



CLB中国法律事务所(缅甸)

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AttyAid (Myanmar) IP LAW FIRM

Trademark Law

商标法

(Chinese and English are unofficial translation)

(中英文参考译本)

(2019, Pyidaungsu Hluttaw Law No. 3)

(2019, 缅甸联邦议会第3号法律)

Pyidaungsu Hluttaw hereby enacts this Law.

(缅甸联邦议会制定本法)

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Chapter I (第一章)

Title, Commencement and Definition

标题、序和定义

1.

(a) This Law shall be called the Trademark Law.

本法称为《商标法》。

(b) This Law shall come into force on the date which is prescribed in the notification issued by the President.

本法应于总统发布的通告上规定的日期生效。

2. The following expressions contained in this Law shall have the meanings provided hereunder:

本法下列用语的定义如下:

(a) **Union** means The Republic of the Union of Myanmar.

“联邦”指的是缅甸联邦共和国。

(b) **Central Committee** means the Central Committee of Intellectual Property Rights formed under this Law.

“中央委员会”指依本法成立的知识产权中央委员会。(备注: 美国知局党委会)

(c) **Ministry** means the Ministry of Commerce of the Union government.

“部委”指联邦政府商务部。

(d) **Relevant Ministry** means the Ministry of Information, Ministry of Industries, Ministry of Agriculture, Livestock, and Irrigation, or the Ministry of Education of the Union government.

“相关部委”是指信息部, 工业部, 农业、畜牧业和灌溉部或联邦政府教育部。

(e) **Agency** means the Intellectual Property Rights Agency formed under this Law.

“代理处”是指依照本法成立的知识产权代理部门。(备注: 类似国内的商评委)

(f) **Department** means the department authorized by the Ministry to carry out matters related

to intellectual property rights.

“部门”指被部委授权处理知识产权相关事务的部门。

(g)**Registrar** means the Director-General of the Department handling matters related to the registration of intellectual property rights.

“注册官”是指处理与知识产权登记有关事项的部门总干事。

(h)**Examiner** means an officer whose position is equivalent to an Assistant Director or above in the Department carrying out examinations related to the registration of intellectual property rights.

“审查官”指职位相当于部门中的助理处长或以上职位的，对知识产权登记进行审查的官员。

(i)**Intellectual Property Rights** means the right granted by law to protect inventions made by one's own intellect. This expression includes copyright, patent rights, industrial design rights, trademark rights, and other types of intellectual property rights.

“知识产权”是指法律赋予的保护自己智力发明的权利。该表述包括著作权，专利权，工业设计权，商标权以及其他各类知识产权。

(j)**Mark** means any visible mark, which includes names, letters, numbers, illustrated parts, or combinations of colors, or one such mark combined with another, in order to distinguish a particular good or service from other goods or services. It includes trademark, service mark, collective mark and certification mark.

“标记”是指任何可见的标记，其中包括名称、字母、数字、插图部分或颜色组合，或其中相互组合的形式，用于将特定的商品或服务与其他商品或服务进行区分。它包括商品商标、服务商标、集体商标和认证商标。

(k)**Trademark** means a mark that distinguishes the goods of one enterprise from those of another in the course of trade.

“商品商标”是指在贸易过程中将一个企业的商品与另一个企业的商品进行区分的标记。

(l)**Service mark** means a mark that distinguishes the services of one enterprise from those of another in the course of trade.

“服务商标”是指在贸易过程中将一个企业的服务与另一个企业的服务进行区分的标记。

(m)**Collective mark** means a mark owned by a collective organization, such as a society, association, or socioeconomic organizations, or cooperative of industrialists, manufacturers, or traders. This expression includes marks which distinguish the goods or services of the members of said organizations from those of others.

“集体商标”是指如社会，协会，或社会经济组织，或工业联合体，或制造商，或贸易商的合作组织拥有的商标。该表述包括将这些组织的商品或服务与其他组织的商品或服务进行区分的商标。

(n)**Certification mark** means a mark which certifies the use, under the supervision of the owner of said mark, in connection with the origin, quality, type and other distinguishing characteristics of the goods or services of a mark.

“证明商标”是指在商标所有人的监督下，根据商品或服务的原产地，质量，类型和其他区别特征对该商标的使用进行证明的商标。

(o)**Geographical indication** means an indication which identifies any goods as originating from a particular country, territory or a region, where a given quality, reputation or other distinguishing characteristics of the goods is indicative of its geographical origin.

“地理标志”是指将任何商品标识为来自特定国家，领域或地区的标志。商品的地理来源可指示商品的质量，声誉或其他区别特征。

(p)**Well-known mark** means a mark that is well-known, in accordance with the stipulated standard, in the Republic of the Union of Myanmar.

“驰名商标”指在缅甸联邦共和国按照特定的标准被视为广为人知的商标。

(q)**Trade name** means a name or a specification used to distinguish one undertaking from another.

“商号”指用来区分不同企业的名称或规定。

(r)**Owner of a registered mark** means a person or a legal entity recognized and registered in the Department's registration records as the owner of the mark.

“注册商标所有人”指在部门的注册记录中被识别并注册为商标所有人的自然人或法人实体。

(s)**Right holder** means a person or a legal entity who is the owner of a registered trademark, the owner of a well-known mark, the owner of a geographical indication, the owner of a trade name or is a transferee of the rights relating to a registered mark or is a licensee of the rights relating to a registered mark.

“权利人”指作为注册商标的所有者，驰名商标的所有者，地理标志的所有者，商号的所有者，或注册商标相关权利的受让人，或注册商标相关权利的被许可人的自然人或法人实体。

(t)**Member State** means any Member State of any conventions, treaties, or agreements relating to intellectual property rights in which the Union is a Party, or any Member State of relevant international or regional organizations.

“成员国”指作为缔约方的任何有关知识产权的公约、条约或协定的任何成员国，或相关国际或区域组织的成员国。

(u)**Intellectual Property Rights Court** means either a court which has been established by the Supreme Court of the Union, in accordance with the law, to adjudicate matters related to intellectual property rights or a court which has been granted the jurisdiction and mandate of such court. Right of priority means the right of priority described in Section 31 of this Law.

“知识产权法院”指由联邦最高法院依法设立的对与知识产权有关的事项作出裁决的法院，或被授予后拥有管辖权和相关职能的法院。优先权是指本法第 31 条规定的优先权。

(v)**Right of priority for trade exhibitions** means the right of priority related to trade exhibitions described in Section 32 of this Law.

“展会优先权”是指本法第 32 条规定的与贸易展览有关的优先权。

Chapter II (第二章)

Objectives

目标/立法本意

3.The objectives of this Law are as follows:

本法的立法目的如下:

(a)To promote investment, trade and commerce by protecting marks;

通过保护商标促进投资、贸易和商业;

(b)To protect the interests of the owners and right holders of marks;

保护商标所有人和商标权利人的利益;

(c)To establish a fair market competition system and to create a safe environment for consumers by prohibiting the entry of mark counterfeiting and counterfeit goods into the

market;

建立公平的市场竞争制度, 通过禁止假冒标志和假冒商品进入市场, 为消费者创造安全的环境;

(d)To improve the quality of regional products of Myanmar and to promote the economic development of people in these regions by penetrating the global market through protection of geographical indications.

提高缅甸区域产品质量, 通过保护地理标志, 渗透全球市场, 促进这些区域人民的经济发展。

Chapter III (第三章)

Formation of the Central Committee and its Functions and Duties

知识产权中央委员会的组建及其职能和职责

4.The Union Government: 联邦政府:

(a)In order to supervise and conduct matters related to intellectual property rights, must form an Intellectual Property Rights Central Committee as described below:

为了监督和处理与知识产权有关的事项, 必须通过以下方式组建知识产权中央委员会:

(1)	Vice-President 副总统	Chair 主席
(2)	Union Minister of the Ministry 部委部长	Vice-Chair 副主席
(3)	Deputy Ministers of Relevant Ministries 相关部委的副部长	Members 成员
(4)	Deputy Ministers or Directors-General of other suitable ministries 其他适宜的部委中的副部长或总干事	Members 成员
(5)	No more than four experts on intellectual property rights 不超过四名知识产权专家	Members 成员
(6)	Two representatives from non-governmental organizations 两名非政府组织的代表	Members 成员
(7)	Person appointed by the President of the Union 联邦总统任命的人选	Secretary 秘书
(8)	Director-General of the Department 部门总干事	Co-Secretary 联合秘书
(9)	may reorganize the Central Committee formed under subsection (a) as it sees fit. 可以适当地重组根据 (a) 款成立的中央委员会	

5.The duties of the Central Committee are as follows:

中央委员会的职责包括:

(a)Formulating intellectual property rights policies, strategies, and work plans in order to develop intellectual property rights businesses in the Union;

制定知识产权政策、战略和工作计划, 以便在联邦政府内发展知识产权业务;

(b)Supervising and directing the implementation of intellectual property rights policies, strategies, and work plans;

监督和指导知识产权政策、战略和工作计划的实施;

(c)Providing direction on promoting national economic development, promoting foreign investment, and developing small and medium enterprises through the intellectual property rights system;

- 指导国家经济发展，促进外商投资，通过知识产权制度发展中小企业；
- (d) Promoting the training and education of human resources required for the development of businesses related to intellectual property rights;
促进知识产权相关行业的发展所需的人力资源的培训和教育；
- (e) Coordinating with relevant government departments, governmental organizations, other organizations, and private businesses in order to develop the intellectual property rights system and to properly exercise and conduct the intellectual property rights system;
与有关政府部门、政府组织、其他组织和私营企业协调，以推广知识产权制度并正确实施知识产权制度；
- (f) Promoting contact and coordination with domestic and foreign organizations in order to secure technical assistance and other necessary assistance;
促进与国内外组织的联系和协调，以获得技术援助和其他必要援助；
- (g) Carrying out intellectual property rights related duties as assigned by the Union Government.
执行联邦政府交办的与知识产权有关的职责。

Chapter IV (第四章) Formation of the Agency and Its Duties 代理处的组建及其职责

6. The Central Committee: 中央委员会:

(a) with the approval of the Union Government, must form the Intellectual Property Rights Agency as described below:

经联邦政府批准，必须成立知识产权代理处，具体如下：

(1)	Secretary of the Central Committee 中央委员会秘书	Chair 主席
(2)	Directors-General related to the Agency from the Ministry and Relevant Ministries 来自部委代理处和相关部委的总干事	Members 成员
(3)	No more than eight experts on intellectual property rights 不超过八名知识产权专家	Members 成员
(4)	No more than five representatives from non-governmental organizations 不超过5名来自非政府组织的代表	Members 成员
(5)	Director-General of the Department 部门总干事	Secretary 秘书
(6)	Persons in charge of the divisions of the Department 部门中各分支部门的负责人	Co-Secretaries 联席秘书

(b) may reorganize the Agency formed under subsection (a) as it sees fit.

