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NAVIGATING TRADEMARK INFRINGEMENT IN LAOS: A COMPREHENSIVE LEGAL GUIDE

OVERVIEW

Trademark infringement cases in Laos follow a detailed multi-stage process that includes specific procedures and timelines. This article from Daitin & Associates outlines a comprehensive guide to navigating this legal framework. It elaborates on the roles played by various entities, including the police, prosecutors, and the courts, detailing each step from the initial complaint to the final judgment. Additionally, it discusses the possibilities for reopening the case after a decision has been made.

COMMENCEMENT

Proceedings can begin in several ways: through a formal complaint lodged by an individual, the offender's voluntary surrender, or the discovery of an offense by an investigative body. Complaints may be submitted either in writing or orally. However, when an oral complaint is made, the officer receiving it must ensure thorough documentation of the details (Article 86, 87 of the Law on Criminal Procedure – LCP).



THE POLICE WORKS

When handling trademark infringement complaints, it is essential to follow a structured process:

1. **Receiving Complaints:** Complaints or reports of trademark infringement should be formally received and documented.
2. **Record Keeping:** It is necessary to record the complaint and inform the complainant about the potential legal liabilities associated with false accusations.
3. **Timely Consideration:** Claims should be considered within 5 days from receipt, with the possibility of extending this to 10 days in more complex cases.
4. **Investigation Initiation:** An order should be issued to open an investigation if substantial evidence indicates a criminal offense has occurred.
5. **Offense Identification:** The specific offense must be identified, along with the relevant articles of the Penal Law.
6. **Reporting Offenses:** Any offense should be reported to the prosecutor's office within 24 hours.
7. **Urgent Situations:** In urgent cases, the head of the investigation can initiate an investigation and report it to the prosecutor's office within the same 24-hour period.
8. **Prosecutor's Decision:** The public prosecutor must review and decide on the order within 48 hours of receiving the documentation.
9. **Conducting Investigations:** The investigation involves gathering evidence, taking testimonies, and conducting necessary searches.
10. **Summons Issuance:** Summons should be issued for both suspects and witnesses to ensure their appearance for questioning.
11. **Detention:** If required, a suspect may be detained for a maximum of 44 hours.
12. **Arrest Warrant:** An application for an arrest warrant should be made to the prosecutor's office if deemed necessary.
13. **Investigation Completion:** The investigation should be completed, and the case file should be submitted to the prosecutor's office within 2 months for minor offenses and within 3 months for major offenses. In Laos, IP infringement is classified as a major offense, carrying potential imprisonment of 1-3 years, which is detailed in the relevant legal articles.
14. **Rights of the Accused:** Throughout the investigation and interrogation process, the accused has specific rights including the right to be informed of the charges, provide testimony, present evidence, request bail, review case documents, consult with a lawyer, request the recusal of involved parties, lodge complaints about irregularities, and file appeals.

To summarize, complaints are to be initially considered within 5 to 10 days, and investigations should be completed within 3 months for major offenses.



ACCUSATION

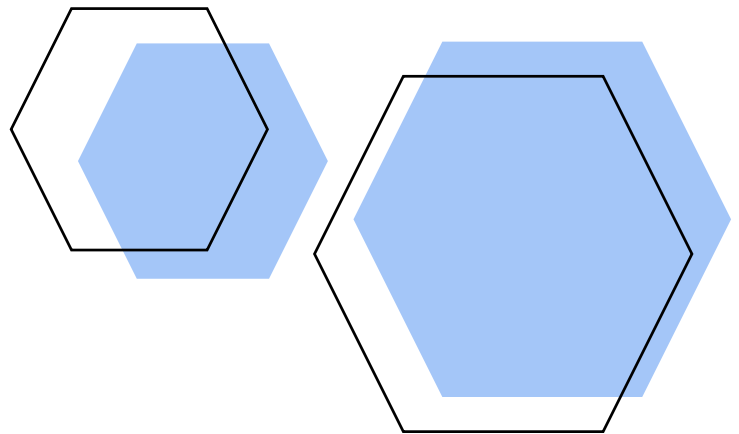
The lawfulness of investigations conducted by public security organs must be monitored in accordance with Article 49 LCP. Upon completion of the investigation and interrogation, the case file and any exhibits are forwarded to the public prosecutor as outlined in Article 150 LCP.

The public prosecutor is required to examine the submitted case file within a period of 15 days from the date of receipt. During this review, the prosecutor can issue various orders, including requests for additional investigation, suspension of case proceedings, dismissal of the case, modification of preventive measures, or prosecution of the accused in court, as specified in Article 152 LCP.

