



TRADEMARK FILING REQUIREMENTS

# PHILIPPINES



OCTOBER 2014



## RECEIPT OF THE APPLICATION

The application must be filed using the prescribed application form. The Office accepts filings in English or Filipino, but the official form is available only in English.

The application may be filed on paper in the IPOPHL or any of its satellite offices or online. Applications filed online can be paid via debit payment (Banco de Oro or Bank of the Philippine Islands) or over-the-counter (Bank of the Philippine Islands).

## REPRESENTATION

There is no requirement for residents of the Philippines to be represented by an agent or attorney. If the applicant is not a national, does not have domicile in, or has no real and effective commercial establishment in the Philippines, such applicant must indicate the name of a Philippine resident, an agent, or attorney for purposes of sending the official communication from the IPOPHL. The power of attorney authorizing the representative, agent, or attorney must be submitted within sixty (60) days from filing the application.

## SEARCH, FORMALITY AND SUBSTANTIVE EXAMINATION

Once the application meets the minimum filing requirements (A), the Office shall examine whether the application meets the other requirements (B), where necessary and the mark is registrable (C). The office has combined formality, search, and substantive examination, all of which are conducted by the same examiner.

### A. Minimum Filing Requirements.

The application shall be accorded a filing date if the following minimum requirements are met:

- (a) Name of the applicant;
- (b) Contact details of the applicant or the resident representative or attorney;
- (c) Reproduction of the mark;
- (d) List of the goods or services for which the registration is sought; and
- (e) Filing fee.

### B. Other Formality Requirements.

- (a) Name of State of which the applicant is a national, has domicile, or has a real and effective industrial or commercial establishment;
- (b) Where the applicant is a juridical entity, the law under which it is organized and existing;
- (c) The agent or representative, if the applicant is not domiciled in the Philippines;
- (d) Where the applicant claims the priority of an earlier application, (i) the country or office where the earlier application was filed; (ii) the filing date of the earlier application; and (iii) where available, the application number of the earlier application;
- (e) Where color is claimed as a distinctive feature of the mark, the name of the color/s claimed;



- (f) Where the mark is three-dimensional mark, an indication that it is, if not indicated in the application;
- (g) A transliteration or translation of the mark or of some parts of the mark, if the mark or some parts of it is/are not in English;
- (h) The correct classification of the goods or services following the latest edition of the Nice Classification. The Office also accepts the terms listed in the Madrid Goods and Services Manager;
- (i) A signature by, or other self-identification of, the applicant or his representative, if not indicated in the paper application as filed.

### C. Registrability.

A mark cannot be registered if it:

- (a) consists of immoral, deceptive or scandalous matter, or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt or disrepute;
- (b) consists of the flag or coat of arms or other insignia of the Philippines or any of its political subdivisions, or of any foreign nation, or any simulation thereof;
- (c) consists of a name, portrait or signature identifying a particular living individual except by his written consent, or the name, signature, or portrait of a deceased President of the Philippines, during the life of his widow, if any, except by written consent of the widow;
- (d) is identical with a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date, in respect of:
  - (i) the same goods or services, or
  - (ii) closely related goods or services, or
  - (iii) nearly resembling such a mark as to be likely to deceive or cause confusion.
- (e) is identical with, or confusingly similar to, or constitutes a translation of a mark which is considered by the competent authority of the Philippines to be well-known internationally and in the Philippines, whether or not it is registered here, as being already the mark of a person other than the applicant for registration, and used for identical or similar goods or services:

Provided, That in determining, whether a mark is well known, account shall be taken of the knowledge of the relevant sector of the public, rather than of the public at large, including knowledge in the Philippines which has been obtained as a result of the promotion of the mark;

- (f) is identical with, or confusingly similar to, or constitutes a translation of a mark considered well-known in accordance with the preceding paragraph, which is registered in the Philippines in respect of goods or services which are not similar to those in respect of which registration is applied for:

Provided, That use of the mark in relation to those goods or services would indicate a connection between those goods or services, and the owner of the registered mark: Provided further, That the interests of the owner of the registered mark are likely to be damaged by such use;



- (g) is likely to mislead the public, particularly as to the nature, quality, characteristics or geographical origin of the goods or services;
- (h) consists exclusively of signs that are generic for the goods or services that they seek to identify;
- (i) consists exclusively of signs or of indications that have become customary or usual to designate the goods or services in everyday language or in bona fide and established trade practice;
- (j) consists exclusively of signs or of indications that may serve in trade to designate the kind, quality, quantity, intended purpose, value, geographical origin, time or production of the goods or rendering of the services, or other characteristics of the goods or services;
- (k) consists of shapes that may be necessitated by technical factors or by the nature of the goods themselves or factors that affect their intrinsic value;
- (l) consists of color alone, unless defined by a given form; or
- (m) is contrary to public order or morality.

### **PUBLICATION, OPPOSITION AND REGISTRATION**

Once the application has been examined and found registrable, the mark shall be allowed and published in the electronic gazette for opposition for a period of 30 days. The required fees must be paid before the mark is published.

Any person who believes that he would be damaged by the registration of a mark may, upon payment of the required fee and within thirty (30) days from publication of the mark, file with the Office an opposition to the application.

When the period for filing the opposition period has expired, or when the opposition shall have been denied, the Office, upon payment by the applicant of the required fee (if this fee was not paid together with the first publication fee), shall issue the certificate of registration and publish the registered mark in the electronic Gazette.

### **CONTACT**

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# ECAP III

EU-ASEAN Project on the Protection of Intellectual Property Rights



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