如认为合适，可重组根据第 (a) 款成立的代理处。

7. The Chair of the Agency shall be considered as an official with the same rank as a deputy minister.

代理处主席应被视为与副部长级别相同的官员。

8. The Agency must shall perform the following functions:

代理处必须履行以下职能：

(a) coordinate work related to trademark rights;

协调商标权相关的工作；

(b) implement the trademark rights policies, strategies and work plans and human resources training and education matters prescribed by the Central Committee in order to develop the trademark rights system;

为发展商标权制度，贯彻落实中央委员会制定的商标权政策、战略、工作计划和人力资源培训及教育事项；

(c) research and report to the Central Committee so that the Union can participate as a member of trademark rights conventions, treaties and agreements;

研究并向中央委员会报告，使联邦成为商标权公约、条约和协定的成员国；

(d) implement according to the provisions contained in the conventions, treaties, and agreements relating to trademark rights, in which the Union is a Party;

依照联邦加入的有关商标权的公约、条约和协定的规定执行；

(e) cooperate with relevant trademark rights related domestic organizations, international organizations, regional organizations and Members States;

与商标权相关的国内组织、国际组织、区域组织以及成员国合作；

(f) with the approval of the Central Committee, form working groups necessary for taking action against trademark rights related infringements and prescribing the duties of such groups;

经中央委员会批准，成立对商标权侵权相关行为采取行动所必需的工作组，并规定工作组的职责；

(g) with the approval of the Central Committee, form working groups necessary for carrying out trademark rights related matters and prescribing the duties of such groups;

经中央委员会批准，组织开展商标权相关工作所必需的工作组，并规定工作组的职责；

(h) provide protection to high quality local products in order to promote economic development of businesses of people in local regions;

为高质量的当地产品提供保护，以促进当地人民的经济发展；

(i) make decisions on the appeals against the Registrar's decision;

就反对注册官决定的上诉作出决定；

(j) prescribe the fees under this Law with the approval of the Union Government via the Central Committee;

经联邦政府批准，通过中央委员会对本法中的所述费用作出规定；

(k) approve the office seal, which will be used to authorize various matters related to the registration of trademark rights;

批准公章，该公章将用于授权与商标权注册有关的各种事项；

(l) submit work reports and other necessary reports to the Central Committee;

向中央委员会提交工作报告和其他必要的报告；

(m) submit annual progress report on work done on trademark rights related matters to the Central Committee;

向中央委员会提交商标权相关工作的年度进展报告；

(n) carry out intellectual property rights related functions assigned by the Central Committee from time to time.

履行中央委员会不时委派的与知识产权有关的职能。

Chapter V (第五章)
Duties and Functions of the Department
部门职责

9.The Department shall perform the following functions:

本部门应履行下列职能:

- (a)make announcements on trademark rights related registration matters;
公告与商标权有关的注册事项;
- (b)maintain registration records related to trademark rights;
维护与商标权有关的注册记录;
- (c)supervise the work of divisions formed and established according to the different intellectual property rights fields;
监督按不同知识产权领域组建和设立的分支部门的工作;
- (d)carry out intellectual property rights related functions assigned by the Agency from time to time.
履行代理处不时指派的与知识产权有关的职能。

Chapter VI (第六章)
Appointment of Registrars and Examiners and Stipulation of their Duties and Functions
注册官与审查官的委任及其职责与职能的规定

10.The Ministry may appoint, according to reports from the Agency, the Registrar and necessary Examiners for carrying out functions related to intellectual property rights in the Department.

部委可根据代理处的报告,任命注册官和必要的审查官,以履行部门与知识产权有关的职能。

11.The duties and functions of a Registrar are as follows:

注册官的职责及职能如下:

- (a)supervising matters related to the application for registration and examination of marks;
监督商标注册申请和审查的有关事项;
- (b)coordinating the Examiners' reports in the course of performing mark registration related work;
在进行商标注册相关工作的过程中,配合审查官的报告;
- (c)making decisions on matters related to the registration of a mark;
对商标注册的有关事项作出决定;
- (d)performing intellectual property rights related duties as assigned by the Central Committee and the Agency.
履行中央委员会和代理处分派的与知识产权有关的职责。

12.The functions and duties of an Examiner are as follows:

审查官的职能和职责如下:

- (a)reviewing the applications for the registration of marks and geographical indications;

- 审查商标和地理标志的注册申请;
- (b)examining objections and counter-objections regarding the application for the registration of a mark and submitting his findings together with his remarks to a Registrar;
- 审查关于商标注册申请的异议和反异议, 并将其调查结果连同其评论意见提交至注册官;
- (c)with the Registrar's approval, summoning and examining persons necessary for performing functions related to the registration of marks and requesting documentary evidence;
- 经注册官批准, 传唤和审查履行商标注册相关职能所需的人员, 并要求其提供文件证据;
- (d)submitting the application for a mark together with his findings and remarks on whether the registration of said mark should be allowed to the Registrar after scrutinizing the aforementioned application;
- 向注册官提交商标申请书, 并附具审查上述申请后是否允许该商标注册的调查结果和意见;
- (e)performing intellectual property rights related duties assigned by the Agency, Department, and Registrars.
- 履行代理处、部门和注册官分派的与知识产权有关的职责。

Chapter VII (第七章)

Marks not Eligible for Registration

不符合注册条件的商标

13.Any of the following characteristics of a mark constitutes absolute grounds for refusal and the aforementioned mark is not eligible for registration:

商标具备下列特征之一, 即构成拒绝注册的绝对理由, 且该商标不具备注册资格:

- (a)lack of distinctiveness;
- 缺乏显著性;
- (b)containing only marks or indications of a good's or service's type, related information, quality, quantity, intended use, value, origin, time of manufacture, or other characteristics;
- Exceptions - If one of the following circumstances applies to the provisions in subsections (a) and (b), there are no grounds for refusal of the registration of the mark in question.
- 仅包含商品或服务的类型、相关信息、质量、数量、预期用途、价值、原产地、生产时间或其他特征的商标或标记;
- 例外情况-如果以下情况之一适用于 (a) 以及 (b) 款的规定, 则没有理由拒绝有关商标的注册。
- (1)If the mark's distinctiveness is known among consumers due to its use before the date of application for mark registration;
- 在商标注册申请日前, 因使用该商标而在消费者中知道其显著性的;
- (2)If the applicant, in good faith, is exclusively using the mark continuously within the commercial area of Myanmar.
- 如果申请人是出于善意而在缅甸商业区域内持续地专有使用该商标。
- (c)may be detrimental to public order, reputation, beliefs, the Union's reputation, or traditions valued by ethnic minorities;
- 可能损害公共秩序、声誉、信仰、联邦声誉或少数民族重视的传统;
- (d)becoming common usage in contemporary expressions or becoming a part of traditions and is becoming used practically in the commercial area;
- 成为当代表现形式的普遍用法或成为传统的一部分, 并在商业领域中得到实际应用;

- (e) in relation to subsection (b), misleading the public or commercial area;
与 (b) 款相关的信息会误导公众或商业领域;
- (f) directly copying or imitating or misleading, without the approval of relevant authorities, all or part of a country's flag, ceremonial appearance, other marks and symbols, a legal mark indicating the management or guarantee by a State, or a mark of quality guarantee, or a multilateral international organization's ceremonial appearance, flags, or other marks, names, including said organization's acronyms, full name, or any part;
未经有关当局批准, 直接复制或模仿或误导一国的全部或部分国旗, 礼仪, 其他标记和符号, 表示一国管理或保证的法律标记, 或质量保证标记, 或多边国际组织的礼仪外观, 旗帜, 或其他标记, 名称, 包括上述组织的缩写, 全名或任何部分;
- (g) use of marks and signs separately protected under the international agreements in which the Republic of the Union of Myanmar is a Party.
使用受缅甸联邦共和国加入的国际协定单独保护的标记和符号。

14. If any of the following applies to a mark, then it constitutes relative grounds for refusal and the mark is ineligible for registration.

商标满足下列情形之一, 即构成拒绝注册的相对理由, 并且该商标不符合注册资格。

- (a) if the mark misleads consumers through its use by being identical or similar to any other person's registered mark or mark for which registration or right of priority has been applied for beforehand for identical or similar goods and services for said marks;
如果该商标与任何其他人的注册商标相同或者近似, 或者该商标的注册或优先使用权在相同或类似的产品和服务上已经有了事先申请, 该商标的使用可能误导消费者;
- (b) if it uses, without the consent of a relevant person or legally formed organization, a mark which may be harmful to the individual rights of any person or the name and reputation of a legally formed organization;
如果未经有关人员或者依法成立的组织同意, 使用该商标可能损害他人个人权利或者依法成立的组织名称、声誉的标志;
- (c) if it is a mark which may infringe upon the intellectual property rights of any other person;
如果该商标可能侵犯任何其他人的知识产权;
- (d) if the registration of a mark is applied for without good faith;
如果该商标的注册申请不具备诚信原则;
- (e) if a mark registration application is made for a mark that misleads consumers by not only being identical or similar to a well-known mark but is also used in identical or similar goods or services;
如果提出注册申请的商标不仅与驰名商标相同或相似, 而且还用于相同或相似的商品或服务, 从而误导消费者;
- (f) if a mark registration application is made for a mark that is identical or similar to a registered well-known mark but the goods or services are not identical or similar but may indicate that there is a connection between the owner of the well-known mark and the goods or services that the mark in question is being used for and such use may be harmful to the interests of the owner of the well-known mark.
如果提出注册申请的商标与注册驰名商标相同或者近似, 但是商品或者服务并不相同或者近似, 然而可能表明该驰名商标的所有人与该商标所使用的商品或者服务有联系, 并且这种商标的使用可以损害驰名商标所有人的利益。

Chapter VII (第八章)

Application

申请

15. In order to enjoy the rights of a registered mark under this Law, any applicant may apply to the Registrar for the registration of a mark in accordance with the prescribed regulations.

为了享有本法规定的注册商标的权利,任何申请人都可以依据本法的规定向注册官递交商标申请。

16. The applicant for the registration of a mark:

商标注册申请人:

(a) may write the registration application in Myanmar or English.

可以选择用缅甸语或者英语书写注册申请。

(b) must translate the Myanmar language application into English or vice versa if the Registrar requests so.

