

**THE TRADE MARKS ACT (CAP. 332)**

**IN THE MATTER OF**

Singapore Trade Mark Application  
No. 40201400953Z

**"HILL RANGER ATV logo"**

In Classes 12, 39, and 41 in the  
name of Hill Ranger Sdn Bhd (the  
"**Applicant**")

**AND**

**IN THE MATTER OF** an Opposition  
thereto by Hell Ranger (S) Pte. Ltd.  
(the "**Opponent**")

**NOTICE OF OPPOSITION**

We, **HELL RANGER (S) PTE. LTD.**, a company organized and existing under the laws of Singapore, hereby give notice of our opposition to the registration of Singapore Trade Mark Application No. 40201400953Z for the mark "**HILL RANGER ATV logo**" in Classes 12, 39 and 41 in the name of Hill Ranger Sdn Bhd of Suite 99, Level 66, The Gardens North Tower, Mid Valley City, Lingkaran Syed Putra, 59966 Kuala Lumpur, Malaysia, which was published in Singapore Trade Marks Journal No. 047/2017 dated 24 November 2017 (the "**Application Mark**"). The grounds of opposition are as follows:

1. The Opponent is a private limited company that was incorporated in Singapore in 1992. The principal address of the Opponent is #27-03, 79 Anson Road, Singapore 079906.

2. The Opponent is the local market leader in Singapore for the manufacture and distribution of electric 'commuter scooters' that enable users to travel relatively lengthy distances around the city at safe speeds. The Opponent's "**HELL RANGER**" brand of electric 'commuter scooters' is hugely popular in Singapore because these products are lightweight, extremely versatile, convenient, and are an economical means of travelling around the city. In fact, the popularity of the Opponent's "**HELL RANGER**" brand of electric 'commuter scooters' has been supercharged in recent times with the relative uncertainty surrounding the reliability of public transport in the city state.
  
3. The Opponent is the proprietor of the following registered trade mark rights in Singapore (collectively, the "**Opponent's Marks**"):
  - 3.1 Singapore Trade Mark Registration No. T0369246R for the mark "**HELL RANGER**" in Class 12 that has been registered since 30 June 2003 for "*vehicles; apparatus for locomotion by land, air or water; electric bicycles; electric vehicles; electric motors for land vehicles; two-wheeled motor vehicles and bicycles; cycles; bicycles; scooters (vehicles)*"; and
  
  - 3.2 Singapore Trade Mark Registration No. T0579135H for the mark "**HELL RANGER logo**" in Class 12 that has been registered since 1 September 2005 for "*vehicles; apparatus for locomotion by land, air or water; electric bicycles; electric vehicles; electric*

*motors for land vehicles; two-wheeled motor vehicles and bicycles; two-wheeled motorized vehicles and three-wheeled motorized vehicles; non-motorized two-wheeled vehicles and non-motorized three-wheeled vehicles; cycles; bicycles; bikes; electric bicycles, pedelecs, electric bikes, electric vehicles; scooters (vehicles); mobility vehicles; recumbent cycles; folding bikes; folding bicycles; collapsible bikes; unicycles; luggage carriers for cycles; luggage carriers and luggage-carrying systems for two-wheeled vehicles; luggage carriers for attachment to vehicles, in particular luggage carriers for attaching to two-wheeled vehicles" (the "**Opponent's Logo**").*

4. At all material times, the Opponent's Marks are valid and subsisting. A copy of the images depicting each of the Opponent's Marks is annexed hereto as "Appendix A".
  
5. Around July 2012, the Opponent learnt that the Applicant had launched its electric 'all-terrain vehicles' ("**ATVs**") under its "**HILL RANGER**" brand in Malaysia. The Opponent has since discovered that the Applicant apparently has plans to open an off-roading activity circuit in 2018 featuring challenging hills and obstacles housed in the upcoming new Forest Woodlands Outdoor Activity Hub ("**FWOAH**") in Singapore. In fact, based on the Applicant's own website, it appears that the Applicant's said activity circuit is scheduled to be launched during the grand opening of the FWOAH and the Applicant has even begun taking reservations for

interested participants to be the first to try out the Applicant's **"HILL RANGER"** ATVs in Singapore.

