

**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 Hill Ranger (S) Pte. Ltd. (the  
"**Opponent**")

**APPLICANT'S STATUTORY DECLARATION**

I, **DEANARIS TOH GEE RAN (PASSPORT NO. A73944937H)**, care of Suite 99, Level 66, The Gardens North Tower, Mid Valley City, Lingkaran Syed Putra, 59966 Kuala Lumpur, Malaysia, solemnly and sincerely make oath and say as follows:

1. I am the Managing Director of Hill Ranger Sdn Bhd and am duly authorized to make this Statutory Declaration on its behalf.

2. I make this Statutory Declaration in support of the Applicant's application for the mark:



in Classes 12, 39, and 41 for the following goods and services:

Class 12

Vehicle tyres; vehicle tyres for non-motorized vehicles, one-wheeled vehicles, two-wheeled vehicles, three-wheeled vehicles; wheels for automobiles; tires for automobiles; electric motors for land vehicles; two-wheeled motor vehicles and bicycles; land motor vehicles, namely, karts; go-karts; land motor vehicles; parts, spare parts and fittings for land motor vehicles, karts and go-karts; tires for land vehicles; tires; non-slip devices for vehicle tires; electrically powered land vehicles and their spare parts, namely bodywork parts, engine parts, brakes, shock absorbers; electrically propelled cars; electrically powered engines and transmission components for

electric cars; electric motors for two-wheeled vehicles; parts and accessories for all the aforesaid goods, included in this Class.

#### Class 39

Transport; travel arrangement; transport reservation; vehicle-driving services; providing travel information; tour conducting; travel reservation; vehicle rental; electronic monitoring and tracking services for vehicles via a computer network; arranging and booking of transport services; arranging and booking of travel; transport of travellers; travel advisory services; travel agents services for arranging travel; online and telephone reservation of rental vehicles; car rental; chartering of vehicles; information on transport and vehicle rental; distribution of merchandise; providing information in relation to all of the aforesaid services, including via computer networks; advisory and consultancy services in relation to the aforesaid services.

#### Class 41

Providing of training; entertainment; sporting and cultural activities; amusements and entertainment services; educational and instruction services relating to arts crafts sports or general knowledge; organization, management or arrangement of sports

competitions; organization, management or arrangement of events or contests relating to educational, cultural or entertainment; providing sports facilities; providing amusement facilities; ticket agency services; providing information in relation to all of the aforesaid services, including via computer networks; advisory and consultancy services in relation to the aforesaid services.

(the "**Application Mark**")

3. The Opponent opposes the registration of the Application Mark on the following grounds:
  - a. Pursuant to Section 8(2) of the Trade Marks Act (the "**Act**"), that the Application Mark is similar to the Opponent's Singapore Trade Mark Registration No. T0579135H for the mark:



in Class 12 (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. Pursuant to Section 8(4) of the Act, that the Opponent's Logo and the Opponent's Singapore Trade Mark Registration No. T0369246R for the mark "**HELL RANGER**" (collectively, 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. Pursuant to Section 8(7)(a) of the Act, that the use of the Application Mark in Singapore is liable to be prevented by virtue of the law of passing off; and
- d. Pursuant to Section 7(6) of the Act, that the application for the registration of the Application Mark was made in bad faith.

**A. THE APPLICANT**

- 4. The Applicant has been in the business of the manufacture and sale of outdoor and camping equipment since 2007, and ventured into the all-terrain vehicles ("**ATV**") business in 2012.

5. The Applicant is the proprietor of the following registered trade mark rights in Malaysia:

a. Malaysia Trade Mark Registration No. 2007010777 for the mark "**HILL RANGER**" in Class 25 that has been registered since 20 October 2007 for "boots, climbing boots, hiking boots, lace books, mountaineering boots, outdoor boots, trekking boots, boots for sport, insoles";

b. Malaysia Trade Mark Registration No. 2008000934 for the mark:



in Class 25 that has been registered since 14 April 2008 for "boots, climbing boots, hiking boots, lace books, mountaineering boots, outdoor boots, trekking boots, boots for sport, insoles" ("**HILL RANGER Boot Logo**");

c. Malaysia Trade Mark Registration No. 20110065432 for the mark "**HILL RANGER**" in Class 12 that has been registered since 5 September 2011 for "Vehicle tyres; vehicle tyres for non-motorized vehicles, one-wheeled

vehicles, two-wheeled vehicles, three-wheeled vehicles; wheels for automobiles; tires for automobiles; electric motors for land vehicles; two-wheeled motor vehicles and bicycles; land motor vehicles, namely, karts; go-karts; land motor vehicles; parts, spare parts and fittings for land motor vehicles, karts and go-karts; tires for land vehicles; tires; non-slip devices for vehicle tires; electrically powered land vehicles and their spare parts, namely bodywork parts, engine parts, brakes, shock absorbers; electrically propelled cars; electrically powered engines and transmission components for electric cars; electric motors for two-wheeled vehicles; parts and accessories for all the aforesaid goods, included in this Class";

