

**The Republic of the Union of Myanmar**

**Ministry of Planning and Finance**

**Notification No. 50/2023**

**The 12<sup>nd</sup> Waning of First Waso, 1385 M.E.**

**(14 July 2023)**

**Customs Rules Relating to Protection for the Rights of Registered Mark**

The Ministry of Planning and Finance exercising the authority provided under the Trademark Law Subsection (c) of Section 106, hereby enacts these rules with the approval of the Union Government.

**Chapter I**

**Title and Definition**

1. These rules shall be called the **Customs Rules Relating to Protection for the Rights of Registered Mark**.
2. The expressions contained in these Rules shall have the same meanings as described in the Trademark Law. In addition, the following expressions shall have the meanings given below:
  - (a) **Law** means the Trademark Law;
  - (b) **Customs Department** means the Customs Department of the Ministry of Planning and Finance;
  - (c) **Director-General** means the Director-General of the Customs Department of the Ministry of Planning and Finance;
  - (d) **Counterfeit Mark Goods** mean the goods which are counterfeited for identical with or similar to for the commercial purposes by any other person without any permission of the right holder on mark, trademark, service mark, collective mark, certification mark, geographical indication, well-known mark, trade name registered according to the provisions of the law;
  - (e) **Suspension Order** means the order, issued by the Director-General, on condition that it has absolute grounds to suspect or it has accurate

valid information that goods accused of bearing counterfeit marks are imported, are in the process of being imported or will be imported into the territory of Myanmar, to suspend the release of such goods into free circulation;

- (f) **The applicant** means the right holder or his legal representative who is submitted the application to issue the suspension order and to register for recordation in accordance with the stipulations to the Customs Department to protect on rights of the registered mark;
- (g) **Importer** means a person who imports any goods by land, by sea, by air or by any other means of transport into Myanmar;
- (h) **Form** means the form prescribed by these rules.

## **Chapter II**

### **Application for the Recordation, Examine and Notify, Amendment, Withdrawal and Cancellation**

#### **Application**

- 3. The applicant shall apply for the recordation relating to the protection for the rights of the registered mark to the Director-General.
- 4. The applicant shall fill out the form (1) to request for the recordation under the Rule (3) and submit the attachment, if any, along with the documents specifically prescribed by the Customs Department.

#### **Examine and Notify**

- 5. The Director-General, in relation to the case of application for recordation shall:
  - (a) examine the application and accept it if it is correct and define the Recordation No., and notify the applicant with form (2) within fifteen days from the date of receipt of the application;

- (b) notify the applicant promptly to fill out the required information and resubmit within seven days from the date of issue of notification if it is detected that the information in the application is not complete;
- (c) notify the acceptance to the applicant if the application with complete and correct information within the prescribed period is resubmitted under the Sub-rule (b). The application shall not be accepted and rejected if the applicant cannot submit the required information completely within the prescribed period;
- (d) notify the applicant within seven days from the date of receipt of the application if the resubmitted application for the recordation with the complete and correct information, the Registration No. for Recordation has been defined and notify the acceptance with form (2), or not reject with form (3).

6. The validation of recordation is two years from the date of approval of the application.

7. The applicant shall fill out the form (4) and apply the renewal of recordation for two years at a time within thirty days before the expiry.

#### **Amendment, Withdrawal and Cancellation**

8. The application within three working days from the date of amendment or withdrawal in the Intellectual Property Department with the documents shall be submitted if any changes on the information registered at the Customs Department.

9. The registration shall be cancelled if the Customs Department verifies that the applicant infringes in some way the laws, orders, directives of the Mark or Customs, and such cancellation shall be notified to the applicant.

