

**Myanmar**  
**the Trademark Registration Rules**  
Government of the Union Republic of Myanmar  
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## **CHAPTER 1. Description of names and meanings**

1. These Rules shall be called the Trademark Registration Rules.
2. Expressions in the Rules shall have the same meanings as in the Trademark Law. Further, the following expressions shall have the meanings as:
  - (a) The Law means the Trademark Law.
  - (b) applicant means the person or body corporate whose name is entered in place of applicant in any application relating to the registration of a trade mark;
  - (c) Number and list means the number and list of goods or services classified by group according to the Nice Classification.

### **Explanation.**

- Nice Classification refers to the International Trademark Classification as last modified under the Nice Agreement (1957) for classifying goods and services in trademark registration.
- (d) Objector means the person or body corporate who files an objection in respect of an application for registration of a trade mark under Article 26 of the Law.
  - (e) Representative means an applicant to the Registrar in respect of trade mark matters, and means an agent appointed under Rule 89 to act on behalf of a person entitled or interested.
  - (f) Fee means the fee fixed by the Agency with the approval of the Union Government through the Central Committee to be paid in accordance with the Law and these Rules.
  - (g) Application form means the application form prescribed by the Ministry by notification under the Law.
  - (h) Registration means the registration by the Registrar after verification of the mark applied to the Registrar along with comments by the Examining Officer.
  - (i) Registrar means an officer of the Department granting trademark registration, make a record of information relating to the trademark, including rejections, by any means including electronic means.

## **CHAPTER 2. Application for registration**

**3.** The applicant for trademark registration shall submit the application to the Registrar in Application form TM-1 stating in Burmese or English and using any of the following methods-

- (a) application through electronic system prescribed by the Department;
- (b) Visiting the Department and applying;
- (c) Application for delivery by any post office recognized by the State.

**4.** The application shall contain at least the following-

- (a) request for registration of the trademark;
- (b) full name and address of the applicant;
  - (i) In the case of an individual application; the name, National Identification Card number and full address, or in the case of a foreigner; the name, passport number and full address, or in the case of a legally constituted organization; the name, registration number, type, name of the country of establishment and full address of the organization;
  - (ii) In the case of an application with more than one applicant; the names, National Identification Card number of the joint applicants or, if a foreigner, passport number and full residential address of the joint applicants must be attached to the original application as an appendix.
- (c) If the applicant has appointed a representative, the name, National Identification Card number and full address of the representative, (Application form TM-2 must be submitted together with it. If the applicant's country of permanent residence or place of business is not in the country, a copy of Application form TM-2 certified as correct by a notary public in the country of permanent residence or place of business must be submitted together with it.)
- (d) a clear and complete description of the mark prescribed under Chapter 3 of these Rules.
- (e) If the applicant is claiming a color as a distinctive feature of the mark, the name of the color claimed or the code number identifying the color included in the mark and a description of each color.
- (f) The number and list of the mark applied for registration.

(g) In the case of a three-dimensional (3D) mark or a combination of two or more colors, the applicant shall submit a statement of reasons for the acquired distinctiveness between the mark and the goods or services for which it is used.

(h) In the case of an application for registration of a collective trademark, the Rules established by the collective organization for the members to follow in order to legally use the collective trademark (these Rules must be submitted within three months from the date of application for registration).

(i) In the case of an application for registration of a certificate trademark, the Rules established by the owner of the certificate trademark in granting the right to use the trademark (these Rules must be submitted within three months from the date of application for registration).

(j) If any word or element included in the trademark is a sign or indication of the characteristics of the goods or services, a term in common usage or a practical term of the trade, or something that cannot be defined as a trademark, the words or elements to be stated must be stated that the right to use them alone is not claimed.

(k) the proof of payment of the fee to be paid for applying for registration.

(l) Signature of the applicant or representative. (The signature must include the full name of the signatory and the date of signature. If the application is submitted electronically as specified by the Department, the original signature in ink is not required, but the name of the applicant or representative must be included on the electronic form. If there is more than one applicant, a copy of the document agreeing between them to sign on behalf of all applicants must be submitted.)

**5.** (a) In applying for trademark registration, if the applicant claims priority under section 17(b)(ii) of the Law:

(i) The date of filing of the trademark application in any country that is a member of the Paris Convention or the World Trade Organization, the application number, the name of the country and the office shall be indicated.

(ii) The applicant shall, within three months from the date of filing the application, submit a copy of the application in Burmese or English, indicating the date of filing of the previous application, the application number, the name of the country and the office.

(iii) Priority right; If the applicant claiming priority right is not the same applicant in the previous application, the previous applicant shall submit to the Registrar along with the application a document proving the transfer of priority right.

(b) In applying for trademark registration, if priority right is claimed in relation to a trade fair under section 17(b)(iii) of the Law:

(i) The international trade fair in a country that is a member of the Paris Convention or the World Trade Organization or recognized by the government of the country concerned, the date of the first exhibition at the international trade fair and the name of the country shall be stated.

(ii) The applicant shall, within three months from the date of filing the application, submit evidence of actual use of the mark issued by the trade fair authorities. Such evidence shall be conclusive evidence that the mark is used for the goods or services for which the application is made.

(iii) If the date of commencement of exhibition and the date of commencement of exhibition by the applicant at the exhibition are different, evidence for each of those dates shall be submitted.

(iv) If the applicant claiming priority right in the exhibition is not the first exhibitor at the exhibition, the documents and evidence of the transfer of priority right in the exhibition by the first exhibitor at the exhibition shall be submitted to the Registrar along with the application.

**6.** If the applicant is applying for priority right in use, the provisions of CHAPTER 4. of these Rules shall apply.

### **CHAPTER 3. Description of the Mark**

7. The application must clearly and completely describe the main elements of the mark for which protection is sought.

8. If applying as a three-dimensional (3D) mark, different views of the mark must be shown, and if applying as a combination of two or more colors, a statement must be included that the mark is created with a specific shape or a specific combination of colors.

