

**Terms of Use –
Electronic Filing 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) (“TMR”), sections 93A, 93B and 93C of the Patents (General) Rules (Cap. 514C) (“PGR”), and sections 60A, 60B and 60C of the Registered Designs Rules (Cap. 522A) (“RDR”).

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

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 of Use shall include specified forms and other documents or communications submitted by customers to the Registrar via the DIS facilities.

Please note that in respect of inter partes proceedings, service of documents between parties (including any submission to the Registrar) is not allowed to be performed via the DIS facilities or DIS (as defined in the following paragraph). Requirements for service of documents under rule 112 of the TMR, section 93D of the PGR and section 61 of the RDR should be observed.

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 TMR, section 93A(2) of the PGR and section 60A(2) of the RDR.

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:-

- secured transmission through Internet by Hypertext Transfer Protocol Secure (HTTPS) and Transport Layer Security (TLS) with at least 128-bit encryption
- for certain submissions filed by Registered Users with Full e-Service Accounts, digital signature supported by an e-certificate issued by a recognised certification authority (“CA”) under the Electronic Transactions 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 and intrusion prevention system
- incorporation of backup, recovery and disaster recovery mechanisms to guard against loss of data due to system failure
- compliance with the HKSAR Government Security Regulations and the HKSAR OCGIO Baseline IT Security Policy and operation guidelines

Types of users

There are two types of users:

- Registered User
- One-Time Filer

There are two types of accounts for Registered Users:

- Full e-Service Account
- Basic e-Service Account

For Full e-Service Account, use of a valid e-certificate is required. A Registered User having this type of account is also eligible for using B2B (system to system)

E-Filing Service for electronic filing.

The types of specified forms and other communications that could be filed electronically by One-Time Filers, Registered Users with Basic e-Service Account and Registered Users with Full e-Service Account respectively are different and are specified in Annex A.

Application for Full e-Service Account and Basic e-Service Account

A customer wishing to become a Registered User needs to apply for a Full e-Service Account or a Basic e-Service Account and 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 Full e-Service Account or Basic e-Service Account. Any customer who wishes to apply for DIS facilities is advised to refer to the application procedures set out in the User Guide published on <https://efiling.ipd.gov.hk>.

Proof of identity

The identity of all Registered Users will be verified by the User(s) ID and passwords.

When performing certain functions of the DIS, the identity of Registered Users with Full e-Service Accounts will also be verified by e-certificates which should be valid and up-to-date. The DIS will obtain a Certificate Revocation List from CAs recognised under the ETO to confirm that the e-certificates of users remain valid.

Electronic mail box

The electronic mail box provides a means of communication between a Registered User and the Registrar.

Each Full e-Service Account or Basic e-Service Account, regardless of the number of users registered under the account, will be allotted one electronic mail box. All electronic mail boxes are hosted at the DIS. Only authorised users of an account have the right to access the electronic mail box allotted to the account.

The electronic mail box allotted to a Full e-Service Account or Basic e-Service Account shall be the designated electronic mail box for the purpose of rule 111(3) of the TMR, section 93C(3) of the PGR and section 60C(3) of the RDR.

No electronic mail box will be allotted to One-Time Filers. After an electronic submission is made by a One-Time Filer, all subsequent communications from the Registrar will be issued to the One-Time Filer in paper form.

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://efiling.ipd.gov.hk>, or by B2B (system to system) E-Filing Service at the following FTP address: <fs.ipd.gov.hk>.

This facility will be made available for specified 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 Annex B (subject to revisions from time to time).

Format and Standard of Electronic Record

The contents of submissions and communications between customers and the Registrar should be in the manner and format set out in Part 1 of Annex C (subject to revisions from time to time). The manner and format in which data is stored and displayed are as set out in Part 2 of Annex C.

Signatures

Every electronic submission should contain an electronic signature, or a digital signature generated using a valid e-certificate, to ensure the integrity, authenticity and non-repudiation of the submission.