应注册官要求,必须将缅甸语申请翻译为英文,反之亦然。

(c) must write a statement that the translation under subsection (b) is true and correct and sign it.

必须书写并签署基于(b)款作出的翻译是真实且准确的声明。

17. The applicant for the registration of a mark shall:

商标注册申请人应当:

(a) include the following in the application:

在申请中包含如下内容:

(1) an application for registration;

商标注册申请

(2) name and address of the person or legally formed organization applying for registration;

商标申请人或合法主体的名称和地址;

(3) name, citizenship scrutiny card number, and address of the agent or representative if the applicant entrusts an agent or representative with this matter;

如果申请人委托代理人或代表代为申请,则需要提供该代理人或代表的姓名、地址以及居民身份证号码;

(4) a clear and complete description of the mark;

清晰且完整的商标说明;

(5) name and type of goods and/or services for which a request for registration is made and the category of international mark classification to which it belongs;

提出注册请求的商品和/或服务的名称和类型,以及其所属的国际商标分类的类别;

(b) In addition to the requirements in subsection (a), the following must be attached to the application if necessary:

除了(a)款所述的要求外,如有必要,还必须提供以下申请资料:

(1) if the application is made for a legally formed organization, the registration number, type and country of said organization;

如申请人是依法成立的组织,需要提供该组织的注册号、类型以及国别;

- (2)if the applicant requests the right of priority, an application for the right of priority together with sufficient evidence proving that he has the right of priority, and description;
如申请人要求优先权, 则优先权申请应附有充足的证据证明其拥有优先权, 并附带说明;
- (3)if the applicant requests the right of priority for trade exhibitions, an application for the right of priority for trade exhibitions together with sufficient evidence proving he has the right of priority for trade exhibitions, and description;
如申请人要求贸易展览的优先权, 则申请贸易展览的优先权的同时应附有充分的证据证明其拥有贸易展览的优先权, 并附带说明;
- (4)if the mark is registered at the documents registration office, documentary evidence proving such registration;
如果商标之前已经在登记处登记注册过, 则提供登记文件证明;
- (5)other requirements stipulated by the Agency and the Department from time to time.
其他代理处和部门不时提出的其他要求。

18.The date on which the Department has received a complete application under subsection (a)of section 17 and the stipulated fee, is deemed as the date of submission of the application for registration in the Union.

部门收到基于本法第 17 条第 (a) 款提交的完整申请和规定费用之日, 被视为在联邦内的注册申请提交之日。

19.The Registrar:

注册官:

- (a)If applications for the registration of identical or similar marks are submitted on different dates by more than one person and disputes arise over said applications, must permit only the first applicant who has submitted an application that meets stipulations to register his mark.
如果多位申请人在不同日期提交了相同或相似的商标注册申请, 并且这些申请引起了争议, 则必须仅允许提交符合规定的申请的第一位申请人注册其商标。
- (b)If the applicants requested right of priority or right of priority for trade exhibitions according to applications made under subsection (a) and disputes arise over said applications, must permit only the applicant with the earliest right of priority date who has submitted an application that meets stipulations to register his mark.
如果多位申请人根据 (a) 款提出申请要求优先权或贸易展览的优先权, 并且在上述这些申请中引起了争议, 则必须仅允许提交符合规定的申请的具有最早优先权的申请人注册其商标。

20.If more than one applicant request the registration of identical or similar marks on the same date or if the right of priority dates are the same:

如果多位申请人在同一日请求注册相同或近似的商标, 或在同一日要求优先权的:

- (a)The Registrar must direct the applicants to negotiate this matter amongst themselves and to resubmit the name of the applicant whom will register his mark within the prescribed period.
注册官必须指示申请人之间进行谈判, 并在规定期限内重新提交将注册其商标的申请

人的姓名。

(b) According to the Registrar's directions, the applicants must report the name of the applicant, whom all the other applicants nominate for the registration of his mark, to the Registrar.

根据注册官的要求, 申请人必须向注册官报告最终申请人的姓名, 该最终申请人应被所有其他申请人提名该商标的注册。

(c) If the applicants cannot reach an agreement although the Registrar has instructed them to do so according to subsection (a), they must follow the decision made using the prescribed method.

如果各申请人无法按照注册官根据 (a) 款作出的指令协商达成一致, 则他们必须遵守采用规定方法做出的决定。

21.

(a) An applicant for the registration of a mark:

商标注册的申请人:

(1) may, after paying the prescribed fee, apply to the Registrar if he wishes to amend the application, translation, and documentary evidence due to text errors or other errors which may be corrected, before the Registrar makes a decision regarding the acceptance or refusal of an application or before the Agency makes a decision on the appeal case against the decision of the Registrar.

在支付了规定的费用后, 如果其出于文本错误或其他可以纠正的错误而希望修改申请、翻译和书面证据, 其可以在注册官决定接受或拒绝该申请之前或在代理处对注册官的决定提出的上诉作出决定之前, 向注册官提出申请。

(2) may apply for the withdrawal of the application for the registration of a mark.

可以申请撤回商标注册申请。

(3) may, after paying the prescribed fee, request the Registrar for amendment by separating any application which includes multiple goods or services into more than one new application or to limit or decrease, without increasing, the submitted list of goods or services.

可以在支付规定的费用后, 向注册官要求将包括多种商品或服务的任何申请分成一个以上的新申请; 或在不增加的情况下, 限制或减少所提交的商品或服务的清单。

(b) the date of submission of the separate registration applications made under item (3) of subsection (a) shall be the date of submission of the original application.

根据第 (a) 款第 (3) 项提出的一系列分项注册申请的提交日期应为原申请的提交日期。

22. The Registrar may allow the amendments after the application under section 21 has been examined according to stipulations.

注册官在根据第 21 条的规定进行审查后, 可准许修改申请。

Chapter IX (第九章) Examination, Objection, and Registration 审查, 异议及注册

23. With regards to an application for the registration of a mark, the Examiner must:

对于商标注册申请, 审查官必须:

- (a) submit the application, which has been made according to stipulations, together with his remarks to the Registrar after examining whether the application meets any of the provisions set out in section 13 and whether it contains the points set out in section 17;
审查官在审查申请书是否符合第 13 条所载的任何条文以及其中是否包含第 17 条所载的要点后, 将根据规定提出的申请书连同其审查报告一并提交至注册官;
- (b) with the Registrar's approval, notify the applicant, whose application did not meet the stipulations, to revise the application as needed after examining whether the application meets any of the provisions set out in section 13 and whether it contains the points set out in section 17. If the applicant fails to revise his application within 30 days of receipt of notice, then the application will be considered withdrawn.
在获得注册官的批准后, 在审查申请是否符合第 13 条规定的任何规定以及是否包含第 17 条规定的要点后, 通知申请不符合规定的申请人, 根据需要对其申请进行补正。如果申请人在收到通知后 30 天内未能修改其申请, 则该申请将被视为已撤回。
- (c) if necessary revisions to the application are received under subsection (b), the Examiner must reexamine the application and submit the application to the Registrar, together with his remarks.
如果根据 (b) 款收到了对该申请的必要补正, 则审查官必须重新审查该申请, 并将该申请连同其审查报告一并提交至注册官。

24. In order to register a mark, the applicant:

为注册商标, 申请人:

- (a) may request, if the following conditions are met, for the registration of a mark when the failure to comply within the stipulated period of time results in the loss of rights connected to the relevant mark application:
如果符合以下条件, 在因未遵守期限规定而导致与相关商标申请有关的权利丧失的情况下, 可以请求商标注册:
- (1) submitting a request within 60 days from the date of withdrawal due to the failure to comply within the stipulated period;
因未遵守期限规定导致申请撤回之日起的 60 天内提出请求;
 - (2) attaching all explanations, information or requirements with regards to the failure to comply within the stipulated period;
附有关于不遵守期限规定的所有解释, 信息或要求;
 - (3) describing sufficient reasons for the failure to comply within the stipulated period in the request;
说明未遵守期限规定的充分理由;
 - (4) paying the prescribed fee.
缴纳规定费用。
- (b) If a request to restore the rights related to the request under subsection (a) was made during the period of appeal, the Registrar must suspend the request under subsection (a).
如果在上诉期内提出了要求恢复与 (a) 款有关的权利的请求, 则注册官必须暂停根据 (a) 款进行的请求。

25. A Registrar:

注册官:

(a) may allow the registration of a mark, after examination, if the request to register a forfeited mark, where there is a loss of right related to a mark application, is made again under subsection (a) of section 24.

如果申请人根据第 24 条第 (a) 款的规定, 在丧失商标权之后再次提出商标注册申请, 则可以在审查后批准商标的注册。

(b) must make a public announcement, in accordance with stipulations, regarding the application made in line with sections 13 and 17 in order to notify the public and allow for objections to be made.

必须按照规定就依据第 13 条和第 17 条提出的申请发布公告, 以便通知公众并允许提出异议。

26. When a person wants to make an objection regarding an application for the registration of a mark, he may submit an objection form to the Registrar after paying the prescribed fee, within 60 days from the date of announcement on grounds that the application fulfills any of the requirements under sections 13 and 14.

如果某人想对某个商标注册申请提出异议, 在满足第 13 条及第 14 条中所述条件的情况下, 自公告之日起 60 天内, 可以在支付了规定的费用后, 向注册官提交异议申请文件。

27. Upon receipt of the objection, the Registrar must notify the applicant within the prescribed period so that the applicant can provide a defense against the objection.

注册官在收到异议申请文件后, 需要在规定期限内通知商标申请人, 以便申请人可以做异议抗辩。

28. With regards to applications for the registration of marks, a Registrar:

对于商标注册申请, 注册官:

(a) may allow the registration of the mark stated in the application if there are no objections submitted within 60 days from the date of public announcement.

如商标自公告之日起 60 天内没有收到异议, 可予以核准注册。

(b) if objections are submitted, may allow or refuse the registration of a mark after examining whether such objection meets the provisions of sections 13 or 14.

在审查异议是否符合本法第 13 及 14 条规定后, 可作出允许或拒绝商标注册的决定。

(c) must enter the allowance or refusal of the mark registration into the registration records and notify the applicant. In addition, he must announce the outcome to the public in a manner that is consistent with stipulations.

必须将异议裁定的准许或拒绝结果录入注册记录, 并通知申请人; 此外, 注册官必须按照规定将裁定结果对外公布。

(d) must issue the registration certificate of the mark to the applicant if the registration of said mark is permitted.

