

CAMBODIA

INTELLECTUAL PROPERTY HANDBOOK

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Legislation

Law Concerning Marks, Trade Names and Acts of Unfair Competition of the Kingdom of Cambodia (2002).

Definition

"Mark" means any visible sign capable of distinguishing the goods (trademark) or services (service mark) of an enterprise. "Trade name" means the name or/ and designation identifying and distinguishing an enterprise.

Criteria

A mark cannot be validly registered:-

- if it is incapable of distinguishing the goods or services of one enterprise from those of other enterprises;
- if it is contrary to public order or morality or good custom;
- if it is likely to mislead the public or trade circles, in particular as regards the geographical origin of the goods or services concerned or their nature or characteristics;
- if it is identical with, or is an imitation of or contains as an element, an armorial bearing, flag and other emblem, a name or abbreviation or initials of the name of , or official sign or hallmark adopted by, any State, intergovernmental organization or organization created by an international convention, unless authorized by the competent authority of that State or organization;
- if it is identical with, or confusingly similar to, or constitutes a translation of, a mark or trade name which is well known in the Kingdom of Cambodia for identical or similar goods or services of another enterprise;
- if it is identical with, or confusingly similar to, or constitutes a translation of a mark or trade name which is well known and registered in the Kingdom of 'Cambodia for goods or services which are not identical or similar to those in respect of which registration is applied for , provided that use of the mark in relation to those goods or services would indicate a connection between those goods or services and the owner of the well-known mark that the interests of the owner of the well :known mark are likely to be damaged by such use; or
- if it is identical with a mark belonging to a different proprietor and already on the Register, or with an earlier filing or priority date, in respect of the same goods or services or closely related goods or services, or if it so nearly resembles such a mark as to be likely to deceive or cause confusion.

Membership

- ✓ - Paris Convention
- ✓ - Madrid Protocol

Cambodia is a member of the Paris Convention from 1998, whereby applications from convention countries will be subject to the same priority date in Cambodia. The application for priority has to be made within six months of the first application in a convention country.

Rule of Priority

"First to File" is the rule followed by Cambodia in determining priority of trademarks.

Duration and Renewal

A trade mark once registered is valid for a term of 10 years and can be renewed every 10 years. A 6-months grace period is allocated after the expiry date for the renewal. Once the expiry date has passed, the trade mark will no longer have the benefit of any rights arising from registration.

Affidavit of use/non-use:-

- must submit affidavit of use/non-use (compulsory) during the 5 years after registration.
- to inform TM office that we are still using the mark (file for use)
- interested to use the mark in the future (file for non-use)
- fail to file, abandonment of mark

Procedures

Application

Every applicant is required to submit an application with the Cambodia Intellectual Property Office.

Substantive Examination

Is conducted to identify any prior registered mark which are identical with/or similar to the claimed mark.

Registration

The duration of registration takes a minimum period of 18 months from filing date. The registration is effective from date of application.

Filing Requirements

The following information and/or documents are required to file an application for a trademark application in Cambodia:-

- Application form.
- Power of Attorney.
- Fifteen (15) clear copies of the mark.
- The full name, nationality and registered address of the applicant.
- A list of goods or services (which closely follow the Nice International Classification).
- Description of claim if colour or a combination of colour or a combination of colours is claimed as Trademark.
- For marks that contain non-English words, a certified transliteration and translation.

Documents To Be Furnished For Filing Trade / Service Mark Application

Basic Requirements		
Documents	Remarks	Time of Filing
Power of Attorney	Signed and notarized	A copy on filing date with the original to be submitted within one month
Mark	Not larger than 8cm x 8cm	On filing date

(If Applicable) Additional Documents for Claiming a Convention Priority		
Documents	Remarks	Time of Filing
Priority documents	Notarized	A copy on filing date with the original to be submitted within one month

(If Applicable) Documents for Filing a Request of Records of Assignments		
Documents	Remarks	Time of Filing
Power of Attorney	Notarized	On filing date
The original certificate of trademark registration		On filing date
The trademark assignment agreement signed by both assignor and assignee.	Notarized/Certified	On filing date

(If Applicable) Documents for Filing a Request of Records of Assignments

Documents	Remarks	Time of Filing
Power of Attorney	Notarized	On filing date
Declaration of change of name/address or legal documents showing the change of name/address	Notarized	On filing date
Original certificate of trademark registration		On filing date

Affidavit of Use / Non-use

Documents	Remarks	Time of Filing
Original Certificate		On filing date
Affidavit form evidence of use	Notarized	On filing date
POA	Notarized	On filing date

In Cambodia, patent protection is obtainable by way of a direct national application.

Legislation

Law on Patents, Utility Models and Industrial Designs (2003), Prakas (Declaration) on the Procedure for the Grant of Patents and Utility Model Certificates (2007).

Patentability Criteria

An invention is patentable if it:

- is new;
- involves an inventive step; and
- is industrially applicable.

Non-Patentable Subject Matter

- Discoveries, scientific theories and mathematical methods;
- Schemes, rules or methods for doing business, performing purely mental acts or playing games;
- Methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practiced on the human or animal body; this provision shall not apply to products for use in any of those methods;
- Pharmaceutical products as provided in Article 136 of the Cambodian Law;
- Plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals;
- Plants varieties.

