



# Do not Wait to Register your Trademark in Myanmar

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**While some foreign investors may think it is too early to set up a business in Myanmar, it is maybe already too late to register their trademarks.**

As of today, there is not a specific trademark law in Myanmar. Trademarks can only be registered by means of declaration of ownership without examination neither opposition proceedings. For the past two years, the number of registered trademarks has largely exceeded the number of new companies. There is therefore every chance that unscrupulous persons have registered trademarks that do not belong to them.

Foreign investors wishing to invest in Myanmar in the future should consider registering their trademarks soon in order to avoid costly court processes.

The following article provides an overview of the current process to register a trademark in Myanmar. It is divided as follows:

1. Current protection of trademarks
2. Registration process
3. Registration of existing trademark under the draft of the new Trademark Law

## 1. Current Protection of Trademarks

In the absence of a specific trademark law, a trademark can be registered by way of a declaration of ownership under the Registration Act, 1908<sup>[1]</sup>. Once the trademark is registered, the registration is valid without an expiry date. In case of litigation, the provisions of the Penal Code will apply<sup>[2]</sup>.

There is no substantive examination either opposition system. It is then possible to have several owners for the same trademark. In order to avoid such a situation, it is a common practice to publish a cautionary notice in a newspaper every three years to notify the public that the trademark is still owned by the owner.

As there is not an official trademark search available at the Registry Office, the only way to know if a trademark is registered is to conduct a search on the base of newspaper publications.

## 2. Process to Register a Trademark

The registration of a trademark occurs at the office of the Registrar of Deeds. The process is straightforward and a trademark can be registered within one month. The applicant needs to provide the followings documents:

- A specimen of the trademark
- A declaration of ownership
- List of goods or services according to the International Classification<sup>[3]</sup>
- A power of attorney duly certified by a notary public and legalized by the Embassy of Myanmar

### **3. Registration of Existing Trademark under the New Trademark Law**

The government of Myanmar is aware that a stronger protection of intellectual property rights is needed to attract more foreign investments. A Trademark law is currently under the process for legislation and is expected to be passed before the end of the year. Under Section 60 of the 10<sup>th</sup> draft of the Trademark Law, the owner of a trademark registered under the Registration Act will have three years from the effective date of the Trademark Law to re-register its trademark.

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<sup>[1]</sup> Section 18 (f) of the Registration Act, 1908

<sup>[2]</sup> Section 482, 483, 484, 485 and 486 of the Myanmar Penal Code, 1860

<sup>[3]</sup> To see the classification:

[http://www.wipo.int/export/sites/www/classifications/nice/en/pdf/8\\_alphabetical\\_list.pdf](http://www.wipo.int/export/sites/www/classifications/nice/en/pdf/8_alphabetical_list.pdf)