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TRADEMARKS THAT ARE WELL KNOWN TO THE PUBLIC AT LARGE IN SINGAPORE: A REVIEW OF THE EVIDENTIARY LANDSCAPE

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There is a high evidentiary threshold to cross for a trademark to be deemed as well known to the public at large in Singapore. This article will review the case law in Singapore where trademarks have been found to fall within this class of marks. It will then examine how recent cases appear to show an evidentiary shift in the determination of whether a trademark is well known to the public at large in Singapore. Finally, this article will conclude with a few observations on how this development may affect future similar cases.

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I. Introduction

1 It is trite law that trademarks that are deemed to be well known to the public at large in Singapore form "a rare and exclusive class"[1] of marks which are recognised by most sectors of the public in Singapore.[2] This is contrasted with trademarks which are merely well known and only need to be recognised by any relevant sector of the public in Singapore.[3] Indeed, to date, there have only been seven cases in Singapore whereby

1 *Novelty Pte Ltd v Amanresorts Ltd* [2009] 3 SLR(R) 216 at [233].
2 *City Chain Stores (S) Pte Ltd v Louis Vuitton Malletier* [2010] 1 SLR 382 at [94].
3 *Novelty Pte Ltd v Amanresorts Ltd* [2009] 3 SLR(R) 216 at [139].

a trademark has been found to be well known to the public at large in Singapore.[4]

2 This article will explain the legal significance of a trademark that is deemed to be well known to the public at large in Singapore and review the case law where trademarks have been found to fall within this class of marks. It will then examine how *Google LLC v Green Radar (Singapore) Pte Ltd*[5] ("*Gmail*") and *Bytedance Ltd v Dol Technology Pte Ltd*[6] ("*TikTok*") appear to show new developments in the determination of whether a trademark is well known to the public at large in Singapore. Finally, the article will conclude with a few observations on how *Gmail* and *TikTok* may impact trademark proprietors who wish to prove that their trademarks are well known to the public at large in Singapore in the future.

II. Legal significance

3 Under s 8(4)(*b*)(ii) of the Trade Marks Act 1998[7] ("TMA"), the proprietor of a trademark, which is well known to the public at large in Singapore, can oppose a pending trade mark or invalidate a registered trade mark if:

> … use of the later trade mark in relation to the goods or services for which the later trade mark is registered or sought to be registered —
>
> …
>
> (A) would cause dilution in an unfair manner of the distinctive character of the earlier trade mark; or
>
> (B) would take unfair advantage of the distinctive character of the earlier trade mark.

In other words, under s 8(4)(*b*)(ii) ("s 8(4)(*b*)(ii) Ground"), trademarks which are well known to the public at large in Singapore are entitled to protection from use of a later trademark

4 *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5 at [121].
5 [2024] SGIPOS 1.
6 [2024] SGIPOS 5.
7 2020 Rev Ed.

on dissimilar goods or services even in the absence of a likelihood of confusion.[8]

4 Further, s 55(3)(*b*) of the TMA provides that the proprietor of a trademark, which is well known to the public at large in Singapore:

> … is entitled to restrain by injunction the use in Singapore, in the course of trade and without the proprietor's consent, of any trade mark which, or an essential part of which, is identical with or similar to the proprietor's trade mark, in relation to any goods or services [including dissimilar goods or services], where the use of the trade mark —
>
> (i) would cause dilution in an unfair manner of the distinctive character of the proprietor's trade mark; or
>
> (ii) would take unfair advantage of the distinctive character of the proprietor's trade mark.

This is referred to in this article as the "s 55(3)(*b*) Ground".

5 There is also a corresponding provision under s 55(4)(*b*) of the TMA for an injunction restraining the use of a business identifier which meets the same requirements as those under s 55(3)(*b*) ("s 55(4)(*b*) Ground").

III. Summary of case law

6 The following summarises the cases in Singapore in which a court, an Intellectual Property Office of Singapore ("IPOS") registrar or IP Adjudicator has found a trademark to be well known to the public at large in Singapore.

