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Legal Challenges of Intellectual Property in Southeast Asia: Key Issues and Implications for Cambodia

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Abstract

This article examines the legal challenges of Cambodia's intellectual property rights in the context of Southeast Asia. Despite significant progress in adopting legal frameworks in line with international standards, Cambodia's IP system still needs to develop compared to that of other ASEAN countries. This study focuses on Cambodia's commitment to the implementation of the WTO and ASEAN obligations and details the legal provisions for trademarks, copyrights and patents. This section highlights issues such as the complexity of trademark registration procedures, restrictions on the application of IP rights and the absence of comprehensive legislation in emerging IP categories. Furthermore, it examines the effectiveness of dispute settlement mechanisms and the role of national institutions such as the National Commercial Arbitration Center (NCAC). The findings highlight the need for continuous legal reforms to promote a strong intellectual property environment, attract foreign investment and support Cambodia's economic growth.

Keywords: Intellectual Property, Legal Challenges, Cambodia, ASEAN, Issues, Implications

1. Introduction

1.1 *Introducing the Problem*

Historically, intellectual property (IP) became a significant concern in Southeast Asia in the mid-1980s. The primary catalyst for this shift was the growing recognition by American policymakers that the US trade deficit was linked to losses from inadequate IP protection. In response, the U.S. government, a key player in shaping global IP protection standards, began addressing these deficiencies in 1984 with the Tariff and Trade Act, which tied import privileges under GATT to improved IP standards. Subsequently, the 1988 United States Omnibus Trade and Competitiveness Act further reinforced this approach. Article 301 of the Act established a process for creating a list of countries required to enhance their IP protection by specific deadlines, with the threat of trade sanctions for noncompliance (Antons, 1991; Antons, 2017).

In Southeast Asia, the ASEAN Economic Community (AEC) has pursued regional integration through initiatives such as the ASEAN Intellectual Property Cooperation Working Group and the ASEAN Framework Agreement on Intellectual Property Cooperation, signed in 1995. Supported by the ASEAN IP rights action plans for 2004–2010 and 2011–2015 and with a new action plan prepared for 2016–2020, progress has been made, albeit modestly, given the diversity of the parties involved and their interests. In addition to regular meetings and workshops, an ASEAN patent review cooperation program has been established to facilitate the sharing of information on patent applications and the reuse of search and examination reports from patent examiners in other offices. Launched in 2013, the ASEAN IP portal provided basic information on procedures, international agreements, and case documents, particularly for Singapore and Thailand.

Cambodia's integration into the global economy was marked by its accession to the World Trade Organization (WTO) in 2004 and its membership in the Association of Southeast Asian Nations (ASEAN) in 1999. These memberships aim to expand market access and attract foreign direct investment (FDI). However, Cambodia must develop a robust legal framework that protects intellectual property (IP) rights to be an appealing destination for investors. This necessity arises from the global emphasis on the IP as a critical economic growth and innovation component. Despite the establishment of various IP laws, Cambodia's IP system is still in its infancy compared to that of other ASEAN countries, posing significant challenges to legal enforcement and compliance (Alexander et al., 2016; Nguyen, 2023; Barizah, 2017). The development of Cambodia's IP laws has been relatively recent, with key legislation such as the Law Concerning Marks, Trade Names, and Acts of Unfair Competition adopted in 2002 and the Law on Commercial Arbitration in 2006. These laws were enacted to fulfill WTO requirements and protect the interests of foreign and domestic investors. However, the practical implementation and enforcement of these laws remain challenging, underscoring the complexity of Cambodia's IP system. The rapid evolution of technology and the digital economy further complicates the landscape, necessitating continuous updates and improvements to the legal framework. This article delves into the current state of Cambodia's IP system by examining its strengths and weaknesses from a legal perspective. This study aims to provide a comprehensive understanding of the challenges faced by Cambodia in aligning its IP laws with international standards and the steps needed to enhance its IP protection regime.

