



TRADEMARK

ASEAN IP HANDBOOK

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1. MALAYSIA

TRADEMARK APPLICATION IN MALAYSIA

1. Legislation:

Trade Marks Act 1976 (Act 175), Trade Marks Act (Regulation 1997), Trade Marks Act 1994(Amended) and Trade Marks Act 2000(Amended)

2. Definition:

A trademark is a sign used for the purpose of indicating a connection between a person having the right to use the sign and his goods or services. A sign includes words, logos, labels, names, letters, numbers or a combination of the above.

3. Criteria:

A trade mark has to fulfill the one of following conditions in order to claim protection as a trademark.

- the name of an individual, company or firm represented in a special or particular manner;
- the signature of the applicant for registration;
- an invented word(s);
- a word that does not have any direct reference to the character or quality of the goods or services and is not in its ordinary meaning;
- geographical name or surname; or
- any other distinctive mark.

4. Membership:

√ - Paris Convention

X – Madrid Protocol

Malaysia is a member of the Paris Convention from 1989, whereby applications from convention countries will be subject to the same priority date in Malaysia. The application for priority has to be made within six months of the first application in a convention country.

5. Rule of Priority:

“First to Use” is the rule followed by Malaysia in determining priority of trademarks.

6. Duration and Renewal:

A trade mark application once registered is valid for 10 years from the date of application. It may be renewed every ten years thereafter with payment of a renewal fee.

MALAYSIA TRADEMARK APPLICATION PROCEDURES

1.Application

Every applicant is required to submit an application with the Malaysian Trademark office



2.Examination

On submission of the application, the Trade Marks office will examine the application for statutory compliances. Such examinations could lead to office actions. Applicants will be informed and also given an opportunity to reply to such office actions.



3.Publication

A trade mark which passes through examination be published in the government gazette subject to the satisfaction of the registrar.



4.Opposition

Third parties can oppose the application within three months of publication.



5.Registration

On completion of objections and opposition a Certificate of Registration will be issued by the trade marks office subject to the payment of a fee.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Malaysia:-

1. Application Form (TM 5).
2. Power of Attorney (TM 1).
3. One clear print for a black-and-white mark; 15 prints for a colour mark.
4. A list of goods or services (which closely follow the Nice International Classification).
5. The full name and address of the applicant, company, country/state of incorporation.
6. A Statutory Declaration from the applicant affirming that they are the proprietors of the mark, to be signed before a Commissioner for Oaths (if signed locally) or before a Notary Public (if signed abroad).
7. For marks that contain non-English words, a certified transliteration and translation.
8. If convention priority is claimed, a certified copy of the priority application (with a certified English translation where documents are not in English).

Documents To Be Furnished For Filing Trade/Service Mark Application in Malaysia

Basic Requirements

Documents	Remarks	Time of Filing
Statutory Declaration	Notarized	2 months from filing
Mark in the form of foreign characters has to be accompanied with transliteration in English	Certified by Translator	2 months from filing

Additional Documents for Claiming a Convention Priority

Documents	Remarks	Time of Filing
Priority documents	Certified copy of the basic application. Documents in any other language has to be provided with its English translation.	2 months from filing

Documents for Filing a Request of Recordals of Assignments and Changes

Documents	Remarks	Time of Filing
Copy of : – Assignment deed, or – Document of name change – Document of address change	notarised Certified Certified	Anytime after registration

Documents for Filing an Opposition or Counter-Opposition (Deadline for Applying is during 3 Months Publication Period of the Trade Mark Application to be Opposed)

Documents	Remarks	Time of Filing
Copy of registrations in various countries	no legalization	On filing date
Copy of advertisements/ brochures of the products bearing the mark	no legalization; as many and as early as possible	On filing date

2. SINGAPORE

TRADEMARK APPLICATION IN SINGAPORE

1. Legislations:

The Trade Marks Act (2005 Revised Ed) (Cap. 332), Trade Marks Rules and Trade Marks (International Registration) Rules.

2. Definition:

A Trade Mark is a sign used by a person in the course of business or trade to distinguish his goods or services from those of other traders. It has to be capable of being represented graphically. It can include any letter, word, name, signature, numeral, device, brand, heading, label, ticket, shape, colour, aspect of packaging or a combination of these. It need not be visually perceptible.

3. Criteria:

For a trade mark to be registered it must be distinctive and capable of distinguishing the goods and/or services of the owner from other similar goods and/or services. Descriptive Marks, Marks 'Common to the Trade', marks contrary to public policy, deceptive marks or marks identical to earlier marks are all prohibited from registration.

4. Membership:

- √ - Paris Convention
- √ - Madrid Protocol

Singapore is a member of the Paris Convention from 1995, whereby applications from convention countries will be subject to the same priority date in Singapore. The application for priority has to be made within six months of the first application in a convention country.

5. Rule of Priority:

"First to Use" is the rule followed by Singapore in determining priority of trademarks.

6. Duration and Renewal:

A trademark application once registered is valid for 10 years from the date of application. It may be renewed every 10 years thereafter with payment of a renewal fee.

SINGAPORE TRADEMARK APPLICATION PROCEDURES

1. Application

Every applicant is required to submit an application with Intellectual Property Office of Singapore.



