

*[Unofficial Translation]*

**KINGDOM OF CAMBODIA**

**Nation Religion King**

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**Royal Government of Cambodia**

Sub-Decree No. 46 dated July 12, 2006

**SUB-DECREE**

**ON THE IMPLEMENTATION OF THE LAW CONCERNING MARKS, TRADE  
NAMES AND ACTS OF UNFAIR COMPETITION  
OF THE KINGDOM OF CAMBODIA**

## **The Royal Government of Cambodia**

- Has seen the Constitution of the Kingdom of Cambodia;
- Has seen the Royal Decree No. 02/NS/94 dated July 20, 1994 on the promulgation of Law on the Organization and Function of the Council of Ministers;
- Has seen the Royal Decree No. NS/RKM/0196/16/94 dated January 24, 1996 on the Establishment of the Ministry of Commerce;
- Has seen the Royal Decree No. NS/RKM/0600/001 dated June 21, 2000 on the promulgation of the Law on the Management of Quality and Safety of Products and Services;
- Has seen the Royal Decree No. NS/RKM/0202/006 dated February 07, 2002 on the promulgation of the Law on Marks, Trade Names and Acts of Unfair Competition;
- Has seen the Royal Decree No. NS/RKT/0704/124 dated July 15, 2004 on the Appointment of the Royal Government of Cambodia;
- Has seen the Sub-Decree No. 54 dated September 22, 1997 on the Organization and Function of the Ministry of Commerce;
- Pursuant to the approval of the Council of Ministers during its plenary session dated 7 July,2006

### **IT IS HEREBY DECIDED**

#### **CHAPTER I**

#### **GENERAL PROVISIONS**

##### **Article 1 - Objective**

The objective of this Sub-Decree is to determine legal procedures of registration, refusal, agent, claiming priority, invalidation, and border measures in order to implement the Law on Marks, Trade Names and Acts of Unfair Competition of The Kingdom of Cambodia.

##### **Article 2 - Definition**

The terminologies contained in this Sub-Decree have been interpreted as in the attached Annex.

**CHAPTER II**  
**GENERAL REQUIREMENTS FOR MARK REGISTRATION**

**Article 3 - Forms**

Copies of the printed forms shall be furnished free of charge by the Registrar.

The forms referred to in this Sub-Decree are those set out in the Prakas (Declaration) of the Ministry of Commerce.

**Article 4 - Language of Documents and Translation**

Applications shall be in the Khmer or English language, and any document forming part of an application or submitted to the Registrar pursuant to the Law or this Sub-Decree and which is in a language other than Khmer or English shall be accompanied by a Khmer or English translation.

**Article 5 - Indication of Name, Address, Nationality, and Residence**

- 1- Names of natural persons shall be indicated by the person's family name and given name(s). The name of legal entity shall be indicated by its full official designations.
- 2- Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, shall consist of all the relevant administrative units, including the house number, if any; addresses shall also indicate telephone and telefacsimile numbers.
- 3- Nationality shall be indicated by the name of the State of which a person is a national; legal entities shall indicate the name of the State under whose laws they are constituted and their Registered Office.
- 4- Residence shall be indicated by the name of the State of which a person is a resident.

**Article 6 - Signatures under the Name of Partnerships, Companies and Associations**

- 1- The document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and shall be signed by all the partners or by any partner qualified to sign, with the confirmation that he/she signs on behalf of the partnership, or by any third person who satisfies the Registrar that he/she is authorized to sign the document. The document

purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or by other principal officer of that body corporate or by any other person who satisfies the Registrar that he/she is authorized to sign that document and shall bear the seal of that body corporate. A document purporting to be signed for or on behalf of an association of persons may be signed by any person who satisfies the Registrar that he/she is duly authorized to sign and shall bear the seal of that association.

- 2- The Registrar may, whenever it deems necessary, request the evidence of authorization to sign the document.

### **Article 7 - Representation by Agent**

The Power of Attorney appointing an agent to file the application may be attached together with the application or submitted to the Registrar within two months from its filing date. If the appointment is not thus made and is not made in accordance with Articles 58 and 59 of the Law, and Article 28 of this Sub-Decree, any procedural steps for the registration process will not be taken.

