

20个有关商标权的常见问题!

20 FREQUENTLY ASKED QUESTIONS ON TRADEMARK



Joyi Cheah 谢濡羽

品牌保护 防止抢注



引言

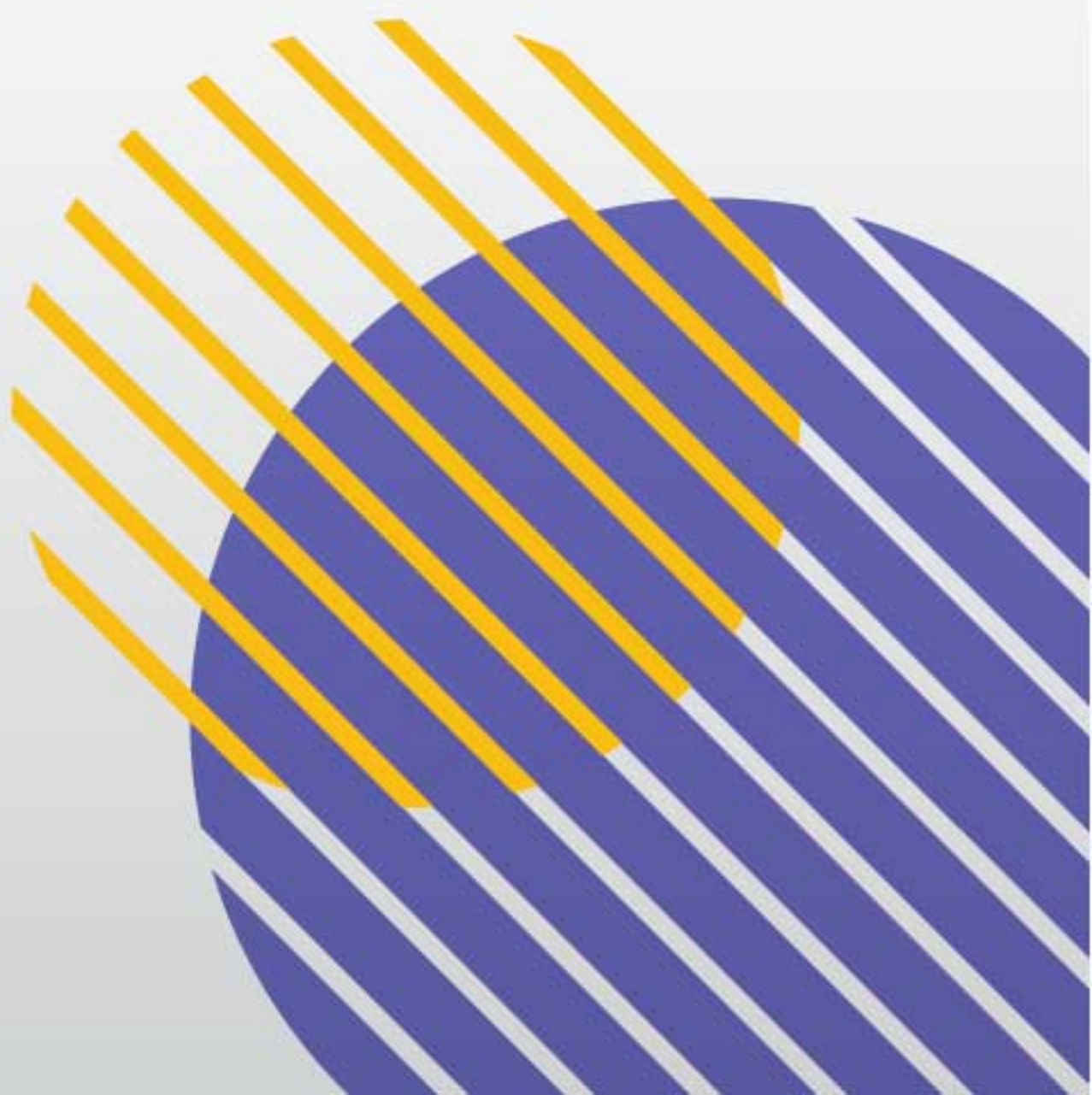
什么是知识产权？而商标又是什么呢？

您是不是对商标权充满了疑问，好想一一了解呢？而这份「20个有关商标权的常见问题」，或许能为你解答。

您好，我是Joyi Cheah 谢濡羽，是一位拥有超过10年经验的品牌知识产权导师，曾为国内外知名企业提供关于在知识产权方面的专业服务及合作。

经过这多年的经验里，其实很多人一开始都不懂什么是商标权，对商标没有一定的概念，甚至不清楚其重要性。因此，我准备了这份「20个有关商标权的常见问题」，希望能协助大家对商标权有多一点的了解，并开始着重商标带来的重要性。特别对企业家们来说，商标更是你的无形资产之一哦！

在此感谢大家给予的支持。
谢谢。



您好，我是Joyi Cheah 谢濡羽，是一位拥有超过10多年经验的知识产权导师，曾为国内外知名企业提供知识产权方面的专业服务及合作。

你是否很好奇到底什么是知识产权？而商标又是什么呢？
您是不是对商标权充满了疑问，好想一一了解呢？
这份「20个有关商标权的常见问题」，或许能帮到你。

而透过这多年的经验里，我发觉很多人一开始都不懂什么是商标权，对商标没有一定的概念，甚至不清楚其重要性。因此，我准备了这份「20个有关商标权的常见问题」，希望能协助大家对商标权有多一点的了解，并开始着重商标带来的重要性。特别对企业家们来说，知识产权更是您的无形资产之一哦！

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01

什么是商标? What is a trademark?