Where there is a signature requirement on a specified form, that signature requirement should be met by an electronic signature or a digital signature generated using a valid e-certificate.

Validation process

DIS will perform a validation process to ensure the following:

- all mandatory fields have been completed;
- the submission is free from virus; and
- for certain submissions by a Registered User with a Full e-Service Account, the submission contains a valid digital signature signed by a valid e-certificate.

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

Pay & Submit

For Registered Users, payment in relation to electronic filing may be made through online credit card payment services or a designated deposit account. However,

for a Registered User using B2B (system to system) E-Filing Service, payment can only be made through a designated deposit account. For One-Time Filers, payment can only be made through online credit card payment services. When the payment is completed, a payment receipt will be generated for the customer's record.

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.

For Registered Users, details relating to submissions will be captured and contained in the "Submission Log" which will remain on DIS for a period of 365 days.

Availability

Unless otherwise notified, electronic filing and communication services are accepted at any time of the day, except system maintenance time specified at <https://efiling.ipd.gov.hk>.

IPD shall endeavour to ensure the availability of the DIS facilities. The prime service hours are from 08:00 to 19:00 daily. If DIS is not available for receiving electronic submissions, the Registrar will as soon as practicable, publish a notification on <https://efiling.ipd.gov.hk> to that effect. Full details of maintenance schedule will be published at <https://efiling.ipd.gov.hk> as early as practicable. Regarding the business hours, business days and computation of time in respect of any business, reference should be made to Notice of Business Hours and Business Days of the Trade Marks Registry, Patents Registry and Designs Registry which can be viewed at http://www.ipd.gov.hk/eng/ip_journal_notice.htm.

No electronic filing of evidence, hearing bundles, copies of authorities and skeleton arguments relating to hearings or inter partes proceedings before the Registrar, and court orders and other documents issued out of court in any court proceedings

For the avoidance of doubt, electronic filing of evidence (e.g. statutory declarations or affidavits and any exhibits attached thereto, notarial certificates), hearing bundles, copies of authorities and skeleton arguments relating to hearings or inter partes proceedings before the Registrar, and also court orders and other documents issued out of court in any court proceedings is **not** available. In particular, evidence under rule 36(2) and rule 37(2) of TMR involving proceedings of revocation on the grounds of non-use should **not** be filed under the DIS. The

aforesaid documents shall continue to be filed, in paper form, by delivery or by post.

Transmission from the Registrar to Registered User

The Registrar will, as far as practicable, communicate with a Registered User by electronic means with reference to the submissions set out in Annex A, unless the Registered User specifically requests otherwise.

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

Registered Users are responsible for checking and attending to any communication standing in his electronic mail box. Registered Users 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, Registered Users 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 Registered User's designated electronic mail box, the Registrar may at his discretion re-send the communication in paper.

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 documents

No confirmation in paper is required for electronically filed or sent submissions. However, the Registrar may, at his discretion, request the original or a certified copy of any documents submitted electronically.

Inspection of documents

Inspection of documents in accordance with Rule 69 of the TMR, Section 88 of the PGR and Section 55 of the RDR is available either online at the URL address <http://esearch.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 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://efiling.ipd.gov.hk>.

Users' obligations

Users of the DIS facilities 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 3,650 days, 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 these Terms of Use

IPD reserves the right to revise these Terms of Use at any time. IPD will inform users of any revision as soon as practicable through publication in the official journal and on <https://efiling.ipd.gov.hk>.

