

Industrial Design Rights Law
(Pyidaungsu Hluttaw Law No. 2 /2019)
The 10th Day after Full of Pyatho, 1380 M.E.
(January 30, 2019)

Pyidaungsu Hluttaw hereby enacts this Law.

Chapter I
Title, Commencement and Definition

1. (a) This Law shall be called the **Industrial Design Rights Law**.
- (b) This Law shall come into force upon the date which is prescribed in a notification issued by the President.
2. The following expressions contained in this Law shall have meanings provided 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 of the Union Government.
 - (d) **Relevant Ministry** means the Ministry of Information, Ministry of Industries, Ministry of Agriculture, Livestock, and Irrigation, or the Ministry of Education of the Union government.
 - (e) **Agency** means the Intellectual Property Rights Agency formed under this Law.
 - (f) **Department** means the department appointed by the Ministry to implement the functions related to intellectual property rights.
 - (g) **Registrar** means the Director-General of the Department handling matters related to the registration of intellectual property rights.
 - (h) **Examiner** means an officer whose position is equivalent to an Assistant Director or above in the Department carrying out examinations related to the registration of intellectual property rights.
 - (i) **Intellectual Property Rights** means the right granted by law to protect inventions made by one's own intellect. This expression includes copyright, patent rights, industrial design rights, trademark rights, and other types of intellectual property rights.
 - (j) **Industrial Design** means the outer appearance of an industrial good or handicraft item or their parts resulting from the appearances and decorations of lines, contours, colors, shapes, surfaces, textiles or products or such appearances or their decorations.
 - (k) **Product** means any industrial or handicraft item. This expression includes parts, graphic symbols and typographic typefaces, packaging and preparation intended

to be assembled in an industrial or handicraft item which contains many parts. This expression does not include computer programs.

- (l) **Owner of the Industrial Design** means a person or a legally formed organization recorded in the Department's registration records as the owner of the industrial design.
- (m) **Inventor** means a creator of an industrial design.
- (n) **Right Holder** means the owner of the industrial design and any person or legally formed organization that is legally authorized to enjoy his rights.
- (o) **Employer** means any authorized person, government department, government organization, or legally formed organization that directly or indirectly supervises one or more employees by hiring on wages of mutual consent in the relevant employment agreement. The Employer is responsible for paying wages to the employee and to appoint or remove an employee. This definition includes the official management representative of the employer, and the legal successor of the employer upon his death in the case of private business and the legal recipient of his shares.
- (p) **Employee** means a person who relies on his physical or intellectual labour to earn wages for a living. For the purposes of this Law, this definition includes employees of any government department, governmental organization, or legally formed organization.
- (q) **Member State** means any Member State of any conventions, treaties, or agreements relating to intellectual property rights, or of relevant international or regional organizations where the Republic of the Union of Myanmar is a Party.
- (r) **Intellectual Property Rights Court** means either a court which has been established by the Supreme Court of the Union, in accordance with the law, to adjudicate cases related to intellectual property rights or a court which has been granted the jurisdiction and mandate of such court.
- (s) **Right of Priority** means the right of priority under section 39.
- (t) **Right of Priority for Trade Exhibitions** means the right of priority for trade exhibitions under section 40.

Chapter II

Objectives

- 3. The objectives of this Law are as follows:
 - (a) To protect the rights and interests of the owner of the industrial design and the inventors in accordance with this Law;
 - (b) To support the development of industrial businesses by providing protection for industrial design creations;
 - (c) To support the development and spread of industrial design technology;

- (d) To establish a mutually-beneficial relationship between the inventor and users of industrial design in order to promote technical know-how and socio-economic development;
- (e) To help balance the rights and duties of the inventor and users of industrial design.

Chapter III

Formation of the Central Committee and its Functions

4. The Union Government:

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

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| (1) | Vice-President | Chair |
| (2) | Union Minister of the Ministry | Vice-Chair |
| (3) | Deputy Ministers of Relevant Ministries | Members |
| (4) | Deputy Ministers or Directors-General of other suitable ministries | Members |
| (5) | No more than four experts on intellectual property rights | Members |
| (6) | Two representatives from non-governmental organizations | Members |
| (7) | Person appointed by the President of the Union | Secretary |
| (8) | Director-General of the Department | Co-Secretary |

(b) may restructure the Central Committee formed under subsection (a) as it sees fit.

