

Government of the Republic of the Union of Myanmar

Ministry of Commerce

Notification No. 17/ 2023

The 11th Waxing Day of Tagu, 1384 M.E.

(31 March 2023)

In exercise of the powers conferred under clause (i) of subsection (b) of section 106 of the Trademark Law, the Ministry of Commerce, with the approval of the Union Government, hereby issues these Rules.

Chapter I

Title and Definitions

1. These Rules shall be called the rules for registration of the mark.
2. The expressions contained in these Rules shall have the same meanings as defined in the Trademark Law. Moreover, the following expressions shall have the meaning given below:

- (a) **“Law”** means the Trademark Law;
- (b) **“Applicant”** means the natural person or legal entity whose name is mentioned in any application relating to the registration of the mark;
- (c) **“Class Number and List”** means the class number and lists of goods or services specified of details in the group according to the Nice Classification;

Explanation: Nice Classification means the international trademark classification that was latest edition under the Nice Agreement (1957) used to classify goods and services for the registration of the mark.

- (d) **“Opposer”** means the person or legal entity who files an opposition concerning the application for registration of a mark under section 26 of the Law;
- (e) **“Representative”** means an applicant entitled to represent the applicant, opposer, right holder or any interested party before the Agency or Registrar, in respect of the mark matters under rule 89;
- (f) **“Fees”** means the fees prescribed 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 notification, by the Ministry;

- (h) **“Registration”** means the registration of the mark that has verified by the Registrar upon submission of the examination report relating to the mark applied by the examiner with his remark;
- (i) **“Register”** means the recorded list, by any way, including electronic method, of all the relevant facts of a mark, including granting or refusing registration of the mark by the Department.

Chapter II

Application for Registration

3. The applicant for the registration of a mark shall file the application with form TM-1, filled in Myanmar language or English language, to the Registrar using one of the following ways;
 - (a) filing with the electronic method specified by the Department;
 - (b) filing to the Department;
 - (c) filing through any post office authorized by the State.
4. The application shall include at least the following indications:
 - (a) the request for the registration of the mark;
 - (b) the name and full address of the applicant
 - (i) where the application is the name of a person, the name, citizenship scrutiny card number and full address, or for a foreigner, the name, passport number and full address, or where the application is the name of a legal entity, the name of that legal entity, the registration number, type, the name of the country where the legal entity is established and the full address;
 - (ii) where the application includes more than one applicant, the name of the contact applicant, citizenship scrutiny card number and full address or for a foreigner, the name, passport number and full address (the name and citizenship scrutiny card number of joint applicants or for a foreigner, passport number and full address shall be attached to the original application.)
 - (c) where the applicant has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the applicant is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the applicant resides or in the State where the business operates, shall be attached.);
 - (d) a sufficiently clear representation of the mark prescribed under Chapter III of these Rules;

- (e) where the applicant requests the color as the distinctive characteristics of the mark, the name of the desired colors which are included in the characteristics of the mark or the code number which is classified by color and the representation concerning each color;
 - (f) the class number and lists of goods and services for the registration of the mark;
 - (g) where the application is filed for a three-dimensional mark (3D mark) or the combination of two colors or more than two colors (Combination of Color mark), the description that there is acquired distinctiveness between the mark and goods or services used (The applicant shall attach the application with that description.);
 - (h) where the application is filed for collective mark, the regulations laid down by the collective entity to be followed by the members for official use of collective mark (Those regulations shall be submitted within three months from the date of registration);
 - (i) where the application is filed for certification mark, the regulations laid down by owner of certification mark to be followed for granting its use (Those regulations shall be submitted within three months from the date of registration);
 - (j) where the element or word of the mark is the descriptions or indications of the characteristics of goods or services, the generic in the current language or in the bona fide and established practices of the trade that cannot be defined as a mark, the elements or words of the disclaimer which will not be requested for exclusive use;
 - (k) the amount of fees to be paid for the registration of the mark and the proof of payment;
 - (l) the applicant's signature or the representative's signature (The full name of the signing person and the signing date shall be described and in case of application submitted by the electronic method designated by the Department, the name of the applicant or the representative shall be described via electronic method without the need for signing with the original ink. Where filing for more than one applicant, one of the applicants shall sign the application on behalf of all and a copy of any other proof of the consent of all the applicants shall be attached).
5. (a) Where there is a request to take advantage of the right of priority for the registration of the mark under clause (ii) of subsection (b) of section 17 of the Law in the registration of the mark:
- (i) the first filing date of the registration of the mark, the application number, the name of the State and office which have been made in any Member State to

- the Paris Convention or the agreement establishing the World Trade Organization shall be described;
- (ii) the applicant shall submit a copy of the application specifying the filing date of the previous application, the application number, the name of the State and office in Myanmar language or English language within three months from the filing date of the application;
 - (iii) Where the applicant requesting to take advantage of the right of priority, who is not included as an applicant in the previous application, shall attach the documents for the transfer of right of priority by the previous applicant to the Registrar together with the application.
- (b) Where there is a request to take advantage of the right of exhibition priority for the registration of the mark under clause (iii) of subsection (b) of section 17 of the Law in the registration of the mark:
- (i) the date of first disclosure of the mark and the name of the State at an official or officially recognized international exhibition held in any member State to the Paris Convention or the agreement establishing the World Trade Organization shall be described;
 - (ii) the applicant shall submit a certified document of the actual use of the mark, issued by the authority of the exhibition within three months from the filing date of the application. Such document shall be valid document of the use of the mark for the goods or services in the application;
 - (iii) where the commencement date of the exhibition and the date of first disclosure of the mark by the applicant in the exhibition are not the same, the evidences for each respective date shall be submitted;
 - (iv) where the applicant requesting to take advantage of the right of exhibition priority, who is not the first exhibitor in the exhibition, shall attach the documents for the transfer of exhibition priority right by the exhibitor to the Registrar together with the application.
6. Where the applicant files for the right of priority use, it shall be processed in accordance with the provisions of Chapter IV of these Rules.