9. If the mark contains characters, words or figures in a language other than Burmese or English, they shall be transliterated into Burmese or English.

10. If the mark contains words or figures in a language other than Burmese or English, they shall be translated into Burmese or English.

11. The mark described in the application may also be submitted in an appendix. In such submission:

(a) The paper description shall include clear views or drawings relating to the mark and shall not exceed A4 (29.7 cm x 21 cm). Its surrounding margins shall be at least 2.5 cm.

(b) Electronic submissions must be submitted in digital photo file format(.JPG) and must not exceed one megabyte in size.

#### **CHAPTER 4. Priority rights of use**

**12.** If the owner of a trademark applying under section 93(a) of the Law wishes to enjoy the priority of use under Rule 13 for the following trademarks, he shall apply to the Registrar in accordance with the provisions of this CHAPTER within six months from the date of the official receipt of the application for trademark registration:

(a) Trademarks registered in the Deeds Registration Office under Rule 13 of the Registration of Deeds Law (Law No. 9/2018 of March 20, 2018);

(b) Trademarks that are not registered in the Deeds Registration Office under the Registration of Deeds Law (Law No. 9/2018 of March 20, 2018) but are actually used in the market of the country before the Law comes into force.

**13.** The owner of a trademark shall enjoy a priority right of use for the goods or services to which the trademark is applied for a period of five years from the date of the official acceptance of the application for trademark registration. During this period, the owner of the trademark shall have the right to file an objection under Section 26 of the Law and a defense under Section 27 of the Law based on the priority right of use.

**14.** In applying for registration of trademarks under Rule 12(a), evidence of registration at the Deeds Registration Office and evidence of notification of registration of the trademark in a local newspaper, magazine or journal shall be submitted together.

**15.** In applying for registration of trademarks under Rule 12(b), evidence of use of the trademark such as tax receipts or expense receipts, receipts for money or receipts for goods, invoices, marketing or sales promotion advertisements and a notification of the owner of the trademark in a local newspaper, magazine or journal shall be submitted together.

**16.** If the applicant claiming the right of priority for the use of a trademark under Rule 12(a) is not the owner of the trademark registered with the Deeds Registration Office in accordance with the Registration of Deeds Law before the enactment of the Law, the owner of the trademark registered with the Deeds Registration Office for

the purpose of such claim shall submit to the Registrar evidence that the trademark has been transferred or changed in name.

**17.** In relation to the evidence submitted with the application:

(a) The mark for which the right to trademark is sought and the mark registered with the Deeds Registration Office in accordance with the Registration of Deeds Law before the coming into force of the Law, or even if not registered, the mark actually used in the market of the country shall be identical, and the goods or services to be used for the mark shall also be identical.

(b) Any unsubstantiated evidence or further description of the goods or services shall not be considered.

**18.** The priority right of use shall not apply to the priority right provided for in sections 31 and 32 of the Law.

**19.** In relation to trademarks applied for and granted registration under Rule 12, the trademark owner shall enjoy the trademark rights from the date of filing the application for the duration of the registration, and shall enjoy the priority right of use under this CHAPTER within the period specified in Rule 13.

## **CHAPTER 5. Examination of application**

**20.** The Registrar shall determine the date on which the application for registration of a trademark which is received by the Registrar in accordance with the procedure prescribed by the Department and the fee specified by the Department, and examine the application for registration of the trademark whether it is complies with the requirements of Section 17(a) of the Law and Section 18 of the Law.

**21.** The Examination Officer shall:

(a) If the application is found to be in breach of any provision of Section 13 of the Law, or if the provisions of Section 17(a) of the Law are not fully and correctly included, or if the relevant provisions of Section 17(b) of the Law are not included, The Examination Officer shall notify the applicant to make corrections or submit clarifications within 30 days from the date of receipt of the notice with the permission of the Registrar.

(b) If the application is not amended within the time specified in (a), it shall be deemed to have been abandoned.

(c) If the application is amended within the time specified in (a), it shall proceed in accordance with section 23(c) of the Law.

**22.** The Examination Officer shall, without prejudice to the registration, inform the applicant, with the permission of the Registrar, to make a statement that he does not claim exclusive use of the words or elements of the mark, unless the words or elements are specified in the application under Rule 4(j). However, the applicant shall not be prejudiced to any prior right acquired by the applicant. If the words or elements so made are significant in relation to the goods or services of the application, they shall not affect or prejudice the statement in any future application in relation to such words or elements.

**23.** (a) If the applicant submits that the trademark applied for falls under any of the exceptions in section 13(a) or (b) of the Law, the applicant may be requested sufficient evidence that the trademark has acquired notoriety among consumers due to its use before the date of application for registration, or that the applicant has been using the trademark exclusively and in good faith in the trade of the State for at least three consecutive years.

(b) If the applicant, after examining the evidence submitted under

(a), finds that it is incomplete, the applicant may be requested to submit additional evidence that may be relevant.

**24.** If the applied trademark does not fall within the exceptions in section 13(a) or (b) of the Law and if the applicant fails to submit within the specified time, the examining officer shall submit to the registrar along with his/her observations. If so submitted, the registrar shall notify the applicant of the rejection of the application in whole or in part and publish a public notice thereof.

**25.** The registrar shall not allow the registration of an application for the registration of a three-dimensional (3D) mark or a combination of two or more colours, whether or not it contains the information specified in Rule 23(a), which includes a functional or technological feature.