### **Article 8 - Fees**

The fees to be paid in respect of matters arising under the Law or this Sub- Decree shall be those specified by the Joint Prakas (Joint Declaration) of the Ministry of Economy and Finance and the Ministry of Commerce.

## **CHAPTER III** **PROCEDURES FOR REGISTRATION** **REFUSAL AND INVALIDATION OF MARK**

### **SECTION I: Application, Procedures for Registration and Publication**

#### **Article 9 - Classification of Marks**

The Registrar shall apply the "International Classification of Goods and Services for the Purposes of the Registration of Marks" adopted by the Nice Agreement of June 15, 1957, as updated subsequently, for all purposes relating to the registration and publication of marks.

#### **Article 10 - Application for Registration of a Mark**

The application for the registration of a mark shall be made on the Form prescribed in the

Prakas (Declaration) of the Ministry of Commerce and shall be signed by the applicant or his/her legitimate representative. An application may be made for the registration of a mark in respect of goods or services in one or more classes of the International Classification.

The use of a mark is not required when filing an application.

#### **Article 11 - Submission of Reproduction of Mark**

- 1- The application must contain a clear durable graphic reproduction of the mark, which shall not be more than eight by eight centimeter attached in the space provided for on the Form. In all cases, reproduction of mark shall describe all detailed particulars for which those particulars will be required whenever deems necessary by the Registrar. Such particulars, if required, shall be signed by the applicant or his/her authorized agent.
- 2- With all applications for the registration of a mark, 15 additional reproductions of the mark shall be submitted. The reproduction of the mark on the application and the additional reproductions shall be identical.
- 3- If the Registrar considers any reproduction of a mark unsuitable he/she may, at any time, require for a suitable reproduction to be substituted.
- 4- Where a drawing or other reproduction cannot be provided in the aforesaid manner, a specimen or copy of the mark may be sent either of full size or on a reduced scale and in such a form as the Registrar may consider appropriate.

#### **Article 12 - Transliteration and Translation of the Mark**

Upon the Registrar's requirement, where a mark consists of a word or words in characters other than Khmer or Roman, filling in application form, and the additional reproductions of the mark shall be accompanied by a sufficient word by word written scripts, transliteration and translation of such words, stating the language to which each word belongs.

#### **Article 13 - Declaration of Priority and Translation of Earlier Application**

- 1- As referred to in Article 6, the application may contain a declaration claiming the priority, as provided for in the Paris Convention, of an earlier national or regional application filed by the applicant or his/her predecessor in title, in any State party to the said Convention. In this case, the Registrar may require the applicant to furnish, within the period prescribed in paragraph (3), a copy of the earlier application, certified as correct by the Office of which this application was filed. The applicant or his/her predecessor in title may also claim the priority of an earlier application filed in any country or state member

of the World Trade Organization.

- 2- The Declaration made in referring to Article 6 of the Law and paragraph (1) of Article 13 of this Sub-Decree shall indicate:
  - (i). The date of the earlier application;
  - (ii). The number of the earlier application, subject to paragraph (3) below;
  - (iii). The State in which the earlier application was filed or, where the earlier application is a regional or an international application, the Office(s) and the country or countries for which this application was filed.
- 3- Where at the time of filing the declaration referred to in the above paragraphs (1) and (2), the number of any earlier application is yet to be known by the applicant, that number shall be furnished within three (03) months from the date of which the application containing the declaration was filed. The Registrar may extend the time limit referred to in this paragraph for an additional period of three (03) months, if the applicant supplies evidence that, due to circumstances beyond his/her control, he/she was not able to comply with the above prescribed time limit.
- 4- Where the priorities of two or more earlier applications are claimed, in accordance with paragraph (1), the indication relating to those earlier applications may be included in a single declaration.
- 5- If the Registrar finds that the requirements under Article 6 and paragraphs (1), (2) and (3) above, have not been fulfilled, the said declaration shall be considered not to have been made.
- 6- The applicant may, at any time before the registration of the mark, amend the contents of the declaration referred to in the preceding paragraphs.