1.2 Exploring the Importance of the Problem

Cambodia faces significant challenges in its legal framework for intellectual property (IP), which remains underdeveloped compared to its ASEAN counterparts. Despite recent legislative efforts, the country's IP laws still fall short, creating uncertainties for investors. The enforcement of existing IP laws is hindered by procedural complexities and inefficiencies, which impede the effective protection of IP rights. A critical issue is the lack of comprehensive IP categories within Cambodia's legal framework. Emerging categories of IP, such as digital rights and nontraditional marks, are not adequately addressed, leaving significant gaps in protection. Although institutions such as the National Commercial Arbitration Centre (NCAC) exist, their effectiveness in handling IP-related disputes requires thorough assessment and improvement. Moreover, Cambodia needs to enhance its dispute resolution mechanisms. The current systems established by the Ministry of Justice and other relevant ministries and institutions must be evaluated and refined to ensure that they can effectively manage and resolve IP disputes.

1.3. Research Questions

Researchers have five main questions:

1. What are the main challenges in the current Cambodian IP legal framework compared to those of other ASEAN countries?
2. How effective are the existing enforcement mechanisms for IP rights in Cambodia?
3. What gaps exist in the legal protection of emerging IP categories in Cambodia?
4. How effective are dispute resolution mechanisms, such as the NCAC, for addressing IP-related issues in Cambodia?
5. What reforms are necessary to enhance the IP protection regime in Cambodia to attract more FDI?

1.4. Research Objectives

To answer the research questions, researchers have five main research objectives:

1. To analyze the Cambodian IP legal framework in comparison to that of other ASEAN countries to identify key deficiencies.
2. To evaluate the effectiveness of enforcement mechanisms for IP rights in Cambodia.
3. To identify gaps in the legal framework regarding the protection of emerging IP categories.
4. To assess the role and effectiveness of dispute resolution mechanisms, particularly the NCAC, in handling IP-related disputes.
5. To provide recommendations for legal reforms and policy measures to strengthen the IP protection regime in Cambodia and enhance its appeal to foreign investors.

1.3 Describe Relevant Scholarship

1.3.1. Cambodia's Intellectual Property Legal Framework

Cambodia's intellectual property (IP) legal system is relatively new compared to that of the rest of the ASEAN countries. Cambodia's accession to the World Trade Organization (WTO) and its membership in ASEAN countries significantly influenced its IP laws. These international agreements necessitate the adoption of related legal documents. For example, the Law on Trademarks, Trade Names, and Unfair Competition was enacted on February 20, 2002, and the Law on Commercial Arbitration was enacted on May 5, 2006. Cambodian trademark law defines a "mark" as any visible sign distinguishing the goods or services of one entity from those of another. These included words, names, letters, numerals, logos, devices, labels, signatures, slogans, colors (and combinations), shapes, three-dimensional signs, and holograms. However, nonvisible marks such as sounds, smells, gestures, and motions cannot be registered. Color marks must be composed of at least two colors, so single-color marks were also excluded. Collective marks, a distinguishing feature of trademark law, are owned by organizations and used by members to indicate quality, geographic origin, or other characteristics. The Trademark Law defines "trade name" as a name or designation identifying and distinguishing an enterprise. Trade names that are deceptive, contrary to public order or morality, are prohibited. Trade names are protected against unlawful acts even without registration. The Department of Intellectual Property Rights (D/IPR) of the Ministry of Commerce processes and registers all trademark applications. Applications can include multiple classes, with a filing fee required for each class. A Cambodian trademark agent must represent a foreign applicant. Domestic applicants can apply directly or through a licensed agent; a notarized power of the attorney is needed. Cambodia, despite not being a signatory to the Nice and Vienna classification systems, follows its standards in its trademark application process. These systems are internationally recognized and widely used for the classification of goods and services. Applications must include specific details about the mark, its classification, and the goods/services it covers. Priority claims under the Paris Convention must be filed within six months of the original application date.

