

CONTACT DETAIL



Brunei Darussalam Intellectual Property Office (BruIPO)

Address: The Law Building, Ground Floor, Jalan Raja Isteri Pengiran Anak Hajah Saleha, Bandar Seri Begawan, BA 1910, Brunei Darussalam

Telephone: +673 2244873/4/5/6 Ext 102

Email: enquiries@bruipo.gov.bn



ARISE+ IPR

Website: www.arisepusipr.eu

Email: Arise+IPR@euipo.europa.eu

Facebook: facebook.com/EUIPcooperation

Twitter: [@EUIPcooperation](https://twitter.com/EUIPcooperation)

LinkedIn: linkedin.com/company/euipcooperation/

Youtube: [EU International Intellectual Property Cooperation](https://EUInternationalIntellectualPropertyCooperation)

The leaflet was elaborated by ARISE+ IPR in cooperation with Brunei Darussalam Intellectual Property Office (BruIPO); and with the assistance to Tilleke & Gibbins. The content of the leaflet is the sole responsibility of the ARISE+ IPR project and can in no way be taken to reflect the views of the European Union or the European Union Intellectual Property Office (EUIPO) – May 2021.

IP ENFORCEMENT

What should I do when I realise that my IP rights have been violated?

When a suspected infringement is discovered, you should conduct a preliminary assessment of whether your IP rights are secure (i.e. your registration is robust and valid), and whether an infringement has actually taken place. Next, you should determine what evidence is required to commence an investigation, and the best course of action for enforcement (civil and/or criminal action), taking factors such as cost, timeframe and urgency into account.

What enforcement agencies are responsible for protecting IP rights in Brunei Darussalam?

- Royal Customs and Excise Department (RCED) of Brunei Darussalam
- Intellectual Property Office of Brunei Darussalam (BruIPO)
- Royal Brunei Police Force (RBPF).

What enforcement measures can be taken to prevent or stop IP infringement?

As a preliminary measure, the IP owner can consider issuing a cease-and-desist letter requesting the infringer to halt the infringing activities. If this is not effective, civil enforcement measures can be taken.

For infringement concerning counterfeiting and piracy, criminal enforcement may be an option where raid and seizure may be conducted by the authorities and the infringing party can be criminally charged and penalized by the local courts.

In cases where the infringement is on a commercial scale or involves dangerous goods, criminal action would probably be a better and more cost-effective option.

What legal remedies are available to IPR holders whose rights have been infringed?

If the IP owner is successful in an IP infringement action, the court may award a final injunction prohibiting the infringing activities, with an order for damages or an account of profits, the handover of the infringing goods, and the award of legal costs.

In some situations, an interim injunction may also be useful to stop the infringing act pending the proceedings, in particular, where the payment of damages is not sufficient for the IP owner if the infringing acts are allowed to continue.

What procedures should be followed to request the handling of IP infringement?

For civil enforcement measures, proceedings commence at the High Court by filing a Writ of Summons and a Statement of Claim stating the infringing act and claims for the remedy. The cost and length of the proceedings vary depending on the complexity of the case, with a general timeline of 2 to 3 years for the courts to hear the dispute in its entirety.

For criminal enforcement measures, a police report must first be made. The police will then conduct investigations and, subject to their findings, carry out raids and seizures. A report will then be made to the Attorney General's Chambers on prosecuting the offender.

What evidence is needed to demonstrate IP infringement?

The evidence could include sample products bearing the infringing mark, oral testimonies of witnesses (including experts), photographs, documents, public records and advertising materials, including those published online and in brochures.

What alternative dispute resolution options are available, besides the court?

Alternative dispute resolution options include negotiation, mediation and arbitration. Negotiation and mediation are useful where the infringer is a small to medium-sized business who may not be aware that their actions constitute an infringement. Arbitration can be useful for disputes spanning several jurisdictions where the infringing product is being distributed outside Brunei Darussalam and all over Southeast Asia, as the infringement can be resolved in a single procedure with the principal licensor of the IP right instead of initiating an action in each country where the product is being distributed.



HOW TO ENFORCE YOUR IP RIGHTS IN BRUNEI DARUSSALAM

The leaflet covers enforcement content for three types of IP rights, including trade marks, industrial designs and geographical indications.



Funded by the European Union



TRADE MARKS

What is a trade mark?

A trade mark is a type of intellectual property right (IPR) consisting of words (including personal names), designs, letters, numerals or the shape of goods or their packaging, that is used to distinguish a product or service of one entity from those of other entities.



How can you protect your trade mark in Brunei Darussalam, and what rights are conferred on the owner of a registered trade mark?

A trade mark can be protected in Brunei Darussalam by registering the intended mark with the Brunei Intellectual Property Office (BruIPO). It is advisable to first conduct a trade mark search on the BruIPO portal to verify if a similar mark has already been registered that could conflict with your intended trade mark



After the requisite application procedures have been completed, and following an examination by BruIPO for deficiencies, if there are no sustained objections during the 3-month opposition period, BruIPO will issue a Certificate of Registration giving the trade mark protection for 10 years from the filing date, renewable for subsequent terms of 10 years each. This gives the owner the exclusive legal rights to use, sell or license the trade mark and prevent others from exploiting the mark..

