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INSIDE

New finds this week

Navigating provisional refusals in Cambodia's trademark application process can be a complex journey for businesses seeking to protect their intellectual property. Understanding the common reasons for refusals and the steps to address them is crucial for a successful application. This article delves into the intricacies of the process, offering practical advice and strategies to overcome potential hurdles and ensure your trademark is registered smoothly.

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New finds this week

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NAVIGATING PROVISIONAL REFUSALS IN CAMBODIA'S TRADEMARK APPLICATION PROCESS

The possibility of receiving a provisional refusal when applying for a trademark in Cambodia

When applying for a trademark in Cambodia, it's essential to be aware of the possibility of receiving a provisional refusal from the Cambodian Department of Intellectual Property (DIP). This initial refusal does not represent a final decision and can be addressed through a response or appeal process.

Provisional refusals in Cambodia may be issued based on various grounds, which can be classified as absolute or relative. Absolute grounds for refusal include situations where the trademark lacks distinctiveness, is deceptive, or is contrary to public order or morality. Relative grounds for refusal can arise if the trademark is confusingly similar to a prior mark or identical or similar to a well-known mark. In the similarity assessment, the DIP considers visual, phonetic, and conceptual aspects of the marks and the nature of the goods or services.

Moreover, it's important to note that the Department of Intellectual Property (DIP) has the authority to issue a provisional refusal if the trademark application contains errors or omissions that must be corrected. Additionally, the DIP may also require the applicant to disclaim exclusive rights to some aspects of the mark that are seen as descriptive or generic.

Keep in mind that receiving a provisional refusal doesn't mean the process is over. Applicants can address the refusal by presenting counterarguments and evidence to resolve the concerns raised by the DIP.



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The DIP's assessment criteria for brand owners to protect their trademarks.

Understanding how the Cambodian Department of Intellectual Property (DIP) assesses trademark similarity is crucial for brand owners. The DIP utilizes a multi-faceted approach that considers various criteria to determine if there is a likelihood of confusion among consumers. While the DIP does not have explicitly stated rules, several factors come into play during its assessment:

Visual Similarity: The DIP evaluates the overall appearance of the marks, including the use of similar fonts, colors, designs, or other visual elements. Even minor differences in appearance may not be sufficient to avoid a finding of similarity if the overall impression is similar.

Phonetic Similarity: The DIP considers how the marks sound when spoken, including the similarity of syllables, sounds, and overall pronunciation. Similar pronunciation can contribute to a likelihood of confusion, especially for goods or services marketed orally.

Conceptual Similarity: The DIP examines the meaning or idea conveyed by the marks, considering whether the marks evoke similar concepts or associations in the minds of consumers. Marks may still be considered similar even if they look or sound different or evoke the same idea or concept in consumers' minds.

Nature of Goods or Services: The DIP evaluates the similarity of the goods or services associated with the marks. Marks for similar or related goods/services are more likely to be considered confusingly similar.

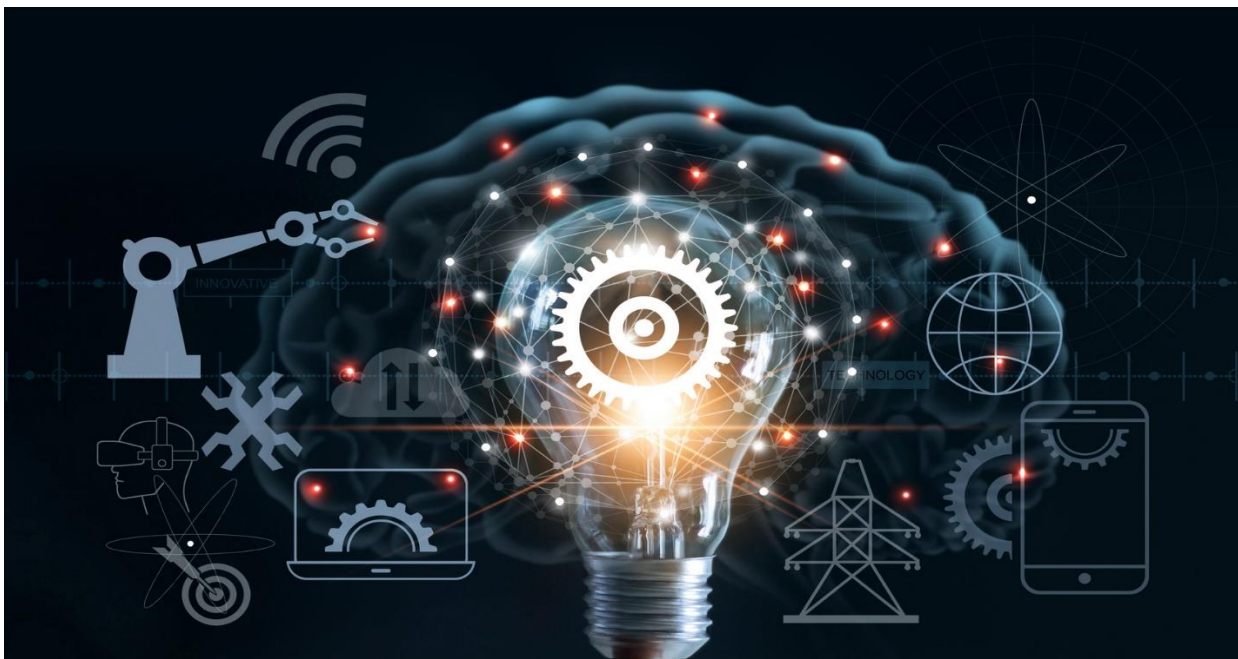
Target Consumers: The DIP considers the average consumer's level of attention and sophistication regarding goods or services. Marks targeting similar consumer groups are more likely to be considered confusingly similar.

Overall Impression: The DIP considers the overall impression created by the marks, considering all factors together. Even if marks differ in some aspects, the overall appearance may still be similar, leading to a finding of confusion.

In addition to these criteria, the DIP may also consider other factors, such as the distinctiveness of the earlier mark, the extent of use and reputation of the earlier mark, and any evidence of actual confusion in the marketplace.

It's important to note that the DIP's assessment is a matter of subjective judgment, and there is no guarantee that a particular mark will be considered similar or dissimilar. However, by understanding the criteria used by the DIP, brand owners can better assess the risk of their trademark being identical to existing ones and develop strategies to mitigate this risk.





Cambodia's DIP Accepts and Examines International Trademark Registrations with Key Considerations and Potential Objections

Cambodia's Department of Intellectual Property (DIP) recognizes and accepts international trademark registrations, including those registered under the Madrid System. Since joining the Madrid Protocol in 2015, Cambodia has allowed trademark owners to seek protection through a single international application.

However, international registrations are not automatically granted protection. Each international registration designating Cambodia undergoes a formal examination by the DIP to ensure compliance with Cambodian trademark law and regulations, similar to the process for national trademark applications.

Key factors influencing acceptance include compliance with local laws, prior rights, absolute and relative grounds for refusal, and evidence of use in other countries. Additionally, specific considerations apply to Madrid system registrations, such as the central attack principle and the 18-month refusal period.

Overall, the DIP considers international trademark registrations, including those under the Madrid System, a valid way to seek trademark protection in Cambodia. However, applicants should be prepared to address any objections or refusals raised during the examination process



Conclusion

It's essential to keep in mind that the provisional refusal of your trademark in Cambodia is not the final decision. By having a good grasp of the Cambodian trademark system and implementing effective strategies, it is possible to reverse the refusal and secure the protection your trademark rightfully deserves.

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