**Laos Unveils New IP Law 2023: 5 Burning Questions Every Business Should Ask**

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*Laos has made significant progress in modernizing its intellectual property (IP) framework. The recently enacted Law on Intellectual Property No. 50/NA (the "****2023 Law on IP****") brings Laos closer to international standards, creating a more favorable environment for businesses in the country. However, there are still challenges that need to be addressed within Laos' IP regime.*

In response to inquiries from the European Chamber of Commerce and Industry in Laos regarding the evolving IP landscape, KENFOX IP & Law Office examines the key amendments introduced by the 2023 Law on IP. The analysis explores the potential benefits for businesses operating in Laos, along with persisting challenges and practical considerations companies should be aware of when managing trademarks, patents, and other [IP rights in Laos](https://kenfoxlaw.com/customs-recordal-for-ipr-protection-in-laos-what-you-must-know).

**1. Was there any relevant development in the law framework in the last six months? (new law approved/entered into force?)**

Yes, Laos has seen significant advancements in its IP framework in the past six months. On March 1, 2024, the Lao official gazette published the newly amended the **2023 Law on IP**. This update brings Laos' IP legislation closer to international standards and offers several practical benefits for businesses operating in the country.

* *Simplified well-known trademark recognition*: The 2023 Law on IP streamlines the process of proving a trademark's well-known status by removing ambiguous terms like "territory" and "country" from the criteria. This allows businesses to leverage global evidence when establishing their trademark's renown in Laos.
* *Mandatory trade name registration*: Unlike the 2017 law, the new amendment requires trade names to be registered to receive protection against third-party infringement.
* *Exhaustion of rights*: The concept of exhaustion of rights was introduced, which might influence the stance on parallel imports by preventing trademark owners from restricting the resale of products once sold. However, it's important to monitor how the Lao courts and enforcement authorities interpret this provision in practice.
* *Clarified disclosure requirements*: The law now explicitly includes electronic media as a means of public disclosure for patents and industrial designs.
* *Expanded copyright protection*: The scope of copyright protection has been broadened to encompass electronic works. Additionally, the protection term for applied art has been extended from 25 to 30 years.

**2. What practical issues are European SMEs encountering on a day-by-day basis in the following areas: Trademarks, Patents, Design, Copyright, Trade Secrets, Technology Transfer, Geographical Indication**

**2.1 Trademarks:**

European SMEs navigating trademarks in Laos often encounter two key hurdles: [registration delays](https://kenfoxlaw.com/avoiding-descriptiveness-refusal-in-laos-key-considerations-for-trademark-owners) and enforcement difficulties. These can be attributed to resource limitations and expertise gaps within local authorities.

* *Proof of well-known status*: European SMEs may struggle to prove that their trademarks are well-known in Laos. The new law's removal of restrictive terms (i.e., “within the territory”) is helpful, but SMEs still need extensive documentation and evidence, which can be challenging to gather.
* *Trademark squatting*: In Laos, there is a practical issue where well-known trademarks have been registered by local entities in bad faith. For example, a well-known luxury goods company faced a situation where their trademark was registered by a local entity, leading to a protracted legal dispute.

**2.2 Patents:**

Securing patent protection in Laos can be a complex process for European SMEs, primarily due to two key issues: lengthy examination times and limited examiner expertise.

* *Slow processing and limited expertis*e: The patent examination and granting process in Laos can be lengthy due to a lack of experienced examiners. This can lead to delays in obtaining patent grants, hindering SMEs' ability to secure time-sensitive market exclusivity for their innovations.

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* *Managing the increased complexity of* [*patent applications*](https://kenfoxlaw.com/patent-registration-in-laos-6-critical-considerations)*:* The new requirement to disclose information about electronic media and genetic resources adds complexity to patent applications. For SMEs, particularly those lacking in-house legal expertise, providing detailed disclosures can be a resource-intensive task. The recent emphasis on disclosing the origin of innovations derived from genetic resources or traditional knowledge adds another layer of complexity for European SMEs, particularly those in the biotech sector.

**2.3 Designs:**

European SMEs seeking [industrial design protection in Laos](https://kenfoxlaw.com/our-practice/our-practice-in-laos/industrial-design-related-matters-in-laos) often encounter two key obstacles: registration hurdles and the evolving concept of "novelty.".

* *Uncertainty around novelty requirements:*The concept of a "new" design in Laos can be ambiguous, leading to confusion and potential delays during registration for European SMEs. Varying interpretations of what constitutes "public disclosure" can complicate the process. For instance, a furniture design company struggled with the novelty requirement because their designs had been shared on social media prior to filing.
* *Evolving landscape of electronic disclosures:*The recent recognition of electronic media as a form of public disclosure adds another layer of complexity. SMEs must now be even more vigilant about online design exposure that could affect novelty.

**2.4. Copyrights:**

The recent inclusion of electronic works within the scope of copyright protection presents both opportunities and uncertainties for European SMEs. While it offers potential protection for digital content like software or e-books, the lack of established practices in this area can be confusing.

In addition,piracy and [unauthorized use of copyrighted](https://kenfoxlaw.com/our-practice/our-practice-in-laos/copyright-protection-in-laos) material are significant concerns. SMEs has faced the situation that local entities use their copyrighted materials for commercial gain without proper authorization. Enforcement of copyright rights in Laos is still challenging.

