



TRADEMARK FILING REQUIREMENTS

SINGAPORE



OCTOBER 2014



RECEIPT OF THE APPLICATION

The application for registration of a mark should be filed using the prescribed form. The official language for filing is English. The Intellectual Property Office of Singapore (IPOS) accepts applications online.

The Office accepts payment made by NETS, cashcard, GIRO, cheque, money order and bank draft. For submission by mail, the application form must be completed, duly signed and submitted with all the required documents and a cheque, money order, bank draft or request for GIRO payment.

LOCAL AGENT REPRESENTATION

There is no requirement for agent representation in Singapore, but applicants are required to provide an address for service in Singapore.

SEARCH, FORMALITY AND SUBSTANTIVE EXAMINATION

To be accorded a filing date, the requirements in (A) must be contained in the application form (the request for registration). Once the requirements for a filing date are met, the application will be processed and the other formality requirements (B) will also be checked. A search for possible conflicting marks will be conducted and the eligibility for the registration of the mark assessed according to the criteria for registrability (C).

A. Minimum Filing Requirements.

The following are the minimum requirements for a filing date:

- (a) Name and address of the applicant;
- (b) Clear graphical representation of the mark;
- (c) List of goods and services sought for registration;
- (d) Declaration of use/intent to use the trade mark; and
- (e) Payment of prescribed fee.

B. Other Formality Requirements.

- (a) Marks comprising of a three-dimensional shape of the goods or packaging may be represented by line drawings. If a single-view line drawing is insufficient, multiple aspect views up to a maximum of six should be provided.
- (b) The English translation and/or transliteration of non-English words and/or non-Roman characters included in the mark.
- (c) Priority details if the applicant wishes to claim the priority of an earlier application. A priority claim is valid only if the subject application is filed within six months from the date of the first filing.
- (d) Classification of the goods or services in the application should be in accordance with International Classification of Goods and Services.



C. Registrability.

The following are absolute grounds for refusal of registration:

- (a) The following shall not be registered:
 - (i) Any sign that is not capable of being represented graphically and which is capable of distinguishing goods or services dealt with or provided in the course of trade by a person from goods or services so dealt with or provided by any other person;
 - (ii) Trademarks which are devoid of any distinctive character;
 - (iii) Trademarks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services; and
 - (iv) Trademarks which consist exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade.

However, a trademark falling under (b), (c), and (d) may still be registered if, before the date of application for registration, it has in fact acquired a distinctive character as a result of the use made of it.

- (b) A sign shall not be registered if it consists exclusively of—
 - (i) the shape which results from the nature of the goods themselves;
 - (ii) the shape of goods which is necessary to obtain a technical result; or
 - (iii) the shape which gives substantial value to the goods.
- (c) A trademark shall not be registered if it is—
 - (i) contrary to public policy or to morality; or
 - (ii) of such a nature as to deceive the public (for instance as to the nature, quality or geographical origin of the goods or service).
- (d) A trade mark shall not be registered if or to the extent that its use is prohibited in Singapore by any written law or rule of law.
- (e) A trade mark shall not be registered if or to the extent that the application is made in bad faith.
- (f) Even if a trademark may have acquired distinctiveness, it will not be registered if it contains or consists of a geographical indication in respect of a wine or spirit and the trade mark is used or intended to be used in relation to a wine or spirit not originating from the place indicated in the geographical indication.
- (g) The preceding paragraph shall apply whether or not the trade mark has, or is accompanied by, an indication of the true geographical origin of the wine or spirit, as the case may be, or an expression such as “kind”, “type”, “style”, “imitation” or the like, and irrespective of the language the geographical indication is expressed in that trade mark.
- (h) A trade mark shall not be refused registration under Item 6 if the application for its registration was made in good faith, or if it had been used continuously in good faith in the course of trade by the applicant for its registration or his predecessor in title, either—
 - (i) before 15th January 1999; or



- (ii) before the geographical indication in question is protected in its country of origin.
- (i) A trade mark shall not be refused registration by virtue of (f) if the geographical indication in question —
 - (i) has ceased to be protected; or
 - (ii) has fallen into disuse, in its country of origin.
- (j) A trademark shall not be registered if it falls within the prohibition concerning the national emblems, etc., of Convention countries, Article 6ter of Paris Convention, etc.; and emblems, etc., of certain international organizations: Article 6ter of Paris Convention, etc.
- (k) Trademarks that are proscribed to be registered or allowed to be registered subject to certain conditions by virtue of a directive by the Minister.
- (l) A trademark shall not be registered if or to the extent that the registration contravenes any rule made under the preceding paragraph.

