

The Industrial Design Right Law
The Pyidaungsu Hluttaw Law No.2, 2019
The 10th Waning Day of Pyatho, 1380 M.E
January 30, 2019

The Pyidaungsu Hluttaw (Union Parliament) hereby enacts this Law.

Chapter (1) Title, Effectiveness and Definitions

1.
 - (a) This Law shall be called the “Industrial Design Right Law”.
 - (b) This Law shall come into force on the date that the President of the Union may, by notification, appoint for such purpose.

2. The following terms contained in this Law shall have the meanings given hereunder:
 - (a) “Union” means the Republic of the Union of Myanmar.
 - (b) “Central Committee” means the Central Committee of Intellectual Property Rights formed under this Law.
 - (c) “Ministry” means the Ministry of Commerce under the Union Government.
 - (d) “Relevant Ministry” means the Ministry of Information, the Ministry of Industry, the Ministry of Agriculture, Livestock and Irrigation, or the Ministry of Education under the Union Government.
 - (e) “Agency” means the Agency of Intellectual Property Rights formed under this Law.
 - (f) “Department” means the Department assigned by the Ministry to carry out tasks relating to Intellectual Property Rights.

- (g) “Registrar” means the Director General of the Department that undertakes tasks relating to registration of Intellectual Property Rights.
- (h) “Examiner” means the officer, whose rank is assistant director or above, of the Department that carries out the examination process for the registration of Intellectual Property Rights.
- (i) “Intellectual Property Rights” means the rights granted by law for the protection of intellectual property. The term “Intellectual Property Rights” shall include copyrights, patents, industrial design rights, trademark rights, and any other kind of intellectual property rights
- (j) “**Industrial Design**” means the features of the lines, contours, colors, shapes, surface patterns, textures, configurations of products or their ornaments or the external appearance of the whole or a part of an industrial product or a handicraft, resulting from such features and ornaments.
- (k) “**Product**” means any industrial goods or handicrafts. This term includes parts intended to be assembled into an industrial or handicraft product, graphic symbols, typographic typefaces, packaging and external appearance, but excluding computer programs.
- (l) “**Owner of Industrial Design**” means an individual person or a legally incorporated entity entered and recognized as the registered owner of industrial design in the Register of the Department.
- (m) “**Creator**” means the creator of an Industrial Design.
- (n) “**Right Holder**” means the Owner of an Industrial Design or an individual person or a legally incorporated entity that is authorized to enjoy its rights.

- (o) **“Employer”** means any individual, government department, government organization or legally incorporated entity that employs an employee or employees with pay mutually agreed upon under the employment contract, and supervise, directly or indirectly, such employee or employees, and is responsible to pay to, employ it or them and terminate the employment of such employee (s). This term includes legal representatives of the Employer for management affairs, and in the case of private enterprise, legal successors and legal transferee of shares if the Employer is deceased.
- (p) **“Employee”** means a person who earns a living with mental and physical effort. This term, for the purposes of this Law, includes the staff of any government department, government organization or legally incorporated entity.
- (q) **“Member Country”** means any country that is a member of intellectual property conventions, treaties, or agreements or the related international or regional organizations to or of which the Union is a party or a member.
- (r) **“Intellectual Property Rights Court”** means the court established by the Supreme Court of the Union under the law to adjudicate matters of Intellectual Property Rights or the court vested with the jurisdictional power or authority of such court.
- (s) **“Right of Priority”** means the priority right contained in Section 39.
- (t) **“Exhibition Priority Right”** means the Priority Right of Exhibition of Goods contained in Section 40.

Chapter (2) Objectives

3. The objectives of this Law are as follows:

- (a) To protect the rights and interests of the Owners and Creators of Industrial Designs in accordance with this Law;
- (b) To promote the development of industries by protecting the creation of Industrial Designs;
- (c) To promote the development and proliferation of Industrial Design technology;
- (d) To enjoy mutual benefit of technical knowledge and socio-economic wellbeing between the Creator and the users of Industrial Designs;
- (e) To keep a balance between the rights and obligations of users and Creators;

Chapter (3) Formation and Functions of the Central Committee

4. The Union Government

- (a) shall form the following Central Committee of Intellectual Property Rights to supervise functions concerning Intellectual Property Rights:
 - i. the Vice President Chairman
 - ii. Union Minister of the Ministry Deputy
Chairman
 - iii. Deputy Ministers of relevant ministries Member
 - iv. Deputy Ministers or Directors-General of other suitable ministries Member
 - v. Experts in intellectual property (not exceeding four persons) Member
 - vi. Two representatives of non-governmental organizations Member
 - vii. Person appointed by the President Secretary
 - viii. Director General of the Department Joint Secretary