**26.** The Registrar shall, in publishing an application for registration of a trade mark under section 25(b) of the Law, include the following:

- (a) the full name and address of the applicant;
- (b) if the applicant has appointed a representative, the name, National Identification Card number and full address of the representative;
- (c) a description of the trade mark;
- (d) the number and list of the trade mark applied for registration;
- (e) the date of filing the application and the application number;
- (f) if the applicant claims priority, the particulars of the priority right;
- (g) the part of the trade mark which the applicant claims not to be the sole user of;
- (h) a statement of reasons why the trade mark applied for is distinctive due to continuous use;
- (i) If the application is for registration of a collective mark or a certificate mark, information relating to that trademark.

## **CHAPTER 6. Re-application**

**27.** If the applicant fails to comply with the notice to amend the application within 30 days from the date of receipt of the notice to amend the application in accordance with the requirements, which would result in the loss of rights in relation to the trademark registration application, he may re-apply to the Registrar for registration of the trademark in Form TM-3 within 60 days from the date of abandonment due to failure to comply.

**28.** A re-application under Rule 27 shall include at least the following:

- (a) Application number;
- (b) The applicant's full name and address;
- (c) If the applicant has appointed a representative, the representative's name, National Identification Card number and full address (Must attach the application form TM-2. If the applicant's country of permanent residence or country of legal establishment is not in the country, a copy of the application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment must be attached.)
- (d) The amount of the fee to be paid for the re-application and proof of payment.

**29.** The Registrar shall, in relation to the re-application:

- (a) If the information is found to be incomplete, the applicant must be notified to make corrections within 30 days from the date of notification.
- (b) If the applicant fails to make any corrections within the time period specified in (a), the application shall be deemed to be void.
- (c) If the information is found to be complete, the application shall be accepted.

**CHAPTER 7. Correction of typographical errors and other permissible errors**

**30.** The applicant may request the Registrar to make amendments by filing Form TM-4, where such amendments relate to:  
amendment of clerical or typographical errors in the application, translation, or supporting documents;  
amendment of the applicant's address or the representative's business address;  
amendment of the class numbers of goods or services, provided that such correction does not extend the scope of the goods or services;  
amendment that do not constitute a modification of the trademark itself;  
insertion or amendment of a disclaimer stating that the applicant does not claim exclusive rights to any word or element contained in the trademark;  
amendment of translation of the trademark; or  
amendment of other similar correctable errors.

**31.** Under Rule 30, the applicant must file the application before the Registrar for grants or refuses to register the mark, or before the Agency makes a final decision on an appeal against the Registrar's decision.

**32.** An application under Rule 30 must include at least the following:

- (a) Application number,
- (b) The applicant's full name and address;
- (c) If the applicant has appointed a representative, the representative's name, National Identification Card number and full address (Must attach the application form TM-2. If the applicant's country of permanent residence or country of legal establishment is not in the country, a copy of the application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment must be attached.)
- (d) The amount of the fee to be paid for the application for correction of typographical errors and other errors that may be corrected, and proof of payment of the fee.

**33.** In relation to applications for correction of typographical errors and other errors which the Registrar may permit to be

corrected:

(a) If the information is found to be incomplete, the applicant shall be notified to make corrections within 30 days from the date of notification.

(b) If the applicant fails to make any corrections within the time period specified in (a), the application shall be deemed to be void.

(c) If the information is found to be complete, the applicant shall be notified of any typographical errors requested to be corrected and any other errors that may be corrected in the application.

## **CHAPTER 8. Withdrawal of application**

**34.** The applicant may apply to the Registrar in Form TM-5 to withdraw the entire application for registration of a trademark or any part of the goods and services in the application.

**35.** An application under Rule 34 shall include at least the following:

- (a) Application number,
- (b) The applicant's full name and address;
- (c) If the applicant has appointed a representative, the representative's name, National Identification Card number and full address (Must attach the application form TM-2. If the applicant's country of permanent residence or country of legal establishment is not in the country, a copy of the application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment must be attached.)
- (d) The number and lists to be withdrawn.

**36.** The Registrar shall, in relation to an application for the withdrawal of an application for trademark registration :

- (a) If the information is found to be incomplete, the applicant shall be notified to make corrections within 30 days from the date of notification.
- (b) If the applicant fails to make any corrections within the time period specified in (a), the application shall be deemed to be void.
- (c) If the information is found to be complete, the applicant shall be notified of such withdrawal.

**CHAPTER 9. Restriction or Reduction of the List of Goods or Services without Expansion**

**37.** The applicant may apply to the Registrar in Form TM-6 to restrict or reduce the list of goods or services included in the application for registration of the trademark without expanding it.

**38.** An application under Rule 37 must include at least the following:

- (a) Application number,
- (b) The applicant's full name and address;
- (c) If the applicant has appointed a representative, the representative's name, National Identification Card number and full address (Must attach the application form TM-2. If the applicant's country of permanent residence or country of legal establishment is not in the country, a copy of the application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment must be attached.)
- (d) The amount of the fee to be paid for the application to limit or reduce the list of goods or services and proof of payment of the fee.

**39.** The Registrar may, in relation to an application to restrict or reduce the list of goods or services:

- (a) If the information is found to be incomplete, the applicant must be notified to make corrections within 30 days from the date of notification.
- (b) If the applicant fails to make any corrections within the time period specified in (a), the application shall be deemed to be void.
- (c) If the information is found to be complete, the list of goods or services included in the registration application shall be amended and notified to the applicant.

## **CHAPTER 10. Divisional Application**

**40.** An applicant may apply to the Registrar in Form TM-7 to divide an application for registration of a trademark covering multiple goods or services into more than one application.

**41.** An application under Rule 40 shall include at least the following:

- (a) Application number,
- (b) The applicant's full name and address;
- (c) If the applicant has appointed a representative, the representative's name, National Identification Card number and full address (Must attach the application form TM-2. If the applicant's country of permanent residence or country of legal establishment is not in the country, a copy of the application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment must be attached.)
- (d) The amount of the fee to be paid for the application to distinguish the goods or services and proof of payment of the fee.

