



Legal News

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Trademark Act (No. 3)

The Trademark Act (No.3) (the "Act") has been announced in the Government Gazette on 29 April 2016, and will become effective starting from 28 July 2016. The Act amends the Trademark Act B.E. 2534 (A.D. 1991) to include the protection of sound mark. The definition of "mark" which can be registered according to Section 4 has been amended to include "sound". The Act has also amended the process and the time period for registration to be more effective and efficient. For example, it shortens the period from 90 to 60 days for acting in compliance with the order of the registrar, the period for objection and opposition and the period for appealing the order of the registrar. In addition, the Act specifies the provisions of penalties on the misuse of the package with a registered trademark, a certification mark or collective mark on a product with the intent of luring the customer to believe that such product is an authentic product when in fact it is not.



The provisions regarding the trademark registration under the Madrid Protocol (Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks) has also been included in the Act. Therefore, the applicant for a trademark registration may apply for trademark registration in many countries simultaneously which is a benefit for the applicant. The applicant who can apply for trademark registration under the Madrid Protocol must be the applicant who has previously applied for a trademark registration or who has registered trademark in Thailand. Upon registration, such trademark will be protected the same as trademark being registered under the Trademark Act. The trademark registration will expire 10 years after registration unless it has been renewed.

Ministry of Commerce Rulings on Business Operations of Foreign Companies in Thailand

Licensing of franchise, trademark or service mark by a foreign juristic person registered under the laws of foreign country

The Ministry of Commerce issued a ruling to consider whether a foreign juristic person registered in an overseas country that will provide and invoice for licensing of franchise, trademark or service mark to a company in Thailand is required a permission to operate the business in Thailand under the Foreign Business Act B.E. 2542 ("FBA") or not. The ruling indicated that two scenarios should be considered which are as follows:



1. If the foreign juristic person does not perform any activities related to such licensing in Thailand then the foreign juristic person will not be considered as conducting business operations in Thailand and therefore will not be required to apply for permission under the FBA.
2. If the foreign juristic person performs activities related to such licensing in Thailand then the foreign juristic entity will be considered as conducting a restricted business under list three of the FBA. In this case the foreign juristic person must obtain permission from the Ministry of Commerce by way of a foreign business license before operating the business in Thailand.

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