2. Examination

A formalities examination will be conducted by the Registry of Trade Marks following a search for specifications and prior marks. After a favourable search report is given, the application will be examined to determine whether the mark is registrable in accordance to the law.



3. Publication

The application will be published in the trademarks journal where interested parties may oppose the registration within two months of the publication.



4. Opposition

Third parties can oppose to an application within 2 months from the date of publication



5. Registration

If the opposition to the registration is resolved in favour of the applicant, or if there are no opposition, the trade mark will be registered and a registration certificate will be issued.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Singapore:-

1. Application form (TM 4).
2. Power of Attorney (TM 1).
3. One clear print for a black-and-white mark; one (1) clear picture under JPEG format.
4. A list of goods or services (which closely follow the Nice International Classification).
5. The full name, address and nationality of the applicant, company, country/state of incorporation.
6. For marks that contain non-English words, a certified transliteration and translation.

Documents To Be Furnished For Filing Trade/Service Mark Application in Singapore

Basic Requirements

Documents	Remarks	Time of Filing
Image/ representation of the mark	Mark in the form of foreign characters has to be accompanied with transliteration in English (optional), Certified by Translator	2 months from filing

Additional Documents for Claiming a Convention Priority

Documents	Remarks	Time of Filing
Priority documents	(Certified copy of the basic application. Documents in any other language has to be provided with its English translation)	2 months from filing

Documents for Filing a Request of Recordals of Assignments and Changes

Documents	Remarks	Time of Filing
Copy of : – Assignment deed, or – Document of name change – Document of address change	Certified Certified	Anytime after registration.

Documents for Filing an Opposition or Counter-Statement (Deadline for Applying is during 2 Months Publication Period of the Trade Mark Application to be Opposed)

Documents	Remarks	Time of Filing
Copy of registrations in various countries	(no legalization)	On filing date
Copy of advertisements/ brochures of the products bearing the mark	(no legalization; as many and as early as possible)	On filing date

3. INDONESIA

TRADEMARK APPLICATION IN INDONESIA

1. Legislation:

The Law of the Republic of Indonesia Number 15 of 2001 regarding Trademark.

2. Definition:

A trademark is a sign used for the purpose of indicating a connection between a person having the right to use the sign and his goods or services.

3. Criteria:

Any logo, number, word, name, label, letter or a combination of the above may constitute a trademark.

The mark should be distinctive or Capable of differentiation from another's goods or services.

A Trademark shall not be registered if it contains one of the following elements:

- being against the prevailing law, morality, religion, decency and public orders;
- having no distinguishing power;
- having been public property; or
- constituting the explanation of or being related to the goods or services for which registration is applied.

4. Membership:

√ - Paris Convention

X – Madrid Protocol

Indonesia is a member of the Paris Convention from 1950, whereby applications from convention countries will be subject to the same priority date in Indonesia. The application for priority has to be made within six months of the first application in a convention country.

5. Rule of Priority:

“First to File” is the rule followed by Indonesia in determining priority of trademarks.

6. Duration and Renewal:

A trademark once registered is valid for a term of 10 years and will be subject to protection depending on its further renewal.

INDONESIA TRADEMARK APPLICATION PROCEDURES

1. Application

Every applicant is required to submit an application with the Indonesia Intellectual Property office

2. Examination

On submission the Trade Marks office will examine the application for statutory compliances. Applicants will be given two months time to rectify incomplete applications else it will result in an automatic withdrawal of the application. On completion of the requirements a filing date will be issued by the office. Substantive examination is done thirty days after the filing date for a period of 9 months.

3. Publication

An application is published in the Official Bulletin of Marks for a period of 3 months, on passing the examination stage in a maximum period of 10 days.

4. Opposition

Concerned parties are required to send oppositions concerning the subject matter of a trademark. The common grounds of opposition pertain to prior marks and infringement. Counter statements are required to be submitted within 2 months of the receipt of the opposition letter after which a re-examination will take place. The re-examination should be completed in two months time.

5. Registration

On completion of the objections and opposition a Certificate of Registration will be issued subject to the payment of a fee. The duration of registration could take a minimum period of 12 -18 months. The registration is effective from date of application.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Indonesia:-

1. Application form.
2. A list of goods or services (which closely follow the Nice International Classification).
3. Twenty (20) clear copy of the mark.
4. The full name, nationality and registered address of the applicant.
5. Description of claim if colour or a combination of colour or a combination of colours is claimed as Trademark.
6. For marks that contain non-English words, a certified transliteration and translation.

Documents To Be Furnished For Filing Trade/Service Mark Application in Indonesia

Basic Requirements

Documents	Remarks	Time of Filing
Power of Attorney	Simply signed	On filing date
Statement of Mark Owner	Simply signed	On filing date
Image/ representation of the mark	Together with indication of whether the mark is in color or black and white, Specimen of mark sized 9 x 9cm	On filing date

Additional Documents for Claiming a Convention Priority

Documents	Remarks	Time of Filing
Priority documents	The certified copy of priority documents in other language must be provided in English translation	7 months after priority date

Documents for Filing a Request of Recordals of Assignments and Changes

Documents	Remarks	Time of Filing
Notarized true copy of Deed of assignment documents	Attested by the Indonesian Embassy/Counsel	Anytime after registration
Power of Attorney	Simply signed	Anytime after registration
Statement of Use of Mark	Simply signed	Anytime after registration

**Documents for Filing an Opposition or Counter-Opposition
(Deadline for Applying is during 3 Months Publication
Period of the Trade Mark Application to be Opposed)**

Documents	Remarks	Time of Filing
Power of Attorney	simply signed	On filing date
Copy of registration in various countries		On filing date
Other supporting documents such as brochures, advertising materials, company's website, etc.		On filing date

4. PHILIPPINES

TRADEMARK APPLICATION IN PHILIPPINES

1. Legislation:

The Intellectual Property Code of the Philippines (Republic Act No. 8293).

