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Legal Alert: The law on Intellectual Property has become applicable

Intellectual property rights are protected under the Law on Patent, the Law on Copyright and Related Rights, and the Law on Trademarks and Geographical Indications in Mongolia. However, the ability to benefit from works protected under such rights has been insufficient and the economic gain has been low. The new Law on Intellectual Property, adopted on 23 January 2020, is of great importance in that it regulates the foregoing issue. The Law has become applicable from 1 December 2020.

This Law regulates works to be protected by intellectual property rights, system and functions of intellectual property institutions, and issues related to encouraging the economic circulation of intellectual property. A few highlights of the law are briefly introduced in this alert.

The works protected by intellectual property rights include (1) copyright and related rights, and (2) industrial property rights.

1. Copyright and related rights start from the actual creation of the work in a particular form and no registration is required for the establishment and enjoyment of such rights. The author still may register his/her works on voluntary a basis.

2. While, the industrial property rights (patents and utility models for inventions, industrial designs, trademarks, and geographical indications must be protected and registered to the State Administrative Body in charge of intellectual property (The Intellectual Property Office of Mongolia) in order to exercise such rights. The Intellectual Property Office of Mongolia shall report information on registration of works protected by industrial property rights through regular publication.

A government member in charge of intellectual property rights, the National Council of Intellectual Property Rights, and the Intellectual Property Office of Mongolia shall exercise their respective function. Of these, the Intellectual Property Office of Mongolia is functioned to carry out major day-to-day activities. Also, a Dispute Resolution Commission and a Commission on the Copyright and Related Rights are set out in the law to be operating under the Office. The Dispute Resolution Commission is in charge of resolving claims and complaints regarding the protection of industrial property rights. The Commission on the Copyright and Related Rights, on the other hand, is responsible for advising the Intellectual Property Office of Mongolia and monitoring tariffs to ensure implementation of the copyright legislation.

Another substantial provision of the Law on Intellectual Property is the one on the economic circulation of intellectual property rights. According to this, Intellectual Property Rights may be put into economic circulation through several forms including the full or partial exercise of such rights by others upon the license, franchise, merchandising, and other agreements or transactions, transfer of ownership rights, investment to legal entities by intellectual property, and pledge, etc. Respective agreements or transactions must be registered to the Intellectual Property Office of Mongolia. The parties may determine the value of the intellectual property upon mutual agreement, or by an assessor. The assessor is required to have held a license in accordance with the Law on Property Assessment and a certificate of attendance in training for intellectual property assessment.

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