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

- (a) Formulating intellectual property rights policies, strategies, and work plans in order to develop intellectual property rights businesses in the Union;
- (b) Supervising and directing the implementation of intellectual property rights policies, strategies, and work plans;
- (c) Providing direction on promoting national economic development, promoting foreign investment, and developing small and medium enterprises through the intellectual property rights system;
- (d) Promoting the training and education of human resources required for the development of businesses related to intellectual property rights;
- (e) Coordinating with relevant government departments, governmental organizations, other organizations, and private businesses in order to develop the intellectual property rights system and to properly exercise and conduct the intellectual property rights system;
- (f) Promoting contact and coordination with domestic and foreign organizations in order to secure technical assistance and other necessary assistance;
- (g) Carrying out intellectual property rights related duties as assigned by the Union Government.

Chapter IV Functions of the Agency and Its Duties

6. The Central Committee:
- (a) , with the approval of the Union Government, must form the Intellectual Property Rights Agency as described below:
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| (1) Secretary of the Central Committee | Chair |
| (2) Directors-General related to the Agency from the Ministry and relevant ministries | Members |
| (3) No more than eight experts on intellectual property rights | Members |
| (4) No more than five representatives from non-governmental organizations | Members |
| (5) Director-General of the Department | Secretary |
| (6) Persons in charge of the divisions of the Department | Co-Secretaries |
- (b) may reorganize the Agency formed under subsection (a) as it sees fit.
7. The Chair of the Agency shall be considered as an official with the same rank as a deputy minister.
8. The Agency must shall perform the following functions:
- (a) Coordinate work related to industrial design rights;
 - (b) Implement the industrial design rights policies, strategies and work plans and human resources training and education matters prescribed by the Central Committee in order to develop the industrial design rights system;
 - (c) Research and report to the Central Committee so that the Union can participate as a member of industrial design rights conventions, treaties and agreements;
 - (d) Implement according to the provisions contained in the conventions, treaties, and agreements relating to industrial design rights, in which the Union is a Party;
 - (e) Cooperate with relevant industrial design rights related domestic organizations, international organizations, regional organizations and Members States;
 - (f) , with the approval of the Central Committee, form working groups necessary for taking action against industrial design rights related infringements and prescribing the duties of such groups;
 - (g) , with the approval of the Central Committee, form working groups necessary for carrying out industrial design rights related matters and prescribing the duties of such groups;
 - (h) Make decisions on the appeals against the Registrar's decision;
 - (i) Prescribe the fees under this Law with the approval of the Union Government via the Central Committee;
 - (j) Approve the office seal, which will be used to authorize various matters related to the registration of industrial design rights;
 - (k) Submit work reports and other necessary reports to the Central Committee;

- (l) Submit the annual report on industrial design rights to the Central Committee;
- (m) Carry out intellectual property rights related functions assigned by the Central Committee from time to time.

Chapter V

Duties and Functions of the Department

9. The Department's duties and functions are as follows:
- (a) Make announcements on industrial design rights related registration matters;
 - (b) Maintain registration records related to industrial design rights;
 - (c) Supervise the work of divisions formed and established according to the different intellectual property rights fields;
 - (d) carry out industrial design rights related functions assigned by the Agency from time to time.

Chapter VI

Appoint of the Registrar and Examiners and Stipulation of Duties

10. The Ministry may appoint, according to the reports of the Agency, the registrar and necessary examiners to carry out functions related to intellectual property rights in the Department.
11. The duties of the Registrar are as follows:
- (a) Supervising matters relating to the application for registration and examination of industrial designs;
 - (b) Coordinating the Examiners' reports with regards to the registration of industrial designs;
 - (c) Making decisions on matters related to the registration of an industrial design;
 - (d) Performing other duties relating to intellectual property rights as assigned by the Central Committee and Agency.
12. The duties of the Examiner are as follows:
- (a) scrutinizing applications for the registration of industrial designs;
 - (b) examining objections and arguments regarding the application for the registration of an industrial design and submitting his findings and remarks to the Registrar;
 - (c) , with the Registrar's approval, requesting the examination of persons and documentary evidence necessary to carry out the functions related to the registration of an industrial design;
 - (d) after scrutinizing the application for an industrial design, reporting his findings and remarks on whether such registration should be allowed to the Registrar;
 - (e) performing duties relating to intellectual property rights as assigned by the Agency, Department, and the Registrar.

Chapter VII Industrial Designs Eligible for Protection

13. An industrial design that is new and free from imitation shall be protected.
14. An industrial design is new unless it has been described in writing, used, published, displayed, or disclosed to the public through any other means in the Republic of the Union of Myanmar or abroad before the date of the registration application in the Union or before the requested date for the right of priority if such right of priority is requested.
15. An industrial design, which is a combination of features of designs already known to the public or which is not noticeably different with a design already known to the public, shall not be deemed as being new.