All parties involved, including the accused, the injured party, the civil plaintiff, and those liable, have the right to access the case file and review the order issued by the public prosecutor, as detailed in Article 152 LCP. Furthermore, the prosecutor must forward the order for prosecution and the case file to the court within three official days of issuing the order, as stated in Article 152 LCP.

Additional inquiries should be ordered as per Article 153 LCP if further investigation is deemed necessary. In cases where there is ample evidence, an order to prosecute the accused must be issued to the court, as indicated in Article 154LCP.

To summarize, the timeline for the examination of the case file is set at 15 days.





IN COURT

The process begins with the receipt of the case file and prosecution order from the prosecutor's office, as outlined in Article 164 LCP. Following this, a judge will be assigned to examine the case file in accordance with Article 167 LCP. If additional investigation or prosecution is deemed necessary, the case file may be sent back to the prosecutor's office, following the guidelines of Article 168 LCP. An order will then be issued to consider the case during a court session, as specified in Article 169 LCP. The trial will be conducted, which involves hearing testimonies, examining evidence, and considering arguments, as detailed in Article 192 LCP. Once the trial is complete, a decision on the case will be issued, including any penalties if the accused is found guilty, as per Article 205 LCP. The court is required to consider and decide on the case within 30 days of receiving the prosecution order from the public prosecutor, as stated in Article 165 LCP.

Trials are typically conducted in the Lao language and held in open court, except for cases involving state secrets or sensitive issues such as family matters, which may be conducted in closed sessions, as mentioned in Article 20 LCP.

The defendant has several rights throughout this process, including the right to be informed of the accusations, provide testimony, present evidence, review case documents, consult with a lawyer, request recusal of individuals involved in the proceedings, and submit appeals, as established in Article 66 LCP. Additionally, the court is authorized to employ investigation-interrogation methods and preventive measures during the proceedings, following Article 166 LCP.

In the judicial process, the court is responsible for deciding on a case, which may result in various forms of punishment. These can include deprivation of liberty, monetary fines, asset seizures, other penalties, and the possibility of releasing the accused from allegations (Article 208 LCP). The court's decision is announced in an open session and duly communicated to the defendant and other involved parties (Article 206 LCP).

Furthermore, the defendant, their legal representative, or another designated defender can appeal the court's decision if they believe it is unjust (Article 212 LCP). Additionally, the public prosecutor is entitled to file an objection against the court's decision if it is considered to be unsupported or contrary to legal principles (Article 213 LCP).



APPELLATE REVIEW AND SUPREME COURT EXAMINATION

The court of appeal must review and decide on the case within 45 days of receiving the case file, as stipulated in Article 216 LCP. This level of the court has the authority to either uphold, modify, or overturn the decision made by the court of first instance, according to Article 222 of the LCP. Additionally, various parties, including the defendant, civil plaintiff, civilly liable person, lawyer, other representatives, or the public prosecutor, have the legal right to request a cassation or lodge an objection against the judgment rendered by the court of appeal, as outlined in Article 226 of the LCP.

ENFORCEMENT OF COURT'S DECISION

The presiding judge of the judicial tribunal responsible for the initial consideration of a case is tasked with issuing an order to enforce the court's decision or judgment, as outlined in Article 236 of the LCP. This enforcement order is then communicated to several parties, including the enforcement organization, the individual subject to the decision, and the public prosecutor, also in accordance with Article 236 LCP.

The organizations designated for enforcing court decisions encompass a variety of entities, such as prisons, the Office of Enforcement of Military Court Decisions, village administrative organizations, and the Office of Enforcement of Court Decisions within the Department of Justice, as referenced in Article 237 of the LCP.

RE-OPENING OF A CASE

A court's final decision or judgment can be reconsidered if new information or evidence comes to light, as outlined in Article 259 of the LCP. According to the relevant legal provisions, the authority to review cases at this re-opening stage is exclusively held by the People's Supreme Court. The process for re-opening a case can be initiated by a request from the litigants involved or from the Chief of Office of the Supreme People's Prosecutor, as stated in Article 259 of the LCP.

SPECIAL PROVISIONS

Individuals may face detention, arrest, or remand in criminal proceedings related to trademark infringement. The temporary remand period is limited to a maximum of two months for minor offenses and three months for major offenses. These periods can be extended at the discretion of the public prosecutor, as outlined in Article 111 of the LCP.

Additionally, the court has the authority to order the seizure or sequestration of assets. This measure aims to secure compensation for damages, payment of fines, and court fees, as specified in Article 128 of the LCP.



CONCLUSION

Laos has established a comprehensive legal framework to tackle trademark infringement effectively. This framework's criminal penalties and procedures act as a significant deterrent for potential infringers. Additionally, they create an avenue for trademark owners to pursue justice and safeguard their valuable intellectual property.

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