

Legal Update

When First-to-File is Not Enough to Protect Your Brand Before Entering Thailand

For businesses entering a new market, trademark protection can appear straightforward: file first, obtain registration and the brand is protected. In Thailand, where the first-to-file principle remains fundamental, that is generally sound advice, but it is not the whole story. Trademark registration in Thailand does not always settle the question of who ultimately has the better right to a trademark.

A recent Thai appellate judgment brings that distinction into sharp focus. For international businesses expanding into Thailand, the implications extend beyond trademark law. Brand protection can affect when and how an investment enters the market, and should therefore form part of the market-entry strategy from the outset.

A. How the dispute developed

The dispute arose in 2021 when an established international coffee brand sought trademark protection in Thailand and discovered that a local party had already registered highly similar marks. By that time, the foreign company had already developed and used its brand overseas and therefore claimed that its rights pre-dated the local registrations. It challenged the Thai registrations on the basis that, although the local party had secured registration first in Thailand, the foreign company had earlier and better rights to the marks. This set the stage for a series of proceedings before the Thai courts and raised a fundamental question: does being the first to register in Thailand necessarily mean having the better right to the trademark?

The foreign company initially succeeded before Thailand's Central Intellectual Property and International Trade Court in 2022. That decision was reversed on appeal in 2023, not because the appellate court found that the local registrant had the better right, but because the foreign company lacked standing to bring the original claim when the proceedings were commenced. The central question of superior rights was therefore left unresolved.

The foreign company subsequently brought fresh proceedings in Thailand, this time placing that question squarely before the court. In 2025, the Central Intellectual Property and International Trade Court found that the foreign company held prior and better rights to the disputed mark and ordered the cancellation of the local party's trademark registrations. The

proceedings also raised issues of trademark squatting and bad-faith conduct, placing the circumstances surrounding local registrations under intensive scrutiny. The local party appealed, but on 8 July 2026, Thailand's Court of Appeal for Specialized Cases affirmed the judgment in full.

The appellate judgment is significant beyond the immediate dispute. It confirms that filing first does not necessarily make a registration unassailable where another party can establish a better right. It also highlights the risks associated with trademark squatting and registrations made in circumstances involving bad faith. The judgment is further notable for upholding substantial damages arising from the conduct in question.

For businesses entering Thailand, the sequence of decisions carries two practical lessons. First, registration priority and the better right to a mark are not always the same thing. Second, having the stronger underlying right may still not be enough if the business cannot establish its legal entitlement to enforce that right. Clear ownership records, a properly documented chain of title and evidence supporting the history of the brand can therefore be as important as the underlying right itself.

B. Protecting your brand in Thailand

For businesses considering expansion into Thailand, trademark protection should begin before the market-entry process is well underway. Thailand's first-to-file system makes timing critical, but filing is only part of the picture. Businesses should also be clear about what they own, preserve the evidence behind those rights and continue monitoring the Thai market after filing.

Filing before you announce

For a business planning to enter Thailand, the most important trademark decision may need to be made before the first operation commences, the first commercial agreement is signed or expansion is publicly announced. Once market-entry plans become visible, the opportunity for a third party to move first may increase.

Where possible, key trademark applications should therefore be filed before a Thai launch, distributor appointment, franchise discussion or other public indication of market-entry plans. Filing early is not simply an IP housekeeping exercise. It is part of protecting the investment itself.

Knowing what you own and demonstrating ownership

A business entering Thailand does not arrive without a history. Years of use, sales, marketing and brand recognition in overseas markets may become important if its rights are later challenged in Thailand.

Before entering the market, businesses should confirm which entity within the corporate group owns each relevant trademark and ensure that assignments, licences and other ownership documents are complete and consistent. They should also preserve dated evidence of first use, registrations, sales, advertising, media coverage, domain names and other materials showing when and where the brand developed its reputation.

A strong claim to a brand can be undermined by a weak paper trail. The time to preserve the evidence behind a brand is before it needs to be proved.

Protecting your brand as it enters the Thai market

Trademark protection should reflect how the brand will be used in Thailand, not simply what has already been registered elsewhere. Before market entry, businesses should consider whether protection is needed not only for the principal word mark, but also for logos, device marks, local-language versions or transliterations, and other brand elements that will be commercially important in Thailand.

The objective is not simply to obtain a registration certificate. It is to ensure that the protection obtained matches the brand the Thai market will see.

Monitoring Thai trademark applications constantly

Registration should not be the end of the process. Businesses should monitor new Thai trademark applications for identical or confusingly similar marks so that potential problems can be identified and addressed early.

Early intervention may provide more options and involve significantly less disruption than attempting to recover a brand after a third party has secured registration and the business has already committed capital, appointed local partners or begun operating in Thailand.

C. Conclusion

A trademark problem identified early may be an intellectual property issue. Left unresolved, it can become an investment problem.

For businesses looking to enter the Thai market, the broader message is not about one trademark dispute. It is about when brand protection should enter the investment conversation. The earlier the issue is addressed, the more options a business is likely to have before capital is committed, local relationships are established and the brand becomes commercially exposed.

The most effective trademark strategy is often the one put in place before a potential dispute surfaces. A pre-entry brand review, covering the trademark portfolio, ownership structure,

evidence of existing rights and proposed Thai market-entry arrangements, can identify vulnerabilities while there is still time to address them without disrupting the investment.

Further information

Should you have any questions about this update, or on how these developments may affect you or your business, please get in touch with the PDlegal Thailand team.

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