Cambodia joined the Madrid System for international trademark registration on June 5, 2015. The World Intellectual Property Organization (WIPO) runs this system, which enables a single application to cover multiple nations while cutting costs and streamlining the procedure. Following this, Cambodia enacted procedures for international registration under the Madrid Protocol on November 1, 2016. This protocol provides a cost-effective and efficient way for trademark owners to ensure the protection of their marks in multiple jurisdictions. Cambodia's trademark registrations are part of the WIPO Global Brand Database, a comprehensive collection of trademark information from around the world. ASEAN's online trademark platform, which provides a user-friendly interface for trademark searches and registrations, replicates this database. Interested parties can request registrability or similarity searches to determine whether a mark can be registered or to identify similar existing marks.

A trademark cannot be registered if:

- ❖ The goods or services of one enterprise cannot be distinguished from those of others.
- ❖ This is contrary to public order or morality.
- ❖ It misleads the public about goods or services' origin, nature, or characteristics.
- ❖ It imitates official symbols or well-known marks without authorization.

- ❖ The application does not meet these criteria, and the D/IPR will issue a provisional refusal. The applicant must respond within 60 days, with a possible 45-day extension.

Trademarks are valid for ten years and can be renewed indefinitely. An affidavit of use or nonuse must be submitted within one year following the fifth anniversary of registration. This affidavit confirms that the trademark is still in use and helps prevent the registration of marks that are no longer in use. Failure to comply can lead to cancellation. Changes to the mark or registration details must be reported to the D/IPR, ensuring that the register is up-to-date and accurate. Trademark licenses and franchise agreements must be registered with the D/IPR. To remain valid, these contracts must include quality control provisions. Unregistered licenses have no legal effect on third parties. Once a trademark application is published, any interested party can file an opposition within 90 days. Grounds for opposition include similarity to existing marks and the potential to mislead the public. Registered trademarks can be canceled for nonuse, failure to renew, or improperly granted.

Cambodia's IP laws include provisions against unfair competition, a concept that goes beyond trademark infringement. Unfair competition can include creating confusion, making false allegations, and engaging in misleading advertising. These provisions protect not only trademarks but also the reputation and goodwill of businesses. Trademark owners can request customs to suspend the clearance of suspected counterfeit goods, and courts can order the destruction of counterfeit goods, providing additional tools for IP protection. Counterfeits and Enforcement: Cambodia is confronted with significant challenges in combating counterfeit goods. While trademark owners can request customs suspensions for suspected counterfeits, the enforcement of these measures needs to be more consistent. The legal framework allows for the destruction of counterfeit goods, but practical enforcement can be slow and bureaucratic. This situation underscores the urgent need for more effective enforcement mechanisms to protect intellectual property rights in Cambodia. Trademark infringement occurs when unauthorized use of a registered mark or a similar mark confuses the public. Cambodia's legal framework provides for injunctions and damages. However, court processes can be costly and time-consuming, often making mediation preferable. Penalties for trademark infringement range from fines of 1,000,000 to 20,000,000 Riels (USD 250 to USD 5,000), and imprisonment ranges from one month to five years. Repeat offenders face two penalties. Courts can also order the destruction of infringing goods.

The National Commercial Arbitration Centre (NCAC) was established to handle commercial disputes, including those related to intellectual property. It offers expedited procedures and emergency arbitrators to resolve disputes efficiently. Although no IP cases have been filed yet, the NCAC is equipped to handle them, providing a faster and more cost-effective alternative to traditional court litigation. Cambodia's court system is divided into lower courts (provincial and municipal) and higher courts (appeal courts and the Supreme Court). Currently, general courts handle commercial disputes, but there are plans to establish specialized commercial courts within the next government mandate (2023-2028).