Chapter VIII Industrial Designs Ineligible for Protection

16. An industrial design, which meets any of the following conditions, is not eligible for protection:
 - (a) technological or operation-related inventions;
 - (b) infringing upon public peace and stability, dignity, belief or culture of the Republic of the Union of Myanmar.

Chapter IX Persons Entitled to Apply for the Registration of an Industrial Design

17. An inventor of the industrial design, his legal heir, or his legal transferee may apply for the registration of said industrial design.
18. If an industrial design is created by more than one person, said persons have the right to jointly apply for the registration of such industrial design.
19. When an industrial design is created under an employment agreement between the employer and employee or due to the consequence of such agreement:
 - (a) , unless otherwise stated in the employment agreement, when an employee creates an industrial design, only the employer shall have a right to apply for the registration of such industrial design;
 - (b) the employer may exclusively apply for the registration of the industrial design created by his employee within six months from the date that said employee informs him in writing that the industrial design is completed. If the employer fails to apply for the registration of the industrial design within the aforementioned period, the employee has the right to apply for the registration of said industrial design.

- (c) in the case of registering an industrial design created within one year after the expiry of the employment agreement and such design is similar to the one created by the employee and within the area of business of the former employer, such design will be regarded as a creation according to the expired employment agreement, and the former employer shall have the exclusive right to apply for the registration of said design if there is no opposing clause in the employment agreement and the employee cannot provide evidence that there is an opposing clause in the employment agreement. Therefore, the employee has the exclusive right to apply for registration under any of the following conditions:
 - (1) there is an agreement that the former employer has not applied for the registration of the industrial design in question;
 - (2) the former employer cannot argue the evidence submitted by the employee;
 - (3) the employee is applying for registration as the former employer has failed to apply for registration under subsection (b).
- (d) When an employee creates an industrial design by using the employer's equipment, data or technology and the creation of such design is not assigned by the employer, the employee shall have the exclusive right to apply for the registration of such industrial design unless stated otherwise in the employment agreement.
- (e) If the employee creates an industrial design apart from the ones under subsections (a), (c) and (d), the employee shall have the exclusive right to apply for the registration of said design unless stated otherwise in the employment agreement.

Chapter X Application

20. Any person, who is eligible, under this Law, to apply for the registration of an industrial design, shall apply for registration of said industrial design to the Registrar, in accordance with the stipulations, if he wishes to receive industrial design rights.
21. The applicant for the 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 a product fit into one category under the Locarno Agreement Establishing an International Classification for Industrial Designs.
 - (b) may write the application in Myanmar or English.
 - (c) must translate his Myanmar application to English or vice versa if the Registrar requests him to do so.
 - (d) must provide a statement that the translation under subsection (c) is true and sign the statement.

22. The applicant for the registration of an industrial design:
- (a) shall include the following in the registration application:
 - (1) a request for registration;
 - (2) name and address of the person or legally formed organization that has applied for registration;
 - (3) if the applicant applies through a representative, the name, Citizenship Scrutiny Card number, and address of the representative;
 - (4) clear and complete description of the industrial design;
 - (5) indication of products that contain the industrial design or are formed from the industrial design.
 - (b) In addition to the items in subsection (a), the following must also be submitted if necessary:
 - (1) if the application is for a legally formed organization, the registration number, type, and country of said organization;
 - (2) if the applicant is requesting the right of priority, sufficient evidence showing that he has the right of priority as well as the request for right of priority;
 - (3) if the applicant is requesting the right of priority for trade exhibitions, sufficient evidence showing that he has the right of priority for trade exhibitions as well as the request for right of priority for trade exhibitions;
 - (4) other requirements stipulated as necessary by the Agency and Department.
23. The date when the Department receives a complete application that fulfills the stipulations in subsection (a) of section 22, after the stipulated fee is paid in full, is deemed as the date of submission of the application for registration in the Union.
24. The Registrar:
- (a) If more than one person submits registration applications for similar or identical industrial designs on different dates and disputes arise over said applications, then only the person who submitted an application, that meets stipulations, the earliest shall be allowed to register his design.
 - (b) If there are applications for the right of priority or right of priority for trade exhibitions for similar or identical industrial designs under the circumstances in subsection (a), then only the person who submitted an application that meets stipulations and stated the earliest right of priority date shall be allowed to register his design.
25. If more than one person applies for the registration for similar or identical industrial designs on the same day or if the same date is stated for the right of priority:
- (a) The Registrar must direct the applicants to negotiate amongst themselves and to report the name of the applicant, whom will register his industrial design, to the Registrar within the prescribed period.

