

How to apply to register a trade mark in the Hong Kong SAR?

*Trade Marks Registry, Intellectual Property Department,
The Government of the HKSAR*

General introduction to registration

This document provides basic information on how to apply to register your trade mark in the HKSAR. Please read it carefully before you submit your application. The applications forms are also attached. A sample application form has also been included for your reference. Before you begin to fill out your form there are a number of points concerning your trade mark that you need to consider. These are listed in the “*Before you apply*” section and it is important that you pay particular attention to them as they could affect your application.

More information

If you require help or more information please contact the Trade Marks Registry at:

*Intellectual Property Department
24/F, Wu Chung House
213 Queen’s Road East
Wanchai
Hong Kong
China*

Our staff at reception will be pleased to help you. The reception is open at the following times:

Monday – Friday 9:00 a.m. to 5:45 p.m.

Alternatively you may wish to email to enquiry@ipd.gov.hk
or visit our website at <http://www.ipd.gov.hk/>

The Trade Marks Registry does not undertake to give legal advice and this document carries no legal authority. The Trade Marks Registry will therefore not accept any responsibility for the consequences of any omissions or inaccuracies in this document.

Our Search and Preliminary Advice Services

Before applying to register a trade mark it is necessary to find out if someone else has already registered or has applied to register the same or similar trade mark. The Trade Marks Registry offers Search and Preliminary Advice services to anyone who wishes to obtain information on trade marks from the Registry's records.

We can do a search of the records and supply a list of trade marks that are the same as or similar to your proposed trade mark and in respect of the same or similar class of goods or services.

In addition to the search we can provide preliminary advice as to whether your proposed trade mark is sufficiently distinctive so that it distinguishes your goods and services from those of other traders.

If you wish to use our Search and Preliminary Advice services, simply complete [Forms T1](#) and submit it with the appropriate fee (HK\$400 for each service plus HK\$200 per each additional class of goods or services, if any) to the Registry at the address above.

If you choose to search the Registry's records yourself, please go to <http://ipsearch.ipd.gov.hk> (our full trade marks records are available online).

Fees

The application fee for the registration of a trade mark is HK\$2,000 plus HK\$1,000 per each additional class of goods or services, if any.

Submitting your trade mark application

Once you have read through this document, conducted a trade mark search, filled in your application form ([Forms T2](#) is compulsory, [Form T2A](#) only if applicable) provided a graphic representation of your trade mark and attached the required fee, you may then submit your application. All trade mark applications should be sent to:

*Trade Marks Registry
Intellectual Property Department
24/F, Wu Chung House
Wanchai
213 Queen's Road East
Hong Kong
China*

What is a trade mark?

A trade mark is a sign that distinguishes the goods and services of one trader from those of others. Typically a trade mark can be words (including personal names), indications, designs, letters, characters, numerals, figurative elements, colours, sounds, smells, the shape of the goods or their packaging or any combination of these. A sign must be capable of being represented graphically in order for it to be registered as a trade mark.

Why register a trade mark?

Registering your trade mark means that you have the exclusive right to use the trade mark in relation to the goods and services for which the mark is registered. If other traders use it in Hong Kong, China in relation to the same or similar goods or services without your consent, they may be liable for infringement of your mark and you may take legal action. If you do not register your mark, it is harder to prove that you are the 'owner' of the mark and as such your protection is limited.

Before you apply

When we receive your application our examiner will check it and decide whether we need to object to your trade mark based on the criteria laid down in the Trade Marks Ordinance. Therefore there are a number of factors which you must consider before applying to register a trade mark. Listed below are some important points:

- **Is it distinctive?**

Does your trade mark stand out from the crowd? Does your trade mark, be it a logo, word, picture, etc. clearly set your goods and services apart from those of other traders? We will object to the mark if we do not think it does. We will consider invented words or everyday words that are in no way associated with your line of business as distinctive. For example the invented word "ZAPKOR" is distinctive for spectacles and the word "BLOSSOM" is distinctive for medical services.

