

WORKSHOP FOR THAI BUSINESS IN CAMBODIA ON THE COUNTER- COUNTERFET PRODUCTS

Topic

**Mark Registration, License, Franchise
and Authorized Exclusive Distributor**

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1-Introduction

- Natural resources are limited
- Intellectual property is an unlimited resources.
- Intellectual property is widely recognized as the tool for economic growth.
- Inspire creativeness and innovation, inventions shall be exclusively protected.
- Attractive investment and technology transfer
- The research showed that No exclusive protection of IP, No R & D, No creation, No better world, No economic growth

2-The Legal Framework

- Law on Marks, Trade Name and Acts of Unfair Competition, Feb 07, 2002
- Sub-Decree on the Implementation of Law concerning Marks, Trade Names and Acts of Unfair Competition, July 12, 2006

3- What is a Trademark?

Definition: Any visible sign capable of distinguishing the goods or services of an enterprise.

Art. 2(a)

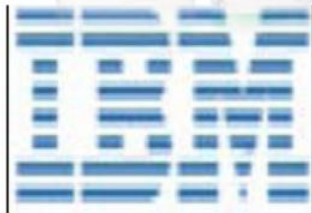


September 20,
2019

Words (word marks)

Adidas Starbucks Whirlpool Nestlé
Sony Philips Just Do It Lufthansa
Siemens Lays Red Bull Java
Vodafone JVC Gatorade Coca Cola
Shell Ford Apple Levis Rolex
Microsoft PepsiCo RayBan Zippo
Bic

LOGOS (figurative marks)



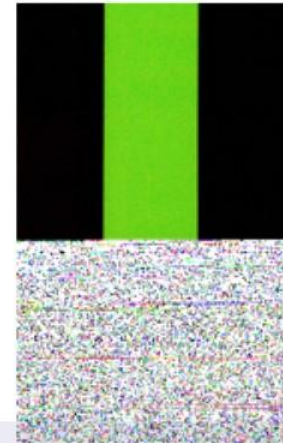
September 20,
2019

Objects (3-D marks)



Color Combination

(colour marks)



4-What can't be Registered?

- Marks common to the trade
- Marks identical to the earlier marks
- Marks that could confuse the public
- Mark identical/similar to well known marks
- Marks show the characteristics of goods or services to which they related:
- Ex: H2O, KAMPOT
- Contrary to morality, public order, customs

5-Registration of a Trademark

- The exclusive right to a mark, as conferred by this law, shall be acquired by registration in accordance with the provisions thereof. Art. 3
- Registration gives exclusive right to use the mark in jurisdiction where registered

5-Registration of a Trademark (Cont)

- It is evidence of ownership and essential to enforcement
- Ownership is a valuable asset for business expansion through assignments, licensing, franchising, etc...

6. Right Conferred

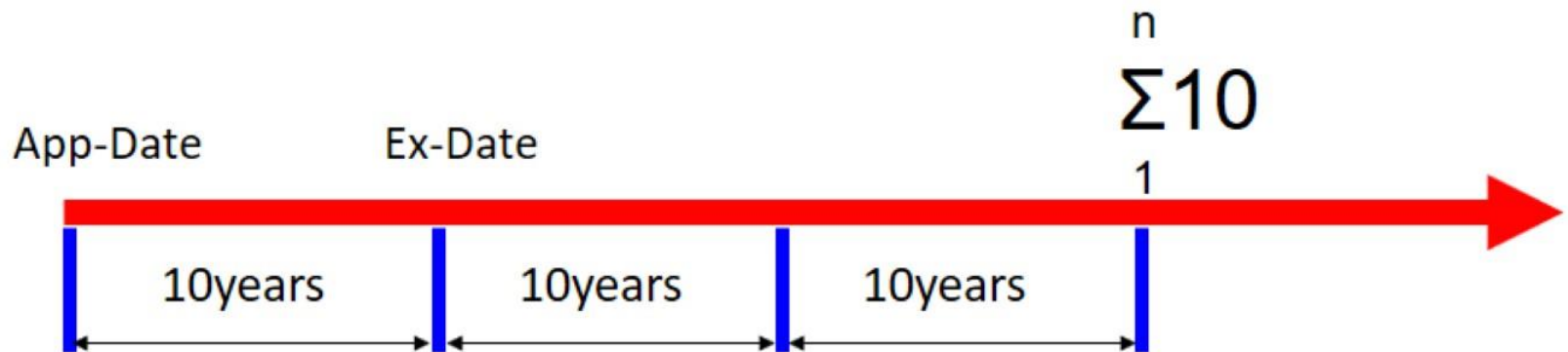
1) Right to use the trademark

- to affix the trademark on or use in any other way *in relation to the goods for which it is registered*, use on business papers and in advertisement
- to introduce the goods /services to the market under the trademark
- License or franchise, Import/Export, authorized exclusive distributor

