Navigating the Differences in

# Trade Mark Registration across Hong Kong and China

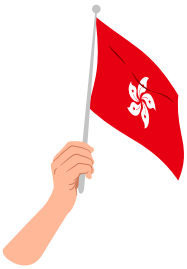
Marks&Clerk

The International Intellectual Property Experts

## 1. Understanding trade mark filing strategies

| Part of process | Hong Kong | The People's Republic of China (PRC) |
|---|---|---|
| Filing authority | Trade Marks Registry, The Intellectual Property Department | China National Intellectual Property Administration |
| Filing system | First to Use | First to File |
| Language | English or Chinese | Chinese only |
| Specification of goods/services | Descriptions that align with the corresponding classes will suffice | Only standard descriptions selected from the local classification are acceptable |
| Supporting document(s) | No supporting documents | 1. Power of Attorney<br>2. Identity proof of applicant |
| Renewal application | Within 6 months prior to the expiry date | Within 1 year prior to the expiry date |

## 2. Trade mark filing in Hong Kong



In Hong Kong, the trade mark filing system is based on a "first to use" principle. This means that rights to a trade mark are granted to the first entity that uses it in commerce, rather than solely to the first applicant. Applicants can register their trade marks without needing to provide proof of prior use at the time of filing, and no supporting documents, such as Power of Attorney, are required.

The applicant can be made in either Chinese or English. The choice of language determines the "language of proceedings" for the application. Additionally, the specifications for goods and services are relatively flexible, as long as they align with the corresponding classes. The registration process for straightforward applications typically takes around 6 to 8 months. Once registered, trade marks enjoy protection for ten years and can be renewed indefinitely.

## 3. Trade mark filing in the PRC

In the PRC, the trade mark filing system follows a “first to file” principle. This means that rights to a trade mark are granted to the first entity that submits the application, regardless of prior use. Applicants can register their trade marks without needing to provide proof of use at the time of filing.

All applications must be submitted in Chinese, making it essential for international businesses to consider language requirements. While the application process is straightforward, it is crucial to ensure that the specifications for goods and services are standard descriptions that appear in local classification guide. The registration process typically takes around 9 to 12 months for straightforward applications. Once registered, trade marks are protected for ten years and can be renewed, allowing businesses to maintain their brand identity effectively.

## 3. Key differences

The primary differences between trade mark filing strategies in Hong Kong and the PRC lie in the principles governing rights acquisition. Hong Kong operates under a “first to use” principle, granting rights to the first entity that uses a trade mark in commerce. In contrast, the PRC follows a “first to file” principle, awarding rights to the first applicant, which increases the risk of trade mark squatting.

Both regions allow registration without proof of use at the time of filing, but Hong Kong accepts applications in both English and Chinese, while the PRC requires submissions in Chinese. Additionally, Hong Kong offers more flexibility in specifying goods and services, whereas the PRC adheres to standard descriptions from its local classification guide.

The registration process typically takes about 6 to 8 months in Hong Kong, compared to 9 to 12 months in the PRC. Both regions provide ten years of trade mark protection with renewal options, but the differing principles, risks of trade mark squatting, and processes influence strategic decisions for businesses.

When managing your IP portfolio, the differences in trade mark filing between Hong Kong and the PRC must be taken into consideration.

With offices in both Hong Kong and Beijing, Marks & Clerk is here to guide you on this journey.