**42.** The Registrar may, in relation to an application for division, (1) act as

- (a) If the information is found to be incomplete, the applicant shall be notified to make corrections within 30 days from the date of notification.
  - (b) If the applicant fails to make any corrections within the time period specified in (a), the application shall be deemed to be void.
  - (c) If the information is found to be complete:  
must be maintained for each new application.
- (2) If an application is made to divide applications covering multiple goods or services into new applications, the filing date of the original application shall be considered as the filing date for each such application.
- (3) A new application number shall be assigned separately for each separated application and notified to the applicant.
- (4) Each new application that is classified shall be published in accordance with Rule 26.

## **CHAPTER 11. Objection**

**43.** In respect of an application for registration of a trademark under Section 26 of the Law, an objector may, within 60 days from the date of publication, file an objection in Form TM-8 with the Registrar on any of the grounds set out in Sections 13 and 14 of the Law.

**44.** In submitting an objection under Rule 43, the following must be included at least:

- (a) The application number of the trademark against which the objection is sought;
- (b) Name of the applicant;
- (c) The number and list of items to be included in the objection;
- (d) The name of the objector, his/her National Identification Card number or, if he/she is a foreigner, his/her passport number and full address; if the objection is made in the name of a legally established organization, the name, registration number, type, country of establishment and full address of the organization;
- (e) If the objector has appointed a representative, the representative's name, National Identification Card number and full address (Must attach the application form TM-2. If the applicant's country of permanent residence or country of legal establishment is not in the country, a copy of the application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment must be attached.)
- (f) The amount of the fee to be paid for the objection and proof of payment.

**45.** In objecting to any of the grounds for refusal under section 14 of the Law, the objector shall, in addition to the information specified in Rule 44, include the following relevant information:

- (a) If the objection is made under section 14(a) of the Law:
  - (i) A clear and complete statement of reasons why the trademark is identical or similar to a trademark registered or applied for first or for which a priority right has been applied for or for which a transfer of use has been granted or for which a license has been granted;
  - (ii) In the case of a registered or first applied for trademark or for which priority rights have been granted, the date of filing of the application, application number, date of registration, trademark

registration number and priority rights claimed Date,  
(iii) In the case of a trademark for which the date of application for registration cannot be provided, evidence that the Registrar can approve the date on which protection of the right in the country began,  
(iv) A statement that the applicant is entitled to file an objection,  
(a) if the applicant is a person entitled to operate under the permit or the first person to obtain the right,  
(b) if the objection is based on the information in section 14(b), (c), (d), (e) and (f) of the Law,  
and the relevant evidence.

**46.** If the objector objects on more than one of the grounds for refusal under section 14 of the Law, he must provide the information specified in Rule 45 for each such ground.

**47.** The documents attached to the submitted objection must be submitted in duplicate.

**48.** If, in examining the grounds of the objection, it appears that more than one person has applied for registration of identical or similar marks on the same date or on the same priority date, and if no agreement is reached between them after consultation under section 20(b) of the Law, the Registrar shall, under section 20(b) of the Law, proceed as follows:

(a) by appropriate means, seek a settlement by consultation;  
(b) If no agreement is reached on the negotiation under (a), the application for registration of such trademarks shall be cancelled.

## **CHAPTER 12. Methods of objection**

**49.** When the Registrar receives an objection, he shall:

(a) first decide whether to accept the objection and shall inform the objector thereof.

(b) within 60 days from the date of the communication under (a), he shall request the objector to submit the reasons and evidence and, if the mark is a well-known mark, to submit evidence to prove that it is a well-known mark. The application and evidence submitted by the objector shall be communicated to the applicant. If the objector fails to submit them within the specified time, the objection shall be deemed to be void.

(c) The applicant shall be informed that, in addition to the evidence provided under (b), the applicant may request the objector further evidence such as evidence of use of the mark and evidence of a well-known mark, and that, if such evidence is not available, the applicant may file the necessary documents along with the defence within 60 days from the date of the notification.

(d) If the applicant requests further evidence, the objector shall be notified to submit sufficient evidence of use or non-use of the mark within 60 days from the date of the notification.

(e) If the objector submits further evidence, the applicant shall be notified to submit a defence within 30 days from the date of the notification.

(f) If Further explanations deemed necessary, the relevant persons may be requested to submit further reasons or other documents within 30 days from the date of the notification.

(g) If necessary, both parties may be summoned for a hearing.

(h) The objection shall be decided on the basis of the reasons, the type of goods or services and the documents submitted.

(i) The decision shall be recorded in the register and notified to the relevant persons and published for public information in accordance with section 28(b) and (c) of the Law.

**50.** The notice of grant or refusal of an objection to the registration of a trademark shall include the following:

(a) the application number,

(b) the full name and address of the applicant,

(c) if the applicant has appointed a representative, the name, National Identification Card number and full address of the representative,

(d) the number and details included in the objection.

## **CHAPTER 13. Factors to be considered as a well-known mark**

**51.** In determining whether a mark is a well-known mark, the Registrar shall take into account the following:

- (a) the degree of public recognition or notoriety in the relevant field within the State;
- (b) the period, extent and territory of any use of the mark;
- (c) the period, extent and territory of any promotion of the mark, including advertising or publication the goods or services in which the mark is used, and trade fair displays;
- (d) the period and territory of any use or recognition of the mark, whether by registration of the mark or by application for registration, or both, of the mark;
- (e) the record of successful actions in respect of the mark, in particular records of recognition by the relevant authorities as a well-known mark;
- (f) the value of the mark;
- (g) any other information which may be used to determine whether the mark is a well-known mark.