- (b) The Central Committee formed under Subsection (a) may be reformed as necessary.
5. The functions of the Central Committee are as follows:
- (a) Adopting policies, strategies, and action plans relating to Intellectual Property Rights in order to properly develop functions concerning Intellectual Property Rights in the Union;
 - (b) Supervising the implementation of the policies, strategies, and action plans relating to Intellectual Property Rights;
 - (c) Providing guidance in order to promote and encourage the development of the economy of the Union, foreign investment, and small- and medium-scale enterprises via the Intellectual Property Rights protection system;
 - (d) Promoting training and education in human resources in order to develop Intellectual Property Rights activities;
 - (e) Coordinating with relevant government departments, government organizations, other organizations, and private entrepreneurs in order to develop the Intellectual Property Rights system and to ensure that such system functions well;
 - (f) Encouraging consultations with local and foreign organizations to obtain the necessary technical and other types of assistance;
 - (g) Carrying out activities related to Intellectual Property Rights as assigned by the Union Government from time to time.

Chapter (4) Formation and Responsibilities of the Agency

6. The Central Committee

(a) shall form the following Agency of Intellectual Property Rights with the approval of the Union Government:

i. Secretary of the Central Committee

Chairman

ii. Directors General from the Ministry and

relevant ministries related to the Agency

Member

iii. Experts in Intellectual Property Rights

Member

(not exceeding eight persons)

iv. Representatives from non-governmental organizations

Member

(not exceeding five persons)

v. Director General of the Department

Secretary

vi. Officers-in-charge of divisions under the Department

Joint

Secretaries

(b) The Agency formed under Subsection (a) may be reformed as necessary.

7. The Chairman of the Agency shall be considered a person at the level of Deputy Minister.

8. The responsibilities of the Agency are as follows:

(a) Coordinating activities relating to Industrial Design rights;

(b) Implementing the policies, strategies, and action plans relating to Industrial Design rights as prescribed by the Central Committee and the training and education activities of human resources in order to properly develop the Industrial Design rights system;

- (c) Providing information regarding observations to the Central Committee so that the Union can enter as a Member Country into conventions, treaties, and agreements relating to Industrial Design rights;
- (d) Implementing conventions, treaties, and agreements relating to Industrial Design rights of which the Union is a Member Country;
- (e) Cooperating with relevant local organizations, international organizations, regional organizations, and Member Countries in respect to Industrial Design rights;
- (f) Forming necessary working groups and, with the approval of the Central Committee, assigning them responsibilities for taking legal action against infringements of Industrial Design rights;
- (g) Forming necessary working groups and, with the approval of the Central Committee, assigning them responsibilities to carry out activities relating to Industrial Design rights;
- (h) Passing resolutions upon appeal against decisions of the Registrar;
- (i) Prescribing the fees to be charged in accordance with this law, through the Central Committee with the approval of Union Government;
- (j) Approving and specifying the seal to be used in the approval for the registration of Industrial Design rights;
- (k) Submitting progress reports and other required reports to the Central Committee;
- (l) Presenting an annual report on Industrial Design rights to the Central Committee;
- (m) Carrying out activities relating to Intellectual Property Rights as assigned by the Central Committee from time to time.

Chapter (5) Responsibilities of the Department

9. The responsibilities of the Department are as follows:

- (a) Making announcements concerning the registration of Industrial Design rights;
- (b) Maintaining the register of Industrial Design rights;
- (c) Supervising the activities of divisions established for each field of Intellectual Property Rights, respectively;
- (d) Carrying out duties relating to Industrial Design Rights as assigned by the Agency from time to time.

Chapter (6) Appointment and Duties of the Registrars and Examiners

10. The Ministry may, upon the request of the Agency, appoint the Registrar and Examiner as necessary to carry out activities relating to Intellectual Property Rights in the Department.

11. The duties of the Registrar are as follows:
 - (a) Supervising the application and examination processes of Industrial Design registration;
 - (b) Proceeding accordingly with the findings of the Examiner in fulfilling the duties of Industrial Design registration;
 - (c) Making decisions regarding Industrial Design registration;
 - (d) Carrying out the duties related to Intellectual Property Rights as assigned by the Central Committee and the Agency.

12. The duties of the Examiner are as follows:
 - (a) Examining applications for Industrial Design registration;

- (b) Submitting to the Registrar the findings of and remarks on examination and review of statements of opposition and counterstatements relating to the application for Industrial Design registration;
- (c) Examining relevant persons and requesting necessary documentation, with the approval of the Registrar, in fulfilling its duties of Industrial Design registration;
- (d) Presenting to the Registrar the applications for Industrial Design registration with its remark whether the permission is granted or not for such registration after examining such applications;
- (e) Fulfilling duties relating to Intellectual Property Rights as assigned by the Agency, Department, and Registrar.

Chapter (7) Protectable Industrial Design

- 13. An Industrial Design shall be protected if it is novel and has an individual character.
- 14. An Industrial Design shall be considered novel if it has been not made available to the public, locally or internationally, by means of being described in words, used, published and exhibited or otherwise disclosed prior to the filing date of the Industrial Design Registration application in the Union or if the priority right was claimed, prior to the date of claim for such priority right.
- 15. An Industrial Design shall not be considered novel if it does not significantly differ from publicly known Industrial Designs or combinations of known Industrial Design features.

