

New Patent & Trademark Law in the Cayman Islands

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The new Patents and Trade Marks Law 2011 took effect in the Cayman Islands on 7 December 2011. To access the new law, please [click here](#).

Registered Agent required

Proprietors of patents and trade marks can now only transact business with the Registry of Patents and Trade Marks in the Cayman Islands ("the Registry") via a registered agent who must be resident in the Cayman Islands.

The Registry will now maintain a register of registered agents who may transact business with the Registry in the Cayman Islands. Although many proprietors and overseas trade mark firms have in the past dealt directly with the Registry, this is no longer possible.

Proprietors who do not have a registered agent must now appoint one when they next deal with the Registry in relation to their patent or trade mark or when they next pay their annual fee, whichever is sooner (please see below in respect of the changes to the payment of annual fees).

Proprietors should also be aware that if their registered agent resigns, unless a new registered agent is appointed within 60 days, the protected patent or trade mark could be cancelled by the Registry for failing to have an appointed registered agent. Re-application will be possible, but it is obviously a step that a proprietor will want to avoid.

Certificates of Good Standing will now be available

The new legislation provides that the Registry, upon request by a registered agent, may issue a certificate of good standing to evidence that a patent or trade mark has been recorded in the Cayman Islands and that all applicable fees have been paid. This will enhance the ability of proprietors to evidence their recorded rights.

Annual fees and penalty fees

In the past, a default in the payment of the annual fee due on 1 January for one month resulted in the rights protected by the recorded entry being held in abeyance. A default for more than two months rendered the owner liable to a penalty fee. Now, the new legislation provides that if the annual fee is not paid by 31 March of the relevant year, the right protected will be held in abeyance from 1 April until the annual fee and penalty fee is paid. A penalty is payable when the annual fee is paid after 31 March. It should also be noted that in the event that an annual fee and the applicable penalty fee is not paid for more than twelve months, the patent or trade mark in question may be cancelled by the Registrar. Again, re-application will be possible, but proprietors will want to avoid having to take that step.

Renewal of expired patents or trade marks

Proprietors should also be aware that whilst their registered agent may apply for an expired patent or trade mark to be renewed, a renewal application which is made more than two months after expiry will attract a late renewal fee in addition to the renewal fee and any outstanding annual and penalty fees.

Abandoned patents or trade marks

Finally, the new legislation provides that proprietors shall inform the Registry, via their registered agent, if a patent or trade mark has been abandoned when the Registry will record the protected right as inactive. Upon payment of a re-activation fee and annual fees the protected right may be revived.

For more information, please contact:

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