### Chapter III

#### Application for Suspension Order, Examine and Notify and Security Deposit

##### Application

10. The applicant shall apply to issue the suspension order to the Director-General on condition that it has absolute grounds to suspect or it has accurate valid information that goods accused of bearing counterfeit marks are imported, are in the process of being imported or will be imported into the territory of Myanmar, to suspend the release of such goods into free circulation. The applicant may apply the suspension order whether such goods have been recorded at the Customs Department or not.
11. The applicant shall fill out the form (5) to issue the suspension order under the rule (10) and submit the attachment, if any, along with the documents specifically prescribed by the Customs Department.
12. If the goods are not registered for recordation at the Customs Department, the applicant are subjected to examine first of the Customs Department for the correction of rights of the mark. The following facts shall be submitted if the Customs Department requests:
  - (a) A power of attorney if applied by any person who represents for right holder;
  - (b) Prima Facie evidence of importation;
  - (c) Absolute grounds of the imported goods that are infringed the right of the registered mark;
  - (d) Other required documents.
13. The applicant, for the issuance of suspension order
  - (a) may make the application either in Myanmar or English;
  - (b) shall translate the application from Myanmar into English vice versa if requested by the Customs Department;
  - (c) shall certify the translation under sub-rule(b);

- (d) may apply in person or via electronic means or post office.

### **Examine and Notify**

14. The Director-General, regarding the applications for suspension orders-
- (a) the applicant shall be notified with form (6) within thirty days from the date of receipt of the application if the application of suspension order is verified and correct;
  - (b) the applicant shall be immediately notified to complete the necessary information and submit it within fifteen days from the date of notification if it is found that the information in the application of suspension order is not complete;
  - (c) under sub-rule (b), if the applicant submits completely and correctly in the validation, it shall be notified that the application has been accepted. If the applicant fails to submit the required information completely in the validation, such application shall be rejected;
  - (d) If the resubmitted application is complete and correct, the applicant shall be notified within fifteen days from the date of receiving the application that it is accepted with form (6) or rejected with form (7) if it is not complete and correct.

### **Security Deposit**

15. (a) The applicant shall make the security deposit determined by the Director-General to the Customs Department within five working days from the date of the Director-General issues a letter of acceptance of the application to issue the suspension order;
- (b) If the applicant fails to make the security deposit in the validation, the application to issue the suspension order shall be deemed to have been rejected.

## Chapter IV

### Protection for the Rights of Registered Mark

16. The Director-General shall:
- (a) suspend the unrestrained entry of the counterfeit mark goods into free circulation if it has absolute grounds to assume that the imported goods use counterfeit marks after accepting the application for the suspension order or after such evidence is found during the Customs Department's examination in relation to goods that have not applied for the issuance of it;
  - (b) notify immediately either to the applicant or to the importer with form (8) of the issuance of the suspension order under sub-rule (a) if apply. Likewise, if the Customs Department exams, the importer and the right holder shall be done;
  - (c) notify the right holder that the security deposit specified by the Director-General to be made within fifteen days from the date of suspension order notification for the goods that have been issued in the case of inspection by the Customs Department;
  - (d) cancel the suspension order and the importer shall be allowed to take out the goods after levying customs duties and taxes under sub-rule (c), if the right holder fails to make the security deposit in the validation.
17. If the importer does not satisfy with the suspension order, it can be applied to the Intellectual Property Court having the relevant jurisdiction to amend or cancel the suspension period. Such action shall be reported to the Director-General within fifteen days from the date of notification.
18. If the Director-General is notified that the importer has applied to the Intellectual Property Court under Rule 17, it shall be carried out in accordance with its decision.
19. The Director-General shall:

- (a) permit the applicant or the right holder and the importer sufficient opportunity to inspect the suspended goods under the Customs supervision at the same time in order to prove that the goods are counterfeit mark goods without prejudice to the protection of confidential information;
- (b) notify in the case of perishable goods within three days, within fifteen days in the case of other goods, from the date of the notification of the suspension order, or the applicant or the right holder to report that the case has been initiated on the decision of merits or that the temporary actions pending the flow of goods by the Intellectual Property Court have been delayed;
- (c) extend the period to fifteen days except the perishable goods if the goods are applied by valid grounds before expiry or other proper matters;
- (d) continue in accordance with the decision of the Intellectual Property Court on these goods if it is submitted in the validation that it is being carried out under sub-rule (b) with respect to the goods with the suspension order;
- (e) cancel the suspension order if no submission is made in the validation under sub-rule (b), and the importer shall be allowed to release the goods by levying the customs duties, taxes and charges.

