Terms of Use –
Electronic Filing (including interactive services) and Communication (excluding fax and e-mails through internet)

These Terms of Use apply to electronic filing and communication facilities provided by the Intellectual Property Department (IPD) of Hong Kong SAR Government in relation to trade marks, patents and designs. If you do not use or intend to use these facilities, you do not need to read this document.

These Terms of Use are made pursuant to the provisions in Rules 109, 110 and 111 of the Trade Marks Rules (Cap 559A), Sections 93A, 93B and 93C of Patents (General) Rules (Cap. 514C), and Sections 60A, 60B and 60C of Registered Designs Rules (Cap. 522A).

The term “Registrar” when used in these terms shall refer to the Registrar of Trade Marks, Registrar of Patents and/or Registrar of Designs (as the case may be). The term “Registry” shall refer to the Trade Marks Registry, Patents Registry and/or Designs Registry (as the case may be). The term “Register” shall refer to the register of trade marks, the register of patents and/or the register of designs (as the case may be).

Unless otherwise specified, the term “electronic filing” when used in these terms shall include interactive services.

Facilities

These Terms of Use are applicable to the following facilities as well as other facilities which may be made available in future and stated to be subject to these terms:

(a) the filing of submissions by electronic means for matters in relation to trade marks, patents and designs and other communications with the Registrar; and
(b) the receipt of communications from the Registrar through electronic means.

Features of the above facilities (hereinafter referred to as “DIS facilities”) will be explained in the paragraphs below.

The term “submission” when used in these terms shall include specified forms (both electronic forms and interactive forms) and other documents or communications submitted by customers to the Registrar via the DIS facilities.
Features of Designated Information System

IPD will maintain an information system which contains information and data of the Trade Marks, Patents and Designs Registries. This information system shall be the designated information system (“DIS”) under Rule 109(2) of the Trade Marks Rules, Section 93A(2) of Patents (General) Rules and Section 60A(2) of Registered Designs Rules.

System security

A strong industry standard security policy underlies the design and maintenance of all parts of the DIS. Protection of information is effected through:

- transmission by 128-bit SSL (Secure Sockets Layer) encryption and the digital signature signed by e-Certificates issued by the recognised Certification Authorities (“CAs”) under the Electronic Transaction Ordinance (Cap 553) (“ETO”)
- storage with physical protection from fire, flooding and electricity surge; stringent operation procedure, proper access control and audit trail
- safeguards against unauthorised access: IPD network and databases are protected with firewalls, GIC Gateway/GOA Network
- incorporation of backup, recovery and disaster recovery mechanisms to guard against loss of data due to system failure
- compliance with the HKSAR Government Security Policy (GSP) and the HKSAR OCGIO IT Baseline Security Policy and operation standards

Application for Customer ID

Persons wishing to make use of DIS facilities need to apply for the allocation of a Customer ID, User(s) ID and relevant passwords. Corporations and individuals acting in person as well as agents may apply. At least one user is required to be named in relation to each customer. Any person who wishes to apply for DIS facilities is advised to refer to the application procedures set out in the User Guide published on [https://iponline.ipd.gov.hk](https://iponline.ipd.gov.hk).

Proof of identity

The identity of users will be verified by e-certificates which should be valid and up-to-date. The Registry will obtain a Certificate Revocation List from CAs recognised under the ETO at every 24-hour interval to confirm that the
e-certificates of users remain valid.

*Electronic mail box*

The electronic mail box provides a means for customers to receive communications from the Registrar.

Each customer, regardless of the number of users, will be allotted one electronic mail box. All electronic mail boxes are hosted at the DIS. Only authorised users of a customer have the right to access the designated electronic mail box.

The electronic mail box allotted to customers shall be the designated electronic mail box for the purpose of Rule 111(3) of the Trade Marks Rules, Section 93C(3) of the Patents (General) Rules and Section 60C(3) of the Registered Designs Rules.