Chapter III

Description of the Mark

7. The mark shall be described in a sufficiently clear manner with clarity to the subject matter of the protection afforded to its owner.

8. Where the application is for a three-dimensional mark (3D mark), the different views of the mark shall be described and where the application is for the combination of two colors or more than two colors (Combination of Color mark), the description that the mark is composed of explicit shape or explicit combination of color shall be included.

9. Where the mark contains the letters, words or numerals used in the other language except the Myanmar language or English language, that letters, words or numerals used in the other language shall be accompanied by the transliteration of these letters, words or numerals in the Myanmar language or English language.

10. Where the mark contains a word or words used in the other language except the Myanmar language or English language, it shall be accompanied by a translation of that word or words in the Myanmar language or English language.

11. The mark described in the application may be submitted as an appendix. Where submitting such an appendix;

- (a) on the description by paper sheet, it shall contain all clear views or images related to the mark and shall not exceed [DIN A4 size (29.7 cm high, 21 cm wide)]. The margin of at least 2.5 cm shall be left all around;
- (b) on the description by electronic method, it shall be submitted digital photo (.JPG) file type and the size shall not be more than one megabyte.

Chapter IV

Right of Priority Use

12. If the owner filing under subsection (a) of section 93 of the Law desires the benefits of the right of priority use for the following marks under rule 13, he shall file the application for the registration of the mark in accordance with the provisions of this chapter within 6 months from the first official receiving date to the Registrar:

- (a) the marks registered in the Office of the Registration of Deeds under direction 13 of the Registration Act, 1908 and the Registration of Deeds Law (The Pyidaungsu Hluttaw Law No.9, 2018), before the Law comes into force;
- (b) the marks of the actual use in the channel of commerce of the State, even though unregistered in the Office of the Registration of Deeds, under the direction 13 of the Registration Act, 1908 and the Registration of Deeds Law (The Pyidaungsu Hluttaw Law No.9, 2018), before the Law comes into force.

13. The owner of the mark shall have the right of priority use within five years from the first official receiving date for the registration of the mark for the goods or services which were used by

the mark. During the period of the right of priority use, he may oppose under section 26 of the Law or defend under section 27 of the Law.

14. Where filing the marks prescribed in subrule (a) of rule 12, the documentary evidence that certifies the mark is registered at the Office of Registration of Deeds and the documentary evidence, such as the announcement that the mark is being registered in a local newspaper, magazine or journal shall be attached.

15. Where filing the marks prescribed in subrule (b) of rule 12, the documentary evidence which the date of use can be confirmed such as invoices, receipts, catalogues and advertisements and cautionary notice and the documentary evidence, such as the announcement of the ownership of the mark in a local newspaper, magazine or journal shall be attached.

16. Where the applicant shall file to claim the right of priority use for the marks prescribed in subrule (a) of rule 12, that applicant is not the owner who registered the mark in accordance with the Registration Act at the Office of Registration of Deeds before the Law comes into force, he shall submit documents, such as the transfer of the owner of the mark or change of the owner's name of the mark to the Registrar.

17. With regard to the supporting documents attached to the application:

(a) the mark that wants to acquire the right of a registered mark that is registered in accordance with the Registration Act at the Office of Registration of Deeds before the Law comes into force or the mark that is unregistered which is the mark of the actual use in the channel of commerce of the State shall be identical and the goods or services used for the mark shall also be identical.

(b) invalid evidence and re-expanded list of goods or services shall not be considered.

18. This right of priority use shall not concern the right of priority described in sections 31 and 32 of the Law.

19. With regard to the marks that were registered and filed under rule 12, the owner of the mark shall have the right of a registered mark from the date of filing as long as the registration period is valid and have the right of priority use within the prescribed period under rule 13.

Chapter V

Examination of Application

20. With regard to the registration of the mark, after paying fees prescribed by the Agency in accordance with the method prescribed by the Department, the Registrar shall designate the receiving date of the registration which complies with subsection (a) of section 17 of the Law as the filing date of the application for registration in the State under section 18 of the Law.

21. The Examiner shall:

- (a) notify the applicant, with the approval of the Registrar, to amend the application or submit the explanation within 30 days from the date of receipt of notification if the application falls under any of the provisions of section 13 of the Law or does not fulfill the requirements of subsection (a) of section 17 of the Law or does not include the relevant facts of subsection (b) of section 17 of the Law;
- (b) deem the application withdrawn if there is no amendment within the prescribed period under subrule (a);
- (c) carry out the application under subsection (c) of section 23 of the Law if there is an amendment within the prescribed period under subrule (a).

22. The Examiner shall notify the applicant with the approval of the Registrar to disclaim the words or elements of the mark where the words or elements of the disclaimer are not described under subrule (j) of rule 4, without damaging the registration of the mark. However, the disclaimer does not prejudice or affect the applicant's original rights. It shall have no effect or prejudice the disclaimer of the application to be applied in the future with respect to the words or elements where the disclaimed words or elements have then become distinctive of the applicant's goods or services.

23. (a) Where the applicant submits the evidence that the application of the mark is relevant with one of the exception of subsection (a) or (b) of section 13 of the Law, such as, the mark has acquired distinctiveness as a result of use among consumers before the registration date of the application or the mark has been used continuously and exclusively at least three years, in good faith in the field of trade of the State by the applicant, the Examiner may request to provide sufficient evidence;
- (b) Where the submitted evidence under subrule (a) is not sufficient for examination, the Examiner may request the applicant to resubmit the relevant evidence with the approval of the Registrar.