很多东西都可以构成商标。它们不仅保留用于商业/贸易名称，而且还保护着品牌中的其他元素，如视觉标志、标语、形状、颜色、包装，以及声音、气味、全息摄影、运动序列或上述任何组合。

Many things can constitute trademarks. They are not simply reserved for business/trading names but also protect other branding elements such as visual logos, slogans, shapes, colours, packaging, as well as sound, scent, hologram, sequence of motion or any combination of the above.

02

为什么需要注册商标? Why do you need to register a trademark?

注册商标可以让您拥有品牌的自由使用权，并且在出现品牌争议时可以证明拥有其品牌的所有权。

Registering your trademark gives you the freedom to decide how you wish to use it and easy to prove ownership in the event there is a brand dispute.

03

是否一定要注册商标? Is it necessary to register a trademark?

不一定。但在遇上有任何品牌争议时，若拥有注册商标会更容易证明和简化谈判过程。如果您的企业也在其他地区发展着业务，这同样适用。

Not necessary. However, if there is any brand dispute, having a registered trademark makes it easier to prove and ease the negotiation process. This works the same if your business is in other territories as well.

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04

TM和R符号有什么区别?

What is the difference between TM and R symbols?

TM 表示商标正在申请程序或等待注册。R则表示商标已正式注册。

TM indicates that a trademark is undergoing the application process or pending registration. R indicates that the trademark is officially registered.

05

如何判断我的商标是否与其他商标近似?

How can I tell if my trademark is similar with other trademark?

必须根据视觉、图形元素、符号拼写和任何其他概念元素来查询其相似度。在提交任何商标申请之前进行全面的商标查询是非常重要的过程。

The level of similarity have to be accessed based on visual, graphical element, symbol spelling and any other conceptual elements. It is important to perform a comprehensive search prior to filing any trademark application.

06

商业名和商标一样吗?

Is trade name same as trademark?

商业名是企业或公司的名称，而商标是特定产品或服务的标识。

A trade name is the name of a business or company. A trademark is an identity of a specific product or service.

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07

注册商标需要多长时间?

What is the difference between TM and R symbols?

注册的时间变因每个国家/地区而异。一般来说，从应用到注册的顺利过程大约需要12-18个月。

The timeline varies depending on each country. Generally a smooth process shall take around 12-18 months from application to registration.

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商标保护是全球性的吗?

How can I tell if my trademark is similar with other trademark?

商标注册是按地域进行的。如果您的商标在许多国家/地区广泛使用，建议您在特定国家/地区开展业务后立即对其进行保护。（前提是您的商标可在该国家/地区注册）

Trademark registration is by territorial basis. If your trademark is widely used in many countries, it is advisable to protect it as soon as you commence business in a particular country.(provided your trademark is registrable in that country)

09

商标的有效期是多久?

Is trade name same as trademark?

每个注册商标的有效期为10年。为了使您的商标保持有效，您必须每10年更新一次。但是，每个国家/地区可能有不同的法规，因此需密切检查以避免您的商标被放弃/变成无效。

Every registered trademark is valid for ten years. To keep your trademark active, you must renew in every ten years. However, every country may have different regulations, therefore it is important to monitor closely to avoid your trademark being abandoned.

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我可以为我的域名或社交媒体名称注册商标吗?
Can I trademark my domain name or social media name?

是的，您可以为您的域名或社交媒体平台中所使用的名称注册为商标，前提是该名称用于识别您的产品或服务。换句话说，它必须用于商业目的。

Yes you can trademark your domain name or name used in social media channel provided the name is used to identify your product or services. in other words, it must be used for commercial purposes.

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我如何知道是否有人在使用我的商标?
How do I know if someone is using my trademark?

您可以使用监控服务，当有人试图注册您的商标或混淆性相似的商标时，该服务会提醒您。定期上网检查也很重要。

You can use a monitoring service that will alert you when someone seeks to register your trademark or confusingly similar trademark. Regular check on the internet is important as well.

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什么是商标分类?
What is trademark classification?

