

## **BRAND/TRADE MARK REGISTRATION**

In Pakistan, the relevant laws with regard to registration of brand/trademark are:

- Trade Mark Ordinance, 2001 (the “Act”)
- Trade Mark Rules, 2004 (the “Rules”)

The word “brand” specifically has not been defined in the Act, however it defines “mark” in Section 2(xxiv) as below:

“mark” includes, in particular, a device, ***brand***, heading, label, ticket, name including person name, signature, word, letter, numeral, figurative elements, colour, sound or and combination thereof”

Thus, in order to register and protect a brand, different aspects/portions of a brand (such as trademark, slogan, logos etc.) may be registered under the Act.

A foreign company can directly file trademark application to the trade mark registry/Intellectual Property Organization, which is the relevant authority in this regard. The steps/process of trademark registration is as under:

1. Search before filing of Application. (Optional)
2. Filing of Application.
3. Preliminary Examination.
4. Final order for Publication.
5. Printing in Trademarks Journal.
6. Opposition Procedure.
7. Issuance of Registration Certificate.

## **REGISTRATION OF BUSINESS**

Registration of business is aspect different to registration of brand.

As explained in last email, permission from BOI is required in following circumstances:

- A. Foreign company intends to fulfill its contractual obligations with the public or private sector in Pakistan. Their activity will be restricted to the work mentioned in the agreement / contract signed. (**Branch Office**)
- B. Foreign company intends to promote products(s), provision of technical advice & assistance, exploring the possibility of Joint Collaboration and export promotion. However, they can not undertake any commercial / trading activities. (**Liaison Office**)

It was proposed that your company may provide branding, training and system support to the Pakistani partner. Now, if your company intends to provide the said services (free of charge) to the Pakistani partner, in Pakistan, as per the paragraph B above, you may be required to establish a Branch Office, and seek permission from BOI in this regard.

However, you would not be required to seek above permission, if such training is provided your Pakistani partners, in your own country.

Another option could be to incorporate a new company through joint venture with Pakistani partners. In this case, permission from BOI would not be required and the promoters of the company (including your company and Pakistani partners) could directly apply for registration/incorporation of a company (corporate legal entity) with Securities & Exchange Commission of Pakistan (SECP).

In case you intend to grant a Pakistani company license, the same can be done under license agreement or franchise agreement. The difference between licensing and franchising is as under:

<b>Licensing</b>	<b>Franchising</b>
<ul style="list-style-type: none"> <li>• Trademark/service mark use only</li> </ul>	<ul style="list-style-type: none"> <li>• Use of whole concept, including trademark/</li> </ul>
<ul style="list-style-type: none"> <li>• Licensing of goods may not involve service mark</li> <li>purchase of raw material from the licensor</li> </ul>	<ul style="list-style-type: none"> <li>• Franchising involving goods invariably requires purchase of raw materials and goods from franchisor or approved suppliers</li> </ul>
<ul style="list-style-type: none"> <li>• Licensor has limited rights and controls</li> </ul>	Franchisor has more substantial rights and controls