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**'INTELLECTUAL  
PROPERTY  
PROTECTION**



**ENFORCEMENT  
IN THE INDIAN  
SUB-CONTINENT'**

## **WHAT'S INCLUDED?**



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IP News in Brief



Exclusive Article on Copyright Protection and Enforcement in the Indian Sub-Continent



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**2<sup>nd</sup>**

**Edition**

**By Kashish Intellectual Property Group  
(KIPG)**



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# A GUIDE TO TRADEMARK PROTECTION AND ENFORCEMENT IN THE INDIAN SUB-CONTINENT



The importance given to Intellectual Property Rights (IPRs) in the Indian Sub-Continent countries has skyrocketed in the past few years, with nations paying due regard to international agreements such as TRIPS, Paris Convention, Madrid Protocol, etc. The Indian Sub-Continent comprises eight countries, namely - Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka. Appropriate and lawful protection of a trademark with the concerned national trademark office gives the owner the legitimate rights to protect the trademark, use the mark exclusively and authoritatively, and enforce his or her rights against the unauthorized uses of the trademark. As trademark laws become more and more advanced in the Indian sub-continent, it is vital to keep abreast of the specific legal regime prevalent in each country for protecting and enforcing one's trademark. Before commencing business dealings in any country, it is extremely crucial to protect the company's trademark as it is a reflection of its goodwill and reputation. A detailed summary of country-wise trademark protection and enforcement laws is as follows:

## AFGHANISTAN



Afghanistan is a member of the Paris Convention, WIPO, and Madrid Protocol, and hence the applicants can also file their applications with claiming priority based on their home applications/registrations. It follows the 9<sup>th</sup> Edition of the Nice Classification. However, goods under Class 33 are prohibited in Afghanistan.

### REGISTRATION

All distinctive and graphical signs capable of being represented, three-dimensional forms, and any combination of the mentioned signs not deemed distinctive in the examination can be registered if distinctiveness has been acquired by use. As per amendments in the Trademarks Registration Law in 2015, registration of a collective trademark is allowed. Well-known trademarks are also protected, irrespective of registration.

Afghanistan is a 'first to file' jurisdiction, implying that it is compulsory to obtain trademark registration for protecting and enforcing one's trademark.

### Registration Procedure

- Persons, either of private or legal status, who want to register trademarks may approach the Intellectual Property Department at the Afghanistan Central Business Registry, Ministry of Commerce and Industries (ACBR-IP), and apply for registration.
- Immediately upon the receipt of the prescribed application form at the ACBR-IP, its contents are entered in the books of the ACBR-IP, and the applicant is provided with the Payment Tariff to pay the registration fees at the authorized bank.
- The Examiner in-charge of the ACBR-IP shall accept or refuse the application within 15 days from the receipt of the payment. In case that the application for registration of a mark is refused by the ACBR-IP, the reason for it shall be clearly stated. In that case, the applicant may refer to the Review Committee within 10 days of the notification.

- If the application for registration of a mark is accepted by the ACBR-IP or the Review Committee, the ACBR-IP will issue a Payment Tariff to pay the publication fees, and upon the receipt of the payment receipt of the publication fees paid, the application will proceed to the Official Gazette publication department within the Ministry of Justice to publish the details of the accepted trademark in the Official Gazette for the awareness of the public.

- If an opposition is filed before the registration of the mark, it is required to notify the applicant within 15 days. If the applicant does not withdraw the application, the opponent may contact the Review Committee within 60 days. Otherwise, if the opponent does not approach the Review Committee or follow-up on his opposition, the trademark shall be registered in the name of the applicant. When there is an opposition filed, the applicant may also contact the Review Committee to substantiate his or her claim on the mark.

- The Review Committee shall issue its verdict on such complaints based on submitted documents. The decisions of the Review Committee may be challenged at the Commercial Court.

The approximate time frame for completing the registration process of a trademark in Afghanistan is 6 to 8 months.

### Term of Registration

The trademark protection term begins from the date of application. Trademark registrations are valid for 10 years from the date of application, which are further renewable indefinitely for successive periods of 10 years each.

### Cancellation Action on the Grounds of Non-Use

In case of a cancellation action on the ground of

non-use, it would be the responsibility of the owner of the trademark to prove the use of the mark in Afghanistan. The term for cancellation based on non-use is 03 years. The use of the mark can be proved by submitting copies of the bills/invoices issued concerning the product bearing the trademark to or by Afghan distributors. Furthermore, advertisement of the products bearing the trademark in any journal or any other medium may also be considered as the use of the mark.

## ENFORCEMENT

Unauthorized use of a trademark registered under the law or an imitation of such trademark applied on goods and services of the same class, or sale, storing for sale, or exhibiting for sale of goods and services bearing a counterfeited mark, or using a mark duly registered under the law by another person to serve the purpose of unauthorized promotion of goods or services of the same class are offenses punishable under the law and compensation shall be paid.

In case of repeated violations, a violator shall pay double the cost of damages or shall be incarcerated for no more than 12 months.

### Confiscation of Goods and Closure of Activities' Site

An authorized court, can where necessary, order the confiscation of goods and products relating to a crime and the amounts earned from it and the tools used for it and can also order the closure of locations where the activities took place for 06 months, and in case of repetition, order permanent closure of the activities.

Recordal of Trademarks with Custom Authorities is not available in Afghanistan. The commercial courts are the first and primary authority for resolving all intellectual property disputes.

## TIMELINE OF TM REGISTRATION PROCEEDINGS IN AFGHANISTAN



06-08 Months Approx

# BANGLADESH



The primary law governing trademarks in Bangladesh is the Trademarks Act 2009. Bangladesh is a signatory to the Paris Convention and TRIPS. Bangladesh follows the 9th Edition of the Nice Classification. The Department of Patent, Designs,

Bangladesh follows a 'first to use' system, subject to presenting evidence of prior use of the mark in Bangladesh.

## **REGISTRATION**

### **Registration Procedure**

- Any person claiming to be the proprietor can file an application for registration of a mark used or proposed to be used.
- A separate application must be filed for each class of goods or services.
- The application must be filed at the Head Office or any branch of the Trademark Registry, which has territorial jurisdiction over the principal place of business. If the person does not carry a business in Bangladesh, the application must be filed in the office - having territorial jurisdiction over the place mentioned in the address for service in Bangladesh.
- The Registrar may accept the application absolutely and go ahead with the further process or refuse the application recording the grounds of refusal. He may even conditionally accept the application, i.e., subject to amendments, modifications, conditions, or limitations.
- After the conditional or absolute acceptance of the application, the Registrar may advertise the application in the prescribed manner along with the prescribed fees.
- Within 02 months from the date of advertisement of the application, any person may oppose the same by serving due notice to the Registrar with the prescribed fees. He or she shall, within 01 month from the date of receipt of the notice, serve a copy of the same to the applicant.

- Then, the applicant shall file a counter within 02 months from the date of receipt of such notice to him. If a counter is not filed, the application shall be deemed to have been abandoned.

- The Registrar, having followed the due process of opposition, shall decide whether to accept, conditionally accept, or reject the application.

- The opposition proceedings must be wound up/concluded in 120 working days.

- If the application is accepted or not opposed or the notice period of opposition gets expired, or it has been opposed, and the decision is in favor of the applicant, the trademark shall be registered by the Registrar.

It takes around 24-36 months to get a trademark registered in Bangladesh.

### **Term of Registration**

The duration of the trademark protection is 07 years, which can be further renewed indefinitely by paying the prescribed fees from time to time. The Registrar may renew the registration of the trademark for 10 years from the date of the expiration of original registration or the last renewed registration on application by the applicant.

### **Cancellation Action on the Grounds of Non-Use**

A mark can be cancelled for non-use if it is not used consecutively used for five years from the date of registration.

### **Revocation of Trademark Registration**

Trademark registrations can be revoked on the grounds that the impugned mark was registered without any genuine intention to use the mark and that up to 01 month before the date of the application, a continuous period of 05 years or longer elapsed during which:

- The trademark was registered; and
- There was no genuine use concerning those goods or services by the proprietor.

## **INFRINGEMENT**

Registered trademark owners may file a trademark infringement action. The trademark is deemed to be infringed if there is usage by a person other than the registered proprietor of the identical or similar trademark.

A person is deemed to have infringed a registered trademark:

- Where a person uses a trademark, which is identical or similar to an already registered trademark used in the course of trade, for similar goods or services not being a registered proprietor/user and confuses the part of the public.
- Where the registered trademark is used in the course of trade, for the goods or services, which are not similar but have a reputation in Bangladesh and the use of the mark by the person without due cause, takes unfair advantage of or is detrimental to the distinctive character or reputation of the registered trademark.
- Where a person who is not being duly authorized by the registered proprietor or a registered user uses the trademark on a material intended to be used for labeling or packaging goods, as business papers, or for advertising goods or services.
- Where a person not being a registered proprietor/user uses a registered well-known trademark for identical or similar goods or services for which the mark has been registered.
- Where a person not being a registered proprietor/user uses a registered well-known trademark for the goods or services, which are not identical or similar to those in respect of which the mark has already been registered, by using the mark concerning those goods or services, would point out a connection between those goods or services and the owner of the registered well-known mark, and that the interests of the owner of the registered well-known mark are likely to be damaged by such use.

## **ENFORCEMENT**

Registration of a trademark confers the following rights:

- Exclusive right to use the trademark concerning those goods and services for which it has been registered.
- Obtain relief against infringement.
- A right to the common law remedy of 'passing off' against any person for passing off the goods or services of another person and any other related remedies.

District Courts are empowered to hear the trademark disputes. Both civil and criminal remedies are available. Trademark Infringement suits can be instituted only in a district court or higher. The rights holders may file a lawsuit for permanent injunctions before the Dhaka District Court. If the infringement is proved, a lawsuit for damages may then be filed separately.

### **Civil remedies include:**

- An injunction restraining further use of the infringing mark; (temporary/permanent)
- Damages or an account of profits; and
- Order for delivery up of infringing labels and marks for destruction or erasure.

### **Criminal remedies include:**

- For infringement - imprisonment for up to 02 years but no less than 06 months, a fine of up to Tk200,000 but no less than Tk50,000 or both
- For a second or subsequent conviction - imprisonment up to 03 years but no less than 01 year, a fine of up to Tk300,000 but no less than Tk100,000 or both
- Raids on the premises where the counterfeit goods are stored

- Seizure of the goods
- Destruction of the counterfeit goods
- The imposition of penalties on the infringer

The courts also have the discretion to set the prison term and the amount of any fine.

## Border Control Measures

Upon receiving a complaint from a rights holder, the relevant customs authority may take steps against any person or entity that imports goods in violation of the Customs Act. If any goods bearing registered marks are imported into or attempted to be exported out of Bangladesh in violation of the Customs Act, such goods shall be liable to be detained and confiscated and shall be disposed of as well. A rights holder may also approach the High Court Division to obtain an order directing the Customs to detain or seize the counterfeit goods.