如果异议的结果是准予申请人注册商标, 则必须下发注册证书。

29. An owner of a registered mark may:

注册商标的所有人可以:

(a) after paying the prescribed fee to the Department, request the Registrar to issue a certified copy of the registration certificate of the mark in cases of damage or loss of the original.

在向部门支付了规定的费用后，请求注册官在商标注册证书正本损坏或丢失的情况下签发商标注册证书的核证副本。

(a)after paying the prescribed fee, request the Registrar to revise writing errors and other errors which can be corrected under this Law, as well as nationality and address, in the registration records.

在缴纳相关费用后，请求注册官修订记录中的书写错误和根据本法可以纠正的其他错误以及国籍和住所。

30.The Registrar:

注册官：

(a)must issue the certified copy of the registration certificate of the mark after examining the request made under subsection (a) of section 29.

在审查根据第 29 条第 (a) 款提出的请求后，必须签发商标注册证书的核证副本。

(b)may allow the revision request made in subsection (b) of section 29 after examining such request.

在审查了第 29 条第 (b) 款中的修订要求后，可以允许该要求。

Chapter X (第十章)

Right of Priority

优先权

31.If a person who has initially applied for registration of mark in a Member State of the Paris Convention or the World Trade Organization or the transferee of said person applies for the registration for identical goods or services and identical mark in the Republic of the Union of Myanmar within six months from the date of the initial application, the aforementioned date of application must be considered as the date of application and the right of priority must be granted from such date.

如果此前在《巴黎公约》或世界贸易组织成员国中已申请某商标注册的人或该人的受让人在此前申请日后的六个月内，在缅甸联邦共和国内申请相同商品或服务及相同商标的注册，则必须将此在成员国提出申请的日期视为申请日期，并且必须自该日期起给予优先权。

32.If the applicant requests the registration of a mark, displayed at an international trade exhibition authorized or recognized by a Member State of the Paris Convention or the World Trade Organization, to the Department within six months from the first day of displaying the goods or services, then the first day of display shall be considered as the date of application and the right of priority for trade exhibitions for the aforementioned mark shall be granted from such date.

如果商标在《巴黎公约》成员国或世界贸易组织的成员国授权或认可的国际贸易展览中通过商品或服务的形式展出，且申请人在展出此商品或服务的首日后的六个月内向部门提出商标注册的请求，则应将该商标在展会上展示的第一天视为申请日期，并应从该日期起授予上述商标优先权。

33.The term of right of priority for trade exhibitions shall not exceed the term for the right of priority, starting from the date applied for under section 31.

贸易展览的优先权期限，不得超出根据第 31 条规定的日期申请的优先权期限。

Chapter XI (第十一章) Term of Mark Registration and Renewal 商标注册期限及续展

34.The term of a registered mark shall be 10 years from the submission date of the registration application. After this period, the applicant may renew the term of registration for 10 years at a time.

注册商标的期限为自注册申请提交之日起的十年。期满后申请人可以申请续展，续展为每次十年。

35.If the owner of a mark wishes to renew the term of mark registration, he must carry out according to the following:

如果商标所有人希望续展商标注册期限，则必须按照以下规定进行：

(a)the renewal of the term of registration must be applied for within six months prior to the expiration of the term by paying the prescribed fees.

续展必须在期满前六个月内通过支付规定的费用进行申请。

(b)after the expiration of the term of registration, the renewal application can be made within the grace period of six months. If the renewal application is submitted within this period, the applicant must pay the prescribed registration fee and overdue fee.

展期满未续展的商标将会获得 6 个月的宽展期，如果在此期间内提交了续展申请，则在交纳续展费之外，还必须交纳宽展费。

36.The Registrar must:

注册官必须：

(a)allow the renewal application for the term of registration for a mark if it meets the stipulated requirements. The renewal term is effective starting from the date of expiration of the previous term.

批准符合规定条件的续展申请。续展期限自上一期限届满之日起生效。

(b)examine the application for the renewal of the term of registration and grant the renewal for a term of 10 years if the application meets the criteria for renewal and make a public announcement in a manner that is consistent with stipulations.

审查续展注册期限的申请，符合续展条件的，准予续展 10 年，并按照规定予以公告。

(c)record the renewal of the term of registration and payment of the prescribed fee in the registration records.

将注册期限的续期和规定费用的缴纳情况记录在注册记录中。

(d)suspend the registration of the registered mark if the owner of the registered mark has not paid the renewal fees within the grace period of six months.

如果注册商标的所有人未在六个月的宽限期内支付续展费，则暂停注册商标的注册。

(e)record the suspension of the registration of the registered mark in the registration records and make a public announcement in a manner according to stipulations.

在注册记录中录入注册商标的暂停注册记录，并按照规定的方式公告。

Chapter XII (第十二章)
Rights Relating to a Registered Mark
与注册商标有关的权利

37.If the owner of a mark complies with the provisions in Chapter XI, he shall enjoy the registered mark-related rights stipulated in this chapter for the term of the registration.

如果商标所有人遵守本法第十一章的规定,则其应在注册期内享有在本章节中规定的与注册商标相关的各项权利。

38.The right holder shall, without prejudice to the provisions in sections 39 and 40, 权利持有人应在不损害第 39 和 40 条的规定的情况下,

(a)Enjoy the following as an exclusive right:

享有以下专有权利:

(1)a right to prevent, in accordance with this law, the use by any other person, without his consent in the course of trade, of an identical or similar mark for identical or similar goods or services if such use misleads the public.

有权根据本法阻止任何其他人在贸易过程中,在未经其同意的情况下,对相同或类似的商品或服务使用相同或类似的商标,如果这种使用会对社会公众产生误导。

(2)the right to pursue criminal action, civil action or both against those who infringe on the rights relating to a registered mark.

对侵犯注册商标权利者提起刑事诉讼、民事诉讼或二者并用的权利。

(3)under the following conditions, a right to prevent the use of a mark identical or similar to a registered, well-known mark for different goods or services, without the consent of owner of the mark, in the course of trade:

在下列情况下,在贸易过程中,未经商标所有人同意,禁止将与已注册的驰名商标相同或相似的商标用于不同的商品或服务的权利:

(aa)if it indicates that there is a connection with the owner of a registered well-known mark and the goods or services for which said mark is used;

如果显示某注册的驰名商标的所有人以及使用该商标的商品或服务有关联;

(bb)if it is harmful to the interests of such registered mark owner.

如果有损于该注册商标所有人的利益。

(b)The rights of a registered mark may be transferred or licensed, in accordance with the provisions in chapters XIII and XIV, to any other person.

根据第十三章和第十四章的规定,注册商标的权利可以转让或许可给任何其他人。

39.An owner of a registered mark is not entitled to prevent another person's use, in relation to the following, in good faith for industrial or commercial business:

注册商标的所有者无权阻止他人善意地将以下内容用于工商业:

(a)owner's name or address;

所有者的名称或地址;

(b)indications of type, related information, quality, quantity, intended use, value, origin, manufacturing period or other characteristics of the goods or services;

商品或服务的类型、相关信息、质量、数量、预期用途、价值、原产地、生产期限或其他特征的说明;

(c) descriptions of intended use of goods or services, particularly descriptions of the intended use of accessories or spare parts.

商品或服务的用途说明，特别是附件或备件的未来用途说明。

40. The owner of a registered mark is not entitled to prohibit the use of his mark for goods delivered to a market by himself or another person who has his consent.

注册商标的所有人无权禁止将其商标用于其本人或经其同意的其他人交付市场的商品。

41. Regardless of any provisions in section 40, the owner of a registered mark is entitled to prohibit the sale of his goods, in accordance with existing laws, if the conditions of the goods have changed or have been damaged after they have been delivered to the market.

不论第 40 条有何规定，如商品的条件在交付市场后已经改变或已经损坏，注册商标的所有者有权根据现行法律禁止出售其货品。

Chapter XIII (第十三章) **Transfer of Rights Relating to a Registered Mark** **与注册商标有关的权利的转让**

42.

(a) An applicant for the registration of a mark may apply to the Registrar to record the transfer of his application, in accordance with stipulations, to any person or legally formed organization.

商标注册申请人可向注册官申请，按照规定记录其申请向任何人或合法成立的组织的转让。

(b) The owner of a registered mark may apply to the Registrar to transfer ownership of the mark, in accordance with stipulations, to any other person or legally formed organization.

注册商标的所有人可向注册官申请按照规定将该商标的所有权转让给任何其他人或合法成立的组织。

43. The Registrar must, upon the request of the applicant for mark registration, the transferee in subsection (a) of section 42, the owner of the mark, or the transferee in subsection (b) of section 42, record the change in ownership of the mark and make a public announcement in the stipulated manner after the prescribed payment has been made.

注册官必须应商标注册申请人、第 42 条第 (a) 款中的受让人、该商标的所有人或第 42 条第 (b) 款中的受让人的请求，记录商标所有权的变更，并在支付规费后以规定的方式发布公告。

44. Regarding the transfer of ownership of a registered mark, the transfer is not effective if there is no application submitted to the Registrar to enter the transfer into record.

关于注册商标所有权的转让，如果没有向注册官提交将转让记入记录的申请，则该转让无效。

Chapter XIV (第十四章) **Granting Licenses for Registered Marks** **注册商标许可授予**

45.An owner of a registered mark may grant a license for use of the mark to any person or legally formed organization after setting the terms and conditions.

注册商标的所有人可以在设定条款和条件后,向任何人或者合法成立的组织授予使用该商标的许可。

46.An owner of a registered mark or the licensee may submit certified copies of the grant of license and pay the prescribed fee to the Registrar to request the entry of the grant of license into the registration records.

注册商标的所有人或被许可人可向注册官提交许可授予的核证副本并缴付规费,以请求将许可授予录入注册记录。

47.The Registrar shall enter the grant of license to the registration records according to section 46 and make a public announcement in a manner that is consistent with stipulations.

注册官应按照第 46 条的规定将许可录入注册记录,并以符合规定的方式予以公告。

48.The Registrar must cancel the record of licensing if the owner of a registered mark or the licensee applies for such cancellation according to stipulations. Afterwards, he must make a public announcement in the prescribed manner to inform the public.

如果注册商标的所有人或被许可人根据规定申请取消许可,则注册官必须取消许可记录。之后,其必须以规定的方式发布公告以告知公众。

49.Regarding the granting of license of a registered mark, such grant is not effective unless an application has been submitted to the Registrar to enter said grant into record.

关于注册商标的许可授予,除非已向注册官提交了将该授予录入记录的申请,否则该授予是无效的。

Chapter XV (第十五章) **Announcing the Invalidation of Mark Registration and Cancellation** **商标宣告无效和撤销**

50.