## **Chapter V**

### **Expense Payment and Security Deposit Management**

20. Where the Intellectual Property Court determined that the goods are counterfeit mark goods:

- (a) The importer is liable to pay the costs of storage, destruction and disposal of the infringing goods under the supervision of the Customs Department within thirty days from the date of the order;

- (b) The Customs Department shall refund the security deposit paid by the applicant or right holder after the importer pays the costs under sub-rule (a);
- (c) If the importer fails to pay the costs of the storage, destruction or disposal of goods:
  - (1) The applicant or the right holder is liable to pay the costs to the Customs Department within thirty days from the date of the order;
  - (2) If the Customs Department has fully collected the expenses from the applicant or the right holder, the security deposit shall be refunded to the applicant or the right holder;
- (d) The Customs Department, whether the applicant or the right holder or the importer fails to pay the costs of storage, destruction, disposal of these goods, the costs shall be deducted from the security deposit;
- (e) The applicant or the right holder shall be entitled to recover from the importer the costs paid under sub-rule (c) (1) and sub-rule (d).

21. The Customs Department shall suspend the reissuance of the security deposit until the Intellectual Property Court has issued an order.

## **Chapter VI**

### **Right to Manage Goods**

22. In relation to the goods issued suspension order, the Customs Department shall manage in accordance with the decision of the Director-General or the order of the Intellectual Property Court.

## **Chapter VII**

### **Miscellaneous**

23. The following imported goods shall not be subject to the provisions of these rules:



- (a) De-minimis Goods which no duties and taxes are collected by the Customs Department;
- (b) Transshipment Cargo, Reshipment Cargo, Retention Cargo and Transit Trade Cargo;
- (c) Imported goods for the necessity of the government from time to time either for the public interest or for the state emergency.

24. The Director-General of the Customs Department shall exchange information and cooperate with the World Customs Organization and the Directors-General of other countries in respect of counterfeit mark goods.

Win Shein  
Union Minister

Letter No: Saba/ Finance - 2/1/254 (4367/2023)

Date: 2023 July, 14

**Circulation**

Chairman Office of the State Administration Council

Secretary Office of the State Administration Council

Office of the State Administration Council

Office of the Union Government

Office of the Pyidaungsu Hluttaw

Office of the Pyithu Hluttaw

Office of the Amyotha Hluttaw

Supreme Court of the Union

Constitutional Tribunal of the Union of Myanmar

Office of the Union Election Commission

All Ministries

Office of the Auditor General of the Union

Union Civil Service Board

Nay Pyi Taw Council

All Governments of Regions and States

Central Bank of Myanmar

Office of Anti-Corruption Commission

Office of Myanmar Investment Commission

All the Departments and Organizations under the management of the Ministry of Planning and Finance

Director-General, Printing and Publishing Department has been delivered together with the request for advertising in the Myanmar Gazette.

Chairman, The Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) has been delivered together with the request for dissemination to its affiliate organizations.

By order,

Sd/-

On behalf of Union Minister

(Maung Maung Win, Deputy Minister)

**Application Form for the Recordation of Registered Mark  
(Rule 3)**

**To**

Director-General  
Customs Department  
Yangon

Date

**Subject: Application for the Recordation**

1. In accordance with the aforementioned subject, our company ..... located in ..... registered the mark by the trademark number ( / ) of Intellectual Property Department for the ..... which has/have been manufactured by the ..... Company.
2. As such, we sincerely apply for the record at the Customs Department for the protection of Trademark Right on our marks.
3. Relating to this registered mark good, the related documents and the detailed descriptions which can be recognizable are also attached.

Applicant

Sign :.....

Name :.....

Position :.....