2. Definition:

"Mark" means any visible sign capable of distinguishing the goods (trademark) or services (service mark) of an enterprise and shall include a stamped or marked container of goods.

3. Criteria:

A mark cannot be registered if it:

- (a) Consists of immoral, deceptive or scandalous matter, or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt or disrepute;
- (b) Consists of the flag or coat of arms or other insignia of the Philippines or any of its political subdivisions, or of any foreign nation, or any simulation thereof;
- (c) Consists of a name, portrait or signature identifying a particular living individual except by his written consent, or the name, signature, or portrait of a deceased President of the Philippines, during the life of his widow, if any, except by written consent of the widow;
- (d) Is identical with a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date, in respect of: (i) The same goods or services, or (ii) Closely related goods or services, or (iii) If it nearly resembles such a mark as to be likely to deceive or cause confusion;
- (e) Is identical with, or confusingly similar to, or constitutes a translation of a mark which is considered by the competent authority of the Philippines to be well-known internationally and in the Philippines, whether or not it is registered here, as being already the mark of a person other than the applicant for registration, and used for identical or similar goods or services: Provided, That in determining whether a mark is well-known, account shall be taken of the knowledge of the relevant sector of the public, rather than of the public at large, including knowledge in the Philippines which has been obtained as a result of the promotion of the mark;
- (f) Is identical with, or confusingly similar to, or constitutes a translation of a mark considered well-known in accordance with the preceding paragraph, which is registered in the Philippines with respect to goods or services which are not similar to those with respect to which registration is applied for: Provided, That use of the mark in relation to those goods or services would indicate a connection between those goods or services, and the owner of the registered mark: Provided further, That the interests of the owner of the registered mark are likely to be damaged by such use;
- (g) Is likely to mislead the public, particularly as to the nature, quality, characteristics or geographical origin of the goods or services;
- (h) Consists exclusively of signs that are generic for the goods or services that they seek to identify;
- (i) Consists exclusively of signs or of indications that have become customary or usual to designate the goods or services in everyday language or in bona fide and established trade practice;
- (j) Consists exclusively of signs or of indications that may serve in trade to designate the kind, quality, quantity, intended purpose, value, geographical origin, time or production of the goods or rendering of the services, or other characteristics of the goods or services;
- (k) Consists of shapes that may be necessitated by technical factors or by the nature of the goods themselves or factors that affect their intrinsic value;
- (l) Consists of color alone, unless defined by a given form; or
- (m) Is contrary to public order or morality.

4. Membership:

- √ - Paris Convention
- √ - Madrid Protocol

Philippines is a member of the Paris Convention from 1965, whereby applications from convention countries will be subject to the same priority date in Philippines. The application for priority has to be made within six months of the first application in a convention country.

5. Rule of Priority:

“First to Use” is the rule followed by Philippines in determining priority of trademarks.

6. Duration and Renewal:

A certificate of registration shall remain in force for ten (10) years: Provided, That the registrant shall file a declaration of actual use and evidence to that effect, or shall show valid reasons based on the existence of obstacles to such use, as prescribed by the Regulations, within one (1) year from the fifth anniversary of the date of the registration of the mark. Otherwise, the mark shall be removed from the Register by the Office. A certificate of registration may be renewed for periods of ten (10) years at its expiration upon payment of the prescribed fee and upon filing of a request.

PHILIPPINES TRADEMARK APPLICATION PROCEDURES

1. Application

Every applicant is required to submit an application with Intellectual Property Office of the Philippines.

2. Examination

A Trademark application is examined 12 to 18 months from the date of filing.

3. Publication

The IPO then issues a notice of allowance and publishes the application 12 to 24 months from the filing date. An application fee is required to be paid within 2 months from mailing date of notice of allowance. IPO publishes the application in the official gazette for purposes of opposition within 6 to 8 months from notice.

4. Opposition

Aggrieved parties are required to submit oppositions within 30 days from the date of publication.

5. Notice of Issuance

Where no opposition is filed a notice of issuance and publication is issued by the IPO within 3 months from the publication of the notice of allowance.

6. Registration

The IPO issues a certificate of registration within 5 to 7 months of notice of issuance subsequent to payment of fees by the applicant within 2 months from mailing date notice of issuance .

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Philippines:-

1. Application Form.
2. Power of Attorney.
3. One (1) clear copy of the mark.
4. A list of goods or services (which closely follow the Nice International Classification).
5. The full name, nationality and registered address of the applicant.
6. Description of claim if colour or a combination of colour or a combination of colours is claimed as Trademark.
7. For marks that contain non-English words, a certified transliteration and translation.

