



# Kingdom of Cambodia

## Ministry of Commerce

### Department of Intellectual Property

**Latest Developments of Trademark Protection Systems in Cambodia and ASEAN Region; Challenges and Opportunities towards the Madrid System**

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# International Treaties and international Cooperation

- World Intellectual Property Organization (WIPO): on July 25, 1995
- Paris Convention: on September 22, 1998
- Member of WTO (Trade Related Aspects of Intellectual Property Rights Agreement-TRIPS): on 13 October 2004

## International Treaties and international Cooperation (Cont)

- Trade Relations and Intellectual Property Rights Protection Agreement (CAM-USA) dated October 04, 1996 and came into force on October 25, 1996.
- MoU on IP Cooperation (CAM-THAI) on March 05, 1997
- ASEAN Framework Agreement on IP Cooperation on April 30, 1999
- Trade Investment Framework Agreement (TIFA) CAM- USA-August 2006
- EU (EPO)-SEAN on IP Cooperation 2014
- ASEAN-Australia NZ FTA (IP Chapter) in 2010

# International Treaties and international Cooperation (Cont)

- ASEAN- JAPAN on IP Cooperation in 2014
- ASEAN- CHINA on IP Cooperation in 2009
- Cambodia-Korea on IP Cooperation in 2014
- Cambodia-Singapore on IP Cooperation in 2015
- Madrid Protocol for international Registration of Mark on

# The Main Legislations of IP

- The Law on Concerning Marks Trade Names and Acts of Unfair Competition;
- Law on the Patents Utility Model Certificates and Industrial Designs;
- The Law on Copyright and Related Rights;
- The Law on Geographical Indication
- The Law on Seed Management and Plant Breeders

# National Committee for IPR (NCIPR)

## The Compositions of NCIPR are:

- |                                     |              |
|-------------------------------------|--------------|
| 1-Minister of Ministry of Commerce  | :Chairman    |
| Department of Intellectual Property | :Secretariat |
| 2-Under Secretary of State of MIH   | : Deputy     |
| 3-Under Secretary of State of MCFA  | : Deputy     |
| 4-Office of Prime Minister          | : Member     |
| 5-Ministry of Interior              | : Member     |
| 6-Ministry of Economics and Finance | : Member     |
| 7-Ministry of Information           | : Member     |

# NCIPR (Cont)

- 8-Ministry of Telecommunication : Member
- 9-Ministry of Health : Member
- 10-Ministry of Agriculture : Member
- 11-Ministry of Environment : Member
- 12- Ministry of Justice : Member
- 13-Ministry of Education : Member
- 14-Ministry of Tourism : Member

# The mains Duties of NCIPR

- To act as focal point in facilitating bilateral and multilateral cooperation on the field of intellectual property rights with other countries and international organizations;
- To smoothly coordinate works of intellectual property rights among responsible ministries;
- To stimulate drafting of laws and regulations related to intellectual property rights to implement international agreements;
- To receive and utilize technical assistance related to the field of intellectual property rights from other countries and international organizations;
- To cooperate with responsible ministries in disseminating laws and regulations of intellectual property rights for public awareness, enforcement officials, and students through educational institutions;
- To cooperate with competent authorities and courts to prevent and eradicate infringement of intellectual property rights;
- To conduct research and study of international agreements and conventions related to intellectual property rights for the purpose of finding out advantages and disadvantages before seeking approval from the Head of the Royal Government for membership of Cambodia to any of those agreement or conventions;
- To report the result of its implementation to the Royal Government of Cambodia in each stage, at least once a year.



# D/IP Information

- Department of Intellectual Property Rights, Ministry of Commerce/Secretariat of National Committee for Intellectual Property Rights;
- To study, analyze and recommend policies on intellectual property (IP) to Minister of Commerce and to the Government;
- Registration and to grant certificates of trademarks, service marks, foreign applicants and domestic GI;
- Resolves all problems arising from the registration;
- Assure a unique national policy on IP;