**Electronic Submissions to the Registrar**

Submissions in relation to trade marks, patents and registered designs required or authorised by legislation to be filed with the Registrar can be submitted by electronic means to the Registrar at the following URL address: [https://iponline.ipd.gov.hk](https://iponline.ipd.gov.hk).

This facility will be made available for specified forms (both electronic and interactive forms) and other communications set out in Annex A. Annex B sets out the documents that are not acceptable to be submitted by electronic means. These Terms of Use should therefore be read with reference to Annex A and B (subject to revisions from time to time).

*Electronic Document Format Standards*

All submissions shall be made in XML format as published in [https://iponline.ipd.gov.hk](https://iponline.ipd.gov.hk). (under “Downloads”). The contents of submissions and communications between customers and the Registrar should be in the manner and format set out in Annex C (subject to revisions from time to time).

*Signatures*

Every XML file should contain an electronic signature to ensure the integrity and authenticity and non-repudiation of the submission. For this reason, XML-formatted files constitute the official record of all submissions submitted by customers to the Registrar.

Where there is a signature requirement on a specified form, that signature requirement should be met by a digital signature generated using a valid e-certificate.
Pay & Submit

Currently payment through a designated deposit account (DA) is the only acceptable form of payment in relation to electronic filing. When the “Pay & Submit” button is clicked, a payment receipt will be generated for the customer’s record.

Details relating to the DA account, including updated account balance and the amount debited for each e-filing transaction up to 12 months after the date of the relevant transactions are available for viewing by customers.

Receipt by Registrar

The filing of any submission with the Registrar shall be deemed to be effected on the date and at the time when such submission is received and time-stamped by DIS. The time-stamp of DIS will be conclusive evidence of the date and time of receipt of any submission by the Registrar.

Details relating to submissions made by customers contained in the “Submission Log” will remain on DIS for a period of 12 months.

Validation process

Upon receipt of submissions from customers, DIS will perform a validation process to check to ensure the following:

- the submission contains a valid digital signature signed by a valid e-certificate;
- the submission is free from virus; and
- all mandatory fields have been completed.

If any of these items is not in order, the submission will be refused by DIS.

Availability

Unless otherwise notified, electronic filing and communication services are accepted at any time of the day, except the following times (“the excluded hours”) (based on Hong Kong Standard Time) which are reserved for maintenance and backup of data.

13:00 hours to midnight (Sunday)
midnight to 05:00 hours (Monday)
01:00 to 05:00 hours (daily from Tuesday to Saturday)

IPD shall endeavour to ensure the availability of the DIS facilities at times other than the excluded hours above. If DIS is not available for receiving electronic
submissions at times other than the excluded hours above, the Registrar will as soon as practicable, publish a notification on https://iponline.ipd.gov.hk to that effect. Full details of regular maintenance schedule will be published at https://iponline.ipd.gov.hk at the beginning of the month. Pop-up messages of the coming downtime will be shown on the e-filing website three days before the date of the scheduled downtime. A “System Incidents Log” would record the time slots when DIS was not available for receiving electronic submissions. Regarding the business hours, business days and computation of time in respect of any business, please refer to Notice of Business Hours and Business Days of the Trade Marks Registry, Patents Registry and Designs Registry published on 30 September, 2004 at http://www.ipd.gov.hk.

Provisions applicable only to patents and designs

The following measures are designed to facilitate the uploading of large files relating to patents and designs onto DIS off-line.

In the case of large XML files in excess of 50MB, customers should store these files (in XML format) which have to be digitally signed in a CD-R and deliver it to the Registry. Registry staff will assist in uploading the files onto DIS. Customers should refer to the Online Help for further details on the procedures.

For avoidance of doubt, delivery of the CD-R to the Registry does not constitute filing of the document to the Registrar. Instead, filing of the document is only effected when the document is received and time-stamped by DIS, and the electronic version submitted shall be regarded as the authentic submission.