Documents To Be Furnished For Filing Trade/Service Mark Application in Philippines

Basic Requirements

Documents	Remarks	Time of Filing
Power of attorney	Signed. No need for notarization/ certification/ legalization	May be submitted later or up to 2 months from date of filing of application.
Image/ representation of the mark	Must be 2in. X 3in. in dimension; must show the colors being claimed if applicable	On filing date.

Additional Documents for Claiming a Convention Priority

Documents	Remarks	Time of Filing
Certified true copy of the priority application	Must have English translation if in another language	3 months from date of filing of application.
Certified true copy of the priority registration	Must have English translation if in another language	Upon completion of all requirements of registrability as assessed by Examiner; If the only issue remaining in an application based on foreign application claiming priority right is the submission of a certified copy of the foreign or home registration, the Examiner may provisionally allow the application and suspend the submission of the certified copy of the foreign or home registration for a period not exceeding twelve (12) months counted from allowance.

Documents for Filing a Request of Recordals of Assignments and Changes

Documents	Remarks	Time of Filing
Copy of Deed of Assignment	Legalized	Upon filing of request

Documents for Filing an Opposition or Counter-Statement (Deadline for Applying is during 3 Months Publication Period of the Trade Mark Application to be Opposed)

Documents	Remarks	Time of Filing
Notice of Opposition		Within 30 days from Publication of mark to be opposed
Extension to File Verified Motion of Opposition		Opposer is allowed 3 extensions that has to be filed every 30 days from First notice mentioned above allowing time to put together the Verified Motion of Opposition
Power of Attorney	notarized and duly authenticated by the Philippine Consulate Office.	Upon Filing Verified Motion of Opposition
Verification and Certification of Non-Forum Shopping	notarized and duly authenticated by the Philippine Consulate Office.	Upon Filing Verified Motion of Opposition
Affidavit-direct testimony of witness opposing company	notarized and duly authenticated by the Philippine Consulate office. This affidavit should contain some information on the company, some history on the marks, a list of worldwide registration and application of the mark, some samples of said trademark registrations, information on worldwide sales, and Philippine sales, some information on expenditures on advertising and promotions worldwide and in the Philippines.	Upon Filing Verified Motion of Opposition
Affidavit-direct testimony from distributor or representative office or branch.	This document needs to be notarized only, and can include information as to its organization, sales and advertisements, list of dealers or stores products or goods covered by the mark concerned.	Upon Filing Verified Motion of Opposition

5. THAILAND

TRADEMARK APPLICATION IN THAILAND

1. Legislation:

Trademark Act of 1991

2. Definition:

"Trademark" is defined as a mark used or proposed to be used on or in connection with goods to distinguish those trademarked goods from other trademarked goods. "Mark" is defined as a brand, name, word, letter, photograph, drawing, device, manual, signature, combinations of colors, shape or configuration of an object or any one or combination thereof.

3. Criteria:

A trade mark should contain the following features in order to claim registration:

(a) A distinctive mark which includes

a personal name, a surname which is not according to its ordinary signification, a name of juristic person or trade-name represented in a special manner;

- (i) a word or words having no direct reference to the character or quality of the goods and is not a geographical name prescribed by the Minister in the Ministerial Notifications;
- (ii) a specially designed combination of colors, stylized letters, numerals or invented word;
- (iii) the signature of the applicant or another person who has given his or her permission;
- (iv) a representation of the applicant or of another person with his or her permission or of a dead person with the permission of his or her heirs;
- (v) an invented device.

(b) A mark must not include or consist of, among other things, the royal or official arms and crests, the national flag of Thailand or any other country; picture and signature of including name, word, statement or any mark indicating to the king, queen or heir to throne, emblem of the Red Cross, a mark which is contrary to good public peace or morals, a mark which is identical or confusingly similar to a well known trademark, whether it is registered or not, and geographical indication protected by the relevant law.

(c) A mark is not identical or confusingly similar to another person's registered mark.

4. Membership:

- √ - Paris Convention
- X – Madrid Protocol

Thailand is a member of the Paris Convention from 2008, whereby applications from convention countries will be subject to the same priority date in Thailand. The application for priority has to be made within six months of the first application in a convention country.

5. Rule of Priority:

"First to Use" is the rule followed by Thailand in determining priority of trademarks.

6. Duration and Renewal:

A trade mark is valid for a term of 10 years from the date of application filing and will could be renewed every 10 years. An application for renewal must be filed 90 days before the expiration date.

THAILAND TRADEMARK APPLICATION PROCEDURES

1. Application

An application will be file by either the owner or his agent having a fixed place of business or address in Thailand with the Trademark Board.



2. Examination

The examination of the application by the Trademark examiner will take 6-8 months for completion.



3. Publication

The mark is published in the Official Trademark Journal if considered to be registrable.



4. Opposition

The trademark will be granted registration if no opposition is made within 90 days of its publication.



5. Registration

The applicant will be required to pay a registration fee within 30 days of receipt of notification. The time limit for a trademark registration varies from 12- 18 months.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Thailand:-

1. Application form.
2. Power of Attorney.
3. Thirteen (13) clear copy of the mark.
4. The full name, nationality and registered address of the applicant.
5. A list of goods or services (which closely follow the Nice International Classification).
6. Description of claim if colour or a combination of colour or a combination of colours is claimed as Trademark.
7. For marks that contain non-English words, a certified transliteration and translation.