# D/IP Information (Cont)

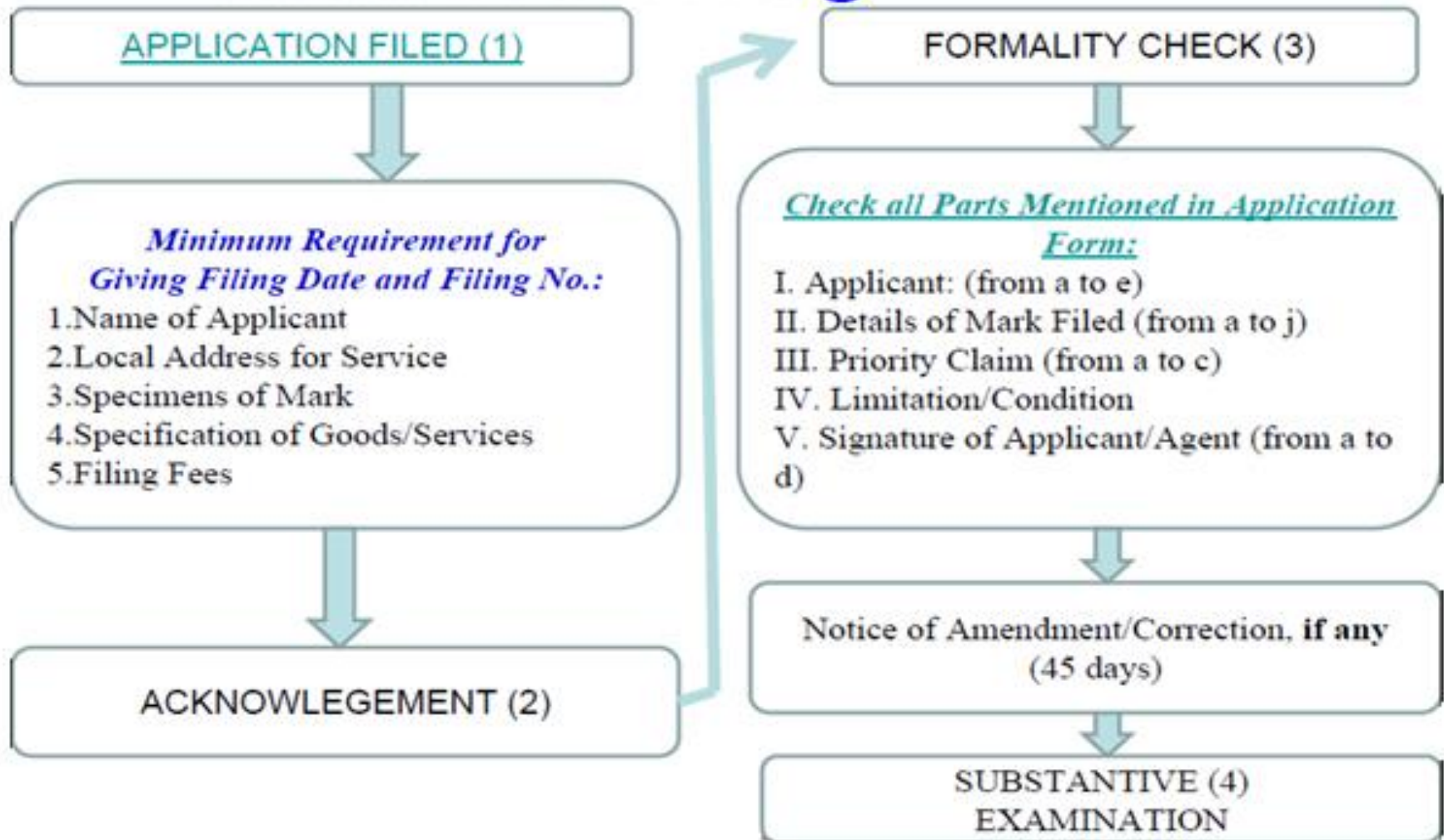
- Enhance a smooth cooperation between ministries and international organization;
- Preparing, disseminating, enforcing laws and regulation of IP;
- Comply with the committee during accession WTO;
- Receiving and utilizing effectively technical assistance of IP from international organizations and other countries;

# IP Office Information

- First to file;
- The registration of a mark shall be for a period of ten years from the filing date of the application for registration (Article 12 of TM Law) and
- The purpose of the registration marks based on International Classification of goods and services (Nice Classification (Ninth or Tenth Edition)).
- Conduct Formalities Check
- Substantive Examination

