International Comparative Legal Guides

Trade Marks 2026

A practical cross-border resource to inform legal minds

15th Edition

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1 Relevant Authorities and Legislation

1.1 What is the relevant trade mark authority in your jurisdiction?

The relevant trade mark authority is the Taiwan Intellectual Property Office (TIPO).

1.2 What is the relevant trade mark legislation in your jurisdiction?

The Taiwan Trademark Act (Trademark Act) was first enacted and promulgated on May 6, 1930.

The current Trademark Act was amended and promulgated on May 24, 2023 and became effective on May 1, 2024.

2 Application for a Trade Mark

2.1 What can be registered as a trade mark?

Any sign with distinctiveness, which may consist of words, designs, symbols, colours, three-dimensional shapes, motions, holograms, sounds or any combination thereof, can be registered as a trade mark.

2.2 What cannot be registered as a trade mark?

There is no sign that would be refused registration in Taiwan so long as it is distinctive enough.

2.3 What information is needed to register a trade mark?

The following information is needed:

- A scanned copy of the Power of Attorney.
- Specification of goods/services sought for registration.
- The filing date and application number of the corresponding priority application (if priority is claimed pursuant to the corresponding World Trade Organization (WTO) member country's trade mark application).
- A scanned copy of the certified copy of the corresponding priority application (if priority is claimed pursuant to the corresponding WTO member country's trade mark application).
- The date of the first display of the goods or services and the name of the exhibition (if priority is claimed pursuant to the exhibition).
- The exhibition priority document (if priority is claimed pursuant to the exhibition).
- A print (not less than 5cm and not exceeding 8cm in length and width) of the mark.

2.4 What is the general procedure for trade mark registration?

The trade mark registration procedure and estimated timeframe are provided below:

- The applicant files the application.
- It takes approximately nine months to receive an official decision.
- The registration fees must be paid within two months from the day after the approval decision has been received.
- It takes approximately one month to receive the registration certificate after the payment of the registration fees.

2.5 How is a trade mark adequately represented?

Traditional trade marks

- A traditional trade mark should be presented in a still, two-dimensional image.

Non-traditional trade marks

- Three-dimensional trade mark: Such mark should be presented by views depicting the three-dimensional shape of the trade mark. The applicant shall furnish a description explaining the three-dimensional shape. The reproduction may use broken lines to show the manner, placement or context in which the trade mark is used on the designated goods or services with a description explaining such broken lines.
- Colour trade mark: Such mark does not have to be claimed using an internationally recognised colour code and can be presented by a sample of the colour(s). The reproduction may use broken lines to show the manner, placement or context in which the colour is, or the colours are, used on the designated goods or services. The matter shown by the broken lines is not part of the trade mark. The applicant shall furnish a description explaining such broken lines.
- Sound trade mark: Such mark should be represented by a musical notation on a stave, numeric music score or written explanation.
- Motion trade mark: Such mark can be presented by still images of the varying process of the moving images. The applicant shall furnish a description explaining the movement in sequential order.

- Hologram trade mark: Such mark can be presented by the perspective drawing(s) of the hologram. The applicant should provide a description stating the hologram. For a hologram that generates different representations because of different perspective views, the description should include the changes of the different perspective drawings.
- Repeating-pattern trade mark: Such mark can be presented by the pattern structure and serial arrangement. Also, the trade mark may be displayed in dotted lines showing the manner, position or context it is used on the designated goods or services; in particular, how the repeating-pattern trade mark is used on a specific portion of goods indicating the actual use should be clearly explained in the trade mark description; however, the dotted lines should not be part of the trade mark.
- Smell trade mark: Such mark should be presented in writing. The applicant may submit product samples, product packages, and articles related to the services provided in actual use, or test papers with the smell, etc., as the specimens of a smell trade mark applied for registration.
- Position trade mark: Such mark can be presented by broken lines to show the position where the trade mark is actually applied on the goods or services, and a clear description of the trade mark itself and how and where the trade mark is used on the goods or services.

2.6 How are goods and services described?

Goods and services are classified according to the Nice Classification system. Most of the class headings will be considered too broad/indefinite in meaning to be acceptable for registration purposes; it is necessary to specify the goods or services. It is not permissible to claim "all goods in class".

2.7 To the extent 'exotic' or unusual trade marks can be filed in your jurisdiction, are there any special measures required to file them with the relevant trade mark authority?

The measures required to file non-traditional trade marks are given in question 2.5. In filing an application for registration of other non-traditional trade marks that are not given in question 2.5, the applicant must furnish the reproduction of the proposed trade mark. If the reproduction does not clearly and completely present the trade mark, a description or even specimen(s) thereof should be provided in order to precisely define the scope of the rights and to enable third parties to ascertain the registered trade mark and its scope of rights according to the publication of the trade mark registration.

2.8 Is proof of use required for trade mark registrations and/or renewal purposes?

Proof of use is not required for such purposes.

2.9 What territories (including dependents, colonies, etc.) are or can be covered by a trade mark in your jurisdiction?

A trade mark registered in Taiwan can only be protected in Taiwan.

2.10 Who can own a trade mark in your jurisdiction?

Any natural person, juridical person, partnership, legally established group without juridical personality or business registered in accordance with the Business Registration Act, intending to engage in business with regard to designated goods or services, can own a Taiwanese trade mark.

2.11 Can a trade mark acquire distinctive character through use?

A trade mark can acquire distinctive character through use. Generally speaking, it needs at least three years of use and advertising in Taiwan to acquire distinctive character.

2.12 How long on average does registration take?

It takes about 10 months from filing to registration if there is no objection from the examiner.

2.13 What is the average cost of obtaining a trade mark in your jurisdiction?

In addition to attorneys' fees, the official fees for one application in one class are quoted below:

Filing fees

Goods

- TWD 3,000 (approximately USD 97) if the designated goods are under 20 items; and
- TWD 200 (approximately USD 6) for each additional item if over 20 items.

Services

- TWD 3,000 (approximately USD 97); and
- TWD 500 (approximately USD 16) for each additional service if in excess of five services in subclass "retail services of specific goods" in class 35.

Registration fees

- TWD 2,500 (approximately USD 80).

2.14 Is there more than one route to obtaining a registration in your jurisdiction?

Except by filing an application in Taiwan, there is no other route to obtaining a registration in Taiwan.