Chapter (8) Unprotectable Industrial Design

- 16. An Industrial Design shall not be protectable if it falls into any of the following categories:

- (a) technical or functional creations;
- (b) creations that are contrary to public order, morality, religion and belief and the culture valued by the Union;

Chapter (9) Persons having Right to apply for Industrial Design Registration

17. The Creator of an Industrial Design or its legal successor or its permitted assignee shall have right to apply for registration of the said Industrial Design.
18. If an Industrial Design has been created by more than one person, all of such persons shall have right to jointly apply for registration of such Industrial Design.
19. Where an Industrial Design is created by an Employee subject to an employment contract between an Employer and Employee or in the course of performance of such employment contract,
 - (a) only the Employer has the right to apply for registration of such Industrial Design, if the Employee has created such Industrial Design subject to the terms and conditions of the employment contract.
 - (b) if the Employer fails to apply for registration of the Industrial Design within 6 months from the date of a written notice sent by the Employee that he/she has created the Industrial Design, it shall be considered that the Employer has waived his/her right of registration and the Employee shall have right to apply for registration of such Industrial Design.
 - (c) in applying for registration of an Industrial Design created within one year of the expiration of an employment contract, if the Employee has created such Industrial

Design within the previous Employer's scope of work, unless otherwise contained in the employment contract and unless the Employee may submit any evidence to the contrary, it shall be considered that such Industrial Design has been created under the expired employment contract and the previous Employer has right to apply for registration of such Industrial Design. However, only the Employee shall have right to apply for registration of such Industrial Design in any of the following condition that:

- (i) the previous Employer agrees that there is no application for such Industrial Design created;
 - (ii) the previous Employer cannot refute the evidence submitted by the Employee; or
 - (iii) the Employer fails to apply for the registration per Subsection (b).
- (d) if an Industrial Design created by the Employee, which is related with the scope of work of the Employer, by using the equipment, data or technique of the Employer, but it is not under the assignment of the Employer, only the Employee shall have right to apply for registration of such Industrial Design unless otherwise contained in the employment contract.
- (e) if the Employee creates other Industrial Designs other than those described in Subsections (a), (c) and (d) and unless any provisions to the contrary contained in the employment contract, only the Employee shall have right to apply for registration of such Industrial Design.

Chapter (10) Application

20. A person who wishes to apply for registration of an Industrial Design to obtain rights in said Industrial Design may submit an application to the Registrar as per the specified requirements.
21. An applicant for registration of an Industrial Design
- (a) may submit a single application for one or more Industrial Designs if Industrial Design Products or Industrial Designs used in the Products fall in the same class in the International Classification for Industrial Designs provided in the Locarno Agreement.
 - (b) may prepare an application for registration in Burmese or English.
 - (c) shall have the application translated from Burmese into English or vice versa upon the request of the Registrar.
 - (d) shall sign the translation with authentication, if such translation is required pursuant to Subsection (c).
22. An applicant for registration of an Industrial Design
- (a) shall indicate the following information in the application for registration:
 - i. request for registration;
 - ii. name and address of the applying individual or legal entity;
 - iii. name, NRC No., and address of the agent, if the applicant appoints an agent for this matter;
 - iv. clear and detailed description of the Industrial Design;
 - v. description of the Products which the Industrial Design has been embodied in or which has been depicted with the Industrial Design.

- (b) shall provide the following information, in addition to that of Subsection (a), if required:
- i. if the application is submitted by a legal entity, the registration no. of the entity, the type of entity, and the country of origin;
 - ii. claim for priority right together with sound evidence showing the existence of said priority right, if the applicant makes a priority right claim;
 - iii. claim for exhibition priority right together with sound evidence showing the existence of said exhibition priority right, if applicant makes an exhibition priority right claim;
 - iv. other requirements as set forth by the Agency and the Department from time to time.
23. The date when the Department receives an application for registration of an Industrial Design that meets the requirements set forth in Section 22(a), upon the payment of the prescribed fee by the application, shall be deemed the filing date of said application for registration in the Union.
24. (a) Where more than one person submits applications for registration of identical or similar Industrial Designs on different days and there is a dispute over such applications, the Registrar shall permit registration of the Industrial Design of the applicant that has submitted the earliest application for registration that satisfies the requirements.
- (b) In submitting applications pursuant to Subsection (a), where applicants claim a Right of Priority or an exhibition priority right and there is a dispute over such applications, the applicant whose application satisfies the requirements for registration and contains the earliest priority date shall be permitted to register the Industrial Design.

