

# DECREE OF THE PRIME MINISTER ON TRADEMARKS

Based on the law on the promotion and management of foreign investment in the Lao People's Democratic Republic;

On the proposal of the president of the Science, Technology and Environment Organization.

The Prime Minister decrees:

## SECTION I GENERAL PROVISIONS

### Article 1:

This decree is promulgated to unify the trademark administration throughout the country, to encourage and promote foreign investment in the Lao People's Democratic Republic (hereinafter referred to as Lao PDR), to stimulate internal and external commerce, to ensure the quality of goods, to protect consumers, and to suppress the fraudulence of goods and illegal commercial practice.

### Article 2:

“Mark” means any visible sign capable of distinguishing the goods or services of an enterprise.

A mark may be in the form of a word, figurative element or combination thereof represented in one or any colors.

“Trademark” means a sign used to be a mark of goods or services to designate the goods and services belonging to the owner of the created trademark.

### Article 3:

Lao People's Democratic Republic manages and protects the trademark throughout the country on the basis of laws and regulations.

### Article 4:

Any trademark can be protected in the case of a trademark which has been registered in the Lao PDR.

### Article 5:

Individuals or legal entities having residence and from foreign countries engaged in lawful production, commercial and service activities shall be entitled to register trademarks.

Individuals or legal entities of foreign countries requesting to register a trademark may have a representative authorized in the Lao PDR.

**Article 6:**

Any individual or legal entity, before using the trademark which has been registered in the Lao PDR, must be authorized by the owner of registered trademark and shall notify the Science, Technology and Environment Organization.

## SECTION II REGISTRATION OF TRADEMARKS

**Article 7:**

The application for registration of trademark shall contain:

- ? A request for the registration of trademark;
- ? Some specimens of the trademark;
- ? A list of the goods or services with the description of characteristics and quality that are to bear the mark and other necessary relevant documents.

Individuals or legal entities requesting to register a trademark shall apply to the Science, Technology and Environment Organization.

An individual or legal entity, who has been assigned the right to use the trademark, shall request to register trademark in the Lao PDR. An application may contain permission of the owner of trademark, defining the characteristics and quality of goods and services bearing the mark. In the case of partial assignments, the agreement shall provide for the right of the owner of trademark to verify the quality of goods or services.

**Article 8:**

The Science, Technology and Environment Organization proceeds to receive and examine the application for registration of trademark, issues the certificate and shall publish the result of the above registration.

**Article 9:**

?Collective mark? means a trademark used with goods or services of different enterprises who are using the same mark under the control of the registered owner of the collective mark.

The application for registration of a collective mark shall contain documents pursuant to the requirements defined in Article 7 in addition with the rules governing the use of the collective mark.

In the case of any change to use the said collective mark, the registered owner must notify the Science, Technology and Environment Organization for approval.

#### **Article 10:**

Where two or more persons file applications for the registration of identical or confusingly similar trademarks of the same kind, priority shall be considered and granted to the person who has first filed his application as to its conformity with Article 7.

#### **Article 11:**

The certificate of registration of the trademark shall be for a period of the years from the filing date of the application for registration and may be renewed every ten years.

#### **Article 12:**

A trademark cannot be registered if:

- ? A mark is unclear and is incapable of distinguishing the goods or services of one enterprise from those of other enterprises;
- ? A mark is contrary to the national cultural morality and public order;
- ? A mark is likely to mislead the public or trade circles, in particular as regards the geographical origin, nature and characteristics of the goods or services;
- ? A mark is identical with, or is an imitation of or contains as an element, an armorial bearing, flag or emblem, national typical culture or historical site, a name or abbreviation of any state, intergovernmental organization or organization created by an international convention;
- ? A mark possesses the official sign or hallmark relating to the control and certification of any state or international organization, unless authorized by the state or organization concerned;
- ? A mark is identical with, or confusingly similar to a trademark or trade name of goods or services which are widely well known.

### **SECTION III RIGHTS CONFERRED BY REGISTRATION**

#### **Article 13:**

The owner of a registered trademark shall have the rights as follows:

- ? Any exclusive use of the trademark by himself or other person with respect to the goods;
- ? Court proceedings against any individual or legal entity who infringes or uses a trademark without his agreement;
- ? The rights of the owner of a registered trademark or his consent shall not extend to the other acts related to goods and services existing in the Lao PDR.

#### **Article 14:**

The exclusive rights of the owner of trademark shall terminate in the following cases:

- ? The owner does not use a registered trademark by himself or by his consent during a continuous period of five years, unless it is shown that special circumstances prevented the use of the trademark;
- ? The expiration of the certificate of registration of the trademark;
- ? The exclusive rights of the owner of trademark which has been registered shall become invalid if the certificate of registration is expired of the term of validity, except where it has been renewed.

#### **Article 15:**

In the case of an applicant who has registered a trademark of the same kind in a foreign country, he has the right to appeal the priority date during the filing of an application for registration in the Lao PDR, but his application may be attached with a reference according to the international principles and laws or regulations of the country concerned relating to the protection of intellectual property.

**Article 16:** Any change in the ownership of an application for registration or in the transfer of right under the trademark to another person, shall require approval and record of the grounds by the Science, Technology and Environment Organization before going into effect.

### **SECTION IV MEASURES FOR INFRINGER**

#### **Article 17:**

Any individual or legal entity shall be regarded as having violated the rights under trademark if he or it has made use without authorization of the owner of registered trademark or unfair competition relating to the use of the trademark.

The infringer of rights under the trademark shall be warned or be subjected to legal sanction in such a case according to the laws of the Lao PDR.

### **SECTION V FINAL PROVISIONS**

#### **Article 18:**

The Science, Technology and Environment Organization in consultation with the Ministry of Industry and Handicraft, Ministry of Commerce and other competent authorities concerned, shall be responsible for organizing the implementation and interpretation of this decree into detailed regulations to ensure the effective control and drastic management of the activities.

#### **Article 19:**

The Prime Minister's office, ministries, identical organizations, provinces and municipalities, shall be aware and in charge of the implementation of this decree in accordance with their own role.

**Article 20:**

This decree shall enter into force on the date of its signature.

Vientiane, January 18<sup>th</sup> 1995

The Prime Minister

Khamtay SIPHANHDONE