

J. Y. Interpretation No.23 (August 4, 1953) *

ISSUE: What is the proper procedure for an interested party to raise objection to another party's trademark that is already reviewed?

RELEVANT LAWS:

Articles 3 and 26 of the Trademark Act (商標法第三條及第二十六條) .

KEYWORDS:

trademark registration (商標註冊) , the same or similar trademark (相同或近似商標) , prior actual and continuous use (實際使用在先) .**

HOLDING: The first part of Article 3 of the Trademark Act provides that when two or more trademark owners respectively register the same or similar trademark for an identical product, the registration will only be granted to the mark which is the first in actual and continuous use within the territory of the Republic of China. The trademark registration is a substantive review of the

解釋文：商標法第三條前段規定，二人以上於同一商品，以相同或近似之商標，各別呈請註冊時，應准在中華民國境內實際最先使用並無中斷者。註冊，係為審查准駁之實質標準，如利害關係人，在同法第二十六條審定後之六個月公告期間內，另以與他人審定商標相同或近似之商標呈請註冊，並以自己之商標實際使用在先，而未中斷為理由，對他人已審定商標提出異議，自應

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trademark. Within six months after the approved trademark is published in the Official Gazette of the Trademark Office pursuant to Article 26 of the Trademark Act, an interested trademark owner may challenge the validity of a prior registrant's trademark by filing an opposition proceeding on the ground of prior actual and continuous use. The opposition proceeding shall be adjudicated pursuant to the opposition procedures and the provisions set forth in Article 3 of the Trademark Act.

依異議程序及同法第三條規定辦理。