Table 1: Existing laws related to Cambodian intellectual property rights

N	Description	Date of Promulgation
1	Law on the Protection of cultural heritage	25/01/1996
2	Law concerning Marks, Trade Names and Acts of Unfair Competition	20/02/2002
3	The Law on the Patents, Utility Model Certificates and Industrial Designs	22/01/2003
4	Law on Copyright and Related Rights	05/03/2023
5	Law on Commercial Arbitration	05/05/2023
6	Law on Geographical Indication-GI	20/01/2014
7	Law on Seed Management and Plant Breeder's Rights	20/05/2008
8	Law on Certificate of Origin	05/07/2023
9	Cambodia ratified on Bern Convention	27/06/2020
10	TRIP Agreement	Until 2033
11	Paris Convention for protection of Industrial Property	22/09/1998

As Cambodia's intellectual property legal system evolves, it faces significant challenges, particularly in terms of enforcing and combating counterfeits. The continued development and refinement of IP laws and more robust

enforcement mechanisms will be crucial for Cambodia to protect IP rights effectively and foster economic growth. As legal professionals, business owners, and individuals interested in intellectual property laws in Cambodia. As Cambodia integrates more deeply into the global economy, adherence to these legal frameworks will play a crucial role in attracting investment and encouraging innovation.

2. Method

Researchers employ desk research approaches, including the analysis of academic articles, legal texts, government reports, and documents from the WTO and WIPO, to examine the intellectual property (IP) legal framework in Cambodia. This methodology is designed to assess the current state of IP laws, identify challenges, and propose recommendations for improvement. A comprehensive review of the literature on IP laws in Cambodia and other ASEAN countries has been conducted to support this analysis.

3. Results

3.1. Research Question 1: What are the main challenges in the current Cambodian IP legal framework compared to those of other ASEAN countries?

Cambodia's IP laws, though relatively young, bear unique characteristics that emerged primarily after the country's accession to the WTO in 2004 and ASEAN in 1997. While the legal framework may not yet match the depth and refinement of countries such as Singapore and Malaysia, it presents a distinct trajectory of development and enhancement (IPOS, 2024; Indastri, 2023; International Trade Administration, 2024 a). While Cambodia has adopted several important IP laws, the enforcement mechanisms could be stronger. This includes significant challenges in policing and prosecuting IP infringements, which are managed more robustly in countries such as Singapore and Thailand. The urgency of strengthening these mechanisms is clear, and your role in this process is crucial. Cambodia's IP laws, while currently comprehensive in some emerging categories of IPs, such as digital rights, nontraditional marks (such as sound marks), and plant breeders' rights, have the potential for further development. This potential includes international transactions, which may draw inspiration from nations such as Vietnam and the Philippines' more recent and comprehensive IP laws.

The institutions responsible for IP enforcement, such as the Department of Intellectual Property Rights (D/IPR) and customs authorities, often need more resources and expertise, including financial resources and international experts. Other ASEAN countries have more developed institutions and better resources. Additionally, there is a general lack of public awareness and understanding of IP rights in Cambodia, which hampers compliance and enforcement. This lack of awareness, coupled with the scarcity of resources, poses significant barriers that need to be addressed urgently. Your involvement in promoting public awareness and advocating for better resources is vital.

3.2. Research Question 2: How effective are the existing enforcement mechanisms for IP rights in Cambodia?

The enforcement mechanisms for intellectual property (IP) rights in Cambodia are generally weak (HKTDC Research, 2017; Cambodia Daily, 2017; CDC, 2024). Procedural complexities and inefficiencies significantly hinder the effective protection of IP rights. Inadequate policing, limited judicial capacity, and a lack of specialized training for enforcement officials contributed to these challenges. The Department of Intellectual Property Rights (D/IPR) and customs authorities face resource constraints and lack the expertise necessary to enforce IP laws effectively (International Trade Administration, 2024; Netherlands Embassy in Bangkok, 2019; US Department of State, 2023; Nguon & Srun, 2022; Mol, 2023). Consequently, the rate of prosecution and conviction for individuals with IP infringement remains low. Although efforts to improve enforcement have been initiated, they are still in the early stages. Significant improvements are needed to meet the standards observed in other ASEAN countries.