(a)At the request of any stakeholder, the Registrar must announce that a registered mark is invalid if there is sufficient evidence that it is not in accordance with the definition in subsection (j) of section 2 or that the mark is not eligible to be registered because it constitutes any of the grounds for refusal under section 13.

如有足够证据证明某注册商标不符合第 2 条第 (j) 款的定义,或该商标因构成第 13 条所述的任何拒绝理由而不符合注册资格,则注册官须在任何利害关系人的要求下宣布该注册商标无效。

(b)At the request of any stakeholder, the Registrar must announce that a registered mark is invalid if there is sufficient evidence that the mark is not eligible to be registered because it constitutes any of the relative grounds for refusal under section 14.

在利害关系人的要求下,如有足够证据证明某注册商标因构成根据第 14 条拒绝注册的任何相对理由而不符合注册资格,则注册官必须宣布该注册商标无效。

(c)The Registrar must make an announcement about the invalidation of a registered mark

upon receipt of the final decision or judgement of the Court regarding the application to announce the invalidation of such mark.

注册官在收到法院关于宣布该商标无效的申请的最终决定或判决后,必须就已注册商标的无效作出公告。

(d)

(1) A request for an invalidation announcement under subsection (a) may be made at any time.

根据 (a) 款作出无效宣告的请求可随时提出。

(2) Unless the registration was made without good faith, a request for an invalidation announcement under subsection (b) can only be made within five years from the date of registration.

除非注册不是出于善意, 否则根据 (b) 款要求宣布无效的请求只能在注册之日起的五年内提出。

(e) If the grounds for invalidation only applies to some of the goods or services of the registered mark, the invalidation announcement must be made for only the registration relevant to such goods or services.

如果无效理由仅适用于注册商标的某些商品或服务, 则必须仅针对与此类商品或服务相关的注册做出无效公告。

(f) The Registrar must enter the invalidation announcement into the records and notify the owner of the mark of such invalidation announcement in addition to making a public announcement.

注册官除发布公告外, 还必须将无效公告录入记录并通知该商标的所有人。

51.

(a) Upon the request of any stakeholder regarding the use of the mark, the Registrar must cancel the registration of a mark if it is found to meet any of the following conditions:

应任何利害关系人就商标的使用提出的请求, 如发现某商标符合下列任何条件, 注册官必须取消该商标的注册:

(1) Goods or services related to the registered mark are not used within three years from the date of application to the Registrar and there is no sufficient reason for the failure of such use;

自向注册官提出申请之日起的三年内未使用与该注册商标有关的商品或服务, 且无充分理由;

(2) The use of the mark has been suspended for three consecutive years and there is no reason for such suspension;

该商标在连续的三年内停止使用, 且无理由;

(3) The mark includes indications of a good's type, related information, quality, quantity, intended use, value, origin or manufacturing date, or may become a commonly used phrase in contemporary usage or customary expression or exclusively includes indications, which are used practically in the trade area.

商标包括商品类型, 相关信息, 质量, 数量, 预期用途, 价值, 产地或制造日期的指示, 或可成为当代用法或惯用语中的常用短语, 或仅包括在贸易区实际使用的标志。

(b) The use of marks according to subsection (a) includes the following:

根据第 (a) 款的标志使用包括:

(1)use in a different form without modifying the special characteristics of the registered mark;

在不改变注册商标本质特征的情况下，以不同形式使用；

(2)use in Myanmar, including adhering a mark on goods intended for export or adhering a mark on the packaging of said goods.

在缅甸境内使用，包括在出口货物上粘贴商标或在上述货物的包装上粘贴商标。

(c)If evidence is required to prove the use of a mark, including the period of use of a mark, nature and area of use under this Law, then the burden of proof lies with the owner of the mark.

如果需要证据证明商标的使用，包括本法规定的商标使用期限、性质和使用区域，则证明责任由商标所有人承担。

(d)If the grounds for cancellation applies to only some of the goods or services of a registered mark, the registration relevant to only these goods or services shall be cancelled.

如果撤销理由仅适用于注册商标的部分商品或服务，则仅与这些商品或服务有关的注册应予以撤销。

(e)When the registration of a mark is cancelled, it shall be deemed legally terminated.

商标注册被撤销时，应视为合法终止。

(f)The Registrar must notify the owner of the mark of the cancellation and make a public announcement after entering the cancellation of the mark into the registration records.

注册官必须在注册记录中录入商标撤销后，将商标的撤销通知该商标的所有人，并发布公告。

52.The use of a mark which has been cancelled or a mark, which the Registrar refuses to register due to fulfilling subsection (c) of section 13, by any person is prohibited.

禁止任何人使用已被撤销的商标或注册官由于履行第 13 条 (c) 款而拒绝注册的商标。

Chapter XVI (第十六章)

Geographical indication

地理标志注册

53.Any legally formed organization, representing the following persons within the area where the related goods are produced, must apply to the Registrar for the registration of the geographical indications, in accordance with stipulations:

在生产有关商品的区域内，代表以下人员的合法成立的组织，必须按照规定向注册官申请注册地理标志：

(a)manufacturers who produce goods using natural products or natural resources;

使用自然产品或自然资源生产货物的制造商；

(b)producers of agricultural products;

农产品生产者；

(c)manufacturers who produce handicrafts or industrial products;

手工艺品或工业产品的制造商；

(d)authorities from relevant government departments and governmental organizations in the Republic of the Union of Myanmar who represent the persons described in subsections (a) to (c).

代表 (a) 至 (c) 款所述人员的缅甸联邦共和国政府有关部门和政府组织当局。

54.

(a)The registration of geographical indications must be applied for in accordance with the following stipulations:

地理标志注册必须按照下列规定申请:

(1)applicant organization or representative's name, nationality and address;

申请人组织或代表的姓名、国籍和地址;

(2)geographical indication for which the application is submitted for;

申请的地理标志 (备注: 商标图样);

(3)region of origin of the geographical indication in question;

有关地理标志的原产地;

(4)goods which are indicated as geographical indication.

标明地理标志的商品货物。

(b)The following must be attached to said application:

必须将以下内容附加到所述申请中:

(1)distinguishing characteristics, quality, or reputation of the goods;

商品的区别特征、质量或声誉;

(2)a good's accurately defined quality, reputation or relation between its characteristics, origin and production process;

商品的准确定义的质量、声誉或其特征、来源与生产过程之间的关系;

(3)other stipulated matters.

其他规定事项。

(c)The stipulated registration fee must be paid when applying.

申请时必须缴纳规定的注册费。

55.The geographical indication is ineligible for registration if it meets any of the following conditions:

地理标志符合下列条件之一的, 不具备注册资格:

(a)it does not conform to the definition of a geographical indication stated in subsection (o) of section 2;

不符合第 2 条第 (o) 款所述地理标志的定义;

(b)the goods for which the geographical indication is used has become common usage or customary in the Republic of the Union of Myanmar;

使用地理标志的商品在缅甸联邦共和国已成为普遍使用或习惯;

(c)it is a geographical indication that is contrary to public order, morale or public policy.

是与公共秩序、风俗或公共政策背道而驰的地理标志。

56.Any stakeholder or relevant department or organization may apply to the Registrar to make an invalidation announcement or cancel the registration for a geographical indication for the following reasons:

利害关系人或有关部门、组织可以因下列原因向注册官申请宣告地理标志注册失效或者注销地理标志注册:

(a)it does not conform to the definition of a geographical indication stated in subsection (o) of

section 2;

不符合第 2 条第 (o) 款所述地理标志的定义;

(b) failure to ensure conformity with the requirements in subsection (b) of section 54 and related requirements;

未能确保符合本法第 54 条第 (b) 款的要求和相关要求;

(c) a foreign geographical indication which is not protected or for which protection has been terminated in the foreign country of origin or which is no longer used in said country;

未受保护或在原籍国终止保护或不再在该国使用的外国地理标志;

(d) it is a geographical indication which is contrary to public order, morale or public policy.

它是一个与公共秩序、士气或公共政策相违背的地理标志。

57.

(a) A registered geographical indication may be used in the course of trade only by producers who carry out their activities in the region described in the registration for the goods described in said registration. Such goods must meet the quality, reputation or other characteristics stipulated in the registration records.

只有在上述登记所述货物登记所述区域内开展活动的生产者才可在贸易过程中使用注册地理标志。该货物必须符合登记记录中规定的质量、信誉或其他特征。

(b) For homonyms in geographical indications, protection shall be granted only if there is a significant difference, in practice, between the name of the geographical indication which is already registered and that of the geographical indication which is registered later. Protection shall be rendered by considering the need to treat relevant producers fairly and to not mislead consumers.

对于地理标志同音词, 只有在实际中, 已经注册的地理标志名称与后来注册的地理标志名称之间存在显著差异时, 才给予保护。保护应考虑公平对待相关生产者, 不误导消费者。

(c) The right holder of a registered geographical indication is entitled to prohibit the following:

注册地理标志的权利人有权禁止下列行为:

(1) use of a geographical indication in any manner by falsely describing that a product is from the region stated in said geographical indication even though it is from another place of origin in order to deceive the public;

以任何方式使用地理标志, 虚假描述产品来自所述地理标志所述的区域, 即使该产品来自另一产地, 以欺骗公众;

(2) any use of a registered geographical indication which creates unfair competition;

使用注册地理标志造成不公平竞争;

(3) the use of a disputed geographical indication for goods that are not from the region indicated in said geographical indication for indicating the origins of goods, for use after translating said geographical indication, or for the use of a geographical indication together with the description of the type, group, form, imitation or similar descriptions.

对于不在所述地理标志所示区域的货物使用有争议的地理标志, 以指明货物的来源、翻译所述地理标志后使用或使用地理标志以及种类、组、形式的说明, 模仿或类似描述。

(d) Though the region, zone or territory of a good is accurately described, other geographical indications, which mislead the public by incorrectly stating that the goods are produced from another region, shall not be granted rights under subsections (a) and (c).

虽然货物的地区、区域或地域得到了准确描述，但其他地理标志如果错误地说明货物是从另一区域生产的从而误导了公众，则不得根据第（a）和（c）款授予权利。

58.

(a)The Registrar must examine whether an application is in conformity with the provisions of sections 53, 54 and 55. If all requirements are fulfilled, he must publicize the information and facts contained in the application in the manner prescribed.

注册官须审查申请是否符合本法第 53、54 及 55 条的规定。如符合所有要求，必须以规定的方式公布申请中所载的信息和事实。

(b)Provisions relating to the objection of registration of a mark shall be applied as necessary to the objection of registration of a geographical indication.