- **Is it a description of your goods and services?**

If your trade mark describes the goods and services or shows the quality, purpose, quantity or value of them, then we are likely to object to the mark. Similarly we are likely to object to the use of geographical name in a mark. For example, we would for the above reasons object to the following marks: "QUALITY HANDBAGS", "FRESH AND NEW" and "NEW YORK FASHION".

- **Is it a well known term in your line of business?**

If your trade mark is a well known term or representation in your line of business we would object to it. For example "V8" for vehicle engines.

- **Other people's Trade Marks**

Has someone else already registered or applied to register the same or similar trade mark for the same or similar goods and services? If your trade mark looks or sounds the same or similar to another registered mark, or one that is being applied for, we will object to your mark.

- **Trade Mark search**

It is important to conduct a search of the trade mark register to see if your trade mark is already registered or has been applied for by another trader. As mentioned earlier you can use

our [Search and Preliminary Advice Services](#), by submitting Form T1 or conduct your own search online at <http://ipsearch.ipd.gov.hk>

- **Other important information to consider before you apply**

It is important to consider all the points mentioned above when applying to register your trade mark as once we receive your application you cannot make any changes to your application (only minor clerical errors on the form may be amended).

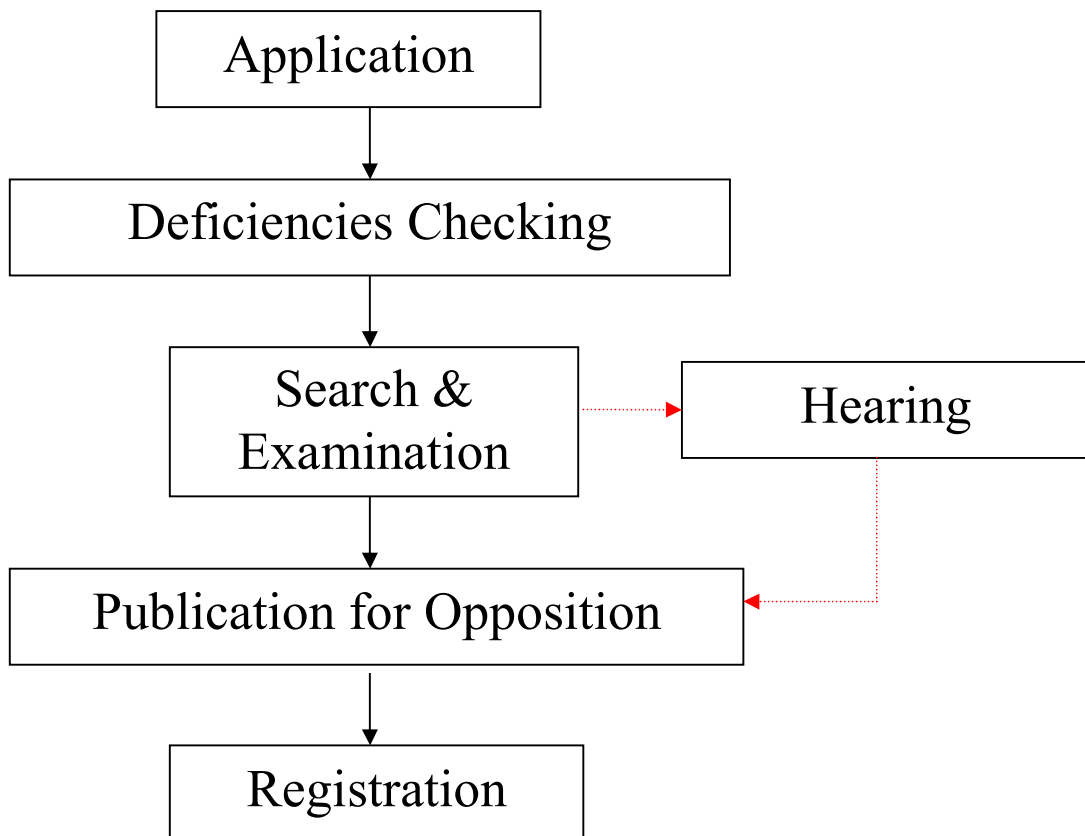
If we object to your mark and hence you decide to make changes to it to facilitate its registration, a new application will have to be submitted. Obviously this will slow the registration process of your trade mark.

