

Trade Marks Snapshot *Asia Pacific*

Filing, Non-use and Opposition in Asia Pacific



Protecting and enforcing your trade marks across Asia Pacific

Spruson & Ferguson is a leading intellectual property (IP) firm providing a range of IP services throughout the Asia-Pacific region from our Bangkok, Beijing, Brisbane, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, Singapore and Sydney offices.

With a combined team of over 480 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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10

Offices in Asia Pacific



Specialist
Team of TM Attorneys



5K+

Applications filed each year



— Jurisdictions with physical offices and/or direct filing

— Other jurisdictions serviced

480⁺
Employees

190⁺
IP professionals

25⁺
Countries

10
Offices

Trade marks snapshot summary

Jurisdiction

	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	x	x	✓	x	✓	x	✓
Brunei	✓	x	✓	✓	✓	x	✓
Cambodia	✓	✓	✓	✓	✓	x	5
China	✓	✓	✓ *	✓	✓	x	1
Fiji	x	✓	x	2	x	x	✓
Hong Kong	x	x	✓	x	✓	x	✓
India	x	✓	✓	✓	✓	x	✓
Indonesia	✓	✓ & 3	✓	✓	✓	x	x
Kiribati	x	✓	✓	4	✓	x	x
Laos	✓	✓	✓	✓	✓	x	5
Macau	✓	✓	✓	✓	x	x	5
Malaysia	x	x	✓	x	✓	x	✓
Mongolia	✓	✓	✓	✓	✓	x	✓
Myanmar	✓	x	✓	x	✓	x	x

1. Case by case and at the CNIPA'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 marks snapshot summary

Jurisdiction

	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	✓ **	✓	✓	✗	✓	✗	5
Samoa	✗	✓	✓	✓	✓	✗	✗
Singapore	✗	✗	✓	✗	✓	✗	✓
Solomon Islands	✗	✓	✓	4	✓	✗	✗
Sri Lanka	✓	✓	✓	✓	✗	✗	6
Taiwan	✓	✓	✓ *	✓	✓	✗	✓
Thailand	✓	✓	✓ *	✓	✓	✗	5
Tonga	✗	✓	✓	✓	✓	✗	5
Tuvalu	✗	✓	✓	4	✓	✗	✗
Vanuatu	✗	✓	✓	✗	✓	✗	5
Vietnam	✓	✓	✓	✓	✓	✗	5

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** First to file with some qualifications.

Non-use and opposition snapshot

Jurisdiction

	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 if filed before 24 February 2019, and 3 years from the date of registration for marks filed after that date	Any person	Owner	2 months from date of publication	Any person	Only extendable under two grounds (error/omission or circumstances beyond control)
Brunei	5 years from completion of the registration	Any person	Owner	3 months from date of publication	Any person	Not 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	Within 90 days after the date of publishing the Official Gazette	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	Plaintiff	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	Any consecutive period of 5 years after registration date	Any person	Owner	Within 60 days of the date of publication of the trademark application in the Official Gazette	Any person	Extendable
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 notification of registration	Any aggrieved person	Applicant	2 months from date of publication	Any person	Extendable for a maximum of 2 months
Mongolia	N/A	N/A	N/A	1 year from registration date	Any person	N/A
Myanmar	3 continuous years from the date of registration	Any person	Plaintiff	60 days from date of publication	Any person	Not extendable

Non-use and opposition snapshot

Jurisdiction

	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	3 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 once only for 45 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 up to 6 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	Owner	60 days from date of publication	Any interested 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	3 years from 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	5 months from date of publication	Any person	Not extendable

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