A. Clinique Laboratories LLC v Clinique Suisse Pte Ltd

7 In the High Court decision of *Clinique Laboratories LLC v Clinique Suisse Pte Ltd*[9] ("*Clinique*"), the plaintiff, Clinique Laboratories LLC, instituted proceedings against the defendants, Clinique Suisse Pte Ltd and Healthy Glow Pte Ltd, for trademark

8 *Novelty Pte Ltd v Amanresorts Ltd* [2009] 3 SLR(R) 216 at [233].
9 [2010] 4 SLR 510.

infringement and passing off claims for the use of, amongst other things, the "Clinique Suisse" mark. The plaintiff also sought an injunction, pursuant to the s 55(3)(*b*) Ground and s 55(4)(*b*) Ground, by relying on its "Clinique" mark which is used in relation to skin and body care-related goods and services.

8 The court in *Clinique* held that the plaintiff's "Clinique" mark was well known to the public at large in Singapore.[10]

(a) The "Clinique" mark was first used in Singapore in 1976.

(b) The plaintiff has made extensive advertising efforts in various media, including but not limited to newspapers, magazines, radio and television, which were or are circulated both in Singapore and internationally.

(c) The advertising, promotional and marketing expenditure for the plaintiff's products sold under the "Clinique" mark in Singapore in the years 2004–2008 (inclusive) was in the region of S$3m per year.

(d) The plaintiff's worldwide advertising, promotional and marketing expenditure for the products sold under the "Clinique" mark for the period 1 July 2003 to 30 June 2008 was more than US$0.4bn per year.

(e) In the years 2004–2008 (inclusive), the plaintiff's sales figures in Singapore for the plaintiff's goods sold under the "Clinique" mark were in the region of S$10m per year.

(f) At the time of the trial, the plaintiff's goods and services were offered in more than 13,000 sales stores or counters in over 110 countries and territories worldwide, with 13 of them being in Singapore.

(g) The plaintiff provided evidence that its "Clinique" mark is well known to its target consumer group through a street intercept survey of 408 female consumers aged between 18 and 49 in Singapore, who were selected on the

10 *Clinique Laboratories LLC v Clinique Suisse Pte Ltd* [2010] 4 SLR 510 at [39]–[41].

basis that they had purchased and used one or more of the plaintiff's products or any of a specified list of premier skin care brands in the past 12 months.[11] The survey was conducted at eight high-traffic retail areas.

B. Ferrero SPA v Sarika Connoisseur Cafe Pte Ltd

9 In the High Court decision of *Ferrero SPA v Sarika Connoisseur Cafe Pte Ltd*[12] ("*Nutella*"), the plaintiff, Ferrero SPA, filed a claim against the defendant, Sarika Connoisseur Cafe Pte Ltd, for trademark infringement and passing off for the use of, amongst other things, the "Nutello" sign. The plaintiff also sought an injunction on the s 55(3)(*b*) Ground and relied on its "Nutella" mark, which is used in relation to a cocoa-based hazelnut bread spread.

10 The court in *Nutella* held that the plaintiff's "Nutella" mark was well known to the public at large in Singapore.[13]

(a) The plaintiff showed that its "Nutella" bread spread was sold in 94% to 98% of food retail stores in Singapore, with an annual sales volume of two million units. There was also evidence that the "Nutella" bread spread can be found at a wide variety of trade outlets throughout Singapore, such as hypermarkets, supermarket chains, convenience stores, petrol kiosks, neighbourhood shops and kiosks operating at some bus stops.

(b) The plaintiff's survey of 410 respondents in Singapore showed that (i) more than 80% of the respondents were familiar with the "Nutella" brand and (ii) 71.2% of the respondents stated that they had known the brand for more than five years.