**52.** The information specified in Rule 51 is intended to assist the Registrar in determining whether a trade mark is a well-known trade mark, but it shall not be considered as a prerequisite for consideration.

**53.** In determining whether a trade mark is a well-known trade mark, the Registrar may take into account, without limitation, the extent of its popularity and recognition with the public in the State, but may take into account the following:

- (a) actual or potential consumers of the goods or services for which the trademark is used;
- (b) Those who distribute or provide goods or services using the trademark;
- (c) The business community that sells or provides the goods or services for which the trademark is used.

**54.** The Registrar shall not take into account the following circumstances in determining whether a trademark is a well-known trademark:

- (a) The trademark is used, registered or applied for registration within the country;

(b) Being a well-known trademark in countries other than the country, having been registered, applying for registration or taking legal action;

(c) Being a well-known brand among the people in the country.

## **CHAPTER 14. Registration and recording**

**55.** If no objection is filed against an application for trademark registration, or if an objection filed is withdrawn by the objector, or if an objection is rejected, the Registrar shall notify the applicant to pay the registration fee within 60 days from the date of sending the notice. If payment is not made within the specified period, the registration shall be deemed to have been abandoned.

**56.** The record of the approval or refusal of trademark registration under section 28(c) of the Law shall include the following:

- (a) Application number,
- (b) Date of submission of application;
- (c) The applicant's name, National Identification Card number or, if a foreigner, passport number and full address; if applying under the name of a legally established organization, the name, registration number, type, country of establishment and full address of the organization;
- (d) If the applicant has appointed a representative, the representative's name, citizenship verification card number and full residential address;
- (e) Description of the brand;
- (f) Trademark registration numbers and lists,
- (g) If the applicant requests priority, the information on priority;
- (h) If the applicant requests priority access to the trade fair, information on the priority access to the trade fair;
- (i) A statement that the applicant does not claim exclusive use of the part of the trademark claimed;
- (j) Statements of reasons why the goods or services for which registration is claimed and the trademark have become distinctive due to continuous use;
- (k) Date of recording in the register;
- (l) Trademark registration number,
- (m) The date of expiry of the trademark registration;
- (n) If applying for a collective mark or a certificate mark, the information in the application.

**57.** The Registrar shall, in accordance with Section 28(c) of the Law, process the application for trademark registration by:

- (a) If approved, record the approval in the registration list.
- The information in Rule 56 must be published for public information.

(b) If the application is rejected, the rejection shall be recorded in the registration list and announced to the public.

(c) If registration is granted, a trademark registration certificate shall be issued to the applicant.

**58.** The Registrar shall issue a true copy of the trademark registration certificate if the trademark owner applies in Form TM-9 under Section 29(a) of the Law, upon payment of the fee prescribed by the Agency for the issuance of a true copy of the trademark registration certificate due to the original being damaged or lost.

## **CHAPTER 15. Correction of Registration**

**59.** The proprietor of a trade mark may apply to the Registrar in Form TM-10 for the correction of any clerical error recorded in the Register, or for the correction of the nationality and address of the proprietor, or for the correction of any error other than the registered trade mark, number and details, which may be corrected.

**60.** An application under Rule 59 shall include at least the following:

- (a) Trademark registration number;
- (b) The full name and address of the trademark owner;
- (c) If the applicant has appointed a representative, the representative's name, National Identification Card number and full address (Must attach the application form TM-2. If the applicant's country of permanent residence or country of legal establishment is not in the country, a copy of the application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment must be attached.)
- (d) The amount of the fee to be paid for the application for amendment of the registration and proof of payment of the fee.

**61.** In relation to an application for amendment of the trade mark registration, the Registrar shall:

- (a) If the information is found to be incomplete, the trademark owner must be notified to take corrective action within 30 days from the date of notification.
- (b) If the trade mark owner fails to make the amendment within the period specified in (a) of the Rule, the application shall be deemed to be void.
- (c) If it is found that the particulars are complete, notify the trade mark owner of the amendment in the trade mark registration under (b) of section 30 of the Law.

## **CHAPTER 16. Renewal**

**62.** The trademark owner may apply to the Registrar for an extension of the term of the trademark registration within six months before the expiry date or within six months after the expiry date of the registration as a special privilege, using the application form TM-11.

**63.** An application under Rule 62 shall include at least the following:

- (a) Trademark registration number;
- (b) The full name and address of the trademark owner;
- (c) If the applicant has appointed a representative, the representative's name, National Identification Card number and full address (Must attach the application form TM-2. If the applicant's country of permanent residence or country of legal establishment is not in the country, a copy of the application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment must be attached.)
- (d) The date of expiry of the registration period;
- (e) The amount of the fee to be paid for the application for renewal of the trademark registration and proof of payment of the fee. (If the application for renewal is made within the six-month after the expiration of the registration period, the prescribed late fee must be paid.)

**64.** In relation to an application for renewal of the registration of a trade mark, the Registrar shall:

- (a) If the information is found to be incomplete, he shall notify the owner of the trade mark to rectify it within six months before the expiry of the period of registration of the trade mark or within six months as a special privilege after the expiry of the period.
- (b) If the owner of the trade mark fails to rectify it within the period specified in (a), the application shall be deemed to be void and the registration of the trade mark shall be recorded in the register and published for public information.
- (c) If the information is found to be complete, the registration of the trade mark shall be renewed and the date of expiry shall be changed and recorded in the register in accordance with section 36(b) and (c) of the Law. A confirmation of the extension of the period shall also be sent to the owner of the trade mark and

published for public information.

**65.** (a) The notice of renewal of a trademark registration shall include the following:

- (i) the trademark registration number,
- (ii) the full name and address of the trademark owner,
- (iii) if the trademark owner has appointed a representative, the name, National Identification Card number and full address of the representative,
- (iv) the date of expiry of the new trademark registration.