24. Where the applicant fails to submit within the prescribed period that the applied mark is relevant with the exceptions of subsection (a) or (b) of section 13 of the Law, the Examiner shall submit it with remarks to the Registrar. If it is submitted, the Registrar shall refuse the whole application or some parts of the registration, notify the applicant and make a publication of it.

25. The Registrar shall not permit the registration of the Three-dimensional mark (3D mark) or the combination of two colors or more than two colors (Combination of Color mark), where it includes established practices or technical creations whether or not it includes the provisions described in subrule (a) of rule 23.

26. Where the Registrar publicizes the application of registration under subsection (b) of section 25 of the Law, the following shall be included:

- (a) the name and full address of the applicant;

- (b) where the applicant has appointed a representative, the name, citizenship scrutiny card number and full address of the representative;
- (c) the representation of the mark;
- (d) the class number and lists of goods and services of the mark which is filed to register;
- (e) the filing date and the application number;
- (f) the facts about the right of priority where the applicant claims the right of priority;
- (g) the part of the mark which is disclaimed by the applicant;
- (h) the statements that the applied mark has become distinctive in consequence of the use which has been made of it;
- (i) the facts for the mark if the application is filed for the registration of a collective mark or a certification mark.

Chapter VI

Reinstatement of the Application

27. Where the applicant has failed to amend the application with requirements within 30 days from the date of notification and that failure has the consequence of causing the loss of rights in respect of the application for the registration of a mark, he may reapply the registration of the mark within 60 days from the date of withdrawal with the application form TM-3 to the Registrar.
28. Where the applicant reapplies under rule 27, the following at least shall be included:
- (a) the application number;
 - (b) the name and full address of the applicant;
 - (c) where the applicant has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the applicant is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the applicant resides or in the State where the business operates, shall be attached.);
 - (d) the amount of fees to be paid for the reinstatement of the application and the proof of payment.
29. With regard to the reinstatement of the application, the Registrar shall:
- (a) notify the applicant to amend the application within 30 days from the date of notification if incomplete facts are found;
 - (b) deem the application nullified if the applicant does not amend it within the prescribed period under subrule (a);
 - (c) approve the application if completed facts are found.

Chapter VII

Correction of Clerical Error and Other Mistakes that may be permitted to correct

30. The applicant may file to correct clerical error in any application, translation and documents and the address of the applicant, the business address of the representative and the class number of goods or services without extending, the correction or addition of disclaiming the words or elements of the mark and any other error that may be approved to fix like the translation of the mark, with the application form TM-4 to the Registrar.

31. Where filing under rule 30, the applicant shall file the application to the Registrar before the Registrar approves or refuses the registration of the mark or before the Agency makes a final decision regarding an appeal against the decision of the Registrar.

32. Where filing under rule 30, the following at least shall be included:

- (a) the application number;
- (b) the name and full address of the applicant;
- (c) where the applicant has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the applicant is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the applicant resides or in the State where the business operates, shall be attached.);
- (d) the amount of fees to be paid for the correction of clerical error and other mistakes that may be permitted to be corrected and the proof of payment.

33. With regard to the correction of clerical error and other mistakes that may be permitted to be corrected, the Registrar shall:

- (a) notify the applicant to amend the application within 30 days from the date of notification if incomplete facts are found;
- (b) deem the application nullified if the applicant does not amend it within the prescribed period under subrule (a);
- (c) amend the requested clerical error and other mistakes that may be permitted to be corrected in the application, if completed facts are found, and notify the applicant.

Chapter VIII

Withdrawal of Application

34. The applicant for the registration of a mark may file with the application form TM-5 to withdraw either the whole application or goods and services in the application, part of the classes of goods or services to the Registrar.

35. Where filing under rule 34, the following at least shall be included:
- (a) the application number;
 - (b) the name and full address of the applicant;
 - (c) where the applicant has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the applicant is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the applicant resides or in the State where the business operates, shall be attached.);
 - (d) the class number and lists of goods and services which is to be withdrawn.
36. With regard to the withdrawal of the application, the Registrar shall:
- (a) notify the applicant to amend the application within 30 days from the date of notification if incomplete facts are found;
 - (b) deem the application nullified if the applicant does not amend within the prescribed period under subrule (a);
 - (c) if completed facts are found, withdraw the whole application, where the request is for a total withdrawal, or withdraw the partial application, where the request is for a partial withdrawal in which the requested elements of goods and/or services in the application from which the withdrawal is sought shall be withdrawn, and notified the applicant of that.

Chapter IX

Limitation or Reduction of the Lists of Goods or Services without Extending

37. The applicant may, without extending the list of goods or services contained in the application for the registration of the mark, file to limit or reduce the lists of goods or services with the application form TM-6 to the Registrar.
38. Where filing under rule 37, the following at least shall be included:
- (a) the application number;
 - (b) the name and full address of the applicant;
 - (c) where the applicant has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the applicant is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the applicant resides or in the State where the business operates, shall be attached.);

- (d) the amount of fees to be paid for the limitation or reduction of the lists of goods or services and the proof of payment.

39. With regard to the application for the limitation or reducing of the list of goods or services, the Registrar shall:

- (a) notify the applicant to amend the application within 30 days from the date of notification if incomplete facts are found;
- (b) deem the application nullified if the applicant does not amend within the prescribed period under subrule (a);
- (c) notify the applicant to amend the lists of goods or services contained in the application if completed facts are found.

