10. Registration of a ‘sign’

This chapter discusses the registration of trade marks. Unlike passing off protection that is not subject to formalities, trade marks ought to be registered in order to receive legal protection. Whether a trade mark is capable of registration depends on three requirements. First, whether the subject matter of the application satisfies the definition of ‘trade mark’ in s. 1 of the Trade Marks Act 1994; second, whether there are any objections to the application under the absolute grounds for refusal in s. 3; and third, whether there are any prior rights which could prevent registration under the relative grounds for refusal in s. 5. The chapter then presents an outline of the registration procedure. In essence, the procedure can be broken down into six steps: application and filing of Form TM3; examination; search and notification of prior rights; publication and notification to owner(s) of prior rights; opposition; and registration.
10. Registration of a ‘sign’

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