(b) The notice of termination of trademark registration shall include the following:

- (i) the trademark registration number,
- (ii) the full name and address of the trademark owner,
- (iii) if the trademark owner has appointed a representative, the name, National Identification Card number and full address of the representative,
- (iv) the reason for termination of trademark registration.

## **CHAPTER 17. Recording the transfer of trademark rights**

**66.** The owner of the trademark or the transferee may apply to the Registrar in Form TM-12 to record the transfer of ownership of the trademark, whether in whole or in part, to any person or legal entity, in respect of the goods and services of a registered trademark.

**67.** An application under Rule 66 shall include at least the following:

- (a) Trademark registration number,
- (b) Full name and address of the trademark owner,
- (c) If the applicant has appointed a representative, the representative's name, National Identification Card number and full address (Must attach the application form TM-2. If the trademark owner's country of permanent residence or country of legal establishment is not in the country, a copy of the application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment must be attached.)
- (d) Name of the transferee, National Identification Card number or, if a foreigner, passport number and full address of the transferee, and, if applying in the name of a legally constituted organization, the name, registration number, type, country of incorporation and full address of the organization,
- (e) if the transferee has appointed a representative, the name, National Identification Card number and full address of the representative, (Must attach Form TM-2. If the transferee's country of permanent residence or place of business is not in the country, a copy of Form TM-2 certified as correct by a notary public in the country of permanent residence or place of business.)
- (f) The number and list of the property to be transferred,
- (g) The amount of the fee to be paid for the application to record the transfer of property and proof of payment of the fee.

**68.** In relation to an application for registration of a transfer of ownership of a trademark, the Registrar shall:

- (a) if the information is found to be incomplete, notify the owner of the trademark or the transferee to rectify it within 30 days from the date of the notification.
- (b) if the owner of the trademark or the transferee fails to rectify

it within the period specified in (a), the application shall be deemed to be void.

(c) if the information is found to be complete, register the transfer of ownership and notify the owner of the trademark and the transferee and publish a public notice.

**69.** Where an application is made for the registration of a transfer of ownership of only a part of the goods or services of a registered mark:

(a) the Registrar shall distinguish the remaining part of the original registration from the part of the application for the registration of a transfer of ownership.

(b) the Registrar shall record a new registration containing the full particulars of the original registration so as to establish a connection between the original registration and the application for the registration of a partial registration.

(c) The Registrar shall issue a new Trademark Registration Number for the new recording of such partial transfer of ownership.

**70.** An application for registration of a transfer of ownership under section 43 of the Law shall contain the following:

(a) the registration number of the trademark,

(b) the number and list of records of the transfer of ownership,

(c) the full name and address of the transferee,

(d) if the transferee has appointed an agent, the name, National Identification Card number and full address of the agent.

**71.** An application for registration of a transfer of an application for registration of a trademark under section 42(a) of the Law shall be made in the same manner as an application for registration of a transfer of ownership of a trademark.

## **CHAPTER 18. Recording of License**

**72.** The owner of a trade mark or his authorized representative may apply to the Registrar in Form TM - 13 for the registration of a license to use a registered trade mark and the types of goods or services covered by that trade mark.

**73.** An application under Rule 72 shall include at least the following:

- (a) the full name and address of the trademark owner;
- (b) If the applicant has appointed a representative, the representative's name, National Identification Card number and full address (Must attach the application form TM-2. If the trademark owner's country of permanent residence or country of legal establishment is not in the country, a copy of the application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment must be attached.)
- (c) The name of the person authorized to work with the permit, the National Identification Card number or, if a foreigner, the passport number and full address of residence; If applying in the name of a legally established organization, the name, registration number, type, country of establishment and full address of the organization;
- (d) If the permit holder has appointed a representative, the representative's name, National Identification Card number and full address (Application form TM-2 must be submitted together. If the permit holder's country of permanent residence or country of legal establishment is not in the country, a copy of Application form TM-2 certified as correct by a notary public in their country of permanent residence or country of legal establishment must be submitted together.)
- (e) Trademark registration number for operating under authorization,
- (f) Licensed number and list of licenses,
- (g) The amount of the fee to be paid for the application for recording the granting of permission to operate and proof of payment of the fee.

**74.** (a) When applying for a license to operate under a license, a signed agreement between the trademark owner and the licensee must be submitted.

(b) In the case of a jointly owned trademark, a document signed by

the joint owner must be submitted when applying for a record of the granting of permission to operate.

**75.** The Registrar shall, in relation to an application for recording the granting of a permit to operate:

(a) If the information is found to be incomplete, the trademark owner or his authorized representative must be notified to correct the information within 30 days from the date of notification.

(b) If the trademark owner or his authorized representative fails to make any corrections within the time period specified in (a), the application shall be deemed to be void.

(c) If the information is found to be complete, the granting of the authorization shall be recorded, the trademark owner or his authorized representative shall be notified and a public announcement shall be made.

**76.** The following shall be included in the announcement for recording the granting of permission to operate under the permit:

(a) The registration number of the trademark to be operated under the permit;

(b) The full name and address of the trademark owner;

(c) If the trademark owner has appointed a representative, the name, National Identification Card number and full address of the representative;

(d) The full name and address of the person authorized to operate under the permit;

(e) If the person authorized to operate under the permit has appointed a representative, the name, National Identification Card number and full address of the representative;

(f) The number and list of persons authorized to operate under the permit;

## **CHAPTER 19. Cancellation of recording of license**

**77.** The owner of the trademark or the person authorized by him may apply to the Registrar in Form TM-14 under Section 48 of the Law to cancel the grant of a registered license.

