

# LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

## NEWSLETTER 80 - 29<sup>th</sup> August 2020

**Dear Readers,**

Welcome to a new edition of our newsletter!

**1. Online trademark filing soft opening on 1<sup>st</sup> October 2020**

**(a) Start of the online filing system**

On 28<sup>th</sup> August 2020, the Ministry of Commerce, which took over from the Ministry of Education as the ministry in charge of implementing the four new intellectual property laws, issued Order No. 63/2020 (please find an English translation [on our homepage](#)) setting the date of the start of the online trademark filing system for **1<sup>st</sup> October 2020**.

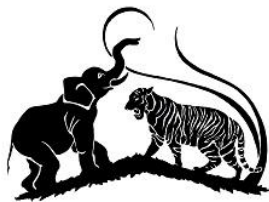
The new online filing system will be implemented in two phases. In the first phase, the so-called soft opening, only those trademark owners that (i) registered declarations of ownership with the Registration of Deeds Office or (ii) can prove that they used their trademark prior to a cut-off date may (re-) register their trademark under the new system.

The soft opening phase, which is to start on 1<sup>st</sup> October 2020, is expected to last 6 months. The cut-off date for trademark owners without existing registration that wish to register their trademarks during the soft opening phase is the date “on which the Trademark Law enters into force”. This date will be determined by presidential notification; it will (necessarily) be a date between now and 1<sup>st</sup> October 2020.

**Those trademark owners that wish to file declarations of ownership in order to be eligible to re-register their trademarks during the soft opening phase now really have to hurry up. The Registration of Deeds Office was apparently still accepting applications as of Friday but will probably stop doing so soon. As a less secure alternative, it may be possible to place an announcement in the newspaper claiming ownership of the trademark or otherwise creating the semblance of the trademark being used in Myanmar.**

**(b) Transition from “first to use” to “first to file”**

The second phase, the so-called grand opening, is expected to start on 1<sup>st</sup> April 2021. It is expected that owners of new trademarks will only be able to register them on or after 1<sup>st</sup> April 2021 unless they somehow manage to still register them under the current system before the cut-off date.



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Myanmar will transition from being a “first to use” country to being a “first to file” country during the soft opening period. Those that manage to (re-) register their trademark during the soft opening period will be given a priority right. The priority right starts on “the date on which the application [for (re-) registration] is officially accepted”.

**Let’s all hope that this doesn’t mean what it appears to mean, as on the face of it, this suggests that trademark owners (there are more than 200,000 registered with the Registration of Deeds Office) are encouraged to all stampede to re-register on the first day of the soft opening phase to beat potential owners of similar marks to the priority right.**

#### **(c) Filing fees to be separately announced**

The filing fees shall be separately announced prior to the presidential notification putting the Trademark Law into effect. We understand that there will be a separate fee for each class and that the fees “will not be higher than in Singapore”. We furthermore understand that it will not be possible to pay the fees during the soft opening phase (presumably due to the complexity of integrating online payments) and that they will have to be paid after the grand opening.

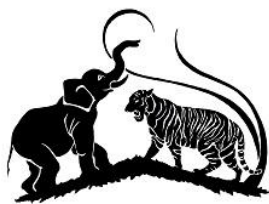
As a consequence, filing trademarks under the new online system will be substantially more expensive than the registration of declarations of ownership under the current system (but, on the other hand, the need to pay newspapers for publishing cautionary notices will disappear).

In order to save costs, we expect that many trademark owners that would previously have filed several declarations of ownership for slightly altered trademarks will now only file one “core” trademark. There should be no problem with it as trademarks are protected not only against identical, but also against “similar” imitations.

It is apparently not possible to reduce the number of classes in order to reduce costs when re-registering (para. 4 Order 63/2020).

#### **(d) Online filing not for everyone**

In the beginning, trademark owners will have to use the services of a law firm or service provider to (re-) register their trademarks online. Later, online filing will also be made available to the trademark owners themselves.



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We understand, however, that trademark owners may also file in person at a PC terminal at the Intellectual Property Department.