Therefore you should carefully consider all the reasons why we may object to your mark at the start and make changes accordingly before you submit the application. We recommend that you use our [Search and Preliminary Advice Services](#) before submitting your application as this can give a good indication as to whether your trade mark is eligible for registration.

Application Examination Procedure

- **Introduction & overview**

Once we have received your application our examiner will process it according to the stages set out in the diagram and described in detail below.



- **Time scale (how long does the process take?)**

If there are no deficiencies in the application and no objections to the trade mark then the whole application procedure can take as little as 6 months from receipt of application to registration.

- **Deficiencies checking**

Before beginning to examine your application, we will carry out a thorough check of the application form(s) and any attachments. This is to see if all the necessary parts of the form(s) have been filled in, if they are correct and if any required information is missing.

If any required information is missing, we will ask you to provide the information to remedy the deficiencies. Some amendments are very minor and will not affect the filing date of your application, e.g. the class number of the applied for goods. Others are more important and will therefore affect the filing date, e.g. you have not provided the representation of your trade mark. Also, major changes to the application will not be accepted, for example, changes to the representation of the trade mark.

If everything is in order your application will proceed to the next stage (Search and examination).

- **Search & Examination**

After the deficiencies checking has been completed and all is found to be in order we will conduct a search of the trade marks records to see if the same or similar trade mark has already been registered or been applied for by another trader in respect of the same or similar class of goods and services.

We will also see if the trade mark satisfies the registration requirements laid down in the Trade Marks Ordinance. Some of these criteria are listed in the “*Before you apply*” section although this is not a comprehensive list.

The examiner will then issue an opinion in writing which will either lay out the grounds for objection to the mark or confirm the mark is acceptable for registration.

- **Objections**

If the requirements for registration are not met we will object to the mark. You, the applicant, have 6 months in which to meet the requirements. A further 3 months extension may be granted.

- **How to overcome objections**

We will indicate in the opinion why the mark does not meet the requirements for registration and may suggest ways of overcoming the objection if we think it is possible to do so.

- **If the objections remain**

Even if you have tried to overcome the objections made in the initial opinion we may still find that the requirements for registration have not been met and will issue a further opinion indicating these findings. At this stage, if you still wish to pursue your trade mark application, then you have 3 months from the date of the further opinion to satisfy the registration requirements or call for a hearing. You may ask for an extension of this period only in certain circumstances specified in the Trade Marks Rules e.g. where you need additional time to obtain the consent of the owner of an earlier trade mark.

If you call for a hearing, all the evidence for and against the trade mark will be considered at a hearing, and a decision will be issued by a hearing officer.

- **Publication of Trade Mark**

Once your trade mark has been accepted for registration, it is published in the Hong Kong Intellectual Property Journal at http://www.ipd.gov.hk/eng/ip_journal.htm.

- **Opposition to your Trade Mark by a 3rd Party**

Anyone can view your trade mark in the Hong Kong Intellectual Property Journal and lodge an opposition to it. They have to file an opposition notice within the 3-month period beginning on the publication date. As the applicant, you may withdraw your application or respond to the opposition by filing a counter-statement. Please note that if you withdraw your application or lose in the opposition proceedings, you may have to pay the other party's costs. You and the opponent are given the opportunity, within certain time limits, to file evidence in support of the application and opposition. When all the evidence has been received, a hearing will take place before a hearing officer who then makes a decision. The successful party in opposition proceedings is usually entitled to an award of costs.

- **Registration**

Once your trade mark has been accepted for registration, the Registrar of Trade Marks will enter the details of your trade mark into the trade marks register and you will be issued with a certificate of registration. Notice of the registration will be published in the Hong Kong Intellectual Property Journal and the registration of your trade mark will date back to the filing date of your application. That means as the owner of a registered trade mark, your rights take effect from the filing date of the application.

How to complete your Trade Mark application form

The following is a step by step guide to completing your trade mark application form. Please read these notes carefully. Before you fill in the form there are a couple of important points to note.