Chapter X

Division of an Application

40. The applicant may file with the application form TM-7 to divide the lists of goods or services contained in the application for registration into more than one application to the Registrar.

41. Where filing under rule 40, the following at least shall be included:

- (a) the application number;
- (b) the name and full address of the applicant;
- (c) where the applicant has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the applicant is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the applicant resides or in the State where the business operates, shall be attached.)
- (d) the amount of fees to be paid for the division of the lists of goods or services and the proof of payment.

42. With regard to the division of the application, the Registrar shall:

- (a) notify the applicant to amend the application within 30 days from the date of notification if incomplete facts are found;
- (b) deem the application nullified if the applicant does not amend within a time limit indicated under subrule (a);
- (c) if completed facts are found:
 - (i) establish a separate file that includes the request for division for each new application and the completed copy of the initial application;

- (ii) designate the filing date of the initial application as the filing date of each application, where applications with multiple goods or services are filed to be divided into new applications;
- (iii) designate the new application number for each divided new application and notify the applicant;
- (iv) publish for each divided new application under rule 26.

Chapter XI

Opposition

43. With regard to the application for registration of a mark under section 26 of the Law, the opposer may file an opposition with the application form TM-8 within 60 days from the date of publication by stating any grounds defined in sections 13 and 14 of the Law to the Registrar.

44. Where filing an opposition under rule 43, the following at least shall be included:

- (a) the application number which is to be opposed;
- (b) the name of the applicant;
- (c) the class number and lists of goods and services which will be included in the opposition;
- (d) the name, citizenship scrutiny card number and full address of the opposer, or for a foreigner, the name, passport number and full address; or where the application is the name of a legal entity, the name of that legal entity, the registration number, type and the name of the country where the legal entity is established and the full address;
- (e) where the opposer has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the opposer is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the opposer resides or in the State where the business operates, shall be attached.);
- (f) the amount of fees to be paid for the opposition and the proof of payment.

45. Where the opposer files an opposition based on any relative grounds for refusal under section 14 of the Law, in addition to the requirements laid down in rule 44, the following information shall be accompanied;

- (a) where there is an opposition under the subsection (a) of section 14 of the Law,
 - (i) a sufficiently clear description that is identical with or similar to the registered mark or earlier applied mark or priority claimed mark or licensed or permitted to use;

- (ii) the filing date of the application for registration, application number, the date of registration, the registration number of a mark, the date for the priority claimed right where the mark is the registered mark or earlier applied mark or priority claimed mark;
 - (iii) the evidence that is allowed by the Registrar where the mark does not describe for the filing date of registration, the first date of the protection right in the State;
 - (iv) the description of filing the opposition where the licensee or the earlier holder is applicable.
- (b) where there is an opposition based on the facts under subsections (b), (c), (d), (e) and (f) of section 14 of the Law, where the evidence related to those facts.
46. Where the opposer requests more than one right based on the relative grounds for refusal under section 14 of the Law, for each of those rights, the specified provisions in rule 45 shall be accomplished.
47. The filed opposition and the attached documents shall be submitted in two copies.
48. Where the grounds for opposition are based on identical or similar marks which more than one applicant has filed on the same date or claims the same priority date; where no agreement is reached among themselves after consultation under subsection (b) of section 20 of the Law, the Registrar shall exercise, under subsection (c) of section 20 of the Law, as follows:
- (a) coordination and settlement by using suitable methods;
 - (b) where no agreement is reached upon coordination under subrule (a), the application for the registration of the mark shall be cancelled.

Chapter XII

Opposition Procedures

49. Where the Registrar receives the application for the opposition, the Registrar:
- (a) shall first decide whether the opposition is accepted or not and notify the opposer;
 - (b) shall request the opposer to provide arguments and evidence, and the certification of evidence which the mark is a well-known mark within 60 days from the date of notification under subrule (a), notify the applicant of the application and evidence submitted by the opposer and deem the application nullified if the opposer does not amend within the prescribed period;
 - (c) shall notify the applicant to request the evidence regarding the use of the mark and the further evidence as evidence regarding the well-known mark from the opposer in addition to the evidence with subrule (b) and to submit the necessary evidence along

with the defense within 60 days from the date of notification if such evidence is not requested;

- (d) shall notify the opposer to submit valid evidence for the use of the mark or the absence of the use within 60 days from the date of notification if the applicant requests further evidence;
- (e) shall notify the applicant to submit the defense within 30 days from the date of notification if the opposer submits further evidence;
- (f) may request the relevant persons to submit further reasons or the other documents within 30 days from the date of notification if he presumes further clarification is necessary;
- (g) may summon both sides for a hearing if necessary;
- (h) shall make a decision on the opposition based on the submitted reasons, goods or services and documents;
- (i) shall record the decision in the register with subsections (b) and (c) of section 28 of the Law, notify the relevant persons and make a publication of it.

50. The publication of approval or refusal of opposition on the registration of the mark shall include the following:

- (a) the application number;
- (b) the name and full address of the applicant;
- (c) where the applicant has appointed a representative, the name, citizenship scrutiny card number and full address of the representative;
- (d) the class number and lists of goods and services included in the opposition.