- d. Malaysia Trade Mark Registration No. 20120002043 for the mark:



in Class 12 that has been registered since 5 January 2012 for "Vehicle tyres; vehicle tyres for non-motorized vehicles, one-wheeled vehicles, two-wheeled vehicles, three-wheeled vehicles; wheels for automobiles; tires for automobiles; electric motors for land vehicles; two-wheeled

motor vehicles and bicycles; land motor vehicles, namely, karts; go-karts; land motor vehicles; parts, spare parts and fittings for land motor vehicles, karts and go-karts; tires for land vehicles; tires; non-slip devices for vehicle tires; electrically powered land vehicles and their spare parts, namely bodywork parts, engine parts, brakes, shock absorbers; electrically propelled cars; electrically powered engines and transmission components for electric cars; electric motors for two-wheeled vehicles; parts and accessories for all the aforesaid goods, included in this Class" ("**HILL RANGER ATV logo**"); and

- e. Singapore Trade Mark Registration No. 40201400903H for the mark "**HILL RANGER**" that has been registered since 4 May 2014 for the following goods and services:

Class 12

Vehicle tyres; vehicle tyres for non-motorized vehicles, one-wheeled vehicles, two-wheeled vehicles, three-wheeled vehicles; wheels for automobiles; tires for automobiles; electric motors for land vehicles; two-wheeled motor vehicles and bicycles; land motor vehicles, namely, karts; go-karts; land motor vehicles; parts, spare parts and fittings for land motor vehicles, karts and go-karts; tires for land vehicles; tires; non-slip devices for vehicle tires; electrically powered land vehicles and their spare parts, namely bodywork parts, engine parts, brakes, shock absorbers; electrically



propelled cars; electrically powered engines and transmission components for electric cars; electric motors for two-wheeled vehicles; parts and accessories for all the aforesaid goods, included in this Class.

#### Class 39

Transport; travel arrangement; transport reservation; vehicle-driving services; providing travel information; tour conducting; travel reservation; vehicle rental; electronic monitoring and tracking services for vehicles via a computer network; arranging and booking of transport services; arranging and booking of travel; transport of travellers; travel advisory services; travel agents services for arranging travel; online and telephone reservation of rental vehicles; car rental; chartering of vehicles; information on transport and vehicle rental; distribution of merchandise; providing information in relation to all of the aforesaid services, including via computer networks; advisory and consultancy services in relation to the aforesaid services.

#### Class 41

Providing of training; entertainment; sporting and cultural activities; amusements and entertainment services; educational and instruction services relating to arts crafts sports or general knowledge; organization, management or arrangement of sports competitions; organization,

management or arrangement of events or contests relating to educational, cultural or entertainment; providing sports facilities; providing amusement facilities; ticket agency services; providing information in relation to all of the aforesaid services, including via computer networks; advisory and consultancy services in relation to the aforesaid services.

6. The name "Hill Ranger" was crafted while I was trekking through the great grass plains in my quest to conquer the range of hills that lie to the east of my hometown. During the journey, I realized the importance of good outdoor and camping equipment, especially hiking boots. I wanted my company to have a name to reflect the adventurous spirit of all who dare to wander the hills and the valleys. I was also partly inspired by my favourite character, Aragorn II, son of Arathorn, from the Lord of the Rings, who is a ranger of the north.
7. The Applicant's tag line "tread without fear" was coined because I wanted all my customers to feel secure with our signature line of hiking boots. Anyone equipped with our signature hiking boots would be able to tread without fear across any terrain.

**B. THE APPLICANT'S ATV BUSINESS**

8. The Applicant's foray into the ATV business was driven by my passion for ATV (or quad bike) racing. In 2008, I discovered ATV racing, and got to experience riding on an ATV during my holiday in England. After experiencing the

adrenaline rush of ATV racing, I was determined to share my experience with others.