- (b) After the discussions between applicants, they must report the name of the applicant, whom all the other applicants agree to allow the registration of his mark, to the Registrar. If they wish to be considered as joint applicants, they must state so.
 - (c) If the applicants fail to reach an agreement even though they have been instructed to do so under subsection (a), then the applicants must follow the Registrar's decision which was reached in the stipulated manner.
26. (a) An applicant for the registration of an industrial design:
- (1) may, after paying the prescribed fee, apply to the Registrar to alter the request, translated statement, and other documents due to writing errors or other errors, which may be corrected according to this law, before the Registrar makes a decision regarding the acceptance or refusal of an application for the registration of an industrial design or before the Agency makes a decision on the appeal case against the decision of the Registrar.
 - (2) may apply for the withdrawal of all or some of the industrial designs in cases where there is more than one industrial design in the application.
 - (3) , after paying the prescribed fee, may apply to the Registrar for any application to be separated into more than one application in cases where there are many industrial designs in an application.
- (b) When submitting the separated applications as new applications under item (3) of subsection (a), the original application date shall be deemed as the date of submission.
27. The Registrar may allow amendments in applications under section 26 after examining them in accordance with stipulations.

Chapter XI

Examination, Objection and Registration

28. Regarding the application for registration of industrial designs, an Examiner shall:
- (a) , after examining whether the applications are in accordance with the provisions in section 21 and whether they fulfill the conditions set out in section 22, submit his remarks together with the applications, which are in accordance with the stipulations, to the Registrar.
 - (b) , after examining whether the applications are in accordance with the provisions in section 21 and whether they fulfill the conditions set out in section 22 and with the Registrar's approval, notify the applicants, who submitted applications that are not in accordance with stipulations, in order to amend their applications. If the applicant fails to amend the application within 30 days from the date of receipt of the notification, the application is deemed withdrawn.

- (c) must examine and submit the application and his remarks to the Registrar if he received the amendments made according to the provisions in subsection (b).
 - (d) must submit the application and his remarks for refusal to the Registrar if the industrial design does not fall under the definition in subsection (j) of section 2 or if the industrial design is ineligible for protection, according to subsection (b) of section 16.
29. In order to register the industrial design, the applicant:
- (a) may reapply for registration of industrial design rights under the following circumstances to the Registrar if the failure to comply within the stipulated time period results in the loss of rights related to the relevant industrial design rights registration application:
 - (1) submitting a claim within 60 days from the date of withdrawal due to the failure to comply within the stipulated time period;
 - (2) submitting explanations, information, or requirements with regards to the failure to comply within the stipulated time period;
 - (3) describing sufficient reasons for failing to comply within the stipulated period in the claim;
 - (4) The fees have been paid;
 - (b) If a claim to restore the rights related to an application under subsection (a) is made during the period of submission of an appeal case, the Registrar must suspend such claim.
30. The Registrar:
- (a) may allow the claim made under subsection (a) of section 29 to restore the rights, related to the application to register the industrial design, after examining such claim.
 - (b) must make a public announcement for applications, which are in accordance with sections 21 and 22, in the stipulated manner in order to notify the public and allow for objections to be made.
 - (c) must not make the public announcement before the deferral period if the applicant requests the deferral of the public announcement according to section 36.
31. With regards to the application for registration of an industrial design, those who wish to object may do so by paying the prescribed fee and submitting an objection to the Registrar based on any of the following within 60 days from the date of the public announcement:
- (a) the industrial design does not fall under the definition in subsection (j) of section 2;
 - (b) the industrial design is not original;
 - (c) the industrial design is ineligible for protection under section 16;
 - (d) sufficient evidence arises that the applicant is not eligible to apply for registration.
32. When the Registrar receives an objection form, he must inform the applicant to allow for arguments against the objection to be made within the prescribed period.