Why do we need to protect our IP?



IP is a valuable asset as it sets our business apart from our competitors.



IP can be sold or licensed, too, thereby providing an important revenue stream.



It forms an essential part of marketing and branding and be used as security for loans as well.







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# BHUTAN



Bhutan is a member of the Paris Convention as well as the Madrid Protocol. It follows the 10<sup>th</sup> Edition of the Nice Classification of Goods and Services.

## **REGISTRATION**

Bhutan is a member of the Paris Convention as well as the Madrid Protocol. It follows the 10<sup>th</sup> Edition of the Nice Classification of Goods and Services.

The Intellectual Property Division is responsible for trademark registrations in Bhutan. The Industrial Property Act of 2001 is the statutory basis for trademark protection in Bhutan. Well-known trademarks are also protected.

Bhutan follows the 'first to use' system, which implies that it is not compulsory to register a mark before using it.

### **Registration Procedure**

Trademark applications in Bhutan can be classified under two categories, which are:

- The ordinary trademark application (without any priority)
- The convention trademark application (which has to be filed within 06 months from the date of filing of the international convention application)

It can be further noted that the trademark applications can be filed for a single class as well as multi-class. The stages of trademark registration are as follows:

- Filing of the trademark application, which can be filed by any person who claims to be the proprietor;

- At this stage, the Formality Examination of the Application takes place to check and determine the formal compliance before issuance of an Application number;

- After this, the trademark application is examined by the Trademark Registry for any similarity with the existing trademark, if any, and thereby if any objection is found, an examination report will be issued by the Registry;

- Reply has to be filed to the examination report within 02 months (which can also be extended by 02 months);

- If there are no objections or if objections have been overcome and the trademark is considered allowable, an acceptance order is issued;

- The trademark is then published in the Trademark Journal;

- The opposition, if any, has to be filed within 03 months from the date of publication of the application;

- The trademark is registered if no opposition is filed with the stipulated period or if the same is set aside; and

- The last stage is the issuance of the Registration Certificate.

The trademark registration process can take 12 to 18 months in case of no opposition.

### **Term of Registration**

The duration of registration of a trademark is 10 years from the date of application in Bhutan, which is further renewable indefinitely for every 10 years upon the date of expiration of the trademark.

### Cancellation Action on the Grounds of Non-Use

A registered trademark may also be removed with a request from any aggrieved person on the grounds of non-use for 03 consecutive years.

### Revocation of Trademark Registration

A registered trademark may be invalidated with a request from any aggrieved person for not fulfilling the provisions of the Industrial Property Act of the Kingdom of Bhutan.

## INFRINGEMENT

The owner of a registered trademark may commence legal proceedings against trademark infringement.

It is not mandatory to register a trademark. Even unregistered marks can be protected from unauthorized use under the common law of passing off.

A person who knowingly performs an act, which constitutes an infringement or an unlawful act, shall be guilty of an offense punishable by imprisonment according to the law of the land or by a fine of up to Nu. 10,00,000 or by both.

Any decision taken by the registrar may be the subject of an appeal by any interested party before the Court, and such appeal shall be filed within two months of the date of the decision.

Civil proceedings for enforcement are not available in Bhutan.

## TIMELINE OF TM REGISTRATION PROCEEDINGS IN BHUTAN



# INDIA



India is a member of the TRIPS Agreement, Paris Convention, and Madrid Protocol. As a first-to-use country, unregistered trademarks with prior use can be protected under common law in India. India's obligations under the TRIPS Agreement for protection of trademarks, among other aspects, include protection to distinguishing marks, recognition of service marks, indefinite periodical renewal of registration, the abolition of compulsory licensing of trademarks, etc. India also recognizes well-known trademarks and the principle of the trans-border reputation of trademarks.

## **REGISTRATION**

In India, trademarks are registered by the Controller General of Patents, Designs and Trademarks, Ministry of Industry and Commerce, Government of India.

### **Registration Process**

- An application has to be filed with the Trademark registry. Nowadays, trademark filing is mostly done online.
- Once the application is filed, an official receipt is immediately issued for future reference.
- After a trademark application is filed, it is examined by the examiner for any discrepancies. The examination might take around 01-02 months. The examiner might accept the trademark absolutely, conditionally, or object.
- If accepted unconditionally, the trademark gets published in the Trademark Journal. If not accepted unconditionally, the conditions to be fulfilled or the objections would be mentioned in the examination report, and a month would be given to fulfill the conditions or respond to the objections.

- Once such a response is accepted, the trademark is published in the Trademark Journal. If the response is not accepted, one can request a hearing. If in the hearing the examiner feels that the trademark should be allowed registration, he or she proceeds for publication in the Trademark Journal.

- The step of publication is incorporated in the trademark registration process so that anyone who objects to the registering of the trademark has the opportunity to oppose the same. If after 04 months from publication there is no opposition, the trademark proceeds for registration. In case there is an opposition raised - there is a fair hearing, and decisions are given by the Registrar.

- Once the application proceeds for trademark registration, following publication in Trademark Journal, a registration certificate under the seal of the Trademark Office is issued.

The entire trademark registration process can take between 07 to 09 months.

### **Term of Registration**

The trademark is registered for 10 years, which can be renewed perpetually after every 10 years.

### **Cancellation Action on the Grounds of Non-Use**

The Indian trademark law allows for the cancellation of a trademark registration if, for a continuous period of 05 years and 03 months from the date on which the mark was entered into the Trademarks Register, there has been no bona fide use of the trademark for the goods/ services covered by the registration.

## Revocation of Trademark Registration

A registered trademark is open for cancellation on the application of a person aggrieved if the mark is wrongly registered or wrongly remaining on the trademark register. The person aggrieved is required to show that the mark was registered in contravention of the Trade Marks Act or any other law. Further, the applicant can show that a mark though validly registered has for the change in circumstances become bad and liable to be rectified or cancelled. The proceedings seeking rectification or cancellation of a registered trademark are an original proceeding. Therefore, parties are required to file evidence by way of affidavit.

## ENFORCEMENT

Both civil and criminal remedies are simultaneously available against infringement and passing off. Trademark Infringement is a cognizable offense, and criminal proceedings can be initiated against the infringers.

A trademark is said to be infringed by a person, who not being a permitted user, uses an identical/similar/ deceptively similar mark to the registered trademark without the authorization of the registered proprietor of the trademark. However, it is pertinent to note that the Indian trademark law protects the vested rights of a prior user against a registered proprietor, which is based on common law principles.

Passing off is a common law tort used to enforce unregistered trademark rights.

The relief, which a court may usually grant in a suit for infringement or passing off, includes a permanent and interim injunction, damages or account of profits, delivery of the infringing goods for destruction, and cost of the legal proceedings.

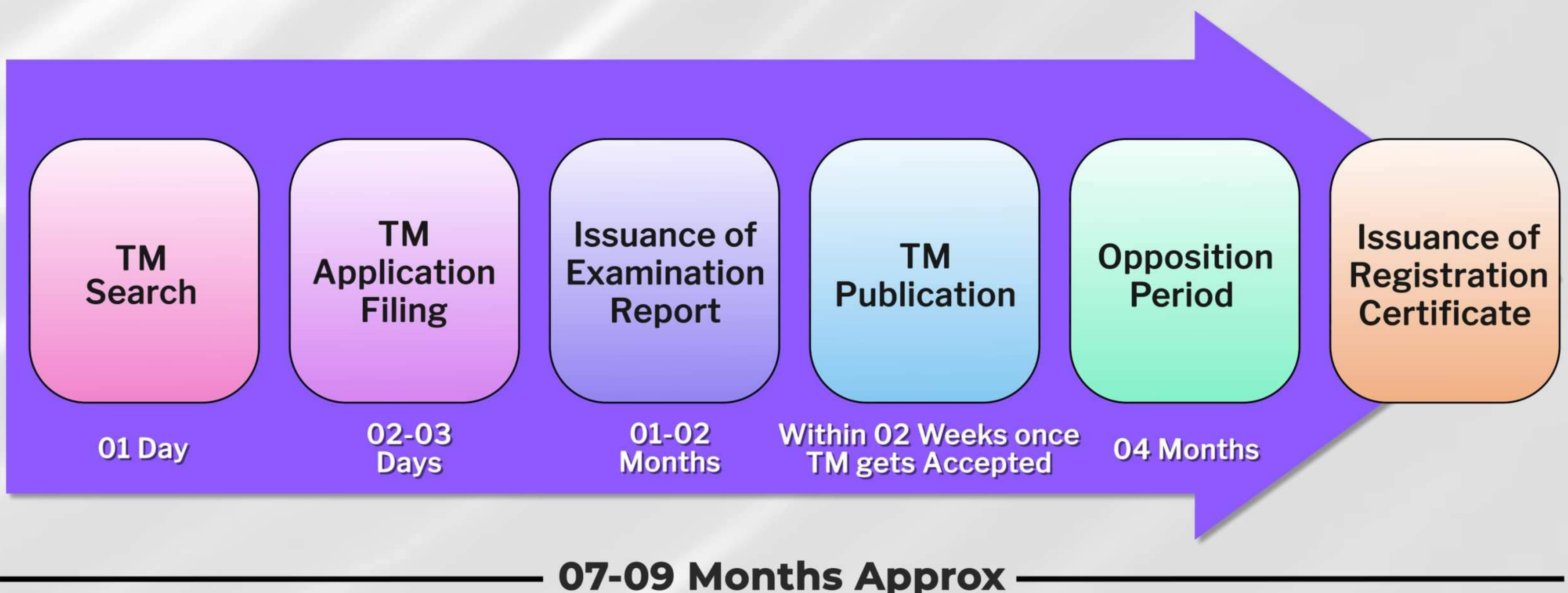
In case of a criminal action for infringement or passing off, the offense is punishable with imprisonment for a term which shall not be less than 06 months but which may extend to 03 years and a fine, which shall not be less than INR 50,000, but may extend to INR 200,000.

## Border Control Measures

The IP owners in India can take steps to record their IP with the Customs Authority of India for monitoring and confiscation. Such recordal can be done under the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 along with The Customs Act, 1962, which can act as a preventive measure on part of brand owners wherein the infringing and counterfeit goods can be detected and disposed of at the border itself.

The period of validity of the custom registration is 05 years, and the same is required to be re-filed after the expiry to renew the same.

## TIMELINE OF TM REGISTRATION PROCEEDINGS IN INDIA



# MALDIVES



There is no specific law that governs trademark registration or protection in Maldives. The Ministry of Economic Development established an Intellectual Property Unit in 2007 to educate the masses regarding various aspects of IPRs. Maldives is a signatory to the TRIPS Agreement. The Maldives Government is also seeking assistance from WIPO to develop IPR laws and regulations.

