

WIPO Regional Workshop for the Least Developed Countries of Asia and the Pacific Region

On

The IP System and the Competitiveness of National Enterprises and Industries: Sharing of Country Experiences on Challenges and Opportunities

Organized by World Intellectual Property Organization
In cooperation with
Bhutan Intellectual Property Office

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Outline

- Cambodian IP system
- The Use of IPR for Competitiveness of National Enterprises and Industries
- Challenges and opportunities
- Conclusion

Introduction

- Intellectual property
- Land and Natural resource are limited
- National population constantly increases
- Intellectual property is unlimited resource
- WTO
- ASEAN
- The flow of international trade under the globalization
- How to protect domestic SME?

History of IP Legal Framework

- IPRs have started since 1991
- The Law concerning Marks, Trade names, and Acts of Unfair Competition-2002
- The Law on Patents, Industrial Designs and Utility Models, 03
- Law on Copyrights and Related Rights, 2003
- Plant Variety Protection 2008
- Civil Code and Civil Procedure provided procedures for civil judgment, execution and provisional measure
- Criminal Code and Criminal Procedure provided procedures for criminal judgment
- Law on Management of Pharmaceutical Products
- Law on the Management of Quality and Safety of Products and Services
- Sub-decree on Solid Waste Management-1999
- The Draft of Law on Geographical Indications, Trade Secret, Layout Designs and Competition policy.

Cambodia Membership

- WIPO on July 25, 1995
- Paris Convention on September 22, 1998
- Member of ASEAN on April 30, 1999
- ASEAN Framework Agreement on IP Cooperation on April 30, 1999
- MoU on Trade Relations and IPRs Protection Agreement (CAM-USA) Oct 04, 1996
- MoU on IP Cooperation (CAM-THAILAND) on Mar 05, 1997
- Willing to be the member of Madrid, Bern Convention, and PCT

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IPRs Supervised by Different Ministries

Ministry of Commerce

The Law concerning Marks, Trade names, and Acts of Unfair Competition; Geographical Indications and Trade Secret and Undisclosed Information, Licensing and Franchising Agreement, Regulations on Intellectual Property

Ministry of Industry, Mines and Energy

The Law on Patents, Industrial Designs and Utility Models; Layout Designs, and Plant Variety Protection.

Ministry of Culture and Fine Arts

Law on Copyrights and Related rights

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IP Offices in Cambodia

Depart'nt of Intellectual
Property Rights
(D/IPR) (MoC)

Department of
Industrial Property
(D/IP) (MIME)

Department of
Copyrights (D/C)
(MCFA)

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Establishment of D/IPR

- Sub-Decree No. 91 dated August 01, 2007 organizing the responsibilities and functioning of the MoC.
- Declaration No. 211MOC/SM 2007 dated September 18, 2007 related to the role and organization of the D/IPR, under the authority of the General Directorate of Domestic Trade.

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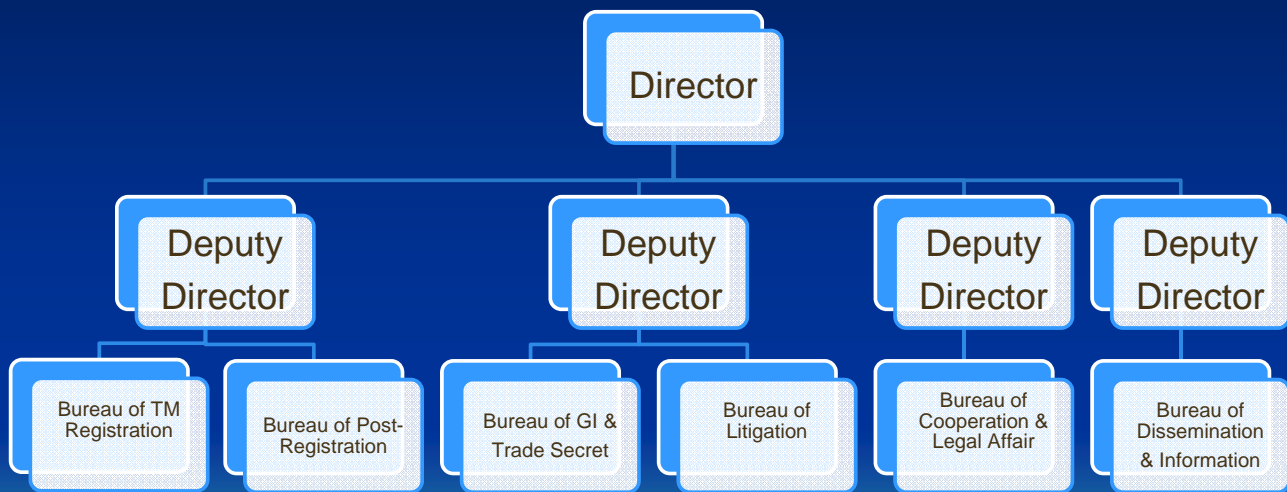
Vision

To establish IP infrastructures for creation in exchange for the limited natural resources.