33. With regards to the application for registration of an industrial design, the Registrar:
- (a) may permit the registration of said industrial design if no objection is submitted within 60 days from the date of public announcement.
 - (b) If the Registrar receives an objection, he may accept or refuse after examining it.
 - (c) must record whether the application has been accepted or refused in the registration records and notify the applicant. In addition, he must make a public announcement in the stipulated manner about the acceptance or refusal.
 - (d) must issue the certificate for the registration of the industrial design to the applicant if the registration is permitted.
34. The owner of the industrial design:
- (a) may apply to the Registrar to issue a certified copy of the industrial design registration certificate in case of loss or damage of the original.
 - (b) may request the Registrar to revise writing errors and other errors which may be corrected in the registration records, as well as nationality and address after paying the prescribed fee.
35. The Registrar:
- (a) must issue a certified copy of the industrial design registration after examining the request under subsection (a) of section 34.
 - (b) may allow for amendments after examining the request under subsection (b) of section 34.

Chapter XII

Deferral of Public Announcements

36. An applicant for the registration of an industrial design may request the Registrar to defer the public announcement, made in a stipulated manner, of the industrial design by stating the deferral period in the application. Said deferral period must not exceed 18 months from the date of the industrial design registration application or the date of right of priority if such right is requested.
37. Although the applicant has made a request for a public announcement deferral under section 36, he may apply to the Registrar to withdraw said request and to make the public announcement at any time during such period.
38. The Registrar:
- (a) must record the deferral under section 36 in the registration records and must ensure that the files relevant to the industrial design are confidential.
 - (b) must publicize, within the deferred period, that the public announcement of the industrial design is deferred, the identity of the applicant, submission date of the application, request deferral period, and other stipulated matters.

- (c) must publicize the industrial design application after the expiry of the deferred period.
- (d)

Chapter XIII Right of Priority

39. If a person or his transferee has applied for the registration of an industrial design in a Member State of the Paris Convention or the World Trade Organization, he shall receive the right of priority and the date of application shall be the original date of application when he applies for the registration of an identical industrial design to the Department within six months from the date when the design was first applied for.

40. If the applicant applies for the right of priority for trade exhibitions for an identical industrial design to the Department within six months from the date of first display of such design at an international trade exhibition organized or recognized by the relevant government in a Member State of the Paris Convention or the World Trade Organization, the right of priority for trade exhibitions shall be enjoyed with the application date as the date when the design was first displayed.

41. The right of priority for trade exhibitions shall not exceed for the period of the right of priority received on the date of application under section 39.

Chapter XIV Term of Registration and Renewal of the Term of Registration

42. The term of registration for a registered industrial design is five years from the date of submission of the application. The term of registration may be renewed for up to two times in increments of five years.

43. If an owner of a registered industrial design wishes to extend the term of registration, he must carry out the following:

- (a) He must apply for the extension of the term of registration and pay the prescribed fee within six months before the expiration date of the term of registration.
- (b) If the application is submitted after the expiration date of the term of registration, he may do so within the grace period of six months after said expiration date and by paying the registration fees as well as overdue fees.

44. The Registrar:

- (a) must accept an application to extend the term of registration if it is made according to stipulations. The extension of the term of registration is effective at the end of the expiration date of the original term of registration.
- (b) must examine the application to extend the term of registration and extend the term by five years, if the application is made according to stipulations, and make a public announcement in the prescribed manner.

- (c) must record the extension of the term of registration and payment of the prescribed fees in the registration records.
- (d) must suspend the registration of the industrial design if the owner of the industrial design does not pay the prescribed fee for the extension of the term of registration within the six month grace period.
- (e) must record the suspension of the registration of the industrial design in the registration records and make a public announcement in the stipulated manner.

Chapter XV

Rights of Registered Industrial Designs

45. If the owner of the industrial design complies with the provisions in Chapter XIV, he may enjoy the registered industrial design rights under this chapter during the term of registration.

46. Without prejudice to the provisions of sections 49 and 50, the owner of the industrial design:

- (a) As an exclusive right:
 - (1) to prevent another person from producing, selling or importing products, for commercial purposes without his consent, which are made from or include reproductions of an industrial design that has been registered according to this Law or an industrial design which reproduces the main parts of a registered industrial design under this Law;
 - (2) the right to pursue civil action against those who infringe upon the rights of registered industrial designs.
- (b) may transfer or grant license of the rights of the registered industrial design to any other person in accordance with the provisions of chapters 16 and 17.

47. The employer shall have the non-exclusive right to use the industrial design which is eligible for registration by the employee under subsection (d) of section 19.