#### **Article 14 - Copy of Earlier Application**

The period of three (03) months, starting from the date of request by the Registrar, shall be granted to the applicant to submit the certified copy of the earlier application.

#### **Article 15 - Withdrawal of Application**

Withdrawal of the application shall be made by written declaration signed by the applicant or his/her legitimate representing agent and submitted to the Registrar.

The application fee shall not be refunded if the application is withdrawn.

## **Article 16 - Marking Applications and Filing Date**

- 1- The Registrar shall mark, on each document of the application, the actual date of receipt and the serial application number consisting of the letters KH, slant, and at least five-digit number allotted in the sequential number together with the last two numbers of the year in which the application are received. Where any corrections or other later filed documents are received on different dates, the Registrar shall mark the actual dates of receiving these documents.
- 2- The application number allotted under paragraph (1) above shall be used in all subsequent communications concerning the application.
- 3- The Registrar shall grant the filing date of the application while the following elements are sufficiently and properly received:
  - (i). Name of the applicant;
  - (ii). Address for communication;
  - (iii). Reproduction of the mark;
  - (iv). Specification of goods or services in each class;
  - (v). Required filing fee for each class of goods or services.
- 4- The Registrar shall, in writing, acknowledge receipt of the filing instruction made by the applicant by indicating the application number and the filing date.

## **Article 17 - Objection to or Conditional Acceptance of Application and Hearing**

- 1- If, upon examination in accordance with Article 8 (a) of the Law, the Registrar decides to make objection to the application for registration of a mark, he/she shall notify the applicant in writing of this objections with all detailed information relevant to this decision and invite the applicant to amend the application, then to submit the response in writing back to the Registrar or to apply for a hearing within forty five (45) days starting from the date of receiving the notification. If the applicant does not comply with the notification, he/she shall be deemed to have withdrawn his/her application.
- 2- If, upon examination in accordance with Article 8 (b) of the Law, the Registrar decides to accept the application subject to amendments, modifications, conditions, disclaimers (on any element(s) of the mark) or limitations or other conditions, he/she shall communicate this decision to the applicant in writing. If the applicant objects to the amendments, modifications, disclaimers or limitations or other conditions, he/she shall, within sixty (60) days starting from the date of receiving the notification of the Registrar, apply for a hearing or submit his/her observations in writing. If the applicant does not object to such amendments, modifications, disclaimers or limitations or other conditions,

he/she shall notify the Registrar in writing and amend his/her application accordingly. If the applicant does not respond in one way or the others as mentioned above, he/she shall be deemed to have abandoned his/her application.

- 3- The request for a hearing shall be made in writing to the Registrar. Upon receiving this request, the Registrar shall notify the applicant, in writing, at least one month before the date on which the applicant will be invited to be heard.

**Article 18 - Refusal of Application or Conditional Acceptance of the Registrar to which Applicant Objects**

- 1- If, after hearing or after consideration on the applicant's amendments or observations in writing, the Registrar still refuses the application or accepts it subject to any amendments, modifications, disclaimers or limitations or other conditions to which the applicant objects to this refusal or conditional acceptance, he/she shall communicate his/her refusal decision to the applicant in writing. The applicant may, within one month from the date of such communication, request the Registrar to confirm in writing the grounds of his/her decision and the referred materials used by the Registrar in making this decision.
- 2- The applicant is entitled to appeal against the Registrar's decision to refuse the application to the Appeal Board of the Ministry of Commerce or to the competent court within three (03) months counting from the Decision date.
- 3- Pursuant to Article 62 of the Law, interested party is entitled to appeal against the Appeal Board's decision to the competent court within three (03) months counting from the Decision date.

