

Trade Marks Registry proposes to correct data on Register

The Trade Marks Registry (Registry) announced today (October 28) that, after internal audits, it needs to correct some data on the register of trade marks (Register).

During recent internal audits, the Registry discovered that, owing to human errors in the data entry and validation process, there are inaccuracies in some data relating to the filing date of trade mark applications, priority claim and the description of certain marks on the Register. The Registry expresses its regrets to any party who may be affected by the incident.

Filing date

The filing date of a trade mark application determines its registration date and the expiry date. The filing date also determines the priority between conflicting marks. The registration of a mark may be blocked by the existence of an "earlier trade mark".

Over 270,000 registrations that are currently in force appear on the Register, and the relevant data are available for online public inspection. In recent years, the Registry has received over 20,000 applications for trade mark registration per annum.

Internal audits revealed that a total of 78 registrations and 13 applications had been accorded a wrong filing date. Of these, 73 registrations and nine applications had been accorded a later filing date, while five registrations and four applications had been accorded an earlier filing date.

As the number of cases accorded an earlier date is very small, the risk of the relevant registered owner/applicant/third party being affected is expected to be low.

Priority claim

An applicant who has filed an application to register a trade mark in a Paris Convention country or a WTO member country, territory or area may enjoy a right of priority for six months for the purpose of registering the same mark for any or all of the same goods or services in Hong Kong.

The error occurred in 109 registrations and four applications where an

amendment had been made to the original mark by adding a registered mark. In these cases, details of the priority claim should have been deleted from the Register after the amendment. However, the said details remained on the Register.

The risk of the relevant registered owner/applicant/third party being affected is expected to be low because in the determination of the priority of conflicting marks with an amended mark, the incorporated registered mark would have been taken into account. Hence the priority afforded by the priority claim would not have been relied on.

Series marks

The Registry also discovered that 34 registrations and 16 applications which should be described as single marks are indicated as "series marks" on the Register. Such minor discrepancies are not expected to affect the relevant registered owner/applicant/third party.

Actions taken

The Registry has sent notices concerning the proposed corrections to the relevant registered owners/applicants/affected parties according to the Trade Marks Ordinance. A notice will also be published in the Hong Kong Intellectual Property Journal. Affected parties may make written objections to the proposed corrections within three months after the date of the notice. If no objections are received, the corrections will be made.

To prevent recurrence of similar errors, the Registry has:

- (a) reminded all staff concerned, and in particular the staff who handled the cases in question, of the importance of accurate data entry. Further training and reference checklists have also been provided for all staff concerned;
- (b) taken actions to place additional prompts in its computer system to raise staff alertness; and
- (c) drawn up more rigorous internal audit arrangements.

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