



## HSM IP Trade Mark Client Guide

# CAYMAN ISLANDS

### Registered Agent

Under section 6 of *The Trade Marks Law, 2016* only a registered agent may transact business with the Cayman Islands Registry of Trade Marks. A registered agent must be legally and ordinarily resident in the Cayman Islands.

The owner of a trade mark must appoint a registered agent upon the next dealing with the Registry or upon payment of the next annual fee.

### Registration

A trade mark can be registered in the Cayman Islands pursuant to *The Trade Marks Law, 2016* which provides for national trade mark applications. As of 1 August 2017 applications for registration can no longer be based on existing United Kingdom (UK) or European Union (EU) registrations. Trade Marks registered under the previous law (*The Patents and Trade Marks Law, 2011*) will be treated in the same manner as marks registered under the new law.

The following information and documentation is required:

1. a request for the registration of the trade mark
2. name, address and e-mail address of the applicant
3. type of applicant (e.g. person, registered company, LLC, partnership, trust or “other”)
4. name, address and e-mail address of the appointed registered agent
5. type of trade mark (e.g. standard trade mark, certification mark or collective mark)
6. one representation of the trade mark
7. statement of goods and/or services
8. classification of goods and/or services
9. English translation of any words or non-Roman characters

It usually takes 12 months or less for the Registry to process an application for registration. Paris Convention priority cannot be claimed. Once the registration is complete the Registry will issue a Certificate of Registration.

### Classes

The International Classification system is used. Multi-class applications are allowed.

### Searches

In order to conduct a search the only documentation required is the name of the trade mark, the name of the proprietor or the number of the trade mark. The result can usually be provided within a week.

### Annual Fees

Once a trade mark has been registered in the Cayman Islands there is an annual fee payable to the Cayman Islands Government on 1 January each year. The first annual fee accrues from the filing date of the mark, but payment is not due until 1 January following the date of registration.

Unless otherwise instructed we will send you a reminder in October of the preceding year in relation to the annual fee due the following January. If instructed to pay the annual fee we will then issue an invoice and upon payment we will pay the annual fee to the Registry and forward the official receipt.

Failure to pay an annual fee will result in the rights protected by the registration being placed in abeyance. This will effectively prevent any enforcement action being taken. A penalty will be incurred for

the late payment of annual fees where payment has not been received by the Registry before 1 April each year.

### **Renewal**

A trade mark registration is valid for 10 years after which it can be renewed for like periods. Two months before the renewal date we will send you an Expiry Notice asking whether you wish us to renew the registration or allow the mark to lapse.

The application for renewal should be filed prior to the expiration date of the registration. A grace period of six months, however, is allowed from the expiration date for the filing of the application for renewal upon payment of a late fee.

It usually takes six months or less for the Registry to process an application for renewal. Once the renewal is complete the Registry will issue a Renewal Certificate.

If you do not wish to renew the mark please inform us so that we can advise the Registry accordingly.

### **Surrender or Lapse**

Please inform us as soon as possible if you wish to surrender your trade mark or allow it to lapse so that we can update our records and advise the Registry accordingly. This will avoid us sending out unnecessary Reminder Notices regarding annual fees etc.

### **Restoration**

It is possible to make an application to the Registry to restore a trade mark that has been allowed to lapse upon payment of a restoration fee and any unpaid annual fees and penalties.

### **Assignment**

Please inform us as soon as possible if the trade mark has been assigned so that we can file an application to record the assignment in the Cayman Islands.

To record the assignment of a trade mark registration the only documentation required is the Deed of Assignment or the Assignment agreement. Alternatively both parties' registered agents can sign Form TM10 authorising the transfer of ownership.

It usually takes two months or less for the Registry to process an application to record an assignment. Once the recording is complete the Registry will issue a Certificate of Assignment.

### **Change of Particulars**

Please inform us as soon as possible if there is any change to the registration so that we can file an application to record the change in the Cayman Islands.

To record a change of name and/or address for a trade mark registration no documentation is required. We only require details of the change(s).

It usually takes two months or less for the Registry to process an application to record a Change of Particulars. Once the recording is complete the Registry will issue a Certificate of Recording.

### **Change of Agent**

The proprietor of a trade mark has 180 days from the receipt of notice of resignation from the registered agent of a mark in which to appoint a new registered agent. After this time the registration will be held in abeyance until a new registered agent has been appointed.

## Security Interests

It is possible to register the grant of a Security Interest, fixed or floating, over a registered trade mark or any right in or under it.

To record a Security Interest against a trade mark registration the only documentation required is a copy of the document establishing the Security Interest and Form TM12. Alternatively the grantor's registered agent can complete and sign Form TM12 to record the Security Interest.

It usually takes two months or less for the Registry to process an application to record a Security Interest. Once the recording is complete the Registry will issue a Certificate of Recording.

## Licences

The proprietor of a trade mark can grant a general or limited exclusive or non-exclusive licence to use the trade mark. A limited licence may apply in relation to some but not all of the goods and/or services for which the trade mark is registered.

To record a licence against a trade mark registration the only documentation required is a copy of the document evidencing the licence and Form TM11. Alternatively the licensor's registered agent can complete and sign Form TM11 to record the licence.

It usually takes two months or less for the Registry to process an application to record a licence. Once the recording is complete the Registry will issue a Certificate of Recording.

## Our Firm

HSM IP Ltd. provides worldwide intellectual property services. Based in the Cayman Islands and independently owned and operated, our experienced team of attorneys and paralegals deliver first class service to a broad client base which includes major Fortune Global 500 brand owners, international law firms and other specialist IP practices. Our broad perspective, practical approach and international experience allow us to offer clients a unique insight into IP issues.

The success and growth of our firm is due to our keen understanding of our clients' needs for a comprehensive "one-stop shop" which encompasses a wide range of services from the initial consultation process to searches, registrations, annuity payments and monitoring and renewals. Our interactive database helps us to proactively manage each client's portfolio efficiently and cost-effectively in an environmentally friendly and substantially paperless workplace. It also allows us to fulfil our clients' specific reporting and invoicing requirements, including multi-currency invoicing and e-billing. We offer a competitive schedule of fixed fees, inclusive of both disbursements and official fees, which means we can provide clients with an accurate estimate of their project costs before embarking on a global filing programme for their portfolio.

As a leader in the field, HSM IP understands the value of long-term business relationships. We have a wealth of knowledge and specialise in the Caribbean, Central and Latin America and other offshore jurisdictions. Our staff regularly contribute to leading IP publications and we also publish a range of country-specific IP Client Guides which are available on our website.

Supported by HSM Chambers, an offshore law firm with experienced attorneys admitted in multiple jurisdictions, we have substantial experience in taking action to address the infringement of trade marks and patents and in the conduct of passing-off actions. We are also able to offer investigative services to identify the source of, and distributors of, infringing goods, working closely with police and customs officials as necessary.

Memberships: INTA, CITMA, MARQUES and IPCA.

## Contact Us

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*HSM IP Ltd. is a Law Firm recognised under the Legal Practitioners (Incorporated Practice) Regulations, 2006 (as amended).*

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