48. When an industrial design is owned by more than one person and they have not made an agreement otherwise:

- (a) each of the owners of the registered industrial design shall be entitled to equally enjoy the portion of the registered industrial design rights, which has not been divided;
- (b) each of the owners of the registered industrial design may transfer or grant licenses for his portion of the registered industrial design rights, which have not being divided, to any other person;
- (c) each of the owners of the registered industrial design shall have the right to pursue civil action against those who infringe upon the rights of the registered industrial design without the consent of the other co-owners of the registered industrial design;

- (d) a person or legally formed organization with the right to inherit the registered industrial design rights from any owner of a registered industrial design shall be entitled to enjoy the rights provided in subsections (a), (b) and (c).
49. An owner of a registered industrial design is not allowed to exercise his registered industrial design rights under any of the following conditions:
- (a) conducting private matters which are not for commercial purposes;
 - (b) conducting matters related to experimentation or research;
 - (c) reproducing for reference or training.
50. The owner of a registered industrial design or a person authorized by him shall not exercise his registered industrial design rights on products, which contain the registered industrial design, legally sold or imported within Myanmar.

Chapter XVI

Transfer of Registered Industrial Design Rights

51. (a) An applicant for the registration of an industrial design may request the Registrar, in accordance with stipulations, to record the transfer of his application to any person or a legally formed organization.
- (b) An owner of an industrial design may apply to the Registrar to record the transfer of ownership of his registered industrial design, in accordance with stipulations, to another person or legally formed organization.
52. If the applicant for the registration of an industrial design, the transferee under subsection (a) of section 51, the owner of the industrial design, or the transferee under subsection (b) of section 51 requests the Registrar to record the transfer of ownership after paying the prescribed fee, the Registrar must do so and make a public announcement in the prescribed manner.
53. With regards to the transfer of ownership of a registered industrial design, said transfer shall not be effective unless a request has been made to the Registrar to record such transfer of ownership.

Chapter XVII

Granting Licenses for Registered Industrial Designs

54. An owner of a registered industrial design may grant license to a person or a legally formed organization after setting out the terms and conditions for the use of said industrial design.
55. An owner of a registered industrial design or a licensee may apply to the Registrar to record the granting of license by submitting the certified copy of said license together with the prescribed fee.
56. The Registrar shall record the request under section 55 in the registration records and make a public announcement in the prescribed manner.

57. If the owner of the registered industrial design or the licensee request for cancelling the granting of license from the registration records in accordance with stipulated manners, the Registrar shall cancel the granting of license from the records and make a public announcement in the prescribed manner to inform the public.
58. With regards to authorization through the granting of license, such authorization shall have no effect unless an application has been made to the Registrar to enter such authorization into record.

Chapter XVIII

Announcement of Invalidation of a Registered Industrial Design and Cancellation

59. A relevant person or legally formed organization may apply to the Registrar to make an invalidation announcement or cancellation for all or part of a registered industrial design if it is found to fulfill any of the requirements in section 60.
60. The registrar may, upon the application of the relevant person or legally formed organization, make an invalidation announcement for all or any part of the registration of an industrial design if such registered industrial design fulfills any of the following conditions:
 - (a) It is ineligible for protection according to section 16;
 - (b) the industrial design is not consistent with the definition stipulated in sub-section (j) of section 2;
 - (c) industrial design is not new or original;
 - (d) sufficient evidence arises that the owner of the registered industrial design is not entitled to possess such design;
 - (e) registration of the industrial design had been received through fraud, misrepresentation, or omission of any described matter;
 - (f) upon receipt of the final decision or judgment of an intellectual property rights court regarding the invalidation announcement of a registered industrial design.
61. The Registrar may cancel a registered industrial design from the registration records under any of the following conditions:
 - (a) failure to apply for the extension of the term of registration within the grace period of six months from the expiration date of the term of registration;
 - (b) relinquishment of ownership by the owner of said industrial design;
 - (c) said industrial design has been publicly announced as invalid due to meeting one of the conditions under section 60.
62. The Registrar, after recording the cancellation of the registered industrial design, shall notify the owner of said industrial design and make a public announcement in the stipulated manner to inform the public.

Chapter XIX

Application for International Registration

63. After Myanmar enters into the International Registration System for Industrial Design Agreement as a Party, applicants for industrial design registration who wish to use the International Registration System may apply to the Registrar from within Myanmar or abroad, according to stipulations.

Chapter XX

Appeal

64. (a) Any person who is not satisfied with a decision made by the Registrar, in accordance with this Law, may appeal to the Agency within 60 days from the date of announcement of such decision.
- (b) In case of appeal under subsection (a), the Agency may confirm, revoke, or amend the decision of the Registrar or instruct to collect further evidence.
- (c) If additional evidence under subsection (b) is submitted, the Agency may confirm, revoke, or amend the decision of the Registrar.
65. Any person who is not satisfied with the decision made by the Agency may appeal to an intellectual property rights court, which has been granted jurisdiction on this matter by the Supreme Court, within 90 days from the date of receipt of such notice.