**Article 19 - Acceptance of Application, Registration of Mark, Publication and the Issuance of Certificate**

- 1- If the Registrar accepts the application unconditionally or accepts it subject to any conditions or limitations to which the applicant does not object, the Registrar shall register the mark and issue to the applicant a certificate of registration, and publish this registration.
- 2- The Registrar shall allot to each mark, on the certificate of registration, a number in the sequential order of registration.
- 3- The registration of a mark shall include:
  - (i). Representation of the mark;

- (ii). Application number and registration number;
  - (iii). Name and address of the registered owner;
  - (iv). Name and address of the agent (if any);
  - (v). Filing date and date of registration;
  - (vi). If priority has been claimed and the claim has been accepted, the state or country and application number in which the earlier application was filed;
  - (vii). List of goods or services in respect of which the registration of the mark had been made with an indication of the corresponding class of those goods or services in accordance with the International Classification.
- 4- The publication of the registration of a mark under paragraph (1) above shall contain the following particulars:
- (i). Filing date and priority date (if applicable);
  - (ii). Representation of the registered mark;
  - (iii). Application number and registration number;
  - (iv). Class and/or Goods or services in respect of registered mark with the indication of the corresponding class of the International Classification;
  - (v). Name and address of the registered mark owner;
  - (vi). Name and address of the representing agent (if any).

#### **Article 20 - Opposition**

- 1- Within ninety (90) days starting from the date of publication as stipulated in Article 19 of this Sub-Decree, the notice of opposition of any person relevant to the registration of a mark under Article 10 (c) of the Law shall be made in the Form prescribed by the Ministry of Commerce and accompanied by supporting evidence.
- 2- Pursuant to Article 10 (e) of the Law, within ninety (90) days starting from the date of notification of opposition, the applicant shall provide counter-statement, in writing, stating the grounds upon which the applicant relies for his/her application and accompanied by supporting evidence.

#### **Article 21 - Affidavit of Use or Non-Use of Mark and Proof**

- 1- In order to maintain or renew a registration, the registered owner of a mark shall be required to file Affidavit of Use or Non-Use of mark within one (01) year following the fifth anniversary of the date of registration of the mark.
- 2- When a mark has been renewed, the registered owner of the mark shall be required to file Affidavit of Use/Non-Use within one year following the fifth

anniversary of the date of renewal.

- 3- The Affidavit of Use or Non-Use shall be made in the Form prescribed by Prakas (Declaration) of the Ministry of Commerce and the fee for endorsement of Affidavit of Use or Non-Use shall be paid in accordance with the Joint-Prakas (Joint Declaration) of the Ministry of Economy and Finance and the Ministry of Commerce.
- 4- The registered mark will be removed from the Register, if the owner of the mark or his/her legal agent fails to file the Affidavit of Use or Non-Use of that mark as prescribed in paragraph (1) above.

### **Article 22 - Renewal of Registration**

- 1- The application for renewal of the registration of a mark under Article 12(b) of the Law may be made within six (06) months preceding the expiry of the registration and this application shall be signed by the registered mark owner or his/her representing agent.
- 2- The renewal can be done subject to the payment of renewal fee which shall be made within the period specified in paragraph (1) above or within the grace period allowed under Article 12(d) of the Law.
- 3- The renewal of the registration of a mark shall be recorded in the Register and shall be published in the Official Gazette.
- 4- The Registrar shall issue to the registered owner a certificate of renewal which shall contain the following information:
  - (i). Original registration number of the mark;
  - (ii). Representation of mark;
  - (iii). Date of renewal and Date of expiry;
  - (iv). Name and address of the registered owner;
  - (v). Name and address of the representing agent (if any);
  - (vi). List of goods or services in respect of the registered mark with an indication of the corresponding class of goods and services in accordance with the International Classification.

## **SECTION II: Collective Marks and Invalidation of Registration**

### **Article 23 - Collective Mark**

Articles 9 to 22 of this Sub-Decree shall apply, **mutatis mutandis**, to collective mark subject to the following conditions:

- 1- The acceptance of an application for registration of a collective mark shall be made, unless in the application for registration, the mark has been designated as a collective mark, and unless the application is accompanied by a copy of the regulation governing the use of the mark, duly certified by the applicant. The certification made by the applicant shall not require any legalization;
- 2- The regulation governing the use of the collective mark shall define the common characteristics or quality of goods or services which the collective mark shall be designated and the conditions under which the persons using that collective mark shall follow. The regulation shall provide for the exercise of effective control on the use of collective mark in compliance with the provisions of that regulation and shall determine adequate sanctions for any use contrary to the said regulation;
- 3- A copy of the regulation governing the use of collective mark shall be appended to the registration of a collective mark;
- 4- Publication of the registration of a collective mark, in accordance with Article 19 (1) of this Sub-Decree, shall include a summary of the regulation appended to the registration;
- 5- Every notification of changes effected in the regulation governing the use of the mark shall be made in writing;
- 6- All notifications of such changes shall be recorded in the Register. Changes in the regulations governing the use of collective mark shall have no effect until such recording has been made. A summary record of changes shall be publicly published;
- 7- For the purposes of use of the collective mark in connection with Articles 15 and 16 of the law, the registered owner of a collective mark may use the mark himself/herself providing that it is also used by other authorized persons in accordance with the regulation governing such use. Use by such persons shall be deemed as using by the registered owner.

#### **Article 24 - Invalidation and Removal on the Ground of Non-Use**

- 1- Pursuant to Articles 10(c), 13 and 15 of the Law, interested party is entitled to request for invalidation of the registration of a mark even the ninety (90) days grace period has been lapsed and even after the publication in the Official Gazette.
- 2- Pursuant to Article 13(b) of the Law, the Registrar has rights to remove a mark from the Register when the registered owner fails to fulfill any conditions of Article 2(a) and Article 4 of the Law.
- 3- Pursuant to Articles 14(e), 22, 23 and 28 of the Law, a mark shall be removed

from the Register when the registered mark owner or person receiving the right has used that mark differently from the original form which has been registered and infringed the rights of other person's registered mark.

- 4- Pursuant to Articles 4(e), 14(e), 22,23 and 28 of the Law, a mark shall be removed from the Register when the registered mark owner or person receiving the rights has added sign(s)/label identical with or similar to well-known signs/label previously used by someone else and caused confusion to the public.
- 5- The removal of a mark from the Register has to be published in the Official Gazette.
- 6- Following the request of the mark owner or his/her legal agent within the period not more than sixty (60) days starting from the date of decision for removal, the removed mark can be re-registered when the ground for removal only based on failure to submit an affidavit of use or non-use.
- 7- After having the Registrar's decision on the invalidation of a registration or maintaining a registration or decision to amend the registered mark, if any party does not satisfy with those decisions, that party may appeal to the Appeal Board of the Ministry of Commerce or competent court within three (03) months starting from the date of the decision.
- 8- Pursuant to Article 62 of the Law, Interested party is entitled to appeal the decision of the Appeal Board to competent court within three (03) months starting from the date of the decision.
- 9- Composition, jurisdiction of the Appeal Board and the procedures for dispute settlement will be determined by the Prakas (Declaration) of the Ministry of Commerce.
- 10- Pursuant to Article 62 of the Law, when there are appeals to the competent court, the Registrar shall abide by the decision of the court to cancel or confirm the registrations, or amend the registered mark.

### **SECTION III: Administrative Procedure for Facilitating Registration, Litigation, and Assignment**

#### **Article 25 - Address for Service**

The applicant has to provide to the Registrar, the address for service (communication) in Cambodia for the purpose of application for the registration of a mark.

Any person concerned in any proceedings related to marks shall provide address for service (communication) in Cambodia to the Registrar.

### **Article 26 - Change of Name, Address or Address for Service**

- 1- The request for the change of name, nationality, address or address for service (communication) on the application for registration of a mark or on the record of a registered mark shall be made in writing and shall be accompanied by the fee prescribed in the Joint Prakas of the Ministry of Economy and Finance and the Ministry of Commerce.
- 2- Before acting on a request to change name, nationality, address or address for service, the Registrar shall require the proof which has led to this change.
- 3- If the request for the change of name, nationality, address or address for service should be allowed, the Registrar shall amend the said application or records in the original certificate of a mark or record in the Register accordingly.