9. However, conventional ATVs also cause quite a bit of environmental damage because of emissions from the ATVs and damage caused to the terrain. As a passionate trekker, I knew the damage that ATVs could cause to Malaysia's natural environment, and set out to develop customized electric engines and better specialist tyres for ATVs to minimize environmental damage.
10. On 12 July 2011, the Applicant's research and development team made a breakthrough, and the Applicant's custom designed electric ATVs were approved for use in Malaysia. Manufacture of the Applicant's electric ATVs then commenced at top speed. The Applicant's ATV business was launched on 8 February 2012, to much fanfare and critical acclaim in Malaysia.
11. The Applicant's ATV business is straightforward. At the Applicant's place of business in Kuala Terla, ATVs are rented out to fellow adventurers and daredevils to explore the rugged terrain in Cameron Highlands.
12. My team and I worked very hard to advertise our ATV business. After the Applicant's custom designed electric ATVs were approved for use in Malaysia, the Applicant's employee, Mr. Joe Rhan, adapted the "**HILL RANGER Boot logo**" for our ATV business, creating the "**HILL RANGER ATV logo**". The "**HILL RANGER Boot logo**" was already well known, and it was only natural

that we replace our signature hiking boot with our custom designed electric ATV.

13. Further, in July 2012, we took a business trip to England, where the idea for the ATV business was conceived, to meet potential investors and also to share about our business and growth plans. In August 2012, we crossed the Causeway and launched a month long advertising campaign to promote our business in Singapore.
14. In or around November 2013, our hard work paid off. The Applicant's ATV business was officially supported by the Malaysian government as an environmentally friendly way of exploring the Cameron Highlands. The Applicant's ATVs were featured in various campaigns led by the Ministry of Tourism and Culture. Copies of the advertising material used by the Ministry of Tourism and Culture are annexed hereto and collectively marked as Exhibit **"DTGR-1"**.
15. As a result of the advertising campaigns run by the Ministry of Tourism and Culture, the Applicant's ATV business was also picked up and reviewed positively by various social media influencers, such as Dro Gun, Vessa Ron, and Rae Gal, in the first quarter of 2014. Copies of the social media posts by Dro Gun, Vessa Ron, and Rae Gal are annexed hereto and collectively marked as Exhibit **"DTGR-2"**.

16. In or around May 2014, the Applicant decided to ramp up its marketing activities in Singapore, and entered into an exclusive partnership with Singapore Nature Observers and Wanderers Pte Ltd ("**SNOW**"), a Singapore based travel agency. A tour package targeted at adrenaline junkies was jointly designed and launched. The tour, which offered a three-day, two-night stay in the Cameron Highlands including full day rental of the Applicant's ATVs, was immensely popular. The tour package was even featured in The Straits Times as a "*unique and exciting tour, perfect for daredevils*" on 27 October 2014. A copy of the aforementioned Straits Times article is annexed hereto and marked as Exhibit "**DTGR-3**".
  
17. As a consequence of the Applicant's decision to increase its marketing in Singapore, it was decided that the Applicant would seek protection of its trade marks in Singapore. I wish to highlight that the Applicant is the proprietor of Singapore Trade Mark Registration No. 40201400903H for the mark "**HILL RANGER**" in Classes 12, 39, and 41, which has been registered since 4 May 2014.

**C. THE SUCCESS OF THE APPLICANT'S ATV BUSINESS AND THE DECISION TO EXPAND TO SINGAPORE**

18. As an illustration of the popularity of the Applicant's ATV business, I set out below the Applicant's business figures for its ATV business since its launch:

<b>Year</b>	<b>Total Profit (MYR)</b>	<b>Average No. of Rentals per month</b>	<b>Total No. of Singaporean Customers</b>
2012	850,290	245	532
2013	1,039,380	323	648
2014	4,480,795	1,692	2,304
2015	6,548,290	2,059	5,384
2016	7,689,300	2,934	10,308
2017 (estimated)	12,874,230	4,293	25,497

19. As can be seen from the table above, the Applicant's ATV business was especially popular with Singaporeans. In fact, many of the Applicant's Singaporean customers encouraged the Applicant to expand its ATV business to Singapore, and left reviews on the Applicant's webpage as well as the Applicant's Trip Advisor page requesting as such, lamenting that they could only take the occasional weekend trip up to the Cameron Highlands to satisfy

their need for speed. Copies of the reviews left by the Applicant's customers are annexed hereto and collectively marked as Exhibit "**DTGR-4**"

20. It was a challenge to bring the Applicant's ATV business to Singapore as Singapore has no natural hills that are appropriate for ATVs, and the Applicant could not simply replicate its existing business model. Fortunately, the Applicant was approached by, Singapore Highlands Investment Operations Company ("**SHIOC**"), the developers of the upcoming Forest Woodlands Outdoor Activity Hub ("**FWOAH**") to consider setting up an off-roading activity circuit and renting the Applicant's custom made electric ATVs there.
21. After much deliberation, the Applicant decided to go ahead with the designing of an off-roading activity circuit at FWOAH. SHIOC also requested that the Applicant advertise its upcoming off-roading activity circuit online to raise the hype for the grand opening of FWOAH in 2018.