Utility Innovations

The Cambodian patent system also provides for the grant of utility model certificates. A utility model must fulfill the criteria of novelty and industrial applicability (but not inventiveness). A utility model certificate shall expire, without any possibility of renewal, at the end of the seventh (7th) year after the date of the filing of the application.

Membership

✓ - Paris Convention

✓ - Patent Cooperation Treaty (PCT)

Cambodia is a member of the Paris Convention from 1998, whereby applications from convention countries will be subject to the same priority date in Cambodia. The application for priority has to be made within six months of the first application in a convention country.

Rule of Priority

"First to file" is the rule followed by Cambodia in determining priority of patents.

Duration

The duration of protection is 20 years from the official filing date in Cambodia. The annual fee has to be paid each year in order to maintain the patent.

Procedures

Application

Patent applications claiming priority should be filed with the Cambodian Patent office 12 months from the priority date.

An application may be filed in any other language, and its Khmer translation should be submitted within six months from the filing date.

Priority document and its certified translation into Khmer should be submitted within three months from the filing date.

An original notarised Power of Attorney may be provided within two months from the filing date. However, a copy must at least be submitted at the time of filing of a patent application in Cambodia.

Substantive Examination Request

It should be requested at the time of filing of a patent application in Cambodia.

Registration

Once complete documentation has been submitted, the process of registration can usually be accomplished approximately 3-5 years in average.

Filing Requirements

The following information and/or documents are required to file an application for a patent application in Cambodia:-

Direct National Application:-

- Application Form:-

- Δ the name, address and nationality of the applicant;
- Δ the name, address and nationality of the inventor;
- Δ if the applicant is inventor, the application shall be attached by a letter mentioning as inventor;
- Δ the International Patent Classification
- Δ a specification comprising a description, claims, abstract and any necessary drawings; and
- Δ the country and filing particulars of basic application (filing date and application number) whose priority is claimed.

- Appointment of Patent Agent.

Documents To Be Furnished For Filing A Patent Application in Cambodia

Basic Requirements		
Documents	Remarks	Time of Filing
Patent specification, claims and abstract in English	No legalization	On filing date
Drawings	(If Any)	On filing date

Additional Documents for Convention Patent Application		
Documents	Remarks	Time of Filing
Priority documents	Certified copy	On filing date
Business License (if the applicant is legal entity)	Certified copy	On filing date
Power of Attorney	Notarized	Within 2 months from the filing date
Deed of Assignment	Notarized	Within 3 months from the filing date

Legislation

Law on Patents, Utility Models and Industrial Designs (2003), Prakas (Declaration) on the Procedure for the Grant of Patents and Utility Model Certificates (2007).

Definition

An industrial design is the ornamental or aesthetic aspect of an article. The design may consist of three-dimensional features, such as the shape or surface of an article, or of two dimensional features, such as patterns, lines or color. Industrial designs are applied to a wide variety of products of industry and handicraft: from technical and medical instruments to watches, jewelry, and other luxury items; from housewares and electrical appliances to vehicles and architectural structures; from textile designs to leisure goods.

Criteria

The general requirements for a design to be eligible for protection are:

- novelty;
- it involves inventive step;
- it is susceptible of industrial application.

Rule of Priority

Applications for priority have to be made within six months from the earliest date of filing.

Duration

The duration of protection is 5 years from the official filing date in Cambodia. Thereafter, the registration may be renewed every 5 years up to a maximum of 15 years.

Procedures

Application

Industrial design applications are filed with the Department of Industrial Property of the Ministry of Industry and Handicraft.

The application form and any documents forming a part of an application must be submitted in the Khmer.

As soon of the required documentation is submitted and an official fee is paid, the Registrar will provide an application number and filing date to the applicant.

Registration

The entire duration for obtaining a Patent for design will take approximately 12 months as of the official filing date.

Filing Requirements

The following information and/or documents are required to file an application for an industrial design application in Cambodia:-

- Application form:-
 - Δ the name and address of the applicant.
 - Δ description of the industrial design, comprising of:-
 - (i) the name of the article to which the industrial design is applied;
 - (ii) the field of using articles to which the industrial design is applied;
 - (iii) stating the salient features of design to which the registration is sought.
 - Δ a statement justifying the applicant's rights to the registration of the industrial design, if the creator himself is not the applicant.
- Power of Attorney.
- Six sets of representation of the design (drawings or photographs).
- Priority documents and certified English translation (if necessary) of the priority document.

Documents To Be Furnished For Filing An Industrial Design Application in Cambodia

Basic Requirements		
Documents	Remarks	Time of Filing
Power of Attorney	Signed by applicant and notarized by the Notary Public	On filing date
Deed of Assignment	(if applicable) Signed by applicant and notarized by the Notary Public	On filing date
Drawing / Photographs	7-view orthographic drawings or photographs (must exhibit white background and be in grayscale) - front, back, left, right, top, bottom and perspective view. Dimension of representation should not be less than 90mm x 120mm and not exceeding 210mm x 297mm.	On filing date

Additional Documents for Claiming Convention Priority		
Documents	Remarks	Time of Filing
Priority documents	Certified	On filing date

**MALAYSIA
OFFICE**

Kuala Lumpur / Corporate Office

Pintas Consulting Group Sdn Bhd (461057-W)

Adds: Suite 2B-21-1, Level 21, Block 2B, Plaze Sentral,
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