The protection of IP is sought by way of common law through the publication of cautionary notices in newspapers that have wide circulation in the markets. These cautionary notices are a warning to third parties against the use of such marks, which may result in an infringement, and to not continue

with such use. The cautionary notice should state the details of the proprietor, description of the trademark, and classification of the goods/services according to the Nice Classification. The cautionary notice may be published for individual classes or multiple classes, and the time involved for acquiring such protection under this notice would generally take 3-4 weeks. The publication fee may vary depending on the length of the cautionary notice. The publication can be done in either English or the local language (Dhivehi). However, it is highly recommended to publish the same in both languages. Renewal is done by way of re-publication of the cautionary notice from time to time - usually every 03 or 05 years.

## FAQs ON TM REGISTRATION IN MALDIVES

**Q1. Can foreign proprietors or foreign entities protect their trademark in Maldives?**

**A1. Yes, foreign proprietors or foreign entities can protect their trademark in Maldives by publishing a trademark cautionary notice in the local newspaper of Maldives, thereby cautioning the public and trade about the ownership of the trademark.**

**Q2. Is there any provision for the removal of a trademark because of non-use?**

**A2. In the absence of trademark law in Maldives, there is no provision for the removal of a trademark because of non-use.**

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# NEPAL



Nepal is a signatory to the Paris Convention for the Protection of Industrial Property and the Convention establishing the World Intellectual Property Organisation. The Department of Industry regulates all activities relating to industrial property, including trademarks. The Industrial Property Office is administered by the Department of Industry. The primary legislation governing trademarks in Nepal is the Patent, Design and Trademark Act (2022/1965).

The Registration of the mark will provide statutory protection over the mark as Nepal follows the 'First to File' principle.

## REGISTRATION

Any person or corporate body claiming to be the owner of a trademark may file an application for its registration with the Industrial Property Office (administered by the Department of Industry). Applications can be filed in two categories - Ordinary Application and Convention Application.

- One who is willing to get registered any trademark of his or her trade or business under the act shall apply to the Department in a prescribed format along with the fees.
- Multi-class applications are prohibited in Nepal.
- In the examination of a trademark application, the Industrial Property Office considers the mark's distinctiveness and similarity with existing marks.
- If the Industrial Property Office raises objections to the trademark application, the applicant will be allowed to be heard.
- In case of rejection, an appeal can be filed with the appellate court within 35 days of the decision's issuance.

- The Industrial Property Office publishes all trademarks in the Trademarks Journal, and the public is given 90 days to file a notice of opposition against conflicting marks.

- Once an opposition has been filed against a trademark, the Industrial Property Office serves a copy of the notice of opposition to the applicant, which must file a counterstatement within 21 days of receipt of the notice. If the applicant fails to file a counterstatement, the application will be treated as having been abandoned.

- An appeal can be filed against an order of the Industrial Property Office registrar before the High Court in opposition or revocation proceedings within 35 days from obtaining a certified copy of the decision.

- A trademark registration formally comes into effect on the day on which the registration certificate is issued. Unlike in most other jurisdictions, marks are not registered retrospectively from the day on which the application is filed.

- Registration applications submitted by the foreign applicants are exempt from the examination if the foreign applicants submit copies of their foreign trademark registrations while filing their application in Nepal.

Registration of a mark in Nepal generally takes 10 to 12 months in upfront cases (where there is no objection or third-party opposition).

## Term of Registration

The term of trademark protection is 07 years, which can be renewed every 07 years.

## Cancellation Action on the Grounds of Non-Use

A mark can be cancelled for non-use if it is not used consecutively for 01 year from the date of registration.

## Revocation of Trademark Registration

Trademark registration can be revoked because:

- The owner registered the impugned mark with no bona fide intention to use it; or
- The owner made no bona fide use of the mark concerning the goods or services for which it was registered for a continuous period of 01 year or more, up to 01 month before the date of the revocation application.

## ENFORCEMENT

The Department of Industry's Trademark, Patent, and Design Department is empowered to hear all trademark disputes.

Civil, criminal, and administrative remedies are available can be taken to prevent trademark infringement. Passing off actions for protecting unregistered marks are not available. Under the Civil Rights Act 1955, an injunction can be filed with the High Court. Administrative actions can also be initiated by filing a complaint of infringement with the Department of Industry.

## Civil Remedies

The trademark owner is entitled to an injunction if he or she justifies his or her claim to the authorities that the trademark has been infringed. The person can claim for damages by submitting the evidence regarding the actual damage suffered by him.

Infringing goods can also be seized and destroyed. Punitive damages are allowed, but this is subject to the showing of evidence regarding actual damages suffered by the trademark owner.

## Criminal Remedies

Any goods/labels/advertising and printing material, etc., which are violating someone's trademark rights, can be seized. That person can be fined up to NRS 10,00,000 for the offense. Raids are conducted only when criminal action is taken. A raid of the premises where the trademark infringement is alleged to have taken place is the most effective action against infringement.

## Border Control Measures

All trading activities are regulated by the Ministry of Finance under the Customs Act 2007. If a party exports or imports goods in violation of IPRs acquired by any party under the prevailing laws, the concerned party may submit an application accompanied by evidence to the relevant customs office for the withholding of such export or import.

If an application is made, the concerned customs officer will withhold such goods in the customs office and make a request to the relevant body or authority for necessary action in that respect.

Such body or authority will, on being requested under an application:

- Take action in that respect;
- Settle the matter under the prevailing laws; and
- Give information thereof to the customs office

If on taking action under the prevailing laws the body or authority holds that such goods are liable to be forfeited, the customs officer will hand over the

**\*TIP - FOR FULLY EXPLOITING YOUR IP, IT INDEED MAKES STRONG BUSINESS SENSE TO DO ALL THAT YOU CAN TO SECURE IT.**

# PAKISTAN



Pakistan is a member of the Paris Convention for the Protection of Industrial Property and TRIPS. It follows the 11th edition of the Nice Classification. Pakistan also protects well-known trademarks.

Pakistan is a 'first to use' jurisdiction, which implies that unregistered marks can also be protected under the common law.

## INFRINGEMENT

The registration of a trademark in the courts of Pakistan is considered to be prima facie evidence of proprietorship that could result in instant relief by the courts in the form of an interlocutory injunction against any unauthorized use of the registered mark. The registration is also crucial to apply the jurisdiction of various governmental agencies and enforcement forums such as the Pakistan Customs Service and Drug Regulatory Authority and Competition Commission of Pakistan. Multi-class applications are not available.

### Registration Process

- The application for the registration of a trademark must be in a manual form in the prescribed format.
- The mark is then examined by the Registry to determine whether it falls within the definition or ambit of a trademark and whether there are any conflicting marks on the register.

- If the trademark does not fulfill the requirements, the registrar issues an examination report with their objections, and the proprietor of the trademark is required to file a written statement contesting the objections within 01 month.

- In case the application has rejected an appeal, it may be filed with the High Court of the competent territorial jurisdiction.

- In case the application is accepted, the mark is accepted for advertisement and published in the Trademarks Journal.

- Once the mark is advertised in the Trademarks Journal, persons who can potentially be affected by the registration of the trademark are invited to file oppositions to which the proprietor of the trademark files a response. The opponent is bound to file evidence to which the proprietor of the trademark responds and is finally heard by the registrar, after which the registrar can decide whether to grant registration or not.

- Any decision taken by the registrar in the opposition proceedings can be appealed to the High Court having competent jurisdiction.

### Term of Registration

A trademark shall be registered for 10 years from the date of registration and may be renewed for a further period of 10 years at the request of the proprietor, subject to payment of such a renewal fee as may be prescribed. To maintain registration, the proprietor must show bona fide use of the trademark in Pakistan, which can be evidenced in the form of invoices, packaging and advertising, and promotional material.



## Cancellation Action on the Grounds of Non-Use

If registration is granted without use, the proprietor of the trademark must use the mark within 05 years from the date of registration to either maintain the registration or to defeat a third-party challenge on the grounds of non-use. No bona fide use for 05 years from the date of registration can attract the claims of 'trafficking in trademarks,' which can be extremely prejudicial to the trademark in question.

## **ENFORCEMENT**

Both criminal and civil actions are available. Specialized IP tribunals have been set up at the provincial as well as federal level with exclusive jurisdiction to deal with IP matters. However, IP cases in Sindh, for which the pecuniary jurisdiction vests with the Sindh High Court in Karachi, continue to be filed before the said court.

### Civil Remedies

The plaint must be filed in the tribunal or court possessing territorial and legal jurisdiction. The plaint may be and usually is, accompanied by applications seeking an urgent hearing and interlocutory relief.

Allegedly infringing items or articles can be impounded while the action is pending and may be ordered destroyed or subject to other disposition if there is an infringement. In action for infringement or dilution, a successful party can seek a preliminary or permanent injunction, damages, and account for profit. Damages may be apportioned based on the actual loss, loss of business opportunity, future profits, and loss of reputation.

## Criminal Remedies

The complainant may either file a private complaint before the judicial magistrate or a formal complaint with the police. Whoever uses any false trademark or any false property mark shall be punished with imprisonment for a term up to 01 year, or with fine, or both. The punishment for counterfeiting any trademark or property mark is 02 years with fine or confinement only or fine only.

Any judgment, decree, or order passed by the tribunal or district court is appealable before the High Court exercising jurisdiction over the tribunal. If the appeal is filed against an order, the appeal will be heard by a single judge, but if the appeal challenges the judgment or decree passed by the district court, it shall be heard by a division bench of the High Court.

## Border Control Measures

Pakistan can implement border enforcement mechanisms allowing the proprietor of the trademark to inform the customs authorities of the infringement of the trademark to suspend the clearance of counterfeit or infringed goods. Upon an application in writing, the Collector of Customs can treat the infringing goods, material, or articles as prohibited goods. The database from the Intellectual Property Office is automatically shared with Customs, which then keeps track of infringing imports. The goods can be detained, seized, destroyed by customs authorities as per the prescribed procedures.

Also, an officer of customs having reasonable grounds to believe that infringing goods have arrived at the Customs station of his jurisdiction, shall, with the prior approval of the Additional Collector, inform in writing the concerned Directorate of IPR (Enforcement) for taking cognizance.

**\*ALWAYS REMEMBER - INTELLECTUAL PROPERTY RIGHTS (IPRs) PROTECT THE ASSETS THAT ARE INTEGRAL TO THE CORE SERVICES OF BUSINESSES AND THEIR OVERALL LONG-TERM VIABILITY.**

# SRI LANKA



Sri Lanka is a signatory to the Paris Convention for the Protection of Industrial Property and the TRIPS Agreement. Sri Lanka is a 'first to use' jurisdiction, which means unregistered marks can also be protected under the common law remedy of passing off. Collective and certification marks can also be registered.

## REGISTRATION

An application for trademark registration can be filed with the National Intellectual Property Office. Multi-class applications are not allowed. Separate applications must be filed for each class.