Filing of pleadings, evidence and exhibits

For the avoidance of doubt, electronic filing and communication are not available for submissions relating to hearings before the Registrar. These include specified forms, pleadings, evidence and exhibits and other communications with the Registrar in relation thereto. These submissions shall continue to be filed, in paper form, by delivery or by post.

For Interactive services only

Submissions made via Interactive forms

This facility will be made available for specified forms (interactive forms) set out in Annex A. Submission made via interactive forms enables real time transaction and takes precedence over submissions made by other non-interactive means.

Instant approval of requests filed on interactive forms
Subject to the absence of any outstanding proceedings involved with the application or registration under request, and the passing of the validation rules of interactive services, requests filed on interactive forms will be instantly approved by the system after the validation process. Receipts in HTML format will be generated by the system and shall serve as the official receipts and conclusive evidence of any submissions. If the application is approved, an official confirmation letter in PDF format will be sent to the electronic mail box. No letter in paper form will be issued.

Search of records

The updated details will be reflected in the online Register at http://ipsearch.ipd.gov.hk two days after completion of the interactive transaction.

Transmission from the Registrar to customers

The Registrar will, as far as practicable, communicate with customers by electronic means with reference to the submissions set out in Annex A, unless the customer specifically request otherwise.

Electronic communications from the Registrar to customers shall be deemed to be properly sent if they are sent in the form of an electronic record to the customer’s designated electronic mail box. An electronic record is deemed received by a customer when it is accepted and recorded by the customer’s designated electronic mail box.

Customers are responsible for checking and attending to any communication standing in his electronic mail box. Customers are reminded that time limits begin to run from the time of deemed receipt, i.e. the time of acceptance and receipt by his electronic mail box. For this reason, customers are strongly advised to log on daily to check their mail.

If it appears to the Registrar that the outgoing transmission has not in fact been accepted and recorded by the customer’s designated electronic mail box, the Registrar may at his discretion re-send the communication in paper form.

General

Time

The time of despatch and receipt of electronic records, from and at the Registry, is the time recorded by the DIS which is based on Hong Kong Standard Time (Coordinated Universal Time + 8 hours).

Original submission
All submissions filed or sent electronically by customers in XML format with a digital signature signed by a valid e-certificate shall be treated as original submissions for the purposes of all proceedings before the Registrar. They shall be filed in one copy only.

No confirmation on paper is required for electronically filed or sent submissions.

**Inspection of documents**

Inspection of documents in accordance with Rule 69 of Trade Marks Rules, Section 88 of Patents (General) Rules and Section 55 of Registered Designs Rules is available either online at the URL address [http://ipsearch.ipd.gov.hk](http://ipsearch.ipd.gov.hk) or at the respective Registries.

**Use of personal data**

Personal data provided in the forms will be used by the Intellectual Property Department and can be disclosed for purposes relating to the administration of the Trade Marks Ordinance, Patents Ordinance, Registered Designs Ordinance and their subsidiary legislation. Information in the forms is used to process the applications and requests. Information regarding access to and alteration of personal data in accordance with the Trade Marks Ordinance, Patents Ordinance, Registered Designs Ordinance and their subsidiary legislation can be obtained by contacting the Registrar.

**Authenticity of records kept by DIS**

Where the Registrar keeps a record of a submission in an electronic form, the Registrar’s record of that submission shall be presumed to accurately represent the information contained in the submission as originally delivered or generated, unless the contrary is shown.

**Certification**

On occasion, the Registrar receives requests for certification of information or documents kept in the electronic register.

This service will, until further notice, continue to be provided by downloading the information or document from electronic to a physical medium and certification of such information manually by the Registry. Persons who wish to obtain such certification should file the specified forms either by post or delivery and pay the appropriate fee.

**Audit trail**
Any addition, deletion or and alteration of data kept in the DIS are traceable by means of an audit trail to ensure data integrity.