25. If more than one applicant submits applications for registration of identical or similar Industrial Designs on the same day or claims the same priority date,
- (a) the Registrar shall direct all applicants to present the name of person whom they wish to nominate as applicant for the Industrial Design after consulting with one another within an appropriate period;
 - (b) the applicants shall notify the Registrar of the name of nominee that they have designated as applicant for the Industrial Design or the designation of them as co-applicants after consultation with one another as per the direction of the Registrar;
 - (c) where applicants do not reach agreement on such matter despite the direction of the Registrar under Subsection (a), such applicants shall comply with the decision made by the Registrar in the prescribed manner.
26. (a) An applicant for registration of an Industrial Design
- i. may make a request, upon payment of prescribed fees, to the Registrar to amend the application, if it wishes to correct an error in the written words or other amendable errors in the application, translation, or other supporting documents, before the Registrar permits or refuses the registration of the Industrial Design or before the Agency makes a decision regarding an appeal against the decision of the Registrar.
 - ii. may make a request to withdraw all or some of the Industrial Designs contained in the Industrial Design application.
 - iii. may, upon payment of the prescribed fee, make a request to divide any application which contains multiple Industrial Designs into two or more new applications.

- (b) In submitting new applications so divided under Subsection (a)(iii), the filing date of the initial application shall be deemed the filing date of the applications so divided.
27. The Registrar may allow an amendment after reviewing the request made pursuant to Section 26, as per the prescribed conditions.

Chapter (11) Examination, Objection, and Registration

28. With respect to an application for registration of an Industrial Design, the Examiner
- (a) shall consider whether the application corresponds with the restrictions stated in Section 21 or includes all information stated in Section 22, and present the applications that satisfy the requirements to the Registrar together with its remarks.
 - (b) shall consider whether the application corresponds with the restrictions stated in Section 21 or includes all information stated in Section 22, and notify the applicants to amend applications that do not meet the requirements, with the approval of the Registrar. If an applicant fails to amend the application within thirty (30) days of the date of receiving such notification, such application shall be considered to be withdrawn.
 - (c) Shall present to the Registrar the application together with its remark for amendment after examining such application if the case that the Examiner receives an amended application pursuant to Subsection (b).
 - (d) Shall present to the Registrar the applications together with its remark for refusal if the applications for the Industrial Design are not covered by the definition described in Section 2 Subsection (j) or which is unprotectable in accordance with Section 16 Subsection (b).

29. Where an applicant for registration of an Industrial Design
- (a) fails to comply with the time limit and any rights relating to the application of such Industrial Design are forfeited due to such failure, it may reapply for registration of such Industrial Design to the Registrar if
 - i. it makes a request within sixty (60) days of the date of forfeited due to the failure to comply with the time limit;
 - ii. it provides all necessary documents, information, or explanations regarding the failure to comply with the time limit;
 - iii. it includes the reasons for such failure to comply with the time limit in the request;
 - iv. it pays the prescribed fee.
 - (b) If any request seeking rights is made under Subsection (a) during the period of appeal, the Registrar shall suspend such process.
30. The Registrar
- (a) may, after examination, approve a request for re-registration of an forfeited Industrial Design pursuant to Section 29(a) where any right relating to the application of the relevant Industrial Design is forfeited.
 - (b) shall publish an application that meets the provisions of Section 21 and 22 for the opportunity to express opposition in the prescribed manner.
 - (c) shall not publish the Industrial Design before the expiration date of the deferred period upon the request of the applicant for deferment of publication pursuant to Section 36.

31. Any person who wishes to express an opposition to an application for registration of an Industrial Design may, upon payment of the prescribed fee, submit a statement of opposition to the Registrar within sixty (60) days from the date of publication asserting any of the following reasons for opposition:
 - (a) the Industrial Design is not covered under the definition in Section 2 Subsection (j);
 - (b) the Industrial Design is not novel;
 - (c) the Industrial Design is unprotectable in accordance with Section 16; and
 - (d) there is reliable evidence showing that the applicant does not have right to apply for registration.

32. Upon receiving a statement of opposition, the Registrar shall send a written notification to the applicant to give such applicant the opportunity to defend against the statement of opposition within the prescribed period.

33. Concerning an application for registration of an Industrial Design, the Registrar
 - (a) may approve such application for registration of an Industrial Design if no statement of opposition is filed within sixty (60) days of the date of publication.
 - (b) may approve or refuse a statement of opposition after reviewing it.
 - (c) shall record the approval of or refusal of the application in the Register and notify the applicant of such approval or refusal, and shall publish such approval or refusal in the prescribed manner.

- (d) shall issue a registration certificate of the Industrial Design to the applicant, if the application for the registration of Industrial Design is approved.

34. An Owner of Industrial Design

- (a) may apply to the Registrar for a certified copy of the registration certificate of the Industrial Design upon the payment of the prescribed fee, if the original registration certificate of the Industrial Design is lost or defaced.
- (b) may apply to the Registrar for correction of errors in written words or other amendable errors or the particulars of nationality and address, which are recorded in the Register, upon the payment of the prescribed fee.