对于地理标志注册的异议，在必要时，应当适用与商标注册异议有关的规定。

(c)The Registrar must register a geographical indication if he does not receive an objection or if he refuses such objection.

如注册官没有收到反对意见或拒绝此类反对意见，则须注册地理标志。

59.The term of a registered geographical indication shall receive protection under this Law as long as its distinguishing characteristics, quality or reputation for which protection was initially granted exists.

只要最初授予保护的明显特征，质量或声誉存在，则地理标志在注册期内应受到本法的保护。

60.

(a)If the registration of a mark is applied for after the application for the registration of a geographical indication has been submitted in accordance with this Law, the Registrar must refuse the mark registration application which violates section 57 or where the mark will be used for an identical good.

如果在某个地理标志注册申请按照本法提交后申请某个商标注册，注册官必须对违反 57 条的商标注册申请予以拒绝或拒绝将该商标用于相同货物的注册申请。

(b)Registered marks shall be announced as invalid if they fulfill the conditions of subsection (a).

如果注册商标符合第（a）款的条件，则应宣布其无效。

(c)Notwithstanding any provisions relating to the registration of geographical indications, a mark, which has been registered or applied for registration in good faith before the submission of the registration application for a geographical indication, is permitted to be used continuously even if it violates section 57 provided that it does not fulfill the provisions in Chapter XV. In such cases, the Registrar shall allow the use of geographical indication as if it were the use of the mark related to it.

尽管有关于地理标志注册的规定，但在提交地理标志注册申请之前已善意注册或申请注册的商标，即使违反了本法第 57 条，只要不符合第十五章的规定，也允许继续使用。注册官须容许该商标在与地理标志有关的情况下使用。

61.

(a)The relevant department and organizations shall supervise the protected geographical indications. They may assign some of the supervision work to another person.

有关部门和组织应当对受保护的地理标志进行监督。其可将部分监督工作进行分派。

(b)Supervision shall include the following:

监督应包括以下内容:

(1)consistency between the descriptions of the products registered as geographical indications and the relevant products;

注册为地理标志的产品的描述与相关产品的一致性;

(2)the use of the names of registered geographical indications in the market.

注册地理标志的名称在市场上的使用。

(c)The stakeholders shall pay the expenses for supervision required to ensure conformity with the descriptions of the products.

利益相关者应支付为确保符合产品描述所需的监督费用。

62.Regarding the violation of the rights of geographical indications, action must be taken according to the provisions on taking action against the violation of rights of a mark if the stipulations in addition to the provisions in this Law are violated.

对侵犯地理标志权的行为,除本法规定外,还应当依照对侵犯商标权行为采取诉讼的规定采取行动。

Chapter XVII (第十七章)

Trade Name

商号

63.

(a)Although a trade name is not registered, it shall be protected regardless of whether it is included as part of a mark or not.

尽管商号未注册,但无论其是否作为商标的一部分,都应受到保护。

(b)If a name or a description is, by means of nature or use, contrary to public order or morals, in particular, if the nature of business described by such a name deceives the commercial area or the public, such name or description shall not be used as a trade name.

如果某一名称或某一说明因其性质或用途而违反公共秩序或道德,特别是该名称所描述的商业性质欺骗商业区域或公众,则该名称或说明不得用作商号。

(c)The trade name shall be protected if the use of an identical or similar mark as said trade name as another trade name or another mark, without any authorization, misleads the public.

如果未经商号所有人的许可,使用与该商号相同或相近似商号名称的,易使社会公众产生误认的,这种情况下原商号持有人的商号应该得到保护。

Chapter XVIII (第十八章)

Applying for International Registration

国际商标申请

64.After the Republic of the Union of Myanmar has entered into the International Trademark Registration System Treaty as a Party, those who wish to register a mark using the international registration system may apply to the Registrar from within Myanmar or abroad,

in accordance with stipulations.

在缅甸联邦共和国作为缔约国加入《国际商标注册制度条约》后，希望使用国际注册制度注册商标者可以按照规定从缅甸境内或境外向注册官提出申请。

Chapter XIV (第十九章)

Appeal

上诉

65.

(a) Any person who is not satisfied with any decision made under this Law by a Registrar may appeal to the Agency within 60 days from the date of announcement of this decision.

任何人如对注册官根据本法作出的任何决定不满意，可在该决定宣布之日起的 60 天内向代理处提出上诉。

(b) In an appeal under subsection (a), the Agency may confirm, revoke, or amend the decision of the Registrar or give instructions in order to gather more evidence.

在根据第 (a) 款提出的上诉中，代理处可确认、撤销或修改注册官的决定，或发出指示以收集更多证据（备注：重新审查）。

(c) If the evidence under subsection (b) has been submitted additionally, the Agency may confirm, revoke, or amend the Registrar's decision.

如果第 (b) 款下的证据已经补充提交，代理处可以确认、撤销或修改注册官的决定。

66. Any person who is not satisfied with a decision made by the Agency may appeal for review to an intellectual property rights court, which has been granted jurisdiction by the Supreme Court, within 90 days from the date when the notice of such decision was received.

任何人如对代理处作出的判决不满意，可在收到该判决通知之日起的 90 天内，向最高法院授予管辖权的知识产权法院提出复审上诉。

Chapter XX (第二十章)

Establishment of Intellectual Property Rights Courts

知识产权法院的设立

67. The Supreme Court of the Union:

联邦最高法院

(a) may establish intellectual property rights courts in suitable areas to adjudicate over criminal and civil cases related to matters of intellectual property rights and appoint judges to these courts.

可以在适当的领域设立知识产权法院，对与知识产权有关的刑事和民事案件作出裁决，并任命法官到这些法院。

(b) may grant the judges, appointed under subsection (a), jurisdiction and mandate in order to adjudicate cases related to intellectual property rights.

可授予根据第 (a) 款委任的法官管辖权和职权，以裁定与知识产权有关的案件。

(c) may grant the jurisdiction and mandate of the intellectual property rights courts to suitable courts in order to adjudicate cases related to intellectual property rights before the establishment of the intellectual property rights courts under subsection.

可将知识产权法院的管辖权和职权授予适当的法院，以便在根据第（a）款设立知识产权法院之前，对与知识产权有关的案件作出裁决。

(d) must stipulate the jurisdiction and mandate of the intellectual property rights courts which have the authority to handle the appeals and revisions of the judgments, orders and decisions of intellectual property rights courts.

必须规定有权处理知识产权法院判决、命令和决定的上诉和修订的知识产权法院的管辖权和职权。

(e) must grant jurisdiction and mandate to an intellectual property rights court suitable for adjudicating the application under section 66.

必须授予适合根据第 66 条裁决申请的知识产权法院管辖权和职权。

Chapter XXI (第二十一章)

Protection of Registered Mark Rights by the Customs Department

海关备案

68. If a right holder has sufficient evidence to suspect that goods accused of bearing counterfeit marks are imported, are in the process of being imported or will be imported into the territory of Myanmar, he may apply to the Director-General of the Customs Department, in accordance with stipulations, to issue an order to suspend the flow of such goods into trade routes.

如果权利持有人有足够的证据怀疑被指控带有假冒标志的货物已经进口、正在进口或将被进口到缅甸境内，其可以按照规定向海关总署署长申请发布命令，暂停此类货物的流通贸易路线。

69.

(a) The Director-General of the Customs Department:

海关总署署长：

(1) shall notify the applicant whether the application is accepted or refused within 30 days from the date of receipt of the application under section 68;

须在接获根据第 68 条提出的申请之日起的 30 天内，通知申请人该项申请是否获接纳或拒绝；

(2) must postpone his decision by giving notice to an applicant that he has to provide additional information within 15 days from the date of issue of the notice if the application does not contain sufficient information for examination.

必须向申请人发出通知，说明如果申请没有包含足够的审查资料，其必须在发出通知之日起的 15 天内提供补充资料。

(3) may specify a guarantee to be given, in accordance with stipulations, to the Customs Department by the applicant when the application is received.

申请人在收到申请后，可以按照规定向海关提供担保。

(4) shall clearly state the reason for refusal if the application is refused.

如果申请被拒绝，则应当说明拒绝的理由。

(b) If the right holder does not request for a shorter period of time, then the activities under subsection (a) shall be effective for up to six months.

如果权利持有人不要求更短的时间，则（a）款下的行动应在六个月内有效。

70.

(a) If the Director-General of the Customs Department has sufficient evidence to assume that the imported goods use counterfeit marks after the application submitted under section 69 is accepted or after such evidence is found during the Custom Department's examination, the unrestrained entry of these goods into trade routes shall be suspended and the applicant and importer shall be notified immediately of such suspension.

在根据第 69 条提交的申请获接纳后，或在海关总署的检查中发现证据后，如海关总署署长掌握了足够的证据认定进口货品使用假冒商标，则应暂停这些货物不受限制地进入贸易路线，并应立即通知申请人和进口商。

(b) In order to prove that such goods are using counterfeit marks and that the claim of the applicant is true, the Director-General of the Customs Department must allow the applicant and the importer of the suspended goods to adequately examine said goods without disclosing confidential information.

为了证明这些货物使用的是假冒商标，并且申请人的声明是真实的，在不披露保密信息的情况下，海关总署署长必须允许申请人和被暂停货物的进口商对上述货物进行充分检查。

71.

(a) Unless, within 15 days after the applicant has been notified of the suspension, the applicant has informed the Director-General of the Customs Department that he has commenced legal procedures to determine the merits of the case or unless the intellectual property rights court has informed the Director-General of the Customs Department that temporary action for the suspension of unrestrained entry of these goods is delayed, such goods shall be released from suspension. In appropriate cases, such period may be extended for another 15 days by the decision of the Director-General of the Customs Department before the expiry of 15 days in such stipulated period.

除非在申请人收到暂停通知后 15 天内，申请人已通知海关总署署长，其已启动法律程序以确定案件的是非曲直，或知识产权法院已通知海关总署署长管制这些货物自由入境的临时行动被延后，这些货物应解除管制。在适当情况下，海关总署署长可在规定期限届满前 15 天内决定将上述期限再延长 15 天。

(b) In the case of perishable goods, the stipulated period is three days.

对于易腐货物，规定的期限为三天。

72. After a notice of suspension has been received, the importer may apply to an intellectual property rights court with relevant jurisdiction. The court must amend, revoke or confirm the suspension period within 30 days from the date of application for reexamination.