### **Article 27 - Changes of Ownership and Licensing Contracts**

- 1- The request for a change of ownership, allowed under Article 48 of the Law shall be made, to the Registrar, in the Form prescribed in the Prakas of the Ministry of Commerce, and shall be subject to payment of the fee prescribed in the Joint Prakas of the Ministry of Economy and Finance and the Ministry of Commerce.
- 2- The publication of the change of ownership shall specify the following information:
  - (i). Mark concerned with this change of ownership;
  - (ii). Application number and registration number;
  - (iii). Filing date, priority date (if any) and date of registration;
  - (iv). Name, address of the original owner of the mark, and name and address of the new owner;
  - (v). Date of the changing of ownership.
- 3- A licensing contract submitted for recordal under Article 52 of the law shall be accompanied by a copy of Registration Certificate, and Power of Attorney and an original copy of Licensing Contract or its certified copy.

### **Article 28 - Appointment of Representing Agent and its Address for Service**

The appointment of a legitimate agent shall be made by a Power of Attorney signed by the applicant and shall be duly notarized or authenticated or, if there is more than one, by each

applicant. The address of the representing agent shall be treated as the address for service to which communications to the person or persons who appointed that agent shall be transmitted.

#### **Article 29 - Excluded Days**

When the last day for performing any acts or taking any proceeding falls on a holiday, the next day shall be considered lawful to perform the acts or to take the proceeding.

#### **Article 30 - Consultation of Register and the Request for Extracting Information from the Register**

Consultation of the Register shall be permitted. Based on the written request of any interested party, the Registrar shall make copy of the requested documents from Register and certify it.

#### **Article 31 - Corrections of Errors**

Corrections of errors under Article 56 of the Law may be made by the Registrar upon receipt of a request in writing and subjected to the requirements to which this request has fulfilled and as the Registrar may consider appropriate, or on the Registrar own initiative. Every corrections made shall be communicated in writing to all interested persons and shall be published by the Registrar, if it is deemed necessary.

#### **Article 32 - Hearing**

- 1- The Registrar shall arrange the hearing, if any interested party or both parties of the dispute request in writing to have the hearing, before making any decision. This request for hearing shall be made before or after one month of the date of submitting complaint or submitting their supporting documents to the Registrar. In case there is no request for hearing having been made within the above period, based on the discretionary power given to the Registrar by the Law or by this Sub-Decree, the Registrar may make his/her own decision without hearing or invite parties of dispute for the hearing if it is deemed necessary.
- 2- Upon receiving the request for hearing, the Registrar shall notify in writing about the date of hearing, at least seven (07) working days before, to the party who has requested for hearing and other interested parties.

### **Article 33 - Communication through Postal Services**

- 1- Any notice, application or other document sent to the Registrar by mail shall be deemed to have been provided or filed at the date when those documents have been received by the Office of Registrar. Upon receiving those documents, the Registrar shall immediately record this arrival by giving number and recording the date of receipt to be used as a proof of receiving these documents.
- 2- Paragraph (1) above does not apply to the accordance of the filing date, if it is contrary to Article 16 of this Sub-Decree.

### **Article 34 - Evidence**

- 1- All evidences shall be submitted by statutory declaration or affidavit.
- 2- If the Registrar thinks appropriate for any particular case, he/she may take oral evidence **in lieu** of or in addition to the other evidences and shall allow any witness to be cross-examined on his/her own affidavit or declaration.

### **Article 35 - Statutory Declaration and Affidavit**

Statutory declarations or affidavits shall be made before a Consul or Notary Public or certified legal practitioner.

### **Article 36 - Competent Authorities**

The competent authorities referred to in Articles 35, 37, 38, 42 and 46 of the Law are Customs and Excise Department of the Ministry of Economy and Finance, Import-Export Inspection and Fraud Suppression Department (called CAMCONTROL) of the Ministry of Commerce, and competent Police of the Ministry of Interior.

### **Article 37 - Publication and Official Gazette**

Particulars of marks and other proceedings, and other information required to be published under the Law or this Sub-Decree shall be published, in accordance with the directions of the Registrar, in the Official Gazette.