35. The Registrar

- (a) may issue a certified copy of the registration certificate of an Industrial Design after reviewing an application submitted pursuant to Section 34(a).
- (b) may permit an applicant to make corrections after reviewing an application submitted pursuant to Section 34(b).

Chapter (12) Deferment of Publication

36. An applicant for an Industrial Design registration may, in the prescribed manner, request the Registrar to defer the publication of said Industrial Design by stating the deferred period in the request. The requested deferred period shall not exceed 18 months from the filing date of the

application for Industrial Design registration or, in the case of claiming priority right, from the date of priority application.

37. An applicant may request the Registrar to revoke the deferment any time during such deferred period and to make a publication despite the fact that it has made a request for deferment of publication of an Industrial Design pursuant to Section 36.
38. The Registrar
 - (a) shall, in the case of deferment of publication under Section 36, keep the file relating to the Industrial Design confidential and enter such deferment in the Register.
 - (b) shall announce the deferment, the identity of the applicant, filing date of the application, the period of deferment requested and other requisite information during the deferred period.
 - (c) shall publish the application for registration of the Industrial Design at the expiration of the period of deferment.

Chapter (13) Right of Priority

39. If a person who has applied for registration of an Industrial Design in any country that is a party to the Paris Convention or is a member of the World Trade Organization or its successor in title submits an application for registration of the same Industrial Design as those registered in the Member Country to the Department within six (6) months of the date of submission of the first such application in the Member Country, it shall be entitled to a Right of Priority from the date of the first such application, as the date of application.

40. If a person submits an application to the Department for registration of an Industrial Design displayed at an international trade fair organized or recognized by the relevant government of any member country to the Paris Convention or a member of the World Trade Organization within six (6) months of the date of displaying such Industrial Design at said international trade fair, it shall be entitled to an exhibition priority right from the date of first display as the date of application.
41. The exhibition priority right shall not exceed the period of time during which the Right of Priority is granted from the date of application under Section 39.

Chapter (14) Term of Registration and Renewal of Registration

42. The term of registration for a registered Industrial Design is five (5) years from the filing date of the application for registration of such Industrial Design. The registration may be renewed up to two terms and each term will last five (5) years.
43. If the Owner of an Industrial Design wishes to renew the term of registration,
 - (a) it shall apply for renewal of said registration within six (6) months before the expiration date of said registration upon the payment of the specified fee.
 - (b) it shall apply for renewal of said registration within the grace period of six (6) months after the expiration date of said registration upon the payment of the specified registration fee and late fees.
44. The Registrar shall

- (a) approve an application for renewal of registration that meets the requirements. The renewal of registration certificate shall come into force upon the expiration date of the preceding term of registration.
- (b) renew a registration for a five (5) year period and publish such renewal of registration in the prescribed manner, if an application for renewal of registration meets the requirements following review of such application.
- (c) record a renewal of registration and payment of the prescribed fee in the Register.
- (d) revoke the registration of a registered Industrial Design if the Owner of the Industrial Design fails to pay the prescribed fee for the renewal of registration within the grace period of six (6) months.
- (e) record the revocation of a registered Industrial Design in the Register and publish such revocation in the prescribed manner.

Chapter (15) Rights of the Registered Industrial Design

- 45. If the Owner of an Industrial Design complies with the provisions of Chapter (14), it shall be entitled to the rights of a registered Industrial Design provided in this Chapter during the term of registration.
- 46. Subject to the provisions of Section 49 and 50, the Owner of an Industrial Design
 - (a) as exclusive right,
 - i. shall have, under this Law, the right to prevent and protect from the manufacture, sale or import of Products featured with or depicted by the Industrial Design that duplicate the registered Industrial Design or the essential features of the registered Industrial Design by any other persons for

commercial purpose without the consent of the Owner of the Industrial Design.

ii. shall have the right to file a civil suit against a person that infringes upon the registered Industrial Design rights.

(b) may transfer or license the rights of the Industrial Design registered under the provisions of Chapter (16) and (17) to any other person.

47. An Employer shall have right to a non-exclusive license for the Industrial Design of which only the Employee has right to file the application for registration pursuant to Section 19 (d).

48. In the case of an Industrial Design owned by multiple Owners, unless otherwise agreed between them,

(a) each Owner of the Industrial Design shall be entitled to enjoy equal undivided rights in the registered Industrial Design;

(b) each Owner of the Industrial Design may transfer or issue a license to use his/her undivided rights in the registered Industrial Design to any other person;

(c) each Owner of the Industrial Design may, without obtaining the consent of other Co-owners of such Industrial Design, file a civil suit against a person who has infringed upon the registered Industrial Design Right; and

(d) an individual person or legally incorporated entity that is a successor in title to the rights of the Owner of an Industrial Design shall be entitled to the rights described in Subsections (a), (b) and (c).

