



## Trade mark practice guideline amendment – Legal entity

IPONZ has reviewed its practice regarding the raising of concerns under section 32 of the Trade Marks Act 2002 (the Act) in situations where the name of an applicant company based overseas does not include the term 'Limited'.

Although New Zealand companies are required to include the term 'Limited' or 'Tapui (Limited)' in their proprietary name when they are limited liability companies (pursuant to section 21 of the Companies Act 1993), it is recognised that many overseas companies and corporations are not subject to the same requirements.

Therefore, in the absence of evidence to the contrary, IPONZ will (generally) not raise an objection where an applicant legal entity is incorporated overseas and does not include the term 'Limited' or a similar overseas suffix identifying legal incorporation within its name. IPONZ still proposes to retain its discretion to raise a concern under section 32 of the Act where it has concerns about whether the applicant named pursuant to regulation 42 of the Trade Mark Regulations 2003 is not a legal entity.

As a result IPONZ has replaced sub-clause 4.1.3 of the Practice Guidelines on Filing a Trade Mark Application with the following:

### **4.1.3 Companies and other incorporated entities**

An application may be made by a legal entity that is not a natural person, such as an incorporated company. The full name of the applicant entity as stated in its certificate of incorporation or analogous official document is required to be provided for all applications.

Where a New Zealand applicant's company name does not include the term 'Limited' or 'Tapui (Limited)', the applicant details will be queried or amended to the correct legal name if this can easily be determined following a search of the New Zealand companies register. Abbreviations of the term "Limited" are acceptable.

Where an applicant is incorporated overseas and its legal name does not include the term 'Limited' or a similar overseas suffix identifying legal incorporation, no query will generally be raised as it will be assumed in the absence of evidence to the contrary that the applicant has filed its application in the correct legal name.