Documents To Be Furnished For Filing Trade/Service Mark Application in Thailand

Basic Requirements

Documents	Remarks	Time of Filing
Power of Attorney	notarized	1. On filing date; or 2. Within 60 days from the date of filing
Image/ representation of the mark	Electronic sample of the mark in black and white or in color - max 5cm x 5 cm	On filing date

Additional Documents for Claiming a Convention Priority

Documents	Remarks	Time of Filing
Priority documents	certified copy of the basic application. Documents in any other language has to be provided with its English translation.	1. On filing date; or 2. Within 60 days from the date of filing
Declaration letter		1. At the time of filing; or 2. Within 60 days from the date of filing

Documents for Filing a Request of Recordal of Assignments

Documents	Remarks	Time of Filing
Power of Attorney from the Assignee	Notarization required	1. At the time of filing; or 2. Within 60 days from the date of filing
Original Deed of Assignment	Notarization required	1. At the time of filing; or 2. Within 60 days from the date of filing

Documents for Filing a Request of Recordal of Change of Address

Documents	Remarks	Time of Filing
Power of Attorney showing the new address	Notarization required	1. At the time of filing; or 2. Within 60 days from

		the date of filing
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Documents for Filing a Request of Recordal of Change of Name

Documents	Remarks	Time of Filing
Power of Attorney showing the new name	Notarization required	1. At the time of filing; or 2. Within 60 days from the date of filing
Original extract attesting the change issued by the company registry or any other competent authority	Notarization required	1. At the time of filing; or 2. Within 60 days from the date of filing

Documents for Filing an Opposition or Counter-Opposition (Deadline for Applying is during 3 Months Publication Period of the Trade Mark Application to be Opposed)

Documents	Remarks	Time of Filing
Power of Attorney	Notarization required	1. At the time of filing; or 2. Within 60 days from the date of filing
Any evidences to be supported the case such as copies of Certificate of Registration of the trademarks in many countries, Magazines, brochures and advertisement showing the use of trademark; copies of the invoices; history of the company and etc.		1. At the time of filing; or 2. Within 60 days from the date of filing

6. VIETNAM

TRADEMARK APPLICATION IN VIETNAM

1. Legislation:

Decree No. 54/2000/ND-CP.

2. Definition:

A trademark is a sign used for the purpose of indicating a connection between a person having the right to use the sign and his goods or services. A sign includes words, logos, labels, names, letters, numbers or a combination of the above.

3. Criteria:

A trade mark has to fulfill the following conditions in order to claim protection.

- it must be distinctive
- it cannot be generic
- it cannot be deceptively similar to a previous or existing trademark.
- it cannot be a geographical name or surname
- it cannot be deceptive or confusing
- it cannot be scandalous or offensive
- it cannot have direct reference to the character or nature of the goods/services

4. Membership:

- √ - Paris Convention
- √ – Madrid Protocol

Vietnam is a member of the Paris Convention from 1949, whereby applications from convention countries will be subject to the same priority date in Vietnam. The application for priority has to be made within six months of the first application in a convention country.

6. Rule of Priority:

“First to File” is the rule followed by Vietnam in determining priority of trademarks.

7. Duration and Renewal:

A trade mark once registered is valid for a term of 10 years and can be renewed every 10 years for an unlimited period.

VIETNAM TRADEMARK APPLICATION PROCEDURES

1. Application

Every applicant is required to submit an application to Vietnam Trademark Office.



2. Examination

Formal Examinations are conducted within 3 months from the filing date. Responses for amendments to application are made within 2 months from the date of request.



3. Publication

A trademark will after examination be published in the government gazette subject to the satisfaction of the registrar.



4. Substantive Examination

A substantive examination takes place 6 months from the date of publication.



5. Registration

On completion of the formalities a certificate of registration is granted. The duration of registration takes a minimum period of 12 months. The registration is effective from date of application.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Vietnam:-

1. Application form.
2. Power of Attorney.
3. Twelve (12) clear copy of the mark.
4. A list of goods or services (which closely follow the Nice International Classification).
5. The full name, nationality and registered address of the applicant.
6. Description of claim if colour or a combination of colour or a combination of colours is claimed as Trademark.
7. For marks that contain non-English words, a certified transliteration and translation.

Documents To Be Furnished For Filing Trade/Service Mark Application in Vietnam

Basic Requirements

Documents	Remarks	Time of Filing
Power of Attorney	must be duly signed by the applicant	A copy on filing date with the original to be submitted within one month
Image/ representation of the mark	not larger than 8x8cm	On filing date

(if applicable) Additional Documents for Claiming a Conventional Priority

Documents	Remarks	Time of Filing
Priority documents	certified	A copy on filing date with the original to be submitted within one month

(if applicable) Documents for Filing a Request of Recordals of Assignments and Changes

Documents	Remarks	Time of Filing
Power of Attorney	duly signed	On filing date
The original Certificate of Trademark registration		On filing date
02 originals of the Trademark Assignment Agreement signed by both Assignor and Assignee.	duly signed	On filing date
Declaration of Change of Name/Address or legal documents showing the change of name/address	notarized or certified	On filing date

(if applicable) Documents for Filing an Opposition or Counter-Statement (Deadline for Applying is during 3 Months Publication Period of the Trade Mark Application to be Opposed)