(c) The defendant's own witnesses admitted that the plaintiff's "Nutella" mark was well known, and that the defendant had used "Nutella" on its own café menus without explanation and assuming customer familiarity

11 *Clinique Laboratories LLC v Clinique Suisse Pte Ltd* [2010] 4 SLR 510 at [35]–[36].
12 [2011] SGHC 176.
13 *Ferrero SPA v Sarika Connoisseur Cafe Pte Ltd* [2011] SGHC 176 at [155]–[156].

with "Nutella". Further, the Internet blog postings adduced by the defendant show that the "Nutella" mark was well known to the public, indicating that the bloggers had personally consumed the "Nutella" bread spread and/or that their family members had tried "Nutella" before.

(d) The plaintiff provided twenty independent articles, in the print media, dating back to 1989, which referenced the "Nutella" bread spread.

C. Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd

11 In the IPOS decision of *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd*[14] ("*Seiko*"), the opponent, Seiko Holdings Kabushiki Kaisha (trading as Seiko Holdings Corp), opposed the registration of the trademark application by the applicant, Choice Fortune Holdings Ltd, for the mark "SEIKI" in Class 9. One of the grounds of opposition which the opponent relied on was the s 8(4)(*b*)(ii) Ground.

12 The principal assistant registrar ("PAR") in *Seiko* held that the opponent's "SEIKO" marks, which were used in relation to goods like watches, clocks, electronic devices, industrial equipment, semiconductors, eyewear, metronomes, musical tuners and sports equipment, were well known to the public at large in Singapore.[15]

(a) The "SEIKO" marks were first used in Singapore in 1963.[16]

(b) Sales revenue for products sold under the "SEIKO" marks in Singapore between 2005 and 2010 averaged S$14m per year.[17]

14 [2014] SGIPOS 8.
15 *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd* [2014] SGIPOS 8 at [110].
16 *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd* [2014] SGIPOS 8 at [96(i)].
17 *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd* [2014] SGIPOS 8 at [96(ii)].

(c) At the time of the decision, the opponent's "SEIKO" products were offered for sale by more than 70 watch dealers and 100 optical shops in Singapore.[18]

(d) The opponent's survey of 402 respondents in Singapore, aged between 18 and 69, showed that over 72% of the interviewed subjects indicated that they either presently own a "SEIKO" product; had previously owned a "SEIKO" product; or were at least aware of "SEIKO" even if they did not own or had not previously owned a "SEIKO" product.[19] The survey was conducted at a wide and representative geographical spread of heartland and central retail and business districts.

(e) The opponent ran extensive advertising campaigns with advertisements being placed in public transport-related venues, major shopping malls, high shopping traffic areas, local newspapers and magazine publications. From 2005 to 2010, the opponent had spent more than S$4m in total on advertising in Singapore.[20]

(f) The opponent's "SEIKO" marks had been frequently championed by the opponent participating in major sporting events, like the Olympic Games and World Cup, as the official timer. These sporting events were reported to and watched by the Singapore public.[21]

13 The opponent also provided evidence that the well-known status of its "SEIKO" marks had been recognised by courts and trademark offices in many jurisdictions worldwide.[22]

(a) The opponent also highlighted that it had many registrations for the mark "SEIKO" and its variants

18 *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd* [2014] SGIPOS 8 at [96(iii)].

19 *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd* [2014] SGIPOS 8 at [96(iv)] and [102]–[105].

20 *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd* [2014] SGIPOS 8 at [96(v)] and [106].

21 *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd* [2014] SGIPOS 8 at [97(i)] and [106].

