New Zealand

“ZIPLOC”

Decision of the Supreme Court of New Zealand 15 October 2020 – Case No. [2020] NZSC 110

*International Consolidated Business Proprietary
Limited v. SC Johnson & Son Incorporated*

Trade Marks Act 2002, Secs. 25, 26, 68

© Max Planck Institute for Innovation and Competition, Munich 2021

Keywords Registration · Identical or similar trade marks · Date of application versus date of registration · Application for revocation · Backdated revocation · Special circumstances

1. The register is assessed for competing marks as at the date of entry onto the register.
2. But the date of application remains relevant. There cannot be an identical or similar trade mark belonging to different parties on the register at the same time. This means that an application for registration of a trade mark must:
 - a. Not precede the date of application for revocation; or
 - b. If it does, there must be an application to backdate the revocation to the date of application for registration, or there must be a finding of special circumstances under s 26(b) or that one of the other exceptions in s 26 applies.

Publisher's Note Springer Nature remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.