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INSIDE

New finds this week

Laos recently made notable advancements in updating its intellectual property (IP) framework. The newly implemented Law on Intellectual Property No. 50/NA, also known as the "2023 Law on IP," aligns Laos with global standards and enhances the business environment in the country. Despite this progress, remaining challenges require attention within Laos' IP regulations.

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New finds this week

By Uyen Ngo, Nguyen Hoa Binh, et al.

LAOS MODERNIZES INTELLECTUAL PROPERTY FRAMEWORK WITH 2023 LAW: KEY CHANGES AND CHALLENGES FOR BUSINESSES

Overview

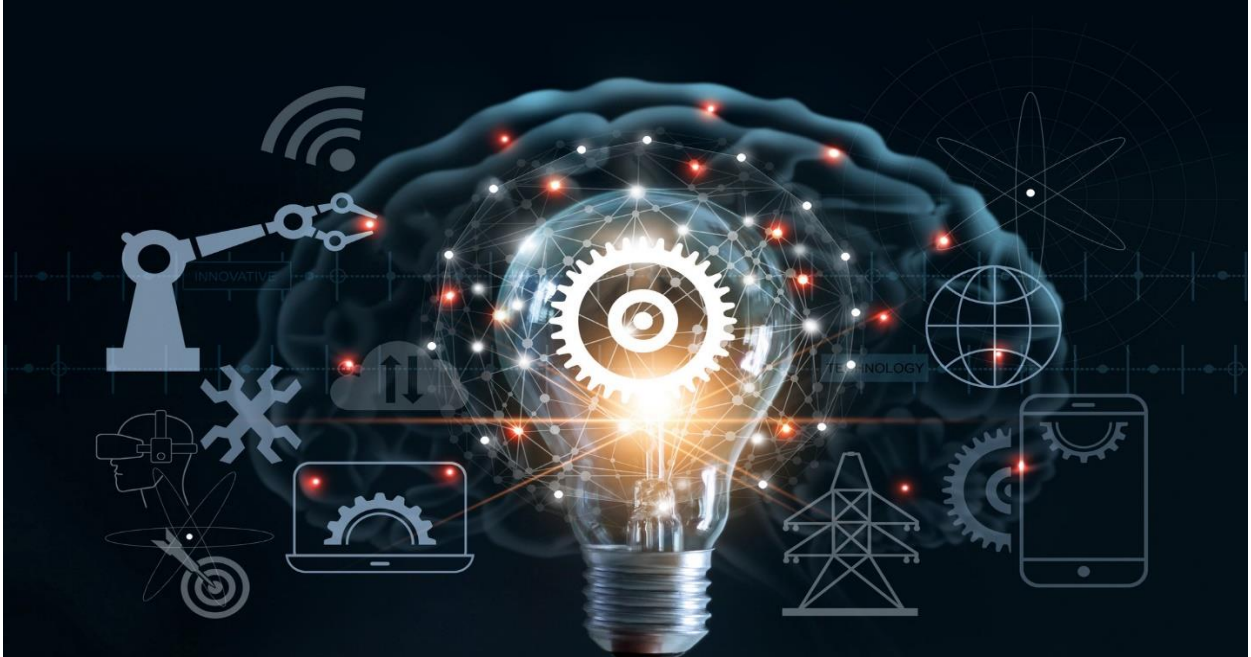
Laos has recently made significant strides in its intellectual property (IP) framework. The 2023 Law on IP, which was published in the Lao official gazette on March 1, 2024, has been amended to bring Laos' IP legislation in line with international standards. This update offers several practical benefits for businesses operating in the country.

Key changes include simplified recognition of well-known trademarks, mandatory trade name registration for protection against infringement, introduction of the concept of exhaustion of rights, which may impact parallel imports, clarification of disclosure requirements for patents and industrial designs to include electronic media, and expanded copyright protection to cover electronic works and extend the protection term for applied art from 25 to 30 years.

