

TikTok vs Tiki: Unpacking the "Well-Known to the Public at Large" Standard in Singapore

In the recent decision of *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5, the Intellectual Property Office of Singapore (IPOS) considered Bytedance's opposition to the composite trademark Tiki (and device) by Dol Technology. Bytedance, the owner of TikTok, claimed Tiki was similar to its own marks and would likely cause confusion among consumers. IPOS dismissed the opposition, finding no similarity or likelihood of confusion.

A key aspect of the case was Bytedance's claim that its "TikTok" mark was well-known in Singapore, warranting broader protection under the Trade Marks Act 1998. IPOS agreed that the word mark "TikTok" was "well-known to the public at large in Singapore," but not the TikTok logo, which was only "well known in Singapore". This distinction highlights the two tiers of protection for well-known marks in Singapore:

- 1. Well Known in Singapore:** Requires recognition by any relevant sector of the public.
- 2. Well Known to the Public at Large in Singapore:** A higher threshold, necessitating recognition by most sectors of the public.

Evidence Required for Well-Known Status

To determine how well known a trade mark is in Singapore, IPOS considers various factors, including:

- **Degree of public recognition:** The extent of knowledge or recognition among the relevant public sector in Singapore.
- **Duration, extent, and geographical area of use or promotion:** This encompasses advertising, publicity, and exhibitions, both domestically and internationally.
- **Registration and duration in any country:** The number and duration of registrations or applications globally, reflecting the mark's use or recognition.
- **Record of successful enforcement:** Evidence of successful enforcement actions and recognition as a well-known mark by authorities in other countries.
- **Value associated with the mark:** The economic or financial value of the mark.



TikTok Word Mark: Well-Known to the Public at Large

In *Bytedance*, IPOS found that the "TikTok" word mark met the criteria for being well-known to the public at large due to:

- **Extensive media coverage:** Numerous articles in reputable publications like *The New York Times* highlighted TikTok's global recognition, rapid growth, and massive user base. These articles emphasized TikTok's widespread impact and popularity, suggesting a high degree of public awareness.
- **High download and usage statistics:** Evidence showed millions of downloads and active users in Singapore. Notably, even Singapore government agencies utilized the platform to communicate with the public, indicating recognition across diverse sectors.
- **Awards and accolades:** The brand received numerous awards, further demonstrating its recognition and strength.

While overseas evidence is generally irrelevant when assessing whether a mark is well known to the public at large, in this case IPOS considered the fact that Singapore is a globally connected nation with well-informed and tech-savvy consumers. The widespread media coverage and the app's popularity globally, combined with its significant presence in Singapore, led IPOS to conclude that the average consumer in Singapore would be aware of TikTok and its global success.

TikTok Logo: Not Well-Known to the Public at Large

In comparison, the TikTok logo wasn't considered "well-known to the public at large", only "well known in Singapore". While it was undoubtedly associated with the app, the evidence did not establish that the logo alone enjoyed the same widespread recognition across most sectors of the public as the word mark "TikTok." IPOS also noted that the logo was often used in conjunction with the word mark, and its independent recognition was not as pervasive.

This distinction highlights the more stringent evidentiary requirements for a mark to be considered "well-known to the public at large." It requires a significantly higher degree of recognition across various sectors of the public, independent of any accompanying word marks or other brand elements.

Well Known to the Public at Large: A Rare and Exclusive Class

The "well known to the public at large" status is reserved for a select few marks. The Court of Appeal in *City Chain Stores (S) Pte Ltd v Louis Vuitton Malletier* emphasized that this requires recognition by most, though not all, sectors of the public. The burden of proof is high, and even internationally famous brands must provide substantial evidence beyond their reputation to qualify. Only Seiko, Clinique, Nutella, Intel, Gucci, and Gmail—and now TikTok—have ever met this threshold in Singapore.



Want to know more about how to meet this well known standard? Talk to Aaron.



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Read the full decision here:

<https://www.ipos.gov.sg/docs/default-source/resources-library/hearings-and-mediation/legal-decisions/2024/bytedance-v-dol-technology-2024-sgipos-5.pdf>

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