Developments of IP System in Myanmar

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INTRODUCTION

• Myanmar has reformed in all sectors matching the State of Democracy.

• For a developing country, investment is a key factor to promote its economic development, which forms the basis for all other developments.

• In promoting investment and economic development, the protection to IPRs is given great attention as an incentive and encouragement.

• In spite of the fact that there exists no specific law regarding IPRs in Myanmar, infringements on the said rights can be remedied under the existing laws.

INTERNATIONAL ORGANIZATIONs AND MYANMAR

✓ World Trade Organization (WTO)- 1 January 1995
✓ ASEAN - 3 July 1997
✓ WIPO - 15 May 2001

WIPO 176th member country - Myanmar

➢ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), 1994
MOST and Intellectual Property

Ministry of Science and Technology (MOST) was established in 1996. It has designated as a focal Ministry for the WIPO.

MOST has been taking high responsibility to set up new IP system in Myanmar and trying to promote IP awareness activities by coordination and co-operation with local and International organizations.

In 2004, Ministry of Science and Technology has drafted the new IP Laws- Patent, Trademark, Industrial Design and Copyright, in cooperation with Union Attorney General's Office to be inline with minimum requirement of the TRIPs Agreement.

MOST took part in crucial role in amendment of IP laws after drafting IP laws since then.

Draft IP laws was delay to adopt mainly because of the declaration of the WTO to allow extension for member states of LDC until 2013 to implement the TRIPs provision relating to IP.

REQUIREMENTS FOR AN IP SYSTEM

IP Legislation
- Substantive IP Laws (Patent, Design, Trademark, Copyright, etc.)
- Civil Law, Criminal Law, Custom Law
- Other Related Laws (Competition Law, Consumer Protection Law, etc.)

IP Infrastructure
- IP Office
- Court (IP Court)
- Customs / Police

IP Environment
- IP Attorney’s Organization
- CMOs
- TLO, TISC,...
Since 18 August 2004, Ministry of Science and Technology has drafted the new IP Laws including Patent, Trademark, Industrial Design and Copyright, in cooperation with Union Attorney General’s Office based on -

- TRIPs Agreement
- IP Laws of the ASEAN countries
- WIPO Conventions and Treaties

The drafting process has been well in proper steps with assistance of the WIPO and other international organizations concerned. These four IP laws are now under the process for legislation.

So, it is expected that all new laws would be in compliance with current international legal norms and principles in every aspect while keeping its own characteristics of Myanmar Legal system.

After adoption of the new IP legislation, we should take the step to establish an appropriate Intellectual property office to manage the new IP laws.
IP INFRASTRUCTURE

- Myanmar has no IP institution and we need to set up an Office to administer the IP legislation that is being drafted.

- Recruiting and training the staff to undertake the responsibilities of the IP Office will take time.

- Determination of the functions and structure of the proposed IP Office should be done in parallel with the drafting of the IP Laws so that there will be no delay in the implementation of the legislation.

- Which model would be suitable for Myanmar? To have a single entity or to have two or more Ministries managing IP rights?
Meeting on the Establishment of a National IP Office of Myanmar in cooperation with WIPO and MOST on 20-22 May 2013

• Proposing a draft model as the result of the Discussion Meeting.
Future Enforcement of IPR System

Courts (IP Courts) → IP Laws (Patent Law, Industrial Design Law, Trademarks Law & Copyright Law);
Civil Laws, Criminal Laws

- Remedies
- Offences & Penalties

- Patent and Industrial Design (Civil Proceeding)
- Trademarks and Copyright (Civil and Criminal Proceeding)
IP Environment

• IP Attorney System
  – Workshop for Establishing a Patent Attorney System in Myanmar on 12~13\textsuperscript{th} January 2016
  – Workshop for the Intellectual Property Attorney System on 10 February 2016

• Collective Management Organization
  – No provisions for CMO in the present Burma Copyright Act 1914, but the provisions for CMOs has been added in the new draft copyright law.
  – As it is important to appear one or more CMOs after promulgating the Copyright Law in Myanmar, it is needed to adopt a policy guideline for the establishment of collective management organizations in Myanmar.
Drafting of National IP Strategy of Myanmar

A project team
- consisting of two international experts and a national expert to undertake the work program established for the project.

• desk research
- a Discussion Paper was prepared and made available in June 2015 to provide a focus for planned stakeholder consultations which were undertaken in August in Yangon and Nay Pyi Taw.

• The consultations were undertaken in Yangon from 3 to 8 August and Nay Pyi Taw from 10 to 14 August with selected stakeholders

IP and Key Economic Factors and Cultural Industries

Agriculture
Traditional Medicine
Cultural industries
Enterprises (Private and SOE),
Tourism
Health
Industries
Conclusions

- Myanmar needs comprehensive and effective IP protection to promote foreign investment and technology transfer as well as for boosting industrial development.

- It is important to set up an appropriate legal IPRs system and also need to upgrade system practices.

- Developing the human resources and promoting the quality of the staff are important matters in establishing the IP Office of Myanmar.

- It is needed technical assistants on setting up the IP infrastructure and IP Environment in Myanmar collaboration with Local and international organizations.
Thank you for your kind Attention