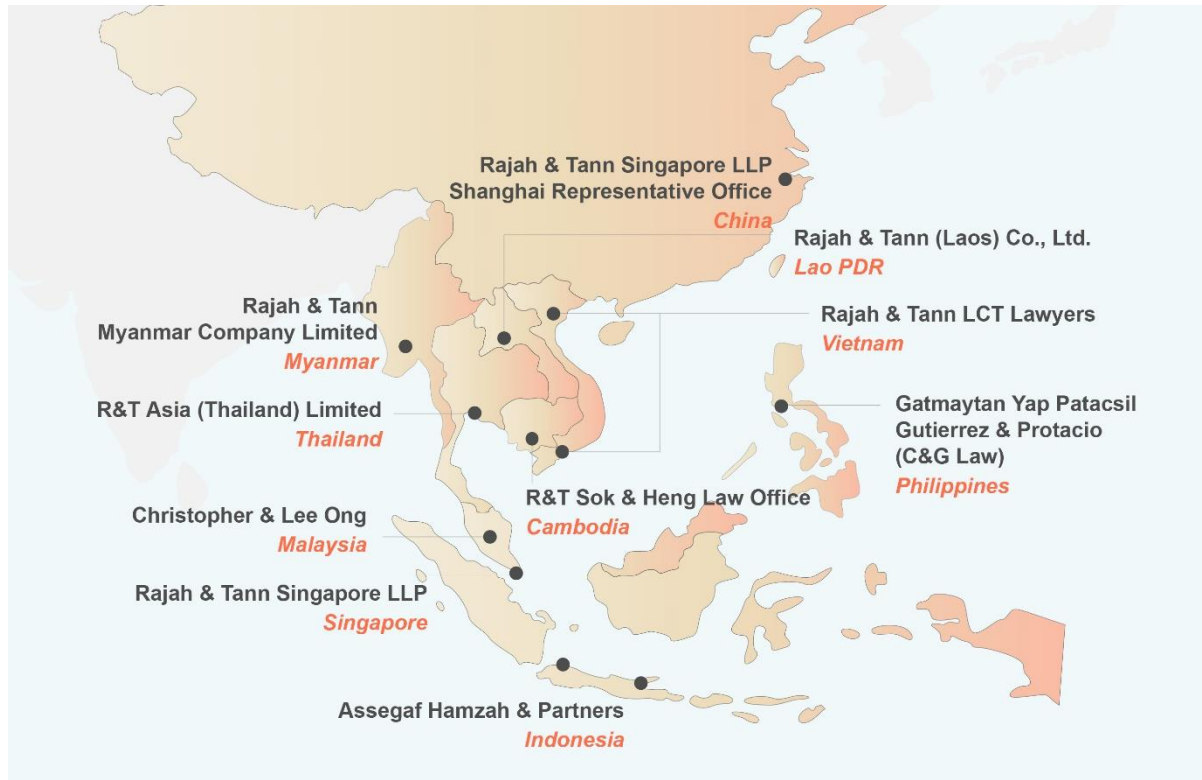
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