Amendments and modifications

IPD reserves the right to modify, in full or in part, the DIS facilities or to discontinue or suspend any part of the facilities. Notice of these matters will be posted on the following website: https://iponline.ipd.gov.hk.

Users’ obligations

Users of the services must comply with the terms of use as set out in this document. In the event of any violation of these obligations IPD reserves the right to revoke the user’s access rights without prior notice.

IPD will undertake due diligence to assure the privacy and confidentiality of users’ information. On the other hand, customers should take all necessary measures to ensure the security of the information held under their control including procuring users to keep their passwords confidential and changing them regularly for security purpose.

Revocation of access rights

If DIS does not record any use of the DIS Facilities by a registered user for a continuous period of 24 months, IPD reserves the right to automatically deactivate the user authorisation for DIS Facilities without prior notice.

Legal responsibility

Whilst every effort will be made to prevent technical malfunctions, neither the Registrar nor IPD can be held responsible for any disruptions to the DIS facilities or any delays, failures, errors, omissions or loss of information transmitted which may be caused by problems with the internet structure, line or system failure, attacks from third parties or other events beyond its control.

Great care will be taken to ensure that all data and information contained in DIS are correct and up-to-date. However, given the time required to process the data involved, there will inevitably be a time lag before the relevant record is up-dated. Nor is it possible to rule out all errors and omissions in the information or data contained in DIS. In view of the above, IPD and the Registrar do not warrant the accuracy, adequacy, completeness or timeliness of the information or data contained in DIS.

Changes to the terms of use
IPD reserves the right to add or change these terms of use at any time. IPD will inform users of any changes as soon as practicable on https://iponline.ipd.gov.hk.

Registries, 28 November 2005
Annex A – List of submissions available for electronic filing

Name/nature of document

**Trade Marks forms/document**

**Electronic forms**

**T1** Request for Search of Records/Request for Preliminary Advice on Registrability

**T2, T2A** Application for Registration of a Trade Mark (Including Certification Mark, Collective Mark and Defensive Mark)

**T3** Request to Divide Application for Registration

**T4** Request to Merge Applications for Registration/ Request to Merge Separate Registrations

**T5** Request to Change Name, Address, Address for Service or Agent's Address

**T5A** Request to Amend Application

**T5B** Request to Amend Representation of Trade Mark/ Request to Delete Trade Mark in Series

**T8** Request for Restoration and Renewal of a Trade Mark Registration

**T9** Surrender of Registered Mark

**T10** Application or Notice to Register Registrable Transaction (Other Than a Licence)/ Request to Amend or Remove Registered Particulars of Security Interest

**T11** Application or Notice to Register a Licence/ Request to Amend or Remove Registered Particulars of a Licence

**T13** Request for Extension of Time
*(for extending the time limits under Rules 13(3) and (6) of the Trade Marks Rules only)*

**TC** E-Filing for Trade Marks Correspondence
*(not applicable to pleadings, evidence and other communications relating to hearings)*
**Interactive form**
T8 Request for Renewal of a Trade Mark Registration

**Patents forms/document**

**Electronic forms**
P4 Request to Record a Designated Patent Application for a Standard Patent

P5 Request for Registration of a Designated Patent and Grant of a Standard Patent

P6, P6A Request for Grant of a Short-term Patent

P7 Request for Correction of Error/
Request to Publish a Corrected Translation

P8 Request to Make an Amendment

P12 Application to Restore a Withdrawn Standard Patent Application Due to Non-Payment of Maintenance Fee/
Application to Restore a Lapsed Standard Patent/
Application to Restore a Lapsed Short-term Patent

P13 Notice Requesting Reinstatement of a Patent Application/
Application for Restoration of Rights

P16 Notice of Offer to Surrender a Patent

P18 Request for Alteration of Name, Address, Address for Service or Agent's Address/
Request for Correction of Address, Address for Service or Agent's Address

P19 Application for Registration or Notice to the Registrar of Rights Acquired in or Under a Patent or a Patent Application