# IP Office Information (Cont)

## Initial Processing



# IP Office Information (Cont)

- Substantive Examination under Article **2(a)** and **4** of the Law Concerning Marks, Trade Names and Acts of Unfair Competition.
- The other criteria for substantive examination as below:
  - pronunciation
  - Meaning
  - Appearance
    - Distinctiveness (Registrable)
    - Lack of Distinctiveness (Unregistrable)
      - 1 Generic term
      - 2 Descriptiveness
      - 3 Other

## Examination Procedure Under Art. 4 (a)

(1) Identify Applied Mark



(2) Identify Goods/Services



(3) Determine Composition of Applied Mark



(4) Determine Meaning of Applied Mark, if Any



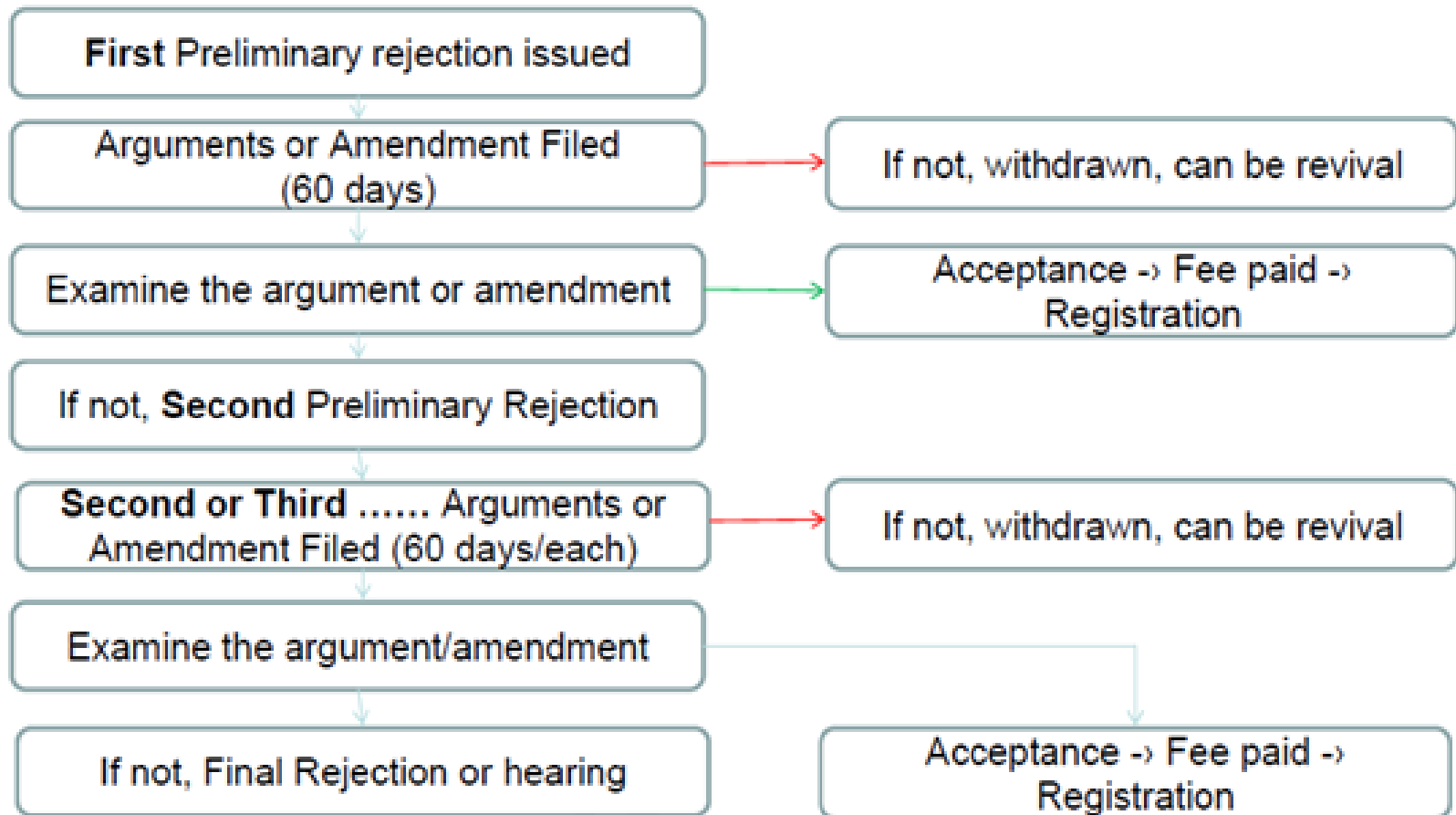
(5) Determine Generic, Descriptive Element

