

Trademark Non-use Cancellation in Hong Kong

When can you file a trademark cancellation on the grounds of non-use?

A trademark cancellation on the grounds of non-use can be filed if a trademark registration has not been put to genuine use in HK for a continuous **three-year period**, without valid justification.

To support such an action, it is standard practice to engage **ACCOLADE Search Team** to conduct a probe into the use of the mark.

How long is the processing time?

On average, you should expect this action to take 1.5 years or longer.

Under streamlined procedures where a hearing is waived, the timeline may be shorter than 1.5 years.

How much would it cost?

1. Conducting non-use investigation in HK by ACCOLADE (notarization fee included)
 - **First Class: HK\$4,500**
 - **Per Additional Class: HK\$1,500**
2. Filing a notice of cancellation on the grounds of non-use
 - **HK\$7,800**

Pending the outcome of the non-use proceeding, it may be necessary to seek extension(s) for filing response to the office actions issued for the associated new trademark application:

1. Filing extension per round
 - **HK\$500**

Procedure for non-use Cancellation

Stage 1: Applicant may file non use application by filing required Form with the following:

- Statment of Grounds on which the non use application is made
- Evidence to support his claim, for instance, non-use investigation report



Stage 2: Trademark Owner may file a counter statement on required Form, within 6 months after he receives a copy of the non use application and applicant's evidence, either of the following:

- Evidence of use of the trademark, or
- Statement giving reasons for non-use



Stage 3: Whether or not the **Trademark Owner** has taken any action, the **Applicant** may, within 6 months after he receives a copy of the counter-statement and evidence of use, file further evidence by any of the following:

- Statutory Declaration, or
- Affidavit in support of his application



Stage 4: When the evidence rounds are complete, the Registrar will fix a date and time for hearing and issue a formal notice to both parties.

*Disclaimer: The information presented herein does not and is not intended to constitute legal advice.
All information provided is for general informational purposes only.*

For more information, please contact our trade mark consultant.