**2.5 Trade secrets:**

Protecting confidential business information, or trade secrets, presents a significant challenge for European SMEs operating in Laos. Unlike some developed economies, Laos lacks a dedicated legal framework for trade secret protection and enforcement.

**2.6 Technology transfer:**

**European SMEs venturing into technology transfer agreements in Laos often encounter a complex landscape characterized by unclear procedures and limited legal clarity.** This can lead to difficulties in the negotiation and execution of these agreements.

The absence of well-defined procedures and regulations for technology transfer in Laos creates an environment of uncertainty for SMEs. This can make it difficult to manage the process, understand the necessary procedures and approvals, potential risks, and negotiate fair and enforceable terms within technology transfer agreements.

**2.7 Geographical indication (GI):**

**Securing** [GI protection in Laos](https://kenfoxlaw.com/our-practice/our-practice-in-laos/geographical-indication-related-matters-in-laos) **presents a unique set of challenges for European SMEs.** Unlike established systems in other countries, the Lao GI registration process can be cumbersome and lack clarity, potentially leading to delays and confusion. This lack of transparency can also create opportunities for misuse or infringement of registered GIs.

**3. Concerning the above, have you noticed any improvement or worsening in the recent past (within the last six months)?**

**3.1 Improvements:**

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* *Criteria for well-known trademarks*: The removal of restrictive terms in the criteria for well-known trademarks simplifies the process of proving their status. European SMEs can now utilze global evidence to demonstrate their trademark's renown in Laos.
* *Electronic media recognition:* The explicit inclusion of electronic media as a means of disclosure provides clarity and aligns with international standards and improves transparency in the IP landscape.
* *Exhaustion of rights*: Introducing the concept of exhaustion of rights could help clarify the legality of parallel imports, which has been a grey area.

**3.2 Worsening:**

* *Enforcement challenges:* Despite legal improvements, practical enforcement remains a significant issue due to limited resources and expertise within local authorities.
* *Increased documentation:* New disclosure requirements, especially for [patents](https://kenfoxlaw.com/our-practice/patent-related-matters-in-laos) and industrial designs, increase the documentation burden on SMEs.
* *Trade name registration requirement:* The newly mandated registration for trade name protection deviates from the common principle in many countries where rights are established through actual use in commerce. This additional step introduces an unnecessary burden for SMEs.

**4. What challenges are European businesses facing in the Laos regarding the protection of IP?**

European businesses venturing into the Lao market face several hurdles in securing and enforcing intellectual property (IP) rights.

* *Trademark squatting:* A significant concern for European businesses is the practice of "trademark squatting", where local entities or third parties preemptively register trademarks of well-known companies. For instance, a well-known electronics company discovered that its trademark had been registered by a local entity, resulting in a prolonged legal dispute to reclaim its rights.
* *Enforcement difficulties:* Even with legal protections in place, enforcing IP rights in Laos can be challenging. Resource limitations within local authorities can lead to delays and inefficiencies in addressing infringement. A pharmaceutical company encountered difficulties when counterfeit versions of their medication flooded the Lao market, and local authorities struggled to take swift action to curb the illegal activity. This lack of enforcement can significantly damage brand reputation and cause financial losses.
* ***Knowledge gap and unintentional infringement****:* Limited awareness and understanding of IP laws among local businesses can sometimes result in unintentional infringement. For example, a fashion brand encountered problems with local markets selling unauthorized copies of its designs, leading to brand dilution and loss of revenue.

**5. Is there any special field of industry that is encountering more frequent IP issues or requires new legislation in your view?**

Based on the information we discussed earlier, here are two specific fields in Laos that are likely encountering more frequent IP issues and might require new legislation:

**[i] Pharmaceuticals and medical devices:** Counterfeiting of pharmaceuticals and medical devices is a significant concern in Laos, posing a serious threat to public health. Weak enforcement mechanisms and limited resources for local authorities make it difficult to crack down on counterfeiters effectively. Additionally, the recent amendments to the Lao IP Law don't explicitly address the exhaustion of rights principle, which could lead to uncertainties regarding the legality of parallel imports of genuine medication.

To effectively combat counterfeiting of pharmaceuticals and medical devices in Laos, a three-pronged approach is necessary. Firstly, the government should enact legislation with significantly harsher penalties for those involved in counterfeiting. This will deter such activity and send a strong message about the seriousness of the offense. Secondly, increased funding and resources must be allocated to enforcement agencies. This will empower them to actively investigate and dismantle counterfeit drug trafficking operations. Finally, Laos should introduce clearer legislation on the exhaustion of rights principle. This will not only help ensure access to affordable genuine medication but also provide a more predictable legal environment for businesses operating in the country.

**[ii] Fashion and design-oriented industries:** Limited public awareness about IP rights and the ease of copying designs can lead to widespread unintentional and intentional infringement. The lack of a specific design protection mechanism within the Lao IP framework further disadvantages European businesses in the fashion and design sectors. As such, establishment of a dedicated design registration system within the Lao IP Law, offering protection for the aesthetic aspects of products is needed. Further, Lao new legislation should establish for increasing public awareness campaigns in Laos to educate businesses and consumers about intellectual property rights and the importance of respecting them.

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