



**International
Trademark
Association**

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January 8, 2013

Dr. Ko Ko Oo
Deputy Minister of Ministry of Science and Technology
Office No. 21, Nay Pyi Daw, Myanmar

Dear Dr. Ko Ko Oo,

The International Trademark Association (INTA) applauds the recent initiatives by the Republic of the Union of Myanmar to draft and implement its first comprehensive trademark law. We are grateful to have had the opportunity to discuss this historic initiative with Ministry of Science and Technology (MOST) officials during the roundtable held on November 30 in Naypyidaw. As requested at that meeting, INTA respectfully submits the enclosed comments to the English translation of the Draft Trademark Law provided by MOST for consideration. The comments reflect the consensus of trademark owners on robust trademark legislation that will protect consumers from counterfeit goods, reduce unfair competition and provide an important framework for economic development.

INTA is a not-for-profit membership association of more than 6,000 trademark owners and professional firms from more than 190 countries. The association was founded in 1878 and is dedicated to the support and advancement of trademarks and related intellectual property as elements of fair and effective national and international commerce. INTA members share common interests in the protection of trademarks and the development of trademark law, and they rely on INTA to represent and advocate for those interests with national governments and international organizations. INTA's diverse membership includes multinational corporations and other business enterprises of all sizes, intellectual property and general practice law firms, trade-mark agent firms, service firms, trademark consultants, and academic institutions. INTA currently has 8 member firms in Myanmar and 245 members from ASEAN. Further information about our Association can be found at www.inta.org.

The first Trademark Law will provide an important foundation for Myanmar to build a fair, effective and healthy economy. INTA believes that many aspects of the draft law reflect very progressive and ambitious plans, such as:

- The establishment of an IP Office and IP Courts; and
- Recognition of many non-traditional marks – including sound, scent and touch marks.

INTA believes that the draft law could be substantially improved by taking into account the following:

- Including criteria for determining whether a mark is well known;
- Defining counterfeit goods, which would include fake labels and packaging, and including actions such as the manufacturing, assembling, transporting and warehousing of counterfeits;
- Providing more guidance on the definition of bad-faith registration; and
- Providing penalties and damages commensurate to the crime in order to establish a strong deterrence for repeat offenses.

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Our comments focus on sections of the draft which we believe need revision or expansion and are provided in the order in which they appear in the Draft Law. The comments were prepared with the assistance of INTA's Legislation and Regulation Committee, Famous and Well-Known Marks Committee, Anticounterfeiting Committee, Non-traditional Marks Committee, Internet Committee, Enforcement Committee and Related Rights Committee, as well as members of INTA's policy staff. If you have any questions about the enclosed comments or INTA, please contact Mr. Seth Hays, External Relations Manager for Asia-Pacific at shays@inta.org.

Sincerely,

A handwritten signature in cursive script, reading "Alan C. Drengson". The signature is written in dark ink and includes a long horizontal flourish at the end.

Enclosure