2.15 Is a Power of Attorney needed?

A scanned copy of the Power of Attorney (simply signed by an authorised person) is required.

2.16 If so, does a Power of Attorney require notarisation and/or legalisation?

Neither notarisation nor legalisation is required.

2.17 How is priority claimed?

The following documents and information are needed to claim

priority pursuant to the corresponding WTO member country's trade mark application:

- Filing date and application number of the corresponding priority application: must be stated at the time of filing the Taiwanese application.
- A certified copy of the corresponding priority application: must be submitted within three months after the Taiwanese application is filed; an extension of time to file the certified copy is not permitted.

The following documents and information are required to claim priority pursuant to the exhibition:

- The date of first display of the goods or services and the name of the exhibition: must be stated at the time of filing the Taiwanese application.
- Exhibition priority document: must be submitted within three months after the Taiwanese application is filed; an extension of time to file the priority document is not permitted.

2.18 Does your jurisdiction recognise Collective or Certification marks?

Taiwan recognises Collective and Certification marks.

A Collective trade mark is a sign that serves to indicate goods or services of a member in an association, society or any other group that is a juridical person and to distinguish goods or services of such member from those of others who are not members.

A Certification mark is a sign that serves to certify a particular quality, accuracy, material, mode of manufacture, place of origin or other matters of another person's goods or services by the proprietor of the Certification mark, and to distinguish the goods or services from those that are not certified. Only a juridical person, group or government agency that is competent to certify another person's goods or services is eligible to apply for registration of a Certification mark.

3 Absolute Grounds for Refusal

3.1 What are the absolute grounds for refusal of registration?

The principal absolute grounds for refusal of registration are provided below:

- A trade mark that is non-distinctive.
- A trade mark that is exclusively necessary for the goods or services to be functional.
- A trade mark that is identical or similar to the national flag, national emblem, national seal, military flags, military insignia, official seals, or medals of the Republic of China (ROC), or the state flags of foreign countries, or the armorial bearings, national seals or other state emblems of foreign countries communicated by any member of the WTO under Paragraph 3 of Article 6*ter* of the Paris Convention.
- A trade mark that is identical to the portrait or name of Dr. Sun Yat-sen or the head of state.
- A trade mark that is identical or similar to the mark of a government agency of the ROC or an official exhibition held thereby, or the medal or certificate awarded thereby.
- A trade mark that is identical or similar to the armorial bearings, flags, other emblems, abbreviations, and names of international intergovernmental organisations or well-known domestic or foreign institutions undertaking business for public interest, and hence likely to mislead the public.
- A trade mark that is identical or similar to official signs and hallmarks indicating control and warranty adopted by domestic or foreign countries, and designated to identical or similar goods or services.
- A trade mark that is contrary to public policy or to accepted principles of morality.
- A trade mark that is likely to mislead the public as to the nature, quality, or place of origin of the goods or services.
- A trade mark that is identical or similar to a geographical indication for wines or spirits in the ROC or a foreign country, and is designated to goods that are identical or similar to wines or spirits, where that foreign country concludes with the ROC an agreement, or accedes to an international treaty, to which the ROC also accedes, or has reciprocal recognition with the ROC of protection of geographical indications for wines or spirits.
- A trade mark that is identical or similar to another person's registered trade mark or earlier filed trade mark and to be applied for goods or services identical or similar to those for which the registered trade mark is protected or the earlier filed trade mark is designated, and hence there exists a likelihood of confusion of relevant consumers, unless the consent of the proprietor of said registered trade mark or earlier filed trade mark to the application has been given and is not obviously improper.
- A trade mark that is identical or similar to another person's well-known trade mark or mark, and hence there exists a likelihood of confusion of the relevant public or a likelihood of dilution of the distinctiveness or reputation of said well-known trade mark or mark, unless the proprietor of said well-known trade mark or mark consents to the application.
- A trade mark that is identical or similar to another person's earlier used trade mark and to be applied for goods or services identical or similar to those for which the earlier used trade mark is applied, where the applicant, with the intent to imitate the earlier used trade mark, being aware of the existence of the earlier used trade mark due to contractual, regional, or business connections, or any other relationship with the proprietor of the earlier used trade mark, files the application for registration, unless the proprietor of said earlier used trade mark consents to the application.
- A trade mark that contains another person's portrait or well-known name, stage name, pseudonym, or alternative name, unless said person consents to the application.
- A trade mark that is identical or similar to the name of a well-known juridical person, business or any group, and hence there exists a likelihood of confusion of the relevant public, unless said juridical person, business or group consents to the application.
- A trade mark that is an infringement of another person's copyright, patent right, or any other right, where a final judgment of the court has been rendered, unless said person consents to the application.

3.2 What are the ways to overcome an absolute grounds objection?

An absolute grounds refusal can be overcome through argument, acquired distinctiveness through use, and/or obtaining a letter of consent.

3.3 What is the right of appeal from a decision of refusal of registration from the Intellectual Property Office?

A decision can be appealed in its entirety.

3.4 What is the route of appeal?

The route of appeal is as follows:

- In disagreement with the TIPO's decision, an initial appeal may be filed with the Ministry of Economic Affairs (MOEA) within 30 days, counting from the day after the TIPO's decision has been received.
- In disagreement with the MOEA's decision, an administrative suit may be instituted with the Intellectual Property and Commercial Court (IPCC) within two months, counting from the day after the MOEA's decision has been received.
- In disagreement with the IPCC's judgment, an ultimate appeal may be instituted with the Supreme Administrative Court within 20 days, counting from the next day after the IPCC's judgment has been received.

4 Relative Grounds for Refusal

4.1 What are the relative grounds for refusal of registration?

With respect to the examination of an application for trade mark registration, Taiwan adopts the "comprehensive examination system", which means that the trade mark authority *ex officio* examines all grounds for refusal including grounds regarding conflicting trade marks that involve only private interests.

4.2 Are there ways to overcome a relative grounds objection?

An objection can be overcome by argument, limiting the specification, a letter of consent, and/or invalidating the earlier mark.

4.3 What is the right of appeal from a decision of refusal of registration from the Intellectual Property Office?

A decision can be appealed in its entirety.

4.4 What is the route of appeal?

Please see question 3.4.