The following are relative grounds for refusal of registration:

- (a) A trade mark shall not be registered if it is identical with an earlier trade mark and the goods or services for which the trade mark is sought to be registered are identical with the goods or services for which the earlier trade mark is protected.
- (b) A trade mark shall not be registered if—
 - (i) it is identical with an earlier trade mark and is to be registered for goods or services similar to those for which the earlier trade mark is protected; or
 - (ii) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected, there exists a likelihood of confusion on the part of the public.
- (c) Where an application for registration of a trade mark is made before 1st July 2004, if the trade mark —
 - (i) is identical with or similar to an earlier trade mark; and
 - (ii) is to be registered for goods or services which are not similar to those for which the earlier trade mark is protected, the later trade mark shall not be registered if —
 - the earlier trademark is well known in Singapore; or
 - use of the later trade mark in relation to the goods or services for which the later trade mark is sought to be registered would indicate a connection between those goods or services and the proprietor of the earlier trade mark;
 - there exists a likelihood of confusion on the part of the public because of such use; and
 - the interests of the proprietor of the earlier trade mark are likely to be damaged by such use.
- (d) Subject to subsection (e), where an application for registration of a trade mark is made on or after 1st July 2004, if the whole or an essential part of the trade mark is identical with or similar to an earlier trade mark, the later trade mark shall not be registered if —
 - (i) the earlier trade mark is well known in Singapore; and
 - (ii) use of the later trade mark in relation to the goods or services for which the later trade mark is sought to be registered —



- would indicate a connection between those goods or services and the proprietor of the earlier trade mark, and is likely to damage the interests of the proprietor of the earlier trade mark; or
 - if the earlier trade mark is well known to the public at large in Singapore—
 - o would cause dilution in an unfair manner of the distinctive character of the earlier trade mark; or
 - o would take unfair advantage of the distinctive character of the earlier trade mark.
- (e) A trade mark shall not be refused registration by virtue of subsection (d) if the application for the registration of the trade mark was filed before the earlier trade mark became well known in Singapore, unless it is shown that the application was made in bad faith.
- (f) In deciding whether any such application was made in bad faith, it shall be relevant to consider whether the applicant had, at the time the application was made, knowledge of, or reason to know of, the earlier trade mark.
- (g) A trade mark shall not be registered if, or to the extent that, its use in Singapore is liable to be prevented—
- (i) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade; or
 - (ii) by virtue of an earlier right other than those referred to in subsections (a), (b) and (c) or paragraph (i), in particular by virtue of the law of copyright or any law with regard to the protection of designs.
- (h) A person entitled under subsection (g) to prevent the use of a trade mark is referred to in this Act as the proprietor of an earlier right in relation to the trade mark.
- (i) The Registrar may, in his discretion, register a trade mark where the proprietor of the earlier trade mark or other earlier right consents to the registration.
- (j) The Registrar may, in his discretion, register any trade mark referred to in subsection (c), (d) or (g) where the proprietor of the earlier trade mark or other earlier right fails to give notice to the Registrar of opposition to the registration.
- (k) A trademark which is an earlier trade mark whose registration expires, shall continue to be taken into account in determining the registrability of a later mark for a period of one year after the expiry, unless the Registrar is satisfied that there was no bona fide use of the mark during the 2 years immediately preceding the expiry.

PUBLICATION, OPPOSITION AND REGISTRATION

When an application for registration has been accepted, the mark shall be published in the Trade Marks Journal. Any interested party may oppose the registration of the mark within two months of the publication.

If there is no opposition to the registration of the mark or where an opposition is resolved in favor of the applicant, the trademark will be registered and a registration certificate will be issued. A registered trade mark will be protected for a period of 10 years from the date of application and may be renewed for further periods of 10 years.



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