3.3. Research Question 3: What gaps exist in the legal protection of emerging IP categories in Cambodia?

Cambodia's legal framework for intellectual property (IP) is developing but may only partially encompass the nuances of emerging IP categories. While the country has a Law on Competition (2004) with some provisions for trade secrets, the absence of a dedicated trade secrets law makes it difficult to enforce rights against the misappropriation of confidential information. Although the Law on Seeds (2004) provides some plant variety protection, plants may still need to fully comply with the International Union for the Protection of New Varieties of Plants (UPOV), potentially limiting protection for specific plant innovations. Moreover, the absence of a specific legal framework for geographical indications (GIs) in Cambodia is a significant disadvantage. GIs protect the reputation of products tied to a specific geographical location, and the lack of such protection could put Cambodian producers at a disadvantage when seeking GI protection for their goods. The Cambodian Law on Copyright and Related Rights (2003) also falls short of explicitly addressing the protectability of new forms of creative expression, such as database rights or computer-generated works, further highlighting the need for comprehensive IP legislation.

As a result, Cambodia's current IP legal framework does not adequately address digital rights, leaving gaps in the protection of digital content and online intellectual property. Emerging categories of nontraditional marks, such as sound marks and three-dimensional marks, need to be sufficiently covered under existing laws, limiting businesses' ability to protect these types of IP effectively. Although there is a law on seed management and plant breeders' rights, its implementation has been fragmented, and comprehensive protection mechanisms have been lacking. Similarly, the protection of utility models and industrial designs could be more developed with fewer provisions and enforcement mechanisms than with more mature IP systems in the region.

3.4. Research Question 4: How effective are dispute resolution mechanisms, such as the NCAC, in addressing IP-related issues in Cambodia?

Cambodia's dispute resolution mechanisms for IP-related issues exhibit both strengths and weaknesses. The National Commercial Arbitration Center (NCAC) offers an alternative to litigation through arbitration; it can be faster, more confidential, and potentially less expensive than court proceedings. Arbitrators at the NCAC might possess specific IP expertise, leading to more informed decisions than general judges. Arbitral awards issued by the NCAC can be enforced by Cambodian courts, providing a path to implement the arbitrator's decision.

Despite its potential, the NCAC in Cambodia has limitations. Litigation is less popular than arbitration, and IP disputes are even less represented in NCAC cases. While arbitration can be less expensive than court, it can still be costly, limiting accessibility for some rights holders, small businesses, or individuals. Furthermore, the NCAC lacks the authority to directly order remedies such as seizures or injunctions, which are crucial for stopping ongoing infringement; these measures require court intervention. Cambodia's court system handles most IP disputes. However, the courts can be slow and complex and may lack specialized IP knowledge among judges. The Department of Intellectual Property (DIP) can act as a mediator in IP infringement cases. While not binding, mediation can offer a faster and less confrontational way to resolve disputes. Despite the potential efficiency of the NCAC, its use has been limited, and the Cambodian court system remains the primary forum despite its drawbacks. The NCAC was established to provide a forum for resolving commercial disputes, including IP-related disputes. However, its effectiveness in handling IP disputes has yet to be thoroughly assessed, as it has yet to handle many IP cases. The NCAC has introduced features such as expedited procedures and emergency arbitrators to improve efficiency, but its role in IP dispute resolution needs further evaluation and enhancement.

In Cambodia, the dispute resolution landscape includes general courts that handle various types of cases. However, there is a clear need for specialized IP courts or dedicated sections within existing courts to enhance the handling of IP disputes. While the NCAC offers a potentially efficient option for IP dispute resolution, significant improvements are needed to realize its full potential and provide comprehensive protection for IP rights holders.

3.5. Research Question 5: What reforms are necessary to enhance the IP protection regime in Cambodia to attract more FDI?