Chapter XIII

Criteria for Identifying Well-known Marks

51. Where determining the mark as a well-known mark, the Registrar shall consider the following information:

- (a) the level of knowledge or recognition of the mark in the relevant sector of the public in the State;
- (b) the duration, extent and geographical area of any use of the mark;
- (c) the duration, extent and geographical area of any promotion of the mark, including advertising or publicity and the presentation, at fairs or exhibitions, of the goods or services to which the mark applies;

- (d) the registration of the mark or applications for registration of the mark or both, which are concerned with the duration and geographical area, to the extent that they reflect use or recognition of the mark;
 - (e) the record of accomplished enforcement of rights in the mark, in particular, the extent to which the mark has been recognized as well-known by competent authorities;
 - (f) the value of the mark;
 - (g) other facts that can be determined as the mark is a well-known mark.
52. Although the facts described in rule 51 are guidelines to assist the Registrar in determining whether the mark is a well-known mark, they shall not be deemed as preconditions for reaching that determination.
53. Although the relevant sectors of the public and the level of knowledge within the State are not limited, the Registrar may consider the following when determining that the mark is a well-known mark:
- (a) actual or potential consumers of types of goods or services to which the mark applies;
 - (b) persons involved in the channel of distribution or providing the goods or services to which the mark applies;
 - (c) business circles dealing or providing the goods or services to which the mark applies.
54. The Registrar shall not consider the following as a condition for determining whether the mark is well-known:
- (a) that the mark has been used in, or that the mark has been registered or that an application for registration of the mark has been filed in or in respect of, the Union;
 - (b) that the mark is well-known in, or that the mark has been registered or that an application for registration of the mark has been filed in or in respect of, any jurisdiction other than the Union; or
 - (c) that the mark is well-known by the public at large in the State.

Chapter XIV

Registration and Recordation of a Mark

55. Where no opposition has been filed on the application for the registration of a mark or where any opposition filed has been withdrawn by the opposer, or any opposition has been rejected, the Registrar shall notify the applicant to pay the registration fees within 60 days from the date of notification. Where the applicant fails to pay within the prescribed period, the registration shall be considered as withdrawn.

56. The recordation of registration of a mark, whether grant or refuse, under subsection (c) of section 28 of the Law, shall include:

- (a) the application number;
- (b) the filing date of the application;
- (c) the name and citizenship scrutiny card number or the passport number in case of foreigner and full address of the applicant; the name of that legal entity, the registration number, type, full address and name of the country of that legal entity where the application is filed for a legal entity;
- (d) where the applicant has appointed a representative, the name, citizenship scrutiny card number and full address of the representative;
- (e) the representation of the mark;
- (f) the class number and lists of goods and services which are allowed to register;
- (g) the particulars of the claim of priority filed by the applicant;
- (h) the particulars of the claim of exhibition priority filed by the applicant;
- (i) the portions of mark that are disclaimed;
- (j) a statement that the mark has become distinctive in relation to the goods or services for which it is registered in consequence of the use which has been made of it;
- (k) the date of registration of the mark in the Register;
- (l) the registration number;
- (m) the date on which the period of validity of the registration expires;
- (n) where filing, a statement that the registration is for a collective mark or a certification mark.

57. The application for the registration of a mark under subsection (c) of section 28 of the Law, the Register shall:

- (a) record the grant of application for the registration of a mark in the register if approved, and publish it as specified in rule 56.
- (b) record the refusal of the application for the registration of a mark in the register if refused, and publish it;
- (c) issue the certificate of a registered mark to the applicant if the registration is granted.

58. Where the owner of a mark requests to issue the duplicate of the certificate of a registered mark with the application form TM-9 due to the loss or damage to the original certificate under subsection (a) of section 29 of the Law, by paying the fees prescribed by the Agency, the Registrar shall issue a certified copy of the registration.

Chapter XV

Amendment of register

59. The owner of a mark may file with application form TM-10 for the amendment of the clerical error, nationality and address recorded in the register and any other mistake that may be permitted to correct except the registered mark, the class number and lists of goods and services, to the Registrar.
60. Where filing under rule 59, the following shall be included:
- (a) the registration number of a mark;
 - (b) the name and full address of the owner of a mark;
 - (c) where the owner of the mark has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the owner of the mark is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the owner of the mark resides or in the State where the business operates, shall be attached.);
 - (d) the amount of fees to be paid for the amendment of the register and the proof of payment.
61. With regard to the amendment of the register of the mark, the Registrar shall:
- (a) notify the owner of the mark to amend the application within 30 days from the date of notification if incomplete facts are found;
 - (b) deem the application nullified if the owner of the mark does not amend within the prescribed period under subrule (a);
 - (c) notify the owner of a mark to amend the registration under subsection (b) of section 30 of the Law if completed facts are found.

Chapter XVI

Renewal

62. The owner of a mark may file with the application form TM-11 for the renewal of the registration of a mark within 6 months before the expiry of the term of the registration of a mark or within the grace period of 6 months after the expiry of the term of the registration of a mark to the Registrar.
63. Where filing under rule 62, the following at least shall be included:
- (a) the registration number of a mark;
 - (b) the name and full address of the owner of a mark;
 - (c) where the owner of the mark has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the owner of the mark is not a permanent resident in the

State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the owner of the mark resides or in the State where the business operates, shall be attached.);

- (d) the date on which the period of validity of the registration expires;
 - (e) the amount of fees to be paid for the renewal of the term of registration of a mark and the proof of payment (where the renewal of the term of registration of a mark is filed within the grace period of 6 months after the expiry of the term of the registration of the mark, the prescribed late fees shall be paid).
64. With regard to the renewal of the term of registration of a mark, the Registrar shall:
- (a) notify the owner of a mark to comply with the requirements within 6 months before the expiry of the term of the registration of a mark or within the grace period of 6 months after the expiry of the term of the registration of a mark if incomplete facts are found;
 - (b) deem the application nullified if the owner of a mark does not amend within the prescribed period under subrule (a) and record the termination of the registration of the mark in a register and make a publication of it;
 - (c) renew the registration of a mark under subsections (b) and (c) of section 36 of the Law if completed facts are found, record the renewal of the registration of a mark in the register by changing the expiry date of the registration of a mark and send the confirmation of renewal to the owner of a mark and make a publication of it.
65. (a) The publication of the renewal of the registration of the mark shall include:
- (i) the registration number of a mark;
 - (ii) the name and full address of the owner of a mark;
 - (iii) where the owner of the mark has appointed a representative, the name, citizenship scrutiny card number and full address of the representative;
 - (iv) the new date of expiry for the registration of a mark.
- (b) The publication of the removal of the registration of a mark shall include:
- (i) the registration number of a mark;
 - (ii) the name and full address of the owner of a mark;
 - (iii) where the owner of the mark has appointed a representative, the name, citizenship scrutiny card number and full address of the representative;
 - (iv) the reason for the removal of registration of a mark.