## 1. General Information on right holder-

Right holder's name	-
Right holder's address	-
Company name	-
Registration No. and date	-
Company address	-
Phone/ Fax/ Email	-

## 2. Personal data of applicant-

Applicant name	-
Identification card No./	-
Passport No.	
Job title	-
Address	-
Phone/ Fax/ Email	-

## 3. Company profile of applicant

Company name	-
Registration No. and date	-
TIN – Tax payer identification number	-
Company address	-
Phone/ Fax/ Email	-

## 4. Detailed description of suspected goods for recordation

Product name	-		
Description of goods	-		
HS Code	-		
Registration No. at Myanmar	-		
IP Department			
Registration Date at Myanmar	-		
IP Department			
Duration of the right	-	From	To

## 5. Valid period of recordation (Not more than 2 years)

Period of recordation	(From)	(To)
-----------------------	--------	------

## 6. Authorized distributor/importer (other documents for more distributors)

Name -
Company name -
Address -
Phone No. -

## 7. Documents to be Attached

IPR registration certificate (copy)	
Supporting materials/ tools and detailed description of goods to make them recognizable	
Power of attorney	
Public announcement	
Other necessary documents	

**Notification of the Acceptance for the Application of Recordation  
(Rule 5 (a) and (c))**

To

----- (applicant)

-----

**Subject: Notification of the Acceptance for the Application of Recordation**

1. In order to protect the Intellectual Property Right, as the following marks which have been applied for the recordation on..... by .... Company to the Customs Department have been examined, it has been registered for recordation by No..... of the Customs Department from... to...

(a) -----

(b) -----

(c) -----

2. In order to extend the recordation term, the applicants shall apply before expiration of the recordation term during thirty days.

Director-General  
Customs Department

Letter No . 17 – Kaka/(IPR)/2023 ( )

Date .

Copied to :

Customs Offices (Yangon Ports)

Airport

Airport Warehouse

OSS Check Points

Township Customs Offices

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**Notification of the Rejection of the Application for Recordation  
(Rule 5 (c))**

To

----- (applicant)

-----

Subject: **Notification of the Rejection of the Application for Recordation**

1. In order to protect the Intellectual Property Rights, the ---- Company apply to recordation at the Customs Department on -----(Date)----- for the following marks –

(a) -----

(b) -----

(c) -----

2. The application for recordation has been rejected due to the incomplete documents in the validation.

Director-General  
Customs Department

Letter No . 17 – Kaka/(IPR)/2023 ( )

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**Application Form for the Extension of the Trademark Recordation  
(Rule 7)**

To

Director-General  
Customs Department  
Yangon

Date .

Subject: **Application for the Extension of the Trademark Recordation**

1. In accordance with the aforementioned subject, ----- Company already registered with Registration No. of the Customs Department .... for recordation ---- dated --for the following trademark in order to protect the Intellectual Property Rights-

(a) -----

(b) -----

(c) -----

2. Regarding with the Trademark, the extension of recordation at the Customs Department is sincerely applied.

Applicant

Sign -----

Name -----

Position -----



**Application Form for Suspension Order of Registered Mark Right  
(Rule 11)**

To

Director-General  
Customs Department  
Yangon

Date :

Subject : **Application for Suspension Order**

1. In reference to the aforementioned subject, our company, ----- has duly registered the trademark for the goods manufactured by ----- Company situated in ----- under the Registration No. (-----/-----) of the Intellectual Property Department.
2. In the present context, the aforementioned registered trademark has been counterfeited and applied for similar goods, which are in the process of being imported into Myanmar by ----- Company. We hereby notify you that this company intends to import these goods from ----- to ----- via -----, with an estimated arrival on -----.
3. Therefore, we respectfully request to issue suspension order, if the goods are imported, they are not allowed to release.

Applicant

Sign -----

Name -----

Position -----

## 1. General information of right holder –

Right holder's name	-
Right holder's address	-
Company Name	-
Registration No. and Date	-
Company Address	-
Phone / Fax / Email	-

## 2. Personal Data of applicants -

Applicant Name	-
Identification card No. / Passport No.	-
Job title	-
Address	-
Phone / Fax / Email	-

## 3. Company profile of applicant –

Company name	-
Registration No. and Date	-
TIN – Tax payer identification Number	-
Company Address	-
Phone / Fax / Email	-

## 4. Detailed Description of suspected goods –

Trademark Right	-	
Description of the goods	-	
H.S Code	-	
Registration No. at Myanmar IP Department	-	
Registration Date at Myanmar IP Department	-	
Duration of the right	- From	to