Cambodia can implement several reforms to strengthen its IP protection regime and attract more foreign direct investment (FDI). First, the country should enact specific laws for unprotected areas, such as trade secrets, plant varieties, and geographical indications. Aligning these laws with international standards such as TRIPS and UPOV and reviewing and revising existing IP laws (patents, copyrights, and trademarks) will ensure clarity and comprehensiveness in protecting new forms of innovation and creative expression. Increasing training and resources for law enforcement, judges, and IP officials is crucial for effectively handling complex IP infringement cases. Additionally, enhancing border control measures to prevent the entry of counterfeit goods and streamlining procedures for obtaining swift and effective remedies such as injunctions and seizure of infringing goods is essential. Raising awareness, building capacity for using the NCAC for IP disputes, and considering fee structures catering to smaller businesses and individuals will further support IP protection. Cambodia's role in the global IP landscape is crucial. By exploring the establishment of specialized IP courts or tribunals and encouraging the use of mediation and other ADR mechanisms, Cambodia can demonstrate its commitment to fair and efficient IP dispute resolution. Collaboration with ASEAN member states and developed countries will not only harmonize IP laws and enforcement practices but also encourage Cambodia's dedication to international standards, making it an attractive partner for global IP initiatives.

Enhancing the capacity of enforcement agencies through better training, increased resources, and more robust legal provisions will ensure effective policing and prosecution of IP infringement. Updating and expanding the legal framework to cover emerging IP categories such as digital rights, nontraditional marks, and plant breeders' rights is also necessary. Implementing comprehensive public education programs to increase awareness and understanding of IP rights among the general public, businesses, and enforcement officials will foster a culture of respect for IPs.

Creating specialized IP courts or dedicated sections within existing courts to handle IP-related disputes more efficiently and effectively is another critical step. Cambodia should bolster institutions such as the Department of Intellectual Property Rights (D/IPR) with better funding, resources, and expertise to improve their IP management and enforcement capabilities. Greater collaboration with international IP bodies such as the World Trade Organization and the World Intellectual Property Organization will assist Cambodia in adopting best practices and staying current with global IP trends and standards (Rimmer, 2012). It is also critical to review and amend existing intellectual property laws regularly to ensure that they remain relevant and effective in the face of technological advancements and shifting economic environments. Implementing these reforms will result in a more robust and reliable IP protection regime and pave the way for a thriving Cambodian economy. This incentivizes domestic innovation and makes Cambodia a more attractive destination for foreign investors seeking to protect their intellectual property, thereby boosting foreign direct investment (FDI) and fostering economic growth.

4. Discussion

Cambodia's legal framework for intellectual property (IP) has made progress over the past two decades, yet it remains relatively underdeveloped compared to its ASEAN counterparts. The implementation of key legislation such as the Law concerning Marks, Trade Names, and Acts of Unfair Competition (2002) and the Law on Commercial Arbitration (2006) demonstrates Cambodia's commitment to aligning with international standards. However, enforcement mechanisms for IP rights face significant challenges, including procedural complexities and inefficiencies. Enforcement is hindered by inadequate policing, limited judicial capacity, and a lack of specialized training for enforcement officials. Institutions such as the Department of Intellectual Property Rights (D/IPR) and customs authorities are underresourced and lack the expertise necessary for effective IP law enforcement. This results in low prosecution and conviction rates for IP infringements. While there have been efforts to improve enforcement, significant advancements are needed to reach the levels observed in other ASEAN countries.

Emerging IP categories, such as digital rights, nontraditional marks, and plant breeders' rights, are not adequately covered by existing laws. This gap leaves businesses and innovators vulnerable and hampers the country's ability to protect new forms of creative expression. Moreover, the absence of a dedicated legal framework for geographical indications (GIs) places Cambodian producers at a disadvantage in protecting the reputation of

products tied to specific locations. The NCAC offers an alternative dispute resolution mechanism through arbitration, which can be faster and more confidential than traditional litigation. However, arbitration is not widely used for IP disputes in Cambodia, and the NCAC lacks the authority to order essential remedies such as seizures or injunctions without court intervention. Therefore, while the NCAC provides a potentially efficient option for IP dispute resolution, its practical impact remains limited.