**78.** An application under Rule 77 shall include at least the following:

- (a) the full name and address of the trademark owner;
- (b) if the trademark owner has appointed a representative, the name, National Identification Card number and full address of the representative; (Must attach the application form TM-2. If the trademark owner's country of permanent residence or country of legal establishment is not in the country, a copy of the application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment must be attached.)
- (c) Name of the person authorized to operate with permission, National Identification Card number or, if a foreigner, passport number and full address, Name of the legally constituted organization. If applying, name of the organization, registration number, type, name of the country of establishment and full address,
- (d) If the person authorized to operate with permission has appointed a representative, the name of the representative, National Identification Card number and full address, (Application form TM-2 must be submitted together. If the country of permanent residence or country of legal establishment of the person authorized to operate with permission is not in the country, a copy of Application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment of the person authorized to operate with permission is submitted together.)
- (e) Trademark registration number for which permission is granted,
- (f) Numbers and entries to be deleted from the registration record.

**79.** An application for cancellation of registration of a license shall be accompanied by one of the following documents:

- (a) Documents relating to the application for cancellation of registration of a license; or
- (b) A signed agreement between the trademark owner and the licensee agreeing to the application for cancellation.

**80.** The Registrar shall, in relation to an application for cancellation of registration of a license:

(a) If the information is found to be incomplete, notify the trademark owner or his licensee to rectify the matter within 30 days from the date of the notification.

(b) If the trademark owner or his authorized representative fails to make any corrections within the period specified in (a), the application shall be deemed to be void.

(c) If the information is found to be complete, the license shall be cancelled from the record and the trademark owner or his authorized representative shall be notified and a public announcement shall be made.

**81.** The announcement of cancellation of the license shall include the following:

(a) Full name and address of the trademark owner,

(b) If the trademark owner has appointed a representative, the name, National Identification Card number and address of the representative,

(c) Full name and address of the person authorized to operate with permission,

(d) If the person authorized to operate with permission has appointed a representative, the name, National Identification Card number and address of the representative,

(e) Trademark registration number under which the operation is permitted,

(f) Number and entries to be deleted from the registration record.

## **CHAPTER 20. Declaration of Invalidity and Cancellation of Trademark Registration**

**82.** (a) Any interested party may apply to the Registrar in Form TM-15, together with evidence, for a declaration of invalidity of a registered trademark, if it is a trademark that does not comply with the meaning of section 2(j) of the Law or is a trademark that should not be registered for any reason for refusal under section 13 of the Law or for any reason related to refusal under section 14 of the Law.

(b) Any interested party may apply to the Registrar in Form TM-16 for cancellation of a trade mark registration in respect of any mark which has not been used at all within three years from the date of application, or which has been suspended for three consecutive years, or which contains indications denoting the kind of goods, the nature of the goods, the quality, quantity, intended use, value, place of origin, time of manufacture or which has become a common expression in current usage or has become a custom and a practical term in the trade.

(c) An application under (a) and (b) shall be accompanied by the service fee prescribed by the Agency for acceptance and examination.

**83.** An application under Rule 82 shall contain at least the following:

(a) The registration number of the trade mark for which a declaration of invalidity or cancellation is sought;

(b) The name of the proprietor of the trade mark;

(c) The number and details of the application for declaration of invalidity or cancellation,

(d) The name, National Identification Card number or, if a foreigner, passport number and full address of the applicant for declaration of invalidity or cancellation, and if the application is made in the name of a legally constituted organization, the name, registration number, type, country of establishment and full address of the organization,

(e) If the applicant for declaration of invalidity or cancellation has been appointed a representative, the representative's name, National Identification Card number and full address (Must attach the application form TM-2. If the applicant for declaration of invalidity or cancellation's country of permanent residence or country of legal establishment is not in the country, a copy of the

application form TM-2 certified as correct by a notary public in the country of permanent residence or country of legal establishment must be attached.)

(f) The amount of the fee to be paid for the application for declaration of invalidity or cancellation of the trademark registration and proof of payment of the fee.

**84.** In applying for a declaration of invalidity on any ground of refusal under section 14 of the Law, any interested party shall, in addition to the information specified in Rule 83, submit the following relevant information:

(a) In the case of a declaration of invalidity under section 14(a) of the Law:

(i) A clear and complete statement of reasons that the mark is identical or similar to a mark registered or first applied for or granted priority right or transferred or licensed;

(ii) In the case of a registered or first applied for or granted priority right, the date of filing of the application, application number, date of registration, trademark registration number and date of priority claim;

(iii) In the case of a mark for which the date of application for registration cannot be provided, evidence to the satisfaction of the Registrar of the date on which protection of the right in the State commenced;

(iv) The numbers and lists on which the application for declaration of invalidity is based,

(v) If the application is made by the person who has the right to operate under the permit or the person who first obtained the right, a statement that he has the right to submit a declaration of invalidity,

(b) If the application is made based on the information in section 14(b), (c), (d), (e) and (f) of the Law, relevant evidence.

**85.** Where a person or a body corporate applies for a declaration of invalidity on more than one of the grounds for refusal under section 14 of the Law, the particulars specified in Rule 84 shall be included for each such ground.

**86.** An application for the declaration of invalidity or cancellation of a trade mark registration shall be accompanied by two copies of the relevant documents.

**87.** Where the Registrar receives an application for the declaration of invalidity or cancellation under section 50 or section 51 of the Law:

(a) first examine the application and decide whether to accept it and notify the applicant.

(b) within 60 days from the date of sending the notification of acceptance of the application under (a), he shall request the applicant to submit reasons and evidence and, in the case of a well-known mark, to submit evidence to prove that the mark is a well-known mark. The application and evidence submitted by the applicant shall be communicated to the owner of the mark. If the applicant fails to submit such evidence within the specified period, the application shall be deemed to be void.