商标分类用于根据特定性质对产品和服务的类型进行分类。通常，如果商标用于多个类别，则需要注册多个类别。例如，如果商标被用作时尚品牌，包括服装（第 25 类）、包类（第 18 类）和服装配饰（第 26 类），则可能需要在这些相关类别下提交商标。

Trademark classification is used to categorize the type of product and services according to a specific nature. Usually, a multiple class is required if the trademark is being used for more than one category. For example, if a trademark is being used as a fashion brand which includes clothing (Class 25), bags (Class 18) and clothing accessories (Class 26) then the trademark may be required to file under these relevant classes.

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商标权是否自动授予?

Is trademark rights automatically granted?

不是。商标注册是需要获得知识产权局的批准。在提交商标申请之前，建议可进行商标查询，以避免被撤回和不必要的费用。

No, trademark registration is subject to approval. Prior to submitting your trademark application, it is advisable to perform a thorough check to avoid disappointment and unnecessary cost.

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我可以自己提交商标申请吗?

Can I submit the trademark application by myself?

可以。您可以在知识产权局商标注册处提交相关的商标申请，并直接与注册处联系。但是，您需要密切关注申请过程并在截止日期前提交相关的回复。否则可能会导致您的申请视为放弃。

Yes, you may submit your trademark application at the Trademark Registry and liaise with the Registry directly at your end. However, you need to monitor the application closely and submit your respond within the given deadline. Failure to do so may resulted in your application to be abandoned.

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申请商标有什么规定吗?

Are there any rules to apply a trademark?

有。在申请商标时会有一些基本规定作为指导。如行业中常用的名称或描述性术语可能会降低您商标注册的机会。

Yes there are some basic rules which served as a guideline when applying a trademark. Names that are commonly used in the industry or descriptive terms may stand a lower chance of getting your trademark registered.

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我可以在注册前使用商标吗?
Can I use a trademark before registration?

您可以在正式注册前使用该商标。但是建议在使用前可检查其商标权是否属于其他人拥有，否则您可能会面临不必要的诉讼。

Yes you can use the trademark before officially registered. However, it is advisable to check if the trademark that you intend to use is not belonging to someone else otherwise you may attract unnecessary lawsuit.

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一个商标可以由多个所有者拥有吗?
Can a trademark be owned by multiple owners?

商标只能在商标注册处以一个所有人的名义注册。但是，如果您希望拥有多个所有者，则可能需要将其放入协议中。

A trademark can only be registered under one owner in the Trademark Registry. However, if you wish to have multiple owners you may need to put it in an agreement.

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我可以要求我当地的经销商在各自国家注册我的商标吗?
Can I ask my local distributor to register my trademark in the respective country?

不建议这样做。强烈建议商标所有者在业务覆盖的所有国家/地区申请其商标。如果商标所有者希望将商标权授予其经销商，可以通过经销商协议来完成。

No, it is not advisable to do so. The trademark owner is highly recommended to apply its trademark in all countries that the business is covering. If the trademark owner wish to grant the trademark rights to its distributor, this can be done via a distributorship agreement.

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如果我在国外注册，我需要用当地语言注册商标吗？
If I am registering in a foreign country, do I need to trademark in local language?

可能没有必要，但非常建议这样做。以当地语言保护您的商标可以防止其他当地企业申请与您的原始语言具有相似含义的商标。

It may not be necessary but highly recommended to do so. Having your trademark protected in the local language can prevent other local businesses in claiming a trademark that has a similar meaning as your original language.

20

如果他人使用我的商标，我该怎么办？
What should I do if someone else is using my trademark?

建议寻求法律意见以确定下一步行动。通常在这种情况下，可能有必要进行调查并随后向侵权者发送停止和终止函。

It is advisable to seek legal advice to determine the next course of action. Usually in this case it may be necessary to conduct an investigation and subsequently sending a cease and desist letter to the infringers.



Joyi Cheah 谢濡羽

品牌IP导师

IP Brand Specialist



您好，我是Joyi Cheah 谢濡羽：

- ★ 拥有超过10年经验的知识产权导师
- ★ 曾为马来西亚及国外各大中小著名企业提供知识产权服务，并进军国际市场
- ★ 熟悉商标、版权、专利、外观设计专有权等知识产权
- ★ 曾处理过不同领域的案件，如大小型企业、电商、房地产等

Joyi个人荣誉&资格认证：

- 2021年 - 纳入《马来西亚成功人士英国百科大全》
- 2019 - Registered Industrial Design Agent
- 2019 - Registered Trade Mark Agent
- 2011 - 毕业于伦敦大学法学学士 (LLB)，知识产权法和实践认证





透过这份「20个有关商标权的常见问题」，你是否对商标权已有更深厚的了解了呢？可别忘了，你的品牌就是你的无形资产。如果品牌在没有商标权法的维护之下，若被他人侵权使用，你可能要面对诉讼之外，多年经营的品牌就可能失去了拥有权了。

企业家们，若你正想为你的品牌进行商标权维护，也正找寻着一位资深且富有经验的知识产权代理，或你正面对有关商标权等问题，都欢迎与我联系。我非常乐意为您提供专业性定制及个性化服务及解决方案，让你的品牌都能得到相应的维护。

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