### Registration Process

- The National Intellectual Property Office, on receipt of the application from the applicant or its authorized representative, as the case may be, shall verify the contents of the trademark application to confirm its veracity and to check if it is in order. The Office will state its objections if any.
- The response to the objections should be filed within 02 months from the date of receipt of the examination report with a maximum extension of another 03 months.
- When the trademark office accepts the application, it is sent for translation to the local language and subsequently published in the Trademark Journal and is open to opposition for 03 months from the date of publication. The opposition period can be extended by another 02 months.
- If all the information and documents are found to be in order, it will accept the application and shall allot an application number to the trademark application.

It takes approximately 15 to 18 months to conclude registration proceedings if there is an opposition.

### Term of Registration

The registration of the trademark is valid for 10 years from the date of filing or the last renewal of registration and is renewable every 10 years.

### Cancellation Action on the Grounds of Non-Use

A cancellation petition on the grounds of non-use can be filed to remove a trademark from the register if it has not been used in Sri Lanka for 05 years from the date of registration.

## ENFORCEMENT

The Colombo Commercial High Court has exclusive jurisdiction over all disputes under the act. The civil action, criminal action, and administrative relief - all three are available in Sri Lanka.

- **Civil Action** - The competent courts can be moved to grant relief of injunction against infringement or passing off;
- **Criminal Action** - A criminal complaint can be filed against parties that have infringed the trademark in Sri Lanka, in addition to a civil action; and
- **Administrative Relief** - A notice of opposition can be filed against trademark applications published in the Trademark Journal in Sri Lanka. Proceedings can be initiated for the rectification or cancellation of registered trademarks before the Registrar of Trademarks.

## INFRINGEMENT

The owner of a registered trademark or a person authorized by such person can file a trademark infringement action. The statute of limitations for filing infringement actions is 03 years from the date of infringement.

If the owner of a mark satisfies the court that its mark has been infringed, the court may grant an injunction prohibiting the party from continuing the infringement. The court may also order damages and other such relief as the court may deem fair and equitable. The injunction may be granted together with an award of damages and will not be denied only for the reason that the applicant is entitled to damages. The court may order such damages to be adequate to compensate the rights holder for the loss suffered in addition to the recovery of any profits. Punitive damages are not usually awarded in Sri Lanka.

Criminal proceedings can also be initiated by police by filing plaint with the commercial criminal division of the CID, which may institute proceedings before the Magistrate Court upon investigation. Raids are also conducted by CID. The infringer can face an imprisonment term of up to six months or a fine up to Rupees 500,000.

### Border Control Measures

Sri Lanka has some specific border control measures to combat the import of counterfeit goods and copyrighted works. The customs officials have the

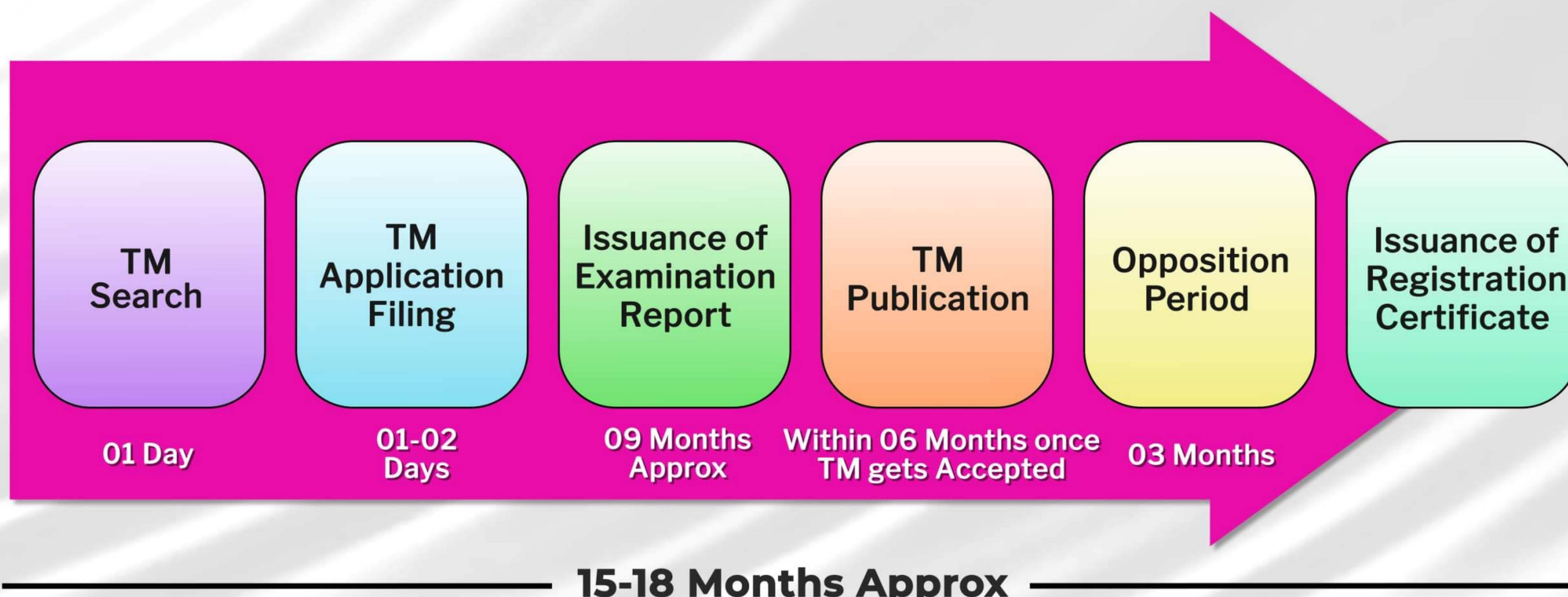
requisite powers to seize pirated goods.

An application is to be made with Customs for suspending the release of goods into free circulation. The customs authority, on its initiative, suspends the clearance of importation or exportation of goods in respect of which it has acquired prima facie evidence that an IPR has been or may be infringed. Infringing goods can be destroyed or disposed of by the Customs Authorities on the order of Court.

## BOTTOM LINE

In conclusion, the majority of the countries in the Indian Sub-Continent have signed international treaties and conventions such as the TRIPS Agreement, the Paris Convention, and the Madrid Protocol of WIPO. For cultivating and maintaining consistency with the rules, provisions, and regulations related to trademarks described in these international agreements - nearly all countries have endeavored hard to develop their respective trademark laws and rules relating to registration and enforcement. As the Indian Sub-Continent remains a hub for international investment and trade, understanding the intricacies of trademark protection is a vital prerequisite. There are many more developments in alignment with international agreements that are actively upcoming in many of the countries in the Indian Sub-Continent, which will be welcomed by the international business community.

## TIMELINE OF TM REGISTRATION PROCEEDINGS IN SRI LANKA



**15-18 Months Approx**

## NEWS ARTICLE - 1

### **Britannia Sues ITC Ltd Alleging Trademark Infringement**



Britannia Industries Ltd (an Indian food and beverage company) has recently filed two Trademark Infringement lawsuits against ITC Ltd (an Indian multinational conglomerate company) in the Delhi High Court. As per various sources and reports, Britannia, in its lawsuits filed, has alleged that ITC's two biscuits, namely Sunfeast 5-Seed Digestive and Veda Digestive, are deceptively similar to the packaging of its biscuits, namely Nutri Choice Hi-Fibre and Nutri Choice Digestive.

Quite surprisingly, this is not the first time that these two companies have moved to court. In 2016, ITC had alleged that the packaging of Nutrichoice Digestive Zero biscuit owned by Britannia was way too similar to its Sunfeast Farmlite Digestive All Good biscuit. In this case, both the biscuit brands' packaging had the colors blue and yellow in them.

ITC had then sought damages for trademark infringement and wanted orders corresponding to Britannia withdrawing its product. The case first moved to the Delhi High Court and then eventually to the Supreme Court.

At the Delhi High Court, a single judge bench first ruled out in favor of ITC Ltd and granted an injunction. Britannia had then challenged this decision with a two-judge bench of the Delhi High Court, which had set aside the injunction in March 2017, thereby permitting Britannia to sell its biscuits.

Both the companies then took the case to the Supreme Court, which asked and advised them to have a settlement talk before approaching the court. The two companies had then opted for an out of court settlement over the color scheme issue in the packaging of their biscuit brands.

At the beginning of this year as well, Britannia had filed a similar lawsuit against Kishore Biyani-led Future Consumer Ltd by claiming that the company had copied the packaging of many of Britannia's biscuit brands for its Tasty Treat brand of biscuits.

When we talk about Britannia Industries Ltd this year's sales, the company, in June this year, reported a 26% growth in its consolidated revenue generated

for the April-June quarter and also mentioned that its net profit had increased by 117%. The biscuit segment of Britannia, including brands like Nutri Choice, Good Day, Bourbon, and Tiger, has always been its significant driver of growth, specifically after it went through its best sales during the lockdown period.

## NEWS ARTICLE - 2

### **Google Wins an Indian Patent for the Automatic Expanded Language Search Method**



The American multinational technology company and search engine major, Google, has quite recently secured an Indian Patent for the automatic expanded language search method. It allows the users to search for a query in all the possible languages by writing the search query in one language. As per the invention, the volume of the searched query gets further expanded by including the result content/information presented in multiple languages. Consequently, a user will have access to more relevant search results.

In the patent document submitted, Google had given an example of the invention as follows:

If a person who speaks English searches for a Chinese dish recipe, then the content or information written in the Chinese language could also be included in the search engine results. To be specific, the recipe of the authentic dish in the Chinese language could be found, translated into English,

and then displayed to the user. In this way, the volume of the search engine results gets expanded way beyond the language in which the search query was written.

As per the industry experts, the invention will also help the advertisers in identifying a user's language and presenting him or her with relevant advertisements in the same language.

According to Google's claims, the search engine could be configured well for translating a search query into many other languages, comparing every translated search query with the content/information in a language corresponding to every other language. Moreover, it will also be able to identify relevant content/information in other languages by comparing them. The search query may first be translated into an intermediate language, followed by the intermediate language search query being translated into other languages.

# A GUIDE TO COPYRIGHT PROTECTION AND ENFORCEMENT IN THE INDIAN SUB-CONTINENT



**AFGHANISTAN** **BANGLADESH** **BHUTAN** **INDIA** **MALDIVES** **NEPAL** **PAKISTAN** **SRI LANKA**

In today's age, it is tremendously easy to copy the original works of literature, art, music, and films. For preventing copying, a person's work requires protection under the Copyright law. While in most countries, copyright protection is automatic as soon as the work is created in a material form, registration is mandated in some. Registration of a copyright is also vital since it serves as evidence of the ownership and the date of creation of a work and helps the owner in the enforcement of the rights granted under copyright law. The Indian Sub-Continent is a hub for the creation, licensing, and sale of copyrighted works, and parallel to this, it has become a concern for the copyright owners to protect their rights in transactions and distribution of the work to the public. The following serves as a guide to copyright protection and enforcement in the countries comprising the Indian Sub-Continent, namely, Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka.