49. The rights in an Industrial Design held by Owner of the Industrial Design shall not apply to

- (a) Activities performed for private and non-commercial purposes;
 - (b) Activities performed for experimental or research purposes; and
 - (c) Reproduction for the purpose of making citations or teaching;
50. The rights in the registered Industrial Design shall not apply to Products embodying such Industrial Design that have been legally sold in or imported into the Union, by the Owner of the Industrial Design or a person who is authorized by the Owner of the Industrial Design.

Chapter (16) Transfer of Rights Attached to the Industrial Design

51. (a) An applicant for registration of an Industrial Design may apply to the Registrar for recording the transfer of its application to any other individual person or legal entity in accordance with the prescribed conditions.
- (b) The Owner of an Industrial Design may apply to the Registrar for recording the transfer of its ownership of the registered Industrial Design to any other individual person or legal entity in accordance with the prescribed conditions.
52. If an applicant for registration of an Industrial Design or a transferee pursuant to Section 51(a) or the Owner of an Industrial Design or a transferee pursuant to Section 51(b) applies for recording the transfer of ownership, upon the payment of the prescribed fee, the Registrar shall record such transfer of ownership and publish the same in the prescribed manner.
53. No transfer of ownership of Industrial Design shall be valid unless an application for recording such transfer of ownership is submitted to the Registrar.

Chapter (17) Licensing of a Registered Industrial Design

54. The Owner of an Industrial Design may license any individual person or legal entity to use its registered Industrial Design in accordance with the prescribed terms and conditions.
55. The Owner of an Industrial Design or its licensee may apply to the Registrar for recording the licensing of such registered Industrial Design along with the certified true copy of said license upon the payment of the prescribed fee.
56. The Registrar shall record an application submitted pursuant to Section 55 and publish such license in the prescribed manner.
57. If the Owner of an Industrial Design or its licensee applies to the Registrar for revocation of a recorded license of an Industrial Design per the prescribed conditions, the Registrar shall revoke the recording of such license and publish the revocation of such license in the prescribed manner.
58. No license shall be valid unless an application for recording such license is submitted to the Registrar.

Chapter (18) Annoucementof Invalidity of and Revocation of Registration of Industrial Designs

59. If a registered Industrial Design is found to fall under any of the categories listed in Section 60, a relevant individual person or legally incorporated entity may request the Registrar to annouce the invalidity of the whole or a part of such registered Industrial Design or to revoke the whole or a part of such registered Industrial Design.

60. The Registrar shall announce the invalidity of the whole or a part of a registered Industrial Design if it found, upon the request of the relevant individual person or legally incorporated entity, that
- (a) the registered Industrial Design is unprotectable pursuant to the provisions of Section 16;
 - (b) the registered Industrial Design is not covered under the definition in Section 2 Subsection (j);
 - (c) the registered Industrial Design is not novel;
 - (d) there is reliable evidence showing that the Owner of an Industrial Design is not entitled to such registered Industrial Design;
 - (e) the registered Industrial Design has been obtained by fraud, by falsified documents or by omitting some information; or
 - (f) the Registrar receives the Court's final or conclusive decision regarding the application that declares the registered Industrial Design invalid.
61. The Registrar may remove the Industrial Design from the Register if
- (a) the applicant fails to renew the registration within the grace period of six (6) months from the date of expiration of registration;
 - (b) the Owner of an Industrial Design waives its ownership; or
 - (c) the Industrial Design is to be invalid on the grounds that it corresponds with any restrictions set forth in Section 60.
62. The Registrar shall record the removal of an Industrial Design from the Register and notify the public and the Owner of said Industrial Design of the removal in the prescribed manner.

Chapter (19) Application for International Registration

63. After the Union has entered into an agreement concerning the international registration of an Industrial Design, any domestic or foreign persons who wish to file an application for registration of an Industrial Design may file such application with the Registrar per the requirements, if they wish to adopt the system of international registration of Industrial Designs.

Chapter (20) Appeal

64. (a) Any person who is dissatisfied with any decision made by the Registrar under this Law may file an appeal to the Agency within sixty (60) days of the date of such decision.
- (b) In the event of an appeal under Subsection (a), the Agency may uphold, revoke, or revise the decision of the Registrar or may direct the relevant parties to submit more evidence.
- (c) If more evidence is submitted pursuant to Subsection (b), the Agency may uphold, revoke, or revise the decision of the Registrar.
65. Any person who is dissatisfied with the decision made by the Agency may submit an application concerning such matter to the Intellectual Property Rights Court, on which the Supreme Court of the Union confers jurisdictional authority, within ninety (90) days of the date of receiving notification of such decision.

