

## Summary of Amendment to the Trademark Act of Thailand

*By Kowit Somwaiya and Duangdao Jindawattana, LawPlus Ltd., Thailand*

The National Legislation Assembly of Thailand (“**NLA**”) approved the proposed amendment to the Trademark Act B.E. 2534 (“**TMA**”) on 18<sup>th</sup> February 2016. The amended TMA will become effective after its publication in the Government Gazette expected in the first half of 2016.

The amended TMA covers the following 12 major changes and additions:

- 1. Non-traditional Marks:** Sound marks will be allowed registration if they are not directly descriptive of the character or nature of the applied goods, the natural sound of the applied goods or the sound resulting from the function of the applied goods. Three dimensional marks and shape marks will also be registrable provided that they are not a natural shape of the applied goods or functionally necessary, and do not add value to the goods.
- 2. Inherent Distinctiveness:** Marks presumed to have inherent distinctiveness will include invented words, invented numbers, invented characters and invented devices which are not directly descriptive of the character or quality of goods or services.
- 3. Acquired Distinctiveness:** Marks that would otherwise be unregistrable due to their lack of inherent distinctiveness will be registrable if they have acquired distinctiveness from its use in Thailand to the extent that it is well known to the public.
- 4. Multiple-class Applications:** Multiple-class applications will be allowed while single-class applications will remain possible.
- 5. No Associated Marks and Partial Assignment:** There will no longer be the requirement for a registration of a mark in association with another identical or similar mark of the same owner. Partial assignment of trademarks will be allowed.
- 6. Shorter Period for Oppositions, Appeals, Etc.:** The unextendable time period for filing an amendment, appeal, opposition, counterstatement, disclaimer, etc. is reduced from 90 days to 60 days from the date of receipt of the relevant order from the Trademark Office.
- 7. Longer Period for Paying Registration Fees:** The time period for paying the official registration fees will be extended from 30 days to 60 days from the date of receipt of the registration notification from the Trademark Office.

8. **Renewal Grace Period:** A trademark registration will be allowed renewal within three months prior to its expiry date and during a grace period of six months from its expiry date. A surcharge of 20 percent of the official renewal fees will be payable for renewal during the grace period.
9. **License Agreements:** A license agreement will not be extinguished as a result of a transfer or inheritance of the licensed trademark, unless agreed otherwise in the license agreement.
10. **Increase of Official Fees:** The official fees for filing applications, oppositions, appeals and renewals will be increased, in most cases, to 100% of the 1991 rates.
11. **Unauthorized Refilling of Genuine Package:** Unauthorized refilling of a genuine package bearing a registered trademark constitutes an offence with a penalty of imprisonment up to four years or a fine up to THB400,000 or both.
12. **International Trademark Registration:** The international trademark registration system under the Madrid Protocol will be adopted once the NLA ratifies accession to the Madrid Protocol and a Royal Decree is issued to implement Section 31 of the amended TMA.

*For more information, please contact:*



**Kowit Somwaiya**  
Managing Partner  
LawPlus Ltd., Thailand  
[kowit.somwaiya@lawplusltd.com](mailto:kowit.somwaiya@lawplusltd.com)  
[www.lawplusltd.com](http://www.lawplusltd.com)



**Duangdao Jindawattana**  
Associate  
LawPlus Ltd., Thailand  
[duangdao.jindawattana@lawplusltd.com](mailto:duangdao.jindawattana@lawplusltd.com)  
[www.lawplusltd.com](http://www.lawplusltd.com)

LawPlus Ltd.  
Unit 1401, 14th Fl., Abdulrahim Place, 990 Rama IV Road, Bangkok 10500, Thailand  
Tel. +66 (0)2 636 0662 Fax. +66 (0)2 636 0663  
**[www.lawplusltd.com](http://www.lawplusltd.com)**