Chapter XVII

Recording the Transfer of the Rights of Mark

66. The transferee or the owner of the mark may file to the Registrar with the application form TM-12 to record the transfer of ownership of a mark to any person or legal entity, in part or all of goods or services, or the goods and services of the registered mark.
67. Where filing under rule 66, an application shall include the following at least:
- (a) the registration number of the mark;
 - (b) the name and full address of the owner of a mark;
 - (c) where the owner of the mark has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the owner of the mark is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the owner of the mark resides or in the State where the business operates, shall be attached.);
 - (d) the name, citizenship scrutiny card number and full address of the transferee, or for a foreigner, the name, passport number and full address; or where the application is the name of a legal entity, the name of that legal entity, the registration number, type and the name of the country where the legal entity is established and the full address;
 - (e) where the transferee has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the transferee is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the transferee resides or in the State where the business operates, shall be attached.);
 - (f) the number and lists of goods and services for the transferring assets;
 - (g) the amount of fees to be paid for applying to record the transferring assets and the proof of payment.
68. With regard to the application for the recordation of the change in ownership, the Registrar shall:
- (a) notify the owner of the mark or the transferee to amend the application within 30 days from the date of notification if incomplete facts are found;
 - (b) deem the application nullified if the owner of the mark or the transferee doesn't amend within the prescribed period under subrule (a);
 - (c) if completed facts are found, record the transfer of ownership, notify the owner of the mark and the transferee and make a publication of it.

69. Where the application is filed to record the transfer of ownership of only a part of the goods or services of a registered mark:

- (a) the Registrar shall identify separately the applied list to record the remaining list in the original register and the partial transfer of assets without duplication;
- (b) the Registrar shall record a new registration enclosed full facts of original registration to have link between the original registration recorded and current application to record its partial transfer;
- (c) the Registrar shall issue a new registration number to record the transfer of partial assets.

70. The publication of the recordation of the change in ownership under section 43 of the Law shall include:

- (a) the registration number of the mark;
- (b) the class number and lists of goods and services which are recorded for the transfer of ownership;
- (c) the name and full address of the transferee;
- (d) where the transferee has appointed a representative, the name, citizenship scrutiny card number and full address of the representative.

71. Where apply for recording the transfer of an application of a mark under subsection (a) of section 42 of the law, it shall apply, *mutatis mutandis*, the method relating to the change in the ownership of a mark.

Chapter XVIII

Recordation of Licence

72. The owner of the mark or his licensee may file a request for the recordation of licence for the registered mark and the class numbers of goods or services of the mark to the Registrar by the application form TM-13.

73. Where filing under rule 72, an application shall include the following at least:

- (a) the name and full address of the owner of the mark;
- (b) where the owner of the mark has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the owner of the mark is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the owner of the mark resides or in the State where the business operates, shall be attached.);
- (c) the name, citizenship scrutiny card number and full address of the licensee, or for a foreigner, the name, passport number and full address; or where the application is the

- name of a legal entity, the name of that legal entity, the registration number, type and the name of the country where the legal entity is established and the full address;
- (d) where the licensee has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the licensee is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the licensee resides or in the State where the business operates, shall be attached.);
 - (e) the registration number of the mark which is the subject of licence;
 - (f) the indication of the class number and lists of goods and services for which the licence is granted;
 - (g) the amount of fees to be paid for applying to record the licence and the proof of payment.
74. (a) Where filing for the recordation of licence, the agreement signed by both the owner of the mark and the licensee shall be attached.
- (b) Where filing for the recordation of licence, a document stating express consent signed by the co-owner of the registration of the mark shall be attached.
75. With regard to the request for the recordation of licence, the Registrar shall:
- (a) notify the applicant to amend the application within 30 days from the date of notification if incomplete facts are found;
 - (b) deem the application nullified if the applicant doesn't amend within the prescribed period under subrule (a);
 - (c) record the licence if completed facts are found and notify the applicant and make a publication of it.
76. The publication of the recordation of licence shall include the following indications:
- (a) the registration number of the mark which is the subject of the licence;
 - (b) the name and full address of the owner of the mark;
 - (c) where the owner of the mark has appointed a representative, the name, citizenship scrutiny card number and full address of the representative;
 - (d) the name and full address of the licensee;
 - (e) where the licensee has appointed a representative, the name, citizenship scrutiny card number and full address of the representative;
 - (f) the class number and lists of the goods and services of that licence.