Chapter (21) Establishment of the Intellectual Property Rights Court

66. The Supreme Court of the Union
- (a) may establish the Intellectual Property Rights Court in the relevant regions and states and appoint judges to hear and adjudicate civil or criminal proceedings relating to Intellectual Property Rights.
 - (b) may confer authority and jurisdiction to the judges appointed under Subsection (a) to hear and adjudicate cases relating to Intellectual Property Rights.
 - (c) may confer authority and jurisdiction of the Intellectual Property Rights Court to a competent Court to hear and adjudicate matters relating to Intellectual Property Rights prior to the establishment of the Intellectual Property Rights Courts pursuant to Subsection (a).
 - (d) shall determine the jurisdiction and authority of the Intellectual Property Rights Courts that shall have jurisdiction over appeals against and revisions to the judgments, orders, and decisions made by the Intellectual Property Rights Courts.
 - (e) shall confer jurisdiction and authority to a competent Intellectual Property Rights Court to hear and adjudicate cases filed under Section 65.

Chapter (22) Authority of the Intellectual Property Rights Court Regarding Infringement of Rights in Industrial Design Rights

67. (a) A Right Holder may apply to the Intellectual Property Rights Court for a temporary injunction to prevent damage to said rights in accordance with the civil proceedings provided for under Sections 68 and 69.
- (b) A Right Holder may file a civil suit with the Intellectual Property Rights Court.

68. (a) The Intellectual Property Rights Court may, upon receipt of an application alleging that registered Industrial Design rights have been infringed pursuant to Section 67(a), pass one or more orders taking the following provisional measures:
- i. Injunction to prevent the infringement of rights in an registered Industrial Design and the entry of goods that involve the infringement of Industrial Design Rights, including imported goods for which customs clearance has been conducted at the Customs Department, into the channels of commerce in the Union;
 - ii. order to preserve relevant evidence related to the alleged infringement of registered Industrial Design Right.
- (b) The Intellectual Property Rights Court may direct the applicant to provide the following in order to take provisional measures:
- i. to submit any reasonably available evidence in order to satisfy the Court to a sufficient degree of certainty that the applicant is the Right Holder and its right is being infringed or that such infringement is imminent;
 - ii. to pay adequate security in order to prevent the abuse of enforcement of provisional measures.
- (c) In taking provisional measures per an order made pursuant to Subsection (a), the Intellectual Property Rights Court may direct the applicant to submit further information in order to identify the goods alleged to have been infringed.
- (d) If a civil proceeding is not instituted within the reasonable time limit specified by the Intellectual Property Rights Court from the date of enforcement of provisional measures upon the application for such measure or, if a time limit is not set, within thirty (30) days from the date of the order to take provisional measures, the Intellectual Property Rights Court shall, upon the request of the defendant, revoke or discontinue

the effectiveness of the provisional measures taken pursuant to Section 68(a) and 69(a), without prejudice to Section 69(b).

- (e) The Intellectual Property Rights Court may, upon the request of the defendant, order the applicant to pay reasonable and adequate compensation to the defendant for damages incurred due to provisional measures requested by the applicant if the Intellectual Property Rights Court revokes or discontinues the provisional measures due to any default or act of the applicant, or finds that the rights in the registered Industrial Design have not be infringed or there is no imminent infringement of such rights in the registered Industrial Design.

- 69. (a) The Intellectual Property Rights Court may adopt provisional measures *inaudita altera parte* in any of the following situations where
 - i. any delay is likely to cause irreparable harm to the Right Holder;
 - ii. there is a demonstrable risk that evidence will be destroyed.
- (b) In adopting provisional measures *inaudita altera parte*, the Intellectual Property Rights Court
 - i. shall notify the defendant of the provisional measures immediately after such measures have been taken.
 - ii. shall complete the enforcement of such measures if the defendant fails to comply with such notice within the specified time limit or, if the time limit is not specified, within thirty (30) days from the date of notice.
 - iii. shall conduct a review and hearing upon the request of the defendant with a view to deciding, within the reasonable period, whether such measures shall be modified, revoked, or confirmed.

70. The Intellectual Property Rights Court may, without prejudice to the civil laws and Code of Civil Procedure, in litigation pursuant to Section 67(b), pass one or more of the following orders regarding the infringement of the rights in an Industrial Design :

- (a) Injunction to prevent the infringement of rights in an Industrial Design, including an injunction to prevent the entry of imported goods that involve the infringement of Intellectual Property Right into the channels of commerce of the Union immediately after customs clearance of such goods at the Customs Department;
- (b) Order that requires the infringer to pay the Right Holder damages adequate to compensate for the injury the Right Holder has suffered due to an infringement of the Right Holder's rights in a registered Industrial Design, or that requires the infringer to pay the Right Holder pre-established damages or profits derived from such infringement, or both in appropriate cases;
- (c) Order that requires the infringer to pay the appropriate expenses of the Right Holder, including legal expenses and attorney's fees;

71. (a) In the event that the Intellectual Property Rights Court renders the final decision on the infringement case upon the application of the Right Holder, in accordance with the Code of Civil Procedure, it may order

- (i) that goods that have been found to be infringing be destroyed or that the entry of such infringing goods into the channels of commerce be prevented.
- (ii) that the entry of materials or equipment used to create the infringing goods into the channels of commerce, without compensation of any sort, be prevented to minimize the risks of further infringements.