**CHAPTER IV**  
**BORDER MEASURES**

**Article 38 - Petition**

- 1- Pursuant to Articles 35 and 36 of the Law and the provisions of the Law on the Governing of Quality and Safety of Goods and Services, the registered mark owner or licensee or his/her legal agents are entitled to file their petitions to the Customs and Excise Department or CAMCONTROL Department to suspend clearance for inspection of the alleged counterfeited goods.
- 2- Within not more than thirty (30) days after this Sub-Decree enters into force, the Ministry of Economy and Finance and Ministry of Commerce shall issue a Joint-Prakas (Joint Declaration) on the promulgation of the petition forms and other requirements in accordance with the enforced laws.
- 3- The petition will be valid for sixty (60) days starting from the date of acknowledgement. Before or after the expiry date, the applicant has to re-file his/her petition, if the request for the suspension and inspection is still needed.

**Article 39 - Administrative Fees**

Any petition shall be accompanied by the payment of administrative fees as prescribed by the Joint-Prakas (Joint Declaration) of the Ministry of Economy and Finance and Ministry of Commerce.

**Article 40 - Obligations of Applicant**

Beside the obligations referred in Articles 35, 36 and 38 of the Law, applicant is obliged to take responsibility for the means of transportation, warehouse to store the suspended goods. Warehouse should be located in the port premise or in the vicinity of export-import place determined and governed by the competent authority in accordance with enforced laws and regulations. The expenses for destroying infringed goods shall be the obligation of the plaintiff.

**Article 41 - Refusal to Suspend the Goods**

Customs and Excise Department and/or CAMCONTROL Department is entitled to refuse the suspension of the goods for inspection, only if the applicant fails to fulfill any requirement made by Customs and Excises Department and/or CAMCONTROL Department, in accordance with provisions of the Law and this Sub-Decree.

## **Article 42 - Proceedings and Timeframe**

Formality and timeframe of any proceedings taken by Customs and Excise Department and/or CAMCONTROL Department shall be made in accordance with Chapter 10 of the Law and provisions of this Sub-Decree.

## **CHAPTER V** **FINAL PROVISIONS**

### **Article 43 -**

Any provision which is contrary to this Sub-Decree shall be abrogated.

### **Article 44 -**

The Minister in charge of the Office of the Council of Ministers, Minister of Commerce, Minister of Economy and Finance, Ministers, Secretaries of State of Government, Institutions concerned shall effectively implement this Sub-Decree from the date of its signature.

**Done in Phnom Penh, July 12, 2006**

**Prime Minister**

**[Signed and Stamped]**

**Hun Sen**

**Annex of Sub-Decree No. 64 Dated July 12, 2006**

**on**

**The Implementation of the Law Concerning Mark, Trade Names and Acts of Unfair Competition of the Kingdom of Cambodia**

The terminologies contained in this Sub-Decree have been interpreted as the followings:

- (i) **"Law"** means the Law concerning Marks, Trade Names and Acts of Unfair Competition promulgated by the Royal Decree No. NS/RKM/0202/06 dated February 07, 2002.
- (ii) **"Refusal"** is referred to the Registrar's refusal to register the mark applied by the applicant
- (iii) **"Opposition"** is referred to the opposition to the Registrar's decision, within ninety (90) days after the registration of a mark has been published in the Official Gazette.
- (iv) **"Appeal"** is referred to the appeal against the final decision of the Registrar or the final decision of the Appeal Board.
- (v) **"Invalidation or Cancellation"** is referred to the decision to cancel any registered mark by the Registrar.
- (vi) **"Affidavit of Use or Non-Use"** is referred to the declaration made by the owner of registered mark or his/her representative on the use or non-use of his/her registered mark.
- (vii) **"Affidavit"** is referred to the letter of confirmation to be attached with the application to request the Registrar to take any actions such as the cancellation of mark, maintaining registration or taking any measures against infringement of registered mark rights.
- (viii) **"Rejection"** is referred to the preliminary disagreement of the Registrar on the application or the registration of a mark.
- (ix) **"Registrar"** is the Director of Intellectual Property Department, Ministry of Commerce.
- (x) **"Hearing"** is referred to meeting(s) made by Registrar to litigate the appeal of complainant before making his/her decision.

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