Mission

The mission of IP offices is to be familiar with the international IP offices dedicated to fostering either science or arts and improving technology transfer for economic development.

Organization Chart of D/IPR

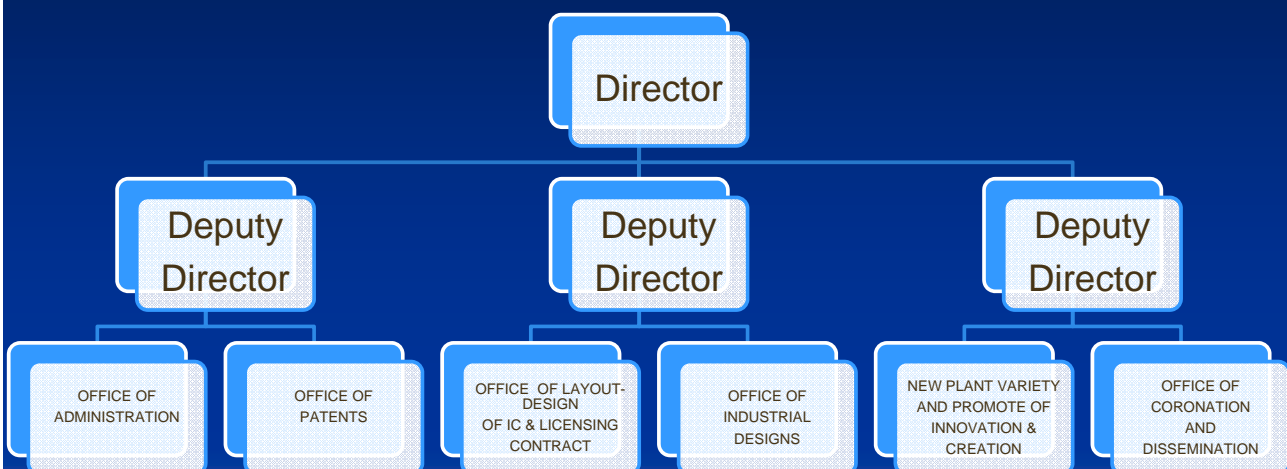


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Organization Chart of D/IP



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National Committee for Intellectual Property Rights



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The Components of National Committee for IPR

- | | |
|---|-----------------|
| - Minister of the Ministry of Commerce | Chairman |
| - Secretary of State of the Ministry of Industry, Mines and Energy | Deputy Chairman |
| - Secretary of State of the Ministry of Culture and Fine Arts | Deputy Chairman |
| - Representative of the Council of Ministers | Member |
| - Representative of the Ministry of Interior | Member |
| - Representative of the Ministry of Economics and Finance | Member |
| - Representative of the Ministry of Information | Member |
| - Representative of the Ministry of Post and Telecommunication | Member |
| - Representative of the Ministry of Health | Member |
| - Representative of the Ministry of Agriculture, Forestry and Fishery | Member |
| - Representative of the Ministry of Environment | Member |
| - Representative of the Ministry of Justice | Member |
| - Representative of the Ministry of Education, Youth and Sport | Member |
| - Representative of the Ministry of Tourism | Member |

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The Duties of National Committee for IPR

- Acting as the focal point in facilitating for the bilateral and multi-bilateral cooperation on Intellectual Property with other Countries and International organizations,
- Consolidating in running smooth works related to Intellectual Property between related ministries,
- Cooperating to promote preparation of draft laws and provisions related to Intellectual Property in implementing international agreements,
- Allocating technical support related to Intellectual Property from other countries and international organizations,
- Cooperating with related ministries to disseminate laws and provisions as well as the knowledge of Intellectual Property to the public, enforcement officers and students,
- Cooperating with competent authorities, court to prevent infringement of Intellectual Property Right,
- Cooperating with relevant ministries to research and study on the agreements and international treaties related to Intellectual Property to find out advantages and disadvantages before reporting for being membership to the government.
- Reporting the working achievements at least 01 time per year and in each stage to the Government.