5 Opposition

5.1 On what grounds can a trade mark be opposed?

The principal grounds for opposition are given below:

- A trade mark that is non-distinctive.
- A trade mark that is exclusively necessary for the goods or services to be functional.
- A trade mark that is likely to mislead the public as to the nature, quality, or place of origin of the goods or services.
- A trade mark that is identical or similar to a geographical indication for wines or spirits in the ROC or a foreign country, and is designated to goods that are identical or similar to wines or spirits, where that foreign country concludes with the ROC an agreement, or accedes to an international treaty, to which the ROC also accedes, or has reciprocal recognition with the ROC of protection of geographical indications for wines or spirits.
- A trade mark that is identical or similar to another person's registered trade mark or earlier filed trade mark and to be applied for goods or services identical or similar to those for which the registered trade mark is protected or the earlier filed trade mark is designated, and hence there exists a likelihood of confusion of relevant consumers.
- A trade mark that is identical or similar to another person's well-known trade mark or mark, and hence there exists a likelihood of confusion of the relevant public or a likelihood of dilution of the distinctiveness or reputation of said well-known trade mark or mark.
- A trade mark that is identical or similar to another person's earlier used trade mark and to be applied for goods or services identical or similar to those for which the earlier used trade mark is applied, where the applicant, with the intent to imitate the earlier used trade mark, being aware of the existence of the earlier used trade mark due to contractual, regional, or business connections, or any other relationship with the proprietor of the earlier used trade mark, files the application for registration.

5.2 Who can oppose the registration of a trade mark in your jurisdiction?

Anyone can oppose the registration of a Taiwanese trade mark.

5.3 What is the procedure for opposition?

The procedure is as follows:

- The opposer files the opposition.
- The TIPO notifies the trade mark registrant to submit a defence within a certain time limit (normally 30 days).
- The trade mark registrant submits a defence.
- The TIPO notifies the opposer to submit supplementary opposition reasons within a certain time limit (normally 30 days).
- The TIPO issues a decision.
- The opposition is finalised if no appeal is filed.

6 Registration

6.1 What happens when a trade mark is granted registration?

The registration fees must be paid within two months from the day after the approval decision has been received. The trade mark will be registered and published after payment of the registration fees, and a registration certificate will then be issued.

6.2 From which date following application do an applicant's trade mark rights commence?

Trade mark rights in Taiwan commence from the date of registration.

6.3 What is the term of a trade mark?

The term of a trade mark is 10 years.

6.4 How is a trade mark renewed?

Renewal will be granted upon the filing of a renewal application and payment of the official fees.

In addition to attorneys' fees, the official fee for one application for renewal of one registration in one class is TWD 4,000 (approximately USD 127).

The renewal application shall be made within six months before the expiration of its period. However, it is permitted to pay twice the official fees for renewal within six months after the expiration of the period.

7 Registrable Transactions

7.1 Can an individual register the assignment of a trade mark?

Yes, an individual can register the assignment of a trade mark, and such assignment shall be recorded with the TIPO.

To record an assignment, the following documents are needed:

- a scanned copy of the Power of Attorney of the Assignee signed by an authorised person; and
- a scanned copy of the assignment agreement signed by the parties.

7.2 Are there different types of assignment?

A partial assignment is possible for certain goods or services and a trade mark can be assigned with or without goodwill.

7.3 Can an individual register the licensing of a trade mark?

Yes, an individual can register the licensing of a trade mark, and such licence shall be recorded with the TIPO.

A licence agreement is no longer required for filing a licence application if the application is filed by the registrant. A scanned copy of the licence agreement signed by the parties is acceptable if the licence application is filed by the licensee.

7.4 Are there different types of licence?

A registered trade mark may be licensed by the proprietor, exclusively or non-exclusively, for all or some of the designated goods or services for which it is registered and for a particular locality.

7.5 Can a trade mark licensee sue for infringement?

Only an exclusive licensee is entitled, within the scope of the licence, to bring infringement proceedings in his/her own name unless otherwise prescribed in a licensing contract.

7.6 Are quality control clauses necessary in a licence?

Quality control clauses are not necessary in a licence.

7.7 Can an individual register a security interest under a trade mark?

Yes, an individual can register a security interest under a trade mark, and a creation, change, or extinguishment of a security interest shall be recorded with the TIPO.

7.8 Are there different types of security interest?

No, there are not.

8 Revocation

8.1 What are the grounds for revocation of a trade mark?

The principal grounds for revocation are provided below:

- Where the trade mark is altered by the proprietor in different forms from those by which it was registered or supplemented with additional notes, whereby the trade mark is identical or similar to another person's registered trade mark in relation to goods or services that are identical or similar to those for which another person's registered trade mark is designated, and hence there exists a likelihood of confusion of relevant consumers.
- Where the trade mark has not yet been put to use or such use has been suspended for a continuous period of not less than three years without proper reasons for non-use.
- Where the trade mark has become the generic mark or term, or common shape for the designated goods or services.

8.2 What is the procedure for revocation of a trade mark?

The procedure is as follows:

- The petitioner files a revocation petition.
- The TIPO notifies the trade mark registrant to submit a defence within a certain time limit (normally 30 days).
- The trade mark registrant submits a defence.
- The TIPO notifies the petitioner to submit supplementary revocation reasons within a certain time limit (normally 30 days).
- The TIPO issues a decision.
- The revocation is finalised if no appeal is filed.

8.3 Who can commence revocation proceedings?

Anyone can commence revocation proceedings.

8.4 What grounds of defence can be raised to a revocation action?

The main grounds of defence may include:

- Non-similarity between two parties' trade marks.
- No likelihood of confusion in the case.
- The trade mark is not used in a form as registered but should be considered genuine use because its identity remains the same according to the general social concept.

8.5 What is the route of appeal from a decision of revocation?

Please see question 3.4.

9 Invalidity

9.1 What are the grounds for invalidity of a trade mark?

Please see question 5.1.

9.2 What is the procedure for invalidation of a trade mark?

The procedure is as follows:

- The petitioner files an invalidation petition.
- The TIPO notifies the trade mark registrant to submit a defence within a certain time limit (normally 30 days).
- The trade mark registrant submits a defence.
- The TIPO notifies the petitioner to submit supplementary invalidation reasons within a certain time limit (normally 30 days).
- The TIPO issues a decision.
- The invalidation is finalised if no appeal is filed.

