

# Agents

## Recognition

Any person, partnership or company can act as a trade mark agent in any proceedings in the Trade Marks Registry.

## Agent's address in Hong Kong

An agent must have a residence or a place of business in Hong Kong (section 88(3)).

## Agent can act in all proceedings

An agent can act and sign for an applicant, a registered owner or other person in connection with any proceedings under the Ordinance (section 88(1)).

However, an agent cannot make a statutory declaration or affidavit (unless he has first hand knowledge of the facts) or give or revoke a power of attorney on behalf of an applicant or other person for whom he acts.

## Filing agent's address in Hong Kong

An agent must file the address in Hong Kong where he resides or carries on his business activities before he acts or signs in connection with proceedings under the Ordinance or the Rules (rules 103(3) and 103(5)).

If we receive a complaint with evidence or have other reasons to believe that the address filed is neither a residence nor a place of business of the agent in Hong Kong, we will

send a notice to the agent concerned:

- requesting him to file supporting document (e.g. a copy of business registration certificate or utility bill in the name of the agent) to show that he resides or carries on his business activities at the address given within 1 month after the date of the notice; and
- informing him that the Registrar is unable to recognize as an agent a person having neither a residence nor a place of business in Hong Kong (section 88(3)).

If the agent fails to provide any supporting document within the specified period, the Registrar will refuse to recognize him as an agent. All future correspondence will be sent directly to the person instructing the agent and we will request him to file a new address for service in Hong Kong under rule 107(1) (see chapter on Address for service and change of name, address or address for service).

## **New agent**

An agent appointed by a person who is already a party to proceedings before the Registrar, or appointed to replace another agent, must file an address for service in Hong Kong at the time, or before, he acts or signs (rules 105(9) and 105(10)). A new agent can register an address for service in Hong Kong by filing Form T5 (rule 106(1)(a)) or any other specified form that he files in connection with proceedings under the Trade Marks Ordinance (rule 105(1)(v)). Keep in mind that a person can have only one address for service for a particular application for registration or registered mark (rule 105(5) and (6)) (see chapter on Address for service and change of name, address or address for service).

It is for the new agent appointed to replace another agent to inform the former agent.

If we have reason to doubt an agent's authority, we can require the person instructing the agent to sign personally (rule 103(1)). Alternatively, we can require an agent to produce evidence of his authority (rule 103(2)).

## **Change of agent's address**

An agent can change his address in Hong Kong by filing Form T5 or by notifying the Registrar in writing (rule 103(4)).

## **Failure to file agent's address in Hong Kong**

If an agent's address in Hong Kong is not filed in accordance with rule 103(3), we will send a notice to the person instructing the agent:

- requesting him to file his agent's address in Hong Kong within 2 months after the date of the notice; and
- informing him that the Registrar is unable to recognize as an agent a person having neither a residence nor a place of business in Hong Kong (section 88(3)).

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