(6) Decide whether the mark is capable of distinguishing or not:  
-By it own, or  
- Need to be used



(7) Advice to Overcome the Objection:  
-Disclaimer/Condition/Limitation  
- Amendment of Goods/Services  
- Amendment of Mark, or  
- Evidence of Use

# Process for Overcoming Objection



# Statistics

YEAR	APPLICATION			REGISTRATION		
	Total	Local	Foreign	Total	Local	Foreign
2012	<b>5,168</b>	884	4,284	<b>3,753</b>	714	3,037
2013	<b>5,984</b>	885	5,099	<b>5,138</b>	748	4,390
2014	<b>6,146</b>	1,163	4,983	<b>4,557</b>	753	3,804
2015	<b>6,007</b>	1,372	4,089	<b>4,178</b>	805	3,334

There are 13 examiners for formalities check and substantive examination.



# Trademark Search Database

- We are used IPAS JAVA 2.7 for trademark searches which are have two kind of searches as below:
  - Phonetic and
  - Logo
- Based on two kind of searches above, the examiners has conducted trademark searches for identical or similarity and compare the specification of goods and/or services.

# Capacity Building of TM Examiners and other TM Professionals

- IT infrastructure Modernization

- Global Brand Databases

  - \*For normal, Phonetic, Fuzzy, Stemming

  - \*For image Search and Text

- ASEAN TMview

- ASEAN TMclass

- ASEAN Common Guidelines on Substantive Examination (Drafting)

- ASEAN Common Application Form (Drafting)

# Global Brand Database

WIPO

WORLD INTELLECTUAL PROPERTY ORGANIZATION

Home Reference Global Brand Database

searches records help



## Cambodian Trademarks Database

Searchable database of trademark information from the Kingdom of Cambodia, Department of Intellectual Property, Ministry of Commerce. For a more global search, use the [Global Brand Database](#).

SEARCH BY Brand Names Numbers Dates Class

Text =

Holder =

Goods =

FILTER BY Status App. Date\* Reg. Date\* Nice Cl.\*

Active	44,741
Registration Certificate Issued	382
Pending	7,087
Deleted	14,268

Display:

1 - 10 / 66,478

Display: 10 per page options

1 / 6,648

	Brand	Status	Score	Holder	Number	Reg. Date	App. Date	Nice Cl.	Image
<input type="checkbox"/>	HEWLETT PACKARD ENTERPRISE	Pending	1	HP Hewlett Packard Group LLC	66407		2015-11-20	35	

# Global Brand Database

## Global Brand Database

Perform a trademark search by text or image in brand data from multiple national and international sources, including trademarks, appellations of origin and official emblems.

Data from the Republic of Korea available Over 3,000,000 records added	2015-11-20	Moldovan data available Over 35,000 records added	2015-11-10	German data available Over 1,800,000 records added	2015-10-09	OHIM data available Over 1,250,000 records added	2015-10-02	Lao data available Over 33,000 records added	2015-03-08	Tonga data NEWS ✕ Over 3,000 records added
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SEARCH BY Brand Names Numbers Dates Class Country

Text =

Image Class =

Goods (All) ▾ =

search

FILTER BY Source Image Status Origin App. Date\* Expiration\*

AE TM	39,540	AU TM	1,487,110	BN TM	37,846	CATM	1,436,249
CH TM	363,694	DE TM	1,831,489	DK TM	281,865	DZ	24,747
EE TM	55,744	EG TM	75,567	EM TM	1,283,107	ID	749,441
IL TM	247,517	LA TM	36,433	JP TM	1,856,786	KH TM	66,478
KR TM	3,045,067	MA TM	135,386	MD TM	35,824	MX TM	1,042,393
NZ TM	586,638	OM TM	44,857	PH TM	355,506	SG TM	616,771

Display: List ▾ Sort: Value - asc ▾ filter ▾

Brand	Source	Status	Score	Origin	Holder	Number	App. Date	Image Class	Nice Class	Image
DELTA	DZ TM	Active	1	DZ	REEMTSMA CIGARETTENFABRIKEN	DZT100404000	2004.11.20		24	

# ASEAN TMview

The screenshot shows the ASEAN TMview website interface. At the top left is the ASEAN logo and the text "asean TMview". To the right, there are font size controls (A-, A, A+) and a language dropdown menu set to "English". Below the header is a navigation menu with links for "Home", "About", "Help", and "Enquiries".