9.3 Who can commence invalidation proceedings?

Only an interested party can commence invalidation proceedings.

9.4 What grounds of defence can be raised to an invalidation action?

The main grounds of defence may include:

- Non-similarity between two parties' trade marks.
- No likelihood of confusion in the case.
- The cited mark is not well known in Taiwan in cases where the invalidation action is based on the well-known status of such mark.
- The disputed mark is not filed in bad faith.
- The disputed mark is inherently distinctive or has acquired distinctiveness through use.

9.5 What is the route of appeal from a decision of invalidity?

Please see question 3.4.

10 Trade Mark Enforcement

10.1 How and before what tribunals can a trade mark be enforced against an infringer?

According to the Trademark Act, a trade mark owner may initiate a criminal and/or civil action against an infringer in Taiwan. In the event of trade mark infringement, a trade mark owner may initiate a civil action with the IPCC to seek infringement removal and damages. The IPCC should have exclusive jurisdiction over civil cases. Alternatively, the trade mark owner may file a criminal complaint for violation of the Trademark Act with the district prosecutor's office that has jurisdiction in the place where the suspected infringer has his/her domicile or where he/she commits the violation of the Trademark Act. After the infringer is prosecuted, the case shall be heard by the district court with jurisdiction over the place where the crime is committed or where his/her domicile is. Upon appeal, the case should be heard by the IPCC in the second-instance proceedings.

10.2 What are the key pre-trial procedural stages and how long does it generally take for proceedings to reach trial from commencement?

In Taiwan, instead of the pre-trial discovery regime adopted in the US and Europe, the preparatory proceedings should go first before the trial proceedings in a civil or criminal action with respect to a trade mark infringement. The preparatory proceedings for a civil action usually take around five to eight months, during which period the judge first examines whether the required procedural formalities are met, and the parties submit their respective arguments or move for investigation on evidence. The judge compiles and lists the disputed issues of the case. In a criminal action in regard to a trade mark infringement, the judge, during the preparatory proceedings, compiles the substantive issues and evidence presented by the parties, provides opinions with respect to the admissibility of evidence presented by the parties, and decides whether to deny/accept the motion(s) for investigation on evidence. The preparatory proceedings for a criminal action usually take around three to five months.

10.3 Are (i) preliminary, and (ii) final injunctions available and if so, on what basis in each case?

Yes, preliminary injunctions and final injunctions are available in Taiwan:

(i) A preliminary injunction is granted if the claimant can show that an injunction is necessary to prevent material harm or imminent danger or other similar circumstances. The factors generally considered by the court to determine whether a preliminary injunction is warranted include (a) likelihood of success on the merits of the case, (b) whether the claimant would suffer irreparable harm in the absence of an injunction, (c) balance of interests between both parties, and (d) impact on public interest.

(ii) Final injunctions are typically granted if the claimant is successful at trial in establishing that (a) the trade mark is infringed (trade mark similarity and likelihood of confusion), and (b) the defendant is currently engaging in infringing activities or is likely to in the future.

10.4 Can a party be compelled to provide disclosure of relevant documents or materials to its adversary and if so, how?

Yes, a party in a civil action may move the court to order the opposing party to produce documentary evidence in the opposing party's possession. The motion must specify the relationship between such documentary evidence and the disputed fact to be proved, as well as the legal ground for the opposing party's duty to produce such documents or materials. Under Article 344 of the Code of Civil Procedure, a party has the duty to disclose: (a) documents to which such party has made reference in the course of the proceedings;

(b) documents whose delivery or inspection the other party may require, pursuant to applicable laws; (c) documents that were prepared for the interest of the other party; (d) commercial accounting books; and (e) documents that were made in respect of matters relating to the action. The party may refuse to produce such (e) documents that involve privacy or business secrets of a party or a third person and the disclosure of such documents may result in material harm to such party or third person. Notwithstanding, in order to determine whether the party has a justifiable reason to refuse disclosure of such documents, the court, if necessary, may order the party to produce the documents and examine them in private.

10.5 Are submissions or evidence presented in writing or orally and is there any potential for cross-examination of witnesses?

In a criminal action for trade mark infringement, in principle, arguments or written statements made out of court by any person other than the defendant of an action cannot be admitted as evidence, unless they are made by such a person being cross-examined in court. In addition, the relevant provisions of the Code of Criminal Procedure governing expert witnesses and expert examinations prescribe the mandatory elements that must be included in expert examination reports in order for them to be admissible as evidence. Furthermore, in principle, an expert witness is required to appear in court during trial to provide oral explanations.

In a civil action for trade mark infringement, either party may introduce a desired witness(es) or produce evidence in written form and may also move for the judge to conduct a necessary examination of the witness(es) or conduct such examination himself/herself after informing the judge.

10.6 Can infringement proceedings be stayed pending resolution of validity in another court or the Intellectual Property Office?

Article 41 of the Intellectual Property Case Adjudication Act provides that, where a party asserts or raises as a defence that an intellectual property right is subject to revocation or invalidation, the court shall make its own determination as to whether such assertion or defence is well founded. In such circumstances, the provisions of the Code of Civil Procedure, the Administrative Litigation Act, or any other laws governing the suspension of proceedings shall not apply.

10.7 After what period is a claim for trade mark infringement time-barred?

A damages claim for trade mark infringement is time-barred after a two-year period from the time when the trade mark owner became aware of the infringement and the infringer, or a 10-year period from the time when the infringement took place, whichever expires earlier.

10.8 Are there criminal liabilities for trade mark infringement?

Yes, there are criminal liabilities for trade mark infringement in Taiwan.

10.9 If so, who can pursue a criminal prosecution?

The trade mark owner and/or the exclusive licensee can bring a criminal action against the infringer(s).

10.10 What, if any, are the provisions for unauthorised threats of trade mark infringement?

Any person who commits any of the following acts, in the course of trade and without the consent of the proprietor of a registered or Collective trade mark, shall be liable to imprisonment for a period not exceeding three years and/or a fine not exceeding TWD 200,000:

(1) using a trade mark that is identical to the registered or Collective trade mark in relation to goods or services that are identical to those for which it is registered;
(2) using a trade mark that is identical to the registered or Collective trade mark and used in relation to goods or services similar to those for which the registered or Collective trade mark is designated, and hence there exists a likelihood of confusion of relevant consumers; or
(3) using a trade mark that is similar to the registered or Collective trade mark and used in relation to goods or services identical or similar to those for which the registered or Collective trade mark is designated, and hence there exists a likelihood of confusion of relevant consumers (Article 95 of the Trademark Act).

