

## Differences between trade marks and domain names

- A trade mark is a sign which can be represented graphically and is capable of distinguishing the goods or services of one undertaking from those of other undertakings. An application for registration of trade mark shall be made to the Trade Marks Registry of the Intellectual Property Department in the Hong Kong Special Administrative Region, and the application shall be determined by the Registrar of Trade Marks pursuant to the Trade Marks Ordinance (Cap. 559). The owner of a registered trade mark has the exclusive right to use the trade mark in relation to the goods and services for which the mark is registered in the Hong Kong Special Administrative Region.
- A domain name is a website address on the Internet which gives you an online identity. An application to register a domain name under .hk country code top-level domain (e.g. .com.hk) or a generic top-level domain (e.g. .com) shall be made to one of the registrars as accredited by Hong Kong Internet Registration Corporation Limited (HKIRC) and the Internet Corporation for Assigned Names and Numbers (ICANN) respectively. Subject to the terms of the agreement as entered into between the registrant and the accredited registrar, the registrant shall have the right to use the domain name as its address on the Internet.
- This table sets out the main differences between trade marks and domain names:

Domain names	Trade marks
A domain name must be contextual in form (e.g. <a href="http://www.ipd.gov.hk">www.ipd.gov.hk</a> ).	A trade mark may consist of words, designs, letters, numerals, colours, the shape of goods or their packaging etc. and any combination of such signs.
A domain name is registrable if it is not identical to a previously registered domain name.	A trade mark may not be registrable if it is identical or similar to a previously registered trade mark. Further, similarity of the applied-for goods or services and the goods or services of the previously registered trade mark would be taken into account in assessing whether consumers would be confused about the trade origin of the applied-for goods or services.
A domain name may describe the characteristics of the applied-for goods or services, e.g. “freshbread.com” for a bakery.	A trade mark which consists exclusively of a sign which describes the characteristics of the applied-for goods or services may not be registrable. Signs such as “fresh bread” in respect of bakery services would be considered as descriptive and non-distinctive and hence not registrable (while “fresh bread” would be fine for clothing).

<p>A domain name does not have to be registered in respect of a particular class of goods or services.</p>	<p>A trade mark shall be registered in respect of the class of goods or services as classified under the Nice Classification.</p>
<p>A domain name is valid for a contract period as agreed between the registrant and the accredited registrar and is subject to renewal.</p>	<p>A registered trade mark is valid for 10 years and can be renewed for further periods of 10 years.</p>
<p>Mandatory administrative proceedings before an approved dispute resolution service provider are required for certain types of disputes and legal proceedings may also be initiated in a court of competent jurisdiction.</p>	<p>Legal proceedings may be initiated before the Registrar of Trade Marks or the Court of First Instance in the Hong Kong Special Administrative Region as appropriate.</p>