5. Conclusions and Recommendations

5.1. Conclusion

In conclusion, while Cambodia's intellectual property (IP) legal framework is still evolving, it has made significant strides. The country has enacted key legislation, such as the Law concerning Marks, Trade Names, and Acts of Unfair Competition (2002) and the Law on Commercial Arbitration (2006), to align with international standards set by organizations such as the WTO and ASEAN. This progress, though not yet on par with that of other ASEAN countries, is a testament to Cambodia's commitment to IP protection. The challenges in Cambodia's IP enforcement mechanisms are significant and urgent. Procedural complexities and inefficiencies hinder institutions such as the Department of Intellectual Property Rights (D/IPR) and customs authorities. These constraints result in low prosecution and conviction rates for IP infringements, undermining the effectiveness of the legal framework. Addressing these issues is crucial for the protection of IP rights in Cambodia. Moreover, Cambodia's legal framework needs to adequately address emerging IP categories such as digital rights, nontraditional marks, and plant breeders' rights. This lack of comprehensive protection leaves businesses and innovators vulnerable, potentially stifling innovation and economic growth. A dedicated legal framework for geographical indications is necessary for Cambodian producers to protect the reputation of their region-specific products. The National Commercial Arbitration Center (NCAC) offers an alternative dispute resolution mechanism that could be faster and more confidential than traditional litigation. However, arbitration for IP disputes is not widely utilized in Cambodia, and the NCAC needs more authority to order essential remedies independently, such as seizures or injunctions. Consequently, the practical impact of the NCAC in resolving IP disputes still needs to be improved.

Comprehensive legal reforms are not only necessary but also key to unlocking Cambodia's potential for IP protection. These reforms should include enacting specific laws for currently unprotected IP areas, aligning existing laws with international standards, and increasing training and resources for enforcement officials. Enhancing border control measures and streamlining procedures for obtaining swift remedies are also crucial. These changes will not only attract more foreign direct investment (FDI) and support domestic innovation but also strengthen Cambodia's position in the global IP landscape. Public awareness and education about IP rights need significant improvement to foster a culture of respect for IP. Establishing specialized IP courts or dedicated sections within existing courts, promoting alternative dispute resolution mechanisms, and collaborating with international IP bodies and developed countries for expertise and best practices are essential steps toward strengthening Cambodia's IP regime. By implementing these reforms, Cambodia can build a more robust and reliable IP protection system. This will not only encourage domestic innovation but also make Cambodia a more attractive destination for foreign investors seeking to protect their intellectual property, thereby boosting economic growth and development.

5.2. Recommendations

- ❖ Cambodia should promote awareness and capacity building regarding the NCAC for IP disputes and implement comprehensive public education programs to increase awareness and understanding of IP rights among the general public, businesses, and enforcement officials.
- ❖ Cambodia should explore the possibility of expediting IP cases within the court system and explore the possibility of establishing specialized IP courts or tribunals with judges who possess deep knowledge of IP law.
- ❖ Cambodia should consider reforms to empower the DIP to handle a wider range of IP disputes, potentially through binding mediation outcomes; work with ASEAN member states to harmonize IP laws and enforcement practices; and partner with other developed countries to access expertise and technology

related to IP protection and enforcement.

- ❖ Cambodia should strive for a balanced approach that safeguards IP rights while ensuring access to knowledge and innovation for development purposes.
- ❖ Cambodia reforms should be sustainable in the long term, with adequate resources allocated for enforcement and capacity building and provide comprehensive training and resources for law enforcement, judges, and IP officials to effectively handle complex IP infringement cases.