Any person who knowingly sells or, due to an intent to sell, possesses, displays, exports, or imports infringing goods shall be liable to imprisonment for a period not exceeding one year and/or a fine not exceeding TWD 50,000; the same penalties shall also apply to acts performed through electronic media or on the Internet (Article 97 of the Trademark Act).

11 Defences to Infringement

11.1 What grounds of defence can be raised by way of non-infringement to a claim of trade mark infringement?

A suspected trade mark infringer may assert non-infringement by presenting the following grounds as defences: (1) the allegedly infringing mark is not used as a trade mark; (2) the allegedly infringing mark is not used for marketing purposes; (3) the allegedly infringing mark is not identical or similar to the allegedly infringed mark and is unlikely to cause confusion; or (4) the allegedly infringed mark should be cancelled or revoked.

11.2 What grounds of defence can be raised in addition to non-infringement?

In addition to a non-infringement allegation, the suspected infringer may assert that:

(1) he/she properly uses the mark in dispute and should be free from the capacity of the allegedly infringed trade mark right in the following circumstances: (i) he/she indicates his/her own name, or the term, shape, quality, nature, characteristic, intended purpose, place of origin, or any other description in relation to his/her own goods or services, in accordance with honest practices in industrial or commercial matters, but does not use the mark in dispute as a trade mark; (ii) he/she indicates the purpose of use of goods or services in accordance with honest practices in industrial or commercial matters, where it

is necessary to use the registered trade mark to indicate goods or services of the proprietor. It shall not apply if there exists a likelihood of confusion among relevant consumers as a result of such use; (iii) he/she uses the mark in dispute where it is necessary for the goods or services to be functional; or (iv) he/she uses, with *bona fide* intent and prior to the filing date of the registered trade mark, an identical or similar mark on goods or services identical or similar to those for which the registered trade mark is protected, provided that the use is only on the original goods or services and the proprietor of the registered trade mark is entitled to request the party who uses the trade mark to add an appropriate and distinguishing indication. In addition, if goods have been put on the domestic or foreign market under a registered trade mark by the proprietor or with the proprietor's consent, the proprietor is not entitled to claim trade mark rights on such goods, unless such claim is to prevent the condition of the goods having been changed or impaired after they have been put on the market, and unless there exist other legitimate reasons (Article 36 of the Trademark Act);

(2) no damages should be awarded because the suspected infringer lacks the subjective intention or negligence on which an award of damages must be based; or

(3) the plaintiff's claim for damages was time-barred (see question 10.7).

12 Relief

12.1 What remedies are available for trade mark infringement?

In criminal aspects, the trade mark owner may file a criminal complaint against an infringer for violation of the Trademark Act and seek a raid action to be initiated by the police and further initiate an incidental civil action during the trial proceedings after the prosecutor's indictment, which will have more impeding effect and also satisfy the cost-saving purpose. Seized counterfeit items will be confiscated and destroyed after the judge confirms and sustains the occurrence of a violation of the Trademark Act.

A civil action serves as another remedy, by which a trade mark owner may seek injunction, removal of infringement, compensation, and destruction of the counterfeits. In addition, knowingly using the same or a similar trade mark to another's well-known registered trade mark in a manner that is likely to diminish the distinctiveness or reputation of that trade mark, or knowingly using words from another's well-known registered trade mark as the name of one's own company, trade name, organisation, domain name, or other designation of a business entity in a manner that is likely to cause confusion among relevant consumers or diminish the distinctiveness or reputation of the trade mark, shall also be deemed an infringement of trade mark rights and may give rise to civil remedies. In principle, the parties must be represented by attorneys on a mandatory basis as to civil action of trade mark cases (see Paragraph 1 of Article 10 of the Intellectual Property Case Adjudication Act).

12.2 Are costs recoverable from the losing party and if so, how are they determined and what proportion of the costs can usually be recovered?

In order to initiate a civil action regarding trade mark infringement, the plaintiff should first pay litigation expenses to the court, and the losing party should bear the litigation expenses upon conclusion of the case. In other words, the winning party may request the losing party to bear litigation expenses. Where the parties each win the case in part, the court may, at its discretion, order the parties to bear the litigation expenses in a certain proportion or order both parties to bear litigation expenses that have been incurred by them respectively.

Mandatory attorney representation is required for specific IP-related civil cases. The court should assess and determine, upon motion or *ex officio*, the amount of remuneration to the attorney as part of litigation expenses in a case (in accordance with Article 15 of the Intellectual Property Case Adjudication Act and the "Standards for Payment of Remunerations to Attorneys-at-Law as Litigation Expenses or Procedural Expenses").

13 Appeal

13.1 What is the right of appeal from a first instance judgment and is it only on a point of law?

In the criminal aspect of a trade mark infringement action, the complainant may also seek an appeal, by filing a motion with the prosecutor's office for the prosecutor to take an appeal if he/she finds the judgment unjustifiable. The second-instance judgment will, however, be the final judgment, with binding effect on the criminal cases of trade mark infringement. That is to say, neither the prosecutor nor the defendant will be allowed to bring the criminal case to a third-instance trial. In a civil action, either party may appeal the district court judgment to the High Court should they find the judgment unjustifiable. The matter may be brought to the Supreme Court – the court of third instance – if the claim value meets the TWD 1.65 million threshold. An appeal taken to the Supreme Court must be based on a point of law.

13.2 In what circumstances can new evidence be added at the appeal stage?

The parties in a trade mark infringement action may present arguments, materials and/or introduce (new) evidence in due course during the preparatory proceedings, or the court may deny those presented by reason of obstruction of proceedings. Furthermore, as the third-instance court is to examine judicial and only judicial issues, neither party is to present a new argument or introduce evidence of any kind during the third-instance proceedings.

14 Border Control Measures

14.1 Is there a mechanism for seizing or preventing the importation of infringing goods or services and if so, how quickly are such measures resolved?

