

Do you Know the Differences among Business Registration, Company Registration and Trade Mark Registration?

They Play Different Roles

Company registration, business registration and trademark registration in Hong Kong serve different purposes. They are regulated by different laws and registration systems administered by different government departments.

Business Registration Office

The Business Registration Office under the Inland Revenue Department administers the Business Registration Ordinance (Chapter 310, Laws of Hong Kong). The Business Registration Office is responsible for registering businesses carried on by **an individual, a partnership, a local limited company or a non-Hong Kong company**.

Companies Registry

The Companies Registry administers and enforces the Companies Ordinance (Chapter 32, Laws of Hong Kong). The Companies Registry is responsible for providing services for the incorporation of **local limited companies** and the registration of **companies incorporated outside Hong Kong which have established a place of business in Hong Kong**.

Trade Marks Registry

The Trade Marks Registry under the Intellectual Property Department is responsible for providing **trademark registration** services to members of the public under the Trade Marks Ordinance (Chapter 559, Laws of Hong Kong) and the Trade Marks Rules (Chapter 559A, Laws of Hong Kong).

A company name registration at the Companies Registry or a business name registered with the Business Registration Office is not the same as a trademark registration at the Trade Marks Registry. A business or company name registration is not an indication of trademark rights. Having registered a local or an overseas limited company with the Companies Registry, you are still required to apply to the Business Registration Office for registration of your business and apply for registration of your trademarks with the Trade Marks Registry. Only the registered trademark owner has an exclusive right to use the trademark in relation to the goods and services in Hong Kong for which the mark

is registered.

Registration under Three Different Registration Systems

Business Registration

“Business” required to be registered includes:

- Any form of trade, commerce, craftsmanship, profession, calling or other activity carried on for the purpose of gain;
- Any club which provides facilities, services and exclusive club premises to its members for social intercourse or recreation;
- Every local company or overseas company that has established a place of business in Hong Kong, regardless of whether it is actually carrying on any business in Hong Kong; and
- Every overseas company that has a representative or liaison office in Hong Kong, or has let out its property situated in Hong Kong, regardless of whether it has established a place of business in Hong Kong.

You should apply for registration of your business within one month from the date of commencement of your business (or within one month from the date of registration of your company with the Companies Registry). If you carry on business at a branch, you also need to apply for branch registration. For further information on business registration, please visit the website www.gov.hk/br.

Company Registration

To form a local limited company, you have to propose a company name first. You may find out whether the intended name has already been used by an existing company by conducting a free company name search on the Internet at www.icris.cr.gov.hk. You can also conduct the company name search at the Public Search Centre at the Companies Registry. Please note that: -

- A company name which is not identical to the names appearing in the index of company names kept by the Registrar of Companies is not necessarily registrable as it must also comply with other requirements set out in section 20 of the Companies Ordinance.
- In examining an intended name before the incorporation of a company, the Registrar of Companies will not consider whether the intended company name is “too like” or similar to the names appearing in the index of company names. You

should consider carefully whether the intended name could lead to a complaint from another company and the possibility that it may be subject to the direction of the Registrar of Companies for a change of company name after incorporation. For details of the criteria which the Registrar of Companies will apply in forming an opinion as to whether a name is "too like", please refer to the "Company Names Guidelines" (www.cr.gov.hk/en/publications/docs/name-e.pdf) which can be viewed or downloaded from the Companies Registry's website.

- The application must meet all the requirements of the Companies Ordinance before the company can be successfully incorporated.
- A Certificate of Incorporation will be issued in six working days.

A company incorporated outside Hong Kong should deliver documents to the Registrar of Companies for registration within one month of the establishment of its place of business in Hong Kong under section 333(1) of the Companies Ordinance. A Certificate of Registration will be issued in 16 working days.

For details of the documents and fees required for registration, please visit the Companies Registry's website www.cr.gov.hk.

Trademark Registration

A trademark is a sign that distinguishes the goods and services of one trader from those of others. Registering your trademark means that you have an exclusive right to use the trademark in relation to the goods and services for which the mark is registered. If other people use it in the course of trade in Hong Kong relating to the same or similar goods or services without your consent, you may consider taking legal action against them.

Before filing a trademark application in Hong Kong, you may search the records of registered trademarks and trademark applications filed with the Trade Marks Registry to find out if there are any marks in the register of trademarks which are identical or similar to the one you intend to apply to register. You can search the records by using the Intellectual Property Department's free online search services (www.ipsearch.ipd.gov.hk).

If there is no deficiency in your application and all requirements for registration are met, the application will be accepted for registration and published in the Hong Kong Intellectual Property Journal (www.ipd.gov.hk/eng/ip_journal.htm). If there is no opposition to the trademark application by a third party within the three-month opposition period from the publication date, the registry will register your mark and send

you a certificate of registration. The whole registration process may take as short as six months from the date of receipt of application by the Trade Marks Registry.

The trademark registration system of Hong Kong provides territorial protection. Hence, trademarks registered in the Mainland China do not automatically receive protection in Hong Kong. If you want your mark to be protected in the Mainland China and Hong Kong, you should apply for registration in both places.

For further information on trademark registration in Hong Kong, please visit the Intellectual Property Department's website www.ipd.gov.hk

Relevant Websites

Inland Revenue Department's website: www.ird.gov.hk

Business Registration Services: www.gov.hk/br

Companies Registry's website: www.cr.gov.hk

Companies Registry electronic search services: www.icris.cr.gov.hk

Intellectual Property Department's website: www.ipd.gov.hk

Intellectual Property Search: ipsearch.ipd.gov.hk

Intellectual Property Journal: www.ipd.gov.hk/eng/ip_journal.htm

Contact Us

Business Registration Office

Address: 4/F., Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong

Tel: 2594 3146

Company Registry

Address: 14/F., Queensway Government Offices, 66 Queensway, Hong Kong

Tel: 2234 9933(IVRS)

Intellectual Property Department

Address: 24/F., Wu Chung House, 213 Queen's Road East, Wan Chai, Hong Kong

Tel: 2961 6901