

BULLETIN

CAYMAN ISLANDS - NEW PATENTS & TRADE MARKS LAW

A new Patents and Trade Marks Law came into effect in the Cayman Islands on December 7, 2011.

Requirement for Registered Agent

As of April 1, 2012, owners of patents or trademarks can no longer transact business directly with the Registry of Patents and Trade Marks (the "Registry") in the Cayman Islands.

Pursuant to the new Patents and Trade Marks Law, 2011 (the "New Law"), only a registered agent who is ordinarily resident in the Cayman Islands may transact business with the Registry. General searches however may still be conducted by any member of the public upon payment of the requisite fees.

Under the New Law, owners of a patent or trade mark recorded at the Registry prior to the commencement of the law must now appoint a registered agent upon the next dealing with the Registry in relation to such patent or trade mark or when they next pay their annual fee.

Certificate of Good Standing

Other notable changes to the New Law include the introduction of the additional service of obtaining a Certificate of Good Standing. The New Law provides that, upon request by the registered agent, the Registrar may issue a Certificate of Good

Standing to evidence that a patent or trade mark has been recorded in the Cayman Island and that all applicable annual fees and penalties have been paid.

Renewal of Patent or Trade Mark

It is also now possible for an expired patent or trade mark to be renewed upon an application by the registered agent and payment of the relevant fees. However, where a renewal application is filed more than two months after expiry, a penalty fee will apply in addition to the renewal fee and any other outstanding fees.

Abandonment of Patent or Trade Mark

Owners of a patent or trade mark should also be aware that there is now an obligation to notify the Registrar, via their registered agent, that a patent or trade mark has been abandoned. The Registrar will then record the patent or trade mark as inactive and the rights protected by the recorded entry shall be held in abeyance.

Cancellation of Record

The New Law has given the Registrar increased powers to cancel a record in circumstances where there is a default in payment of fees or resignation of a registered agent.

Owners of a patent or trade mark should be mindful that any default in payment of the annual fees and penalties for more than twelve months will now render the record of a patent or trade mark liable to cancellation by the Registrar. The owner may however reapply for recording as though it were being recorded for the first time.

It should also be noted that the resignation of a registered agent with respect to a patent or trade mark shall cause the record of such patent or trade mark to be cancelled unless the owner of such patent or trade mark appoints a new registered agent within *sixty days* of the Registrar being notified of the registered agent's resignation.