Chapter XXI

Establishment of Intellectual Property Rights Courts

66. The Supreme Court of the Union:
- (a) may establish intellectual property rights courts in suitable areas to adjudicate over criminal and civil cases related to matters of intellectual property rights and appoint the judges to these courts.
- (b) may grant the judges, appointed according to subsection (a), jurisdiction and mandate in order to adjudicate cases related to intellectual property rights.
- (c) may grant the jurisdiction and mandate of the intellectual property rights courts to suitable courts in order to adjudicate cases related to intellectual property rights before the establishment of courts under subsection (a).
- (d) must stipulate the jurisdiction and mandate of the intellectual property rights courts which have the authority to handle the appeals and revisions of the judgments, orders and decisions of intellectual property rights courts.
- (e) must grant jurisdiction and mandate to suitable intellectual property rights courts to adjudicate applications under section 65.

Chapter XXII

Authority of Intellectual Property Rights Courts regarding the Infringement of Industrial Design Rights

67. (a) The right holder may apply, according to sections 68 and 69, for a miscellaneous suit to the Intellectual Property Rights Court to issue provisional measures orders through civil action for damages.
- (b) The right holder may apply to the Intellectual Property Rights Court to take civil action.
68. (a) An intellectual property rights court may issue one or more of the following provisional measures orders if applications under subsection (a) of section 67 are made with regards to allegations of infringement of registered industrial design rights:
- (1) an order suitable for preventing the infringement of registered industrial design rights and the entry of products that infringe upon registered industrial design rights, including imported products for which duties have been paid to the Customs Department and cleared, into Myanmar's commercial area;
 - (2) an order suitable for preserving the original condition of evidence relating to products which allegedly infringe upon registered industrial design rights;
- (b) The intellectual property rights court may request the following from the applicant in order to conduct provisional measures:
- (1) submission of sufficient evidence to show that he is the right holder and that his right is being infringed upon or is likely to be infringed upon;
 - (2) submission of sufficient securities to prevent the abuse of the provisional measures process.
- (c) The intellectual property rights court may request the applicant to submit any other necessary information in order to identify the alleged infringing products when carrying out the provisional measures under subsection (a).
- (d) If any action has not been commenced upon the civil litigation suit in order to make a final decision on damages incurred from the date the provisional measure orders are first conducted within a reasonable period stipulated by the intellectual property rights court or, in the absence of such stipulation, within 30 days from the date of issue of the provisional measure order, the intellectual property rights court must, without prejudice to subsection (b) of section 69, revoke or cease the effectiveness of the provisional measures issued under subsection (a) of section 68 and subsection (a) of section 69, upon the request of the respondent.
- (e) If the intellectual property rights court revokes provisional measures or suspends them due to any failure or act of the applicant, or finds that the registered industrial design right is not infringed or is not likely to be infringed, it may order

- the applicant, upon the request of the respondent, to pay a reasonable amount of compensation for the damages suffered due to such provisional measures.
69. (a) The intellectual property rights court may issue *ex parte* provisional measures orders under any of the following circumstances:
- (1) a delay which will cause irreparable damages to the right holder;
 - (2) actual threat that the evidence will be destroyed and lost.
- (b) When conducting provisional measures, the intellectual property rights court:
- (1) must notify the respondent immediately after the provisional measures have been carried out.
 - (2) must carry out the provisional measures completely if the respondent does not comply within the period stipulated by the intellectual property rights court or, in the absence of such stipulation, within 30 days from the date of issue of the notification.
 - (3) , upon the request of the respondent, both Parties must be heard within a reasonable period of time in order to decide upon the amendment, cancellation, or confirmation of said provisional measures.
70. With regards to the infringement of industrial design rights, the intellectual property rights court may issue one or more of the following orders without prejudice to civil laws and the Code of Civil Procedure in a suit under subsection (b) of section 67:
- (a) an order suitable for preventing the infringement of registered industrial design rights and the entry of products that infringe upon registered industrial design rights, including infringing products for which duties have been paid to the Customs Department and cleared, into Myanmar's commercial area;
 - (b) an order for the infringer to pay sufficient compensation to the right holder for damages due to the infringement of registered industrial design or, in suitable cases, an order to pay the amount determined beforehand by the right holder, the profits enjoyed by the infringer, or both;
 - (c) an order to pay expenses incurred by the right holder, including legal fees and attorney fees.
71. (a) When making the final decision on the infringement case upon the request of the right holder, the intellectual property rights court may issue the following orders with regards to evidence in accordance with the Code of Civil Procedure:
- (1) destroying the infringing goods or preventing such goods from entering the commercial area;
 - (2) preventing, without compensation, the items or equipment used in creating the infringing goods from entering the commercial area in order to reduce the likelihood of infringement in the future.
- (b) When using its discretion under subsection (a), the intellectual property rights court must take the following into consideration:
- (1) the consequences of issuing a prevention order;

- (2) degree and proportionality of the infringement when carrying out the destruction;
- (3) method of destruction and its effect on the environment and
- (4) effect on the interests of others.

