

Trade Marks (Amendment) Bill

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Bill No: 18/2004

Read the first time: 19th May 2004

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Trade Marks (Amendment) Bill

Bill No. 18/2004

Read the first time on 19th May 2004.

An Act to amend the Trade Marks Act (Chapter 332 of the 1999 Revised Edition), and to make consequential amendments to the Criminal Procedure Code (Chapter 68 of the 1985 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Trade Marks (Amendment) Act 2004 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Trade Marks Act (referred to in this Act as the principal Act) is amended —

(a) by inserting, immediately after the definition of “business” in

subsection (1), the following definition:

““business identifier” means any sign capable of being represented graphically which is used to identify any business;”;

- (b) by inserting, immediately after the definition of “Court” in subsection (1), the following definition:

““dilution”, in relation to a trade mark, means the lessening of the capacity of the trade mark to identify and distinguish goods or services, regardless of whether there is —

(a) any competition between the proprietor of the trade mark and any other party; or

(b) any likelihood of confusion on the part of the public;”;

- (c) by deleting the words “entitled to protection under the Paris Convention or the TRIPS Agreement as” in paragraph (b) of the definition of “earlier trade mark” in subsection (1);

- (d) by deleting the definition of “proprietor” in subsection (1) and substituting the following definition:

““proprietor” means —

(a) in relation to a registered trade mark, the person in whose name the trade mark is registered; or

(b) in relation to an unregistered trade mark that is a well known trade mark, the person to whom the trade mark belongs;”;

- (e) by deleting the words “visually perceptible” in the definition of “trade mark” in subsection (1);

- (f) by inserting, immediately after the definition of “TRIPS Agreement” in subsection (1), the following definition:

““well known trade mark” means —

(a) any registered trade mark that is well known in Singapore; or

(b) any unregistered trade mark that is well known

in Singapore and that belongs to a person who —

- (i) is a national of a Convention country;
or
- (ii) is domiciled in, or has a real and effective industrial or commercial establishment in, a Convention country,

whether or not that person carries on business, or has any goodwill, in Singapore;” and

(g) by deleting subsection (7) and substituting the following subsections:

“(7) Subject to subsection (8), in deciding, for the purposes of this Act, whether a trade mark is well known in Singapore, it shall be relevant to take into account any matter from which it may be inferred that the trade mark is well known, including such of the following matters as may be relevant:

- (a) the degree to which the trade mark is known to or recognised by any relevant sector of the public in Singapore;
- (b) the duration, extent and geographical area of —
 - (i) any use of the trade mark; or
 - (ii) any promotion of the trade mark, including any advertising of, any publicity given to, or any presentation at any fair or exhibition of, the goods or services to which the trade mark is applied;
- (c) any registration or application for the registration of the trade mark in any country or territory in which the trade mark is used or recognised, and the duration of such registration or application;
- (d) any successful enforcement of any right in the trade mark in any country or territory, and the extent to which the trade mark was recognised as well known by the competent authorities of that country