Chapter XIX

Cancellation of the Recordation of Licence

77. The owner of the mark or the licensee may file to the Registrar with the application form TM-14 for the cancellation of licence under section 48 of the Law.
78. Where filing under rule 77, the following at least shall be included:
- (a) the name and full address of the owner of the mark;
 - (b) where the owner of the mark has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the owner of the mark is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the owner of the mark resides or in the State where the business operates, shall be attached.);
 - (c) the name, citizenship scrutiny card number and full address of the licensee, or for a foreigner, the name, passport number and full address; or where the application is the name of a legal entity, the name of that legal entity, the registration number, type and the name of the country where the legal entity is established and the full address;
 - (d) where the licensee has appointed a representative, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the licensee is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the licensee resides or in the State where the business operates, shall be attached.);
 - (e) the registration number of the mark which is the subject of licence;
 - (f) the class number and lists of goods and services that to be cancelled from the register.
79. The request for the cancellation of the recordation of licence shall attach one of the following:
- (a) documents corresponding to the application for the cancellation of the recordation of licence; or
 - (b) a signed agreement between the owner of the mark and the licensee for the cancellation to the application.
80. With regard to the request for cancellation of the recordation of licence, the Registrar shall:
- (a) notify the applicant or the licensee to amend the application within 30 days from the date of notification if incomplete facts are found;
 - (b) deem the application nullified if the applicant or the licensee doesn't amend within the prescribed period under subrule (a);

- (c) record the cancellation of licence if completed facts are found, notify the applicant or the licensee and make a publication of it.
81. The publication of the cancellation of the recordation of licence shall include the following indications:
- (a) the name and full address of the owner of the mark;
 - (b) where the owner of the mark has appointed the representative, the name, citizenship scrutiny card number and full address of the representative;
 - (c) the name and full address of the licensee;
 - (d) where the licensee has appointed the representative, the name, citizenship scrutiny card number and full address of the representative;
 - (e) the registration number of the mark which is the subject of licence;
 - (f) the class number and lists of goods and services that to be cancelled from the register.

Chapter XX

Invalidation and Cancellation of the Registration of a Mark

82. (a) Any interested person may file the request for invalidation for the registration of the mark where the registered mark does not comply with the definition of, subsection (j) of section 2 of the Law or does not register due to absolute grounds for refusal of section 13 of the Law or relative grounds for refusal of section 14 of the Law, to the Registrar with the application form TM-15 to declare for the invalidation of mark registration with the evidence that the mark should not be registered.
- (b) Any interested person may file the request for cancellation of the registration of the mark where the mark has not been put to genuine use within a period of three years from the date of registration or the mark has been suspended for an uninterrupted period of three years or the mark consisting exclusively of indications which may serve, in trade, to designate the kind, subject matter, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods, or of indications that have become generic or customary in the current language or in the bona fide and established practices of trade, to the Registrar with the application form TM-16.
- (c) For the examination of acceptance of applications under subrules (a) and (b), he shall pay the prescribed service fees by the Agency.
83. Where filing under rule 82, the following at least shall be included:
- (a) the registration number of the mark for which invalidation or cancellation is sought;
 - (b) the name of the owner of the mark;

- (c) the class number and lists of goods and services for which the invalidation or cancellation is sought;
- (d) the name, citizenship scrutiny card number and full address of the the applicant to be declared invalidation or cancellation, or for a foreigner, the name, passport number and full address; or where the application is the name of a legal entity, the name of that legal entity, the registration number, type and the name of the country where the legal entity is established and the full address;
- (e) where the applicant has appointed a representative to be declared invalidation or cancellation, the name, citizenship scrutiny card number and full address of the representative. (The application form TM-2 shall be attached. If the applicant is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where the applicant resides or in the State where the business operates, shall be attached.);
- (f) the amount of fees to be paid for applying for the invalidation or cancellation of the mark and the proof of payment.

84. Where any interested person files the request for invalidation under section 14 of the Law, in addition to the requirements described in rule 83, the following shall be included:

- (a) where it is to be declared invalidation under subsection (a) of section 14 of the Law:
 - (i) a clear description that is identical with or similar to the registered mark or earlier applied mark or priority claimed mark or licensed or permitted to use;
 - (ii) the filing date of the application for registration, application number, the date of registration, the registration number of a mark, the date for the priority claimed right where the mark is the registered mark or earlier applied mark or priority claimed mark;
 - (iii) the evidence that is allowed by the Registrar where the mark does not describe the filing date of registration, the first date of the protection right in the State;
 - (iv) the class number and lists based on the application to declare for the invalidation;
 - (v) the description of filing to declare the invalidation where the licensee or the earlier right holder is applicable;
- (b) the evidence related to the indications where filing for the declaration of invalidation based on indications of subsections (b), (c), (d), (e) and (f) of section 14 of the Law.

85. Where the application is filed for the declaration of invalidation by a person or legal entity based on more than one relative ground for refusal under section 14 of the Law, the indications laid down in rule 84 shall be provided for each of these rights.

86. Where the application is filed for the invalidation or cancellation of the mark, two copies of the relevant documents shall be attached.

87. Where the Registrar receives the application for the invalidation or cancellation under sections 50 or 51 of the Law, the Registrar:

- (a) shall first decide, if the application is verified, whether the application is accepted or not and notify the applicant;
- (b) shall request the applicant to provide arguments and evidence, and the certification of evidence which the mark is a well-known mark within 60 days from the date of notification under subrule (a), notify the applicant of the application and evidence submitted by the applicant and deem the application nullified if the applicant does not amend within the prescribed period;
- (c) shall notify the owner of the mark to request the evidence regarding the use of the mark and the further evidence as evidence regarding the well-known mark from the applicant in addition to the evidence with subrule (b) and to submit the necessary evidence along with the defense within 60 days from the date of notification if such evidence is not requested;
- (d) shall notify the applicant to submit valid evidence for the use of the mark or the absence of the use within 60 days from the date of notification if the owner of the mark requests further evidence;
- (e) shall notify the owner of the mark to submit the defense within 30 days from the date of notification if the applicant submits further evidence;
- (f) may request the relevant persons to submit further reasons or evidences within 30 days from the date of notification if he presumes further clarification is necessary;
- (g) may summon both sides for a hearing if necessary;
- (h) shall make a decision based on the submitted reasons, evidences, goods or services and documents;
- (i) shall record the decision in the register with subsection (f) of section 50 and subsection (f) of section 51 of the Law, notify the owner of the mark and make a publication of it.