The main content area features a "Find term" search box. Inside the search box, there is a text input field containing the example search query: "e.g. tm:COLA+, tm:+COLA, tm:CO+A AND anm:COLA". Below the input field is a blue "Search" button. To the right of the search box is an "Advanced search" link with a dropdown arrow.

Below the search box, there are two tabs: "Search status" (which is active) and "Preferences". Under the "Search status" tab, there is a "Show" button followed by the text "Of Office Finished". Below this, there is a list of countries, each with a gear icon and a country code:

- Lao PDR-LA
- Indonesia-ID
- Malaysia-MY
- Philippines-PH
- Thailand-TH
- Brunei Darussalam-BN
- Cambodia-KH
- Myanmar-MM
- Singapore-SG
- Vietnam-VN

At the bottom left, there is a "List of results" tab.

# Geographical Indication

There are two GI have been registered at Department of Intellectual Property under Ministry of Commerce. The two GI are:

1-Kampot paper

2-kampong spea palm Sugar

# Challenges Regarding Trademark Examination

- Getting long approval steps within the D/IP;
- Increase in application number, but decrease in registration number because of lack of examiners;
- It still have back log and Pending applications;
- Difficult to recruit new examiner(s);
- Examiner(s)'s acknowledge and experience still have limit;
- English language is also limit;
- Trademark examination done by examiners very slow;
- Internet speed is very slow and some day error and
- Lack of IT expert.

## *Efforts for Accession to the Madrid Protocol*

- Some small practices should be amended to facilitate implementation of Madrid Protocol;
- Amend law to comply with single class to multi classes;
- Special Bureau for Madrid Protocol registration have been established;
- Local agent or attorney must be train them for Madrid Protocol System;



## *Efforts for Accession to the Madrid Protocol (Cont)*

- Public awareness;
- Training trademark examination and administration;
- Human resources- experience and acknowledge;
- Infrastructure-upgrade space, Internet speed, IT equipment and upgrade system-Madrid Module (WIPO's IPAS JAVA 7.2) and
- Limitation Finance, Law-renegotiate for flexibility.

# Madrid Protocol Statistics in Cambodia

## Statistics

From June 05, 2015	Application	Class	Registered
Amount	547	1076	43

# Implementation of Madrid Protocol

-Instrument of Accession accedes to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks was signed by Samdech Akka moha Sena Padi Techo HUN SEN (Prime Minister of the Kingdom of Cambodia) on March 05, 2015

-It is still drafting Ministerial Regulation on Implementing the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks

# Implementation of Madrid Protocol (Cont)

- Electronic communication with WIPO
- Language: English
- Other documents required to be submitted by the applicant, agent or attorney for DIPR must be in Khmer and English languages
- Use all WIPO model forms
- All Madrid forms link from DIP website [www.cambodiaip.gov.kh](http://www.cambodiaip.gov.kh) to WIPO website
- Online marks searching and filing

# Requirements for Filing an International Application

Following Minimum Requirements are:

1. Name, address and contact details of the applicant or the address and contact details of his/her representative;
2. The Designated Contracting Parties;
3. Reproduction of the mark;
4. Indication of the Goods and Services for which registration of the mark is sought; and
5. Payment of the Handling Fee

## Contact persons in charge of Madrid Protocol System

- Mr. Sim Sokheng, [simsokheng@gmail.com](mailto:simsokheng@gmail.com)
- Ms. Thouk Much Theary, [thearyoukmuch@gmail.com](mailto:thearyoukmuch@gmail.com)
- Mr. Seng Hong, [senghong012@yahoo.com](mailto:senghong012@yahoo.com)
- Mr. Oum Saveth, [savethoum@yahoo.com](mailto:savethoum@yahoo.com)
- Mrs. Hy Dara, [hy\\_dara001@yahoo.com](mailto:hy_dara001@yahoo.com)
- Mr. Loy Vichetra, [vichetrakh@yahoo.com](mailto:vichetrakh@yahoo.com)



Thank you!  
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