- (b) In making an order pursuant to Subsection (a), the Intellectual Property Rights Court shall take the following facts into consideration:
- (i) the impact of injunction;
 - (ii) the proportionality between the degree of the infringement and the destruction of the infringing goods;
 - (iii) the impact of the methods of destruction on the natural environment;
 - (iv) the adverse effect on the interests of third parties;

72. In the event that any person is found to have wrongfully claimed that their rights in an Industrial Design have been infringed, such person shall be liable to pay compensation to a defendant to whom damage has been caused through the wrongful detention of goods, and the Intellectual Property Rights Court may order such applicant to pay the legal expenses, including attorney's fees, and other expenses of the defendant.

73. (a) The Intellectual Property Rights Court may, without prejudice to the provisions under existing laws and the protection of confidential information in appropriate cases, order the opposing party to submit evidence when
- i. the Right Holder has presented sound evidence sufficient to support its claims;
 - ii. the Right Holder has specified evidence relevant to the substantiation of its claims that lies in the control of the opposing party.
- (b) In the case of voluntary infringement without a sound reason, the Intellectual Property Rights Court may make preliminary and final determinations, affirmative or negative, on the basis of the information presented to the Intellectual Property Rights Court, including the complaint or the allegations presented by the aggrieved party and the

alleged infringer, provided that such parties to the proceedings have been afforded an opportunity to be heard regarding the allegations or evidence, if

- i. Either such party refuses access to necessary information;
- ii. Either such party does not provide necessary information within a reasonable period;
- iii. Either such party significantly impedes a procedure relating to an enforcement action.

74. The Intellectual Property Rights Court may act in accordance with the provisions of the Evidence Act, the Code of Civil Procedure and other applicable existing laws, unless provisions for enforcement of legal actions regarding the infringement of rights in a registered Industrial Design are not expressly included in this Law.

Chapter (23) Penalties

75. If any person has been convicted of any of the following acts, he/she shall be punishable with imprisonment for a term not exceeding (1) year or with fine not exceeding (2) million kyats or both:
- (a) Falsely issuing or causing to be issued an Industrial Design Right registration certificate;
 - (b) Making a false entry without good faith, or causing such to be made, in the Register;
 - (c) Disclosing any confidential Industrial Design to any third party during the confidentiality period; or
 - (d) Providing the documents concerning the application for registration of an Industrial Design to any third parties, disclosing to the public or permitting any third party to

use of such documents without permission, during the specified period before making the publication;

Chapter (24) Miscellaneous

76. Notwithstanding anything to the contrary contained in any other existing Law, the offence against any offences relating to Industrial Design shall be prosecuted only in accordance with this Law.
77. If a decision made by the Registrar in the course of exercising its authority conferred under this Law may affect a person, the Registrar shall give such person an opportunity to be heard, per the specified conditions.
78. A duly certified and sealed copy of an Industrial Design registration certificate and supporting documents issued by the Registrar may be submitted as evidence to the relevant Intellectual Property Rights Court.
79. The infringements of Industrial Design rights under this Law shall not apply where a government department and a legal entity use any goods bearing such Industrial Design in the case of national emergency of the Union and public affairs not for commercial purpose, but for the public interest.
80. The disputes arising among parties relating to Industrial Designs may be settled either in an amicable manner or by arbitration or legal proceedings.

81. For the enforcement of the provisions of this Law, the Ministry shall be responsible for the office functions of the Central Committee and the Agency and shall incur the expenses.
82. The Ministry shall determine, with the approval of the Union Government, the remuneration and allowances of members of the Central Committee, the Agency, and the Working Body who are non-civil service personnel.
83. Normally, the office term of the person who holds an office title at the Union level contained in this Law is the same as the term of the President of the Union.
84. The Ministry may establish divisions under the Department for each field regarding Intellectual Property Rights and assign the Department and its divisions the functions of the Agency.
85. The Central Committee and the Agency formed under this Law shall be deemed the Central Committee and Agency for all the Laws of Intellectual Property Rights.
86. In implementing the provisions of this Law,
 - (a) the Supreme Court of the Union may issue Rules, Regulations, Bylaws, Notifications, Orders, Directives, and Procedures.
 - (b) the Ministry and the Respective Ministries:
 - i. may issue Rules, Regulations, and Bylaws with the approval of the Union Government; and
 - ii. may issue Notifications, Orders, Directives, and Procedures.

(c) the Agency and the Department may issue Notifications, Orders, Directives, and Procedures with the approval of the Ministry.

87. The Myanmar Patents and Designs (Emergency Provisions) Act, 1946 is repealed by this Law.

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

(Sd) Win Myint

The President

The Republic of the Union of Myanmar