Documents	Remarks	Time of Filing
A Power of Attorney (POA)	duly signed	On filing date
Evidence of use of the mark in Vietnam (such as bill of lading, packages, advertising and/or promoting materials, brochures, photographs, etc.)		On filing date
Documents proving that the	If the trademark is well-known	On filing date

<p>mark is well-known:</p> <ul style="list-style-type: none"> - The countries where the mark is registered; - The countries where the mark is recognized as being well-known; - The value of the mark in business transactions, such as assignment, licensing, investment capital contribution, etc. - The estimated number of concerned consumers who may know the mark through buying, selling, or using the products or services bearing the mark, or through advertisement of the mark; - The countries where the products or services bearing the mark are circulated or provided; - The turnover from selling the products or supplying services bearing the mark, or number of products sold; - The duration of continuous use of the mark; 	<p>trademark</p>	
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7. BRUNEI

TRADEMARK APPLICATION IN BRUNEI

1. Legislation:

Trade Marks Act (Cap 98).

2. Definition:

A trademark is defined as any visually perceptible sign capable of being represented graphically and capable of distinguishing goods or services of one undertaking from those of other undertakings.

3. Criteria:

To be registrable, a trademark must be new (ie: there is no identical or confusingly similar mark in the same class by another applicant) and distinctive.

Shape, colour and aspects of packaging are registrable in Brunei. There is also provision for the protection of well-known trademarks.

Service marks are registrable. Multi-class applications, divisional applications, merger of applications and registrations are also available in Brunei.

4. Membership:

√ - Paris Convention

X – Madrid Protocol

5. Rule of Priority:

The first user of a mark is entitled to its registration in Brunei. Classification is identical with international classification.

6. Duration and Renewal:

Under the old law, trademark are viable for an initial period of seven years and renewable for a further period of fourteen years. After the amendment to Brunei's trademarks law on 1 June 2000, a 10-year term of renewal will be granted where the renewal falls due on or after 1 June 2000. The old 14-year term will be granted only if the renewal fell due before 1 June 2000.

BRUNEI TRADEMARK APPLICATION PROCEDURES

1. Application

Every applicant is required to submit an application with the Brunei Trademark office



2. Examination

On submission of the application, the Trade Marks office will examine the application for statutory compliances. Such examinations could lead to office actions. Applicants will be informed and also given an opportunity to reply to such office actions.



3. Publication

A trade mark which passes through examination be published in the government gazette subject to the satisfaction of the registrar.



4. Opposition

Third parties can oppose the application within three months of publication.



5. Registration

On completion of objections and opposition a Certificate of Registration will be issued by the trade marks office subject to the payment of a fee. A trade mark once registered is valid for a term of 10 years and can be renewed every 10 years.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Brunei:-

1. Application form.
2. Power of Attorney.
3. One (1) clear copy of the mark.
4. The full name, nationality and registered address of the applicant.
5. A list of goods or services (which closely follow the Nice International Classification).
6. Description of claim if colour or a combination of colour or a combination of colours is claimed as Trademark.
7. For marks that contain non-English words, a certified transliteration and translation.
8. If convention priority is claimed, a certified copy of the priority application (with a certified English translation where documents are not in English).

Documents To Be Furnished For Filing Trade/Service Mark Application in Brunei

Basic Requirements

Documents	Remarks	Time of Filing
Power of Attorney and statement of mark owner	Duly signed	On filing date
Mark in the form of foreign characters has to be accompanied with transliteration in English	Certified by Translator	2 months from filing

Additional Documents for Claiming a Convention Priority

Documents	Remarks	Time of Filing
Priority documents	Certified copy of the basic application. Documents in any other language has to be provided with its English translation	2 months from filing

Documents for Filing a Request of Recordals of Assignments and Changes

Documents	Remarks	Time of Filing
Copy of : – Assignment deed, or – Document of name change – Document of address change	notarized certified certified	Anytime after registration.

Documents for Filing an Opposition or Counter-Opposition (Deadline for Applying is during 3 Months Publication Period of the Trade Mark Application to be Opposed)

Documents	Remarks	Time of Filing
Copy of registrations in various countries	no legalization	On filing date
Copy of advertisements/ brochures of the products bearing the mark	no legalization; as many and as early as possible	On filing date

8. CAMBODIA

TRADEMARK APPLICATION IN CAMBODIA

1. Legislation:

Law Concerning Marks, Trade Names and Acts of Unfair Competition (Trademark Law).

2. Definition:

"Mark" means any visible sign capable of distinguishing the goods (trademark) or services (service mark) of an enterprise. "trade name" means the name or/ and designation identifying and distinguishing an enterprise.

3. Criteria:

A mark cannot be validly registered:

- if it is incapable of distinguishing the goods or services of one enterprise from those of other enterprises;
- if it is contrary to public order or morality or good custom;
- if it is likely to mislead the public or trade circles, in particular as regards the geographical origin of the goods or services concerned or their nature or characteristics;
- if it is identical with, or is an imitation of or contains as an element, an armorial bearing, flag and other emblem, a name or abbreviation or initials of the name of , or official sign or hallmark adopted by, any State, intergovernmental organization or organization created by an international convention, unless authorized by the competent authority of that State or organization;
- if it is identical with, or confusingly similar to, or constitutes a translation of, a mark or trade name which is well known in the Kingdom of Cambodia for identical or similar goods or services of another enterprise;
- if it is identical with, or confusingly similar to, or constitutes a translation of a mark or trade name which is well-known and registered in the Kingdom of 'Cambodia for goods or services which are not identical or similar to those in respect of which registration is applied for , provided that use of the mark in relation to those goods or services would indicate a connection between those goods or services and the owner of the well-known mark that the interests of the owner of the well :known mark are likely to be damaged by such use; or
- if it is identical with a mark belonging to a different proprietor and already on the Register, or with an earlier filing or priority date, in respect of the same goods or services or closely related goods or services, or if it so nearly resembles such a mark as to be likely to deceive or cause confusion.