General points before filling in the form:

Firstly, once you have submitted your form, you cannot make any significant changes to it. Only minor clerical errors will be accepted. Furthermore, we cannot refund your application fee for any reason. Therefore, please read this document carefully.

Secondly, have you read the “*Before you apply*” section? Have you conducted a trade mark search to see if someone else has already registered or applied to register your trade mark?

Thirdly, whilst we have tried to put all the necessary information in this document, you may still have some questions regarding your trade mark application. If so please visit our web site at <http://www.ipd.gov.hk> or email to enquiry@ipd.gov.hk.

Which forms do I use?

Forms T2

You need to fill in Form T2 to apply to register a trade mark.

Optional Form T2A

This form should only be completed if you are applying for a certification, collective or defensive mark, a sound or smell mark, or if you claim a 3-dimensional shape or a colour(s) as a trade mark or an element of your trade mark, or if you wish to include a disclaimer, limitation or condition. Form T2A should be used in these cases, in addition to T2 and is also attached.

Filling in your application form

Please read the explanatory notes appended to the application Form T2 which provide a step by step guide to each section of the form. There is also an example of a completed application form after these notes (as well as the actual application form).

Trade Marks Registry, Intellectual Property Department
(Updated on 30.3.2015)

Checklist before sending the form

Before you send your application form to us, please make sure that you have:

- carefully read this document
- considered if your mark is distinctive or if we are likely to raise objections to it
- carried out a search of the register (or asked us to do it) to see if someone else has either applied to register or has registered the same or similar mark for the same or similar goods and services
- filled in the application Form T2 and provided a graphical representation of your trade mark.
- filled in Form T2A if required
- signed Form T2
- paid the appropriate fee
- contacted us if you have any questions



Trade Mark Form T2

**Application for registration of a trade mark
(including certification mark, collective mark and defensive mark)**

Trade Marks Ordinance (Cap. 559)

Trade Marks Rules (Cap. 559A)

Important notes**1. General notes:**

- a. If you wish to have our services of search of records and preliminary advice on the registrability of a trade mark, you may consider filing Form T1 with the prescribed fees before applying for registration of a trade mark.
- b. Please note that only minimal changes to the application are allowed after you have filed the application. Your attention is drawn to section 46 of the Trade Marks Ordinance, rules 23 - 24 of the Trade Marks Rules and *How to apply to register a trade mark in the Hong Kong SAR* which can be viewed at www.ipd.gov.hk.
- c. This form is available in Chinese and English. Either Chinese or English can be used as the language of proceedings. Please complete this form in English unless otherwise stated. The language of proceedings will be in English and the certificate of registration will be issued in English.
- d. You must complete Parts 01, 02, 05, 07 and 08.
- e. By submitting the application, you will be treated as having given consent to the Trade Marks Registry and its service provider to copy all the information provided for the purpose of the administration of the Trade Marks Ordinance and its subsidiary legislation.
- f. This form must be signed and dated.
- g. If there is not enough space for any part on this form, please continue on an additional sheet. Number each additional sheet and state the number of additional sheet(s).
- h. Please enquire through the following means:
 - E-mail: enquiry@ipd.gov.hk
 - Internet homepage address: www.ipd.gov.hk

2. Use of personal data:

- a. The provision of your personal data is voluntary. However, the Trade Marks Registry may be unable to handle your application, filing request or notice if you do not provide sufficient information.
- b. The Trade Marks Registry will use any personal data provided in this form and any document(s) filed in relation to it for processing your application, request or notice, as well as for the purposes of collection set out at www.ipd.gov.hk/eng/home.htm. **Any of the information provided may be made available for public inspection, in full or in part, pursuant to Rules 68 and 69 of the Trade Marks Rules, Cap. 559A. Such information may be accessed through the Internet.**
- c. The Trade Marks Registry may redact unsolicited personal data included with this form or any document(s) filed in relation to it before making them available for public inspection. Please **DO NOT provide any personal data (including personal data relating to third parties) which are not specifically required to be submitted.**
- d. Subject to the requirements of the Trade Marks Ordinance, Cap. 559, any person has the right to request access to and correct his/her personal data held in the trade mark records maintained by the Trade Marks Registry, pursuant to sections 18 and 22 of the Personal Data (Privacy) Ordinance, Cap. 486.
- e. For further details, please see the Personal Information Collection Statement at www.ipd.gov.hk/eng/home.htm.