### (e) Online filing not entirely online

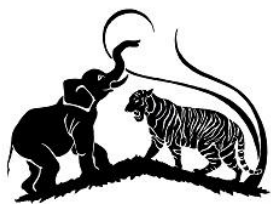
Apparently, the following has to be done in order to (re-) register a trademark online:

- > Fill in online application
- > Upload trademark image file, power of attorney (“appointment of representative”) and old trademark registration certificate or evidence of use
- > Print out filled-in application form
- > Sign application form
- > Scan application form and upload
- > Download application receipt with application number

### (f) What we need from you

In order to (re-) register your trademark, we expect to require the following documents and information:

Sr.	Trademark owner registered with the Registration of Deeds Office	Trademark owner not registered with the Registration of Deeds Office
1	JPG file of the trademark	
2	Colour description (all colours in the logo)	
3		Goods and/or services for which the trademark is used (preferably according to the Nice Classification)
4	Registration certificate (i.e., declaration of ownership stamped by the Registration of Deeds Office); PDF copy probably sufficient	Proof of use in Myanmar (must show the date somewhere): E.g., announcement in a newspaper, advertisement
5	if the applicant is not the same as the trademark owner registered at the Registration of Deeds Office, proof of transfer of ownership or name change	
6	Power of attorney (“appointment of representative”); PDF copy probably sufficient	



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## (g) Further information

We uploaded our seminar presentation on the launch of the new intellectual property protection system to [our homepage](#).

## 2. Our webinar on fintech and e-commerce

If you are interested in our [webinar on fintech and e-commerce](#) on 10<sup>th</sup> September 2020 and have not registered your participation yet, you are cordially invited to do so by sending an e-mail to [sebastian@lincolnmyanmar.com](mailto:sebastian@lincolnmyanmar.com) or [nyeinchanzaw@lincolnmyanmar.com](mailto:nyeinchanzaw@lincolnmyanmar.com).

## 3. Land available in Bago for manufacturing projects

Please allow us to reprint this message from the last newsletter:

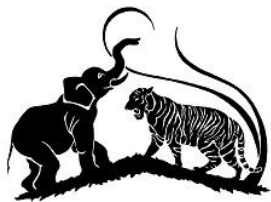
There are two plots of land available in Bago Township (approx. 100 and 200 acres respectively) for sale or lease to build factories. Ideally, the owners would like to sell or lease the entire plots to a developer, but they are also willing to sell or lease smaller chunks. The land is recorded as farmland, but the owners will take care of the conversion process and costs. This is a good location for manufacturing businesses. If you are thinking about setting up a factory in Myanmar and are interested in the land, please contact [nyeinchanzaw@lincolnmyanmar.com](mailto:nyeinchanzaw@lincolnmyanmar.com).

## 4. Some interesting news

- [DICA announcement on the re-entry of foreign staff](#) (but please contact the Myanmar embassy abroad first as your initial port of call)
- [DICA announcement on the requirement of tax certificates when applying for visa renewals:](#)

Those wishing to renew their business visa in the country (i.e., most expats that remained during the pandemic) require a recommendation letter from DICA (or the MIC). DICA recently switched to an online application system for this recommendation letter which requires the applicant to attach (i) the corporate income tax payment slip (if the applicant is a shareholder, director or dependant) and (ii) in addition, the personal income tax payment slip (if the applicant is an employee). DICA warns against attaching false tax slips.

- [What's new in Myanmar's project bank](#)



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- [Large new wholesale facility to open in November in Yangon](#)
- [Mastercard to open office in Yangon](#)
- [Yangon to push development of three industrial zones](#) (Hlegu Industrial Park; Yangon Amata Smart Eco City; Korea Myanmar Industrial Complex)
- [Myanmar legalising stockpiles of illegally imported alcohol to raise revenues](#)

We hope that you have enjoyed reading our newsletter and found it useful.

Sebastian Pawlita  
Managing Director

Nyein Chan Zaw  
Director



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### About Lincoln Legal Services (Myanmar) Limited

Lincoln Legal Services (Myanmar) Limited provides the full range of legal and tax advisory and compliance work required by investors. We pride ourselves in offering result-oriented work, high dependability and a fast response time at very competitive prices. Please do not hesitate to contact us:

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