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INSIDE

New finds this week

Stay informed with the latest developments on patent applications in Myanmar, as the country implements its new Patent Law, opening doors for inventors worldwide.

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New finds this week

By Uyen Ngo, Nguyen Hoa Binh, et al.

UPDATE ON PATENT APPLICATIONS IN MYANMAR

Overview

On October 31, 2024, Myanmar's Intellectual Property Department (IPD) announced the commencement of official patent and utility model registration applications under the newly established Patent Law. This initiative, outlined in IPD Announcement No. 14/2024, marks a significant step forward in facilitating the protection of intellectual property rights in Myanmar.

The Patent Law, known as Pyidaungsu Hluttaw Law No. 7/2019, was enacted on March 11, 2019. It provides a comprehensive framework for protecting inventions related to both products and processes, representing the first legal structure dedicated to patent protection in the country's history. The law became effective on May 31, 2024, following the State Administration Council Notification No. 106/2024, allowing for the formal registration and safeguarding of patents and utility models within Myanmar.

On June 4, 2024, the Ministry of Commerce (MOC) introduced the Patent Rules through Notification No. 43/2024, outlining the requirements and procedures for handling patent and utility model matters. Following this, on July 19, 2024, the MOC issued Notification No. 54/2024, which specified the official forms necessary for filing patent and utility model applications. Furthermore, on October 22, 2024, the Intellectual Property Agency announced the official fees, including annuity fees, associated with patents and utility models under Notification No. 2/2024.

In 2019, Myanmar enacted its long-awaited Patent Law, which is set to come into effect on May 31, 2024. The Myanmar Department of Intellectual Property has officially begun accepting patent applications as of October 31, 2024. This development marks a significant step in enhancing the country's intellectual property framework.

Documents and Procedure

Under Myanmar's patent system, both individuals and legal entities have the option to file for the registration of new patents and utility models with the Intellectual Property Department (IPD). Applications can be submitted through various methods: electronically, in person (either directly or through a local representative), or via postal mail.



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Applicants can choose to submit their patent applications in either English or Myanmar. To ensure a complete application, the following key documents are required:

1. The official Application Form PT/UM-1 must be completed and signed by the applicant.
2. A detailed description of the invention, including its title, field of innovation, and technical specifications.
3. A summary outlining the invention.
4. Statements of claims that define the scope of the invention.
5. Drawings accompanied by brief descriptions.
6. The name, address, and nationality of the inventor(s).
7. Written consent(s) from the inventor(s).
8. The name, nationality, country of incorporation, and applicant's address.
9. The name, national registration card number, and address of the Myanmar representative (agent).
10. An official copy of the first foreign application if the applicant wishes to claim priority based on that application.

This streamlined process facilitates the registration of inventions and aims to promote innovation within the country.

Priority Claim

Myanmar is not a member of the Paris Convention; however, it is possible to claim priority from an application submitted in a member state of the Paris Convention or the World Trade Organization. The priority period for such claims is 12 months. Additionally, it's important to note that Myanmar is not a contracting state of the Patent Cooperation Treaty (PCT).



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Patentable Subject Matter

The Myanmar Patent Law outlines a comprehensive framework for patentable inventions while specifying specific exclusions to ensure alignment with public policy and ethical standards. The following categories are identified as non-patentable inventions:

1. Discoveries and Theories: This includes scientific discoveries, theories, and mathematical methods that cannot be patented.
2. Business Methods: Any schemes, rules, or regulations about business operations, mental acts, or game-playing methods are also excluded from patent eligibility.
3. Computer Programs: Computer programs, in and of themselves, are not eligible for patent protection.
4. Biological Processes: Biological processes used for producing plants or animals, apart from non-biological and microbiological processes, are not patentable.
5. Plants and Animals: This category includes all plants and animals, encompassing animal breeds and plant varieties, as well as parts of natural living organisms and biological materials found in nature, except artificially created microorganisms, DNA (including complementary DNA sequences), cells, cell lines, cell cultures, and seeds.
6. Medical Treatments: Methods for treating the human or animal body through surgery, therapy, or diagnostic practices are excluded from patent protection.
7. Natural Substances: Inventions related to natural substances, including known substances, along with new uses or forms of these substances, fall outside of patentability as well.
8. Morality and Public Order: Inventions that could significantly harm public order or morality, human beings, animals, plants, health, or the natural environment are not patentable. Furthermore, any inventions whose exploitation is prohibited by existing laws within the territory are also excluded.

This structured approach ensures the patent system operates within ethical boundaries while promoting innovation in acceptable areas.

In addition, pharmaceutical products and processes are currently classified as non-patentable inventions until January 1, 2033, unless the Union Government introduces specific provisions to change this status. This guideline is by the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Council under the World Trade Organization (WTO).

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On the other hand, the following categories of inventions are currently classified as non-patentable under the Myanmar Patent Law in relation to patent protection, effective until July 1, 2021, unless otherwise specified by the Union Government in accordance with the TRIPS Council policies under the WTO:

1. Agricultural chemical products
2. Food products
3. Microorganisms

It is important to note that the Myanmar Patent Law grants the Union Government the authority to amend the list of non-patentable categories with the approval of the TRIPS Council under the WTO.

Applicants are encouraged to carefully consider these exclusions when assessing the eligibility of their inventions for patent protection.

While the date outlined for these exclusions has passed, the Myanmar Intellectual Property Department (IPD) and the Ministry of Commerce have not yet officially lifted the restrictions on these inventions..

Types of Patent Protection

Myanmar provides two primary forms of intellectual property (IP) protection: patents and utility models (also known as petty patents).

1. Patents: These offer protection for a period of 20 years from the filing date.
2. Utility Models: These offer a shorter protection term of 10 years from the filing date.

According to the Myanmar Patent Law, an applicant cannot file for both a patent and a utility model for the same invention. However, a provision allows a one-time conversion between application types (from a patent to a utility model or vice versa) before a decision on the application is made.

It is important to note that utility models in Myanmar do not require an inventive step, making them a more accessible option for inventors.

The Myanmar Patent Law defines a utility model as "the technical creation that consists of a new shape or configuration of an object or of the component of an object that increases its functionality or utility." Additionally, the law outlines specific exclusions from utility model protection, which include:

- (i) Processes or methods;
- (ii) Chemical, pharmaceutical, biological, metallurgical substances or compounds;
- (iii) Items that are excluded from patent protection under the Myanmar Patent Law;
- (iv) Sculptures, architectural works, or natural ornaments.

This legal framework aims to facilitate innovation while clearly outlining the boundaries of protection within Myanmar.



Conclusion

The recent updates to Myanmar's intellectual property framework represent a significant advancement. With the introduction of the new Patent Law, inventors are now able to obtain legal protection and exclusive rights for their innovations. This change improves the legal structure governing patent protection and creates new opportunities for both local and international businesses to invest in Myanmar's expanding market. As the nation aligns its regulations with international standards, it establishes a more dependable and effective system for protecting intellectual property, promoting innovation, and drawing global investments.

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