ASIAN PATENT ATTORNEYS ASSOCIATION
Anti-Counterfeiting Committee
MYANMAR
SPECIAL TOPIC REPORT 2026
Protection of Product Shapes/Configurations

Introduction
This report outlines the information relating to whether anti-counterfeiting measures available where a product shape or configuration has been commercialized and copied at a point when the novelty required for design protection has been lost but the level of recognition required for three-dimensional trademark protection has not yet been established.

By way of background, Myanmar's IP framework rests on four laws enacted in 2019: the Industrial Design Law (Law No. 2/2019), the Trademark Law (Law No. 3/2019), the Patent Law (Law No. 7/2019) and the Copyright Law (Law No. 15/2019). The Intellectual Property Department (IPD) under the Ministry of Commerce administers registrations. Because the new IP regime has only recently become fully operational for each type of IP work, published judicial precedent is still very limited, and the views below reflect the statutory framework and current practice.

Protection under Copyright Law, Unfair Competition Laws and/or Passing Off

Copyright Law 2019
Copyright protection arises automatically upon creation, and registration with the IPD is voluntary but recommended for evidentiary and enforcement purposes. Product shapes may qualify for protection as **works of applied art** where they embody sufficient artistic or creative expression, with a term of protection of 25 years for works of applied art. The Copyright Law 2019 defines the **works of applied art** as an artistic creation with utilitarian functions or incorporated into any useful article, whether it is made by hand or produced with industrial technology. Purely functional or utilitarian shapes, and shapes that lack an original artistic element, are unlikely to qualify. Copyright protection therefore offers a possible, but uncertain, route for distinctive product configurations such as furniture, toys, figurines or ornamental containers.

Unfair Competition and Consumer Protection
The **Competition Law 2015** prohibits unfair competitive practices, including conduct that misleads consumers, and is administered by the Myanmar Competition Commission. The **Consumer Protection Law 2019** prohibits misleading or deceptive conduct towards consumers. Neither law expressly addresses imitation of product shapes, but both may be invoked where the imitation causes confusion as to commercial origin.

Passing Off
Under the former system, before the Trademark Law 2019 became operative, trademark protection was based on prior use, Declarations of Ownership registered under the Direction 13 of Registration Act 1908 and the Registration of Deeds Law 2018 and cautionary notices thereof, and common law-style passing off principles informed practice. Under the new first-to-file regime, there is no established statutory or judicial basis for a standalone passing off action protecting an unregistered product shape. Protection for unregistered shapes therefore depends largely on copyright and the general competition and consumer protection framework.

Registered Rights
For completeness, the Trademark Law 2019 permits registration of three-dimensional marks (3D marks), provided that the mark is distinctive, whether inherently or through use, provided that 3D marks do not include where it includes technical creations. The Industrial Design Law 2019 protects new designs for an initial term of five years, renewable for two further five-year terms (maximum 15 years).

Enforcement through Copyright and Unfair Competition Grounds

Based on the existing laws, the following are the available grounds of enforcements through copyright and unfair competition grounds.

Ground	Administrative	Civil remedies	Criminal remedies
Copyright (works of applied art)	Customs recordation and suspension orders for registered works under the Copyright Law 2019 and Ministry of Finance and Revenue's Notification No. 107/2025	Civil action before the designated IP court for provisional measures and civil claims	Criminal offences under the Copyright Law 2019
Unfair competition / consumer protection	Complaint to the Myanmar Competition Commission or the consumer protection authorities under the Competition Law 2015 and Consumer Protection Law 2019	Civil claims for damages are possible in principle	Limited and need to be considered on a case-by-case basis
Registered 3D mark under Trademark Law 2019	Customs recordation and suspension orders for registered trademarks under the Trademark Law 2019 and Ministry of Planning and Finance's Notification No. 50/2023	Civil action before the designated IP court for provisional measures and civil claims	Criminal offences under the Trademark Law 2019
Registered industrial design under Industrial Design Law 2019	No customs recordation available	Civil action before the designated IP court	

In practice, copyright enforcement against imitated shapes requires the rights holder to demonstrate that the shape is a protected work and that it has been copied. Registration with the IPD significantly eases this burden and is a prerequisite to customs recordation. Enforcement on competition or consumer protection grounds remains largely untested in the context of product shapes.