22 *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd* [2014] SGIPOS 8 at [97(ii)].

worldwide.[23] However, the PAR was of the view that the above-mentioned evidence did not add much to the opponent's case.[24]

(b) The PAR noted that the opponent did not lay out the final link from the above-mentioned overseas evidence to the proposition that "SEIKO" was well known to the public at large in Singapore.[25]

(c) Further, the PAR highlighted that, as the criteria for determining well-known marks in the overseas jurisdictions had not been adduced in evidence before the PAR, it would be difficult for the PAR to rely on the situation overseas to analogise that the same should be true in Singapore.[26]

D. Intel Corporation v IntelSteer Pte Ltd

14 In the IPOS decision of *Intel Corporation v IntelSteer Pte Ltd*[27] ("*Intel*"), the applicant, Intel Corp, applied to invalidate the "  " mark, which was registered by the registered proprietor, IntelSteer Pte Ltd, in Class 42. One of the grounds of invalidation which the applicant relied on was the s 8(4)(*b*)(ii) Ground.

15 The PAR in *Intel* held that the applicant's earlier "INTEL" marks and "INTEL"-formative marks, which were mostly used in relation to computer microprocessors and computer-related services, were well known to the public at large in Singapore at least in relation to microprocessors or computers.[28]

23 *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd* [2014] SGIPOS 8 at [97(iii)].
24 *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd* [2014] SGIPOS 8 at [108]–[109].
25 *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd* [2014] SGIPOS 8 at [109].
26 *Seiko Holdings Kabushiki Kaisha v Choice Fortune Holdings Ltd* [2014] SGIPOS 8 at [109].
27 [2015] SGIPOS 2.
28 *Intel Corporation v IntelSteer Pte Ltd* [2015] SGIPOS 2 at [146].

(a) Between 2002 and 2008, the applicant's annual net revenue figures in Singapore were more than US$1bn in all but one year.[29]

(b) Between 2005 and 2008, the applicant's annual advertising expenditure in Singapore was more than US$600m each year.[30]

(c) The applicant provided 131 samples of advertisements in the mainstream local media publications from 1983 to 2009 which relate to the item or good "microprocessor".[31]

(d) The applicant provided 59 samples of articles about the applicant in mainstream local media publications from 1985 to 2008.[32]

(e) The applicant's survey evidence of 450 respondents, who were aged between 18 and 55, showed that 85% of the respondents identified the "INTEL" mark as belonging to the applicant and were aware of what the applicant does as a company.[33] The survey was conducted via face-to-face intercept interviews in high-traffic shopping areas.

(f) The applicant provided evidence that its earlier "INTEL" marks and "INTEL"-formative marks were the subject of 107 third-party articles from 11 internationally distributed publications from 1970 to 2008.[34] The PAR highlighted that these are relatively reputable international media publications which are available for circulation in Singapore.[35]

(g) The applicant provided a list of 17 internationally distributed books and case studies where the applicant has been featured.[36]

29 *Intel Corporation v IntelSteer Pte Ltd* [2015] SGIPOS 2 at [25] and [133].
30 *Intel Corporation v IntelSteer Pte Ltd* [2015] SGIPOS 2 at [28] and [134].
31 *Intel Corporation v IntelSteer Pte Ltd* [2015] SGIPOS 2 at [135]–[138].
32 *Intel Corporation v IntelSteer Pte Ltd* [2015] SGIPOS 2 at [139]–[140].
33 *Intel Corporation v IntelSteer Pte Ltd* [2015] SGIPOS 2 at [29] and [141]–[142].
34 *Intel Corporation v IntelSteer Pte Ltd* [2015] SGIPOS 2 at [31].
35 *Intel Corporation v IntelSteer Pte Ltd* [2015] SGIPOS 2 at [143].
36 *Intel Corporation v IntelSteer Pte Ltd* [2015] SGIPOS 2 at [32] and [144].

E. Guccio Gucci SpA v Guccitech Industries (Pte Ltd)

16 In the IPOS decision of *Guccio Gucci SpA v Guccitech Industries (Pte Ltd)*[37] ("*Gucci*"), the opponent, Guccio Gucci SpA, opposed the registration of the trademark application by the applicant, Guccitech Industries (Pte Ltd), for the mark "GUCCITECH INNOVATION SAVES SPACE" in Class 11. One of the grounds of opposition which the opponent relied on was the s 8(4)(*b*)(ii) Ground.