**D. THE OPPONENT'S OPPOSITION HAS NO MERIT**

22. It is clear from the above that there is no bad faith involved whatsoever in the present application for the Application Mark. The Applicant has painstakingly cultivated the goodwill and reputation in its various trade marks, including the Application Mark, in both Malaysia and Singapore. The allegation that the Applicant had deliberately taken advantage of the Opponent's reputation and

goodwill in the Opponent's Marks is entirely baseless; the Opponent knows nothing.

23. Further, the specification of goods and services to be registered under the Application Mark is not identical with the specification of goods registered under the Opponent's Mark. The Application Mark is also not similar, whether visually, aurally, or conceptually to the Opponent's Mark, and there is no evidence of confusion. In the circumstances, there cannot be any passing off of the Opponent's Mark.

**E. CONCLUSION**

24. In the premises, the Applicant prays that the opposition be dismissed in its entirety with costs and the Application Mark be allowed to proceed to grant.

SWORN BY )  
the abovenamed )  
**DEANARIS TOH GEE RAN** )  
in Kuala Lumpur, Malaysia )  
on this 22<sup>nd</sup> day of December 2017 )



Before me,



**A Commissioner for Oaths**



THIS IS THE EXHIBIT MARKED "DTGR-1"

REFERRED TO IN

THE STATUTORY DECLARATION OF DEANARIS TOH GEE RAN

SWORN BEFORE ME

ON THIS 22<sup>ND</sup> DAY OF DECEMBER 2017

IN KUALA LUMPUR, MALAYSIA

Before me,



**A COMMISSIONER FOR OATHS**

[ADVERTISING MATERIAL USED BY MINISTRY OF TOURISM & CULTURE]

- Print Media Advertising including:
  - Newspaper Advertisement (1/2 page) that ran twice a week for the months November – December 2013; and
  - Magazine Advertisement (full page) in various sports and travel magazines for the month of December 2013
- Visual Media Advertising that ran for the months of November – December 2013 including:
  - Television air time;
  - Advertising slots in theatres and cinemas; and
  - YouTube advertisements.
- Radio Advertising on the popular youth radio station, MYSHA
- Facebook post, which was liked by 83,964 people in two days.

THIS IS THE EXHIBIT MARKED "DTGR-2"  
REFERRED TO IN  
THE STATUTORY DECLARATION OF DEANARIS TOH GEE RAN  
SWORN BEFORE ME  
ON THIS 22<sup>ND</sup> DAY OF DECEMBER 2017  
IN KUALA LUMPUR, MALAYSIA

Before me,



A handwritten signature in black ink is written over the right side of the official stamp.

**A COMMISSIONER FOR OATHS**

[SOCIAL MEDIA POSTS BY DRO GUN, VESSA RON, AND RAE GAL]

- Instagram post by Dro Gun dated 7 January 2014, which was liked by 238,478 people in one week;
- Blogpost by Dro Gun dated 15 March 2014, which has been read by 2,932,574 people to date;
- YouTube review by Vessa Ron uploaded on 23 February 2014, which has been viewed 5,365,821 times to date;
- Facebook post by Vessa Ron advertising the YouTube review uploaded on 23 February 2014, which was liked by 103,302 people in one week; and
- Instagram post by Rae Gal dated 29 January 2017, which was liked by 153,186 people in one week.

THIS IS THE EXHIBIT MARKED "DTGR-3"  
REFERRED TO IN  
THE STATUTORY DECLARATION OF DEANARIS TOH GEE RAN  
SWORN BEFORE ME  
ON THIS 22<sup>ND</sup> DAY OF DECEMBER 2017  
IN KUALA LUMPUR, MALAYSIA

Before me,

  
The seal consists of two concentric ovals. The text "COMMISSIONER FOR OATHS" is centered within the inner oval.

**A COMMISSIONER FOR OATHS**

[THE STRAITS TIMES ARTICLE DATED 27 OCTOBER 2014 ON TOUR PACKAGE]

- ½ page long, with a picture of the Applicant's customized electric ATV and the "HILL RANGER ATV logo".

THIS IS THE EXHIBIT MARKED "DTGR-4"  
REFERRED TO IN

THE STATUTORY DECLARATION OF DEANARIS TOH GEE RAN

SWORN BEFORE ME

ON THIS 22<sup>ND</sup> DAY OF DECEMBER 2017

IN KUALA LUMPUR, MALAYSIA

Before me,



COMMISSIONER  
FOR OATHS

A COMMISSIONER FOR OATHS

[REVIEWS LEFT BY CUSTOMERS ONLINE]

- 9,367 discrete reviews left by the Applicant's customers on the Applicant's website which requested that the Applicant expand its ATV business to Singapore from 1 January 2015 to date.
- 4,874 discrete reviews left by the Applicant customers on the Applicant's trip advisor web page which requested that the Applicant expand its ATV business to Singapore from 1 January 2015 to date.