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Duties of Sub-Committee of Education & Dissemination

- Strategic planning for IP education and dissemination in Cambodia
- Strengthen IP knowledge to IP office, enforcement authorities, researcher, and training for trainer in Cambodia through workshop and training
- Public dissemination of IP knowledge and effective use
- Promotion and encouragement of IP education by inserting IP course in the curriculum of educational institution and professional center.
- Promotion of IP reading material compilation: IP Dictionary, IP booklet and manual
- Form IP translation team, publication and distribution of foreign IP publication, international convention and treaty

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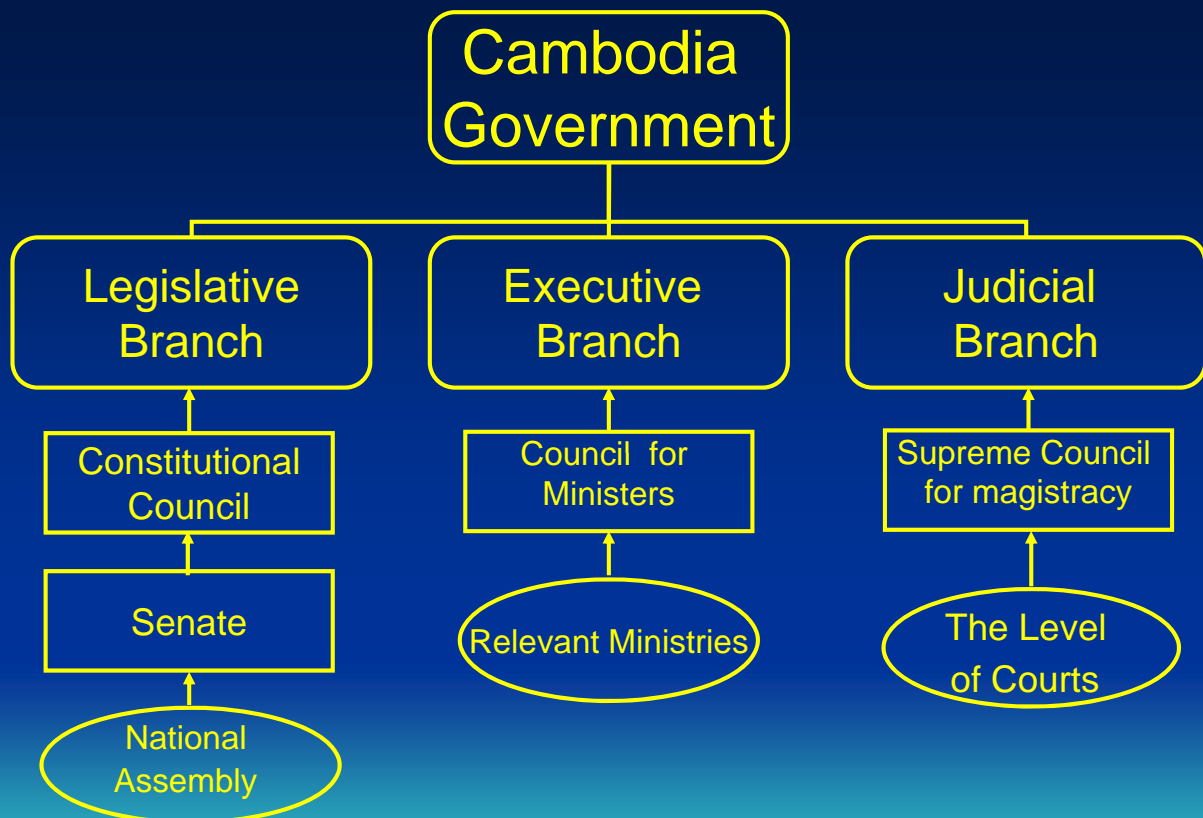
Duties of Sub-Committee of IP Enforcement

- Strategic planning for effective enforcement of IP Law
- Facilitating the relevant competent authorities to strengthen IP law enforcement in order to reduce counterfeit goods and piracy in Cambodia
- Establishment investigation network against IP crime
- Putting in place the procedure against IP infringement
- Preparing report of IP infringement for N/IPRs

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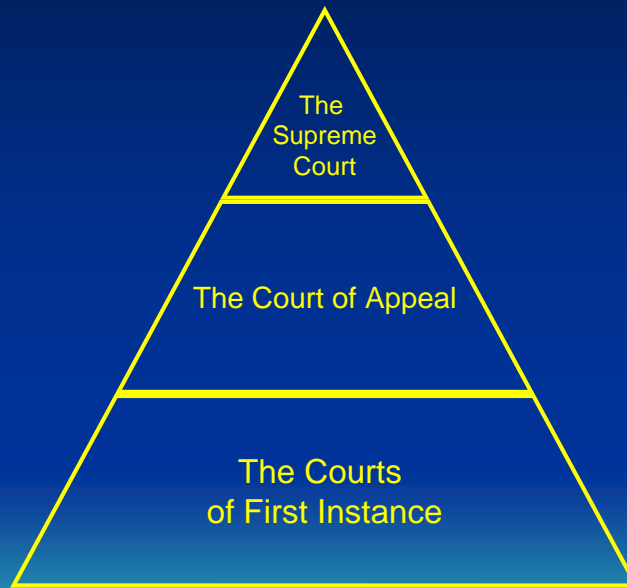