## AFGHANISTAN



Since 2008, copyright in Afghanistan has been governed by The Law on The Support of Right of Authors, Composers, Artists, and Researchers. In 2018, the Islamic Republic of Afghanistan became a member of the Berne Convention, which protects the literary and artistic works and the rights of their authors. It is also a signatory to the TRIPS Agreement. The Ministry of Information and Culture is the main body, which implements the law.

### PROTECTION

The original works of authors are protected that are fixed (without taking into account the value, quality, purpose, or the mode of its expression) in one of the tangible mediums of expression that are known now or will be developed later, which are perceived, reproduced or communicated differently either directly or with the aid of a device.

The works that are protected include literary, audio-visual, musical work, paintings, pictures,

designs, drawings, photography works that have been created using an innovative mode, sculptures, technical work with an innovative aspect, computer programs, derivative works, etc.

### REGISTRATION

The author can record the work, including its name, title, and logo, in the Ministry of Information and Culture. The author can apply to present his/her works to the Ministry if it includes the following:

1. Name of author or authors or person with lateral rights
2. Contents of the work or issue of the lateral right
3. Two copies of the work or issue of the lateral right
4. An exact correspondence on the characteristics of the work or issue of the lateral right

5. Written correspondence from the author regarding the ownership of the work or the lateral right

### Term of Protection

- Works published or broadcasted during the life cycle of the author shall be protected for 50 calendar years after his/her death unless the author has decided differently.
- Joint works published or broadcasted during the life cycle of the authors shall be protected for 50 years after the death of the last author.
- Audio-visual works shall be protected for 50 years - effective from the first year of the publication or broadcast.
- Photography and painting works shall be protected for 50 years effective from the first year of publication and broadcast.

### Author's/Owner's Rights

The author has the exclusive copyright to publish, broadcast, present, and perform the work and has the right to enjoy economically and morally his name and his work.

## **ENFORCEMENT**

Court proceedings against the violators may take place based on a written request from the individual whose rights have been infringed. Author/Owner of the right of the work, protected by the provisions of the law, or any of his or her successors or hirers, can refer to the court to report violations of the terms of the Copyright law. The court, based on the circumstances, shall take the following decisions:

- Grant injunctions to prohibit the committing of infringement
- Order the seizure of the infringing copies or any part thereof
- Reproduction
- Ordering the appropriate compensation
- Seizure of profits attributable to the infringement

- Ordering the destruction of piracy and illegal copies

- Ordering the ban and closing down the establishment engaged in infringement

A person committing one of the following acts may be sentenced to up to 01 year of imprisonment:

- Manufactures or imports any devices or instruments and implements to use them to deactivate any devices or instruments preventing or limiting the Reproduction of a Work, a sound recording, or a broadcast, or if meant to undermine the quality of the work.
- Manufactures or imports any devices or instruments and implements to use them to enable the reception of codified programs broadcasted or communicated to the public in any other way, including programs communicated through satellite, or if they facilitate such transmission to a person not entitled to receive such programs.

### Punishment

Any person who publishes a work he or she does not own without a certified written authorization from the author of the work shall be punished by imprisonment for a period up to 01 year or with a fine of not less than 50,000 Afs and not more than 100,000 Afs, or by either punishment.

Any person who repeats the broadcast and show of work or a part of a work without a certified written agreement from the performer of the work shall be punished by imprisonment for a period up to 01 year or with a fine of not less than 50,000.00 Afs and not more than 100,000 Afs, or by either punishment.

Any person who publishes broadcasts, airs the translation of the work under his name or somebody else name, without a written agreement from the author of the work, shall be punished by imprisonment for a period up to 01 year and or with a fine of not less than (50,000.00 Afs) and not more than (100,000.00 Afs), or by either punishment.

The court may confiscate infringing copies of the work and all implements and papers used in the reproduction.

**\*DON'T FORGET TO INVEST SOME TIME IN MAKING YOURSELF AND YOUR TEAM AWARE OF THE CRUCIAL IPRs.**

# BANGLADESH



The basic legislation governing copyright law in Bangladesh is the Copyright Act, 2000. The Act established a Copyright Office for discharging functions under the Copyright Act, and also a Copyright Board, which has powers equivalent to a civil court. Bangladesh is a signatory to the Berne Convention, TRIPS Agreement, and the Universal Copyright Convention.

## PROTECTION

Copyright subsists in literary, dramatic, musical, artistic, cinematographic works, sound recordings, and computer programs. In Bangladesh, the owner of a copyright is generally, at least in the first instance, the person who created the work (except in cases of works for hire).

## REGISTRATION

Copyright comes into existence as soon as a work is created. No formality is required to be done for getting a copyright. However, one can avail some facilities for having the work registered in the Register of Copyrights at the Copyright Office under the Ministry of Culture Affairs. A certificate is issued by the Registrar of Copyright that makes prima-facie evidence of ownership of copyright.

### Term of Protection

Copyright in a literary, dramatic, musical, or artistic work published within the lifetime of the author subsists until 60 years from the beginning of the calendar year next following the year in which the author dies.

Copyright in a cinematographic film, a sound recording, a photograph, a computer program or a

work of the Government, a local authority, or an international organization subsists until 60 years from the beginning of the calendar year next following the publication of the work.

### Author's/Owner's Rights

Copyright means the exclusive right to:

- Reproduce the work
- Issue copies of the work to the public
- Perform or broadcast the work
- Make any translation or adaption of the work

The owner of a copyright may assign the copyright or grant any interest in the copyright by license. Also, special moral rights lie with the author, including a droit de suite (royalty right).

## INFRINGEMENT

Copyright in different works is deemed to be infringed when any person, without a license from the owner of the copyright, or the Registrar of the copyright, or in contravention of the conditions of a license granted or any conditions imposed by a competent authority under the Act:

1. Does anything, the exclusive right to do which is conferred upon the owner of the copyright; or
2. Permits for profit any place to be used for communicating the work to the public where such communication constitutes an infringement of the copyright in work unless he was not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright; or



When any person:

1. Makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire; or
2. Distributes either for trade or to such an extent as to affect the owner of the copyright prejudicially; or
3. By way of trade exhibits in public; or
4. Imports into Bangladesh any infringing copies of the work.

### Remedies

In Bangladesh, there are three kinds of remedies available against copyright infringement under the Copyright Act, 2000. These are:

**1. Civil Remedies** - Civil remedies include compensation for infringement of copyright. The owner of the copyright can bring civil litigation against the infringer. This civil proceeding is to be filed in the Court of District Judge, within whose jurisdiction the plaintiff resides or carries on business or where the cause of action arose irrespective of the place of residence or place of business of the defendant. The proceeding can result in an injunction, damages, and an account of profits.

**2. Criminal Remedies** - Criminal remedies provide for the imprisonment of the accused or imposition of fine or both, seizure of infringing copies, etc. Criminal proceedings are available to punish the persons who violate copyright law. The infringement of copyright is a cognizable offense and is punishable with imprisonment for a prescribed period by the Act. The Act also provides provisions for seizure of infringing copies and confiscation of all duplicating equipment used for manufacturing the counterfeit copies.

**3. Administrative Remedies** - Administrative remedies empower the Registrar of copyright to ban the import of infringing copies into Bangladesh. A police officer can, if he is satisfied that the infringement of copyright is likely being committed, seize without a warrant all copies of the work, and all plates used to make infringing copies of the work, wherever found, and all copies and plates so seized shall, as soon as practicable, be produced before a magistrate.

Any order made by the Registrar of Copyright is subject to appeal to the Copyright Board. Against any order made by the Board, the aggrieved person may prefer an appeal to the High Court Division of the Supreme Court of Bangladesh.

## PROTECT YOUR IP WITHOUT WASTING ANY TIME

It is undoubtedly essential to protect your IP without wasting time as any delay in doing the same can lead to copying or stealing of your precious idea. So, stay active and get your IP registered for protection because your competitors, at all times, won't leave a chance to outdo you in any aspect.

# BHUTAN



Bhutan joined the Berne Convention for the Protection of Literary and Artistic Works in 2004. The Copyright Act, 2001 forms the legal basis for the protection of copyrighted works in Bhutan. Bhutan does not require any formalities for the exercise and enjoyment of the rights. There is no need to register the work with the Copyright Office or any other agency of the Government. Nonetheless, authors/owners can register their work voluntarily.

## PROTECTION

Copyright subsists in the expression of ideas manifested in the form of literary and artistic creations. The works protected, or the subject matter of protection, include literary works, artistic works, musical works, dramatic works, cinematographic works, and derivative works.

## REGISTRATION

The purpose of the voluntary deposit and registration system is to provide copyright and related rights owners with a simple and effective means of establishing prima facie proof of authorship and/or ownership of their work; maintain a database/repository of copyright and related rights information, and serve the public interest by providing statistical information on copyright and related rights works.

The application can be made by visiting the Department of Intellectual Property and obtaining a form or can be downloaded from the official website.

## Term of Protection

The economic and moral rights shall be protected during the life of the author and for 50 years after his death. Further,

- For joint authorship, the term of protection is the life of the last surviving author and for 50 years after his death.

- For a collective work, other than a work of applied art, and in the case of an audio-visual work, the protection term is 50 years from the date on which the work was first published.

- For work published anonymously or under a pseudonym, the protection term is 50 years from the date on which the work was first published.

- For a work of applied art, the protection term is 25 years from the making of the work.

## Author's/Owner's Rights

Copyright protects economic as well as moral rights. Economic rights are as follows:

- Reproduction of the work
- Translation of the work
- Making of derivative work
- Communication to the public
- Public performance of the work
- Broadcasting of the work

Moral rights are not transmissible during the lifetime of the author, but the right to exercise any of those rights shall be transmissible by the testamentary disposition of the author or by operation of law after the death of the author. The moral rights are:

- To claim authorship of his work, in particular, the right that his name, as far as practicable, be indicated prominently on the copies, and in connection with any public use, of his work;

- That his name not be indicated on the copies, and in connection with any public use, of his work, or that his pseudonym be so indicated; and

- To object to any distortion, mutilation or other modification of, or other derogatory action concerning his work, which would be prejudicial to his honor or reputation.

## **INFRINGEMENT**

Infringement happens when the copyrighted work is used/obtained without seeking permission/authorization from the author/owner of the work. Activities such as reproduction, communication to the public, broadcasting, making derivative works of the works without permission/authorization of the author/owner are considered to fall under copyright infringement.

### Remedies

If a copyright is infringed, the author/owner can take enforcement measures against the infringer.

Copyright infringement is subject to criminal sanctions and civil remedies.

The court can grant an injunction, order the impounding of copies of works or sound recordings, and order search/seizure under the Act. Additionally, the provisions of the Customs Rules dealing with the suspension and release of suspected illegal goods apply.

Civil Sanctions are as follows:

- Damages, profits, payment of expenses caused by infringement to the owner;
- Destruction or other reasonable disposition of the copies and their packaging; and
- In cases where there is a danger that any acts of infringement may be continued, the court can expressly order that such acts not be committed. The court can fix a fine from Nu. 5000 to Nu. 50000 in case the order is not respected.