3. Use of other information:

- a. The Trade Marks Registry will use any information relating to any commercial enterprise or entity provided in this form and any document(s) filed in relation to it for processing your application, request or notice, and for the purposes of collection set out at www.ipd.gov.hk/eng/home.htm. **They may be made available for public inspection, in full or in part, pursuant to Rules 68 and 69 of the Trade Marks Rules, Cap. 559A. Such information may be accessed through the Internet.**
- b. **DO NOT include any business information of your own or that of third parties which you consider to be confidential or commercially sensitive.** Where such information is included in this form or any document(s) filed in relation to it, the Registrar will treat it an express and voluntary consent given by you and any such third party to disclosure of all such information for the purpose of public inspection.

4. Copyright-protected materials

If you submit copies of any copyright-protected materials, including but not limited to e.g. a sample of a sound or movement mark in the form of an audio/video file, to the Trade Marks Registry at any time for processing your application and/or for reference purposes, please ensure the necessary consent has been obtained: you should only submit copies of copyright-protected materials where the relevant copyright owner(s) has/have consented to the use of such copies and the making of further copies by the Trade Marks Registry and its service providers for the purpose of the administration of the Trade Marks Ordinance and its subsidiary legislation.

5. Submission of application/request/notice:

In person or by mail with the appropriate fee to the Registrar of Trade Marks, 24/F, Wu Chung House, No. 213 Queen's Road East, Wanchai, Hong Kong, China. The fee schedule can be viewed at www.ipd.gov.hk/eng/forms_fees.htm. Payment can be made in person by cash, or by sending a cheque/bank draft (in Hong Kong dollars which can be cleared in Hong Kong) made payable to THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION.

Note 1 If your name is not in Roman letters or in Chinese, please include a transliteration in Roman letters. Please ensure the applicant named in Part 01 below is capable of holding property including trade mark. If you are a sole proprietorship/partnership firm in Hong Kong, please provide the name(s) of the sole proprietor/partners followed by the trading name of the sole proprietorship/partnership firm.

01 Details of applicant making request under section 38(2)(a) of the Trade Marks Ordinance for registration of a trade mark

Name (Note 1)

ABCC Company Limited

Address

Suite 1223, Happy Plaza, 121 Des Voeux Road Central, Hong Kong.

02 Trade Mark

Place a representation of your trade mark in the box.

If you claim colour(s) as a trade mark or as element(s) of a trade mark, the representation of your trade mark must be in the colour(s) for which the claim is made. Please also complete Form T2A.

“A”  **ABCC** HONG KONG

“B”  **ABCC** HONG KONG

Series Marks

If the request relates to a series of marks, please indicate in the following box the number of marks in the series (not more than 4).

2

03 Non-Roman letters and non-Chinese characters

If the trade mark consists of or contains a word, letter or character that is neither in Roman letters nor in Chinese characters, please provide the transliteration and/or translation of the word, letter or character in the space below.

Non-Roman letters or non-Chinese characters

Language

Transliteration

Translation

Note 2 If the applicant has duly filed an application for registration of this trade mark in respect of the same goods or services in a Paris Convention country or WTO member within 6 months prior to the date of filing of this application, right of priority can be claimed. A claim of multiple priority dates in respect of different goods and/or services is acceptable.

04 Convention priority details (Note 2)

If you claim priority, please provide particulars of the claim:

01/12/2013

United States of America

75,122137

Priority date(s) claimed
(DD-MM-YYYY)

Country/Territory/Area

Application number(s)
(if known)

Note 3 Goods and services are classified in accordance with the Nice Classification. This can be viewed at <http://ipsearch.ipd.gov.hk/>. A copy is also available at the counter of the Trade Marks Registry.

05 Goods and/or services covered by this application (Note 3)

List the class number(s) in consecutive numerical order and the goods or services appropriate to that class.