17 The IP Adjudicator in *Gucci* held that the opponent's "GUCCI" marks, which were mostly used in relation to apparel and accessories-related goods and services, were well known to the public at large in Singapore.[38]

(a) The "GUCCI" marks have been used in Singapore since 1979.[39]

(b) From 2010 to 2014, the opponent's sales in Singapore exceeded tens of millions of Singapore dollars annually.[40]

(c) The opponent had adduced extensive advertising, promotion materials and editorial coverage in local newspapers and magazines, online publications and blogs, which were published between 2009 and 2014.[41]

(d) The opponent had advertised and promoted its products on leading social media platforms.[42]

F. Google LLC v Green Radar (Singapore) Pte Ltd

18 In the IPOS decision of *Gmail*, the opponent, Google LLC, opposed the registration of the trademark application by the applicant, Green Radar (Singapore) Pte Ltd, for the mark "grMail" grMail in Classes 42 and 45. One of the grounds of opposition which the opponent relied on was the s 8(4)(*b*)(ii) Ground.

37 [2018] SGIPOS 1.
38 *Guccio Gucci SpA v Guccitech Industries (Pte Ltd)* [2018] SGIPOS 1 at [77].
39 *Guccio Gucci SpA v Guccitech Industries (Pte Ltd)* [2018] SGIPOS 1 at [63].
40 *Guccio Gucci SpA v Guccitech Industries (Pte Ltd)* [2018] SGIPOS 1 at [13].
41 *Guccio Gucci SpA v Guccitech Industries (Pte Ltd)* [2018] SGIPOS 1 at [73].
42 *Guccio Gucci SpA v Guccitech Industries (Pte Ltd)* [2018] SGIPOS 1 at [74].

19 The IP Adjudicator in *Gmail* held that the opponent's "GMAIL" mark, which was used in relation to the opponent's e-mail service, was well known to the public at large in Singapore.[43]

(a) The opponent provided evidence that (i) the Gmail e-mail service was launched to the public in 2004; (ii) the Gmail e-mail service was offered by the opponent as part of Google Workspace, which allegedly had over three billion users across the world; and (iii) the Gmail mobile application used by mobile users had been downloaded over ten billion times from the Google "Play Store", a digital app distribution service also developed and operated by the opponent.[44]

(b) The opponent provided a sample of the variety of consumers in Singapore, which used the opponent's Gmail e-mail service, and these included a broad range of companies in Singapore.[45]

(c) The opponent provided evidence in the form of the Google Economic Income Report which the Opponent had commissioned in 2015. The report indicated that there were approximately two million Singaporeans which communicated via Gmail.[46]

G. Bytedance Ltd v Dol Technology Pte Ltd

20 In the IPOS decision of *TikTok*, the opponent, Bytedance Ltd, opposed the registration of the trademark application by the applicant, Dol Technology Pte Ltd, for the mark "Tiki" in Classes 9, 35, 36, 38, 41, 42 and 45. One of the grounds of opposition which the opponent relied on was the s 8(4)(*b*)(ii) Ground.

21 The PAR in *TikTok* held that the opponent's "TikTok" mark, which was used in relation to the opponent's video-sharing

43 *Google LLC v Green Radar (Singapore) Pte Ltd* [2024] SGIPOS 1 at [73].
44 *Google LLC v Green Radar (Singapore) Pte Ltd* [2024] SGIPOS 1 at [15].
45 *Google LLC v Green Radar (Singapore) Pte Ltd* [2024] SGIPOS 1 at [68].
46 *Google LLC v Green Radar (Singapore) Pte Ltd* [2024] SGIPOS 1 at [69].

application, was well known to the public at large in Singapore.[47] The following evidence were taken into consideration:

(a) Five articles from international publications which mentioned the "TikTok" mark and/or the opponent and were published between 2019 and 2021.[48] These articles referred to statistics like the number of times the opponent's "TikTok" app had been downloaded and the number of users that were using the app.