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The Level of the Courts of Cambodia



Cambodia on the way to establish Commercial Court

Courts of First Instance

- Municipal Court
- Provincial Courts

All cases in
Civil or Criminal

Military Court

Military Cases

Establishment of Commercial Court

- Cambodia commitment in WTO
- Steering deliberation

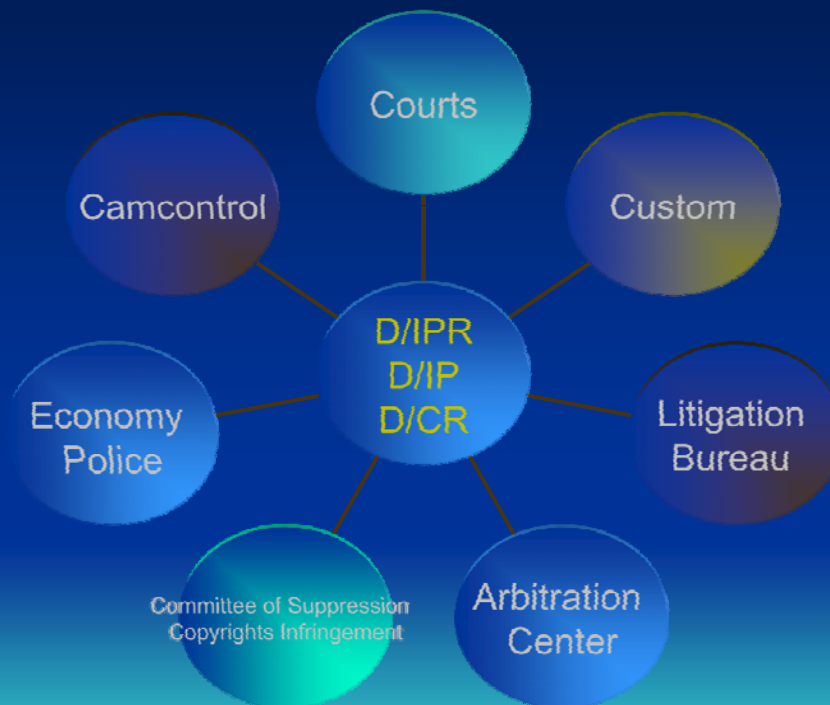
Legal Prosecution against the Infringement

Administrative Procedure

Civil Procedure

Criminal Procedure

IP Enforcement Authorities



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Alternative Dispute Resolution at D/IPR

The D/IPR acts similarly as mediator:

- A non-binding procedure in which a neutral intermediary, assists the parties in reaching a settlement of the disputes
- The both parties will be invited to discuss and find out the common dispute resolution
- A commitment contract should be signed by the Both parties
- Restraining Order (effective than a warning letter of the right holder)
- Revoke the validity of the registration
- Compensation of damages can be made upon the agreement of both parties
- Penalties and fine can not be made here
- Seizure or destruction of counterfeit goods can not be made, unless otherwise agreed by the parties

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Alternative Dispute Resolution on Disposal of Infringing goods

- Agreement from the affected right holder to dispose in channel of commerce in the limited period of time
- Prove the Certificate of Production
- Right holder can file a lawsuit against infringer before the court at any time



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Partnership with Private Sector against Infringement

- Agreement between the landlords, super market owner or retail stores and enforcement authorities
- Collaboration with private sector to educate the public and enforcement authorities