4. Membership:

√ - Paris Convention

X – Madrid Protocol

Cambodia is a member of the Paris Convention from 1998, whereby applications from convention countries will be subject to the same priority date in Cambodia. The application for priority has to be made within six months of the first application in a convention country.

5. Rule of Priority:

“First to File” is the rule followed by Cambodia in determining priority of trademarks.

6. Duration and Renewal:

A trade mark once registered is valid for a term of 5 years and can be renewed every 5 years.

**CAMBODIA TRADEMARK
APPLICATION PROCEDURES****1. Application**

Every applicant is required to an application to the registrar of patents within 12 months of priority date.

**2. Substantive Examination**

A substantive examination takes place 6 months from the date of publication.

**3. Registration**

The duration of registration takes a minimum period of 2 months. The registration is effective from date of application.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Cambodia:-

1. Application form.
2. Power of Attorney.
3. Fifteen (15) clear copies of the mark.
4. A list of goods or services (which closely follow the Nice International Classification).
5. The full name, nationality and registered address of the applicant.
6. For marks that contain non-English words, a certified transliteration and translation.

Documents To Be Furnished For Filing Trade/Service Mark Application in Cambodia

Basic Requirements

Documents	Remarks	Time of Filing
Power of Attorney	signed and notarized	A copy on filing date with the original to be submitted within one month
Mark	not larger than 8x8cm	On filing date

(if applicable) Additional Documents for Claiming a Conventional Priority

Documents	Remarks	Time of Filing
Priority documents	notarized	A copy on filing date with the original to be submitted within one month

(if applicable) Documents for Filing a Request of Recordals of Assignments

Documents	Remarks	Time of Filing
Power of Attorney	notarized	On filing date
The original Certificate of Trademark registration		On filing date
The Trademark Assignment Agreement signed by both Assignor and Assignee.	notarized/certified	On filing date

(if applicable) Documents for Filing a Request of Recordals of Changes

Documents	Remarks	Time of Filing
Power of Attorney	notarized	On filing date
Declaration of Change of Name/Address or legal documents showing the change of name/address	notarized	On filing date
Original Certificate of Trademark Registration		On filing date

(if applicable) Documents for Filing an Opposition or Counter-Opposition (Deadline for Applying is during 3 Months Publication Period of the Trade Mark Application to be Opposed)

Documents	Remarks	Time of Filing
Power of Attorney	notarized	On filing date

Affidavit of use	Notarized/or certified	On filing date
Evidence of use of the mark in Cambodia (such as bill of lading, packages, advertising and/or promoting materials, brochures, photographs, etc.)		On filing date

9. LAOS

TRADEMARK APPLICATION IN LAOS

1. Legislation:

Prime Minister's Decree on Trademarks No 06/PM (1995)

2. Definition:

A trademark is a sign used for the purpose of indicating a connection between a person having the right to use the sign and his goods or services. A sign includes words, logos, labels, names, letters, numbers or a combination of the above.

3. Criteria:

A trade mark has to fulfil the following conditions in order to claim protection.

- it must be distinctive
- it cannot be generic
- it cannot be deceptively similar to a previous or existing trademark.
- it cannot be a geographical name or surname
- it cannot be deceptive or confusing
- it cannot be scandalous or offensive
- it cannot have direct reference to the character or nature of the goods/services

4. Membership:

√ - Paris Convention

X – Madrid Protocol

Laos is a member of the Paris Convention from 1998, whereby applications from convention countries will be subject to the same priority date in Laos. The application for priority has to be made within six months of the first application in a convention country.

5. Rule of Priority:

“First to File” is the rule followed by Laos in determining priority of trademarks.

6. Duration and Renewal:

A trade mark once registered is valid for a term of 10 years and can be renewed every 10 years.

**LAOS TRADEMARK
APPLICATION PROCEDURES****1. Application**

Every applicant is required to an application to the registrar of patents within 12 months of priority date.

**2. Substantive Examination**

A substantive examination takes place 6 months from the date of publication.

**3. Registration**

The duration of registration takes a minimum period of 2 months. The registration is effective from date of application.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Laos:-

1. Application form.
2. Power of Attorney.
3. Twenty (20) clear copy of the mark.
4. A list of goods or services (which closely follow the Nice International Classification).
5. The full name, nationality and registered address of the applicant.
6. For marks that contain non-English words, a certified transliteration and translation.