(b) Statistics obtained from websites which showed the number of active users of the opponent's "TikTok" app from 2017 to 2021, the number of downloads of the app in 2020 and 2021, and the opponent's revenue in 2021.[49]

(c) Numerous articles which evidenced awards and accolades received by the opponent on account of the recognition and strength of the "TikTok" brand which were published in 2020 and 2021.[50]

(d) An article which mentioned the number of new downloads and users of the opponent's "TikTok" app in Singapore in 2020.[51]

(e) Two articles which featured the use of the opponent's "TikTok" app by Singapore government agencies to communicate government initiatives and programmes to the Singapore public.[52]

22 In holding that the opponent's "TikTok" mark was well known to the public at large in Singapore, the PAR in *TikTok* highlighted that whilst most of the evidence was from overseas and/or otherwise not directly related to Singapore, the average consumer in Singapore is well travelled and reasonably well informed and hence, would be aware of developments like the opponent's "TikTok" app's exceptionally rapid rise in popularity

47 *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5 at [126].
48 *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5 at [125(a)]–[125(e)].
49 *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5 at [125(f)]–[125(h)].
50 *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5 at [125(i)].
51 *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5 at [125(j)].
52 *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5 at [125(k)].

around the world.[53] Further, given that many Singaporeans use social media and the huge numbers of the download- and user-related statistics provided by the opponent, it is more likely than not that at least a corresponding percentage of average consumers in Singapore would be included in these statistics.[54]

23 For completeness, the PAR in *TikTok* found that the opponent's "TikTok"-formative marks were not well known to the public at large in Singapore.[55] This was due to factors like: (a) the above-mentioned articles, which mentioned or referred to the opponent, did not include an image of the opponent's "TikTok"-formative marks; (b) the way in which the opponent's "TikTok"-formative marks were used on the opponent's "TikTok" app; and (c) as most of users of the "TikTok" app were young adults and teenagers, their knowledge of the opponent's "TikTok"-formative marks could not be imputed to the general public who did not use the app.[56]

IV. Observations

24 Throughout *Clinique* to *TikTok*, a high evidentiary threshold has been maintained for a trademark to meet in order to be deemed as well known to the public at large in Singapore.

(a) Generally, there must be at least one of the following types of quantitative evidence provided to prove that a mark is well known to the public at large in Singapore: (i) high revenue figures in Singapore; (ii) high advertising expenditure figures in Singapore; or (iii) large number of consumers or users in Singapore.

(b) There is no clear cut-off point for the sufficiency of such quantitative evidence as this must necessarily depend on factors like the size of the relevant market and the nature of the goods and/or services involved.

53 *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5 at [128].
54 *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5 at [129].
55 *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5 at [130] and [132].
56 *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5 at [130]–[131].

However, the statistics provided generally need to be at least in the millions on an annual basis.

25 Still, when comparing the older line of cases from *Clinique* to *Gucci* to the newer line of cases from *Gmail* to *TikTok*, the following key differences can be observed:

Factor	Older line of cases	Newer line of cases
Nature of business	The cases mostly involved trademarks that were used in relation to physical goods. The business model of the trademark proprietors mostly involved selling these goods to consumers.	The cases involved trademarks which were used in relation to digital services. These services were mostly provided for free to users and revenue was mostly generated by the opponents selling advertising space to third parties who wanted to advertise their own goods or services to the users who used the opponent's services.[57]
Quantitative evidence	There was more emphasis on sales revenue figures and advertising expenditure figures in Singapore.	There was more emphasis on evidence of user-related statistics in Singapore.
Geographical recognition	There was more emphasis on evidence of recognition in Singapore (*eg*, articles in Singapore publications and consumer surveys in Singapore).	There was more emphasis on evidence of global recognition (*eg*, articles in global publications and global social media platform statistics).

