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Introduction to Application for Trademark Registration in Taiwan

Taiwan trademark registration and protection system adopts the “territory-based” and “first to file” principles. In accordance with section 2 of the Taiwan Trademark Act, anyone who wish to obtain the exclusive rights of a trademark should apply to have the mark registered with the Taiwan Intellectual Property Office.

Any entity, including corporations and individuals and be it resided in or outside Taiwan, that desires to obtain the exclusive right of a trademark to distinguish its goods and/or services from those of others in Taiwan should apply for its registration with the trademark authority in accordance with the Taiwan Trademark Law.

1. Governing Organisation

The registration of trademark in Taiwan is regulated by the Trademark Act and the regulatory body of Taiwan Trademark Act is the Ministry of Economic Affairs of Taiwan. The Taiwan Intellectual Property Office (TIPO) is the patent, trademark, and copyright office of Taiwan. It operates under the jurisdiction of the Ministry of Economic Affairs (MOEA).

2. Trademark Classification System

Although not a signatory to the Nice Agreement, Taiwan generally follows the Nice Classification of Goods and Services. Taiwan’s classification system also features sub-classes similar to those adopted in Japan. The TIPO presumes that goods in a particular subclass are similar to other goods in the subclass, but they may also be similar to goods or services in other subclasses or classes.

3. Elements of a Trademark

A trademark may be composed of a word, design, symbol, color, sound, three-dimensional shape, motion, hologram, sound or a combination thereof.

4. Term of Registration

A trademark registration is valid for ten (10) years and may be renewed within six (6) months of the expiry of the registration period for successive periods of ten (10) years each.

5. Application Materials

For the purpose of filing application for registration of a trademark in Taiwan, the following documents should be prepared and filed with TIPO:

- (1) Trademark Device
- (2) Identification Documents
- (3) Proof of Priority
- (4) Power of Attorney

If any of the above-mentioned documents is not in Traditional Chinese, A Chinese translation should be prepared and filed together with the documents in its original language.

6. Change of Particulars of an Application

Once after the application for registration of a trademark has been submitted to the trademark authority, the applicant can request that certain changes be made to the application, including the name, address of the applicant, its agent, and some other particulars of the application. However, changes to the device itself and the designated products or services are generally not allowed.

7. First to File Principle

The "first to file" principle means that the sequence of the acquisition of rights depends on the sequence of the examination of trademark applications. Where applications for registration of an identical trademark or similar trademark(s) designated for the same or similar goods have been filed, the application that is first filed shall be granted registration.

8. Convention Priority

If the applicant has filed an application in another WTO country within the last half year, then there is a choice of treating the effective filing date in Taiwan to be the same as the date of the earlier application.

Priority claim is usually made when the Taiwan application is part of a coordinated world-wide filing exercise, or when a search reveals that a recent application of a third party may be surpassed by the priority claim, or if the client is concerned about possible competing third party application in Taiwan at around the same time.

9. Third Party Objection

Any third party may oppose the registration of a mark within three months of the publication of the registration in the Trademark Gazette. The process involves the opposing party filing a notice of opposition with the TIPO identifying the basis for the opposition. The opposing party thereupon submits its arguments and evidence in favour of revocation of the registration of the mark. The applicant will have the opportunity to submit a brief arguing why the registration should be maintained. The TIPO will review all submitted materials and ultimately issue a disposition on the matter.

A mark that has been registered and is no longer in the three-month opposition period may be invalidated upon application by an interested party. Invalidation procedures are similar to those for opposition. The most common bases for oppositions and invalidations are either that the registered marks are confusingly similar to a senior mark that is registered for use in connection with the same or similar goods or services, or that the registered mark is descriptive of the designated goods or services.

A mark may be cancelled for a number of reasons, including non-use of the mark for a continuous period of three years or more, or alteration of the registered mark such that it becomes confusingly similar to the senior mark of another party.

10. Fees

Please refer to our "Taiwan Trademark Registration Procedures and Fees" for the relevant official fees and corresponding service fees.

11. Processing Time

The trademark authority, Taiwan Intellectual Property Office, has a self-imposed time limit for the processing of a new application for registration, which is one (1) year (exclusive of any correspondence between the trademark authority and the applicant or its agent).

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If you wish to obtain more information or assistance, please browse the official website of Kaizen Certified Public Accountants Limited at www.bycpa.com or send email to enquiries@bycpa.com.

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