The trade mark owner or its authorised agent may file the request for recording its registered trade mark(s) with the Customs Authority with the material on the key points to identify a counterfeit to the Customs Authority's database for use in combatting counterfeit goods at the border. The recordation will be valid until expiration of the trade mark term. The Customs Authority will withhold the shipment of suspected counterfeits declared for export or import in a

random inspection based on the relevant recordation data. The trade mark owner or its local agent must respond to the Customs Authority within 24 hours whether it is willing to either conduct an authentication based on the photos of the suspected goods provided by the Customs officer through the designated Customs online platform or go to the Customs office for authentication upon receiving the Customs' notice. Further, the Customs Authority must duly obtain a signed identification report and valuation report issued by the trade mark owner or its authorised agent within three business days to be legally authorised to withhold the shipment of suspected counterfeits from release. (Upon request, the Customs Authority may allow an extension of an additional three business days when necessary.) If the trade mark owner fails to do so, the shipment of the suspected goods shall be released unless it violates other Customs regulations.

15 Other Related Rights

15.1 To what extent are unregistered trade mark rights enforceable in your jurisdiction?

Unregistered trade marks that are well known to the public are eligible for rights protection under the Fair Trade Act in cases where they are used by another on identical or similar goods in the same or a similar manner so as to cause confusion (Article 22 of the Fair Trade Act). Advertisements published in Taiwan, figures with respect to sales volume and market share in Taiwan, etc., for the past two to three years, shall be presented to meet the "well known to the public" requirement. In addition, the requirement of "being sufficient to affect trading order" must be satisfied when seeking Fair Trade Act protection; otherwise, the Civil Code, Consumer Protection Act, or any other relevant laws should govern.

15.2 To what extent does a company name offer protection from use by a third party?

No company may use a company name identical to that of another company. Where two companies' names contain any word that may specify their different business categories, such company names will not be considered identical. A company name can be used exclusively by its owner once it has been approved by and registered at the competent authority. Anyone may initiate a civil action with the court for protection of his/her company name from use by a third party according to the Civil Code. Furthermore, if the company name is well known to the public in Taiwan, its owner may file a complaint with the Taiwan Fair Trade Commission or bring a civil action to seek removal of the infringement and claim damages against any third party that, without prior consent, uses his/her well-known company name in the same or a similar manner for identical or similar services, thereby causing confusion with the facilities or activities of the other party's business or service, in violation of Paragraph 1 of Article 22 of the Fair Trade Act.

15.3 Are there any other rights that confer IP protection, for instance book title and film title rights?

Fair Trade Act protection is conferred on unregistered trade marks, personal names, business or corporate names, or containers, packaging, or appearance of another's goods, or any other symbol that represents such person's goods or services, if they are well known to the public, so as to cause confusion with such person's goods or services (Article 22 of the Fair Trade Act). In addition, an enterprise may be held in violation of Article 25 of the Fair Trade Act for any deceptive or obviously unfair conduct that is able to affect trading order by taking advantage of any other person's goodwill, or by the act of plagiarising any other person's packaging or appearance of goods, book title or film title, etc. that is able to affect trading order.

16 Domain Names

16.1 Who can own a domain name?

Anyone can own a domain name after completing the due course of registration.

16.2 How is a domain name registered?

A registrant may apply to the registrar, such as the Taiwan Network Information Center (TWNIC), to register the domain name he/she selects and to pay the annuity.

16.3 What protection does a domain name afford *per se*?

No one may repeat the registration of any registered domain names. According to the "Domain Name Dispute Resolution Policy" passed by the TWNIC, in the following three circumstances, a complaint should be sustained and the TWNIC Registry Administrator should cancel or transfer a registered domain name to the complainant after the dispute resolution provider decides in favour of the complainant:

(1) The domain name in dispute is identical or confusingly similar to the complainant's trade mark(s).

(2) The registrant of the domain name in dispute has no rights or legitimate interests in the domain name in dispute.

(3) The registrant has registered or used the domain name in dispute in bad faith.

16.4 What types of country code top-level domain names (ccTLDs) are available in your jurisdiction?

The TWNIC deals with disputes in relation to ccTLDs ending with ".tw".

16.5 Are there any dispute resolution procedures for ccTLDs in your jurisdiction and if so, who is responsible for these procedures?

In Taiwan, domain name disputes may be brought to court for resolution by initiating a lawsuit. In addition to a lawsuit, there is another expedited procedure for dispute resolution in which the dispute is handled by a dispute resolution provider that is an organisation or institution approved and recognised by the TWNIC, such as the Science & Technology Law Institute or Taipei Bar Association, which will select qualified panellists to handle domain name disputes according to the "Domain Name Dispute Resolution Policy".

17 Current Developments

17.1 What have been the significant developments in relation to trade marks in the last year?

The TIPO has amended the Examination Guidelines for Non-Traditional Trademarks. The amendment was promulgated in July 2025 and has been in effect since August 1, 2025.

The key points of this amendment include the following:

(1) The amendment stipulates that functional elements of a trade mark must be represented by dotted lines. If such elements cannot be represented by dotted lines, declaration should be made to state that such elements are not part of the trade mark.

(2) For trade mark representation using dotted lines, the trade mark applicant shall provide explanations in the trade mark description to clarify whether such elements represented by dotted lines are functional features or to indicate how the mark is used on goods or services, or any other non-distinctive features. Such explanations are required to assist in trade mark application examination and in delineation of the scope of trade mark rights.

(3) The amendment clarifies the dominant distinctive characters of non-traditional trade marks, including colours, three-dimensional shapes, motion, holograms, and sounds, which are different from the two-dimensional characters of traditional trade marks. Taking a three-dimensional trade mark as an example, its distinctive features refer to the commercial impression formed by an overall three-dimensional shape, which is defined by its length, width, and height and applied to the product itself or its packaging container. If such requirements are not met, the application should instead be filed for registration as a two-dimensional trade mark.

17.2 Please list three important judgments in the trade marks and brands sphere that have been issued within the last 18 months.