Precedents

It is not aware of any published Myanmar court decision or administrative ruling addressing the protection of a product shape or configuration on copyright, unfair competition or passing off grounds under the new IP laws. The specialized IP courts designated by the Supreme Court of the Union are still at an early stage of developing jurisprudence. Prior to 2023, enforcement relied mainly on civil and/or criminal complaints and ownership declarations under the old registration system, which did not generate reported shape-related precedent. Precedent-setting cases are expected to emerge as registrations and enforcement activity under the new regime increase.

Customs Authorities and E-Commerce Platforms

Customs

The Myanmar Customs Department can act against imitations of product shapes only where the shape is protected by a **registered mark** or a **registered copyright**:

- **Registered marks (including 3D marks):** Recordation and suspension orders are available under the customs rules issued by Notification No. 50/2023.
- **Registered copyright (including works of applied art):** Since September 2025, recordation and suspension orders are available under Notification No. 107/2025.
- **Industrial designs and unregistered shapes:** No customs recordation or border measures are available, as the Industrial Design Law 2019 provides no practical framework for them.

E-Commerce Platforms

Myanmar has no specific E-Commerce law or specific notice-and-takedown mechanism for IP infringement, and there is no specialized online IP enforcement body. However, Ministry of Commerce issued **E-commerce Guidelines** to protect consumer's rights, ensure the exercise of ethical business standards, and foster a secure E-Commerce ecosystem through an understanding of an adherence to the relevant laws and regulations governing the field of E-Commerce. These guidelines prohibit E-commerce platform operators from engaging in the replication (copying) of the design, form, or packaging of goods or services—whether in whole or in substantial part—on e-commerce platforms or any other platforms. Business operators selling on E-commerce platform must refrain from selling goods or providing services that replicate (copy) the design, form, or packaging of goods or services—in whole or in substantial part—on any e-commerce platform. Removal of listings for imitation products or services and takedown policy may depend on the structure of individual platforms, including social-media marketplaces. Holding a Myanmar registration certificate for respective IP rights substantially improves the prospects of a successful takedown request.

Strategic Approaches after Commercialization

Where a product has already been launched and design novelty may have been lost, the following layered strategy are recommended:

- **Copyright registration:** Register the product shape as a work of applied art with the IPD where it has artistic character. This is not subject to a novelty requirement and opens the door to customs recordation.
- **Customs recordation:** Record any registered copyright or mark with the Customs Department to intercept imports, which are the main source of counterfeit goods in Myanmar.
- **Three-dimensional trademark filing:** File early, given the first-to-file system, and build a record of acquired distinctiveness (sales figures, advertising, market surveys and media coverage focused on the shape itself).
- **Industrial design filing at the earliest opportunity:** For future product lines and variations, file before any public disclosure.
- **Shape-plus-brand strategy:** Register the shape combined with a word mark or logo as a composite 3D mark, which is more readily accepted, while pursuing the shape alone.
- **Competition and consumer complaints:** Where confusion is evident, consider complaints to the Myanmar Competition Commission or consumer protection authorities as a supplementary measure.
- **Evidence preservation and monitoring:** Keep dated records of creation, launch and marketing, and monitor physical markets and online platforms for early action.

Difficulties in Enforcing 3D Mark or Design Rights

Even where registered rights are obtained, the following challenges may arise in Myanmar:

- **Assessment of similarity:** Infringers often introduce minor variations or add their own brand names, and the absence of guidance or precedent on comparing three-dimensional shapes creates uncertainty.
- **No border measures for designs:** Design owners cannot record their rights with Customs and must rely on court proceedings.

- **Limited judicial experience:** The designated IP courts are new, and judges have limited experience with complex shape-based infringement analysis.
- **Lack of a dedicated enforcement agency:** There is no specialized administrative body for rapid raids or online enforcement, so actions depend on the police and courts and circumstances of the individual case.
- **Practical constraints:** The current operating environment, limited public awareness of IP rights and the prevalence of informal trade may hinder evidence gathering and enforcement.

Conclusion

Myanmar's new IP regime provides registrable protection for three-dimensional marks and industrial designs, but the protection gap identified in the special topic is pronounced in Myanmar. There is no recognized passing off action for unregistered shapes, unfair competition remedies are untested, and border measures do not extend to designs. Registration of a qualifying shape as a work of applied art, followed by customs recordation under the new copyright customs rules, currently offers the most practical interim measure, combined with early three-dimensional trademark and design filings.

Submitted by:

Khin Myo Myo Aye
Senior Associate, Tilleke & Gibbins Myanmar Limited
Member of the Anti-Counterfeiting Committee, Asian Patent Attorneys Association
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