(c) The trademark owner shall be entitled to request from the applicant, in addition to the evidence provided under (b), further evidence such as evidence of use of the trademark and evidence of a well-known trademark, and, if such evidence is not available, to file a defence together with the necessary documents within 60 days from the date of service of the notice.

(d) If the trademark owner requests further evidence, the applicant shall be notified within 60 days from the date of the notification to submit the relevant evidence used or not used.

(e) If the applicant submits further evidence, the trademark owner shall be notified within 30 days from the date of the notification to submit a counter-argument.

(f) Further explanations, if deemed necessary, the relevant persons may be asked to submit further reasons or evidence within 30 days from the date of the notification.

(g) If necessary, both parties may be summoned for a hearing.

(h) The decision shall be based on the reasons, evidence, type of goods or services and documents submitted.

(i) The decision shall be recorded in the register and notified to the trademark owner and published for public information in accordance with Sections 50(f) and 51(f) of the Law.

**88.** The notice issued under Rule 87(i) shall include the following:

(a) the trade mark registration number,

(b) the full name and address of the trade mark owner,

(c) if the trade mark owner has appointed a representative, the name, National Identification Card number and full address of the

representative,

(d) the grounds for declaring the trade mark registration invalid or cancelled,

(e) the number and details of the trade mark registration declared invalid or cancelled,

(f) the date on which the registration was declared invalid or cancelled.

**CHAPTER 21. Appointment of representatives and delegation of authority**

**89.** (a) If an applicant, objector, beneficiary or interested party appoints a representative, he/she shall appoint a person who is a resident of the country, holds a National Identity Card, is over 18 years of age, and meets the qualifications specified by the Ministry, using the application form TM-2.

(b) The appointment of such representative shall include at least the following:

(i) Full name and address of the applicant, objector, beneficiary or interested party,

(ii) Full name, National Identity Card number and address of the representative,

(iii) Information on the trademark to be appointed as the representative

(iv) Powers of the representative.

**90.** In the appointment of a representative under Rule 89, more than one representative may be appointed. In such appointment, the name and information of one representative shall be stated in the application and the information of the other representatives shall be submitted together.

**91.** If an applicant, objector, beneficiary or any interested party appoints a representative to act in any application, including an application for trademark registration, a copy of the application form TM-2 must be attached.

**92.** If the applicant, objector, beneficiary or interested party is not in the country of permanent residence or legal establishment, a copy of the application form TM-2 certified as correct by a notary public in the country of their permanent residence or legal establishment shall also be submitted.

**93.** (a) In the case of an appointment by a representative, the Registrar shall communicate only with the representative in relation to the matters to be carried out.

(b) Any action taken by the appointed representative in communication with the Registrar shall be deemed to have been taken by the person who appointed the representative.

**94.** (a) If more than one representative is appointed, only the representative stated in the application shall be contacted as the representative.

(b) In the case of electronic filing as specified by the Department, if more than one representative is listed in the trademark registration application, only the representative who has opened a User Account for the electronic filing shall be contacted.

(c) The Registrar may, if necessary, require the representative to submit the original of the application form TM-2 within 30 days from the date of sending the notice regarding the appointment of the representative.

**95.** If no representative has been appointed or if the appointment of a representative does not comply with the requirements of these Rules, the Registrar shall communicate any communication only with the applicant, objector, beneficiary or interested party.

**96.** Any change in the appointment of a representative shall be submitted to the Registrar in Form TM-17 along with the required documents, upon payment of the service fee prescribed by the Agency for acceptance and verification.

## **CHAPTER 22. General**

**97.** (a) Applications under the Law and these Rules must be made using the application forms prescribed by the Ministry.

(b) The Agency shall pay the fees to be paid in relation to trademark registration matters as determined and published by the Union Government through the Central Committee.

(c) A trademark registration application may include one or more class numbers according to the International Classification of Trademarks (Nice Classification). If an application includes more than one class number, the fees specified shall be paid depending on the number of class numbers.

**98.** Any person who is dissatisfied with any decision made by the Registrar regarding the registration of a trademark may file an appeal with the Agency within 60 days from the date of publication of such decision.

**99.** Notice of trademark registration shall be given electronically through the Department's website or in the Department's Publication Book.

**100.** Any documents attached to the application submitted to the Registrar in accordance with the Law or these Rules and other communication documents shall be translated into Burmese or English if they are not in Burmese or English. The applicant or his representative shall certify that the translation is accurate and signed.

**101.** (a) In calculating the expiration of any period by year, the period shall be counted from the date on which the period commences. If the commencement date is February 29, the period shall be deemed to have expired on February 28 of the year in which the period expires.

(b) In calculating the expiration of any period by month, the period shall be counted from the date on which the period commences. Since there is a difference in the number of days from one month to another, only the last day of each month shall be deemed to have expired.

(c) In calculating the expiration of any period, the period shall be counted from the date on which the period commences.

**102.** (a) An applicant for an extension of the period specified in the Law and these Rules may, before the expiry of the specified period, apply to the Registrar on the basis of valid reasons by paying the service fee specified by the Agency and using the application form TM-18.

(b) The Registrar shall, after examining the application under (a), if there are valid reasons, grant a further extension of the period and notify the applicant. The further extension may be granted only for a maximum of four times, each time for a period of 30 days.

(c) Where the Registrar has granted an extension of the period under (b), no further extension shall be granted except for a single extension of 30 days in exceptional circumstances such as emergencies.

**103.** The Registrar shall:

(a) Publish the application forms prescribed by the Ministry for the registration of trademarks for the public to know and use.

(b) Publish the fees to be paid and the methods of payment prescribed by the Department for the registration of trademarks as determined by the Agency through the Central Committee with the approval of the Union Government.

**104.** Fees paid shall not be refundable under any circumstances.