The distinctiveness of the mark is an important factor in securing protection. Marks that are too generic, have common names or are descriptive of the goods or services are unlikely to be protected. It is important and advisable to file and register the trade mark as soon as possible as Brunei Darussalam implements a first-to-file system.

What acts are considered trade mark infringements?

Under the law, a trade mark infringement occurs when a person uses, in the course of trade, a sign identical or similar to a registered trade mark for goods or services that are protected by the registered trade mark where, in some instances, it is likely to cause confusion on the part of the public. If the goods or services are not similar to those protected by the registered trade mark, it is still an infringement if the trade mark has a reputation in Brunei Darussalam and use of an identical or similar sign takes advantage of, or is detrimental to, the reputation of the registered trade mark.

What constitutes 'use' of a trade mark?

'Use' of a trade mark includes affixing the mark to goods or their packaging; offering or displaying for sale, listing on the market, or stocking for those purposes goods bearing the mark; offering or supplying services under the mark; importing or exporting goods under the mark; or using the mark on business papers or in advertising.

What types of contract exist for the use of trade marks?

Trade mark licence agreements can be entered into between a trade mark owner (licensor) and a licensee, giving the licensee the exclusive or non-exclusive right to use the trade mark on pre-approved terms agreed between the parties. This reserves the licensee's right to use the licensor's trade mark, which would otherwise result in an infringement.

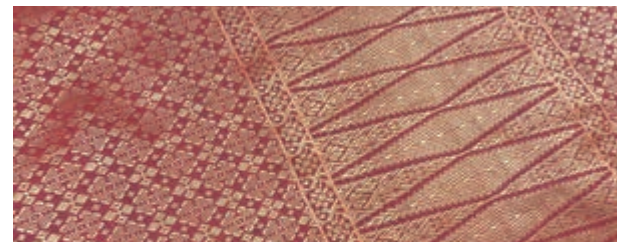
INDUSTRIAL DESIGNS

What is an industrial design?

An industrial design (ID) is a shape, configuration, pattern or ornament which, when applied to an article by any industrial process, constitutes a feature which, in the finished article, appeals to and is judged by the eye. It does not include a method or principle of construction; features of shape or configuration which are dictated solely by the function which the article has to perform; or features of shape which are dependent on the appearance of another article of which the article is intended by the designer to form an integral part.

How can you protect your industrial design in Brunei Darussalam?

An ID must be registered in order to be protected in Brunei Darussalam. To meet the requirements for registration, the design must be new and not registered, published or sold anywhere in the world. Successful registration gives protection for 5 years from the filing date. This can be extended in 5-year increments, with a limit of 15 years from the filing date of the original application, by simply paying a prescribed renewal fee.



Which objects can and cannot be registered as industrial designs?

Some examples of IDs likely to be approved for protection include the shape and design of industrial products such as motor vehicles, plastic bottles, medical instruments, electrical appliances, or patterns on textiles.

IDs that probably cannot be registered include those whose use would be contrary to public order or morality, or those for which the aesthetic considerations of the article are not usually considered to a material extent by a person using the article, and would not be noticed if the industrial design was applied to the article.

What acts are considered industrial design infringements?

If any entity other than the registered ID owner or its licensee imports, produces, sells, hires or uses for the purpose of trade or business any article in respect of which the ID is registered and to which that ID (or an ID not substantially different from it) has been applied anywhere in the world, it is considered an infringement of the ID under the law.

Infringement also occurs when any person makes or authorises someone else to make anything in relation to a kit where, if the kit is made or assembled in Brunei Darussalam or anywhere else in the world, it would result in an assembled article which the person does not have the exclusive right to make, sell, hire, or display for sale or hire. The law defines 'kit' as a complete or substantially complete set of components intended to be assembled into an article.

GEOGRAPHICAL INDICATIONS

What is a geographical indication?

A geographical indication (GI) distinguishes products by place of origin based on the common understanding that, solely due to its origin, the product is of a unique quality in comparison to a product under a general mark.

A GI can be registered as a collective mark, which distinguishes the products of members of an association which owns that mark from those of other entities; or a certification mark, which indicates that the products bearing the mark are certified by the proprietor of that mark in respect of origin, material, method of manufacture of the goods, quality, accuracy, or other characteristics.

What are the differences between geographical indications and trade marks?

GIs differ from trade marks in that GIs can be used by all producers whose products originate from that specific place or geographical area and which share the specific quality, reputation, or other characteristics, while trade marks can only be used by the registered trade mark owners or their licensees.

What constitutes "use" of a geographical indication?

'Use' of a GI is similar to that of a trade mark under the law – it means affixing the GI to products or their packaging, or offering, displaying for sale, listing on the market, or stocking for those purposes products bearing the GI. Importing or exporting products bearing the GI or using the GI on business papers or in advertising also constitutes use.

When does a geographical indication become a generic name?

A GI becomes a generic name when the term becomes customary for the product. An example of such an occurrence is Camembert for cheese. This name can now be used for any camembert-type cheese made anywhere in the world.

What acts are considered geographical indication infringements?

A GI is infringed when a person who is not a registered proprietor or authorised user uses the GI on products or suggests that those products originate in some geographical area other than their true place of origin, and thereby misleads the public.