## 5. The reason of application for the suspension of release

--

## 6. Importer of the suspected goods for suspension

Company Name	-
Address	-
Phone No.	-

## 7. Exporter of the suspected goods for suspension

Company Name	-
Address	-
Phone No.	-

## 8. Documents to be attached

IPR registration certificate (Copy)	-
Prima Facie evidence of infringement	-
Supporting materials / tools and detailed description of goods to make them recognizable	-
Power of attorney	-
Public announcement	-
Other necessary documents	-

**Notification of the Acceptance of the Application for Suspension Order  
(Rule 14 (a) and (c))**

**To**

----- [Applicant]

---

**Subject : Notification of the Acceptance of the Application for Suspension Order**

1. On -----(Date), -----Company formally appeals to the Customs Department for the suspension of the following goods suspected counterfeit mark goods into free circulation -

(a) -----

(b) -----

(c) -----

2. Your request for the suspension of the goods assumed counterfeit mark goods imported into territory of the State has been thoroughly examined and accepted.

3. Upon receipt of this notification, you shall require to make the security deposit, the sum of ----- Kyats to the Customs Department within five working days.

Director-General  
Custom Department

Letter No . 17 – Kaka/(IPR)/2023 (     )

Date .

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Airport

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**Notification of the Rejection of the Application for Suspension Order  
(Rule 14 (c))**

To

------(Applicant)

---

Subject: **Notification of the Rejection of the Application for Suspension Order**

1. On -----(Date), -----Company formally applied to the Customs Department for the suspension of the following goods suspected counterfeit mark goods, into free circulation-

(a) -----

(b) -----

(c) -----

2. Upon examining the application, it was found that the required information could not be completely submitted in the validation, so it is notified that the application is rejected.

Director-General  
Customs Department

Letter No. 17-Kaka/ (IPR)/ 2023 ( )

Date .

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**Notification of Issuance of Suspension Order  
(Rule 16)**

To

------(Applicant/Right Holder)

-----

------(Importer)

---

Subject:     **Notification of Issuance of Suspension Order**

1.     On -----(Date), it is found absolute grounds that the following goods considered as the goods using counterfeit mark arrived from -----to ----- by -----, so it is issued that the suspension order to enter into free circulation.

2.     On -----(Date), the following goods arrived from -----to ----- by -----, found absolute grounds that assumed using counterfeit marks so it is issued that the suspension order to enter into free circulation:

- (a) -----
- (b) -----
- (c) -----
- (d) -----

2.     In regarding with the suspended goods in paragraph (1):

- (a)     If the importer does not satisfy with the suspension order, he shall submit to the relevant Intellectual Property Court with absolute grounds that the imported goods are not using the counterfeit marks. Such action shall be submitted to the Director-General within fifteen days from the date of notification of the suspension order;
- (b)     Within fifteen days from the date of notification of the suspension order or within three days in case of the perishable goods, the applicant or the right holder shall submit to the Director-General with the relevant



documents proceedings leading to a decision on the merits of the case have been initiated by him or that the Intellectual Property Court has taken provisional measures prolonging the suspension of the release of goods.

3. Under the Paragraph 2 (b), if the applicant or the right holder could not submit in the validation, the suspension order will be cancelled, the duties and taxes will be liable to be paid, and the importer will be notified to take out such goods.

Director-General  
Customs Department

Letter No. 17-Kaka/ (IPR)/ 2023 ( )

Date .

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Relevant Port In charge

Airport In charge

Inspection Station In charge

Township Office

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**Republic of the Union of Myanmar**  
**Ministry of Planning and Finance**  
**Customs Department**

Order No.-----

Date. -----

**Suspension Order**

1. On -----, the absolute grounds are found that the following goods considered as the counterfeit mark goods arrived from -----to ----- by -----, so it is suspended to enter into free circulation.

- (a) -----
- (b) -----
- (c) -----
- (d) -----

2. Summary of the case:

-----

-----

-----

-----

3. In regarding with the suspended goods, if the suspension order is not satisfied with, or for the proceeding leading to a decision on the merits of the case, it shall be continued to apply to the Intellectual Property Court.

Director-General  
Customs Department

Letter No. 16-Kaka/ (IPR)/ 2023 ( )

Date .