



SBC International Law Associates Company Limited

Types of Trademark

Trademark

A mark, which is used only in association with goods, is classified as a trademark. It must fulfill the characteristics defined by the laws, which include both the appearance and the purpose of its use.

Service Mark

A service mark is a mark used or proposed to be used upon or in connection with a service to distinguish the service using the service mark of the proprietor of such service mark.

Certification Mark

A certification mark is a mark used or proposed to be used by its proprietor on or in connection with another person, goods or services to certify the origin, composition, and method of production, quality or other characteristics of such goods; or to certify the nature, quality, type or other characteristics of the service.

Criterion for Trademark

A trademark must be visible and distinctive. The purpose of the mark must also be well specified and specific to the subject matter for which the trademark is used.

Conditions for Registration

Distinctiveness

It is the most important requirement because it ensures that a trademark distinguish one trademark bearing goods from the others. Thailand recognizes both the “inherent distinctiveness” and the “distinctiveness acquired through use”, where the latter is defined as a character which allows the public to distinguish registered goods from the other products.

Prohibited Marks

Other than the marks that are deemed indecent to the public moral and decency, the Trademark Act also specified categories of prohibited marks to include, for example the following:

- (a) Emblems associated with the royalty or governmental agencies,
- (b) Flags associated with Royal family or official agency or organization, international or otherwise.
- (c) Names or abbreviations associated with the Royal organizations or family,
- (d) Photos or portraits of the Royal family or any of the member thereof,
- (e) Names, words, statements or any mark that indicates the King, the Queen, the Crown Princess of Princess or the Royal family,
- (f) Official emblems associated with international organizations as notified under international convention or organizations,
- (g) Geographical indications which are protected by the relevant law,
- (h) Mark which is similar or identical to a generally well known mark according to the Ministerial Announcement, etc.



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Not identical with or Similar to a Registered Trademark

To avoid public confusion and misleading regarding a mark, the registrar, examiners and the granting authority are bestowed with the authority to determine whether a mark is identical or similar to registered marks in the same classification or different classification but the goods are of the same manner.

No Requirement of Use of Trademark

Even though the prior use of the trademark is not necessary a part of the registration requirement, it is essentially vital to indicate the distinctiveness through use of a requested trademark. At the same time, the Trademark Committee, established under the Trademark Act, may revoke any trademark on a “non-use” ground if it is found that (a) the trademark is registered without any bonafide intention to use it with the goods in question, (b) the trademark has not been used during the 3 years preceding the action of removal, unless it can be proven that there exists a special circumstance where the trademark were not able to be used.

Terms of Protection

A registered trademark is valid for 10 years from the date of registration, i.e. the filing date. However, it does not include the time spent during the court proceedings after an opposition to the registration. Renewal is indefinitely available but the owner must file for renewal at least 90 days prior to the expiration of the trademark. Otherwise, the trademark is deemed cancelled.

Trademark Infringement

Infringement occurs when a person uses the trademark duly registered in Thailand by another person with the goods for which the trademark is registered without authorization with the registered goods or otherwise. Infringement could occur with a non-registered trademark, as appeared in the passing off doctrine, the owner of a non-registered trademark may be protected under the Trademark Act.

Litigation on Trademark

Both the Trademark Act B.E. 2534 as amended in B.E. 2543 and the Penal Code provides statutory coverage for trademark litigation, where trademark is being used in a broad sense to also cover the service mark, certification mark and the collective marks. The civil litigation generally concerns the execution of the exclusive right of the registered trademark, e.g. the cancellation or the passing off of a trademark.

The criminal case with respect to trademark associates with the acts which the Trademark Act or the Penal code prescribes as criminal offences.



List of Government Fees

(1) An application for registration of a Trademark, service mark, certification mark or collective mark	For each kind of goods or service	500
(2) Printing block for a trademark, service mark or collective mark exceeding 5 cm. in length or width (Fraction of a centimeter shall be counted as a centimeter)	Per centimeter of excess	100
(3) Opposition to application under (1)	Each	1,000
(4) An application to assign a pending trademark, service mark, certification mark or collective mark	Per application	1,000
(5) Registration of a trademark, service mark,	For each kind of goods or service	300
(6) A substitute of certificate of registration	each	100
(7) Application to register an assignment or transfer by succession of a trademark, service mark, certification mark or collective mark	Per application	1,000
(8) amendment of particulars in a trademark registration under	Per application	200
(9) Renewal of a registration under (5)	For each kind of goods or service	1,000
(10) Petition to the Board to cancel a Registration under (5)	Each	500
(11) Application to Register a trademark or Service mark license	Per application	500
(12) Registration of a trademark or service mark license agreement	Per agreement	1,000
(13) Amendment of particular in registration under (12)	Per application	200
Application to cancel registration under (12)	Per application	200
(14) Amendment of applications under (1) (7) or (11)	Per request	100
(15) Application to amend certification marks regulations		
a) prior to registration of the mark	Per application	100
b) after registration of the mark	Per application	200
(16) appeal		
a) against an order of the Registrar under Section 16, 17, 27 or a decision of the Registrar under Section 37	Each	2,000
b) under other Sections	Each	1,000
(17) Application to examine the register and files (Fraction of an hour shall be counted as on hour)	Per hour	100
(18) Request for certified extracts from the register of trademark, service mark, certification mark or collective mark	Per set	200
(19) Request to make photocopies of documents	Per page	10
(20) Application for certified copies of documents in the same matter	Per page	
a) of not more than 10 pages	Per page	10
b) of more than 10 pages	Per document	100
(21) Application of certification concerning particulars of registration	Each	50
(22) Any other application	Per application	100