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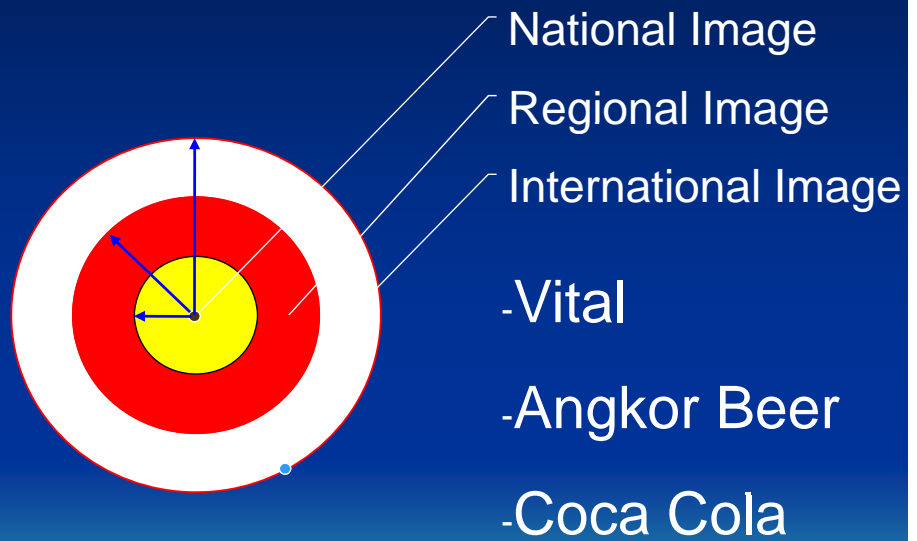
The Use of IPR for Competitiveness of National Enterprises and Industries under LDC

- Trademark, geographical indication, design, expired patent and copyright
- Collaboration with manufacturer
- Investment
- Alternative business options/ License or franchise

Collaboration with Manufacturer

- Limited resources
- To be owner of TM, SM, GI, copyrights design or to use expired patent
- Enter into manufacturing contract
- Create your own image is better than under anyone's image (distributor)

Brand Image



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Collaboration with Manufacturer

- Max for lubricant (Produced in Singapore)
- HBRBC for toothpaste (Produced in Malaysia)

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Driving Value Design for Competitiveness



Modernize Working Factors

Ex: Apple electronic devices

Cambodia car Design



Copyright/Expression/TCE



Investment

- **Company Profile**

- Company name: LY LY FOOD INDUSTRY CO., LTD.
- Address: No. 168, Singboard St, Sangkat Toek Thlar, Khan Russey keo Phnom Penh, Cambodia.
- Phone number: 855 (16) 835 388, (12) 574 555
- Facsimile number: 855 (23) 995 388
- Email Address: keo_mom@lylyfood.com/ keo_mom@hellogsm.com.kh
- Contact person: Ms. KEO MOM (Director)
- Type of Business: Produce Rice Cracker
- Description of Product: Durian, Chocolate, Coffee & Milk, Milk, Lychee, Prawn, Crab, Potato, Egg, Stawberry Rice Cracker
- Established: May 2002
- Employee: 95 Persons
- Annual sales: USD 1,500,000.00
- Locations: In the whole of Cambodia.

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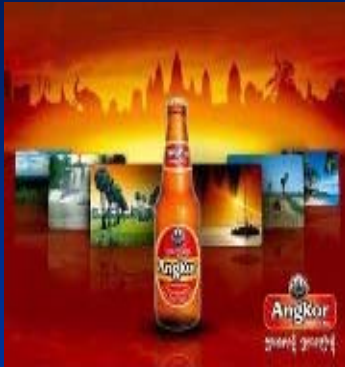


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Investment



- CAMBODIA BEER, invested 60M\$
- PPM produces generic drug, Revenue15M\$/year
- Bayon Bakery, Sokha Hotel, Canadian Bank

Development & Promotion of GI

•KAMPOT PEPPER



•KAMPONG SPEU PALM SUGAR

Application Number of Leading Companies

1	Medico Trading Co., Ltd	312
2	Mr. Bo Reth	85
3	Huotex International Ltd	56
4	Vann Chhay Ltd	39
5	Mr. Ear Thay Phuong	31
6	Mr. Ngann Hak Heng	28

Alternative Business Options/ License or Franchise

- Inter-continental Hotel
(Franchise-Joint Venture)
- Coca Cola (License)
- KFC (Franchise)



Alternative Business Options

McDaunalt
(Franchise? Pay Royalty)



Lucky Burger
(Own Initiative!)



Challenges and Opportunities

- IP awareness is limited
- Limited resources (Human resource, Skill, Technologies, Capital)
- Limited trust on local products
- Free flow of the world trade
- **Transfer Technology and know-how**
- **Joint venture and collaboration**
- **SME Bank**

CONCLUSION

- Clear policies and strategies of IPRs should be put in place
- Human Resource Management should be based on our development and Resources
- Retaining staff based on government resources and supporting partners
- the private enterprise should take concrete actions or at least they should have their clear strategies.
- Hope to learn more experiences from our speaker and colleagues here

**THANK YOU FOR YOUR
ATTENTION!!!**