A criminal judgment rendered by the Supreme Court under docket (114) Tai-Shang-Zi No. 1125 (date of judgment: April 16, 2025)

Fact

The appellant of this case was the general manager of a Taiwan-based company. Being clearly aware that the licensing period set forth in the manufacture and supply agreement executed with the trade mark proprietor (a German company) was valid until December 31, 2013, the appellant, for marketing purposes, had manufactured toy guns and their packaging bearing a mark identical or similar to the German company's registered trade marks at a factory located in China for a period from March 2014 to February 2015 after expiration of the licensing period. After importing these toy guns into Taiwan, the appellant displayed them at a product exhibition held on February 19–20, 2016, thereby causing a likelihood of confusion among relevant consumers and infringement upon the German company's trade mark rights. The German company found such infringing conduct and reported it to the police, who seized a batch of toy guns at the scene on February 20, 2016. The appellate court (second-instance court) subsequently rendered a judgment revoking the first-instance judgment that had found the appellant not guilty. The appellant was dissatisfied with the appellate court's judgment and filed an appeal with the Supreme Court accordingly.

The Supreme Court's holding and reasonings

Trade mark protection worldwide is generally based on the principles of registration and territoriality, under which a trade mark proprietor who has registered his/her trade marks and acquired trade mark rights in a given country should be eligible for trade mark protection only in that country, except for well-known trade marks or marks, and may not assert trade mark rights extraterritorially. Under the actual circumstance that Taiwan currently exercises sovereignty over Taiwan main island and the Penghu, Kinmen, and Matsu areas, not over China, and according to the Trademark Act, the scope of exclusive trade mark rights to trade marks registered in Taiwan should be limited to Taiwan, Penghu, Kinmen, and Matsu and does not extend to China. Therefore, with respect to the appellant's acts of manufacturing the infringing products in China and further importing them to Taiwan for sale and display, only the act of importing the products for sale and display in Taiwan will be punishable in accordance with Article 95 of the Trademark Act. The appellate court held that the appellant's act constituted the offence of using another's registered trade mark on products as defined by Article 95, Paragraph 1, Subparagraph 3 of the Trademark Act. However, the appellate court's reasoning appears to treat the appellant's act of manufacturing the infringing products in China as punishable and to include that conduct as part of the offence. In light of the foregoing, such reasoning is erroneous. Accordingly, the Supreme Court vacated the appellate court judgment and remanded the case to the IPCC for redecision.

A civil judgment rendered by the IPCC under docket (113) Min-Shang-Shang-Zi No. 11 (date of judgment: May 28, 2025)

Fact

The appellee, Mastercard International Inc., has successively registered its Chinese-character marks "萬事達" and "萬事達卡", as well as the English mark "MASTERCARD", in Taiwan (hereinafter collectively referred to as the "Marks at issue"), all of which are designated for use in banking, credit cards, and financial services. Without the appellee's consent or authorisation, the appellant used the Chinese-character mark "萬事達" as a specific part of its company name on its official website, social media, and advertising articles and used the Marks at issue for payment and credit card transaction services, thereby causing confusion to relevant consumers and impairing the distinctiveness and goodwill of the Marks at issue. As such, the appellee filed a lawsuit against the appellant in 2023 with the IPCC to seek infringement removal, infringement prevention and damages. The appellant was dissatisfied that the first-instance judgment of the IPCC was rendered in favour of the appellee and thus filed an appeal.

The IPCC's holding and reasonings

The Marks at issue had been well-known trade marks at the time when the appellant's company was incorporated on March 19, 2003. The appellant's act of using the Marks at issue constitutes trade mark use. In addition, the marks used by the appellant are similar to the appellee's registered Chinese-character mark "萬事達" and the English mark "MASTERCARD" to a high degree. Moreover, the appellant used the marks in third-party payment services, which is highly similar to the banking and financial services for which the Marks at issue are designated. Such high degree of similarity may cause relevant consumers to mistakenly believe that the services provided under the respective trade marks originate from the same source or from different but related sources, or that there exists a relationship of corporate affiliation, licensing, franchising, or

other similar relationships, and therefore lead to a likelihood of confusion. Such likelihood of confusion constitutes trade mark infringement.

The appellant argued in defence that the appellee, at the latest by 2015, was already aware of the appellant's use of the Marks at issue as part of its company name for the business of third-party payment services, but the appellee did not express any objection and instead continued to maintain a cooperative relationship with the appellant until now. Hence, the appellant contended that the appellee should be deemed to have implicitly consented to the appellant's use of the Marks at issue. Such defensive arguments were not admitted by the court. The judge held that "knowledge" does not amount to "consent", and that a business cooperation relationship is a separate matter from whether consent is given with respect to use of the Marks at issue. Moreover, the judge also found that the appellant failed to produce evidence proving that the appellee displayed any gesture or behaviour that could be deemed as consenting to the appellant's use of the Marks at issue, and it is difficult and insufficient, simply based on the two parties' business cooperation, to infer that the appellee had expressed its implied consent to the appellant's use of the Marks at issue. Therefore, the court decided in favour of the appellee.

In its dissatisfaction with the appellate court judgment, the appellant filed an appeal with the Supreme Court and the appeal was dismissed by the Supreme Court on October 23, 2025, which renders this case final and binding.

Administrative judgment rendered by the Supreme Administrative Court under docket (113) Shang-Zi No. 142 (date of judgment: July 10, 2025)

Fact

The appellant, who was also the trade mark applicant, filed an application to register the mark "SMILE" and designated its use for medical services, namely ophthalmic medical and surgical services under Class 44 (hereinafter referred to as the "Mark at issue"). This application, however, was rejected by the TIPO according to Article 30, Paragraph 1, Subparagraph 10 of the Trademark Act on the grounds that the Mark at issue was similar to registered mark No. 01108399 , which is designated for use in Class 44 for dental medical services and preparation of prescription, medical and pharmaceutical consulting services, and also that their designated services were similar. Dissatisfied with the TIPO's decision, the appellant filed an administrative appeal and subsequently instituted administrative proceedings, both of which were dismissed by the Appeal Review Committee and the IPCC, respectively. Accordingly, the appellant filed an appeal with the Supreme Administrative Court.