6. It was on 5 November 2017 that the Opponent first discovered that the relevant sector of the public was confused between the source of the Applicant's **"HILL RANGER"** ATVs, and the Opponent's **"HELL RANGER"** brand of electric 'commuter scooters'. The Opponent had organized an 'electric bonfire' to celebrate the milestone 25<sup>th</sup> Anniversary of its founding. Even though the Opponent had only invited its elite "Seventh Circle Club" members, who are the 666 most loyal and fervent customers that the Opponent has, there was ample evidence that these customers thought that the Applicant's **"HILL RANGER"** ATVs were somehow associated with the Opponent's **"HELL RANGER"** brand.
7. The consensus appeared to be that customers thought the use of the **"HILL RANGER"** brand in Malaysia may have been a way to better appeal to the local market, especially in the Cameron Highlands where such off-roading activities using ATVs are popular. In fact, some of the Opponent's "Seventh Circle Club" members themselves have even participated in races organized by the Applicant in Malaysia, having mistakenly assumed that the similarity of the Opponent's and the Applicant's corporate names and logos were an indication of goods and services emanating from the same source.
8. There have been at least two other instances of such confusion since. On these occasions, representatives of purportedly prospective business

partners had walked into the Opponent's registered office looking to seek licence agreements for the use of the Applicant's "**HILL RANGER**" branded ATVs for outdoor events that they were organizing in Singapore, which are supposedly to take place in late 2018. In the face of such queries, the Opponent's staff therefore had to take pains to explain that the Opponent is in no way affiliated to the Applicant.

9. These unequivocal instances of confusion have led the Opponent to look for the earliest opportunity to prevent the registration of the Application Mark.

#### **Grounds of Opposition**

##### **A. Section 8(2) of the Trade Marks Act**

10. The Opponent avers that by virtue of Section 8(2)(b) of the Trade Marks Act, the Application Mark should not be registered because it is similar to the Opponent's Logo and is to be registered for goods that are identical with or similar to those for which the Opponent's Logo is protected, and there exists a likelihood of confusion on the part of the public.

##### **B. Section 8(4) of the Trade Marks Act**

11. Further and/or in the alternative, the Opponent avers that by virtue of Sections 8(4)(a) and 8(4)(b)(i) of the Trade Marks Act, the Application Mark should not be registered because the Opponent's Marks are well

known in Singapore, and the use of the Application Mark by the Applicant in relation to the goods or services for which the Application Mark is sought to be registered would indicate a connection between those goods or services and the Opponent, and is therefore likely to damage the interests of the Opponent.

**C. Section 8(7)(a) of the Trade Marks Act**

12. Further and/or in the alternative, the Opponent avers that by virtue of Section 8(7)(a) of the Trade Marks Act, the Application Mark should not be registered because its use in Singapore is liable to be prevented by virtue of the law of passing off.

**D. Section 7(6) of the Trade Marks Act**

13. Further and/or in the alternative, the Opponent avers that by virtue of Section 7(6) of the Trade Marks Act, the Application Mark should not be registered because the application was made in bad faith. Specifically, the Opponent avers that the Applicant had deliberately taken advantage of the Opponent's reputation and goodwill in the Opponent's Marks, which are well known in Singapore, by using the Application Mark, which in the Opponent's view is nothing more than a poor imitation of the Opponent's Logo under Singapore Trade Mark Registration No. T0579135H.

**Relief Prayed**

14. By reason of the matters set forth above, by virtue of the law, and in the exercise of the Registrar's discretion, the Opponent prays:

- (i) that the Application Mark be refused registration; and
- (ii) costs of and occasioned by these Opposition proceedings be forthwith paid to the Opponent.

Dated this 1<sup>st</sup> day of December 2017

  
SOLICITORS FOR THE OPPONENT  
COLDHAM, CHARLES & FLOWER LLP

**APPENDIX A**

1 Singapore Trade Mark Registration No. T0369246R:

**HELL RANGER**

2 Singapore Trade Mark Registration No. T0579135H (series of two):

