

## ***Trademark Agency Services (5)***

### **1. Who may benefit from the opening up of trade mark agency services in the Mainland?**

Starting from 1 January 2005, Hong Kong service suppliers who satisfy the conditions set out in Annex 5 of CEPA can provide trade mark agency services in the Mainland subject to compliance with certain prescribed conditions. Details of the opening up of trade mark agency services under CEPA can be found in the website of Trademark Office of the State Administration for Industry & Commerce (SAIC) at [http://sbj.saic.gov.cn/ndxgsbzt/cepa/200904/t20090423\\_55181.html](http://sbj.saic.gov.cn/ndxgsbzt/cepa/200904/t20090423_55181.html).

### **2. What types of services can Mainland trade mark agencies provide?**

Mainland trade mark agencies can accept appointments as agents to provide the following services in the Mainland:

- (i) handle matters relating to trade mark application, modification, renewal, assignment, opposition, revocation, examination and infringement;
- (ii) provide legal advice and act as legal consultant on trade mark laws; and
- (iii) handle other trade mark related legal matters.

### **3. Can a Hong Kong trade mark agency undertake trade mark agency services in the Mainland?**

Under CEPA, a Hong Kong service supplier can undertake trade mark agency services in the Mainland after registering with the Administration for Industry and Commerce (工商行政管理局) at the provincial level and acquiring the qualification of being a statutory operating body. On 24 November 2004, the SAIC issued the “Temporary Measures Concerning Trademark Agency by Service Providers from Hong Kong and Macao SAR in Mainland” (《香港、澳門服務提供者在內地開展商標代理業務暫行辦法》). The Temporary Measures describe in details the formalities and conditions which Hong Kong service suppliers are required to comply with when setting up trade mark agencies in the Mainland. The full text of the Temporary Measures can be found in the website of Trademark Office of the SAIC at [http://sbj.saic.gov.cn/ndxgsbzt/cepa/200904/t20090423\\_55180.html](http://sbj.saic.gov.cn/ndxgsbzt/cepa/200904/t20090423_55180.html).

**4. Under what legal structures can Hong Kong service suppliers provide trade mark agency services in the Mainland?**

The “Temporary Measures Concerning Trademark Agency by Service Providers from Hong Kong and Macao SAR in Mainland” (《香港、澳門服務提供者在內地開展商標代理業務暫行辦法》) provides that starting from 1 January 2005, service providers from Hong Kong and Macao are permitted to set up limited liability corporations in the Mainland to undertake trade mark agency services in the form of joint ventures, cooperative enterprises and Hong Kong or Macao invested enterprises.

**5. What are the laws, regulations, rules and other provisions that are relevant to the “Temporary Measures Concerning Trademark Agency by Service Providers from Hong Kong and Macao SAR in Mainland” (《香港、澳門服務提供者在內地開展商標代理業務暫行辦法》)?**

Particulars of the laws, regulations, rules and other provisions that are relevant to the Temporary Measures can be found in the website of Intellectual Property Department at [http://www.ipd.gov.hk/eng/whats\\_new/news/Article4\\_of\\_Temporary\\_Measures\\_eng.pdf](http://www.ipd.gov.hk/eng/whats_new/news/Article4_of_Temporary_Measures_eng.pdf).