

TRADE MARK SNAPSHOT

FILING, NON-USE & OPPOSITION

Asia Pacific | 2019

10 
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With a combined team of over 400 people, including patent attorneys, trade mark attorneys and IP lawyers, Spruson & Ferguson is one of the only IP firms with true regional capability, knowledge and experience.

Spruson & Ferguson's trade marks team acts for a diverse range of clients from small businesses to the world's leading brands. Our highly qualified trade mark attorneys file more than 5,000 trade mark applications each year and provide a comprehensive trade mark protection service across the Asia-Pacific region.

We advise on all aspects of the trade mark lifecycle, including brand creation, registering trade marks locally and overseas, filing, all aspects of trade mark prosecution, defending actions for removal and monitoring correct trade mark usage.

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TRADE MARK FILING SNAPSHOT

	FIRST TO FILE	POWER OF ATTORNEY	NICE CLASSIFICATION	CERTIFIED COPY OF PRIORITY DOCUMENT	MULTI-CLASS	IS USE A CONDITION OF REGISTRATION	LETTER OF CONSENT ACCEPTED
AUSTRALIA	✗	✗	✓	✗	✓	✗	✓
BANGLADESH	✓	✓	✓	✓	✗	✗	✓
BRUNEI	✗	✗	✓	✓	✓	✗	✓
CAMBODIA	✓	✓	✓	✓	✓	✗	✓
CHINA	✓	✓	✓*	✓	✓	✗	1
FIJI	✗	✓	✗	2	✗	✗	✓
HONG KONG	✗	✗	✓	✗	✓	✗	✓
INDIA	✗	✓	✓	✓	✓	✗	✓
INDONESIA	✓	✓ & 3	✓	✓	✓	✗	✗
KIRIBATI	✗	✓	✓	4	✓	✗	✗
LAOS	✓	✓	✓	✓	✓	✗	5
MACAU	✓	✓	✓	✓	✗	✗	5
MALAYSIA	✗	3	✓	✓	✗	✗	✓
MONGOLIA	✓	✓	✓	✓	✓	✗	✓
MYANMAR	✗	✓	✓	✗	✓	✗	✗

1. Case by case and at the TRAB's absolute discretion after considering the overall similarities of the marks.

2. If filing based on UK registration it will be necessary to provide a certified copy.

3. Statutory declaration of proprietorship.

4. Only re-registration of a UK registration is possible. A certified copy of the corresponding UK registration is required.

5. Case by case and at Registrar's discretion.

6. Although LOC is acceptable, it is usually not sufficient in itself to overcome similarity rejection and should be supported with evidence of co-existence in the market place.

* Not all terms readily acceptable (many descriptions considered too broad). Some specifications need further itemisation.

** First to file with some qualifications.

TRADE MARK FILING SNAPSHOT

	FIRST TO FILE	POWER OF ATTORNEY	NICE CLASSIFICATION	CERTIFIED COPY OF PRIORITY DOCUMENT	MULTI-CLASS	IS USE A CONDITION OF REGISTRATION	LETTER OF CONSENT ACCEPTED
NEPAL	✓	✓	✓	✓	✗	✗	✓
NEW ZEALAND	✗	✗	✓	✗	✓	✗	✓
PAKISTAN	✓**	✓	✓	✓	✗	✗	✓
PAPUA NEW GUINEA	✗	✗	✓	✓	✗	✗	✗
PHILIPPINES	✓**	✓	✓	✗	✓	✓	✓
SAMOA	✗	✓	✓	✓	✓	✗	✓
SINGAPORE	✗	✗	✓	✗	✓	✗	✓
SOLOMON ISLANDS	✗	✓	✓	4	✓	✗	✗
SRI LANKA	✓	✓	✓	✓	✗	✗	6
TAIWAN	✓	✓	✓*	✓	✓	✗	✓
THAILAND	✓	✓	✓*	✓	✓	✗	5
TONGA	✗	✓	✓	✓	✓	✗	5
TUVALU	✗	✓	✓	4	✓	✗	✗
VANUATU	✗	✓	✓	✓	✓	✗	5
VIETNAM	✓	✓	✓	✓	✓	✗	5

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NON-USE & OPPOSITION SNAPSHOT