Trademarks

Foreign applicants often face challenges when dealing with trademarks in Laos, mainly in registration delays and enforcement difficulties. These issues stem from resource limitations and expertise gaps within local authorities. Proving the well-known status of their trademarks in Laos can be difficult for European SMEs. Although the new law has removed some restrictive terms, SMEs still need substantial documentation and evidence, which can be hard to obtain. Another issue in Laos is trademark squatting, where local entities have registered well-known trademarks in bad faith. This can lead to prolonged legal disputes, as seen in a case where a local entity registered the trademark of a famous luxury goods company.





Patents

Securing patent protection in Laos can challenge foreign applicants due to a lengthy examination process and limited examiner expertise. The patent examination and granting process in Laos may be prolonged because of a shortage of experienced examiners, potentially causing delays in obtaining patent grants. This can hinder the applicant's ability to protect their innovations promptly. Additionally, the requirement to disclose information about electronic media and genetic resources adds complexity to patent applications, particularly for applicants without in-house legal expertise. The emphasis on revealing the origin of innovations derived from genetic resources or traditional knowledge further complicates matters for foreign applicants, especially those in the biotech sector.

Industrial Designs

Foreign applicants face challenges when seeking industrial design protection in Laos, mainly related to registration obstacles and the evolving interpretation of "novelty." The ambiguity surrounding the concept of a "new" design in Laos can lead to confusion and potential delays during the registration process for foreign applicants. Varying interpretations of what constitutes "public disclosure" further complicate the process, as seen in a case where a furniture design company encountered difficulties meeting the novelty requirement due to prior sharing of their designs on social media. Additionally, the recognition of electronic media as a form of public disclosure has introduced further complexity. Foreign applicants now need to exercise greater caution regarding online design exposure that may impact the novelty of their designs.

Copyrights

Expanding copyright protection to include electronic works has created new prospects and challenges for foreign applicants. While it opens up opportunities to safeguard digital content such as software and e-books, the absence of established norms in this domain can be perplexing. Moreover, the prevalence of piracy and unauthorized use of copyrighted material poses significant threats. Foreign applicants have encountered cases where local entities exploit their copyrighted materials for financial gain without proper authorization. Enforcement of copyright rights in Laos remains a challenging issue.

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Trade Secrets

In Laos, companies face a notable challenge in safeguarding their confidential business information, also known as trade secrets. Unlike certain advanced economies, Laos does not have a specific legal structure to protect and enforce trade secrets.

Technology Transfer

The parties face challenges when engaging in technology transfer agreements in Laos due to the lack of clear procedures and legal certainty. This can lead to complexities in negotiating and finalizing these agreements. The absence of well-defined regulations for technology transfer in Laos creates a sense of uncertainty, making it challenging to navigate the process, understand required procedures and approvals, assess potential risks, and negotiate fair and enforceable terms within these agreements.

Geographical Indication

Securing geographical indication (GI) protection in Laos can be particularly challenging. Unlike more established systems in other countries, the GI registration process in Laos can be complex and lack clarity, which may lead to delays and confusion. This lack of transparency also creates opportunities for the misuse or infringement of registered GIs.



Improvements & Challenges

The relaxation of restrictive terms in the criteria for well-known trademarks simplifies proving their status. This change allows the applicants to use global evidence to demonstrate the renown of their trademarks in Laos. Additionally, the explicit inclusion of electronic media as a means of disclosure aligns with international standards. It enhances transparency in the IP landscape, and introducing the concept of exhaustion of rights could clarify the legality of parallel imports, addressing a previously unclear area.

On the other hand, despite legal improvements, enforcement remains a significant challenge due to limited resources and expertise within local authorities. New disclosure requirements, particularly for patents and industrial designs, place an increased documentation burden on applicants. Additionally, the newly mandated registration for trade name protection deviates from the standard principle in many countries where rights are established through actual use in commerce, introducing an unnecessary burden for applicants.

Conclusion

Laos recently made notable advancements in updating its intellectual property (IP) framework. The newly implemented Law on Intellectual Property No. 50/NA, also known as the "2023 Law on IP," aligns Laos with global standards and enhances the business environment in the country. Despite this progress, remaining challenges require attention within Laos' IP regulations.

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Please contact Daitin & Associates if you require any further information or guidance in the procedures of acquiring, protecting intellectual property rights in Vietnam | Cambodia | Laos | Myanmar | Thailand | Philippines | Brunei | Indonesia.

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