Documents To Be Furnished For Filing Trade/Service Mark Application in Laos

Basic Requirements

Documents	Remarks	Time of Filing
Power of Attorney	signed and notarized	A copy on filing date with the original to be submitted within one month
Mark	not larger than 8x8cm	On filing date

(if applicable) Additional Documents for Claiming a Conventional Priority

Documents	Remarks	Time of Filing
Priority documents	notarized	A copy on filing date with the original to be submitted within one month

(if applicable) Documents for Filing a Request of Recordals of Assignments

Documents	Remarks	Time of Filing
A Power of Attorney (POA)	notarized	On filing date
Photocopy of Certificate of Trademark registration		On filing date
Original notarized/certified copy of the Trademark Assignment Agreement	notarized	On filing date

(if applicable) Documents for Filing a Request of Recordals of Changes

Documents	Remarks	Time of Filing
A Power of Attorney (POA)	notarized	On filing date
Photocopy of Certificate of Trademark registration		On filing date
Original Declaration of Change of Name/Address of legal document showing the change of name/address	notarized	On filing date

(if applicable) Documents for Filing an Opposition or Counter-Statement (Deadline for Applying is during 3 Months Publication Period of the Trade Mark Application to be Opposed)

Documents	Remarks	Time of Filing
A Power of Attorney	notarized	On filing date
Affidavit of use	notarized / or certified	On filing date
Evidence of use of the mark in Laos (such as bill of lading, packages, advertising and/or promoting materials, brochures, photographs, etc.)		On filing date

10. MYANMAR

TRADEMARK APPLICATION IN MYANMAR

1. Legislation:

Myanmar has no promulgated law for trademarks, but registration can be obtained under Section 18(F) of Registration Act. Remedies against passing-off can be applied for under Section 478 of the Penal Code, and against infringement under Section 54 of the Specific Relief Act and the Myanmar Merchandise Marks Act.

2. Definition:

“Mark” includes a device, brand, heading, label, ticket, name, signature, word, letter or numeral or any combination thereof.

“Trade Mark” means a mark used or proposed to be used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark whether with or without any indication of the identity of that person.

3. Criteria:

In Myanmar, there is no Trade Mark Act up to the present moment. Myanmar Penal Code, Section 478 however provides that –

"A mark use for denoting that goods are the manufacture or merchandise of a particular person is called a Trade Mark".

"The mark must be " distinctive" in the sense of being adapted to distinguish the goods of the proprietor of the TRADE MARK from those other persons.

4. Membership:

- X - Paris Convention
- X – Madrid Protocol

5. Eligibility:

Applicant must be a proprietor of the mark. Proprietorship of a trademark is acquired by means of registration or use or both.

A foreign applicant is required to nominate a trademark attorney in the company he wishes to declare the mark.

6. Rule of Priority:

“First to Use” is the rule followed by Malaysia in determining priority of trademarks.

7. Duration and Renewal:

In Myanmar, the law does not enact the validity period of Trademark registration. According to the established practice, renewal of registration is usually done once in every three-year by one of the following ways:-

- Renewal by re-registration in the form of Declaration
- Renewal by re-publication in the local daily newspapers or weekly journals
- Renewal by both re-registration and re-publication

MYANMAR TRADEMARK APPLICATION PROCEDURES

1. Declaration of Ownership

This is a solemn statement made by the owner of a trademark. A trademark can be registered on submission of a declaration of ownership.



2. Registration

A local attorney will file for the registration of the Declaration of Ownership at the office of the Registrar of Deeds and Assurances. A temporary registration number will be granted on the same day although it takes 2-3 weeks for the attorney to receive the declaration.



3. Examination

An examination takes 6 – 8 months.



4. Publication

Publication follows registration of a mark and is optional to the owner. A trademark cautionary notice is published in local newspapers establishing ownership of the trademark. It serves as a warning to potential infringers.



5. Registration

The duration of registration takes a minimum period of 2 months. The registration is effective from date of application.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Myanmar:-

1. Application form.
2. Power of Attorney.
3. Five (5) clear copy of the mark.
4. A list of goods or services (which closely follow the Nice International Classification).
5. The full name, nationality and registered address of the applicant.
6. For marks that contain non-English words, a certified transliteration and translation.

Documents To Be Furnished For Filing Trade/Service Mark Application in Myanmar

Basic Requirements

Documents	Remarks	Time of Filing
Declaration of Ownership of the Trademark	Signed, notarized & legalized	Within 4 months from the date of execution of the Declaration
Power of Attorney	signed, notarized and the signature and seal of the Notary in turn must be attested by Myanmar Embassy in the country concerned	Within 4 months from the date of execution of the Declaration

Priority Claim

Myanmar is not a member to any of convention. It is therefore not possible to claim convention priority for filing a trademark application in Myanmar .

Documents for Filing a Request of Recordals of Assignments and Changes

Documents	Remarks	Time of Filing
Deed of Assignment signed by the Assignor and the Assignee.	signed, notarized and the signature and seal of the Notary in turn must be attested by Myanmar Embassy in the country concerned	Within 4 months from the date of execution of the Declaration
Power of Attorney in the name of the Assignor.	signed and notarized	Within 4 months from the date of execution of the Declaration
Power of Attorney in the name of the Assignee.	signed and notarized	Within 4 months from the date of execution of the Declaration

Documents for Filing an Opposition

Unlike other countries, no opposition practice is available with the Registry Office in Myanmar. The registration is between the applicant and the Registrar. In case of oppositions, one can maintain a law suit before the court. In Myanmar, an owner of trademark in respect of particulars commodity has no right to prohibit or prevent other persons from use of such mark in connection with **goods of a totally different character and class.**