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References

- Alexander, D., Svend, O. R., & Rudie, T. (2016). ASEAN Economic Community and intellectual property rights: an assessment of framework conditions for innovation, Centre for Social Innovation,
- Antons, C. (1991). Intellectual Property Law in ASEAN Countries: A Survey', 3 EIPR, 78.
- Antons, C. (2017). Intellectual Property in Asia: ASEAN, East Asia and India, Deakin Law School Legal Studies Research Paper No. 16-21
- ASEANIP (2023). ASEAN Intellectual Property Portal in Cambodia 2023. Retrieved from <https://asean.org/our-communities/economic-community/competitive-innovative-and-inclusive-economic-region/intellectual-property-rights/>
- ASIAIP (2023). Women need more intellectual property rights awareness, says Cambodian Prime Minister. Retrieved from <https://asiaiplaw.com/section/news-analysis/women-need-more-intellectual-property-rights-awareness-says-cambodian-prime-minister>
- Barizah, N. (2017). The development of ASEAN's Intellectual Property Rights Law, from TRIP Compliance to Harmonization," Indonesia Law Review, 7 (1), <https://doi.org/10.15742/ilrev.v7n1.247>
- BNG (2023). Intellectual Property in Cambodia in 2023. Retrieved from <https://bnglegal.com/index.php/our-practice/intellectual-property-technology/>
- CDC (2024). Intellectual Property Rights. Retrieved from <https://cdc.gov.kh/laws-and-regulations/intellectual-property-rights1/>
- Cambodia Daily (2017). Tech Firms Warn of Weak Intellectual Property Protections. Retrieved from <https://english.cambodiadaily.com/news/tech-firms-warn-of-weak-intellectual-property-protections-129205/>
- GOVUK (2023). IP in Cambodia in 2023. Retrieved from <https://www.gov.uk/guidance/ip-in-cambodia4-IP>
- HKTDC Research (2017). Intellectual Property Protection in Cambodia. Retrieved from https://research.hktdc.com/en/article/MzUzNj_Q0MzUy#:~:text=Enforcement%20of%20IP%20rights%20in,as%20an%20enforcer%20and%20mediator.
- Indastri, S. (2023). Intellectual Property Rights in Malaysia, faculty of design and architecture, Universiti Putra Malaysia. Retrieved from https://frsb.upm.edu.my/article/intellectual_property_rights_in_malaysia-76958
- Mol, D. (2023). Enforcing IP Rights in Cambodia: Available Customs Measures. Retrieved from <https://www.tilleke.com/insights/enforcing-ip-rights-in-cambodia-available-customs-measures/>
- Netherlands Embassy in Bangkok (2019). Doing-business-in-Cambodia. Retrieved from <https://www.rvo.nl/sites/default/files/2019/01/doing-business-in-cambodia.pdf>

- Nguyen, P. K. (2023). Fighting against copyright infringement on social networks in Vietnam - from the Perspective of Responsibilities of internet Service Providers, *Indonesia Law Review*: 13 (3), retrieved from <https://scholarhub.ui.ac.id/ilrev/vol13/iss3/4>
- Nguon, S. & Srun, S. (2022). Cambodia v. Hackers: Balancing Security and Liberty in Cybercrime Law. Retrieved from <https://www.kas.de/en/web/kambodscha/single-title/-/content/cambodia-v-hackers-balancing-security-and-liberty-in-cybercrime-law>
- IPOS (2024). The Singapore IP Strategy (SIPS) 2030, Retrieved from <https://www.ipos.gov.sg/manage-ip/singapore-ip-strategy-2030>
- International Trade Administration (2024a). Thailand-Protecting Intellectual Property, Retrieved from <https://www.trade.gov/country-commercial-guides/thailand-protecting-intellectual-property>
- International Trade Administration (2024b). Cambodia-Protecting Intellectual Property, Retrieved from <https://www.trade.gov/country-commercial-guides/cambodia-protecting-intellectual-property>
- KENFOX (2021). IPR Enforcement in Cambodia in 2021. Retrieved from <https://kenfoxlaw.com/ipr-enforcement-in-cambodia>
- Phnom Penh Post (2022). CCT on mission to truckle Counterfeits Retrieved on from <https://www.phnompenhpost.com/national-post-depth/ccf-mission-tackle-counterfeits>
- Rimmer, M. (2012). The Doha deadlock: Intellectual property and climate change. <https://core.ac.uk/download/33502171.pdf>
- Tilleke & Gibbins (2023). Enforcing IP right in Cambodia available customs Measures in 2023. Retrieved from <https://www.tilleke.com/insights/enforcing-ip-rights-in-cambodia-available-customs-measures/>
- US Department of State (2023). 2023 Investment Climate Statements: Cambodia. Retrieved from <https://www.state.gov/reports/2023-investment-climate-statements/cambodia/>