

Division of applications

An application for registration can be divided into 2 or more divisional applications:

- to avoid a citation or objection that relates to only some of the goods or services in the original application; or
- to avoid an objection in an application for registration of a series of trade marks, that the marks are not a series.

There are two types of divisions:

- a division relating to the specification of goods/services applied for; and
- division of an application for registration of a series of trade marks.

The following must be checked in an application for division:

- Is the request filed on Form T3 with the prescribed fee?
- Has the application been filed after the filing date has been accorded to the application for registration and before the registration of the mark (rule 27(1))?
- Each divisional application must claim the same protection as the original application under the Ordinance (rule 27(2)).
- Number each divisional application. Each divisional application should be

given a number consisting of the original application number with a new suffix. (For details of numbering, please refer to the flow diagram posted at https://www.ipd.gov.hk/eng/faq/trademarks/tm_cap559/Division_diagram.pdf)

Appropriate entries should be made in the historical details of the register entries of the original application and in the divisional applications.

- The division of marks in a series application that also involves a division of the specification of goods or services requires the filing of 2 separate requests: one Form T3 for division of specification, and another Form T3 for division of series.

- If an applicant wishes to claim priority, and if the specification of goods and services covered by the original Hong Kong SAR application is wider than the Convention/WTO application, the applicant can apply to divide the original Hong Kong SAR application, and claim priority for divisional applications with specifications that are fully covered by the Convention/WTO application.

- Has any notice of opposition under rule 16 or notice of objection under rule 26 been filed with regard to the original application? If yes, refer to Part 01(c) of Form T6 for the notice of opposition or objection. Is the notice stated to relate to all the classes of goods or services covered by the original application for registration, or only to some of the classes?

Where, for example, an application to register a mark in classes 14, 18 & 25 is opposed in relation to class 14 only, the applicant can divide the application into 2 divisional applications:

Divisional application 1:	class 14
Divisional application 2:	classes 18 & 25

The notice of opposition which is stated in Part 01(c) of Form T6 to relate to class 14 of the original application only, will be treated, upon division of the original application, to be filed in relation to Divisional application 1 only.

If, however, the notice of opposition is stated in Part 01(c) of Form T6 to relate to all classes of goods/services covered by the original application, upon division of the original application, the notice of opposition will be treated as having been filed in relation to each of the divisional applications.

- Has there been any notice or request relating to the grant of a licence or security interest or any right in or under the original application?

Using the above example, for the original application in classes 14, 18 & 25, if notice of particulars of a licence in relation to class 25 has been given, upon division in the above manner, the notice will be treated as having been given in relation to Divisional application 2 only. Particulars of the licence, including the goods covered by the licence, should be entered in the register in relation to Divisional application 2. (see rule 27(5))

* * *