Class no(s):	Specification of goods and/or services:
3	Cosmetics, hand creams, hair lotions, soaps, cleansing gels
18	School bags, handbags, rucksacks
25	Clothing, footwear, headgear

Total number of class(es)

06 Note: If you are applying for a certification, collective or defensive mark (see Notes 6 and 7 in Form T2A), or a sound, smell or other non-traditional mark, or if you claim a 3-dimensional shape or colour(s) as a trade mark/element(s) of a trade mark, please also complete Form T2A. Failure to complete Form T2A will render the application not being treated as such type/kind of mark

If you wish to include a disclaimer, limitation or condition, please also complete Form T2A. If you wish to include a disclaimer, limitation or condition subsequent to the filing of the application, you will have to do so by way of filing a Form T5A.

Note 4 You must provide details of an address for service in Hong Kong, China. Please note that a P.O. Box or "care of" address is not acceptable.


07 Confirmation

I/We confirm that:

I/we have read and understood the "Important notes".

The applicant is capable of holding property including trade mark.

The trade mark is being used by the applicant or with his consent in relation to the goods or services indicated in Part 05, or the applicant honestly intends to use the trade mark, or allows it to be used, in relation to those goods or services.



Signature

Kelvin Lee
Director

Name and Official
Capacity of Signatory

30/03/2015

Date
(DD-MM-YYYY)

08 Address for service in Hong Kong, China (Note 4)

Name

Lee & Co.

Address

Suite 507, Delight Plaza, 130 Des Voeux Road, Hong Kong.

Your reference

TM/0507

Telephone no.

21234567

Facsimile no.

23216547

E-mail address

Kevinlee@lee.com.hk

Note 5 If you are an agent, you must provide details of an address in Hong Kong, China where you reside or carry on your business activities. Please note that a P.O. Box or "care of" address is not acceptable.

09 Agent's address (Note 5)

Suite 507, Delight Plaza, 130 Des Voeux Road, Hong Kong.

10 State the number of additional sheet(s) attached to this form

Attachment to Form T2 with additional requirements

Use this page ONLY if you are applying for a certification, collective or defensive mark, or a sound, smell or other non-traditional mark, or if you claim a 3-dimensional shape or colour(s) as a trade mark/element(s) of a trade mark, or if you wish to include a disclaimer, limitation or condition.

General notes

- a. If Form T2 is completed in English, please complete this form also in English, which is the language of proceedings used.
- b. If there is not enough space for any part on this form, please continue on an additional sheet. Number each additional sheet and state the number of additional sheet(s).

Note 6 If this application is for a certification mark or for a collective mark, you must file regulations within 9 months from the date when you file this application. Attention is drawn to paragraphs 6 and 7 of Schedule 4 to the Trade Marks Ordinance and rule 101 of the Trade Marks Rules, and paragraphs 5 and 6 of Schedule 3 to the Trade Marks Ordinance and rule 100 of the Trade Marks Rules respectively. The Trade Marks Ordinance and the Trade Marks Rules can be viewed at www.ipd.gov.hk

Note 7 If this application is for a defensive mark, you must file statutory declaration or affidavit within 9 months from the date when you file this application. Attention is drawn to section 60 of the Trade Marks Ordinance and rule 99 of the Trade Marks Rules which can be viewed at www.ipd.gov.hk.

11 Certification (Note 6), collective (Note 6) or defensive mark (Note 7) (if applicable)

Please indicate by marking the appropriate box the type of mark you are applying for:

Certification mark

Collective mark

Defensive mark

12 3-Dimensional shape, colour, sound, smell or other non-traditional mark (if applicable)

Please indicate by marking the appropriate box(es) the nature of your mark:

3-Dimensional shape

Colour

Sound

Smell

Others

(e.g. movement mark, hologram)

If colour(s) or 3-dimensional shape is/are claimed as a trade mark or as an element of a trade mark, please provide a statement of that fact, and a description of the mark. For a sound, smell or other non-traditional mark, please provide a description of the mark:

The applicant claims the colour red as an element of mark "A" in the series.

Note 8 If you want to disclaim the right to the exclusive use of any part of your mark or to limit your use of the mark, please give details.

13 Disclaimer, limitation or condition (if applicable) (*Note 8*)