



TRADEMARK FILING REQUIREMENTS

# THAILAND



OCTOBER 2014



## RECEIPT OF THE APPLICATION

The application for registration of a mark must be filed using the prescribed form. The filing language is Thai.

The application must be filed with the Department of Intellectual Property (DIP) Thailand or at any of its Provincial Commercial Offices. DIP accepts applications filed online.

## REPRESENTATION

If the applicant does not have local presence, representation is required. The power of attorney must be submitted to the Office.

## SEARCH, FORMALITY AND SUBSTANTIVE EXAMINATION

The application will be received if it meets the filing requirements of (A). The Office will then conduct a formality (B) and substantive examination to determine whether the mark can be registered according to the criteria under the Trademark Law (C).

### A. Minimum Filing Requirements.

The following are the minimum filing requirements:

- (a) Name, nationality, and address of the applicant;
- (b) Representation of the mark (electronic sample, 5cm x 5cm);
- (c) Specific list of the goods or services for which the registration is sought; and
- (d) Power of attorney, if the applicant is a foreign individual or entity, or Thai power of attorney if the Thai applicant is represented;
- (e) Filing fee.

### B. Formality Requirements.

The Registrar may require the submission of the following documents:

- (a) Priority documents translated into the Thai language;
- (b) Translation into Thai of a document or any other evidence;

### C. Registrability.

To be registrable, a mark must be distinctive, not prohibited under the Thai Trademark Act, and is not the same as or similar to another mark registered to another person. The mark to be registered must be distinctive, shall have or consist of any of the following:

- (a) a personal name, a surname not being such according to its ordinary signification, a name of juristic person or tradename represented in a special manner;
- (b) a word or words having no direct reference to the character or quality of the goods and not being a geographical name prescribed by the Minister in the Ministerial Notifications;
- (c) combination of colors represented in a special manner, stylized letters, numerals or invented word;
- (d) the signature of the applicant for registration or some predecessor in his business or the signature of another person with his or her permission;



- (e) a representation of the applicant or of another person with his or her permission or of a dead person with the permission of his or her ascendants, descendants and spouse, if any;
- (f) an invented device.

Trademarks having or consisting of any of the following shall not be registrable:

- (a) state arms or crests, royal seals, official seals, Chakkri emblems, emblems and insignia of the royal orders and decorations, seals of office, seals of ministries, bureaus, departments or provinces;
- (b) national flags of Thailand, royal standard flags or official flags;
- (c) royal names, royal monograms, abbreviations of royal names or royal monograms;
- (d) representations of the King, Queen or Heir to the Throne;
- (e) names, words, terms or emblems signifying the King, Queen or Heir to the Throne or members of the royal family;
- (f) national emblems and flags of foreign states, emblems and flags of international organizations, emblems of head of foreign states, official emblems and quality control and certification of foreign states or international organizations, names and monograms of foreign states or international organizations, unless permission is given by the competent officer of the foreign state or international organization;
- (g) official emblems and emblems of the Red Cross or appellations "Red Cross" or "Geneva Cross";
- (h) a mark identical with or similar to a medal, diploma or certificate or any other mark awarded at a trade exhibition or competition held by the Thai government or a Thai government agency for public enterprise or any other government organ of Thailand, a foreign government or international organization unless such medal, diploma, certificate or mark has been actually awarded to the applicant for goods and is used in combination with the trademark;
- (i) any mark which is contrary to public order, morality or public policy;
- (j) a mark registered or not, which is identical with a well-known mark as prescribed by the Ministerial Notifications, or so similar thereto that the public might be confused as to the owner or origin of the goods;
- (k) trademarks similar to those under (a) (b) (c) (e) (f) or (g);
- (l) geographical indications protected under the law on geographical indications;
- (m) other trademarks prescribed by the Ministerial Notifications.

The mark will also be refused registration if:

- (a) it is identical with a trademark already registered by another person; or
- (b) is so similar to a registered trademark of another person that the public might be confused or misled as to the owner or origin of the goods, and such application is for goods of the same class or for goods of a different class found by the Registrar to be of the same character, he shall not register such trademark.



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

Once the application meets the requirements for registrability, the mark will be published in the Trademark Gazette. If no opposition is filed within 90 days from the date of publication, the mark will be registered.

## **CONTACT**

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# ECAP III

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