Registries

Last revision date: 10 January, 2020

Annex A – List of submissions acceptable for electronic filing/communications

Name/nature of document

		One-Time Filer	Basic e- Service Account	Full e- Service Account
<i>Trade Mark forms/document</i>				
T1	Request for Search of Records/Request for Preliminary Advice on Registrability	✓	✓	✓
T2	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 and/or Agent's Details		✓	✓
T5A	Request to Amend Application		✓	✓
T5B	Request to Amend Representation of Trade Mark / Request to Delete Trade Mark in Series		✓	✓
T6	Notice of Opposition/Objection / Application for Revocation, Declaration of Invalidity, Variation of a Trademark Registration or Rectification of an Error or Omission in the Register / Application for Intervention in Proceedings for Revocation, Declaration of Invalidity, Variation or Rectification	✓	✓	✓
T7	Counter-Statement	✓	✓	✓
T8	Request for Renewal of a Trade Mark Registration / Request for Restoration and Renewal of a Trade Mark Registration	✓	✓	✓
T9	Surrender of Registered Trade Mark			✓

		One-Time Filer	Basic e-Service Account	Full e-Service Account
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			✓
T12	Notice of Attendance at Hearing / Request for Statement of Reasons	✓	✓	✓
T13	Request for Extension of Time	✓	✓	✓
T14	Request for Copy / Request for Certified Copy	✓	✓	✓
TC	E-Filing for Trade Marks Correspondence (<i>not applicable to evidence, hearing bundles, copies of authorities and skeleton arguments relating to proceedings before the Registrar, and court orders and other documents issued out of court in any court proceedings</i>)		✓	✓
<i>Patent forms/document</i>				
OP1	Request for Grant of a Standard Patent (O)			✓
OP1A	Statement of Inventorship in respect of a Standard Patent (O)	✓	✓	✓
OP2	Request for Substantive Examination of a Standard Patent (O) Application		✓	✓
OP3	Request to Review		✓	✓
OP4	Request for Substantive Examination of a Short-term Patent	✓	✓	✓
OP5	Addition of Priority Claim / Restoration of Priority Right		✓	✓

		One-Time Filer	Basic e-Service Account	Full e-Service Account
OP6	Request for Hearing	✓	✓	✓
OP7	Application to Amend Specification after Grant		✓	✓
OP8	Notice of Intention to Appear at Hearing	✓	✓	✓
P2	Filing of Notice of Opposition or Counter-statement	✓	✓	✓
P4	Request to Record a Designated Patent Application for a Standard Patent (R)			✓
P5	Request for Registration of a Designated Patent and Grant of a Standard Patent (R)	✓	✓	✓
P6	Request for Grant of a Short-term Patent			✓
P6A	Statement of Inventorship in respect of a Short-term Patent	✓	✓	✓
P7	Request for Correction of Error / Request to Publish a Corrected Translation		✓	✓
P8	Request to Amend Application before Grant (other than Alteration of Name, Address, Address for Services or Agent's Details)		✓	✓
P9	Maintaining Application for Standard Patent (R)	✓	✓	✓
P10	Request for Renewal of a Patent	✓	✓	✓
P11	Request for Certified Copies or Extracts / Request for Information / Request for Request for Certificate Signed by the Registrar of Patents	✓	✓	✓
P12	Application to Restore a Withdrawn Standard Patent (R) Application Due to Non-Payment of Maintenance Fee / Application to Restore a Lapsed Standard Patent / Application to Restore a Lapsed	✓	✓	✓

		One-Time Filer	Basic e-Service Account	Full e-Service Account
	Short-term Patent			
P13	Notice Requesting Reinstatement of a Patent Application / Application for Restoration of Rights	✓	✓	✓
P15	Filing of Notice of Revocation of a Standard Patent (R) / Application for Revocation of a Standard Patent (R) / On Reference to the Registrar of Patents to Revoke a Patent	✓	✓	✓
P16	Notice of Offer to Surrender a Patent			✓
P18	Request for Alteration of Name, Address, Address for Service or Agent's Details / Request for Correction of Address, Address for Service or Agent's Details		✓	✓
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 <i>(not applicable to evidence, hearing bundles, copies of authorities and skeleton arguments relating to hearings or inter partes proceedings before the Registrar, and court orders and other documents issued out of court in any court proceedings)</i>		✓	✓
<i>Design forms/document</i>				
D1	Application for Registration of Design(s)			✓
D2	Request for Amendment of Application/ Correction of Error in the Register or in Filed Documents		✓	✓