## **TIP**

Some IP assets are protected best by keeping quiet about them. If you prefer to keep your work as a trade secret, you can limit the number of people you tell about it. If possible, you can have potential partners or investors to sign Non-Disclosure Agreements. Always ensure clearing two aspects, namely, what is confidential and for how long it must remain a secret.

# INDIA



Copyright in India is governed by The Copyright Act, 1957. Copyright law has its presence in India since the British Empire. The law has been amended 06 times since its enactment. India is a member of almost all of the international conventions on copyright law, including the Berne Convention, Universal Copyright Convention, Rome Convention, TRIPS, WIPO Copyright Treaty, and the WIPO Performances and Phonograms Treaty.

## PROTECTION

Copyright law protects the artistic works comprising a painting, a sculpture, a drawing (including a diagram, a map, a chart or plan), an engraving, a photograph, a work of architecture or artistic craftsmanship, dramatic work, literary work (including computer programs, tables, compilations, and computer databases), musical work (including music as well as graphical notations), sound recording and cinematographic film.

## REGISTRATION

In India, copyright registration is not compulsory as the registration is treated as a mere record of a fact. The registration does not create or confer any new right and is not a prerequisite for initiating action against infringement.

Copyright registration can be done voluntarily and is advisable since it is accepted as 'proof of ownership' in courts and by police authorities.

## Term of Protection

In the case of original literary, dramatic, musical, and artistic works, the duration of copyright is the lifetime of the author or artist, and 60 years, counted from the year following the death of the author.

Cinematograph films, sound recordings, posthumous publications, anonymous and pseudonymous publications, works of government, and works of international organizations are protected for 60 years, which are counted from the year following the date of publication.

## Author's/Owner's Rights

A copyright grants protection to the creator and his or her representatives (by way of an agreement) for the works and prevents such works from being copied or reproduced without their consent.

The creator of a work can prohibit or authorize anyone to:

- Reproduce the work in any form, such as print, sound, video, etc.;
- Use the work for a public performance, such as a play or a musical work;
- Make copies/recordings of the work, such as via compact discs, cassettes, etc.;
- Broadcast it in various forms; and
- Translate the same to other languages.

The act also grants an author the moral rights, which exist independently of the author's copyright and subsist even after the assignment of copyright. The author has the right to:

- Claim authorship of the work; and
- Restrain or claim damages concerning any distortion, mutilation, modification, or other act about the said work if such distortion, mutilation, modification, or other act would be prejudicial to their honor or repute. These special rights can also be exercised by the legal representatives of the author.

## **INFRINGEMENT**

A copyright is infringed if a person without appropriate permission or license does anything that the owner of the copyright has an exclusive right to do. There are two classes of infringement: primary infringement and secondary infringement.

Primary infringement occurs where a person performs any of the following acts without the consent of the rights holder:

- Copying
- Issuing copies of the work to the public
- Renting or lending the work to the public
- Performing, showing or playing a copyrighted work in public
- Communicating the work to the public
- Making an adaptation of a copyrighted work or doing any of the acts listed above concerning an adaption

Secondary infringement occurs where a person, with the knowledge or reasonable grounds for such knowledge, carries out any of the following actions concerning infringing copies of the work:

- Makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire;
- Distributes either for trade or to such an extent as to affect the owner of the copyright prejudicially;
- By way of trade exhibits in public; or
- Imports into India.

## **Remedies**

In India, civil, criminal, and administrative remedies are available to the rights holders.

Under civil remedies, one may file for injunctions, pecuniary remedies, Anton Piller orders, and rendition of accounts, delivery of infringing copies, and damages.

Under criminal remedies, one may file for imprisonment and fine, seizure of infringing copies, and delivery of them to the owner. Instances of copyright infringement are cognizable offenses punishable with imprisonment for a term, which shall not be less than 06 months but which may extend to 03 years with a fine, which shall not be less than Rs 50,000 but may extend to Rs 2,00,000. For the second and subsequent offenses, there are provisions for enhanced fines and punishment under the Copyright Act.

Under administrative remedies, one may file for moving the Registrar to ban the import of infringing copies and delivery of the confiscated infringing copies to the owner. Further, police authorities can register a complaint and act on their own to arrest the accused, search the premises of the accused, and seize the infringing material without any intervention of the court.

**\*Keep in Mind - Turning creative ideas into reality and protecting the same as your IP can prove to be a priceless asset for you and your business!**

# MALDIVES



The Copyright and Related Rights Act was passed in October 2010 and became effective in April 2011. Maldives is a member of the Berne Convention.

## PROTECTION

The protection is extended to originally created products or works. Works have to be fixed in a medium. Literary and artistic works are protected, including audio-visual work, films, architectural works, art, photographic work, computer programs, etc.

## REGISTRATION

Parties don't need to register their copyright to get protection under the Copyright law. However, the Act allows those parties who desire to register such works to be registered in the allocated Government authority. An application can be made in person to the Ministry of Economic Development. The registration fee is MVR 1,000. If approved, an official registration certificate is issued.

### Term of Protection

Economic and moral rights are protected during the life of the author and for 50 years after his death.

In the case of collective work, other than a work of applied art, and in the case of an audio-visual work, the economic and moral rights are protected for 50 years from the date on which the work was either made, first made available to the public, or first published, whichever date is latest.

In case of anonymous and pseudonymous works, the rights are protected for 50 years from the date on which the work was made/made available to the public or first published, whichever date is the latest.

In the case of a work of applied art, the economic and moral rights shall be protected for 25 years from the making of the work.

### Author's/Owner's Rights

#### Economic Rights

The author or the copyright holder has the exclusive right to carry out or to authorize the following acts:

- Reproduction of the work
- Translation of the work
- Adaptation or transformation of the work
- The distribution to the public by sale, rental, public lending of the original copy of the work
- Rental or public lending of the original or a copy of the work
- Public display of the original or copy of the work
- Public performance of the work
- Broadcasting of the work
- Publicizing of the work through other communicative media

#### Moral Rights

Independent of his economic rights, and even when he is no longer the owner of the said rights, the author of the work is entitled to:

- The right to have his name indicated prominently on the copies of his product and in any public use of his work;

- The right to not have his name indicated on the copies of his product and in public use of his work, and the right to use a pseudonym; and
- The right to object to any distortion of his work which could cause damage to his honor or reputation and the right to object to any unjustified modifications of his work.

## **ENFORCEMENT MEASURES**

The court having jurisdiction of civil action has the authority to grant injunctions to prohibit the committing, or continuation of committing, of infringement of any right protected and to order impounding of copies of works or sound recordings suspected of being made or imported without the authorization of an owner of any right under the law. The court also has the authority to ask the relevant government authorities to check, investigate and take necessary steps as per civil and criminal procedures of the country in instances where there is reason to suspect an infringement of rights.

### **Remedies**

There are civil and judicial remedies available in Maldives.

### **Civil Remedies**

- The owner is entitled to damages for the property and the prejudice sustained as a consequence of infringement along with the payment of expenses caused by these acts, inclusive of legal costs

incurred in obtaining the damages.

- Where the infringer did not know nor had no way of knowing that he was engaged in infringing activity, the court may limit damages to the profits of the infringer attributable to the infringement.
- The court also has the authority to order the destruction of infringing copies in a manner that does not harm the right holder.
- Where there is reason to believe that there is a danger that acts of infringement may be continued, the court has the authority to order such acts not to be committed again. Furthermore, if the order is not respected, the court shall fix a fine of between 10,000 Rufiyaa and 300,000 Rufiyaa.

### **Judicial Measures**

- Deliberate or inadvertent infringement of any rights protected under this Regulation will result in a levy of a fine between 50,000 Rufiyaa and 300,000 Rufiyaa by the court. The amount of fine shall be fixed based on the damages incurred to the rights holder or of the damages that are foreseen to incur on the rights holder.
- In the case of subsequent infringements within 05 years of the first infringement, the court has the power to levy two times the highest amount of fine mentioned under the relevant provision.

Criminal punishments are not available under the Copyright Act of Maldives.

**You must keep an eye on your industry and monitor relevant marketplaces even after having all the IP registrations in place. The reason behind the same lies in the fact that laws and registrations offer you legal remedies after your innovation/work has been used improperly; however, they don't prevent your innovation/work from being stolen in the first place.**

# NEPAL



In Nepal, the Copyright Act, 2059 (2002) governs copyright protection and enforcement. Nepal Copyright Registrar's Office handles copyright registration, recording of copyright transfers and other administrative aspects of copyright law. Nepal is also a signatory to the Berne Convention as well as the TRIPS Agreement.

## PROTECTION

Works that are protected include literary, dramatic, musical, audio-visual, architectural, art, photographic works and computer programs. Copyright is not available for protection of any thought, religion, news, method of operation, concept, folk song, etc.

## REGISTRATION

Registration of a work is not compulsory in Nepal. However, in cases where any person intends to get any work, sound recording, performance or broadcasting registered voluntarily, that person may make an application to the Registrar and get the same registered by giving such particulars as have been prescribed together with evidence of his ownership in such copyright. Such application shall accompany the prescribed registration fee.

The Registrar shall, after making inquiry as to the propriety of registering the ownership and, if necessary, after consulting the Board on the matter, register the name of the applicant. He shall provide the applicant with the necessary certificate; and in case the Registrar finds that the applicant is not entitled to such registration, he shall notify the applicant in writing of the decision.

## Term of Protection

The economic and moral rights are protected throughout the life of the author and in case of his/her death, until fifty years computed from the year of his death.

The economic and moral right of a work relating to applied art and photographic work shall be protected until twenty-five years from the year of preparation of such work.

## Author's/Owner's Rights

According to the law, the owner of copyright shall have the exclusive right to reproduce, translate, revise or amend, sell, distribute or rent, broadcast or communicate the work to the general public. These rights are given for one time, it cannot be reissued once the duration is over.

The author is entitled for his lifetime, irrespective of the validity of the copyright, to get his/her name mentioned in copies of the work or in his/her work where it is used publicly and to make necessary amendment or revision in the work.

## INFRINGEMENT

Infringement of a rights occurs in the following situations:

- Reproduction of copies of a work and selling and distributing them or publicly communicating or renting them with commercial or any other motive with or without deriving economic benefits.



- Advertising or publicizing by copying a work belonging to another person with a motive of taking advantage of the reputation gained by that work.
- Making work of another subject or nature by changing the form and language of a work belonging to another person with a motive of deriving economic benefit.
- Making an attempt to take benefit by adapting any work directly or indirectly with intention of making the viewer, listener or reader believe it to be another work through advertisement or other means.
- To import, produce or rent any equipment or device prepared with intention of circumventing any device designed to discourage the unauthorized reproduction.
- To produce or import, with intent to sell, any equipment facilitating unauthorized reception of a program broadcast by encrypting it in a code language.
- To import, sell, distribute and use a mechanical device prepared with a sole object of infringing the copyright.