2) Right to prevent others from the use of the trademark in commerce in a way that it is likely to confuse consumers

- Right to object to any use of his trademark by a third party *for the protected goods (specified in the registration)*
- Protection generally extends to the use of *similar trademarks for similar goods*, if such use is likely to confuse the consumer

7-Duration of Protection



- **The registration of a mark shall be for a period of ten years from the filing date of the application for registration. Art 12(a)**
- **It can be consecutively renewed for further 10 years**

Roads of Mark Registration

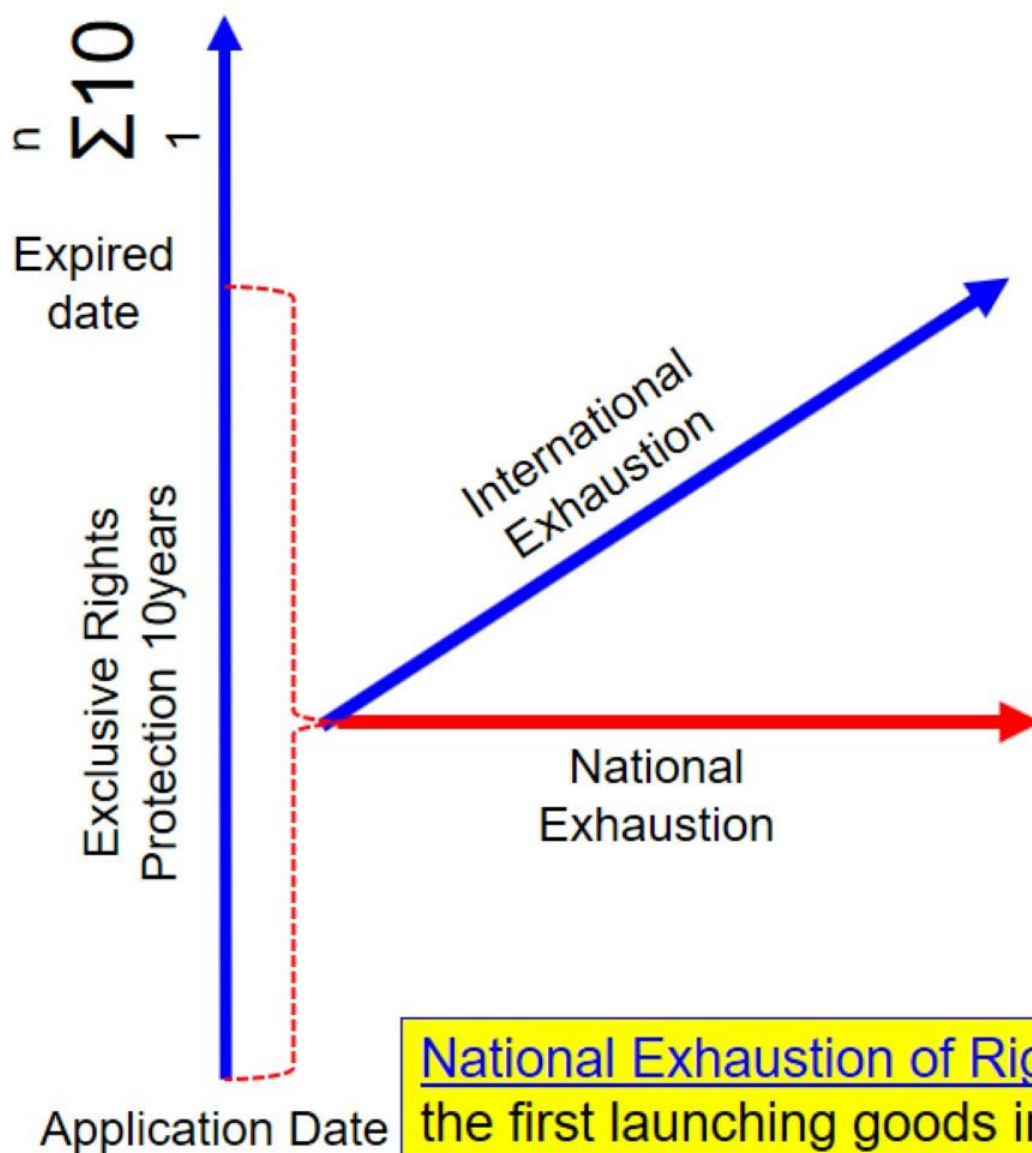


8-Exhaustion of Rights

National exhaustion:

The rights conferred by registration of a mark shall not extend to acts in respect of articles which have been put on the market in the **Kingdom of Cambodia** by the registered owner or with his consent “**Art.11(c)**”.

Can control on parallel importation



National Exhaustion of Rights: Exhausted rights upon the first launching goods in Cambodian market (Can control on parallel importation) .