		One-Time Filer	Basic e-Service Account	Full e-Service Account
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			✓
D10	Application for Certified Copies or Extracts / Application for Copies or Extracts / Request for Information / Request for Inspection of Document or Register / Request for Certificate Signed by the Registrar of Designs	✓	✓	✓
D11	Application for Renewal of a Design Registration	✓	✓	✓
D12	Request for Alteration of Name, Address, Address for Service or Agent's Details / Request for Correction of Address, Address for Service or Agent's Details		✓	✓
DC	E-Filing for Designs Correspondence <i>(not applicable to evidence, hearing bundles, copies of authorities and skeleton arguments relating to hearings or inter partes proceedings before the Registrar, and court orders and other documents issued out of court in any court proceedings)</i>		✓	✓

Annex B – Documents that are not acceptable for electronic filing/communications

Trade Marks Registry	<ul style="list-style-type: none"> • evidence (e.g. statutory declarations or affidavits and any exhibits attached thereto, notarial certificates) relating to proceedings before the Registrar • hearing bundles, copies of authorities and skeleton arguments relating to hearings or inter partes proceedings before the Registrar • court orders and other documents issued out of court in any court proceedings
Patents Registry	<ul style="list-style-type: none"> • evidence (e.g. statutory declarations or affidavits and any exhibits attached thereto, notarial certificates) relating to hearings or inter partes proceedings before the Registrar • hearing bundles, copies of authorities and skeleton arguments relating to hearings or inter partes proceedings before the Registrar • court orders and other documents issued out of court in any court proceedings
Designs Registry	<ul style="list-style-type: none"> • evidence (e.g. statutory declarations or affidavits and any exhibits attached thereto, notarial certificates) relating to hearings or inter partes proceedings before the Registrar • hearing bundles, copies of authorities and skeleton arguments relating to hearings or inter partes proceedings before the Registrar • court orders and other documents issued out of court in any court proceedings

Annex C- Manner and format of electronic records

Part 1 – Manner and format for electronic submissions

1. Electronic records in English shall be encoded in ISO 10646-1:2003 with Amendment 1 version (Unicode 4.1).
2. Electronic records in traditional Chinese shall be encoded in ISO 10646-1:2003 with Amendment 1 version (Unicode 4.1) or later version of the ISO 10646 character coding standard, and Hong Kong Supplementary Chinese Character Set – 2004 (HKSCS-2004) or later version in ISO 10646.
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 XML files are required to be submitted, they should conform to IPD’s published schema.
4. Graphics in electronic records shall follow the BMP, GIF, JPEG, JPG, PNG, or TIF graphic file format in all trade mark image files. Only image file(s) with RGB color model or gray scale image(s) are acceptable. 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 200,000 pixels, e.g. 100 pixels x 2,000 pixels, 400 x 500 pixels. Moreover, to avoid distortion of image, it is recommended that the same dpi to be used for the width and height of the image.

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 1.2 to 1.7.

5. A digital signature (where applicable) shall be attached to the XML file and conform to IPD’s published schema.
6. 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.

Part 2 – Manner and format for storage and display of data

7. The Audio file(s) attached in trade mark application or trade mark correspondence shall follow the following file format standards:
 - (a) MP3 (.mp3)
 - (b) WAV (.wav)
 - (c) MIDI (.mid)
 - (d) Windows Media Audio (.wma)

8. The Video file(s) attached in trade mark application or trade mark correspondence shall follow the following file format standards:
 - (a) MPEG-4 (.mp4)
 - (b) MPEG-1/ MPEG-2 (.mpeg)
 - (c) MPEG-2 (.mpg)
 - (d) Windows Media Video (.wmv)

9. The maximum file size for each attachment is 100MB. For files exceeding the maximum file size, please submit to IPD by other means such as CD-ROM/USB drive.

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