



NEWSLETTER

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Taiwan Assignment Recordation of Patent and Trademark Assets related to Company Bankruptcy or Liquidation

In general, it is required to submit a signed Deed of Assignment or equivalent document (and a signed Power of Attorney for a foreign Applicant) when filing a recordal of assignment to transfer the ownership right of Taiwan patent or trademark assets. The Deed of Assignment should specify the patent/trademark numbers and signed by the Assignor (the patent/trademark right owner who originally owned the right) and the Assignee (the new owner). In Taiwan, a recordal of assignment can be filed either by the Assignor or Assignee. However, Taiwan Intellectual Property Office (TIPO) requires that the signature or seal of the Assignor must be consistent with the signature or seal on record. Per the practice, the TIPO may accept authorized signatories on behalf of the Assignor and Assignee for foreign companies.

Regarding a patent/trademark right holder who is a company that declares bankrupt or enters liquidation proceedings, a recordal of assignment can be filed for the transfer of the company's IP assets in Taiwan. For the Deed of Assignment or IP Assignment document signed by the (bankruptcy) administrator or liquidator on behalf of the company, the signing date must be during the bankruptcy/liquidation period. If the document is signed after the bankruptcy/liquidation process has been ended or concluded, the administrator (or liquidator) will be questioned as to whether they are legally authorized to handle matters related to the transfer of assets after the completion of the bankruptcy/liquidation process. Under such circumstances, the Assignor and Assignee must file a newly signed Deed of Assignment or IP Assignment document with authorized signatories if a recordal of patent/trademark assignment is still to be filed in Taiwan.

In Taiwan, the assignment of patent or trademark are effective upon mutual agreement by the Assignor and Assignee. This legal effect is similar in countries such as France and the UK but different in Japan, where it is effective only upon the recordation of the patent or trademark assignment. Therefore, sometimes it may not be necessary for the original owner or new owner to file a recordal of assignment in Taiwan, for example, before licensing or enforcing the right. Notably, the Taiwan Patent Act (Article 62) and Trademark Act (Article 42) clearly stipulates that patent and trademark rights cannot be enforced against third parties unless the assignment has been recorded in the TIPO. Therefore, if there is a dispute involving patent or trademark infringement, and the patent or trademark right has already been assigned to a new owner, then the new owner should file a recordal of assignment with the TIPO as soon as possible.