## Remedies

In case of infringement, a person shall be punished with a fine of a sum from ten thousand to one hundred thousand rupees or with imprisonment for a term not exceeding six months or both and with a fine of a sum from twenty thousand to two hundred thousand rupees or with imprisonment for a term not exceeding one year or with both for each instance from the second time. The materials so published or reproduced or distributed or devices used to reproduce such materials shall be seized.

Compensation for the loss caused to the copyright owner by the infringer of the protected right shall also be realized and provided to the copyright owner. The court can also order seizure and destruction of copies of the work.

In case of importation of importation of unauthorized copies, customs officer has the power to prevent importation of unauthorized copies upon an application accompanied by evidence.

## COPYRIGHT PROTECTION IN NEPAL – KEY POINTS

The Copyright Act, 2059 (2002) presents a legal basis for dealing with the mechanism of protection of the copyright in Nepal.

Nepal has 2 International Copyright Agreements, which are as follows:

- Berne Convention for the Protection of Literary and Artistic Works
- Agreement on Trade-Related Aspects of Intellectual Property Rights

Remedies against Copyright Infringement in Nepal are specified below:

- Civil Remedies
- Criminal Remedies

# PAKISTAN



Copyright law in Pakistan is governed by the Copyright Ordinance, 1962. Pakistan is a member of the Berne Convention, Universal Copyright Convention, and TRIPS Agreement.

## PROTECTION

Copyright protection is provided to the following works:

- Literary works (including computer programs)
- Dramatic Works
- Musical Works
- Records
- Artistic Works
- Cinematographic Works

## REGISTRATION

The author, publisher, owner, or any other person interested in the copyright in any work, can make an application for registration of the copyright. Every application for registration of copyright can be made in respect of one work only and has to be accompanied by a copy of the work. However, copyright registration is not mandatory in Pakistan.

### Term of Protection

Copyright in a literary, dramatic, musical, or artistic work published within the lifetime of the author subsists until 50 years from the beginning of the calendar year next following the year in which the author dies.

Copyright in a cinematographic work or a record or a photograph subsists until 50 years from the beginning of the calendar year next following the publication of the work.

### Author's/Owner's Rights

Copyright grants the exclusive right to:

- Reproduce the work
- Publish the work
- Perform or broadcast the work
- Make any translation or adaptation of the work

## INFRINGEMENT

The act of copying of work, which is entitled to copyright protection by any method either directly or with the aid of a machine or device, constitutes an infringement of the copyright in work. The following acts amount to infringement:

- Doing anything, the exclusive right to which is conferred upon the owner;
- Permitting for profit any place to be used for the performance of the work in public, unless the person was not aware and had no reasonable ground for suspecting that such performance would be an infringement;
- Making, selling, distributing, displaying, or offering by way of trade, for sale or hire; or
- Importing infringing copies of the work into Pakistan.

## Remedies

There are two remedies for breach of copyright in Pakistan; civil proceedings and criminal proceedings. Accordingly, a person whose copyright has been infringed can sue for damages, claim an injunction, an account of the profits gained by the defendants as a result of the infringement, delivery up of infringing articles, etc. All offenses under the Ordinance are cognizable and non-bailable.

Every suit or other civil proceedings regarding infringement, at the discretion of the applicant, should be instituted and tried in the Court of the District Judge.

Any person who knowingly infringes or abets the

infringement of the copyright in work shall be punishable with imprisonment, which may extend to 03 years, or with fine, which may extend to one hundred thousand rupees, or with both. Any person who is convicted again for the same shall be imposed with a fine (besides the imprisonment, which may extend to 03 years) up to rupees two hundred thousand.

Any police officer, if he is satisfied that an offense in respect of infringement in any work has been, is being, or is likely to be committed, can seize without a warrant all copies of the work and all plates and recording equipment used for the purposes of making infringed copies of the work, wherever found, and all copies, plates and recording equipment seized shall be produced before a Magistrate.

## COPYRIGHT PROTECTION IN PAKISTAN – KEY POINTS

In Pakistan, The Copyright Ordinance 1962 presents a legal basis for dealing with the mechanism of protection of the copyright.

Pakistan has 3 International Copyright Agreements, which are as follows:

- Berne Convention for the Protection of Literary and Artistic Works
- Universal Copyright Convention (Geneva)
- Agreement on Trade-Related Aspects of Intellectual Property Rights

Remedies against Copyright Infringement in Pakistan are specified below:

- Civil Remedies
- Criminal Remedies

# SRI LANKA



The legal instrument governing Copyright law in Sri Lanka is the Intellectual Property Act No. 36 of 2003. Sri Lanka is a signatory to the Berne Convention, Universal Copyright Convention, and TRIPS Agreement.

## PROTECTION

The copyright law protects the original literary and artistic works, including cinematograph films, photographs, works of architecture, musical works, etc. They are protected by the sole fact of creation, irrespective of their mode of expression, content, quality, or purpose. Derivative works, such as translations and databases, are also protected. Protection does not extend to ideas, concepts and principles, official texts concerning legislation, administration, and judicial proceedings or news. Registration of Copyright is not mandatory for the protection.

### Term of Protection

The period of copyright protection is the lifetime of the author and 70 years after the death of the author. Related rights are protected for 50 years.

### Author's/Owner's Rights

The owner of a copyright has the exclusive right to carry out or to authorize the following acts about the work:

- Reproduction of the work
- Translation of the work
- Adaptation, arrangement, or other transformation of the work
- The public distribution of the original and each copy of the work by sale, rental, export, or otherwise

- Rental of the original or a copy of an audio-visual work, a work embodied in a sound recording, a computer program, a database, or a musical work in the form of notation
- Importation of copies of the work
- Public display of the original or a copy of the work
- Public performance of the work
- Broadcasting of the work and
- Other communication to the public of the work

Additionally, the author of the work enjoys the following moral rights:

- To have his name indicated prominently on the copies and in connection with any public use of this work as far as practicable;
- The right to use a pseudonym and not have his name indicated; and
- To object to any distortion, mutilation or other modification of or other derogatory action in relation to his work, which would be prejudicial to his honor or reputation.

## INFRINGEMENT

The Intellectual Property Act No. 36 of 2003 defines infringement of copyright as an act that violates any of the protected rights.

### Remedies

The law recognizes both civil remedies and criminal sanctions concerning infringement of copyright and related rights. The civil remedies include injunctions, both temporary and permanent,

damages (actual or statutory), and any other relief as the Court may deem fair and equitable. Remedies also include search warrants, seizure, forfeiture, and destruction of pirated copyright materials. Right owners can also seek the intervention of the Intellectual Property Office for dispute settlement. The Court can also grant ex-parte orders to prevent the infringer from destroying evidence and tendering evidence in possession of the opposing party.

Criminal punishment is 06 months imprisonment or Rs. 5, 00,000 fine or both. Sanctions can be doubled for subsequent convictions.

For civil litigation, the Commercial High Court has initial jurisdiction. Appeals from the Commercial High Court are made to Supreme Court. For criminal

litigation, the Magistrate's Court has jurisdiction. The owner of the rights may file a private complaint to enforce his rights or may make a complaint to the police.

The Police Officials are competent, where appropriate, to initiate on their proceedings the prosecution of the copyright offenders.

The Sri Lanka Customs has been empowered with the boarder control of importation and exportation of copyright material in violation of the protected rights. Sri Lanka Customs can suspend the suspected pirated copyright material on its own or by application of the owner of the rights. The Sri Lanka Customs is also competent to destroy or dispose of any pirated copyright material.

## **KEY TAKEAWAYS FROM COPYRIGHT PROTECTION IN THE INDIAN SUB-CONTINENT**

- The copyright regime in the Indian Sub-Continent is well developed and conforms to international agreements such as the Berne Convention, Universal Copyright Convention, and the TRIPS Agreement.
- The majority of the countries protect copyrighted works without actually having to apply for copyright registration. However, copyright registration can be done voluntarily to record the work and use it in case of enforcement as evidence of ownership.
- A business needs to strategize well about the works that call for voluntary copyright registration, the geographical extent of the registration, the relevant industry, and monitoring for infringement.

**MAKE A POINT OF THE FACT THAT WITHOUT IP PROTECTION, BRANDS AND BUSINESSES WOULD NEVER BE ABLE TO EXTRACT FULL BENEFITS FROM THEIR INNOVATIONS AND INVENTIONS. THEREFORE, IPRs ARE WORTH PROTECTING, THAT TOO, BOTH DOMESTICALLY AND INTERNATIONALLY.**

# Notable IP Case Lawsuits in India in 2020



Amidst the COVID-19 (Coronavirus) pandemic, India continued to witness some notable IP case lawsuits, specifically related to trademarks and copyright, mostly in the second quarter of the year. Let us now discuss two of them and analyze the crucial judgments passed.

## 1) Bombay High Court Ruled that 'ISKCON' is a Well-Known Trademark in India



The Bombay High Court (HC) ruled that 'ISKCON' - a Registered Trademark of the religious organization 'International Society for Krishna Consciousness' - has an immense amount of reputation in both India and abroad. According to the Bombay HC's ruling, the registered trademark is associated only with the religious movement and none else.

The order was passed by a single-judge bench of Justice Burgess P Colabawalla through video conferencing on a commercial Intellectual Property (IP) lawsuit filed by the International Society for Krishna Consciousness (ISKCON) against Iskcon Apparel Pvt Ltd, an apparel manufacturing company, alleging that the manufacturer had infringed upon its registered trademark to sell clothes online.

The religious organization submitted in its lawsuit that it discovered the said infringement by the apparel company this year in early February and had even sent a summons to the company repeatedly, which, however, went unanswered. The organization had then decided to initiate legal proceedings against the apparel company and seek help from the court to restrain it from using the trademark.

According to the lawsuit filed, the defendant, running an online business of clothing, did change its company's name to Alcis Sports Pvt Ltd; however, it was still very much using the term 'ISKCON' prominently on all of its products.

While noting that the religious organization had a pretty strong prima facie case and that the balance of convenience lied in its favor entirely, the court in March this year had granted an ad-interim injunction to the apparel company, which restrained it from using the trademark until and unless a decision was taken. The court had mentioned that the plaintiff organization would most likely suffer from irreparable injury if the issue of Trademark Infringement by the apparel company continued.

In its order, the court declared that 'ISKCON' is a well-known trademark under the Trade Marks Act of 1999 in India. It further mentioned that the registered trademark is exclusively associated with the plaintiff's religious organization, and it undoubtedly deserves the highest degree of Intellectual Property Protection in all aspects.

## **2. The Madras High Court Held that Nobody could Claim a Monopoly over the Phrase 'Magic Masala'**



In 2010, ITC Limited (an Indian multinational conglomerate company) had come up with its Sunfeast Yippee! Noodles in two flavors, out of which, one was 'Magic Masala.' In 2013, Nestle India Limited (the Indian subsidiary of Nestle - a Swiss multinational company) adopted the terms 'Magic Masala' for its instant noodles and marketed the same as 'Maggi Xtra-delicious Magical Masala.'