88. The publication under subrule (i) of rule 87 shall include the following:

- (a) the registration number of the mark;
- (b) the name and full address of the owner of the registration of the mark;
- (c) where the owner of the mark has appointed the representative, the name, citizenship scrutiny card number and full address of the representative;
- (d) the fact that the registration of the mark has been invalidated or cancelled;

- (e) the class number and lists of goods and services which will be invalidated or cancelled concerning the registration of the mark;
- (f) the date that the registration of the mark has been invalidated or cancelled.

Chapter XXI

Appointment of Representative and Assignment of Authorization

89. (a) Where the applicant, opposer, right holder or any interested person appoints the representative, the person who holds a citizenship scrutiny card number with the age of 18 or above and lives within the State and who fulfills the qualifications specified by the Ministry shall be appointed with the application form TM-2.
- (b) Where appointing a representative, the following at least shall be included:
- (i) the name and full address of the applicant, opposer, right holder or any interested person;
 - (ii) the name, citizenship scrutiny card number and full address of the representative;
 - (iii) the functions of the representative;
 - (iv) the authority of the representative.
90. In appointing representative under rule 89, more than one representative can be appointed. In such appointment, the name and the facts of the representative are described and the facts of the other representatives shall be attached.
91. In any application, including the mark registration, if the applicant, opposer, right holder or any interested person appoints the representative, a copy of the application form TM-2 shall be attached.
92. Where the applicant, opposer, right holder or any interested person is not a permanent resident in the State or the business location is not within the State, a copy of the application form TM-2, notarized in the State where they reside or in the State where the business operates, shall be attached.
93. (a) Where there is the appointment of a representative, the Registrar shall communicate only to the representative concerning the cases.
- (b) Any case communicated from the appointed representative to the Registrar shall be deemed to be done by the person who appointed the representative.
94. (a) Where more than one representative has been appointed, only one representative described in the application shall be communicated as the representative.
- (b) Where the registration is filed by the electronic method designated by the Department, the representative who created a User Account for the electronic method shall be

communicated where more than one representative is described in the registration of the mark.

- (c) Concerning with the appointment of the representative, if necessary, the Registrar shall notify the representative to submit the original of the application form TM-2 within 30 days from the date of notification.

95. Where there is no appointment of a representative or in case of non-compliance with the requirements of these Rules regarding the appointment of a representative, the Registrar shall communicate with the applicant, opposer, right holder or any interested person for any kind of communication.

96. For any subsequence change concerning the appointment of the representative, the necessary documents and the application form TM-17 shall be submitted to the Registrar after paying the fees prescribed by the Agency.

Chapter XXII

Miscellaneous

- 97. (a) Where filing under the Law and these Rules, the application forms specified by the Ministry shall be used.
- (b) The fees concerning the registration of the mark shall be paid in the manner prescribed by the Agency through the Central Committee with the approval of the Union of the Government.
- (c) In the registration of the mark, one or more than one class which is grouped in accordance with the International Classification (Nice Classification) can be filed and where more than one class number is included in the application, the prescribed fees shall be paid based on the class number.

98. Concerning the registration of the mark, any person who is dissatisfied with any decision made by the Registrar may appeal to the Agency in accordance with the rules of the Agency within 60 days from the date of publication of such decision.

99. Where publishing the registration of the mark, it shall be published by using a publication book or electronic method through the official website of the Department.

100. In accordance with the Law or these Rules, where the documents submitted together with the registration of the mark to the Registrar and any other communication are not in Myanmar language or English language, they shall be translated into Myanmar language or English language. The applicant or representative shall certify that translation.

- 101. (a) Any time period expressed in years shall expire, in the relevant subsequent year, in the month having the same name and, on the day, having the same number as the

month and the day of the event for which the time period starts to run. Where the event occurred on February 29th and in the relevant subsequent year February ends on the 28th, the time period shall expire on February 28th.

- (b) Any time period expressed in months shall expire, in the relevant subsequent month, on the day having the same number as the day of the event from which the time period starts to run. Where the relevant subsequent month has no day with the same number, the time period shall expire on the last day of that month.
 - (c) The calculation of expiry of any time period expressed starts with the day following the day on which the relevant event occurred.
102. (a) Before the prescribed period indicated in the Law and these Rules expires, with sufficient reasons, to extend the period related to the registration, the Applicant may file with the application form TM-18 after paying the fees prescribed by the Agency to the Registrar.
- (b) The Registrar verifies the request of the application under subrule (a) and if sufficient reason exists, it shall notify the applicant and may extend the time limit. The extension period lasts for 30 days at a time and may be requested with a maximum of up to four times.
 - (c) If the Registrar has granted the extension of time limit under subrule (b), no further extension except for the time extension of 30 days at a time shall be granted for the unexpected special cases such as disasters.
103. The Registrar:
- (a) shall further publish the application forms related to the registration of the mark prescribed by the Ministry, so that the public can use them.
 - (b) shall further publish the methods of payment prescribed by the department and the fees prescribed by the Agency upon the consent of the Union Government through the Central Committee relating to the registration of mark for the public use.
104. All fees paid shall not be refundable under any circumstances.

Aung Naing Oo
Union Minister
Ministry of Commerce