

JUNE 2008 Singapore: Trade marks and the Geneva Convention

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The first Geneva Convention was signed in 1864 to protect the sick and wounded in times of war. Since then, there have been numerous additions and revisions to this statute. The Geneva Conventions comprise four treaties devised in Geneva, Switzerland, that set the benchmark for international law relating to humanitarian concerns. Singapore acceded to the four Geneva Conventions of 1949 on April 27 1973. As at August 2 2006, these conventions have been ratified by 194 countries.

In accordance with the relevant articles of the four Geneva Conventions, all signatory states are required to enact sufficient national laws making grave violations of the Geneva Conventions a punishable criminal offence. In addition to these treaties, there are three additional amendment protocols to the Geneva Conventions, namely, Protocol I in 1977 relating to the Protection of Victims of International Armed Conflicts; Protocol II in 1977 relating to the Protection of Victims of Non-International Armed Conflicts; and Protocol III in 2005 relating to the Adoption of an Additional Distinctive Emblem.

To implement its international obligations, Singapore enacted the Geneva Conventions Act (Chapter 117) to give effect to the Geneva Conventions. This article is based on the effects of Protocol III in Singapore. As of June 2007, Protocol III had been ratified by 17 countries and signed but not yet ratified by an additional 68 countries.

In order to give effect to Protocol III, Singapore's Geneva Conventions Act was amended. The Geneva Conventions (Amendment) Act was passed in Singapore's Parliament on November 12 2007. Under this amended Act, the Red Cross emblem, Red Crescent emblem, Red Crystal emblem and Red Lion and Sun emblem shall not be used in Singapore, unless approved by the Ministry of Health. The amendment has also resulted in consequential and miscellaneous amendments being made to the Singapore Red Cross Society (Incorporation) Act (Chapter 304).

As a result of the amended Act, the Registrar of the Intellectual Property Office of Singapore will raise objections against trade marks consisting of or containing these emblems or emblems closely resembling them. The objection raised would be under Section 7(5) of the Trade Marks Act which states that a trade mark shall not be registered if or to the extent that its use is prohibited in Singapore by any written law or rule of law. Such an objection will be waived where the registrar is furnished with the consent obtained from the Ministry of Health.

Further, this amendment is effective retrospectively. As such, the prohibition of these emblems or emblems closely resembling them is applicable even for applications lodged before the effective date of the amended Act. Therefore, proprietors of registered trade marks containing or consisting of such emblems, or emblems closely resembling them, should note that notwithstanding their trade mark registrations, they have one year from November 12 2007 to cease using the emblems. In view thereof, registered trade mark proprietors who are affected by the said amendment are advised to rebrand and file fresh trade mark applications for marks that do not contain the prohibited emblems concerned. Otherwise, they risk facing a fine and/or imprisonment, as well as forfeiture of trade marked goods, for continuing to use them.



Kevin Wong and Angeline Raj

Ella Cheong Spruson & Ferguson (Singapore) Pte Ltd

152 Beach Road,
#30-00 Gateway East
Singapore 189721
Tel: +65 6333 7200
Fax: +65 6333 7222
mail@ecsf-asia.com
www.ecsf-asia.com