在收到管制通知后，进口商可向具有相关管辖权的知识产权法院提出申请。法院应当自申请复查之日起三十日内变更、撤销或者确认管制期。

73. If the intellectual property rights court decides that the goods indeed use counterfeit marks, the importer must pay the Customs Department for the expenses of storing, destroying or removing such goods. When the Director-General of the Customs Department does not receive such expenses from the importer, the right holder shall be responsible for such expenses and he shall be entitled to reclaim any expenses thus liable from the importer.

如果知识产权法院裁定货物使用假冒商标属实，则进口商必须向海关支付储存、销毁或移走

此类货物的费用。当海关总署署长未从进口商处收到此类费用时，权利持有人应负责此类费用，并有权向进口商追偿因此而应承担的任何费用。

74.If the intellectual property rights court decides that the goods do not use counterfeit marks, the applicant shall pay the amount determined by the intellectual property rights court to the importer for damages due to the wrongful suspension and temporary custody of such goods.

如果知识产权法院裁定该商品并无使用伪造商标，则申请人应将知识产权法院确定的金额支付给进口商，以补偿由于该商品的不当管制和暂时保管而造成的损失。

75.The provisions contained in this Chapter shall not apply to goods bearing counterfeit marks which are brought as passenger luggage intended for personal use, not for commercial purposes, by the importer or imported goods stipulated in the rules.

本章规定不适用于进口商出于自用而非商业目的携带的，带有假冒商标的作为旅客行李的货物，或者在条例中规定的进口货物。

76.The Director-General of the Customs Department may cooperate with the World Customs Organization or the Directors-General of the customs departments of other countries through exchanging information regarding goods accused of using counterfeit marks.

海关总署署长可与世界海关组织或其他国家海关总署署长合作，交换有关被指控使用假冒标志的货物的情报。

Chapter XXII (第二十二章)

Authority of Intellectual Property Rights Courts regarding Infringements upon the Rights of Registered Marks

知识产权法院对注册商标权侵权行为的职权

77.

(a)The right holder may, according to the provisions in sections 79 and 80, apply for a miscellaneous suit to the intellectual property rights court for provisional measures orders through civil action for damages.

权利持有人可根据第 79 条和第 80 条的规定，通过民事诉讼向知识产权法院申请临时措施令的方式提出损害赔偿诉讼。

(b)The right holder may apply to the intellectual property rights court for criminal action or civil action.

权利人可以向知识产权法院申请刑事诉讼或者民事诉讼。

78.The intellectual property rights court:

知识产权法院：

(a)must deem that a mark protected under this Law is violated if any person, besides the right holder of the mark, exercises any right under section 38 in Myanmar without the consent of the owner.

必须认定，对于受本法保护的商标，除该商标的权利持有人以外，如果任何人未经商标所有人同意在缅甸行使第 38 条规定的任何权利，则该商标权利受到侵犯。

(b)must deem that the use, without consent, of an identical or similar to an unregistered

well-known mark for identical or similar goods or services as misleading the public.

必须认定，在未经同意的情况下，在相同或类似商品或服务上使用与未经注册的驰名商标相同或类似的商标，是误导公众的行为。

79.

(a) If an application is submitted according to subsection (a) of section 77, an intellectual property rights court may issue one or more of the following provisional measure orders for civil remedies with regards to the infringement of mark rights:

如根据第 77 条第 (a) 款提交申请，知识产权法院可就侵犯商标权发出以下一项或多项民事补救措施令：

- (1) a suitable order to prevent the entry of products which infringe upon mark rights, including imported goods where duties have been paid to the Customs Department, into Myanmar's commercial area;
防止侵犯商标权的产品，包括已向海关缴纳关税的进口货物，进入缅甸商业区域的适当命令；
- (2) a suitable order to maintain the original condition of evidence relating to alleged infringement upon mark rights;
维持与指称侵犯商标权有关的证据的原始状态的适当命令；
- (3) a suitable order to amend, cancel or confirm the suspension order issued by the relevant Customs Department.
修改、取消或确认有关海关部门签发的管制令的适当命令。

(b) The Intellectual Property Rights Court may request the following from the applicant in order to conduct provisional measures:

知识产权法院为采取临时措施，可以向申请人请求下列事项：

- (1) sufficient proof that the applicant is the right holder and any evidence that his right is being infringed upon or is likely to be infringed upon.
申请人是权利持有人的充分证据，及其权利受到侵犯或可能受到侵犯的任何证据。
- (2) sufficient security to prohibit abuse of the provisional measure process.
充足的保证以防止滥用临时措施程序。

(c) The Intellectual Property Rights Court may direct the applicant to provide any information to distinguish the alleged infringing goods in order to carry out the interim order under subsection (a).

知识产权法院可以指示申请人提供任何信息以辨别其声称的涉嫌侵权的商品，以便执行依据 (a) 款作出的临时命令。

(d) Without prejudice to subsection (b) of section 80 and upon the request of the respondent, the intellectual property rights court shall withdraw or terminate the effectiveness of the provisional measure orders made under subsection (a) of subsection 79 and subsection (a) of section 80 if it has not commenced civil litigation, in order to make a final decision on damages incurred from the date the provisional measure orders are first conducted, within a reasonable period stipulated by the court or in case of no such stipulation, within thirty (30) days from the issue date of the provisional measure order.

在不损害第 80 条第 (b) 款的规定且应被诉人的要求下，如果尚未启动民事诉讼，知识产权法院应撤回或终止根据第 79 条第 (a) 款和第 80 条第 (a) 款作出的临时措施命令的效力，以便在法院规定的合理期限内（或在没有此类规定的情况下，自临时措施命令发布之

日起三十 (30) 天内), 在临时措施命令首次执行之日起就造成的损害作出最终决定。

(e) Upon the request of the respondent, the Intellectual Property Rights Court may order the applicant to pay the respondent a reasonable amount for damages due to the withdrawal of the provisional measure order, the failure or actions of the applicant which lead to the cessation of effectiveness of such order, or where it is found that there is no infringement or there is not likely to be any infringement upon mark rights.

应被诉人的请求, 知识产权法院可命令申请人向被诉人支付合理金额的损害赔偿, 该损害可因撤回临时措施令, 申请人的不履行或导致此类法令效力终止的行为而产生, 或因发现没有侵权事实或不可能侵犯商标权的事实而产生。

80.

(a) The Intellectual Property Rights Court may make provisional measure orders in absentia under any of the following conditions:

知识产权法院可在下列任何情况下, 在不在场的情况下, 下发临时措施令:

(1) any delay which can cause irreparable damage to the right holder;

可能对权利持有人造成不可弥补的损害的任何延误;

(2) actual threat that the evidence will be destroyed and lost.

证据会被销毁和丢失的实际威胁。

(b) When carrying out an interim order in absentia, the Intellectual Property Rights Court:

在不在场的情况下, 知识产权法院在执行临时命令时:

(1) must notify the respondent about the provisional measure order immediately after the actions in said order are carried out.

必须在上述命令中的行动实施后立即将临时措施令通知被诉人。

(2) must completely carry out the actions in said order if the respondent fails to comply within the period prescribed by the Intellectual Property Rights Court or, in the absence of such prescription, 30 days from the date of issuance of the notice.

如果被诉人在知识产权法院规定的期限内 (或者在没有规定的情况下, 自发出通知之日起 30 天内) 未能履行, 则必须完全按照上述命令采取行动。

(c) At the request of the respondent, both sides must be heard within a reasonable time in order to amend, cancel or approve of the provisional measures.

应被诉人的要求, 当事人双方必须在合理时间内进行听证, 以便修改、取消或批准临时措施。

81.

(a) With regards to the infringement of mark rights, an Intellectual Property Rights Court may issue one or more of the following orders without prejudice to any civil-related laws and the Code of Civil Procedure in a suit under subsection (b) of section 77:

就商标权的侵犯而言, 知识产权法院可在不损害任何与民事有关的法律和《民事诉讼法》的情况下, 在根据第 77 条第 (b) 款提起的诉讼中, 发出以下一项或多项命令:

(1) an appropriate order to prevent the infringement of mark rights, including the prevention of imported goods, which violate mark rights and for which duties have been paid to the Customs Department, from entering the commercial area of Myanmar;

防止侵犯商标权的适当命令, 包括防止侵犯商标权并已向海关缴纳关税的进口货物进入缅甸商业区;

(2)(aa)an order for the infringer to pay a sufficient sum to the right holder to compensate for the damages suffered by the right holder due to the infringement of mark rights or, in appropriate cases, the amount of damages set beforehand by the right holder or the profits enjoyed by the infringer or both;

命令侵权人向权利持有人支付足够的款项，以补偿权利持有人因被侵犯商标权而蒙受的损害，或在适当情况下，赔偿权利持有人事先设定的损害赔偿额或侵权人享有的利润，或两者兼而有之；

(bb) an order to pay an appropriate amount for the right holder's expenses, including court fees and attorney fees;

发令向权利持有人支付适当数额的费用，包括诉讼费和律师费；

(1)an order to destroy or remove the mark rights infringing goods from the trade routes market, without paying damages, in order not to harm the right holder;

为不损害权利人的利益，在不支付损害赔偿金的情况下，发令将侵犯商标权的货物从贸易路线市场上销毁或者移除；

(2)an order to destroy or remove the equipment mainly used to produce the mark rights infringing goods from the commercial area.

发令将主要用于生产侵犯商标权的商品的设备从商业区域销毁或者移除。

(b)The Intellectual Property Rights Court shall consider the proportionality between the order and the degree of infringement of mark rights as well as the interests of other stakeholders when issuing an order under sub-subsections (iii) and (iv) of subsection (a).

知识产权法院在根据第 (a) 款第 (iii) 项和第 (iv) 项发布命令时，应考虑该命令与商标权侵权程度之间的相称性以及其它利益相关者的利益。

82.The Intellectual Property Rights Court may order the right holder to pay the respondent compensation in addition to court fees, including attorney fees, and other expenses, in cases where the right holder falsely claims, without good faith, that his mark rights have been infringed on.

如果权利持有人不诚实地错误宣称自己的商标权已经被侵犯，知识产权法院可以命令权利持有人向被诉人支付除法院费用外，还包括律师费用和其他费用的赔偿。

83.

(a)The Intellectual Property Rights Court may, without prejudice to the provisions of existing laws, issue an order requiring the other Party to submit evidence while protecting confidential information for appropriate cases under the following conditions:

在不违背现行法律规定的情况下，知识产权法院可发出命令，要求另一方在以下条件下适时保护机密信息的同时提交证据：

(1)when the right holder has submitted sufficient evidence to adequately support his claims;

权利持有人已提交充分证据以充分支持其主张；

(2)when it is clearly described that sufficient evidence relating to such claims is in the possession of the defendant.