The Supreme Administrative Court's holding and reasonings

The Supreme Administrative Court accorded with the IPCC, finding that the Mark at issue and the cited mark were highly similar in their overall appearance, pronunciation, and concept because they shared the same dominant distinctive elements, namely the English words "SMILE" and "Smile". Moreover, their respective designated services both include general medical services. Therefore, the Mark at issue is likely to cause consumer confusion. Although the appellant maintained that the Mark at issue was more widely recognised by consumers, the judge held that approval of the application of the later-filed trade mark, namely the Mark at issue, would not only clearly violate the Trademark Act, which adopts the principle of prior registration as the basis for trade mark protection, but would also make consumers mistakenly believe that the products or services under the two marks originate from the proprietor of the later-filed trade mark (the Mark at issue) with higher market recognition, which would ultimately give rise to a likelihood of confusion. In view of the foregoing, the Supreme Administrative Court affirmed the rejection of the application for the Mark at issue and further reiterated Taiwan's trade mark protection mechanism based on the "first to register" principle, which aims to prevent later-filed trade marks from encroaching on the interests of the proprietors of the earlier registered trade marks through subsequent marketing approaches.

17.3 Are there any significant developments expected in the next year?

The Supreme Court provided a holding in a civil judgment rendered on October 30, 2025 (under docket (114) Tai-Shang-Zi No. 452). This holding provides a view with respect to the calculation of damages payable by all joint infringers and the standard for determining the unit retail price and will have a far-reaching impact on future trade mark infringement cases.

Nowadays, it is common for vendors and businesses to sell products through shopping platforms and TV shopping channels. If the products sold through such platforms or channels are counterfeits and lead to trade mark infringement claims and liability for damages, the damages for which the shopping platforms and TV channels should be held liable should be calculated based on the aggregate of profits gained by all joint infringers, rather than being limited to the commissions earned by the platforms or channels themselves. In other words, the profit-sharing arrangement between vendors and such platforms does not involve or bind the trade mark proprietors. As a result, the potential liability for damages of shopping platforms and TV channels would be substantially increased.

Moreover, for claiming damages, the trade mark proprietor of a registered trade mark may claim for and calculate damages based on an amount not exceeding 1,500 times the unit retail price of the infringing goods seized. If the quantity of the seized infringing goods exceeds 1,500 pieces, the amount of damages shall be assessed based on the aggregate market value of the infringing goods, as expressly stipulated by Article 71, Paragraph 1, Subparagraph 3 of the Trademark Act. The term "unit retail price" referred to in said provision means the retail price of each unit of the infringing product seized. Where the unit retail prices differ among various infringing products, the respective unit retail price of each individual infringing product should be used to calculate the appliable multiplier, instead of by reference to the average unit retail price of all seized infringing products.

17.4 Are there any general practice or enforcement trends that have become apparent in your jurisdiction over the last year or so?

General practice for trade mark infringement

In general circumstances of trade mark infringement occurrences, trade mark owners may act upon the Trademark Act to assert trade mark rights for civil or criminal aspects involved. In practice, the trade mark owner files a criminal complaint and further initiates an incidental civil action during the trial proceedings after the prosecutor's indictment, which will have a greater impeding effect and also satisfy the cost-saving purpose. Under the Intellectual Property Case Adjudication Act, the judge shall hear and decide on the criminal action and the incidental civil action at the same time.

Simplification of authentication procedure by trade mark owners after receiving a notice from the Customs Authority
The Customs Authority, in the course of duty performance, shall notify the trade mark owner and importer/exporter when sighting any suspected imported/exported goods that are likely to infringe on the trade mark owner's rights. The trade mark owner or its authorised agent may access the Customs online platform and select the option to confirm that they will conduct authentication on the suspected goods based on the pictures provided by Customs officers within 24 hours upon their receipt of the Customs' notice, which eliminates the previous requirement that the trade mark owner or its authorised agent must "personally" go to the Customs office to take pictures or conduct authentication on suspected goods within the same period of time. Furthermore, they should submit an identification report within three working days (an extension of three additional working days is allowed) if the goods are confirmed to be counterfeit. This change enhances trade mark owners' willingness to assist the Customs Authority in authentication to prevent counterfeits from entering the market.

J. K. Lin became the Director of TIPLO Attorneys-at-Law in 1997, the same year TIPLO's founder, M. S. Lin, passed away. During his 29-year tenure to date, J. K. has set out to further streamline the hierarchy of the staff and adopted effective formulae leading to improved synergy in all aspects of TIPLO's patent, trade mark and legal services to proactively accommodate clients' intensifying needs for IP right enforcement. J. K. also devotes his time to many public-speaking events targeted at global corporations and international society, addressing issues of IP-related concerns and unfair competition, among other subjects, while following in the footsteps of his late father in his dedication to *pro bono* activities organised by various NGOs, such as the Judicial Reform Foundation, the Taiwan International Law Society and the Taiwan Human Rights Committee, among many others. He was the Co-Chairperson of the Organizing Committee at the 2019 Asian Patent Attorneys Association (APAA) 70th Council Meeting in Taipei. J. K. is currently a council member of the APAA, and an Executive Member of the Board of Directors of the APAA Taiwan Group. He is a member of the Japan Intellectual Property Association, Japan Trademark Association, INTA, IPBA, AIPLA, Taipei Bar Association and Taiwan Patent Attorneys Association.

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TIPLO Attorneys-at-Law (also known as Taiwan International Patent & Law Office) was founded in 1965 by M. S. Lin and a group of professional legal and technical associates specialising in IP rights. Being a leading firm in patent and trade mark prosecution and enforcement, TIPLO is one of the largest and most reliable full-range IP service law firms in Taiwan. TIPLO is currently staffed by 290 full-time members, many of whom are multilingual professionals fluent in English, Chinese, Japanese, Taiwanese and other languages. TIPLO mainly consists of three departments: Patent; Trade Mark; and Legal. Over 100 patent engineers and attorneys at TIPLO have a continuous career length of more than 15 years on average, with expertise and experience covering a wide range of technical fields, including electrical engineering, mechanical engineering, applied chemistry, biochemical engineering, biotechnology, pharmaceuticals, semiconductors, computer technology and other emerging areas. TIPLO is a leading firm in patent and trade mark prosecution, invalidation and opposition proceedings, infringement assessment and validity appraisal. The proficiency of our Legal Department in IP enforcement – in particular, litigating infringement cases and coordinating law enforcement efforts – is highly recognised by local enforcement authorities of all levels and industries alike, reinforcing TIPLO as one of the most effective law firms representing the interests of its clients.

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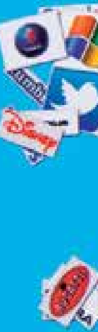

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