International Exhaustion of Rights: Exhausted rights upon the first launching goods in the international market, (Cannot control on parallel importation)

9-Authorized Exclusive Distributor

- The law grants exclusive right protection to a mark, the registered owner is authorized to use, license or franchise it by his own set of management and control requirements, the public institution has no right to involve thereof.
- The registered owner has enough right to control on channel distribution from granting until the exclusive right exhausted
- The registered owner has the full right to **authorize or appoint his exclusive distributor or agent** (business partners) with a set of obligation.

License & Franchise





ម្ហូបស្រូវសាច់តោ



បុកគ្រួសារត្រីថ្លើ



មាតុភូមិ®

ទឹកត្រីដំអន្លក់



ប្រហុកប្រាង្គ



10-នីតិវិធីកត់ត្រានិងតម្កល់លិខិតប្រគល់សិទ្ធិផ្តាច់មុខ

- នីតិបុគ្គល
- លិខិតប្រគល់សិទ្ធិ
- លិខិតប្រគល់សិទ្ធិ ត្រូវយកមកកត់ត្រាក្នុងរយៈពេល ៣ខែ
- ទំនិញដែលបានកត់ត្រានិងតម្កល់លិខិតប្រគល់សិទ្ធិផ្តាច់មុខ មិនអាចអនុញ្ញាតឲ្យធ្វើការកត់ត្រានិងតម្កល់ជូនបុគ្គលផ្សេងទៀតបានឡើយ
- ការប្រគល់សិទ្ធិផ្តាច់មុខនឹងគ្មានអានុភាពចំពោះអ្នកទទួលសិទ្ធិឡើយ ប្រសិនបើលិខិតប្រគល់សិទ្ធិផ្តាច់មុខមិនបានយកមកធ្វើការកត់ត្រានិងតម្កល់ឲ្យបានត្រឹមត្រូវ

10-នីតិវិធីកត់ត្រានិងតម្កល់លិខិតប្រគល់សិទ្ធិផ្តាច់មុខ

ឯកសារពិម្រូវ

- ពាក្យស្នើសុំកត់ត្រានិងតម្កល់លិខិតប្រគល់សិទ្ធិផ្តាច់មុខ
- លិខិតប្រគល់សិទ្ធិផ្តាច់មុខ
- ឯកសារភ្ជាប់មកជាមួយនឹងពាក្យស្នើសុំ

11-សុពលភាព កាតព្វកិច្ច និងសិទ្ធិ

សុពលភាព

- លិខិតកត់ត្រានិងតម្កល់សិទ្ធិផ្តាច់មុខមានសុពលភាព២(ពីរ)ឆ្នាំ គិតចាប់ពីកាលបរិច្ឆេទចុះហត្ថលេខារបស់រដ្ឋមន្ត្រីក្រសួងពាណិជ្ជកម្ម ។

កាតព្វកិច្ច

- លិខិតកត់ត្រា និងតម្កល់ផ្តាច់មុខ ត្រូវបោះផ្សាយក្នុងទំព័រខាងមុខរបស់សារព័ត៌មានល្បីៗភ្លាមយ៉ាងតិចចំនួន ៣លេខជាប់ៗគ្នា
- អ្នកនាំចូលទំនិញស្របគ្នា ត្រូវបញ្ចប់ប្រតិបត្តិការ និងទំនិញដែលស្តុកទុកក្នុងឃ្នាំងក្នុងរយៈពេល៩០ថ្ងៃ គិតចាប់ពីកាលបរិច្ឆេទចេញលិខិត

11-សុពលភាព ភាគពូកិច្ច និងសិទ្ធិ

សិទ្ធិ

ចាប់ពីក្រោយរយៈពេល៩០(កៅសិប)ថ្ងៃ អ្នកទទួល
សិទ្ធិស្របច្បាប់ មានសិទ្ធិប្តឹងទៅរដ្ឋបាលគីយ រដ្ឋ
រដ្ឋាករ ឬអាជ្ញាធរ មានសមត្ថកិច្ច ឬតុលាការ ដើម្បី
ចាត់វិធានការចំពោះទំនិញដែលនាំចូលស្របគ្នា

12-ការបន្តសុពលភាព

- បន្តសុពលភាពនៃលិខិតកត់ត្រានិងតម្កល់សិទ្ធិផ្តាច់មុខ ត្រូវដាក់ឲ្យបានពាក្យស្នើសុំឲ្យបាន ៣ (បី)ខែមុនកាលបរិច្ឆេទផុតសុពលភាព
- លិខិតប្រគល់សិទ្ធិផ្តាច់មុខ នៅមានសុពលភាពនៅឡើយ។ ក្នុងករណីលិខិតប្រគល់សិទ្ធិផ្តាច់មុខបានផុតសុពលភាព អ្នកស្នើសុំត្រូវដាក់លិខិតប្រគល់សិទ្ធិផ្តាច់មុខថ្មី។

13-Conclusion

National laws and international rules, authorized exclusive distributor is the self determination rights of the owner

**Thank You for
Your Attention!!!**