

The Practice of Using Country Names as the Trademarks in Thailand

1. Notion of Country Name

The Principles of Country Name and the Consideration of Application Registration

1.1 Trademark Act B.E. 2534 as amended by the Trademark Act (No.2) B.E. 2543 and Trademark Act (No.3) B.E. 2559 Article 7(2) provides that a distinctive word which may be eligible for registration as a trademark must not be a geographical name as prescribed by the Ministerial Regulations. Geographical names include country names. Therefore a mark using country name as its essential character is deemed not distinctive and cannot be registered.

However, if such country name constitutes a minor part that is not important, the registrar may order the applicant to disclaim it.

Article 7(3) further provides an exception that, if a mark with a country name as the essential character is used widely for sale, distribution and marketing of goods in accordance with the Ministerial Regulations and if it is proved that the regulations have been duly met, that mark shall be deemed distinctive and registrable.

1.2 In addition, Article 8 (6) of the Trademark Act also prohibits the registration of trademarks that contain or consist of names and acronyms of foreign countries or international organizations, unless permission is given by the competent authority of such foreign countries or international organizations.

1.3 According to the Ministry of Commerce's Regulation, determining the geographical names under Article 7(2) of the Trademarks Act B.E. 2534 as amended by the Trademark Act (No. 2) B.E. 2543 and the Trademark Act (No. 3) Act B.E. 2559, geographical names under Article 7 (2) are defined as:

(1) Names of countries, groups of countries, regions or self-administrative territories, which has international legal personality as a state.

(2) Names of continents, state, districts, federal states, or the capital cities.

(3) Names of the Oceans

(4) Other geographical names which are generally known by the public in Thailand such as special administrative territories, peninsulas, seas, Gulfs, Coasts, Mountains, Islands, Lakes, Roads, Rivers, Ports, Districts etc.

The above geographical names include acronyms, previously known names, common names (not necessarily official names) thereof.

2. Non-registrable if Considered Descriptive (Products and Services)

The practice of Thailand's trademark registration in the case where the applicant uses a country name for registration as a trademark, that is descriptive of the characteristics of goods or services such as "MADE IN CHINA", "IMPORTED FROM U.S.A" etc., such mark will not be registrable unless those descriptive terms are not the essential character or a minor

part of the mark where the mark is considered distinctive. The registrar may order the applicant to disclaim those descriptive terms.



For example The registrar will order the applicant to disclaim the phrase “NORTH LITTLE ITALY” which is descriptive.

3. Invalidation and Opposition Procedures

3.1 Article 35 of the Trademark Act B.E. 2534 and as amended, provides that during the publication period of a trademark application, any person can file a notice of opposition against the registration of the trademark with a country name as the essential part and they may claim that such trademark is not distinctive or contains prohibitory characteristics for registration.

3.2 If a trademark which uses a country name as the essential part of the mark has been registered and is (Not distinctive), such trademark could be invalidated under Article 61 of the Trademark Act B.E. 2534 and the amended Act.

4. Use as a Mark

Using country names as a trademark can be done if it is only a component which is not essential character or the prominent part of the mark, provided that the mark is distinctive. The applicant must disclaim exclusive right to the use of such country name of the trademark.

4.1 Examples of marks which have been refused by Thailand’s Trademark Office.

1) “MOZAMBIQUE GAS”, classified under class 4: petroleum fuel oil, natural gas.

MOZAMBIQUE is a country name known for large natural gas reserves.

GAS has a direct reference to the character or quality of the good.

2) “JAPAN”, classified under class 17: PTFE thread seal tape.

JAPAN is a country name.



3) is a trademark applied for registration under class 8: cuticle nippers, razors. The registrar refused to register the mark because the applicant is a Thai national but uses the country name “GERMANY” in the mark. This could mislead the public as to the origin of the goods or services.

4.2 The example of the mark that is registered because it has secured the permission of the competent authority of the foreign state in question.



is a service mark classified under class 39. It is applied for registration by Emirates as a legal entity in the United Arab Emirates. The Trademark Board considered the appeal that the word “Emirates” in the Cambridge International Dictionary of English is the country name of the United Arab Emirates which is a Muslim country in the Middle East. It is the name of a foreign state within the meaning of Article 8 (6). However, upon looking into the counterargument and evidence produced by the applicant, it shows that the applicant was permitted by the UAE to use the term ‘Emirates’, hence the exception under Article 8 (6) applies. (Decision of the Trademark Board No. 90/2552)