57 Google, "How Our Business Works" <https://about.google/company-info/how-our-business-works/> (accessed 23 March 2025); Roald Larsen, "Demystifying TikTok's Business and Revenue Model: An In-depth Explanation", *Untaylored* (26 April 2024) <https://www.untaylored.com/post/demystifying-tiktok-s-business-and-revenue-model-an-in-depth-explanation> (accessed 23 March 2025).

Period of time	Generally, supporting evidence for a period of at least five years was provided. This implies that extensive efforts in sales and marketing must be made over a prolonged period of time for a trademark to be deemed as well known to the public at large in Singapore.	Generally, supporting evidence for a maximum of three years was provided. This implies that for a trademark to be deemed as well known to the public at large in Singapore, it is sufficient that extremely high levels of popularity or reputation had been reached at some specific point in time.

26 Given IPOS's greater willingness to rely on global evidence in *Gmail* and *TikTok*, it would be interesting to see how IPOS and/or the courts would approach a case in which the trademark proprietor is selling physical goods (like in the older line of cases) via online or digital methods only (like in the newer line of cases) and Singapore is not a big target market for its goods despite, for example, the trademark proprietor being able to show high-related statistics in Singapore. In this situation, it is unclear the extent to which the relatively high level of evidence of global recognition and user-related statistics in Singapore would be balanced against the relatively low local level of sales and advertising figures in Singapore.

V. Practical takeaways

27 Moving forward, it appears that more foreign trademark proprietors who do not own trademarks in Singapore would be able to show that their trademarks, which are filed in other jurisdictions, are well known to the public at large in Singapore to enforce their trademark rights in Singapore. Trademark proprietors, which are newer companies, can technically meet this threshold without maintaining a physical presence in Singapore for a prolonged period of time or running extensive localised advertising campaigns, as long as they have sufficient user-related statistics and/or media coverage to support their case.

28 However, similar to how trademark proprietors in the older line of cases have to ensure that their market or consumer survey evidence can withstand the courts' and IPOS's scrutiny, such trademark proprietors would still have to ensure that their user-related statistics or social media platform statistics can withstand scrutiny on the reliability and representativeness of the evidence.

(a) For example, the trademark proprietors would still have to track sufficient data points on their user-related statistics to be able to show that (i) they have reached sufficient consumers in Singapore (*eg*, number of users and number of downloads); and (ii) the consumers in Singapore who know them and/or their marks are representative of the public at large in Singapore (*ie*, demographics-related details like age and gender have to be presented).

(b) Further, in more "borderline" cases where the statistics are not as overwhelmingly high as that provided by the opponents in *Gmail* and *TikTok*, issues may be raised about whether and the extent to which the statistics provided are inflated by bot accounts and duplicate accounts.[58] If the statistics provided are greatly affected by these factors, the trademark proprietor may not be able to cross the evidentiary threshold to prove that its trademark is well known in Singapore, much less well known to the public at large in Singapore.

VI. Conclusion

29 Throughout the line of cases from *Clinique* to *TikTok*, a high evidentiary threshold has been maintained for a trademark to be deemed as well known to the public at large in Singapore. However, IPOS's approach to the assessment of this issue in

58 Andreas Voniatis, "Influencer Marketing Statistics 2025", *Artios* <https://artios.io/influencer-marketing-statistics/> (accessed 23 March 2025); Elise Dopson, "28 Important Influencer Marketing Statistics to Know in 2025", *Shopify* (11 November 2024) <https://www.shopify.com/sg/blog/influencer-marketing-statistics> (accessed 23 March 2025).

Gmail and *TikTok* represents an interesting development as (a) it involves the consideration of evidence which is provided by trademark proprietors with a different business model than those in the older line of cases; and (b) it appears to show a greater willingness to rely on global evidence in such an assessment. For future cases involving the assessment of whether a trademark is well known to the public at large in Singapore, it would be good if a more clearly defined evidentiary threshold is established to clarify the extent to which IPOS and/or the courts adapt their assessment to reflect changes in marketing norms and business models.