ASIAN PATENT ATTORNEYS ASSOCIATION

79TH COUNCIL MEETING, 2026

Anti-Counterfeiting Committee Report

Australian Group – Annual Update 2026

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EXECUTIVE SUMMARY

A. Recent and prospective Legislative Changes

Trademark Law

Enactment of *Customs Legislation Amendment (False Trade Marks Infringement Notices) Act 2026* (Cth), which received Royal Assent on 20 May 2026. Once the amendments commence, a new section 10AB of the *Commerce (Trade Descriptions) Act 1905* (Cth) will make it a strict liability offence for a person to import goods into Australia if:

(i) there is a registered trade mark on the goods;

(ii) there is a mark or sign on the goods that is substantially identical to a registered trade mark; or

(iii) a registered trade mark on the goods has been altered, defaced, added to, wholly or partly removed, erased or obliterated.

This is unless the relevant acts were done with the permission of the registered owner or an authorised user, or were otherwise required or authorised by law.

This change will permit the Australian Border Force to issue infringement notices to importers of goods bearing false trade marks, providing an administrative alternative to prosecution.

Australian Consumer Law

No significant updates affecting anti-counterfeiting measures since previous report.

Designs Law

No significant updates affecting anti-counterfeiting measures since previous report.

Copyright Law

No significant updates affecting anti-counterfeiting measures since previous report.

Patent Law

No significant updates affecting anti-counterfeiting measures since previous report.

B. Recent Court Decision

Toyota Jidosha Kabushiki Kaisha v OZI4X4 Pty Ltd (No 3) **[2026] FCA 1215 (27 August 2026)**

The dispute

Toyota Jidosha Kabushiki Kaisha ("Toyota") owned trade marks, including for "TOYOTA", "HILUX" and "LAND CRUISER" in relation to motor parts and accessories. OZI4X4 Pty Ltd is in the business of selling aftermarket 4x4 accessories, and unlawfully imported, advertised and sold goods bearing the aforementioned trade marks. The goods OZI4X4 was selling, included counterfeit armrests and tail lights for vehicles.

Toyota alleged trade mark infringement, misleading or deceptive conduct (under the Australian Consumer Law), passing off and a breach of a prior settlement agreement. The last allegation was raised after a settlement agreement was entered into between the parties due to previous proceedings relating to these issues.

OZI4X4 was at one point placed into liquidation, with its sole director and shareholder continuing its counterfeiting activities through a new entity.

Findings

The Court found that the defendants had been using Toyota's aforementioned trade marks on counterfeit goods and advertising for same. This use was held to not only be infringement of Toyota's trade mark registrations, but also misleading representations regarding the origin/affiliation of the goods in breach of the Australian Consumer Law and passing off.

The court also held that OZI4X4 was in breach of a settlement agreement with Toyota, as a result of it continuing to advertise and sell goods under and/or by reference to Toyota's trade marks in breach of the agreed upon terms of settlement.

Orders

The Court awarded substantial compensatory, additional and exemplary damages, as well as ordering permanent injunctions.

C. Other Matters

End of Report