	NON-USE PERIOD	STANDING TO NON-USE	BURDEN OF PROOF IN NON-USE CANCELLATION	OPPOSITION PERIOD	STANDING TO OPPOSE	EXTENSION TO OPPOSE
AUSTRALIA	3 years continuous use but filed 5 years from filing date of a registered mark	Any person	Owner	2 months from date of publication	Any person	Only extendable under two grounds (error/omission or circumstances beyond control)
BANGLADESH	5 years from date of issuance of certificate of registration	Any aggrieved person	Neutral	2 months from date of publication	Any person	Extendable by 1 to 3 months
BRUNEI	5 years from completion of the registration	Any person	Owner	3 months from date of publication	Any person	Extendable
CAMBODIA	5 years from the date of registration. Note that the validity of the registration and non-use cancellation is calculated from the date of registration	Any interested person	Owner	90 days from date of publication	Any interested person	Not extendable
CHINA	3 years from grant date	Any person	Registrant	3 months from date of publication	Aggrieved person	Not extendable
FIJI	5 years from the date of application	Any aggrieved person	Neutral	3 months from date of publication	Any person	Extendable
HONG KONG	3 years from actual registration date	Any person	Applicant	3 months from date of publication	Any person	Extendable for 2 months
INDIA	Continuous period of 5 years from the date the mark is entered in the register	Any aggrieved person	Owner	4 months from the date the Trade Marks Journal is made available to public	Any person	Not extendable
INDONESIA	3 consecutive years from the registration date	Any aggrieved person	Owner	2 months from the date of publication. All filed trade mark applications will be immediately published	Any person	Not extendable
KIRIBATI	N/A	N/A	N/A	N/A	N/A	N/A
LAOS	5 years from the date of registration	Any person	Neutral	90 days after publishing on Official Gazette of Industrial Property	Any person	Extendable by 30 days
MACAU	3 years from grant date	Any person	Registrant	2 months from date of publication	Aggrieved person	Not extendable
MALAYSIA	3 years from the date of issuance of certificate of registration	Any aggrieved person	Applicant	2 months from date of publication	Any person	Extendable. Total of 6 months
MONGOLIA	N/A	N/A	N/A	1 year from registration date	Any person	N/A
MYANMAR	N/A	N/A	Plaintiff	N/A	N/A	No opposition process. However marks can be cancelled through litigation.

NON-USE & OPPOSITION SNAPSHOT

	NON-USE PERIOD	STANDING TO NON-USE	BURDEN OF PROOF IN NON-USE CANCELLATION	OPPOSITION PERIOD	STANDING TO OPPOSE	EXTENSION TO OPPOSE
NEPAL	1 year from the date of registration	Any person	Neutral	90 days from date of publication	Any person	Not extendable
NEW ZEALAND	3 years from date of registration	Any aggrieved person	Neutral	2 months from date of publication	Any person	Extendable. 1 month without mutual consent, 2 months with mutual consent
PAKISTAN	5 years from completion of the registration	Any interested person	Owner	2 months from date of publication	Any person	Extendable. Up to 2 extensions of 1 month each
PAPUA NEW GUINEA	3 years and 1 month from date of registration	Any aggrieved person	Neutral	3 months from date of publication	Any person	Extendable. 1 period of 3 months
PHILIPPINES	3 years continuous use	Any aggrieved person	Applicant	30 days from date of publication	Any aggrieved person	Extendable. 3 periods of 30 days
SAMOA	Continuous 3 year period from the date of registration	Any aggrieved person	Owner	3 months from date of publication	Any person	Extendable. Up to 3 extensions of 60 days
SINGAPORE	5 years from the date of issuance of certificate of registration	Any person	Owner	2 months from date of publication	Any person	Extendable. 1 period of 2 months
SOLOMON ISLANDS	N/A	N/A	N/A	N/A	N/A	N/A
SRI LANKA	5 years from the date of registration cancellation in court	Any aggrieved person	Owner	3 months from date of publication	Any person	Extendable. 1 period of 3 months
TAIWAN	3 years from date of registration	Any person	Registrant	3 months from date of registration	Any person	Not extendable
THAILAND	Not limited to time. Generally 3 years prior to the cancellation action	Any aggrieved person	Neutral	60 days from date of publication	Any person	Not extendable
TONGA	Continuous period of 3 years from the date of registration	Any aggrieved person	Owner	3 months from date of publication	Any person	Not extendable
TUVALU	N/A	N/A	N/A	N/A	N/A	N/A
VANUATU	Three years from the date of registration	Any aggrieved person	Owner	28 days from date of publication	Any person	Not extendable
VIETNAM	5 years from the date of registration and before the date of the Cancellation of the Request	Any person	Owner	From date of publication in IP Gazette to date on which decision to grant or refuse to grant certificate of registration issued	Any person	Not extendable



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