当被诉人清楚地表述其拥有与该等主张有关的充分证据时。

(b)When there is insufficient grounds in infringement cases, the Intellectual Property Court may, of its own volition, confirm, refuse, or make preliminary and final decisions based on information, including mutual accusations, made by the grieved party and the infringer

against each other, after holding a hearing between the Parties based on their evidence and accusations, under the following situations:

当侵权案件的依据不足时,在根据当事人各方的证据和指控举行听证会后,知识产权法院可以在下列情况下按照自己的意志确认、拒绝或做出初步和最终裁决:

(1)refusal in obtaining the necessary information;

拒绝获取必要信息;

(2)failure to deliver the necessary information within a reasonable period;

未能在合理期限内提供必要的信息;

(3)significantly hindering procedures related to taking action.

严重妨碍与采取行动有关的程序。

84.When the Intellectual Property Rights Court sets the amount of a fine for an offence prosecuted under this Law, it may issue an order to pay all or a part of such fine to the grieved party as damages.

知识产权法院对根据本法起诉的罪行规定罚款数额时,可以发出命令,将罚款的全部或部分支付给受害方作为损害赔偿金。

85.When criminal and civil actions are taken against the same cause of action in court, and the intellectual property rights court issues a judgment, an order and a decree to indemnify the damages in the civil suit, the amount paid as damages shall be set off from the fine passed under section 84.

当针对同一诉因提起刑事和民事诉讼,知识产权法院发布判决、命令和法令要求赔偿民事诉讼案件中的损害时,赔偿的金额应扣除已按第84条执行的罚款。

86.With regards to action taken against the infringement of mark rights, the Court may use provisions in the Evidence Act, the Criminal Procedure Code, the Civil Procedure Code, and other related laws that are in effect if there are no specific provisions in this law.

对于针对侵犯商标权的诉讼,如果本法中没有具体规定,则法院可以使用《证据法》、《刑事诉讼法》、《民事诉讼法》以及其他现行相关法律中的规定。

Chapter XXIII (第二十三章)

Offences and Penalties

违反与罚则

87.

(a)Whoever is found guilty of any of the following offences for commercial purposes without the consent of the right holder shall be punished with a prison sentence of no more than three years, a fine not exceeding five million (5,000,000) kyats, or both:

未经权利持有人同意,任何人因商业目的而被判犯有以下任何罪行,应被处以不超过三年的有期徒刑,不超过五百万(5,000,000)缅元的罚款或两者并处:

(1)counterfeiting a mark;

伪造商标;

(2)using a counterfeit mark for goods or in relation with services;

在商品或服务方面使用假冒商标的;

(3)keeping any object or equipment mainly used to make a counterfeit mark or mainly used to use a counterfeit mark in goods.

保存主要用于制造假冒商标或主要用于在商品中使用假冒商标的任何物品或设备。

(b)Whoever is found guilty of any of the following offences shall be punished with a prison sentence of no more than two years, a fine not exceeding five million (5,000,000) kyats, or both:

被裁定犯有以下任何一种罪行的，应被处以不超过两年的有期徒刑，不超过五百万 (5,000,000) 缅元的罚款或两者并处：

(1)trading in and distributing goods using counterfeit marks or keeping such goods in possession for the purpose of trading and distribution;

使用假冒商标买卖、分销商品或者为交易、分销目的持有该等商品；

(2)importing goods using counterfeit marks into Myanmar or exporting such goods from Myanmar.

将带有伪造商标的商品进口到缅甸或从缅甸出口此类商品。

88.Whoever commits and is convicted of any of the acts in section 87 and has been convicted of the same offense previously shall be sentenced to prison for a minimum period of three (3) years to a maximum period of ten (10) years and, in addition, a fine not exceeding ten million (10,000,000) kyats may be imposed.

任何犯有第 87 条中所述的任何行为并被定罪的人，如该人此前曾因同一罪行被定罪，则应被判处至少三 (3) 年至最多十 (10) 年的监禁；此外，还可被处以不超过一千万 (10,000,000) 缅元的罚款。

89.Whoever is convicted of using flags or symbols, which receive special protection under international agreements where the Republic of the Union of Myanmar is a Party, as a mark for commercial purposes shall be punished with imprisonment of not more than three (3) years, a fine not exceeding five million (5,000,000) kyats, or both.

任何人因商业目的，使用有缅甸联邦共和国作为缔约国的国际协定下受到特别保护的旗帜或标志而被定罪，应被处以三 (3) 年以下有期徒刑，不超过五百万 (5,000,000) 缅元的罚款，或两者并处。

90.Whoever is convicted of removing, destroying, altering, or adding to a registered mark with the intention of harming the owner of said mark, shall be punished with imprisonment of no more than one (1) year, a fine not exceeding three million (3,000,000) kyats, or both.

任何人以侵害商标所有人为目的，被判处移除，破坏，更改或增补注册商标的罪名，应被判处不超过一 (1) 年的监禁，不超过 300 万 (3,000,000) 缅元的罚款，或两者并处。

91.Whoever is convicted of any of the following acts may be punished with imprisonment of no more than one (1) year, a fine not exceeding two million (2,000,000) kyats, or both:

凡犯有下列行为之一的，可被处以一 (1) 年以下监禁，不超过 200 万 (2,000,000) 缅元的罚款，或两者并处：

(a)issuing or causing to issue a counterfeit registration certificate of a mark;

签发或者致使签发伪造的商标注册证书；

(b)making or causing to make a false entry in the mark registration records without good faith;

在商标注册记录中作虚假记载或者致使他人不诚信的情况下作出虚假记载的；
(c)violating the prohibition in section 52.
违反第 52 条的禁令。

92. Whoever is part of or abets any of the offences under this Law shall be punished according to the provisions for the offence committed.
参与或教唆本法所订罪行的，应依照其所犯罪行的规定进行处罚。

Chapter XXIV (第二十四章) Miscellaneous 其他

93. Before this law comes into effect, in accordance with the Registration Act,;
在本法生效前，根据《登记法》：

(a) An owner of a mark registered at the Deeds and Documents Registration Office or an owner of a mark which is not registered but is actually used must submit a registration application, in accordance with this Law, in order to enjoy the rights relating to registered marks.

在契据和文件登记处注册的商标的所有人，或者未注册但实际使用商标的所有人必须依照本法提交注册申请，以享有与注册商标有关的权利。

(b) Whether a mark has been registered or not registered, a mark that is actually used in the markets of the Union shall enjoy the right of priority for the goods or services for which said mark is used for the duration of the stipulated period.

不论是否已注册，已经在联邦的市场上实际使用的商标，应在规定期限内对使用该商标的商品或服务享有优先权。

94. Regardless of the provisions in any other existing law:
不论其他现行法律有何规定：

(a) registration of a mark must be carried out according to this Law.
商标注册必须依照本法办理。

(b) Any offense regarding a mark must be punished according to this Law only.
任何关于商标的违法行为都必须依照本法进行处罚。

95. In making a decision using the power granted to him by this Law, the Registrar has the right to allow a hearing, according to stipulations, for a person who may suffer from such decision.
注册官在利用本法授予其的权力作出决定时，有权按照规定允许可能遭受该决定的人进行听证。

96. A copy of the registration certificate of a mark, which is signed, sealed and certified by the Registrar, and supporting documents are allowed to be submitted as evidence in relevant intellectual property rights courts.

经注册官签字、盖章、证明的商标注册证书副本及证明文件，可以在有关知识产权法院作为证据。

97. The Intellectual Property Rights Court may order the storage as public property, destruction

or another method of disposal, which it sees fit, of objects and equipment mainly used in the offense including goods using counterfeit marks.

知识产权法院可命令将主要用于犯罪的物品和设备(包括使用假冒标志的货物)作为公共财产储存、销毁或使用其认为合适的其他处置方法。

98.In order to carry out the provisions in this Law, the Ministry must take charge of the office work of the Central Committee and the Agency in addition to bearing the costs.

为执行本法的规定, 部委除承担费用外, 还必须负责中央委员会和代理处的办公室工作。

99.The Ministry, with the Union Government's approval, must stipulate the honoraria and fees of the Central Committee members, Agency members, and working group members whom are not public servants.

经联邦政府批准, 部委必须规定非公务员的中央委员会成员, 代理处成员和工作组成员的酬金和费用。

100.The office term of the Union-level persons under this Law is the same as the President's office term.

根据本法, 联邦级人员的任期与总统的任期相同。

101.In order to carry out the Agency's work, the Ministry may establish and assign the Department and divisions according to the different intellectual property rights fields.

为开展代理处的工作, 部委可以根据不同的知识产权领域设立和指定部门以及分支部门。

102.The mark rights under this Law are not applicable to the non-commercial use of any product bearing a mark, for the public good during a State emergency and disaster, by any government department and legally formed organization.

本法规定的商标权不适用于任何政府部门和合法成立的组织在国家紧急状态和灾难期间为公共利益对带有商标的产品进行的非商业性使用。

103.The offenses under this Law are deemed as cognizable offenses.

本法所定之罪, 视为可以审理的犯罪。

104.Any dispute arising between persons relating to mark disputes may be settled by peaceful negotiation between both Parties, arbitration, or litigation.

当事人之间发生的与商标争议有关的争议, 可以通过双方和平协商、仲裁或者诉讼解决。

105.The Central Committee and Agency established under this Law shall be considered as applicable to all intellectual property rights laws.

根据本法设立的中央委员会和代理处适用于所有知识产权法律。

106.For the purpose of carrying out the provisions of this Law:

为执行本法的规定:

(a)the Supreme Court may issue judiciary-related rules, regulations, order announcements, orders, directives, and procedures.

最高法院可以发布与司法有关的规则、条例、命令公告、命令、指令和程序。

(b) the Ministry and relevant Ministries:

部委及相关部委:

(1) may issue rules and regulations with the approval of the Union Government.

经联邦政府批准，可颁布规章制度。

(2) may issue order announcements, orders, directives and procedures.

可发布命令公告、命令、指令和程序。

(c) The ministry in charge of customs affairs may issue customs-related rules and regulations with the approval of the Union Government.

经联邦政府批准，主管海关事务的部委可以发布与海关有关的规章制度。

(d) The Agency and Department may issue order announcements, orders, directives, and procedures with the approval of the Ministry.

经部委批准，代理处和部门可发布命令公告、命令、指令和程序。

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I hereby sign under the Constitution of the Republic of the Union of Myanmar.

我在此根据缅甸联邦共和国宪法签署。

Sd./ Win Myint 温敏

President 总统

Republic of the Union of Myanmar 缅甸联邦共和国