SP3 Request for Extension of Time/
Paying Penalty Fee for Late Filing of Translation

PC E-Filing for Patents Correspondence

**Interactive form**
P9/P10 Maintaining Application for Standard Patent/
Request for Renewal of a Patent
Designs forms/document

Electronic forms
D1 Application for Registration of Designs
D2 Request for Amendment of Application/
Correction of Error in the Register or in Filed Documents
D3 Request for Reinstatement of Application
D4 Application for Extension of Time
D5 Application to Register Particulars of Transactions Affecting Rights in
Registered Designs/
Notice of Transactions Affecting Rights in Applications/
Application to Cancel Claim to be Mortgagee or Licensee
D8 Notice to Surrender Registration
D11 Application for Renewal of a Registered Design
D12 Request for Alteration of Name, Address, Address for Service or
Agent's Address/
Request for Correction of Address, Address for Service or Agent's
Address
DC E-Filing for Designs Correspondence
## Annex B – Documents that are not acceptable to be submitted in electronic form

<table>
<thead>
<tr>
<th>Registry</th>
<th>Documents</th>
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</thead>
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<td>Trade Marks Registry</td>
<td>1. statutory declaration or affidavit</td>
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<td></td>
<td>2. court order</td>
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<tr>
<td></td>
<td>3. consent</td>
</tr>
<tr>
<td></td>
<td>4. priority Certificate / assignment document of the right to priority</td>
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<tr>
<td></td>
<td>5. all forms, pleadings, evidence and other communications relating to hearings</td>
</tr>
<tr>
<td>Patents Registry</td>
<td>1. statutory declaration or affidavit</td>
</tr>
<tr>
<td></td>
<td>2. court order</td>
</tr>
<tr>
<td></td>
<td>3. statement signed by transferror/assignor/mortgagor confirming the fact of the transfer/assignment/mortgage to support derivation of entitlement to apply</td>
</tr>
<tr>
<td>Designs Registry</td>
<td>1. statutory declaration or affidavit</td>
</tr>
<tr>
<td></td>
<td>2. court order</td>
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</tbody>
</table>
Annex C- Manner and format of electronic documents

1. Electronic records in English shall be encoded in ISO 10646-1:2000.


3. (a) Where electronic records are sent by the Registrar/IPD to customers through DIS and electronic mail, they should conform to the Simple Mail Transfer Protocol (SMTP) and the Secure Multipurpose Internet Mail Extension (S/MIME) standard.

   (b) Where electronic records are required to be stored in the form of CD-ROM, they should be in ISO 9660 format.

4. Electronic records shall follow the following file format standards:
   (a) XML (according to IPD’s published schema)
   (b) Non password protected Adobe Portable Document Format (PDF) compatible to Acrobat version 2, 3, 4 or 5).

5. Graphics in electronic records shall follow the JPEG graphic file format in all trade mark image files. The length of each side of the images should be between 100 pixels and 2,000 pixels. To avoid unclear image, it is recommended that the whole image size should be equal to or greater than 200000 pixels, e.g. 100 pixels x 2,000 pixels, 400 x 500 pixels.

   For patent and design applications, only PDF files are allowed to be submitted as part of the application record. PDF should be scanned using 200 dpi. If 200 dpi is not clear enough, increase the resolution to 300 dpi or above. Regarding the PDF version, the PDF file generated must be within version 1.1 to 1.5.

   For XML files larger than 50MB, uploading would take around 15 minutes. CD-ROM could be an option.

6. All submissions from the customer to the Registrar/IPD should be signed with a digital signature.

7. A digital signature shall be attached to the XML file and conform to PKCS#7 standard.
8. Electronic records given or presented shall not contain any computer instructions, including but not limited to:

(a) computer viruses; and

(b) macro, scripts and fields that depend on the execution environment and the execution of which will cause changes to the electronic record itself or the information system displaying the electronic record.

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