72. The intellectual property rights court may order the applicant to compensate the defendant for wrongful prevention in addition to paying his legal fees, including attorney fees, and other expenses when it finds that a false accusation that registered industrial design rights are being infringed upon has been made without good faith.

73. (a) Without prejudice to provisions in existing laws, the intellectual property rights court may order the evidence to be presented by the other Party, while maintaining confidentiality, under the following conditions in suitable cases:

- (1) the right holder submits sufficient evidence to fully support his claims;
- (2) it is clearly shown that sufficient evidence regarding these claims is in the possession of the other Party.

(b) In infringement cases, the intellectual property rights court may, without sufficient reason and at its discretion, make preliminary and final decisions, such as acceptance or refusal, based on information including allegations and arguments made by the victim and the infringer after hearing both sides according to their accusations or evidence, under the following circumstances:

- (1) refusing to provide necessary information;
- (2) failure to deliver necessary information within a reasonable period;
- (3) significantly hindering the procedures related to provisional measures;

74. The intellectual property rights court may use the provisions in the Evidence Act, the Code of Civil Procedure, and other related existing laws to issue orders in cases related to the infringement of the rights of a registered industrial design if there are no specific provisions in this law.

Chapter XXIII

Penalties

75. Whoever commits any of the following acts shall be punished with an imprisonment term of not more than one year, a fine not exceeding 2,000,000 kyats, or both, upon conviction:

- (a) issuing a false industrial design registration certificate or ordering a false industrial design registration certificate to be issued;
- (b) making a false entry without good faith or ordering a false entry to be made in the registration records;
- (c) disclosing the industrial design, which should be kept confidential during a certain period of time when said design must be kept confidential, to an unrelated party;

- (d) providing the documents related to the application for the registration of an industrial design to an unrelated Party, disclosing to the public, or allowing the use of such documents, during the stipulated period before the announcement.

Chapter XXIV Miscellaneous

- 76. Notwithstanding the contents of any other existing law, any offense, under this Law, relating to industrial design shall be prosecuted according to this Law only.
- 77. The Registrar shall allow a hearing, according to stipulations, for a person whom will suffer from a decision made using his discretion and the authority granted under this Law.
- 78. The copy of the industrial design registration certificate and supporting documents, which are certified and sealed by the Registrar, may be submitted as evidence in relevant Intellectual Property Rights Courts.
- 79. The provisions under this Law are not applicable to the use of any product, containing a registered industrial design, for the public good during a State emergency and disaster, not for commercial purposes, by any government organization and legally formed organization.
- 80. Disputes between individuals concerning industrial designs may be resolved through mediation, arbitration, or litigation.
- 81. In order to carry out the provisions in this Law, the Ministry must take charge of the office work of the Central Committee and the Agency in addition to bearing the costs.
- 82. The Ministry, with the Union Government's approval, must stipulate the honoraria and fees of the Central Committee members, Agency members, and working group members whom are not public servants.
- 83. The office term of the Union-level persons under this Law is the same as the President's office term.
- 84. In order to carry out the Agency's work, the Ministry may establish and assign the Department and divisions according to the different intellectual property rights fields.
- 85. The Central Committee and Agency established under this Law shall be considered as applicable to all intellectual property rights laws.
- 86. In implementing the provisions contained in this Law:
 - (a) the Supreme Court may issue judiciary-related rules, regulations, order announcements, orders, directives, and procedures.
 - (b) the Ministry and relevant ministries may:
 - (1) issue rules and regulations with the approval of the Union Government.
 - (2) issue order announcements, orders, directives, and procedures.
 - (c) The Agency and Department may issue order announcements, orders, directives and procedures with the approval of the Ministry.
- 87. The Myanmar Patents and Designs (Emergency Provisions) Act, 1946 is hereby repealed.

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

Sd./ Win Myint
President
Republic of the Union of Myanmar