Consequently, ITC claimed that the phrase 'Magic Masala' formed a vital characteristic of its composite trademark - 'Sunfeast Yippee! Noodles Magic Masala' and that Nestle must be held responsible for copying the phrase and selling noodles under its slightly modified version. It is worth mentioning here that ITC never got the expression in question containing 'Magic Masala' registered for its set of products, due to which the conglomerate had filed a lawsuit of passing off before the Madras High Court to seek a permanent injunction against the trademark's use by Nestle.

Nestle, during the court proceedings, stated that the expression 'Magic Masala' wasn't adopted by it as a trademark - instead, it served the purpose of a flavor

descriptor. The company further mentioned that both the words 'Magic' and 'Masala' are way too common and used by many in the food industry, which gives nobody a proprietary right over the same.

After hearing both sides of the case, the court held that both the words 'Magic' and 'Masala' are pretty common to the trade in the Indian culinary and Indian food industry, as a result of which, neither the defendant nor the plaintiff could ever claim a monopoly over the said expression. Furthermore, the court also observed that similar to Nestle, even ITC had used the expression 'Magic Masala' as a flavor descriptor only and not as a trademark or a sub-brand since no trademark application was filed by them for the same.

Based on the above reasons, the Madras High Court dismissed the lawsuit by saying that none of the two parties could claim ownership of trademark rights over laudatory words like 'Magic' and 'Masala,' and consequently, nobody could claim a monopoly over the phrase 'Magic Masala.'



**IP LEGISLATIVE  
CHANGES FROM  
AROUND THE  
WORLD - FEATURING  
MYANMAR**



## **TRADEMARK RE-FILING IN MYANMAR UNDER ITS NEW TRADEMARK LAW**

Myanmar's new trademark law comes as an effort to introduce a 'first-to-file' system of trademark registration and enforcement that is in line with the international scenario and aligned with the TRIPS Agreement.

Trademark owners across the globe who have been eagerly waiting for the opportunity to protect their trademark rights adequately in Myanmar for many years will now be able to do so.

Some salient features of the new trademark law are as follows:

- Public search will be available
- The registration term will be of ten (10) years
- The renewal term will be of ten (10) years
- Recordal of changes will be permissible

Trademarks already registered and recorded with the Office of Registration of Deeds (ORD) in Myanmar under the current 'first-to-use system' will not be automatically protected under the new 'first-to-file' system. Hence, the owners of trademarks recorded under the current system need to re-apply for their marks to retain protection under the new trademark system.

### **SOFT OPENING**

#### **• Duration:**

The Soft Opening period began on 1st October 2020 and is now in place. It is expected to run for 5-6 months; however, the same hasn't been confirmed.

#### **• Types of Marks Accepted:**

Two categories of marks may be re-filed during the Soft Opening period, namely:

1. Trademarks already registered at the Registry of Deeds under the current system; and
2. Unregistered trademarks, which are already in use in Myanmar, solely by the applicant, with appropriate evidence of use.

\*Such evidence of use may include cautionary notices published in local newspapers, promotion of goods or services bearing the mark in Myanmar, tax receipts or expense vouchers, or any other appropriate evidence.

#### **• Requirements/Documents for Re-Filing:**

1. POA duly legalized by the Consulate of Myanmar
2. Scanned copy of Declaration of USE duly registered by the Myanmar Registry
3. Evidence of USE is mandatory for re-filing the application of an existing registration
4. Declaration of Ownership as recorded with the ORD.
5. Scanned copy of previously published/last published Cautionary Notice

#### **\*Note:**

For re-filing during the Soft Opening period, the existing trademark registrations must be maintained through renewal. Also, applications for a new trademark can't be filed during this period.

### **GRAND OPENING**

• Filing new trademarks under the new system will become available during the Grand Opening of the Myanmar Department of Intellectual Property (MDIP), the date of which has not yet been announced.

• All trademarks already registered under the existing/old law for which application was not filed during the Soft Opening period will be available during Grand Opening for registration to the third parties.

• Opposition proceedings may be initiated during Grand Opening against the newly filed trademarks.

**\*If you would like to have any further information on Myanmar's New Trademark Law (Soft Opening/Grand Opening), you may write to us at [kashishworld@kashishworld.com](mailto:kashishworld@kashishworld.com).**



# HAVING FUN WITH IP!



## 1. Match the countries with their correct Industrial Designs Act.

The Registered Designs Ordinance, 2000

India

The Patent, Design and Trademark Act, 1965

Sri Lanka

The Patent & Design Rules, 1933 (as amended up to 15th June 1946)

Pakistan

The Design Act, 2000

Nepal

The Intellectual Property Act No. 36 of 2003

Bangladesh

## 2. Can you guess the 'Patent Protection Terms' of the countries given below?

- Bangladesh -
- India -
- Nepal -
- Pakistan -
- Sri Lanka -

\*The answers to these shall be revealed in the next edition of IP Flavors.

## Motivational Quote of the Month

Your smile is your logo, your personality is your business card, how you leave others after having an experience with you becomes your trademark.

-Jay Danzie

# HERE ARE THE ANSWERS TO THE 'FUN & GAMES' SECTION OF THE 1<sup>ST</sup> EDITION OF IP FLAVORS:

## How Well do you Know IP?

Test your IP knowledge by taking this 'True/False' quiz.

1. Industrial designs protect the IP created by artists.

A) True       B) False

2. A trademark protects logos, names, and brands.

A) True      B) False

3. Patents are usually granted for ten (10) years in most of the countries across the globe.

A) True       B) False

4. Slogans aren't protected by copyright.

A) True      B) False

5. Logos such as the 'Nike Swoosh' are protected by a trademark.

A) True      B) False

6. Although IP assets have no value in the marketplace, they are still important for companies and firms as they are a result of human intelligence and inventiveness.

A) True       B) False

7. Pirated CDs and DVDs fall under copyright infringement.

A) True      B) False

8. Industrial design protection is automatic.

A) True       B) False

9. Trademark protection can be legally obtained for sound, shape, colour, and motion marks.

A) True      B) False

10. World Intellectual Property Day is celebrated on 27<sup>th</sup> April every year.

A) True       B) False

11. IP audits should be conducted from time-to-time to make sure that the IP assets are well-protected and up-to-date.

A) True      B) False

# Crossword Puzzle on IP

Try to fill the crossword puzzle with the help of the clues given.

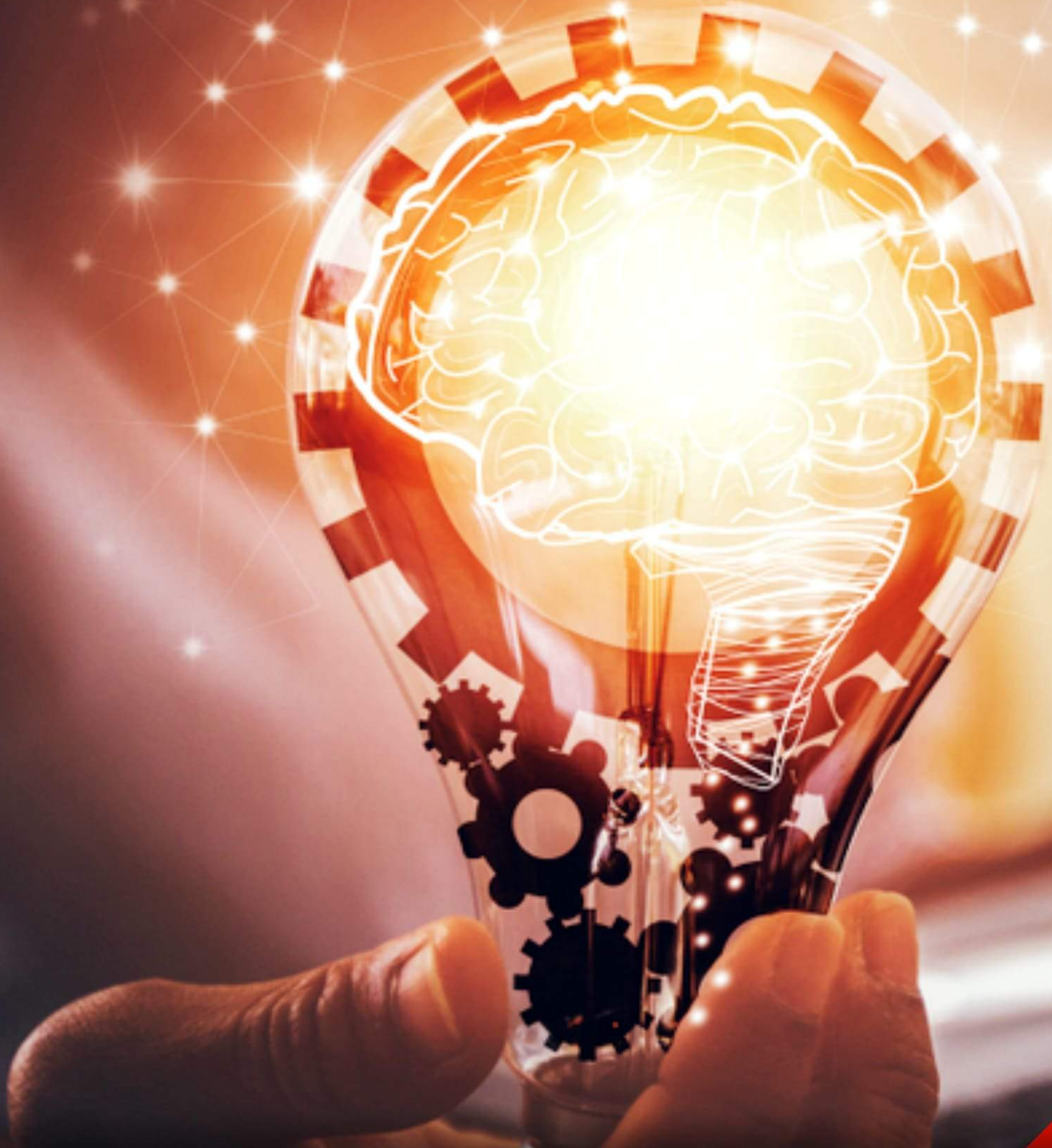


## Down

- The blue color of Tiffany and Co. is an example of Color trademark.
- Total duration of industrial design registration in India is Fifteen years.
- If a company wishes to ensure that no individual or company can use its logo, it must apply for a Trademark.
- A utility model protects Inventions.
- If John comes up with a new novel, he'll most likely apply for a Copyright.
- For an invention to be patentable, it must be Novel.

## Across

- Madrid System deals with international registration of trademarks.
- The Coca Cola Company's formula for Coca Cola syrup is protected as a Trade Secret.
- Patents usually last for twenty years.
- The World Intellectual Property Organization (WIPO) has its headquarters in Geneva.



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